

**31st Annual Meeting
Of the
American ASSOCIATION of
SLEEP Technologists**

June 7 - 10, 2009

Sheraton Seattle • Seattle, Washington



Bruce Blehart, JD

Mr. Blehart directs the government relations and health policy activities for the American Academy of Sleep Medicine.

Conflict of Interest Disclosures (Speaker Name)

I do not have any conflicts of interest to disclose.

TYPE OF POTENTIAL CONFLICT	DETAILS OF POTENTIAL CONFLICT
GRANT/RESEARCH SUPPORT	
CONSULTANT	
SPEAKERS' BUREAUS	
FINANCIAL SUPPORT	
OTHER	MR. BLEHART IS AN EMPLOYEE OF THE AMERICAN ACADEMY OF SLEEP MEDICINE

<p>I HAVE A CONFLICT. THESE REFERENCES PROVIDE OBJECTIVE SUPPORT FOR MY LECTURE.</p>	<ol style="list-style-type: none"> 1. 2. 3.
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California

- Senate Bill 132, a bill to establish educational and training requirements for sleep technologists, was introduced on February 9.
- SB 132 is the same bill (SB 1526) Governor Schwarzenegger vetoed last year.
- The Governor's veto was completely unrelated to the merits of the bill, which had passed the legislature with a significant bipartisan majority.

California

- On March 23, SB 132 was presented before the Senate Business, Professions and Economic Development (BPED) Committee. The Committee voted 10-0 in favor of SB 132.
- In the Senate Analysis of SB 132 it states that the California Respiratory Care Board (RCB) will not proceed with any further citations against sleep facilities that employ sleep technologists. The analysis states “the RCB has indicated to Committee staff that any actions have been put on hold pending the outcome of this legislation.” Good news for our California sleep facilities.
- The bill has passed in the Senate (34 – 0) and now has moved to the Assembly.

Georgia

- The Georgia Composite State Board of Medical Examiners issued a statement in their November 2008 Newsletter which could have expanded the respiratory care practice act in a manner that could have defined the work of sleep technologists as respiratory care.
- GASP worked with state legislators and the Governor's office on legislative language to protect the sleep technologist profession.
- House Bill 509, which provides an exemption for sleep technologist, was signed by Governor Sonny Perdue on May 11.

Georgia

December 2, 2008

Jean Sumner, M.D., President

Georgia Composite State Board of Medical Examiners
2 Peachtree Street, N.W.; 36th Floor
Atlanta, Georgia 30303-3465

AASM LETTER

Re: Status of Registered Polysomnographic Technologists and the Practice of Respiratory Care

Dear Dr. Sumner:

The AASM views with great alarm the steps being taken by your Advisory Committee on Respiratory Care that will have the effect of arbitrarily expanding the scope of respiratory care practice in a manner that will inhibit the ability of polysomnographic technologists to continue their well-established patient care work.

...(A)ctions are underway to expand the regulatory language set out in Board Rule 360.13.12(2)(g) in a manner that will unduly define the work of sleep technologists as respiratory care. While a qualified respiratory care therapist (RT) who has completed additional schooling/training may be qualified to sit for the BRPT examination, the fact is that the vast majority of the 13,000 individuals who have taken this examination and who work in sleep centers in Georgia and throughout the country do not have a respiratory care background.

Georgia

Even an advanced respiratory therapist who holds the RRT credential must have additional education or training to sit for the new examination being offered for the first time next January by the National Board for Respiratory Care (NBRC) to qualify as a “sleep disorder specialist” (SDS). However, few educational programs... currently offer the add-on courses necessary for a RT to be eligible to take the NBRC SDS examination.

The AASM urges you to take the time necessary to fully understand the implications of any action to formalize a position that could result in significant access to care roadblocks for patients seeking care from a Georgia sleep center by arbitrarily determining that sleep technologists who are not also qualified as RTs are violating the law in every instance where they are providing quality care involving CPAP or related therapy. In light of this and the reality of hundreds of qualified personnel who have been providing Georgians with this care for decades as well as currently, we urge you to delay any determinations on this issue until there has been an open and complete airing of the information scheduled to be presented ... at the November meeting.

The AASM hopes that time will be allowed ... to provide detailed information on the work and care routinely provided by sleep technologists. If anything, the fact that sleep technologists are not currently licensed in Georgia speaks to the need to follow the lead taken in Louisiana, Maryland, New Jersey, New Mexico and Tennessee where sleep technologist licensure has been established.

Hawaii

- On January 28, 2009, nine bills were introduced in the Hawaii State Legislature to establish a Respiratory Care Practice Act.
- Hawaii is one of two (Alaska) states that do not have a sleep or respiratory care practice act. Senate Bill 1332, which had the most traction, would have precluded sleep technologists from practicing.
- The AAST worked closely with the Hawaii Sleep Society on this issue. None of the bills, including SB 1332, were passed out of committee.

