

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 64
93RD GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, April 7, 2005, with recommendation that the Senate Committee Substitute do pass.

0409S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 334, RSMo, by adding thereto eleven new sections relating to the medical imaging and radiation therapy quality assurance act, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 334, RSMo, is amended by adding thereto eleven new sections, to be known as sections 334.1000, 334.1003, 334.1006, 334.1009, 334.1012, 334.1015, 334.1018, 334.1021, 334.1024, 334.1027, and 334.1030, to read as follows:

334.1000. Sections 334.1000 to 334.1030 shall be known and may be cited as the "Medical Imaging and Radiation Therapy Quality Assurance Act of 2005".

334.1003. As used in sections 334.1000 to 334.1030, the following terms mean:

(1) "Board", the medical imaging and radiation therapy board of examiners created in section 334.1012;

(2) "Dental radiographer", a person, other than a licensed practitioner or person who administers medical imaging or radiation therapy procedures, whose duties are restricted to radiography of the maxilla and mandible for diagnostic purposes;

(3) "Director", the director of the division of professional registration within the department of economic development;

(4) "License", a certificate issued by the board authorizing the licensee to use radioactive materials, medical imaging, or radiation therapy equipment on humans for diagnostic or therapeutic purposes in accordance with sections 334.1000 to 334.1030;

(5) "Licensed practitioner", a person licensed to practice medicine, dentistry, dental hygiene, podiatry, chiropractic, osteopathy, or as a registered nurse in this state;

(6) "Limited permit", a certificate issued by the board authorizing a person

to conduct diagnostic radiology examinations that is limited to the performance of specific medical imaging procedures on specific parts of the human body, such as chest, spine, or extremity radiography;

(7) "Medical imaging", any procedures or article intended for use in the diagnosis of disease or other medical or dental conditions, including but not limited to, diagnostic x-rays and nuclear medicine;

(8) "Nuclear medicine technologist", a person, other than a licensed practitioner, who uses radiopharmaceutical agents on humans for diagnostic or therapeutic purposes;

(9) "Persons who administer medical imaging or radiation therapy procedures", any person, other than a licensed practitioner, who intentionally administers medical imaging or radiation therapy procedures to other persons for medical purposes, and includes radiographers, radiation therapists, and nuclear medicine technologists licensed under sections 334.1000 to 334.1030;

(10) "Public member", a person who is a resident of this state but who is not a licensed practitioner, a person who administers medical imaging and radiation therapy procedures, or a dental radiographer under sections 334.1000 to 334.1030;

(11) "Radiation therapist", a person, other than a licensed practitioner, who applies radiation to humans for therapeutic purposes;

(12) "Radiation therapy", any radiation procedure or article intended for the cure, mitigation, or prevention of disease in humans;

(13) "Radiologic physicist", a person who is certified by the American Board of Radiology in radiological physics or one of the subspecialties of radiological physics, or is eligible for such certification;

(14) "Radiographer", a person, other than a licensed practitioner, who applies radiation to humans for diagnostic purposes;

(15) "Radiologist", a physician certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or the Canadian College of Physicians and Surgeons;

(16) "Temporary license", a certificate issued by the board authorizing an applicant to perform medical imaging and radiation therapy procedures when his or her licensure or relicensure is pending before the board and when issuance may be justified by special circumstances as determined by the board.

334.1006. 1. No person, other than a licensed practitioner, a person who administers medical imaging and radiation therapy procedures, or a dental radiographer shall perform medical imaging or radiation therapy procedures on humans for diagnostic or therapeutic purposes. These restrictions shall not apply to animals or the practice of veterinary medicine.

2. The medical imaging and radiation therapy board of examiners shall establish licensure standards for the radiographer (R), radiation therapist (T), nuclear medicine technologist (N), dental radiographer (D), limited permit holder, and temporary license holder. Persons holding such licenses shall be recognized by this nomenclature.

