

Sleep Technologist licensing in Oregon

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Goals and overview

- Discuss how a bill becomes law
- Look at history of process
- Differences between Regulation and Legislation
- Review content of SB 723
- Review Regulation & Rulemaking schedule to date
- What will we all have to do?
- ORS Chapter 331, Division 705-740

How an Idea becomes Law

<http://www.leg.state.or.us/faq/lawproc.pdf>

How An Idea Becomes Law

How did we get here and where are we going?

- Oregon Attorney generals office, discovers sleep.
- Public hearings and public comment on Temporary rule 331-705-0071 “ Sleep Lab Exemption”
- Oregon Health Licensing agency helps on to concept of joint board of RC and PSG, if it passed the legislator, help in committee meetings.
- Meetings with Senators and Representatives in Salem. Policy makers in governors office. Sleep and Respiratory care stakeholders.
- 2011 legislative session subcommittees, then Senate and House Floor.
- Final law SB 723 passes both houses (52-4 & 27-3) and gets governors signature.
- Regulatory meetings with public comment.
- Licensure of those qualifying under grandfathering starts January 1 2012.
- Additional public comment scheduled for final Regulation
- Final regulations TBA

Legislation vs. Regulation

- **Definition of LEGISLATION**
 - The action of **legislating**; *specifically* : the exercise of the power and function of making rules (as laws) that have the force of **authority** by virtue of their promulgation by an official organ of a state or other organization (An empty house)
- **Definition of REGULATION**
 - 1: the act of **regulating** : the state of being **regulated**
 - 2a : an authoritative rule dealing with details or procedure <safety regulations> b : a rule or order issued by an executive authority or **regulatory** agency of a government and having the force of law (Moving into our house)

Legislation vs. Regulation

Legislation	Regulation / Rulemaking
<ul style="list-style-type: none"> • Makes up the house you will live in and its rooms and uses. • Who is eligible to live there what they can do. • May only be changed by the legislator. • Lots various interests & agendas. • Rigid once passed, so it is written so it be done! • Limited by sessions and agenda, hard to fix. • Says who has regulatory authority. • Must follow state law. 	<ul style="list-style-type: none"> • Makes up the uses of the rooms, levels, and who may stay. • Limited in scope by legislation. • Regulation is set by the rulemaking body or agency. <ul style="list-style-type: none"> ◦ Respiratory Therapist & Polysomnographic Technologist Licensing Board • Open process governed by Oregon Public meeting law. • Has defined process for changes and improvement. • Regular Public meetings, RTPTLB • Must follow state law

Senate Bill 723

- Prohibits the practice of polysomnography by a person other than a licensed polysomnographic technologist or respiratory therapist effective January 1, 2013.
- Instructed Oregon Health Licensing Agency (OHLA) to create rules for polysomnography
- Defines “polysomnography” and “polysomnographic technologist.”
- Defines settings where polysomnography may be practiced.
- Defines titles polysomnographic technologists may use.

Senate Bill 723

- Restructured the current RTLB to a new RT&PTLB.
 - 1 physician, 1 public member, 3 RT's, 2 LPSGT's
- Defined a “Qualified medical director” for both professions.
- Set basic application and renewal requirements
 - High school, criminal background, laws and rules exam, frequency of renewal,
- Allows students to practice polysomnography if they are licensed in a Board-approved educational program and are in the physical presence of a Board-approved supervisor.

Senate Bill 723

- Allows Respiratory Therapists to practice polysomnography as Respiratory Therapists without licensure required by the state.
- Requires that the practice of polysomnography be performed in accordance with the prescription or verbal orders of a physician, physician assistant or nurse practitioner and under the direction of a qualified medical director for polysomnography.

