

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S2/15/99 S2/24/99 S3/1/99

A Bill

Act 1071 of 1999
SENATE BILL 347

5 By: Senators Bradford, *Scott*
6 By: Representatives Gullett, J. Jeffress
7
8

For An Act To Be Entitled

9
10 "AN ACT PROVIDING FOR THE REGULATION AND LICENSING OF
11 PERSONS ADMINISTERING IONIZING RADIATION TO HUMAN
12 BEINGS; ESTABLISHING THE MEDICAL IONIZING RADIATION
13 LICENSURE COMMITTEE; AND FOR OTHER PURPOSES. "

Subtitle

14
15
16 "AN ACT PROVIDING FOR THE REGULATION AND
17 LICENSING OF PERSONS ADMINISTERING
18 IONIZING RADIATION TO HUMAN BEINGS;
19 ESTABLISHING THE MEDICAL IONIZING
20 RADIATION LICENSURE COMMITTEE. "

21
22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

SECTION 1. Findings.

25
26 The General Assembly of the State of Arkansas hereby finds and declares
27 that the citizens of the State of Arkansas are entitled to the maximum
28 protection practicable from the harmful effects of excessive and improper
29 exposure to ionizing radiation; and that the protection will be increased by
30 requiring appropriate education of persons using radioactive materials or
31 operating medical equipment emitting or detecting ionizing radiation upon
32 human beings.

33
34 SECTION 2. Title. This Act may be cited as the 'Consumer-Patient
35 Radiation Health and Safety Act.'
36

1 SECTION 3. Definitions. As used in this Act:

2 (a) 'Board' means the State Board of Health;

3 (b) 'Committee' means the Medical Ionizing Radiation Licensure
4 Committee;

5 (c) 'Consumer' means a person who is a resident of this state but who
6 is not a Licensed Practitioner or Radiologic Technologist or Licensed
7 Technologist or Limited Licensed Technologist under this Act;

8 (d) 'Department' means the Arkansas Department of Health;

9 (e) 'Direct Supervision', pertaining to students, means responsibility
10 for, and control of, radiation safety, protection, and technical aspects of
11 the application of ionizing radiation to human beings for diagnostic or
12 therapeutic purposes, with the parameters that are outlined by educational
13 accreditation agencies that are recognized by the Board;

14 (f) 'Ionizing Radiation' means gamma rays, x-rays, alpha and beta
15 particles, high speed electrons, protons, neutrons, and other nuclear
16 particles;

17 (g) 'License' means a certificate issued by the Board authorizing the
18 licensee to use radioactive materials or medical equipment emitting or
19 detecting ionizing radiation for human diagnostic or therapeutic purposes in
20 accordance with this Act;

21 (h) 'Licensed Practitioner' means a person licensed to practice
22 medicine, dentistry, podiatry, chiropractic, or osteopathy in this state;

23 (i) 'Licensed Technologist' means a person other than a Licensed
24 Practitioner, who administers radioactive substances or uses medical equipment
25 emitting or detecting ionizing radiation for human diagnostic or therapeutic
26 purposes under the supervision of a Licensed Practitioner, who is
27 grandfathered under this Act;

28 (j) 'Limited License' means an authorization to perform radiologic
29 procedures under the supervision of a Licensed Practitioner that are limited
30 to specific parts of the human body, specifically of the chest and skeletal
31 structures excluding fluoroscopy and contrast studies;

32
33 (k) 'Limited Licensed Technologist' means a person, other than a
34 Licensed Practitioner, Radiologic Technologist, or Licensed Technologist, who
35 operates medical equipment emitting ionizing radiation for diagnostic purposes
36 on human beings that are limited to specific body parts, who has successfully

1 passed a limited scope examination deemed appropriate by the Board, while
2 under the supervision of a Licensed Practitioner;

3 (l) 'Medical Dosimetrist' means a person who is certified or eligible
4 for certification by the Medical Dosimetry Certification Board;

5 (m) 'Nuclear Medicine Technologist' means a person, other than a
6 Licensed Practitioner, who performs therapeutic, in vivo, imaging, and
7 measurement procedures, prepares radiopharmaceuticals, and administers
8 diagnostic doses of radiopharmaceuticals to human beings while under
9 supervision of a Licensed Practitioner who is licensed as required to possess
10 and use radioactive materials;

