

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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2002 JUL 31 P 12: 20

WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA BOARD OF RESPIRATORY CARE TITLE NUMBER: 30

RULE TYPE: INTERPRETIVE CITE AUTHORITY: 30-34-15.e

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: POLYSOMOGRAPHY

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON SEPTEMBER 3, 2002 AT 5:00 P. M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV BD OF RESPIRATORY CARE

106 DEE DRIVE, SUITE 1

CHARLESTON, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Karen G. Stewart
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: POLYSOMOGRAPHY

Type of Rule: _____ Legislative X Interpretive _____ Procedural

Agency: WV BOARD OF RESPIRATORY CARE

Address: 106 DEE DRIVE, SUITE 1

CHARLESTON, WV 25311

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The Board is a self supporting agency and fees incurred are the responsibility of the licensees.

3. Objectives of These Rules:

This rule delineates the role of personnel involved with delivering respiratory care in relation to polysomography practices.

Rule Title: POLYSOMOGRAPHY

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: July 31, 2002

Signature of Agency Head or Authorized Representative:

Karen J. Stuart

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 31, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No)* WV Board of Respiratory Care

106 Dee Drive, Suite 1

Charleston, WV 25311

LEGISLATIVE RULE TITLE: Polysomography

1. Authorizing statute(s) citation 30-34-15.e

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 31, 2002

b. What other notice, including advertising, did you give of the hearing?

This proposed rule is mailed to 1,376 licensed respiratory practitioners and all known

healthcare facilities/organizations with polysomography concerns in the State of West Virginia.

Comment period will begin on August 2, 2002 and end on September 3, 2002 at 5:00 pm.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

September 3, 2002 5:00 PM

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Karen J. Stewart, Chair or Nancy J. Massey, Executive Secretary

WV Board of Respiratory Care

106 Dee Drive, Suite 1

Charleston, WV 25311
304-558-1382, 304-558-1383 (fax)

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Karen J. Stewart, Chair David Imhoff, Board Member

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

August 2, 2002 thru September 3, 2002, 5:00 PM

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

Title 30
Interpretative Rule - WV Board of Respiratory Care
Series 8
Polysomnography

FILED

2002 JUL 31 P 12: 20

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

§30-8-1 General

- 1.1 Scope: This rule defines which practices of a polysomnographic technologist would be subject to review by the West Virginia Board Of Respiratory Care.
- 1.2 Authority: 30-34-15.e
- 1.3 Filing date:
- 1.4 Effective date:

§30-8-2 Definitions

- 2.1 A "polysomnographic technologist" shall be defined as a person who has successfully passed the comprehensive registry exam for the polysomnographic technologists administered by the board of registered polysomnographic technologists (BRPT) or its successor organization or other body recognized by the West Virginia Board of Respiratory Care. The polysomnographic technologist works under the direction of a physician who practices sleep disorder medicine.
- 2.2 "Polysomnography" refers to a class of tests which utilize polygraphic recording of electrophysiological measurements relevant to diagnosing sleep/arousal disorders. The integrity of sleep is assessed through simultaneous measurement of a number of parameters, generally including electroencephalography, electro-oculography, and skeletal electromyography. Other functions commonly measured include electrocardiogram, breathing, limb and body movements. Polysomnography may include relevant cardiorespiratory parameters (such as nasal and oral airflow, chest and abdominal excursion, electrocardiogram, with oximetry, esophageal PH monitoring and CPAP® titration.
- 2.3 A "trainee" shall be defined as a person who practices under the direct supervision of a polysomnographic technologist.
- 2.4 "Being eligible to be credential" shall be defined as a person who has completed the training and clinical experience required by the BRPT to take the comprehensive registry exam for polysomnographic technologists. Eligibility not to exceed eighteen months.
- 2.5 "Direct supervision" shall be defined as being physically in attendance in the laboratory to oversee and direct the care rendered by a trainee.
- 2.6 "CPAP", as used herein, refers broadly to positive airway pressure devices, including bi-level airway pressure devices commonly referred to as BiPAP®.

§30-8-3 Relationship of Polysomnography to the Practice of Respiratory Care

- 3.1 The following respiratory care tasks performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders may be performed upon the prescription or order under the general supervision of a physician:
 - (1) Application and titration of bi-level or continuous positive airway pressure;
 - (2) Application and titration of supplemental oxygen;
 - (3) Application and monitoring of pulse oximetry;
 - (4) Application and monitoring of capnometry; and

- (5) Patient education in the application of bi-level or continuous positive airway pressure, low flow oxygen, or pulse oximetry for the ongoing management of the sleep-related disorders.
 - (6) Collection, analysis and interpretation of arterial blood gases
 - (7) Collection, analysis and interpretation of expired gases.
- 3.2 The West Virginia Board of Respiratory Care shall regulate the practice of respiratory care as performed by an individual practicing as a polysomnographic technologist.

§30-8-4 Prohibitions

- 4.1 No person shall offer or render respiratory care services, or represent that the person is a respiratory care professional, respiratory therapist, respiratory technologist, respiratory care technician, respiratory practitioner, inhalation therapist, inhalation technologist, or inhalation therapy technician, or to have any similar title or to provide these services under a similar description, unless the person holds a license or limited permit issued under this chapter. No partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing respiratory care unless an individual holding a license or limited permit issued under this chapter is employed by or under contract with the partnership, association, or corporation and will be performing the respiratory care services to which reference is made.
- 4.2 Notwithstanding the provisions of §30-5-4.1, all of the following apply:
- a) In the case of a hospital or nursing facility, some limited aspects of respiratory care services such as measuring blood pressure and taking blood samples may be performed by persons demonstrating current competence in such procedures, as long as the person acts under the direction of a physician or the delegation of a Licensed Registered Nurse or Licensed Respiratory Therapist and the person does represent that the person is engaged in the practice of respiratory care. The above limited aspects of respiratory care do not include any of the following: the administration of aerosol medication, the maintenance of patients on mechanical ventilators, aspiration, and the application and maintenance of artificial airways.
 - b) In the case of a facility, institution, or other setting that exists for a purpose substantially other than the provision of health care, respiratory care tasks may be performed under that delegation by persons demonstrating current competence in performing the tasks, as long as the person does not represent that the person is engaged in the practice of respiratory care.
 - c) A polysomnographic technologist or trainee under the direct supervision of a polysomnographic technologist or Licensed Respiratory Therapist or a person the board recognizes as being eligible to be credentialled as a polysomnographic technologist may perform the respiratory care tasks specified in this rule, as long as both of the following apply:
 - (1) The tasks are performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders and under the general supervision of a physician.
 - (2) The person performing the tasks does not represent that the person is engaged in the practice of respiratory care.
- 4.3 This rule effectively prohibits the practice of respiratory care by a trainee or other person who is not under the direct supervision of a polysomnographic technologist.