



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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8/26/2019 3:11:25 PM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Medical Imaging And Radiation Therapy Technology Board Of Examiners TITLE-SERIES: 18-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: WV Medical Imaging and Radiation Therapy Technology Board of Examiners

CITE STATUTORY AUTHORITY: Chapter 30, Article 23

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/27/2019 11:59 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jmaie Browning

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Changes mandated by HB118

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Changes mandated by HB118

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	225,000	225,000	225,000
<b>Personal Services</b>	100,000	100,000	100,000
<b>Current Expenses</b>	215,000	215,000	215,000
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	215,000	215,000	215,000

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

None.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Jamie S Browning -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

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TITLE 18  
LEGISLATIVE RULES  
**RADIOLOGIC MEDICAL IMAGING TECHNOLOGISTS**

SERIES 1  
WEST VIRGINIA MEDICAL IMAGING AND  
RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

**§18-1-1. General provisions.**

1.1. Scope. -- Except as otherwise specifically provided, this rule applies to all persons in West Virginia who ~~apply~~ perform medical imaging and radiation therapy ~~or assist in the application of medical imaging or radiation therapy~~ to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner. This rule establishes the general requirements for licensure of Medical Imaging and Radiation Therapy Technologist in West Virginia.

1.2 . Authority. -- W. Va. Code §30-23-5

1.3 . Filing Date. -- ~~August 9, 2016.~~

1.4 . Effective Date. -- ~~September 1, 2016.~~

1.5 . Sunset Provision -- This rule shall terminate and have no further force or effect in 15 years.

**§18-1-2. Definitions.**

As used in this rule:

2.1. “Active Duty” means when a member of the Armed Forces of the United States, the National Guard of this state or any other state, or any other military reserve component is deployed outside of this state, and for the following six months after discharge.

2.2. “Active License” means a current unexpired license.

2.3. “Expired License” means a license that has been expired less than or equal to sixty (60) days.

2.4. “Inactive License” means a license that has been expired greater than sixty (60) days.

2.5. “Initial” means obtaining a license for the first time.

2.6. “Ionizing Radiation (X-Ray)” means any type of radiation which, during its interaction with matter, can cause the formation of an ion pair. This ionizing radiation is used to generate an exposure for diagnostic or therapeutic purposes.

2.7. “JRCERT” means the Joint Review Committee on Education in Radiologic Technology.

2.8. “JRCNMT” means the Joint Review Committee on Educational Programs in Nuclear Medicine Technology.

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2.9. "Local Labor Market" means every county in West Virginia and any county outside of West Virginia if any portion of that county is within 50 miles of the border of West Virginia.

2.10. "low-income individuals" means individuals whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program (TANFP), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP).

2.11. "Military Families" means any person who serves as an active member of the Armed Forces of the United States, the National Guard, or a reserve component, honorably discharged veterans of the forces, and their spouses. The term also includes surviving spouses of deceased service members who have not remarried.

2.12. "Reciprocity" means the granting of a license to persons who hold a license or certificate in another state.

2.13. "Reinstatement" means to convert from inactive license status to active license status.

2.14. "Temporary Permit" means a permit granted and issued by the Board for the practice of radiologic technology which is limited in duration.

2.15. "Unethical Conduct" means, but is not limited to:

2.15.a. Engaging in the practice of medical imaging or radiation therapy while in an intoxicated condition, and/or under the influence of narcotic or any other drugs which impair consciousness, judgement or behavior;

2.15.b. Immoral conduct while engaged in the practice of medical imaging or radiation therapy technology or behavior indicating an unfitness to practice medical imaging or radiation therapy technology;

2.15.c. Willful falsification, destruction or theft of property or records relating to the practice of medical imaging or radiation therapy technology;

2.15.d. Failure to exercise due regard for the safety of the life or health of the patient;

2.15.e. Unauthorized disclosure of information relating to a patient or his or her records;

2.15.f. Discrimination in the practice of medical imaging or radiation therapy technology against any person for reason of race, religion, ~~creed~~, familial status, gender, age, disability, color, ~~or~~ national origin and any other protected class.

