



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Medical Imaging And Radiation Therapy
Technology Board Of Examiners

RULE TYPE: Legislative

TITLE-SERIES: 18-05

RULE NAME: Standard of Ethics

CITE AUTHORITY: Chapter 30 Article 23

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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.

TITLE 18
LEGISLATIVE RULE
WEST VIRGINIA MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

SERIES 5
STANDARD OF ETHICS

§18-5-1. General.

1.1. Scope. -- The Standards of Ethics of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners apply solely to persons holding a License or Permit issued by the Board and to persons applying for examination and licensure to become a West Virginia Licensed Technologist. This Standard of Ethics consists of the Standard of Practice and the Code of Ethics.

1.2. Authority. -- W. Va. Code ~~§30-23-5~~ §30-23-6.

1.3. Filing Date. -- ~~March 31, 2008~~.

1.4. Effective Date. -- ~~April 15, 2008~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2031.

§18-5-2. Application.

2.1. This rule applies to all applicants, licensees, and permittees under W. Va. Code §30-23-1 et seq.

§18-5-3. Definitions.

3.1. The following words and phrases, as used in this rule, have the following meanings, unless the context otherwise requires:

3.1.1. "Applicant" means any person making an application for ~~examination and/or~~ a license to become a Licensed Medical Imaging or Radiation Therapy Technologist.

3.1.2. "Individual" means any person holding a license or permit issued by the Board.

§18-5-4. Standard of Practice.

4.1. The Standard of Practice forms the first part of the Standard of Ethics. The Standard of Practice shall serve as a guide by which the individual may evaluate his or her professional conduct as it relates to patients, health care consumers, employers, colleagues, and other members of the health care team. The Standard of Practice is intended to assist individuals and applicants in maintaining a high level of ethical conduct and in providing for the protection, safety, and comfort of patients. ~~The individual shall:~~ The individuals and applicants who violated the Standard of Practice are subject to disciplinary action.

4.1.1. ~~An individual shall act, conduct herself or himself~~ in a professional manner, respond to patient needs, and support colleagues and associates in providing quality patient care.

4.1.2. An individual shall act to advance the ~~principle~~ principal objective of the profession to provide services to humanity with full respect for the dignity of mankind.

4.1.3. An individual shall deliver patient care and service unrestricted by the concerns of personal attributes or the nature of the disease or illness, and without discrimination based on ~~sex, race, creed, religion, socioeconomic status~~ any legally protected basis.

4.1.4. An individual shall practice technology founded upon theoretical knowledge and concepts, use equipment and accessories consistent with the purposes for which they were designed, and employ procedures and techniques appropriately.

4.1.5. An individual shall assess situations; exercise care, discretion, and judgment; assume responsibility for professional decisions; and act in the best interest of the patient.

4.1.6. An individual shall act as an agent through observation and communication to obtain pertinent information for the physician to aid in the diagnosis and treatment of the patient and recognize that interpretation and diagnosis are outside the scope of practice for the profession.

4.1.7. An individual shall use equipment and accessories, employ techniques and procedures, perform services in accordance with an accepted standard of practice, and demonstrate expertise in minimizing radiation exposure to the patient, himself or herself, and other members of the health care team.

4.1.8. An individual shall practice ethical conduct appropriate to the profession and protect the patient's right to quality radiologic technology care.

4.1.9. An individual shall respect confidences entrusted in the course of professional practice, respect the patient's right to privacy, conforming to the Health Information Portability & Accountability Act of 1996 (HIPAA) and requirements of protected health information (PHI) and reveal confidential information only as required by law or to protect the welfare of the individual or the community.

4.1.10. An individual shall continually strive to improve knowledge and skills by participating in continuing education and professional activities, sharing knowledge with colleagues, and investigating new aspects of professional practice.

4.1.11. An individual shall refrain from the use of illegal drugs at all times and the use of legal drugs or controlled substances that could result in impairment of professional judgment or ability to practice radiologic technology with reasonable skill and safety to patients.

§18-5-5. Code of Ethics.

