

California Requires Certification for Sleep Technologists

SECTION 1. Chapter 7.8 (commencing with Section 3575) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 7.8. POLYSOMNOGRAPHIC TECHNOLOGISTS

3575. (a) For the purposes of this chapter, the following definitions shall apply:

(1) "Board" means the Medical Board of California.

(2) "Polysomnography" means the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Polysomnography shall include, but not be limited to, the process of analysis, monitoring, and recording of physiologic data during sleep and wakefulness to assist in the treatment of disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep activities. Polysomnography shall also include, but not be limited to, the therapeutic and diagnostic use of oxygen, the use of positive airway pressure including continuous positive airway pressure (CPAP) and bilevel modalities, adaptive servoventilation, and maintenance of nasal and oral airways that do not extend into the trachea.

(3) "Supervision" means that the supervising physician and surgeon shall remain available, either in person or through telephonic or electronic means, at the time that the polysomnographic services are provided.

(b) Within one year after the effective date of this chapter, the board shall promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees. The qualifications for a certified polysomnographic technologist shall include all of the following:

(1) He or she shall have valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board.

(2) He or she shall have graduated from a polysomnographic educational program that has been approved by the board.

(3) He or she shall have passed a national certifying examination that has been approved by the board, or in the alternative, may submit proof to the board that he or she has been practicing polysomnography for at least five years in a manner that is acceptable to the board. However, beginning three years after the effective date of this chapter, all individuals seeking to obtain certification as a polysomnographic technologist shall have passed a national certifying examination that has been approved by the board.

(c) In accordance with Section 144, any person seeking registration from the board as a certified polysomnographic technologist, a polysomnographic technician, or a polysomnographic trainee shall be subject to a state and federal level criminal offender record information search conducted through the Department of Justice as specified in paragraphs (1) to (5), inclusive, of this subdivision.

(1) The board shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all polysomnographic technologist, technician, or trainee certification candidates for the purposes of obtaining information as to the

existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board.

(3) The Department of Justice shall provide state and federal responses to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for persons described in this subdivision.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision. The individual seeking registration shall be responsible for this cost.

(d) An individual may use the title "certified polysomnographic technologist" and may engage in the practice of polysomnography only under the following circumstances:

(1) He or she is registered with the board and has successfully undergone a state and federal level criminal offender record information search pursuant to subdivision (c).

(2) He or she works under the supervision and direction of a licensed physician and surgeon.

(3) He or she meets the requirements of this chapter.

(e) Within one year after the effective date of this chapter, the board shall adopt regulations that establish the means and circumstances in which a licensed physician and surgeon may employ polysomnographic technicians and polysomnographic trainees. The board may also adopt regulations specifying the scope of services that may be provided by a polysomnographic technician or polysomnographic trainee. Any regulation adopted pursuant to this section may specify the level of supervision that polysomnographic technicians and trainees are required to have when working under the supervision of a certified polysomnographic technologist or licensed health care professional.

(f) This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license.

(g) Nothing in this chapter shall be interpreted to authorize a polysomnographic technologist, technician, or trainee to treat, manage, control, educate, or care for patients other than those with sleep disorders or to provide diagnostic testing for patients other than those with suspected sleep disorders.

3576. (a) A registration under this chapter may be denied, suspended, revoked, or otherwise subjected to discipline for any of the following by the holder:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant.

(2) An act of dishonesty or fraud.

(3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(4) Violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter.

(b) Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all powers granted therein.

3577. (a) Each person who applies for registration under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars (\$100).

(b) Each person to whom registration is granted under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars (\$100).

(c) The registration shall expire after two years. The registration may be renewed biennially at a fee which shall be paid into the Contingent Fund of the Medical Board of California to be fixed by the board at a sum not in excess of one hundred fifty dollars (\$150).

(d) The money in the Contingent Fund of the Medical Board of California that is collected pursuant to this section shall be used for the administration of this chapter. 3578. Nothing in this chapter shall prohibit a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code from employing a certified polysomnographic technologist.

3579. Nothing in this chapter shall apply to diagnostic electroencephalograms conducted in accordance with the guidelines of the American Clinical Neurophysiology Society.

California Code of Regulations
Title 16 – Professional and Vocational Regulations
Division 13 – Medical Board of California
Chapter 4.3 – Polysomnography

§ 1379.40. Definitions.

