

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1183

6
7 H.P. 904

House of Representatives, March 14, 1983

8 Referred to the Committee on Health and Institutional Services. Sent up
9 for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Manning of Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Establish the Medical
18 Radiation Health and Safety Act.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 32 MRSA c. 103 is enacted to read:

23 CHAPTER 103

24 MEDICAL RADIATION HEALTH AND SAFETY ACT

25 §9851. Findings

26 The Legislature finds that the citizens of this
27 State are entitled to the maximum protection practi-
28 cable from the harmful effects of excessive and
29 improper exposure to ionizing radiation; that the
30 protection can be increased by requiring appropriate
31 education and training of persons operating medical

1 and dental equipment emitting ionizing radiation; and
2 that it is therefore necessary to establish standards
3 of education, training and experience for these oper-
4 ators, to provide for the appropriate examination and
5 licensure and to emphasize the professional nature of
6 the service.

7 §9852. Definitions

8 As used in this chapter, unless the context indi-
9 icates otherwise, the following terms have the follow-
10 ing meanings.

11 1. Board. "Board" means the Radiologic Technol-
12 ogy Board of Examiners.

13 2. Dental radiographer. "Dental radiographer"
14 means a person, other than a licensed practitioner,
15 whose duties are restricted to radiography of the
16 maxilla and mandible for diagnostic purposes and who
17 is licensed under chapter 16.

18 3. License. "License" means a certificate
19 issued by the board authorizing the licensee to use
20 radioactive materials or equipment emitting ionizing
21 radiation on human beings for diagnostic or
22 therapeutic purposes in accordance with the provi-
23 sions of this Act.

24 4. Licensed practitioner. "Licensed practi-
25 tioner" means a person licensed to practice medicine,
26 dentistry or osteopathy in this State.

27 5. Nuclear medicine technologist. "Nuclear medi-
28 icine technologist" means a person, other than a li-
29 icensed practitioner, who uses radionuclide agents on
30 human beings for diagnostic or therapeutic purposes.

31 6. Nuclear medicine technology. "Nuclear medi-
32 cine technology" means the use of radionuclides in
33 vivo on human beings for diagnostic or therapeutic
34 purposes under the supervision of a licensed physi-
35 cian.

36 7. Radiation therapy technologist. "Radiation
37 therapy technologist" means a person, other than a
38 licensed practitioner, who applies ionizing radiation
39 to human beings for therapeutic purposes.

1 8. Radiation therapy technology. "Radiation
2 therapy technology" means the use of ionizing radia-
3 tion on human beings for therapeutic purposes under
4 the supervision of a licensed physician.

5 9. Radiographer. "Radiographer" means a person,
6 other than a licensed practitioner, who applies
7 radiation to human beings for diagnostic purposes.

8 10. Radiography. "Radiography" means the use of
9 ionizing radiation on human beings for diagnostic
10 purposes under the supervision of a licensed practi-
11 tioner.

12 11. Radiologic technologist. "Radiologic techno-
13 logist" means any person who is a radiographer, a
14 radiation therapy technologist or a nuclear medicine
15 technologist licensed under this Act.

16 12. Radiologic technology. "Radiologic technol-
17 ogy" means the use of a radioactive substance or
18 equipment emitting ionizing radiation on human beings
19 for diagnostic or therapeutic purposes.

20 13. Radiological physicist. "Radiological phy-
21 sicist" means a person who is certified by the Ameri-
22 can Board of Radiology in radiological physics or one
23 of the subspecialties of radiological physics or who
24 is eligible for that certification.

25 14. Radiologist. "Radiologist" means a physi-
26 cian, certified by the American Board of Radiology or
27 the American Osteopathic Board of Radiology, the
28 British Royal College of Radiology or the Royal Col-
29 lege of Physicians and Surgeons, who is licensed in
30 this State or who is actively pursuing the course of
31 training equivalent to the course of training re-
32 quired for admission to these boards.

33 §9853. Radiologic Technology Board of Examiners

34 The Radiologic Technology Board of Examiners, as
35 established in this chapter, shall administer this
36 chapter. The board shall consist of 10 members
37 appointed by the Governor.

