Advisory Board on Polysomnographic Technology

Virginia Board of Medicine

October 8, 2021

1:00 p.m.

Advisory Board on Polysomnographic Technology

Board of Medicine

Friday, October 8, 2021 @ 1:00 p.m.

9960 Mayland Drive, Suite 201, Henrico, VA

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

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ADVISORY BOARD ON POLYSOMNOGRAPHIC TECHNOLOGY
Minutes
October 9, 2020
Electronic Meeting

The Advisory Board on Polysomnographic Technology held a virtual meeting on Friday, October 9, 2020 hosted at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Jonathan Clark, RPSGT, Chair
Ronnie Hayes, RPSGT
Raid Mohaidat, Citizen Member
Abdul Amir, MD

MEMBERS ABSENT: Hannah Tyler, RPSGT

STAFF PRESENT: William L. Harp, M.D., Executive Director
Michael Sobowale, LLM, Deputy Director, Licensure
Colanthia Morton Opher, Deputy Director, Administration
Jennifer Deschenes, JD, Deputy Director, Discipline

GUESTS PRESENT: None

Call to Order

Jonathan Clark called the meeting to order at 1:01 p.m.

Emergency Egress Procedures

Dr. Harp announced the emergency egress instructions.

Roll Call

The roll was called, and a quorum was declared.

Approval of Minutes from May 24, 2019

Ronnie Hayes moved to approve the minutes as presented. Dr. Amir seconded. By roll call vote, the minutes were approved as presented.

Adoption of Agenda

Raid Mohaidat moved to adopt the agenda. Ronnie Hayes seconded. By roll call vote, the agenda was adopted.

Public Comment on Agenda Items

None

NEW BUSINESS

1. **Regulatory Update and Report from the 2020 General Assembly**

   Dr. Harp provided a regulatory update and report of the 2020 General Assembly. He discussed bills that were of interest to members.

2. **Approval of 2021 Meeting Calendar**

   Ronnie Hayes moved to approve the 2021 proposed meeting dates on the calendar. Raid Mohaidat seconded the motion. By roll call vote, the schedule of meetings for the Advisory Board in 2021 was approved.

3. **Election of Officers**

   Jonathan Clark nominated Ronnie Hayes as Chair. The motion was not seconded. Raid Mohaidat nominated Dr. Amir as Chair. Jonathan Clark seconded the nomination. Jonathan Clark also nominated Ronnie Hayes as Vice-Chair. Dr. Amir seconded. By roll call vote, Dr. Amir was elected Chair, and Ronnie Hayes was elected Vice-Chair.

Announcements

Next Scheduled Meeting:

January 29, 2021 at 1:00 p.m.

Adjournment

With no other business to conduct, Jonathan Clark adjourned the meeting at 1:47 p.m.

Abdul Amir, MD, Chair

William L. Harp, MD, Executive Director

Michael Sobowale, LLM, Recording Secretary

Department of Health Professions
Regulatory/Policy Actions – 2021 General Assembly
Board on Medicine/Advisory Boards

EMERGENCY REGULATIONS:

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
SB1189	Occupational therapy compact	Medicine	8/6/21	**By 12/23/21**

EXEMPT REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB2039	Conform PA regs to Code	Medicine	6/24/21	9/15/21
HB2220	Change registration of surgical technologists to certification	Medicine	6/21/21	9/1/21
SB1178	Delete reference to conscience clause in regs for genetic counselors	Medicine	6/24/21	

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1953	Licensure of certified midwives	Nursing & Medicine	NOIRA Nursing – 7/20/21 Medicine – 8/6/21	Unknown

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB793 (2018)	Medicine & Nursing	To report data on the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement	November 1, 2021
Budget bill	Department	To study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and	November 1, 2021

		regulations on practice and patient outcomes.	
HB1953	Department	To convene a work group to study and report on the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals.	November 1, 2021

Future Policy Actions:

HB2559 (2019) - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by **November 1, 2022**.

DISCUSSION OF DENTISTS AND TESTING/TREATING/DIAGNOSING SLEEP APNEA

March 5, 2021

Dear Dental Board:

On behalf of the undersigned organizations, we are writing to express our concerns regarding a recently published position issued by the American Academy of Dental Sleep Medicine (AADSM). This statement encourages the use of home sleep apnea tests by dentists for the diagnosis of obstructive sleep apnea (OSA). We argue that ordering, administering, and interpreting home sleep apnea tests is outside the scope of practice for dentists, and herein are requesting that your board protect both patients and dentists in your state by adopting a policy to clarify this fact.

The AADSM position states that it is within the scope of practice for dentists to identify patients who are at risk for OSA and then order or administer diagnostic home sleep apnea tests. Furthermore, since most state dental boards have no policy addressing this issue, the AADSM position indicates that this "silence" gives dentists tacit permission to provide this medical service, which is a dangerous interpretation. This position statement is in direct conflict with that of the American Academy of Sleep Medicine (AASM) and a policy of the American Medical Association (AMA), both of which emphasize that a home sleep apnea test is a medical assessment that must be ordered by a medical provider and, moreover, must be reviewed and interpreted by a physician who is either board-certified in sleep medicine or overseen by a board-certified sleep medicine physician. The AADSM position also is not supported by the policy statement of the American Dental Association (ADA) or by a white paper from the American Association of Orthodontists (AAO).

An evidence-based AASM clinical practice guideline indicates that the decision to order a home sleep apnea test should be made by a medical provider only after reviewing the patient's medical history and conducting a face-to-face examination. The medical evaluation should include a thorough sleep history and a physical examination of the respiratory, cardiovascular, and neurologic systems. The sleep history is important because many patients have more than one sleep disorder or present with atypical sleep apnea symptoms. The medical provider also should identify chronic diseases and conditions that are associated with increased risk for OSA, such as obesity, hypertension, stroke, and congestive heart failure. An evaluation by a medical provider also is necessary to rule out conditions that place the patient at increased risk of central sleep apnea and other forms of non-obstructive sleep-disordered breathing, which typical home sleep apnea tests are insufficient to detect. While dentists can use questionnaires and examine the oral structures to screen patients for symptoms of OSA, they are untrained in conducting the comprehensive medical evaluation needed to assess OSA risk.

