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HOUSE BILL 1070
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Short Title: Radiation Tech. Practice Act.

(Public)

Sponsors:

Referred to:

April 7, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE RADIATION TECHNOLOGY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 25.

“RADIATION TECHNOLOGY PRACTICE ACT.

“§ 90-345.1. Short title.

This Article may be cited as the ‘Radiation Technology Practice Act’.

“§ 90-345.2. Policy and purpose.

In order to protect the public health and safety, it is the policy of the State of North Carolina to reduce the harmful effect of excessive and improper exposure to ionizing radiation during medical diagnosis and treatment. The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of radiation technology is necessary to ensure minimum standards of competency and to provide the public with safe care.

“§ 90-345.3. Definitions.

In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) ‘Board’ means the North Carolina Board of Radiation Technology Examiners as created by G.S. 90-345.4.

- 1 (2) 'Educational program' means any educational program in North
2 Carolina that:
3 a. Offers to prepare persons to meet the educational requirements
4 for licensure under this Article;
5 b. Is a program in Radiation Technology that has been accredited
6 by an accrediting agency which is a member of the Council on
7 Postsecondary Accreditation and which is recognized by the
8 United States Department of Education; and
9 c. Is one of the programs in a postsecondary educational
10 institution which holds regional or national accreditation by an
11 accrediting agency which is a member of the Council on
12 Postsecondary Accreditation and which is recognized by the
13 United States Department of Education.
- 14 (3) 'Individual' means any human being.
15 (4) 'Ionizing radiation' means gamma rays, X rays, alpha particles, beta
16 particles, neutrons, high speed electrons, high speed protons and other
17 nuclear particles.
- 18 (5) 'License' means a license issued by the Board to an individual to
19 practice as a radiologic technologist, nuclear medicine technologist or
20 radiation therapy technologist.
- 21 (6) 'Licensed practitioner' means any individual licensed or otherwise
22 authorized by law to practice medicine, dentistry, osteopathy,
23 chiropractic, or podiatry in North Carolina.
- 24 (7) 'Nuclear medicine technologist' means any individual, other than a
25 licensed practitioner, who is licensed under this Article for the
26 administration of radionuclides to human beings for diagnostic and/or
27 therapeutic purposes while under the supervision of a licensed
28 practitioner.
- 29 (8) 'Person' means an individual, corporation, partnership, association,
30 unit of government, or other legal entity.
- 31 (9) 'Radiation technologist' means any individual, other than a licensed
32 practitioner, who administers ionizing radiation to human beings for
33 medical purposes and practices radiation technology, or nuclear
34 medicine technology, or radiation therapy technology.
- 35 (10) 'Radiation technology' means the direct application of ionizing
36 radiation using imaging techniques, modalities, and therapeutic
37 procedures to render diagnostic information or treatment under the
38 supervision of a licensed practitioner.
- 39 (11) 'Radiation therapy technologist' means any individual, other than a
40 licensed practitioner, who is licensed under this Article for the
41 technical application of ionizing radiation to human beings for
42 therapeutic purposes while under the supervision of a licensed
43 practitioner.

1 (12) 'Radioactive material' means any material that spontaneously, or as
2 applied, emits ionizing radiation to a medically significant extent.

3 (13) 'Radionuclides' means a species of atom whose nucleus disintegrates
4 spontaneously, emitting radiation in the form of alpha, beta, or gamma
5 radiation.

6 (14) 'Radiologic technologist' or 'radiographer' means any individual, other
7 than a licensed practitioner, who is licensed under this Article for the
8 technical application to a human being of ionizing radiation other than
9 radioactive materials, for diagnostic purposes while under the
10 supervision of a licensed practitioner.

11 (15) 'Supervision' means a determination by a licensed practitioner that
12 ionizing radiation shall be applied to a human being for diagnostic or
13 therapeutic purposes but supervision does not mean overseeing the
14 application of ionizing radiation to the patient.

15 **"§ 90-345.4. Board of Examiners created.**

16 (a) The North Carolina Board of Radiation Technology Examiners is hereby
17 created.

18 (b) The Board shall consist of 11 members who reside in and are citizens of
19 North Carolina. The membership shall consist of: four radiological technologists, one
20 nuclear medicine technologist, one radiation therapy technologist, two physicians
21 licensed in this State, at least one of whom is a radiologist, one hospital administrator,
22 one representative from a health insurance company licensed under Chapter 57 of the
23 General Statutes, and one President of a member institution of the North Carolina
24 System of Community Colleges which offers a Radiation Technology Program meeting
25 all the requirements of this Article.

