

MARYLAND REGISTER

# Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	08/28/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 10/3/2014**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

10 32 06 04 and .07

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

**4. Name of Regulations Coordinator**

Michele Phinney

**Telephone Number**

410-767-5623

**Mailing Address**

201 W. Preston Street

**City State Zip Code**

Baltimore MD 21201

**Email**

michele.phinney@maryland.gov

**5. Name of Person to Call About this Document**

Wynee Hawk

**Telephone No.**

410-764-3786

**Email Address**

wynee.hawk@maryland.gov

**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 14, 2014 and June 3, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Noreen Rubin, Assistant Attorney General, (telephone #410-767-6917) on August 19, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Joshua M. Sharfstein, M.D.

**Title**

Secretary

**Telephone No.**

410-767-6500

**Date**

August 28, 2014

**Title 10**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Subtitle 32 BOARD OF PHYSICIANS**

**10.32.06 Licensure of Polysomnographic Technologists**

Authority: Health Occupations Article, §§14-205, 14-5C-10, and 14-5C-15 Annotated  
Code of Maryland

**Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to amend Regulations .04 and .07 under COMAR 10.32.06 Licensure of Polysomnographic Technologists.

This action was considered at a public meeting held on July 30, 2014, notice of which was given by publication on July 10 through 30, 2014 pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to provide an alternate pathway to licensure, as well as an extension of time to obtain licensure as a polysomnographic technologist if an applicant for licensure has not obtained a license by September 30, 2013, due to specified circumstances. The extension will be granted for a period of no more than 6 months and after December 31, 2014 no more extensions will be granted by the Board. Additionally the regulations repeal the requirement that the Board place a licensed polysomnographic technologist on inactive status under certain circumstances and also repeals obsolete language regarding the reinstatement of licenses of certain polysomnographic technologists.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

## **Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through November 3, 2013. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:  
These regulations have no economic impact because they only delay the timeframe in which an applicant has to be licensed. The licensing fee will still be collected at a later date.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Small business generally do not pay for their employees to obtain licensure, therefore there is no economic impact.

G. Small Business Worksheet:

Attached Document:

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## **Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

## Subtitle 32 BOARD OF PHYSICIANS

### 10.32.06 Licensure of Polysomnographic Technologists

Authority: Health Occupations Article, §§14-205, 14-5C-10, and 14-5C-15 Annotated Code of Maryland

10.32.06.04 (May 14, 2014)

#### .04 Application for Initial Licensure as a Polysomnographic Technologist.

- A. An applicant shall:
- [A.] (1)—[D.] (4) (text unchanged)
  - [E.] (5) Demonstrate spoken and written competency in English by any of the following:
    - [(1)] (a)—[(2)] (b) (text unchanged)
    - [(3)] (c) Documentation of receiving a grade of at least:
      - [(a)] (i)—[(b)] (ii) (text unchanged)
  - [F.] (6) (text unchanged)
  - [G.] (7) Provide documentation of one of the following:
    - [(1)] (a) For those candidates applying for a license on or before September 30, 2013:
      - [(a)] (i)—[(b)] (ii) (text unchanged)
    - [(2)] (b) (text unchanged)
    - [(3)] (c) Both of the following:
      - [(a)] (i) (text unchanged)
      - [(b)] (ii) Completion of the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; [or]
    - [(4)] (d) Both of the following:
      - [(a)] (i) (text unchanged)
      - [(b)] (ii) Completion of an add-on track in polysomnography for electroneurodiagnostic technologists that is accredited by the Commission on Accreditation of Allied Health Education Programs; [and] or
    - (e) Each of the following:
      - (i) Graduation from a sleep technologist educational program accredited by the American Academy of Sleep Medicine;
      - (ii) Proof of meeting core competencies in the 3 years preceding the application as assessed by a sleep technologist credentialed as a Registered Polysomnographic Technologist, a sleep technologist with national certification approved by the Board, or a physician who is either board-eligible or board-certified in sleep medicine by the American Board of Sleep Medicine or American Board of Medical Specialties .
        - (iii) A letter of attestation for completion of clinical hours and competencies from a physician who is either board-eligible or board-certified in sleep medicine by the American Board of Sleep Medicine or American Board of Medical Specialties where the applicant practiced; and
        - (iv) The requirements listed in §B of this regulation; and
  - [H.] (8) (text unchanged)
- B. If an applicant satisfies the requirements of §A(7) by completing the requirements of §A(7)(e) of this regulation, the applicant shall provide proof of completion of a minimum of 546 hours of clinical experience in the 3 years preceding licensure application as either:
- (1) A student supervised by a sleep technologist credentialed as a Registered Polysomnographic Technologist or a sleep technologist with national certification approved by the Board at an American Academy of Sleep Medicine accredited sleep laboratory or sleep laboratory accredited by The Joint Commission; or
  - (2) A sleep technologist with a current, active, unrestricted license in another state or is otherwise recognized and has practiced as a sleep technologist in another state who has:
    - (a) Full-time practice experience as a sleep technologist in another state at an American Academy of Sleep Medicine accredited sleep laboratory or sleep laboratory accredited by The Joint Commission for a minimum of 6 months in the 3 years preceding the application; and
    - (b) Maintained an average of 10 continuing education units per year for the last 2 years.
- C. Extension Request.
- (1) An applicant who has not satisfied the licensure requirements under §A of this regulation on or before September 30, 2013, may file a request for an extension of time with the Board.
  - (2) The request shall be in writing and filed before December 31, 2014.
  - (3) The Board shall consider and render a decision on the request within 45 days of receiving the written request.
  - (4) On a case-by-case basis, the Board may grant a one-time extension for no more than 6 months if the Board determines that:
    - (a) Failure to fulfill the licensure requirements is clearly a result of:
      - (i) Functional impairment;
      - (ii) Prolonged and serious illness;

