

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 336

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL  
IMAGING AND RADIATION THERAPY HEALTH AND SAFETY ACT TO EXEMPT  
LICENSED NURSES AND CERTIFIED NURSE-MIDWIVES AND SUPERVISED  
STUDENTS IN ACCREDITED NURSING AND MIDWIFERY PROGRAMS WHO  
PROVIDE POINT-OF-CARE ULTRASOUND IMAGING FROM ENVIRONMENTAL  
IMPROVEMENT BOARD LICENSURE REQUIREMENTS.

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

SECTION 1. 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 medical imaging and  
radiation therapy advisory council;

B. "board" means the environmental improvement

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1 board;

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

8 (1) the viscera of the thorax;

9 (2) extremities;

10 (3) radiation to humans for diagnostic  
11 purposes in the practice of dentistry;

12 (4) axial/appendicular skeleton; or

13 (5) the foot, ankle or lower leg;

14 D. "certified nurse practitioner" means a person  
15 licensed pursuant to Section 61-3-23.2 NMSA 1978;

16 E. "credential" or "certification" means the  
17 recognition awarded to an individual who meets the requirements  
18 of a credentialing or certification organization;

19 F. "credentialing organization" or "certification  
20 organization" means a nationally recognized organization  
21 recognized by the board that issues credentials or  
22 certification through testing or evaluations that determine  
23 whether an individual meets defined standards for training and  
24 competence in a medical imaging modality;

25 G. "department" means the department of

1 environment;

2 H. "diagnostic medical sonographer" means a person,  
3 including a vascular technologist or echocardiographer, other  
4 than a licensed practitioner, who provides patient care  
5 services using ultrasound;

6 I. "division" means the environmental health  
7 division of the department of environment;

8 J. "ionizing radiation" means alpha particles, beta  
9 particles, gamma rays, x-rays, neutrons, high-speed electrons,  
10 high-speed protons and other particles capable of producing  
11 ions; "ionizing radiation" does not include non-ionizing  
12 radiation, such as sound waves, radio waves or microwaves, or  
13 visible, infrared or ultraviolet light;

14 K. "license" means a document issued by the  
15 department pursuant to the Medical Imaging and Radiation  
16 Therapy Health and Safety Act to an individual who has met the  
17 requirements of licensure;

18 L. "licensed practitioner" means a person licensed  
19 to practice medicine, dentistry, podiatry, chiropractic or  
20 osteopathy in this state;

21 M. "licensure" means a grant of authority through a  
22 license or limited license to perform specific medical imaging  
23 and radiation therapy services pursuant to the Medical Imaging  
24 and Radiation Therapy Health and Safety Act;

25 N. "magnetic resonance technologist" means a person

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1 other than a licensed practitioner who performs magnetic  
2 resonance procedures under the supervision of a licensed  
3 practitioner using magnetic fields and radio frequency signals;

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

7 P. "medical imaging modality" means:

8 (1) diagnostic medical sonography and all of  
9 its subspecialties;

10 (2) magnetic resonance imaging and all of its  
11 subspecialties;

12 (3) nuclear medicine technology and all of its  
13 subspecialties;

14 (4) radiation therapy and all of its  
15 subspecialties; and

16 (5) radiography and all of its subspecialties;

17 Q. "medical imaging professional" means a person  
18 who is a magnetic resonance technologist, radiographer, nuclear  
19 medicine technologist or diagnostic medical sonographer and who  
20 is licensed pursuant to the Medical Imaging and Radiation  
21 Therapy Health and Safety Act;

22 R. "non-ionizing radiation" means the ~~[optical~~  
23 ~~radiations, including ultraviolet, visible, infrared and~~  
24 ~~lasers]~~ static and time-varying electric and magnetic fields  
25 and radio frequency, including microwave radiation and

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1 ultrasound;

2 S. "nuclear medicine technologist" means a person  
3 other than a licensed practitioner who applies  
4 radiopharmaceutical agents to humans for diagnostic or  
5 therapeutic purposes under the direction of a licensed  
6 practitioner;

