

**New Mexico**  
**Contains a Polysomnography Licensure Practice Act**  
**“Polysomnography Practice Act”**

**CHAPTER 61**

**Professional and Occupational Licenses**

**ARTICLE 6B**

**61-6B-1. Short title.**

Sections 1 through 10 of this act may be cited as the "Polysomnography Practice Act".

**61-6B-2. Definitions.**

As used in the Polysomnography Practice Act [61-6B-1 NMSA 1978]:

- A. "board" means the New Mexico medical board;
- B. "committee" means the polysomnography practice advisory committee;
- C. "direct supervision" means that the polysomnographic technologist providing supervision shall be present in the area where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure;
- D. "general supervision" means that the polysomnographic procedure is provided under a physician's direction and control, but the physician's presence is not required during the performance of the procedure;
- E. "license" means an authorization issued by the board that permits a person to engage in the practice of polysomnography in the state;
- F. "licensed provider" means a licensed physician, licensed physician assistant, licensed certified nurse practitioner or licensed psychologist;
- G. "licensee" means a person licensed by the board to engage in the practice of polysomnography;
- H. "polysomnographic student" means a person who is enrolled in an educational program that is accredited by the commission on accreditation of allied health education programs, as provided in Section 5 [61-6B-5 NMSA 1978] of the Polysomnography Practice Act, and who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the person's educational program;
- I. "polysomnographic technician" means a person who has graduated from an accredited educational program described in Section 5 of the Polysomnography Practice Act but has not yet passed the national certifying examination given by the board of registered polysomnographic technologists, who has obtained a temporary permit from the board and who may provide sleep-related services under the general supervision of a licensed physician;
- J. "polysomnographic technologist" means a person who is credentialed by the board of registered polysomnographic technologists and is licensed by the board to engage in the practice of polysomnography under the general supervision of a licensed physician;
- K. "polysomnographic trainee" means a person who is enrolled in an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine and who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the person's educational program;

L. "practice of polysomnography" means the performance of diagnostic and therapeutic tasks, under the general supervision of a licensed physician, including:

(1) monitoring and recording physiologic activity and data during the evaluation or treatment of sleep-related disorders, including sleep-related respiratory disturbances, by applying appropriate techniques, equipment and procedures, including:

(a) continuous or bi-level positive airway pressure titration on patients using a nasal or oral or a nasal and oral mask or appliance that does not extend into the trachea or attach to an artificial airway, including the fitting and selection of a mask or appliance and the selection and implementation of treatment settings;

(b) supplemental low-flow oxygen therapy that is less than ten liters per minute using nasal cannula or continuous or bi-level positive airway pressure during a polysomnogram;

(c) capnography during a polysomnogram;

(d) cardiopulmonary resuscitation;

(e) pulse oximetry;

(f) gastroesophageal pH monitoring;

(g) esophageal pressure monitoring;

(h) sleep staging, including surface electroencephalography, surface electrooculography and surface submental electromyography;

(i) surface electromyography;

(j) electrocardiography;

(k) respiratory effort monitoring, including thoracic and abdominal movement;

(l) respiratory plethysmography;

(m) arterial tonometry and additional measures of autonomic nervous system tone;

(n) snore monitoring;

(o) audio or video monitoring;

(p) body movement monitoring;

(q) nocturnal penile tumescence monitoring;

(r) nasal and oral airflow monitoring;

(s) body temperature monitoring; and

(t) use of additional sleep-related diagnostic technologies as determined by a rule adopted by the board;

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

(3) analyzing and scoring data collected during the monitoring described in Paragraphs (1) and (2) of this subsection for the purpose of assisting a licensed provider in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease or actual or anticipated somatic dysfunction;

(4) implementing a written or verbal order from a licensed provider that requires the practice of polysomnography;

(5) educating a patient regarding the treatment regimen that assists that patient in improving the patient's sleep; and

(6) initiating and monitoring treatment, under the orders of a licensed provider, for sleep-related breathing disorders by providing continuous positive airway pressure and bi-level positive airway pressure devices and accessories, including masks that do not extend into the trachea or

attach to an artificial airway, to a patient for home use, together with educating the patient about the treatment and managing the treatment; and

M. "sleep-related services" means acts performed by polysomnographic technicians, polysomnographic trainees, polysomnographic students and other persons permitted to perform these services under the Polysomnography Practice Act, in a setting described in Subsection D of Section 4 [61-6B-4 NMSA 1978] of the Polysomnography Practice Act, that would be considered the practice of polysomnography if performed by a polysomnographic technologist.

**61-6B-3. License required; exceptions; practice limitations; applicability.**

A. On and after July 1, 2010, a person who is engaged in the practice of polysomnography must have a valid polysomnographic technologist license issued by the board. It shall be unlawful for a person to engage in the practice of polysomnography after that date unless the person has a valid polysomnographic technologist license issued by the board.