2.15.g. Violating the provisions of the Rules of the Board; or

2.15.h. The grounds enumerated in W. Va. Code § 30-23-24(a)(3).

**§18-1-3. Board functions.**

3.1. 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 is the duty of the Board to carry out the provisions of the law to the best of its ability.

**§18-1-4. Licenses, apprentice licenses and temporary permits.**

4.1. Application for licenses, apprentice licenses and temporary permits.

4.1.a. The Board shall ~~provide~~ furnish any person requesting an applications for a licenses, apprentice licenses or temporary permits ~~the necessary forms~~, and any other information ~~or questionnaires~~ as the Board considers desirable.

4.1.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.

4.1.c. All applications shall be signed by the applicant, except ~~any renewal applications~~ when submitted on-line. An Applicant who submits an renewal application on-line ~~by credit card payment~~ is considered to have signed the application.

4.1.d. The application fee shall be ~~accompanied~~ paid by a credit card or other electronic means. ~~money order, certified check, or a personal check. Any application or renewal application may be paid by certain credit cards which have been approved by the Board.~~

4.1.e. If an applicant fails to complete all forms and to provide all information within thirty (30) days, the Board shall reject and return the application to the applicant.

4.1.f. The Board shall deny a license to any person knowingly furnishing false information ~~in an application~~. If the applicant has already been licensed before the falsification of the information has been made known to the Board, the license, apprentice license or temporary permit is subject to suspension or revocation. In addition, the Board may undertake prosecution of the applicant pursuant to W.Va. Code §30-23-28.

4.1.g. The Board may not disqualify an applicant from initial licensure because of a prior criminal conviction unless that conviction bears a rational nexus to the practice of medical imaging and/or radiation therapy technology. In determining whether a criminal conviction bears a rational nexus to the practice of medical imaging and/or radiation therapy technology, the Board shall consider, at a minimum:

4.1.g.1. The nature and seriousness of the crime;

4.1.g.2. The passage of time since the commission of the crime;

4.1.g.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities attendant to the practice of medical imaging and/or radiation therapy technology; and

4.1.g.4. Any evidence of rehabilitation or treatment undertaken by the applicant.

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4.1.h. If an applicant has been denied licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

4.1.h.1. A period of five years has elapsed from the date of conviction or the date of incarceration, whichever is later;

4.1.h.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

4.1.h.3. The conviction was not for an offense of a violent or sexual nature.

4.1.i. An individual with a criminal record who has not previously applied for licensure may petition the Board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

4.1.i.1. The petition shall be submitted on an application form prescribed by the Board and shall include sufficient details about the individual's criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the Board to access the criminal records of the applicant in order for the Board to make the eligibility determination.

4.1.i.2. The applicant may submit with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice of medical imaging.

4.1.i.3. The Board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

4.1.i.4. The fee for an applicant petitioning for a licensure eligibility determination is specified in the Schedule of Fees and upon acknowledgement of eligibility by the Board and upon the submission of an application for licensure, the eligibility fee shall be deducted from the applicable initial licensure application fee.

4.2. Issuance of licenses, apprentice licenses and temporary permits.

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

4.2.b. Licenses and apprentice licenses are valid for a period of one (1) year and expire at the end of the month from the date of issuance.

4.2.c. An apprentice license ~~for an individual practicing in Nuclear Medicine or Magnetic Resonance Imaging as of July 1, 2007~~, may be renewed no more than four (4) times as stipulated in W. Va. Code §30-23-19 (b)

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4.2.d. A licensed Medical Imaging Technologist cross-training in Nuclear Medicine or Magnetic Resonance Imaging may renew his or her apprentice license as stipulated in W. Va. Code §30-23-19 (c).

