



**Virginia
Regulatory
Town Hall**

**Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Board of Medicine
VAC Chapter Number:	18 VAC 85-101-10 et seq.
Regulation Title:	Regulations Governing the Practice of Radiologic Technology
Action Title:	Periodic review
Date:	

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Regulations are promulgated to provide educational and examination requirements for the licensure of radiologic technologists and radiologic technologists-limited. Provisions also establish requirements for renewal or reinstatement of a license, responsibilities of licensees, standards for supervision of radiologic personnel, and fees to support the regulatory and disciplinary activities of the board.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The statutory authority for this regulation is found in § 54.1-2400 and Chapter 29 of Title 54.1 of the Code of Virginia.

Section 54.1-2400 establishes the general powers and duties of health regulatory boards including the responsibility to establish qualifications for licensure, to set fees and schedules for renewal, to establish requirements for an inactive license and to promulgate regulations, in accordance with the Administrative Process Act, which are reasonable and necessary to effectively administer the regulatory system.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of*

Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.

9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

Chapter 29 of Title 54.1 sets forth statutory provisions for the licensure and practice of occupational therapists, excerpts of which are listed below:

§ 54.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Practice of radiologic technology" means the application of x-rays to human beings for diagnostic or therapeutic purposes.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.) of this title, who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other

procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27 of this title and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment which emits ionizing radiation which is limited to specific areas of the human body.

§ 54.1-2956.8. Advisory Committee on Radiological Technology; appointments; terms; etc.

The Advisory Committee on Radiological Technology shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration and regulation of certified radiological technology practitioners.

The Committee shall be appointed by the Board of Medicine and shall be composed of six members. Five members shall serve terms of four years each; one of the five shall be an at-large board-certified radiologist and four shall be radiological technology practitioners who have been practicing in the Commonwealth for not less than three years prior to their appointments. The sixth member shall be a member of the Board of Medicine and shall serve at the pleasure of the Board.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Committee for more than two consecutive terms.

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

Except as set forth herein, it shall be unlawful for a person to practice or hold himself out as practicing as a radiologic technologist or radiologic technologist, limited, unless he holds a license as such issued by the Board.

In addition, it shall be unlawful for any person who is not licensed under this chapter whose licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to use in conjunction with his name the words "licensed radiologic technologist" or "licensed radiologic technologist, limited" or to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice radiologic technology.

The Board shall prescribe by regulation the qualifications governing the licensure of radiologic technologists and radiologic technologists, limited. The regulations may include requirements for approved education programs, experience, examinations, and periodic review for continued competency. The provisions of this section shall not apply to any employee of a hospital licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 acting within the scope of his employment or engagement as a radiologic technologist.

§ 54.1-2956.8:2. Requisite training and educational achievements of radiologic technologists and radiologic technologists, limited.

The Board shall establish a testing program to determine the training and educational achievements of radiologic technologists or radiologic technologists, limited, or the Board may accept other evidence such as successful completion of a national certification examination, experience, or completion of an approved training program in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or

particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

An announcement of the board's review of its regulations governing the licensure of radiologic technologists was posted on the Virginia Regulatory Townhall, sent to the Registrar of Regulations, and sent to persons on the Public Participation Guidelines mailing list for the board. Public comment was received from May 7, 2001 until July 6, 2001. During the 60-day comment period, no comments were received from members of the public.

The Advisory Committee on Radiological Technology held a public meeting on September 26, 2001 to conduct a review of regulations and discuss related issues, such as training for radiologic technologists-limited. Based on the need for clarifying amendments and some additional assurance of competency for the limited licensees, the Advisory Committee voted to request that the Board recommend the publication of a Notice of Intended Regulatory Action.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The goals for this regulation are as follows:

1) Achieve a high level of satisfaction for application and renewal processes for all licensed practitioners.

The Board reviewed the responses of recent licensees on the Customer Service Satisfaction Surveys and determined that the application process and renewal of licensure was effective in that instructions for making application are clear and easy to understand and complete. Of those that responded, 78.8% of radiologic technologists and 91.4% of radiologic technologists-limited agreed or strongly agreed that the instructions were easy to understand; 89.7% of radiologic technologists and 95.1% of radiologic technologists-limited agreed or strongly agreed that the application was processed promptly; and 76.9% of radiologic technologists and 92.8% of radiologic technologists-limited agreed or strongly agreed that the forms were easy to complete. Therefore, the only change in regulations being considered in the application process is the elimination of “grandfathering” provisions which have now expired.

2) Review regulations to ensure consistency and application to the current practice of radiologic procedures.