26 (c) The General Assembly shall appoint eight Board members, four upon the
27 recommendation of the Speaker of the House of Representatives (two of whom shall be
28 radiologic technologists, one of whom shall be a physician, and one of whom shall be a
29 nuclear medicine technologist) and four upon the recommendation of the President of
30 the Senate (two of whom shall be radiologic technologists, one of whom shall be a
31 physician, and one of whom shall be a radiation therapy technologist). Of the
32 appointments made upon the recommendation of the Speaker of the House, one of the
33 radiologic technologists shall serve for a term of three years, the other radiologic
34 technologist shall serve for a term of one year, the physician for a term of two years,
35 and the nuclear medicine technologist shall serve for a term of two years. Of the
36 appointments made upon the recommendation of the President of the Senate, the
37 radiologic technologists shall serve for terms of two years, the radiation therapy
38 technologist shall serve for a term of one year, and the physician for a term of two
39 years.

40 The Governor shall appoint the President from one of the member institutions of the
41 North Carolina System of Community Colleges, a hospital administrator, and a
42 representative of a health insurance company licensed under Chapter 57 of the General
43 Statutes for a three-year term.

44 The initial Board members shall be appointed on or before August 1, 1990.

1 (d) As their terms expire, vacancies on the Board shall be filled in the same
2 manner as the original appointment. Board members shall be commissioned by the
3 Governor upon their appointment.

4 (d1) Appointments made by the General Assembly shall be made in accordance
5 with G.S. 120-121, and vacancies caused other than by expiration of a term shall be
6 filled in accordance with G.S. 120-122.

7 (e) The six radiation technologist members shall hold current licenses and shall
8 be citizens of and reside in North Carolina. They shall each have at least five years'
9 experience in radiation technology practice, education, administration, or radiation
10 technology training, including the three years immediately preceding appointment to the
11 Board, and shall continue such practice, administration, or education and training while
12 on the Board. The first radiation technologists appointed to the Board pursuant to this
13 section shall, upon their appointment and qualification, immediately become licensed as
14 radiation technologists by complying with the provisions of this Article.

15 (f) After the initial appointments, each member of the Board shall be elected for
16 a term of three years and shall serve until a successor is appointed.

17 No member shall serve more than two consecutive full terms.

18 (g) Except as provided by subsection (d1) of this section, all unexpired terms on
19 the Board shall be filled within 45 days after the term is vacated and shall be filled in
20 the same manner as the original appointment. Appointees shall serve the remainder of
21 the unexpired term and until their successors have been duly appointed and qualified.

22 (h) The Board may remove any of its members for neglect of duty,
23 incompetence, or unprofessional conduct. A member subject to disciplinary
24 proceedings shall be disqualified from Board business until the charges are resolved.
25 Three consecutive unexcused absences from Board meetings shall constitute resignation
26 from the Board.

27 (i) Each member of the Board shall receive such per diem compensation and
28 reimbursement for travel and subsistence as shall be set for licensing boards in G.S.
29 93B-5.

30 (j) The officers of the Board shall be a chairman, a vice-chairman and other
31 officers deemed necessary by the Board to carry out the purposes of this Article. All
32 officers shall be elected annually by the Board for one-year terms and shall serve until
33 their successors are elected and qualified.

34 (k) The Board shall hold at least two meetings each year to conduct business and
35 shall adopt rules governing the calling, holding, and conducting of regular and special
36 meetings. A majority of the Board members shall constitute a quorum.

37 **"§ 90-345.5. Powers of the Board.**

38 (a) The Board shall have the following general powers and duties:

39 (1) Administer this Article;

40 (2) Issue its interpretations of this Article;

41 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
42 provisions of this Article in accordance with Chapter 150B of the
43 General Statutes;

