

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 10, 2011  
ATTENTION: Medical Board of California  
SUBJECT: Polysomnographic Technologist Regulations  
(CCR, Title 16, Division 13, Chapter 3.5, Articles 1 through 6) Second Modified Text  
STAFF CONTACT: Curtis J. Worden, Chief of Licensing

REQUESTED ACTION:

Direct staff on how to proceed with the Polysomnographic Technologist Regulations (CCR, Title 16, Division 13, Chapter 3.5, Articles 1 through 6) Second Modified Text.

STAFF RECOMMENDATION:

Staff recommends posting the Second Modified Text for a 15 day comment period and authorizing the Executive Director in the absence of any adverse comments to proceed with filing the Second Modified Text with the Office of Administrative Law.

BACKGROUND:

This memo provides you information regarding the Board's attempt to adopt regulations to implement the registration of polysomnographic technologists, technicians and trainees, as required by Senate Bill 132. As you may recall, the Board, at its November 15, 2010, meeting, decided to make some revisions to the proposed polysomnographic regulations and then circulate those revisions for a comment period of fifteen days. The Board received comments on the reviewed proposal.

As a result, after the meeting, interested parties met with Board staff and legal counsel to discuss additional revisions to the regulations. Of particular interest to the interested parties are the following:

- 1) Approval of Educational Polysomnographic Programs. Staff and legal counsel agree that this revision is necessary to recognize those applicants who have completed an educational program designated by the Board of Registered Polysomnographic Technicians.
- 2) Potential Grandfathering of the Examination Requirement. One of the more controversial issues is the qualifications to become a registered technologist. One of the *statutory* requirements for registration as a technologist is the successful completion of a national certifying examination. In lieu of the examination, however, SB 132 allows an applicant for registration to provide the Board with sufficient evidence that he or she has been

practicing polysomnography for at least five years. In other words, some technologists – those who have been practicing for five years safely – would be grandfathered in and passage of the examination would not be required as a prerequisite to registration.

In discussions with the interested parties, Board staff and legal counsel have learned that the supposed intent of the grandfather clause was to essentially allow an applicant who has practiced safely for five years to register as a technologist without reference to the completion of an educational program or successful passage of an examination.

From a legal perspective, this new, broader interpretation is inconsistent with the statute. The test for regulatory sufficiency is a two-part test: The regulation must be 1) consistent and not in conflict with the statute; and 2) reasonably necessary to effectuate the purpose of the statute. Additionally, a regulation cannot enlarge or restrict the scope of a statute. (See *Home Depot U.S.A. v. Contractors' State Licensing Board* (1996) 49 Cal.Rptr.2d 302, 306.) Here, the enlarged grandfather clause would expand the scope of the statute from the examination only exemption to an exception from the requirements for graduation from an approved program as well as the examination.

- 3) Level of Services and Supervision to be Provided. As part of the resolution to the grandfathering issue described above, the interested parties propose to significantly revise the Board's regulation to create three levels of polysomnographic technicians and to expand the level of services that these technicians can provide. In essence, while the Board has proposed three classes of licensure, the interested parties suggest five: trainee, three classes of technicians, and technologist, all at program startup. This new regimen is unnecessarily complex, potentially confusing and may not be prudent public policy as it tends to blur the lines and distinctions among the classifications. Two of the technician classifications would be identical to the technologist classification in scope and ability to supervise. The Board may want to consider have the underlying statutory issues resolved before moving forward with expanding these regulations. Additionally, the Board may want to set an effective date for these regulations.
- 4) The Board also received the following comment: "I thought I should bring to your attention that subdivision (a) of section 1378.13 references section 1378.1 (e) and I believe it was meant to reference section 1378.1(f).

"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..."

Section 1378.1(e) references the definition for a "polysomnographic registrant" whereas 1378.1(f) references the definition for "Supervising physician and surgeon."

This change is appropriate and has been made to the second modified text.

## MEDICAL BOARD OF CALIFORNIA

### Proposed Second Modified Text

Changes to the first modified text are shown in italics with double underline for new text and italics with double strikeout for deleted text.

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; and (3) a sleep technologist program approved by the Board of Registered Polysomnographic Technologists.

