

TITLE 16. Medical Board of California

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Long Beach Memorial Hospital Miller Children's Hospital, 2801 Atlantic Avenue, Long Beach, California 90806, at 9:05 a.m., November 5, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on October 25, 2010 or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018, 163.5 and 3577 of the Business and Professions Code, and to implement, interpret or make specific Section 163.5 and 3577 of said Code, the Board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Sections 1378.1, 1378.3, 1378.5, 1378.7, 1378.9, 1378.11, 1378.13, 1378.15, 1378.17, 1378.19, 1378.25, 1378.27, 1378.29, and 1378.35 in Article 1 of Chapter 3.5 of Division 13, relating to the Polysomnography Program.

The Polysomnography Program is not addressed in current regulation.

This proposal requires the Medical Board of California to implement Legislation, SB 132, effective October 23, 2009. This bill requires the Medical Board of California to adopt regulations within one year after the effective date of this act relative to the qualifications for certified polysomnographic technologists, technicians and trainees. SB132 prohibits a person from using the title "certified polysomnographic technologist" or engaging in the practice of polysomnography unless he or she is registered as a certified polysomnographic technologist in California.

These proposed regulations will establish the Polysomnography Program, including the application and registration requirements, required education and examinations, disciplinary actions, etc.

The application [FORM: PST – 1A (8/10)] and work experience verification [FORM: PST-1WEV (8/10)] are incorporated by reference.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant adverse economic impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

The regulation impacts those persons applying to the Medical Board of Polysomnography technologist, technician and trainees registration as well as those licensed physicians and surgeons who elect to supervise them.

The proposed regulation may create jobs in California as it prescribes a pathway for persons to become licensed in a health care field. Supervising physicians may hire registrants to provide these services.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice. Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website: http://medbd.ca.gov/laws/regulations_proposed.html.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

| | |
|-----------------|--|
| Name: | Fayne Boyd, Licensing Manager Medical Board of California |
| Address: | 2005 Evergreen Street, Suite 1200 Sacramento, CA 95815 |
| Telephone No.: | (916) 274-5983 |
| Fax No.: | (916) 263-2487 |
| E-Mail Address: | regulations@mbc.ca.gov |

The backup contact person is:

| | |
|-----------------|--|
| Name: | Kevin A. Schunke Medical Board of California |
| Address: | 2005 Evergreen Street, Suite 1200 Sacramento, CA 95815 |
| Telephone No.: | (916) 263-2389 |
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| E-Mail Address: | regulations@mbc.ca.gov |

Website Access : Materials regarding this proposal can be found at: http://www.medbd.ca.gov/laws/regulations_proposed.html.

MEDICAL BOARD OF CALIFORNIA

INITIAL STATEMENT OF REASONS

Hearing Date: November 5, 2010

Subject Matter of Proposed Regulations: Polysomnography Program

Sections affected: Adopt Sections 1378.1, 1378.3, 1378.5, 1378.7, 1378.9, 1378.11, 1378.13, 1378.15, 1378.17, 1378.19, 1378.25, 1378.27, 1378.29, and 1378.35, in Article 1, of Chapter 3.5, Division 13, of Title 16.

Introduction

Senate Bill (SB) 132, Denham, (Statutes of 2009) adding Chapter 7.8 to Division 2 of the Business and Professions Code, took effect as an urgency measure on October 23, 2009. SB 132 requires the Medical Board of California (Board or board) to adopt regulations within one year of the effective date of this act relative to the qualifications for certified polysomnographic technologists, including requiring those technologists to: be credentialed by a board-approved national accrediting agency; have graduated from a board-approved educational program; and, have passed a board-approved national certifying examination (with a specified exception for that examination requirement for a three-year period).

Additionally, SB 132 prohibits a person from using the title "certified polysomnographic technologist" or engaging in the practice of polysomnography unless: he or she undergoes a Department of Justice background check, as specified; is registered as a certified polysomnographic technologist; is supervised and directed by a licensed physician and surgeon; and meets other requirements. SB 132 also defines polysomnography to mean the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. SB 132 further requires the board to adopt regulations related to the employment of polysomnographic technologists, technicians and trainees.

Specific Purpose of each adoption:

1. Section 1378.1 (Definitions) This section defines terms mentioned throughout the proposed regulations.

Factual Basis/Rationale:

After extensive research, contact with other State Medical Boards and after the Board's interested parties meeting, the Board has determined that the following accredited programs are acceptable to accredit educational programs of this registrant category, because the standards in place support the Board's mission of public protection and are sufficient to reflect the services to be provided by the registrant.

Polysomnographic Educational Programs:

- The Commission on Accreditation of Allied Health Education Programs (CAAHEP) is the largest programmatic accreditor in the health science field. CAAHEP relies on its committees to develop standards and qualifications necessary for accreditation. The standards for polysomnography technology educational programs include core curricula that address the safe and effective care and monitoring of the patient and the education must be offered in a setting with sufficient educational and oversight resources.
- The Commission on Accreditation for Respiratory Care (CoARC) is the sole nationally recognized authority for the accreditation of first professional degree programs in respiratory care. CoARC's accreditation standards include requirements for curricula that address the safe and effective treatment and monitoring of the patient, and the education must be offered in a setting with sufficient educational and oversight resources.

Sleep Technologist Program

- The American Academy of Sleep Medicine (AASM) is the only entity that sets standards in sleep medicine health care, education and research. The AASM's A-STEP educational programs consists of an 80-hour course on sleep and sleep related issues and patient care, and that course is followed by a fourteen module self-study session undertaken while an individual receives on-the-job polysomnographic training.

After extensive research, contact with other State Medical Boards and after the Board's interested parties meeting the Board has determined that the following program is acceptable to assess the professional competence of this registrant category because the standards in place support the Board's mission of public protection and are sufficient to reflect the services to be provided by the registrant.

Examination and Credentials

- The Board of Registered Polysomnographic Technologists (BRPT) assesses the professional competence of practitioners performing polysomnography and associated therapeutic interventions. BRPT's credentialing program is accredited by the National Commission of Certifying Agencies (NCCA). Currently, the BRPT is the only organization that certifies Polysomnographic Technologists and Technicians.

After extensive research, contact with other State Medical Boards and after the Board's interested parties meeting the Board has determined that the following program is acceptable to assess the professional competence of this registrant category. The requirements to sit for the BRPT certification examination include direct polysomnography patient care experience or graduation from an approved polysomnography educational program.

Supervising Physician and Surgeon. This definition was used to ensure that the physician and surgeon(s) supervising polysomnographic registrants have the necessary expertise and knowledge to properly monitor and direct the actions of the registrants.

“Board” means the Medical Board of California. This definition is used to promote readability and brevity.

“Code” means the Business and Professions Code. This definition is used to promote readability and brevity.

2. Section 1378.3 (Delegation of Functions) This section delegates the Executive Director as the responsible party for administering all functions of this program except for those reserved to the agency (here, the Board) itself.

Factual Basis/Rationale:

Per existing law, the Executive Director of the Board is charged with overseeing the day to day activities of Board operations. This section would authorize the Executive Director to carry out administrative tasks associated with the implementation and operation of the polysomnographic registration program. This section helps to provide smooth and efficient functioning and administration of the polysomnography registration program.

3. Section 1378.5 (Applications) This section is necessary to establish a standard and uniform application to be used for all registration categories. The applicant will provide the contact information on the application, this is necessary in order to interact with the applicant. Additionally, the remaining provisions establish the requirements needed for registration.

