

Senate Study Bill 1091 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act providing for the licensing of polysomnographic
2 technologists and providing for a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2013,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and
13 family therapist, mental health counselor, polysomnographic
14 technologist, social worker, massage therapist, athletic
15 trainer, acupuncturist, nursing home administrator, hearing aid
16 dispenser, or sign language interpreter or transliterator means
17 a person licensed under this subtitle.

18 6. "*Profession*" means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy, mental
26 health counseling, polysomnography, social work, dietetics,
27 massage therapy, athletic training, acupuncture, nursing
28 home administration, hearing aid dispensing, sign language
29 interpreting or transliterating, orthotics, prosthetics, or
30 pedorthics.

31 Sec. 2. Section 147.2, subsection 1, Code 2013, is amended
32 to read as follows:

33 1. A person shall not engage in the practice of medicine
34 and surgery, podiatry, osteopathic medicine and surgery,
35 psychology, chiropractic, physical therapy, physical

1 therapist assisting, nursing, dentistry, dental hygiene,
2 dental assisting, optometry, speech pathology, audiology,
3 occupational therapy, occupational therapy assisting,
4 orthotics, prosthetics, pedorthics, respiratory care,
5 pharmacy, cosmetology arts and sciences, barbering, social
6 work, dietetics, marital and family therapy or mental health
7 counseling, massage therapy, mortuary science, polysomnography,
8 athletic training, acupuncture, nursing home administration,
9 hearing aid dispensing, or sign language interpreting
10 or transliterating, or shall not practice as a physician
11 assistant, unless the person has obtained a license for that
12 purpose from the board for the profession.

13 Sec. 3. Section 147.13, subsection 18, Code 2013, is amended
14 to read as follows:

15 18. For respiratory care and polysomnography, the board of
16 respiratory care.

17 Sec. 4. Section 147.14, subsection 1, paragraph o, Code
18 2013, is amended to read as follows:

19 o. For respiratory care, one licensed physician with
20 training in respiratory care, three respiratory care
21 practitioners who have practiced respiratory care for a
22 minimum of six years immediately preceding their appointment
23 to the board and who are recommended by the society for
24 respiratory care, three members who are licensed to practice
25 polysomnography, and ~~one member~~ two members not licensed to
26 practice medicine, osteopathic medicine, polysomnography, or
27 respiratory care who shall represent the general public.

28 Sec. 5. Section 147.74, Code 2013, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 23A. A person who is licensed to engage
31 in the practice of polysomnography shall have the right to use
32 the title "polysomnographic technologist" or the abbreviation
33 "PSGT". No other person may use that title or abbreviation
34 or any other words or letters indicating that the person is a
35 polysomnographic technologist.

1 Sec. 6. NEW SECTION. 148G.1 **Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Board*" means the board of respiratory care established
5 in chapter 147.

6 2. "*Direct supervision*" means that the polysomnographic
7 technologist providing supervision must be present where the
8 polysomnographic procedure is being performed and immediately
9 available to furnish assistance and direction throughout the
10 performance of the procedure.

11 3. "*General supervision*" means that the polysomnographic
12 procedure is provided under a physician's overall direction and
13 control, but the physician's presence is not required during
14 the performance of the procedure.

15 4. "*Physician*" means a person who is currently licensed in
16 Iowa to practice medicine and surgery or osteopathic medicine
17 and surgery and who is board certified in sleep medicine and
18 who is actively involved in the sleep medicine center or
19 laboratory.

20 5. "*Polysomnographic student*" means a person who is enrolled
21 in a commission on accreditation of allied health education
22 program or an equivalent program accredited by a nationally
23 recognized accrediting agency and who may provide sleep-related
24 services under the direct supervision of a polysomnographic
25 technologist as a part of the person's educational program.

26 6. "*Polysomnographic technician*" means a person who has
27 graduated from a commission on accreditation of allied health
28 education program or equivalent program accredited by a
29 nationally recognized accrediting agency, but has not yet
30 passed an accepted national credentialing examination given by
31 a testing body that is accredited by a nationally recognized
32 accrediting agency, credentialed in one of the health-related
33 fields accepted by the board of registered polysomnographic
34 technologists, may provide sleep-related services under the
35 direct supervision of a licensed polysomnographic technologist

1 for a period of up to thirty days postgraduation while awaiting
2 credentialing examination scheduling and results.

3 7. "*Polysomnographic technologist*" means a person who is
4 credentialed by a nationally recognized accrediting agency
5 and is licensed by the board to engage in the practice of
6 polysomnography under the general supervision of a physician.

