

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

**ADMINISTRATIVE LAW
DIVISION**

Form #2

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OF THE OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE
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NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Radiologic Technology Board of Examiners TITLE NUMBER: 18

RULE TYPE: Legislative CITE AUTHORITY: §30-1-1 et seq. & §30-23-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rules and Regulations of the West Virginia Board of
Examiners of Radiologic Technology

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 31, 2000 AT 8:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Radiologic Technology

Board of Examiners

P. O. Box 638

Cool Ridge, WV 25825

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Em Sawyer, RT
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules & Regulations of the WV Board of Examiners of Radiologic Technology

Type of Rule: X Legislative Interpretive Procedural

Agency: WV Radiologic Technology Board of Examiners

Address: P. O. Box 638

Cool Ridge, WV 25825

1. Effect of Proposed rule: No increase or decrease of budget. Any sanctions go to the State's general fund.

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

N/A

3. Objectives of These Rules: Add new definitions, add Disciplinary Sanctions, strike obsolete language, clarify the Board's charge, set procedure for issuing temporary licenses and define procedures for Board-approved schools.

Rule Title: Rules & Regulations of the WV Board of Examiners of Radiologic Technology

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

N/A

C. Economic Impact on Citizens/Public at Large:

N/A

Date: August 1, 2000

Signature of Agency Head or Authorized Representative:

Mr. Sawyer, RT

FACTS AND CIRCUMSTANCES

THIS SERIES IS BEING SUBMITTED TO ADD NEW DEFINITIONS, CLARIFY THE WV RADIOLOGIC TECHNOLOGY BOARD OF EXAMINER'S CHARGE, ADD DISCIPLINARY SANCTIONS, SETTING PROCEDURE FOR ISSUING TEMPORARY LICENSES, STRIKING OBSOLETE LANGUAGE, AND DEFINE PROCEDURES FOR BOARD APPROVED SCHOOLS.

**TITLE 18
LEGISLATIVE RULES
RADIOLOGIC TECHNOLOGISTS**

**SERIES 1
RULES AND REGULATIONS OF THE WEST VIRGINIA BOARD OF
EXAMINERS OF RADIOLOGIC TECHNOLOGISTS**

FILED
Aug 1 8 17 AM '00
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

§18-1.1. General provisions.

1.1 Scope. -- Except as otherwise specifically provided, these regulations apply to all persons in West Virginia who apply x-ray ionizing radiation or assist in the application of X-rays ionizing radiation to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner. These regulations establish the general rules for licensure of Radiologic Technologists in West Virginia.

1.2 Authority. -- W. Va. Code §30-1-1 et seq. and 30-23-1 et seq.

1.3 Filing Date. --

1.4 Effective Date. --

1.5 Definitions. -- As used in these regulations:

(a) "Board" means the West Virginia Radiologic Technology Board of Examiners;

(b) "JRCERT" means the Joint Review Committee on Education in Radiologic Technology

(c) "License" means a license granted and issued by the Board for the practice of radiologic technology;

(d) "Licensed Practitioner" means a person licensed to practice medicine, chiropractic, podiatry, osteopathy or dentistry;

(e) "Radiologic Technologist" means a person, other than a licensed practitioner, who applies X-rays ionizing radiation or assists in the application of X-rays ionizing radiation to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner;

(f) "Radiologic Technology" means the practice of positioning the patients for exams, setting of the exposure factors and generating an exposure for diagnostic or therapeutic purposes.