Factual Basis/Rationale:

Per SB 132, polysomnography registrants must complete an application to ensure they meet the necessary requirements for registration. The application requires the applicant to provide: name, social security number, contact information, educational information, current and/or previous examination and certification information, current and/or previous registration/licensure information, denials and conviction of crimes. Also, the application, through the work experience verification form, provides the Board with the necessary information regarding the applicant's previous experience in providing polysomnographic services under the supervision of a licensed physician. The application also requires a current photograph and requires that the application be notarized. The application is attached.

4. Section 1378.7 (Abandonment of Application) This section requires an applicant for registration to complete the requirements for registration within one year of the date the application is filed. If an application is submitted after a previous application was deemed abandoned, the Board will treat that application as a new application, meaning that the applicant will have to include the applicable fees.

Factual Basis/Rationale:

The Board currently licenses physicians and surgeons and it is the Board's experience that dormant licensing applications consume resources, as these applications must be retained in both electronic and paper formats. In addition, Board staff is obligated to re-review these applications periodically to determine if the applicant's status has changed and then contact the applicants to ask if they intend to pursue or complete registration in the near future. Without

setting a date by which the process must be completed, an applicant can call the Board and request that the file be kept open without making any progress toward actually satisfying the registration requirements. The one year period gives the applicant ample time to provide the documents necessary to complete the registration process. This one year period has been the Board's existing policy for many years.

5. Section 1378.9 (Examination) This section specifies the certifying examination approved by the Board and how, in lieu of the examination, the applicant can apply for registration prior to October 23, 2012.

Factual Basis/Rationale:

Applicants will be required to take a certifying examination offered by the Board of Registered Polysomnographic Technologists (BRPT), the only entity offering such an exam for certification as a Registered Polysomnographic Technologist or Technician. The BRPT assesses the professional competence of practitioners performing polysomnography and associated therapeutic interventions. The BRPT credentialing program is accredited by the National Commission of Certifying Agencies (NCCA). Currently the BRPT is the only organization that certifies Polysomnographic Technologists and Technicians.

However, as specified in SB 132, an applicant who applies for registration as a technologist before October 23, 2012, can substitute five years of polysomnographic experience in lieu of successfully completing the examination. To ensure an applicant has five years of safe polysomnographic practice, he or she must submit declarations from a supervising physician or letters of good standing from another state in which the applicant is registered or licensed.

6. Section 1378.11 (Registration Requirements) This section specifies the requirements that must be met to register as a polysomnographic technologist, technician and trainee.

Factual Basis/Rationale:

The Board has reviewed the laws of two other State Medical Boards (Maryland and New Mexico) who are currently licensing/registering polysomnographic technologists, technician and trainees. The Medical Board of California has imposed similar requirements sufficient to protect California consumers and promote the safe practice of polysomnography.

The basic level of registration, the trainee, requires that the applicant possess a Basic Life Support certification (BLS) issued by the American Heart Association. This item was brought up at an interested parties meeting and the Board was agreeable to this suggestion and believes it is necessary to ensure public protection as the trainee would be able to administer cardio pulmonary resuscitation to a patient if the circumstances warrant. Additionally, a trainee must have a high school diploma (or equivalent) and six months of supervised patient care or be currently enrolled in an approved polysomnographic education program to meet the requirements for registration in California. Finally, a trainee applicant must not be subject to denial for criminal conviction or other acts involving incompetence, negligence, fraud, or other misconduct. This requirement is essential for public protection.

Polysomnographic technicians shall meet the above requirements relating to the BLS certificate

and not be subject to denial for misconduct and have requirements for more stringent educational and experience. These requirements are more comprehensive because the scope of practice is greater for technicians. Technologist applicants must comply with the registration requirements in SB 132 and possess the BLS certificate.

7. Section 1378.13 (Employment and Supervision of Registrants) This section defines who may supervise registrants and specifies the number of registrants a physician and surgeon or other licensed health care professional may supervise. This section also specifies the availability of a supervising physician and surgeon and establishes the requirements for a technologist if he/she supervises other polysomnographic registrants. Finally, this section provides that a supervising physician and surgeon is not relieved from the responsibility of the patient's welfare by the delegation of procedures to a polysomnographic registrant or other licensed health care professional.

Factual Basis/Rationale:

During the Polysomnography interested parties meeting, the physician to technologist ratio was discussed. Members of the audience indicated that the industry standard is one technologist for every two patients. For a 16 bed facility, this would require eight technologists to be onsite. One physician would be on call and the technologists would report to the one physician. The American Academy of Sleep Medicine supports this ratio. The Board agreed that the ratio of one supervising physician to every eight technologists is appropriate and a necessary standard for consumer protection. This is the same ratio for a technologist to supervise trainees or technicians. The Board believes that the eight to one ratio will allow for the efficient provision of services while maintaining an adequate level of consumer protection. The last item – the continued responsibility of the physician and surgeon – serves to reinforce the concept that polysomnographic services must be provided under the supervision and direction of a licensed physician and surgeon.

8. Section 1378.15 (Scope of Services – Polysomnographic Trainee) This section is necessary to define the scope of practice for polysomnographic trainees.

Factual Basis/Rationale:

The American Academy of Sleep Medicine (AASM) sets standards in sleep medicine health care, education and research. Using guidelines supported by the AASM, it was determined that a polysomnographic trainee under the direct supervision of a physician and surgeon, technologist or other licensed health care provider may provide basic supportive services as part of the trainee's educational program. As the trainee has limited expertise and education, public protection dictates that the scope of practice is not overly broad.

9. Section 1378.17 (Scope of Services – Polysomnographic Technician) This section is necessary to define the scope of practice for polysomnographic technicians.

Factual Basis/Rationale:

The American Academy of Sleep Medicine (AASM) sets standards in sleep medicine health care, education and research. Using guidelines supported by the AASM, it was determined that

a polysomnographic technician may provide services under general supervision and may implement appropriate interventions necessary for patient safety. As a technician has more experience and education, the scope of services is expanded.

10. Section 1378.19 (Notice to Consumers) This section requires a notice be posted or provided to the consumer. This notice informs the consumer that the practice of polysomnography is regulated by the Medical Board of California.

Factual Basis/Rationale:

By law, public protection is the highest priority of the Board, and the public protection is enhanced when patients and other interested parties are made aware of the Board's existence at a time close to when polysomnographic services are provided.

Public protection is the highest priority of the Board whenever it exercises its regulatory authority. The Board has recently implemented a similar notification requirement for consumers regarding physicians and surgeons.

This proposed regulation also comports with the provisions of section 138 of the Business and Professions Code, which requires constituent boards within the Department of Consumer Affairs to promulgate regulations regarding notice that a practitioner is licensed by the state. The Medical Board is a constituent board of the Department.

11. Section 1378.25 (Substantial Relationship Criteria) This section establishes that the conviction of specified crimes shall serve as a basis for the denial, revocation, or suspension of a registration and defines these crimes as substantially related to the practice of polysomnography.

Factual Basis/Rationale:

Section 480 of the Business and Professions Code provide that a board with the Department of Consumer Affairs may deny, revoke, or suspend a license or registration if the applicant or licensee has been convicted of a crime substantially related to the licensed activity. This regulation defines those crimes. Prudent policy dictates that the public may not be served best by allowing a person convicted of a crime of physical violence, dishonesty, or sexual misconduct to provide these services, especially when the patient may be in a vulnerable situation or a remote location.

