

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 738

Short Title: Radiation Tech. Practice Act.

(Public)

Sponsors: Senator Richardson.

Referred to: Human Resources.

April 22, 1991

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE RADIATION TECHNOLOGY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 25.

“RADIATION TECHNOLOGY PRACTICE ACT.

“§ 90-345. Short title.

This Article may be cited as the ‘Radiation Technology Practice Act’.

“§ 90-346. Policy and purpose.

In order to protect the public health and safety, it is the policy of the State of North Carolina to reduce the harmful effect of excessive and improper exposure to ionizing radiation during medical diagnosis and treatment. The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of radiation technology is necessary to ensure minimum standards of competency and to provide the public with safe care.

“§ 90-347. Definitions.

In this Article, unless the context otherwise requires, the following definitions shall apply:

(1) ‘Board’ means the North Carolina Board of Radiation Technology Examiners as created by G.S. 90-348.

(2) ‘Educational program’ means any educational program in North Carolina that:

- 1 a. Offers to prepare persons to meet the educational requirements
2 for licensure under this Article;
- 3 b. Is a program in Radiation Technology that has been accredited
4 by an accrediting agency which is a member of the Council on
5 Postsecondary Accreditation and which is recognized by the
6 United States Department of Education; and
- 7 c. Is one of the programs in a postsecondary educational
8 institution which holds regional or national accreditation by an
9 accrediting agency which is a member of the Council on
10 Postsecondary Accreditation and which is recognized by the
11 United States Department of Education.
- 12 (3) 'Individual' means any human being.
- 13 (4) 'Ionizing radiation' means gamma rays, X rays, alpha particles, beta
14 particles, neutrons, high-speed electrons, high-speed protons and other
15 nuclear particles.
- 16 (5) 'License' means a license issued by the Board to an individual to
17 practice as a radiologic technologist (radiographer) or nuclear
18 medicine technologist, or radiation therapy technologist.
- 19 (6) 'Licensed practitioner' means any individual licensed or otherwise
20 authorized by law to practice medicine, dentistry, osteopathy,
21 chiropractic, or podiatry in North Carolina.
- 22 (7) 'Nuclear medicine technologist' means any individual who is licensed
23 under this Article for the administration of radionuclides to human
24 beings for diagnostic and/or therapeutic purposes while under the
25 supervision of a licensed practitioner.
- 26 (8) 'Person' means an individual corporation, partnership, association, unit
27 of government, or other legal entity.
- 28 (9) 'Radiation technologist' means any individual, other than a licensed
29 practitioner, who administers ionizing radiation to human beings for
30 medical purposes and practices radiation technology, or nuclear
31 medicine technology, or radiation therapy technology.
- 32 (10) 'Radiation technology' means the direct application of ionizing
33 radiation using imaging techniques, modalities, and therapeutic
34 procedures to render diagnostic information or treatment under the
35 supervision of a licensed practitioner.
- 36 (11) 'Radiation therapy technologist' means any individual who is licensed
37 under this Article for the technical application of ionizing radiation to
38 human beings for therapeutic purposes while under the supervision of
39 a licensed practitioner.
- 40 (12) 'Radioactive material' means any material that spontaneously, or as
41 applied, emits ionizing radiation to a medically significant extent.
- 42 (13) 'Radionuclides' means a species of atom whose nucleus disintegrates
43 spontaneously, emitting radiation in the form of alpha, beta, or gamma
44 radiation.

1 (14) 'Radiologic technologist' or 'radiographer' means any individual who
2 is licensed under this Article for the technical application to a human
3 being of ionizing radiation other than radioactive materials, for
4 diagnostic purposes while under the supervision of a licensed
5 practitioner.

6 (15) 'Supervision' means a determination by a licensed practitioner that
7 ionizing radiation shall be applied to a human being for diagnostic or
8 therapeutic purposes but supervision does not mean overseeing the
9 application of ionizing radiation to the patient.

10 **"§ 90-348. Board of Examiners created.**

11 (a) The North Carolina Board of Radiation Technology Examiners is hereby
12 created.

13 (b) Composition. The Board shall consist of seven members including six
14 radiation technologists, four of whom shall be radiologic technologists, one of whom
15 shall be a nuclear medicine technologist, and one of whom shall be a radiation therapy
16 technologist, and one public member.

