WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

SECOND ENROLLMENT

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2423

(By Delegate Morgan)

Amended and again passed May 27, 2009, as a result of the objections of the Governor

In Effect From Passage
AN ACT to amend and reenact §30-23-4, §30-23-5, §30-23-6, §30-23-9, §30-23-10, §30-23-13, §30-23-14, §30-23-16, §30-23-17 and §30-23-19 of the Code of West Virginia, 1931, as amended, all relating to the practice of medical imaging and radiation therapy technology; updating terminology; revising the powers and duties of the board; removing the licensure exemption for limited practice; clarifying scopes of practice; revising licensure requirements; revising supervision requirements for apprentices; and extending the length of time an apprentice may be licensed.

Be it enacted by the Legislature of West Virginia:

That §30-23-4, §30-23-5, §30-23-6, §30-23-9, §30-23-10, §30-23-13, §30-23-14, §30-23-16, §30-23-17 and §30-23-19 of the
Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-4. Definitions.

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

(a) “ASPMA” means the American Society of Podiatric Medical Assistants.

(b) “ARMRIT” means the American Registry of Magnetic Resonance Imaging Technologists.

(c) “ARRT” means the American Registry of Radiologic Technologist.

(d) “Board” means the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.

(e) “Business entity” means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity providing medical imaging or radiation therapy technology.

(f) “Dental X-rays” means X-rays taken of the oral cavity with x-ray units designed for this specific performance.

(g) “JRCERT” means the Joint Review Committee on Education in Radiologic Technology.

(h) “JRCNMT” means the Joint Review Committee on Education Programs in Nuclear Medicine Technology.
(i) "License'' means a medical imaging and radiation therapy technology license issued under the provisions of this article.

(j) "Licensed practitioner'' means a person licensed in West Virginia to practice medicine, chiropractic, podiatry, osteopathy or dentistry.

(k) "Licensee'' means a person holding a license issued under the provisions of this article.

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

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

(n) "NMTCB'' means the Nuclear Medicine Technology Certification Board.

(o) "Nuclear Medicine Technologist'' means a person holding a nuclear medicine license issued under the provisions of this article.

(p) "Nuclear Medicine Technology'' means the compounding, calibrating, dispensing and administarting of radio-pharmaceuticals, pharmaceuticals and radio-nuclides under the direction of an individual listed as an authorized user by the U.S. Nuclear Regulatory Commission for the production of images for diagnosis and/or treatment of various disorders.

(q) "Permittee'' means any person holding a podiatric medical assistant permit issued pursuant to the provisions of this article.
(r) "PET/CT Technologist" means an individual recognized by the board as qualified to operate a PET/CT scanner.

(s) "PET/CT Technology" means the operation of a Positron Emission Tomography/Computerized Tomography scanner to view internal images of the body.

(t) "Podiatric medical assistant" means a person who has been issued a permit under the provisions of this article, to perform podiatric radiographs.

(u) "Podiatric radiographs" means radiographs confined to the foot and ankle performed on dedicated podiatric X-ray equipment.

(v) "Practice of Medical Imaging and Radiation Therapy Technology" means the practice of Radiologic Technology, Radiation Therapy, Nuclear Medicine Technology and Magnetic Resonance Imaging Technology.

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

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

(y) "Radiologist" means a licensed practitioner who has successfully completed a residency in the field of Radiology and specializes in the use of medical imaging for the diagnosis or treatment of disease.
(z) "Radiologist Assistant or RA" means an individual who is licensed under the rules of the West Virginia Board of Medicine and has completed specialized training from an accredited program in the profession and passed a written examination as recognized by the West Virginia Board of Medicine.

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

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

(cc) "Technology" means Medical Imaging Technology or Radiation Therapy Technology.

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

(a) The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners is continued. The members of the board in office, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) The board shall consist of the following eleven members, appointed by the Governor by and with the advice and consent of the Senate:

(1) One Radiologic Health Specialist from the Radiation, Toxics and Indoor Air Division of the West Virginia Department of Health and Human Resources;
(2) Three licensed practitioners, two of whom shall be Radiologists;

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

(4) One licensed Nuclear Medicine Technologist;

(5) One licensed Magnetic Resonance Imaging Technologist; and

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

(c) Each member shall be appointed for a term of three years and may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member continues to serve until a successor has been appointed and has qualified. The terms shall be staggered in accordance with the initial appointments under prior enactments of this article.