11 (n) 'Radiation Health/Medical Physicist' means a person who is
12 certified or eligible for certification in radiologic physics by the American
13 Board of Radiology, the American Board of Health/Medical Physics or the
14 American Board of Science in Nuclear Medicine;

15 (o) 'Radiation Practitioner' means a Licensed Practitioner that has
16 completed a residency in radiology, nuclear medicine, or radiation oncology,
17 or is certified by the American Board of Radiology, the American Osteopathic
18 Board of Radiology, the American Board of Nuclear Medicine, or its equivalent;

19 (p) 'Radiation Therapist' means a person, other than a Licensed
20 Practitioner or Nuclear Medicine Technologist, who applies radiation to humans
21 for therapeutic purposes under the supervision of a Licensed Practitioner;

22 (q) 'Radiologic Technologist' means a person, other than a Licensed
23 Practitioner, who administers radioactive substances or uses medical equipment
24 emitting or detecting ionizing radiation for human diagnostic or therapeutic
25 purposes under the supervision of a Licensed Practitioner, and holds a
26 national certification obtained through education and examination, licensed
27 under this Act;

28 (r) 'Radiologic Technology' is the science of using a radioactive
29 substance or medical equipment emitting or detecting ionizing radiation of
30 humans for diagnostic or therapeutic purposes; and

31 (s) 'Temporary License' means a certificate issued by the Board,
32 authorizing the applicant to use radioactive materials or medical equipment
33 emitting or detecting ionizing radiation for humans diagnostic or therapeutic
34 purposes, when licensure or relicensure is pending before the Board and when
35 the issuance may be justified by special circumstances as determined by the
36 Board.

1
2 SECTION 4. The Medical Ionizing Radiation Licensure Committee.

3 (a) The Committee shall be an advisory committee to the Board and shall
4 consist of ten (10) members; nine (9) members to be appointed by the Governor
5 and one (1) member shall be the Director of the Department or his designee.
6 Of the nine (9) members appointed by the Governor, they shall be residents of
7 the state of Arkansas and shall have been employed in their field for five (5)
8 years preceding their appointment. Among the Committee members shall be two
9 (2) Radiologic Technologists, one (1) Nuclear Medicine Technologist and one
10 (1) Radiation Therapist; two (2) Radiation Practitioners; one (1) Licensed
11 Practitioner; one (1) Medical Physicist; and one (1) consumer. The Radiologic
12 Technologists appointed to the Committee must be eligible for licensure under
13 this act.

14 (b) The members shall be appointed for three (3) year staggered terms,
15 to be assigned by lot. Committee members shall serve until replaced. The
16 terms shall commence on July 15 of each year. Committee members are limited
17 to serving two (2) consecutive terms. In the event of a vacancy on the
18 committee for any reason, the vacancy shall be filled for the unexpired
19 portion of the term by appointment of the Governor.

20 (c) Members of the Committee shall not be entitled to compensation for
21 their services, but may receive expense reimbursement in accordance with Ark.
22 Code Ann. § 25-16-902, to be paid by the Department.

23 (d) The consumer member appointed to the Committee shall have no
24 association or relationship with a Licensed Practitioner, Radiologic
25 Technologist, Licensed Technologist, or Limited Licensed Technologist which
26 would prevent or in any way hinder the consumer in representing the interest
27 of the public.

28 (e) The Committee shall, within ninety (90) days of appointment, hold a
29 meeting and elect from its membership a chairman for a term set by the
30 Committee. The secretary of the Committee shall be the Director of the
31 Department or his designee.

32 (f) The Committee shall meet at least quarterly.

33 (g) Special meetings of the Committee may be called at any time at the
34 pleasure of the Board or pursuant to the bylaws of the Committee.

35 (h) A majority of the members of the Committee shall constitute a
36 quorum. No action may be taken by the board except by affirmative vote of the

1 majority of those present.

2 SECTION 5. Duties and powers.

3 (a) The Board is authorized to:

4 (1) Incur whatever expenses it may deem necessary or expedient in
5 performing its duties under the provisions of this Act. It may employ or
6 engage whatever personnel, legal counsel, independent contractors or
7 assistants it may deem necessary or expedient therefor and fix their
8 compensation;

9 (2) Adopt standards for applicants wishing to take the licensing
10 examination;

11 (3) Grant, deny, renew, suspend or revoke licenses for any cause
12 stated in this act.

