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SENATE BILL 616

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL RADIATION HEALTH AND SAFETY ACT; RENAMING THE MEDICAL RADIATION HEALTH AND SAFETY ACT AS THE MEDICAL IMAGING AND RADIATION THERAPY HEALTH AND SAFETY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14E-1 NMSA 1978 (being Laws 1983, Chapter 317, Section 1) is amended to read:

"61-14E-1. SHORT TITLE.--~~[Sections 1 through 12 of this act]~~ Chapter 61, Article 14E NMSA 1978 may be cited as the "Medical Imaging and Radiation Therapy Health and Safety Act"."

Section 2. Section 61-14E-2 NMSA 1978 (being Laws 1983, Chapter 317, Section 2) is amended to read:

"61-14E-2. PURPOSE OF ACT.--The purpose of the Medical Imaging and Radiation Therapy Health and Safety Act is to

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1 maximize the protection practicable for the citizens of New  
2 Mexico from ionizing and non-ionizing radiation in the practice  
3 of the healing arts. This purpose is effectuated by  
4 establishing requirements for appropriate education and  
5 training of persons operating medical equipment emitting  
6 ionizing and non-ionizing radiation, establishing standards of  
7 education and training for the persons who administer  
8 [~~radiologic~~] medical imaging and radiation therapy procedures  
9 and providing for the appropriate examination and certification  
10 of those persons."

11 Section 3. Section 61-14E-3 NMSA 1978 (being Laws 1983,  
12 Chapter 317, Section 3, as amended) is amended to read:

13 "61-14E-3. ADMINISTRATION--ENFORCEMENT.--The  
14 administration and enforcement of the Medical Imaging and  
15 Radiation Therapy Health and Safety Act is vested in the  
16 department."

17 Section 4. Section 61-14E-4 NMSA 1978 (being Laws 1983,  
18 Chapter 317, Section 4, as amended) is amended to read:

19 "61-14E-4. DEFINITIONS.--As used in the Medical Imaging  
20 and Radiation Therapy Health and Safety Act:

21 A. "advisory council" means the [~~radiation~~  
22 ~~technical~~] medical imaging and radiation therapy advisory  
23 council;

24 B. "board" means the environmental improvement  
25 board;

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1 C. "certificate of limited practice" means a  
2 certificate issued pursuant to the Medical Imaging and  
3 Radiation Therapy Health and Safety Act to persons who perform  
4 restricted diagnostic radiography under direct supervision of a  
5 licensed practitioner limited to the following specific  
6 procedures:

- 7 (1) the viscera of the thorax;  
8 (2) extremities;  
9 (3) radiation to humans for diagnostic  
10 purposes in the practice of dentistry;  
11 (4) axial/appendicular skeleton; or  
12 (5) the foot, ankle or lower leg;

13 D. "certified nurse practitioner" means a person  
14 licensed pursuant to Section 61-3-23.2 NMSA 1978;

15 E. "department" means the department of  
16 environment;

17 F. "division" means the environmental improvement  
18 division of the department of environment;

19 G. "ionizing radiation" means alpha particles, beta  
20 particles, gamma rays, x-rays, neutrons, high-speed electrons,  
21 high-speed protons and other particles capable of producing  
22 ions; "ionizing radiation" does not include non-ionizing  
23 radiation, such as radio waves or microwaves, or visible,  
24 infrared or ultraviolet light;

25 [~~F.~~] H. "licensed practitioner" means a person

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1 licensed to practice medicine, dentistry, podiatry,  
2 chiropractic or osteopathy in this state;

3 I. "magnetic resonance technologist" means a person  
4 other than a licensed practitioner who performs magnetic  
5 resonance procedures under the supervision of a licensed  
6 practitioner using magnetic fields and radio frequency signals;

7 J. "medical imaging" means the use of substances or  
8 equipment emitting ionizing or non-ionizing radiation on humans  
9 for diagnostic or interventional purposes;

10 K. "medical imaging technologist" means a person  
11 who is a magnetic resonance technologist, radiographer, nuclear  
12 medicine technologist or medical sonographer and who is  
13 certified pursuant to the Medical Imaging and Radiation Therapy  
14 Health and Safety Act;

15 L. "medical sonographer" means a person other than  
16 a licensed practitioner who provides patient care services  
17 using ultrasound; a "medical sonographer" may also be referred  
18 to as a vascular sonographer, vascular technician, vascular  
19 technologist, ultrasound technician, ultrasound technologist,  
20 echocardiographer, echo technician or echo technologist;