Based on this medical evaluation, the medical provider can determine if diagnostic testing is indicated to confirm a clinical suspicion of OSA. The selection of the appropriate diagnostic test — either in-lab polysomnography or a home sleep apnea test — is critical. Because a home sleep apnea test is less sensitive than polysomnography, it is more likely to produce false negative results when ordered inappropriately. The resulting misdiagnosis can lead to significant harm for the patient. Because dentists lack the required medical education and training needed to order, administer, and interpret diagnostic tests for OSA, implementing the AADSM position could jeopardize the quality of patient care.

In addition, the AADSM position does not align with the current national and local coverage determination policies of the Centers for Medicare & Medicaid Services (CMS) and the policies of private insurers for reimbursement of home sleep apnea tests and oral appliances for OSA.

These medical insurance policies also require a comprehensive clinical evaluation by a medical provider to determine that the test or treatment is reasonable and necessary. Patients will have to pay full price for the uncovered services provided by a dentist, dramatically increasing their out-of-pocket costs.

It is for the aforementioned reasons that our organizations urge your board to adopt a policy clarifying that ordering and administering a home sleep apnea test is outside the scope of practice for dentists in your state. We encourage you to use as a model the policy adopted by the Georgia Board of Dentistry, "Prescribing and Fabrication of Sleep Apnea Appliances":

> *Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person's sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. Therefore, the prescribing of sleep apnea appliance does not fall within the scope of the practice of dentistry. It is the position of the Board that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11. (adopted 04/01/16)*

We thank you for your consideration of our concerns. For any additional information or to discuss this issue, please contact AASM Executive Director Steve Van Hout at (630) 737-9700.

Sincerely,

Kannan Ramar, MD, FAASM
American Academy of Sleep Medicine
President

James C. Stevens, MD, FAAN
American Academy of Neurology
President

Carol R. Bradford, MD, MS
American Academy of Otolaryngology-Head and Neck Surgery
President

Juan C. Celedón, MD, DrPH, ATSF
American Thoracic Society
President

EXCERPTS OF BOARD OF DENTISTRY (BOD) MINUTES

. BOD Business Meeting - March 19, 2021

. Regulatory-Legislative Committee Meeting - April 23, 2021

. Regulatory-Legislative Committee Meeting - May 17, 2021

Board. He explained that accepting only one exam is contrary to the goal of portability and would also eliminate competition. He asked the Board to continue accepting their exam and requested a discussion between WREB and the Board to address their concerns.

Erika Mason, D.D.S. – Dr. Mason addressed her concerns about the letter from the American Academy of Sleep Medicine (AASM) which asks the Board to change or incorporate some rules to not allow dentists to use a home sleep test for the treatment of patients with obstructive sleep apnea. She said the AASM had misrepresented the article the American Academy of Dental Sleep Medicine (AADSM) provided. Dr. Mason said that dentists do not want to use the home sleep test for diagnostic purposes, but as something that would benefit the patient to make sure they receive proper treatment and is good for their health. Dr. Mason encouraged having further discussion about this issue before making any determinations about changing laws or regulations.

Alexander T. Vaughan, D.D.S., Dental Director of Virginia Total Sleep – Dr. Vaughan stated that the AASM letter was sent to all state Boards. The AADSM found that only ordering the home sleep test was within the scope of dentistry. The AASM is focused on testing and the interpretation of that test; however, the AADSM is focused on ordering the administration of testing, which is within the scope of the practice of dentistry. Dr. Vaughan encouraged the Board to either take no action with respect to the letter received from AASM or consider appointing a regulatory advisory panel composed of the stakeholders and specialties so that information could be provided from both sides to address the regulatory issue. Dr. Vaughan offered to assist the Board in discussion of this subject.

APPROVAL OF MINUTES:

Dr. Petticolas asked if there were any edits or corrections to any of the four sets of draft minutes included in the agenda package. Dr. Jones moved to approve the four sets of minutes. Following a second, a roll call vote was taken. The motion passed.

DHP DIRECTORS' REPORTS:

Dr. Brown reported that the General Assembly passed legislation to allow pharmaceutical processors, which are regulated by the Board of Pharmacy, to distribute cannabis flower or botanical cannabis. This bill is anticipated to be signed into law, which will increase the demand for the product. Legislation was also introduced to legalize possession of marijuana in Virginia.

Dr. Brown said the Governor is relaxing some of the COVID restrictions and added that in the near future the Boards may be able to hold in-person meetings and hearings.

Dr. Allison-Bryan reported that communities in Virginia are now open to the 1C category for vaccination and that the goal of the President and the Governor is to allow any adult who wants to get the vaccine to do so by May 1, 2021.

PULP CAPPING BY DENTAL ASSISTANTS II:

Ms. Yeatts provided information about the laws in other states regarding pulp capping, however, there was no regulatory action required by the Committee. The Committee discussed removing pulp capping as a procedure Dental Assistants II can do in the future. Ms. Reen stated to the Committee that there is direct and indirect pulp capping; and in discussions with teaching programs, it is the indirect pulp capping that is being taught where there is no exposure. Ms. Yeatts explained that pulp capping is allowed according to the current regulations and is not a procedure that can be taken away. Mr. Rutkowski concurred with Ms. Yeatts and stated there is no legal mechanism to remove the certificate once it is obtained by a Dental Assistant II.

Dr. Chaudhry moved that the Committee recommend to the Board that it initiate rulemaking by publishing a NOIRA to remove pulp capping from the scope of practice for Dental Assistants II. Following a second, a roll call vote was taken. The motion passed.

SLEEP STUDY PROTOCOLS:

Ms. Reen requested that the Committee provide direction on what it wants to do about sleep study protocols. She explained the fundamental question is what role dentists have in diagnosing patients, whether it is a sleep study done through a polysomnographer or a home sleep study, is it within the scope of practice of dentistry as defined in the statute. The practice of polysomnography is under the direction of a medical physician and dentists can refer for sleep study. There is no provision currently in place that says dentists can do limited home study and then make a dental diagnosis based on that. The issue is: Is sleep apnea a dental condition? Staff can research the topic and bring information back to the Committee and discuss at the upcoming meeting.

