

**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

PUBLIC HEALTH LAW

ARTICLE 35 - PRACTICE OF RADIOLOGIC TECHNOLOGY

Title

- I. General provisions and public policy (Secs. 3500-3501).**
- II. Licensing and registration (Secs. 3502-3508).**
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TITLE I - GENERAL PROVISIONS AND PUBLIC POLICY

Sec.

3500. Declaration of policy and statement of purpose.

3501. Definitions.

§ 3500. Declaration of policy and statement of purpose.

It is declared to be the policy of the state of New York that the health and safety of the people of the state must be protected against the harmful effects of excessive and improper exposure to ionizing radiation and from inadequately performed diagnostic tests and radiation therapy treatments. Such protection can best be accomplished by requiring adequate training and experience of persons under the supervision of licensed practitioners as defined in this title. It is the purpose of this article to establish standards of education, training and experience and to require the examination and licensure of radiographers, radiation therapists and nuclear medicine technologists.

§ 3501. Definitions.

When used in this article, the following words and phrases shall have the following definitions:

1. "Radiologic technology" means the practice of radiography, radiation therapy and nuclear medicine technology.
2. "Radiologic technologist" means a person who is licensed under this article to practice radiography or radiation therapy or nuclear medicine.
3. "Radiography" means the use of x-rays or x-ray producing equipment on human beings for diagnostic purposes under the supervision of a licensed practitioner. The practice includes, but is not limited to: measuring and positioning patients; selecting and setting up exposure

factors on x-ray equipment, and the making of the x-ray exposure; the performance of quality control tests; and, under the direct supervision of a licensed physician, the intravascular administration of contrast media when such administration is an integral part of the x-ray or imaging procedure.

4. "Radiographer" means a person, other than a licensed practitioner, who is licensed under this article to practice radiography.
5. "Radiation therapy" means the use of external beam and remote afterloading brachytherapy equipment for the application of ionizing radiation to human beings for therapeutic purposes under the supervision of a radiation oncologist. The practice includes but is not limited to: setting up treatment position; selecting required filter and treatment distance; positioning the beam directional shells and molds; using x-ray equipment for tumor localization; delivering the radiation treatment as prescribed by the physician; certifying the record of the technical details of the treatments; assisting the professional medical physicist in calibration procedures; assisting in treatment planning procedures; and the performance of quality control tests.
6. "Radiation therapist" means a person, other than a licensed physician, who is licensed under this article to practice radiation therapy.
7. "Nuclear medicine technology" means the use of radiopharmaceuticals administered to human beings for diagnostic or therapeutic purposes under the supervision of a physician authorized by a radioactive materials license. The practice includes but is not limited to: elution of a radiopharmaceutical generator; dosage preparation; assay of radiopharmaceutical dosages administered to patients; use of nuclear medicine equipment on patients; performance of quality control tests; administration of radiopharmaceuticals to patients for diagnostic purposes; and administration of radioactive materials to patients for therapeutic purposes under the personal supervision of a physician authorized by a radiopharmaceuticals license for such use.
8. "Nuclear medicine technologist" means a person who is licensed under this article to practice nuclear medicine technology.
9. "Radiologist" means a physician duly licensed to practice medicine in the state of New York and who is certified by the American Board of Radiology or by the American Osteopathic Board of Radiology in diagnostic radiology or radiation oncology.
10. "Radiation oncologist" means a physician duly licensed to practice medicine in the state of New York and who is certified by the American Board of Radiology or by the American Osteopathic Board of Radiology in radiation oncology.
11. "Licensed practitioner" means a person licensed or otherwise authorized under the education law to practice medicine, dentistry, podiatry, or chiropractic.