21 M. "non-ionizing radiation" means the optical  
22 radiations, including ultraviolet, visible, infrared and  
23 lasers, static and time-varying electric and magnetic fields  
24 and radio frequency, including microwave radiation and  
25 ultrasound;

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1           ~~[G.]~~ N. "nuclear medicine technologist" means a  
2 person other than a licensed practitioner who applies  
3 radiopharmaceutical agents to humans for diagnostic or  
4 therapeutic purposes under the direction of a licensed  
5 practitioner;

6           O. "radiation therapy" means the application of  
7 ionizing radiation to humans for therapeutic purposes;

8           ~~[H.]~~ P. "radiation therapy technologist" means a  
9 person other than a licensed practitioner whose application of  
10 radiation to humans is for therapeutic purposes;

11           ~~[I.]~~ Q. "radiographer" means a person other than a  
12 licensed practitioner whose application of radiation to humans  
13 is for diagnostic purposes;

14           ~~[J.] "radiologic technologist" means any person who~~  
15 ~~is a radiographer, a radiation therapy technologist or a~~  
16 ~~nuclear medicine technologist and who is certified pursuant to~~  
17 ~~the Medical Radiation Health and Safety Act;~~

18           ~~K.~~ "radiologic technology" means the use of  
19 ~~substances or equipment emitting ionizing radiation to humans~~  
20 ~~for diagnostic or therapeutic purposes;~~

21           ~~L.]~~ R. "radiologist" means a licensed practitioner  
22 certified by the American board of radiology, the British royal  
23 college of radiology, the American osteopathic board of  
24 radiology or the American chiropractic board of radiology; and

25           ~~[M.]~~ S. "registered physician assistant" means a

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1 person registered pursuant to Section 61-6-7 NMSA 1978 or  
2 Section 61-10A-4 NMSA 1978."

3 Section 5. Section 61-14E-5 NMSA 1978 (being Laws 1983,  
4 Chapter 317, Section 5) is amended to read:

5 "61-14E-5. BOARD--POWERS--DUTIES.--The board shall,  
6 pursuant to the advice and recommendations of the advisory  
7 council and following the procedures set forth in Section  
8 74-1-9 NMSA 1978:

9 A. adopt and promulgate such rules, regulations and  
10 certification standards as may be necessary to effectuate the  
11 provisions of the Medical Imaging and Radiation Therapy Health  
12 and Safety Act and to maintain high standards of practice; and

13 B. adopt rules and regulations establishing  
14 continuing education requirements as a condition of certificate  
15 renewal for the purpose of protecting the health and well-being  
16 of the citizens of New Mexico and promoting current knowledge  
17 and practice regarding [~~radiologic technology~~] medical imaging  
18 and radiation therapy."

19 Section 6. Section 61-14E-6 NMSA 1978 (being Laws 1983,  
20 Chapter 317, Section 6) is amended to read:

21 "61-14E-6. DIVISION--POWERS--DUTIES.--The division,  
22 pursuant to the rules and regulations promulgated by the board,  
23 shall:

24 A. maintain and enforce certification standards for  
25 magnetic resonance, radiography, radiation therapy technology,

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1 nuclear medicine technology, medical sonography and  
2 certificates of limited practice;

3 B. establish criteria and maintain standards for  
4 educational programs of magnetic resonance, radiography,  
5 radiation therapy [~~and~~] technology, nuclear medicine technology  
6 and medical sonography and approve educational programs upon a  
7 finding that the standards and criteria have been met;

8 C. provide for surveys of educational programs  
9 preparing persons for certification under the Medical Imaging  
10 and Radiation Therapy Health and Safety Act;

11 D. grant, deny or withdraw approval from  
12 educational programs for failure to meet prescribed standards,  
13 provided that a majority of the board concurs in any decision;  
14 [~~and~~]

15 E. establish procedures for examination,  
16 certification and renewal of certificates of applicants; and

17 F. establish scope of practice and ethics rules."

18 Section 7. Section 61-14E-7 NMSA 1978 (being Laws 1983,  
19 Chapter 317, Section 7, as amended) is amended to read:

20 "61-14E-7. CERTIFICATION--EXCEPTIONS.--

21 A. It is unlawful, unless certified by the  
22 department as a [~~radiologic~~] medical imaging technologist or  
23 radiation therapist, for any person to:

24 [~~A.~~] (1) use ionizing or non-ionizing  
25 radiation on humans;

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1                   ~~[B. use the title "radiologic technologist" or~~  
2 ~~the abbreviation "L.R.T." or any other abbreviation thereof or]~~

3                   (2) use any ~~[other]~~ title, abbreviation,  
4 letters, figures, signs or other devices to indicate that the  
5 person is a certified ~~[radiologic]~~ medical imaging technologist  
6 or radiation therapist; or

7                   ~~[C.]~~ (3) engage in any of the ~~[radiology]~~  
8 specialties as defined by the Medical Imaging and Radiation  
9 Therapy Health and Safety Act.

10                   B. Notwithstanding any other provision of the  
11 Medical Imaging and Radiation Therapy Health and Safety Act,  
12 the requirement of a certificate shall not apply to a licensed  
13 practitioner ~~[or auxiliary]~~ or health practitioner licensed or  
14 certified by an independent board; provided that any  
15 certification and examination program for auxiliaries  
16 established by an independent board shall be submitted to the  
17 advisory council and approved by the board. The requirement of  
18 a certificate shall also not apply to a student who is enrolled  
19 in and attending a required individual education program of a  
20 school or college of medicine, osteopathy, chiropractic,  
21 podiatry, dentistry or dental hygiene ~~[or radiologic~~  
22 ~~technology]~~ to apply radiation to humans under the supervision  
23 of a licensed practitioner or under the direct supervision of a  
24 certified ~~[radiologic]~~ medical imaging technologist or  
25 radiation therapist.

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1           C. Notwithstanding any other provision of the  
2 Medical Imaging and Radiation Therapy Health and Safety Act,  
3 the requirement of a certificate shall not apply to a student  
4 completing clinical requirements of an approved education  
5 program working under the supervision of a licensed  
6 practitioner or under the direct supervision of a medical  
7 imaging technologist or radiation therapist certified in the  
8 practice for which the student is seeking certification.

9           D. Notwithstanding any other provision of the  
10 Medical Imaging and Radiation Therapy Health and Safety Act,  
11 the requirement of a certificate shall not apply to a certified  
12 medical imaging technologist or radiation therapist completing  
13 clinical procedures as part of an advanced certification."

14           Section 8. Section 61-14E-9 NMSA 1978 (being Laws 1983,  
15 Chapter 317, Section 9, as amended) is amended to read:

16           "61-14E-9. FEES FOR CERTIFICATION.--

17           A. After the promulgation of rules and regulations,  
18 the department shall charge and collect the following fees:

19                   ~~[A.]~~ (1) an ~~[initial]~~ application fee not to  
20 exceed ten dollars (\$10.00);

21                   ~~[B.]~~ (2) an examination fee not to exceed  
22 ~~[fifty dollars (\$50.00) for a full certificate and not to~~  
23 ~~exceed twenty-five dollars (\$25.00) for a certificate of~~  
24 ~~limited practice]~~ the costs to the department for administering  
25 the required exams;

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1                   ~~[G.]~~ (3) a ~~[full certificate renewal fee~~  
2 ~~determined by the board in an amount]~~ biennial certification  
3 fee not to exceed one hundred dollars (\$100); ~~[biennially; and~~

4                   ~~D. a certificate of limited practice renewal fee~~  
5 ~~determined by the board in an amount not to exceed sixty~~  
6 ~~dollars (\$60.00) biennially upon submission of proof of at~~  
7 ~~least twenty hours of continuing education requirements as~~  
8 ~~required by the department. Any]~~

9                   (4) a temporary certification fee for new  
10 graduates of approved programs who are in the process of taking  
11 required exams, not to exceed fifty dollars (\$50.00) to cover a  
12 period no longer than twelve months; and

13                   (5) miscellaneous fees not to exceed  
14 twenty-five dollars (\$25.00), such as for requests for  
15 duplicate or replacement certificates, legal name change and  
16 written verification.

17                   B. A person who allows [his] the person's  
18 certificate to lapse by failure to renew as provided in the  
19 Medical Imaging and Radiation Therapy Health and Safety Act  
20 shall be reinstated by the department on payment of the fee for  
21 the current biennium plus a reinstatement fee to be set by the  
22 department in an amount [which] that shall not exceed the  
23 renewal fee. This provision shall not apply to anyone whose  
24 certificate has been revoked or suspended."