Iowa

- The ISS worked closely with the BRPT on a letter to the Iowa Respiratory Care Board (IBRC).
- Letter requested that the Board approve the BRPT as a testing body in the state of Iowa.
- On February 16, the IRBC sent a letter to the BRPT informing them that the Board approves the BRPT as a testing body offering the examination for awarding the credential of Registered Polysomnographic Technologist.
- AAST is looking at states with similar testing authority legislation and we will continue working with the BRPT to seek similar clarifications.

North Carolina

- NCAST has been working with state legislators and other stakeholders on a sleep technologist bill. On March 25, Senate Bill 892 was introduced. On May 28, House Bill 819, companion bill to SB 892, was introduced.
- SB 892/HB 819 would require that all RPSGT's register with the North Carolina Secretary of State.
- SB 892 currently has been approved by the Senate Health Care Committee and HB 819 was passed by the House on June 8.

Oklahoma

- On February 2, Senate Bill 810, the “Oklahoma Sleep Diagnostic Testing Regulation Act” was introduced. The bill would require facilities and physicians to adhere to certain standards:
 - Require that the interpreting physician is board-certified in sleep medicine by the American Board of Sleep Medicine (ABSM);
 - Require that the supervising physician is board-certified in sleep medicine by the American Board of Medical Specialties (ABMS);
 - On and after January 1, 2010, sleep diagnostic testing facilities would be required to be fully or provisionally certified or accredited by the:
 - American Academy of Sleep Medicine (AASM)
 - Joint Commission
 - Accreditation Commission for Healthcare (ACHC)
- SB 810 was signed by Governor Brad Henry on May 27.

Tennessee

- Senate Bill 726, which has the backing of the American Association for Respiratory Care (AARC), was introduced on February 11. The bill would negatively amend the newly established Polysomnographic Practice Act.
- SB 726 would make several negative changes to the Act:
 - Require that licensed sleep technologists and technicians work under the direct supervision of licensed physician
 - Eliminate all Accredited Sleep Technologist Programs (A-STEP) in the state.

Tennessee

- The bill has been significantly amended where all previous amendments have been deleted.
- Respiratory Therapists may provide polysomnographic care if they are credentialed by the:
 - BRPT;
 - NBRC (SDS); or
 - Tennessee Board of Respiratory Care based on documentation provided through a standardized, uniform mechanism that has been reviewed through consultation with the Medical Board.
- The measure was signed by the Governor on June 11.

Pennsylvania

- Senate Bill 722 (SB 722) would amend the Health Care Facilities Act by revising the definition of a “Health Care Facility” to include “a sleep center, regardless of whether the sleep center is operated for profit.”
- SB 722 has been in the Committee on Health and Human Services since March 3.

Massachusetts

- The AAST drafted a letter for the Massachusetts Sleep Society (MSS) which addressed four drowsy driving bills that were introduced into the General Assembly:
- **Senate Bill 845** – Would establish an Advisory Council on Physician Work Hours to establish enforceable limits on working hours for resident physicians.
- **Senate Bill 877** – Requires health care facilities to provide transportation to residents, medical students and other health care providers who have worked for more than 16 consecutive hours and for others health care providers who judge themselves to be too fatigued to safely operate a motor vehicle.

Massachusetts

- **Senate Bill 1436** – Establishes Sleep Awareness Week and Drowsy Driving Prevention Week
- **Senate Bill 1939** – “An Act Relative To Drowsy Driving” establishes numerous provisions addressing the issue of drowsy driving.

Maryland

- Senate Bill 433/House Bill 597, which were introduced on February 5, would postpone the initial licensure deadline for sleep technologists from October 1, 2009 until 2011.
- In response to a letter submitted by the AAST, the Maryland Board of Physicians indicated that implementation of the October 1, 2009 licensure deadline would lead to either a significant decrease in the availability of sleep studies or would lead to a large pool of unlicensed personnel practicing in spite of the law.
- On May 7, SB 433/HB 597 were signed into law by Governor Martin O'Malley.

Minnesota

- On February 16, Senate Bill 685 (SF 685) was introduced into the Minnesota Legislature.
- The bill would have amended the Respiratory Care Practice Act by changing the conditions for respiratory therapists from “registered” to “licensed.”
- However, the legislation also included language which could have negatively changed the exemption language for sleep technologists.
- SF 685 could have also precluded sleep technologists employed by a DME or home medical equipment from performing “assessment, education, or evaluation of the patient” on respiratory care equipment.

Minnesota

- AAST worked with our Minnesota members in developing letters to state legislators requesting that the exemption language revert back to its original form and that the DME language allow sleep technologists to “instruct the patient on the use of, and/or maintaining the respiratory care equipment.”
- Senate Bill 1447 (SF 1447), a omnibus health care bill, was amended to include acceptable exemption language for sleep technologists.
- House Bill 1276 (HF 1276), another bill which addresses numerous health issues, was amended to include DME language which states that an individual employed by a DME provider or home medical equipment provider may deliver, set up, and instruct the patient on the use of, or maintains respiratory care equipment.
- HF 1276 and SF 1447 were signed by Governor Tim Pawlenty on May 22.