7 T. "physician assistant" means a person licensed  
8 pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978;

9 U. "point-of-care ultrasound imaging" means the  
10 limited use of ultrasound to create real-time images necessary  
11 for direct patient care that are not transmitted or referred  
12 for interpretation by another licensed practitioner or other  
13 health care professional licensed pursuant to Chapter 61 NMSA  
14 1978 to provide health care within that professional's scope of  
15 practice;

16 [~~U.~~] V. "radiation therapy" means the application  
17 of ionizing radiation to humans for therapeutic purposes;

18 [~~V.~~] W. "radiation therapy technologist" means a  
19 person other than a licensed practitioner whose application of  
20 radiation to humans is for therapeutic purposes;

21 [~~W.~~] X. "radiographer" means a person other than a  
22 licensed practitioner whose application of radiation to humans  
23 is for diagnostic purposes;

24 [~~X.~~] Y. "radiography" means the application of  
25 radiation to humans for diagnostic purposes, including

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1 adjustment or manipulation of x-ray systems and accessories,  
2 including image receptors, positioning of patients, processing  
3 of films and any other action that materially affects the  
4 radiation dose to patients;

5 ~~[Y.]~~ Z. "radiologist" means a licensed practitioner  
6 certified by the American board of radiology, the British royal  
7 college of ~~[radiology]~~ radiologists, the American osteopathic  
8 board of radiology or the American chiropractic board of  
9 radiology; ~~[and~~

10 ~~Z.]~~ AA. "radiologist assistant" means an individual  
11 licensed as a radiographer as defined in the Medical Imaging  
12 and Radiation Therapy Health and Safety Act who holds  
13 additional certification as a registered radiologist assistant  
14 by the American registry of radiologic technologists and who  
15 works under the supervision of a radiologist; provided that a  
16 radiologist assistant shall not interpret images, render  
17 diagnoses or prescribe medications or therapies; and

18 BB. "ultrasound" means the use of non-ionizing  
19 high-frequency sound waves, above twenty thousand cycles per  
20 second, with specialized equipment to direct the sound waves  
21 into areas of the human body to generate images for the  
22 assessment, diagnosis and treatment of various medical  
23 conditions."

24 **SECTION 2.** Section 61-14E-7 NMSA 1978 (being Laws 1983,  
25 Chapter 317, Section 7, as amended) is amended to read:

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## 1 "61-14E-7. LICENSURE--EXCEPTIONS.--

2 A. It is unlawful, unless licensed by the  
3 department as a medical imaging professional or radiation  
4 therapist, for any person to:

5 (1) use ionizing [~~or non-ionizing~~] radiation  
6 on humans;

7 (2) use any title, abbreviation, letters,  
8 figures, signs or other devices to indicate that the person is  
9 a licensed medical imaging professional or radiation therapist;  
10 or

11 (3) engage in any of the medical imaging  
12 modalities as defined by the Medical Imaging and Radiation  
13 Therapy Health and Safety Act.

14 B. Notwithstanding any other provision of the  
15 Medical Imaging and Radiation Therapy Health and Safety Act,  
16 the requirement of a medical imaging license shall not apply  
17 to:

18 (1) a licensed practitioner; [~~or auxiliary or~~  
19 ~~health practitioner licensed or certified by an independent~~  
20 ~~board; provided that any certification and examination program~~  
21 ~~for auxiliaries or health practitioners established by an~~  
22 ~~independent board shall be submitted to the advisory council~~  
23 ~~and approved by the board. The requirement of a medical~~  
24 ~~imaging license shall also not apply to a student who is~~  
25 ~~enrolled in and attending a required individual education~~

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1 ~~program of a school or college of medicine, osteopathy,~~  
2 ~~chiropractic, podiatry, dentistry or dental hygiene to apply~~  
3 ~~radiation to humans under the supervision of a licensed~~  
4 ~~practitioner or under the direct supervision of a licensed~~  
5 ~~medical imaging professional or radiation therapist]~~

