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ISSUE DATE: SEPTEMBER 6, 2016
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF POLYSOMNOGRAPHY

Adopted Amendments: N.J.A.C. 13:44L-1.2, 2.2, 2.3, 2.4, 3.3, 5.1, 5.2, and 5.3

Adopted Repeal: N.J.A.C. 13:44L-5.10

Definitions; Application for a Temporary License as a Polysomnographic Technician; Application for License as a Polysomnographic Technologist; Application for Licensure by Out-of-State Licensed Polysomnographic Technologist; Renewal of Polysomnographic Technician License; Scope of Practice: Licensed Polysomnographic Technician; Scope of Practice: Licensed Polysomnographic Trainee; Recordkeeping: Qualified Medical Director

Proposed: September 8, 2015, at 47 N.J.R. 2239(a).

Adopted: April 12, 2016, by the New Jersey State Board of Polysomnography, Sara Rose Gallagher, RPSGT, Chair.

Filed: July 29, 2016, as R.2016 d.104, **without change**.

Authority: N.J.S.A. 45:14G-7.

Effective Date: September 6, 2016.

Expiration Date: May 17, 2017.

Summary of Public Comments and Agency Responses:

The official comment period ended November 9, 2015. The Board received four comments on the notice of proposal:

1. Nathaniel Watson, M.S., M.D., President, American Academy of Sleep Medicine (AASM).
2. Lori-Ann Ligon, R.R.T., President, New Jersey Society for Respiratory Care (NJSRC).
3. Suzie Steger, Regulatory Coordinator for Accreditation Commission for Health Care (ACHC).
4. Laura Linley, R.S.T., R.P.S.G.T., C.R.T.T., President, American Association of Sleep Technologists (AAST).

1. COMMENT: Ms. Steger, on behalf of ACHC, requests that the Board amend its proposal at N.J.A.C. 13:44L-1.2, 2.3, 5.2, and 5.3 to include ACHC as another accreditation option for sleep centers and laboratories. Under the notice of proposal published on September 8, 2015, a trainee or technician would be able to act within their scope and count experience

towards the next level of licensure at either a State-[page=1826] licensed facility or a facility that is provisionally or fully accredited by AASM. The commenter states that ACHC's sleep accreditation process is very comprehensive, and noted that ACHC is currently nationally accepted by Medicare and Blue Cross Blue Shield, UnitedHealthcare, and Cigna, along with special benefit management organizations, such as AIM Specialty Health, CareCentrix, and SMS.

RESPONSE: N.J.S.A. 45:14G-3 requires that polysomnographic trainees and polysomnographic technicians perform polysomnography under the direct supervision (in the case of trainees) or the supervision (in the case of technicians) of a licensed technologist or licensed physician in a State-licensed or nationally accredited sleep center or laboratory. N.J.S.A. 45:14G-10 requires the Board to issue licenses to technologists, technicians, and trainees who successfully complete proficiencies determined using standards established by the Board at least commensurate with the National Association of Polysomnographic Technologists or AASM standards. The Board has interpreted this to mean that a provisionally or fully accredited institution must meet AASM standards. The Board has reviewed ACHC's accreditation process, and has determined that ACHC's accreditation standards are not substantially equivalent to AASM accreditation standards. Specifically, the Board notes that ACHC's standards are not consistent with AASM standards concerning the level of oversight required to be provided by a qualified medical director. The Board does not believe that ACHC's standards in this area are consistent with the statutory requirement that duties are to be performed under the direct supervision and direction of a physician or licensed polysomnographic technologist, as set forth in N.J.S.A. 45:14G-9.b(1). Therefore, the Board declines to change the rule to include ACHC accreditation as an additional accreditation option.

2. COMMENT: Dr. Watson, on behalf of the AASM, and Ms. Linley, on behalf of the AAST, applaud the Board's decision to recognize the Registered Polysomnographic Technologist (RST) examination administered by the American Board of Sleep Medicine (ABSM). Ms. Linley believes that the role of sleep technologists is very important to the diagnostic and therapeutic services provided to sleep disorder patients. She also believes that there is an increased need for trained sleep technologists who have demonstrated their knowledge of sleep technology and aptitude in a clinical setting through a registry examination that leads to a credential in sleep technology. Dr. Watson notes that the RST examination was developed by a Sleep Technologist Examination Committee comprised of senior members of the sleep technology profession and the sleep medicine field. Dr. Watson and Ms. Linley believe that the examination reflects the day-to-day responsibilities of the sleep technologist in a clinical setting, and is based on the education and training pathways available for the sleep technology profession.