17 The initial Board members shall be selected on or before August 1, 1991, as follows:

18 The Speaker of the House of Representatives shall appoint two radiologic
19 technologists and one nuclear medicine technologist to the Board. One of the radiologic
20 technologists shall serve for a term of three years and the other radiologic technologist
21 shall serve for a term of one year. The nuclear medicine technologist shall serve for a
22 term of two years.

23 The President Pro Tempore of the Senate shall appoint two radiologic technologists
24 and one radiation therapy technologist to the Board. The radiologic technologists shall
25 serve for terms of two years. The radiation therapy technologist shall serve for a term
26 of one year.

27 The Governor shall appoint for a three-year term a public member to the Board who
28 shall be the president of one of the member institutions of the North Carolina System of
29 Community Colleges which offers a Radiation Technology program meeting all
30 requirements of this Article.

31 (c) Selection. The Board shall conduct an election each year to fill vacancies of
32 radiation technologists of the Board scheduled to occur during the next year. All
33 radiation technologists licensed to practice radiation technology in this State and
34 residing or practicing in this State shall be eligible to vote in the election. The holding
35 of a license to practice radiation technology in this State shall constitute registration to
36 vote in such elections. Board members shall be commissioned by the Governor upon
37 their election or appointment.

38 (d) Qualifications. The six radiation technologist members shall hold current
39 licenses and shall reside in North Carolina. They shall each have at least five years'
40 experience in radiation technology practice, education, administration, or radiation
41 technology training, including the three years immediately preceding appointment to the
42 Board, and shall continue such practice, administration, or education and training while
43 on the Board. The first radiation technologists appointed to the Board pursuant to this

1 section shall, upon their appointment and qualification, immediately become licensed as
2 radiation technologists by complying with the provisions of this Article.

3 (e) Term of Office. Each elected member shall be elected for a term of three
4 years and shall serve until a successor is appointed.

5 No member shall serve more than two consecutive full terms.

6 (f) Vacancies. Vacancies shall be filled in the same manner as the original
7 appointment except that all unexpired terms on the Board shall be filled in accordance
8 with G.S. 120-122 and shall be filled within 45 days after the vacancy occurs.
9 Appointees to fill vacancies shall serve the remainder of the unexpired term and until
10 their successors have been duly elected or appointed and qualified.

11 (g) Removal. The Board may remove any of its members for neglect of duty,
12 incompetence, or unprofessional conduct. A member subject to disciplinary
13 proceedings shall be disqualified from Board business until the charges are resolved.

14 (h) Compensation. Each member of the Board shall receive such per diem
15 compensation and reimbursement for travel and subsistence as shall be set for licensing
16 boards generally.

17 (i) Officers. The officers of the Board shall be a chairman, who shall be a
18 licensed radiation technologist, a vice-chairman and other officers deemed necessary by
19 the Board to carry out the purposes of this Article. All officers shall be elected annually
20 by the Board for one-year terms and shall serve until their successors are elected and
21 qualified.

22 (j) Immunity from Suit. Individual Board members shall be immune from civil
23 liability arising from activities performed within the scope of their official duties.

24 (k) Meetings. The Board shall hold at least two meetings each year to conduct
25 business and shall adopt rules governing the calling, holding, and conducting of regular
26 and special meetings. A majority of the Board members shall constitute a quorum.

27 **"§ 90-349. Powers of the Board.**

28 (a) The Board shall have the following general powers and duties:

29 (1) Administer this Article;

30 (2) Issue its interpretations of this Article;

31 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
32 provisions of this Article in accordance with Chapter 150B of the
33 General Statutes;

34 (4) Establish qualifications of, employ, and set the compensation of the
35 executive director who shall be a radiologic technologist and shall not
36 be a member of the Board;

37 (5) Employ and fix the compensation of other personnel that the Board
38 determines are necessary to carry into effect the provisions of this
39 Article and incur other expenses necessary to effectuate this Article;

40 (6) Examine, determine qualifications and fitness, and renew the license of
41 duly qualified applicants for licensure or relicensure;

42 (7) Issue, renew, deny, suspend, or revoke licenses to practice radiation
43 technology and carry out any of the disciplinary actions authorized by
44 this Article;

- 1 (8) Accept approved educational programs, as defined in G.S. 90-347;
 2 (9) Conduct investigations for the purpose of determining whether
 3 violations of this Article or grounds for disciplining licensees exist;
 4 (10) Conduct investigations to determine the manpower need for radiation
 5 technologists in North Carolina;
 6 (11) Maintain a record of all proceedings and make available to licensees
 7 and other concerned parties an annual report of all Board action;
 8 (12) Set fees for licensure, license renewal, examination, reexamination,
 9 and other services deemed necessary to carry out the purposes of this
 10 Article; and
 11 (13) Adopt a seal containing the name of the Board for use on all
 12 certificates, licenses, and official reports issued by it.