12. Section 1378.27 (Criteria for Rehabilitation for Denial and Reinstatement) This section establishes the criteria by which the Board evaluates the reinstatement of a revoked registration or considers the denial of a registration.

Factual Basis/Rationale:

The Board recognizes that applicants and licensees may have committed offenses in the past. This section sets the criteria for the Board to determine if issuing a registration or reinstating a registration is inconsistent with or contrary to the public interest. The standard of evaluating the reinstatement of a revoked registration or the denial of a registration is set forth in Title 16 of the

California Code of Regulations. This criteria will allow the Board to determine if the individual has been sufficiently rehabilitated such that he or she may provide polysomnographic services safely.

13. Section 1378.29 (Rehabilitation Criteria for Suspensions and Revocations) This section establishes the process when the Board is considering the suspension or revocation of a registration based upon the conviction of a crime.

Factual Basis/Rationale:

The Board recognizes that applicants and licensees may have committed offenses in the past. This section sets the criteria for the Board to determine if issuing a registration or reinstating a registration is inconsistent with or contrary to public interest. The standard of considering the suspension or revocation of a registration is set forth in Title 16 of the California Code of Regulations. This criteria will allow the Board to determine if the individual has been sufficiently rehabilitated such that he or she may provide polysomnographic services safely.

14. Section 1378.35 (Fees) This section establishes different types of fees for this registration category.

Factual Basis/Rationale:

Since this is a new registration category for the Board, a fund has to be established to administer this registration program. The \$100.00 application fee will be used to defray the cost of time it will take the office staff to process the application for completeness and ensure the applicant has submitted all the documents needed to qualify the applicant for registration in California. The \$100.00 registration fee will be used to defray the cost of registration cards and to defray that cost of office staff to process the registration. The \$175.00 renewal fee will ensure the continued administration of the polysomnography registration program. The maximum fees were imposed, and adhere to the guidelines of SB 132, to ensure this new registration program has funds to administer the program as well as funds to develop the Applicant Tracking System, the Consumer Affairs System, enforce the law and to ensure the program has a reserve for economic uncertainties.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon (if any): Information from the American Academy of Sleep Medicine (AASM); Commission on Accreditation of Allied Health Education Programs (CAAHEP); Commission on Accreditation for Respiratory Care (CoARC); Board of Registered Polysomnographic Technologists (BRPT); California Sleep Society; New Mexico Medical Board; Louisiana State Medical Board; Maryland State Medical Board; and the June 16, 2010, interested parties meeting.

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The regulation impacts those persons applying to the Medical Board for polysomnography technologist, technician and trainee registration as well as those licensed physicians and surgeons who elect to supervise them.

The proposed regulation may create jobs in California as it prescribes a pathway for persons to become licensed in a health care field. Supervising physicians may hire registrants to provide these services.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

- No alternative was considered as the law requires polysomnographic technologist, polysomnographic technicians and polysomnographic trainees be regulated by the State of California.

MEDICAL BOARD OF CALIFORNIA
Polysomnography Program
Specific Language

Add Chapter 3.5 to Division 13 of Title 16, California Code of Regulations, to read as follows:

Chapter 3.5. Polysomnography

Article 1. General Provisions

1378.1. 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; or (2) a sleep technologist program accredited by the American Academy of Sleep Medicine.

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

(c) "Code" means the Business and Professions Code.

(d) "National certifying examination" means the 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575, Business and Professions Code.

1378.3. 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

Article 2. Applications

1378.5. 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 [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 1378.35.

NOTE: Authority cited: Sections 2018 and 3577, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

1378.7. 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

Article 3. Qualifications for Registration

1378.9. Examination

(a) 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:

(b) An applicant who applies for registration as a polysomnographic technologist on or before October 22, 2012, may, in lieu of successful completion of the examination

approved by the board, submit any of the following as proof that the applicant has been practicing polysomnography safely for at least five years:

(1) 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.

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

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

1378.11. 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) 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

Article 4. Polysomnography Practice

1378.13. Employment and Supervision of Registrants.

(a) A physician and surgeon who does not meet one of the requirements set forth in section 1378.1(e) 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 section, "other licensed health care professional" means registered nurse, physician assistant and 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

1378.15. 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.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

1378.17. Scope of Services—Polysomnographic Technician.

A polysomnographic technician may perform the services described in section 1378.15 under general supervision and may implement appropriate interventions necessary for patient safety.

NOTE: Authority cited: Sections 2018 and 3575, Business and Professions Code. Reference: Section 3575-3577, Business and Professions Code.

1378.19 . 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.

NOTE: Authority cited: Section 2018, Business and Professions Code; Reference: Sections 138 and 680, Business and Professions Code.

Article 5. Enforcement

1378.25. 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.

Note: Authority cited: Sections 481 and 2558, Business and Professions Code.

Reference: Sections 481, 2555.1 and 2556, Business and Professions Code.

1378.27. 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.

Note: Authority cited: Sections 482, 2018, and 3576, Business and Professions Code.
Reference: Sections 482, 3576, Business and Professions Code.

1378.29. 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.

Note: Authority cited: Sections 482 and 3576, Business and Professions Code.
Reference: Sections 482, 3576, Business and Professions Code.

Article 6. Fees.

1378.35. 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.

NOTE: Authority cited: Sections 163.5, 2018 and 3577, Business and Professions Code. Reference: Section 163.5 and 3577, Business and Professions Code.



MEDICAL BOARD OF CALIFORNIA
Licensing Program



POLYSOMNOGRAPHY REGISTRATION APPLICATION

CHECK ONE: Technologist Technician Trainee

| | | | |
|---|---|--|--|
| 1. Name: Last | | First | Middle |
| 2. Other names you have used: (include maiden name) | | 3. U.S. Social Security Number: | |
| 4. Date of Birth: | 5. Gender: | 6. E-mail Address (voluntary): | |
| | <input type="checkbox"/> Male <input type="checkbox"/> Female | | |
| 7. Public/Mailing Address: (Please note: This information is public. If you are using a Post Office Box you must provide a confidential street address in box 8.) | | | |
| 8. Confidential Address: (This information will not be released to the public.) | | | |
| 9. Telephone Numbers: (Include area code) | | | |
| Home: () | | Work: () | Cell: () |
| 10. Have you ever filed an Application for Polysomnography Registration in California? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Previous license number, if any: _____ | | | |
| EDUCATION | | | |
| 11. Are you a High School Graduate? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If you are not a High School Graduate did you receive your GED? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Date of Graduation/Date Received GED: _____ | | | |
| 12. College/Universities/Professional Schools: Please list names and addresses of colleges/universities/professional schools attended: | | | |
| School Name | Address City State | Dates of Attendance | Degree Awarded |
| | | | |
| | | | |
| | | | |

EXAMINATION/CERTIFICATION

13. List all examinations and certifications: CPSGT, RPSGT, A-Step, Basic Life Support, or other Board approved examination/certification. If you have not passed a qualifying examination clearly document your work experience on the attached Form PST-1WEV (8/10).

| Examination/Certification | Date | Result (Pass/Fail) |
|---------------------------|------|--------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

REGISTRATION/LICENSURE

14. Have you ever been licensed or registered to practice polysomnography or other healing art in another state/country?

Yes No

| State or Country | License Number | Date of Issuance | Date of Expiration |
|------------------|----------------|------------------|--------------------|
| | | | |
| | | | |

APPLICANT ADVISORY: For any affirmative response to the questions on this page of the application, please provide official documentation regarding the matter, in addition to signed and dated written explanations. If applicable, an applicant should also provide official hearing/court documents. Applicants are also required to report any matter that is "Pending" or in which the charges have been dropped or expunged.