B. Prior to July 1, 2010, any person who is engaged in the practice of polysomnography without being licensed under the Polysomnography Practice Act [61-6B-1 NMSA 1978] shall not be deemed to be in violation of that act.

**61-6B-4. Exemptions.**

A. The following classes of persons may provide sleep-related services without being licensed as a polysomnographic technologist:

(1) a polysomnographic technician under the general supervision of a licensed physician for no more than two years from the date of the person's graduation from one of the accredited programs described in Section 5 [61-6B-5 NMSA 1978] of the Polysomnography Practice Act; provided that the board may grant a one-time extension of up to one year beyond the original two-year period;

(2) a polysomnographic trainee who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the trainee's educational program while actively enrolled in an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine;

(3) a polysomnographic student who may provide uncompensated sleep-related services under the direct supervision of a polysomnographic technologist as a part of the student's educational program while actively enrolled in a polysomnographic educational program that is accredited by the commission on accreditation of allied health education programs; and

(4) a person, other than a respiratory care practitioner licensed under the Respiratory Care Act [61-12B-1 NMSA 1978], credentialed in one of the health-related fields accepted by the board of registered polysomnographic technologists, who may provide sleep-related services under the direct supervision of a polysomnographic technologist for a period of up to one year while obtaining the clinical experience necessary to be eligible to take the examination given by the board of registered polysomnographic technologists.

B. Before providing any sleep-related services:

(1) a polysomnographic technician shall obtain a temporary permit from the board and when providing services shall wear a badge that appropriately identifies the person as a polysomnographic technician;

(2) a polysomnographic trainee shall give notice to the board that the trainee is enrolled in an accredited sleep technologist educational program accredited by the American academy of sleep

medicine. When providing services, the trainee shall wear a badge that appropriately identifies the person as a polysomnographic trainee;

(3) a person who is obtaining clinical experience pursuant to Paragraph (4) of Subsection A of this section shall give notice to the board that the person is working under the direct supervision of a polysomnographic technologist in order to gain the experience to be eligible to take the examination given by the board of registered polysomnographic technologists. When providing services, the person shall wear a badge that appropriately identifies that the person is obtaining clinical experience; and

(4) a polysomnographic student shall wear a badge that appropriately identifies the person as a polysomnographic student.

C. A licensed dentist shall make or direct the making and use of any oral appliance used in the practice of polysomnography and shall evaluate the structures of a patient's oral and maxillofacial region for purposes of fitting the appliance.

D. The practice of polysomnography shall take place only in a hospital, a stand-alone sleep laboratory or sleep center or in a patient's home in accordance with a licensed provider's order; provided that the scoring of data and the education of patients may take place in settings other than in a hospital, sleep laboratory, sleep center or patient's home.

E. The Polysomnography Practice Act [61-6B-1 NMSA 1978] shall not apply to:

(1) a physician licensed under the Medical Practice Act [61-6-1 NMSA 1978];

(2) diagnostic electroencephalograms conducted in accordance with the guidelines of the American clinical neurophysiology society;

(3) a person who is employed in the practice of polysomnography by a federal government facility or agency in New Mexico; or

(4) a person qualified as a member of a recognized profession, the practice of which requires a license or is regulated pursuant to the laws of New Mexico, who renders services within the scope of the person's license or other regulatory authority; provided that the person does not represent that the person is a polysomnographic technologist.

#### **61-6B-5. Requirements for licensing.**

A. The board shall grant a license to engage in the practice of polysomnography to a person who has submitted to the board:

(1) a completed application for licensing on the form provided by the board;

(2) required documentation as determined by the board;

(3) the required fees;

(4) an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetence;

(5) satisfactory documentation of either:

(a) graduation from a polysomnographic educational program that is accredited by the commission on accreditation of allied health education programs;

(b) graduation from a respiratory care educational program that is accredited by the commission on accreditation of allied health education programs and completion of the curriculum for a polysomnography certificate established and accredited by the committee on accreditation for respiratory care of the commission on accreditation of allied health education programs;

(c) graduation from an electroneurodiagnostic technologist educational program with a polysomnographic technology track that is accredited by the commission on accreditation of allied health education programs; or

(d) successful completion of an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine; provided, however, this optional requirement shall not be available after the date on which there are at least three polysomnographic technologist educational programs in New Mexico that have been accredited by the commission on accreditation of allied health education programs for at least the two years immediately preceding that date; and

(6) satisfactory documentation of having:

(a) passed the national certifying examination given by the board of registered polysomnographic technologists or having passed a national certifying examination equivalent to the board of registered polysomnographic technologists' examination as determined by a rule adopted by the New Mexico medical board;

(b) been credentialed by the board of registered polysomnographic technologists or by another national entity equivalent to the board of polysomnographic technologists as determined by rule adopted by the New Mexico medical board;

(c) met any additional educational or clinical requirements established by the board pursuant to rule; and

(d) met all other requirements of the Polysomnography Practice Act [61-6B-1 NMSA 1978].