The Committee directed Board staff to conduct research on home sleep studies, how they are conducted, what the regulations are in other states; and once all the information is compiled, convene a meeting with the Committee.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 3:27 p.m.

Sandra J. Catchings, D.D.S., Chair

05/17/2021
Date

Sandra K. Reen, Executive Director

May 19, 2021
Date

SLEEP APNEA: Ms. Reen informed the Committee that she and other staff members had a conversation with William Harp, MD, the Executive Director for the Board of Medicine, regarding dentists and sleep apnea testing. She stated that Dr. Harp advised that reading polysomnography results and diagnosing sleep apnea is the practice of medicine and that Dr. Harp also advised that patients benefit from dentists screening for and recommending sleep apnea tests.

After discussion, by consensus, the Committee directed Board staff to gather information on sleep apnea testing, home sleep tests, polysomnographer tests, and regulations in other states with regard to sleep apnea.

ADJOURNMENT: With all business concluded, the Committee adjourned at 3:27 p.m.

Sandra J. Catchings, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date

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Summary of Findings

Q1: What is the dentist's role in ordering sleep apnea testing and/or home sleep tests?
Q2: What is the dentist's scope of practice?

A: Overwhelmingly, most states' Boards of Dentistry which have addressed this issue state that diagnosis of sleep apnea is outside the scope of practice of a dentist. Most dental boards have also refused to answer whether it is completely within or outside the scope of dentistry to order home sleep tests. For those that suggested it could be considered within the scope of dentistry to order such tests, the response seemed to be individual-specific, meaning it is up to the dentist to decide whether they have the training for ordering such sleep tests.

Of concern, it is absent from almost every state's BOD's regulations whether it could result in disciplinary action for a dentist to order a sleep test without also suggesting such patient follow-up with a physician. It seems that if a dentist cannot *diagnose* sleep apnea, then they also cannot rule it out by ordering a sleep test or constructing an appliance (which is treatment of a diagnosis) without receiving official diagnosis from a physician. Thus, it seems that a dentist ordering a sleep test based on suspicion of sleep apnea should at least suggest the patient to send those results to a physician or someone trained to interpret the results.

See also Obstructive Sleep Apnea: The Role of Dentists in the Treatment of Snoring and Obstructive Sleep Apnea with Oral Appliances, College of Dental Surgeons of BC (Published 2014).

See also Intraoral Devices for Snoring and/or Obstructive Sleep Apnea – Class II Special Controls Guidance Document for Industry and FDA, FDA (issued 2002, current as of 2018).

To see which states license polysomnography professionals, click here.

States that do not address the issues in law or regulations and have no position statement: Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, D.C., Florida, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington.

The remaining states have been summarized below, including some states which do not directly address the issues but which have broad scope of practice laws or other relevant information:

State Summaries

Alabama

It seems clearly outside the scope of dentistry to diagnose sleep apnea. It is less clear whether dentists may order sleep apnea testing or home sleep tests. Dentists and their personnel may fit appliances for sleep apnea and snoring.

The Alabama Board of Dental Examiners has not posted an official position on this issue. The Alabama Dental Practice Act, including the Section regulating Dentists' Scope of Practice (§ 34-9-6) does not address the dentist's role in diagnosing, treating, or assisting in sleep testing or sleep apnea. In early 2020, the Board opined that it was within the scope of practice for a dentist to order/administer a home sleep test but outside the scope to diagnose sleep apnea. However, in February 2021, the Board opined it was outside the scope of practice for dentists to order sleep studies or prescribe CPAPs as a result of interpreting a sleep study.

The regulations do not address whether Dentists may order home sleep apnea tests. The regulations do conceive of dentists and their allied personnel being allowed to make impressions for and insert devices into a patient's mouth that are used to treat sleep apnea or snoring: 270-x-3-.10(2)(t).(w) **Duties of Allied Dental Personnel.**

> Allied dental personnel are dental hygienists, dental assistants and dental laboratory technicians. Subject to the prohibition that no intra-oral procedure can be performed unless **under the direct supervision** of a duly licensed dentist as defined by Board rule, the following allied dental personnel may perform the following:
> … (2) **Dental Assistants and Dental Hygienists**: … (t) Insert into the mouth of the patient dentures, partial dentures, removable orthodontic appliances, prostheses, **devices to treat sleep apnea or anti-snoring devices**, or any other structures and make adjustments outside the mouth of the patient to the dentures, prostheses (fixed or removable), removable orthodontic appliances, prosthetic appliances, bridges, or other structures pursuant to written or verbal instructions or directions from the dentist; provided, however, 1. That before such prostheses (fixed or removable), removable orthodontic appliances, or other structures are delivered to the patient leaving the dental office with such removable orthodontic appliances, prostheses (fixed or removable) or other structures the dentist shall personally consult with the patient, examine such prostheses (fixed or removable), removable orthodontic appliances, or other structures, and make such additional adjustments as may be required; and 2. That final placement and cementation of all fixed appliances, fixed prostheses and other fixed structures shall be performed by the dentist.
> (w) **Make final impressions for removable and fixed prostheses, orthodontic appliances, retainers, devices to treat sleep apnea or anti-snoring devices**, and medicament/whitening delivery trays. However, before said impressions may be used for the manufacture of prostheses and appliances, the dentist shall examine and approve such impressions for accuracy.

California

The Medical Board laws and regulations seem to prohibit persons outside the medical professions from treating, diagnosing, and caring for patients with sleep and wake disorders. However, physicians may refer patients with sleep apnea to dentists for treatment if it is the result of a problem with teeth, gums, jaws, and associated structures.

California also requires polysomnographists to register with the Board.

> "A registered polysomnographic trainee, technician or technologist is required to work under the supervision of a physician and surgeon who shall remain available, either in person or through telephonic or electronic means, at the time that services are provided. The polysomnographic shall pass a national certifying exam, credentials issued by a national accrediting agency approved by the Board and background check." Specific requirements are found in Business & Professional Codes §§3575 through 3579.

