

REGISTRAR'S SUBMISSION PACKAGE

BOARD OF MEDICINE

18 VAC 85-101-10 et seq.

Regulations Governing the Practice of Radiologic Technologists and Radiologic Technologists-Limited

Analysis of Proposed Amendments to Regulation

1. Basis of Regulation:

Title 54.1, Chapter 24 and Chapter 29 of the Code of Virginia provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and renewal, to promulgate regulations and to issue inactive licensees.

§ 54.1-2912.1 mandates the Board to prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, or other requirements.

§§ 54.1-2956.8 through 54.1-2956.8:2 establish the requirements for the licensure of this profession and specifies the powers and duties of the Advisory Committee on Radiological Technology.

2. Statement of Purpose:

The purpose of the proposed amendments is to establish a continuing education requirement for active practice as an indication of the practitioner's competency to have his license renewed and to establish inactive licensure for radiologic technologists and radiologic technologists-limited pursuant to the specific authority granted in the Code of Virginia by Chapter 469 of the 1998 Acts of the Assembly. The amended regulations set forth the qualifications, fees and requirements for reactivation of an inactive or reinstatement of a lapsed license which are consistent with protection of the public health and safety.

3. Substance of Regulations:

18 VAC 85-101-150. Biennial renewal of license.

An amendment is proposed to add a requirement for renewal that a licensed radiologic technologist must obtain 24 hours of CE approved and documented by the American

Registry of Radiologic Technologists (including 12 hours of Category A) during the past biennium. For the radiologic technologist-limited to renew a license biennially, 12 hours of approved CE in the anatomical area in which the licensee practices would be required.

18 VAC 85-101-151. Reinstatement.

A new section on reinstatement is added to set forth requirements for reinstatement of a license which has been lapsed for two years or more. The Board would require evidence of hours of continuing education equal to those required for a biennial renewal, information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia, and payment of a reinstatement fee.

A licensee whose license has been revoked is required to submit a new application and the reinstatement fee according to these regulations and provisions of § 54.1-2921.

18 VAC 85-101-152. Inactive license.

The proposed new section would establish a category of inactive licensure and specify that such a license holder may renew by indicating his request for inactive licensure on a renewal form and payment of the required fee. An inactive licensee is not required to maintain continuing education but is not permitted to practice radiography.

To reactivate an inactive license, a radiologic technology practitioner is required to verify that he has completed continuing education equal to that required for the period in which he has been inactive, not to exceed one biennium, submit the required application, and pay the difference between the current inactive and active renewal fee.

The Board reserves the right to deny a request for reactivation to any person determined to have committed a violation of these regulations or of § 54.1-2914 of the Code of Virginia.

18 VAC 85-101-160. Fees

Amendments to this section will: a) clarify that examination fees must be paid directly to the board (a requirement of the examination service); b) establish the renewal fee for inactive licensure at \$55 for a radiologic technologist and \$15 for the limited licensee; and c) state the fees for a duplicate license as \$10 and for a duplicate wall certificate as \$25.

4. Issues of the Regulations

ISSUE 1: Evidence of continuing competency for renewal of licensure.

The Board of Medicine is mandated by § 54.1-2912.1 to prescribe continued competency requirements for the practitioners it licenses. It currently requires some evidence of continuing competency for licensed practitioners such as physical therapists (320 hours of active practice

within the past four years), licensed acupuncturists (certification by NCCAOM requiring 100 hours of CME's in a two-year period), physician assistants (certification by NCCPA requiring 60 professional development activities in a four-year period) and occupational therapists (requirement for active practice during the renewal cycle). In addition, the Board is proposing specific hours of continued competency for physicians, chiropractors, podiatrists, and occupational therapists.

Radiological technology practitioners have been licensed by the Board of Medicine since 1997. Prior to that they were certified, and no competency requirement was imposed for certification, which was title protection and therefore voluntary for practitioners. Since they are now a licensed profession, it is expected that there be some measure of competency to determine qualification for continued renewal of licensure.

