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HB 2800

FILED

2007 APR -4 PM 3: 53

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2800**

(By Delegates Barker, Iaquinta, Manchin, Miley,
Yost, Porter, Romine, Rowan, Schoen and Walters)



Passed March 10, 2007

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE

FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 2800

(BY DELEGATES BARKER, IAQUINTA, MANCHIN, MILEY,
YOST, PORTER, ROMINE, ROWAN, SCHOEN AND WALTERS)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to repeal §30-23-6a and §30-23-6b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3-7a; and to amend and reenact §30-23-1, §30-23-2, §30-23-3, §30-23-4, §30-23-5, §30-23-6, §30-23-7, §30-23-8, §30-23-9, §30-23-10, §30-23-11, §30-23-12, §30-23-13 and §30-23-14 of said code; and to amend said code by adding thereto sixteen new sections, designated §30-23-15, §30-23-16, §30-23-17, §30-23-18, §30-23-19, §30-23-20, §30-23-21, §30-23-22, §30-23-23, §30-23-24, §30-23-25, §30-23-26, §30-23-27, §30-23-28, §30-23-29 and §30-23-30, all relating to the practice of medical imaging and radiation therapy; authorizing rule-making for the Board of Medicine to regulate Radiologist Assistants; changing the name of the board; increasing the membership of the board; clarifying license and permit requirements; defining scopes of practice; hearing requirements; penalties; and continuation of the board.

Be it enacted by the Legislature of West Virginia:

That §30-23-6a and §30-23-6b of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new section, designated §30-3-7a; and that §30-23-1, §30-23-2, §30-23-3, §30-23-4, §30-23-5, §30-23-6, §30-23-7, §30-23-8, §30-23-9, §30-23-10, §30-23-11, §30-23-12, §30-23-13 and §30-23-14 of said code be amended and reenacted; and that said code be amended by adding thereto sixteen new sections, designated §30-23-15, §30-23-16, §30-23-17, §30-23-18, §30-23-19, §30-23-20, §30-23-21, §30-23-22, §30-23-23, §30-23-24, §30-23-25, §30-23-26, §30-23-27, §30-23-28, §30-23-29 and §30-23-30, all to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-7a. Findings and Rule-making authority.

1 (a) The Legislature finds that it is appropriate and in the
2 public interest to require the Board of Medicine to regulate
3 the practice of Radiologist Assistants.

4 (b) The West Virginia Board of Medicine, with the
5 advice of the West Virginia Medical Imaging and Radiation
6 Therapy Technology Board of Examiners, shall propose rules
7 for legislative approval, in accordance with the provisions of
8 article three, chapter twenty-nine-a of this code, to:

9 (1) Establish the scope of practice of a Radiologist
10 Assistant;

11 (2) Develop the education and training requirements for
12 a Radiologist Assistant; and

13 (3) Regulate Radiologist Assistants.

ARTICLE 23. MEDICAL IMAGING and RADIATION THERAPY TECHNOLOGY.

§30-23-1. License required to practice.

1 The Legislature finds that in the interest of public health
2 that:

3 (1) The people of this state should be protected from
4 excessive and improper exposure to ionizing radiation,
5 radioactive isotopes, radio waves, and magnetic fields
6 energy; and

7 (2) A person performing medical imaging or radiation
8 therapy technology in this state shall be licensed.

9 Therefore, it is the purpose of this article to regulate
10 the practice of medical imaging or radiation therapy in this
11 state by requiring that a person have a license, apprentice
12 license or permit when practicing medical imaging or
13 radiation therapy technology.

§30-23-2. Unlawful acts.

1 (a) It is unlawful for any person to practice or offer to
2 practice medical imaging or radiation therapy technology in
3 this state without a license, apprentice license or permit
4 issued under the provisions of this article, or advertise or use
5 any title or description tending to convey the impression that
6 the person is a licensed Medical Imaging Technologist or
7 Radiation Therapy Technologist, unless such person has been
8 duly licensed under the provisions of this article, and such
9 license, apprentice license or permit has not expired, been
10 suspended or revoked.

11 (b) Without a licensee, it is unlawful for any business
12 entity to render any service or engage in any activity which
13 if rendered or engaged in by an individual, would constitute
14 the practice of medical imaging or radiation therapy
15 technology.

§30-23-3. Applicable law.

1 The practice of medical imaging or radiation therapy
2 technology and the Medical Imaging and Radiation Therapy
3 Technology Board of Examiners are subject to the provisions
4 of article one of this chapter and the provisions of this article
5 and any rules promulgated thereunder.

§30-23-4. Definitions.

1 As used in this article, the following words and terms
2 have the following meanings, unless the context clearly
3 indicates otherwise:

4 (a) "ASPMA" means the American Society of Podiatric
5 Medical Assistants.

6 (b) "Board" means the West Virginia Medical Imaging
7 and Radiation Therapy Technology Board of Examiners.

8 (c) "Business entity" means any firm, partnership,
9 association, company, corporation, limited partnership,
10 limited liability company or other entity providing medical
11 imaging or radiation therapy technology.

12 (d) "Dental X rays" means X rays taken of the oral cavity
13 with x-ray units designed for this specific performance.

14 (e) "License" means a medical imaging and radiation
15 therapy technology license issued under the provisions of this
16 article.

17 (f) "Licensed practitioner" means a person licensed in
18 West Virginia to practice medicine, chiropractic, podiatry,
19 osteopathy or dentistry.

20 (g) "Licensee" means a person holding a license issued
21 under the provisions of this article.

22 (h) "Magnetic Resonance Imaging or MRI" means the
23 performance of medical imaging using radio waves, magnetic
24 fields and a computer to produce images of the body tissues.

25 (I) "Medical Imaging" means the use of ionizing
26 radiation, electromagnetic radiation, or radioactivity for
27 evaluation of body tissue in order to diagnose injury and
28 disease by means of image production.

29 (j) “NMTCB” means the Nuclear Medicine Technology
30 Certification Board.

31 (k) “Nuclear Medicine Technologist” means a person
32 holding a nuclear medicine license issued under the
33 provisions of this article.