- 1 (4) Establish qualifications of, employ, and set the compensation of the
2 executive director who shall not be a member of the Board;
- 3 (5) Employ and fix the compensation of other personnel that the Board
4 determines is necessary to carry into effect the provisions of this
5 Article and incur other expenses necessary to effectuate this Article;
- 6 (6) Examine and determine qualifications and fitness of duly qualified
7 applicants for licensure or renewal;
- 8 (7) Issue, renew, deny, suspend, or revoke licenses to practice radiation
9 technology and carry out any of the disciplinary actions authorized by
10 this Article;
- 11 (8) Conduct investigations for the purpose of determining whether
12 violations of this Article or grounds for disciplining licensees exist;
- 13 (9) Conduct investigations to determine the manpower need for radiation
14 technologists in North Carolina;
- 15 (10) Maintain a record of all proceedings and make available to licensees
16 and other concerned parties an annual report of all Board action;
- 17 (11) Set fees for licensure, license renewal, examination, reexamination,
18 and other services deemed necessary to carry out the purposes of this
19 Article;
- 20 (12) Adopt a seal containing the name of the Board for use on all
21 certificates, licenses, and official reports issued by it;
- 22 (13) Maintain and distribute, as appropriate, a list of inactive licensees; and
- 23 (14) Maintain and distribute, as appropriate, records of licensees'
24 educational course work.

25 (b) The powers and duties enumerated above are granted for the purpose of
26 enabling the Board to protect the public health, welfare, and safety against unqualified
27 or incompetent practitioners of radiation technology.

28 **"§ 90-345.6. Executive Director.**

29 The Executive Director shall perform the duties prescribed by the Board, serve as
30 treasurer to the Board and furnish a surety bond as required by the Board. The bond
31 shall be made payable to the Board and shall be paid from the funds available to the
32 Board pursuant to G.S. 90-345.7 or G.S. 90-345.8.

33 **"§ 90-345.7. Custody and use of funds.**

34 The Executive Director shall deposit in financial institutions designated by the
35 Board as official depositories all fees payable to the Board. The funds shall be
36 deposited in the name of the Board and shall be used to pay all expenses incurred by the
37 Board in carrying out the purposes of this Article. Such funds shall be annually audited
38 by the State Auditor.

39 **"§ 90-345.8. The Board may accept contributions, etc.**

40 The Board may accept grants, contributions, devices, bequests, and gifts that shall be
41 kept in the same account as funds deposited in accordance with G.S. 90-345.7 and shall
42 be used to carry out the provisions of this Article.

43 **"§ 90-345.9. Expenses and fees.**

1 (a) All salaries, compensation, and expenses incurred or allowed for the purpose
2 of carrying out the purposes of this Article shall be paid by the Board exclusively out of
3 the fees received by the Board as authorized by this Article, or funds received pursuant
4 to G.S. 90-345.8. In no case shall any salary, expense, or other obligations of the Board
5 be charged against the General Fund of the State.

6 (b) The schedule of fees shall not exceed the following:

7 (1) Each application for examination (including the cost of examination)
8 \$70.00

9 (2) Certificate of licensure without examination pursuant to G.S. 90-
10 345.10 and G.S. 90-345.11 50.00

11 (3) Each application for reexamination (including the cost of examination)
12 55.00

13 (4) Licensure renewal 35.00

14 (5) Reinstatement of expired license to practice 50.00

15 (6) Late renewal per month, maximum of six months 10.00

16 (c) The Board may charge a reasonable fee for duplication services and
17 materials.

18 **"§ 90-345.10. Technologists previously registered.**

19 The Board shall issue a license to practice as a radiation technologist to any
20 individual who applies to the Board by October 1, 1990, and furnishes to the Board on a
21 form approved by the Board proof of employment either as a radiologic technologist, or
22 a radiation therapy technologist or nuclear medicine technologist. In addition, the
23 following must be shown for each specialty:

24 (1) Radiologic Technologist. A current certificate from the American
25 Registry of Radiologic Technologists in radiologic technology,

26 (2) Radiation Therapy Technologist. A current certificate from the
27 American Registry of Radiologic Technologists in radiation therapy,

28 (3) Nuclear Medicine Technologist. A current certificate from the
29 American Registry of Radiologic Technologists in nuclear medicine or
30 the Nuclear Medicine Technology Certification Board.

31 **"§ 90-345.11. Technologists not registered.**

32 Individuals who have been engaged in the practice of radiation technology under the
33 supervision of a licensed practitioner for four years before September 1, 1990, shall be
34 eligible for licensure without examination in their specialty of radiologic technology,
35 radiation therapy technology, or nuclear medicine technology by meeting the following
36 criteria:

37 (1) Proof of good moral character; and

38 (2) Proof of practice in North Carolina for the two years immediately
39 preceding the effective date of this Article.