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

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

(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.
(g) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

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

(i) The board shall designate one of its members as chairperson and one member as secretary who shall serve at the will of the board.

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

(k) A majority of the members serving on the board shall constitute a quorum.

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

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

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

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

(1) Hold meetings, conduct hearings and administer examinations;

(2) Establish requirements for a license, apprentice license and permit;

(3) Establish procedures for submitting, approving and rejecting applications for a license, apprentice license and permit;

(4) Determine the qualifications of any applicant for a license, permit, certificate and registration;

(5) Provide standards for approved schools of Medical Imaging and Radiation Therapy Technology, procedures for obtaining and maintaining approval, and procedures of revocation of approval where standards are not maintained: Provided, That the standards for approved schools meet at least the minimal requirements of the American Registry of Radiologic Technologist JRCERT, JRCNMT or standards determined programmatically equivalent by the board;

(6) Work with the West Virginia Board of Medicine to determine the scope of practice, the required education and training, and the type of regulations necessary for Radiologist;

(7) Prepare, conduct, administer and grade written, oral or written and oral examinations for a license, certificate and registration;

(8) Determine the passing grade for the examinations;
(9) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;

(10) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees and contract with persons necessary to enforce the provisions of this article;

(11) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;

(12) Conduct disciplinary hearings of persons regulated by the board;

(13) Determine disciplinary action and issue orders;

(14) Institute appropriate legal action for the enforcement of the provisions of this article;

(15) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(16) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(17) Establish, by legislative rule, the continuing education requirements for licensees, permittees, certificate holders and registrants; and

(18) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article.

(c) The board may:
(1) Contract with third parties to administer the examinations required under the provisions of this article;

(2) Define, by legislative rule, the fees charged under the provisions of this article;

(3) Issue, renew, deny, suspend, revoke or reinstate a license, permit, certificate and registration;

(4) Sue and be sued in its official name as an agency of this state;

(5) Confer with the Attorney General or his or her assistant in connection with legal matters and questions; and

(6) Take all other actions necessary and proper to effectuate the purposes of this article.

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

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

(1) Be of good moral character;

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

(3) Have successfully completed an accredited program in Radiologic technology, as determined by an accreditation 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 under the laws of any state or the United States within five years preceding the date of application for licensure, which conviction remains unreversed; and

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

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

(c) A Radiologic Technology license issued by the board prior to July 1, 2009, shall for all purposes be considered a license issued under this article.

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

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

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

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

(3) Selection, preparation, and operation of medical imaging equipment and accessories to perform procedures;
(4) Positioning patient to best demonstrate anatomy of interest, while respecting patient's physical limitations and comfort;

(5) Determination of imaging exposure factors, setting of factors on control panel, and application of medical imaging exposures;

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

(7) Evaluation of images for technical quality;

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

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

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

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

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

§30-23-13. Requirements for temporary Medical Imaging and Radiation Therapy Technology license.
(a) The board may issue a temporary Medical Imaging and Radiation Therapy Technology license to engage in the practice of Medical Imaging and Radiation Therapy Technology in this state to an applicant who meets the qualifications for a Medical Imaging and Radiation Therapy Technology license, but has not passed the examination.

(b) Temporary licenses expire as provided by rule.

§30-23-14. Medical Imaging and Radiation Therapy Technology license from another state; license to practice in this state.

The board may issue a license to practice Medical Imaging and Radiation Therapy Technology in this state, without requiring an examination, to an applicant from another jurisdiction who:

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

2. (2) Is of good moral character;

3. (3) Holds a valid Medical Imaging and Radiation Therapy Technology license, certificate or other authorization, including the American Registry of Radiologic Technologists, or Nuclear Medicine Technology Certification Board or equivalent to practice Medical Imaging and Radiation Therapy Technology in another jurisdiction and meets requirements which are substantially equivalent to the Medical Imaging and Radiation Therapy Technology licensure requirements set forth in this article;

4. (4) Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her license or other authorization to practice Medical Imaging and Radiation Therapy Technology.
20 Therapy Technology, and has never had a license or other
21 authorization to practice Medical Imaging and Radiation
22 Therapy Technology revoked;

23 (5) Has not previously failed an examination for licensure
24 in this state;

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

26 (7) Has completed other action as required by the board.


