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Regulatory
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Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC85-101-10 et seq.
Regulation title	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
Action title	Regulatory reform changes
Date this document prepared	3/5/13

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

Amendments to Chapter 101 will include another certification as qualification for licensure as a radiologic technologist to make the requirements less restrictive and more inclusive. Additionally, amendments will clarify that practical experience in radiographic procedures required for a limited license must be on live patients and that administration of contrast media or radiopharmaceuticals is not within the scope of practice of a radiologic technologist-limited.

Statement of final agency 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 February 21, 2013, the Board of Medicine adopted amendments to 18VAC85-101-10 et seq., Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited by a fast-track action.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which 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. ...*

Specific authority for regulation of radiologic technologists and radiologic technologists-limited is found in:

§ 54.1-2956.8:1. Unlawful to practice radiologic technology without license; unlawful designation as a radiologist assistant, radiologic technologist, or radiologic technologist, limited; Board to regulate radiologist assistants and radiologic technologists.

Except as set forth herein, it shall be unlawful for a person to practice or hold himself out as practicing as a radiologist assistant, 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 radiologist assistant," "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 radiologist assistants, 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.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulations is to include a credential in nuclear medicine as qualification for licensure as a radiologic technologist, which will allow someone to specialize in an essential field of radiologic technology to provide greater expertise and public safety for patients who utilize those services. The clarification that practical experience in radiographic procedures required for a limited license must be on live patients and that administration of contrast media or radiopharmaceuticals is not within the scope of practice of a radiologic technologist-limited will ensure that only radiologic technologists who have had the education and examination required for full licensure can perform those specialized tasks.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The action is either less restrictive regulation or a clarification of current regulation, has been approved by the Advisory Board on Radiologic Technology, and has unanimous approval of the Board of Medicine. It will not be controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

Amendments to Chapter 101 will include another certification as qualification for licensure as a radiologic technologist to make the requirements less restrictive and more inclusive. Additionally, amendments will clarify that practical experience in radiographic procedures required for a limited license must be on live patients and that administration of contrast media or radiopharmaceuticals is not within the scope of practice of a radiologic technologist-limited.

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 there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) There are no advantages or disadvantages to the public, which will continue to be protected by the same criteria for minimal competency for initial licensure.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent issues.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum:

1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

To achieve this less restrictive regulation, there are no alternative methods, other than the promulgation of an amendment to the licensure requirements. In the periodic review, advisory board members and staff identified other changes that would be more restrictive, so those changes were no included in this fast-track action.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>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</p>	<p>a) 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; b) The agency will incur no costs for electronic notifications to the Public Participation Guidelines. There are no on-going expenditures relating amendments to regulations for acupuncturists.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The entities that are likely to be affected by these regulations are licensed rad techs or rad techs-limited or persons intending to become licensees.</p>
<p>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.</p>	<p>There are currently 3858 licensed radiologic technologists, 735 radiologic technologists-limited and 9 radiologist assistants; It is unknown how many future applicants may be affected by the addition of the NMTCB (Nuclear Medicine Technology Certification Board) certification as a credential qualifying an applicant for licensure as a radiologic technologist. Persons employed as a radiologic technologist by a licensed hospital are exempt from the requirement for licensure.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities.</p>	<p>There are no costs to small businesses or other entities.</p>

<p>Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>There may be a beneficial impact to persons who want to practice in nuclear medicine as the NMTCB credential would qualify them for licensure as a radiologic technologist without having to also obtain the ARRT certification as currently required. Otherwise, amendments are clarifying and consistent with current Board policies to minimize confusion for applicants and licensees.</p>

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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There were no public comments in response to the Notice of Periodic Review. To achieve the intent of this action, there are no alternatives to the proposal considered.

Periodic review/small business impact review result

If this fast-track regulation is not the result of a periodic review/small business of the regulation, please delete this entire section.

If this fast-track regulation is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

There were no comments on the Notice of Periodic Review

1) In accordance with the Code of Virginia, the Board is required to promulgate regulations for the licensure of acupuncturists. *The Board shall prescribe by regulation the qualifications governing the licensure of radiologist assistants, radiologic technologists, and radiologic technologists, limited. The regulations may include requirements for approved education programs, experience, examinations, and periodic review for continued competency.*

Therefore, there is a continued need for the regulation.

2) There were no complaints received from the public.

3) The regulation is organized and written similarly to all other chapters promulgated by the Board of Medicine; it appears to be clear and easily understood.

4) The regulation does not overlap with federal or state law, which is not specific about the criteria for licensure or the standards of practice. Grounds for unprofessional conduct in § 54.1-2915, which apply to all regulated entities under the Board, are not repeated in the regulations.

5) The regulation is frequently reviewed for consistency with changes in technology and practice. Accordingly, the regulation has been amended 11 times in the last 10 years.

The economic impact of this regulation is minimal for a licensure scheme. Fees of \$135 per biennium are required to maintain a license and do not appear to be burdensome or inhibiting the growth of the profession as there was a growth rate in the number of radiologic technologists of 8.7% in the last biennium.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in regulation	A definition of "NMTCB" (Nuclear Medicine Technology Certification Board) is added because the credential would be accepted for licensure as a radiologic technologist.
40	Sets out the licensure requirements for radiologic technologists	The NMTCB certification examination is added as an alternative to the ARRT examination as qualifying an applicant for licensure. <i>A person intending to practice in nuclear medicine is likely to</i>

		<i>be certified by NMTCB rather than ARRT. Both pathways should be acceptable for licensure as a radiologic technologist. Therefore, the Board has amended Section 40 to add the credential.</i>
55	Sets out educational requirements for radiologic technologists-limited	Subsection A refers to completion of a “program” for rad tech-limited. Coursework is often not completed in the context of a program, so the term is amended to refer to completion of the educational coursework as outlined in that subsection.
60	Sets out the licensure requirements for radiologic technologists- limited	The amendments will clarify that the practical experience of radiologic examinations is on “patients” rather than practice with a simulator or a dummy. Simulation may be an effective teaching tool, but only experience with patients can indicate whether a person has the skills and knowledge to perform radiographic procedures in the anatomical area for which he is seeking licensure. The amendment is current policy and interpretation of the regulation.
130	Establishes general requirements for practice by radiologic technologists-limited	Currently, subsection B uses the word “instill” in the prohibition on administration of contrast media. The correct word (and the one commonly understood) is “administer” contract media. Along with that, the limited licensee may not administer radiopharmaceuticals, so that is included in the regulation for a clearer understanding of the limited scope of practice.