7 8. "*Practice of polysomnography*" means as described in
8 section 148G.2.

9 9. "*Sleep-related services*" means acts performed by
10 polysomnographic technicians, polysomnographic students, and
11 other persons permitted to perform those services under this
12 chapter, in a setting described in this chapter that would be
13 considered the practice of polysomnography if performed by a
14 polysomnographic technologist.

15 Sec. 7. **NEW SECTION. 148G.2 Practice of polysomnography.**

16 The practice of polysomnography consists of but is not
17 limited to the following tasks as performed for the purpose of
18 polysomnography, under the general supervision of a licensed
19 physician:

20 1. Monitoring, recording, and evaluating physiologic
21 data during polysomnographic testing and review during the
22 evaluation of sleep-related disorders, including sleep-related
23 respiratory disturbances, by applying any of the following
24 techniques, equipment, or procedures:

25 a. Noninvasive continuous, bilevel positive airway pressure,
26 or adaptive servo-ventilation titration on spontaneously
27 breathing patients using a mask or oral appliance; provided,
28 that the mask or oral appliance does not extend into the
29 trachea or attach to an artificial airway.

30 b. Supplemental low-flow oxygen therapy of less than six
31 liters per minute, utilizing a nasal cannula or incorporated
32 into a positive airway pressure device during a polysomnogram.

33 c. Capnography during a polysomnogram.

34 d. Cardiopulmonary resuscitation.

35 e. Pulse oximetry.

- 1 *f.* Gastroesophageal pH monitoring.
- 2 *g.* Esophageal pressure monitoring.
- 3 *h.* Sleep stage recording using surface
- 4 electroencephalography, surface electrooculography, and surface
- 5 submental electromyography.
- 6 *i.* Surface electromyography.
- 7 *j.* Electrocardiography.
- 8 *k.* Respiratory effort monitoring, including thoracic and
- 9 abdominal movement.
- 10 *l.* Plethysmography blood flow monitoring.
- 11 *m.* Snore monitoring.
- 12 *n.* Audio and video monitoring.
- 13 *o.* Body movement monitoring.
- 14 *p.* Nocturnal penile tumescence monitoring.
- 15 *q.* Nasal and oral airflow monitoring.
- 16 *r.* Body temperature monitoring.
- 17 2. Monitoring the effects that a mask or oral appliance
- 18 used to treat sleep disorders has on sleep patterns; provided,
- 19 however, that the mask or oral appliance shall not extend into
- 20 the trachea or attach to an artificial airway.
- 21 3. Observing and monitoring physical signs and symptoms,
- 22 general behavior, and general physical response to
- 23 polysomnographic evaluation and determining whether initiation,
- 24 modification, or discontinuation of a treatment regimen is
- 25 warranted.
- 26 4. Analyzing and scoring data collected during the
- 27 monitoring described in this section for the purpose of
- 28 assisting a physician in the diagnosis and treatment of sleep
- 29 and wake disorders that result from developmental defects,
- 30 the aging process, physical injury, disease, or actual or
- 31 anticipated somatic dysfunction.
- 32 5. Implementation of a written or verbal order from a
- 33 licensed physician to perform polysomnography.
- 34 6. Education of a patient regarding the treatment regimen
- 35 that assists the patient in improving the patient's sleep.

1 7. Use of any oral appliance used to treat sleep-disordered
2 breathing while under the care of a licensed polysomnographic
3 technologist during the performance of a sleep study, as
4 directed by a licensed dentist.

5 Sec. 8. NEW SECTION. 148G.3 **Location of services.**

6 The practice of polysomnography shall take place only in a
7 facility that is accredited by a nationally recognized sleep
8 medicine laboratory or center accrediting agency; provided,
9 however, that the scoring of data and the education of patients
10 may take place in settings other than in a facility that is
11 accredited by a nationally recognized sleep medicine laboratory
12 or center accrediting agency.

13 Sec. 9. NEW SECTION. 148G.4 **Scope of chapter.**

14 Nothing in this chapter shall be construed to limit or
15 restrict a health care practitioner licensed in this state from
16 engaging in the full scope of practice of the individual's
17 profession. Respiratory therapists licensed in Iowa and
18 working within the scope of practice of their license as
19 provided in chapter 152B are exempt from this chapter.

