

Maryland
Contains a Polysomnography Licensure Practice Act
"Maryland Polysomnography Act"

HEALTH OCCUPATIONS

TITLE 14. PHYSICIANS

SUBTITLE 5C. POLYSOMNOGRAPHIC TECHNOLOGISTS

§ 14-5C-01. Definitions.

(a) In general.- In this subtitle the following words have the meanings indicated.

(b) Board.- "Board" means the State Board of Physicians.

(c) Committee.- "Committee" means the Polysomnography Professional Standards Committee established under § 14-5C-05 of this subtitle.

(d) License.- "License" means a license issued by the Board.

(e) Licensed polysomnographic technologist.- "Licensed polysomnographic technologist" means a polysomnographic technologist who is licensed by the Board under this subtitle to practice polysomnography under the supervision of a licensed physician.

(f) Practice polysomnography.-

(1) "Practice polysomnography" means:

(i) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances under the supervision of a licensed physician; or

(ii) Using data collected under item (i) of this paragraph for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.

(2) "Practice polysomnography" includes:

(i) Providing polysomnography services that are safe, aseptic, preventive, and restorative;

(ii) Diagnosing and treating individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;

(iii) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;

(iv) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and

(v) Applying the use of techniques, equipment, and procedures involved in the evaluation of polysomnography, including:

1. Continuous positive airway pressure or bi-level positive airway pressure titration on spontaneously breathing patients;

2. Supplemental low flow oxygen therapy during polysomnogram;

3. Capnography during polysomnogram;

4. Cardiopulmonary resuscitation;

5. Pulse oximetry;

6. PH probe placement and monitoring;

7. Esophageal pressure;

8. Sleep staging including surface electroencephalography, surface electrooculography, and surface submental electromyography;

9. Surface electromyography of arms and legs;

10. Electrocardiography;

11. Respiratory effort including thoracic and abdominal;
 12. Plethysmography blood flow;
 13. Snore monitoring;
 14. Audio or video monitoring;
 15. Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;
 16. Monitoring the effects a nasal device, used to treat sleep apnea, has on sleep patterns provided that the device does not extend into the trachea; and
 17. Monitoring the effects an oral device, used to treat sleep apnea, has on sleep patterns, provided that:
 - A. The device does not extend into the trachea;
 - B. A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting;
 - C. A dentist made or directed the making of the oral device; and
 - D. A dentist directs the use of the oral device.
- (g) Student.- "Student" means an individual who, in accordance with section 14-5C-09(c) of this subtitle, is:
- (1) Enrolled in an accredited educational program in order to qualify for a license under this title; and
 - (2) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.
- (h) Registered polysomnographic technologist.- "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technicians.
- (i) Supervision.- "Supervision" means general or direct supervision of a licensed polysomnographic technologist by a licensed physician.

§ 14-5C-02. Practicing a health occupation is not limited.

This subtitle does not limit:

- (1) The right of an individual to practice a health occupation that the individual is authorized to practice under this article; or
- (2) The right of a licensed home medical equipment provider to provide home medical equipment services as defined under Title 19, Subtitle 4A of the Health - General Article.

§ 14-5C-03. Regulations.

The Board shall adopt regulations for the licensure and practice of polysomnography.

§ 14-5C-04. Fees.

(a) Authorized; fees to cover costs.-

- (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists.
- (2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists.

(b) Disposition.-

- (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.
- (2) The Comptroller shall distribute all fees to the Board.

(c) Use.- The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§ 14-5C-05. Polysomnography Professional Standards Committee established.

There is a Polysomnography Professional Standards Committee within the Board.

§ 14-5C-06. Polysomnography Professional Standards Committee - Membership.

(a) In general.- The Committee consists of seven members appointed by the Board as follows:

(1) (i) On or before September 30, 2009, three registered polysomnographic technologists; or

(ii) On or after October 1, 2009, three licensed polysomnographic technologists;

(2) Three physicians who are Board certified in sleep medicine:

(i) One of whom is a specialist in psychiatry or internal medicine;

(ii) One of whom is a specialist in pulmonary medicine; and

(iii) One of whom is a specialist in neurology; and

(3) One consumer member.