Scope of Practice for Polysomnography

- **Polysomnography" means the treatment, management, diagnostic testing, education and care of patients with disorders related to sleep. "Polysomnography" includes, but is not limited to: The use of the following during treatment, management, diagnostic testing, education and care of patients with disorders related to sleep:**
 - (A) Supplemental low-flow oxygen therapy, using up to six liters per minute of oxygen;
 - (B) Continuous or bi-level positive airway pressure titration on spontaneously breathing patients using a mask or oral appliance, if the mask or oral appliance does not extend into the trachea or attach to an artificial airway;
 - (C) Capnography;
 - (D) Cardiopulmonary resuscitation;

Scope of Practice for Polysomnography

- (E) Pulse oximetry;
- (F) Sleep staging, including surface electroencephalography, surface electrooculography and submental surface electromyography;
- (G) Electrocardiography;
- (H) Respiratory effort monitoring, including thoracic and abdominal movement monitoring;
- (I) Plethysmography blood flow monitoring;
- (J) Snore monitoring;
- (K) Audio or video monitoring of movement or behavior;
- (L) Body movement monitoring;
- (M) Nocturnal penile tumescence monitoring, when performed in a facility approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board;

Scope of Practice for Polysomnography

- (N) Nasal and oral airflow monitoring;
- (o) Body temperature monitoring; or
- (P) Portable monitoring devices and other medical equipment used to treat sleep disorders;
- (b) Analyzing data for the purpose of assisting a physician who diagnoses and treats disorders related to sleep;
- (c) Implementation and monitoring of durable medical equipment used in the treatment of sleep disorders; and
- (d) Educating patients and immediate family members of patients regarding testing and treatment of sleep disorders.

Qualified Medical Director for Polysomnography & Respiratory Care

- (3) "Qualified medical director **for polysomnography**" means the medical director of an inpatient or outpatient polysomnography facility who is a physician licensed under ORS chapter 677, has special interest and knowledge in the diagnosis and treatment of sleep disorders and is actively practicing in the field of sleep disorders.
- (4) "Qualified medical director **for respiratory care**" means the medical director of any inpatient or outpatient respiratory care service, department or home care agency who is a physician licensed *[by the State of Oregon]* **under ORS chapter 677** and who has special interest and knowledge in the diagnosis and treatment of respiratory problems.

No confusion of Scope in normal activity as a LRCP

- **SECTION 9. Notwithstanding ORS 688.805:**
 - (1) ORS 688.800 to 688.840 *do not prohibit a respiratory care practitioner from practicing polysomnography in accordance with the prescription or verbal order of a physician and under the direction of a qualified medical director for respiratory care or for polysomnography.*

Full text of Senate Bill 723

- Full text of **Senate Bill 723** available:
- http://www.leg.state.or.us/11reg/measpdf/sb0700_dir/sb0723.en.pdf

Regulation / Rulemaking

Students and Training Supervisors

- **Licensure Exemption for Supervisors and Polysomnography Students**
- (1) Students actively enrolled in the following education programs are exempt from polysomnographic technologist licensure pursuant to ORS 688.805(2)(b)(A):
 - (a) Associate's degree program in polysomnography, polysomnographic technology, or sleep technology from an accredited community college, college, or university; or
 - (b) Polysomnography course of study from a CAAHEP accredited institution;
- (2) In accordance with ORS 688.805(2)(b)(B) to be exempt from licensure students in subsection (1) of this rule must be supervised by one of the following:
 - (a) A licensed polysomnographic technician; LPSGT or
 - (b) A qualified medical director for polysomnography; or
 - (c) Respiratory therapist who holds a Sleep Disorder Specialty (SDS) credential through the NIBRC.
- (3) Direct supervision, for the purpose of this rule, is supervision of a student in polysomnography by an approved supervisor who is physically present with the student while the student is working. The supervisor must exercise direction and control over the student's work. An approved

Administrative changes to licensure included in legislation and regulation

- New requirements, help budgeting, workflow.
- Now a yearly renewal:
 - A respiratory therapist license is good for one year and becomes inactive on the last day of the month one year from the date of issuance.
- **See sections:**
 - 331-710-0005 , 331-710-0010, 331-710-0015, 331-710-0020
- As well as other language changes, to update regulations.

