



**Advisory Board on
Polysomnographic
Technologists**

**October 5, 2018
Virginia Board of Medicine
1:00 p.m.**

Advisory Board on Polysomnographic Technology

Board of Medicine

Friday, October 5, 2018 @ 1:00 p.m.

9960 Mayland Drive, Suite 201, Henrico, VA

Training Room 2

Call to Order

Emergency Egress Procedures – William Harp, MD

i

Roll Call – Denise Mason

Approval of Minutes of February 2, 2018

1-2

Adoption of the Agenda

Public Comment on Agenda Items (15 minutes)

New Business

1. Periodic review of regulations

4-13

2. Board member badges

3. 2019 Meeting Calendar

14-15

4. Election of Officers

Announcements

Adjournment

Next Meeting Date: January 25, 2019 at 1:00 p.m.

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

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Training Room 2

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

---DRAFT UNAPPROVED---

ADVISORY BOARD ON POLYSOMNOGRAPHIC TECHNOLOGY

Minutes

February 2, 2018

The Advisory Board on Polysomnographic Technology met on Friday, February 2, 2018 at 1:00 p.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Jonathan Clark, RPSGT, Chair
Debbie Akers, RPSGT, Vice-Chair
Anna Rodriquez, RPSGT
Robert Vorona, M.D.
Marie Quinn, Citizen Member

MEMBERS ABSENT: None

STAFF PRESENT: William L. Harp M.D., Executive Director
Alan Heaberlin, Deputy Director for Licensure
Colanthia Morton, Operations Manager
Denise Mason, Licensing Specialist

GUESTS PRESENT: None

CALL TO ORDER

Jonathan Clark called the meeting to order at 1:06 p.m.

EMERGENCY EGRESS PROCEDURES

Alan Heaberlin announced the Emergency Egress Procedures.

ROLL CALL

Denise Mason called the roll; a quorum was declared.

APPROVAL OF MINUTES FROM JUNE 9, 2017

Jonathan Clark moved to adopt the minutes. The motion was seconded and carried.

ADOPTION OF AGENDA

Debbie Akers moved to adopt the agenda. The motion was seconded and carried.

---DRAFT UNAPPROVED---

PUBLIC COMMENT ON AGENDA ITEMS

None

NEW BUSINESS

1. Legislative Report

Dr. Harp provided a legislative update for the 2018 Session of the General Assembly. No action was required.

ANNOUNCEMENTS

Dr. Bob Vorona thanked Alan Heaberlin for speaking at the Annual Meeting of the Virginia Academy of Sleep Medicine on November 3, 2017 in Richmond. Dr. Vorona also announced that this was his last Advisory Board meeting. He said he had enjoyed working with his colleagues on the Advisory and also with Board staff.

Alan Heaberlin announced that there are currently 461 licensed Polysomnographic Technologists in Virginia. During FY2018, the Board has licensed 21 Polysomnographic Technologists.

Colanthia Opher pointed out to the members that their terms will end on June 30, 2018, and if interested in reappointment, they must submit online applications by March 15, 2018.

Dr. Harp informed the Advisory Board that since July 1, 2017, they are entitled to a \$50.00 per diem payment for attending meetings, if they are not employed by the Commonwealth.

NEXT SCHEDULED MEETING

June 8, 2018 @ 1 p.m.

ADJOURNMENT

The meeting of the Advisory Board adjourned at 2:16 p.m.

Jonathan Clark, Chair

William Harp, Executive Director

Denise W. Mason, Licensing Specialist

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: December 27, 2017

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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 mailed 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 2019, 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 fee for a returned check shall be \$35.
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

18VAC85-140-50. 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.

Virginia Board of Medicine

2019 Board Meeting Dates

Full Board Meetings

February 14-16, 2019	DHP/Richmond, VA	Board Rooms TBA
June 13-15, 2019	DHP/Richmond, VA	Board Rooms TBA
October 17-19, 2019	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 5:00 p.m.

Executive Committee Meetings

April 5, 2019	DHP/Richmond, VA	Board Rooms TBA
August 2, 2019	DHP/Richmond, VA	Board Rooms TBA
December 6, 2019	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 5:00 p.m.

Legislative Committee Meetings

January 11, 2019	DHP/Richmond, VA	Board Rooms TBA
May 17, 2019	DHP/Richmond, VA	Board Rooms TBA
September 6, 2019	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 1:00 p.m.

Credentials Committee Meetings

January 9, 2019	February 20, 2019	March 13, 2019
April 17, 2019	May 29, 2019	June 26, 2019
July 24, 2019	August 21, 2019	September 25, 2019
October 23, 2019	November 13, 2019	December (TBA), 2019

Times for the Credentials Committee meetings - TBA

Advisory Board on:

Behavioral Analysts

10:00 a.m.

January 21

May 20

September 30

Genetic Counseling

1:00 p.m.

January 21

May 20

September 30

Occupational Therapy

10:00 a.m.

January 22

May 21

October 1

Respiratory Care

1:00 p.m.

January 22

May 21

October 1

Acupuncture

10:00 a.m.

January 23

May 22

October 2

Radiological Technology

1:00 p.m.

January 23

May 22

October 2

Athletic Training

10:00 a.m.

January 24

May 23

October 3

Physician Assistants

1:00 p.m.

January 24

May 23

October 3

Midwifery

10:00 a.m.

January 25

May 24

October 4

Polysomnographic Technology

1:00 p.m.

January 25

May 24

October 4

Joint Boards of Medicine and Nursing

TBA