15. Have you ever been charged with, or been found to have committed unprofessional conduct, incompetence, gross negligence, or repeated negligent acts by any other licensing jurisdiction, surrendered a license with charges pending, or have any disciplinary action ever filed or taken regarding any healing arts license which you now hold or have ever held, or is any such action pending?

Yes No

16. Have you ever been denied a license, permission to practice polysomnography, or any other healing art in this or any other state, or is any such action pending?

Yes No

17. Have you ever been convicted of, or *pled nolo contendere* to ANY offense in any state in the United States or foreign Country?

This includes a citation, infraction, misdemeanor and/or felony, etc. Matters in which you were diverted, deferred, pardoned, pled nolo contendere, or if the conviction was later expunged from the record of the court or set aside under Penal Code Section 1203.4 **MUST** be disclosed. If you are awaiting judgment and sentencing following entry of a plea or jury verdict, you **MUST** disclose the conviction; you are entitled to submit evidence that you have been rehabilitated. Serious traffic convictions such as reckless driving, driving under the influence or alcohol and/or drugs, hit and run, evading a peace officer, failure to appear, driving while the license is suspended or revoked **MUST** be reported. This list is not all-inclusive. If in doubt, it is better to disclose the conviction on the application.

For each conviction disclosed, you must submit with the application certified copies of the arresting agency report, certified copies of the court documents, and a signed and dated descriptive explanation of the circumstances surrounding the conviction of disciplinary action (i.e., dates and location of incident and all circumstances surrounding the incident). If documents were purged by arresting agency and/or court, a letter of explanation from these agencies is required.

Applicants, who answer "NO" to the question but have a previous conviction or plea, may have their application denied or registration revoked for knowingly falsifying the application.

Yes No

PHOTO AREA
PASTE A PASSPORT TYPE PHOTO
HERE.

PHOTO MUST BE RECENT AND MUST
BE OF YOUR HEAD AND SHOULDER
AREAS ONLY WITH A CLEAR VIEW
OF FACE.

ALTERED PHOTOS ARE NOT
ACCEPTABLE.

NOTICE: All ITEMS IN THIS APPLICATION ARE MANDATORY, NONE ARE VOLUNTARY unless specified otherwise. Failure to provide any of the requested information may result in a delay in processing, or the application may be rejected as incomplete. The information provided will be used to verify and identify the applicant per Section 118 and 2081 of the Business & Professions Code. Applicant's have the right to review their application, subject to the provisions of the Information Practices Act. The Chief, Division of Licensing, is the Custodian of Records. Disclosure of your Social Security Number (SSN) or Federal Employer Identification Number (FEIN) is MANDATORY. Section 30 of the Business & Professions Code and Public Law 94 445 (42 USC 405(c) (2)(C) authorizes the collection of your SSN. Your SSN or FEIN will be used for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Family Code Section 17520, or for verification of licensure or examination status by a licensing examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN or FEIN, your application will not be processed and you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you. This application and the information contained therein may be disclosed pursuant to California Public Records Act Request.

APPLICANT DECLARATION, SIGNATURE & NOTARY

State of _____

County of _____

The applicant, _____, being first duly sworn upon his/her oath, disposes and says, that I am the person herein named and subscribing to this application; that I have read the complete application, know the full content thereof, and declares that all of the information contained herein and evidence or other credentials submitted herewith are true and correct; were not procured with fraud or misrepresentation or any mistake of which the applicant is aware. Further, I hereby authorize all institutions or organization, my references, and all government agencies (local, state, federal or foreign) to release to the Medical Board of California or its successors any information, files, or records required by that Board in connection with this application; or my ability to safely engage in the practice of polysomnography. I further authorize the Medical Board of California or its successors to release to the organizations, individuals, or groups listed above any information which is material to this application or any subsequent registration. I FURTHER UNDERSTAND THAT FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING OR REVOKING A REGISTRAION, IF ISSUED.

Signature of Applicant _____

Subscribed and sworn (or affirmed) before me on this _____ day of _____, 20 _____
by (applicant's name) _____, personally known to me or
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

NOTARY SEAL HERE

SIGNATURE OF NOTARY PUBLIC



MEDICAL BOARD OF CALIFORNIA

Licensing Program



WORK EXPERIENCE VERIFICATION

I am applying for Registration as a Polysomnographic Technologist/Technician/Trainee in the State of California. The Medical Board of California requires this form to be completed by the Supervising Physician. I hereby authorize release of all information in your files, favorable or otherwise.

| | | | |
|-------------------------|-------|-------------------|-----------|
| Applicant Name: | | Telephone Number: | |
| Address: | City: | State: | ZIP Code: |
| Signature of Applicant: | | | |

THE SECTIONS BELOW MUST BE COMPLETED BY THE SUPERVISING PHYSICIAN

| | | | |
|--|-------|---------------------------|-----------|
| Name and Title of Person Completing this Form: | | Telephone Number: | |
| Facility Name: | | | |
| Address: | City: | State: | ZIP Code: |
| Physician License Number: _____ | | State of Licensure: _____ | |

EVALUATION OF APPLICANT

Dates of Employment: Beginning (Month/Year) _____ Ending (Month/Year) _____

1. In your opinion, is this applicant able to practice polysomnography safely? Yes No

If you answered "NO" please provide a signed and dated written explanation and any supporting documentation that may be relevant.



State of California
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, Ca 95815
www.mbc.ca.gov

AGENDA ITEM 19

Memorandum

Date: October 28, 2010
To: Board Members
From: Fayne Boyd, Licensing Manager
Subject: Hearings on Proposed Regulations Hearings – July 29, 2010

At the Board meeting on July 29, 2010, a hearing has been scheduled to consider proposed regulations. The public comment period for this hearing closed at 5:00 pm on October 25, 2010.

Polysomnography Program, Agenda Item 19: Seven letters were received in a timely manner..

A. Changes to Section 1378.1 were submitted by the California Sleep Society, California Society for Respiratory Care, and the California Hospital Association.

1. Amend 1378.1 (a) (2).
2. Amend 1378.1 (e).
3. Clarify Section 1378.1 (d).
4. Amend Section 1378.1 (d) (g) (f).

B. Changes to Section 1378.13 were submitted by the California Sleep Society, Respiratory Care Board of California and the California Hospital Association.

1. Amend Section 1378.13 (b).
2. Modify Section 1378.13.
3. Amend Section 1378.13 (b).
4. Amend Section 1378.13.
5. Amend Section 1378.13 (c).
6. Amend Section 1378.13 (b).

**KAISER PERMANENTE®**Via Email: regulations@mbc.ca.gov

October 25, 2010

Ms. Fayne Boyd
Licensing Manager
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

RE: Polysomnography Program Proposed Regulations

Dear Ms. Boyd:

On behalf of Kaiser Foundation Health Plan, Inc. (“the Plan”), Kaiser Foundation Hospitals, The Permanente Medical Group (“TPMG”), and the Southern California Permanente Medical Group (“SCPMG”) (collectively “Kaiser Permanente”) I am submitting comments regarding the proposed regulations for the Polysomnography Program. Kaiser Foundation Hospitals owns and operates licensed health facilities. Throughout California, the Plan contracts with Kaiser Foundation Hospitals to provide hospital services to its members and with SCPMG and TPMG to provide medical services to its members in Southern and Northern California, respectively. As multi-specialty group practices, SCPMG and TPMG take direct responsibility for organizing and providing the professional medical care that Plan members receive.

