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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Board of Medicine TITLE NUMBER: 11

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

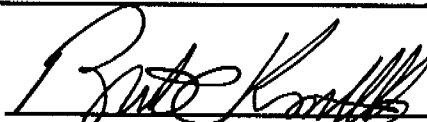
TITLE OF RULE BEING PROPOSED: Certification, Disciplinary and Complaint Procedures,  
Continuing Education, Radiologist Assistants

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 349

SECTION §64-9-10(c), PASSED ON March 8, 2008

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: July 1, 2008

  
Authorized Signature

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**TITLE II  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF MEDICINE**

WEST VIRGINIA  
STATE

**SERIES 9  
CERTIFICATION, DISCIPLINARY AND COMPLAINT PROCEDURES,  
CONTINUING EDUCATION, RADIOLOGIST ASSISTANTS.**

**§11-9-1. General.**

1.1. Scope. – W. Va. Code §30-3-7a requires the Board of Medicine to regulate the practice of Radiologist Assistants, and with the advice of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners the Board of Medicine is to propose rules to establish the scope of practice of a Radiologist Assistant, develop the education and training requirements for a Radiologist Assistant and regulate Radiologist Assistants.

1.2. Authority. – W. Va. Code §30-3-7a.

1.3. Filing date – April 4, 2008.

1.4. Effective date – July 1, 2008.

**§11-9-2. Definitions.**

2.1. For purposes of this rule, the following definitions apply:

a. “ARRT” means the American Registry of Radiologic Technologists.

b. “Certification” means the approval of individuals by the Board of Medicine to serve as Radiologist Assistants.

c. “Direct Supervision” means the radiologist must be present in the office suite and immediately available to furnish assistance and directions to the radiologist assistant throughout the performance of the procedure.

d. “Personal Supervision” means a physician must be in attendance in the room throughout the performance of the procedure.

e. “Radiologist” means a physician licensed by the West Virginia Board of Medicine (M.D.) specializing in radiology who is Board certified in radiology by a member board of the American Board of Medical Specialties.

f. “Radiologist Assistant” means a person, other than a licensed practitioner, who is qualified by education and certification, as an advanced-level

radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the medical-imaging environment.

g. "Supervision" means the opportunity and ability of the radiologist to exercise control and direction over the services of radiologist assistants. Constant physical presence of the supervising radiologist of a radiologist assistant certified by the Board of Medicine is not required so long as the supervising radiologist and the radiologist assistant are or may easily be in contact in person by radio, telephone, e-mail, teleradiology or other telecommunications methods. Supervision requires continuous availability of the supervising radiologist. To be eligible as a supervising radiologist, the radiologist must hold a full and unrestricted medical license in West Virginia.

### **§11-9-3. Supervision of Radiologist Assistants by licensed radiologist.**

3.1. A radiologist fully licensed under W. Va. Code §30-3-1 et seq. may submit a job description to the Board of Medicine to supervise a radiologist assistant. Upon approval of the submitted job description, the radiologist will be deemed a supervising radiologist.

3.2. The delegation of certain acts to a radiologist assistant shall be stated on the job description in a manner consistent with sound radiological practice and with the protection of the health and safety of the patient in mind.

### **§11-9-4. Submission of application; job description.**

4.1. An application completed by the applicant radiologist assistant and a job description signed by the supervising radiologist listing in numerical order the duties which are requested to be performed by the radiologist assistant must be in the office of the Board of Medicine, 101 Dee Drive, Suite 103, Charleston, West Virginia 25311, thirty (30) days prior to a Board of Medicine meeting. Meetings are held bimonthly or as needed beginning in January. The filing of an application and job description does not entitle a radiologist assistant to certification. The Board of Medicine is the only legal authority for certification.

4.2. An application for certification and the proposed job description shall be accompanied by the following:

a. Documentation that the applicant is currently certified by the American Registry of Radiologic Technologists as a radiologic technologist (RT), and

b. Documentation that the applicant is currently certified by the American Registry of Radiologic Technologists as a radiologist assistant, and

c. Documentation that the applicant has unencumbered licensure, certification, or registration status in all other jurisdictions where the applicant holds or held licensure, certification or registration.

d. The applicable fee of \$100.

4.3. The Board of Medicine at its next regular meeting following receipt of the required items shall make a determination as to certification of the radiologist assistant.