B. A person who is engaged in the practice of polysomnography on July 1, 2008 shall be eligible for a license under the Polysomnography Practice Act without meeting the educational requirement of Paragraph (5) of Subsection A of this section, provided that the person meets the requirements of Paragraph (6) of Subsection A of this section.

C. The board may require:

(1) a personal interview with an applicant to evaluate that person's qualifications for a license; and

(2) fingerprints and other information necessary for a state and national criminal background check.

#### **61-6B-6. License renewal.**

A. A licensee shall renew the licensee's polysomnographic technologist's license biennially by submitting prior to the date established by the board:

(1) the completed application for license renewal on the form provided by the board; and

(2) the required fee for biennial license renewal.

B. The board may require proof of continuing education or other proof of competence as a requirement for renewal.

C. A sixty-day grace period shall be allowed a licensee after the end of the licensing period, during which time the license may be renewed by submitting:

(1) the completed application for license renewal on the form provided by the board;

(2) the required fee for biennial license renewal; and

(3) the required late fee.

D. A polysomnographic technologist's license not renewed at the end of the grace period shall be considered expired, and the licensee shall not be eligible to practice within the state. For reinstatement of an expired license within one year of the date of renewal, the board shall establish requirements or fees that are in addition to the fee for biennial license renewal and may require the former licensee to reapply as a new applicant.

**61-6B-7. License; contents; display; fees.**

A. A license issued by the board shall contain the name of the person to whom it is issued, the date and number of the license and other information the board may require.

B. The most recent address contained in the board's records for each licensee is the address deemed sufficient for purposes of service of process and correspondence and notice from the board. Any licensee whose address changes shall, within thirty days of the change, notify the board of the address change.

C. A licensee who wishes to retire from the practice of polysomnography shall file with the board an affidavit, in a form to be furnished by the board, stating the date on which the person retired from practice and other information the board may require. If that person wishes to reenter the practice of polysomnography, the person shall meet requirements established by the board for license renewal.

D. A licensee shall display the license in the office or place in which the licensee practices in a location clearly visible to patients.

E. The board shall establish license and administrative fees, but no individual fee shall exceed five hundred dollars (\$500).

**61-6B-8. Committee; creation; organization; per diem and mileage; removal.**

A. The "polysomnography practice advisory committee" is created to advise the board on all matters related to the Polysomnography Practice Act [61-6B-1 NMSA 1978]. The board shall provide administrative and financial support to the committee.

B. The committee shall have five members, who are residents of New Mexico, appointed by the board as follows:

(1) two members who are credentialed by the board of registered polysomnographic technologists; provided that when the New Mexico medical board begins issuing licenses, this category of committee members shall be three licensed polysomnographic technologists, with the then-sitting members in this category being given a reasonable amount of time to become licensed;

(2) one licensed physician who is certified in sleep medicine by a national certifying body recognized by the American academy of sleep medicine;

(3) one person whose background is at the discretion of the board; and

(4) one member of the public who is not economically or professionally associated with the health care field.

C. Term-length conditions for appointments to the committee are:

(1) for initial appointments, two members each for four-year, three-year and two-year terms and one member for a one-year term;

(2) for regular appointments after the initial appointments, four-year terms;

(3) for a vacancy appointment, the balance of the term; and

(4) for any one member, no more than two terms, including an initial appointment term; provided that a member shall continue to serve on the committee until a replacement is appointed.

D. The committee shall elect annually a chairperson and other officers as the committee determines to be necessary.

E. The committee shall meet at least twice per calendar year and otherwise as often as necessary to conduct business, with four members constituting a quorum and meetings subject to the Open Meetings Act [10-15-1.1 NMSA 1978].

F. Members of the committee shall be reimbursed as nonsalaried public officers pursuant to the Per Diem and Mileage Act [10-8-1 NMSA 1978], and members shall receive no other compensation, perquisite or allowance for their service on the committee.

G. The board may remove from office a member of the committee for neglect of duties required by the Polysomnography Practice Act, malfeasance in office, incompetence or unprofessional conduct.

**61-6B-9. Board; committee; powers and duties.**

A. The board, with the advice of the committee, shall have powers regarding licensing of polysomnographic technologists, temporary permitting of polysomnographic technicians, approval of polysomnography curricula, approval of degree programs in polysomnography and any other matters that are necessary to ensure the training and licensing of competent polysomnographic technologists.