12. "Professional medical physicist" means a person licensed or otherwise authorized to practice medical physics in accordance with article one hundred sixty-six of the education law.
13. "Board" means the radiologic technologist advisory board as provided for in this article.
14. "License" means a license granted and issued by the department under this article to practice radiography, radiation therapy technology or nuclear medicine technology.
15. "X-ray or imaging procedure" means and includes conventional diagnostic x-ray or radiology, computer tomography, angiography, magnetic resonance imaging and ultrasound.
16. "Intravenous contrast administration certificate" means a certificate granted and issued by the department under this article to administer and inject contrast media.
17. "Supervision" means the oversight of a licensed radiologic technologist by a licensed practitioner acting within the limits specified in the law under which the practitioner is licensed.
18. "Direct supervision" means a physician must be present in the section of the facility where the procedure is being performed and is not concurrently encumbered by responsibilities that would preclude the physician from responding to a request for assistance within a timeframe that poses no risk to the patient. The physician shall be immediately available to furnish assistance and direction throughout the performance of the procedure, and is professionally responsible for the performance of the procedure. It does not mean that the physician must be present in the room when the procedure is performed.
19. "Personal supervision" means the physician must be in attendance in the room during the performance of the procedure.

TITLE II - LICENSING AND REGISTRATION

Sec.

3502. License required.

3503. Radiologic technologist advisory board.

3504. Rules and regulations.

3505. Requirements for a professional license.

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§ 3502. License required.

1. The department shall issue separate licenses in the areas of radiography, radiation therapy and nuclear medicine technology to individuals who qualify under section thirty-five hundred five of this title.
2. Except where otherwise authorized by law:
 - (a) only licensed practitioners and persons licensed under this article are permitted to apply ionizing radiation to human beings, and only within the limits of their specific license;
 - (b) only licensed physicians who are authorized by a radioactive materials license or persons licensed under this article are permitted to use radiopharmaceuticals on human beings, and only within the limits of their specific license;
 - (c) only persons licensed under this article shall practice radiography, radiation therapy or nuclear medicine technology or use the title "radiographer," "radiologic technologist," "radiation therapist" or "nuclear medicine technologist" or use the abbreviations LRT, RTT, LRTT, NMT, or LNMT with his or her name; and
 - (d) notwithstanding paragraph (c) of this subdivision, quality control tests and radiation therapy treatment planning may also be performed by individuals not licensed by this article.
3. On or after January first, two thousand nine no person shall practice nuclear medicine technology or hold himself or herself out as a nuclear medicine technologist unless the individual is the holder of a license pursuant to this article and in accordance with the commissioner's rules and regulations.
4. No radiologic technologist shall administer or inject intravenous contrast media unless (a) the individual is certified by the department to perform such function in accordance with the commissioner's rules and regulations (b) such administration or injection has been approved by a physician, physician's assistant, nurse practitioner or registered professional nurse within twenty-four hours prior to the administration or injection (c) a physician, physician's assistant, nurse practitioner or registered professional nurse performs an evaluation of the patient on the day of the procedure. Administration or injection of contrast media means and is limited to the placement or insertion of a needle or a catheter, not exceeding three inches in length and not above the level of the axilla into a person's upper extremity and the administration or injection of the intravenous contrast media, manually or by mechanical injector, but does not mean the determination of the type or volume of media to be administered or injected.
5. The department shall issue an intravenous contrast administration certificate, as defined in this article, to an individual who is approved by the department. Such individual must: (a) be a duly licensed and registered radiologic technologist in good standing under this article; (b) demonstrate the satisfactory completion of education and training concerning the insertion of a needle and a catheter; (c) demonstrate the satisfactory completion of training in recognition of adverse reactions and cardiopulmonary resuscitation; (d) pay a biennial certification fee of twenty dollars; and (e) meet such other criteria as may be established by the commissioner in regulation.

§ 3503. Radiologic technologist advisory board.

1. There shall be a radiologic technologist advisory board within the department consisting of eleven members who shall be appointed by the commissioner. The commissioner shall designate the chair of the board. Each member of the board shall be a citizen of the United States and a resident of this state. Two members shall be radiologists. One member shall be a nuclear medicine physician. One member shall be an administrator of a general hospital. Two members shall be practicing radiographers and holders of licenses issued pursuant to this article. Three members shall be practicing radiation therapists and holders of a license issued pursuant to this article. Two members shall be practicing nuclear medicine technologists and holders of licenses issued pursuant to this article.
2. The term of office of the members shall be four years. Before entering upon a term of office, every board member shall file with the secretary of state the constitutional oath of office. Vacancies in the membership of the board shall be filled in the manner of the original appointment by the commissioner for the unexpired term.
3. Members of the board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.
4. The commissioner shall designate an officer or employee of the department to act as secretary to the board, who shall not be a member of the board.
5. The board, for the purpose of transacting its business, shall meet at such times and places as the board may elect, or on the call of the commissioner. A written notice of the time, place and agenda of any meeting shall be mailed by the secretary to all members of the board at least fifteen days before the date of the meeting.
6. Six members of the board shall constitute a quorum for the transaction of business at any meeting.