34 (l) “Nuclear Medicine Technology” means the
35 compounding, calibrating, dispensing and administrating of
36 radio-pharmaceuticals, pharmaceuticals and radio-nuclides
37 under the direction of an individual listed as an authorized
38 user by the U.S. Nuclear Regulatory Commission for the
39 production of images for diagnosis and/or treatment of
40 various disorders.

41 (m) “Permittee” means any person holding a podiatric
42 medical assistant permit issued pursuant to the provisions of
43 this article.

44 (n) “PET/CT Technologist” means an individual
45 recognized by the board as qualified to operate a PET/CT
46 scanner.

47 (o) “PET/CT Technology” means the operation of a
48 Positron Emission Tomography/Computerized Tomography
49 scanner to view internal images of the body.

50 (p) “Podiatric medical assistant” means a person who has
51 been issued a permit under the provisions of this article, to
52 perform podiatric radiographs.

53 (q) “Podiatric radiographs” means radiographs confined
54 to the foot and ankle performed on dedicated podiatric X ray
55 equipment.

56 (r) “Practice of Medical Imaging and Radiation Therapy
57 Technology” means the practice of Radiologic Technology,
58 Radiation Therapy, Nuclear Medicine Technology and
59 Magnetic Resonance Imaging Technology.

60 (s) "Radiologic technologist" means a person, other than
61 a licensed practitioner, who applies medical imaging or
62 assists in the application of ionizing radiation to human
63 beings for diagnostic or therapeutic purposes as prescribed by
64 a licensed practitioner.

65 (t) "Radiologic technology" means the application of
66 ionizing radiation or assisting in the application of medical
67 imaging to human beings for diagnostic or therapeutic
68 purposes as prescribed by a licensed practitioner.

69 (u) "Radiologist" means a licensed practitioner who has
70 successfully completed a residency in the field of Radiology
71 and specializes in the use of medical imaging for the
72 diagnosis or treatment of disease.

73 (v) "Radiologist Assistant or RA" means an individual
74 who is licensed under the rules of the West Virginia Board of
75 Medicine and has completed specialized training from an
76 accredited program in the profession and passed a written
77 examination as recognized by the West Virginia Board of
78 Medicine.

79 (w) "Radiology resident" means a licensed practitioner
80 who is in training to become a Radiologist and who uses
81 medical imaging in the diagnosis or treatment of disease,
82 under the supervision of a Radiologist.

83 (x) "Supervision" means responsibility for and control of
84 quality, safety and technical aspects in the application of
85 medical imaging technology on human beings for diagnostic
86 or therapeutic purposes.

87 (y) "Technology" means Medical Imaging Technology or
88 Radiation Therapy Technology.

**§30-23-5. Medical Imaging and Radiation Therapy Technology
Board of Examiners.**

1 (a) The West Virginia Radiologic Technology Board of
2 Examiners is hereby continued and commencing the first day

3 of July two thousand seven, shall be known as the West
4 Virginia Medical Imaging and Radiation Therapy
5 Technology Board of Examiners. The members of the board
6 in office on the first day of July, two thousand seven, shall,
7 unless sooner removed, continue to serve until their
8 respective terms expire and until their successors have been
9 appointed and qualified.

10 (b) Commencing the first day of July two thousand
11 seven, the board shall consist of the following eleven
12 members:

13 (1) One Radiologic Health Specialist from the Radiation,
14 Toxics and Indoor Air Division of the West Virginia
15 Department of Health and Human Resources;

16 (2) Three licensed practitioners, two of whom shall be
17 Radiologists;

18 (3) Three licensed Radiologic Technologists, one of
19 whom shall be an active medical imaging educator;

20 (4) One licensed Nuclear Medicine Technologist,
21 appointed prior to the first day of July, two thousand seven,
22 by the Governor with the advice and consent of the Senate;

23 (5) One licensed Magnetic Resonance Imaging
24 technologist, appointed prior to the first day of July, two
25 thousand seven, by the Governor with the advice and consent
26 of the Senate; and

27 (6) Two citizen members who are not licensed under the
28 provisions of this article and do not perform any services
29 related to the practice licensed under the provisions of this
30 article.

31 (c) Each member shall be appointed for a term of three
32 years and may not serve more than two consecutive full
33 terms. A member having served two consecutive full terms
34 may not be appointed for one year after completion of his or
35 her second full term. A member shall continue to serve until

36 a successor has been appointed and has qualified. The terms
37 shall be staggered in accordance with the initial appointments
38 under prior enactments of this article. Any member serving
39 on the board on the effective date of this article may be
40 reappointed in accordance with the provisions of this section.

41 (d) Each member of the board shall be a resident of West
42 Virginia during the appointment term.

43 (e) The Radiologic Technologists, Nuclear Medicine
44 Technologists and the Magnetic Resonance Imaging
45 Technologists serving on the board shall maintain an active
46 license with the board.

47 (f) A vacancy on the board shall be filled by appointment
48 by the Governor for the unexpired term of the member whose
49 office is vacant.

50 (g) The Governor may remove any member from the
51 board for neglect of duty, incompetency or official
52 misconduct.

53 (h) A licensed member of the board immediately and
54 automatically forfeits membership to the board if his or her
55 license to practice has been suspended or revoked. A
56 member of the board immediately and automatically forfeits
57 membership to the board if he or she is convicted of a felony
58 under the laws of any state or the United States, or becomes
59 a nonresident of this state.

60 (i) The board shall designate one of its members as
61 Chairperson and one member as Secretary who shall serve at
62 the will of the board.

63 (j) Each member of the board shall receive compensation
64 and expense reimbursement in accordance with article one of
65 this chapter.

66 (k) A majority of the members of the board shall
67 constitute a quorum.

68 (l) The board shall hold at least two annual meetings.
69 Other meetings shall be held at the call of the Chairperson or
70 upon the written request of two members, at such time and
71 place as designated in the call or request.

72 (m) Prior to commencing his or her duties as a member
73 of the board, each member shall take and subscribe to the
74 oath required by section five, article four of the Constitution
75 of this state.

§30-23-6. Powers and duties of the board.

1 (a) The board has all the powers and duties set forth in
2 this article, by rule, in article one of this chapter, and
3 elsewhere in law.

