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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009

SECOND ENROLLMENT

COMMITTEE SUBSTITUTE FOR House Bill No. 2423

(By Delegate Morgan)

Amended and again passed May 27, 2009, as a result of the objections of the Governor

In Effect From Passage

SECOND



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ENROLLMENT_{OFFICE WEST VIRGINIA}

SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

H. B. 2423

(BY DELEGATE MORGAN)

[Amended and again passed May 27, 2009, as a result of the objections of the Governor; in effect from passage.]

AN ACT to amend and reenact §30-23-4, §30-23-5, §30-23-6, §30-23-9, §30-23-10, §30-23-13, §30-23-14, §30-23-16, §30-23-17 and §30-23-19 of the Code of West Virginia, 1931, as amended, all relating to the practice of medical imaging and radiation therapy technology; updating terminology; revising the powers and duties of the board; removing the licensure exemption for limited practice; clarifying scopes of practice; revising licensure requirements; revising supervision requirements for apprentices; and extending the length of time an apprentice may be licensed.

Be it enacted by the Legislature of West Virginia:

That §30-23-4, §30-23-5, §30-23-6, §30-23-9, §30-23-10, §30-23-13, §30-23-14, §30-23-16, §30-23-17 and §30-23-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-4. Definitions.

1320

As used in this article, the following words and terms
 have the following meanings, unless the context clearly
 indicates otherwise:

- 4 (a) "ASPMA" means the American Society of Podiatric5 Medical Assistants.
- 6 (b) "ARMRIT" means the American Registry of7 Magnetic Resonance Imaging Technologists.
- 8 (c) "ARRT" means the American Registry of Radiologic9 Technologist.
- 10 (d) "Board" means the West Virginia Medical Imaging11 and Radiation Therapy Technology Board of Examiners.
- (e) "Business entity" means any firm, partnership,
 association, company, corporation, limited partnership,
 limited liability company or other entity providing medical
 imaging or radiation therapy technology.
- (f) "Dental X-rays" means X-rays taken of the oral cavity
 with x-ray units designed for this specific performance.
- 18 (g) "JRCERT" means the Joint Review Committee on19 Education in Radiologic Technology.
- 20 (h) "JRCNMT" means the Joint Review Committee on
 21 Education Programs in Nuclear Medicine Technology.

(i) "License" means a medical imaging and radiation
therapy technology license issued under the provisions of this
article.

(j) "Licensed practitioner" means a person licensed in
West Virginia to practice medicine, chiropractic, podiatry,
osteopathy or dentistry.

(k) "Licensee" means a person holding a license issuedunder the provisions of this article.

30 (1) "Magnetic Resonance Imaging or MRI" means the
31 performance of medical imaging using radio waves, magnetic
32 fields and a computer to produce images of the body tissues.

(m) "Medical Imaging" means the use of ionizing
radiation, electromagnetic radiation, or radioactivity for
evaluation of body tissue in order to diagnose injury and
disease by means of image production.

37 (n) "NMTCB" means the Nuclear Medicine Technology38 Certification Board.

39 (o) "Nuclear Medicine Technologist" means a person
40 holding a nuclear medicine license issued under the
41 provisions of this article.

(p) "Nuclear Medicine 42 Technology" means the compounding, calibrating, dispensing and administrating of 43 44 radio- pharmaceuticals, pharmaceuticals and radio-nuclides 45 under the direction of an individual listed as an authorized user by the U.S. Nuclear Regulatory Commission for the 46 production of images for diagnosis and/or treatment of 47 various disorders. 48

49 (q) "Permittee" means any person holding a podiatric
50 medical assistant permit issued pursuant to the provisions of
51 this article.

(r) "PET/CT Technologist" means an individual
recognized by the board as qualified to operate a PET/CT
scanner.

(s) "PET/CT Technology" means the operation of a
Positron Emission Tomography/Computerized Tomography
scanner to view internal images of the body.

(t) "Podiatric medical assistant" means a person who has
been issued a permit under the provisions of this article, to
perform podiatric radiographs.

61 (u) "Podiatric radiographs" means radiographs confined
62 to the foot and ankle performed on dedicated podiatric X-ray
63 equipment.