The Board considered what type of requirement would be reasonable and appropriate for radiologic technologists and radiologic technologists-limited and would, at the same time, provide the needed assurance to the public that minimal competency had been maintained. The recommendation of the Advisory Committee on Radiological Technology was that a requirement for continuing education would provide the best assurance that practitioners were gaining new knowledge and were keeping up with new technology in their practice.

Advantages and disadvantages

There are no disadvantages to the public which is better protected by having a continuing competency requirement for radiologic technology practitioners in order to renew an active license.

For the licensees, the CE requirement will necessitate some effort and costs to maintain an active license. The proposed regulations would minimize the expense and time away from practice because the required hours of CE are widely available from a variety of sources. It should not be unnecessarily burdensome for the practitioner who is maintaining an active license to practice to be able to acquire the needed hours during the biennium.

ISSUE 2: Establishment of an inactive license.

The Department of Health Professions sought legislation in the 1998 General Assembly to give authorization to all boards to issue an active license. Some boards within the Department already had such authority in the practice act for the particular professions regulated, but an amendment to § 54.1-2400 granted general authority to set out the qualifications, fees, and conditions for reactivation of inactive licensure.

With the initiation of CE requirements for biennial renewal of licensure as a radiologic technology practitioner, the Board determined that all its licensees should have the option of requesting an inactive license if they are not currently practicing their profession and do not want to be responsible for acquiring continuing education.

In order to reactivate that license, the practitioner must provide documentation that he has acquired continuing education hours equal to the number that would have been required for an active licensee, not to exceed one biennium.

Advantages and disadvantages

There are no disadvantages for the public which remains protected by requirements that assure that an active practitioner is current in his skills and knowledge. By requiring an inactive licensee to provide evidence of continued competency to practice, the Board has the opportunity to determine whether the practitioner has remained professionally current or has taken courses to update his knowledge and skills. For persons who do not want to actively practice for a period of time, these regulations will allow them to maintain an inactive license and eliminate the need to reapply for reinstatement of an expired license. Renewal of an inactive license is also less expensive than renewal of an active license.

ISSUE 3: Requirements for reinstatement of an expired license.

In proposing regulations for reactivation of an inactive license, the Board determined that it was also necessary to specify requirements for reinstatement of a license lapsed for more than two years or one that was revoked. The lapsed license may only be reinstated by payment of a reinstatement fee, documentation of completion of continuing education hours equal to those required for a biennial renewal, and submission of a reinstatement application which includes information on practice and licensure in other states during the period in which the license was lapsed in Virginia. A practitioner whose license has been revoked must submit a new application and meet requirements of § 54.1-2921.

Advantages and disadvantages

The proposed regulation protects the public by requiring that the applicant complete continuing education hours and provide complete information on practice and licensure in other jurisdictions during that period. That provides the Board with an opportunity to check on the safety and professionalism of the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The Board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

ISSUE 4: Amendments to fees.

In establishing an inactive licensure status, the Board also had to consider the appropriate fee for renewal of such a license. Consistent with other boards in the Department and with other professions regulated by the Board of Medicine, a lesser fee is proposed for inactive renewal. The fee for active radiologic technologists is \$75 each biennium; inactive licensees would pay \$55 biennially. The fee for active radiologic technologists-limited is \$35; inactive limited licensees would pay \$15.

Other fees were amended or added for consistency with other professions licensed by the Board. Therefore, fees of \$10 for a duplicate license and \$25 for a duplicate wall certificate were added; and the regulation concerning submission of an examination fee was amended to require that it be sent to the board (a requirement of the examination service).

Advantages and disadvantages

There are no disadvantages of the amended fees to the public; they will not positively or negatively affect the delivery or quality of health care provided to the citizens of the Commonwealth.

Only a small number of practitioners will be affected by these changes in fees. Less than 10 to 15 persons will request a duplicate license or certificate in a biennium.

5. Estimated Fiscal Impact of the Regulations

I. Fiscal Impact Prepared by the Agency:

Number of entities affected by this regulation:

There are 1,832 radiologic technologists and 1066 radiologic technologists-limited licensed in Virginia; 153 of the fully licensed persons and 42 of those with the limited license list an out-of-state address. Some of those who live out-of-state may choose an inactive license if they are not actively practicing in Virginia.