6 (2) a health care professional licensed  
7 pursuant to Chapter 61 NMSA 1978 by an independent board;  
8 provided that any health professional certification or  
9 examination program that an independent board establishes  
10 relating to the performance of any of the procedures described  
11 in Paragraphs (1) and (3) of Subsection A of this section shall  
12 be submitted to the advisory council and approved by the board;  
13 or

14 (3) a student who:

15 (a) is enrolled in and attending an  
16 accredited educational program at a college of medicine,  
17 osteopathy, chiropractic, podiatry, dentistry or dental hygiene  
18 and who performs a medical imaging or radiation therapy  
19 modality and specialty area authorized under the scope of  
20 practice for the student's professional program; and

21 (b) performs medical imaging or  
22 radiation therapy procedure under the supervision of a licensed  
23 practitioner or under the direct supervision of an individual  
24 licensed in the medical imaging or radiation therapy modality  
25 and specialty area.

1           C. Notwithstanding any other provision of the  
2 Medical Imaging and Radiation Therapy Health and Safety Act,  
3 the requirement of licensure shall not apply to point-of-care  
4 ultrasound imaging performed in this state by:

5                   (1) a certified registered nurse anesthetist,  
6 nurse practitioner, clinical nurse specialist or nurse licensed  
7 pursuant to the Nursing Practice Act or a certified nurse-  
8 midwife licensed pursuant to the Public Health Act who has  
9 acquired the necessary knowledge, skills and training in the  
10 specific procedure to be performed and who provides point-of-  
11 care ultrasound imaging pursuant to the certified registered  
12 nurse anesthetist, nurse practitioner, clinical nurse  
13 specialist or nurse or nurse-midwife's scope of practice; or

14                   (2) a student who is enrolled in an accredited  
15 program in preparation for licensure as a certified registered  
16 nurse anesthetist, nurse practitioner, clinical nurse  
17 specialist or nurse licensed pursuant to the Nursing Practice  
18 Act or a certified nurse-midwife licensed pursuant to the  
19 Public Health Act who performs point-of-care ultrasound imaging  
20 under the direct supervision of one of the following health  
21 professionals who acquired the necessary knowledge, skill and  
22 training in the specific procedure to be performed and who  
23 provides point-of-care ultrasound imaging pursuant to that  
24 professional's scope of practice:

25                   (a) a licensed practitioner;

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1                    (b) a sonographer licensed pursuant to  
2 the provisions of the Medical Imaging and Radiation Therapy  
3 Health and Safety Act;

4                    (c) a certified registered nurse  
5 anesthetist, nurse practitioner, clinical nurse specialist or  
6 nurse licensed pursuant to the Nursing Practice Act; or

7                    (d) a certified nurse-midwife licensed  
8 pursuant to the Public Health Act.

9                    D. Notwithstanding any other provision of the  
10 Medical Imaging and Radiation Therapy Health and Safety Act,  
11 the requirement of a license shall not apply to a student  
12 completing clinical requirements of an approved education  
13 program working under the supervision of a licensed  
14 practitioner or under the direct supervision of a medical  
15 imaging professional or radiation therapist licensed in the  
16 practice for which the student is seeking licensure.

17                    [~~D.~~] E. The department shall adopt rules and  
18 regulations for the education and licensure of advanced medical  
19 imaging professionals.

20                    [~~E.~~] F. The department may require students in  
21 medical imaging and radiation therapy educational programs to  
22 register with the department while enrolled in an approved  
23 education program.

24                    G. Nothing in the Medical Imaging and Radiation  
25 Therapy Health and Safety Act shall affect the following health

1 care professionals' authority to use images resulting from  
2 medical imaging procedures:

3 (1) a licensed practitioner;

4 (2) a certified registered nurse anesthetist,  
5 nurse practitioner, clinical nurse specialist or nurse licensed  
6 as a nurse pursuant to the Nursing Practice Act;

7 (3) a certified nurse-midwife licensed as a  
8 certified nurse-midwife pursuant to the Public Health Act;

9 (4) a physician assistant licensed pursuant to  
10 the Physician Assistant Act or the Osteopathic Physicians'  
11 Assistants Act; or

12 (5) another health care professional licensed  
13 to provide health care pursuant to Chapter 61 NMSA 1978."

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