4 (b) The board's powers and duties include:

5 (1) Holding meetings, conducting hearings and
6 administering examinations and reexaminations;

7 (2) Setting the requirements for a license, apprentice
8 license and permit to practice Medical Imaging or Radiation
9 Therapy Technology;

10 (3) Establishing procedures for submitting, approving and
11 rejecting applications for a license, apprentice license and
12 permit;

13 (4) Determining the qualifications of any applicant for a
14 license, apprentice license and permit;

15 (5) Providing standards for approved schools of Medical
16 Imaging and Radiation Therapy Technology, procedures for
17 obtaining and maintaining approval, and procedures of
18 revocation of approval where standards are not maintained:
19 *Provided*, That the standards for approved schools meet at
20 least the minimal requirements of the American Registry of
21 Radiologic Technologist;

22 (6) Working with the West Virginia Board of Medicine
23 to determine the scope of practice, the required education and
24 training, and the type of regulations necessary for Radiologist
25 Assistants;

26 (7) Preparing, conducting, administering and grading
27 written, examinations and reexaminations for a license,
28 apprentice license and permit;

29 (8) Contracting with third parties to prepare and/or
30 administer the examinations and reexaminations required
31 under the provisions of this article;

32 (9) Determining the passing grade for the examinations;

33 (10) Maintaining records of the examinations and
34 reexaminations the board or a third party administers,
35 including the number of persons taking the examination or
36 reexamination and the pass and fail rate;

37 (11) Maintaining an accurate registry of names and
38 addresses of all persons regulated by the board;

39 (12) Defining, by legislative rule, the fees charged under
40 the provisions of this article;

41 (13) Issuing, renewing, denying, suspending, revoking or
42 reinstating licenses, apprentice licenses and permits;

43 (14) Establishing, by legislative rule, the continuing
44 education requirements for licensees;

45 (15) Suing and being sued in its official name as an
46 agency of this state;

47 (16) Maintaining an office, and hiring, discharging,
48 setting the job requirements and fixing the compensation of
49 employees and investigators necessary to enforce the
50 provisions of this article;

51 (17) Investigating alleged violations of the provisions of
52 this article, the rules promulgated hereunder, and orders and
53 final decisions of the board;

54 (18) Conducting disciplinary hearings of all persons
55 regulated by the board;

56 (19) Setting disciplinary action and issuing orders;

57 (20) Instituting appropriate legal action for the
58 enforcement of the provisions of this article;

59 (21) Keeping accurate and complete records of its
60 proceedings, and certifying the same as may be appropriate;

61 (22) Proposing rules in accordance with the provisions of
62 article three, chapter twenty-nine-a of this code to implement
63 the provisions of this article;

64 (23) Conferring with the Attorney General or his or her
65 assistants in connection with all legal matters and questions;
66 and

67 (24) Taking all other actions necessary and proper to
68 effectuate the purposes of this article.

§30-23-7. Rule making.

1 (a) The board shall propose rules for legislative approval,
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code, to implement the provisions of
4 this article, including:

5 (1) Standards and requirements for licensure, apprentice
6 licensure and permits to practice medical imaging or
7 radiation therapy technology;

8 (2) Procedures for examinations and reexaminations;

9 (3) Requirements for third parties to prepare and/or
10 administer examinations and reexaminations;

11 (4) Educational and experience requirements, and the
12 passing grade on the examination;

13 (5) Standards for approval of courses;

14 (6) Procedures for the issuance and renewal of a license,
15 apprentice license and permit;

16 (7) A fee schedule;

17 (8) Continuing education requirements for licensees;

18 (9) The procedures for denying, suspending, revoking,
19 reinstating or limiting the practice of a licensee or permittee;

20 (10) Requirements for inactive or revoked licenses,
21 apprentice licenses and permits; and

22 (11) Any other rules necessary to effectuate the
23 provisions of this article.

24 (b) All rules in effect on the effective date of this article
25 shall remain in effect until they are amended or repealed, and
26 references to provisions of former enactments of this act are
27 interpreted to mean provisions of this article.

§30-23-8. Fees; special revenue account; administrative fines.

1 (a) All fees and other moneys, except administrative
2 fines, received by the board shall be deposited in a separate
3 special revenue fund in the State Treasury designated the
4 “Board of Examiners of Medical Imaging Technology fund”,
5 which fund is hereby continued. The fund shall be used by
6 the board for the administration of this article. Except as may
7 be provided in article one of this chapter, the board shall
8 retain the amounts in the special revenue account from year
9 to year. No compensation or expense incurred under this
10 article is a charge against the general revenue fund.

11 (b) Any amounts received as fines imposed pursuant to
12 this article shall be deposited into the general revenue fund of
13 the state Treasury.

§30-23-9. Requirements for Radiologic Technology license.

1 (a) To be eligible for a license to practice Radiologic
2 Technology, the applicant must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Have successfully completed an accredited course in
6 Radiologic study technology, as determined by an
7 accreditation body recognized by the board, from a school of
8 Radiologic Technology that has been approved by the board;

9 (4) Have passed the examination prescribed by the board,
10 which examination shall cover the basic subject matter of
11 Radiologic Technology, skills and techniques; and

12 (5) Not have been convicted of a felony under the laws of
13 any state or the United States within five years preceding the
14 date of application for licensure, which conviction remains
15 unreversed; and

16 (6) Not have been convicted of a misdemeanor or a
17 felony under the laws of any state or the United States at any
18 time if the offense for which the applicant was convicted
19 related to the practice of Medical Imaging, which conviction
20 remains unreversed.

21 (b) A person seeking a Radiologic Technology license
22 shall submit an application on a form prescribed by the board
23 and pay the license fee, which fee shall be returned to the
24 applicant if the license application is denied.

25 (c) A Radiologic Technology license issued by the board
26 prior to the first day of July, two thousand seven, shall for all
27 purposes be considered a license issued under this article.

§30-23-10. Scope of Practice for a Radiologic Technologist.