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

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

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

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

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

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

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)~~ (f) shall not supervise polysomnography registrants . No physician and surgeon shall supervise more than eight polysomnographic technologists at any one time. A physician and surgeon shall comply with the supervision requirement of Section 3575(a) of the code.

(b) A supervising physician and surgeon, supervising polysomnographic technologist or other licensed health care professional shall not supervise more than a total of eight polysomnographic technicians and/or trainees at any one time. If a supervising

physician and surgeon is not physically present on the premises, a supervising polysomnographic technologist or other licensed health care professional shall be physically present on the premises and available to the polysomnographic technicians and/or trainees under his/her supervision. For purposes of this section article, "other licensed health care professional" means a registered nurse, physician assistant and or respiratory care practitioner who possesses a current California license.

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

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

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](http://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.

**Curt Worden - Polysomnographic Program Regs**

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**From:** Gail Blanchard-Saiger <gblanchard@calhospital.org>  
**To:** "curt.worden@mbc.ca.gov" <curt.worden@mbc.ca.gov>  
**Date:** 1/3/2011 10:24 AM  
**Subject:** Polysomnographic Program Regs  
**CC:** Dorel Harms <dharms@calhospital.org>, "dlgonzalez@cs.com" <dlgonzalez@...>  
**Attachments:** Draft language for Tech 2.doc

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Mr. Worden,

Happy New Year. Attached please find the language we discussed-creating a polysomnographic technician II classification. After our meeting, one of our group members pointed out there is a third category of individuals who should qualify for grandfathering—those individuals who have the RPSGT certification but did not graduate from an approved program. The reason these individuals did not graduate from an approved program is that there were no such programs when the RPSGT certification was created. Of note, many of these individuals helped to develop the current educational program and may be currently administering that program.

Many of these Technologists are currently administering clinical Sleep Medicine programs in California acute care hospitals and/or supervising the staff of those programs. If the new California Regulations do not recognize these Sleep Technologists and allow them to continue their supervisory duties the care of California sleep disorder patients may be compromised.

After meeting with the California Sleep Society representatives, we now understand the intent of intent of SB 132- B&P Code 3575(b) was to grandfather these individuals as well as individuals who have been working for at least 5 years. If you agree with that interpretation, it should resolve these issues. If not, we believe there are two options.

One option would be to expand the Technician II category (reflected on the attached) to include both individuals who have been working for at least 5 years as well as those who have RPSGT certification (who would necessarily have been working at least 5 years) Under this option, the Technicians II would be authorized to provide the full scope of services as a technologist as well as supervise staff.

Another alternative would be to leave the Technician II category as reflected on the attached (authorized to perform full scope of services but no supervisory responsibility) and create a Technician III category. The technician III category would be reserved for those individuals who have passed the RPSGT certification but who have not graduated from an approved program (because they did not exist). These individuals would be authorized to perform the same scope of services as a Technologist as well as supervise other staff.

Thank you for your consideration of these issues. Please feel free to contact me with any questions or concerns.

Gail

**Gail M. Blanchard-Saiger**  
 VP Labor & Employment  
 California Hospital Association  
 1215 K Street, Suite 800  
 Sacramento, CA 95814  
 Tel: (916)552-7620  
 Fax: (916)554-2220  
[gblanchard@calhospital.org](mailto:gblanchard@calhospital.org)

Technician II proposal (full scope of services but no supervisory authority)

Modify 1378.11

(b) Polysomnographic Technician I

Add new

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

- (1) not be subject to denial under Section 3576 of the code; and
- (2) submit the following as proof that the applicant has been practicing polysomnography safely for at least five years, as of January 1, 2012:
  - (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; and
- (3) possess at the time of application a current certificate in Basis Life Support issued by the American Heart Association.

Modify 1378.13

(a) A physician and surgeon who does not meet one of the requirements set forth in section 1378.1(e) shall not supervise polysomnographic registrants. No physician and surgeon shall supervise more than eight polysomnographic technologists and/or polysomnographic technician IIs 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 technician Is 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 I or trainees under his/her supervision.

Modify 1378.17.

Scope of Services – Polysomnographic Technician I

A polysomnographic technician I may perform the services described in section 1378.15.....

Add new 1378.19

Scope of Services Polysomnographic Technician II

A polysomnographic technician II may perform the services described in Section 3575(a)(2).