64 (v) "Practice of Medical Imaging and Radiation Therapy
65 Technology" means the practice of Radiologic Technology,
66 Radiation Therapy, Nuclear Medicine Technology and
67 Magnetic Resonance Imaging Technology.

68 (w) "Radiologic technologist" means a person, other than 69 a licensed practitioner, who applies medical imaging or 70 assists in the application of ionizing radiation to human 71 beings for diagnostic or therapeutic purposes as prescribed by 72 a licensed practitioner.

(x) "Radiologic technology" means the application of
ionizing radiation or assisting in the application of medical
imaging to human beings for diagnostic or therapeutic
purposes as prescribed by a licensed practitioner.

(y) "Radiologist" means a licensed practitioner who has
successfully completed a residency in the field of Radiology
and specializes in the use of medical imaging for the
diagnosis or treatment of disease.

(z) "Radiologist Assistant or RA" means an individual
who is licensed under the rules of the West Virginia Board of
Medicine and has completed specialized training from an
accredited program in the profession and passed a written
examination as recognized by the West Virginia Board of
Medicine.

87 (aa) "Radiology resident" means a licensed practitioner
88 who is in training to become a Radiologist and who uses
89 medical imaging in the diagnosis or treatment of disease,
90 under the supervision of a Radiologist.

91 (bb) "Supervision" means responsibility for and control
92 of quality, safety and technical aspects in the application of
93 medical imaging technology on human beings for diagnostic
94 or therapeutic purposes.

95 (cc) "Technology" means Medical Imaging Technology96 or Radiation Therapy Technology.

§30-23-5. Medical Imaging and Radiation Therapy Technology Board of Examiners.

(a) The West Virginia Medical Imaging and Radiation
 Therapy Technology Board of Examiners is continued. The
 members of the board in office, unless sooner removed,
 continue to serve until their respective terms expire and until
 their successors have been appointed and qualified.

6 (b) The board shall consist of the following eleven
7 members, appointed by the Governor by and with the advice
8 and consent of the Senate:

9 (1) One Radiologic Health Specialist from the Radiation,
10 Toxics and Indoor Air Division of the West Virginia
11 Department of Health and Human Resources;

12 (2) Three licensed practitioners, two of whom shall be13 Radiologists;

14 (3) Three licensed Radiologic Technologists, one of15 whom shall be an active medical imaging educator;

16 (4) One licensed Nuclear Medicine Technologist;

17 (5) One licensed Magnetic Resonance Imaging18 Technologist; and

(6) Two citizen members, who are not licensed under the
provisions of this article and do not perform any services
related to the practice licensed under the provisions of this
article.

23 (c) Each member shall be appointed for a term of three 24 years and may not serve more than two consecutive full 25 terms. A member having served two consecutive full terms 26 may not be appointed for one year after completion of his or 27 her second full term. A member continues to serve until a 28 successor has been appointed and has qualified. The terms 29 shall be staggered in accordance with the initial appointments under prior enactments of this article. 30

31 (d) Each member of the board shall be a resident of West32 Virginia during the appointment term.

(e) The Radiologic Technologists, Nuclear Medicine
Technologists and the Magnetic Resonance Imaging
Technologists serving on the board shall maintain an active
license with the board.

37 (f) A vacancy on the board shall be filled by appointment
38 by the Governor for the unexpired term of the member whose
39 office is vacant.

40 (g) The Governor may remove any member from the
41 board for neglect of duty, incompetency or official
42 misconduct.

(h) A licensed member of the board immediately and
automatically forfeits membership to the board if his or her
license to practice has been suspended or revoked. A
member of the board immediately and automatically forfeits
membership to the board if he or she is convicted of a felony
under the laws of any state or the United States, or becomes
a nonresident of this state.

50 (i) The board shall designate one of its members as
51 chairperson and one member as secretary who shall serve at
52 the will of the board.

(j) Each member of the board shall receive compensation
and expense reimbursement in accordance with article one of
this chapter.

56 (k) A majority of the members serving on the board shall57 constitute a quorum.