5.1. The Code of Ethics forms the second part of the Standards of Ethics. The Code of Ethics is intended to promote the protection, safety, and comfort of patients. They are directive-specific standards of minimally acceptable professional conduct for all present licensees, permittees, and applicants. A license or permit is a method of assuring the medical community and the public that an individual is qualified to practice within the profession. Because the public relies on the Board to issue licenses and permits, these individuals and applicants must act consistently with this Code of Ethics. The individuals and applicants engaging in any of the following conduct or activities, or who permit the occurrence of the following conduct or activities with respect to them, have violated the Code of Ethics and could be subject to ~~sanctions~~ disciplinary action. ~~An individual shall not:~~

5.2. An individual shall not engage in unprofessional conduct, including, but not limited to:

5.2.1. An individual or applicant shall not employ fraud or deceit in procuring or attempting to procure, maintain, renew, obtain, or petition for reinstatement of a license or permit issued by the Board

for employment in radiologic technology medical imaging, and/or radiation therapy. This includes altering or falsifying in any respect any document issued by the Board or any state or federal agency, ~~or by indicating in writing certification or registration with the Board when that is not the case.~~

~~5.1.2. Subvert or attempt to subvert the Board's examination process. Conduct that subverts or attempts to subvert the Board's examination process includes, but is not limited to:~~

~~5.1.2.a. conduct that violates the security of Board examination materials, such as removing or attempting to remove examination materials from an examination room, or having unauthorized possession of any portion of or information concerning a future, current or previously administered examination of the Board; or disclosing information concerning any portion of a future, current or previously administered examination of the Board; or disclosing what purports to be, or under all circumstances is likely to be understood by the recipient as, any portion of or "inside" information concerning any portion of a future, current or previously administered examination of the Board;~~

~~5.1.2.b. conduct that in any way compromises ordinary standards of test administration, such as communicating with another applicant during administration of the examination, copying another applicant's answers, permitting another applicant to copy one's answers, or possessing unauthorized materials; or~~

~~5.1.2.c. impersonating a applicant or permitting an impersonator to take the examination on one's own behalf;~~

~~5.1.3. Fail to report to the Board that:~~

~~5.1.3.a. charges regarding the individual's permit or license to practice medical imaging or radiation therapy technology or any other medical or allied health profession are pending or have been resolved adversely to the individual in any state, territory or country, (including but not limited to, imposed conditions, probation, suspension or revocation); or~~

~~5.1.3.b. that the individual has been refused a permit, license or registration certificate to practice medical imaging or radiation therapy technology or any other medical or allied health profession by another state, territory or country;~~

5.2.2. An individual shall not fail to perform medical imaging or radiation therapy technology with reasonable skill and safety.

~~5.1.5. Engage in unprofessional conduct, including, but not limited to:~~

5.2.3. An individual shall not depart from or fail to conform to applicable federal, state, or local governmental rules and regulations regarding medical imaging or radiation therapy technology practice; or, if no rule or regulation exists, to the minimal standards of acceptable and prevailing medical imaging or radiation therapy technology practice.

5.2.4. An individual shall not engage in any medical imaging or radiation therapy technology practice that may create unnecessary danger to a patient's life, health, or safety, including providing excess radiation to a patient.

5.2.5. An individual shall not engage in any practice that is contrary to the ethical conduct appropriate to the profession or that results in termination from employment. Actual injury to a patient or the public need not be established.

5.2.6. An individual shall not delegate or accept the delegation of a medical imaging or radiation

therapy technology function or any other prescribed health care function when the delegation or acceptance could reasonably be expected to create an unnecessary danger to a patient's life, health or safety. Actual injury to a patient need not be established.

5.2.7. An individual shall not engage in actual or potential inability to practice medical imaging or radiation therapy technology with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material; or because of any mental or physical condition.

5.2.8. An individual or applicant shall not be adjudicated as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction.

5.2.9. An individual shall not engage in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public; or demonstrate a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established.