B. The board, with the advice of the committee, shall hold hearings and adopt rules regarding:

- (1) the licensing of polysomnographic technologists, the practice of polysomnography and the minimum qualifications and hours of clinical experience and standards of care required for being licensed as a polysomnographic technologist;

- (2) criteria for continuing education requirements;

- (3) the manner in which records of examinations and treatments shall be kept and maintained;

- (4) professional conduct, ethics and responsibility;

- (5) disciplinary actions, including the denial, suspension or revocation of or the imposition of restrictions or conditions on a license, and the circumstances that require disciplinary action;

- (6) a means to provide information to all polysomnographic technologists licensed in the state;

- (7) the inspection of the business premises of a licensee when the board determines that an inspection is necessary;

- (8) the investigation of complaints against licensees or persons holding themselves out as engaging in the practice of polysomnography in the state;

- (9) the publication of information for the public about licensees and the practice of polysomnography in the state;

- (10) an orderly process for reinstatement of a license;

- (11) criteria for acceptance of polysomnography credentials or licenses issued in other jurisdictions;

- (12) criteria for advertising or promotional materials; and

- (13) any matter necessary to implement the Polysomnography Practice Act [61-6B-1 NMSA 1978].

**61-6B-10. Offenses; criminal penalties.**

A person who engages in the practice of polysomnography without a license is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

# New Mexico Regulations for Sleep Technologists

## 16.10.20 NMAC 1

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

### CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS

### PART 20 POLYSOMNOGRAPHIC TECHNOLOGISTS: LICENSURE AND PRACTICE REQUIREMENTS

**16.10.20.1 ISSUING AGENCY:** New Mexico Medical Board, hereafter called the board.

[16.10.20.1 NMAC - N, 1/1/10]

**16.10.20.2 SCOPE:** This part applies to polysomnographic technologists, polysomnographic technicians, polysomnographic trainees, polysomnographic students and other persons who may provide sleep-related services.

[16.10.20.2 NMAC - N, 1/1/10]

**16.10.20.3 STATUTORY AUTHORITY:** This part is promulgated pursuant to and in accordance with the Polysomnography Practice Act, Sections 61-6B-1 through 61-6B-10 and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.

[16.10.20.3 NMAC - N, 1/1/10]

**16.10.20.4 DURATION:** Permanent.

[16.10.20.4 NMAC - N, 1/1/10]

**16.10.20.5 EFFECTIVE DATE:** January 1, 2010, unless a different date is cited at the end of a section.

[16.10.20.5 NMAC - N, 1/1/10]

**16.10.20.6 OBJECTIVE:** This part regulates the licensing and practice of polysomnographic technologists.

[16.10.20.6 NMAC - N, 1/1/10]

#### **16.10.20.7 DEFINITIONS:**

**A. "AASM"** means the American academy of sleep medicine, a national organization that establishes accreditation standards for sleep centers and sleep labs.

**B. "AAST"** means the American association of sleep technologists, a national organization that provides continued development of educational, technical and clinical assistance related to the sleep technology profession.

**C. "ABSM"** means the American board of sleep medicine, a national organization developed for the purpose of establishing and maintaining standards of board certification for physicians practicing sleep disorders medicine.

**D. "Act"** means the Polysomnography Practice Act.

**E. "Board"** means the New Mexico medical board.

**F. "BRPT"** means the board of registered polysomnographic technologists, a national agency for credentialing polysomnographic technologists.



**G. “CAAHEP”** means the commission on accreditation of allied health education programs, a national agency for accrediting polysomnographic educational programs.

**H. “Committee”** means the polysomnography practice advisory committee.

**I. “Contact hour”** means sixty (60) minutes of actual instructional time. Breaks, meals, evaluations, wrap-up or registration are not included when calculating hours.

**J. “Direct supervision”** means that the polysomnographic technologist providing supervision shall be present in the area where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

**K. “Expired”** means a license was not renewed by the biennial renewal date of March 1 or at the end of the grace period of May 1, and the licensee is **not** eligible to practice within the state of New Mexico.

**L. “General supervision”** means that the polysomnographic procedure is provided under a physician’s direction and control, but the physician’s presence is not required during the performance of the procedure.

**M. “Grace period”** means the sixty (60) day period following the renewal date when a polysomnographic technologist may renew a license that was not renewed by the renewal date, by paying the required renewal fee, the late fee and meeting the renewal requirements. A licensee may continue to practice during the grace period.

**N. “Grace period status”** means the license has not been renewed by the renewal date and has not expired.

**O. “License”** means an authorization issued by the board that permits a person to engage in the practice of polysomnography in the state.

**P. “Licensed provider”** means a licensed physician, licensed physician assistant, licensed certified nurse practitioner or licensed psychologist.

**Q. “Licensee”** means a person licensed by the board to engage in the practice of polysomnography.

**R. “NBRC”** means the national board for respiratory care, a national organization that credentials respiratory therapists, and provides an examination to further certify respiratory therapists as sleep disorders specialists.

**S. “Physician”** means an individual licensed by the New Mexico medical board and an individual licensed by the New Mexico board of osteopathic medical examiners.

**T. “Polysomnographic student”** means a person who is enrolled in an educational program that is accredited by the commission on accreditation of allied health education programs, as provided in Section 5 [61-6B-5 NMSA 1978] of the Polysomnography Practice Act and who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the person’s educational program.