Since initial licensure, concerns have been expressed by physicians about the need for a person performing bone densitometry to be licensed by the current educational requirements and examination by the American Registry of Radiologic Technologists (ARRT). That issue has been addressed by the Board in the issuance of a pre-NOIRA to establish an alternate training program and examination specifically designed to ensure competency in the specialized area of

bone densitometry.

3) Increase the level of competency by persons with limited licenses.

During the review, the primary issue raised was the competency of persons with a limited rad tech license to perform radiographic procedures. In the past, the Advisory Committee has heard testimony and received letters from practitioners and educators expressing concern about the limited amount of training received by these licensees. When the ARRT examination was first required for licensure as a rad tech-limited, the cut score set by the Board was 75. Faced with a very poor passage rate, the Board looked into solutions to the problem. It was determined that the cut score was set above the national average and should be lowered to be consistent with the score recommended by the ARRT, which was 65. Along with a reduction in the passing score, the educational programs have become more proficient in teaching the material necessary to pass the national examination, and the passage rate has dramatically improved. Since that time, 18 people have taken the core exam and 15 have passed with a score of 65 or above. Similar passage rates are evident on the anatomical exams of chest, extremities, skull, spine and podiatric.

Even with the improved passage on the exam, the actual experience of some practitioners with the skill level of limited licensees has led to a recommendation to require a certain number of procedures to be performed under direct supervision and observation before a license is granted. That recommendation is discussed in the alternatives section of this report.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Alternative regulations were considered for the following issues:

Traineeship

Regulations provide for a traineeship for persons who have completed their radiologic technology education and are awaiting the results of the licensure examination. Questions have arisen about whether the traineeship is available to a graduate before he has applied to the Board for licensure, or to a graduate who has applied to the Board but not applied to take the ARRT examination, or to a graduate who has applied to the Board for licensure and to the ARRT to take the examination. It is the intent of the Board that the latter option be the rule, so regulations need to be amended to so specify.

The Board also discussed whether there should be a time limitation on a traineeship. The ARRT allows a candidate a 90-day window to take the computerized examination but that window can be extended, and they can take the examination three times within three years. After the third failure, the ARRT requires remedial education. Though the Board does not recall anyone

remaining in a trainee for three years, it believes that is too long to practice as a trainee. The Board may choose to limit the traineeship to a period set in regulation with the possibility of an extension for extenuating circumstances.

In the definition of a “traineeship,” the terminology needs to be changed to more accurately reflect current practice. The trainee is not an “unlicensed radiologic technologist” but should be an “applicant for licensure as a radiologic technologist.” The Board does require practice under the supervision of a licensed practitioner, as stated in section 50, but does not require board approval of the supervisor. In reality, the trainee may work under a number of supervisors, which is acceptable provided they are licensed radiologic technologists or doctors.

Since the Board is considering the addition of practice requirements in the anatomical areas for which the limited rad tech is seeking licensure, there may also be a need to add a traineeship for radiologic technologists-limited.

Qualifications and practice by radiologic technologists-limited

From discussions with practitioners and educators, the Board has become aware that there is some concern about the qualifications of persons seeking limited licensee. While passage of the ARRT examination for Limited Scope of Practice in Radiography is now required, there continues to be a question about the clinical component of their training. For radiographic procedures on the abdomen and pelvis, an applicant must have completed 25 radiologic examinations under the direct supervision and observation of a licensed rad tech or doctor of medicine or osteopathy, who must sign a notarized statement as to the applicant’s competency in the areas of radiation safety, positioning, patient instruction, anatomy, pathology and technical factors. To address the concerns about quality of instruction and abilities of limited licensees, the Board is considering the addition of a clinical component for licensure in the other anatomical areas of chest, skull/sinuses, extremities, and spine. Since there is a section on the ARRT examination on those specific radiographic procedures, the Board is considering a lesser requirement of 10 procedures which must be supervised, observed and attested by a doctor or a licensed rad tech.

A person may also qualify for licensure as a radiologic technologist-limited by passage of the examination offered in chiropractic or podiatry. The Board recommends clarifying that limited licensure in those fields is restricted to the anatomical areas of the spine or the foot and ankle respectively.

To address an issue of scope of practice by the radiologic technologists-limited, the Board intends to add a provision prohibiting performance of fluoroscopy and mobile radiography practice by radiologic technologist-limited since those procedures are not covered on limited exam and trainees do not receive specific instruction in the specialized equipment needed to perform those procedures.