13 (4) Adopt, publish and, from time to time, revise such rules and
14 regulations not inconsistent with the law as may be necessary to enable it to
15 carry into effect the provisions of this act; and

16 (5) All fees shall be established by the Board. The licensing fee
17 shall not be more than seventy-five dollars (\$75.00) and shall be an amount
18 reasonably calculated to cover the costs of issuing the license to practice,
19 and otherwise administer this act. The examination fee shall be an amount
20 reasonably calculated to cover the costs of the examination, and otherwise
21 administer this act. In addition, the Board will determine the late fee. All
22 such fees shall be used only for the purposes authorized in this act. Any
23 money not used by the department to administer the licensing program within a
24 fiscal year shall be carried forward into the next fiscal year.

25 (b) The Committee is authorized to:

26 (1) Adopt suitable bylaws for carrying out its duties under the
27 provisions of this act;

28 (2) Have an official seal that shall bear the words 'Medical
29 Ionizing Radiation Licensure Committee';

30 (3) Provide a secretary's certificate. The certificate of the
31 secretary of the Committee under seal shall be accepted in the courts of the
32 state as the best evidence as to the minutes of the Committee and shall
33 likewise be accepted in the courts of the state as the best evidence as to the
34 licensure or non-licensure of any person under the requirements of this act;

35 (4) Keep a record of all its proceedings, receipts and
36 disbursements;

1 (5) Recommend to the Board standards for applicants wishing to
2 take the licensing examination and conduct examinations, or contract with
3 persons or entities to conduct examinations of applicants;

4 (6) Issue recommendations to the Board to grant, deny, renew,
5 suspend or revoke licenses for any cause stated in this act; and

6 (7) Conduct disciplinary proceedings as provided in this act.

7 (c)(1) In the performance of its duties, the Committee is empowered to
8 administer oaths and take testimony on any matters within the Committee's
9 jurisdiction and issue subpoenas and thereby compel the attendance of persons
10 before it for the purpose of examining any facts or conditions properly
11 pending before the Committee.

12 (2) All subpoenas issued by the Committee shall be served in the
13 manner prescribed by law for the service of subpoenas issuing from the courts,
14 and all persons so served shall obey the subpoenas or be subject to the
15 penalties provided by law for the disobedience of subpoenas issuing from the
16 courts.

17
18 SECTION 6. Legal Title, License Limitations, and Prohibited Acts.

19 (a) No person, other than a Licensed Practitioner, Radiologic
20 Technologist, Licensed Technologist, or Limited Licensed Technologist shall
21 use radioactive materials or medical equipment emitting or detecting ionizing
22 radiation on human beings for diagnostic or therapeutic purposes.

23 (b) A person holding a license under this act shall use radioactive
24 substances, medical equipment emitting or detecting ionizing on a human being
25 by prescription of a Licensed Practitioner, and only if the application of a
26 substance or the use of equipment is limited in a manner herein specified.

27 (c) A person holding a limited license under this act shall use medical
28 equipment emitting or detecting ionizing radiation on a human being, by
29 prescription of a Licensed Practitioner, only if the Limited Licensed
30 Technologist is licensed for those specific body parts.

31 (d) No other person shall be entitled to use the titles or designated
32 letters who is not licensed under this act. No person shall depict himself
33 orally or in writing, expressly or by implication, as holder of a license who
34 does not hold a current license under this act.

35 (e) No person shall knowingly or negligently employ a person to apply
36 ionizing radiation or administer radiopharmaceuticals to a human being or

1 otherwise engage in the practice of radiologic technology unless the person
2 possesses a valid license issued under the provisions of this act within that
3 specific category.

4 (f) A person shall not apply ionizing radiation or administer
5 radiopharmaceuticals to a human being or otherwise engage in the practice of
6 radiologic technology unless the person possesses a valid license issued under
7 this act.

8 (g) Any person who has an application for a temporary license pending
9 before the board shall be permitted to engage in the activities described in
10 subsections (a), (b), (c), (e), and (f) of this section.

11
12 SECTION 7. Licensing requirements.

13 (a) The Committee shall recommend for licensure any applicant who shall
14 make application and pay a non-refundable fee established by the Board and
15 submit satisfactory evidence, verified by oath or affirmation, that the
16 applicant is of good moral character and that the applicant:

17 (1) At the time of application is at least eighteen (18) years of
18 age; and

19 (2) Has been awarded a high school diploma, GED or the equivalent.