1 1. Appointment and membership. The membership
2 of the board shall consist of 2 radiologists; 3
3 radiographers; one nuclear medicine technologist; one
4 radiation therapy technologist; one radiation
5 physicist; one representative of the Department of
6 Human Services who shall be the executive secretary
7 and nonvoting member; and one public member who shall
8 not be affiliated with the medical or any allied
9 health profession. The Governor may appoint these
10 members from lists submitted by the following orga-
11 nizations or their successors.

12 A. Radiologist members shall be appointed from
13 lists submitted by the Maine Radiological
14 Society.

15 B. Radiation physicist member shall be appointed
16 from lists submitted by the Maine Radiological
17 Society.

18 C. Radiologic technologist members shall be
19 appointed from lists submitted by the Maine
20 Society of Radiologic Technologists, the Society
21 of Nuclear Medicine Technologists and the New
22 England Society of Radiation Therapy
23 Technologists.

24 D. The Department of Human Services member shall
25 be appointed from lists submitted by the Commis-
26 sioner of Human Services.

27 The list submitted by each organization shall include
28 at least 2 names for each position to be filled from
29 that organization.

30 The consumer member shall be appointed by the Gover-
31 nor.

32 2. Term of office. The term of office shall be
33 3 years, except that of the first appointed. Of the
34 members first appointed to the board: Three members,
35 including one radiologist, one radiographer and one
36 public member shall be appointed to terms of 3 years;
37 3 members, including one nuclear medicine
38 technologist, one radiation therapy technologist and
39 one radiation physicist shall be appointed to terms
40 of 2 years; one radiologist and 2 radiographers shall
41 be appointed to a term of one year.

1 Upon expiration of a member's term, he shall serve
2 until his successor is qualified and appointed. The
3 successor's term shall be 3 years from the date of
4 that expiration regardless of the date of his
5 appointment. Any vacancy shall be filled by appoint-
6 ment for the unexpired term. A member may be removed
7 by the Governor for cause.

8 3. Meetings. The board shall meet at least once
9 a year to conduct its business and to elect its offi-
10 cers. Additional meetings shall be held as necessary
11 to conduct the business of the board and may be con-
12 vened at the call of the chairman or a majority of
13 the board members.

14 4. Compensation. Members of the board shall be
15 compensated for their actual and necessary expenses
16 while in the performance of their duties.

17 5. Quorum. A majority of the voting members of
18 the board shall constitute a quorum. No action may
19 be taken by the board except by affirmative vote of
20 the majority of those present and voting.

21 6. Powers and duties. The board shall have the
22 following powers and duties:

23 A. To review the qualifications of applicants
24 for licensure and to license radiographers,
25 nuclear medicine technologists and radiation
26 therapy technologists who qualify under this
27 chapter;

28 B. To conduct qualifying examinations for
29 radiographers, nuclear medicine technologists and
30 radiation therapy technologists, and to establish
31 passing standards;

32 C. To make rules in accordance with this chapter
33 necessary for the enforcement of its authority
34 and performance of its duties consistent with the
35 Maine Administrative Procedure Act, Title 5,
36 chapter 375. These rules may include, but not
37 be limited to, licensing requirements, approved
38 courses, examinations, continuing education re-
39 quirements for renewal of licenses and fees;

1 D. To establish and charge reasonable fees for
2 issuing and renewing licenses, administering
3 examinations and supplying information to appli-
4 cants, licensees and the general public;

5 E. To order investigation of a complaint on its
6 own motion or on written complaint filed with the
7 board regarding noncompliance with or violation
8 of any section of this chapter or of any rules
9 adopted by the board;

10 F. To conduct hearings to assist with investiga-
11 tions and to determine whether grounds exist for
12 suspension, revocation or denial of a license, or
13 as otherwise deemed necessary to the fulfillment
14 of its responsibilities under this chapter.

15 The board shall not refuse to renew a license for
16 any reason other than failure to pay a required
17 fee, unless it has afforded the licensee an
18 opportunity for an adjudicatory hearing. The
19 board shall hold an adjudicatory hearing at the
20 written request of any person who is denied a li-
21 cence without a hearing for any reason other than
22 failure to pay a required fee, provided that the
23 request for hearing is received by the board
24 within 30 days of the applicant's receipt of a
25 written notice of the denial of his application,
26 the reasons therefor and his right to request a
27 hearing. Hearings shall be conducted in conform-
28 ity with the Maine Administrative Procedure Act,
29 Title 5, chapter 375, subchapter IV, to the
30 extent applicable. The board may subpoena wit-
31 nesses, records and documents in any hearing it
32 conducts;

33 G. After hearing, to censure or proceed as pro-
34 vided in section 9860; and

35 H. To enter into contracts to carry out its
36 responsibilities under this chapter.

37 §9854. License required; exceptions

38 1. License required. No person may practice or
39 hold himself out as authorized to practice after Sep-
40 tember 1, 1984, as a radiographer, a nuclear medicine

1 technologist or a radiation therapy technologist,
2 unless he is licensed in accordance with the provi-
3 sions of this chapter. A license issued by the board
4 shall be displayed conspicuously in each place of
5 regular employment of the licensee.