RESPONSE: The Board thanks the commenters for their support.

3. COMMENT: Dr. Watson and Ms. Linley also support the Board's decision to allow an individual applying for a temporary license as a sleep technician, and who does not hold a license as a sleep trainee, to complete one of two alternate pathways: (1) completion of a CAAHEP-accredited polysomnographic course, or (2) completion of the A-STEP Introductory Course and the A-STEP Self-Study Modules. The commenters note that because there is only one CAAHEP program in the State, they support the Board's amendment to recognize the A-STEP Introductory Course and the A-STEP Self-Study Modules.

RESPONSE: The Board thanks the commenters for their support.

4. COMMENT: Dr. Watson, Ms. Ligon, and Ms. Linley disagree with the Board's proposal to

require an applicant who completes the A-STEP Introductory Course and the A-STEP Self-Study Modules to also successfully complete the CPSGT examination. Dr. Watson believes that the examination is equivalent to the A-STEP Introductory Course and Modules, and is, therefore, unnecessary. Ms. Linley believes that in light of the rigorous training that an applicant receives in completing the A-STEP Introductory Course and Modules to obtain a technician's license, completion of the CPSGT examination is unnecessary.

Ms. Ligon believes that the Board should not require the successful completion of the CPSGT examination because it has not been recognized as valid and reliable by any outside accrediting body. Ms. Ligon feels that this is important because there is no outside validation that the exam for the CPSGT actually measures the competency of the individual who will be providing polysomnography services.

Additionally, Ms. Ligon states that the CPSGT examination assesses within a limited matrix: it assesses the professional competence of practitioners who perform routine adult polysomnography and basic continuous positive airway pressure (CPAP) titration for sleep apnea. Additionally, the CPSGT examination is geared towards individuals who are new to the field, or not ready to take the Registered Polysomnographic Technologist (RPSGT) examination. Ms. Ligon stresses that the American Association of Sleep Technologists states that a technician may provide sleep-related services while under the general supervision of a physician, sleep technologist, or respiratory therapist. For example, a technician can "implement appropriate interventions include[ing] therapeutic intervention such as continuous and bi-level positive airway pressure." Ms. Ligon believes that because the CPSGT examination is limited to evaluating an individual's knowledge providing adult care and CPAP titration, and if, during diagnostic testing, a patient needed BiPAP or other advanced testing or control, a supervisor would need to be physically present to assist due to the CPSGT credentialed individual's limited knowledge. However, under the Polysomnography Practice Act's definition of supervision, supervision means a licensed polysomnographic technologist or licensed physician is constantly accessible, either on-site or through voice communication. Ms. Ligon believes this level of supervision may not be appropriate for a technician who is credentialed by the CPSGT examination due to its limited field of testing.

RESPONSE: The Board disagrees with Ms. Ligon's assessment that the CPSGT exam is unnecessary and lacks the ability to measure a person's competence given its lack of accreditation. The Board believes that the exam measures a certain level of competency. When coupled with the A-STEP Introductory Course and Self-Study Modules, it provides a viable alternative for those applying to be temporarily licensed as polysomnography technicians who are not currently trainees. Also, even if the CPSGT examination assesses with a limited matrix, the individual would still have to successfully complete the three-hour examination at the end of the A-Step introductory course, and the examinations at the end of each self-study module.

5. COMMENT: Dr. Watson and Ms. Linley request that the Board amend the rules to require that an applicant complete at least 50 studies in one or more facilities that are State licensed "and" provisionally or fully accredited by AASM, rather than State licensed "or" provisionally or fully accredited by AASM. They are concerned that the proposed language requires that sleep facilities obtain only a State license, which adheres to general standards, such as staffing and administration procedures, but nothing specific to sleep. They believe that AASM Accreditation demonstrates a facility's commitment to the provision of quality diagnostic services and/or long-term management of sleep patients. Dr. Watson notes that AASM center accreditation is the gold standard by which the medical community and public evaluate sleep medicine facilities. While Dr. Watson and Ms. Linley support State licensure

as a requirement, they ask that this be required in conjunction with AASM Accreditation.