(g) "Reciprocity" means the granting of a license or temporary permit to persons who hold a license or certificate in another state;

(h) "Supervision" means responsibility for and control of quality, radiation safety and technical aspects in the application of x-radiation ionizing radiation to human beings for diagnostic or therapeutic purposes;

(i) "Temporary Permit" means a permit license granted and issued by the Board for the practice of radiologic technology ~~which shall expire thirty (30) days after the Board gives written notice of results of the examination held following the issuance of such temporary permit~~ which is limited in duration; and

(j) "Unethical Conduct" means, but shall not be limited to:

(1) Engaging in the practice of radiologic technology while in an intoxicated condition under the influence of narcotic or any other drugs which impair consciousness, judgement or behavior; or

(2) Immoral conduct while engaged in the practice of radiologic technology or behavior indicating an unfitness to practice radiologic technology; or

(3) Willful falsification, destruction or theft of property or records relating to the practice or radiologic technology; or

(4) Failure to exercise due regard for the safety of life or health of the patient; or

(5) Unauthorized disclosure of information relating to a patient or his records; or

(6) Discrimination in the practice of radiologic technology against any person for reason of race, religion, creed, color or national origin; or

(7) Violating the provisions of 3.6 of this rule; or

(8) The grounds enumerated in W. Va. Code § 30-23-9 (b) shall also be considered unethical conduct.

(k) "X-Ray (Ionizing Radiation)" means the relatively high energy of photons capable of producing ionization in substances through which it passes. This high-energy is used to generate an exposure for diagnostic or therapeutic purposes.

1.6 Communication. -- All communications concerning these regulations and applications filed thereunder shall be addressed to the West Virginia Radiologic Technology Board of Examiners, P.O. Box 638, ~~1715 Flat Top Road~~, Cool Ridge, West Virginia 25825.

§18-1-2. Board functions.

2.1 Duties and powers of the Board. -- The duties and powers of the Board are defined in the W.Va. Code §30-23-1 et seq. It shall be the duty of the Board to carry out the provisions of this article to the best of its ability.

2.2 Board meetings.

(a) The Board shall meet at least twice annually to conduct examinations the business of the Board as brought before them.

(b) The Board shall hold at least one (1) annual meeting during June of each year at the place and time designated by the ~~chairman~~ chairperson for the purpose of electing a ~~chairman~~ chairperson and secretary. New officers shall take office on July 1 of that year.

(c) Meetings of the Board may be called by the ~~chairman~~ chairperson at any reasonable time. The ~~chairman~~ chairperson shall call a meeting at any time upon the request of three (3) or more Board members.

(d) Each Board member shall be notified by mail of the time and place of any meeting. ~~at least two (2) weeks prior to the date on which the meeting will be held.~~ Notification of special or emergency meetings may be by the most expedient means. An agenda of the subjects to be discussed at each meeting will be sent to each member prior to the meeting date.

(e) All meetings of the Board shall be open to the public in compliance with the Open Meetings Statute, W. Va. Code § 6-9A-1 et seq.

(f) All forms, revisions to licenses and other printed material necessary for the administration of this licensing agency shall be approved by the Board.

(g) No Board member shall act officially for the Board or convey the impression to others that he is acting officially for the Board without prior authorization from the Board.

2.3 Duties of the ~~chairman~~ Chairperson

(a) ~~He~~ Shall designate the time and place of meetings on his or her own authority or at the direction of three (3) Board members.

(b) ~~He~~ Shall preside at all meetings or, in the case of his or her inability to attend any meeting, the secretary shall serve for the meeting.

(c) ~~He~~ Shall exercise general supervision of the affairs of the Board and shall have the usual powers of such office and such other powers and duties as the Board may direct.

2.4 Duties of the Board Secretary.

(a) ~~He~~ Shall assist the ~~chairman~~ chairperson in carrying out his or her duties when required.

(b) ~~He~~ Shall preside over meetings in the absence of the ~~chairman~~ chairperson.

(c) ~~He~~ Shall act in behalf of the ~~chairman~~ chairperson in cases of extended incapacitation or long absences of the ~~chairman~~ chairperson.

(d) ~~He~~ Shall keep the minutes of the proceeding at Board meetings and the records of the Board.

2.5 Duties of the Executive Director / Administrative Secretary

~~(e)(a)~~ ~~He~~ Shall have custody of all fees received by the Board and shall be responsible for the transfer of such funds to the State Treasurer.

