

HB 326-FN – AS INTRODUCED

2013 SESSION

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HOUSE BILL **326-FN**

AN ACT relative to licensure of polysomnographers by the board of respiratory care practitioners.

SPONSORS: Rep. Devine, Rock 4; Rep. Sanders, Rock 12; Rep. Hagan, Rock 4; Sen. Boutin, Dist 16; Sen. Cataldo, Dist 6; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires persons practicing polysomnography to be licensed by the board of respiratory care practitioners.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to licensure of polysomnographers by the board of respiratory care practitioners.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Respiratory Care Practice; Practice of Polysomnography. RSA 326-E:1, VIII is repealed and
2 reenacted to read as follows:

3 VIII. “Practice of polysomnography” means monitoring and recording physiologic data
4 during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances by
5 a polysomnographic technologist performing the following tasks under direct or indirect supervision
6 of a licensed physician:

7 (a) Supplemental low flow oxygen therapy, less than 6 liters per minute utilizing nasal
8 cannula or positive airway pressure (PAP) during a polysomnogram;

9 (b) Capnography during a polysomnogram;

10 (c) Cardiopulmonary resuscitation;

11 (d) Pulse oximetry;

12 (e) Gastroesophageal pH monitoring;

13 (f) Esophageal pressure monitoring;

14 (g) Sleep staging, including surface electroencephalography, surface electrooculography,
15 and surface submental electromyography;

16 (h) Surface electromyography;

17 (i) Electrocardiography;

18 (j) Respiratory effort monitoring, including thoracic and abdominal movement;

19 (k) Plethysmography blood flow;

20 (l) Snore monitoring;

21 (m) Audio or video monitoring of movement and behavior during sleep;

22 (n) Nasal and oral airflow monitoring;

23 (o) Body temperature monitoring;

24 (p) Monitoring the effects that a mask or oral appliance used to treat sleep disorders has
25 on sleep patterns, provided that the mask or oral appliance does not extend into the trachea or
26 attach to an artificial airway;

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

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1 (r) Analyzing and scoring data collected during the monitoring described in
2 subparagraphs (p) and (q) for the purpose of assisting a licensed physician in the diagnosis and
3 treatment of sleep and wake disorders which result from developmental defects, the aging process,
4 physical injury, disease, or actual or anticipated somatic dysfunction;

5 (s) Implementation of a written or verbal order from a licensed physician in a sleep lab
6 or sleep center which requires the practice of polysomnography; and

7 (t) Education of a patient regarding the treatment regimen which assists the patient in
8 improving the patient’s sleep.

9 2 Rulemaking; Licensed Polysomnographers. Amend RSA 326-E:2, I to read as follows:

10 I. Specifying the limited scopes of practice permitted to certified pulmonary function
11 technicians, registered pulmonary function technologists, and ~~[registered]~~ **licensed**
12 polysomnographic technologists.

13 3 New Paragraph; Requirements for Initial Licensure. Amend RSA 326-E:3 by inserting after
14 paragraph IV the following new paragraph:

15 V. An applicant for an initial polysomnographic technologist license for a person engaged in
16 the practice of polysomnography shall be of good professional character and shall have completed a
17 polysomnographic technologist educational program approved by the board and shall have
18 successfully completed and achieved a passing score on the comprehensive registry examination for
19 polysomnographic technologists administered by the Board of Registered Polysomnographic
20 Technologists or its successor organization.

21 4 New Paragraph; Professional Identification. Amend RSA 326-E:4 by inserting after paragraph
22 I the following new paragraph:

23 I-a. A person holding a license issued by the board to practice as a polysomnographic
24 technologist in this state shall use the title “licensed polysomnographic technologist.”

25 5 Professional Identification; Reference Removed. Amend RSA 326-E:4, III to read as follows:

26 III. A person matriculated in an accredited respiratory care ~~[or polysomnographic~~
27 ~~technology]~~ education program shall display appropriate identification.

28 6 Powers of the Board. Amend RSA 326-E:5 to read as follows:

29 326-E:5 Duties and Powers of the Board.

30 I. The board shall have the authorities, powers, and duties set forth in RSA 328-F.

31 II. In addition, the board shall:

32 (a) Elect officers from among its members for terms of one year.

33 (b) Provide information to the public and its licensees regarding the complaint process.

34 (c) Provide timely orientation of new professional and public appointees to the board
35 regarding duties, powers, and procedures of the board.

36 (d) Advise the board of directors of the office of licensed allied health professionals of
37 matters regarding respiratory care **and the practice of polysomnography**.

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1 (e) Keep information confidential in accordance with the confidentiality requirements of
2 RSA 328-F.

3 (f) Keep confidential patient records, patient files, reports relating to patients, oral
4 statements relating to diagnostic findings or treatment of patients, information from which a patient
5 or his or her family may be identified and information received and records kept by the board as a
6 result of an investigation, except when these become part of a disciplinary hearing or are required to
7 be disclosed by the order of a court.

8 III. The board may refer the unlawful practice of respiratory care ***or the unlawful practice***
9 ***of polysomnography*** to the attorney general's office for prosecution regardless of whether the
10 person or entity ceases the unlawful practice.

11 7 Effective Date. This act shall take effect July 1, 2013.

HB 326 FISCAL NOTE

AN ACT relative to licensure of polysomnographers by the board of respiratory care practitioners.

FISCAL IMPACT:

The Office of Allied Health Professionals and the Department of Justice state this bill, **as introduced**, will increase state expenditures by an indeterminable amount in FY 2014 and each year thereafter, and increase state revenue by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Office of Licensed Allied Health Professionals assumes, due to the rulemaking process and proper notification of individuals to be licensed, the licensing process would begin in FY 2015. The Office assumes there would be approximately 100 initial licenses issued under the Respiratory Care Practitioners Governing Board. The Office assumes the fees would include a \$60 application fee, a \$110 biennial licensure fee, and the cost to the Office per applicant, for copying and mailing, would be about \$20. The Office is not able to estimate the number of new applications that would be received in the following years. The Office indicates, as part of the Office of Allied Health Professionals, the Boards costs associated with staff, equipment, information technology, and services provided by the Attorney General’s Office would be shared with the other boards. The Office estimated the following revenues and expenditure associated with the bill:

Revenues	FY 2014	FY 2015	FY 2016	FY 2017
100 Applications @ \$60	0	\$6,000	Unknown	Unknown
100 Licenses / renewals @ \$110	0	\$11,000	0	\$11,000
Expenditures				
Rulemaking / Notification	Unknown	0	0	0
Additional copying and postage to process the applications and licenses:	0	\$2,000	Unknown	\$2,000
Complaints / Investigations:	0	Unknown	Unknown	Unknown

The Department of Justice states this bill would require licensure of polysomnographers by the board of respiratory care practitioners. The Department anticipates the Board will require assistance for an Assistant Attorney General in the Civil Bureau to assist with the promulgation of rules and administrative enforcement of violations. The Department states it may become involved in prosecution of licensing actions before the Board. The Department is

unable to determine the number of enforcement or licensing actions and cannot estimate the fiscal impact; however the Department indicates licensing boards typically cover a portion of the Department's costs through licensing fees.