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

3 (1) The practice of diagnostic in-vivo procedures and
4 in-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 predose 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;
(E) Administration of appropriate diagnostic dose levels of radiopharmaceuticals;

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

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

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

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

(J) Assuring appropriate image labeling as to patient;

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

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

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

(N) Oversight and application of image development; and
(O) Performance of in-vitro testing of serum, plasma, or other body fluids using radio immunoassay, or similar ligand assay methods.

(2) The practice for handling radiopharmaceuticals which includes:

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

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

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

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

(3) The practice for radionuclide therapy which includes:

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

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

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

(D) Oversight and enforcement of radiation safety policies, practices, and regulations regarding the possession and use of radioactive materials;
(E) Performance of radiation safety procedures such as radiation survey and wipe testing of incoming radioactive shipments and facility fixtures;

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

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

(4) The scope of practice for a Nuclear Medicine Technologist or certified PET Technologist to operate a multimodality device, i.e. PET/CT, SPECT/CT etc, requires that:

(A) A Nuclear Medicine Technologist, (ARRT(N) or NMTCB) or certified PET Technologist may administer radiopharmaceuticals and/or ionizing radiation from an integrated multimodality device, if the ionizing radiation is produced for the sole purpose of attenuation correction and considered an essential component of the procedure, provided the licensee has obtained proper documented training that has been approved by the board in the radiation safety aspect of the operation of these units; and

(B) A licensed radiographer, (ARRT(R)), or Nuclear Medicine Technologist with an additional certification by the ARRT or other nationally recognized certifying body in computed tomography, shall operate the computed tomography scanner if it is used for any other diagnostic radiographic procedures.
§30-23-17. Requirements for Magnetic Resonance Imaging Technologist license.

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

1. Be of good moral character;

2. Have a high school diploma or its equivalent;

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

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

5. Meet one of the following qualifications:

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

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

(C) National certification as a certified Nuclear Medicine Technologist (CNMT);
(D) National certification as a Registered Radiographer (ARRT (R));

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

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

(G) National certification as an MRI technologist (ARRT (MR) or ARMRIT); and

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

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

(c) A Magnetic Resonance Imaging Technology license issued by the board prior to July 1, 2007, shall for all purposes be considered a license issued under this article: Provided, That a person holding a Magnetic Resonance Imaging Technology license issued prior to July 1, 2007, must renew the license pursuant to the provisions of this article.

(a) The board may issue an apprentice license to an individual who is practicing as a Nuclear Medicine Technologist or a Magnetic Resonance Imaging Technologist prior to July 1, 2007 but has not obtained certification in the discipline. A notarized letter, signed by the individual’s supervising licensed physician, must be submitted with the individual’s application, stating that the individual has performed the duties of a Nuclear Medicine Technologist or Magnetic Resonance Imaging Technologist prior to July 1, 2007.

(b) The apprentice license is valid for one year. An apprentice license may be renewed annually for an additional four years, giving the individual a total of five years to complete the requirements and successfully pass the certification examination for a Nuclear Medicine Technologist license or a Magnetic Resonance Imaging Technologist license. All individuals possessing an apprentice license must work under the supervision of a licensed practitioner for MRI, an authorized user for nuclear medicine or a technologist who is licensed in that discipline.

(c) Any individual possessing a valid Medical Imaging license issued by the board and seeks to cross-train in the discipline of Nuclear Medicine Technology or Magnetic Resonance Imaging Technology, may obtain an apprentice license in that discipline for the purpose of obtaining the necessary clinical experience requirements in order to qualify to sit for the required examination. This apprentice license will be valid for one year and renewable for four year, giving a cross-trained individual five years to obtain certification in the discipline.
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 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 5th day of June 2009.
PRESENTED TO THE GOVERNOR

JUN - 1 2009

Time 10:10 AM