

FIRST REGULAR SESSION

# SENATE BILL NO. 64

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Pre-filed December 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

0409S.011

## AN ACT

To amend chapter 334, RSMo, by adding thereto nine 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 nine new sections, to be known as sections 334.1000, 334.1003, 334.1006, 334.1009, 334.1012, 334.1015, 334.1018, 334.1021, and 334.1024, to read as follows:

**334.1000. Sections 334.1000 to 334.1024 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 334.1024, 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 334.1024;

(5) "Licensed practitioner", a person licensed to practice medicine, dentistry, 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 procedure 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 334.1024;

(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 334.1024;

(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.

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 334.1024 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 334.1024.

4. Nothing in sections 334.1000 to 334.1024 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 resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry, 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 334.1024.

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. Members of the board shall not receive compensation for their service on the board, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties as members of the board.

5. The director of the division of professional registration shall designate an officer or employee of the state to act as a secretary 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.

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.

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 no less stringent than 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, provided the standards are not in conflict with board policy.

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 scope of each limited permit and is restricted as follows:

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

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

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

6. For a period not to exceed two years from the effective date of sections 334.1000 to 334.1024, the board shall admit to examination for licensure 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. 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.

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 every six months

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 may accept, in lieu of its own examination:

(1) Current certificate by the American Registry of Radiologic Technologists, Nuclear Medicine Technologist Certification Board, or other recognized national voluntary credentialing bodies issued on the basis of an examination satisfactory to the board, provided that the standards of such 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 states are at least as stringent as those established by the board;

(3) 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, provided that the standards of either national board are at least as stringent as those established by the board;

(4) A limited scope radiography examination administered by the American Registry of Radiologic Technologists or other recognized national voluntary credentialing bodies for persons applying for a limited permit in chest, extremity, or spine radiography, provided that the standards of such bodies 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 334.1024 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 334.1024 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 334.1024 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 334.1024 shall notify the board in writing within thirty days of any name or address change.

334.1024. 1. The license of a licensee or permittee holding a license or permit under sections 334.1000 to 334.1024 may be suspended or revoked, or the individual may be censured, reprimanded, or otherwise sanctioned by the board in accordance with the provisions and procedures of sections 334.1000 to 334.1024 if, after due process, it is found that the individual:

(1) Is guilty of fraud or deceit in the procurement or holding of the license or permit;

(2) Has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license or permit is discharged or acquitted, or if the holder has been pardoned with full restoration of civil rights in which case the license or permit shall be restored;

(3) Is or has been afflicted with any medical problem, disability, or addiction which in the opinion of the board would impair professional competence;

(4) Has aided and abetted a person who is not a licensee or



permittee holding a license under sections 334.1000 to 334.1024 or otherwise authorized by subsection 3 of section 334.1009 to perform the duties of a license or permit holder;

(5) Has undertaken or engaged in any practice beyond the scope of duties permitted a license or permit holder under sections 334.1000 to 334.1024;

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

(7) Has been found guilty of violations of a code of ethics that the board may establish by rule;

(8) Has performed 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 334.1024;

(9) Has interpreted a diagnostic image for a physician, a patient, the patient's family, or the public;

(10) Is or has been found guilty of incompetence or negligence in his or her performance as a license or permit holder.

2. Proceedings against the holder of a license or permit under sections 334.1000 to 334.1024 shall be commenced by filing a written charge or charges with the board. A person, corporation, association, public officer, or the board may bring the charge or charges. The chairperson of the board shall appoint a committee of three members of the board to examine the charge or charges and prepare a written recommendation to the board stating whether the charge or charges should be dismissed or brought against a license or permit holder under sections 334.1000 to 334.1024. If a majority of the board, voting by secret ballot, chooses to dismiss the charge or charges, no further action shall be taken. If a majority of the board, voting by secret ballot, determines that the charge or charges contain sufficient merit, the chairperson shall set a time and place for a hearing. A copy of the charge or charges and any investigational reports compiled by the board, together with the notice of the time and place of the hearing, shall be served on the person charged either in person or by registered mail at least thirty days before

the date set for the hearing. The accused shall have the right to appear at the hearing with counsel, to answer the charge or charges, cross-examine witnesses, and produce evidence and witnesses in his or her defense. The board shall have the power to issue subpoenas for the appearance of witnesses and take testimony under oath. The hearing shall be open to the public. Upon the conclusion of the hearing, the board shall meet in executive session to render a judgment on guilt or innocence of the accused to the charge or charges. If a majority of the board, voting by secret ballot, determines that the accused is innocent of the charge or charges, all parties to the hearing shall be notified by registered mail and no further action shall be taken. If the majority of the board, voting by secret ballot, determines the accused guilty of the charge or charges, all parties to the hearing shall be notified by registered mail. By a majority vote through secret ballot, the board shall then issue an order suspending or revoking the license or permit of the accused, or otherwise impose disciplinary action it considers appropriate.

3. Appeals to the board's order imposing disciplinary action shall be made in writing to the board within thirty days of its ruling.

4. The board shall implement subsections 2 and 3 of this section by rule.

5. When the license or permit of any person has been revoked, reapplication to the board may be made no sooner than two years after the date of the board's order revoking the license or permit.

6. 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 334.1024.

7. Any person who violates the provisions of sections 334.1000 to 334.1024, or any rule or order made under sections 334.1000 to 334.1024, is guilty of a class A misdemeanor and shall be subject to the sanctions of subsection 2 of this section, or other appropriate punishment.

8. 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 this section 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.

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