~~(f)(b)~~ ~~He~~ Shall receive, accept responsibility for, issue (with Board approval) and account to the Auditor for the State of West Virginia for all licenses and temporary permits and keep duplicates of certificates handled by the Board.

~~(g)(c)~~ ~~He~~ Shall be responsible, with the approval of the Board, for the preparation and submission of the annual budget to the Board.

~~(h)(d)~~ **He Shall maintain an accurate list of licenses with names and addresses.**

~~(i)(e)~~ **He Shall maintain a list of approved schools and make this list available to interested persons.**

§18-1-3. Licenses and temporary permits.

3.1 Application for licenses and temporary permits.

(a) Any person requesting an application for a license or temporary permit shall be furnished the necessary forms, and such other information or questionnaires as the Board may deem desirable.

(b) The application forms shall be designed to provide the information necessary to satisfy the Board that all requirements pertaining to the West Virginia Code are being fulfilled.

(c) All applications shall be signed by the applicant.

(d) The application shall be accompanied by a money order, certified check or personal check.

(e) Failure to complete all forms and to provide all information may be just cause for rejections of the application by the Board and cause the application to be returned to the applicant.

(f) Any person knowingly furnishing false information in such application shall be denied a license or if the applicant has already been licensed before the falsification of such information has been made known to the Board, such license or temporary permit shall be subject to suspension or revocation. In addition, the Board may undertake prosecution of the applicant pursuant to W.Va. Code §30-23-13.

3.2 Issuance of licenses and temporary permits.

(a) The Board shall issue to each applicant a license or a temporary permit within thirty (30) days of receipt of a properly completed application and payment of the appropriate fee if the applicant:

(1) Is of good moral character;

(2) Has completed four (4) years of high school education or its equivalent;

(3) Has successfully completed a minimum twenty-four (24) month course in radiologic study in a school of radiologic technology approved by the Board;

(4) Has passed the examination prescribed by the Board, which examination shall cover the basic subject matter of radiologic technology, skills and techniques;

(5) Has not been convicted of a felony in any court in this State or any federal court in this or any other State within ten (10) years preceding the date of application for registration, which conviction remains unreversed; and not have been convicted of a felony in any court in this State or any federal court in this or any other State at any time if the offense which he was convicted related to the practice of radiologic technology, which conviction remains unreversed; and

(6) Holds a license or certificate, including the American Registry of Radiologic Technologists, to practice radiologic technology issued by any other state, the requirements for which license or certificate are found by the Board to be at least equal to those provided for a license to practice radiologic technology in this State without examination.

(b) Whenever the Board finds that an applicant meets all requirements for a license to engage in the practice of radiologic technology, it shall forthwith issue to him such license.

(c) The license shall be valid for a period of one (1) year from the date of issuance.

(d) The license shall be renewed every one (1) year without examination upon application for renewal on a form prescribed by the Board. The applicant shall be responsible for obtaining, completing, signing and forwarding the renewal application to the Board with the required fee.

(e) The Board may deny an application for renewal for any reason which would justify the denial of an original application for a license. In addition, an application for renewal will be considered delinquent and subject to an additional fee if it is not received within thirty (30) days after the due date.

~~(f) The Board may issue a temporary permit to engage in the~~

~~practice of radiologic technology to an applicant who meets the qualifications of Section 3.2 (a), (b), (c) and (e) of these regulations, pending examination of such applicant.~~

~~(g) — The temporary permit shall expire thirty (30) days after the Board gives written notice of the results of the examination held following the issuance of such temporary permit.~~

~~(h) — A temporary permit may not be renewed or another thereof issued to the same person.~~

~~(i) — The failure of an applicant to seek renewal of license within two (2) years from its dated of expiration will result in the applicant's having to become relicensed.~~

(c) Whereas the West Virginia Radiologic Technology Board of Examiners (RTBOE) law requires the student to complete a minimum of 24 months of education in a School approved by the RTBOE, that student's graduation date shall be the date they are eligible to apply for a temporary permit from the RTBOE. Although the American Registry of Radiologic Technology (ARRT) allows a student to make application up to three (3) months before graduation, this has no effect on the WV State Law. Therefore, based on the above statements, the WV RTBOE will issue permits in the following manner:

(1) Students must present evidence of graduation from a WV RTBOE approved School of Radiologic Technology. This documentation can be a diploma or a notarized letter from the school's program director stating their completion of the education and clinical requirements.