20 (b) In addition to the requirements of subsection (a), any person
21 seeking to obtain a license in a specific area of radiologic technology must
22 comply with the following requirements:

23 (1) Each applicant for a license as a Radiologic Technologist,
24 Radiation Therapist, or Nuclear Medicine Technologist, shall have
25 satisfactorily completed an approved course of study in radiography, radiation
26 therapy, or nuclear medicine respectively, that is accredited by the Joint
27 Review Committee on Education in Radiologic Technology, Joint Review Committee
28 on Educational Programs in Nuclear Medicine Technology, or regional or
29 national accreditation as deemed acceptable by the Board; and

30 (2) The curriculum for each course of study shall follow the
31 standards approved by the United States Department of Education, provided
32 that the standards do not conflict with Board policies.

33 (c) The Board shall establish criteria and standards within the state
34 for educational programs in radiologic technology (which are not covered under
35 Act 906 of 1989) and recognize these programs upon finding that the criteria
36 and standards have been met.

1 (d) Notwithstanding the provisions previously set forth, for a period
2 not to exceed one (1) year after the effective date of this act, upon
3 application and the payment of the fee equivalent of that required for the
4 written examination and initial licensing fee, the Board shall issue a
5 license, without examination, to any person currently employed as a person
6 using radioactive materials or medical equipment emitting and detecting
7 ionizing radiation on a human being.

8 (e) Licensees shall submit proof of having successfully completed at
9 least six (6) hours of continuing medical education annually for license
10 renewal. Continuing education may be provided by the licensed practitioner or
11 a hospital in-service education department according to the rules and
12 regulations prescribed by the board.

13
14 SECTION 8. Examinations.

15 (a) Each applicant for licensure, with the exception of those who are
16 grandfathered under this act, shall be required to pass a license examination
17 designated and approved by the Board. Standards for acceptable performance
18 shall be established.

19 (b) The Board shall identify acceptable examinations such as those
20 administered by the American Registry of Radiologic Technologists (ARRT) or
21 the Nuclear Medicine Technology Certification Board (NMTCB).

22 (c) An applicant who fails to pass the examination may reapply for the
23 examination provided the applicant complies with the regulation established
24 by the Board.

25 (d) The Board may accept a current certificate by the American Registry
26 of Radiologic Technologists, the American Society of Clinical Pathologists,
27 or the Nuclear Medicine Technology Certification Board, issued on the basis
28 of an examination satisfactory to the Board, provided that the standards of
29 that body are at least as stringent as those established by the Board.

30 (e) The Board may accept a current certificate, registration, or license
31 as a Radiologic Technologist issued by another state, provided that the
32 standards in the other state are at least as stringent as those established by
33 the Board.

34 (f) The board shall identify acceptable examinations appropriate to the
35 discipline for the limited licensed technologist. A study guide containing
36 information to be included on the exam will be provided to the applicant for

1 the examination.

2 SECTION 9. Licenses.

3 (a) The Board may issue a license to each applicant who has either
4 successfully passed the examination or qualified under subsections (d) and
5 (e) of section 7 of this act and has paid the prescribed fees.

6 (b) The Board may, at its discretion, issue a temporary license to any
7 person whose licensure or relicensure may be pending and when issuance may be
8 justified by special circumstances. A temporary license shall be issued only
9 if the Board finds that it will not violate the purpose of this act or
10 endanger the public health and safety. A temporary license shall not remain
11 in force longer than one hundred and eighty (180) days. No more than two (2)
12 temporary licenses shall be issued to any individual within a specific
13 category.

14 (c) Holders of a license under this act shall display the official
15 license document or a notarized copy in each place of employment and the
16 document shall be made available upon its request.

17 (d) A license shall be renewed by the Board for a period of one (1) year
18 upon payment of renewal fees in an amount established by the Board.
19 Continuing education requirements, as a prerequisite for renewal, shall be
20 set by regulation.

21 (e) A Radiologic Technologist, Licensed Technologist, or Limited
22 Licensed Technologist whose license has lapsed and who has ceased activities
23 as a Radiologic Technologist, Licensed Technologist, or Limited Licensed
24 Technologist for less than five (5) years, may apply for relicensure upon
25 payment of a fee set by the Board. For periods of more than five (5) years,
26 licensure shall be in a manner as designated by the Board. Continuing
27 education requirements shall be set by regulation. This subsection shall not
28 apply to anyone whose license has been revoked or suspended.