For the purposes of the regulations contained in this chapter and for purposes of Chapter 7.8 of Division 2 (commencing with section 3575) of the Code:

(a) “Approved polysomnographic education program” means (1) a polysomnographic education program accredited either by the Commission on Accreditation of Allied Health Education Programs (“CAAHEP”) or by the Commission on Accreditation for Respiratory Care; (2) a sleep technologist program accredited by the American Academy of Sleep Medicine; and (3) a sleep technologist program approved by the Board of Registered Polysomnographic Technologists.

(b) “Board” means the Medical Board of California.

(c) “Code” means the Business and Professions Code.

(d) “National certifying examination” means the technologist credentialing examination given by the Board of Registered Polysomnographic Technologists.

(e) “Polysomnography registrant” includes any person registered as a trainee, technician or technologist under this chapter.

(f) “Supervising physician and surgeon” means physician and surgeon who holds a valid license in California and who (1) possesses a current certification or subspecialty certification or is eligible for such a certification in sleep medicine by a member board of the American Board of Medical Specialties (“ABMS”) or the American Board of Sleep Medicine (“ABSM”); or (2) holds active staff membership at a sleep center or laboratory accredited by the American Academy of Sleep Medicine or by the Joint Commission.

(g) “Valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board” means current valid registration as a polysomnographic technologist issued by the Board of Registered Polysomnographic Technologists.

§ 1379.42. Delegation of Functions.

Except for those powers reserved exclusively to the “agency itself” or for the adoption of stipulated settlements under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive director of the board, or his/her designee, all functions necessary to the dispatch of business of the board in connection with investigative and administrative proceedings under the jurisdiction of the board.

§ 1379.44. Application for Registration as a Polysomnographic Technologist, Technician, or Trainee.

An application for registration as a polysomnographic technologist, technician, or trainee shall be filed with the board at its principal office on the prescribed application form, Polysomnography Registration Application [PST - 1A (8/10)], which is incorporated by reference. The application shall be accompanied by such evidence, statements or documents as therein required and filed with the fee required by section 1379.78.

1379.46. Abandonment of Applications.

An applicant shall be deemed to have abandoned an application if he or she does not complete the requirements for registration within one year from the date on which the application was filed. An application submitted subsequent to an abandoned application shall be treated as a new application.

§ 1379.48. Examination.

The certification examination offered by the Board of Registered Polysomnographic Technologists is approved by the board for purposes of qualifying for registration pursuant to Chapter 7.8 of Division 2 of the Code.

§ 1379.50. Registration Requirements.

(a) Polysomnographic Trainee. In addition to the requirements set forth in Section 3575(c) of the Code, an applicant for registration as a polysomnographic trainee shall meet the following requirements:

(1) Not be subject to denial under Section 3576 of the Code; and

(2) Have either (A) a high school diploma or GED and six months of supervised direct polysomnographic patient care experience; or (B) be currently enrolled in an approved polysomnographic education program; and

(3) Possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association.

(b) Polysomnographic Technician. In addition to the requirements set forth in Section 3575(c) of the Code, an applicant for registration as a polysomnographic technician shall meet the following requirements:

(1) Not be subject to denial under Section 3576 of the Code; and

- (2) Have successfully completed an approved polysomnographic education program; and
- (3) Possess a minimum of six months experience as a registered polysomnographic trainee; and
- (4) Possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association.

(c)(1) Polysomnographic Technologist. An applicant for registration as a polysomnographic technologist shall meet the requirements set forth in Sections 3575 and 3576 of the Code and shall possess at the time of application a current certificate in Basic Life Support issued by the American Heart Association.

(2) With respect to applications received on or before October 22, 2012, an applicant for registration as a polysomnographic technologist may satisfy the requirements of subdivision (b)(1) of section 3575 of the Code by submitting any of the following as proof that the applicant has been practicing polysomnography safely for at least five years:

(A) One or more declarations under penalty of perjury by a supervising physician attesting to the period of time the physician supervised the applicant, the tasks performed by the applicant, and the applicant's ability to practice polysomnography safely.

(B) A letter of good standing from each state in which the applicant is registered or licensed.

§ 1379.52. Employment and Supervision of Registrants.

