

ENROLLED SENATE
BILL NO. 810

By: Nichols and Johnson
(Constance) of the Senate

and

Terrill of the House

An Act relating to public health; creating the Oklahoma Sleep Diagnostic Testing Regulation Act; providing short title; stating legislative findings; defining terms; requiring certain testing to be ordered by specified persons and conducted in certain manner; requiring certain standards; requiring certain supervision and interpretation; making certain testing unlawful under certain circumstances; directing the State Department of Health to enforce the provisions of the act; and providing for codification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7200.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Sleep Diagnostic Testing Regulation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7200.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Legislature hereby finds that:

1. There is a growing need for sleep diagnostic testing in the diagnosis and treatment of sleep disorders;

2. Sleep diagnostic testing is being performed in Oklahoma; and

3. Oklahoma law does not provide sufficient regulation of sleep diagnostic testing to assure the protection of the public.

Therefore, there is a need to provide legislation to enable the appropriate entities to regulate persons performing sleep diagnostic testing on the citizens of this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7200.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Sleep Diagnostic Testing Regulation Act:

1. "Advanced practice nurse" means a person licensed to practice as an advanced practice nurse by the Oklahoma Board of Nursing pursuant to the Oklahoma Nursing Practice Act;

2. "Interpreting physician" means a physician who provides professional interpretation of data generated by sleep diagnostic tests. An interpreting physician shall be board-certified in sleep medicine by the American Board of Sleep Medicine (ABSM) or the American Board of Medical Specialties or must have completed a one-year sleep medicine fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME);

3. "Physician" means a person licensed to practice:

a. allopathic medicine and surgery by the Oklahoma State Board of Medical Licensure and Supervision pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or

b. osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act;

4. "Physician assistant" means a person licensed to practice as a physician assistant by the Oklahoma State Board of Medical Licensure and Supervision pursuant to the Physician Assistant Act;

5. "Sleep diagnostic test" means any technological recording procedure used for the diagnosis of sleep-related breathing disorders or other disorders of sleep;

6. "Sleep diagnostic testing facility" means a building or place situated in a fixed location or a mobile entity that is used to conduct sleep diagnostic tests and includes sleep disorder centers and laboratories for sleep-related breathing disorders, but does not include a hospital that conducts sleep diagnostic tests for its patients, including sleep diagnostic tests performed under arrangements made by a hospital for its patients whereby the hospital exercises professional responsibility over the arranged services; and

7. "Supervising physician" means a physician responsible for the supervision of the sleep diagnostic testing performed, including, but not limited to, the quality of the testing performed, the proper operation and calibration of the equipment used to perform sleep diagnostic tests and the actions of nonphysician personnel engaged in the performance of the sleep diagnostic testing. A supervising physician shall be board-certified in sleep medicine by the American Board of Sleep Medicine (ABSM) or the American Board of Medical Specialties or shall have completed a one-year sleep medicine fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME).

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7200.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Sleep diagnostic tests shall be ordered by a physician, physician assistant or advance practice nurse.

B. Sleep diagnostic tests shall be furnished:

1. By a sleep diagnostic testing facility;

2. By, or under arrangements made by, a hospital for its patients whereby the hospital exercises professional responsibility over the arranged services; or

3. In the patient's home.

C. Sleep diagnostic testing facilities shall meet the following standards:

1. Sleep diagnostic testing facilities shall be supervised by a supervising physician as defined by this act;

2. On and after January 1, 2010, sleep diagnostic testing facilities shall be fully or provisionally certified or accredited by the American Academy of Sleep Medicine (AASM), the Joint Commission or the Accreditation Commission for Healthcare (ACHC), except that the full or provisional certification or accreditation by AASM, the Joint Commission, or ACHC shall not be required until June 30, 2010, for any sleep diagnostic testing facility that has submitted a complete application for certification or accreditation to AASM, the Joint Commission and/or ACHC on or before December 31, 2009;

3. An interpreting physician shall interpret the data generated by all sleep diagnostic tests conducted at a sleep diagnostic testing facility; and

4. Nonphysician personnel conducting sleep diagnostic tests shall perform their duties under the direction and supervision of the supervising physician.

D. Sleep diagnostic tests performed in the patient's home shall be conducted under the supervision of a supervising physician and interpreted by an interpreting physician.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7200.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any facility or person to perform sleep diagnostic tests without having first complied with this act or as may otherwise be allowed by applicable law.

B. The State Department of Health is authorized to enforce the provisions of this act.

Passed the Senate the 13th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of May, 2009.

Presiding Officer of the House
of Representatives