6 2. Effect of Act. Nothing in this Act may
7 limit, enlarge or affect the practice of licensed
8 practitioners.

9 3. Exceptions. The requirement of a license
10 shall not apply to:

11 A. A dental hygienist and dental assistant hold-
12 ing a valid license or certificate issued by the
13 Maine State Board of Dental Examiners as a dental
14 radiographer;

15 B. A resident physician or a student enrolled in
16 and attending a school or college of medicine,
17 osteopathy, dentistry or radiologic technology
18 who applies ionizing radiation to a human being
19 while under the supervision of a licensed practi-
20 tioner; or

21 C. Any person serving in the United States Armed
22 Services or public health service or employed by
23 the Veterans' Administration or other federal
24 agency performing his official duties, provided
25 that the duties are limited to that service or
26 employment.

27 §9855. Qualifications

28 1. Radiographer. To qualify for a license as a
29 radiographer, an applicant shall meet the following
30 requirements:

31 A. Be at least 18 years of age;

32 B. Have a high school diploma or its equivalent
33 as determined by the Department of Educational
34 and Cultural Services;

35 C. Have successfully completed a course of study
36 in radiologic technology which is recognized by
37 the Committee on Allied Health, Education and Ac-
38 creditation and is approved by the board; and

1 D. Pass as examination, approved by the board,
2 to determine the applicant's fitness to practice
3 as a radiographer.

4 2. Nuclear medicine technologist. To qualify
5 for a license as a nuclear medicine technologist, an
6 applicant shall meet the following requirements:

7 A. Be at least 18 years of age;

8 B. Have a high school diploma or its equivalent
9 as determined by the Department of Educational
10 and Cultural Services;

11 C. Have successfully completed a nuclear medi-
12 cine technology program accredited by the Commit-
13 tee on Allied Health, Education and Accreditation
14 and approved by the board; and

15 D. Pass an examination, approved by the board,
16 to determine the applicant's fitness to practice
17 as a nuclear medicine technologist.

18 3. Radiation therapy technologist. To qualify
19 for a license as a radiation therapy technologist, an
20 applicant shall meet the following requirements:

21 A. Be at least 18 years of age;

22 B. Have a high school diploma or its equivalent
23 as determined by the Department of Educational
24 and Cultural Services;

25 C. Have successfully completed a course in
26 radiologic technology accredited by the Committee
27 on Allied Health, Education and Accreditation and
28 approved by the board, as well as a course in
29 radiation therapy accredited by the Committee on
30 Allied Health, Education and Accreditation and
31 approved by the board; or have satisfactorily
32 completed a course in radiation therapy technol-
33 ogy accredited by the Committee on Allied Health,
34 Education and Accreditation and approved by the
35 board; and

36 D. Pass an examination, approved by the board,
37 to determine the applicant's fitness to practice
38 as a radiation therapy technologist.

1 §9856. Application

2 To apply for a license as a radiographer, nuclear
3 medicine technologist or a radiation therapy
4 technologist, an applicant shall:

5 A. Submit a written application with supporting
6 documents to the board on forms provided by the
7 board;

8 B. Pay an application fee which shall not exceed
9 \$70; and

10 C. Pay an examination fee which shall not exceed
11 \$50.

12 In case the application is denied and permission
13 to take the examination is refused, the examination
14 fee only shall be returned to the applicant. Any
15 applicant who fails to pass the examination shall be
16 entitled to reexamination within 6 months upon repay-
17 ment of the examination fee only.

18 §9857. Reciprocity

19 The board may waive the examination requirement
20 for an applicant who is currently licensed in another
21 state by virtue of having previously passed a qual-
22 ifying examination acceptable to the board, provided
23 that the passing standards for the examination were
24 substantially equivalent to those then required by
25 the law of this State.