Georgia

The Georgia Board of Dentistry has specifically answered these questions regarding the relevance of the dental profession in treating, diagnosing, and ordering tests for sleep apnea in its Adopted Board Policies There are no statutes or regulations in Georgia that authorize dentists to treat sleep apnea or order home tests.

The rule prescribed by the Board is as follows:

> Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person's sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. Therefore, the prescribing of sleep apnea appliance does not fall within the scope of the practice of dentistry. It is the position of the Board

that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11.

Idaho

Idaho's statutes suggest that dentists shall only be engaged in diagnosis and treatment of diseases *with respect to the teeth, gums, alveolar process, jaws, or adjacent tissues of another person.* *See* Idaho's BOD rules here.

54-901. DEFINITION -- PRACTICE OF DENTISTRY. The practice of dentistry is the doing by one (1) person, for a direct or indirect consideration, of one or more of the following **with respect to the teeth, gums, alveolar process, jaws, or adjacent tissues of another person**, namely: Examining for diagnosis, treatment, extraction, repair, replacement, substitution, or correction; Diagnosing of disease, pain, injury, deficiency, deformity or physical
condition; Treating, operating, prescribing, extracting, repairing, taking impressions, fitting, replacing, substituting, or correcting; Administering anesthetics or medicaments in connection with any of the foregoing.

Iowa

Neither the Board of Dentistry nor the Board of Medicine mentions sleep apnea.
The BOD specifies that the practice of dentistry includes diagnosis and treatment of conditions or diseases of the oral cavity and maxillofacial area (including associated structures of the jaws and gums) ***which methods by education, background experience, and expertise are common to the practice of dentistry.*** This suggests that whether dentists are allowed to be engaged in the diagnosis or treatment of sleep apnea (including ordering home tests) may depend on whether it is common for dentists to perform such acts in Iowa and whether their education and training has prepared them for the actions they take.

153.13 "Practice of dentistry" defined.
For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of dentistry: 1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry. 2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, **which methods by education, background experience, and expertise are common to the practice of dentistry**. 3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this subsection, "tooth whitening" means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

Kansas

Neither the Board of Dentistry nor the Board of Medicine mentions sleep apnea.
However, Kansas offers several branches of dentistry that are engaged in the diagnosis and treatment of the oral and maxillofacial regions and their functions**. Perhaps it can be inferred from these professions that *certain* dentists in Kansas may diagnose, treat, or order tests for the diagnosis and treatment of sleep apnea.**
71-2-2. Branches of dentistry:

The recognized branches of dentistry for which application may be made for a specialist's certificate shall be the following: dental public health, endodontics, oral and maxillofacial pathology, oral and

maxillofacial radiology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, and prosthodontics. These branches of dentistry shall be defined as follows:
(a) "Dental anesthesiology" means that branch of dentistry dealing with the advanced use of anesthesia, sedation, and pain management to facilitate dental procedures and surgery.
(b) "Dental public health" means that branch of dentistry relating to the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. Dental public health is the form of dental practice that serves the community rather than the individual patients. This branch of dentistry is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.
(c) "Endodontics" means that branch of dentistry concerning the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. The study and practice encompass the basic and clinical sciences, including the biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular conditions.
(d) **"Oral and maxillofacial pathology" means that branch of dentistry concerning the nature, identification, and management of diseases affecting the oral and maxillofacial regions.** This branch is a science that **investigates the causes, processes, and effects of these diseases**. The practice of oral and maxillofacial pathology **includes the research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, and other examinations**.
(e) "Oral and maxillofacial radiology" means that branch of dentistry concerning the production and interpretation of images and data produced by all forms of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.
(f) **"Oral and maxillofacial surgery"** means that branch of dentistry concerning the **diagnosis and the surgical and adjunctive treatment of disease, injuries, and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region**.
(g) "Orthodontics," which shall include "dentofacial orthopedics," means that branch of dentistry concerning the diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures.
(h) "Pediatric dentistry" means the branch of dentistry that is the age-defined specialty providing both primary and comprehensive prevention and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.
(i) "Periodontics" means that branch of dentistry concerning the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and esthetics of these structures and tissues.
(j) "Prosthodontics" means that branch of dentistry concerning the **diagnosis, treatment planning, rehabilitation, and maintenance of the oral function, comfort, appearance, and health of patients with clinical conditions associated with missing or deficient teeth or oral and maxillofacial tissues**, or both, using biocompatible substitutes.

Maine

Maine has a very broadly, written scope of practice rule. The response of the Maine Board of Dental Practice indicates that the scope of practice of dentistry is somewhat individual-specific.

§ 18371. Dentist. Scope of Practice:

A dentist, faculty dentist, limited dentist or resident dentist may:
A. Perform a dental operation or oral surgery or dental service of **any** kind…;
B. Obtain impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth;
C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, **appliance or any other structure to be worn in the human mouth**;

D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same;
E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth;
F. **Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure;** …

Massachusetts
The Board here stated that it is a *standard of care* question, rather than a *regulatory* issue. In other words, so long as dentists are appropriately qualified, the Board appears to conceive that it may be okay for some dentists to order home sleep tests but should know when the role of a physician is more appropriate.

Michigan
Michigan statutes require dentists to refer patients to other professionals when the services needed by a patient exceed the scope of dental practice. § 333.16657.
§ 333.16601:

…(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts….

Mississippi
The Board believes that dentists are authorized to order overnight pulse oximetry to *determine the **potential** presence of sleep apnea.*
Mississippi allows for dentists to obtain specialty licenses in Oral and Maxillofacial Pathology, Oral and Maxillofacial Surgery, and Prosthodontics under Board Rule 1.7.
§ 73-9-3--"DENTISTRY" DEFINED:

"Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his or her education, training and experience, in accordance with the ethics of the profession and applicable law…

New Mexico
The AADSM chart does not address New Mexico, perhaps because New Mexico has adopted AADSM guidelines in their rules as included below:
16.5.14.9 GUIDELINES FOR DENTISTS TREATING SLEEP-RELATED BREATHING DISORDERS:

A. Dentists treating patients that have been diagnosed by a physician with sleep-related breathing disorders, including, but not limited to, primary snoring, upper airway resistance syndrome or obstructive sleep apnea are to follow these guidelines published by the American dental association, the American academy of dental sleep medicine and American academy of sleep medicine.
(1) the role of dentistry in the treatment of sleep-related breathing disorders" (American dental association).
(2) "dental sleep medicine standards for screening, treating and managing adults with sleep-related breathing disorders" (American academy of dental sleep medicine).