(2) The graduate may apply to the WV RTBOE for a temporary permit up to six (6) months after graduation from a WV RTBOE approved School of Radiologic Technology. After six (6) months, the applicant must show proof of ARRT registration and apply for a permanent WV License.

(3) The temporary permit will be issued based on the date of application and payment of the required fee. The effective dates of the temporary permit will be for a period of twenty-four (24) weeks (six (6) months from the date that the RTBOE office receives the application and fees). Temporary permits cannot be renewed or extended.

3.3 Exemptions.

(a) The following persons are not required to obtain a license in accordance with the provisions of these regulations:

(1) A technology student enrolled in or attending an approved school of technology who as part of his course of study applies x-radiation ionizing radiation to a human being under the supervision of a licensed practitioner;

(2) A person acting as a dental assistant who under the direct supervision of a licensed dentist operates only radiographic dental equipment for the sole purpose of dental radiography;

(3) Any person engaged in performing the duties of a technologist in his employment by an agency, bureau or division of the Government of the United States; and

(4) Any licensed practitioner, radiologist or radiology residents.

~~(b) Any person who is engaged in the practice of radiologic technology in this State for a period of three (3) years or more within the last five (5) years prior to July 7, 1977, is eligible for a license to engage in the practice of radiologic technology without examination and without meeting the requirements of the W. Va. Code §30-23-3(a), if application for such license is made within twelve (12) months after the effective date of July 7, 1977, and if such person meets the requirements of Section 3.2 (a), (b) and (c) of these regulations.~~

~~(c) Any person who has been engaged as a radiologic technologist for at least one (1) of the three (3) years immediately prior to July 7, 1977, and passes a proficiency examination prepared by the Board is eligible for a license to engage in the practice of radiologic technology without further examination and without meeting the requirements of the W. Va. Code §30-23-3(a), if application for such license is made within twelve (12) months after the effective date of July 7, 1977, and if such person meets the requirements of Section 3.2 (a), (b) and (c) of these regulations.~~

~~(d) A proficiency test will be conducted by the Board at a time and place designated by the Board for those individuals who have worked as a technologist one (1) of the past three (3) years immediately prior to July 7, 1977. Those individuals receiving a satisfactory score as determined by the Board will be issued a license to practice radiologic technology.~~

~~(e) A licensure examination will be conducted twice annually at a~~

~~time and place designated by the Board. Those individuals receiving a satisfactory score as determined by the Board will be issued a license to practice radiologic technology.~~

3.4 Reciprocity.

(a) Reciprocity will be considered with other states on an individual basis.

(b) A license issued to an individual by another state will not be honored in lieu of a license issued by the West Virginia Radiologic Technology Board of Examiners.

(c) Violation of laws regulating radiologic technologists in any other state by an individual licensed by this Board while he is visiting or residing in another state shall be considered as unethical conduct by this Board.

3.5 Responsibilities of the licensee.

(a) It shall be the responsibility of each person engaged in radiologic technology to be familiar with the requirements of the law regulating such activities in West Virginia and with the regulations of this Board.

(b) It shall be the responsibility of each person engaged in radiologic technology to make timely application for licensure or renewal of license, to complete such forms properly and to pay the fees required, and to hold himself available for examination at the times and places designated by the Board. Any information or reminders which the Board may issue shall be regarded as courtesies and shall not diminish the responsibilities of the person engaged in radiologic technology.