3. A person holding a license under sections 334.1000 to 334.1030 shall use radioactive substances or equipment for medical imaging and radiation therapy procedures on humans only for diagnostic or therapeutic purposes by prescription of a licensed practitioner, and only if the application of a substance or the use of equipment is limited in a manner specified in sections 334.1000 to 334.1030.

4. Nothing in sections 334.1000 to 334.1030 relating to medical imaging, radiation therapy, or dental radiography shall limit, enlarge, or affect the practice of licensed practitioners as defined in section 334.1003.

5. The requirement of a license shall not apply to a diagnostic medical sonographer or a resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygienist, medical imaging, or radiation therapy who performs medical imaging or radiation therapy procedures on humans while under the supervision of a licensed practitioner or direct supervision of a radiographer, radiation therapist, or nuclear medicine technologist holding a license under sections 334.1000 to 334.1030.

334.1009. 1. There is hereby established the "Medical Imaging and Radiation Therapy Board of Examiners" which shall consist of eleven members appointed by the governor with the advice and consent of the senate. All members of the board shall be residents of this state. Of the eleven board members, five shall be persons who administer medical imaging and radiation therapy procedures, two shall be radiologists, two shall be other licensed practitioners, one shall be a radiologic physicist, and one shall be a public member.

2. The term of office for each member of the board shall be three years; except that, of the members first appointed three shall be appointed to a term of one year, four shall be appointed to a term of two years, and four shall be appointed to a term of three years. Vacancies shall be filled for an unexpired term only in the manner provided by original appointment.

3. Persons who administer medical imaging or radiation therapy procedures appointed to the board for terms beginning thirty-six months following issuance of a license in any category by the board shall hold a valid license in any category issued by the board.

4. Notwithstanding any other provision of law to the contrary, any

appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for board business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule the guidelines for payment.

5. The director of the division of professional registration shall designate an officer or employee of the state to act as an executive director of the board who shall not be a member of the board. The director shall furnish staff, logistics, budget, and other support to the board as appropriate.

6. No public member shall have any association or relationship with a licensed practitioner, person who administers medical imaging or radiation therapy procedures, or dental radiographer that would prevent or in any way hinder the public member in representing the interest of the public.

7. For administrative purposes, the board shall meet at least once every three months at times and places of its choosing. The first meeting of the board shall be for organization only, in which the board will set forth its responsibilities and rules. The board shall elect its own president and secretary, each to serve for a term of one year.

8. A majority of the voting members shall constitute a quorum. No action shall be taken by the board except by an affirmative vote of the majority of those members present and voting.

9. The board shall be responsible for setting and implementing policies for licensing individuals, accrediting programs, imposing discipline, and hearing appeals. The board may employ legal counsel.

10. No licensing activity or other statutory requirements shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required to administer the provisions of sections 334.1000 to 334.1030 and the initial rules filed have become effective.

334.1012. 1. The board shall admit to examination for licensure any applicant who pays a nonrefundable fee established by rule of the board and submits satisfactory evidence, verified by oath or affirmation, that the applicant:

(1) At the time of application, the applicant is at least eighteen years of age; and

(2) Has successfully completed a four-year course of study in a secondary school approved by the state board of education, or passed an approved equivalency test.

2. In addition to the requirements in subsection 1 of this section, any person seeking to obtain a license in a specific area of medical imaging and radiation

therapy shall comply with the following requirements:

(1) Each applicant for a license as a radiographer, radiation therapist, nuclear medicine technologist, or dental radiographer shall have satisfactorily completed a course of study in radiography, radiation therapy, nuclear medicine, or dental radiography, respectively, or an equivalent to be determined by the board;

(2) The curriculum for each course of study shall be based on the standards approved by the Joint Review Committee on Education in Radiologic Technology, the Joint Review Committee on Nuclear Medicine Technology, or other appropriate accreditation agencies approved by the board.