(3) "clinical practice guideline for the treatment of obstructive sleep apnea and snoring with oral appliance therapy: an update for 2015" (Joint statement, American academy of sleep medicine and American academy of dental sleep medicine).

B. Dentists cannot diagnose sleep related breathing disorders, but are a vital partner in treating these conditions in collaboration with medical colleagues.

North Carolina

The North Carolina BOD considers it within the scope of dentistry to fabricate and delivery sleep apnea appliances but makes no mention about diagnosis of sleep apnea or ordering of tests. However, the Board has responded that diagnosis is beyond the scope of dentistry and that dentists may perform "initial or preliminary screening for OSA" but then must make referrals to other appropriate medical providers.

21 NCAC 16G .0103 PROCEDURES PROHIBITED

Those procedures that require the professional education and skill of a dentist and shall not be delegated to a dental hygienist include: … (24) fabricating or delivering sleep apnea appliance;…

Ohio

The Ohio State Dental Board has published a position statement, prohibiting dentists from ordering home sleep tests.

Oregon

Oregon has laws allowing for the practice of polysomnography under the direction of a qualified medical director, who must be a physician and have special knowledge in the diagnosis and treatment of sleep disorders. ORD 688.800.

Pennsylvania

Penn Medicine specifically states that for CPAP machines, "A Penn sleep medicine physician will determine the amount of air pressure used for each patient's individual needs," and that for oral appliance therapy, "A Penn maxillofacial specialist will fit patients with their oral appliance."

The Penn Sleep Apnea Program is part of the Penn Sleep Center where physician's work to treat patients with mild, moderate and severe sleep apnea. Experts across multiple disciplines work together to create treatment plans that can include sleep medicine treatment and surgical approaches. These experts include:

- Pulmonologists
- Otorhinolaryngologists
- Oral and maxillofacial surgeons
- Head and neck surgeons

South Dakota

South Dakota has answered this question in an advisory opinion:

Whether it is within the scope of practice for a dentist to be able to order a sleep study, diagnose sleep apnea, or treat sleep apnea pursuant to a diagnosis by a medical doctor.

It is the opinion of the Board of Dentistry ("Board") that it is within the scope of a dentist to order a sleep apnea study. Pursuant to a diagnosis of sleep apnea by a medical doctor, a dentist may provide dental services in addressing a diagnosis of sleep apnea if it is within the scope of the dentist's relevant education, training and experience. SDCL § 36-6A-32.4.

This advisory opinion was rendered by the Board upon submission of a written request. Although advisory opinions are not judicially reviewable and do not have the force and effect of law, they do serve as a guideline for dentists who wish to engage in safe dental practices. This advisory opinion was adopted at the meeting of the South Dakota Board of Dentistry on June 17, 2016.

Texas

It is clearly within the scope of dentistry to fabricate oral appliances for treatment of OSA, but only in collaboration with a physician.

22 Tex. Admin. Code § 108.12:

(a) A dentist shall not independently diagnose obstructive sleep apnea (OSA). A dentist may fabricate an oral appliance for treatment of OSA only in collaboration with a licensed physician. A dentist shall be responsible for monitoring and maintaining the oral appliance to ensure the patient's dental health, while the physician should be responsible for monitoring the patient's medical condition.
(b) A dentist who treats OSA, as described above, shall complete, during the first year of treating OSA, 12 hours of minimum basic education in sleep-disordered breathing from an educational venue (a combination of didactic and clinical education). For each subsequent year that a dentist treats OSA, the dentist shall complete 3 hours of education in sleep-disordered breathing.
(c) A dentist treating a patient for OSA shall comply with the Dental Practice Act and Board Rules, including but not limited to provisions related to fair dealing, standard of care, records, and business promotion.
(d) A dentist shall maintain records as required by the Dental Practice Act and Board Rules including, but not limited to records related to treatment planning, recommendations and options, informed consent, consultations and recommended referrals, and post treatment recommendations.
22 Tex. Admin. Code § 108.12
The provisions of this §108.12 adopted to be effective June 11, 2014, 39 TexReg 4428; Amended by Texas Register, Volume 41, Number 31, July 29, 2016, TexReg 5547, eff. August 7, 2016

Vermont

In 2018, Vermont State Dental Society held a continuing education course for dentists for 6 CEUs on the screening and treatment of obstructive sleep apnea. Thus, dentists in Vermont may reasonably believe it is within the scope of dental practice for them to treat and screen OSA. One of the learning objectives included "how to interpret a polysomnogram.' The unofficial minutes of the Board of Dental Examiners' March 11, 2020 meeting approved a motion for Attorney Gilman to draft a response to the questions posed by AADSM.

West Virginia

The West Virginia Board of Dentistry, in 2016, punished a dentist for malpractice related the dentist's diagnosing and treating a patient with OSA. The Board, in part of its final Order, stated, "In the event the Respondent wishes to resume the practice of diagnosing and treating sleep apnea of any form or degree, the Respondent shall enroll in and successfully..."

Profession	Board Requirements Pre-COVID Process	COVID Process per Executive Order 57 Effective March 12, 2020	Recommendation(s)
Polysomnographic Technologist	• Form B / Employment Verification • Provide to the Board evidence or documented proof of one of the three (3) credentialing pathways: **RPSGT, NBRC-SDS**, or a professional certification or credential approved by the board from an organization or entity which is a member of the **National Organization for Competency Assurance All primary-source verified** • Basic Cardiac Life Support Certification – **Primary source verified** • Other state license verifications – **primary source verified** • NPDB Self- Query mailed only • Non-routine questions 5-18 answered on application require supporting documentation from the applicant. • Required documents received at the Board must be primary source verified, and may be electronically transmitted from the source to the licensing specialist.	**WAIVED** • Form B / Employment Verification	

Commonwealth of Virginia

REGULATIONS

GOVERNING THE PRACTICE OF POLYSOMNOGRAPHIC TECHNOLOGISTS

VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 85-140-10 et seq.