25                   Section 9. Section 61-14E-10 NMSA 1978 (being Laws 1983,

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1 Chapter 317, Section 10, as amended) is amended to read:

2 "61-14E-10. FUND ESTABLISHED--DISPOSITION--METHOD OF  
3 PAYMENT.--

4 A. There is created in the state treasury the  
5 "radiologic technology fund".

6 B. All fees received by the department pursuant to  
7 the Medical Imaging and Radiation Therapy Health and Safety Act  
8 shall be deposited with the state treasurer. The state  
9 treasurer shall place the money to the credit of the radiologic  
10 technology fund.

11 C. Payments out of the radiologic technology fund  
12 shall be on vouchers issued and signed by the person designated  
13 by the department upon warrants drawn by the department of  
14 finance and administration and shall be used by the department  
15 for the purpose of meeting necessary expenses incurred in the  
16 enforcement of the purposes of the Medical Imaging and  
17 Radiation Therapy Health and Safety Act, the duties imposed by  
18 that act and the promotion of education and standards for  
19 [~~radiologic~~] medical imaging technology and radiation therapy  
20 in this state. All money unexpended or unencumbered at the end  
21 of the fiscal year shall remain in the radiologic technology  
22 fund for use in accordance with the provisions of the Medical  
23 Imaging and Radiation Therapy Health and Safety Act."

24 Section 10. Section 61-14E-11 NMSA 1978 (being Laws 1983,  
25 Chapter 317, Section 11) is amended to read:

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1 "61-14E-11. SUSPENSION--REVOCATION--APPLICATION OF  
2 UNIFORM LICENSING ACT.--The board, pursuant to the advice and  
3 recommendation of the advisory council, may deny, revoke or  
4 suspend any certificate held or applied for under the Medical  
5 Imaging and Radiation Therapy Health and Safety Act, pursuant  
6 to the procedures established in the Uniform Licensing Act,  
7 upon grounds that the [~~radiologic~~] medical imaging  
8 technologist, radiation therapist or the applicant:

9 A. is guilty of fraud or deceit in procuring or  
10 attempting to procure a full certificate or certificate of  
11 limited practice;

12 B. is convicted of a felony subsequent to  
13 certification;

14 C. is unfit or incompetent;

15 D. is habitually intemperate or is addicted to the  
16 use of habit-forming drugs;

17 E. is mentally incompetent;

18 F. has aided and abetted a person who is not  
19 certified pursuant to the Medical Imaging and Radiation Therapy  
20 Health and Safety Act or otherwise authorized by that act in  
21 engaging in the activities of a certificate holder;

22 G. has engaged in any practice beyond the scope of  
23 authorized activities of a full certificate or certificate of  
24 limited practice holder pursuant to the Medical Imaging and  
25 Radiation Therapy Health and Safety Act;

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1 H. is guilty of unprofessional conduct or unethical  
2 conduct as defined by rules promulgated by the board;

3 I. has interpreted a diagnostic imaging procedure  
4 for a patient, the patient's family or the public; or

5 J. has willfully or repeatedly violated any  
6 provisions of the Medical Imaging and Radiation Therapy Health  
7 and Safety Act."

8 Section 11. Section 61-14E-12 NMSA 1978 (being Laws 1983,  
9 Chapter 317, Section 12, as amended) is amended to read:

10 "61-14E-12. VIOLATIONS--PENALTIES.--It is a misdemeanor  
11 for any person, firm, association or corporation to:

12 A. knowingly or willfully employ as a [~~radiologic~~]  
13 medical imaging technologist or radiation therapist any person  
14 who is required to but does not possess a valid certificate or  
15 certificate of limited practice to engage in the practice of  
16 [~~radiologic~~] medical imaging technology or radiation therapy;

17 B. sell, fraudulently obtain or furnish any  
18 [~~radiologic~~] medical imaging technology or radiation therapy  
19 certificate or certificate of limited practice or to aid or  
20 abet therein;

21 C. practice [~~radiologic~~] medical imaging technology  
22 or radiation therapy as defined by the Medical Imaging and  
23 Radiation Therapy Health and Safety Act unless exempted or duly  
24 certified to do so under the provisions of that act; or

25 D. otherwise violate any provisions of the Medical

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