

Regular Session, 2005

ACT No. 272

HOUSE BILL NO. 883 (Substitute for House Bill No. 740 by Representative Hebert)

BY REPRESENTATIVE HEBERT

This bill is a substitute for a bill prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AN ACT

To enact Chapter 36-B of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:2861 through 2870, relative to polysomnographic health professionals; to provide for the recognition of polysomnography as a separate and distinct profession; to provide for licensure of polysomnographic technologists and technicians; to provide for regulation of polysomnographic technologists, technicians, and individuals-in-training; to provide for definitions; to provide for the powers and duties of the Louisiana State Board of Medical Examiners relative to polysomnographic technologists, technicians, and individuals-in-training; to provide for the creation of the Advisory Committee on Polysomnography; to provide for fees, person and practices not affected, and prohibited acts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 36-B of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:2861 through 2870, is hereby enacted to read as follows:

CHAPTER 36-B. POLYSOMNOGRAPHIC HEALTH PROFESSIONALS

§2861. Short title

This Chapter shall be known and may be cited as the "Polysomnographic Practice Act".

§2862. Definitions

The following terms shall have the following meanings, unless otherwise specified:

1 (1) "Advisory Committee on Polysomnography" means the committee
2 established in R.S. 37:2864.

3 (2) "American Academy of Sleep Medicine", hereinafter "AASM", means
4 the national organization that establishes accreditation standards for sleep centers
5 and sleep labs.

6 (3) "American Board of Sleep Medicine", hereinafter "ABSM", means the
7 national organization developed for the purpose of establishing and maintaining
8 standards of board certification for physicians practicing sleep disorders medicine.

9 (4) "Association of Polysomnographic Technologists", hereinafter "APT",
10 means the national trade association for the promotion and advancement of the
11 interests of polysomnographic technologists and technicians.

12 (5) "Board of Registered Polysomnographic Technologists", hereinafter
13 "BRPT", means the national credentialing agency for polysomnographic
14 technologists, or its successor organization.

15 (6) "Commission on Accreditation of Allied Health Education Programs",
16 hereinafter "CAAHEP", means the national agency that reviews and accredits
17 educational programs of allied health sciences for the purpose of establishing and
18 maintaining national standards.

19 (7) "Individual-in-training" means an individual who enters the field of
20 polysomnographic technology after January 1, 2006, who must work under the
21 direction and supervision of a registered polysomnographic technologist or the
22 medical director of a sleep center or laboratory and is working towards BRPT
23 registry or completion of a CAAHEP accredited program in polysomnography, or
24 both. This Paragraph shall be null and cease to have effect after January 1, 2011.

25 (8) "Louisiana State Board of Medical Examiners" means that organization
26 established in R.S. 37:1263.

27 (9) "Physician" means an individual licensed by the Louisiana State Board
28 of Medical Examiners.

1 (10) "Polysomnography" means the performance of sleep diagnostics under
2 the direction and supervision of a physician to provide comprehensive clinical
3 evaluation.

4 (11) "Polysomnographic technician" or "permit technician" means a registry
5 eligible allied health professional who has completed an accredited CAAHEP
6 educational program in polysomnography.

7 (12) "Polysomnographic technologist" or "technologist" means an allied
8 health professional who is credentialed by the Board of Polysomnographic
9 Technologists to perform both diagnostic and therapeutic polysomnograms under the
10 direction and supervision of a physician.

11 (13) "Polysomnographic technology" means the allied health specialty
12 practiced under the direction and supervision of a physician involving the attended
13 monitoring and testing of individuals suffering from any sleep disorders as classified
14 in the International Classification of Sleep Disorders. Such procedures include but
15 are not limited to the following, conducted only upon written prescription or verbal
16 order of a physician and under his direction and supervision:

17 (a) Application of electrodes and apparatus necessary to monitor and
18 evaluate sleep disturbances, including application of devices which allow a physician
19 to diagnose sleep disorders, which disorders include sleep breathing disorders,
20 movement disorders, disorders of excessive somnolence, and physiologic impotence.

21 (b) Institution of any type of physiologic monitoring applicable to
22 polysomnography.

23 (c) Initiation of treatment changes and testing techniques required for the
24 implementation of polysomnographic protocols under the supervision and direction
25 of a physician.

