



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Medicine, Department of Health Professions
VAC Chapter Number:	18 VAC 85-101-10 et seq.
Regulation Title:	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
Action Title:	Periodic review
Date:	4/6/03

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The amendments adopted by the Board address concerns about the adequacy of training for the limited licensees and provide greater clarity for the regulated entities. Amendments will require persons training as a radiologic technologist-limited to gain practical experience in the radiologic procedures for which they are seeking licensure, and provisions are established for a traineeship similar to that currently in effect for the radiologic technologists. In addition, the scope of practice for the limited licensee is further specified to exclude certain procedures for which they are not trained or tested. Regulations for endorsement are eliminated since the grandfathering provisions expired in 1999; persons licensed in other states who are seeking licensure in Virginia are licensed based on passage of the national examination. Finally, provisions for the implementation of continuing education requirements are added.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

No changes to proposed regulations have been made in the adoption of final amendments.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 4, 2003, the Board of Medicine adopted final amendments to 18 VAC 85-101-10 et seq., Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited for the purpose of implementing recommendations pursuant to a periodic review.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 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.*

The specific statutory authority for the Board to license radiologic technologists-limited and to determine requisite education and training is found in Chapter 29 of Title 54.1 as follows:

§ 54.1-2900. Definitions (Exerpted).

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, 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.

§ 54.1-2956.8:1. 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.

The Assistant Attorney General who provides counsel to the Board of Medicine has provided a letter of assurance that the amended regulations are consistent with statutory law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

During the periodic review of regulations, 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. 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. Consequently, the Board has proposed that training in the anatomical areas for which someone is seeking licensure include performance of at least 10 procedures under direct supervision and observation of a licensed rad tech or doctor. To accommodate the need for practice while in training, the Board has added provisions for a traineeship for the limited license similar to that already in effect for the full license. Finally, the Board determined that the public health and safety was not adequately protected and further specified certain procedures to be beyond the scope of practice for someone with a limited license. Rad tech-limited licensees do not have the training and are not tested on fluoroscopic procedures, computerized tomography, vascular-interventional procedures or mobile radiography.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Amendments will provide for additional practical experience for those seeking licensure as a radiologic technologist-limited and will specify that certain radiographic procedures are outside their scope of practice. Amendments are adopted to provide a traineeship in which to gain practical experience under supervision and observation and to implement continuing education requirements as necessary for renewal of a license in 2005. Other amendments are clarifying to eliminate

unnecessary or outdated rules or to provide adequate information for compliance with requirements of law and regulation.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

1) The primary advantages and disadvantages to the public.

The primary advantages to the public include the additional assurance that persons with a limited license to perform radiographic procedures in certain anatomical areas have had practical experience in those procedures under the direction and observation of a supervising rad tech or physician. Experience in specific anatomical procedures under the direct supervision and observation of a licensed person will ensure that persons with a limited license have not only the education necessary to pass an examination but also the practical ability to safely perform radiography. Also, specific limitations on the scope of practice for someone with a limited license will ensure that procedures are not being performed by someone who has not been appropriately trained or tested. There are no disadvantages to the public.

2) The primary advantages and disadvantages to the Commonwealth.

There are no advantages or disadvantages to the Commonwealth; there will be no additional cost for licensing or enforcement of standards for radiologic technologists-limited.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Proposed regulations were published on December 2, 2002, and the 60-day comment period concluded on January 31, 2003. A public hearing was held before the Advisory Board on Radiologic Technology at the Department of Health Professions in Richmond on January 8, 2003. No comment was presented at that time nor was any written or electronically submitted comment received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the

proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 85-101-10. Definitions.

The Board has amended the definition of "*Traineeship*" to clarify that a trainees is an applicant for licensure as either a radiologic technologist or a radiologic technologist-limited to allow that person to obtain practical experience under direct supervision and observation.

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 85-110-30. Educational requirements for radiologic technologists.

The requirement for an applicant to submit proof of graduation from an educational program recognized by the American Registry of Radiologic Technology (ARRT) along with his application and fee is unnecessary. AART requires the submission of transcripts documenting graduation as a prerequisite 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 85-101-40. ~~Examination~~ Licensure requirements.

The Board has eliminated distinction between licensure by examination and by endorsement since the requirements are identical. In order to verify that an applicant who has been licensed or certified in another jurisdiction does not have disciplinary action pending, he is required to provide information on the status of any license or certification held in another jurisdiction.

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

An amendment is adopted 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 and to change the name of the advisory group to the Advisory Board on Radiological Technology since that is the name now used in statute.

18 VAC 85-101-60. Examination requirements.

The Board has adopted 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 proposal is 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 in a traineeship under the direct supervision and oversight of the supervisor who would attest to the applicant's competency in that areas or areas.

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 has inserted the phrase “in the anatomical area of the spine or extremities or in bone densitometry” to specify the scope of the limited license within the scope of practice of a chiropractor. Similarly, a limited license to practice under the direction of a doctor of podiatry specifies “in the anatomical area of the foot and ankle.”

18 VAC 85-101-61. Traineeship for an applicant for licensure as a radiologic technologists-limited.

Practical training required for the limited licensure should be performed in a supervised traineeship similarly to the process for gaining experience necessary for full licensure. Therefore, a new section is added to specify the requirements for a traineeship for limited licensure to include direct supervision by a radiologic technologist or a doctor. Traineeships must be reviewed and approved by the Chairman of the Advisory Board. The traineeship terminates 14 days after receipt of the examination results or completion of the required number of procedures, but the applicant may apply for continuation of a traineeship.

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

Requirements for endorsement are deleted as unnecessary; amendments to section 40 permit licensure of persons from other jurisdictions. Subsection B provides requirements for “grandfathering” for the rad tech that expired on January 1, 1999 and are 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 are eliminated to avoid confusion to the public and the applicant.

18 VAC 85-101-100. General Requirements.

The Board has added 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 has added a provision prohibiting performance of fluoroscopic procedures, computerized tomography, and vascular-interventional procedures by radiologic technologist-limited since those procedures are not covered on limited exam and are considered to be outside the scope of practice for a person with a limited license.

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

The Board has eliminated 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 has also deleted 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. Other provisions that are necessary for continuing education verification and enforcement are added in subsection F. Those provisions include: an exemption for the first renewal after licensure; a requirement to maintain documentation of hours for four years following renewal and to provide such documentation to the board within 30 of an audit request; a statement that failure to comply may subject the licensee to disciplinary action; and authority for the board to grant an exemption or extension of time for good cause shown.

18 VAC 85-101-160. Fees.

This section is deleted and provisions moved to a new section under Part I.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the 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.

The regulatory action will not strengthen or erode the authority and rights of parents, encourage or discourage economic self-sufficiency, strengthen or erode the marital commitment or increase or decrease disposable family income.