WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED
SENATE BILL NO. 483

(By Mr. Salguero and Mr. Kusie)

PASSED April 8, 1977
In Effect 30 days from Passage
AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-three, relating generally to the practice of radiologic technology and the licensing of persons engaging in the practice of radiologic technology; setting forth certain legislative findings and a declaration of purpose; defining terms; requiring the licensing of persons engaged in the practice of radiologic technology; providing prohibitions and restrictions on certain activities; creating the West Virginia radiologic technology board of examiners; relating to the appointment, qualifications, terms of office, oath, removal and expenses of members of the board; relating to the officers, meetings and quorum of the board; relating to vacancies on the board; specifying powers and duties of the board; relating to the receipt and disbursement of funds; establishing qualifications of applicants for license; providing for reciprocal licensing of certain radiologic technologists; exempting certain persons from license requirements; authorizing issuance of license to persons who have practiced radiologic technology at least one of the last five years under certain circumstances, without examination and without meeting certain educational requirements; relating to applications and fees; providing for the issuance of license, renewal thereof and fees in connection therewith; relating to the issuance of a temporary permit to practice radiologic technology; authorizing the board to suspend or revoke license or temporary permit and establishing the grounds therefor; authorizing board to conduct investigations and hold hearings; relating to hearing
procedures; providing a time and place for such hearings; specifically making chapter twenty-nine-a of the code applicable; authorizing the board to issue subpoenas and subpoenas duces tecum; providing automatic stay or suspension of certain orders of board pending hearing; relating to the cost of any such hearing; providing for judicial review of decisions of the board entered following hearing; providing for appeals to the supreme court of appeals; providing legal representation for the board; providing for injunctive relief; and establishing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-three, to read as follows:

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-1. Legislative findings and declarations of public policy.

1 The Legislature finds and declares that in the interest of public health, the people of this state should be protected from excessive and improper exposure to ionizing radiation. It is the purpose of this article to establish minimum standards of education, training and experience for radiologic technologists and to prescribe means for assuring that these standards are met.

§30-23-2. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this article:

3 (a) "Board" means the West Virginia radiologic technology board of examiners.

5 (b) "License" means a license granted and issued by the board for the practice of radiologic technology.

7 (c) "Licensed practitioner" means a person licensed to practice medicine, chiropractic, podiatry, osteopathy or dentistry.

10 (d) "Licensee" means any person holding a license or a temporary permit issued under the provisions of this article.
(e) "Radiologic technologist" means a person, other than a licensed practitioner who applies x-rays or assists in the application of x-rays to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

(f) "Radiologic technology" means the application of x-rays or assisting in the application of x-rays to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

(g) "Radiologist" means a licensed practitioner who specializes in the use of ionizing radiation for the diagnosis or treatment of disease.

(h) "Radiology resident" means a licensed practitioner who is in training to become a radiologist and who uses ionizing radiation in the diagnosis or treatment of disease, under the supervision of a radiologist.

(i) "Supervision" means responsibility for and control of quality, radiation safety and technical aspects in the application of ionizing radiation of human beings for diagnostic or therapeutic purposes.

(j) "Technology" hereinafter relates to radiologic technology.

§30-23-3. License required.

(a) No person may engage in, offer to engage in, or hold himself out to the public as being engaged in, the practice of radiologic technology in this state, nor may any person use in connection with any trade, business, profession or occupation, except in those instances specifically provided in subdivisions (1), (2), (3) and (4), subsection (c), section six of this article, the word radiologic technologist or any other title, word or abbreviation which induces or tends to induce the belief that such person is qualified to engage or is engaged in the practice of radiologic technology, unless and until he first obtains a license or temporary permit to engage in the practice of radiologic technology in accordance with the provisions of this article, which license or temporary permit remains unexpired, unsuspended and unrevoked: Provided, That no such license or temporary permit may be required for a radiologic technologist
who is not a resident of this state, who is the holder of
a license or certificate to engage in the practice of radi-
logic technology issued by a state with licensing or
certification requirements determined by the board to
be at least equal to those provided in this article,
who has no regular place of practice in this state and
who engages in the practice of radiologic technology in
this state for a period of not more than ten days in
any calendar year.