Kaiser Permanente acknowledges and appreciates the efforts made by the Medical Board of California in developing regulations to establish the Polysomnography Program. We agree that the public interest requires the regulation of the practice of polysomnographers and the establishment of clear licensure standards for practitioners of polysomnography. The recommendations provided below are meant to further clarify and strengthen the proposed regulations to ensure the California standards are sufficient to protect consumers and support the safe practice of polysomnography.

The following are comments, suggestions, and or requests for clarification made by the Plan. Excerpts from the proposed regulations are included in bold-italic text while the Plan’s recommended changes are included as underlined text.

Comment 1

The Plan believes the intent of these regulations is to ensure that licensed staff, other than Respiratory Therapists (RT's), working with patients in either an ambulatory or overnight sleep lab have sufficient knowledge and skills to safely perform the tasks required in this type of clinical setting. While SB 132 (Denham), later codified as Business and Professions Code sections 3575–3579, and section 3709 exclude Respiratory Therapists (RTs) from the Medical Board's proposed regulations, the Plan recommends adding the following clarifying section and language:

Recommendation:1378.2 Applicability

These regulations do 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.

Comment 2

The Plan recommends adding a definition for the term “appropriate interventions for patient safety.”

Recommendation:

“Appropriate interventions for patient safety” is defined, but not limited to, the administration of (1) CPAP therapy, (2) Bi-level PAP therapy, (3) oxygen therapy, or (4) other similar respiratory-related therapies.

Comment 3*1378.9. Examination*

(a) 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:

(b) An applicant who applies for registration as a polysomnographic technologist on or before October 22, 2012, may, in lieu of successful completion of the examination approved by the board, submit any of the following as proof that the applicant has been practicing polysomnography safely for at least five years:

(1) 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.

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

Although the Plan supports some level of grandfathering, we have concerns that the approach taken in the proposed regulations is insufficient to achieve an acceptable standard of care. It is not in the public's best interest to allow temporary licenses for these types of professionals for an undefined amount of time. As written, a technician that is unable to pass the exam could be eventually grandfathered into the program, even if they did not possess the minimum requisite clinical judgment to adequately perform these duties. Although documented experience performing polysomnography related tasks safely is important, alone it is inadequate proof that the technician possesses the level of expertise needed to ensure safe practices.

Recommendation:

1378.9. Examination

(a) 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:

(b) An applicant who applies for registration as a polysomnographic technologist on or before October 22, 2012, may, in lieu of successful completion of the examination approved by the board, obtain a Transitional Certification by submitting any of the following as proof that the applicant has been practicing polysomnography safely for at least five years:

(1) 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.

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

The Transitional Certification is a registration granted under 1378.9(b), and shall expire on the earlier of two years from issuance or October 22, 2012. A Transitional Certification can only be renewed by meeting the requirements of 1378.9(a) and 1378.11.

Comment 4

1378.11. 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.

Recommendation:

1378.11. 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~~

(2) Be currently enrolled in an accredited polysomnographic education program. Prior to October 22, 2012, applicant can have a high school diploma or GED and twelve months of supervised direct polysomnographic patient care experience in lieu of current enrollment in an accredited polysomnographic education program;
and

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

Comment 5*1378.11. Registration Requirements.*

(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.

Recommendation:

(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 accredited polysomnographic education program (or possess a minimum of 12 months of supervised direct polysomnographic patient care experience prior to October 22, 2012);

~~(3) Possess a minimum of 12 months experience as a registered polysomnographic trainee; and~~

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

Comment 6***1378.15. 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.

As written, this section could create unintended consequences by requiring a physician and a surgeon to be present in order to supervise a polysomnographic trainee, while a polysomnographic technologist or other licensed health care professional could do so alone. The Plan believes it is in the best interest of public safety to ensure an appropriate level of supervision for both trainees and technicians.

Recommended language**1378.15. Scope of Services – Polysomnographic Trainee.**

Under the direct supervision of a supervising physician ~~and~~ or 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, in the presence, and under the supervision, of a licensed respiratory therapist.

Comment 7***1378.17. Scope of Services – Polysomnographic Technician.***

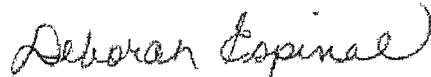
A polysomnographic technician may perform the services described in section 1378.15 under general supervision and may implement appropriate interventions necessary for patient safety.

Recommended language**1378.17. Scope of Services – Polysomnographic Technician.**

A polysomnographic technician may perform the services described in section 1378.15 under general supervision and may assist with appropriate interventions necessary for patient safety in the presence, and under the supervision, of a licensed respiratory therapist.

Kaiser Permanente appreciates the opportunity to provide comments to the proposed regulations specific to the polysomnography program. Should you have any questions or concerns regarding these comments, or need further information, please do not hesitate to contact me at (510) 627-2625.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Espinal".

Deborah Espinal
Executive Director, Health Plan Policy
Kaiser Foundation Health Plan, Inc.



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

October 25, 2010

Fayne Boyd, Licensing Manager
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

Dear Ms. Boyd:

RE: Comment on proposed regulation adding Chapter 3.5 to Division 13 of Title 16, California Code of Regulations (Polysomnography)

The Licensing & Certification Program (L&C) of the California Department of Public Health (CDPH) provides the following comments in this rulemaking action.

CDPH's L&C Program functions as an enforcement and regulatory agency and is responsible for licensing approximately 30 different types of health care facilities and providers so they may legally operate in California. L&C also certifies health care facilities and providers to be eligible for payment under the Medicare and Medicaid programs.

CDPH's comments are primarily in the context of its role of enforcing patient safety and care standards in its regulated facilities. Sleep labs that operate as an outpatient service under a general acute care hospital license (GACH) are an example of a CDPH facility in which polysomnography may be practiced. These sleep labs must also comply with GACH statutes and regulations enforced by CDPH.

Existing regulations applicable to sleep labs in a GACH state that a registered nurse shall directly provide ongoing patient assessments. These patient assessments shall be performed, and the findings documented in the patient's medical record, for each shift, and upon receipt of the patient when he/she is transferred to another patient care area. (Title 22, California Code of Regulations (CCR), Section 70215(a)(1)).

CCR Title 22, Section 70529(c) requires that a registered nurse be responsible for the nursing service in the outpatient service. In addition, federal regulations state "a registered nurse must supervise and evaluate the nursing care for each patient." (Title 42 Code of Federal Regulations (CFR) Section 482.23 (b)(3)).

CDPH suggests that the proposed regulation include a provision clarifying that polysomnographic technologists, technicians, trainees and other licensed health care professionals practicing polysomnography in a health care facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code are subject to laws governing these facilities.

Proposed Section 1378.13(b) of the proposed regulation states:

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 section, other licensed health care professional means registered nurse, physician assistant and respiratory care practitioner who possesses a current California license.

This provision could potentially make RNs in GACH outpatient sleep labs responsible for the supervision of polysomnographic technicians and/or trainees when a supervising physician and surgeon or supervising polysomnographic technologist is not available on the premises.

The provision also presents a potential problem because RNs typically make rounds elsewhere on GACH premises without physically standing present next to polysomnographic patients in the outpatient unit. Accordingly, MBC should more precisely define "premises" in the proposed regulation. Similarly, MBC should also more precisely define "available to the polysomnographic technicians and/or trainees under his/her supervision."

Another concern is the use of the term "adequate supervision" referenced at Section 1378.13(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.

