

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 641

(Senator Benson)

Education, Health, and Environmental Affairs

Health and Government Operations

Polysomnography - Technologists Licensure

This bill delays the date by which a polysomnographic technologist must be licensed by the State Board of Physicians in order to practice in the State from October 1, 2011, to October 1, 2013. The bill also extends the date by which licensure applicants can fulfill the requirements for a waiver of educational requirements from September 30, 2011, to September 30, 2013.

Fiscal Summary

State Effect: To the extent that qualified applicants delay applying for licensure until October 1, 2013, special fund revenues decrease in FY 2012 and 2013. Likewise, special fund expenditures to review and process licensure applications may decrease in those years. Special fund revenues and expenditures rebound beginning in FY 2014 as polysomnographic technologists are licensed.

Local Effect: None.

Small Business Effect: Meaningful to individuals required to be licensed as polysomnographic technologists, who are allowed to continue to practice without a license beyond 2011, and the small business sleep centers that employ such individuals.

Analysis

Current Law: The practice of polysomnography means monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances under the supervision of a licensed physician, or using these data for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders. It also includes diagnosing and treating individuals who suffer from sleep disorders under certain circumstances.

Chapter 595 of 2006 requires the board to license and regulate the practice of polysomnography and established the board's Polysomnography Professional Standards Committee. Under Chapter 595, polysomnographic technologists had to be licensed by October 1, 2009. However, Chapters 261 and 262 of 2009 delayed the licensing requirement for these practitioners by two years. Thus, polysomnographic technologists have to be licensed by October 1, 2011.

To qualify for licensure as a polysomnographic technologist, applicants must have passed the national certifying examination given by BRPT or another exam approved by the board, submit proof of certification as a Registered Polysomnographic Technologist™ or other national certification approved by the board, and meet certain educational requirements. Specifically, an applicant must have (1) graduated from a polysomnographic educational program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); (2) graduated from an accredited respiratory care educational program and completed the Committee on Accreditation of Respiratory Care's curriculum for a polysomnography certificate; or (3) graduated from an accredited electroneuro-diagnostic educational program.

Unless the board agrees, a licensed polysomnographic technologist may not surrender nor allow his or her license to lapse while the licensee is under investigation or while charges are pending against the licensee.

Hospitals, nursing facilities, alternative health systems, and employers must file with the board specified information about any licensed polysomnographic technologist (along with other allied health care professionals regulated by the board) in their employ in circumstances such as termination of the licensed polysomnographic technologist or if the licensed polysomnographic technologist has committed an action or has a condition that might be grounds for disciplinary action. The board may impose a civil penalty of up to \$1,000 for failure to report.

A person who violates any provision of the Maryland Polysomnography Act is guilty of a misdemeanor and subject to a fine of up to \$1,000 and/or imprisonment for up to one year. Any person who practices polysomnography without a license is subject to a civil fine of up to \$5,000 to be levied by the board and paid into the Board of Physicians Fund.

Background: Polysomnographic technologists are required to be licensed by October 1, 2011. The board reports that, to date, 86 licenses have been issued and there is only one CAAHEP-accredited polysomnography program in the State.

According to the Maryland Sleep Society, less than 30% of individuals practicing polysomnography in Maryland are licensed or will be eligible for licensure by October 1, 2011, due to difficulty in getting educational programs accredited by

CAAHEP. The society notes that this could lead to up to half of all sleep labs in the State facing substantial fines, significantly curtailing services, or closing.

As of June 2010, sleep technologists are licensed or otherwise regulated in California, Louisiana, Maryland, New Jersey, New Mexico, North Carolina, Tennessee, Virginia, and the District of Columbia.

Additional Information

Prior Introductions: None.

Cross File: HB 560 (Delegate Hubbard) - Health and Government Operations.

Information Source(s): Board of Registered Polysomnographic Technologists, Maryland Sleep Society, Department of Health and Mental Hygiene, Department of Legislative Services

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