Polysomnographic Technologists Grandfathering Requirements

- A polysomnographic technologists must be licensed by January 1, 2013.
 - A polysomnographic technologist license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.
- An individual applying for licensure who does not meet the requirements listed in Oregon Laws 2011, Chapter 715, Section 8, (*New training and education requirements*) may be grandfathered into licensure by meeting the requirements of this rule on or before January 1, 2013.

Grandfathering of Current RPSGT's and SDS's

- Grandfathering requirements include submitting the following:
 - Agency required photographic identification proving 18 years of age
 - Fingerprint based criminal background check
 - Proof of having a high school diploma or general education degree (GED)
and
 - Current certification in cardiopulmonary resuscitation

Grandfathering pathway requirements:

Pathway One: RT's only

- **Submit proof of having NBRC CRT or RRT with the Sleep Disorder Specially credential; (must be mailed directly from NBRC to the Agency)**
 - Submit documentation verifying current certification or registration with the NBRC at the time of application for Oregon licensure (must be mailed directly from NBRC to the Agency);
 - Submit documentation of having worked in polysomnography for 18 months out of the last five years, immediately before application on an Agency prescribed form.
 - Pass the Board approved Oregon Laws and Rules examination for polysomnography;
and
 - Pay all applicable fees.

Grandfathering pathway requirements:

Pathway Two: RPSGT's or RT's with RPSGT

- **Submit proof of having BRPT RSPGT credential; (must be mailed directly from BRPT to the Agency)**

- Submit documentation verifying current registration with the BRPT at the time of application for Oregon licensure (must be mailed directly from BRPT to the Agency);
- Submit documentation of having worked in polysomnography for 18 months out of the last five years, immediately before application on an Agency prescribed form.
- Pass the Board approved Oregon Laws and Rules examination for polysomnography; and
- Pay all applicable fees.

Fingerprint Based Background Checks

- Please be advised any individuals seeking licensure for any Polysomnography or Respiratory Therapy licensure through the Oregon Health Licensing Agency must meet the application requirements set forth in administrative rule, this includes the fingerprint based background check. Fingerprint based background checks may take approximately eight (8) weeks depending on the volume of requests received.
- Please start the **fingerprint processing in advance of applying for licensure with the Agency, this may expedite your application. See Fingerprint Processing Instructions on the last page of any respiratory therapy or polysomnography application located at:**
- <http://www.oregon.gov/OHLA/RTPT/forms.shtml>
- For questions please contact Samie Patnode, Policy Analyst at (503)373-1917 or samie.patnode@state.or.us.

Education, Reciprocity and Endorsement:

- **(2) An individual applying for licensure to practice polysomnography who does not meet the grandfathering requirements or who applies for licensure after January 1, 2013 must:**

- Agency required photographic identification proving 18 years of age
- Fingerprint based criminal background check
- Proof of having a high school diploma or general education degree (GED) and
- Current certification in cardiopulmonary resuscitation

License Pathway One: Education

- Submit official transcripts defined under OAR 331-705-0050 showing successful completion of an Associate's degree in polysomnography, polysomnographic technology, or sleep technology from an accredited community college, college or university, or successful completion of a polysomnography course of study from a CAAHEP accredited institution;
- Submit satisfactory evidence of passage a Board approved examination listed under OAR 331-712-0010(1) within one year before the date of application. Examination results must be submitted to the Agency directly from the examination provider; examination results or other documentation provided directly by the applicant are not acceptable;
- Submit examination fees;
- Submit satisfactory evidence of passage of a Board approved examination listed under OAR 331-712-0010(3) within one year before the date of application. And
- Submit licensing fees.