(b) Consumer member.- The consumer member of the Committee:

(1) Shall be a member of the general public;

(2) May not be or ever have been:

(i) A polysomnographic technologist;

(ii) Any health care professional; or

(iii) In training to be a polysomnographic technologist or other health care professional;

(3) May not have a household member who is a health care professional or is in training to be a health care professional; and

(4) May not:

(i) Participate or ever have participated in a commercial or professional field related to polysomnography;

(ii) Have a household member who participates in a commercial or professional field related to polysomnography;

(iii) Have had within 2 years before appointment a financial interest in a person regulated by the Board; or

(iv) Have had within 2 years before appointment a financial interest in the provision of goods or services to polysomnographic technologists or to the field of polysomnography.

(c) Term.-

(1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2006.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

§ 14-5C-07. Powers and duties of Committee.

In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;

(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;

(3) Develop and recommend to the Board standards of care for the practice of polysomnography;

(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist, including:

(i) Criteria for the educational and clinical training of licensed polysomnographic technologists; and

- (ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;
- (5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;
- (6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;
- (7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;
- (8) Develop and recommend to the Board continuing education requirements for license renewal;
- (9) Provide the Board with recommendations concerning the practice of polysomnography;
- (10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed polysomnographic technologists and licensed physicians;
- (11) Keep a record of its proceedings; and
- (12) Submit an annual report to the Board.

§ 14-5C-08. License required; exception.

- (a) License.- Except as otherwise provided in this subtitle, on or after October 1, 2013, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.
- (b) Exception.- This section does not apply to a student enrolled in an education program under § 14-5C-09(c)(3) of this subtitle while practicing polysomnography in that program.

§ 14-5C-09. Qualifications for license.

- (a) In general.- To qualify for a license, an applicant shall be an individual who meets the requirements of this section.
- (b) Moral character; age.- The applicant shall:
 - (1) Be of good moral character; and
 - (2) Be at least 18 years old.
- (c) Certification; education.- An applicant for a polysomnographic technologist license shall:
 - (1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;
 - (2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;
 - (3)
 - (i) Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;
 - (ii)
 - 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and
 - 2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or
 - (iii)
 - 1. Have graduated from an electroneuro-diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and
 - 2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs; and
 - (4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.

§ 14-5C-10. Waiver of education requirement.

(a) In general.- The Board shall waive the education requirement under § 14-5C-09(c)(3) of this subtitle if on or before September 30, 2013, an individual:

- (1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;
- (2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;
- (3) Has submitted an application for licensure to the Board; and
- (4) Meets all of the requirements under § 14-5C-09(b) and (c)(1) and (2) of this subtitle.

(b) Extension of deadline.-

- (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, 2013, the individual may petition the Board for an extension.
- (2) The Board shall determine whether to grant an extension under this subsection on a case-by-case basis.

§ 14-5C-11. Application for license.

To apply for a license, an applicant shall:

- (1) Submit an application to the Board on the form that the Board requires; and
- (2) Pay to the Board the application fee set by the Board.

§ 14-5C-12. Issuance of license.

The Board shall issue a license to an applicant who meets the requirements of this subtitle.

§ 14-5C-13. Authorization under license.

(a) In general.- A license authorizes a polysomnographic technologist to practice polysomnography in this State while the license is effective.

(b) Locations.- A licensed polysomnographic technologist may practice polysomnography in:

- (1) A hospital sleep laboratory; or
- (2) A stand-alone sleep center.

§ 14-5C-14. Expiration and renewal of license.

(a) In general.- A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) Renewal notice.- At least 1 month before a license expires, the Board shall send to the licensed polysomnographic technologist, by first-class mail to the last known address of the licensed polysomnographic technologist, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

(c) Periodic renewal.- Except as otherwise provided in this subtitle, before a license expires, the licensed polysomnographic technologist periodically may renew it for an additional term, if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Board a renewal fee set by the Board; and
- (3) Submits to the Board:
 - (i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.

(d) Continuing education.- In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education or competency requirements as a condition of the renewal of a license under this section.

(e) Mandatory renewal.- The Board shall renew the license of each licensee who meets the requirements of this section.

(f) Reinstatement.- The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:

- (1) Applies for reinstatement within 30 days after the date the license expires;
- (2) Meets the renewal requirements of this section; and
- (3) Pays to the Board the reinstatement fee set by the Board.

§ 14-5C-15. Inactive status; reinstatement.