What constitutes "adequate" supervision? Since this term is not defined, the regulation should include specific standards for adequacy of supervision.

Fayne Boyd
Medical Board of California
Page 3
October 25, 2010

Section 1378.13 (b) allows a supervising polysomnographic technologist to stand in place of a supervising physician and surgeon not physically present on the premises. But nowhere does the proposed regulation define the qualifications, role and responsibilities of supervising polysomnographic technologists. This should be specified for polysomnographic technologists as well as "other licensed health professionals" who supervise polysomnographic technicians and trainees.

Proposed Section 1378.17 on "Scope of Services" states that a polysomnographic technician "may perform the services described in section 1378.15 under general supervision and may implement appropriate interventions necessary for patient safety."

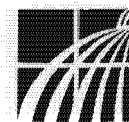
CDPH is concerned that with this provision is a rather vague and potentially overbroad description of the polysomnographic technician scope of practice. Aside from having a certificate in Basic Life Support, how is it determined that a polysomnographic technologist or technician is qualified to make such interventions?

CDPH appreciates the opportunity to comment on these proposed regulations.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Billingsley".

Kathleen Billingsley, R.N.
Deputy Director



CALIFORNIA
HOSPITAL
ASSOCIATION

*Providing Leadership in
Health Policy and Advocacy*

October 25, 2010

Fayne Boyd
Licensing Manager
Medical Board of California
2005 Evergreen Street
Suite 1200
Sacramento, CA 95815

Re: Proposed Regulations – Polysomnography Program

Dear Ms. Boyd:

The California Hospital Association, representing over 400 general acute, long term care, and specialty hospitals throughout California, welcomes the opportunity to comment on proposed regulations for the Polysomnography Program as promulgated by the Medical Board of California under the authority of California Business and Professions Code § 3575. Numerous California hospitals operate sleep laboratories. As a result, we have an interest in the proposed regulations and ensuring an adequate supply of qualified polysomnographic technologists, technicians and trainees.

We appreciate the work that has been done to develop the proposed regulations. We do have the following comments, concerns and recommendations:

- 1) Proposed section 1378.1(d) defines “National certifying examination” as “the examination given by the Board of Registered Polysomnographic Technologists.” However, the BRPT gives two examinations: 1) the CPSGT examination; and 2) the RPSGT examination. It is not clear which examination is required. Clarification on this issue would be beneficial.
- 2) Many individuals working in hospital sleep laboratories are currently licensed as respiratory care practitioners (RCP). It is our understanding that if an employee is licensed as a RCP, he/she would not be required to register as a polysomnographic technologist but could continue to perform the full scope of services as a RCP. On the other hand, it is our understanding that RCPs have the option to register as a polysomnographic technologist if they otherwise meet the qualifications set forth in proposed section 1378.11(c). It would appear that is what was contemplated by the statute, California Business and Professions Code § 3575(f). Clarification on that issue would be beneficial.

- 3) It appears that section 1378.9 contains a grandfather provision for those individuals who are currently providing polysomnography services. However, reading 1378.9 together with 1378.11(c), it appears that individuals who have been providing polysomnography services for at least 5 years are only exempt from the requirement to take the national certifying examination. It appears that there is no alternative to the other two requirements in 1378.11(c) – (1) holding a valid, current credential as a polysomnographic technologist issued by BRPT (which requires that the individual have taken the national certifying examination); and (2) graduation from an accredited program. These two requirements are an absolute roadblock to many individuals who are currently working as polysomnographic technicians and are qualified to provide polysomnography services in a safe manner. This issue must be addressed. One option is identified in section 5 below.
- 4) Proposed section 1378.13(b) defines “other licensed health care professional” as “registered nurse, physician assistant **and** respiratory care practitioner who possesses a current California license.” We believe it would be appropriate to change “and” to “or” to clarify that an individual needs only have one of the qualifications, rather than all three.
- 5) The MBC proposed regulations appear to establish polysomnographic technicians as an independent classification with, what appears to be, a narrow scope of practice. Although proposed section 1378.11 requires a polysomnographic technician to have graduated from an accredited program, proposed section 1378.13, appears to limit their scope of practice to providing basic supportive services and implementing appropriate interventions necessary for patient safety. The regulations do not define “implementing appropriate interventions necessary for patient safety” and we are concerned that could be interpreted in an unnecessarily narrow fashion.

We believe the newly established requirements that include graduation from an accredited educational program ensure that technicians have met appropriate competency standards. As such, there does not appear to be any rationale for limiting the technician’s scope of practice as the proposed regulations could be interpreted to do. Allowing polysomnographic technicians to perform the full scope of services is consistent with New Mexico’s Polysomnographic Practice Act as well as the model job description developed by the American Academy of Sleep Medicine for polysomnographic technicians. www.aasmnet.org/resources/pdf/psgtechnician.pdf. Thus, both registered technicians and technologists would be authorized to perform the full scope of services set forth in the statute.

In addition, although not addressed by the regulations, we believe it would be appropriate for a technician to orient, train and assess the competencies of trainees and newly hired technicians. This approach is consistent with the approach taken in the nursing field. Thus, the distinction between a technician and a technologist would be that the technician may not supervise trainees or other technicians, within the meaning of proposed section 1378.13, while the technologist may provide such supervision.

Finally, to address the concern with the limited grandfather clause available for polysomnographic technologists raised above in point #3 above, we recommend adopting the following grandfather provision for polysomnographic technicians:

Add section 1378.11(b)(5); .An applicant who applies for registration as a polysomnographic technician on or before October 22, 2012, may, in lieu of meeting the requirements set forth in subsections (b)(2) and (b)(3), submit the following as proof that the applicant has been practicing polysomnography safely for at least three years:

- (a) one or more declarations under penalty of perjury by a supervising physician attesting to the period of time they physician supervised the applicant, the tasks performed by the applicant, and the applicant's ability to practice polysomnography safely; and
- (b) a letter of good standing from each state in which the applicant is registered or licensed, if the individual is registered or licensed in another state.

Again, on behalf of members of the California Hospital Association, thank you for the opportunity to provide input on the proposed Polysomnography Program regulations.

Sincerely,

/s/

Gail M. Blanchard-Saiger
California Hospital Association
Vice President, Labor & Employment



October 22, 2010

Fayne Boyd, Licensing Manager
 Medical Board of California
 2005 Evergreen Street, Suite 1200
 Sacramento, CA 95815

RE: Proposed Regulations for Polysomnography Program

Dear Ms. Boyd,

The Medical Board of California (Board) is considering changes to Division 13 of Title 16 of the California Code of Regulations relative to the qualifications for certified polysomnographic technologists, technicians and trainees as required through the enactment of SB 132. The California Society for Respiratory Care (CSRC) has comments on the proposed draft regulations.

The CSRC continuously strives for excellence in the cardiopulmonary profession. By these means, the CSRC is committed to health, healing and disease prevention in the California community. We are therefore supportive of the Board's efforts to implement SB 132 establishing the Polysomnography Program for California.

The CSRC finds that to codify the Board of Registered Polysomnographic Technologists as sole credentialing entity undermines the inclusion of respiratory therapists (RCP) elsewhere within the regulations. The CSRC recommends the following revisions to the proposed draft language for the Polysomnography Program under Article 1. General Provisions, 1378.1. Definitions:

- (d) —National certifying examination means the examination given by the Board of Registered Polysomnographic Technologists. Certifying examination means a polysomnographic technologist examination administered by a nationally recognized healthcare credentialing entity.
- (g) —Valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board means shall include current valid registration as a polysomnographic technologist issued by the Board of Registered Polysomnographic Technologists.”