## Technician III Proposal:

## Add new 1378.11

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

- (1) not be subject to denial under Section 3576 of the code; and
- (2) submit the following as proof that the applicant has been practicing polysomnography safely for at least five years, as of January 1, 2012:
  - (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; and
- (3) have passed the national certifying examination; and
- (4) possess at the time of application a current certificate in Basis Life Support issued by the American Heart Association.

## Modify 1378.13

(a) A physician and surgeon who does not meet one of the requirements set forth in section 1378.1(e) shall not supervise polysomnographic registrants. No physician and surgeon shall supervise more than eight polysomnographic technologists and/or polysomnographic technicians II or III 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, supervising polysomnographic technician III or other licensed health care professional shall not supervise more than a total of eight polysomnographic technicians I and/or trainees at any one time. If a supervising physician and surgeon is not physically present on the premises, a supervising polysomnographic technologist, supervising polysomnographic technician III or other licensed health care professional shall be physically present on the premises and available to the polysomnographic technician I or trainees under his/her supervision.

(c) A supervising polysomnographic technologist or supervising polysomnographic technician III and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervising by the technologist or polysomnographic technician III of polysomnographic technician I 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 technician I and trainees. Protocols shall be signed and dated by the supervising physician and surgeon and the polysomnographic technologist or polysomnographic technician III.

**Curt Worden - FW: Medical Board of California - - Polysomnography Registration Program - - REGULATIONS - - Modified TEXT**

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**From:** Stephanie Nunez <Stephanie.Nunez@dca.ca.gov>  
**To:** Curt Worden <Curt.Worden@dca.ca.gov>, "fboyd@mbc.ca.gov" <fboyd@mbc.ca.g...>  
**Date:** 11/22/2010 3:55 PM  
**Subject:** FW: Medical Board of California - - Polysomnography Registration Program - - REGULATIONS - - Modified TEXT  
**Attachments:** Polysom Availability - Modified Text - Combined 11-2010.pdf

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This is NOT an official comment, but I thought I should bring to your attention that subdivision (a) of section 1378.13 references section 1378.1(e) and I believe it was meant to reference section 1378.1(f).

"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..."

Section 1378.1(e) references the definition for a "polysomnographic registrant" whereas 1378.1(f) references the definition for "Supervising physician and surgeon."

Stephanie

916.323.9983

-----Original Message-----

**From:** rcbinfo  
**Sent:** Monday, November 22, 2010 2:23 PM  
**To:** Stephanie Nunez; Christine Molina  
**Subject:** FW: Medical Board of California - - Polysomnography Registration Program - - REGULATIONS - - Modified TEXT

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**From:** Rhonda Baldo [Rhonda.Baldo@mbc.ca.gov]  
**Sent:** Monday, November 22, 2010 2:05 PM  
**To:** Rhonda Baldo  
**Cc:** Curt Worden; Fayne Boyd  
**Subject:** Medical Board of California - - Polysomnography Registration Program - - REGULATIONS - - Modified TEXT

To All Interested Parties:

A copy of the Polysomnography Program proposed modified text is attached.

If you wish to comment on the proposed modifications, you may do so by submitting written comments on or before December 3, 2010 to the following:

Fayne Boyd, Licensing Manager  
Medical Board of California  
Sacramento, CA 95815  
Telephone: (916) 274-5983  
Fax: (916) 263-2487  
E-Mail Address: [regulations@mbc.ca.gov](mailto:regulations@mbc.ca.gov)

You may also obtain a copy of the proposed modified text on the Medical Board Website:  
[http://www.mbc.ca.gov/laws/regs\\_polysomnography\\_avail.pdf](http://www.mbc.ca.gov/laws/regs_polysomnography_avail.pdf)

If you have any questions or problems downloading the attached information, please contact me at (916) 263-2605.

Thank you,

Rhonda Baldo  
Medical Board of California  
Polysomnographic Registration Program  
2005 Evergreen Street, Suite 1200  
Sacramento, CA 95815  
(916) 263-2605

Note: My E-Mail address has changed to [Rhonda.Baldo@mbc.ca.gov](mailto:Rhonda.Baldo@mbc.ca.gov) Please update your address book to reflect this change. Thanks.