**U. “Polysomnographic technician”** means a person who has graduated from an accredited educational program described in Section 5 of the Polysomnography Practice Act but has not yet passed the national certifying examination given by the board of registered polysomnographic technologists, who has obtained a temporary permit from the board and who may provide sleep-related services under the general supervision of a licensed physician.

**V. “Polysomnographic technologist”** means a person who is credentialed by the board of registered polysomnographic technologists and is licensed by the board to engage in the practice of polysomnography under the general supervision of a licensed physician.

**W. “Polysomnographic trainee”** means a person who is enrolled in an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine and who may provide sleep-related services under the direct supervision of a polysomnographic technologist or licensed physician as a part of the person’s educational program.

**X. “Practice of polysomnography”** means the performance of diagnostic and therapeutic tasks, under the general supervision of a licensed physician, including:

**(1)** monitoring and recording physiologic activity and data during the evaluation or treatment of sleep-related disorders, including sleep-related respiratory disturbances, by applying appropriate techniques, equipment and procedures, including:

**(a)** continuous or bi-level positive airway pressure titration on patients using a nasal or oral or a nasal and oral mask or appliance that does not extend into the trachea or attach to an artificial airway, including the fitting and selection of a mask or appliance and the selection and implementation of treatment settings;

**(b)** supplemental low-flow oxygen therapy that is less than ten liters per minute using nasal cannula or continuous or bi-level positive airway pressure during a polysomnogram;

**(c)** capnography during a polysomnogram;

**(d)** cardiopulmonary resuscitation;

**(e)** pulse oximetry;

**(f)** gastroesophageal pH monitoring;

**(g)** esophageal pressure monitoring;

**(h)** sleep staging, including surface electroencephalography, surface electrooculography and surface submental electromyography;

**(i)** surface electromyography;

**(j)** electrocardiography;

**(k)** respiratory effort monitoring, including thoracic and abdominal movement;

**(l)** respiratory plethysmography;

**(m)** arterial tonometry and additional measures of autonomic nervous system tone;

**(n)** snore monitoring;

**(o)** audio or video monitoring;

**(p)** body movement monitoring;

**(q)** nocturnal penile tumescence monitoring;

**(r)** nasal and oral airflow monitoring;

**(s)** body temperature monitoring; and

**(t)** use of additional sleep-related diagnostic technologies;

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

**(3)** analyzing and scoring data collected during the monitoring described in Paragraphs (1) and (2) of this subsection for the purpose of assisting a licensed provider in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease or actual or anticipated somatic dysfunction;

**(4)** implementing a written or verbal order from a licensed provider that requires the practice of polysomnography;

**(5)** educating a patient regarding the treatment regimen that assists that patient in improving the patient’s sleep; and

(6) initiating and monitoring treatment, under the orders of a licensed provider, for sleep-related breathing disorders by providing continuous positive airway pressure and bi-level positive airway pressure devices and accessories, including masks that do not extend into the trachea or attach to an artificial airway, to a patient for home use, together with educating the patient about the treatment and managing the treatment.

**Y. “Renew”** means to begin again after an interval of time; to make valid again for a further period.

**Z. “Renewal date”** means the deadline date upon which the license shall be made valid again for another period of time without a penalty fee.

**AA. “SDS”** means sleep disorders specialist.

**BB. “Sleep-related services”** means acts performed by polysomnographic technicians, polysomnographic trainees, polysomnographic students and other persons permitted to perform these services under the Polysomnography Practice Act, in a setting described in 16.10.20.17 NMAC, that would be considered the practice of polysomnography if performed by a polysomnographic technologist.

[16.10.20.7 NMAC - N, 1/1/10]

**16.10.20.8 LICENSURE REQUIREMENTS:** The board may issue a license to an applicant who fulfills the following requirements.

**A.** Completes an application for which the applicant has supplied all information and correspondence requested by the board on forms and in a manner acceptable to the board.

Applications are valid for one (1) year from the date of receipt. While an application is pending, the applicant is responsible for providing the board with any changes to the submitted information or to the applicant’s oath. Applications shall require the following documentation:

(1) demographic information of the applicant;

(2) educational history;

(3) employment history;

(4) professional references;

(5) examination information;

(6) certification information;

(7) other state licensure information;

(8) professional practice questions;

(9) applicant’s oath;

(10) passport-quality color photograph taken within six months prior to filing the application; approximate size 2 x 2 inches, head and shoulders only, full face, front view, plain white or off-white background, standard photo stock paper; and, scanned or computer-generated photographs should have no visible pixels or dots; and

(11) applicant’s signature.

**B.** Each applicant for licensure as a polysomnographic technologist shall submit the required fees as established in 16.10.9 NMAC.

**C.** Verification of licensure in all states or territories where the applicant holds or has held a license to engage in the practice of polysomnography, or other health care profession, shall be sent directly to the board by the other state board(s) by United States postal service, facsimile, or in an electronic format acceptable by the board, and shall attest to the current status, issue date, license number, and other information requested and contained on the form.

