AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL RADIATION HEALTH AND SAFETY ACT; RENAMING THE MEDICAL RADIATION HEALTH AND SAFETY ACT AS THE MEDICAL IMAGING AND RADIATION THERAPY HEALTH AND SAFETY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14E-1 NMSA 1978 (being Laws 1983, Chapter 317, Section 1) is amended to read:

"61-14E-1. SHORT TITLE.--[Sections 1 through 12 of this act] Chapter 61, Article 14E NMSA 1978 may be cited as the "Medical Imaging and Radiation Therapy Health and Safety Act".

Section 2. Section 61-14E-2 NMSA 1978 (being Laws 1983, Chapter 317, Section 2) is amended to read:

"61-14E-2. PURPOSE OF ACT.--The purpose of the Medical Imaging and Radiation Therapy Health and Safety Act is to
maximize the protection practicable for the citizens of New Mexico from ionizing and non-ionizing radiation in the practice of the healing arts. This purpose is effectuated by establishing requirements for appropriate education and training of persons operating medical equipment emitting ionizing and non-ionizing radiation, establishing standards of education and training for the persons who administer medical imaging and radiation therapy procedures and providing for the appropriate examination and certification of those persons."

Section 3. Section 61-14E-3 NMSA 1978 (being Laws 1983, Chapter 317, Section 3, as amended) is amended to read:

"61-14E-3. ADMINISTRATION--ENFORCEMENT.--The administration and enforcement of the Medical Imaging and Radiation Therapy Health and Safety Act is vested in the department."

Section 4. Section 61-14E-4 NMSA 1978 (being Laws 1983, Chapter 317, Section 4, as amended) is amended to read:

"61-14E-4. DEFINITIONS.--As used in the Medical Imaging and Radiation Therapy Health and Safety Act:

A. "advisory council" means the radiation technical advisory council;

B. "board" means the environmental improvement board;

C. "certificate of limited practice" means a
certificate issued pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act to persons who perform restricted diagnostic radiography under direct supervision of a licensed practitioner limited to the following specific procedures:

(1) the viscera of the thorax;
(2) extremities;
(3) radiation to humans for diagnostic purposes in the practice of dentistry;
(4) axial/appendicular skeleton; or
(5) the foot, ankle or lower leg;

D. "certified nurse practitioner" means a person licensed pursuant to Section 61-3-23.2 NMSA 1978;
E. "department" means the department of environment;
F. "division" means the environmental health division of the department of environment;
G. "ionizing radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons and other particles capable of producing ions; "ionizing radiation" does not include non-ionizing radiation, such as radio waves or microwaves, or visible, infrared or ultraviolet light;
H. "licensed practitioner" means a person licensed to practice medicine, dentistry, podiatry,
chiropractic or osteopathy in this state;

I. "magnetic resonance technologist" means a person other than a licensed practitioner who performs magnetic resonance procedures under the supervision of a licensed practitioner using magnetic fields and radio frequency signals;

J. "medical imaging" means the use of substances or equipment emitting ionizing or non-ionizing radiation on humans for diagnostic or interventional purposes;

K. "medical imaging technologist" means a person who is a magnetic resonance technologist, radiographer, nuclear medicine technologist or medical sonographer and who is certified pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;

L. "medical sonographer" means a person other than a licensed practitioner who provides patient care services using ultrasound; a "medical sonographer" may also be referred to as a vascular sonographer, vascular technician, vascular technologist, ultrasound technician, ultrasound technologist, echocardiographer, echo technician or echo technologist;

M. "non-ionizing radiation" means the optical radiations, including ultraviolet, visible, infrared and lasers, static and time-varying electric and magnetic fields and radio frequency, including microwave radiation and ultrasound;

[G-] N. "nuclear medicine technologist" means a
person other than a licensed practitioner who applies radiopharmaceutical agents to humans for diagnostic or therapeutic purposes under the direction of a licensed practitioner;

O. "radiation therapy" means the application of ionizing radiation to humans for therapeutic purposes;

[H.][P.] "radiation therapy technologist" means a person other than a licensed practitioner whose application of radiation to humans is for therapeutic purposes;

[I.][Q.] "radiographer" means a person other than a licensed practitioner whose application of radiation to humans is for diagnostic purposes;

[J.] "radiologic technologist" means any person who is a radiographer, a radiation therapy technologist or a nuclear medicine technologist and who is certified pursuant to the Medical Radiation Health and Safety Act;

K. "radiologic technology" means the use of substances or equipment emitting ionizing radiation to humans for diagnostic or therapeutic purposes;

[L.][R.] "radiologist" means a licensed practitioner certified by the American board of radiology, the British royal college of radiology, the American osteopathic board of radiology or the American chiropractic board of radiology; and

[M.][S.] "registered physician assistant" means a person registered pursuant to Section 61-6-7 NMSA 1978 or .177404.2
Section 61-10A-4 NMSA 1978.