§ 3504. Rules and regulations.

The commissioner shall have power to make such rules and regulations, not inconsistent with law, as may be necessary to carry out the provisions of this article, including but not limited to, the availability of emergency equipment appropriate to provide treatment in the event of an unanticipated reaction to the administration of contrast media. In promulgating such rules and regulations, the commissioner shall act with benefit of advice of the board.

§ 3505. Requirements for a professional license.

1. To qualify for a license under this article, an applicant shall fulfill the following requirements:
 - (a) Application: file an application with the department;
 - (b) Education: have received an education in accordance with regulations set forth by the commissioner;
 - (c) Examination: pass an examination in accordance with the commissioner's regulations;
 - (d) Age: be at least eighteen years of age;
 - (e) Character: be of good moral character; and
 - (f) Fees: pay a license fee of one hundred twenty dollars to the department.
2. Notwithstanding paragraph (a) of subdivision one of this section, no person shall be admitted to the examination who has failed to pass the examination on three attempts unless that individual provides documented evidence of the completion of a course of study as defined by the commissioner in rules and regulations.
3. No person shall be licensed who has been convicted of any crime consistent with the provisions of article twenty-three-A of the correction law.

§ 3506. Temporary permits.

The department may in its discretion and upon written application issue a temporary permit to practice radiologic technology in this state to a person who qualifies under section thirty-five hundred five of this title for admission to an examination for licensure. A temporary permit shall not be issued to a person who has had a license or registration suspended, revoked or annulled, or who has been otherwise disciplined pursuant to the provisions of section thirty-five hundred ten of this article. A temporary permit shall expire one hundred eighty days from the date of issuance.

§ 3507. Registration.

1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by the commissioner. A practicing licensee must register with the department.
2. The commissioner shall promulgate such rules and regulations as are necessary to effectuate the provisions of this section including, but not limited to, establishing staggered registration periods and the beginning dates thereof; assigning licensees to specific registration periods through appropriate classification or grouping; setting deadline dates for making application

for registration; prescribing the form and content of the certificate of registration; and establishing other reasonable requirements, including appropriate proration of registration fees.

3. A person licensed under this article must register with the department prior to commencing practice. The department shall register each licensee who submits an application on a form prescribed by the commissioner and who pays a registration fee of twenty dollars per year.
4. Any licensee authorized to practice under this article, undertaking practice for the first time or resuming practice after a voluntary lapse of registration, may commence practice upon mailing to the department the proper application for registration together with the required fee, provided, however, that such practice without actual possession of the certificate of registration is limited to thirty days. Any such licensee whose application for registration is submitted subsequent to the beginning of the registration period applicable to such licensee shall only be required to pay one-half of the fee if the registration period is less than one-half the whole thereof.
5. Upon receipt of satisfactory evidence that a certificate of registration has been lost, mutilated or destroyed, the department may issue a duplicate certificate upon such terms and conditions as the commissioner shall prescribe.
6. The department may waive registration fees for a licensee who registers after an elapsed period under the following circumstances:
 - (a) the registration period has expired; and
 - (b) the licensee provides the department with a notarized statement attesting to the fact that the licensee has not practiced within this state during the elapsed registration period.
7. The department may require that licensees provide proof of completion of continuing education credits for registration of their license or intravenous contrast administration certificate in accordance with the commissioner's regulations.

§ 3508. Registration of schools.

No person, institution or agency shall offer a course of study in radiologic technology unless such course of study is registered by the department or by the department of education and meets such standards of quality, character and competence of sponsors and officials, financial resources, public need, and other pertinent matters as may be prescribed by the commissioner or by the commissioner of education in appropriate rules and regulations. A registered school of radiologic technology may be operated by a medical or educational institution, and for the purpose of providing the requisite clinical experience shall be affiliated with one or more general hospitals approved by the department or by the department of education.

