Virginia Regulatory Town Hall

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Fast Track Regulation
Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 85-101
Regulation title	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
Action title	Periodic review clarifications
Document preparation date	10/26/07

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The proposed action will clarify and simplify the regulations for ease of compliance by licensees by separating and reorganizing certain requirements for radiologic technologist-limited. The Board has also amended the regulation to delete Category A as designated by the ARRT for continuing education, since the ARRT will no longer recognize anything but Category A or A+ after January 1, 2008.

Statement of agency final action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On October 18, 2007, the Board of Medicine took action to amend 18 VAC 85-101-10 et seq., Regulations Governing the Practice of Radiologic Technologists and Radiologic Technologists-Limited through the fast-track regulatory process to implement changes recommended by the Advisory Board on Radiological Technology pursuant to a periodic review of regulations.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

> ***§ 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.*
>
> …
> *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 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. …*

The specific mandate for evidence of continued competency is found in:

§ 54.1-2912.1. Continued competency and office-based anesthesia 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.

D. Pursuant to § 54.1-2400 and its authority to establish the qualifications for registration, certification or licensure that are necessary to ensure competence and integrity to engage in the regulated practice, the Board of Medicine shall promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

Regulations currently require 24 hours of continuing education for radiologic technologists and 12 hours for radiologic technologists-limited for the biennial renewal. The proposed regulation does not change the number of hours but does eliminate the designation of Category A for half of the hours. Since radiologic technologists must have 24 hours of CE every two years to maintain ARRT certification, the requirement for licensure renewal remains consistent.

Since the initial licensure of rad techs and rad techs-limited, there has been confusion about the requirements for licensure. Reorganization and clarification of certain sections of regulation may alleviate some of the confusion and assist with compliance. Clarification of the regulation will encourage those who perform radiological services to practice in accordance with law and regulation and provide greater protection for the public health and safety.

Rationale for using fast track process

Please explain why the fast track process is being used to promulgate this regulation.

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast-track process is being used to promulgate the amendment because it is recommended by the Advisory Board on Radiological Technology and by staff to clarify certain provisions of the regulations. The only substantive change is elimination of Category A as verified by the ARRT in obtaining the required number of hours of continuing education. Since there are no changes to

requirements for initial licensure, hours required for renewal of licensure or standards of practice, there should be no objections raised.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed fast-track action amends 18VAC85-101-150 by deleting the requirement that at least half of the hours of continuing education be documented by the American Registry of Radiologic Technologists (ARRT). ARRT no longer distinguishes between Category A and Category B hours.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

There are no advantages or disadvantages to the public of these amendments. Current requirements for licensure and practice are not being amended, so the competency of rad techs or rad techs-limited to practice should not be affected.

There are no disadvantages to the agency or the Commonwealth; the proposed amendments are consistent with the Board's regulations.

There are no other pertinent matters of interest.

Economic impact

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	The agency will incur some one-time costs (less than $1,000) for mailings and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings or distribute notices by email. There are no ongoing expenditures related to this amendment. As a special fund agency, the Board 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.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	The only individuals affected would be radiologic technologists and radiologic technologists-limited.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	There are 2977 radiologic technologists and 855 radiologic technologists-limited.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	There would be no effect; the number of continuing education hours has not been changed. ARRT is eliminating the distinction between Category A and Category B hours, so in reality the regulation is already changed.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

If regulations are not amended pursuant to the periodic review, points of confusion may remain. There are no other alternatives that meet the essential purpose of promulgating regulations that are clear and enforceable.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes.

Current section number	Current requirement	Proposed change and rationale
25	Sets fees for licensure, renewal and reinstatement	Separates the licensure renewal and reinstatement fees for radiologic technologists-limited from the radiologic

		technologists. *Some limited licensees complained that they could not find the fees in regulation, so the change is for clarity for persons who must comply.*
40	Sets the requirements for licensure for a rad tech.	Deletes the words "on the application" because they were redundant and confusing to some applicants.
50	Sets requirements for a traineeship	Corrects the name of the Rad Tech Advisory Board
55	Sets the educational requirements for radiologic technologists-limited	Requirements that are currently found in section 70 are reordered into section 55 for consistency with the Part on licensure for radiologic technologists. In addition, a person interested in the requirements for licensure should first know the educational requirements.
60	Sets the examination requirements for radiologic technologists-limited	Currently, section 60 contains requirements for licensure that include completion of an examination, but also includes requirements for traineeships, attestations, etc. Therefore, the title of the section is revised to "Licensure requirements." In subsection B, the doctor of chiropractic is deleted, because a limited licensee working under the supervision of a chiropractor would only be authorized to do bone densitometry or the anatomical areas of the spine or extremities. Qualifications for a limited license in those areas are stated in subsections C or D. If a rad tech-limited has qualified under subsection B for the spine or extremities, he may work under a chiropractor's supervision, but a chiropractor cannot supervision a rad tech-limited qualified to x-ray other anatomical areas of the body.
70	Sets the educational requirements for radiologic technologists-limited	The section is being deleted and its provisions moved to section 55.
150	Sets the requirements for biennial renewal of licensure, including the hours of continuing education.	Eliminates the requirement that half of the hours of continuing education (24 for radiologic technologists; 12 for radiologic technologists-limited) be Category A as accepted by the ARRT. *As of January 1, 2008, the ARRT will no longer recognize Category B. All CE hours will have to be Category A (or for the ARRT registry, Category A or A+). The distinction between A and B is not based on the nature of the learning activity, but rather upon whether the activity has been submitted to, reviewed by, and approved for quality control. Category A may include home study, internet courses or journal readings, and there is no limitation on the number of hours that may be obtained by those methods. If the regulation is not amended, the licensees might assume*

		that half of the hours must be Category A and the other half in Category A+.