- (iii) *Mandatory military service or deployment;*
- (iv) *A prolonged absence from the United States;*
- (v) *An officially declared disaster; or*
- (vi) *Other exceptional circumstances beyond the control of the applicant;*
- (b) *The applicant readily and appropriately attempted to meet the requirements;*
- (c) *The applicant provides documentation substantiating the basis of the request, as determined by the Board;*

and

- (d) *The applicant submits a plan for completing the requirements.*
- (5) *The Board shall deny the request for an extension for failure to comply with §C(4) of this regulation.*
- (6) *The Board shall deny any request filed after December 31, 2014.*

10.32.06.07 (June 3, 2014)

**.07 Renewal [and Reinstatement].**

[A.] Renewal.

[(1)] A.—[(2)] B. (text unchanged)

[B. Reinstatement.

(1) The Board shall reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist:

- (a) Applies for reinstatement within 30 days after the date the license expires;
- (b) Meets the renewal requirements of §A of this regulation;
- (c) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and
- (d) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

(2) The Board shall reinstate the license of a polysomnographic technologist who has placed the license on an inactive status if the polysomnographic technologist:

- (a) Meets the renewal requirements of §A of this regulation;
- (b) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and
- (c) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

(3) Reinstatement of Nonrenewed License after 30 Days.

(a) If an applicant's license has been nonrenewed for more than 5 years, and the applicant has not practiced polysomnography in another jurisdiction or country during the preceding 5 years, the applicant shall pass an examination approved by the Board, and meet all the requirements in §B(3)(b) of this regulation before the Board may reinstate the license.

(b) Except as provided in §B(3)(a) of this regulation, the Board may reinstate an applicant whose license has been nonrenewed for more than 30 days if the applicant:

- (i) Meets the renewal requirements in §A of this regulation;
- (ii) Submits evidence of completion of 20 hours of approved continuing education in the 2 years preceding the application for reinstatement, which meet the requirements stated in Regulation .08 of this chapter; and
- (iii) Pays to the Board the reinstatement fee set by the Board in Regulation .09 of this chapter.

C. Inactive Status.

(1) The Board shall place a polysomnographic technologist license on inactive status, if the licensee submits to the Board:

- (a) An application for inactive status on the form required by the Board; and
- (b) The inactive status fee and any additional charges set by the Board in Regulation .09 of this chapter.

(2) The Board may institute or continue a disciplinary investigation or proceeding if a license has been placed on inactive status.]

**JOSHUA M. SHARFSTEIN, M.D.**

**Secretary of Health and Mental Hygiene**