20 Sec. 10. NEW SECTION. 148G.5 **Powers of the board.**

21 The board may do any of the following:

22 1. Promulgate rules necessary for the implementation and
23 administration of this chapter and the applicable provisions
24 of chapter 147.

25 2. Establish fees as provided in section 147.80.

26 3. Review and approve or reject the application of each
27 person who applies for licensure as a polysomnographic
28 technologist.

29 4. Issue all temporary permits and all approved licenses and
30 renewals of licenses.

31 5. Deny, suspend, revoke, restrict, or impose conditions
32 on a license, as the board deems necessary or appropriate at
33 the time a license is issued, renewed, or reinstated, or as a
34 sanction imposed at the conclusion of a disciplinary hearing.

35 6. Issue private advisory letter rulings to any person

1 licensed under this chapter who makes a request for a ruling
2 regarding any matter within the board's jurisdiction; provided,
3 however, that the ruling shall affect only the licensee making
4 the inquiry and shall have no precedential value for any other
5 contested case or inquiry before the board or the committee.

6 7. Develop a code of ethics for the practice of
7 polysomnography.

8 8. Develop standards of care for the practice of
9 polysomnography.

10 9. Develop standards for the educational and clinical
11 training of polysomnographic technologists, including the
12 evaluation of the accreditation status of educational programs
13 in polysomnography.

14 10. Develop criteria for the evaluation of applications for
15 licensure submitted by polysomnographic technologists who are
16 licensed in other states.

17 11. Develop continuing education requirements for licensed
18 polysomnographic technologists.

19 Sec. 11. NEW SECTION. 148G.6 **Licensing requirement.**

20 1. *a.* Commencing January 1, 2014, a person who is engaged
21 in the practice of polysomnography shall be licensed as
22 provided in this chapter and it shall be unlawful for any
23 person to engage in the practice of polysomnography without
24 such license.

25 *b.* (1) Prior to January 1, 2014, a person who is engaged in
26 the practice of polysomnography without being licensed under
27 this chapter shall not be deemed to be in violation of this
28 chapter.

29 (2) A person who is engaged in the practice of
30 polysomnography on January 1, 2014, shall be eligible for
31 licensure under this chapter without meeting the educational
32 requirements of this section provided that the person meets
33 the requirements set out in this chapter. This person shall
34 meet or exceed the passing point of a nationally accepted
35 credentialing exam in polysomnographic technology by January

1 1, 2015.

2 2. A person seeking licensure as a polysomnographic
3 technologist shall be of good moral character, shall be at
4 least eighteen years of age, shall pay the fees established
5 by the board for licensure, and shall present proof that the
6 person meets one of the following educational requirements:

7 a. Graduation from a polysomnographic educational program
8 that is accredited by the committee on accreditation for
9 polysomnographic technologist education or by a committee
10 on accreditation for the commission on accreditation of
11 allied health education programs, or an equivalent program as
12 determined by the board.

13 b. Graduation from a respiratory care educational program
14 that is accredited by the commission on accreditation
15 for respiratory care or by a committee on accreditation
16 for the commission on accreditation of allied health
17 education programs, and completion of the curriculum for a
18 polysomnographic certificate established and accredited by the
19 commission on accreditation of allied health education programs
20 as an extension of the respiratory care program.

21 c. Graduation from an electroneurodiagnostic technologist
22 educational program that is accredited by the committee
23 on accreditation for education in electroneurodiagnostic
24 technology or by a committee on accreditation for the
25 commission on accreditation of allied health education
26 programs, and completion of the curriculum for a
27 polysomnography certificate established and accredited by the
28 commission on accreditation of allied health education programs
29 as an extension of the electroneurodiagnostic education
30 program.

31 3. To be eligible for renewal of a license to engage in the
32 practice of polysomnography, a polysomnographic technologist
33 shall maintain that person's credential in compliance with
34 rules set forth by a national accredited certifying agency, as
35 adopted by the board in rule.

1 Sec. 12. NEW SECTION. 148G.7 Persons exempt from licensing
2 requirement — temporary permit.

3 1. The following persons may provide sleep-related services
4 without being licensed as a polysomnographic technologist under
5 this chapter:

6 *a.* A polysomnographic technician may provide sleep-related
7 services under the general supervision of a physician for
8 a period of up to six months from the date of the person's
9 graduation from one of the accredited programs described in
10 section 148G.6. The board may in its sole discretion grant a
11 one-time extension of up to three months beyond this one-year
12 period.

