

CHAPTER 244

AN ACT concerning the licensure of polysomnographers, supplementing Title 45 of the Revised Statutes and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:14G-1 Short title.

1. This act shall be known and may be cited as the "Polysomnography Practice Act."

C.45:14G-2 Findings, declarations relative to practice of polysomnography.

2. The Legislature finds and declares that the public interest requires the regulation of the practice of polysomnographers and the establishment of clear licensure standards for practitioners of polysomnography; and that the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified and legally authorized to practice polysomnography.

C.45:14G-3 Definitions relative to practice of polysomnography.

3. As used in this act:

"Board" means the State Board of Polysomnography established pursuant to section 4 of this act.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Direct supervision" means continuous on-site presence of a supervising licensed polysomnographic technologist or supervising licensed physician available to render immediate physical assistance as required.

"Licensed physician" means a physician licensed by the State Board of Medical Examiners.

"Polysomnography" means the allied health specialty involving the treatment, management, diagnostic testing, research, control, education and care of patients with sleep and wake disorders under a qualified medical director and includes, but is not limited to, the process of analysis, monitoring and recording of physiologic data during sleep and wakefulness to assess, diagnose and assist in the treatment and research of disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep and wake cycles and activities. Polysomnography shall also include the therapeutic and diagnostic use of oxygen, the use of positive airway pressure including CPAP and bi-level modalities, cardiopulmonary resuscitation, maintenance of nasal and oral airways that do not extend in the trachea, transcription and implementation of the written or verbal orders of a physician pertaining to the practice of polysomnography. Polysomnography shall not include a home-based unattended self-administered diagnostic test, provided that any test results shall only be read and analyzed by a licensed polysomnographic technologist or polysomnographic technician or a licensed physician. Polysomnography services shall be provided only when ordered by a physician who has medical responsibility for the patient.

"Polysomnographic technician" means a person who holds a temporary license issued by the board who practices polysomnography under the supervision of a licensed polysomnographic technologist or a licensed physician in a State licensed or nationally accredited sleep center or laboratory.

"Polysomnographic technologist" means a person licensed by the board to practice polysomnography under the direction of a licensed physician.

"Polysomnographic trainee" means a person who holds a provisional license issued by the board and who performs polysomnography under the direct supervision of a licensed polysomnographic technologist or a licensed physician in a State licensed or nationally accredited sleep center or laboratory.

"Qualified medical director" means the medical director of any in-patient or out-patient polysomnography service, department or home care agency. The qualified medical director shall be a licensed physician who has special interest and knowledge in the diagnosis and treatment of sleep and wake disorders and shall be qualified by special training and experience in the management of sleep and wake disorders.

"Supervision" means that polysomnography shall not be performed unless a licensed polysomnographic technologist or licensed physician is constantly accessible, either on-site or

through voice communication.

C.45:14G-4 State Board of Polysomnography.

4. a. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Polysomnography. The board shall consist of 11 members who are residents of the State, six of whom shall be licensed polysomnographic technologists who have been actively engaged in the practice of polysomnography in this State for at least five years immediately preceding their appointment, one of whom shall be a qualified medical director, one of whom shall be a physician licensed in this State pursuant to chapter 9 of Title 45 of the Revised Statutes and who is a Diplomate of the American Board of Sleep Medicine or is board certified in sleep medicine, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). At the time of their appointment the six polysomnographic technologists initially appointed shall have been actively working as polysomnographic technologists and shall have been certified by the Board of Registered Polysomnographic Technologists for at least five years, but need not be licensed in this State.

b. The Governor shall appoint each member, other than the State executive department member, with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the polysomnographic practitioner members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been appointed and qualified. Any vacancy in the membership of the board shall be filled for the unexpired term only in the manner provided for the original appointment.

C.45:14G-5 Compensation of board members.

5. Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

C.45:14G-6 Election of chairman, vice-chairman; meetings.

6. The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet at least four times per year and may hold additional meetings as necessary to discharge its duties. The board shall organize itself following the appointment of at least that number of members of the board constituting a quorum of the entire board, provided that at least a majority of the members appointed are polysomnographic technologists.

C.45:14G-7 Duties of board.

7. The board shall:

- a. Establish criteria and standards for licensure at least commensurate with national accreditation standards adopted by the Association of Polysomnographic Technologists or the American Academy of Sleep Medicine or the Committee on Accreditation for Polysomnography;
- b. Review the qualification of applicants for licensure;
- c. Insure proper conduct and standards of practice;
- d. Issue and renew licenses pursuant to this act;
- e. Establish standards for continuing education;
- f. Suspend, revoke or decline to renew licenses of polysomnographic technologists, technicians and trainees pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
- g. Maintain a record of every polysomnographic technologist, technician and trainee licensed in this State;
- h. Promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this act, except that the initial rules and regulations may be promulgated by the director; and
- i. Establish fees for applications for licensure, examinations, initial licensure, renewals, late renewals, temporary licenses, provisional licenses and for duplication of lost licenses, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

C.45:14G-8 Executive Director.

8. The Executive Director of the board shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

C.45:14G-9 Licensure required for practice of polysomnography.

9. a. No person shall practice or present himself as able to practice polysomnography in this State unless the person possesses a valid license to practice polysomnography in accordance with the provisions of this act.

b. Nothing in this act shall be construed to:

(1) prohibit a person enrolled in a board approved Commission on Accreditation of Allied Health Education Programs polysomnography training program from performing those duties essential for completion of clinical service, provided the duties are performed under the direct supervision and direction of a physician or licensed polysomnographic technologist; or

(2) limit, preclude or otherwise interfere with the practices of other persons and health care providers licensed by appropriate agencies of this State, provided that those duties are consistent with the accepted standards of the person's profession and that the person does not present himself as a licensed polysomnographic technologist, licensed polysomnographic technician or licensed polysomnographic trainee which otherwise would require licensure by the board.

c. Nothing in this act shall confer to a person licensed to practice polysomnography pursuant to this act the authority to practice as another health care professional as defined in section 1 of P.L. 2002, c. 104 (C. 45:1-28).