(1) The board shall hold at least two annual meetings.
Other meetings shall be held at the call of the chairperson or
upon the written request of two members, at such time and
place as designated in the call or request.

(m) Prior to commencing his or her duties as a member
of the board, each member shall take and subscribe to the
oath required by section five, article four of the Constitution
of this State.

§30-23-6. Powers and duties of the board.

1 (a) The board has all the powers and duties set forth in 2 this article, by rule, in article one of this chapter, and 3 elsewhere in law. 4 (b) The board shall:

5 (1) Hold meetings, conduct hearings and administer 6 examinations;

7 (2) Establish requirements for a license, apprentice8 license and permit;

9 (3) Establish procedures for submitting, approving and 10 rejecting applications for a license, apprentice license and 11 permit;

12 (4) Determine the qualifications of any applicant for a13 license, permit, certificate and registration;

14 (5) Provide standards for approved schools of Medical 15 Imaging and Radiation Therapy Technology, procedures for obtaining and maintaining approval, and procedures of 16 17 revocation of approval where standards are not maintained: 18 *Provided.* That the standards for approved schools meet at 19 least the minimal requirements of the American Registry of 20 Radiologic Technologist JRCERT, JRCNMT or standards 21 determined programmatically equivalent by the board;

(6) Work with the West Virginia Board of Medicine to
determine the scope of practice, the required education and
training, and the type of regulations necessary for
Radiologist;

26 (7) Prepare, conduct, administer and grade written, oral
27 or written and oral examinations for a license, certificate and
28 registration;

29 (8) Determine the passing grade for the examinations;

30 (9) Maintain records of the examinations the board or a
31 third party administers, including the number of persons
32 taking the examination and the pass and fail rate;

- (10) Maintain an office, and hire, discharge, establish the
 job requirements and fix the compensation of employees and
 contract with persons necessary to enforce the provisions of
 this article;
- 37 (11) Investigate alleged violations of the provisions of
 38 this article, legislative rules, orders and final decisions of the
 39 board;
- 40 (12) Conduct disciplinary hearings of persons regulated41 by the board;
- 42 (13) Determine disciplinary action and issue orders;
- 43 (14) Institute appropriate legal action for the enforcement
 44 of the provisions of this article;
- 45 (15) Maintain an accurate registry of names and
 46 addresses of all persons regulated by the board;
- 47 (16) Keep accurate and complete records of its
 48 proceedings, and certify the same as may be necessary and
 49 appropriate;
- 50 (17) Establish, by legislative rule, the continuing
 51 education requirements for licensees, permitees, certificate
 52 holders and registrants; and
- (18) Propose rules in accordance with the provisions of
 article three, chapter twenty-nine-a of this code to implement
 the provisions of this article.
- 56 (c) The board may:

57 (1) Contract with third parties to administer the 58 examinations required under the provisions of this article; 59 (2) Define, by legislative rule, the fees charged under the provisions of this article; 60 61 (3) Issue, renew, deny, suspend, revoke or reinstate a license, permit, certificate and registration; 62 63 (4) Sue and be sued in its official name as an agency of 64 this state: 65 (5) Confer with the Attorney General or his or her 66 assistant in connection with legal matters and questions; and 67 (6) Take all other actions necessary and proper to 68 effectuate the purposes of this article. §30-23-9. Requirements for Radiologic Technology license. 1 (a) To be eligible for a license to practice Radiologic

- 2 Technology, the applicant must:
- 3 (1) Be of good moral character;
- 4 (2) Have a high school diploma or its equivalent;

(3) Have successfully completed an accredited program
in Radiologic technology, as determined by an accreditation
body recognized by the board, from a school of Radiologic
Technology that has been approved by the board;

9 (4) Have passed the examination prescribed by the board,
10 which examination shall cover the basic subject matter of
11 Radiologic Technology, skills and techniques; and

(5) Not have been convicted of a felony under the laws of
any state or the United States within five years preceding the
date of application for licensure, which conviction remains
unreversed; and

(6) Not have been convicted of a misdemeanor or a
fclony under the laws of any state or the United States at any
time if the offense for which the applicant was convicted
related to the practice of Medical Imaging, which conviction
remains unreversed.