Statutory Authority: § 54.1-2400 and Chapter 29 of Title 54.1 of the *Code of Virginia*

Effective Date: March 5, 2020

9960 Mayland Drive, Suite 300
Henrico, VA 23233-2463

(804) 367-4600 (TEL)
(804) 527-4426 (FAX)
email: medbd@dhp.virginia.gov

TABLE OF CONTENTS

Part I General Provisions

18VAC85-140-10. Definitions.

A. The following word and term when used in this chapter shall have the meaning ascribed to it in § 54.1-2900 of the Code of Virginia:

"Board"

B. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2957.15 of the Code of Virginia:

"Polysomnographic technology"

"Practice of polysomnographic technology"

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

"Active practice" means a minimum of 160 hours of professional practice as a polysomnographic technologist within the 24-month period immediately preceding application for reinstatement or reactivation of licensure. The active practice of polysomnographic technology may include supervisory, administrative, educational, or consultative activities or responsibilities for the delivery of such services.

"Advisory board" means the Advisory Board on Polysomnographic Technology to the Board of Medicine as specified in § 54.1-2957.14 of the Code of Virginia.

18VAC85-140-20. Public participation.

A separate board regulation, 18VAC85-11, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

18VAC85-140-30. Current name and address.

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any such licensee shall be validly given when sent to the latest address of record provided or served to the licensee. Any change of name or change in the address of record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC85-140-40. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be $130.

2. The biennial fee for renewal of active licensure shall be $135 and for renewal of inactive licensure shall be $70, payable in each odd-numbered year in the license holder's birth month. For 2021, the renewal fee for an active license shall be $108, and the renewal fee for an inactive license shall be $54.

3. The additional fee for late renewal of licensure within one renewal cycle shall be $50.

4. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be $180 and must be submitted with an application for licensure reinstatement.

5. The fee for reinstatement of a license pursuant to § 54.1-2408.2 of the Code of Virginia shall be $2,000.

6. The fee for a duplicate license shall be $5.00, and the fee for a duplicate wall certificate shall be $15.

7. The handling fee for a returned check or a dishonored credit card or debit card shall be $50.

8. The fee for a letter of good standing or verification to another jurisdiction shall be $10.

Part II
Requirements for Licensure as a Polysomnographic Technologist

18VAC85-140-45. Practice as a student or trainee.

A student enrolled in an educational program in polysomnographic technology or a person engaged in a traineeship is not required to hold a license to practice polysomnographic technology, provided that such student or trainee is under the direct supervision of a licensed polysomnographic technologist or a licensed doctor of medicine or osteopathic medicine.

1. Any such student or trainee shall be identified to patients as a student or trainee in polysomnographic technology.

2. Such student or trainee is required to have a license to practice after 18 months from the start of the educational program or traineeship or six months from the conclusion of such program or traineeship, whichever is earlier.

18VAC85-140-50. Application requirements.

An applicant for licensure shall submit the following on forms provided by the board:

1. A completed application and a fee as prescribed in 18VAC85-140-40.

2. Verification of a professional credential in polysomnographic technology as required in 18VAC85-140-60.

3. Verification of practice as required on the application form.

4. If licensed or certified in any other jurisdiction, documentation of any disciplinary action taken or pending in that jurisdiction.

18VAC85-140-60. Licensure requirements.

A. An applicant for a license to practice as a polysomnographic technologist shall provide documentation of one of the following:

1. Current certification as a Registered Polysomnographic Technologist (RPSGT) by the Board of Registered Polysomnographic Technologists;

2. Documentation of the Sleep Disorders Specialist credential from the National Board of Respiratory Care (NBRC-SDS); or

3. A professional certification or credential approved by the board from an organization or entity that meets the accreditation standards of the Institute for Credentialing Excellence.

B. An applicant for licensure shall provide documentation of current certification in Basic Life Support for Health Care Providers with a hands-on practice training evaluation segment.

Part III
Renewal and Reinstatement

18VAC85-140-70. Renewal of license.

A. Every licensed polysomnographic technologist who intends to maintain an active license shall biennially renew his license each odd-numbered year during his birth month and shall:

1. Submit the prescribed renewal fee;

2. Attest to having current certification in Basic Life Support for Health Care Providers with a hands-on practice training evaluation segment; and

3. Attest to having met the continuing education requirements of 18VAC85-140-100.

B. The license of a polysomnographic technologist is lapsed if the license has not been renewed by the first day of the month following the month in which renewal is required. Practice with a lapsed license may be grounds for disciplinary action. A license that is lapsed for two years or less may be renewed by payment of the renewal fee and a late fee as prescribed in 18VAC85-140-40 and attestation of compliance with continuing education requirements and current Basic Life Support for Health Care Providers with a hands-on practice training evaluation segment certification.

18VAC85-140-80. Inactive license.

A licensed polysomnographic technologist who holds a current, unrestricted license in Virginia shall, upon a request at the time of renewal and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be entitled to perform any act requiring a license to practice polysomnographic technology in Virginia.

18VAC85-140-90. Reactivation or reinstatement.

A. To reactivate an inactive license or to reinstate a license that has been lapsed for more than two years, a polysomnographic technologist shall submit an attestation of current certification in Basic Life Support for Health Care Providers with a hands-on practice training evaluation segment and evidence of competency to return to active practice to include one of the following:

1. Information on continued active practice in another jurisdiction during the period in which the license has been inactive or lapsed;

2. Attestation of at least 10 hours of continuing education for each year in which the license has been inactive or lapsed, not to exceed three years; or

3. Recertification by passage of an examination for the Registered Polysomnographic Technologist (RPSGT), the Sleep Disorders Specialist credential from the National Board of Respiratory Care (NBRC-SDS), or other credential approved by the board for initial licensure.