(a) Requirements.-

(1) The Board shall place a licensed polysomnographic technologist on inactive status, if the licensee submits to the Board:

- (i) An application for inactive status on the form required by the Board; and
- (ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status.

(b) Reinstatement.- The Board may reinstate the license of a polysomnographic technologist who has not been put on inactive status, who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license has expired, if the polysomnographic technologist:

- (1) Meets the renewal requirements of § 14-5C-14 of this subtitle;
- (2) Pays to the Board the reinstatement fee set by the Board; and
- (3) Meets any other requirements established by regulation.

§ 14-5C-16. Surrender of a license.

Unless the Board agrees to accept the surrender of a license, a licensed polysomnographic technologist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

§ 14-5C-17. Denials, reprimands, suspensions, and revocations - In general.

(a) In general.- Subject to the hearing provisions of § 14-405 of this title, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;

- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
 - (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
 - (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
 - (10) Willfully makes or files a false report or record in the practice of polysomnography;
 - (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
 - (12) Breaches patient confidentiality;
 - (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
 - (14) Knowingly makes a misrepresentation while practicing polysomnography;
 - (15) Knowingly practices polysomnography with an unauthorized individual or aids an unauthorized individual in the practice of polysomnography;
 - (16) Knowingly delegates a polysomnographic duty to an unlicensed individual;
 - (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
 - (18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
 - (19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or a stand-alone sleep center;
 - (20) Knowingly submits false statements to collect fees for which services are not provided;
 - (21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and
 - (ii) Has:
 - 1. Surrendered the license, if any, issued by the state or country; or
 - 2. Allowed the license, if any, issued by the state or country to expire or lapse;
 - (22) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;
 - (23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;
 - (24) Practices or attempts to practice beyond the authorized scope of practice;
 - (25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
 - (26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or
 - (27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment.
- (b) Hearing.- Except as otherwise provided in Title 10, Subtitle 2 of the State

Government Article, before the Board takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board in accordance with the hearing requirements of § 14-405 of this title.

(c) Suspension.-

(1) On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General.

§ 14-5C-18. Report.

(a) In general.- Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist for any reason that might be grounds for disciplinary action under § 14-5C-17 of this subtitle.

(b) Exception.- A hospital, related institution, alternative health system, or employer that has reason to know that a licensed polysomnographic technologist has committed an action or has a condition that might be grounds for reprimand or probation of the licensed polysomnographic technologist or suspension or revocation of the license because the licensed polysomnographic technologist is alcohol impaired or drug impaired is not required to report the technologist to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on the Accreditation of Health Care Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist remains in the treatment program until discharge; and

(ii) The action or condition of the licensed polysomnographic technologist has not caused injury to any person while the technologist is practicing as a licensed polysomnographic technologist.

(c) Notice.-

(1) If the licensed polysomnographic technologist enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Health Care Organizations or that is certified by the Department, the licensed polysomnographic technologist shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's decision to enter the treatment program.

(2) If the licensed polysomnographic technologist fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed polysomnographic technologist has entered a treatment program and has failed to provide the required notice.

(3) If the licensed polysomnographic technologist is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify

the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist shall report the licensed polysomnographic technologist's noncompliance to the Board.

(d) Confidentiality.- A person is not required under this section to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

(e) Time for filing report.- The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

(f) Subpoena.- A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.

(g) Penalties.-

(1) The Board may impose a civil penalty of up to \$1,000 for failure to report under this section.

(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.

§ 14-5C-19. Reinstatement.

On the application of an individual whose license has been revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

§ 14-5C-20. Practicing without license prohibited.

Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice polysomnography in this State unless licensed to practice polysomnography by the Board.

§ 14-5C-21. Unauthorized practice - Representations.

(a) In general.- Unless authorized to practice polysomnography under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice polysomnography in this State.

(b) Use of certain abbreviations or other words.- Unless authorized to practice polysomnography under this subtitle, a person may not use the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that the person practices polysomnography.

§ 14-5C-22. Attempt or offer to provide services prohibited.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides polysomnography unless the polysomnography is provided by an individual who is authorized to practice polysomnography under this subtitle.

§ 14-5C-23. Penalties.

