

HB 413-FN-A - AS INTRODUCED

2015 SESSION

15-0062
10/04

HOUSE BILL

413-FN-A

AN ACT establishing the governing board of polysomnographic technologists within the allied health professionals.

SPONSORS: Rep. P. Schmidt, Straf 19

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill establishes the governing board of polysomnographic technologists within the allied health professionals, defines the practice of polysomnography, and requires the licensure of persons engaged in the practice.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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- 1 (b) Capnography (or other measures of carbon dioxide levels) during a polysomnogram;
- 2 (c) Cardiopulmonary resuscitation;
- 3 (d) Pulse oximetry;
- 4 (e) Gastroesophageal pH monitoring;
- 5 (f) Esophageal pressure monitoring;
- 6 (g) Sleep staging, including surface electroencephalography, surface electrooculography,
- 7 and surface submental electromyography;
- 8 (h) Surface electromyography;
- 9 (i) Electrocardiography;
- 10 (j) Respiratory effort monitoring, including thoracic and abdominal movement;
- 11 (k) Plethysmography blood flow;
- 12 (l) Snore monitoring;
- 13 (m) Audio or video monitoring of movement and behavior during sleep;
- 14 (n) Nasal and oral airflow monitoring;
- 15 (o) Body temperature monitoring;
- 16 (p) Continuous or bi-leveled positive airway pressure titration or other sleep-related
- 17 therapeutic modalities that do not extend into the trachea or attach to an artificial airway, including
- 18 the fitting and selection of a mask or sleep appliance and the selection and implementation of
- 19 treatment settings;
- 20 (q) Administering home sleep testing;
- 21 (r) Observing and monitoring physical signs and symptoms, general behavior, and
- 22 general physical response to polysomnographic evaluation and determining whether initiation,
- 23 modification, or discontinuation of a treatment regimen is warranted;
- 24 (s) Analyzing and scoring data collected during the monitoring described in
- 25 subparagraphs (q) and (r) for the purpose of assisting a licensed physician in the diagnosis and
- 26 treatment of sleep and wake disorders which result from developmental defects, the aging process,
- 27 physical injury, disease, or actual or anticipated somatic dysfunction;
- 28 (t) Implementing a written or verbal order from a licensed physician in a sleep lab or
- 29 sleep center which requires the practice of polysomnography; and
- 30 (u) Educating and training a patient regarding the treatment regimen which assists the
- 31 patient in improving the patient's sleep.

32 VIII. "Registered polysomnographic technologist" or "RPSGT" means a person having

33 successfully completed and achieved a passing score on the comprehensive registry examination of

34 polysomnographic technologists administered by the Board of Registered Polysomnographic

35 Technologists.

36 326-L:2 Exemptions from Licensure. This chapter shall not restrict:

- 37 I. A person licensed or registered under any other law of this state from engaging in the

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1 profession or practice of which that person is licensed or registered if that person does not represent,
2 imply, or claim that he or she is a licensed polysomnographic technologist.

3 II. A person licensed as a respiratory care practitioner under RSA 326-E, from engaging in
4 the profession or practice of respiratory care as defined by RSA 326-E:1 and rules adopted by the
5 governing board of respiratory care practitioners pursuant to RSA 326-E:2.

6 III. A person matriculated in an education program approved by the board who is pursuing a
7 degree in polysomnography from satisfying supervised clinical education requirements related to the
8 person's polysomnography education while under direct supervision of a polysomnographic
9 technologist or physician.

10 326-L:3 Eligibility for Initial Licensure. To be eligible for initial licensure as a
11 polysomnographic technologist, an applicant shall:

12 I. Demonstrate sufficient evidence of good professional character and reliability to satisfy
13 the board that the applicant shall faithfully and conscientiously avoid professional misconduct and
14 adhere to this chapter, RSA 328-F, and the board's rules.

15 II. Be at least 18 years of age.

16 III. Be of good moral character.

17 IV. Meet any continuing competency requirements established by the board in rules adopted
18 pursuant to RSA 541-A.

19 V. Have passed the Board of Registered Polysomnographic Technologist exam, the National
20 Board of Respiratory Care – Sleep Disorders Specialty exam, or an equivalent nationally recognized
21 exam.

22 326-L:4 Provisional License.

23 I. A provisional license may be issued by the board to an individual who:

24 (a) Was practicing as a polysomnographic technologist prior to the effective date of this
25 chapter; and

26 (b) Meets the eligibility requirements for initial licensure under RSA 326-L:3, I-IV.