(b) A person seeking a Radiologic Technology license
shall submit an application on a form prescribed by the board
and pay the license fee, which fee shall be returned to the
applicant if the license application is denied.

(c) A Radiologic Technology license issued by the board
prior to July 1, 2009, shall for all purposes be considered a
license issued under this article.

§30-23-10. Scope of Practice for a Radiologic Technologist.

The scope of practice of a Radiologic Technologist
 includes the following:

3 (1) Analysis and correlation of procedure requests and
4 clinical information provided by a physician or patient, or
5 both, for preprocedure determination of the appropriate
6 exam, its extent, and its scope;

7 (2) Evaluation of the physical, mental and emotional
8 status of the patient with respect to the ability to understand
9 the risk versus benefit of the procedure and to undergo the
10 procedure requested;

(3) Selection, preparation, and operation of medicalimaging equipment and accessories to perform procedures;

(4) Positioning patient to best demonstrate anatomy of
interest, while respecting patient's physical limitations and
comfort;

16 (5) Determination of imaging exposure factors, setting of
17 factors on control panel, and application of medical imaging
18 exposures;

19 (6) Application of radiation protection principles to20 minimize radiation exposure to patient, self, and others;

21 (7) Evaluation of images for technical quality;

22 (8) Performance of noninterpretive fluoroscopic
23 procedures according to institutional policy;

24 (9) Oversight of image processing standards and the25 appropriate labeling of images;

26 (10) Administering contrast media after consultation
27 with, and under the supervision of, a physician who is
28 immediately and physically available;

(11) Maintaining values congruent with the profession's
Code of Ethics and scope of practice as well as adhering to
national, institutional and/or departmental standards, policies
and procedures regarding delivery of services and patient
care; and

34 (12) Performing any other duties that the board authorizes35 for a Radiologic Technologist.

§30-23-13. Requirements for temporary Medical Imaging and Radiation Therapy Technology license.

1 (a) The board may issue a temporary Medical Imaging 2 and Radiation Therapy Technology license to engage in the 3 practice of Medical Imaging and Radiation Therapy 4 Technology in this state to an applicant who meets the 5 qualifications for a Medical Imaging and Radiation Therapy 6 Technology license, but has not passed the examination.

7 (b) Temporary licenses expire as provided by rule.

§30-23-14. Medical Imaging and Radiation Therapy Technology license from another state; license to practice in this state.

The board may issue a license to practice Medical
 Imaging and Radiation Therapy Technology in this state,
 without requiring an examination, to an applicant from
 another jurisdiction who:

- 5 (1) Is not a resident of this state;
- 6 (2) Is of good moral character:

7 (3) Holds a valid Medical Imaging and Radiation 8 Therapy Technology license, certificate or other authorization, including the American Registry of Radiologic 9 Technologists, or Nuclear Medicine Technology Certification 10 Board or equivalent to practice Medical Imaging and 11 12 Radiation Therapy Technology in another jurisdiction and meets requirements which are substantially equivalent to the 13 14 Medical Imaging and Radiation Therapy Technology 15 licensure requirements set forth in this article;

(4) Is not currently being investigated by a disciplinary
authority of this state or another jurisdiction, does not have
charges pending against his or her license or other
authorization to practice Medical Imaging and Radiation

20 Therapy Technology, and has never had a license or other
21 authorization to practice Medical Imaging and Radiation
22 Therapy Technology revoked;

- (5) Has not previously failed an examination for licensure
 in this state;
- 25 (6) Has paid all the applicable fees; and
- 26 (7) Has completed other action as required by the board.

§30-23-16. Scope of practice for Nuclear Medicine Technologist.

