

<http://www.njconsumeraffairs.gov/poly>

State Board of Polysomnography

Public Session Minutes

August 13, 2013

A regular meeting of the New Jersey State Board of Polysomnography was held at 124 Halsey Street, Newark, NJ on the seventh floor, on Tuesday, August 13, 2013. The meeting was convened in accordance with the schedule filed with the Secretary of State and was conducted in accordance with provisions of the Open Public Meetings Act, Chapter 321, P.L. 1975 more commonly referred to as the Sunshine Law. Adequate notice of the meeting was provided to the Office of the Secretary of State, the Newark Star Ledger, the Bergen Record, the Courier Post and the Trenton Times. The meeting was called to order at 10:30 a.m. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Penni L. Smith, RPSGT, (Chair) Present
Sara Rose Gallagher, RPSGT, (Vice-Chair) Present
Mitchell L. Rubinstein, RPSGT, Present
Kathleen A. Feeney, RPSGT, Absent
Don J. Fahy, RPSGT, Absent
John Penek, M.D. Absent
Gerald J. Ferencz, M.D. Absent

Also in attendance were: Francine Widrich, Acting Executive Director of the State Board of Polysomnography, Deputy Attorney General Susan Carboni and administrative staff Tiesha Frederick and Lyann Hope.

ANNOUNCEMENT OF QUORUM

The State Board of Polysomnography met as sub-committee. The Chair, Penni Smith, has decisional authority when there is a lack of a quorum.

I. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF MAY 14, 2013

A motion was made by Mitchell Rubinstein and seconded by Sara Rose Gallagher to approve the Public Session Minutes of May 14, 2013 with corrections.

This matter will be carried to the next meeting for ratification.

II. ACTING EXECUTIVE DIRECTOR'S REPORT

1. NEWLY LICENSED LIST POLYSOMNOGRAPHERS

Juan E. Freire	49FC00024900	Ryan C. Marr	49FC00025000
Lori A. Brady	49FC00025100	David W. Franza	49FC00025200
David M. Berry	49FE00003800	Rikki R. Shockley	49FE00003900
Allen Jay J. De La Rosa	49FE00004000	Donald Gelin	49FE00004100
Mercedes Luna	49FE00004200	Ashley C. Hoard	49FE00004300
David L. Zirpoli	49FE00004400	Elaine Alonso-Cabral	49FW00034800
Rinkle Anish	49FW00034900	Gina S. Moreno	49FW00035000
Bonnie J. Collins	49FW00035100	Daniel C. Cheng	49FW00035200
Leigh-Anne McMullen	49FW00035300	Joanne Kluska	49FW00035400
Nivah Garcis	49FW00035500	Sharon C. Laganella	49FW00035600
Ariel A. Almonte	49FW00035700	Johny A. Curbelo	49FW00035800
Katherine Morgado	49FW00035900	Diana Figueroa	49FW00036000
Lawrence R. Baxter	49FW00036100	Laura K. Majano	49FW00036200
Diane L. Carroll	49FW00036300	Jada M. Osabu	49FW00036400
Amanda J. Gray	49FW00036500	Peter Yeung	49FW00036600
Leslie A. Hackett	49FW00036700	Brian J. Toth	49FW00036800
Laura L. Toth	49FW00036900	Raphael A. Pareja	49FW00037000
Michael G. Masino	49FW00037100	Mahesh Kumar	49FW00037200
Joan M. Frankowski	49FW00037300	William T. Smith	49FW00037400

The Chair, Penni Smith affirmed the list of newly licensed polysomnographers. This list will be placed on the next meeting for ratification.

2. MONTHLY EXECUTIVE REPORT

The monthly executive report was submitted for informational purposes to the Board.

3. DIVISION OF LAW BILLING 3RD & 4TH QUARTER

The Division of Law billing was submitted for informational purposes to the Board. The Board will have a discussion on assessed cost associated with disciplinary actions at the next meeting.

III. NEW BUSINESS

1. Mostafa Mohamed requested a waiver of the regulatory requirements that his technician license has to be active in order to upgrade to a technologist license. Mr. Mohamed passed the RPSGT examination on 7/31/2013. His technician license expired on 3/31/2013 Mr. Mohamed is asking the Board to grant him licensure as a polysomnographic technologist.

The Board instructed the Acting Executive Director, Francine Widrich, to contact Mr. Mohamed in writing advising him that the statute requires that an applicant take and pass the technologist licensing examination within 2 years of being issued a technician license and that the requirement cannot be waived.

2. Patricia Gaciofano requested a waiver of the regulatory requirements that her technician license has to be active in order to upgrade to a technologist license. Ms. Gaciofano states in her waiver request that she was unaware that she needed to pass the licensing examination within two years of being licensed as a technician. Ms. Gaciofano passed her RPSGT examination of 6/15/2013. Her technician license expired on 1/31/2013. Ms. Gaciofano is asking the Board to grant her licensure as polysomnographic technologist.

The Board instructed the Acting Executive Director, Francine Widrich, to contact Ms. Gaciofano in writing advising her that the statute requires that an applicant take and pass the technologist licensing examination within 2 years of being issued a technician license and that the requirement cannot be waived.

