WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED
Committee Substitute for
SENATE BILL NO. 211

(By Senator Bailey, et al.)

PASSED March 8, 2003

In Effect 90 days from Passage
AN ACT to amend and reenact sections two, six, nine and ten, article twenty-three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections six-a and six-b, all relating to licenses and permits issued by the board of radiologic technologists; defining podiatric medical assistants; establishing the requirement of a permit to perform podiatric radiographs and eligibility criteria therefor; restricting the scope of practice under such permit; and requiring the promulgation of legislative rules.

Be it enacted by the Legislature of West Virginia:
That sections two, six, nine and ten, article twenty-three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections six-a and six-b, all to read as follows:

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-2. Definitions.

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

2 (a) "ASPMA" means the American society of podiatric medical assistants.

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

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

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

6 (e) "Licensee" means any person holding a license or a temporary permit issued pursuant to the provisions of this article.

7 (f) "Permitee" means any person holding a podiatric medical assistant permit issued pursuant to the provisions of this article.

8 (g) "Podiatric medical assistant" means a person who has met the requirements of section six-a and who has been granted a permit by the board for performance of podiatric radiographs.

9 (h) "Podiatric radiographs" means radiographs confined to the foot and ankle performed on dedicated podiatric X-ray equipment.
(i) "Radiologic technologist" means a person, other than a licensed practitioner, who applies ionizing radiation or assists in the application of ionizing radiation to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

(j) "Radiologic technology" means the application of ionizing radiation or assisting in the application of ionizing radiation to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

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

(l) "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.

(m) "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.

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

§30-23-6. Qualifications of applicants; exceptions; applications; fee.

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

(1) Be of good moral character;

(2) Have completed four years of high school education or its equivalent;

(3) Have successfully completed an accredited course in radiologic study technology, as determined by an accredi-
tation body recognized by the board, from a school of
radiologic technology that has been 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 the applicant was convicted related
to the practice of radiologic technology, which conviction
remains unreversed.

(b) Any person who holds a license or certificate, includ-
ing 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 or her
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 radio-
graphic dental equipment for the sole purpose of dental
radiography;

(3) A person engaged in performing the duties of a
technologist in the person's employment by an agency,
bureau or division of the government of the United States;
(4) Any licensed practitioner, radiologist or radiology resident; and

(5) Any person who demonstrates to the board that as of the first day of July, one thousand nine hundred ninety-nine, he or she:

(A) Has engaged in the practice of radiologic technology for the limited purpose of performing bone densitometry in this state for five or more years;

(B) Practices under the supervision of a licensed practitioner; and

(C) Has received a densitometry technologist degree certified by the international society for clinical densitometry.

(d) Any person seeking a license shall submit an application therefor at such time, in such manner, on such forms and containing such information as the board may, from time to time, by legislative rule prescribe and shall pay to the board a license fee, which fee shall be returned to the applicant if the license application is denied.

(e) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine of this code setting forth fees for licenses and permits and the renewals of licenses and permits.

§30-23-6a. Podiatric medical assistants; permit requirements.

1. (a) No person not otherwise licensed under this article shall perform podiatric radiographs in this state unless he or she has first obtained a permit to do so from the board.

(b) To be eligible for a permit to perform podiatric radiographs in this state, an applicant shall:

(1) Be of good moral character;

(2) Have completed four years of high school education or its equivalent;
(3) Pass a written examination for certification from the American society of podiatric medical assistants (ASPMA);

(4) Maintain an active certification in the American society of podiatric medical assistants (ASPMA) and meet all requirements of that organization including the continuing education requirements;

(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 the permit, 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 the applicant was convicted related to the practice of radiologic technology, which conviction remains unreversed; and

(6) Pay to the board a permit fee, which fee shall be returned to the applicant if the permit application is denied.

(c) Original permits shall be prominently displayed in public view in the permittee's primary place of employment. A duplicate permit issued by the board may be displayed in the permittee's secondary place of employment.

(d) Permits issued pursuant to this section are valid for one year from the date issued and may be renewed every year without examination. Applications for renewal shall be upon a form provided by the board. Upon application for renewal, the permittee shall submit documentation of an active certification in ASPMA and payment of a renewal fee.

§30-23-6b. Scope of practice for podiatric medical assistants.

(a) A podiatric medical assistant granted a permit under section six-a of this article may only use equipment, specifically designed for the performance of foot or ankle
podiatric radiographs, that has been approved by the board.

(b) All podiatric radiographs performed by a podiatric medical assistant permittee shall be performed under the supervision of a licensed podiatrist.

§30-23-9. Suspension or revocation of license or permits.

(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 permit issued under the provisions of this article.

(b) The board shall suspend or revoke any license or 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 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;

4. Failed or refused to comply with the provisions of this article or any reasonable rule 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.
(c) The board shall also suspend or revoke any license or permit if it finds the existence of any grounds which would justify the denial of an application for such license or permit if application were then being made for it.


(a) Whenever the board denies an application for any original or renewal license or permit or suspends or revokes any license or permit, it shall make an interim order to that effect and serve a copy thereof on the applicant or licensee or permittee, 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 copy 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 or she 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 permit or denying an application for a renewal license or permit. 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 or her 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, chapter twenty-nine-a of this code, 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 or her assistants without additional compensation.

(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 or her attorney 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st Day of April, 2003.

Governor