The CSRC is aware the Joint Commission is no longer the sole accrediting and certifying agency for health care organizations and programs in the United States. The CSRC therefore, requests the

following revision to the proposed draft language under Article 1. General Provisions, 1378.1.
Definitions:

- (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 any approved accrediting agency or group.

The CSRC will send a representative to the hearing on November 5th in addition to submitting these comments. Thank you for consideration of these revisions. Please contact me with any questions.

Sincerely,

Jack McGee
Chair, CSRC Government Affairs Committee



RESPIRATORY CARE BOARD OF CALIFORNIA

October 19, 2010

AGENDA ITEM 19

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LICENSING
PROGRAM

Fayne Boyd, Licensing Manager
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

RE: POLYSOMNOGRAPHY REGULATIONS

Dear Ms. Boyd,

Our office is in receipt of the notice, proposed text, and initial statement of reasons concerning the Medical Board of California's (MBC's) polysomnography regulations. The Respiratory Care Board (RCB) respectfully requests the MBC to consider the following comments as part of its rulemaking package:

Article 3, Section 1378.9, Examination

Subdivision (b) of Section 1378.9, provides that an applicant who applies for registration by October 22, 2012, "may, in lieu of successful completion of the examination"...submit proof (in the form of a declaration from a physician) that he/she has been practicing polysomnography safely for at least five years. The RCB suggests that this subdivision be eliminated in its entirety based on the "experience" pathway to take the Board of Registered Polysomnographic Technologists (BRPT) exam, as well as the importance to ensure some level of competency.

The "certification examination" offered by the BRPT is a nationally recognized "competency" examination accredited by the National Commission for Certifying Agencies. There are several pathways to qualify for the examination with, arguably, the easiest pathway requiring 18 months of paid work experience (at least 21 hours a week); high school or college education is *not* necessary. Therefore, any applicant who could document five years of "safe" practice, would qualify to take the BRPT competency exam. The only exception would be those applicants who worked less than 21 hours a week for the greater part of their five years of experience.

Further, the BRPT competency examination covers five domains directly related to sleep studies (e.g. pre-study procedures; study performance; therapeutic intervention; post-study procedures, and scoring and data analysis). Accepting declarations that suggest an applicant has practiced "safely" is not evidence that an applicant possesses the knowledge, skills and abilities that are fundamental to the performance of numerous tasks provided in all five of these domains.


Article 4, Section 1378.13. Employment and Supervision of Registrants

This section proposes to allow physicians, registered nurses, physician assistants, respiratory care practitioners and polysomnographic technologists provide "supervision." The RCB suggests that this be modified to provide that only properly licensed physicians and respiratory care practitioners be permitted to provide supervision based on the propensity for respiratory-related emergencies to arise.

Therapeutic intervention through the use of CPAP and BiPAPs is common during sleep studies. Respiratory care practitioners (RCPs) are specifically educated and trained in respiratory care and are the most qualified personnel to identify potential problems and respond to unforeseen complications that may arise in a sleep lab. There are numerous contraindications related to the use of CPAP and BiPAPs. It appears that there are no questions on the BRPT competency exam dedicated to responding to these contraindications and only a handful related to responding to medical emergencies in general. Without significant education and training, a registered polysomnographic technologist is not equipped to respond to such contraindications (e.g. hypoventilation, hypercapnia, or barotrauma, gastric distention, etc...).

The RCB appreciates the opportunity to provide comment and feedback to your proposed regulations. If you have any questions, please contact Stephanie Nunez, Executive Officer at 916.323.9983.

Sincerely,


Larry L. Renner
President



California Sleep Society

Board of Directors

James "Al"
Reichert, M.A.,
RPSGT
President
Sequoia Sleep
Disorders Center

Milton Erman, M.D.
President-Elect
Pacific Sleep
Medicine

Clete A. Kushida,
MD, PhD, RPSGT
Past-President
Stanford University
Sleep Disorders
Center

Michael Sajemi,
RPSGT
Secretary-Treasurer
California Center for
Sleep Disorders

Alon Avidan, M.D.,
MPH
UCLA Sleep
Disorders Center

Michael Cohen,
M.D.
Contra Costa Sleep
Center

Sharon Keenan,
Ph.D., RPSGT
School of Sleep
Medicine, inc.

Glenn Roldan,
RPSGT
United Sleep Centers

Paul Selecky, M.D.
Hoag Hospital Sleep
Disorders Center

Kimberly Trotter,
M.A., RPSGT
UCSF Sleep
Disorders Center

October 18, 2010

Ms. Fayne Boyd, Licensing Manager
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

RE: Proposed Regulations for Certified Polysomnographic Technologist

Dear Ms. Boyd:

The California Sleep Society (CSS) is pleased to submit comments to the Medical Board of California (Board) regarding the proposed regulations outlining the educational and training requirements a sleep technologist must complete to obtain the designation of "certified polysomnographic technologist" by the Board. The CSS promotes and provides education in polysomnography and sleep medicine as well as increased public awareness of the field. The CSS encourages and assists in the advancement of scientific and technical standards of sleep technology, and promotes the highest standards of training and qualifications for sleep medicine physicians and sleep technologists.

After reviewing the proposed language, the CSS respectfully requests that the following amendments are incorporated into the regulatory language:

(1) **Amend section 1378.1**

Current language:

(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; or (2) a sleep technologist program accredited by the American Academy of Sleep Medicine.

We remain concerned with the use of the American Academy of Sleep Medicine (AASM) as the body that accredits polysomnographic training programs when it is the Board of Registered Polysomnographic Technologists (BRPT) that governs the national credentialing exam. If the proposed language is not amended there will be significant disparity between California law and the regulations that qualify sleep technicians for the national certifying examination.

The BRPT has approved sixteen training programs that satisfy the training requirement for the board exam. Two of these training programs are offered on line and are an important option to have ready access to qualified training programs. A-STEP is only one training option and there is no reason to question the judgment of the BRPT on setting the standards for its own exam. A-STEP is a trademark of the AASM and their 'accreditation' of training programs is subject to BRPT's approval of the A-STEP curriculum.

Proposed Language:

(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(CoARC); or (2) a sleep technologist program approved by the Board of Registered Polysomnographic Technologists(BRPT).

Supporting Information:

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From the Board of Registered Polysomnographic Technologists:

RPSGT Exam Requirements

- Pathway #1 - 18 months of experience
- Pathway #2 - 6 months of experience
- Pathway #3 - CAAHEP/CoARC graduate
- Pathway #4 - 9 months of experience

Pathway #1 - for candidates with 18-months of PSG experience (on-the-job training)

1. *Candidates must complete a minimum of 18 months of paid clinical experience where at least 21 hours per week per calendar year of on-the-job duties performed are Polysomnography direct patient recording and/or scoring. Duties must be within a 3-year period prior to the exam.*
2. *Candidates must complete the AASM A-STEP Self-Study (online) Modules or a BRPT-designated alternate educational program. Proof of completing the modules must be submitted with the application. Acceptable forms of proof are:
 1. *Copies of the 14 certificates of completion from each module, or*
 2. *An official transcript from the AASM.**
3. *Candidates must include proof of completing secondary education. Acceptable forms of proof are copies of transcripts or diplomas from high school, GED or equivalent, or college or university education.*

BRPT Designated Alternate Educational Programs:

Please note: A-STEP programs are not required for RPSGT recertification.