5.2.10. An individual shall not engage in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual or engage in any verbal behavior that is seductive or sexually demeaning to a patient or engage in sexual exploitation of a patient or former patient. This subsection also applies to any unwanted sexual behavior, verbal or otherwise, that results in the termination of employment. This does not apply to pre-existing consensual relationships.

5.2.11. An individual shall not reveal privileged communication from or relating to a former or current patient, except when otherwise required or permitted by law.

5.2.12. An individual shall not knowingly engage or assist any person to engage in, or otherwise participate in, abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws.

5.2.13. An individual shall not improperly manage patient records, including failure to maintain adequate patient records or to furnish a patient record or report required by law, or make, cause, or permit anyone to make a false, deceptive, or misleading entry in any patient record.

5.2.14. An individual shall not knowingly aid, assist, advise, or allow a person without a current and appropriate state permit or license to engage in the practice of medical imaging or radiation therapy technology. ~~in a jurisdiction which requires a person to have a current and appropriate state permit or license in order to practice medical imaging or radiation therapy technology in that jurisdiction.~~

5.2.15. An individual or applicant shall not violate a rule adopted by any state board with competent jurisdiction, an order of the board, or state or federal law relating to the practice of medical imaging or radiation therapy technology, or any other medical or allied health professions, or a state or federal narcotics or controlled substance law.

5.2.16. An individual shall not knowingly provide false or misleading information that is directly related to the care of a former or current patient.

5.2.17. An individual shall not practice outside the scope of practice authorized by the individual's current state permit or license.

5.2.18. An individual or applicant shall not make a false statement or knowingly provide false information to the Board, or to a national certification organization which is accredited by either the National Commission for Certifying Agencies (NCCA) or by the American National Standards Institute (ANSI) or fail to cooperate with any investigation of the Board. ~~Board's Ethics Committee.~~

5.2.19. An individual or applicant shall not engage in false, fraudulent, deceptive or misleading communications to any person or the Board regarding the individual's education, training, credentials, experience or qualifications, or the status of the individual's state permit or license.

~~5.1.20. Know of a violation or a probable violation of any Standard of Ethics by any individual or by a applicant and fail to promptly report it in writing to the Board.~~

~~5.2. An individual shall report convictions, criminal proceedings or military court-martials as set forth in this section. The individual shall report:~~

~~5.2.1. The a conviction of a felony or misdemeanor, if it relates to the practice of medical imaging and all substance abuse related violations~~

5.3. An individual or applicant shall report to the Board, within 30 days, unprofessional conduct, including, but not limited to:

5.3.1. An individual or applicant shall report a criminal conviction that bears a rational nexus to the health care profession, including, but not limited to:

5.3.1.a. A criminal conviction involving professional negligence.

5.3.1.b. A criminal conviction involving a willful violation of established professional standards.

5.3.1.c. A criminal conviction of a violent or sexual nature.

5.3.1.d. A criminal conviction related to substance abuse.

5.3.2. An individual or applicant shall report any known or probable violation of any Standard of Practice and/or Code of Ethics.

5.3.3. An individual or applicant shall report if any charges are pending or have been resolved adversely against their permit or license to practice medical imaging, radiation therapy technology, or any other medical or allied health profession in any state, territory, or country. This includes, but is not limited to, disciplinary actions such as imposed conditions, probation, suspension, or revocation.

5.3.4. An individual or applicant shall report if they have been denied a permit, license, or registration certificate to practice medical imaging, radiation therapy technology, or any other medical or allied health profession by another state, territory, or country.

5.3.5. An individual or applicant shall report a violation of state or federal narcotics or controlled substance laws, regardless of whether they have been charged or convicted of an offense.

5.3.6. An individual or applicant shall report a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered, or a criminal proceeding where the individual enters a plea of guilty or nolo contendere.

5.3.7. An individual or applicant shall report military court-martials that involve substance abuse, any sex-related infractions, or patient-related infractions.

5.3.8. An individual or applicant who fails to report unprofessional conduct as set forth in the Standard of Practice and/or Code of Ethics shall be subject to disciplinary action.