Projected cost to the agency:

The agency will incur some costs (less than \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities. Since these regulations are being amended simultaneously with other regulations of the Board, the costs of mailings, meetings and hearings will be shared by several professions. In addition, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

The potential loss of income to the Board from persons who choose inactive licensure is minimal. It is estimated that only 20 or 30 licensees will become inactive at a cost of \$300 to \$450 per biennium in reduced revenue to the Board. What is unknown is how many of those licensees might chose to allow their license to lapse if an inactive licensure status is not available. If the estimated 20 to 30 radiologic technologists who are not practicing in the state let their license lapse, there could be a loss in revenue to the Board of \$1500 to \$2250 each biennium. Therefore, offering the option of inactive licensure could, in fact, result in a greater retention of revenue to the Board.

Projected costs to the affected entities:

The costs of acquiring the continuing education hours accredited by the ARRT or some other entity approved by the Board will depend on the type of courses a licensee selects. The costs could range from \$0 to several hundred dollars. Courses offered through the Virginia Society of Radiologic Technologists (VSRT) are accredited by the ARRT. Membership in the VSRT is \$20/year, but most continuing education offerings may be taken without first becoming a member. The VSRT is divided into districts with local societies, each of which meet on a monthly basis; some districts charge \$10 a year to belong to the local society and others are free. At each of those meetings, there is a presentation which offers one hour of CE, so a licensee could obtain 12 hours of CE each year from meetings which are free to attend and which are held on week nights so as not to interfere with work schedules.

In addition, there are weekend seminars at a cost of \$75 (including meals), at which 12 hours can be acquired over a Saturday and Sunday. No membership fee is required to attend those seminars sponsored by the district or local societies. The VSRT holds professional meetings twice a year in different parts of the state; costs for those meetings are typically \$60 a day, and the practitioners may choose one or more days to attend. VSRT maintains a website, which lists all the available meetings, seminars and courses.

Hours of continuing education are also available through the internet, through professional journals (the bi-monthly journal of the ASRT has a self-study course offering 1 credit for a total of 6 per year), and through home study or in-service programs on cassette. Costs for the radiology courses on cassette vary, but can be obtained for as little as \$60 for 20 hours of credit. Many institutions or organizations in which radiologic technologists practice make these self-study materials available to their personnel to be used on their own schedule.

Offerings from other professional associations or societies may also qualify for continuing education credit. The ARRT lists activities approved by the American Medical Association, the American Nurses Association, and CPR certification through the Heart Association or the Red Cross. Many in-service courses required by many hospitals and other organizations for their practitioners will be recognized by the ARRT and will qualify for the CE requirement in Virginia.

For those radiologic technologists-limited whose practice is limited to podiatry, the Board proposed to allow the required hours to be offered by a sponsor which is board-approved. The Virginia Podiatric Society is in the process of developing in-service training and continuing education of those practitioners who perform radiography in podiatric practices. Since they will be able to obtain hours in their practice settings and through their professional group, they will be able to meet the requirements for renewal with minimum costs.

For those persons who are not actively practicing in Virginia but who want to maintain an inactive license, there would be no costs for continuing education and a savings of \$15 biennially for renewal.

Citizen input in development of regulation:

In the development of regulations, notices were sent to persons on the public participation guidelines mailing list of every meeting of the Advisory Committee on Radiological Technology, the Legislative Committee of the Board, and of the Board itself. A Notice of Intended Regulatory Action was also sent to persons on the list; no comment was received on the NOIRA. Public comment was also received at each meeting.

Localities affected:

There are no localities affected by these regulations in the Commonwealth.

II. Fiscal Impact Prepared by the Department of Planning and Budget:

(To be attached)

III. Agency Response:

c. Source of the legal authority to promulgate the contemplated regulation.

18 VAC 85-101-10 et seq. Regulations Governing the Practice of Radiologic Technologists and Radiologic Technologists-Limited was promulgated under the general authority of Title 54.1 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and issue an inactive license.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*

9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

§ 54.1-2912.1 mandates the Board to prescribe continued competency requirements for practitioners it licenses.