(a) Criminal penalties.- A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(b) Civil penalties.- Any person who violates § 14-5C-21 of this subtitle is subject to a civil fine of not more than \$5,000 to be levied by the Board.

(c) Payment into Fund.- The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§ 14-5C-24. Short title.

This subtitle may be cited as the "Maryland Polysomnography Act".

§ 14-5C-25. Termination of subtitle.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, 2013.

Code of Maryland Regulations (COMAR) – Polysomnographic

Section 10.32.06.01

.01 Scope.

- A. This chapter governs the practice of polysomnographic technology.
- B. Except as provided in §C or D of this regulation, on or after October 1, 2013, an individual shall be licensed by the Board before the individual may practice polysomnography.
- C. This chapter does not prohibit any polysomnographic technology student who is currently enrolled in an approved polysomnographic technology educational program from performing any of the procedures described in this chapter as part of that program's polysomnographic technology clinical curriculum.
- D. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

Section 10.32.06.02

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Board" means the State Board of Physicians.
 - (2) "Capnography" means measurement of the amount of CO₂ being eliminated from the lungs.
 - (3) "Committee" means the Polysomnography Professional Standards Committee established under Health Occupations Article, §14-5C-05, Annotated Code of Maryland.
 - (4) "Direct supervision" means supervision by a licensed physician who is physically present on the premises while services are provided.
 - (5) "Electroencephalography" means a test that measures the electrical activity of the brain as recorded by electrodes placed on the scalp.
 - (6) "Electromyography" means a test that measures the electrical activity of the muscles.
 - (7) "Electrooculography" means a test that measures the movements of the eye.
 - (8) "General supervision" means supervision by a physician who is available to give immediately available direction, either in person, by telephone, or by electronic means.

- (9) "License" means a license issued by the Board.
- (10) "Licensed polysomnographic technologist" means an individual licensed by the Board to practice polysomnography under the supervision of a licensed physician.
- (11) "Licensed physician" means an individual who is licensed by the Board to practice medicine.
- (12) "Oximetry" means a test that measures the concentration of oxygen in the blood.
- (13) "PH probe" means a device to measure the acidity of the esophagus.
- (14) "Plethysmography" means a test to measure changes in blood flow or air volume in different parts of the body.
- (15) "Practice polysomnography" means:
- (a) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances, under the supervision of a licensed physician; and
 - (b) Using the data collected under §B(15)(a) of this regulation for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.
- (16) "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technologists.
- (17) "Student" means an individual who is:
- (a) Enrolled in an accredited educational program in order to qualify for a license as a polysomnographic technologist; and
 - (b) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.
- (18) "Supervision" means general supervision or direct supervision of a licensed polysomnographic technologist by a licensed physician.

Section 10.32.06.03

.03 Committee.

A. The Board shall appoint members of the Polysomnographic Professional Standards Committee as follows:

- (1) Three polysomnographic technologists who:
- (a) Before October 1, 2009, are registered polysomnographic technologists; and
 - (b) On or after October 1, 2009, are both registered polysomnographic technologists and licensed polysomnographic technologists;

(2) Three licensed physicians with specialty certification in sleep medicine who are specialists in the following areas:

(a) One in psychiatry or internal medicine;

(b) One in pulmonary medicine; and

(c) One in neurology; and

(3) One consumer member who is a member of the general public and who:

(a) May not be or ever has been:

(i) A polysomnographic technologist;

(ii) A health care professional;

(iii) In training to be a polysomnographic technologist or other health care professional; or

(iv) A household member of a health care professional or an individual in training to be a health care professional; and

(b) May not:

(i) Participate, or ever have participated, in a commercial or professional field related to polysomnography;

(ii) Have a household member who participates in a commercial or professional field related to polysomnography;

(iii) Have had, within 2 years before appointment, a financial interest in a individual regulated by the Board; or

(iv) Have had, within 2 years before appointment, a financial interest in the provision of goods or services to polysomnographic technologists or to the field of polysomnography.

B. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) An individual may be reappointed for a second term but the individual may not serve more than two full consecutive terms.

C. Vacancy.

- (1) If a vacancy occurs, the Board shall appoint a new member to serve.
- (2) The successor member shall only serve for the remainder of the term, unless reappointed.

D. Quorum.

- (1) A majority of the members then serving on the Committee is a quorum.
- (2) Business may not be conducted at a Committee meeting unless there is a quorum.