RESPONSE: The statutory definition of "polysomnographic technician" set forth in N.J.S.A. 45:14G-3 refers to a licensee practicing polysomnography under the supervision of a licensed polysomnographic technologist or a licensed physician in a State licensed "or" nationally accredited sleep center or laboratory. Similarly, the statutory definition of "polysomnographic trainee" set forth in N.J.S.A. 45:14G-3 refers to a licensee performing polysomnography under the direct supervision of a licensed polysomnographic technologist or a licensed physician in a State licensed "or" nationally accredited sleep center or laboratory. The statutory provisions use the alternative, "or," rather than the conjunctive, "and," and do not require a technician or trainee to practice in a facility that is both State-licensed and accredited or provisionally accredited. The Board, in using the alternative "or," is harmonizing the terminology in the rule with the terminology used in the statute.

The Board believes that since the statute permits trainees and technicians to work in either State-licensed or nationally accredited sleep centers or laboratories, it follows that the experience gained in a State-licensed facility should count towards licensure.

[page=1827] 6. COMMENT: Ms. Linley has suggested that because the Board of Registered Polysomnographic Technologists now offer both the RPSGT and CPSGT credentials, the Board define these terms for clarity. Additionally, Ms. Linley has suggested that definitions for the Registered Polysomnographic Technologist (RST) examination and the American Board of Sleep Medicine (ABSM) also be added.

RESPONSE: The Board has defined these terms in the adopted amendments.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and repeal are governed by N.J.S.A. 45:14G-1 et seq., and are not subject to any Federal requirements or standards.

Full text of the adoption follows:

SUBCHAPTER 1. GENERAL PROVISIONS

13:44L-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

. . .

"ABSM" means the American Board of Sleep Medicine.

. . .

"CPSGT" means the Certified Polysomnographic Technician examination administered by the Board of Registered Polysomnographic Technologists.

. . .

"Direction" means pursuant to the written or verbal order of a licensed physician.

...

"Polysomnographic technician" means a person who holds a temporary license issued by the Board and who practices polysomnography under the supervision of either a licensed polysomnographic technologist or a licensed physician in a sleep center or laboratory, which is either State-licensed or provisionally accredited or fully accredited by AASM.

...

"Polysomnographic trainee" means a person who holds a provisional license issued by the Board and performs polysomnography under the direct supervision of either a licensed polysomnographic technologist or a licensed physician in a sleep center or laboratory, which is either State-licensed or provisionally accredited or fully accredited by AASM.

"Qualified medical director" means a licensed physician who is either eligible for board certification or is board certified in sleep medicine by the American Board of Sleep Medicine, or a certification board recognized by the American Board of Medical Specialties, which bases its certification in sleep medicine upon the sleep medicine examination created by the American Board of Internal Medicine, and who acts as the medical director of any:

1. (No change.)
2. Ambulatory care facility or general acute care hospital licensed by the Department of Health;
3. Home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs, and alternate family care sponsor agencies licensed by the Department of Health; or
4. (No change.)

"RPSGT" means the Registered Polysomnographic Technologist examination administered by the Board of Registered Polysomnographic Technologists.

"RST" means the Sleep Technologist Registry examination administered by the American Board of Sleep Medicine.

"State-licensed" means licensed by the Department of Health.

...

"Under the direction" means pursuant to the written or verbal order of a licensed physician.

SUBCHAPTER 2. LICENSURE

13:44L-2.2 Application for a temporary license as a polysomnographic technician

(a) (No change.)

(b) An applicant for a temporary license as a polysomnographic technician who does not hold a provisional license as a polysomnographic trainee shall submit, or arrange to have submitted, to the Board:

1.-4. (No change.)

5. Proof that the applicant has successfully completed either:

i. A CAAHEP-accredited polysomnographic course; or

ii. The CPSGT and the A-STEP Introductory Course and the A-STEP Self-Study Modules;

6.-7. (No change.)