29
30 SECTION 10. Discipline.

31 (a) The license of a Radiologic Technologist, Licensed Technologist, or
32 Limited Licensed Technologist may be suspended or revoked, or the individual
33 may be censured, reprimanded or otherwise sanctioned by the Board in
34 accordance with the provisions and procedures of this act if, after due
35 process, it is found that the individual:

36 (1) Is guilty of fraud or deceit in the procurement or holding of

1 the license;

2 (2) Has been convicted of a felony in a court of competent
3 jurisdiction, either within or outside of this state, unless the conviction
4 has been reversed and the holder of the license discharged or acquitted; or
5 if the holder has been pardoned with full restoration of civil rights in
6 which case the license shall be restored;

7 (3) Is or has been afflicted with any medical problem,
8 disability, or addiction, which, in the opinion of the Board, would impair
9 professional competence;

10 (4) Has knowingly aided and abetted a person who is not a
11 Radiologic Technologist or otherwise authorized by section 11, subsection
12 (b), of this act to perform the duties of a license holder under this act;

13 (5) Has undertaken or engaged in any practice beyond the scope of
14 duties permitted a license holder under this act;

15 (6) Has impersonated a license holder or former license holder or
16 is performing the duties of a Radiologic Technologist, Licensed Technologist,
17 or Limited Licensed Technologist under an assumed name;

18 (7) Has been found guilty of violations of a code of ethics which
19 the board shall establish by regulation;

20 (8) Has applied ionizing radiation without the prescription of a
21 Licensed Practitioner;

22 (9) Has interpreted a diagnostic image for a fee;

23 (10) Is, or has been found guilty of incompetence or negligence in
24 his performances as a license holder; or

25 (11) Failure to comply with any provision of this act or any of
26 the rules or regulations pertaining thereto.

27 (b) Proceedings against the holder of a license under this act shall be
28 instituted by filing a written charge or charges with the Committee. The
29 charge or charges may be brought by a person, corporation, association,
30 public officer, or the Board. The chairperson of the Committee shall appoint
31 a subcommittee of three (3) Committee members to examine the charge or
32 charges and prepare a written recommendation to the Committee stating whether
33 the charge or charges should be dismissed or brought against the licensee.
34 If the Committee determines that the charge or charges contain sufficient
35 merit, the chairperson shall set a time and place for a hearing. A copy of
36 the charge or charges, together with the notice of the time and place of the

1 hearing, shall be served on the person charged either in person or by
2 registered mail at least thirty (30) days before the date set for the
3 hearing. The accused shall have the right to appear at the hearing with
4 counsel, to answer the charge or charges, cross examine witnesses, and
5 produce evidence and witnesses in his defense. The Committee shall have the
6 power to issue subpoenas for the appearance of witnesses and take testimony
7 under oath.

8 (c) Any licensee who violates any provision of this act, or any rule or
9 order made pursuant to this act shall be subject to a cease and desist order
10 and a fine of not more than one thousand dollars (\$1,000.00) per incident.

11 (d) All hearings and appeals therefrom under this act shall be pursuant
12 to the provisions of the Arkansas Administrative Procedure Act, as amended, §
13 25-15-201 et seq.

14
15 SECTION 11. Exemptions.

16 (a) Dentists, dental hygienists, registered dental assistants with the
17 expanded duty of radiography, radiation health physicists, radiation medical
18 physicists, and certified medical dosimetrists are excluded from this act.

19 (b) The requirement of a license shall not apply to a student enrolled
20 in and attending a school of radiologic technology, radiation therapy, or
21 nuclear medicine with recognized educational accreditation, who uses
22 radioactive material on or applies ionizing radiation to a human being while
23 under the supervision of a Licensed Practitioner or Licensed Radiologic
24 Technologist.

25 (c) Nothing in the provisions of this act relating to Radiologic
26 Technology shall limit, enlarge, or affect the practice of Licensed
27 Practitioners herein defined.

28
29 SECTION 12. All provisions of this act of a general and permanent
30 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
31 Code Revision Commission shall incorporate the same in the Code.

32
33 SECTION 13. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2

3 SECTION 14. All laws and parts of laws in conflict with this act are
4 hereby repealed.

5

/s/ Bradford

6

7

8

APPROVED: 4/5/1999

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36