C.45:14G-10 Issuance of license; qualifications, procedure, fee.

10. a. The board shall issue a license as a polysomnographic technologist to any applicant who the board determines to be qualified to perform the duties of a polysomnographic technologist. In making a determination, the board shall review evidence that the applicant has successfully completed the board's requirements for education; training; and experience, with documented proficiencies, determined using standards established by the board at least commensurate with national Association of Polysomnographic Technologists or American Academy of Sleep Medicine standards; and has successfully completed the certification examination administered by the Board of Registered Polysomnographic Technologists or its successor, or any other examination testing polysomnography approved by the board. The fee prescribed by the board shall accompany the application.

b. The board shall issue a temporary license as a polysomnographic technician to any applicant who the board determines to be qualified to perform the duties of a polysomnographic technician. In making a determination, the board shall review evidence that the applicant has successfully completed the board's requirements for education; training; and experience, determined using standards established by the board at least commensurate with national Association of Polysomnographic Technologists or American Academy of Sleep Medicine standards and documentation of successful completion of Association of Polysomnographic Technologists or American Academy of Sleep Medicine technical competencies. The fee prescribed by the board shall accompany the application.

c. The board shall issue a provisional license as a polysomnographic trainee to any applicant who the board determines to be qualified to perform the duties of a polysomnographic trainee. In making a determination, the board shall review evidence that the applicant has successfully completed the board's requirements for education; training; and experience, with documented proficiencies, determined using standards established by the board at least commensurate with national Association of Polysomnographic Technologists or American Academy of Sleep Medicine standards; and documentation that the applicant's performance of polysomnography will be directly supervised by a licensed polysomnographic technologist or a licensed physician. The fee prescribed by the board shall accompany the application.

C.45:14G-11 Validity of license, term, renewal.

11. a. A license as a polysomnographic technologist shall be issued for a period of two years, and may be renewed for additional two-year periods upon submission by the holder of a renewal application on a form prescribed by the board, completion by the holder of any requirements for renewal established by the board, and payment of the renewal fee prescribed by the board.

b. A temporary license as a polysomnographic technician shall be issued for a period of one year and may be renewed for an additional one-year period to permit a polysomnographic technician to take the examination required for licensure as a polysomnographic technologist a maximum of three times. Renewal of a temporary license shall be issued upon submission by the holder of a renewal application on a form prescribed by the board, completion by the holder of any requirements for renewal established by the board, and payment of the renewal fee prescribed by the board.

c. A provisional license as a polysomnographic trainee shall be issued for a period of not more than one year.

d. A temporary or provisional license may be put on inactive status at the discretion of the board upon the written request of the holder for reasons of hardship, such as health or other good cause.

e. If a renewal fee is not paid by the expiration date, the license shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by it for each year or part thereof during which the license was expired and an additional restoration fee.

C.45:14G-12 Issuance of license to out-of-State licensee.

12. Upon receipt of a fee and a written application on forms provided by it, the board shall issue a license without examination to a polysomnographic technologist who holds a valid license issued by another state or possession of the United States or the District of Columbia that has education and experience requirements substantially equivalent to the requirements of this act, so long as the applicant has successfully completed the certification examination administered by the Board of Registered Polysomnographic Technologists, or its successor, or any other examination testing polysomnography approved by the board pursuant to section 10 of this act.

C.45:14G-13 Issuance of license as polysomnographic technologist.

13. a. The board shall issue a license as a polysomnographic technologist to an applicant, who at the time of the effective date of this act, has passed the certification examination administered by the Board of Registered Polysomnographic Technologists and holds a valid credential.

b. (1) The board shall issue a temporary license to continue practice as a polysomnographic technician for a period of two years from the effective date of section 9 of this act to any applicant who has not passed the certification examination required by subsection a. of this section at the time of the effective date of section 9 of this act, provided that the applicant, through written evidence, verified by oath, demonstrates that he:

(a) is presently functioning in the capacity of a polysomnographic technician as defined by this act and has successfully completed a polysomnographic program of not less than one year associated with a state licensed program or a program accredited by the Commission on Accreditation of Allied Health Education Programs or other nationally recognized accrediting organization; or

(b) has successfully completed a minimum of 720 hours of experience as a polysomnographic trainee or has a minimum of one year of experience as a polysomnographic technician with documented proficiency in polysomnography as determined using standardized Association of Polysomnographic Technologists or American Academy of Sleep Medicine National Competencies.

(2) An applicant who receives a temporary license pursuant to this subsection shall be required to pass the licensure examination administered by the Board of Registered Polysomnographic Technologists, or its successor, and attain the RPSGT credential during his temporary licensure period in order to be issued a license as a polysomnographic technologist.

c. An applicant for licensure under this section shall apply within six months of the effective date of section 9 of this act.

14. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

15. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

16. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic

Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

17. Section 1 of P.L.2002, c.104 (C.45:1-28) is amended to read as follows:

C.45:1-28 Definitions relative to criminal history background checks for health care professionals.

1. As used in this act:

"Applicant" means an applicant for the licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee or the State Board of Polysomnography.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

18. This act shall take effect immediately, except that section 9 shall take effect 360 days following the appointment and qualification of the board members, and provided that the director and board may take such anticipatory action as may be necessary to effectuate that provision of

the act.

Approved December 21, 2005.