(b) No firm, association or corporation may, except
through a licensee or licensees, render any service or
engage in any activity which if rendered or engaged in
by any individual would constitute the practice of radio-
logic technology.

§ 30-23-4. Creation of board of examiners of radiologic technol-
ogists; members; appointment by governor; qualifi-
cations; terms; vacancies; officers; oath; compensa-
tion; general provisions.

There is hereby created a West Virginia radiologic
technology board of examiners, hereinafter called the
board. The governor shall appoint the members of such
board, by and with the advice and consent of the Senate.
The board shall consist of seven members, composed of
one member from the division of radiologic health of
the West Virginia state department of health, three
licensed practitioners, two of whom shall be radiologists,
and three radiologic technologists who are licensed here-
der, or, in the case of the members first appointed,
are eligible for a license hereunder without passing a
proficiency examination if such person has a total of
three years' experience as a radiologic technologist im-
mediately prior to the effective date of this article.

Each member shall be appointed for a term of three
years and shall serve until a successor has been ap-
pointed and has qualified: Provided, That of the first
appointees, a licensed practitioner and a radiologic
technologist shall each be appointed for a term of one
year, a licensed practitioner and a radiologic technologist
shall each be appointed for a term of two years and a
licensed practitioner, a radiologic technologist and a
representative from the division of radiologic health, West Virginia state department of health shall each be appointed for a term of three years. All members of the board shall be residents of West Virginia. A member may succeed himself. Vacancies shall be filled by appointment by the governor for the unexpired term. Before entering upon the performance of his duties, each member shall take and subscribe to the oath required by section five, article four of the constitution of this state.

The board shall elect from its membership a chairman and secretary who shall serve at the will and pleasure of the board. A majority of the members of the board constitutes a quorum, and meetings shall be held at the call of the chairman or upon the written request of three members at such time and place as designated in such call or request, and, in any event, the board shall meet at least twice annually to conduct the examination hereinafter provided for and to transact such other business as may come before it. The board shall hold its first meeting within thirty days after the appointment of the members. The members of the board shall receive no compensation for their services as members, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties under this article. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

§30-23-5. Board of examiners; powers and duties; funds of board.

(a) The board shall:

(1) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby and such reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code;

(2) Examine applicants and determine their eligibility for a license or temporary permit to practice radiologic technology;
11 (3) Prepare, conduct and grade an examination of
12 applicants for a license and determine the satisfactory
13 passing score thereon;
14 (4) Issue, renew, deny, suspend or revoke licenses
15 and temporary permits to engage in the practice of
16 radiologic technology in accordance with the provisions
17 of this article and, in accordance with the administra-
18 tive procedures hereinafter provided, review, affirm,
19 reverse, vacate or modify its order with respect to any
20 such denial, suspension or revocation;
21 (5) Investigate alleged violations of provisions of this
22 article, reasonable rules and regulations promulgated
23 hereunder and orders and final decisions of the board
24 and take appropriate disciplinary action against any
25 licensee for the violation thereof or institute appro-
26 priate legal action for the enforcement of the provisions
27 of this article, rules and regulations promulgated here-
28 under and orders and final decisions of the board;
29 (6) Employ, direct, discharge and define the duties of
30 full or part-time professional, clerical or other personnel
31 necessary to effectuate the provisions of this article;
32 (7) Keep accurate and complete records of its pro-
33 ceedings, certify the same as may be appropriate, and
34 prepare, from time to time, a list showing the names
35 and addresses of all licensees;
36 (8) Provide standards for approved schools of
37 technology, procedures for obtaining and maintaining
38 approval, and procedures of revocation of approval
39 where standards are not maintained: Provided, That such
40 standards for approved schools meet at least the minimal
41 requirements of the American society of radiologic tech-
42 nologists;
43 (9) Whenever it deems it appropriate, confer with the
44 attorney general or his assistants in connection with all
45 legal matters and questions; and
46 (10) Take such other action as may be reasonably
47 necessary or appropriate to effectuate the provisions of
48 this article.
49 (b) All moneys paid to the board shall be accepted
50 by a person designated by the board and deposited by
§30-23-6. Qualifications of applicants; exceptions; applications; fee.