27 II. A provisional license may be issued by the board to an applicant who has completed one
28 of the following educational programs, but has not yet passed an examination described in RSA 326-
29 L:3,V:

30 (a) Graduate of a polysomnographic educational program that is accredited by the
31 Commission on Accreditation of Allied Health Education Programs or its successor organization or
32 equivalent educational program approved by the board; or

33 (b) Graduate from a respiratory care educational program that is accredited by the
34 Commission on Accreditation of Allied Health Education Programs or its successor organization or
35 equivalent educational program approved by the board and completion of the curriculum for a
36 polysomnography certificate established and accredited by the Committee on Accreditation of
37 Respiratory Care of the Commission on Accreditation of the Allied Health Education Programs or its

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1 successor organization or equivalent accreditation organization approved by the board; or

2 (c) Graduate from an electroneurodiagnostic educational program with a
3 polysomnographic technology track that is accredited by the Commission on Accreditation of Allied
4 Health Education Programs; or

5 (d) Successful completion of an Accredited Sleep Technologist Educational Program (A-
6 STEP) that is accredited by the American Academy of Sleep Medicine and the Commission on
7 Accreditation of Allied Health Education Programs.

8 III. The provisional license shall be valid for 2 years.

9 IV. A provisional license may be extended only upon approval of the board for good cause
10 shown.

11 326-L:5 Rulemaking; Provisional Licenses. The board shall adopt rules, pursuant to RSA 541-A,
12 relative to:

13 I. Eligibility requirements for provisional licenses.

14 II. Application procedures for provisional licenses.

15 III. The requirements for direction supervision of those practicing under provisional
16 licenses.

17 IV. The limitations on practice imposed on those practicing under provisional licenses.

18 V. The investigation and discipline of provisional licensees.

19 VI. Establishing standards for approving professional polysomnography education programs
20 and for approving national accreditation organizations that accredit professional polysomnography
21 programs.

22 326-L:6 Eligibility for Renewal of Licenses. Licensees are eligible for renewal of their licenses if
23 they:

24 I. Have completed not less than 24 hours of continuing education which meet the
25 requirements established by the board through rulemaking pursuant to RSA 541-A and at least 50
26 percent of which are directly related to the practice of polysomnography.

27 II. Have not violated this chapter or RSA 328-F nor demonstrated poor professional
28 character.

29 III. Meet any continuing competency requirements established by the board in rules adopted
30 pursuant to RSA 541-A.

31 326-L:7 Professional Identification.

32 I. Individuals holding currently valid licenses issued under this chapter may use the title
33 "Licensed Polysomnographic Technologist," "Polysomnographic Technologist," "Licensed
34 Polysomnographic Technician," "Polysomnographic Technician," and the abbreviation, "RPSGT,"
35 "LPGT," and "PGT."

36 II. No person shall represent himself or herself or the services offered by using the words
37 "Licensed Polysomnographic Technologist," "Polysomnographic Technologist", "Licensed

1 Polysomnographic Technician,” “Polysomnographic Technician,” or the letters “RPSGT”, “LPGT”,
2 and “PGT” or any similar words or letters implying that the person is licensed, unless licensed under
3 this chapter.

4 III. Any person who states or implies by word or act that he or she is currently licensed to
5 practice polysomnography at a time when he or she does not hold a currently valid license shall be
6 guilty of a misdemeanor.

7 IV. The licensee shall show his or her license when requested.

8 326-L:8 Conditional License.

9 I. Individuals are eligible for a conditional license if:

10 (a). He or she has been actively engaged in the practice of polysomnography, without
11 interruption, 1,000 hours per year for 5 years immediately prior to the effective date of this chapter.

12 (b) He or she can provide documentation of experience in the practice of
13 polysomnography for the 10 years immediately prior to the effective date of this chapter.

14 (c) He or she applies for and submits all required documents for the conditional license
15 within one year of the effective date of this chapter.

16 (d) He or she provides a letter from a physician licensed in this state or any other state
17 attesting to their competence in the practice of polysomnography.

18 II. The conditional license shall be valid for no more than 2 years.

19 326-L:9 Restrictions on Conditional License. Individuals holding a conditional license are
20 subject to the following restrictions:

21 I. They may only work under direct supervision or indirect supervision.

22 II. They may not score tests performed on patients.

23 III. They must complete all required continuing education no later than December 31 of the
24 renewal year.

25 IV. If the conditional license lapses, the license may not be renewed and the conditional
26 licensee will be subject to all laws and rules applicable for initial licensure.

27 2 Allied Health Professionals; Definition; Governing Board. Amend RSA 328-F:2, II to read as
28 follows:

29 II. “Governing boards” means individual licensing boards of athletic trainers, occupational
30 therapy assistants, occupational therapists, *polysomnographic technologists*, recreational
31 therapists, physical therapists, physical therapist assistants, respiratory care practitioners, speech-
32 language pathologists, and genetic counselors.

33 3 New Paragraph; Allied Health Professionals; Polysomnographic Technologist. Amend
34 RSA 328-F:2 by inserting after paragraph X the following new paragraph:

35 XI. “Polysomnographic technologist” means “polysomnographic technologist” as defined in
36 RSA 326-L:1.

37 4 Governing Board; Establishment. Amend RSA 328-F:3, I to read as follows:

1 I. There shall be established governing boards of athletic trainers, occupational therapists,
2 **polysomnographic technologists**, recreational therapists, respiratory care practitioners, physical
3 therapists, speech-language pathologists, and genetic counselors.