3.6 Display of license or temporary permit.

(a) Each person entitled to engage in the practice of radiologic technology in this State shall prominently display at his principal place of employment his license or temporary permit to practice radiologic technology and his current certificate of registration (a wallet-sized registration card issued annually by the Board to every person to whom it issues a license). ~~shall be carried while engaged in the practice of radiologic technology.~~ The following disciplinary sanctions shall be considered presumptive penalties to be imposed in all first (1st) time cases of violations of the provisions of this section of this rule unless extenuating circumstances require otherwise:

1. Person working without a license

\$ 1,000.00

<u>2. Aiding and abetting person working without a license</u>	<u>\$ 1,000.00</u>
<u>3. Technologist working on expired license</u>	<u>\$ 500.00</u>
<u>4. Facility allowing technologist to work on expired license</u>	<u>\$ 500.00</u>
<u>5. Technologist not having license posted (primary workplace)</u>	<u>\$ 100.00</u>
<u>6. Facility not posting license in patient's viewable area</u>	<u>\$ 100.00</u>

(b) The current licensure and/or renewal registration card shall be exhibited when requested by and of the following:

(1) A Board member or employee of the Board; or

~~(2) An employee of West Virginia State Department of Health's Radiological Health Program; or~~

~~(3)~~ (2) Any person upon whom the licensee applies X-ray ionizing radiation; or

~~(4)~~ (3) An employer in whose employ the licensee practices or intends to practice radiologic technology.

(c) An employer, Board member or Board employee ~~employee of the Radiological Health Program~~ shall not accept a photocopy or other facsimile of a license or wallet-sized registration card as adequate the only evidence that a person is licensed to practice radiologic technology. Where, for convenience or security, a photocopy or facsimile is displayed, the original document shall be readily available for review.

3.7 Duplicate license.

(a) In requesting a name or address change, the current license must be returned to the Board with the required fee prior to issuance of a corrected license.

(b) In requesting a duplicate license due to loss of license, a notarized statement substantiating the loss must be completed and submitted to the Board with the required fee prior to issuance of a duplicate license.

3.8 Schedule of fees for services rendered by the West Virginia Radiologic Technology Board of Examiners.

(a)	Application Fee	\$75.00
(b)	Annual License Renewal Fee	\$50.00
(c)	Temporary Permit Fee	\$25.00
(d)	Reinstatement Fee (delinquent)	\$15.00
(e)	Reciprocity Fee	\$25.00
(f)	Duplicate License	\$10.00
(g)	Change of Name	\$10.00
(h)	Roster of Active Licenses	\$25.00
(i)	Mailing Labels (Name and Address/per 1000)	\$50.00

§18-1-4. Educational Requirements for candidates for licensure.

4.1 Standards for an approved school – Shall follow the current standards as established by the JRCERT.

~~(a) The candidate for licensure shall have studied at a school approved by the Board of Examiners of Radiologic Technologists.~~

~~(b) Acceptable schools may be conducted by an approved university, college, hospital or post-secondary vocational/technical schools and institutions.~~

~~(c) In order for a school to be deemed acceptable, at least two thousand (2,000) examinations per student of a variety to allow demonstrated competency in essential procedures during the two (2) year program.~~

~~(d) School administration shall assure proper financial support for the effective operation of the school and provide a classroom with the required teaching aids, a library and study space.~~

~~(e) When didactic and clinical education are not provided in the same institution, accreditation shall be obtained by the sponsoring institution for the total program. There shall be a written affiliation agreement between the sponsoring~~

~~institution and each clinical education center, clearly defining the uniform responsibilities and obligations of each.~~