4.4. Application for changes to the standard approved job description as provided for in subdivision 14.2. of this rule, or for a previously approved job description shall be made thirty (30) days prior to the Board of Medicine meeting.

4.5. The proposed job description shall be signed by the supervising radiologist and radiologist assistant.

**§11-9-5. Biennial Report of Radiologist Assistants Performing, Renewal, Annual Report of the Board of Medicine.**

5.1. Radiologist assistants and their supervising radiologists must submit to the Board of Medicine biennial reports, signed either individually or combined, on the professional conduct, capabilities and performance of the radiologist assistant. The report shall be submitted in conjunction with each completed renewal application and shall be submitted to the Board of Medicine office by April 1.

5.2. The Board of Medicine shall compile and publish in an annual report a list of currently certified radiologist assistants, their supervisors, and their location in the state.

**§11-9-6. Supervision and Control of Radiologist Assistant.**

6.1. The radiologist assistant, whether employed by a health care facility or the supervising radiologist, shall perform only under the supervision and control of the supervising radiologist. The radiologist assistant may function in any setting within which the supervising radiologist routinely practices, but in no instance may a separate place of work for the radiologist assistant be established. The supervising radiologist shall be a physician permanently licensed in this state by the Board of Medicine, specializing in radiology and Board certified in radiology.

**§ 11-9-7. Limitations on Supervision.**

7.1. A supervising radiologist may not supervise more than two (2) radiologist assistants at any one time.

7.2. In the absence of the supervising radiologist, another radiologist may serve as the supervising radiologist, however, the legal responsibility remains at all times with the absent supervising radiologist.

7.3. It is appropriate for a radiologist assistant to provide radiologic services to another supervising radiologist's patients at his or her direction in settings such as a health care facility, partnerships, group practices and other mutually agreed on patient

coverage arrangements where a radiologist assistant is providing radiologic services to another supervising radiologist's patients at his or her direction in such settings. That supervising radiologist is also legally responsible with the Board of Medicine's approved supervising radiologist for the radiologist assistant.

7.4. A radiologist assistant may not be supervised by and work for more than three (3) supervising radiologists at one time. Radiologist assistants who are supervised by more than one (1) supervising radiologist shall be those whose scope of professional duties require multiple radiologist supervisors.

7.5. A supervising radiologist may not permit a radiologist assistant to independently practice radiology. The supervising radiologist shall supervise the radiologist assistant at all times.

#### **§11-9-8. Limitations on Scope of Duties of Radiologist Assistant.**

8.1. The radiologist assistant may not interpret images, preliminary or final or otherwise make diagnoses, or prescribe medications or therapies.

8.2. A radiologist assistant may not perform any physical examination.

8.3. The radiologist assistant may not perform the following procedures, including contrast media administration and needle or catheter placement for such procedures:

- a. Lumbar puncture under fluoroscopic guidance.
- b. Lumbar myelogram.
- c. Thoracic or cervical myelogram.
- d. Conventional arthrogram.
- e. Non-tunneled venous central line placement.
- f. Paracentesis with appropriate image guidance.
- g. Thoracentesis with appropriate image guidance.
- h. Venous catheter placement for dialysis.
- i. Breast needle localization.

8.4. The radiologist assistant is not authorized to record previously communicated observations of imaging procedures in the chart.

8.5. A radiologist assistant may not independently bill patients for services provided.

8.6. A radiologist assistant may not sign prescriptions.

8.7. A radiologist assistant may not independently delegate a task assigned to him or her by his or her supervising radiologist to another individual.

8.8. A radiologist assistant may not perform any services which his or her supervising radiologist is not qualified to perform.

8.9. A radiologist assistant may not perform any services which are not included in his or her job description and approved by the Board of Medicine.

**§11-9-9. Identification of Radiologist Assistant.**

9.1. When functioning as a radiologist assistant, the radiologist assistant must wear a nametag which identifies the radiologist assistant as a certified radiologist assistant or the letters "RA-C" after his or her name.

**§11-9-10. Responsibilities of the supervising radiologist.**

10.1. The supervising radiologist is responsible for observing, directing and evaluating the work, records and practices performed by the radiologist assistant.

10.2. The supervising radiologist shall notify the Board of Medicine in writing of any termination of the employment of his or her radiologist assistant within ten (10) days of the termination.