4 5 New Paragraph; Polysomnographic Technologist Governing Board; Appointment. Amend
5 RSA 328-F:4 by inserting after paragraph X the following new paragraph:

6 XI. The polysomnographic technologist governing board shall consist of 3 licensed
7 polysomnographic technologists, who have actively engaged in the practice of polysomnography in
8 this state for at least 3 years, one physician who is educated in the current practice of sleep
9 medicine, and one public member. Notwithstanding the requirements for licensure of professional
10 members under this section, initial appointment of professional members by the governor and
11 council shall be qualified persons practicing polysomnography in this state. All subsequent
12 appointments or reappointments shall require licensure.

13 6 Renewals; Polysomnographic Technologists. Amend RSA 328-F:19, I to read as follows:

14 I. Initial licenses and renewals shall be valid for 2 years, except that timely and complete
15 application for license renewal by eligible applicants shall continue to validity of the licenses being
16 renewed until the governing board has acted on the renewal application Licenses issued pursuant to
17 RSA 328-A, RSA 326-G, ~~and~~ RSA 326-J, **and RSA 326-L** shall expire in even-number years and
18 licenses issued pursuant to RSA 326-C, RSA 326-E, RSA 326-F, and RSA 326-K shall expire in odd-
19 number years.

20 7 Respiratory Care Practitioners; Rulemaking. Amend RSA 326-E:2, I to read as follows:

21 I. Specifying the limited scopes of practice permitted to certified pulmonary function
22 technicians, and registered pulmonary function technologists ~~[and registered polysomnographic~~
23 ~~technologists]~~.

24 8 Respiratory Care Practitioners; Professional Identification; Reference Removed. Amend
25 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 9 Respiratory Care Practitioners; Exemptions. Amend RSA 326-E:6, I(e) to read as follows:

29 (e) Respiratory care performed as part of a limited scope of practice, as defined by the
30 board, by certified pulmonary function technicians (CPFT), **or** registered pulmonary function
31 technologists (RPFT) ~~[or registered polysomnographic technologists (RPST)]~~ in a diagnostic
32 laboratory or research setting.

33 10 Repeal. The following are repealed:

34 I. RSA 326-E:6, I(i), relative to polysomnographic training.

35 II. RSA 326-E:1, VIII, relative to the definition of registered polysomnographic technologist.

36 11 Prospective Repeal. RSA 326-L:8 and RSA 326-L:9, relative to conditional licensure, are
37 repealed.

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1 12 Effective Date.

2 I. Section 11 of this act shall take effect July 1, 2018.

3 II. The remainder of this act shall take effect July 1, 2015.

HB 413-FN-A FISCAL NOTE

AN ACT establishing the governing board of polysomnographic technologists within the allied health professionals.

FISCAL IMPACT:

The Office of Allied Health Professionals and the Department of Justice state this bill, **as introduced**, will increase state expenditures by \$5,500 in FY 2016, and \$7,000 in FY 2017 and each year thereafter, and increase state unrestricted revenue by \$17,000 in FY 2017, \$11,000 in FY 2018, and by an indeterminable amount in FY 2018 and each year thereafter. There will be no fiscal impact on county or local revenue and expenditures.

METHODOLOGY:

The Office of Allied Health Professionals assumes the bill would be effective on July 1, 2015, the Board Members would be appointed by the governor and council during the summer and fall of 2015, and the board would begin meeting in January 2016. The Office assumes the Board would spend the first year, (calendar year 2016), writing administrative rules and preparing the forms necessary for the licensing and regulation of Polysomnographic Technologists. During this time the Board would also provide proper notification to all individuals and facilities affected by the new law. The Office assumes there would be approximately 100 initial licenses issued. The fees would include a \$60 application fee and a \$110 biennial licensure fee. Based on the proposed law, licenses would be valid for two years and renewed in the even-numbered years. The Office assumes the initial licenses issued in 2017 would be renewed in 2018. The Office anticipates costs will include per diem payments of \$50 and mileage reimbursement for 5 Board members, and the current expense cost to the Office related to licensure and renewal would be about \$20 per licensee.

The Office is not able to estimate the number of new applications that would be received in future years. The Office indicates, as part of the Office of Allied Health Professionals, the Board 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 this bill:

Revenue:	FY 2016	FY 2017	FY 2018	FY 2019
100 Applications @ \$60	0	\$6,000	Unknown	Unknown

100 Licenses / renewals @ \$110	<u>0</u>	<u>\$11,000</u>	<u>\$11,000</u>	<u>Unknown</u>
Total Revenue:	0	\$17,000	\$11,000	Unknown
Expenditures:				
Class 020 Current Expense Copying, supplies, postage, and advertising:	\$500	\$2,000	\$2,000	\$2,000
Class 050 Board Member per diem payments:	\$3,000	\$3,000	\$3,000	\$3,000
Class 070 In-state travel for Board Members:	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$2,000</u>
Total Expenditures:	\$5,500	\$7,000	\$7,000	\$7,000

The Department of Justice states the cost to the Administrative Prosecutions Unit for providing additional investigation and prosecution services, if any, would be borne by the Office of Allied Health Professionals.