**D.** Passage of the national certifying examination given by the BRPT or an examination equivalent to the BRPT examination, or the NBRC-SDS examination, as approved by the board. Proof of passage shall be sent directly to the board by the certifying entity or in an electronic format acceptable by the board. The board may accept hard copy by United States postal service, facsimile or electronic mail.

**E.** Proof that the applicant has been credentialed by the BRPT or by another national entity equivalent to the BRPT, as approved by the board.

**F.** Proof of high school graduation, evidenced by a copy of diploma or general educational development (GED) certificate, or other format acceptable by the board. Proof of a degree from a level of higher education is also acceptable.

**G.** Proof that the applicant holds current certification of successful completion of formal training in basic cardio pulmonary resuscitation and in the application and management of an automated external defibrillator.

**H.** Verification of all work experience in the last five (5) years since graduation, if applicable, provided directly to the board from the employer, by letter, or in an electronic format acceptable by the board, or on forms provided by the board.

**I.** Proof of graduation means official transcripts from an educational program or a certificate acceptable to the board. The applicant shall make arrangements for official transcripts to be sent directly to the board by the educational institution. If official transcripts are not available due to school closure, destroyed records, etc., the applicant shall provide satisfactory evidence to the board that the required polysomnographic educational program has been met for consideration on a case-by-case basis. Proof of completion of a polysomnographic education program, evidenced by:

(1) graduation from a polysomnographic educational program that is accredited by the CAAHEP; or

(2) graduation from a respiratory care educational program that is accredited by the CAAHEP and completion of the curriculum for a polysomnography or sleep diagnostic specialist certificate established and accredited by the committee on accreditation for respiratory care of the CAAHEP; or

(3) graduation from an electroneurodiagnostic technologist educational program with a polysomnographic technology track that is accredited by the CAAHEP; or

(4) successful completion of a sleep technologist educational program that is accredited by the AASM. This option shall expire two years after the date upon which at least three (3) polysomnographic technologist educational programs in New Mexico have been accredited by the CAAHEP.

**J. Waiver of the educational requirement.** The board may waive the educational requirements set forth in Subsections F and I of this section for an individual continuously engaged in the practice of polysomnography on or before July 1, 2008, pursuant to Subsection B of Section 61-6B-5 of the Polysomnography Practice Act. To be eligible for this waiver, applicants shall meet all other requirements set forth in this section.

**K. Personal interview.** Upon receipt of a completed application, including all required documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or a member of the polysomnographic practice advisory committee designated by the board to evaluate that person's qualifications for a license.

**L. Initial license period.** The applicant who has met all the requirements for licensure shall be issued an initial license for a period of not more than twenty-four months or less than thirteen

months, depending on when in the renewal cycle the initial license is issued, in order to schedule the license to renew on March 1.

**M. Initial license expiration.** Polysomnographic technologist licenses shall be renewed biennially on March 1 as established in 16.10.20.12 NMAC.

**N. State and national criminal history screening.** All applicants for initial licensure as a polysomnographic technologist are subject to a state and national criminal history screening at their expense. All applicants shall submit two (2) full sets of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and background screening fee at the time of application.

(1) Applications for licensure shall not be processed without submission of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee.

(2) Applications shall be processed pending the completion of the nationwide criminal background screening and may be granted while the screening is still pending.

(3) If the criminal background screening reveals a felony or a violation of the Medical Practice Act or the Polysomnography Practice Act, the applicant/licensee shall be notified to submit copies of legal documents and other related information to the board, which shall make the determination if the applicant is eligible for licensure or if disciplinary action will be taken. Questions of felony or misdemeanor convictions involving moral turpitude directly related to employment in the profession need to be resolved satisfactorily. If the prior conviction does not relate to employment in the profession, the board may require proof that the person has been sufficiently rehabilitated to warrant the public trust. Proof of sufficient rehabilitation may include, but not be limited to: certified proof of completion of probation or parole, payment of fees, community service or any other court ordered sanction.

[16.10.20.8 NMAC - N, 1/1/10]

#### **16.10.20.9 POLYSOMNOGRAPHIC TECHNICIAN TEMPORARY PERMIT:**

**A.** The board may issue a temporary permit to a polysomnographic technician who has met all licensure requirements established in 16.10.20.8 NMAC, except passage of the national certifying examination.

**B.** The temporary permit is valid for no more than two years from the date of the technician's graduation from an accredited program as described in 16.10.20.8 NMAC.

**C.** A temporary permit may be renewed for a period of one year beyond the original two-year expiration date and upon payment of the temporary permit renewal fee as established in 16.10.9 NMAC. This permit may only be renewed one time.

**D.** The holder of a temporary permit may not provide sleep-related services until the temporary permit is received and is on file at the principal place of practice.