10.3. The legal responsibility for any radiologist assistant remains that of his or her supervising radiologist at all times. Also, in temporary situations not to exceed twenty-one (21) days, when a certified and fully qualified radiologist assistant is substituting for another certified radiologist assistant, the acts and omissions of the substituting radiologist assistant are the legal responsibility of the absent radiologist assistant's designated supervising radiologist.

10.4. The temporary change in supervisory responsibility shall be provided to the Board of Medicine in writing, or through electronic notification, within ten (10) days of the effective date of the substitution, signed by the affected supervising radiologists and radiologist assistants, and clearly specifying the dates of substitution.

**§11-9-11. Disciplinary Action Against a Radiologist Assistant.**

11.1. The certification of a radiologist assistant shall be restricted, suspended or revoked by the Board of Medicine in accordance with all the alternatives set out at W. Va. Code §30-3-14(i) when, after due notice and a hearing in accordance with the manner and form prescribed by the contested case hearing procedure, W. Va. Code §§29A-5-1 et

seq. and rules of the Board of Medicine set out in Procedural Rule 11 CSR 3, if it is found:

a. That the assistant has held himself or herself out or permitted another person to represent him or her as a licensed radiologist.

b. That the assistant has in fact performed other than at the direction and under the supervision of a supervising radiologist licensed by the Board of Medicine.

c. That the assistant has been delegated and performed a task or tasks beyond his or her competence and not in accordance with the job description approved by the Board of Medicine.

d. That the assistant is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as an assistant to the radiologist.

e. That the assistant has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude.

f. That the assistant has been adjudicated a mental incompetent or his or her mental condition renders him or her unable to safely perform as an assistant to a radiologist.

g. That the assistant has failed to comply with any of the provisions of this rule or the West Virginia Medical Practice Act; W. Va. Code §§30-3-1 et seq.; or

h. That the assistant is guilty of unprofessional conduct which includes, but is not limited to, the following:

1. Misrepresentation or concealment of any material fact in obtaining any certificate or license or a reinstatement of any certificate or license.

2. The commission of an offense against any provision of state law related to the practice of radiologist assistants, or any rule promulgated under the law.

3. The commission of any act involving moral turpitude, dishonesty or corruption, when the act directly or indirectly affects the health, welfare or safety of citizens of this State. If the act constitutes a crime, conviction of the crime in a criminal proceeding is not a condition precedent to disciplinary action.

4. Conviction of a felony, as defined under the laws of this State or under the laws of any other jurisdiction.

5. Misconduct in his or her practice as a radiologist assistant or performing tasks fraudulently, beyond his or her authorized scope of practice, with incompetence or with negligence on a particular occasion or negligence on repeated occasions.

6. Performing tasks as a radiologist assistant while the ability to do so is impaired by alcohol, drugs, physical disability or mental instability.

7. Impersonation of a licensed radiologist or another certified radiologist assistant.

8. Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine; treating or prescribing for any human condition by a method, means or procedure which the radiologist assistant refuses to divulge upon demand of the Board of Medicine; or using methods or treatment processes not accepted by a reasonable segment of licensed radiologist.

9. Prescribing a prescription drug, including any controlled substance under state or federal law.

10. Conviction of a misdemeanor or a felony, as defined under the laws of this State or under the laws of any other jurisdiction, if the offense relates to the practice of medical imaging.

#### **§11-9-12. Denial of Certification of Radiologist Assistant.**

12.1. The burden of satisfying the Board of Medicine of his or her qualifications for certification is on the applicant.

12.2. Whenever the Board of Medicine determines that an applicant has failed to satisfy the Board of Medicine that he or she should be certified, the Board of Medicine shall immediately notify the applicant of its decision and indicate in what respect the applicant has failed to satisfy the Board of Medicine. The applicant shall be given a formal hearing before the Board of Medicine upon request of the applicant filed with or mailed by registered or certified mail to the Secretary of the Board, 101 Dee Drive, Suite 103, Charleston, West Virginia 25311. The request must be filed within thirty (30) days after receipt of the Board of Medicine's decision, stating the reasons for the request. The Board of Medicine shall within twenty (20) days of receipt of the request, notify the applicant of the time and place of a public hearing, which shall be held within a reasonable time. Following the hearing, the Board of Medicine shall determine on the basis of this rule whether the applicant is qualified to be certified. The decision of the Board of Medicine is final as to that application.