(c) (No change.)

13:44L-2.3 Application for license as a polysomnographic technologist

(a) A licensed polysomnographic technician applying for licensure as a polysomnographic technologist shall submit to the Board:

1.-3. (No change.)

4. Documentary proof signed by a supervising polysomnographic technologist or qualified medical director indicating that the applicant has completed at least 50 sleep studies in one or more facilities that are State-licensed or are provisionally or fully accredited by AASM;

5. Proof that the applicant has successfully completed either the RPSGT examination administered by the BRPT or the RST examination administered by the ABSM;

6. (No change.)

(b) An applicant for licensure as a polysomnographic technologist who does not hold a temporary license as a polysomnographic technician shall submit to the Board:

1.-2. (No change.)

3. Proof that the applicant:

i. Has successfully completed either a CAAHEP accredited polysomnographic course or the A-STEP Introductory Course and the A-STEP Self-Study Modules and documentary proof signed by a supervising polysomnographic technologist or qualified medical director indicating that the applicant has completed at least 50 sleep studies in one or more facilities that are State-licensed or are provisionally or fully accredited by AASM; or

ii. Possesses a doctorate degree in a health-related field. For purposes of this subparagraph, a health-related field means any field in which services are rendered or research is conducted for the purpose of maintaining or restoring an individual's physical or mental health. Examples would include, but are not limited to, fields such as medicine, dentistry, optometry, nursing, physical therapy, respiratory therapy, and psychology;

4. (No change.)

5. Proof that the applicant has successfully completed either the RPSGT examination administered by the BRPT or the RST examination administered by the ABSM or, in the case of an individual possessing a doctorate degree in a health-related field, proof that the

applicant has successfully completed:

i.-ii. (No change.)

6. (No change.)

13:44L-2.4 Application for licensure by out-of-State licensed polysomnographic technologist

(a) An applicant for licensure as a licensed polysomnographic technologist who is licensed as a polysomnographic technologist in another state shall submit to the Board:

1.-4. (No change.)

5. Proof that the applicant has successfully completed either the RPSGT examination administered by the BRPT or the RST examination administered by the ABSM; and

6. (No change.)

SUBCHAPTER 3. RENEWAL

13:44L-3.3 Renewal of polysomnographic technician license

(a)-(b) (No change.)

(c) A licensed polysomnographic technician applying for renewal of a temporary license pursuant to (b) above shall submit to the Board:

1.-3. (No change.)

[page=1828] 4. Documentary proof signed by a supervising polysomnographic technologist or qualified medical director indicating that, within the last year, the applicant has completed at least 100 sleep studies in a facility that is either State-licensed or provisionally or fully accredited by AASM;

5.-6. (No change.)

SUBCHAPTER 5. PRACTICE REQUIREMENTS

13:44L-5.1 Scope of practice: licensed polysomnographic technologist

(a) The following functions are within the scope of practice of a licensed polysomnographic technologist:

1. (No change.)

2. Assessing and assisting in the treatment and research of disorders, syndromes, and dysfunctions that are sleep related, manifest during sleep, or disrupt normal sleep and wake cycles and activities;

3.-9. (No change.)

(b) A licensed polysomnographic technologist shall provide the services delineated at (a)

above only pursuant to a written or verbal order from a licensed physician based on a sleep study of the patient conducted under the authority of a qualified medical director, and the licensee documents all services provided to the patient in the patient record for review by the licensed physician who issued the order.

13:44L-5.2 Scope of practice: licensed polysomnographic technician

(a)-(b) (No change.)

(c) A licensed polysomnographic technician may provide the services from (a) above only if he or she is working at a State-licensed facility that has a qualified medical director and is under the supervision of a licensed polysomnographic technologist or licensed physician or at a facility that is provisionally or fully accredited by AASM.

(d) (No change.)

13:44L-5.3 Scope of practice: licensed polysomnographic trainee

(a) (No change.)

(b) A licensed polysomnographic trainee may provide the services from (a) above only if he or she is working at a State-licensed facility that has a qualified medical director or at a facility that is provisionally or fully accredited by AASM and is under the direct supervision of a licensed polysomnographic technologist or licensed physician.

(c) (No change.)