26 §2863. Powers and duties of the Louisiana State Board of Medical Examiners

27 In addition to the powers and duties established in R.S. 37:1270, the
28 Louisiana State Board of Medical Examiners shall:

29 (1) Publish minimum standards for polysomnography.

1 (2) Approve the licensure examination, and approve, deny, revoke, probate,
 2 suspend, and renew licenses of a duly qualified applicant.

3 (3) Conduct administrative hearings on the denial, suspension, revocation,
 4 or refusal to renew a license.

5 (4) Adopt rules and regulations in accordance with the Administrative
 6 Procedure Act for the purpose of administering the provisions of this Chapter.

7 §2864. Advisory Committee on Polysomnography; creation

8 A.(1) The Advisory Committee on Polysomnography is hereby created and
 9 shall be composed of nine members to assist the Louisiana State Board of Medical
 10 Examiners in the administration of the provisions of this Chapter.

11 (2)(a) Four members of the committee shall be licensed polysomnographic
 12 technologists registered by the Board of Registered Polysomnographic Technologists
 13 and shall be selected by the governor from a list of eight names submitted by the
 14 Louisiana Academy of Sleep Medicine.

15 (b) One member of the committee shall be an individual who is not a
 16 licensed polysomnographic technologist but who is active in the field of sleep
 17 medicine to be selected by the governor from a list of three names submitted by the
 18 Louisiana Academy of Sleep Medicine.

19 (c) Three members of the committee shall be physicians licensed by the
 20 Louisiana State Board of Medical Examiners, two of whom shall also be diplomates
 21 of the American Board of Sleep Medicine, one of whom shall be active in the field
 22 of sleep medicine, and all of whom shall be selected by the governor from a list of
 23 eight names submitted by the Louisiana State Medical Society.

24 (d) One member of the committee shall be a hospital administrator who shall
 25 be selected by the governor from a list of three names submitted by the Louisiana
 26 State Hospital Association.

27 B.(1) The nominating organizations shall submit their lists to the governor
 28 sixty days after the enactment of this Chapter.

29 (2) Members shall serve at the pleasure of the governor. Each appointment
 30 by the governor shall be submitted for Senate confirmation.

1 C. Three members shall serve an initial term of one year; three shall serve
 2 an initial term of two years; and all others shall serve an initial term of three years
 3 as determined by lot conducted at the first meeting of the board. After the initial
 4 terms have expired, members shall serve for three-year terms.

5 D. A majority of the members of the committee shall elect a chairman.

6 E. The committee shall meet no less than quarterly at a time and place to be
 7 determined by the chairman of the committee. A majority of the members of the
 8 committee shall constitute a quorum for the transaction of all business.

9 F. Each member shall serve without compensation but shall be reimbursed
 10 for travel expenses incurred during attendance at meetings of the committee and
 11 other expenses incurred on business of the committee. Such compensation shall be
 12 paid from funds derived from fees as provided in R.S. 37:2868.

13 §2865. Technologist; qualifications for license; renewal; reciprocity

14 A. In order to obtain a polysomnographic technologist license, an applicant
 15 shall demonstrate all of the following to the Louisiana State Board of Medical
 16 Examiners:

17 (1) He is of good moral character.

18 (2) He has current credentials as a registered polysomnographic technologist
 19 granted by the Board of Registered Polysomnographic Technologists or equivalent
 20 organization and approved by the Louisiana State Board of Medical Examiners.

21 B. A license issued under the provisions of this Section shall be subject to
 22 annual renewal and will expire unless renewed in the manner prescribed by the
 23 Louisiana State Board of Medical Examiners.

24 C. A polysomnographic technologist who submits a license renewal
 25 application after January, 2006, shall have completed, in the prior twelve months, at
 26 least ten hours or units of continuing education courses sanctioned by the Advisory
 27 Committee on Polysomnography and approved by the Louisiana State Board of
 28 Medical Examiners.

29 D. The Louisiana State Board of Medical Examiners may issue a license to
 30 a BRPT registered polysomnographic technologist who relocates into this state and

1 who has filed an application for licensure with the Louisiana State Board of Medical
2 Examiners.

3 §2866. Technicians; qualifications for permit; renewal

4 A. The Louisiana State Board of Medical Examiners may issue a permit to
5 an individual who has applied for the BRPT examination. The permit shall be valid
6 for twelve months until the date on which the results of the qualifying examination
7 are known and acted upon by the Louisiana State Board of Medical Examiners.

