

1 AN ACT to amend the education law,
2 in relation to licensing the
3 practice of polysomnographic
4 technology
5

6 The People of the State of New York, represented in Senate
7 and Assembly, do enact as follows:

8 Section 1. The education law is amended by adding a new article
9 167 to read as follows:

10 Article 167

11 POLYSOMNOGRAPHIC TECHNOLOGY PRACTICE

12 Section 8800. Introduction.

13 8801. Definitions.

14 8802. Practice of polysomnographic technology.

15 8803. Use of the title "polysomnographic technologist".

16 8804. State committee for polysomnographic technology.

17 8805. Requirements and procedures for professional
18 licensure and registration.

19 8806. Limited permits.

20 8807. Exemptions.

21 8808. Special provisions.

22 8809. Mandatory continuing education.

23 § 8800. Introduction. This article applies to the profession of
24 licensed polysomnographic technology. The general provisions for
25 all professions contained in article one hundred thirty of this
26 title apply to this article.

27 § 8801. Definitions. As used in this article:

1 1. The term "practice of polysomnographic technology" shall
2 mean the process of analyzing, scoring, attended monitoring and
3 recording of physiologic data during sleep and wakefulness to
4 assist in the clinical assessment and diagnosis of sleep/wake
5 disorders and other disorders, syndromes and dysfunctions that
6 either are sleep related, manifest during sleep or disrupt normal
7 sleep/wake cycles and activities.

8 2. The term "practice of the profession of polysomnographic
9 technology" shall mean the professional services practiced in any
10 setting under the direction and supervision of a licensed
11 physician involving the monitoring, testing and treatment of
12 individuals suffering from any sleep disorder as listed in an
13 authoritative classification of sleep disorders acceptable to the
14 department. Such procedures include but are not limited to:

15 a. Application of electrodes and apparatus necessary to monitor
16 and evaluate sleep disturbances, including application of devices
17 which allow a physician to diagnose and treat sleep disorders,
18 which disorders include but shall not be limited to insomnia,
19 sleep breathing disorders, movement disorders, disorders of
20 excessive somnolence, and parasomnias;

21 b. Institution of any type of physiologic monitoring applicable
22 to polysomnography including the therapeutic and diagnostic use
23 of oxygen, continuous positive airway pressure (CPAP) and bi-
24 level positive airway pressure (BiPAP) of non-ventilated

1 patients;

2 c. Initiation of cardiopulmonary resuscitation, maintenance of
3 patient's airway (which does not include endotracheal
4 intubation), transcription and implementation of physician orders
5 pertaining to the practice of polysomnographic technology;

6 d. Initiation of treatment changes and testing techniques
7 required for the implementation of polysomnographic protocols
8 under the direction and supervision of a licensed physician who
9 specializes in the practice of sleep medicine; and

10 e. Education of patients, family and public on the procedures
11 and treatments used during polysomnographic technology or any
12 equipment or procedure used for the treatment of any sleep
13 disorder.

14 § 8802. Practice of polysomnographic technology. Only a person
15 licensed and registered or exempt under this article shall
16 practice polysomnographic technology.

17 § 8803. Use of the title "polysomnographic technologist". Only
18 a person licensed under this article shall use the title
19 "licensed polysomnographic technologist," "polysomnographic
20 technologist," or "licensed sleep tech".

21 § 8804. State committee for polysomnographic technology. 1. A
22 state committee for polysomnographic technology shall be
23 appointed by the board of regents upon the recommendation of the
24 commissioner and shall assist on matters of professional

1 licensing, practice and conduct in accordance with section sixty-
2 five hundred eight of this title.

3 2. Notwithstanding the provisions of section sixty-five hundred
4 eight of this title, the committee shall assist the state board
5 for medicine solely in polysomnographic technology matters, which
6 board shall also function as the state board for polysomnographic
7 technology. Members of the first board who are polysomnographic
8 technologists need not be licensed prior to appointment on the
9 board, provided, however, that the first appointed
10 polysomnographic technologist shall be registered by a national
11 certifying or accrediting board acceptable to the department.

12 3. The committee shall consist of nine individuals, to be
13 composed of the following:

14 a. Five licensed polysomnographic technologists, who are not
15 licensed to practice any other profession;

16 b. Two licensed respiratory therapists who have training and/or
17 experience in the diagnosis or treatment of sleep disorders;

18 c. One licensed physician who practices in the field of sleep
19 medicine; and

20 d. A representative of the public at large.