3. The board shall establish criteria and standards within the state for educational programs in medical imaging and radiation therapy, and approve such programs upon finding that the criteria and standards have been met.

4. In addition to the requirements in subsection 1 of this section, any person seeking a license in dental radiography shall comply with the following requirements:

(1) Each applicant for a license as a dental radiographer shall have satisfactorily completed a course of study for dental radiography, or its equivalent, as determined by the board; and

(2) The curriculum for the course of study may follow, and shall be no less stringent than the standards approved by the section on Oral Radiology of the American Association of Dental Schools, provided such standards are not in conflict with board policy.

5. In addition to the requirements of subsection 1 of this section, any person seeking a limited permit in radiography shall comply with the following requirements:

(1) The scope of each limited permit is restricted as follows:

(a) Chest radiography permit: radiography of the thorax, heart, and lungs;

(b) Extremities radiography permit: radiography of the upper and lower extremities;

(c) Spine radiography permit: radiography of the vertebral column.

6. For a period not to exceed three years from the effective date of sections 334.1000 to 334.1030, the board shall waive the examination requirement for licensure of a person who has been employed for a minimum of three of the immediately preceding five years as a radiographer, radiation therapist, nuclear medicine technologist, or dental radiographer if the person demonstrates competency to the satisfaction of the board through:

(1) Successful completion of a board-approved examination that shall cover

fundamental principals of radiographic imaging and radiation safety; or

(2) Review of medical facility training and competency verification records compiled under facility licensure requirements, internal quality assurance standards established by the governing board of the facility, or facility accreditation standards.

7. If the person is unable to successfully complete the test as defined in subsection 1 of this section in three or less attempts, the person shall submit to an on-site competency evaluation conducted by the board.

8. The person shall submit proof of having successfully completed the continuing education courses as a requirement for renewal as prescribed by rule of the board.

334.1015. 1. An approved program of medical imaging and radiation therapy may be offered by a medical, dental facility, educational institution, or other public or private agency or institution. The program shall be affiliated with one or more hospitals or dental schools that, in the opinion of the board and the appropriate accrediting agency, shall provide the requisite clinical education.

2. The board shall by rule:

(1) Adopt procedures for an educational program to follow in making application for accreditation;

(2) Provide a process for review of such accreditation by an existing accreditation agency and approval by a recognized national voluntary accrediting organization.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 334.1000 to 334.1030 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

334.1018. 1. Each applicant for licensure shall be required to pass a license examination designed and approved by the board.

2. The board shall hold an examination at least quarterly at times and places as the board may determine.

3. An applicant who fails to pass the examination may reapply for the examination provided the applicant complies with the rules established by the board.

4. The board shall accept, in lieu of its own examination:

(1) A current certificate by the American Registry of Radiologic Technologists or Nuclear Medicine Technologist Certification Board;

(2) A current certificate issued on the basis of a satisfactory completion of the certification examination given by the Dental Assisting National Board, Inc., or the National Board of Dental Examiners;

(3) A limited scope radiography examination administered by the American Registry of Radiologic Technologists for persons applying for a limited permit in chest, extremity, or spine radiography.

5. The board may accept, in lieu of its own examination:

(1) A current certificate from a recognized national voluntary credentialing body not described in subsection 4 of this section that is issued on the basis of an examination satisfactory to the board, provided that the standards of such credentialing body are at least as stringent as those established by the board;

(2) A current certificate, registration, or license as a person who administers medical imaging and radiation therapy procedures issued by another state, provided that the standards in the other state are at least as stringent as those established by the board;

(3) A current certificate from a national voluntary credentialing body not described in subsection 4 of this section for persons applying for a limited permit in chest, extremity, or spine radiography, provided that the standards of such credentialing body are at least as stringent as those established by the board.

334.1021. 1. The board may issue a license to each applicant who has either successfully passed the examination or qualified under subsection 4 of section 334.1018 and has paid the prescribed fees.