With these practice requirements and limitations, the Board believes the safety of the public is protected by licensing radiologic technologists-limited, but it will continue to monitor the passage rate on the examination to determine if additional hours of training are necessary.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The board is recommending amendments to its regulations for the licensure of radiologic technologists and radiologic technologists-limited in order to address concerns about the adequacy of training for the limited licensees and to provide greater clarity for the regulated entities.

Substance

Please detail any changes that would be implemented.

18 VAC 85-101-10. Definitions.

The Board recommends an amendment to the definition of "Traineeship" to eliminate the requirement that the supervisor be approved by the board prior to approval of a traineeship.

18 VAC 85-101-25. Fees.

The Board recommends moving the existing section on fees to Part I, General Provisions for consistency with other professions under the Board of Medicine.

18 VAC 85-101-40. Examination requirements.

The Board recommends eliminating the requirement for an applicant to submit proof of graduation from an educational program recognized by the American Registry of Radiologic Technology (ARRT). The submission of transcripts documenting graduation to the ARRT are a requirement for sitting for the ARRT examination, which is recognized by the Board for licensure. Additional submission of educational documents to the Board is duplicative and unnecessarily burdensome for the applicant.

18 VAC 85-101-45. Endorsement.

The Board intends to restate the requirements for endorsement currently found in section 80 A in a new section located in Part II, Licensure Requirements.

18 VAC 85-101-50. Traineeship for unlicensed graduate.

There is a need to clarify who can be a trainee. The Board recommends a statement in regulation that an applicant may qualify for a traineeship if he is a graduate of an approved program who has applied to the Board for license and applied to the ARRT to take exam. It may

also amend the regulation to establish a limitation on the amount of time an applicant could work in a traineeship with the possibility of an appeal for an extension under certain circumstances.

There should also be an amendment to replace the term “approved program” with “acceptable program” since the ARRT does not “approve” programs but maintains a list of those it finds acceptable as preparation to sit for the examination.

18 VAC 85-101-60. Examination requirements.

The Board intends to consider the addition of a practice component for a limited license in the anatomical areas of chest, spine, skull and extremities, similar to what is required for a limited license to take xrays of the abdomen and pelvis. The recommendation would likely be to require at least ten radiologic examinations for each of the anatomical area in which the applicant is seeking a limited licensed. The examinations would be performed under the direct supervision and oversight of the supervisor who would attest to the applicant’s competency in that areas or areas.

The Board may need to consider the inclusion of language providing for a traineeship after educational hours in order to complete required practice-specific procedures under supervision.

For a limited license obtained by passage of an examination by the American Chiropractic Registry of Radiologic Technology and practice solely under the direction of a doctor of chiropractic, the Board intends to insert the phrase “in the anatomical area of the spine” to specify the scope of the limited license. Similarly, a limited license to practice under the direction of a doctor of podiatry should specify “in the anatomical area of the foot and ankle.”

18 VAC 85-101-80. Endorsement requirements for radiologic technologist.

Requirements for endorsement in subsection A would be moved to Part II, Licensure Requirements. Subsection B provides requirements for “grandfathering” for the rad tech that expired on January 1, 1999 and should be eliminated to avoid confusion to the public and the applicant.

18 VAC 85-101-90. Endorsement of previous practice for radiologic technologists-limited.

Section 90 provides requirements for “grandfathering” for the limited license that expired on January 1, 1999 and should be eliminated to avoid confusion to the public and the applicant.

18 VAC 85-101-100. General Requirements.

The Board intends to add a provision to make clear that these regulations do not apply to persons employed by a licensed hospital; that exemption is stated in the law but has not been clearly understood by the rad techs, their employers, or the hospitals.

18 VAC 85-101-130. General Requirements.

To address an issue of scope of practice that has been raised, the Board intends to add a provision prohibiting performance of fluoroscopy and mobile radiography practice by radiologic technologist-limited since those procedures are not covered on limited exam.

18 VAC 85-101-140. Individual responsibilities to patients and licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

The Board intends to eliminate the provision requiring the “initial” patient visit to be made by a licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry. That provision, which is standard language for other professions such as physical therapy or occupational therapy, is not applicable to radiologic technology. All “visits” or procedures by a limited licensee are performed after communication with a licensed rad tech or doctor. Therefore, the Board may delete the word “first” prior to “procedure” in subsection B.

18 VAC 85-101-150. Biennial renewal of license.

To specify and clarify when it is necessary to meet continuing competency requirements for renewal, the Board intends to add the phrase “On and after January 1, 2005” in subsections D and E.

18 VAC 85-101-160. Fees.

This section would be deleted and moved to a new section under Part I.

Family Impact Statement

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

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability and no effect on family income.