~~(f) — The medical director of the school must be a radiologist.~~

~~(g) — There shall be a qualified program director who shall devote full-time to the sponsoring institution with primary responsibilities for the educational program to include: Organization, administration, periodic review, continued development and general effectiveness. The program director's responsibility shall not be adversely affected by educationally unrelated functions. The program director shall be a full-time employee of the sponsoring institution/education centers. Each program shall designate a clinical instructor. In multiple affiliate programs, a clinical instructor shall be designated for each clinical education center. In programs with a total of ten (10) or less students, the program director's responsibility may include clinical education. The clinical instructor shall be responsible for clinical instruction and clinical competency evaluation of students. Responsibilities for supervision and evaluation shall not be adversely affected by educationally unrelated functions.~~

~~(h) — There should be a corps of well trained technologists who are capable of assisting in classroom instruction as well as in the practical teaching of students.~~

~~4.2 — General facilities. — The radiology department should be housed in suitable quarters and provided with modern equipment capable of performing all types of radiologic examinations and treatments which are usually performed in a general hospital. Installations should conform to the requirements of the Bureau of Standards.~~

~~4.3 — Physical resources.~~

~~(a) — Classrooms should contain seating and writing surfaces for each student in the class; have sufficient space to conduct demonstrations of procedures and to use audiovisual resources appropriate to teaching radiography; be equipped with proper lighting, temperature control and ventilation; meet safety requirements; be available for all scheduled classes on a basis that allows faculty to plan a semester in advance in order to post class schedules and to prepare the room; be reasonably accessible so that travel time does not disrupt or negatively affect the educational process. Provisions should be made for students' coats, books and personal items.~~

~~(b) — Documentation demonstrating that energized laboratories meet prevailing radiation safety regulations should be posted or otherwise readily available for inspection.~~

~~(c) — Offices for the administrative and instructional staff should be reasonably accessible, suitably private and secure for the planning, research, evaluation and counseling responsibilities. The security of instructional materials, files and examinations should be assured.~~

~~(d) — A library shall be readily accessible, containing an adequate supply of up-to-date books, periodicals and other reference materials related to the curriculum and the profession.~~

~~(e) — Instructional aids, equipment and facilities for demonstration shall be provided, such as an articulate skeleton, teaching file or radiographs, anatomical models and charts, slides, etc.~~

~~4.4 — Instructional program.~~

~~(a) — Classroom instruction should average a minimum of five (5) hours per week.~~

~~(b) — Classes are to be held regularly regardless of the work load of the department.~~

~~(c) — Examination grades must be made a permanent part of the student's record.~~

~~4.5 — Basic curriculum. -- The basic curriculum to be offered by an approved school to a candidate for licensure shall include, but not be limited to: Introduction to radiography, medical ethics and law, medical terminology, methods of patient care, human structure and function, radiographic procedures, principles of radiographic exposure, imaging equipment, radiographic file processing, evaluation of radiographs, radiation physics, principles of radiation protection, principles of radiation biology, radiographic pathology, introduction to quality assurance, introduction to computer literacy and clinical education. The curriculum shall include a plan for well structured competency based clinical education.~~

~~§18-1-5. Administrative hearing procedures for the Board of Radiologic Technologists.~~

~~5.1 Hearing procedures.~~

~~(a) — Hearings on any suspension, revocation or denial of an application for a license that is ordered by the Board and that is contested by the applicant shall be conducted according to the W. Va. Code §30-23-10.~~

~~(b) — The applicant may be represented by counsel at the hearing; the Board shall be represented by the Attorney General or his assistants. Special~~

~~counsel shall be appointed to aid the Board in its rulings on the admission of evidence.~~

~~(c) The technical rules of evidence shall not apply at hearings conducted by the Board: Provided, however, That each party shall have the right to cross-examine any or all witnesses.~~

~~(d) Any concurring or dissenting opinions of Board members shall be in writing and accompany the Board's final order as outlined in the W. Va. Code §30-23-10(g).~~

~~5.2 Procedures for judicial review. -- Any person adversely affected by a decision of the Board rendered after a hearing shall have the right to pursue an appeal pursuant to the W. Va. Code §30-23-10(g).~~