40 Any application made pursuant to this section must be filed with the Board on or
41 before July 1, 1992.

42 **"§ 90-345.12. Licensure without examination.**

43 The Board may issue a license to practice, without examination, to an applicant:

- 1 (1) Who is duly licensed in good standing under laws of another state or
2 country when the requirements in that state or country for licensure as
3 a radiation technologist are substantially equivalent to or exceed those
4 of the State of North Carolina at the time the applicant was initially
5 licensed, and when in the Board's opinion, the applicant is competent
6 to practice as a radiation technologist; or
7 (2) Who has met all criteria for licensure by examination in North
8 Carolina and who is registered in good standing in conformance with
9 the appropriate criteria established in G.S. 90-345.10(1), (2), or (3).

10 **"§ 90-345.13. Applicants for licensure.**

11 (a) Any person who desires to be licensed pursuant to this Article must:

- 12 (1) Submit an application on a form approved by the Board;
13 (2) Demonstrate proof of good moral character;
14 (3) Provide proof of graduation from an education program as defined in
15 G.S. 90-345.3; and
16 (4) Pass a written examination given by the Board.

17 (b) At least twice each year, the Board shall give an examination to applicants for
18 licensure at a time and place to be determined by the Board.

19 (c) When the Board determines that an applicant has met all the qualifications for
20 licensure, and has submitted the required fee, the Board shall issue a license to the
21 applicant, showing thereon the appropriate specialty.

22 **"§ 90-345.14. License renewal.**

23 Every individual who wishes to continue practice under this Article shall apply for a
24 license renewal, provide evidence of the successful completion of a continuing
25 educational program approved by the Board and submit the required fee. Licenses that
26 are not so renewed shall automatically expire. A license that has expired may be
27 reissued only in a manner prescribed by the Board.

28 **"§ 90-345.15. Continuing education.**

29 (a) The Board shall determine the number of hours and subject matter of
30 continuing education required as a condition of license renewal.

31 (b) Upon request by an accredited educational institution, the Board shall grant
32 approval to a continuing education program or course upon finding that the program or
33 course offers an educational experience designed to enhance the practice of radiation
34 technology.

35 (c) The Board shall maintain and distribute, as appropriate, records of the
36 educational course work successfully completed by each licensee, including the subject
37 matter and the number of hours of each course.

38 (d) Nothing in this section or in any other part of this Article may be construed to
39 imply, encourage, or authorize site visits to schools, colleges, or college-used facilities
40 as a part of or as being prerequisite to approval of a program.

41 **"§ 90-345.16. Inactive list.**

42 Upon request by a licensee for inactive status, the Board shall place the licensee's
43 name on the inactive list. While on the inactive list, the person shall not be subjected to
44 renewal requirements and shall not practice radiation technology in North Carolina.

"§ 90-345.17. Exemptions from licensure.

The following individuals shall be permitted to practice radiologic technology, radiation therapy technology, or nuclear medicine technology without a license:

- (1) Students enrolled in an educational program, when the student is engaged in completing a clinical education requirement for graduation and is performing under the direction, as defined by the Board, of a licensed technologist;
- (2) Individuals who engage in the practice of radiation technology while seeking licensure pursuant to G.S. 90-345.11 until Board action on their application or July 1, 1991, whichever is sooner;
- (3) A licensed practitioner or a student in a school leading to licensure as such;
- (4) Licensed dental hygienists and dental assistants who operate dental X-ray equipment for the sole purpose of oral radiography under regulation by the Board of Dental Examiners;
- (5) Individuals who perform radiation technology on the foot and ankle while under the supervision of a North Carolina licensed podiatrist when such individuals have received a certificate of registration from the North Carolina Board of Podiatry Examiners and when such individuals have successfully completed the course of study approved by the North Carolina Board of Podiatry Examiners testing knowledge of radiography of the foot and ankle. Such individuals shall not use contrast media, radioactive materials, or radiation therapy. Such individuals shall perform radiography of the foot and ankle only under the orders of a licensed podiatrist who shall be on the premises when the radiography is taking place; or
- (6) Individuals who perform radiation technology while employed by or contracted to, and under the supervision of, a North Carolina licensed chiropractor, in a manner and under circumstances satisfactory to the North Carolina Board of Chiropractic Examiners. Such individual shall not use contrast media, radioactive materials, or radiation therapy.

"§ 90-345.18. Unlawful practice.