13 (b) The powers and duties enumerated above are granted for the purpose of
 14 enabling the Board to protect the public health, welfare, and safety against unqualified
 15 or incompetent practitioners of radiation technology and shall be liberally construed to
 16 accomplish this objective.

17 **"§ 90-350. Executive Director.**

18 The Executive Director shall perform the duties prescribed by the Board, serve as
 19 treasurer to the Board, and furnish a surety bond as required by the Board. The bond
 20 shall be made payable to the Board.

21 **"§ 90-351. Custody and use of funds.**

22 The Executive Director shall deposit in financial institutions designated by the
 23 Board as official depositories all fees payable to the Board. The funds shall be
 24 deposited in the name of the Board and shall be used to pay all expenses incurred by the
 25 Board in carrying out the purposes of this Article. Such funds shall be annually audited
 26 by the State Auditor.

27 **"§ 90-352. The Board may accept contributions, etc.**

28 The Board may accept grants, contributions, devices, bequests, and gifts that shall be
 29 kept in a separate fund and shall be used by it to enhance the practice of radiation
 30 technology.

31 **"§ 90-353. Expenses and fees.**

32 (a) All salaries, compensation, and expenses incurred or allowed for the purpose
 33 of carrying out the purposes of this Article shall be paid by the Board exclusively out of
 34 the fees received by the Board as authorized by this Article, or funds received from
 35 other sources. In no case shall any salary, expense, or other obligations of the Board be
 36 charged against the State treasury.

37 (b) The schedule of fees shall not exceed the following:

- 38 (1) Each application for examination (including the cost of examination)
 39 \$70.00
 40 (2) Certificate of licensure without examination 50.00
 41 (3) Each application for reexamination (including the cost of examination)
 42 55.00
 43 (4) Licensure renewal 35.00
 44 (5) Reinstatement of lapsed license to practice 50.00

1 (6) Reasonable charges for duplication services and material.

2 **"§ 90-354. Technologists previously registered.**

3 The Board shall issue a license to practice as a radiation technologist to any
4 individual who applies to the Board within one year from the effective date of this
5 Article and furnishes to the Board on a form approved by the Board proof of
6 employment either as a radiologic technologist, or a radiation therapy technologist or
7 nuclear medicine technologist. In addition, the following must be shown for each
8 specialty:

- 9 (1) Radiologic Technologist. A current certificate from the American
10 Registry of Radiologic Technologists in radiologic technology
11 (radiography).
12 (2) Radiation Therapy Technologist. A current certificate from the
13 American Registry of Radiologic Technologists in radiation therapy.
14 (3) Nuclear Medicine Technologist. A current certificate from the
15 American Registry of Radiologic Technologists in nuclear medicine or
16 the Nuclear Medicine Technology Certification Board.

17 **"§ 90-355. Technologists not registered.**

18 Individuals who have been engaged in the practice of radiation technology under the
19 supervision of a licensed practitioner for four years before January 1, 1990, and have
20 continued to practice under such conditions up to the time of application under this
21 section, shall be eligible for licensure without examination in their specialty of
22 radiologic technology (radiography), radiation therapy technology, or nuclear medicine
23 technology by meeting the following criteria:

- 24 (1) Proof of good moral character; and
25 (2) Proof of practice in North Carolina for the two years immediately
26 preceding the effective date of this Article.

27 Any application made pursuant to this section must be filed with the Board on or
28 before January 1, 1993.

29 **"§ 90-356. Licensure without examination.**

30 The Board may issue a license to practice, without examination, to an applicant:

- 31 (1) Who is duly licensed in good standing under laws of another state
32 when that state's requirements for licensure as a radiation technologist
33 are substantially equivalent to or exceed those of the State of North
34 Carolina at the time the applicant was initially licensed, and when in
35 the Board's opinion, the applicant is competent to practice as a
36 radiation technologist or as the case may be; or
37 (2) Who has met all criteria for licensure by examination in North
38 Carolina and who is registered in good standing in conformance with
39 the appropriate criteria established in G.S. 90-354(1), (2), or (3).