(a) To be eligible for a license to practice radiologic technology the applicant must:

1. Be of good moral character;
2. Have completed four years of high school education or its equivalent;
3. Have successfully completed a minimum twenty-four-month course in radiologic study in a school of radiologic technology approved by the board;
4. Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of radiologic technology, skills and techniques; and
5. Not have been convicted of a felony in any court in this state or any federal court in this or any other state within ten years preceding the date of application for registration, which conviction remains unreversed; and not have been convicted of a felony in any court in this state or any federal court in this or any other state at any time if the offense for which he was convicted related to the practice of radiologic technology, which conviction remains unreversed.

(b) Any person who holds a license or certificate, including the American Registry of Radiologic Technologists, to practice radiologic technology issued by any other state, the requirements for which license or certificate are found by the board to be at least equal to those provided in this article, shall be eligible for a license to practice radiologic technology in this state without examination.
(c) The following persons are not required to obtain a license in accordance with the provisions of this article:

(1) A technology student enrolled in or attending an approved school of technology who as part of his course of study applies ionizing radiation to a human being under the supervision of a licensed practitioner;

(2) A person acting as a dental assistant who under the supervision of a licensed dentist operates only radiographic dental equipment for the sole purpose of dental radiography;

(3) A person engaged in performing the duties of a technologist in his employment by an agency, bureau or division of the government of the United States; and

(4) Any licensed practitioner, radiologist or radiology resident.

(d) Any person who has engaged in the practice of radiologic technology in this state for a period of three years or more within the last five years as of the effective date of this article is eligible for a license to engage in the practice of radiologic technology without examination and without meeting the requirements of subdivision (3), subsection (a) of this section, if application for such license is made within twelve months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2) and (5), subsection (a) of this section.

(e) Any person who has been engaged as a radiologic technologist for at least one of the three years immediately prior to the effective date of this article and passes a proficiency examination prepared by the board is eligible for a license to engage in the practice of radiologic technology without further examination and without meeting the requirements of subdivision (3), subsection (a) of this section, if application for such license is made within twelve months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2) and (5), subsection (a) of this section.

(f) Any applicant for any such license shall submit an application therefor at such time (subject to the time
limitation set forth in subsection (d) of this section), in such manner, on such forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe, and pay to the board a license fee of thirty dollars, which fee shall be returned to the applicant if he is denied a license.

§30-23-7. Issuance of license; renewal of license; renewal fee.

Whenever the board finds that an applicant meets all the requirements of this article for a license to engage in the practice of radiologic technology, it shall forthwith issue to him such license; and otherwise the board shall deny the same. The license is valid for a period of two years from the date issued and shall be renewed every two years without examination upon application for renewal on a form prescribed by the board and payment to the board of a renewal fee of twenty dollars: Provided, That the board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

§30-23-8. Temporary permits.

Upon proper application the board may issue a temporary permit to engage in the practice of radiologic technology in this state to an applicant who meets the qualifications of subdivisions (1), (2), (3) and (5), subsection (a), section six of this article, pending examination of such applicant, which temporary permit shall expire thirty days after the board gives written notice of the results of the examination held following the issuance of such temporary permit, and such permit may not be renewed or another thereof issued to the same person.

§30-23-9. Suspension or revocation of license or temporary permit.