1 The scope of practice of a Radiologic Technologist
2 includes the following:

- 3 (1) Analysis and correlation of procedure requests and
4 clinical information provided by a physician or patient, or
5 both, for pre-procedure determination of the appropriate
6 exam, its extent, and its scope;

- 7 (2) Evaluation of the physical, mental and emotional
8 status of the patient with respect to the ability to understand
9 the risk versus benefit of the procedure and to undergo the
10 procedure requested;

- 11 (3) Selection, preparation, and operation of radiography
12 equipment and accessories to perform procedures;

- 13 (4) Positioning patient to best demonstrate anatomy of
14 interest, while respecting patient's physical limitations and
15 comfort;

- 16 (5) Determination of radiographic exposure factors,
17 setting of factors on control panel, and application of x-ray
18 exposures;

- 19 (6) Application of radiation protection principles to
20 minimize radiation exposure to patient, self, and others;

- 21 (7) Evaluation of images for technical quality;

- 22 (8) Performance of noninterpretive fluoroscopic
23 procedures according to institutional policy;

- 24 (9) Oversight of image processing standards and the
25 appropriate labeling of images;

- 26 (10) Administering contrast media after consultation
27 with, and under the supervision of, a physician who is
28 immediately and physically available;

- 29 (11) Maintaining values congruent with the profession's
30 Code of Ethics and scope of practice as well as adhering to
31 national, institutional and/or departmental standards, policies
32 and procedures regarding delivery of services and patient
33 care; and

34 (12) Performing any other duties that the board authorizes
35 for a Radiologic Technologist.

§30-23-11. Scope of Practice for a Radiation Therapist.

1 The scope of practice for a Radiation Therapist includes
2 the following:

3 (1) Providing Radiation Therapy services by contributing
4 as an essential member of the radiation oncology treatment
5 team through provision of total quality care of each patient
6 undergoing a prescribed course of treatment;

7 (2) Evaluating and assessing treatment delivery
8 components;

9 (3) Providing Radiation Therapy treatment delivery
10 services to cure or improve the quality of life of patients by
11 accurately delivering a prescribed course of treatment;

12 (4) Evaluating and assessing daily, the physical and
13 emotional status of each patient to treatment delivery;

14 (5) Maintaining values congruent with the profession's
15 Code of Ethics and scope of practice as well as adhering to
16 national, institutional and/or departmental standards, policies
17 and procedures regarding treatment delivery and patient care;
18 and

19 (6) Performing any other duties that the board authorizes
20 for a Radiation Therapist.

§30-23-12. Exemptions from Radiologic Technology license.

1 The following persons are not required to obtain a
2 Radiologic Technology license in accordance with the
3 provisions of this article:

4 (1) A Medical Imaging Technology student enrolled in
5 and attending an approved school of Medical Imaging
6 Technology who as part of his or her course of study applies

7 medical imaging technology to a human being under the
8 supervision of a licensed Medical Imaging Technologist;

9 (2) A person acting as a dental assistant or dental
10 hygienist who under the supervision of a licensed dentist
11 operates only radiographic dental equipment for the sole
12 purpose of dental radiography of the oral cavity;

13 (3) A person engaged in performing the duties of a
14 Medical Imaging Technologist in the person's employment
15 by an agency, bureau or division of the government of the
16 United States;

17 (4) A licensed practitioner, Radiologist or Radiology
18 resident;

19 (5) A person licensed as a Radiologist Assistant under the
20 West Virginia Board of Medicine; and

21 (6) A person who demonstrated to the board, prior to the
22 first day of July, one thousand nine hundred ninety-nine, that
23 he or she:

24 (A) Had engaged in the practice of Radiologic
25 Technology for the limited purpose of performing bone
26 densitometry in this state for five or more years;

27 (B) Practiced under the supervision of a licensed
28 practitioner; and

29 (C) Received a densitometry technologist degree certified
30 by the International Society for Clinical Densitometry.

**§30-23-13. Requirements for temporary Radiologic Technology
license.**

1 (a) The board may issue a temporary Radiologic
2 Technology license to engage in the practice of Radiologic
3 Technology in this state to an applicant who meets the
4 qualifications for a Radiologic Technology license, but has
5 not passed the examination.

6 (b) Temporary licenses expire as provided by rule.

**§30-23-14. Radiologic Technology license from another state;
license to practice in this state.**

1 (a) The board may issue a license to practice Radiologic
2 Technology in this state, without requiring an examination,
3 to an applicant from another jurisdiction who:

4 (1) Is not a resident of this state;

5 (2) Is of good moral character:

6 (3) Holds a valid Radiologic Technology license,
7 certificate or other authorization, including the American
8 Registry of Radiologic Technologists, to practice Radiologic
9 Technology in another jurisdiction and meets requirements
10 which are substantially equivalent to the Radiologic
11 Technology licensure requirements set forth in this article;

12 (4) Is not currently being investigated by a disciplinary
13 authority of this state or another jurisdiction, does not have
14 charges pending against his or her license or other
15 authorization to practice Radiologic Technology, and has
16 never had a license or other authorization to practice
17 Radiologic Technology revoked;

18 (5) Has not previously failed an examination for licensure
19 in this state;

20 (6) Has paid all the applicable fees; and

21 (7) Has completed such other action as required by the
22 board.

23 (b) A license, apprentice license or permit is not required
24 for a Medical Imaging or Radiation Therapy Technologist
25 from another jurisdiction, if that person:

26 (1) Is not a resident of this state;

27 (2) Holds a valid Medical Imaging or Radiation Therapy
28 Technology license, certificate or other authorization, to
29 practice Medical Imaging or Radiation Therapy Technology
30 in another jurisdiction and meets requirements which are
31 substantially equivalent to the Medical Imaging or Radiation
32 Therapy Technology licensure requirements set forth in this
33 article;

34 (3) Has no regular place of practice in this state; and

35 (4) Engages in the practice of Medical Imaging or
36 Radiation Therapy Technology in this state for a period of
37 not more than ten days in any calendar year.

§30-23-15. Requirements for Nuclear Medicine Technologist license.

1 (a) To be eligible for a license to practice Nuclear
2 Medicine Technology, the applicant must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Not have been convicted of a felony under the laws of
6 any state or the United States within five years preceding the
7 date of application for licensure, which conviction remains
8 unreversed;

9 (4) Not have been convicted of a misdemeanor or a
10 felony under the laws of any state or the United States at any
11 time if the offense for which the applicant was convicted
12 related to the practice of Medical Imaging, which conviction
13 remains unreversed.