40 **"§ 90-357. Applicants for examination.**

41 Any person who desires to be licensed pursuant to G.S. 90-355 must submit an
42 application on a form approved by the Board and must demonstrate proof of (i) good
43 moral character, and (ii) graduation from an educational program as defined in this
44 Article.

1 **"§ 90-358. Examination.**

2 At least twice each year, the Board shall give an examination to applicants for
3 licensure at a time and place to be determined by the Board. The applicants shall be
4 required to pass a written examination. When the Board determines that an applicant
5 has met all the qualifications for licensure, and has submitted the required fee, the Board
6 shall issue a license to the applicant, showing thereon the appropriate specialty.

7 **"§ 90-359. Reexamination.**

8 Any applicant who fails to pass the first licensure examination may take different
9 forms of the examination in accordance with rules adopted by the Board.

10 **"§ 90-360. License renewal.**

11 Every license issued under this Article shall be renewed during the month of January
12 of each year. On or before the date the current license expires, every individual who
13 wishes to continue practice shall apply for a license renewal and submit the required
14 fee. Licenses that are not so renewed shall automatically lapse. A license that has
15 lapsed may be reissued in the same manner as for renewal within five years from the
16 date of lapse. A license that has been expired for more than five years may be reissued
17 only in a manner prescribed by the Board.

18 **"§ 90-361. Continuing education.**

19 (a) The Board shall require evidence of successful completion of a continuing
20 educational program as a condition of license renewal. The Board shall determine the
21 number of hours and subject matter of continuing education required as a condition of
22 license renewal.

23 (b) The Board shall grant approval to a continuing education program or course
24 upon finding that the program or course offers an educational experience designed to
25 enhance the practice of radiation technology.

26 (c) If the program offers to teach licensees to perform advanced skills, the Board
27 may grant approval for the program and the performance of the advanced skills by those
28 successfully completing the program when it finds that the nature of the procedures
29 taught in the program and the program facilities and faculty are such that a licensee
30 fully completing the program can reasonably be expected to carry out those procedures
31 safely and properly. Nothing in this section or in any other part of this Article may be
32 construed to imply, encourage, or authorize site visits to schools, colleges, or college-
33 used facilities as a part of or as being prerequisite to approval of a program.

34 **"§ 90-362. Inactive list.**

35 (a) When a licensee submits a request for inactive status, the Board shall issue to
36 the licensee a statement of inactive status and shall place the licensee's name on the
37 inactive list. While on the inactive list, the person shall not be subjected to renewal
38 requirements and shall not practice radiation technology in North Carolina.

39 (b) When such person desires to be removed from the inactive list and returned to
40 the active list, an application shall be submitted to the Board on a form furnished by the
41 Board and the fee shall be paid for license renewal. The Board shall require evidence of
42 competency to resume the practice of radiation technology before returning the
43 applicant to active status.

44 **"§ 90-363. Exemptions from licensure.**

1 The following individuals shall be permitted to practice radiologic technology,
2 radiation therapy, or nuclear medicine technology without a license:

- 3 (1) Students enrolled in an educational program, when engaged in
4 completing a clinical education requirement for graduation and
5 performing under the direction, as defined by the Board, of a licensed
6 technologist;
- 7 (2) Individuals who perform radiation technology while employed by or
8 contracted to, and under the supervision of, a North Carolina licensed
9 chiropractor, in a manner and under circumstances satisfactory to the
10 North Carolina Board of Chiropractic Examiners. Such individuals
11 shall not use contrast media, radioactive materials, or radiation
12 therapy;
- 13 (3) Individuals who engage in the practice of radiation technology while
14 seeking licensure pursuant to G.S. 90-355 until Board action on their
15 application or January 1, 1993, whichever is sooner;
- 16 (4) A licensed practitioner or a student in a school leading to licensure as
17 such;
- 18 (5) Licensed dental hygienists and dental assistants who operate dental X-
19 ray equipment for the sole purpose of oral radiography under
20 regulation by the Board of Dental Examiners.
- 21 (6) Individuals who perform radiation technology on the foot and ankle
22 while under the supervision of a North Carolina licensed podiatrist
23 when such individuals have received a certificate of registration from
24 the North Carolina Board of Podiatry Examiners and when such
25 individuals have successfully completed the course of study approved
26 by the North Carolina Board of Podiatry Examiners testing knowledge
27 of radiography of the foot and ankle. Such individuals shall not use
28 contrast media, radioactive materials, or radiation therapy. Such
29 individuals shall perform radiography of the foot and ankle only under
30 the orders of a licensed podiatrist who shall be on the premises when
31 the radiography is taking place.