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# California Sleep Society

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RPSGT  
United Sleep Centers

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

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

December 3, 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.

We have attached a copy of our letter dated November 3, 2010 and hereby incorporate by reference the attached previously submitted comments in that letter.

### (1) Amend section 1378.1 (2)

We have on several occasions requested that the Board modify the language in 1378.1 (2) and must again underscore importance of this modification and the serious consequences associated with maintaining the current language. CSS respectfully requests that the following amendments are incorporated into the regulatory language:

#### 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

985 Atlantic Ave #260 – Alameda – Fax 510-263-3352

'accreditation" of training programs is subject to BRPT's approval of the A-STEP curriculum. Although it is highly unlikely, it is important to recognize that BRPT could one day not recognize A-STEP as a qualified training program for the RPSGT exam. If this were to happen there would be no educational program that would qualify trainees and technicians for both California certification and the BRPT Exam.

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

We have enclosed a statement from BRPT Executive Director John Ganoe that explains the standards for A-Step equivalent training programs and the rationale behind the creation of this classification for training programs that satisfy the requirements for the RPSGT exam.

- (2) The important issues of polysomnographic (PSG) technician scope of practice and grandfathering of PSG technicians in California are commendably described and discussed in the California Hospital Association (CHA) letter of December 3 to Fayne Boyd of the Medical Board of California (MBC). We are in agreement and support of the CHA letter including their concern over the possibility that the MBC may have modeled its technologist and technician scope of services after the Board of Registered Polysomnographic Technologists (BRPT) classifications. And we agree; "...the BRPT does not define technician and technologist scope of services." However, the American Academy of Sleep Technologists (AAST) does provide job descriptions with scope of services.

The AAST is the original professional organization of PSG technologists and technicians established in 1978. The BRPT originated as a committee of the AAST (at that time known as the APT) and in 2000 became the independent authority on PSG technologist and technician credentialing and professional conduct that it is today. In addition to a common history the AAST and BRPT share the same commitment to upholding the highest standards of conduct and professional achievement in Polysomnography Technology.

The AAST website (<http://www.aastweb.org/>) provides detailed scope of service descriptions for; Sleep Trainee, Sleep Technician, and Sleep Technologist (<http://www.aastweb.org/JobDescriptions.aspx> ).

The pertinent aspect of the AAST Sleep Technician job description is:

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

The California Sleep Society agrees with the CHA that the Polysomnographic Technician scope of services in the current regulations proposal is unduly restrictive,

and we propose that the regulations be amended to reflect the Technician scope of services described by the AAST. In addition, it is imperative that grandfather provisions for Technicians be included in the regulations to minimize disruption of vital medical services to patients in California.

Again, thank you for allowing the CSS to submit comments on these important regulations. We urge the Medical Board to reconsider this language and trust that you will recognize the importance of this issue for polysomnography clinicians and sleep centers throughout the State of California.

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 or CSS Secretary-Treasurer, Michael Salemi, RPSGT at 510-703-3906.

Sincerely,

California Sleep Society Board of Directors

President:	Al Reichert, M.A., RPSGT
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	Kimberly Trotter, M.A., RPSGT



December 3, 2011  
Michael Salemi, RPSGT  
Secretary / Treasurer  
California Sleep Society

Dear Michael:

We're pleased to hear that the regulatory phase of the legislative process in which the California Sleep Society has been actively engaged over the course of the past two years is proceeding.

In response to your request for additional information regarding the BRPT-designated alternative educational programs – programs which may be used to establish Pathway #1 or Pathway #4 eligibility to sit for the Registered Polysomnographic Technologist (RPSGT) exam in lieu of the A-STEP online module curriculum -- I would like to offer some background on the BRPT decision to designate alternative educational pathways, as well as some information on how those programs are reviewed prior to designation.

The development and delivery of the AASM A-STEP curriculum – both the didactic / clinical component and the online modules – was a significant development for our field and moved the discipline closer to the establishment of a basic, common curriculum for individuals preparing for a career in sleep technology. Completion of the A-STEP curriculum is solidly integrated into the pathways for establishing eligibility for the RPSGT exam. The decision to designate alternative educational programs for establishing Pathway #1 or Pathway #4 eligibility was based both on a concern that educational offerings be as widely available as possible, and a belief that the field would be well-served by the availability of more than one educational option for establishing exam eligibility.