26 §9858. Temporary licenses

27 The board may issue a temporary license to any
28 person whose application for licensure is pending
29 before the board when issuance is justified by spe-
30 cial circumstances and no danger to the public health
31 or safety exists. A temporary license shall be
32 issued only once and shall expire either when the
33 results of the next examination administered by the
34 board are known if the applicant is required to take
35 that examination or 90 days following issuance of the
36 temporary license.

37 §9859. Biennial licensure renewal; fees

1 All licenses shall be renewed by biennially on or
2 before August 31st of each even-numbered year or at
3 such other times as the board may designate. The
4 biennial licensure renewal fee shall not exceed \$70.
5 The board shall notify each licensee, at his last
6 known address, 60 days in advance of the expiration
7 of his license. Renewal notices shall be on forms
8 provided by the board. Any license not renewed by
9 August 31st automatically expires. The board may
10 renew an expired license without penalty if the
11 renewal notice is returned within 30 days of the
12 expiration date.

13 §9860. Disciplinary action

14 The board may suspend or revoke a license pur-
15 suant to Title 5, section 10004. In addition, the
16 board may refuse to issue or renew a license or the
17 Administrative Court may revoke, suspend or refuse to
18 renew a license of a person licensed under this chap-
19 ter for any of the following reasons:

20 1. Fraud. The practice of fraud or deceit in
21 obtaining a license under this chapter or in connec-
22 tion with service rendered within the scope of the
23 license issued;

24 2. Substance abuse. Habitual intemperance in
25 the use of alcohol or the habitual use of narcotic or
26 hypnotic or other drugs listed as controlled sub-
27 stances by the drug enforcement administration, which
28 use has resulted in the licensee being unable to per-
29 form his duties or perform those duties in a manner
30 which would endanger the health or safety of the
31 patients to be served;

32 3. Mental incompetence. A medical finding of
33 mental incompetency;

34 4. Aiding a violator. Aiding or abetting a
35 person not duly licensed under this chapter and who
36 represents himself to be so;

37 5. Incompetence. Incompetence in the practice
38 of radiography, nuclear medicine technology or radia-
39 tion therapy technology. A licensee shall be deemed
40 incompetent in the practice, if the licensee has:

1 A. Engaged in conduct which evidences in a lack
2 of ability or fitness to discharge the duty owed
3 by the licensee to a client or patient or the
4 general public; or

5 B. Engaged in conduct which evidenced a lack of
6 knowledge, or inability to apply, principles or
7 skills to carry out the practice for which he is
8 licensed;

9 6. Unprofessional conduct. In this context
10 unprofessional conduct means the violation of any
11 standard of professional behavior which through pro-
12 fessional experience has been established in the
13 practice for which the licensee is licensed;

14 7. Conviction of certain crimes. Subject to the
15 limitations of Title 5, chapter 341, conviction of a
16 crime which involves dishonesty or false statement or
17 which relates directly to the practice for which the
18 licensee is licensed, or conviction of any crime for
19 which incarceration for one year or more may be
20 imposed; or

21 8. Other violations. Any violation of this
22 chapter or any rule adopted by the board.

23 §9861. Penalties; injunction

24 1. Penalties. Any person who practices, or
25 holds himself out as authorized to practice, as a
26 radiologic technologist in this State without first
27 obtaining a license as required by this chapter, or
28 after the license has expired or has been suspended
29 or revoked or temporarily suspended or revoked, is
30 guilty of a Class E crime.

31 2. Injunction. The State may bring an action in
32 Superior Court to enjoin any person for violating
33 this chapter, regardless of whether proceedings have
34 been or may be instituted in Administrative Court or
35 whether criminal proceedings have been or may be
36 instituted.

1 STATEMENT OF FACT

2 The purpose of this bill is to establish a statu-
3 tory framework for the licensing of radiographers,
4 nuclear medicine technologists and radiation therapy
5 technologists. This bill presents an opportunity for
6 the State to comply with the Consumer-Patient Radia-
7 tion Health and Safety Act of 1981 (PL 97-35). This
8 federal law, passed as part of the Omnibus Budget
9 Reconciliation Act of 1981, requires the Federal Gov-
10 ernment to establish minimum standards as a guide for
11 states to establish certification and accreditation
12 programs for radiation workers in allied health pro-
13 fessions. This bill provides these standards for the
14 State.

15 0989030383