**E.** The holder of a temporary permit shall work under the general supervision of a New Mexico licensed physician. The polysomnographic technician is responsible to provide the board the following documentation, at the time of application, on forms provided by the board:

(1) name of the supervising physician;

(2) specific program or protocol of work planned;

(3) address of the sponsoring institution or organization where the work will be performed; and

(4) an affidavit from the supervising physician attesting to the qualifications of the polysomnographic technician and the purpose of the functions the technician will perform while on a temporary permit.

**16.10.20.10 NON-LICENSED PERSONS PROVIDING SLEEP-RELATED SERVICES:**

Non-licensed persons shall meet the following requirements before providing any sleep-related services.

**A.** A polysomnographic technician shall obtain a temporary permit as established in 16.10.20.9 NMAC.

**B.** A polysomnographic trainee shall provide proof to the board that the trainee is enrolled in an accredited sleep technologist educational program accredited by the AASM. Acceptable proof consists of a letter or other acceptable affirmation, as approved by the board, that the trainee is enrolled in the program.

**C.** A polysomnographic student may provide uncompensated sleep-related services under the direct supervision of a polysomnographic technologist, or a licensed physician, as a part of the student's educational program while actively enrolled in a polysomnographic educational program that is accredited by the CAAHEP.

**D.** A person credentialed in one of the health-related fields accepted by the BRPT, who may provide sleep-related services while obtaining the clinical experience necessary to be eligible to take the national certification examination, shall work under the direct supervision of a licensed polysomnographic technologist, or a licensed physician, for a period of up to one year.

**E.** Polysomnographic trainees, polysomnographic students, and persons credentialed in one of the health-related fields accepted by BRPT shall give notice to the board that the person is working under the direct supervision of a licensed polysomnographic technologist or licensed physician and are responsible to provide the board the following documentation on forms provided by the board:

(1) name of the supervising polysomnographic technologist or physician;

(2) specific program or protocol of work planned;

(3) address of the sponsoring institution or organization where the work will be performed; and

(4) an affidavit from the supervising polysomnographic technologist or physician attesting to the qualifications of the trainee and the purpose of the functions the trainee will perform.

**F.** Respiratory care practitioners licensed under the Respiratory Care Act are exempt from this requirement.

[16.10.20.10 NMAC - N, 1/1/10]

**16.10.20.11 ENDORSEMENT:** An applicant for licensure as a polysomnographic technologist who is licensed under the laws of another U.S. jurisdiction where the requirements were equal to or greater than the requirements for licensure in New Mexico at the time the license was obtained in the other U.S. jurisdiction, shall file an application as established in 16.10.20.8 NMAC.

[16.10.20.11 NMAC - N, 1/1/10]

**16.10.20.12 LICENSE EXPIRATION AND RENEWAL:**

**A.** Polysomnographic technologist licenses shall be renewed biennially on March 1st. An initial license may be issued for a period of up to two years, depending on when in the renewal cycle the initial license is issued, in order to schedule the license to renew on March 1st.

**B.** Failure to receive the renewal notice shall not relieve the licensee from the responsibility of renewing the license by the renewal date. The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to inform the board of accurate address information and to make a timely request for the renewal application if one has not been received prior to March 1st.

**C.** Renewal applications postmarked, hand-delivered or completed on-line, on or prior to March 1 shall require the following documentation:

(1) completion of a renewal application either electronically on-line or on the form provided by the board; the renewal form shall include the following data:

(a) demographic information of the licensee;

(b) license number;

(c) questions regarding practice information since the last renewal; and

(d) signature of the licensee if renewing on a hard-copy form; if renewing electronically online, no signature is required;

(2) receipt of the renewal fee as established in 16.10.9 NMAC; and

(3) proof of twenty (20) BRPT or AAST approved continuing education contact hours during each biennial renewal cycle; continuing education contact hours acceptable to BRPT for recertification are acceptable for license renewal.

**D.** Renewal applications postmarked or hand-delivered after March 1 and prior to May 1 shall require the following documentation:

(1) completion of a renewal application either electronically on-line or on the form provided by the board, including the data as described in subparagraphs (a)-(d) of paragraph (1) of Subsection C of Section 12 above;

(2) receipt of the renewal fee as established in 16.10.9 NMAC;

(3) receipt of the late fee as established in 16.10.9 NMAC; and

(4) proof of twenty (20) BRPT or AAST approved continuing education contact hours during each biennial renewal cycle; continuing education contact hours acceptable to BRPT for recertification are acceptable for license renewal.

**E.** March 1 through April 30 is considered the grace period following the renewal date during which a licensee may continue to provide services and renew with a late fee.

**F.** When renewal applications are received on or after May 1, the license shall have expired, and the licensee shall not be eligible to provide polysomnography services in New Mexico.

**G.** When a retiree reenters the practice of polysomnography, the retiree shall submit the following documentation:

(1) completion of a renewal application either electronically on-line or on the form provided by the board, including the data as described in subparagraphs (a)-(d) of paragraph (1) of Subsection C of Section 12 above;

(2) receipt of the renewal fee as established in 16.10.9 NMAC;

(3) proof of ten (10) BRPT or AAST approved continuing education contact hours for each year since the license was placed in retired status, with a maximum of fifty (50) hours required regardless of the number of years retired;

(4) any other proof of competency as may be requested by the board or the board's designee; and

(5) proof of current BRPT certification.