The programs listed below have been reviewed by the BRPT Education Advisory Committee and are BRPT-designated alternate educational programs. These programs have not been reviewed or endorsed in any way by the American Academy of Sleep Medicine (AASM) and are not recognized as meeting any criteria for AASM accreditation.

American Sleep and Breathing Academy - BRPT Exam Modules Online

Beaumont Hospitals Sleep Evaluation Services - Berkely Center Berkely, MI

Bluegrass Community & Technical College (Polysomnography Program) Lexington, KY

Community College of Baltimore County Baltimore, MD

Ervin Technical Center Tampa, Florida

Harrisburg Area Community College PSG Program Harrisburg, PA

Linn Benton Community College Albany, OR

London Health Sciences Centre - Sleep Lab London, Ontario, Canada

Madison Area Technical College PSG Program Madison, WI

Piedmont Virginia Community College with Keswick Sleep Center Charlottesville, Virginia

Sleep Evaluation Services - Berkely Center William Beaumont Hospitals - Berkely, MI

Sleep Multimedia Online

Southeast Technical Institute, ENDT Program Sioux Falls, SD

Southern Maine Community College South Portland, Maine

Toronto Sleep Institute Toronto, ON, Canada

University of Western Australia Nedlands WA, Australia

- (2) Eliminate the language requiring a sleep technologist or other licensed health care professional to directly supervise a sleep technician.

Current Language:

Section 1378.13 (b) "Employment and Supervision of Registrants"

"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."

Proposed Language:

"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 trainees under his/her supervision."

Supporting Information:

The AASM job description for a polysomnographic technician states:

A Polysomnographic Technician performs comprehensive polysomnographic testing and analysis, and associated interventions under the general supervision of a Polysomnographic Technologist (RPSGT) and/or the clinical director (MD, PhD, DO) or designee. A Polysomnographic Technician can provide supervision of a Polysomnographic Trainee.

A sleep technician is an individual who has successfully completed an approved polysomnographic education program; possesses a minimum of six months experience as a registered polysomnographic trainee; and possesses a current certificate in Basic Life Support issued by the American Heart Association. The CSS requests that the language is amended to allow the sleep technician to work under general supervision of a RPSGT, clinical director or other appropriately qualified licensed health care professional.

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- (3) Eliminate or modify use of the term 'registered' when referring to technicians and trainees covered under the certification requirements of SB 132.

Supporting Information:

Sleep technologists who have passed the national credentialing exam receive the title "Registered Polysomnographic Technologist" and may use the credential RPSGT. In the profession of polysomnography the term 'registered' confers specific status. Similarly the term 'technologist' is reserved for one who has passed the exam vs. a 'technician' who has not. The use of the term, 'technologist' in SB 132 and the related regulations is consistent with these conventions. However the terms 'registered', 'registration' and 'registrant' as currently used in SB 132 and the regulations is inconsistent with the conventions of polysomnography and confusingly describes technicians and trainees. Here are two examples:

1378.1 (e) Polysomnography registrant includes any person registered as a trainee, technician or technologist under this chapter...

and

1378.11. (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 ...

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We believe that use of the term 'registered' should be modified or its use clarified to ensure that technicians and trainees do not inappropriately use the term in ways that would confuse the public or other members of the profession. Possible solutions include the following:

1. Substitute the terms 'certified' and 'certification' for 'registered' and 'registrant' when referring to trainees and technicians
or;
2. Place a disclaimer in the regulations stating that use of the terms "registered" and 'registration' when used in relation to polysomnographic trainees and technicians does not confer the right to use these terms in job descriptions or credentials. Further it should be clarified that the use of these terms when used to describe individuals who have satisfied certain provisions within SB 132 and its associated regulations does not indicate that they have met the requirements of any national certifying examination.

- (4) **Clarify that the national certifying exam means the RPSGT examination.**
Proposed Language:

1378.1 (d) National certifying examination means the RPSGT examination given by the Board of Registered Polysomnographic Technologists.

Supporting Information:

When SB 132 was conceived and written the BRPT had one certifying examination, the RPSGT Exam. Today there are two BRPT certifying examinations including the Certified Polysomnographic Technician (CPSGT) exam introduced in 2009 as an entry level certification. The RPSGT exam remains the highest certification for health care technologists in the field of sleep disorders and we recommend that it be specified as the certifying exam for sleep technologists in California.

Again, thank you for allowing the CSS to submit comments on these important regulations. If you have any questions or would like to discuss these issues further, please feel free to contact the CSS President, Al Reichert, MA, RPSGT at 650-367-5188.

Sincerely,

California Sleep Society Board of Directors

| | |
|----------------------|--|
| President: | Al Reichert, M.A., RPSGT |
| Past President: | Clete A. Kushida, MD, PhD, RPSGT |
| Secretary-Treasurer: | Michael Salemi, RPSGT |
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Rhonda Baldo - Re: Medical Board of California - SB 132 - Polysomnographic Technologists**AGENDA ITEM 19**

From: <Joan.Spencer@kp.org>
To: <Rhonda.Baldo@mbc.ca.gov>
Date: 10/5/2010 2:09 PM
Subject: Re: Medical Board of California - SB 132 - Polysomnographic Technologists
CC: <regulations@mbc.ca.gov>

Hi Rhonda, Fayne and Kevin,

I need some clarification on:

"Defines polysomnography to mean the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders."

In an out patient clinic setting what, if any, of the following would be considered "engaging in the practice of polysomnography"? (the term CPAP is used in the general sense and refers to CPAP, APAP, BIPAP, AVAP, Servo...)

1. Instructing a patient in how to use a diagnostic testing device (WatchPAT or Embletta) that they then take home to use.
2. Downloading the above device, printing a report and providing it to an MD for interpretation.
3. Instructing a patient in how to use an oximeter with their CPAP that the patient will then take home to use.
4. Downloading the above device, printing a report and providing it to a Registered Respiratory Therapist or RPSGT to enter the results into the patients chart and then forward to an MD for interpretation.
5. Mask fitting by them self or
6. in the presence of a Registered Respiratory Therapist or RPSGT.
7. Returning patient calls to help troubleshoot problems with equipment.
8. Returning patient calls to determine correct appointment type.
9. Explaining signs, symptoms or treatment options for OSA.
10. Sending a patient out on an Auto CPAP machine that the patient will use for a specific period of time to assess pressure needs.
11. Downloading the above device to determine what pressure the patient needs to treat their OSA.
12. Distributing new CPAP equipment to patients.
13. Determine if a patient needs a heated humidifier for their CPAP use.
14. Instruct patients on the care and maintenance of their CPAP equipment.
15. Setting pressures on CPAP machines that patients will use.
16. Verify if a CPAP machine is properly working.
17. Clean CPAP machines or masks/tubing between patient use.
18. Determining when a patient needs to be referred back to the MD for further advanced testing.
19. In an out patient setting with the list above being done, will the MD supervising these staff need to meet 1378.1 f under definitions (from the staff report dated 6/20/10)? and if so, are they also limited to supervising eight polysomnographic technologists at any one time?
20. Will it be acceptable to have a unlicensed person do the work and say they are "working under" the license of another person, who is licensed and present at the same time?
21. If so, would they have to be present in the same room?, floor?, building?

I am asking for clarification so that we can adhere to the regulations as intended and to protect our RCP licenses and the patients that we serve.

Please respond in the written form after making a decision on the above items and make them part of the public record.

Thank you,

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