21 § 8805. Requirements and procedures for professional licensure
22 and registration. 1. To qualify for a license as a licensed
23 polysomnographic technologist, an applicant shall fulfill the
24 following requirements:

1 a. Application: file an application with the department;

2 b. Education: have received an education including an associate
3 degree in polysomnographic studies from a program registered by
4 the department, or another associate degree program determined by
5 the department to be substantially equivalent, from an accredited
6 college or university in accordance with the commissioner's
7 regulations; provide however that the education requirement shall
8 not become effective until such time as there are at least four
9 licensure qualifying associate degree programs acceptable to the
10 department in polysomnographic studies operated by accredited
11 colleges or universities. Such person shall have completed
12 courses of instruction deemed necessary by the commissioner to
13 practice in polysomnographic technology;

14 c. Experience: have experience satisfactory to the board and in
15 accordance with the commissioner's regulations;

16 d. Examination: pass an examination satisfactory to the board
17 and in accordance with the commissioner's regulations;

18 e. Age: be at least eighteen years of age;

19 f. Character: be of good moral character as determined by the
20 department; and

21 g. Fee: pay a one-time fee of one hundred seventy-five dollars
22 for licensure.

23 2. Except as provide in section eighty-eight hundred seven of
24 this article, each licensed polysomnographic technologist shall

1 be required to register triennially with the department to
2 practice in the state, and shall pay a fee of one hundred seventy
3 dollars for each triennial registration period.

4 § 8806. Limited permits. Limited permits may be issued by the
5 department to eligible applicants, as follows:

6 1. Eligibility: A person who fulfills all requirements for a
7 license as a polysomnographic technologist except those relating
8 to examination shall be eligible for a limited permit;

9 2. Limit of practice: A permittee shall be authorized to
10 practice polysomnographic technology:

11 a. Under the direction and supervision of a licensed
12 physician, and only while under the direct and immediate
13 supervision of a licensed polysomnographic technologist or an
14 appropriately competent physician or healthcare professional,
15 including but not limited to registered nurses, respiratory
16 therapists, and nurse practitioners experienced in sleep
17 medicine, and only in an accredited sleep lab, sleep clinic or
18 hospital; or

19 b. Under the direction and supervision of a board-certified
20 sleep physician;

21 3. Duration: A limited permit shall be valid for one year. It
22 may not be renewed; and

23 4. Fee: The fee for each limited permit shall be fifty dollars.

24 § 8807. Exemptions. This article shall not prohibit:

1 1. The practice of licensed polysomnographic technology as an
2 integral part of a program of study by students enrolled in
3 registered polysomnographic technology education programs or
4 registered respiratory care programs;

5 2. The performance of any of the functions included in the
6 definition of polysomnographic technology by any other duly
7 licensed, certified or registered health care provider, provided
8 that such modalities are within the scope of her or his practice;

9 3. The practice of polysomnographic technology by any legally
10 qualified polysomnographic practitioner of any other state or
11 territory who is serving in the armed forces or the public health
12 service of the United States or who is employed by the veteran's
13 administration, while engaged in the performance of such duties;

14 4. Licensed respiratory therapists or respiratory therapy
15 technicians practicing those professional services and procedures
16 who have training and/or experience in the diagnosis or treatment
17 of sleep disorders;

18 5. The practice by non-licensed and non-credentialed personnel
19 from performing any individual electroneurodiagnostic procedure
20 on the order of and under the supervision of a licensed
21 physician. This shall include but not be limited to EEG, EMG,
22 EOG, ECG or any variant of these procedures with respect to
23 patients receiving treatment for a condition other than a sleep
24 disturbance or sleep disorder; and

1 6. The practice of polysomnographic technology for the
2 purposes of clinical research, provided that the research has
3 been approved by a duly authorized institutional review board and
4 such practice is under the direction and supervision of a
5 licensed physician.

6 § 8808. Special provisions: A person shall be licensed without
7 examination or completion of an associate degree in
8 polysomnographic studies provided that within one year of the
9 effective date of regulations implementing the provisions of this
10 article, the individual meets the following requirements:

11 1. Files an application and pays the appropriate fees to the
12 department;

13 2. Is certified by a national certifying or accrediting board
14 for polysomnography acceptable to the department; and

15 3. Has practiced polysomnographic technology in an accredited
16 sleep lab, sleep clinic or hospital in the state for not less
17 than eighteen months within the last three years.