#### **§11-9-13. Complaint and Disciplinary Procedures.**

13.1. The complaint and disciplinary process and procedures set forth in the contested case hearing procedure, W. Va. Code §§29A-5-1 et seq., and in the Board of Medicine Procedural Rule 11 CSR 3, also apply to the complaint process for radiologist assistants and to disciplinary actions instituted against radiologist assistants with the same provisions regarding the appeal of decisions made to circuit courts.

#### **§11-9-14. Radiologist Assistant Utilization.**

14.1. The tasks a radiologist assistant may perform are those which require technical skill, execution of standing orders, routine radiologic tasks and procedures which the supervising radiologist may wish to delegate to the radiologist assistant after the supervising radiologist has satisfied himself or herself as to the ability and competence of the radiologist assistant. The supervising radiologist may, with due regard for the safety of the patient and in keeping with sound medical practice, delegate to the radiologist assistant those radiologic procedures and tasks that are usually performed within the scope of the practice of radiology, subject to the limitations set forth in this

rule at section eight (8) and the West Virginia Medical Practice Act, W. Va. Code § 30-3-1 et seq. and the training and expertise of the radiologist assistant.

14.2. The radiologist assistant shall, under the appropriate direction and supervision by a radiologist, augment the radiologist's data gathering abilities in order to assist the supervising radiologist in reaching decisions and instituting plans of care for the radiologist's patients. A radiologist assistant shall have, the knowledge and competency to perform the following functions and may under appropriate supervision perform them; the standard job description is not meant to be specific or all-inclusive:

- a. Review patient medical record to verify the appropriateness of a specific exam or procedure and report significant findings to radiologist.
- b. Interview patient to obtain, verify, and update medical history.
- c. Explain procedure to patient or significant others, including a description of risks, benefits, alternatives, and follow-up. Patient must be able to communicate with the radiologist if he/she requests or if any questions arise that cannot be appropriately answered by the radiologist assistant.
- d. Obtain informed consent. Patient must be able to communicate with the radiologist if he/she requests or if any questions arise that cannot be appropriately answered by the radiologist assistant.
- e. Determine if patient has followed instructions in preparation for the examination (e.g., diet, premedications).
- f. Assess and review with the radiologist the risk factors that may contraindicate the procedure (e.g. health history, medications, pregnancy, psychological indicators, alternative medicines).
- g. Obtain and evaluate vital signs.
- h. Apply ECG leads and be able to recognize life threatening abnormalities.
- i. Perform urinary catheterization. Catheterization can be performed by appropriately trained radiologist assistants under general supervision. If a patient is known to have an anatomic anomaly, recent surgery in the area, etc., direct supervision would be needed.
- j. Perform venipuncture.
- k. Monitor IV for flow rate and complications in compliance with facility and regulatory rules.
- l. Position patient to perform required procedure, using immobilization devices and modifying technique as necessary. Application of restraints should be in compliance with departmental rules and regulations.
- m. Assess patient's vital signs and level of anxiety/pain and inform radiologist when appropriate.
- n. Recognize and respond to medical emergencies (e.g. drug reactions, cardiac arrest, hypoglycemia) and activate emergency response systems, including notification of the radiologist.
- o. Administer oxygen as prescribed.
- p. Operate a fixed/mobile fluoroscopic unit.
- q. Assure documentation of fluoroscopy time.

r. Explain effects and potential side effects to the patient of the radiopharmaceutical and contrast media required for the examination.

s. Administer medications, including conscious sedation medications, only under the personal supervision of the supervising radiologist.

t. Under direct supervision, meaning the radiologist must be present in the office suite and immediately available to furnish assistance and directions throughout the performance of the procedure, may perform the following fluoroscopic examinations and procedures including contrast media administration and operation of fluoroscopic unit:

1. hysterosalpingogram (imaging only)
2. port injection
3. contrast injection into joint for MR or CT arthrogram
4. PICC line placement

Under general supervision, may perform the following fluoroscopic examinations and procedures including contrast media administration and operation of fluoroscopic unit:

1. upper GI
2. esophagus
3. small bowel studies
4. barium enema
5. cystogram
6. t-tube cholangiogram
7. retrograde urethrogram
8. nasoenteric and oroenteric feeding tube placement
9. fistulogram/sonogram
10. loopogram
11. swallowing study
12. lower extremity venography
13. ductogram (galactogram)

u. Evaluate images for completeness and diagnostic quality, and recommend additional images as required in general radiography, CT or MR. (Additional images only in the same modality such as additional CT cuts.)

v. Evaluate images for diagnostic utility and report observations to the radiologist in general radiography, CT, and MR.

w. Review imaging procedures, make initial observations, and communicating observations only to the radiologist.

x. Communicate radiologist's reports to referring physician consistent with American College of Radiology Communication Guidelines.

y. Provide physician-prescribed post care instructions (no medicines) to patients.

z. Perform follow-up patient evaluation and communicate findings to the radiologist.

aa. Document procedure in appropriate record and document exceptions from established protocol or procedure.

- bb. Write patient discharge summary for review and co-signature by radiologist.
- cc. Participate in quality improvement activities within radiology practice (e.g. quality of care, patient flow, reject-repeat analysis, patient satisfaction.
- dd. Assist with data collection and review for clinical trials or other research.
- ee. Perform specialized CT/MR post processing.

14.3. A radiologist assistant making application to the Board of Medicine for job description changes or additions shall document that his or her training and competency supports the request.

14.4. If the supervising radiologist absents himself or herself in such a manner or to such a manner or to such an extent that he or she is unavailable to aid the radiologist assistant when required, the supervising radiologist shall not delegate tasks to his or her radiologist assistant unless he or she has made arrangements for another supervising radiologist. The legal responsibility for the acts and omissions of the radiologist assistant remains with the supervising radiologist at all times.

14.5. It is the responsibility of the supervising radiologist to ensure that supervision is maintained in his or her absence.

14.6. Designated representatives of the Board of Medicine are authorized to make on-site visits to the offices of supervising radiologists and facilities utilizing radiologist assistants to review the following:

- a. The supervision of radiologist assistants.
- b. Utilization of radiologist assistants in conformity with the provisions of this section.
- c. Identifications of radiologist assistants.
- d. Compliance with certification requirements.

14.7. The Board of Medicine reserves the right to review radiologist assistant utilization without prior notice to either the radiologist assistant or the supervising radiologist. It is a violation of this rule for a supervising radiologist or a radiologist assistant to refuse to undergo a review by the Board of Medicine.

14.8. The provisions of this section may not be construed to require medical care facilities or radiologists to accept radiologist assistants or to use them within their premises. It is appropriate for the radiologist assistant to provide services to the hospitalized patients of his or her supervising radiologist under the supervision of the radiologist, if the health care facility permits it.

14.9. Radiologist assistants employed directly by health care facilities shall perform services only under the supervision of a clearly identified supervising radiologist.

14.10. It is the supervising radiologist's responsibility to be alert to patient complaints concerning the type or quality of services provided by the radiologist assistant.

14.11. In the supervising radiologist's office and any office in which the radiologist assistant may function, a notice plainly visible to all patients shall be posted in a prominent place explaining the meaning of the term "Radiologist Assistant". The radiologist assistant's certificate must be prominently displayed in any office in which he or she may function. A radiologist assistant may obtain a duplicate certificate from the Board of Medicine if required.

14.12. The radiologist assistant is required to notify the Board of Medicine of changes in his or her employment within thirty (30) days. The radiologist assistant must provide the Board of Medicine with his or her new address and telephone number of his or her residence, address and telephone number of employment and name of his or her supervising radiologist.

14.13. The supervising radiologist is required to notify the Board of Medicine of any changes in his or her supervision of a radiologist assistant within ten (10) days.

#### **§11-9-15. Continuing Education.**

15.1. Beginning the first day of April, 2010, each radiologist assistant, as a condition of his or her biennial renewal of radiologist assistant certification, shall provide to the Board written documentation of participation in and successful completion during the preceding two (2) year period of a minimum of fifty (50) hours of continuing education. A copy of the certificate of registration from the ARRT for both of the applicable years will satisfy the Board of Medicine as written documentation.

#### **§11-9-16. Fees.**

16.1. The fee for an initial application is \$100.

16.2. The fee for the biennial certification is \$100.

16.3. The fee for any change of supervising radiologist is \$25.

16.4. The fee for reinstatement of an expired certification is \$25.