14 (5) Meet one of the following qualifications:

15 (A) Have a baccalaureate or associate degree in one of
16 the physical or biological sciences pertaining to the Medical
17 Imaging or Radiation Therapy profession;

18 (B) Have a baccalaureate or associate degree in other
19 disciplines of Medical Imaging with successful completion of
20 courses in the following areas: college algebra, physics or
21 chemistry, human anatomy, physiology, and radiation safety;

22 (C) National certification as a certified Nuclear Medicine
23 Technologist (CNMT);

24 (D) National certification as a Registered Radiographer
25 (ARRT (R));

26 (E) National certification as a Registered Radiographer
27 specializing in Nuclear Medicine (ARRT (N)); or

28 (F) National certification as a Radiation Therapist
29 (ARRT(T));

30 and

31 (6) Pass an examination which has been approved by the
32 board, with a minimum passing score of seventy-five percent,
33 which examination shall cover the basic subject matter of
34 medical imaging, radiation safety, skills and techniques as it
35 pertains to Nuclear Medicine.

36 (b) A person seeking a Nuclear Medicine Technology
37 license shall submit an application on a form prescribed by
38 the board and pay the license fee, which fee shall be returned
39 to the applicant if the license application is denied.

40 (c) A Nuclear Medicine Technology license issued by the
41 board prior to the first day of July, two thousand seven, shall
42 for all purposes be considered a license issued under this
43 article: *Provided*, That a person holding a Nuclear Medicine
44 Technology license issued prior to the first day of July, two
45 thousand seven, must renew the license pursuant to the
46 provisions of this article.

§30-23-16. Scope of Practice for Nuclear Medicine Technologist.

1 The scope of practice for Nuclear Medicine Technology
2 includes the following:

3 (1) The practice of diagnostic in-vivo procedures and in-
4 vitro procedures which include:

5 (A) Analysis and correlation of procedure request and
6 clinical information provided by the referring physician or
7 patient, or both, for determination of appropriate exam,
8 extent, and scope;

9 (B) Evaluation of the physical and emotional status of the
10 patient with respect to the ability to undergo the procedure
11 requested;

12 (C) Immediate pre-dose review of patient's identification,
13 prescribed dose quantity and route of administration, and
14 identification of the test agent designed to prevent dose
15 mis-administration;

16 (D) Preparation of the appropriate radiopharmaceutical
17 with measurement of dose activity;

18 (E) Administration of appropriate diagnostic dose levels
19 of radiopharmaceuticals;

20 (F) Administration of non-radioactive pharmaceuticals
21 utilized in conjunction with a nuclear medicine imaging or in-
22 vivo procedure, for example, cholecystokinin, furosemide,
23 vitamin B12, in accordance with hospital or facility
24 procedures, excluding narcotic and sedating medication;

25 (G) Selection of appropriate imaging or test parameters,
26 or both;

27 (H) Obtaining images according to established protocols
28 and any special views to optimize information as appropriate;

29 (I) Placement of patient in proper position using
30 supportive materials and immobilizer as necessary;

31 (J) Assuring appropriate image labeling as to patient;

32 (K) Monitoring of patient and equipment during
33 procedure for determination and application of any corrective
34 actions necessary;

35 (L) Monitoring of data collection and processing and
36 performance of technical analysis of test results;

37 (M) Preparation and performance of laboratory in-vivo
38 nuclear medicine procedures, inclusive of the selection and
39 operation of laboratory counting equipment, performance of
40 calculations and data processing necessary for completion of
41 lab procedures and the submission of results to the physician
42 or licensee;

43 (N) Oversight and application of image development; and

44 (O) Performance of in-vitro testing of serum, plasma, or
45 other body fluids using radio immunoassay, or similar ligand
46 assay methods.

47 (2) The practice for handling radiopharmaceuticals which
48 includes:

49 (A) Preparation, by means of tagging, compounding, etc.,
50 in accordance with manufacturer's specifications;

51 (B) Measurement and calculation of activity of
52 radionuclides with a dose calibrator;

53 (C) Application of radioactive decay calculations to
54 determine required volume or unit form necessary to deliver
55 the prescribed radioactive dose; and

56 (D) Recording of radiopharmaceutical information on a
57 patient's permanent record.

58 (3) The practice for radionuclide therapy which includes:

59 (A) Assisting licensee in the preparation and applications
60 of therapeutic radionuclides;

61 (B) Oversight of radiation safety practices related to the
62 handling and administration of radiopharmaceuticals for
63 therapy of patients;

64 (C) Maintenance of records of radioactive material
65 receipt, use, storage, and disposal in accordance with
66 regulatory requirements;

67 (D) Oversight and enforcement of radiation safety
68 policies, practices, and regulations regarding the possession
69 and use of radioactive materials;

70 (E) Performance of radiation safety procedures such as
71 radiation survey and wipe testing of incoming radioactive
72 shipments and facility fixtures;

73 (F) Maintaining values congruent with the profession's
74 code of ethics and scope of practice as well as adhering to
75 national, institutional and/or departmental standards, policies
76 and procedures regarding delivery of services and patient
77 care; and

78 (G) Performing any other duties that the board determines
79 may be performed by a Nuclear Medicine Technologist.

80 (4) The scope of practice for a Nuclear Medicine
81 Technologist to operate a PET/CT unit requires that:

82 (A) The operation of a PET/CT unit that is only capable
83 of producing "nondiagnostic" CT images solely for the
84 purpose of fusion with PET images may be performed by an
85 individual licensed by the board as a Nuclear Medicine
86 Technologist, provided the licensee has obtained proper
87 documented training that has been approved by the board in
88 the radiation safety aspect of the operation of these units; and

89 (B) The operation of a PET/CT unit with the capability of
90 producing "diagnostic" CT images shall require the Nuclear
91 Medicine Technologist dual certification in Nuclear
92 Medicine (ARRT(N) or NMTCB) and Radiologic Technology
93 (ARRT (R)).

§30-23-17. Requirements for Magnetic Resonance Imaging Technologist license.

1 (a) To be eligible for a license to practice Magnetic
2 Resonance Imaging Technology, the applicant must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Not have been convicted of a felony under the laws of
6 any state or the United States within five years preceding the
7 date of application for licensure, which conviction remains
8 unreversed;

9 (4) Not have been convicted of a misdemeanor or a
10 felony under the laws of any state or the United States at any
11 time if the offense for which the applicant was convicted
12 related to the practice of Medical Imaging, which conviction
13 remains unreversed.

