

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

CHAPTER 524

H.P. 904 - L.D. 1183

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

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

32 MRSA c. 103 is enacted to read:

CHAPTER 103

MEDICAL RADIATION HEALTH AND SAFETY ACT

§9851. Findings

The Legislature finds that the citizens of this State are entitled to the maximum protection practicable from the harmful effects of excessive and improper exposure to ionizing radiation; that the protection can be increased by requiring appropriate education and training of persons operating medical and dental equipment emitting ionizing radiation; and that it is therefore necessary to establish standards of education, training and experience for these operators, to provide for the appropriate examination and licensure and to emphasize the professional nature of the service.

§9852. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Board. "Board" means the Radiologic Technology Board of Examiners.

2. Dental radiographer. "Dental radiographer" means a person, other than a licensed practitioner, whose duties include radiography of the maxilla, mandible and adjacent structures for diagnostic purposes and who is licensed under chapter 16.

3. Ionizing radiation. "Ionizing radiation" means gamma rays and x rays; alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles; but not ultrasound, sound or radio waves, or visible, infrared or ultraviolet light.

4. License. "License" means a certificate

issued by the board authorizing the licensee to use radioactive materials or equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes in accordance with the provisions of this Act.

5. Licensed practitioner. "Licensed practitioner" means a person licensed to practice medicine, dentistry, chiropractic, podiatry or osteopathy in this State.

6. Nuclear medicine technologist. "Nuclear medicine technologist" means a person, other than a licensed practitioner, who uses radionuclide agents on human beings for diagnostic or therapeutic purposes.

7. Nuclear medicine technology. "Nuclear medicine technology" means the use of radionuclides in vivo on human beings for diagnostic or therapeutic purposes under the supervision of a licensed physician.

8. Radiation therapy technologist. "Radiation therapy technologist" means a person, other than a licensed practitioner, who applies ionizing radiation to human beings for therapeutic purposes.

9. Radiation therapy technology. "Radiation therapy technology" means the use of ionizing radiation on human beings for therapeutic purposes under the supervision of a licensed physician.

10. Radiographer. "Radiographer" means a person, other than a licensed practitioner, who applies ionizing radiation to human beings for diagnostic purposes.

11. Radiography. "Radiography" means the use of ionizing radiation on human beings for diagnostic purposes under the supervision of a licensed practitioner.

12. Radiologic technologist. "Radiologic technologist" means any person who is a radiographer, a radiation therapy technologist or a nuclear medicine technologist licensed under this Act.

13. Radiologic technology. "Radiologic technology" means the use of a radioactive substance or equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes.

14. Radiological physicist. "Radiological physicist" means a person who is certified by the American Board of Radiology in radiological physics or one of the subspecialties of radiological physics or who

is eligible for that certification.

15. Radiologist. "Radiologist" means a physician, certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology or the Royal College of Physicians and Surgeons, who is licensed in this State or who has completed or who is actively pursuing the course of training equivalent to the course of training required for admission to these boards.

§9853. Radiologic Technology Board of Examiners

The Radiologic Technology Board of Examiners, as established in this chapter, shall administer this chapter. The board shall consist of 12 members appointed by the Governor.

1. Appointment and membership. The membership of the board shall consist of 2 radiologists; 3 radiographers; one nuclear medicine technologist; one radiation therapy technologist; one radiation physicist; 2 licensed practitioners who are not radiologists; one representative of the Department of Human Services who shall be the executive secretary and nonvoting member; and one public member who shall not be affiliated with the medical or any allied health profession. The Governor may appoint these members from lists submitted by the following organizations or their successors.

A. Radiologist members may be appointed from lists submitted by the Maine Radiological Society.

B. Radiation physicist member may be appointed from lists submitted by the Maine Radiological Society.

C. Radiologic technologist members may be appointed from lists submitted by the Maine Society of Radiologic Technologists, the Society of Nuclear Medicine Technologists and the New England Society of Radiation Therapy Technologists.

D. The Department of Human Services member may be appointed from lists submitted by the Commissioner of Human Services.

E. The licensed practitioner members may be appointed from lists submitted by the Maine Chiropractic Association, Maine Medical Association, Maine Osteopathic Association and the Maine Podiatry Association.

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

The consumer member shall be appointed by the Governor.

2. Term of office. The term of office shall be 3 years, except that of the first appointed. Of the members first appointed to the board: Four members, including one radiologist, one radiographer, one licensed practitioner and one public member shall be appointed to terms of 3 years; 4 members, including one nuclear medicine technologist, one radiation therapy technologist, one licensed practitioner and one radiation physicist shall be appointed to terms of 2 years; one radiologist and 2 radiographers shall be appointed to a term of one year.

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

3. Meetings. The board shall meet at least once a year to conduct its business and to elect its officers. Additional meetings shall be held as necessary to conduct the business of the board and may be convened at the call of the chairman or a majority of the board members.