32 **"§ 90-364. Unlawful practice.**

33 (a) Subject to the provisions of G.S. 90-363, it shall be a violation of this Article
34 for a person to:

- 35 (1) Practice radiation therapy, technology, radiologic technology, or
36 nuclear medicine technology without a license;
- 37 (2) Employ or solicit unlicensed individuals to practice radiologic
38 technology, radiation therapy technology, or nuclear medicine
39 technology;
- 40 (3) Use in connection with his name any letters, words, or insignia
41 implying he is a licensed radiologic technologist, radiation therapy
42 technologist, or nuclear medicine technologist unless he is licensed in
43 accordance with this Article;

- 1 (4) Sell, fraudulently obtain, or fraudulently furnish any certificate of
2 graduation from an educational program;
3 (5) Practice radiologic technology, radiation therapy, technology, or
4 nuclear medicine technology, under cover of any fraudulently obtained
5 license; or
6 (6) Conduct an educational program that is not approved by the Board.
7 (b) Any violation of this Article shall be a misdemeanor punishable in the
8 discretion of the court.

9 **"§ 90-365. Disciplinary authority of the Board.**

10 Grounds for disciplinary action shall include but not be limited to the following:

- 11 (1) Giving false information or withholding material information from the
12 Board in procuring or attempting to procure a license to practice as a
13 radiation technologist;
14 (2) Having been convicted of or pled guilty or no contest to any crime that
15 indicates that the person is unfit or incompetent to practice as a
16 radiation technologist or that indicates that the person has deceived or
17 defrauded the public;
18 (3) Having a mental or physical disability or using any drug to a degree
19 that interferes with his or her fitness to practice radiation technology;
20 (4) Engaging in professional conduct that endangers the public health;
21 (5) Being unfit or incompetent to practice radiation technology by reason
22 of deliberate or negligent acts or omissions regardless of whether
23 actual injury to a patient is established;
24 (6) Conduct an educational program other than as defined in this act;
25 (7) Willfully violating any provision of this Article or of regulations
26 enacted by the Board;
27 (8) Having pled guilty or no contest to an offense under State or federal
28 narcotic or controlled substance laws or having been found guilty of
29 same.

30 In accordance with the provisions of Chapter 150B of the General Statutes, the
31 Board may require remedial education, issue a letter of reprimand, restrict, revoke, or
32 suspend any license to practice as a radiation technologist in North Carolina or deny any
33 application of licensure if the Board determines that the applicant or licensee has
34 committed any of the above acts. The Board may reinstate a revoked license or remove
35 licensure restrictions when it finds that the reasons for revocation or restriction no
36 longer exist and that the person can reasonably be expected to practice radiation
37 technology safely and properly.

38 **"§ 90-366. Enjoining illegal practices.**

39 If the Board finds that any person is violating any of the provisions in this Article, it
40 may apply in its own name to the superior court for a temporary or permanent
41 restraining order or injunction to prevent such person from continuing such illegal
42 practices. The court is empowered to grant such injunctions regardless of whether
43 criminal prosecution or other action has been or may be instituted as a result of such

1 violation. All actions by the Board shall be governed by the Rules of Civil Procedure
2 and Article 37 of Chapter 1 of the General Statutes.

3 The venue for actions brought under this Article shall be the Superior Court of Wake
4 County, North Carolina.

5 **"§ 90-367. Reports; immunity from suit.**

6 Any person who has reasonable cause to suspect misconduct or incapacity of a
7 licensee, or who has reasonable cause to suspect that any person is in violation of this
8 Article, shall report the relevant facts to the Board. Upon receipt of such charge, or
9 upon its own initiative, the Board may give notice of an administrative hearing or may,
10 after diligent investigation, dismiss unfounded charges. Any person making a report
11 pursuant to this section shall be immune from any criminal prosecution or civil liability
12 resulting therefrom."

13 Sec. 2. Severability. If any provision of this Article or the application
14 thereof to any person or circumstances is held invalid, the validity of the remainder of
15 the act and of the application of such provision to other persons and circumstances shall
16 not be affected thereby.

17 Sec. 3. This act is effective upon ratification.