§ 54.1-2912.1. Continued competency requirements.

- A. *The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.*
- B. *In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.*
- C. *The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.*

In addition to provisions in § 54.1-2400 which authorizes the Board to set qualifications and standards for renewal and to grant inactive licensure, the Code provides a mandate for licensure and involvement of the Advisory Committee on Radiological Technology in:

§ 54.1-2956.8. Advisory Committee on Radiological Technology; appointments; terms; etc.
The Advisory Committee on Radiological Technology shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration and regulation of certified radiological technology practitioners.

The Committee shall be appointed by the Board of Medicine and shall be composed of six members. Five members shall serve terms of four years each; one of the five shall be an at-large board-certified radiologist and four shall be radiological technology practitioners who have been practicing in the Commonwealth for not less than three years prior to their appointments. The sixth member shall be a member of the Board of Medicine and shall serve at the pleasure of the Board.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Committee for more than two consecutive terms.

§ 54.1-2956.8:1. (Effective January 1, 1997) Unlawful to practice radiologic technology without license; unlawful designation as a radiologic technologist or radiologic technologist, limited; Board to regulate radiologic technologists.

Except as set forth herein, it shall be unlawful for a person to practice or hold himself out as practicing as a radiologic technologist or radiologic technologist, limited, unless he holds a license as such issued by the Board.

In addition, it shall be unlawful for any person who is not licensed under this chapter whose licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to use in conjunction with his name the words "licensed radiologic technologist" or "licensed radiologic technologist, limited" or to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice radiologic technology.

The Board shall prescribe by regulation the qualifications governing the licensure of radiologic technologists and radiologic technologists, limited. The regulations may include requirements for approved education programs, experience, examinations, and periodic review for continued competency.

The provisions of this section shall not apply to any employee of a hospital licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 acting within the scope of his employment or engagement as a radiologic technologist.

§ 54.1-2956.8:2. (Effective January 1, 1997) Requisite training and educational achievements of radiologic technologists and radiologic technologists, limited.

The Board shall establish a testing program to determine the training and educational achievements of radiologic technologists or radiologic technologists, limited, or the Board may accept other evidence such as successful completion of a national certification examination, experience, or completion of an approved training program in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application.

d. Letter of assurance from the office of the Attorney General.

See attached.

e. Summary of Public Comment received in response to the Notice of Intended Regulatory Action.

The Notice of Intended Regulatory Action was published on September 28, 1998 and subsequently sent to the Public Participation Guidelines Mailing List of the Board. The deadline for comment was October 28, 1998 and there was no comment received.

f. Changes to existing regulations.

18 VAC 85-101-150. Biennial renewal of license.

An amendment is proposed to add a requirement for renewal that a licensed radiologic technologist must obtain 24 hours of CE approved and documented by the American Registry of Radiologic Technologists (including 12 hours of Category A) during the past biennium. For the radiologic technologist-limited to renew a license biennially, 12 hours of approved CE in the anatomical area in which the licensee practices would be required.

18 VAC 85-101-151. Reinstatement.

A new section on reinstatement is added to set forth requirements for reinstatement of a license which has been lapsed for two years or more. The Board would require evidence of hours of continuing education equal to those required for a biennial renewal, information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia, and payment of a reinstatement fee.

A licensee whose license has been revoked is required to submit a new application and the reinstatement fee according to these regulations and provisions of § 54.1-2921.

18 VAC 85-101-152. Inactive license.

The proposed new section would establish a category of inactive licensure and specify that such a license holder may renew by indicating his request for inactive licensure on a renewal form and payment of the required fee. An inactive licensee is not required to maintain continuing education but is not permitted to practice radiography.

To reactivate an inactive license, a radiologic technology practitioner is required to verify that he has completed continuing education equal to that required for the period in which

he has been inactive, not to exceed one biennium, submit the required application, and pay the difference between the current inactive and active renewal fee.

The Board reserves the right to deny a request for reactivation to any person determined to have committed a violation of these regulations or of § 54.1-2914 of the Code of Virginia.