14 (5) Meet one of the following qualifications:

15 (A) Have a baccalaureate or associate degree in one of
16 the physical or biological sciences pertaining to the Medical
17 Imaging or Radiation Therapy profession;

18 (B) Have a baccalaureate or associate degree in other
19 disciplines of Medical Imaging with successful completion of
20 courses in the following areas: college algebra, physics or
21 chemistry, human anatomy, physiology, and radiation safety;

22 (C) National certification as a certified Nuclear Medicine
23 Technologist (CNMT);

24 (D) National certification as a registered Radiographer
25 (ARRT (R));

26

27 (E) National certification as a registered Radiographer
28 specializing in Nuclear Medicine (ARRT (N)); or

29

30 (F) National certification as a Radiation Therapist
31 (ARRT(T); and

32 (6) Pass an examination which has been approved by the
33 board, with a minimum passing score of seventy-five percent,
34 which examination shall cover the basic subject matter of
35 Medical Imaging, radiation safety, skills and techniques as it
36 pertains to Magnetic Resonance Imaging.

37 (b) A person seeking a Magnetic Resonance Imaging
38 Technology license shall submit an application on a form
39 prescribed by the board and pay the license fee, which fee
40 shall be returned to the applicant if the license application is
41 denied.

42 (c) A Magnetic Resonance Imaging Technology license
43 issued by the board prior to the first day of July, two
44 thousand seven, shall for all purposes be considered a license
45 issued under this article: *Provided*, That a person holding a
46 Magnetic Resonance Imaging Technology license issued
47 prior to the first day of July, two thousand seven, must renew
48 the license pursuant to the provisions of this article.

**§30-23-18. Scope of Practice for Magnetic Resonance Imaging
Technologist.**

1 The scope of practice for Magnetic Resonance Imaging
2 Technology includes the following:

3 (1) Make arrangements with other departments for
4 ancillary patient services (e.g. transportation, anesthesia)

5 (2) Orient patient and family to requirements necessary
6 for the exam and instruct patient regarding preparation prior
7 to imaging procedures;

8 (3) Assist with scheduling patients and coordinating
9 exams to assure smooth work flow and review patient's chart
10 to verify physician's orders;

11 (4) Assist patient on and off the scanning table and
12 maintain communication and provide reassurance to patient
13 throughout scanning procedure;

14 (5) Obtain patient's medical history prior to scan and
15 observe patient's vital signs, O2 saturation, patient's level of
16 consciousness during scanning procedure, and observe
17 patient's physical status prior to discharge from the scanning
18 procedure;

19 (6) Maintain controlled access to restricted area of strong
20 magnetic field to ensure safety of patients, visitors, and
21 hospital personnel and screen patient for ferrous and RF-
22 sensitive material prior to entrance into magnetic field;

23 (7) Evacuate patient in emergency situation (e.g., quench,
24 code, metallic object);

25 (8) Provide hearing protection to patient and others;

26 (9) Inspect equipment to make sure it is operable and safe
27 (e.g., coils, cables, door seals), perform document and
28 interpret the results of daily QC tests (center frequency,
29 signal to noise, image quality and artifacts);

30 (10) Monitor specific absorption rate (SAR) and cryogen
31 levels

32 (11) Position patient according to type of study indicated
33 and enter patient's data needed to initiate scan

34 (12) Explain the risks of contrast media injections, obtain
35 signed consent form, determine appropriate dose required,
36 program or activate the power injector and administer the
37 contrast media;

38 (13) Select all parameters needed to obtain a highly
39 diagnostic image;

40 (14) Archive images to or retrieve images from data
41 storage devices;

42 (15) Evaluate quality of filmed images and reformat
43 images;

44 (16) Perform automatic or manual frequency tuning;

45 (17) Differentiate between normal and abnormal images
46 to assess completion of procedure;

47 (18) Monitor image production and discriminate between
48 technically acceptable and unacceptable images;

49 (19) Maintaining values congruent with the profession's
50 code of ethics and scope of practice as well as adhering to
51 national, institutional and/or departmental standards, policies
52 and procedures regarding delivery of services and patient
53 care; and

54 (20) Perform any other duties that the board authorizes.

**§30-23-19. Requirements for an apprentice license for Nuclear
Medicine Technologists and Magnetic
Resonance Imaging Technologists.**

1 (a) The board may issue an apprentice license to an
2 individual who is practicing as a Nuclear Medicine
3 Technologist or a Magnetic Resonance Imaging Technologist
4 prior to the first day of July, two thousand seven but has not
5 obtained certification in the discipline. A notarized letter,
6 signed by the individual's supervising licensed physician,
7 must be submitted with the individual's application, stating
8 that the individual has performed the duties of a Nuclear
9 Medicine Technologist or Magnetic Resonance Imaging
10 Technologist prior to the first day of July, two thousand
11 seven.

12 (b) The apprentice license is valid for one year. An
13 apprentice license may be renewed annually for an additional
14 four years, giving the individual a total of five years to

15 complete the requirements and successfully pass the
16 certification examination for a Nuclear Medicine
17 Technologist license or a Magnetic Resonance Imaging
18 Technologist license. All individuals possessing an
19 apprentice license must work under the direct supervision of
20 a licensed practitioner or a technologist who is licensed in
21 that discipline.

22 (c) Any individual possessing a valid Medical Imaging
23 license issued by the Board and seeks to cross-train in the
24 discipline of Nuclear Medicine Technology or Magnetic
25 Resonance Imaging Technology, may obtain an apprentice
26 license in that discipline for the purpose of obtaining the
27 necessary clinical experience requirements in order to qualify
28 to sit for the required examination. This apprentice license
29 will be valid for one year and renewable for one year, giving
30 a cross-trained individual two years to obtain certification in
31 the discipline.

32 (d) Any individual not meeting the certification
33 requirements by the first day of July, two thousand twelve
34 will not be permitted to work as a Nuclear Medicine or
35 Magnetic Resonance Imaging Technologist.