**H. Verification of continuing education.** Each polysomnographic technologist renewing a license shall attest that the required hours of continuing education have been obtained. The board shall randomly select renewal applications for audit to verify compliance. The board may audit continuing education records at any time. The licensee shall maintain continuing education records for one year following the renewal cycle in which they were earned. Any polysomnographic technologist who fails to respond to a continuing education audit shall be considered in violation of Paragraph (23) of Subsection D of Section 61-6-15 of the Medical

Practice Act, failure to provide the board with information requested by the board. Potential sanctions include fines, letters of reprimand, license suspension or revocation.  
[16.10.20.12 NMAC - N, 1/1/10]

**16.10.20.13 REINSTATEMENT:** A licensee with an expired license may apply for reinstatement.

**A.** Requirements for reinstatement of an expired license *within* one (1) year of the renewal date are as follows:

- (1) completion of a reinstatement application;
- (2) receipt of the renewal fee as established in 16.10.9 NMAC;
- (3) receipt of the reinstatement fee as established in 16.10.9 NMAC; and
- (4) proof of twenty (20) BRPT or AAST approved continuing education contact hours completed within the previous two years; continuing education contact hours acceptable to BRPT for recertification are acceptable for license reinstatement.

**B.** Requirements for reinstatement of an expired license *after* one (1) year of the renewal date are as follows:

- (1) completion of a reinstatement application;
- (2) receipt of the renewal fee as established in 16.10.9 NMAC;
- (3) receipt of the reinstatement fee as established in 16.10.9 NMAC;
- (4) proof of twenty (20) BRPT or AAST approved continuing education contact hours as required for license renewal;
- (5) proof of ten (10) BRPT or AAST approved continuing education contact hours for each year the license has been expired, with a maximum of fifty (50) hours required regardless of the number of years expired;
- (6) proof of current BRPT certification; and
- (7) any other proof of competency as may be requested by the board or the board's designee; additionally, the board may require the former licensee to reapply as a new applicant.

[16.10.20.13 NMAC - N, 1/1/10]

**16.10.20.14 RETIRED STATUS:** A licensee who wishes to retire from the practice of polysomnography shall notify the board, in writing, of the retirement effective date. To reenter the practice of polysomnography, the retiree shall meet the requirements as established in Subsection G of 16.10.20.12 NMAC of this part and any other proof of competency as may be requested by the board or the board's designee.

[16.10.20.14 NMAC - N, 1/1/10]

**16.10.20.15 DISCIPLINARY AND COMPLAINT PROCESS:** Disciplinary actions and complaints shall be processed as established in 16.10.5 and 16.10.6 NMAC.

[16.10.20.15 NMAC - N, 1/1/10]

**16.10.20.16 USE OF ORAL APPLIANCES:** A licensed dentist shall make or direct the making and use of any oral appliance used in the practice of polysomnography. A licensed dentist shall evaluate the structures of a patient's oral and maxillofacial region for purposes of fitting the appliance.

[16.10.20.16 NMAC - N, 1/1/10]



**16.10.20.17 LOCATIONS FOR THE PRACTICE OF POLYSOMNOGRAPHY:**

**A.** The practice of polysomnography shall only take place in the following locations:

- (1) a hospital;
- (2) a stand-alone sleep laboratory;
- (3) a sleep center; or
- (4) a patient's home.

**B.** Scoring of data and the education of patients may take place in settings other than in a hospital, sleep laboratory, sleep center or patient's home.

[16.10.20.17 NMAC - N, 1/1/10]

**16.10.20.18 GENERAL PROVISIONS:**

**A. Address changes.** Any licensee whose address changes shall notify the board of the address change within thirty (30) calendar days of the change. Address changes shall be provided in writing, by facsimile, letter, or electronic mail. Telephone notification shall be followed with written notification.

**B. Display of license.** Licensees shall display the license in the office or place in which the licensee practices. The license shall be displayed in a location clearly visible to patients. At secondary places of employment, documentation of the license shall be verified by photocopy with a note attached indicating where the original license is posted.

**C. Identification badge required.**

(1) Polysomnographic technicians shall wear a badge that appropriately identifies the person as a polysomnographic technician.

(2) Polysomnographic trainees shall wear a badge that appropriately identifies the person as a polysomnographic trainee.

(3) Polysomnographic students shall wear a badge that appropriately identifies the person as a polysomnographic student.

(4) Other clinicians shall wear a badge that appropriately identifies the person and their clinical capacity.

**D. Inspection of a business premise.** Random inspection of a business premise may be conducted in order to verify compliance with the Polysomnography Practice Act.

[16.10.20.18 NMAC - N, 1/1/10]

**HISTORY of 16.10.20 NMAC: [RESERVED]**