License Pathway Two: Reciprocity

- Submit an affidavit of licensure pursuant to OAR 331-030-0040, from every state where the applicant has been licensed as a polysomnographic technologist, including an affidavit of licensure demonstrating proof of a current polysomnographic technologist license from another state, obtained through qualifications substantially equivalent to Oregon's requirements. At least one of the applicant's out-of-state licenses must be active and all of the applicant's out-of-state licenses must not be subject to current or pending disciplinary action, and must be free from disciplinary history for three years before the date of application for Oregon polysomnographic licensure;
- Submit satisfactory evidence of passage a Board approved examination listed under OAR 331-712-0010(3) within one year before the date of application; and
- Submit licensing fees.

License Pathway Three: Endorsement

- Submit proof of an RPSGT credential obtained through a CAAHEP accredited educational program (BRPT Pathway Three); or
- Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of a current license, which is active with no current or pending disciplinary action, and no disciplinary history for the three years before the date of application for Oregon polysomnographic licensure, as a:
 - Physician (Doctor of Medicine or Doctor of Osteopathy) licensed under ORS 677;
 - Respiratory therapist licensed under ORS 688 with the RSPGT credential from the BRPT; or
 - CRT or RRT who holds a Sleep Disorder Specialty credential through NBRC; and
- Submit licensing fees.

Polysomnography Approved Examinations

- The Board has approved the following examinations for qualification as a licensed polysomnographic technologist:
 - The RSPGT "registration examination" administered by the BRPT;
 - The SDS examination administered by the NBRC; and
 - The Oregon Laws and Rules examination for polysomnography administered by the Agency.

Standards of Practice for Polysomnography

- A licensee must comply with the prevailing community standards for professional conduct. The Board recognizes and adopts the BRPT Standards of Conduct as its professional standards model. Documents are available on the BRPT Website at <http://www.brpt.org>
- At minimum, licensees are subject to directives and policies established by the medical facilities, businesses or agencies by which they are employed or regulated.
- A licensee must comply with the following safety and infection control requirements:
 - All devices or items that come into direct contact with a client must be cleaned or disinfected according to the manufacturer's instructions or Centers for Disease Control and Prevention (CDC) Standard Precautions;

Standards of Practice for Polysomnography

- All items that come in direct contact with the client's skin that do not require disinfecting must be clean;
- All items that come in direct contact with the client's skin that cannot be cleaned or disinfected must be disposed of in a covered waste receptacle immediately after use;
- All disinfecting solutions and agents must be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times unless equipment is prepackaged, pre-sterilized and within the expiration date listed on the label of the disinfecting solution;
- All high-level and low-level disinfecting agents must be EPA registered. High-level disinfectant means a chemical agent which has demonstrated tuberculocidal activity. Low-level disinfectant means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity;

Standards of Practice for Polysomnography

- Before use, disposable prepackaged products and sterilized reusable instruments must be stored in clean containers that can be closed between use to maintain effective cleanliness until removed from the container.
- Masks must be disinfected before each use on a client by removing foreign and completely saturating the mask with a high level disinfectant solution, spray or foam used to manufacturer's instructions.
- A licensee must observe and follow the Standard Precautions adopted by the CDC as defined in OAR 437 division 2, subdivision Z, and the CDC Standard Precautions for public service workers regarding personal protection equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment when providing services to patients.

Additional Practice Standards

- A licensee must comply with the prevailing community standards for professional conduct. The Board recognizes and adopts the American Association of Respiratory Care (AARC) Statement of Ethics and Professional Conduct effective March 2000 as its professional standards model. A copy of these documents are on file at the agency for review.
- At minimum, licensees are subject to directives and policies established by the medical facilities, businesses or agencies by which they are employed or regulated.
- A licensee must comply with the following safety and infection control requirements:
 - All devices or items that come into direct contact with a client must be cleaned, sanitized or disinfected according to the manufacturer's instructions or Centers for Disease Control and Prevention (CDC) Standard Precautions;
 - All items that come in direct contact with the client's skin that do not require disinfecting must be clean;