Section 5. Section 61-14E-5 NMSA 1978 (being Laws 1983, Chapter 317, Section 5) is amended to read:

"61-14E-5. BOARD--POWERS--DUTIES.--The board shall, pursuant to the advice and recommendations of the advisory council and following the procedures set forth in Section 74-1-9 NMSA 1978:

A. adopt and promulgate such rules, regulations and certification standards as may be necessary to effectuate the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act and to maintain high standards of practice; and

B. adopt rules and regulations establishing continuing education requirements as a condition of certificate renewal for the purpose of protecting the health and well-being of the citizens of New Mexico and promoting current knowledge and practice regarding [radiologic technology] medical imaging and radiation therapy."

Section 6. Section 61-14E-6 NMSA 1978 (being Laws 1983, Chapter 317, Section 6) is amended to read:

"61-14E-6. DIVISION--POWERS--DUTIES.--The division, pursuant to the rules and regulations promulgated by the board, shall:

A. maintain and enforce certification standards for magnetic resonance, radiography, radiation therapy technology, nuclear medicine technology, medical sonography and

.177404.2
certificates of limited practice;

   B. establish criteria and maintain standards for
educational programs of magnetic resonance, radiography,
radiation therapy [and] technology, nuclear medicine technology
and medical sonography and approve educational programs upon a
finding that the standards and criteria have been met;

   C. provide for surveys of educational programs
preparing persons for certification under the Medical Imaging
and Radiation Therapy Health and Safety Act;

   D. grant, deny or withdraw approval from
educational programs for failure to meet prescribed standards,
provided that a majority of the board concurs in any decision;

   E. establish procedures for examination,
certification and renewal of certificates of applicants; and

   F. establish scope of practice and ethics rules."

Section 7. Section 61-14E-7 NMSA 1978 (being Laws 1983,
Chapter 317, Section 7, as amended) is amended to read:

"61-14E-7. CERTIFICATION--EXCEPTIONS.--

   A. It is unlawful, unless certified by the
department as a [radiologic] medical imaging technologist or
radiation therapist, for any person to:

   [A.] (1) use ionizing or non-ionizing
radiation on humans;

   [B. use the title "radiologic technologist" or
the abbreviation "L.R.T." or any other abbreviation thereof or

(2) use any [other] title, abbreviation,
letters, figures, signs or other devices to indicate that the
person is a certified [radiologie] medical imaging technologist
or radiation therapist; or

[O_] (3) engage in any of the [radiologie]
specialties as defined by the Medical Imaging and Radiation
Therapy Health and Safety Act.

B. Notwithstanding any other provision of the
Medical Imaging and Radiation Therapy Health and Safety Act,
the requirement of a certificate shall not apply to a licensed
practitioner or auxiliary or health practitioner licensed or
certified by an independent board; provided that any
certification and examination program [for auxiliaries]
established by an independent board shall be submitted to the
advisory council and approved by the board. The requirement of
a certificate shall also not apply to a student who is enrolled
in and attending a required individual education program of a
school or college of medicine, osteopathy, chiropractic,
podiatry, dentistry or dental hygiene [or radiologie
technology] to apply radiation to humans under the supervision
of a licensed practitioner or under the direct supervision of a
certified [radiologie] medical imaging technologist or
radiation therapist.

C. Notwithstanding any other provision of the
Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a certificate shall not apply to a student completing clinical requirements of an approved education program working under the supervision of a licensed practitioner or under the direct supervision of a medical imaging technologist or radiation therapist certified in the practice for which the student is seeking certification.

D. Notwithstanding any other provision of the Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a certificate shall not apply to a certified medical imaging technologist or radiation therapist completing clinical procedures as part of an advanced certification."

Section 8. Section 61-14E-9 NMSA 1978 (being Laws 1983, Chapter 317, Section 9, as amended) is amended to read:

"61-14E-9. FEES FOR CERTIFICATION.--After the promulgation of rules and regulations, the department shall charge and collect the following fees:

A. an [initial] application fee not to exceed ten dollars ($10.00);

B. an examination fee not to exceed [fifty dollars ($50.00) for a full certificate and not to exceed twenty-five dollars ($25.00) for a certificate of limited practice;]

C. a full certificate renewal fee determined by the board in an amount not to exceed one hundred dollars ($100) biennially; and
D. a certificate of limited practice renewal fee determined by the board in an amount not to exceed sixty dollars ($60.00) biennially upon submission of proof of at least twenty hours of continuing education requirements as required by the department.