(a) Subject to the provisions of G.S. 90-345.17, it shall be a violation of this Article for a person to:

- (1) Practice radiation therapy technology, radiologic technology other than routine chest or extremity X rays, or nuclear medicine technology, more than 60 days after the expiration date of his license, or without a license;
- (2) Employ or solicit unlicensed individuals to practice radiologic technology, radiation therapy technology, or nuclear medicine technology;
- (3) Use in connection with his name any letters, words, or insignia implying he is a licensed radiologic technologist, radiation therapy

- 1 technologist or nuclear medicine technologist unless he is licensed in
2 accordance with this Article;
- 3 (4) Sell, fraudulently obtain, or fraudulently furnish any certificate of
4 graduation from an educational program;
- 5 (5) Practice radiologic technology, radiation therapy technology, or
6 nuclear medicine technology, under cover of any fraudulently obtained
7 license; or
- 8 (6) Misrepresent a course as being an educational program as defined in
9 G.S. 90-345.3.

10 (b) Any violation of this Article shall be a misdemeanor punishable by a fine of
11 not more than five hundred dollars (\$500.00), or imprisonment for not more than six
12 months, or both in the discretion of the court.

13 **"§ 90-345.19. Disciplinary authority of the Board.**

14 Grounds for disciplinary action shall include but not be limited to the following:

- 15 (1) Giving false information or withholding material information from the
16 Board in procuring or attempting to procure a license to practice as a
17 radiation technologist;
- 18 (2) Having been convicted of or pled guilty or no contest to any crime that
19 indicates that the person is unfit or incompetent to practice as a
20 radiation technologist or that indicates that the person has deceived or
21 defrauded the public;
- 22 (3) Having a mental or physical disability that renders him or her unfit to
23 practice radiation technology with reasonable skill, competence and
24 safety to the public;
- 25 (4) Using any drug to a degree that renders him or her unfit to practice
26 radiation technology;
- 27 (5) Engaging in professional conduct that endangers the public health;
- 28 (6) Being unfit or incompetent to practice radiation technology by reason
29 of deliberate or negligent acts or omissions regardless of whether
30 actual injury to a patient is established;
- 31 (7) Misrepresent a course as being an educational program as defined in
32 G.S. 90-345.3;
- 33 (8) Willfully violating any provision of this Article or of regulations
34 enacted by the Board; or
- 35 (9) Having pled guilty or no contest to an offense under State or federal
36 narcotic or controlled substance laws or having been found guilty of
37 same.

38 In accordance with the provisions of Chapter 150B of the General Statutes, the
39 Board may require remedial education, issue a letter of reprimand, restrict, revoke, or
40 suspend any license to practice as a radiation technologist in North Carolina or deny any
41 application of licensure if the Board determines that the applicant or licensee has
42 committed any of the above acts. The Board may reinstate a revoked license or remove
43 licensure restrictions when it finds that the reasons for revocation or restriction no

1 longer exist and that the person can reasonably be expected to practice radiation
2 technology safely and properly.

3 **"§ 90-345.20. Enjoining illegal practices.**

4 If the Board finds that any person is violating any of the provisions in this Article, it
5 may apply in its own name to the superior court for a temporary or permanent
6 restraining order or injunction to prevent such person from continuing such illegal
7 practices. The court is empowered to grant such injunctions regardless of whether
8 criminal prosecution or other action has been or may be instituted as a result of such
9 violation. All actions by the Board shall be governed by the Rules of Civil Procedure
10 and Article 37 of Chapter 1 of the General Statutes.

11 The venue for actions brought under this Article shall be the superior court of any
12 county in which such illegal or unlawful acts are alleged to have been committed, in the
13 county in which the defendants in such action reside, or in the county in which the
14 Board maintains its offices and records.

15 **"§ 90-345.21. Reports; immunity from suit.**

16 Any person who has reasonable cause to suspect misconduct or incapacity of a
17 licensee, or who has reasonable cause to suspect that any person is in violation of this
18 Article, shall report the relevant facts to the Board. Upon receipt of such charge, or
19 upon its own initiative, the Board may give notice of an administrative hearing or may,
20 after diligent investigation, dismiss unfounded charges. Any person making a report
21 pursuant to this section shall be immune from any criminal prosecution or civil liability
22 resulting therefrom unless such person knew the report was false or acted in reckless
23 disregard of whether the report was false."

24 Sec. 2. Severability. If any provision of this Article or the application
25 thereof to any person or circumstances is held invalid, the validity of the remainder of
26 the act and of the application of such provision to other persons and circumstances shall
27 not be affected thereby.

28 Sec. 3. This act shall become effective July 1, 1989, provided that no person
29 shall be required to have a license to practice radiation technology before January 1,
30 1991.