Additional Practice Standards

- All items that come in direct contact with the client's skin that cannot be cleaned or disinfected must be disposed of in a covered waste receptacle immediately after use;
- All disinfecting solutions and agents must be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times unless equipment is prepackaged and pre-sterilized;
- All high-level and low-level disinfecting agents must be EPA registered. High-level disinfectant means a chemical agent which has demonstrated tuberculocidal activity. Low-level disinfectant means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal and limited virucidal activity;

Continuing Education Requirements for Polysomnography

- A licensee is required to complete 15 hours of Board approved continuing education every two years, related to clinical practice of polysomnography.
- To renew the license, evidence of required continuing education must be provided at the time of renewal by means of a prescribed self-attestation statement certifying participation in approved continuing education.
- To ensure that adequate proof of attainment of required continuing education is available for audit or investigation by the Agency, the licensee must maintain a record of attendance for two years following the two-year continuing education cycle and renewal of the license.

Continuing Education Requirements for Polysomnography

- Via usual accrediting bodies and staff meetings under specific conditions
- RT's who are dual credentialed may have some crossover in CME's.
 - "A licensee is required to complete 15 hours of Board approved continuing education every two years. At least two-thirds of the required continuing education hours must be related to clinical practice of respiratory care."

Duel Licensure

- Not required under ORS
 - RT's may continue to work in sleep as Respiratory Therapists
 - Will be required for direct and indirect training supervision. LPSGT must be supervised by someone who has demonstrated the knowledge they are teaching in a standardized test recognized by the state.
 - Really a personal choice for LRCP.
- But what there's more!

Regulation / Rulemaking
Public comment is still being considered.

- December 16, 2011
- Letter from OHLA Director, **Randy Everitt**,
- As many of you know SB 723 allows the Oregon Health Licensing Agency (Agency) to begin licensing Polysomnographic Technologists as of January 1, 2012.
- However, the bill also states that as of January 1, 2013, any individual practicing polysomnography, unless exempt, must be a licensed polysomnographic technologist.

Regulation / Rulemaking
Public comment is still being considered.

- The Agency and the Respiratory Therapist Licensing Board (Board) have been working to prepare administrative rules that meet the requirements of the law, promote public safety and address the needs of the polysomnography industry.
- The administrative rule process started in July 2011 with several Board Legislative and Rules Committee meetings. Invited technical experts were appointed by the Agency in to provide details regarding practice standards, and expertise in polysomnography.

Regulation / Rulemaking
Public comment is still being considered.

- On August 26, 2011, the Agency and Board approved proposed administrative rules. Notice of proposed rules was filed with the Secretary of State's Office and published in the October edition of the Oregon Bulletin. No hearing was scheduled.
- The public comment period was originally scheduled from October 1, 2011 through October 28, 2011; however, during the public comment period the Oregon Sleep Society requested a hearing.
- Notice of hearing was given on October 6, 2011, and a hearing was held on October 31, 2011.
- The Agency extended the written public comment period until November 27, 2011, to allow further comments to be received.

Regulation / Rulemaking
Public comment is still being considered.

- All administrative rules will become permanent and effective on January 1, 2012, with the exception of those related to individuals meeting application requirements who reside in rural Oregon.
- **Proposed Rules for 2012 to Address Rural Community Concerns**
- Following the hearing and after reviewing the written comments it was clear there were considerable issues surrounding polysomnography and access to care in rural Oregon, *including the education and supervisor requirements. To adequately address the concerns the Agency decided to restart the rule-making process.*

Regulation / Rulemaking
Public comment is still being considered.