18 VAC 85-101-160. Fees

Amendments to this section will: a) clarify that examination fees must be paid directly to the board (a requirement of the examination service); b) establish the renewal fee for inactive licensure at \$55 for a radiologic technologist and \$15 for the limited licensee; and c) state the fees for a duplicate license as \$10 and for a duplicate wall certificate as \$25.

g. Statement of reasoning for the regulations.

Reasoning for requiring evidence of continuing competency for renewal of licensure.

The Board of Medicine is mandated by § 54.1-2912.1 of the *Code of Virginia* to prescribe requirements as may be necessary to ensure continued practitioner competence which may include continuing education. The Board currently requires some evidence of continuing competency for licensed practitioners such as physical therapists (320 hours of active practice within the past four years), licensed acupuncturists (certification by NCCAOM requiring 100 hours of CME's in a two-year period), physician assistants (certification by NCCPA requiring 60 professional development activities in a four-year period) and occupational therapists (requirement for active practice during the renewal cycle). In addition, the Board is proposing specific hours of continued competency for physicians, chiropractors, podiatrists, and occupational therapists.

Radiological technology practitioners have been licensed by the Board of Medicine since 1997. Prior to that they were certified, and no competency requirement was imposed for certification, which was title protection and therefore voluntary for practitioners. Since they are now a licensed profession, it is expected that there be some measure of competency to determine qualification for continued renewal of licensure.

Establishment of an inactive license.

The Department of Health Professions sought legislation in the 1998 General Assembly to give authorization to all boards to issue an active license. Some boards within the Department already had such authority in the practice act for the particular professions regulated, but an amendment to § 54.1-2400 granted general authority to set out the qualifications, fees, and conditions for reactivation of inactive licensure.

With the initiation of CE requirements for biennial renewal of licensure as a radiologic technology practitioner, the Board determined that all its licensees should have the option of

requesting an inactive license if they are not currently practicing their profession and do not want to be responsible for acquiring continuing education.

In order to reactivate that license, the practitioner must provide documentation that he has acquired continuing education hours equal to the number that would have been required for an active licensee, not to exceed one biennium.

Requirements for reinstatement of an expired license.

In proposing regulations for reactivation of an inactive license, the Board determined that it was also necessary to specify requirements for reinstatement of a license lapsed for more than two years or one that was revoked. The lapsed license may only be reinstated by payment of a reinstatement fee, documentation of completion of continuing education hours equal to those required for a biennial renewal, and submission of a reinstatement application which includes information on practice and licensure in other states during the period in which the license was lapsed in Virginia. A practitioner whose license has been revoked must submit a new application and meet requirements of § 54.1-2921.

The proposed regulation protects the public by requiring that the applicant complete continuing education hours and provide complete information on practice and licensure in other jurisdictions during that period. That provides the Board with an opportunity to check on whether there has been any disciplinary action taken on the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The Board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

Amendments to fees.

In establishing an inactive licensure status, the Board also had to consider the appropriate fee for renewal of such a license. Consistent with other boards in the Department and with other professions regulated by the Board of Medicine, a lesser fee is proposed for inactive renewal. The fee for active radiologic technologists is \$75 each biennium; inactive licensees would pay \$55 biennially. The fee for active radiologic technologists-limited is \$35; inactive limited licensees would pay \$15.

Other fees were amended or added for consistency with other professions licensed by the Board. Therefore, fees of \$10 for a duplicate license and \$25 for a duplicate wall certificate were added; and the regulation concerning submission of an examination fee was amended to require that it be sent to the board (a requirement of the examination service).

h. Statement on alternatives considered.

Alternative for requiring evidence of continuing competency for renewal of licensure.

There was no alternative to a mandate in the *Code of Virginia*. However, the Board considered what type of requirement would be reasonable and appropriate for radiologic technologists and radiologic technologists-limited and would, at the same time, provide the needed assurance to the public that minimal competency had been maintained. The recommendation of the Advisory Committee on Radiological Technology was that a requirement for continuing education would provide the best assurance that practitioners were gaining new knowledge and were keeping up with new technology in their practice.