~~4.2.e. An active licensee shall renew his or her license annually without examination by applying for renewal on a form prescribed by the Board or by completing the on-line renewal application with and submitting the payment and required continuing education. by a Board approved credit card. If submitted by U.S. mail, the licensee is responsible for obtaining, completing, signing and forwarding the renewal application to the Board with the required fee and documentation of their Continuing Education (CE) as required by the Board's rule, CONTINUING EDUCATION, 18CSR2. For on line renewals the Board shall attempt to verify Continuing Education. If the information cannot be obtained, the Board shall notify the licensee that the required documentation of Continuing Education compliance must be submitted to the office before the Board issues the renewal license.~~

4.2.f. Military families on active duty, as defined by this rule, may seek a waiver of continuing education requirements.

4.2.g. The Board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

4.2.h. The Board shall assess a fee for reinstatement of an expired license.

4.2.i. An inactive licensee shall reactivate his or her license without examination by completing the reinstatement application, providing proof of active national certification and required continuing education, and submitting payment of the reinstatement fee.

4.2.j. The Board shall only issue temporary permits to individuals who have completed ~~training in Radiologic Technology or Nuclear Medicine Technology~~ an approved medical imaging program:

4.2.j.1. An applicant for a temporary permit shall present evidence of graduation from a Board approved ~~School of Radiologic Technology or Nuclear Medicine Technology~~ medical imaging program. This evidence may be a diploma or transcript. ~~or a notarized letter from the school's program director stating the applicant has completed the course's education and clinical requirements.~~

4.2.j.2. An applicant for a temporary permit may apply to the Board ~~for a permit~~ up to six (6) months after graduation from a Board approved ~~School of Radiologic Technology or Nuclear Medicine Technology~~ medical imaging program. After six (6) months, the applicant must show proof of passage of a Board approved registration examination and apply for a permanent WV License.

4.2.j.3. The Board shall issue the temporary permit 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 or six (6) months ~~from the date that the Board's office receives the application and fees~~ and expire at the end of the month from the date of issuance. Temporary permits may not be renewed or extended.

### ~~4.3. Reciprocity.~~

~~4.3.a. The Board may consider reciprocity with other states on an individual basis.~~

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~~4.3.b. The Board shall not honor a license issued to a person by another state in lieu of a license issued by the Board.~~

~~4.3.c. A licensee who violates laws regulating radiologic technologists in any other state while he or she is visiting or residing in another state shall be considered guilty of unethical conduct by the Board.~~

4.3. Responsibilities of licensees and permittees.

4.3.a. It is the responsibility of each licensee or permittee to be familiar with the requirements of the law regulating the practice of Medical Imaging and Radiation Therapy in West Virginia and with the rules of the Board.

4.3.b. It is the responsibility of each licensee or permittee to make timely application for a license, apprentice license or renewal of license, to complete the forms properly, to submit the required Continuing Education documentation, and to pay the fees required, and to hold himself or herself available for examination at the times and places designated by the Board. Any information or reminders which the Board may issue are courtesies and shall not diminish the responsibilities of the licensee or permittee.

4.3.c. A licensee or permittee shall notify the Board within thirty (30) days of any change of his or her legal name, primary address, contact information or place of employment.

4.4. Display of license or temporary permit.

4.4.a. Each licensee or permittee shall prominently display at his or her ~~principal~~ place of employment ~~his or her original, a current license, apprentice license or temporary permit to practice medical imaging or radiation therapy technology or provide documentation of licensure upon request. A photocopy of the original, current license may be displayed at the licensee or permittee's secondary place of employment. The wallet sized card issued with the license is not acceptable for display.~~

4.4.b. A licensee shall exhibit a current licensure ~~or renewal registration card~~ status when requested by the following:

4.4.b.1. A Board member or an employee of the Board;

4.4.b.2. Any person upon whom the licensee applies medical imaging or radiation therapy;

or

4.4.b.3. An employer in whose employ the licensee practices or intends to practice medical imaging or radiation therapy technology.