B. To reactivate an inactive license, a polysomnographic technologist shall pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure.

C. To reinstate a license that has been lapsed for more than two years, a polysomnographic technologist shall file an application for reinstatement and pay the fee for reinstatement of his licensure as prescribed in 18VAC85-140-40. The board may specify additional requirements for reinstatement of a license so lapsed to include education, experience, or reexamination.

D. A polysomnographic technologist whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board, fulfill additional requirements as specified in the order from the board, and make payment of the fee for reinstatement of his licensure as prescribed in 18VAC85-140-40 pursuant to § 54.1-2408.2 of the Code of Virginia.

E. The board reserves the right to deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.

18VAC85-140-100. Continuing education requirements.

A. In order to renew an active license as a polysomnographic technologist, a licensee shall attest to having successfully completed 20 hours of continuing education in courses directly related to the practice of polysomnographic technology as approved and documented by a provider recognized by one of the following:

1. The Board of Registered Polysomnographic Technologists Education Advisory Board (BRPT-EAC);

2. The American Academy of Sleep Medicine (AASM);

3. The American Medical Association for Category 1 continuing medical education credit;

4. The American Association of Sleep Technologists (AAST);

5. The American Society of Electroneurodiagnostic Technologists, Inc. (ASET);

6. The American Association for Respiratory Care (AARC);

7. The American Nurses Association (ANA); or

8. The American College of Chest Physicians (ACCP).

B. Up to two continuing education hours may be satisfied through delivery of polysomnographic technology services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services. For the purpose of continuing education credit for voluntary service, the hours shall be approved and documented by the health department or free clinic.

C. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

D. The practitioner shall retain the completed form with all supporting documentation in his records for a period of four years following the renewal of an active license.

E. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

Part IV
Scope of Practice

18VAC85-140-110. General responsibility.

A polysomnographic technologist shall engage in the practice of polysomnographic technology, as defined in § 54.1-2957.15 of the Code of Virginia, upon receipt of written or verbal orders from a qualified practitioner and under qualified medical direction. The practice of polysomnographic technology may include supervisory, administrative, educational, or consultative activities or responsibilities for the delivery of such services.

18VAC85-140-120. Supervisory responsibilities.

A. A polysomnographic technologist shall be responsible for supervision of unlicensed polysomnographic personnel who work under his direction and shall be ultimately responsible and accountable for patient care and outcomes under his clinical supervision.

B. Delegation to unlicensed polysomnographic personnel shall:

1. Not include delegation of the discretionary aspects of the initial assessment, evaluation, or development of a treatment plan for a patient nor shall it include any task requiring a clinical decision or the knowledge, skills, and judgment of a licensed polysomnographic technologist.

2. Only be made if, in the judgment of the polysomnographic technologist, the task or procedures do not require the exercise of professional judgment, can be properly and safely performed by appropriately trained unlicensed personnel, and the delegation does not jeopardize the health or safety of the patient.

3. Be communicated on a patient-specific basis with clear, specific instructions for performance of activities, potential complications, and expected results.

C. The frequency, methods, and content of supervision are dependent on the complexity of patient needs, number and diversity of patients, demonstrated competency and experience of the unlicensed personnel, and the type and requirements of the practice setting.

D. The polysomnographic technologist providing clinical supervision shall routinely meet with any unlicensed personnel to review and evaluate patient care and treatment.

E. The polysomnographic technologist shall review notes on patient care entered by unlicensed personnel prior to reporting study results to the supervising physician and shall, by some method, document in a patient record that such a review has occurred.

Part V
Standards of Professional Conduct

18VAC85-140-130. Confidentiality.

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

18VAC85-140-140. Patient records.

A. A practitioner shall comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.

B. A practitioner shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. A practitioner shall properly manage and keep timely, accurate, legible, and complete patient records.

D. A practitioner who is employed by a health care institution or other entity in which the individual practitioner does not own or maintain his own records shall maintain patient records in accordance with the policies and procedures of the employing entity.

E. A practitioner who is self-employed or employed by an entity in which the individual practitioner owns and is responsible for patient records shall:

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 years or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

2. Post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

3. When closing, selling, or relocating his practice, meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

18VAC85-140-150. Practitioner-patient communication; termination of relationship.

A. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or his legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure provided or directed by the practitioner in the treatment of any disease or condition.

3. Before an invasive procedure is performed, informed consent shall be obtained from the patient in accordance with the policies of the health care entity. Practitioners shall inform patients of the risks, benefits, and alternatives of the recommended procedure that a reasonably prudent practitioner practicing polysomnographic technology in Virginia would tell a patient.

a. In the instance of a minor or a patient who is incapable of making an informed decision on his own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

b. An exception to the requirement for consent prior to performance of an invasive procedure may be made in an emergency situation when a delay in obtaining consent would likely result in imminent harm to the patient.

c. For the purposes of this provision, "invasive procedure" means any diagnostic or therapeutic procedure performed on a patient that is not part of routine, general care and for which the usual practice within the health care entity is to document specific informed consent from the patient or surrogate decision maker prior to proceeding.

4. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

B. Termination of the practitioner-patient relationship.

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make the patient record available, except in situations where denial of access is allowed by law.

2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

18VAC85-140-160. Practitioner responsibility.

A. A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;

2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner-patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in subdivision A 3 of this section.

18VAC85-140-170. Solicitation or remuneration in exchange for referral.

A practitioner shall not knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in § 37.2-100 of the Code of Virginia or hospital as defined in § 32.1-123 of the Code of Virginia.

"Remuneration" means compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by 42 USC § 1320 a-7b(b), as amended, or any regulations promulgated thereto.

18VAC85-140-180. Sexual contact.

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, "sexual contact" includes but is not limited to sexual behavior or verbal or physical behavior that:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or

2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs within the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the practitioner-patient relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient neither changes the nature of the conduct nor negates the statutory prohibition.

C. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, "key third party of a patient" means spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the

professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

18VAC85-140-190. Refusal to provide information.

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

Revised 08/21 Polysomnographic Technology

Virginia Department of Health Professions

Board of Medicine
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463
Phone: (804) 367-4600
Fax: (804) 527-4426
Email: medbd@dhp.virginia.gov

Application for License to Practice as a Polysomnographic Technologist

To the Board of Medicine of Virginia:

I hereby make application for a license to practice as a polysomnographic technologist in the Commonwealth of Virginia and submit the following statements:

1. Name in Full (Please Print or Type)

Last	First	Middle
Date of Birth _____ _____ _____ MO DAY YEAR	Social Security No. or VA Control No.*	Maiden Name if applicable
Public Address: This address will be public information:	House No. Street or PO Box	City State and Zip
Board Address: This address will be used for Board Correspondence and may be the same or different from the public address.	House No. Street or PO Box	City State and Zip
Work Phone Number	Home/Cell Phone Number	Email Address

Please submit address changes in writing immediately to medbd@dhp.virginia.gov

Please attach check or money order payable to the Treasurer of Virginia for $130.00. Applications will not be processed without the fee. Do not submit fee without an application. **IT WILL BE RETURNED.**

APPLICANTS DO NOT USE SPACES BELOW THIS LINE – FOR OFFICE USE ONLY

APPROVED BY

_____

Date

LICENSE NUMBER	PROCESSING NUMBER	FEE
0135-		**$130.00**

*In accordance with §54.1-116 Code of Virginia, you are required to submit your Social Security Number or your control number** issued by the *Virginia* Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided by law. Federal and state law requires that this number be shared with other state agencies for child support enforcement activities. NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.

**In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.

2. List in chronological order all professional practices including each location of service since graduation, including internships, residencies, hospital affiliations and absences from work. Also list all periods of non-professional activity or employment. **PLEASE ACCOUNT FOR ALL TIME**. If engaged in private practice, list all clinical affiliations.

From	To	Name and Address of Location Where Service was Provided	Position Held

3. Do you intend to engage in the active practice of polysomnographic technology in the Commonwealth of Virginia? ☐ Yes ☐ No

If Yes, give location _____

4. List all jurisdictions in which you have been issued a license to practice polysomnographic technology: include all active, inactive, expired, suspended or revoked licenses. Indicate number and date issued.

Jurisdiction	Number Issued	Active/Inactive/Expired

	Yes	No
QUESTIONS MUST BE ANSWERED. If any of the following questions (6-18) is answered **Yes**, explain and substantiate with documentation.		
5. Have you ever been denied a license or the privilege of taking a licensure/competency examination by any testing entity or licensing authority?	☐	☐
6. Have you ever been convicted of a violation of/or pled Nolo Contendere to any federal, state, or local statute, or regulation or ordinance, or entered into an plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) **Additionally, any information concerning an arrest, charge, or conviction that has been sealed, including arrests, charges, or convictions for possession of marijuana not have to be disclosed.**	☐	☐
7. Have you ever been denied privileges or voluntarily surrendered your clinical privileges for any reason?	☐	☐
8. Have you ever been placed on a corrective action plan, placed on probation or been dismissed or suspended or Requested to withdraw from any professional school, training program, hospital, etc?	☐	☐
9. Have you ever been terminated from employment or resigned in lieu of termination from any training program, hospital, healthcare facility, healthcare provider, provider network or malpractice insurance carrier?	☐	☐
10. Do you have any pending disciplinary actions against your professional license/certification/permit/registration related to your practice of polysomnographic technology?	☐	☐
11. Have you voluntarily withdrawn from any professional society while under investigation?	☐	☐
12. Within the past five years, have you exhibited any conduct or behavior that could call into question your ability to practice in a competent and professional manner?	☐	☐
13. Within the past five years, have you been disciplined by any entity?		
14. Do you currently have any physical condition or impairment that affects or limits your ability to perform any of the Obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing polysomnographic technologist.	☐	☐
15. Do you currently have any mental health condition or impairment that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing polysomnographic technologist.	☐	☐

16. Do you currently have any condition or impairment related to alcohol or other substance use that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing polysomnographic technologist. ☐ ☐

17. Within the past 5 years, have you any condition or restrictions been imposed upon you or your practice to avoid disciplinary action by any entity? ☐ ☐

18. **Claims History:**
If you have had malpractice cases brought against you (pending or closed), please provide details of each case.
Have you had any malpractice suits brought against you in the past ten (10) years? ☐Yes ☐No

Military Service:

19. Are you a spouse of someone who is on a federal active duty orders pursuant to Title 10 of the U.S. Code or of a veteran who has left active-duty service within one year of submission of this application and who is accompanying your spouse to Virginia or an adjoining state or the District of Columbia? ☐ ☐

20. Are you active duty military? ☐ ☐

21. AFFIDAVIT OF APPLICANT

I, _____, am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice Polysomnographic Technology in the Commonwealth of Virginia.

I have carefully read the laws and regulations related to the practice of my profession which are available at www.dhp.virginia.gov and I understand that fees submitted as part of the application process shall not be refunded.

_____
Signature of Applicant

Advisory Board on:

Behavioral Analysts		10:00 a.m.
Mon –January 31	May 23	September 19
Genetic Counseling		1:00 p.m.
Mon - January 31	May 23	September 19
Occupational Therapy		10:00 a.m.
Tues – February 1	May 24	September 20
Respiratory Care		1:00 p.m.
Tues - February 1	May 24	September 20
Acupuncture		10:00 a.m.
Wed - February 2	May 25	September 21
Radiological Technology		1:00 p.m.
Wed - February 2	May 25	September 21
Athletic Training		10:00 a.m.
Thurs - February 3	May 26	September 22
Physician Assistants		1:00 p.m.
Thurs - February 3	May 26	September 22
Midwifery		10:00 a.m.
Fri - February 4	May 27	September 23
Polysomnographic Technology		1:00 p.m.
Fri - February 4	May 27	September 23
Surgical Assisting		10:00 a.m.
Mon - February 7	Tues – May 31	September 26