While the CE requirement will necessitate some effort and costs to maintain an active license, the proposed regulations would minimize the expense and time away from practice because the required hours of CE are widely available from a variety of sources. It should not be unnecessarily burdensome for the practitioner who is maintaining an active license to practice to be able to acquire the needed hours during the biennium. (See discussion of costs and availability of continuing education under the k. Anticipated Regulatory Impact.)

Establishment of an inactive license.

To initiate an inactive licensure status was the most reasonable and least burdensome alternative available, since the Board proposes to impose a continued competency requirement for renewal of an active license. There was only a concern that the public be protected by requirements that would assure that an inactive practitioner is current in his skills and knowledge before he is allowed to return to active practice. By requiring an inactive licensee to evidence of continued competency equal to that of at least one biennium, the Board has the opportunity to determine whether the practitioner has remained professionally current or has taken courses to update his knowledge and skills. For persons who do not want to actively practice for a period of time, these regulations will allow them to maintain an inactive license and eliminate the need to reapply for reinstatement of an expired license. Renewal of an inactive license is also less expensive than renewal of an active license.

Requirements for reinstatement of an expired license.

The proposed regulation protects the public by requiring that the applicant complete continuing education hours and provide complete information on practice and licensure in other jurisdictions during that period. The Board has a responsibility to check on the safety and professionalism of the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The Board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

Amendments to fees.

The amendments to fees will not positively or negatively affect the delivery or quality of health care provided to the citizens of the Commonwealth. For the 20 to 30 practitioners who may request inactive licensure status, there will be a savings of \$20 per biennium. The Board determined that a reduced fee was reasonable for practitioners who are not practicing and therefore, will not be the subject of disciplinary complaints or investigations. There are administrative costs involved in maintaining the licensee on our computer system, in providing information to the public on that licensee, and in continuing to provide newsletters and other mailings.

Only a small number of practitioners will be affected by these changes in fees. Less than 10 to 15 persons will request a duplicate license or certificate in a biennium.

i. Statement of clarity.

Prior to the adoption of proposed regulations by the Board, the Advisory Committee on Radiological Technology and the Legislative Committee discussed the changes in open sessions. The clarity and reasonableness of the language which was adopted had the approval of the licensed acupuncturists, the Assistant Attorney General who worked with the Advisory Committee in drafting regulatory language, and members of the Board, including the citizen members.

j. Schedule for review of regulation.

The proposed amendments to these regulations will be reviewed following publication in the Register and the 60-day public comment period. If there are any oral or written comments received, the Board will consider revisions to the proposal prior to adoption of final regulations.

Public Participation Guidelines of the Board of Medicine (18 VAC 85-10-10 et seq.) require a thorough review of regulations each biennium. Therefore, the Advisory Committee on Radiological Technology and the Legislative Committee of the Board will review this set of regulations in 2001 and will bring any recommended amended regulations to the full board for consideration.

In addition, the Board receives public comment at each of its meetings and will consider any request for amendments. Petitions for rule-making also receive a response from the Board during the mandatory 180 days in accordance with its Public Participation Guidelines.

k. Anticipated Regulatory Impact

Projected cost to the state to implement and enforce:

(i) Fund source: As a special fund agency, the Board of Medicine must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.

(ii) Budget activity by program or subprogram: There is no change required in the budget of the Commonwealth as a result of this program.

(iii) One-time versus ongoing expenditures: The agency will incur some costs (less than \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities. Since these regulations are being amended simultaneously with other regulations of the Board, the costs of mailings, meetings and hearings will be shared by several professions. In addition, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

The potential loss of income to the Board from persons who choose inactive licensure is minimal. It is estimated that only 20 or 30 licensees will become inactive at a cost of \$300 to \$450 per biennium in reduced revenue to the Board. What is unknown is how many of those licensees might chose to allow their license to lapse if an inactive licensure status is not available. If the estimated 20 to 30 radiologic technologists who are not practicing in the state let their license lapse, there could be a loss in revenue to the Board of \$1500 to \$2250 each biennium. Therefore, offering the option of inactive licensure could, in fact, result in a greater retention of revenue to the Board.