4.4.b.4. Any member of the public.

4.4.c. ~~An employer, Board member or Board employee shall not accept a photocopy or other facsimile of a license or wallet sized card as the only evidence that a person is licensed to practice medical imaging or radiation therapy technology. Where, for convenience or security, a photocopy or facsimile is displayed, the original document shall be readily available for review.~~

4.5. Duplicate license.

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4.5.a. In requesting a name change, the licensee shall ~~return the current license or permit to the Board after making a copy for posting with~~ submit the required application, documentation and fee ~~and court documentation showing the new name prior to issuance of a corrected license or permit.~~

4.5.b. When requesting a duplicate license or permit ~~due to loss of license or permit~~, a licensee shall submit ~~a notarized statement substantiating the loss to the Board~~ with the required application and fee prior to issuance of a duplicate license or permit.

4.6. Schedule of fees for services rendered by the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners.

4.6.a. Application Fee	\$100.00
4.6.b. Annual Renewal Fee	\$65.00
4.6.c. All Temporary Permits Fee	\$40.00
4.6.d. Reinstatement Fee (delinquent)	\$25.00
4.6.e. Return Check Fee	Maximum allowable by West Virginia State Code
<del>4.6.f. Reciprocity Fee</del>	<del>\$40.00</del>
4.6.f. Duplicate License	\$15.00
4.6.g. Change of Name	\$15.00
<del>4.6.i. Roster of Active Licenses</del>	<del>\$50.00</del>
<del>4.6.j. Mailing Labels</del>	<del>\$50.00</del>
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<del>(Name and Address/per 750 or portion thereof)</del>	
4.6.h. WV State Only Examination Fee	
Fee set by Board approved third party administrator	
4.6.i. Board administered Exam Fee	\$100.00
<u>4.6.j. Petition for Initial Licensure Eligibility pursuant to 4.1.i.</u>	<u>\$100.00</u>

4.7. Presumptive penalties

4.7.a. The Board shall consider the following disciplinary sanctions as presumptive penalties to be imposed in all cases of first time violations of the provisions of this section of this rule, unless extenuating circumstances require otherwise:

4.7.a.1. Person working without being issued a license	\$1,000.00
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4.7.a.2. Aiding and abetting a person working without being issued a license	\$1,000.00
4.7.a.3. Technologist working on an expired license	\$500.00
4.7.a.4. Facility allowing technologist to work on an expired license	\$500.00
<del>4.7.a.5. Technologist not having license posted at their primary workplace</del>	<del>\$100.00</del>
<del>4.7.a.6. Facility not posting license in patient's viewable area</del>	<del>\$100.00</del>

4.9. Upon approval of a waiver request, the Board shall waive fees for:

4.9.a. Low-income individuals within the local labor market, as defined by this rule, may seek a waiver of initial application fees for licensure and must apply in a format prescribed by the Board.

4.9.b. Military families within the local labor market, as defined by this rule, may seek a waiver of the initial application fee for licensure and must apply in a format prescribed by the Board.

4.9.c. Military families deployed on active duty within the local labor market, as defined by this rule, may seek a waiver of all renewal application fees for licensure and must apply in a format prescribed by the Board.

**§18-1-5. Educational Requirements for applicants for licensure.**

5.1. Standards for an approved school shall follow the current standards as established by the JRCERT, JRCNMT, or standards determined programmatically equivalent by the Board.

5.2. Before any new school of Medical Imaging or Radiation Therapy Technology begins operation in West Virginia, it shall make application to the Board and submit a needs assessment survey. Upon approval of the school by the Board, the school shall then submit an application to the JRCERT, JRCNMT, or equivalent as determined by the Board, to begin the accreditation process.

5.3. All approved schools of Medical Imaging and Radiation Therapy Technology shall submit a copy of their Accreditation program annual report to the Board at the same time required by their accrediting body.

5.4. The Board may require additional program assessment data as considered necessary.