The application and review process leading to designation as an alternative educational pathway is rigorous. The application process requires that a program demonstrate that curriculum mirrors the content outline of the A-STEP modules. In effect, each applying program is required to demonstrate how each element of the program's curriculum is aligned against a corresponding A-STEP online module. Documentation is submitted electronically and accompanied by detailed information regarding program faculty and reference texts. Application materials are forwarded to the BRPT Education Advisory Committee (EAC) for review. The EAC includes Subject Matter Experts with extensive professional experience and a broadbased knowledge of both the field of polysomnography and the BRPT exam blueprint. Again, the review process is rigorous and thorough, and carries a requirement for periodic review and recertification. As new A-STEP modules have become available and been incorporated into the RPSGT exam eligibility requirements existing designated alternative programs have been required to demonstrate that their curriculum corresponds to any newly developed A-STEP modules.

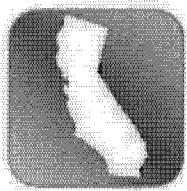
Our collaboration with AASM in establishing and maintaining an increasingly strong educational pathway to the BRPT exams is enormously valuable, Michael, and we look forward to continuing that collaboration. We do believe that the availability of alternative, strong educational pathways to establishing RPSGT exam eligibility has served our candidates and our field well.

Please be in touch if I can provide further information.

Best personal regards,

**John H. Ganoe, CAE**  
Executive Director  
Board of Registered Polysomnographic Technologists  
8400 Westpark Drive, Second Floor  
McLean, VA 22102  
Telephone: 703-610-0263 (Direct)  
Email: [jganoe@brpt.org](mailto:jganoe@brpt.org)

Website: [www.brpt.org](http://www.brpt.org)



# California Sleep Society

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UCSF Sleep  
Disorders Center

November 3, 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 to ensure that the regulations do not unduly restrict the education opportunities for registrants.**

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

**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  
Erwin 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 technicians and/or trainees under his/her supervision."

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.

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

Sleep technologists that have passed the national credentialing exam receive the title "Registered Polysomnographic Technologist" and may use credential RPSGT. In the profession of polysomnography the word 'registered' confers specific status. Similarly the word 'technologist' is reserved for those who have passed the exam.

SB 132 and the related regulations use the term 'technologist' appropriately. However the terms 'registered', 'registration' and 'registrant' are used to describe technicians and trainees throughout the regulation. 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 ...

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 solution would 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 that 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.**

During the enactment of SB 132, the BRPT was administering the RPSGT examination. However, in 2009 the BRPT introduced the Certified Polysomnographic Technician (CPSGT) exam and credential. Although we believe that this is a good step toward further refinement of practice parameters in polysomnography, it is too early to adopt this credential as a requirement to meet the definition of 'technician' under SB 132.

We recommend that the Medical Board not consider the adoption of the CPSGT credential and examination until its usefulness is more fully explored within the sleep medicine community both nationally and within California. Therefore we respectfully request that the regulations specify that the national certifying examination is the RPSGT examination until more information is available regarding the CPSGT credential and examination.

Proposed Language:

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

**(5) Clarify the scope of services permitted to be provided by technologists, technicians, and trainees.**

The draft regulation proposes to adopt sections 1378.15 and 1378.17 relating to "scope of services." However, these provisions appear to relate more to the level of supervision that may be required. Also, they create confusion as to what the exact scope of services are that may be provided by technologists, technicians, and trainees. We respectfully request that the regulations be amended to clarify the scope of services that may be offered by each of these three categories in order to eliminate any confusion that may be created by the draft regulation. Further, we respectfully request that the regulations be clarified to reflect the levels of supervision that are generally accepted within the practice of sleep medicine.

**(6) Clarify the "grandfathering provisions contained in Senate Bill 132.**

Business and Professions Code Section 3575, subdivision (b) contains provisions relating to the "grandfathering" of certain practitioners who have been practicing polysomnography for at least five years in a manner acceptable to the Board. We respectfully request that the proposed regulations be amended to clarify the manner in which existing practitioners may be grandfathered into the program.



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

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