2. The board may at its discretion issue a temporary license to any person whose licensure or relicensure may be pending and when issuance may be justified by special circumstances. A temporary license shall be issued only if the board finds that it will not violate the purpose of sections 334.1000 to 334.1030 or endanger the public health and safety. A temporary license shall expire ninety days after the date of the next examination if the applicant is required to take the examination, or if the applicant does not take the examination, then on the date of the examination. In all cases, a temporary license shall expire when the determination is made either to issue or deny the applicant a regular license and in no event shall a temporary license be issued for a period longer than one hundred eighty days.

3. Holders of a license under sections 334.1000 to 334.1030 shall display the official license document or a verified copy in each place of regular employment.

4. The board shall renew a license for a period of two years upon payment of the renewal fee set by the board. Continuing education requirements may also be set by rule of the board.

5. A licensee holding a license or permit under sections 334.1000 to 334.1030 whose license has lapsed and who has ceased activities as such for more than five years may apply for relicensure upon payment of a fee set by the board. Continuing education requirements may also be set by the board.

6. A licensee holding a license or permit under sections 334.1000 to 334.1030 shall notify the board in writing within thirty days of any name or address change.

334.1024. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 334.1000 to 334.1030 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 334.1000 to 334.1030 or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 334.1000 to 334.1030;

(2) The person has been finally adjudicated and found guilty, or entered a

plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 334.1000 to 334.1030, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to sections 334.1000 to 334.1030 or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by sections 334.1000 to 334.1030;

(5) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to sections 334.1000 to 334.1030;

(6) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(7) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by sections 334.1000 to 334.1030 by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of any profession regulated pursuant to sections 334.1000 to 334.1030 while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(8) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(9) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 334.1000 to 334.1030 who is not licensed and currently eligible to practice pursuant to sections 334.1000 to 334.1030;

(10) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(11) Failure to display a valid certificate or license if so required by sections

334.1000 to 334.1030 or any rule promulgated pursuant to sections 334.1000 to 334.1030;

(12) Impersonating a licensee or permittee or former licensee or former permittee, or performing duties of a dental radiographer, or a person who administers medical imaging or radiation therapy procedures under an assumed name;

(13) Violation of a code of ethics that the board may establish by rule;

(14) Performing medical imaging or radiation therapy procedures without supervision of a licensed practitioner, or radiographer, radiation therapist, nuclear medicine technologist holding a license under sections 334.1000 to 334.1030;

(15) Interpreting a diagnostic image for a physician, a patient, the patient's family, or the public.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing education courses and pass such examinations as the board may direct.

4. Before restoring to good standing a license issued pursuant to sections 334.1000 to 334.1030 that has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.

5. No person shall knowingly employ as a radiographer, radiation therapist, nuclear medicine technologist, dental radiographer, or any person to perform medical imaging or radiation therapy procedures who does not hold a license under sections 334.1000 to 334.1030.

334.1027. Any person who violates the provisions of sections 334.1000 to

334.1030, or any rule or order made under sections 334.1000 to 334.1030, is guilty of a class A misdemeanor and shall be subject to the sanctions of subsection 2 of this section, or other appropriate punishment.

334.1030. 1. There is hereby established in the office of the state treasurer a fund to be known as the "Medical Imaging and Radiation Therapy Board of Examiners Fund". All fees of any kind and character authorized to be charged by the board shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund, to be disbursed only in payment of expenses of maintaining the board and for the enforcement of the provisions of law concerning professions regulated by the board; and no other money shall be paid out of the state treasury for carrying out these provisions. Warrants shall be issued on the state treasurer for payment out of said fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. The board shall charge each person applying to and appearing before it for examination for certificate of licensure to practice, an examination fee. Should the examination prove unsatisfactory and the board refuse to issue a license thereon, the applicant failing to pass the examination may return to any meeting and be examined upon payment of a reexamination fee.