- The scope of practice for Nuclear Medicine Technology
 includes the following:
- 3 (1) The practice of diagnostic in-vivo procedures and
 4 in-vitro procedures which include:
- 5 (A) Analysis and correlation of procedure request and 6 clinical information provided by the referring physician or 7 patient, or both, for determination of appropriate exam, 8 extent, and scope;

9 (B) Evaluation of the physical and emotional status of the
10 patient with respect to the ability to undergo the procedure
11 requested;

(C) Immediate predose review of patient's identification,
prescribed dose quantity and route of administration, and
identification of the test agent designed to prevent dose
mis-administration;

16 (D) Preparation of the appropriate radiopharmaceutical17 with measurement of dose activity;

18 (E) Administration of appropriate diagnostic dose levels19 of radiopharmaceuticals;

(F) Administration of nonradioactive pharmaceuticals
utilized in conjunction with a nuclear medicine imaging or
in-vivo procedure, for example, cholecystokinin, furosemide,
vitamin B12, in accordance with hospital or facility
procedures, excluding narcotic and sedating medication;

25 (G) Selection of appropriate imaging or test parameters,26 or both;

27 (H) Obtaining images according to established protocols
28 and any special views to optimize information as appropriate;

29 (I) Placement of patient in proper position using30 supportive materials and immobilizer as necessary;

31 (J) Assuring appropriate image labeling as to patient;

32 (K) Monitoring of patient and equipment during
33 procedure for determination and application of any corrective
34 actions necessary;

35 (L) Monitoring of data collection and processing and
36 performance of technical analysis of test results;

(M) Preparation and performance of laboratory in-vivo
nuclear medicine procedures, inclusive of the selection and
operation of laboratory counting equipment, performance of
calculations and data processing necessary for completion of
lab procedures and the submission of results to the physician
or licensee;

43 (N) Oversight and application of image development; and

44 (O) Performance of in-vitro testing of serum, plasma, or
45 other body fluids using radio immunoassay, or similar ligand
46 assay methods.

- 47 (2) The practice for handling radiopharmaceuticals which48 includes:
- 49 (A) Preparation, by means of tagging, compounding, etc.,50 in accordance with manufacturer's specifications;
- 51 (B) Measurement and calculation of activity of52 radionuclides with a dose calibrator;
- 53 (C) Application of radioactive decay calculations to
 54 determine required volume or unit form necessary to deliver
 55 the prescribed radioactive dose; and
- 56 (D) Recording of radiopharmaceutical information on a57 patient's permanent record.
- 58 (3) The practice for radionuclide therapy which includes:
- 59 (A) Assisting licensee in the preparation and applications60 of therapeutic radionuclides;
- 61 (B) Oversight of radiation safety practices related to the
 62 handling and administration of radiopharmaceuticals for
 63 therapy of patients;
- 64 (C) Maintenance of records of radioactive material 65 receipt, use, storage, and disposal in accordance with 66 regulatory requirements;
- 67 (D) Oversight and enforcement of radiation safety
 68 policies, practices, and regulations regarding the possession
 69 and use of radioactive materials;

(E) Performance of radiation safety procedures such as
radiation survey and wipe testing of incoming radioactive
shipments and facility fixtures;

(F) Maintaining values congruent with the profession's
code of ethics and scope of practice as well as adhering to
national, institutional and/or departmental standards, policies
and procedures regarding delivery of services and patient
care; and

78 (G) Performing any other duties that the board determines
79 may be performed by a Nuclear Medicine Technologist.

80 (4) The scope of practice for a Nuclear Medicine
81 Technologist or certified PET Technologist to operate a
82 multimodality device, i.e. PET/CT, SPECT/CT etc, requires
83 that:

84 (A) A Nuclear Medicine Technologist, (ARRT(N) or NMTCB) or certified PET Technologist may administer 85 86 radiopharmaceuticals and/or ionizing radiation from an 87 integrated multimodality device, if the ionizing radiation is 88 produced for the sole purpose of attenuation correction and considered an essential component of the procedure, provided 89 90 the licensee has obtained proper documented training that has 91 been approved by the board in the radiation safety aspect of the operation of these units; and 92

(B) A licensed radiographer, (ARRT(R)), or Nuclear
Medicine Technologist with an additional certification by the
ARRT or other nationally recognized certifying body in
computed tomography, shall operate the computed
tomography scanner if it is used for any other diagnostic
radiographic procedures.

§30-23-17. Requirements for Magnetic Resonance Imaging Technologist license.