(a) The board may at any time upon its own motion and shall upon the verified written complaint of any person conduct an investigation to determine whether there are grounds for suspension or revocation of a license or a temporary permit issued under the provisions of this article.
The board shall suspend or revoke any license or temporary permit when it finds the holder thereof has:

1. Been convicted of a felony in any court in this state or any federal court in this or any other state within ten years preceding the date of the motion or complaint, which conviction remains unreversed; or been convicted of a felony in any court in this state or any federal court in this or any other state at any time if the offense for which he was convicted related to the practice of radiologic technology, which conviction remains unreversed;
2. Obtained a license or temporary permit by means of fraud or deceit;
3. Been incompetent, grossly negligent, or guilty of other malpractice as defined by the board by reasonable rules and regulations;
4. Failed or refused to comply with the provisions of this article or any reasonable rule and regulation promulgated by the board hereunder or any order or final decision of the board; or
5. Except in emergency situations, failed to obtain written authorization from the attending licensed practitioner or from the patient, and if the patient is a minor, from a parent or a person having custody of the minor.

The board shall also suspend or revoke any license or temporary permit if it finds the existence of any grounds which would justify the denial of an application for such license or temporary permit if application were then being made for it.


(a) Whenever the board denies an application for any original or renewal license or denies an application for a temporary permit or suspends or revokes any license or temporary permit, it shall make an interim order to that effect and serve a copy thereof on the applicant or licensee, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any license or temporary permit suspended or revoked thereby shall be
returned to the board by the holder within twenty days after receipt of said order.

(b) Any person adversely affected by any such order is entitled to a hearing thereon (as to all issues not excluded from the definition of a "contested case" as set forth in article one, chapter twenty-nine-a of this code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license or temporary permit or denying an application for a renewal license. The board may require the person demanding such hearing to give reasonable security for the cost thereof and if such person does not substantially prevail at such hearing such cost shall be assessed against him and may be collected by civil action or other proper remedy.

(c) Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(e) Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing any member of the board may issue subpoenas and subpoenas duces tecum which shall be issued and served within the time, for the fees and shall be enforced as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(f) At any such hearing the person who demanded
the same may represent himself or be represented by
an attorney-at-law admitted to practice before any circuit
court of this state. Upon request by the board, it shall
be represented at any such hearing by the attorney
general or his assistants without additional compensa-
tion.
(g) After any such hearing and consideration of all
testimony, evidence and record in the case, the board
shall render its decision in writing. The written decision
of the board shall be accompanied by findings of fact
and conclusions of law as specified in section three, article
five, chapter twenty-nine-a of this code, and a copy of
such decision and accompanying findings and conclusions
shall be served by certified mail, return receipt requested,
upon the person demanding such hearing, and his at-
torney of record if any.
(h) The decision of the board is final unless reversed,
vacated or modified upon judicial review thereof in
accordance with the provisions of section eleven of this
article.
§30-23-11. Judicial review; appeal to supreme court of appeals;
legal representation for board.
1 Any person adversely affected by a decision of the
board rendered after a hearing held in accordance with
the provisions of section ten of this article is entitled to
judicial review thereof. All of the pertinent provisions
of section four, article five, chapter twenty-nine-a of this
code apply to and govern such judicial review with like
effect as if the provisions of said section four were set
forth in this section.
9 The judgment of the circuit court is final unless re-
versed, vacated or modified on appeal to the supreme
court of appeals in accordance with the provisions of sec-
tion one, article six, chapter twenty-nine-a of this code.
13 Legal counsel and services for the board in all appeal
proceedings in any circuit court and the supreme court
of appeals shall be provided by the attorney general or
his assistants and in any circuit court by the prosecuting
attorney of the county as well, all without additional
compensation.
§30-23-12. Actions to enjoin violations.

Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, for an injunction against any such person and any such other persons who have been, are or are about to be, involved in any practice, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section thirteen of this article.

Upon application by the board, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated hereunder and all orders and final decisions of the board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation.


Any person who violates any provisions of this article, any of the reasonable rules and regulations promulgated hereunder or any order or any final decision of the board
shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence T. Chisholm
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. Delano Jr.
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

H. Bartkey
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within ...this the 24th...

day of April, 1977.

John D. Rockefeller III
Governor