**§30-23-20. Requirements for Podiatric Medical Assistant
permit.**

1 (a) To be eligible for a Podiatric Medical Assistant permit
2 to perform podiatric radiographs, the applicant must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Pass a written examination for certification from the
6 American Society of Podiatric Medical Assistants (ASPMA);

7 (4) Maintain an active certification in the American
8 Society of Podiatric Medical Assistants (ASPMA) and meet
9 all requirements of that organization including the continuing
10 education requirements;

11 (5) Not have been convicted of a felony under the laws of
12 any state or the United States within five years preceding the
13 date of application for licensure, which conviction remains
14 unreversed; and

15 (6) Not have been convicted of a misdemeanor or felony
16 under the laws of any state or the United States at any time if
17 the offense for which the applicant was convicted related to
18 the practice of Radiologic Technology, which conviction
19 remains unreversed.

20 (b) A person seeking a Podiatric Medical Assistant permit
21 shall submit an application on a form prescribed by the board
22 and pay the permit fee, which fee shall be returned to the
23 applicant if the permit application is denied.

24 Upon application for renewal, the permittee shall submit
25 documentation of an active certification in ASPMA and
26 payment of a renewal fee.

27 (c) A Podiatric Medical Assistant permit issued by the
28 board prior to the first day of July, two thousand seven, shall
29 for all purposes be considered a permit issued under this
30 article: *Provided*, That a person holding a Podiatric Medical
31 Assistant permit issued prior to the first day of July, two
32 thousand seven, must renew the permit pursuant to the
33 provisions of this article.

§30-23-21. Scope of practice for Podiatric Medical Assistants.

1 The scope of practice for a Podiatric Medical Assistant
2 includes the following:

3 (a) The use of equipment specifically designed for the
4 performance of foot or ankle podiatric radiographs, as
5 approved by the board; and

6 (b) Performed under the supervision of a licensed
7 Podiatrist.

§30-23-22. License and permit renewal requirements.

1 (a) A licensee and permittee shall annually renew his or
2 her license or permit by completing a form prescribed by the
3 board, paying a renewal fee, and submitting any other
4 information required by the board.

5 (b) The board shall charge a fee for each renewal of a
6 license or permit and a late fee for any renewal not paid in a
7 timely manner.

8 (c) The board shall require as a condition for the renewal
9 of a license and permit that each licensee or permittee
10 complete continuing education requirements.

11 (d) The board may deny an application for renewal for
12 any reason which would justify the denial of an original
13 application for a license or permit.

§30-23-23. Display of license.

1 (a) The board shall prescribe the form for a license and
2 permit and may issue a duplicate license or permit, upon
3 payment of a fee.

4 (b) A licensee shall conspicuously display his or her
5 license at his or her principal place of practice. A photocopy
6 of the original license shall be conspicuously displayed at his
7 or her secondary place of employment.

8 (c) A permittee shall conspicuously display his or her
9 permit at his or her principal place of practice. A photocopy
10 of the original permit shall be conspicuously displayed at his
11 or her secondary place of employment.

**§30-23-24. Refusal to issue or renew, suspension or revocation;
disciplinary action.**

1 (a) The board may refuse to issue, refuse to renew,
2 suspend, revoke or limit any license, apprentice license,

3 permit or practice privilege and may take disciplinary action
4 against a licensee or permittee who, after notice and a
5 hearing, has been adjudged by the board as unqualified for
6 any of the following reasons:

7 (1) Fraud, misrepresentation or deceit in obtaining or
8 maintaining a license or permit;

9 (2) Failure by any licensee or permittee to maintain
10 compliance with the requirements for the issuance or renewal
11 of a license, apprentice license or permit;

12 (3) Dishonesty, fraud, professional negligence in the
13 performance of medical imaging or radiation therapy
14 technology, or a willful departure from the accepted
15 standards of practice and professional conduct;

16 (4) Violation of any provision of this article or any rule
17 promulgated hereunder;

18 (5) Violation of any professional standard or rule of
19 professional conduct;

20 (6) Failure to comply with the provisions of this article or
21 any rule promulgated hereunder;

22 (7) Failure to comply with any order or final decision of
23 the board;

24 (8) Failure to respond to a request or action of the board;

25 (9) Conviction of a crime involving moral turpitude;

26 (10) Conviction of a felony or a crime involving
27 dishonesty or fraud or any similar crime under the laws of the
28 United States, this state or another jurisdiction, if the
29 underlying act or omission involved would have constituted
30 a crime under the laws of this state;

31 (11) Knowingly using any false or deceptive statements
32 in advertising.

33 (12) Any conduct adversely affecting the licensee's or
34 permittee's fitness to perform Medical Imaging or Radiation
35 Therapy Technology; or

36 (13) Except in emergency situations, failed to obtain
37 written authorization from the attending licensed practitioner
38 or from the patient and if the patient is a minor, from a parent
39 or a person having custody of the minor.

40 (b) The board shall suspend or revoke any license or
41 permit if it finds the existence of any grounds which would
42 justify the denial of an application for such license or permit
43 if application were then being made for it.

44 (c) If the board suspends, revokes, refuses to issue,
45 refuses to renew or limits any license, permit or practice
46 privilege, the board shall make and enter an order to that
47 effect and give written notice of the order to the person by
48 certified mail, return receipt requested, which order shall
49 include a statement of the charges setting forth the reasons
50 for the action, and notice of the date, time and place of the
51 hearing. If a license or permit is ordered suspended or
52 revoked, then the licensee or permittee shall, within twenty
53 days after receipt of the order, return the license, apprentice
54 license or permit to the board. The hearing shall be held in
55 accordance with the provisions of this article.

56 (d) Disciplinary action includes, but is not limited to, a
57 reprimand, censure, probation, administrative fines, and
58 mandatory attendance at continuing education seminars.

§30-23-25. Complaints; investigations; notice.

1 (a) The board may, on its own motion, conduct an
2 investigation to determine whether there are any grounds for
3 disciplinary action against a licensee or permittee. The board
4 shall, upon the verified written complaint of any person,
5 conduct an investigation to determine whether there are any
6 grounds for disciplinary action against a licensee or
7 permittee. For the purposes of an investigation, a member of
8 the board or the executive director of the board may issue

9 subpoenas and subpoenas duces tecum to obtain testimony
10 and documents to aid in the investigation.