- (a) To be eligible for a license to practice Magnetic
 Resonance Imaging Technology, the applicant must:
- 3 (1) Be of good moral character;
- 4 (2) Have a high school diploma or its equivalent;

5 (3) Not have been convicted of a felony under the laws of 6 any state or the United States within five years preceding the 7 date of application for licensure, which conviction remains 8 unreversed;

9 (4) Not have been convicted of a misdemeanor or a 10 felony under the laws of any state or the United States at any 11 time if the offense for which the applicant was convicted 12 related to the practice of Medical Imaging, which conviction 13 remains unreversed.

14 (5) Meet one of the following qualifications:

(A) Have a baccalaurcate or associate degree in one of
the physical or biological sciences pertaining to the Medical
Imaging or Radiation Therapy profession;

(B) Have a baccalaureate or associate degree in other
disciplines of Medical Imaging with successful completion of
courses in the following areas: college algebra, physics or
chemistry, human anatomy, physiology, and radiation safety;

(C) National certification as a certified Nuclear Medicine
Technologist (CNMT);

(D) National certification as a Registered Radiographer
(ARRT (R));

- 26 (E) National certification as a Registered Radiographer
 27 specializing in Nuclear Medicine (ARRT (N));
- 28 (F) National certification as a Radiation Therapist
 29 (ARRT(T); or
- 30 (G) National certification as an MRI technologist (ARRT
 31 (MR) or ARMRIT); and
- (6) Pass an examination which has been approved by the
 board, with a minimum passing score of seventy-five percent,
 which examination shall cover the basic subject matter of
 Medical Imaging, radiation safety, skills and techniques as it
 pertains to Magnetic Resonance Imaging.
- 37 (b) A person seeking a Magnetic Resonance Imaging
 38 Technology license shall submit an application on a form
 39 prescribed by the board and pay the license fee, which fee
 40 shall be returned to the applicant if the license application is
 41 denied.
- 42 (c) A Magnetic Resonance Imaging Technology license
 43 issued by the board prior to July 1, 2007, shall for all
 44 purposes be considered a license issued under this article:
 45 *Provided*, That a person holding a Magnetic Resonance
 46 Imaging Technology license issued prior to July 1, 2007,
 47 must renew the license pursuant to the provisions of this
 48 article.

§30-23-19. Requirements for an apprentice license for Nuclear Medicine Technologists and Magnetic Resonance Imaging Technologists.

1 (a) The board may issue an apprentice license to an individual who is practicing as a Nuclear Medicine 2 3 Technologist or a Magnetic Resonance Imaging Technologist 4 prior to July 1, 2007 but has not obtained certification in the 5 discipline. A notarized letter, signed by the individual's supervising licensed physician, must be submitted with the 6 individual's application, stating that the individual has 7 8 performed the duties of a Nuclear Medicine Technologist or 9 Magnetic Resonance Imaging Technologist prior to July 1, 10 2007.

11 (b) The apprentice license is valid for one year. An 12 apprentice license may be renewed annually for an additional 13 four years, giving the individual a total of five years to 14 complete the requirements and successfully pass the 15 examination for certification а Nuclear Medicine 16 Technologist license or a Magnetic Resonance Imaging All individuals possessing an 17 Technologist license. 18 apprentice license must work under the supervision of a 19 licensed practitioner for MRI, an authorized user for nuclear 20 medicine or a technologist who is licensed in that discipline.

21 (c) Any individual possessing a valid Medical Imaging 22 license issued by the board and seeks to cross-train in the 23 discipline of Nuclear Medicine Technology or Magnetic 24 Resonance Imaging Technology, may obtain an apprentice license in that discipline for the purpose of obtaining the 25 26 necessary clinical experience requirements in order to qualify 27 to sit for the required examination. This apprentice license 28 will be valid for one year and renewable for four year, giving 29 a cross-trained individual five years to obtain certification in 30 the discipline.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

irman Senate Committee Welk

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

IN h. Clerk of the House of Delegates resident of the Senate

Speaker of the House of Delegates

The within is approved this the_ day of ______ 2009. Governor

PRESENTED TO THE GOVERNOR

JUN - 1 2009

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