8 B. The permit shall be renewable only once if the applicant fails the
9 examination or if the applicant fails to take the qualifying examination; however, the
10 Louisiana State Board of Medical Examiners may adopt rules and regulations for
11 certain exceptions to the provisions of this Subsection due to extenuating
12 circumstances.

13 C. The permit shall entitle the individual to use the initials "PSGT-E".

14 §2867. Causes for nonissuance, suspension, revocation, or refusal to renew

15 A. The Louisiana State Board of Medical Examiners may refuse to renew a
16 license, may suspend or revoke a license, or may impose probationary conditions in
17 the event the licensee or applicant for license has been found guilty of unprofessional
18 conduct which endangers or is likely to endanger the health, welfare, or safety of the
19 public. Such unprofessional conduct shall include:

20 (1) Obtaining a license by means of fraud, misrepresentation, or concealment
21 of material facts.

22 (2) Unprofessional conduct, as defined by the policies established by the
23 Louisiana State Board of Medical Examiners, or violating the code of ethics adopted
24 and published by the Board of Registered Polysomnographic Technologists and
25 approved by the Louisiana State Board of Medical Examiners.

26 (3) Being convicted of or pleading nolo contendere to a crime other than a
27 misdemeanor in any court in the event the acts for which he was convicted or pled
28 nolo contendere are found by the Louisiana State Board of Medical Examiners to
29 have a direct bearing on whether he should be entrusted to serve the public in the
30 capacity of a polysomnographic technologist.

1 B. Denial, refusal to renew, suspension, or revocation of a license, or the
 2 imposition of probationary conditions upon a licensee may be ordered by the
 3 Louisiana State Board of Medical Examiners in a decision made after a hearing in
 4 the manner provided by the policies which shall be adopted by the Louisiana State
 5 Board of Medical Examiners. One year after the date of the revocation of a license,
 6 an application may be made to the Louisiana State Board of Medical Examiners for
 7 reinstatement. The Louisiana State Board of Medical Examiners shall be required
 8 to hold a hearing to consider such reinstatement of said license.

9 C. A suspended license shall be subject to expiration during suspension.

10 §2868. Fees

11 A. The Louisiana State Board of Medical Examiners, under its authority
 12 established in R.S. 37:1281(A)(2), shall establish fees for the purpose of
 13 implementing the provisions of this Chapter.

14 B. The fees shall be in an amount, to the extent feasible, to cover the
 15 administrative expenses of the Louisiana State Board of Medical Examiners for the
 16 licensure process, pursuant to the provisions of this Chapter.

17 §2869. Individuals and practices not affected

18 A. Nothing in this Chapter shall be construed as prohibiting, preventing, or
 19 restricting the practice, services, or activities of:

20 (1) Any individual licensed in this state by any other provision of law from
 21 engaging in the profession or occupation for which he is licensed.

22 (2) Any individual employed as a polysomnographic technologist by the
 23 United States government in the event such individual provides polysomnography
 24 solely under the direction or control of a United States governmental agency by
 25 which he is employed.

26 B. The provisions of this Chapter shall not apply to licensed respiratory
 27 therapists.

28 §2870. Prohibitions

29 A.(1) On or after January 1, 2006, no individual shall engage or attempt to
 30 engage in the practice of polysomnography or perform or attempt to perform

1 polysomnograms, unless he holds a license issued by the Louisiana State Board of
2 Medical Examiners in accordance with the provisions of this Chapter.

3 (2) An individual who does not hold a license issued by the Louisiana State
4 Board of Medical Examiners in accordance with the provisions of this Chapter or
5 whose license has been suspended or revoked shall not use in conjunction with his
6 name the words "licensed registered polysomnographic technologist", "LRPSGT",
7 or any other similar words, letters, abbreviations, or insignia indicating, directly or
8 by implication, that he is a polysomnographic technologist.

9 B. The Louisiana State Board of Medical Examiners may impose civil penalties
10 for the unlawful practice of polysomnography.

11 Section 2. This Act shall become effective upon signature by the governor or, if
12 not signed by the governor, upon expiration of the time for bills to become law without
13 signature by the governor, as provided by Article III, Section 18 of the Constitution of
14 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this
15 Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____