New Jersey

- The New Jersey State Board of Polysomnography recently issued its regulations for their “Polysomnography Practice Act” which became effective on December 21, 2005.
- The proposed regulations provide for the licensure and regulations of licensed polysomnographic technologists, technicians and trainees in the State of New Jersey.
- AAST staff will review the proposed regulations and will provide comments to the State Board of Polysomnography. Comments are due by June 19, 2009.

Washington, DC

- On March 3rd, the Washington, DC Council unanimously approved Bill 18-33, titled "Practice of Polysomnography Amendment Act of 2009."
- The bill would provide for the regulation of polysomnography under the Board of Medicine, and create an Advisory Committee on Polysomnography.
- The bill was sent to the Mayor's office on April 13th for his signature. The Mayor approved the legislation on April 28, when the bill became an Act.
- Unique to DC, an approved Act of the Council must be sent to the United States House of Representatives and the United States Senate for a period of 30 days before becoming effective as law.

Kansas & Virginia

The Kansas Association of Sleep Professionals (KASP) and the Virginia Academy of Sleep Medicine (VASM) are moving forward with their legislative initiative to introduce licensure legislation.

April 15 AARC Communication

We write to you today to emphasize a situation that we have warned you about before, but now we must collectively and proactively take a stand. Our profession is under attack.

We are at the precipice of a situation where state by state the profession of respiratory therapy stands to legally have part of its scope of practice rescinded and taken away from you. There have been attempts both successful and unsuccessful at changing a state's respiratory therapist legal scope of practice.

April 15 AARC Communication

We are asking all state societies to take an active stance with the AARC to ensure the following:

That the diagnosis and treatment of sleep disorders, sleep diagnostics, sleep testing, sleep therapeutics or other terms now being defined as “polysomnography” are and have been an integral part of the respiratory therapist Scope of Practice, and;

Any additional testing, credentialing or licensing of the respiratory therapist in “polysomnography” is unnecessary and unwarranted.

April 15 AARC Communication

It is our firm conviction that any requirement for further testing, credentialing or licensing of the respiratory therapist in the services deemed “polysomnography” is not warranted. We support state regulation of appropriately educated, competency-tested and credentialed polysomnographic personnel so long as it does not in any way adversely impact the scope of practice and/or licensure status of the respiratory therapist.

AAST/AASM Letter to AARC

- AAST and the AASM sent an open letter to the AARC in response to their April 15th communication.
- One of the main points in the letter emphasized that the AAST and AASM do not have an agenda that in any way will restrict the practice of respiratory care.
- The letter further stated that the AAST and AASM agree with the AARC's statement: "We support state regulation of appropriately educated, competency tested and credentialed polysomnographic personnel so long as it does not in any way adversely impact the scope of practice and/or licensure status of the respiratory therapist."

Federal Requirements

Independent Diagnostic Testing Facilities (IDTFs) 42 CFR § 410.33

- (c) *Nonphysician personnel.* Any nonphysician personnel used by the IDTF to perform tests must demonstrate the basic qualifications to perform the tests in question and have training and proficiency as evidenced by licensure or certification by the appropriate State health or education department. In the absence of a State licensing board, the technician must be certified by an appropriate national credentialing body. The IDTF must maintain documentation available for review that these requirements are met.

2009 OIG Work Plan

- The OIG investigation will look specifically at the factors contributing to the rapid rise in Medicare reimbursements for sleep studies from \$62 million in 2001 to \$215 million in 2005.
- “We will examine the factors contributing to the rise in Medicare payments for sleep studies and assess provider compliance with Federal program requirements.”

AASM Webinars

The AASM has offered and is offering webinars on the following topics so our members are informed on compliance/coding/legislative issues:

- Developing a Compliance Plan – March 26
- IDTF: Fraud and Abuse – March 27
- Evaluation and Management (E/M) Coding – May 14
- Advance Beneficiary Notice of Non-Coverage – July 16
- “Incident to” A Physician’s Services – August 20
- Health System Reform – September 17
- National and Local Coverage Determinations – October 15
- CPT and RUC Processes – November 19
- 2010 Physician Fee Schedule, Final Rule – December 17
- State Legislation – January 14, 2010

State Sleep Society Initiative

- The AASM and AAST launched this initiative in March, 2008.
- The purpose of establishing state sleep societies is to strengthen the sleep care community in the state, and to provide a forum that will serve to educate members and protect the profession from any issues that may affect their practice.
- At the start of this initiative there were 18 state sleep societies. Currently, there are 28 state sleep societies, and we are in the process of working with AAST members in additional states.

State Sleep Societies

- **Established State Sleep Societies:**

California, Georgia, Washington, Alabama, Colorado, Connecticut, Florida, Hawaii, Indiana, Idaho, Iowa, Kansas, Kentucky, Louisiana, Michigan, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

- **In the Process of Being Established:**

Arizona, Delaware, Illinois, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, Oregon, South Carolina, Utah, Vermont, and Washington, DC.