18 § 8809. Mandatory continuing education. 1. Each licensed
19 polysomnographic technologist required under this article to
20 register triennially with the department shall comply with the
21 provisions of the mandatory continuing education requirements
22 prescribed in subdivision four of this section except as set
23 forth in subdivisions two and three of this section. Licensed
24 polysomnographic technologists who do not satisfy the mandatory

1 continuing education requirements shall not practice until they
2 have met such requirements, and they have been issued a
3 registration certificate, except that a licensed polysomnographic
4 technologist may practice without having met such requirements if
5 she or he is issued a conditional registration certificate
6 pursuant to subdivision five of this section.

7 2. Licensed polysomnographic technologists shall be exempt from
8 the mandatory continuing education requirement for the triennial
9 registration period during which they are first licensed. In
10 accord with the intent of this section, adjustment to the
11 mandatory continuing education requirement may be granted by the
12 department for reasons of health certified by an appropriate
13 health care professional, for extended active duty with the armed
14 forces of the United States, or for other good cause acceptable
15 to the department which may prevent compliance.

16 3. A licensed polysomnographic technologist not engaged in
17 practice, as determined by the department, shall be exempt from
18 the mandatory continuing education requirement upon the filing of
19 a statement with the department declaring such status. Any
20 licensee who returns to the practice of polysomnographic
21 technology during the triennial registration period shall notify
22 the department prior to reentering the profession and shall meet
23 such mandatory education requirements as shall be prescribed by
24 regulations of the commissioner.

1 4. During each triennial registration period an applicant for
2 registration as a licensed polysomnographic technologist shall
3 complete a minimum of eighteen hours of acceptable formal
4 continuing education, as specified in subdivision six of this
5 section. A licensee who has not satisfied the mandatory
6 continuing education requirements shall not be issued a triennial
7 registration certificate by the department and shall not practice
8 unless and until a conditional registration certificate is issued
9 as provided for in subdivision five of this section. Continuing
10 education hours taken during one triennium may not be transferred
11 to a subsequent triennium.

12 5. The department, in its discretion, may issue a conditional
13 registration to a licensee who fails to meet the mandatory
14 continuing education requirements established in subdivision one
15 of this section but who agrees to make up any deficiencies and
16 complete any additional education which the department may
17 require. The fee for such a conditional registration shall be the
18 same as, and in addition to, the fee for the triennial
19 registration. The duration of such conditional registration shall
20 be determined by the department but shall not exceed one year.
21 Any licensee who is notified of the denial of registration for
22 failure to submit evidence, satisfactory to the department, of
23 required continuing education and who practices without such
24 registration, may be subject to disciplinary proceedings pursuant

1 to section sixty-five hundred ten of this chapter.

2 6. As used in subdivision four of this section, "acceptable
3 formal continuing education" shall mean formal courses of
4 learning which contribute to professional practice in
5 polysomnographic technology and which meet the standards
6 prescribed by regulations of the commissioner. Such formal
7 courses of learning shall include, but not be limited to,
8 collegiate level credit and non-credit courses. Professional
9 development programs and technical sessions offered by national,
10 state and local professional associations and other organizations
11 acceptable to the department, and any other organized educational
12 and technical programs acceptable to the department. The
13 department may, in its discretion and as needed to contribute to
14 the health and welfare of the public, require the completion of
15 continuing education courses in specific subjects to fulfill this
16 mandatory continuing education requirement. Courses must be taken
17 from a sponsor approved by the department, pursuant to the
18 regulations of the commissioner.

19 7. Licensed polysomnographic technologists shall maintain
20 adequate documentation of completion of acceptable formal
21 continuing education and shall provide such documentation at the
22 request of the department. Failure to provide such documentation
23 upon the request of the department shall be an act of misconduct
24 subject to disciplinary proceedings pursuant to section sixty-

1 five hundred ten of this chapter.

2 8. The mandatory continuing education fee shall be twenty-five
3 dollars, shall be payable on or before the first day of each
4 triennial registration period, and shall be paid in addition to
5 the triennial registration fee required by this article.

6 § 2. This act shall take effect 180 days from enactment, except
7 that the provisions restricting the practice of polysomnographic
8 technology shall not take effect until one year after the
9 department has promulgated regulations in accordance with this
10 article, and the provisions enumerated in subdivision two of
11 section 8805 of the education law, added by this act, shall not
12 become effective until such time as there are at least four
13 licensure qualifying associate degree programs acceptable to the
14 department, in polysomnographic studies operated by accredited
15 colleges or universities.