13 *b.* A polysomnographic student may provide sleep-related
14 services under the direct supervision of a polysomnographic
15 technologist as a part of the person's educational program
16 while actively enrolled in a polysomnographic educational
17 program that is accredited by the commission on accreditation
18 of allied health education programs or an equivalent program as
19 determined by the board.

20 *c.* A person, other than a respiratory care practitioner
21 licensed under this chapter, credentialed in one of the
22 health-related fields accepted by the board of registered
23 polysomnographic technologists or another nationally
24 recognized accrediting agency, or a graduate of a commission on
25 accreditation of allied health educational program may provide
26 sleep-related services under direct supervision of a licensed
27 polysomnographic technologist for a period up to thirty
28 days postgraduation while awaiting credentialing examination
29 scheduling and results.

30 2. Before providing any sleep-related services, a
31 polysomnographic technician shall obtain a temporary permit
32 from the board. While providing sleep-related services, the
33 technician shall wear a badge that appropriately identifies the
34 person as a polysomnographic technician.

35 3. Before providing any sleep-related services, a person

1 who is obtaining clinical experience shall give notice to the
2 board that the person is working under the direct supervision
3 of a polysomnographic technologist in order to gain the
4 experience to be eligible to sit for a national certification
5 examination. The person shall wear a badge that appropriately
6 identifies the person while providing such services.

7 4. Polysomnographic students shall not receive compensation
8 for the sleep-related services they provide and shall wear
9 badges that appropriately identify them as students.

10 Sec. 13. NEW SECTION. 148G.8 **Issuance, retirement, and**
11 **renewal of licenses.**

12 1. The board shall issue and renew licenses under this
13 chapter as provided by the board in rule.

14 2. A person who has been issued a license to practice under
15 this chapter who wishes to retire that license shall file with
16 the board an affidavit on a form to be furnished by the board
17 stating the date on which the person retired from practice
18 and other facts that verify the retirement as the board deems
19 necessary. Any such person who thereafter wishes to reenter
20 practice shall request reinstatement of licensure.

21 3. A license issued by the board under this chapter
22 shall contain the name and address of the person to whom it
23 is issued, the date and number of the license, and other
24 information that the board deems necessary.

25 a. The address contained on the license shall be the address
26 where all correspondence and renewal forms from the board shall
27 be sent.

28 b. Any person whose address changes shall, within thirty
29 days after the change in address, notify the board of the
30 address change. The most recent address contained in the
31 board's records for each license holder shall be the address
32 deemed sufficient for purposes of service of process.

33 4. A license shall either be prominently displayed in the
34 office or place in which the person practices or be stored in a
35 place from which it can be immediately produced upon request of

1 a patient or representative of the board.

2 5. A person whose license has been lost may make application
3 to the board for a replacement. The application shall be
4 accompanied by an affidavit setting out the facts concerning
5 the loss of the original license.

6 Sec. 14. NEW SECTION. **148G.9 Licensing sanctions.**

7 The board may impose sanctions for violations of this
8 chapter as provided in chapters 147 and 272C.

9 Sec. 15. **INITIAL APPOINTMENTS.**

10 1. Initial appointments of polysomnographic technologists
11 to the board of respiratory care pursuant to this Act shall be
12 made as follows: two members shall be appointed to a term of
13 three years and one member shall be appointed to a term of one
14 year. Each regular appointment thereafter shall be for a term
15 of three years.

16 2. The Iowa sleep society may submit a list of three
17 names to the governor for each position to be filled by a
18 polysomnographic technologist.

19 EXPLANATION

20 This bill requires the licensing of polysomnographic
21 technologists and makes the provisions of Code chapters 147
22 and 272C, including penalty and other regulatory provisions,
23 applicable to other health professions applicable to the
24 practice of polysomnography. Code section 147.86 provides
25 that it is a serious misdemeanor to violate a provision of
26 the licensing laws. A serious misdemeanor is punishable
27 by confinement for no more than one year and a fine of at
28 least \$315 but not more than \$1,875. The licensing program
29 is administered and regulated by the board of respiratory
30 care, with four new members added; three polysomnographic
31 technologists and one additional public member, for a total of
32 nine members.

33 A licensed polysomnographic technologist practices under
34 the general supervision of a licensed physician, providing
35 specifically enumerated services related to sleep disorders. A

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1 polysomnographic student enrolled in an approved educational
2 program provides services under the direct supervision of a
3 polysomnographic technologist.
4 The bill sets out educational standards and testing
5 requirements, and provides for disciplinary actions.