It would also be expected that there will be additional costs to the Board for compliance enforcement. The Board will conduct a 1 to 2% audit of its licensees at the conclusion of each biennium. Each practitioner selected for the audit will be required to submit the required documentation of continuing learning activities. There will be some staff time involved in review of the documentation and in communicating with licensee about their deficiencies. Since the number selected for audit will be approximately 50, no additional personnel will be required to accomplish this activity.

It is also expected that a small percentage of licensees selected for audit will result in a disciplinary case being opened. From the experience of boards within the agency that currently have continuing competency requirements for renewal, the majority of those cases (estimated to be 10 to 20 per biennium) will probably be settled with a pre-hearing consent order. In those cases, the only costs would be for charges back to the Board from the Administrative Proceedings Division (APD) of the Department. Costs for cases that do result in an informal conference committee proceeding (estimated to be 3 to 5 per biennium) would include travel expenses and per diem for board members as well as costs for the services of APD. Informal conference committees typically hear several cases in a day, so the costs per case for board member and APD time would be minimized.

Cost estimates for disciplinary cases related to the failure to comply with continuing competency regulations range from \$100 to cases resulting in pre-hearing consent orders to

\$500 per case for those that result in an informal conference committee. All expenses relating to enforcement of these regulations can be absorbed in the existing budget of the Board of Medicine.

Projected cost on localities:

There is no projected costs to localities.

Description of entities that are likely to be affected by regulation:

The entities that are likely to be affected by these regulations would be licensed radiologic technologists and radiologic technologists-limited.

Estimate of number of entities to be affected:

There are 1,832 radiologic technologists and 1066 radiologic technologists-limited licensed in Virginia; 153 of the fully licensed persons and 42 of those with the limited license list an out-of-state address. Some of those who live out-of-state may choose an inactive license if they are not actively practicing in Virginia.

Projected costs to the affected entities:

The costs of acquiring the continuing education hours accredited by the ARRT or some other entity approved by the Board will depend on the type of courses a licensee selects. The costs could range from \$0 to several hundred dollars. Courses offered through the Virginia Society of Radiologic Technologists (VSRT) are accredited by the ARRT. Membership in the VSRT is \$20/year, but most continuing education offerings may be taken without first becoming a member. The VSRT is divided into districts with local societies, each of which meet on a monthly basis; some districts charge \$10 a year to belong to the local society and others are free. At each of those meetings, there is a presentation which offers one hour of CE, so a licensee could obtain 12 hours of CE each year from meetings which are free to attend and which are held on week nights so as not to interfere with work schedules.

In addition, there are weekend seminars at a cost of \$75 (including meals), at which 12 hours can be acquired over a Saturday and Sunday. No membership fee is required to attend those seminars sponsored by the district or local societies. The VSRT holds professional meetings twice a year in different parts of the state; costs for those meetings are typically \$60 a day, and the practitioners may chose one or more days to attend. VSRT maintains a website, which lists all the available meetings, seminars and courses.

Hours of continuing education are also available through the internet, through professional journals (the bi-monthly journal of the ASRT has a self-study course offering 1 credit for a total of 6 per year), and through home study or in-service programs on cassette. Costs for the radiology courses on cassette vary, but can be obtained for as little as \$60 for 20

hours of credit. Many institutions or organizations in which radiologic technologists practice make these self-study materials available to their personnel to be used on their own schedule.

Offerings from other professional associations or societies may also qualify for continuing education credit. The ARRT lists activities approved by the American Medical Association, the American Nurses Association, and CPR certification through the Heart Association or the Red Cross. Many in-service courses required by many hospitals and other organizations for their practitioners will be recognized by the ARRT and will qualify for the CE requirement in Virginia.

For those radiologic technologists-limited whose practice is limited to podiatry, the Board proposed to allow the required hours to be offered by a sponsor which is board-approved. The Virginia Podiatric Society is in the process of developing in-service training and continuing education of those practitioners who perform radiography in podiatric practices. Since they will be able to obtain hours in their practice settings and through their professional group, they will be able to meet the requirements for renewal with minimum costs.

For those persons who are not actively practicing in Virginia but who want to maintain an inactive license, there would be no costs for continuing education and a savings of \$15 biennially for renewal