Any person who allows his certificate to lapse by failure to renew as provided in the Medical Radiation Health and Safety Act shall be reinstated by the department on payment of the fee for the current biennium plus a reinstatement fee to be set by the department in an amount which shall not exceed the renewal fee. This provision shall not apply to anyone whose certificate has been revoked or suspended] one hundred fifty dollars ($150) to cover the costs the department incurs in administering the required exams;

C. a biennial certification fee not to exceed one hundred dollars ($100);

D. a temporary certification fee not to exceed fifty dollars ($50.00) to cover a period no longer than twelve months when new graduates of an approved program are in the process of taking required exams; and

E. miscellaneous fees, such as for requests for duplicate or replacement certificates, legal name change and written verification, not to exceed twenty-five dollars ($25.00)."

Section 9. Section 61-14E-10 NMSA 1978 (being Laws 1983, .177404.2
Chapter 317, Section 10, as amended) is amended to read:

"61-14E-10. FUND ESTABLISHED--DISPOSITION--METHOD OF PAYMENT.--

A. There is created in the state treasury the "radiologic technology fund".

B. All fees received by the department pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act shall be deposited with the state treasurer. The state treasurer shall place the money to the credit of the radiologic technology fund.

C. Payments out of the radiologic technology fund shall be on vouchers issued and signed by the person designated by the department upon warrants drawn by the department of finance and administration and shall be used by the department for the purpose of meeting necessary expenses incurred in the enforcement of the purposes of the Medical Imaging and Radiation Therapy Health and Safety Act, the duties imposed by that act and the promotion of education and standards for [radiologic] medical imaging technology and radiation therapy in this state. All money unexpended or unencumbered at the end of the fiscal year shall remain in the radiologic technology fund for use in accordance with the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act."

Section 10. Section 61-14E-11 NMSA 1978 (being Laws 1983, Chapter 317, Section 11) is amended to read:
"61-14E-11. SUSPENSION--REVOCATION--APPLICATION OF
UNIFORM LICENSING ACT.--The board, pursuant to the advice and
recommendation of the advisory council, may deny, revoke or
suspend any certificate held or applied for under the Medical
Imaging and Radiation Therapy Health and Safety Act, pursuant
to the procedures established in the Uniform Licensing Act,
upon grounds that the [radiologic] medical imaging
technologist, radiation therapist or the applicant:

A. is guilty of fraud or deceit in procuring or
attempting to procure a full certificate or certificate of
limited practice;

B. is convicted of a felony subsequent to
certification;

C. is unfit or incompetent;

D. is habitually intemperate or is addicted to the
use of habit-forming drugs;

E. is mentally incompetent;

F. has aided and abetted a person who is not
certified pursuant to the Medical Imaging and Radiation Therapy
Health and Safety Act or otherwise authorized by that act in
engaging in the activities of a certificate holder;

G. has engaged in any practice beyond the scope of
authorized activities of a full certificate or certificate of
limited practice holder pursuant to the Medical Imaging and
Radiation Therapy Health and Safety Act;
H. is guilty of unprofessional conduct or unethical conduct as defined by rules promulgated by the board;

I. has interpreted a diagnostic imaging procedure for a patient, the patient's family or the public; or

J. has willfully or repeatedly violated any provisions of the Medical Imaging and Radiation Therapy Health and Safety Act."

Section 11. Section 61-14E-12 NMSA 1978 (being Laws 1983, Chapter 317, Section 12, as amended) is amended to read:

"61-14E-12. VIOLATIONS--PENALTIES.--It is a misdemeanor for any person, firm, association or corporation to:

A. knowingly or willfully employ as a [radiologic] medical imaging technologist or radiation therapist any person who is required to but does not possess a valid certificate or certificate of limited practice to engage in the practice of [radiologic] medical imaging technology or radiation therapy;

B. sell, fraudulently obtain or furnish any [radiologic] medical imaging technology or radiation therapy certificate or certificate of limited practice or to aid or abet therein;

C. practice [radiologic] medical imaging technology or radiation therapy as defined by the Medical Imaging and Radiation Therapy Health and Safety Act unless exempted or duly certified to do so under the provisions of that act; or

D. otherwise violate any provisions of the Medical...

The department shall assist the proper legal authorities in the prosecution of all persons violating the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act. In prosecutions under that act, it shall not be necessary to prove a general course of conduct. Proof of a single act, a single holding out or a single attempt shall constitute a violation, and, upon conviction, such person shall be sentenced to be imprisoned in the county jail for a definite term not to exceed one year or to the payment of a fine of not more than one thousand dollars ($1,000) or both."

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