E. The Committee shall:

- (1) Make recommendations to the Board regarding the practice of, and regulations governing, polysomnographic technologists;
- (2) Make recommendations to the Board on the requirements for licensure as a polysomnographic technologist;
- (3) Review selected applications for licensure as a polysomnographic technologist and make recommendations to the Board on the applications;
- (4) At the request of the Board, review complaints against polysomnographic technologists and respond to the Board's questions; and
- (5) Keep a record of the Committee's proceedings.

Section 10.32.06.04

.04 Application for Initial Licensure as a Polysomnographic Technologist.

An applicant shall:

- A. Complete an application on a form supplied by the Board;
- B. Pay the required application fee set by the Board in Regulation .09 of this chapter;
- C. Be 18 years old or older;
- D. Be of good moral character;
- E. Demonstrate spoken and written competency in English by any of the following:
 - (1) Documentation of graduation from a recognized English-speaking high school or undergraduate school after at least 3 years of enrollment;
 - (2) Documentation of graduation from a recognized English-speaking professional school; or
 - (3) Documentation of receiving a grade of at least:

(a) 26 on the "Speaking Section" of the Internet-based Test of English as a Foreign Language; and

(b) 79 on the Internet-based Test of English as a Foreign Language;

F. Provide documentation of current certification as a registered polysomnographic technologist by the Board of Registered Polysomnographic Technologists or by another national certification agency approved by the Board;

G. Provide documentation of at least one of the following:

(1) For those candidates applying for a license on or before September 30, 2013:

(a) Passing the national certifying examination of the Board of Registered Polysomnographic Technologists on or before September 30, 2013; and

(b) Certification by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist at the time of application;

(2) Graduation from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;

(3) Both of the following:

(a) Graduation from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

(b) Completion of the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

(4) Both of the following:

(a) Graduation from an electroneurodiagnostic technology educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

(b) Completion of an add-on track in polysomnography for electroneurodiagnostic technologists that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

H. Provide documentation of licensure, certification, or registration from all states where the applicant has ever held a license, certificate, or registration in any health profession.

Section 10.32.06.05

.05 Scope of Practice.

A. A licensed polysomnographic technologist may practice only under the supervision of a licensed physician.

B. A licensed polysomnographic technologist may practice only in a hospital sleep laboratory or a stand-alone sleep center.

C. The scope of practice of a licensed polysomnographic technologist includes and is limited to the following:

- (1) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances;
- (2) Using data collected under §C(1) of this regulation to assist a licensed physician in the diagnosis and treatment of sleep and wake disorders;
- (3) Assisting with the diagnosis and treatment of individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;
- (4) Observing and monitoring physical signs and symptoms, general behavior, and general physical responses to polysomnographic evaluation, and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;
- (5) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and
- (6) Using the following techniques, equipment, and procedures:
 - (a) Continuous positive airway pressure, bi-level positive airway pressure titration, or adaptive servo-ventilation on spontaneously breathing patients;
 - (b) Supplemental low flow oxygen therapy during polysomnogram;
 - (c) Capnography during polysomnogram;
 - (d) Cardiopulmonary resuscitation;
 - (e) Pulse oximetry;
 - (f) PH probe placement and monitoring;
 - (g) Esophageal pressure;
 - (h) Sleep staging, including surface electroencephalography, surface electrooculography, and surface submental electromyography;
 - (i) Surface electromyography of arms and legs;
 - (j) Electrocardiography;
 - (k) Respiratory effort, including thoracic and abdominal;

- (l) Plethysmography blood flow;
- (m) Snore monitoring;
- (n) Audio or video monitoring;
- (o) Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;
- (p) Monitoring the effects a nasal device used to treat sleep apnea has on sleep patterns provided that the device does not extend into the trachea; and
- (q) Monitoring the effects an oral device used to treat sleep apnea has on sleep patterns provided that:
 - (i) The oral device does not extend into the trachea;
 - (ii) A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting the oral device;
 - (iii) A dentist made or directed the making of the oral device; and
 - (iv) A dentist directs the use of the oral device.

D. The scope of practice of a polysomnographic technologist does not include administering medications.

Section 10.32.06.06

.06 Identification; Notice.