- January 25, 2012
Legislation & Rules Committee - fiscal impact (Completed)
- February 10, 2012
Board meeting approve proposed rules & fiscal impact
- March 1, 2012
Notice of proposed rules –Oregon Bulletin
- March 28, 2012
Last day for public comment
- May 11, 2012
Board meeting adopt permanent rules
- May 15, 2012
Permanent administrative rules effective

Regulation / Rulemaking
Public comment is still being considered.

- The Agency drafted a new rule schedule which will focus on the following issues:
 - Polysomnographic technologist license pathway through education other than an accredited program (in original proposed rules the AASM A-STEP Introductory Course);
 - Polysomnographic technologist license pathway through temporary license;
 - Polysomnographic technologist temporary – indirect supervision;
 - Application requirements for polysomnographic technologist temporary – indirect supervision; and
 - Supervision of a temporary polysomnographic technologist.

Stay involved! Stay informed!

- Resources to stay informed:
 - <http://www.oregon.gov/OHLA/RTPT/index.shtml>
 - www.oregonsleepsociety.com
 - <http://osrenw.org/>
 - <http://www.leg.state.or.us/>
 - <http://www.oregon.gov/OHLA/RTPT/forms.shtml>

So what does that mean?

- The regulatory process continues till we get it right.
 - Or close to right as it will get.....

If it was easy Everyone would be doing it!
Direct link to current Regulations for
Polysomnography:

http://www.oregon.gov/OHLA/RTPT/docs/RTLB_Rules/2011_Rules/RTPT_Perm_1-24-2012.pdf

Thank you!

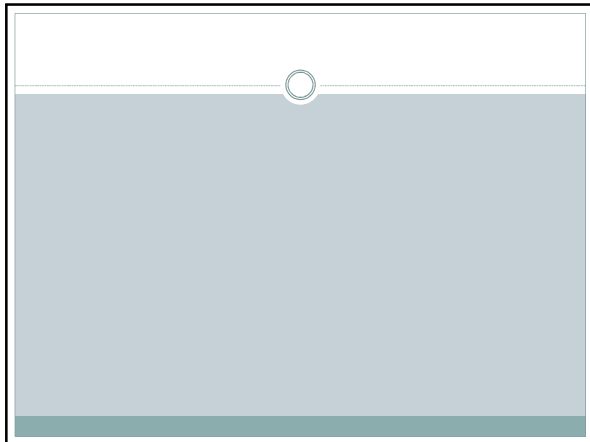
• Questions?

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Oregon Sleep Society

Pacific Sleep Program

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Regulation / Rulemaking Plan "A"

- **November 1, 2010**
 - Temporary administrative rule effective - sleep lab exemption
- **April 30, 2011**
 - Temporary administrative rule expires - sleep lab exemption
- **May 10, 2011**
 - Temporary administrative rule effective - sleep lab exemption
- **June 10, 2011**
 - Board meeting approve rulemaking schedule 9 am
- **June 30, 2011**
 - Sine Die - SB 723
- **July 15, 2011**
 - Legislation & Rules Committee 9 am
- **July 22, 2011**
 - Legislation & Rules Committee 9 am
- **July 29, 2011**
 - Legislation & Rules Committee - fiscal impact review 9 am

Regulation / Rulemaking Plan "A"

- **August 1, 2011**
 - Temporary administrative rule effective - one-year license
- **August 12, 2011**
 - Board meeting approve proposed rules & fiscal impact
- **September 1, 2011**
 - Notice of proposed rules - Oregon Bulletin
- **September 30, 2011**
 - Last day for public comment (Hearings office report completed)
- **October 14, 2011**
 - Board meeting adopt permanent rules (Rural issues identified)
- **October 31, 2011**
 - Permanent administrative rules effective (*Original Plan*)
- **November 4, 2011**
 - Temporary administrative rule expires - sleep lab exemption Extended to Dec 31 2012
- **January 1, 2012**
 - Polysomnographic technicians may be licensed (*Grandfathering only*)
- **January 1, 2013**
 - Polysomnographic technicians must be licensed - (*Must be done due to legislation*)