11 (b) Upon receipt of a written complaint filed against any
12 licensee or permittee, the board shall provide a copy of the
13 complaint to the licensee or permittee.

14 (c) If the board finds, upon investigation, that probable
15 cause exists that the licensee or permittee has violated any
16 provision of this article or the rules promulgated hereunder,
17 then the board shall serve the licensee or permittee with a
18 written statement of charges and a notice specifying the date,
19 time and place of the hearing. The hearing shall be held in
20 accordance with the provisions of this article.

§30-23-26. Hearing and judicial review.

1 (a) Any person adversely affected by an order entered by
2 the board is entitled to a hearing. A hearing on a statement
3 of the charges shall be held in accordance with the provisions
4 for hearings set forth in article one of this chapter and the
5 procedures specified by the board by rule.

6 (b) Either party may elect to have an administrative law
7 judge or hearing examiner conduct the hearing and must
8 notify the other party of the election. The administrative law
9 judge or hearing examiner, at the conclusion of a hearing,
10 shall prepare a proposed order which shall contain findings
11 of fact and conclusions of law. Disciplinary action may be a
12 part of the proposed order, or the board may reserve this
13 obligation for its consideration. The board may accept, reject
14 or modify the decision of the administrative law judge or
15 hearing examiner.

16 (c) For the purpose of conducting a hearing, a member of
17 the board or the executive director of the board may issue
18 subpoenas and subpoenas duces tecum which shall be issued,
19 served, and enforced as specified in section one, article five,
20 chapter twenty-nine-a of this code, and all of the said section
21 one provisions dealing with subpoenas and subpoenas duces
22 tecum shall apply to subpoenas and subpoenas duces tecum
23 issued for the purpose of a hearing hereunder.

24 (d) If, after a hearing, the board determines the licensee
25 or permittee has violated any provision of this article, or the
26 board's rules, a formal decision shall be prepared and signed
27 by a member of the board or the executive director of the
28 board, which contains findings of fact, conclusions of law
29 and specifically lists the disciplinary actions imposed.

30 (e) Any licensee or permittee adversely affected by any
31 decision of the board entered after a hearing, may obtain
32 judicial review of the decision in accordance with section
33 four, article five, chapter twenty-nine-a of this code, and may
34 appeal any ruling resulting from judicial review in
35 accordance with article five, chapter twenty-nine-a of this
36 code.

37 (f) In addition to any other sanction imposed, the board
38 may require a licensee or permittee to pay the costs of the
39 proceeding.

§30-23-27. Injunctions.

1 (a) When, by reason of an investigation under this article
2 or otherwise, the board or any other interested person
3 believes that a person has violated or is about to violate any
4 provision of this article, any rule promulgated hereunder, any
5 order of the board or any final decision of the board, the
6 board or any other interested person may apply to any court
7 of competent jurisdiction for an injunction against such
8 person enjoining such person from the violation. Upon a
9 showing that the person has engaged in or is about to engage
10 in any prohibited act or practice, an injunction, restraining
11 order or other appropriate order may be granted by the court
12 without bond.

13 (b) The board may fine and/or issue cease and desist
14 orders against individuals and/or firms found to be in
15 violation of the provisions of this article or any rule adopted
16 thereunder.

17 (c) A cause of action by the board may be brought in the
18 Circuit Court of Kanawha County or in the Circuit Court of
19 the county where the cause of action took place.

§30-23-28. Criminal proceedings; penalties.

1 (a) When, as a result of an investigation under this article
2 or otherwise, the board has reason to believe that a person has
3 knowingly violated the provisions of this article, the board
4 may bring its information to the attention of the Attorney
5 General or other appropriate law-enforcement officer who
6 may cause appropriate criminal proceedings to be brought.

7 (b) If a court of law finds that a person knowingly
8 violated any provision of this article, any rule promulgated
9 hereunder, any order of the board or any final decision of the
10 board, then the person is guilty of a misdemeanor, and upon
11 conviction thereof, shall be fined not less than one hundred
12 dollars and no more than one thousand dollars for each
13 violation, imprisoned for up to six months for each violation,
14 or both fined and imprisoned.

§30-23-29. Single act evidence of practice.

1 In any action brought or in any proceeding initiated under
2 this article, evidence of the commission of a single act
3 prohibited by this article is sufficient to justify a penalty,
4 injunction, restraining order or conviction without evidence
5 of a general course of conduct.

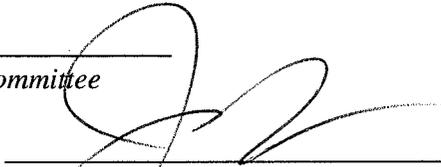
**§30-23-30. Continuation of the West Virginia Medical Imaging
and Radiation Therapy Technology Board of
Examiners.**

1 Pursuant to the provisions of article ten, chapter four of
2 this code, the West Virginia Medical Imaging and Radiation
3 Therapy Technology Board of Examiners shall continue to
4 exist until the first day of July, two thousand twelve, unless
5 sooner terminated, continued or reestablished.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



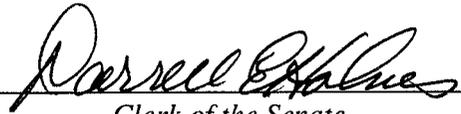
Chairman Senate Committee



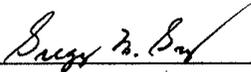
Chairman House Committee

Originating in the House.

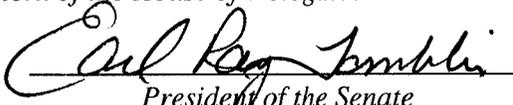
In effect ninety days from passage.



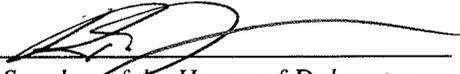
Clerk of the Senate



Clerk of the House of Delegates

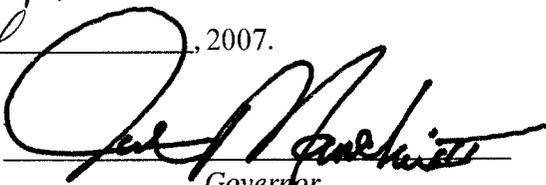


President of the Senate



Speaker of the House of Delegates

The within is approved this the 4th
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2007

Time 3:50 pm