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

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

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

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

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

C. To develop, in consultation with representa-

tives of the appropriate disciplines, requirements for courses of study, training and examination for applicants for a limited license;

D. To submit a report during the Second Regular Session of the 111th Legislature, but no later than April 1, 1984, to the joint standing committee of the Legislature having jurisdiction over health and institutional services on its progress in approving a course of study, training and examination for applicants for a limited license, pursuant to paragraph C, and to section 9855, subsection 1, paragraph E;

E. To make rules in accordance with this chapter necessary for the enforcement of its authority and performance of its duties consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but not be limited to, licensing requirements, approved courses, examinations, continuing education requirements for renewal of licenses and fees;

F. To establish and charge reasonable fees for issuing and renewing licenses, administering examinations and supplying information to applicants, licensees and the general public;

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

H. To conduct hearings to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of a written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena wit-

nesses, records and documents in any hearing it conducts;

I. After hearing, to censure or proceed as provided in section 9860; and

J. To enter into contracts to carry out its responsibilities under this chapter.

§9854. License required; exceptions

1. License required. No person may practice or hold himself out as authorized to practice after September 1, 1984, as a radiographer, a nuclear medicine technologist or a radiation therapy technologist, unless he is licensed in accordance with the provisions of this chapter. A license issued by the board shall be displayed conspicuously in each place of regular employment of the licensee.

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

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

A. A dental hygienist licensed under chapter 16, subchapter IV;

B. A dental assistant holding a valid license or certificate issued by the Maine State Board of Dental Examiners as a dental radiographer;

C. A resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry or radiologic technology who applies ionizing radiation to a human being while under the supervision of a licensed practitioner; or

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

§9855. Qualifications

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

A. Be at least 18 years of age;

- B. Have a high school diploma or its equivalent as determined by the Department of Educational and Cultural Services;
 - C. Have successfully completed a course of study in radiologic technology which is approved by the board; and
 - D. Either possess current national certification or pass an examination, approved by the board, to practice as a radiographer.
2. Nuclear medicine technologist. To qualify for a license as a nuclear medicine technologist, an applicant shall meet the following requirements:
- A. Be at least 18 years of age;
 - B. Have a high school diploma or its equivalent as determined by the Department of Educational and Cultural Services;
 - C. Have successfully completed a nuclear medicine technology program approved by the board; and
 - D. Either possess current national certification or pass an examination, approved by the board, to practice as a nuclear medicine technologist.
3. Radiation therapy technologist. To qualify for a license as a radiation therapy technologist, an applicant shall meet the following requirements:
- A. Be at least 18 years of age;
 - B. Have a high school diploma or its equivalent as determined by the Department of Educational and Cultural Services;
 - C. Have successfully completed a course in radiologic technology accredited by the Committee on Allied Health, Education and Accreditation and approved by the board, as well as a course in radiation therapy approved by the board; or have satisfactorily completed a course in radiation therapy technology accredited by the Committee on Allied Health, Education and Accreditation and approved by the board; and
 - D. Either possess current national certification or pass an examination, approved by the board, to practice as a radiation therapy technologist.
4. Limited license. For those applicants wishing to be licensed only for the limited purpose of

using ionizing radiation for diagnostic purposes in the office of a licensed practitioner, or for physician assistants practicing under section 3270-A, or nurses practicing under section 2102, subsection 2, paragraph C, in a clinic not required to be licensed under Title 22, chapter 405, the board shall grant a limited license and shall, in approving a course of study, training and examination for these applicants, consider the limited scope of practice of the various disciplines. Those aspects of study, training and examination relating to patient safety shall be identical to the requirements for a full license.

§9856. Application; fees

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

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

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

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

In case the application is denied and permission to take the examination is refused, the examination fee only shall be returned to the applicant. Any applicant who fails to pass the examination shall be entitled to reexamination within 6 months upon repayment of the examination fee only. Pursuant to section 9858, the board may issue a temporary license to an applicant who has failed an examination and is awaiting reexamination; the temporary license shall expire at such time as the board may by rule direct.

§9857. Reciprocity

The board may waive the examination requirement for an applicant who is currently licensed in another state and who possesses current national certification.

§9858. Temporary licenses

The board may issue a temporary license to any person whose application for licensure is pending before the board when issuance is justified by special circumstances and no danger to the public health or safety exists. A temporary license shall be issued only once and shall expire either when the results of the next examination administered by the board are known if the applicant is required to take

that examination or 90 days following issuance of the temporary license. An exception may be made if the applicant fails the examination administered by the board. In that case, another temporary license may be issued and shall expire at such time as the board may by rule direct.

§9859. Biennial licensure renewal; fees

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

§9860. Disciplinary action

The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license of a person licensed under this chapter for any of the following reasons:

1. Fraud. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

2. Substance abuse. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other drugs listed as controlled substances by the drug enforcement administration, which use has resulted in the licensee being unable to perform his duties or perform those duties in a manner which would endanger the health or safety of the patients to be served;

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

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

5. Incompetence. Incompetence in the practice of radiography, nuclear medicine technology or radiation therapy technology. A licensee shall be deemed incompetent in the practice, if the licensee has:

A. Engaged in conduct which evidences in a lack

of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

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

6. Unprofessional conduct. In this context unprofessional conduct means the violation of any standard of professional behavior which through professional experience has been established in the practice for which the licensee is licensed;

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

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

§9861. Penalties; injunction

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

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

§9862. Funds

Any funds collected as a result of fees stipulated under this chapter shall be used for the administration of this program.

Effective September 23, 1983.