3. Dennis Bate requested a waiver of the regulatory requirements that his technician license has to be active in order to upgrade to a technologist license. Mr. Bate passed the RPSGT examination on 7/18/2013. His technician license expired on 04/05/2013. Mr. Bate is asking the Board to grant him licensure as polysomnographic technologist.

The Board instructed the Acting Executive Director, Francine Widrich, to contact Mr. Bate in writing advising him that the statute requires that an applicant take and pass the technologist licensing examination within 2 years of being issued a technician license and that the requirement cannot be waived.

The Board is advising all polysomnographic technicians applying to upgrade their licenses to polysomnographic technologists that they must take and pass the technologist licensing examination within two years of being issued the technician license. This statutory requirement cannot be waived, and all future waiver requests concerning this issue must be denied. The Board is also advising applicants that there are two other ways to qualify for licensure as a polysomnographic technologist, provided the applicant has taken and passed the technologist licensing examination. The first way includes providing evidence that the applicant has successfully completed a CAAHEP-accredited polysomnographic course. The second way includes providing proof that the applicant is licensed as a polysomnographic technologist by a state that has licensure requirements substantially equivalent to New Jersey's licensure requirements.

Complete details on the polysomnographic technologist licensure requirements can be found online at www.njconsumeraffairs.gov/poly/

4. Michael J. Lahey's filed Consent Order of Suspension. Mr. Lahey was arrested by the Division of Criminal Justice for the unlicensed practice of medicine and submitting fraudulent healthcare claims. On 5/6/2013 the Board filed an Interim Consent Order in which Mr. Lahey agreed to cease and desist from the practice of polysomnography in the State of New Jersey. On 5/14/2013 at the Board's scheduled meeting the matter was finalized and a final Consent Order of Suspension was to be issued.

The Consent Order of Suspension was filed on 7/29/2013.

5. Regulatory Analyst Elizabeth Greenblatt updates.
 - a. The Petition for Rulemaking Certification in Basic Life Support by HSI is currently in the Governor's Office for review.
 - b. The Rule Adoption concerning applicants holding PHd's has been approved by the Division of Law.
 - c. The Rule Proposal concerning Qualified Medical Directors has been reviewed and approved by the Division of Law.

IV. **REVIEW AND RATIFICATION OF CHAIRMAN'S DECISION**

1. Dianne Carroll requested a waiver of the requirement that she be a holder of a technician license when applying for her technologist license. She took and passed the RPSGT examination within the 2 years of being issued a technician license. Her technician license was issued on 5/25/2011 and she passed the BRPT on 5/25/2013. She has met all other requirements needed for a technician applying for a technologist license, except her application was not received until 6/4/2013. This was 10 days after her technician license expired.

Ms. Carroll's licensure was approved by the Board Chairman Penni Smith on 6/9/2013.

The ratification of this matter has been tabled until the next scheduled Board meeting.

2. Mark Spizewski requested that his technician license be extended for a few months. His letter was hand delivered to the Board office on Friday, 5/31/2013, and his technician license, which has already been renewed once, expired on 6/3/2013.

Mr. Spizewski was advised to put his license on inactive status due to his hardship and the inactive status was approved by the Board Chairman Penni Smith on 06/9/2013.

The ratification of this matter has been tabled until the next scheduled Board meeting.

3. Nancy Gonzalez contacted the Board after reviewing the Board's public session minutes of the 3/12/2013 meeting. She has requested that the minutes be amended to reflect that she did not "assert" that there were unlicensed polysomnographers, she only asked to whom should she report unlicensed polysomnographers.

Ms. Gonzalez request was reviewed the Board Chairman Penni Smith approved the amendment on 6/9/2013.

The ratification of this matter has been tabled until the next scheduled Board meeting.

4. Brian Toth requested a waiver of the requirements that he be a holder of a technician license when applying for his technologist license. He took and passed the RPSGT examination within the 2 years of being issued a technician license. His technician license was issued on 6/17/2011 and he passed the RPSGT examination on 06/6/2013. He has met all other requirements needed for a technician applying for a technologist license, except his application was not received until 6/26/2013. This was 10 days after his technician license expired.

Mr. Toth's licensure was approved by the Board Chairman Penni Smith on 7/15/2013.

The ratification of this matter has been tabled until the next scheduled Board meeting.

V. **OLD BUSINESS**

1. Donna Woodley was issued a technician license under the grand fathering clause on September 2011. During the renewal process she requested that her license be placed on inactive status because she was laid off from her job immediately after receiving her license and she was not able to find a job. During the 11 months that she held a technician license, she did not work and did not complete any sleep studies. At the 5/14/2013 public session meeting the Board reviewed Ms. Woodley's request. The Board then determined that Ms. Woodley would need to prepare a waiver request of the reinstatement regulation that requires completion of 100 sleep studies and to have her former employers write letters to the Board

confirming her past polysomnographic experience and attesting to her moral character. She would also need to provide details of her education and an explanation as to why she let her license lapse. Ms. Woodley submitted the requested documentation.

Ms. Woodley's reinstatement was approved by the Board Chairman Penni Smith on 6/26/2013.

VI. **ADJOURNMENT**

A motion was made by Penni Smith and seconded by Sara Rose Gallagher to adjourn public session at 1:10 p.m. and move into executive session to discuss confidential matters.

Respectfully Submitted,

Francine Widrich
Acting Executive Director