

CS for SB 810

1 THE STATE SENATE  
2 Monday, February 23, 2009

3 Committee Substitute for  
4 Senate Bill No. 810

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 810 - By: Nichols and  
6 Johnson (Constance) of the Senate and Terrill of the House.

7 [ public health - Oklahoma Sleep Diagnostic Testing  
8 Regulation Act - codification -  
9 emergency ]

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

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

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

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

19 A. The legislature hereby finds that:

- 20 1. There is a growing need for sleep diagnostic testing in the
- 21 diagnosis and treatment of sleep disorders;
- 22 2. Sleep diagnostic testing is being performed in Oklahoma; and
- 23 3. Oklahoma law does not provide sufficient regulation of sleep
- 24 diagnostic testing to assure the protection of the public.

25 Therefore, there is a need to provide legislation to enable the

1 appropriate entities to regulate persons performing sleep diagnostic  
2 testing on the citizens of this state.

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

6 As used in the Oklahoma Sleep Diagnostic Testing Regulation Act:

7 1. "Direct supervision" means the supervising physician is  
8 present in the sleep diagnostic testing facility and immediately  
9 available to furnish assistance and direction throughout the  
10 performance of the sleep diagnostic testing. It does not require  
11 that the supervising physician be present in the room when the sleep  
12 diagnostic testing is performed.

13 2. "Sleep diagnostic testing facility" means a building or  
14 place situated in a fixed location or a mobile facility that is used  
15 for sleep diagnostic tests, provided:

16 a. a sleep diagnostic testing facility shall not include  
17 a hospital-based facility that is used for sleep  
18 diagnostic tests. A facility is hospital-based if:  
19 (1) the facility and hospital are subject to the  
20 bylaws and operating decisions of a common  
21 governing board. This governing board, which has  
22 final administrative responsibility, approves all

1 personnel actions, appoints medical staff and  
2 carries out similar management functions,  
3 (2) the facility director or administrator is under  
4 the supervision of the hospital's chief executive  
5 officer and reports through him or her to the  
6 governing board,  
7 (3) the facility personnel policies and practices  
8 conform to those of the hospital,  
9 (4) the administrative functions of the facility such  
10 as records, billing, laundry, housekeeping and  
11 purchasing are integrated with those of the  
12 hospital, and  
13 (5) the facility and hospital are financially  
14 integrated, as evidenced by the cost report,  
15 which reflects allocation of overhead to the  
16 facility through the required step-down  
17 methodology, and  
18 b. the following factors are not considered in the  
19 determination of whether a facility conducting sleep  
20 diagnostic tests is hospital-based:  
21 (1) an agreement between a facility and a hospital  
22 concerning patient referral,



1           7. "Sleep diagnostic test" means any technological recording  
2 procedure used for the diagnosis of sleep related breathing  
3 disorders. Sleep diagnostic test shall also mean Multiple Sleep  
4 Latency Testing which measures physiologic sleepiness and  
5 Maintenance of Wakefulness Testing which measures manifest  
6 sleepiness. Sleep diagnostic tests are classified by level of  
7 intensity accordingly:

- 8           a. Level I or Type 1: Attended standard polysomnography  
9                 (PSG) performed in a sleep diagnostic testing  
10                facility,
- 11           b. Level II or Type 2: Home sleep test (HST) with type II  
12                portable monitor, unattended; minimum of 7 channels:  
13                EEG, EOG, EMG, ECG/heart rate, airflow, respiratory  
14                effort and oxygen saturation,
- 15           c. Level III or Type 3: Home sleep test (HST) with type  
16                III portable monitor, unattended; minimum of 4  
17                channels: 2 respiratory movement/airflow, 1 ECG/heart  
18                rate and loxygen saturation, and
- 19           d. Level IV or Type 4: Home sleep test (HST) with type IV  
20                portable monitor, unattended; minimum of 3 channels.

21           8. "Supervising physician" means a physician responsible for  
22 the personal, direct or general supervision of the sleep diagnostic  
23 testing performed, including but not limited to, the quality of the

1 testing performed, the proper operation and calibration of the  
2 equipment used to perform sleep diagnostic tests and the actions of  
3 non-physician personnel engaged in the performance of the sleep  
4 diagnostic testing.

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

8 Sleep diagnostic tests whether conducted in a sleep diagnostic  
9 testing facility or home-based shall be ordered by a physician and  
10 conducted in or under the direction of personnel of a sleep  
11 diagnostic testing facility that meets the following standards:

12 1. Sleep diagnostic testing facilities conducting sleep  
13 diagnostic tests shall be under the direction of a supervising  
14 physician;

15 2. A supervising physician of a sleep diagnostic testing  
16 facility shall be board certified in Sleep Medicine by the American  
17 Board of Sleep Medicine (ABSM) or the American Board of Medical  
18 Specialties;

19 3. Results of sleep diagnostic tests conducted by a sleep  
20 diagnostic testing facility shall be interpreted by an interpreting  
21 physician;

1           4. An interpreting physician shall be board certified in Sleep  
2 Medicine by the American Board of Sleep Medicine (ABSM) or the  
3 American Board of Medical Specialties; and

4           5. Sleep technicians conducting sleep diagnostic tests must  
5 practice under the general, direct or personal supervision of the  
6 supervising physician and must be Registered Polysomnographic  
7 Technicians (RPSGT) or Registered Respiratory Therapists (RRT) who  
8 have taken and successfully passed the separate sleep credentialing  
9 examination administered by the National Board of Respiratory  
10 Therapy or the Associated Professional Sleep Societies.

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

14           A. It shall be unlawful for any facility or person to perform  
15 sleep diagnostic tests unless the facility has first obtained a  
16 license to perform sleep diagnostic tests in compliance with this  
17 act or as may otherwise be allowed by applicable law.

18           B. The State Department of Health is hereby designated as the  
19 official agency of this state for all regulatory activities  
20 pertaining to health and safety in performing sleep diagnostic  
21 tests. The State Board of Health may promulgate rules to implement  
22 the provisions of the Oklahoma Sleep Diagnostic Testing Regulation  
23 Act, including, but not limited to, application and licensure

1 requirements, procedures for inspection, monitoring and  
2 investigation of complaints, standards for suspension and revocation  
3 of license and imposition of fees.

4 C. A physician board certified in sleep medicine by the  
5 American Board of Sleep Medicine or the American Board of Medical  
6 Specialties, who is not in competition with a facility, shall be  
7 used by the State Department of Health to assure compliance with  
8 this act including, but not limited to, conducting surveys of  
9 facilities and inspecting, monitoring and investigating complaints.

10 SECTION 6. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
15 2-19-09 - DO PASS, As Amended and Coauthored.