A. A licensed polysomnographic technologist shall wear an identification tag or a badge which identifies that individual as a licensed polysomnographic technologist.

B. Change of Name or Address.

(1) A licensed polysomnographic technologist shall advise the Board in writing of any change in name or mailing address within 60 days.

(2) The Board may impose a fine of \$100 for failure to notify the Board of a change in name or mailing address.

Section 10.32.06.07

.07 Renewal and Reinstatement.

A. Renewal.

(1) The Board may not renew a license until the Comptroller of Maryland has verified that the individual has paid all undisputed taxes and unemployment insurance contributions, or arranged for repayment, as required by COMAR 10.31.02.

(2) An individual who has been licensed by the Board as a polysomnographic technologist may renew the license on or before the date specified by the Board by:

(a) Submitting a renewal application on a form supplied by the Board;

(b) Paying the required renewal fee set by the Board in Regulation .09 of this chapter;

(c) Certifying to the completion of 20 hours of continuing education, earned during the 2-year period preceding the expiration of the license, and meeting the requirements stated in Regulation .08 of this chapter; and

(d) Meeting any other requirement set by the Board.

B. Reinstatement.

(1) The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:

(a) Applies for reinstatement within 30 days after the date the license expires;

(b) Meets the renewal requirements of §A of this regulation;

(c) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and

(d) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

(2) The Board shall reinstate the license of a polysomnographic technologist who has placed the license on an inactive status if the polysomnographic technologist:

(a) Meets the renewal requirements of §A of this regulation;

(b) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and

(c) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

(3) Reinstatement of Nonrenewed License after 30 Days.

(a) If an applicant's license has been nonrenewed for more than 5 years, and the applicant has not practiced polysomnography in another jurisdiction or country during the preceding 5 years, the applicant

shall pass an examination approved by the Board, and meet all the requirements in §B(3)(b) of this regulation before the Board may reinstate the license.

(b) Except as provided in §B(3)(a) of this regulation, the Board may reinstate an applicant whose license has been nonrenewed for more than 30 days if the applicant:

(i) Meets the renewal requirements in §A of this regulation;

(ii) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and

(iii) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

C. Inactive Status.

(1) The Board shall place a polysomnographic technologist license on inactive status, if the licensee submits to the Board:

(a) An application for inactive status on the form required by the Board; and

(b) The inactive status fee and any additional charges set by the Board in Regulation .09 of this chapter.

(2) The Board may institute or continue a disciplinary investigation or proceeding if a license has been placed on inactive status.

Section 10.32.06.08

.08 Continuing Education.

A. Application.

(1) A licensed polysomnographic technologist is not required to obtain continuing education hours for the first renewal after initial licensure or reinstatement.

(2) Except as stated in §A(1) of this regulation, the Board may not renew or reinstate the license of a polysomnographic technologist unless the polysomnographic technologist has met the requirements for continuing education described in §B of this regulation.

B. Requirements.

(1) A polysomnographic technologist shall earn at least 20 continuing education hours as described in §B(2) of this regulation during the 2-year period immediately preceding the licensee's submission of the renewal or reinstatement application.

(2) The Board shall recognize sleep-related continuing education hours approved by one of the following organizations:

(a) American Medical Association;

- (b) American Association of Sleep Technologists;
- (c) American Academy of Sleep Medicine;
- (d) American Society of Electroneurodiagnostic Technologists, Inc.;
- (e) American Association for Respiratory Care; or
- (f) American Nursing Association.

C. Documentation of Continuing Education Hours.

(1) A polysomnographic technologist shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(2) The required documentation shall contain the:

- (a) Program title;
- (b) Sponsor's name;
- (c) Polysomnographic technologist's name;
- (d) Number of continuing education hours earned;
- (e) Verification of successful completion by signature, stamp, or other official proof; and
- (f) Date of the continuing education activity.

Section 10.32.06.09

.09 Fees.

The following fees are applicable to polysomnographic technologists:

A. Initial license fees:

- (1) Initial licensure application fee . . . \$200; and
- (2) Maryland Health Care Commission (MHCC) fee . . . As determined by MHCC under COMAR 10.25.03;

B. License renewal fees:

- (1) License renewal fee . . . \$150; and
- (2) Maryland Health Care Commission (MHCC) fee . . . As determined by MHCC under COMAR 10.25.03;

C. Reinstatement fees:

(1) Reinstatement fee . . . \$200; and

(2) Maryland Health Care Commission (MHCC) fee . . . As determined by MHCC under COMAR 10.25.03;

D. Inactive status fee . . . \$50;

E. Written verification of licensure fee . . . \$25;

F. Replacement of registration card . . . \$25; and

G. Replacement of wall license . . . \$75.

Section 10.32.06.10

.10 Prohibited Conduct.

A. Subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(1) Fraudulently, or deceptively obtains or attempts to obtain a license for the applicant or licensee, or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;

(4) Is professionally, physically, or mentally incompetent;

(5) Abandons a patient;

(6) Is habitually intoxicated;

(7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland;

(8) Provides professional services while:

(a) Under the influence of alcohol; or

(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication;

- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of polysomnography;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient, or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing polysomnography;
- (15) Knowingly practices polysomnography with an unauthorized individual, or aids an unauthorized individual in the practice of polysomnography;
- (16) Knowingly delegates a polysomnographic duty to an unlicensed individual;
- (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (18) Is disciplined by a licensing or disciplinary authority, is convicted or disciplined by a court of any state or country, or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or a stand-alone sleep center;
- (20) Knowingly submits false statements to collect fees for which services are not provided;
- (21) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes and has:
 - (a) Surrendered the license, if any, issued by the state or country; or
 - (b) Allowed the license, if any, issued by the state or country to expire or lapse;
- (22) Knowingly fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland;
- (23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;
- (24) Practices or attempts to practice beyond the authorized scope of practice;

(25) Is convicted of, or pleads guilty or nolo contendere to, a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or

(27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment.

B. Crimes of Moral Turpitude.

(1) Proceedings for crimes of moral turpitude under Health Occupations Article, §14-5C-17(c), Annotated Code of Maryland, shall be held in accordance with COMAR 10.32.02.04.

(2) On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of, or pleads guilty or nolo contendere with respect to, a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(3) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General.

Section 10.32.06.11

.11 Required Reports.

A. Except as provided in §B, C, or F of this regulation, hospitals, related institutions, alternative health systems as defined in Health Occupations Article, §1-401, Annotated Code of Maryland, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist for any reason that might be grounds for disciplinary action under Health Occupations Article, §14-5C-17, Annotated Code of Maryland, or any regulation in this chapter.

B. If the action taken by a hospital, related institution, alternative health system, or employer under §A of this regulation relates to alcohol or drug impairment, the hospital, related institution, alternative health system, or employer is not required to report the polysomnographic technologist to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist is:

(a) In an alcohol or drug treatment program that is accredited by the Joint Commission on the Accreditation of Health Care Organizations or is certified by the Department; or

(b) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist remains in the treatment program until discharge; and

(3) The action or condition of the licensed polysomnographic technologist has not caused injury to an individual while the technologist is practicing as a licensed polysomnographic technologist.

C. If a licensed polysomnographic technologist enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Health Care Organizations or that is certified by the Department, the licensed polysomnographic technologist shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's decision to enter the treatment program.

D. If the licensed polysomnographic technologist fails to provide the notice required under §C of this regulation, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed polysomnographic technologist has entered a treatment program and has failed to provide the required notice.

E. Noncompliance.

(1) If the licensed polysomnographic technologist is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's noncompliance.

(2) On receipt of the notification required under §E(1) of this regulation, the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist shall report the licensed polysomnographic technologist's noncompliance to the Board.

F. A individual is not required under this regulation to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

G. The hospital, related institution, alternative health system, or employer shall submit a required report within 10 days of any action described in this regulation.

H. A report made under this regulation is not subject to subpoena or discovery in a civil action other than a proceeding arising out of a hearing and decision of the Board under Health Occupations Article, Title 14, Annotated Code of Maryland.

Section 10.32.06.12

.12 Penalties.

A. An individual who violates any provision of Health Occupations Article, Title 14, Subtitle 5C, Annotated Code of Maryland, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.

B. An individual who violates Health Occupations Article, §14-5C-21, Annotated Code of Maryland, and represents that the individual is authorized to practice polysomnography, is subject to a civil fine of not more than \$5,000 to be levied by the Board.

C. The Board shall pay any penalty collected under this regulation into the Board of Physicians Fund.