(a) A physician and surgeon who does not meet one of the requirements set forth in section 1379.40(f) shall not supervise polysomnography registrants. No physician and surgeon shall supervise more than eight polysomnographic technologists at any one time. A physician and surgeon shall comply with the supervision requirement of Section 3575(a) of the Code.

(b) A supervising physician and surgeon, supervising polysomnographic technologist or other licensed health care professional shall not supervise more than a total of eight polysomnographic technicians and/or trainees at any one time. If a supervising physician and surgeon is not physically present on the premises, a supervising polysomnographic technologist or other licensed health care professional shall be physically present on the premises and available to the polysomnographic technicians and/or trainees under his/her supervision. For purposes of this article, "other licensed health care professional" means a registered nurse, physician assistant or respiratory care practitioner who possesses a current California license.

(c) A supervising polysomnographic technologist and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervision by the technologist of polysomnographic technicians and trainees. This requirement may be satisfied by the supervising physician and surgeon adopting protocols for some or all of the tasks performed by the technicians and trainees. Protocols shall be signed and dated by the supervising physician and surgeon and the polysomnographic technologist.

(d) The delegation of procedures to a registrant or other licensed health care professional shall not relieve the supervising physician of primary continued responsibility for the welfare of the patient.

§ 1379.54. Scope of Services - Polysomnographic Trainee.

Under the direct supervision of a supervising physician and surgeon, polysomnographic technologist or other licensed health care professional, a polysomnographic trainee may provide basic supportive services as part of the trainee's educational program, including but not limited to gathering and verifying patient information, testing preparation and monitoring, documenting routine observations, data acquisition and scoring, and assisting with appropriate interventions for patient safety.

§ 1379.56. Scope of Services-Polysomnographic Technician.

A polysomnographic technician may perform the services described in section 1379.54 under general supervision and may implement appropriate interventions necessary for patient safety.

§ 1379.58. Notice to Consumers.

(a) A polysomnography registrant shall provide notice to each patient of the fact that the person is registered and regulated by the board. The notice shall include the following statement and information:

NOTICE TO CONSUMERS

Medical doctors and polysomnographic technologists, technicians, and trainees are licensed and regulated by the Medical Board of California

(800) 633-2322

www.mbc.ca.gov

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in an area visible to patients on the premises where the registrant provides the services for which registration is required, in which case the notice shall be in at least 48-point type in Arial font.

(2) Including the notice in a written statement, signed and dated by the patient or the patient's representative and retained in that patient's medical records, stating the patient understands the polysomnographic registrant is registered and regulated by the board.

(3) Including the notice in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

§ 1379.68. Substantial Relationship Criteria.

For the purpose of denial, suspension, or revocation of the registration of a polysomnography registrant pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a polysomnographic registrant if to a substantial degree it evidences present or potential unfitness of a polysomnographic registrant to perform the functions authorized by his or her registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

- (a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of Chapter 7.8 of Division 2 of the Code.
- (b) Conviction of a crime involving fiscal dishonesty, or theft.
- (c) Battery or assault.
- (d) Sexual misconduct or abuse.
- (e) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure, as defined by the Penal Code.

§ 1379.70. Criteria for Rehabilitation for Denial and Reinstatement.

When considering the denial of a registration under Section 480 of the Code, or a petition for reinstatement under Section 11522 of the Code, the board in evaluating the rehabilitation of the applicant and his or her present eligibility for registration, shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).
- (d) The extent to which the applicant or petitioner has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against him or her.
- (e) Evidence, if any, of rehabilitation submitted by the applicant or petitioner.

§ 1379.72. Rehabilitation Criteria for Suspensions and Revocations.

When considering the suspension or revocation of a registration on the grounds that the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his or her present eligibility for a registration, shall consider the following criteria:

- (a) Nature and severity of the act(s) or offense(s).
- (b) Total criminal record.
- (c) Extent of time that has elapsed since commission of the act(s) or offense(s).
- (d) Whether the registrant has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the registrant.
- (e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (f) Evidence, if any, of rehabilitation submitted by the registrant.

§ 1379.78. Fees.

The polysomnography registrant fees are fixed as follows:

- (a) The application fee shall be \$100.00.
- (b) The registration fee shall be \$100.00.
- (c) The biennial renewal fee shall be \$150.00.
- (d) The delinquency fee shall be \$75.00.