TITLE III - VIOLATIONS; PENALTIES

Sec.

3510. Suspension or revocation.

3511. Proceedings for suspension or revocation.

3512. Penalties.

3513. Disposition of fees, fines, penalties and other moneys.

3514. Injunctive relief.

§ 3510. Suspension or revocation.

1. The license, registration or intravenous contrast administration certificate of a radiological technologist may be suspended for a fixed period, revoked or annulled, or such licensee censured, reprimanded, subject to a civil penalty not to exceed two thousand dollars for every such violation, or otherwise disciplined, in accordance with the provisions and procedures defined in this article, upon decision after due hearing that the individual is guilty of the following misconduct:
 - (a) any fraud or deceit in the practice or has been guilty of any fraud or deceit in procuring a license, registration or certificate;
 - (b) conviction in a court of competent jurisdiction, either within or without this state, of a crime involving moral character;
 - (c) being a habitual abuser of alcohol or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects. Exceptions may be made for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice;
 - (d) aiding and abetting in the practice of radiologic technology a person who is not a registered radiologic technologist or who is practicing a form of radiologic technology which is beyond the scope of the individual's license;
 - (e) engaging in any practice beyond the scope of the practice of radiologic technology or beyond the scope of the individual's license as defined in this article;
 - (f) falsely impersonating a duly registered radiologic technologist or former duly registered radiologic technologist, or is practicing radiologic technology under an assumed name;
 - (g) unethical conduct as defined by rules promulgated by the commissioner;
 - (h) failure to obtain a certificate of registration as required by section thirty-five hundred seven of this article;

- (i) applying radiation to a human being when not under the necessary supervision of a duly licensed practitioner as defined in this article, or to any person or part of the human body other than those specified in the law under which such practitioner is licensed;
 - (j) expressing to a member of the public an interpretation of medical test results;
 - (k) using the prefix "Dr.", the word "doctor" or any suffix or affix to indicate or imply that the licensee is a duly licensed practitioner as defined in this article when not so licensed;
or
 - (l) incompetence or negligence.
2. (a) No person convicted of a felony shall continue to hold a license to practice radiologic technology, unless he or she has been granted an executive pardon, a certificate of relief from disabilities or a certificate of good conduct for such felony and, the commissioner, in his or her discretion, restores the license after determining that the individual does not pose a threat to patient health and safety.
- (b) A conviction of a felony shall include the conviction of a felony by any court in this state or by any court of the United States or by any court of any other state of the United States, and in the event that a crime of which the practitioner of radiologic technology is convicted by any court of the United States or any other state is not a felony in the jurisdiction in which the conviction is had but is substantially similar to a felony in the state of New York, then the conviction shall be deemed a conviction of a felony for the purpose of this article.

§ 3511. Proceedings for suspension or revocation.

1. Proceedings against any licensee under this section shall be begun by filing with the department a written charge or charges in the form of a petition under oath against such licensee. The charges may be preferred by any person, corporation, association or public officer, or by the department in the first instance. A copy thereof, together with a report of such investigation as the department shall deem proper, shall be referred to the board for its recommendation to the commissioner.
2. If the commissioner decides that the charges should be heard, the commissioner shall appoint a hearing officer to hear and report on the charges and shall set a time and place for the hearing. A copy of the charges, together with a notice of the time and place of hearing, shall be served on the accused at least fifteen days before the date fixed for the hearing.
3. The respondent in all such cases brought under this section shall, at least five days before the return date of the petition containing the charges, file with the department a verified answer, in duplicate, to the allegations set forth in such petition. The accused shall have the opportunity at such hearing to appear either personally or by counsel, to cross-examine witnesses and to produce evidence and witnesses in his or her defense.

4. Upon the conclusion of the hearing, the hearing officer shall make a written report of findings and conclusions and shall transmit them, together with a recommendation, to the commissioner. If the accused is found not guilty by the commissioner, the commissioner shall order a dismissal of the charges and an exoneration. If the accused is found guilty of the charges, or any of them, the commissioner shall, in his or her discretion, issue an order suspending, revoking or annulling the license registration or certificate of the accused, or otherwise disciplining him or her.
5. Where the license registration or certificate of any person has been revoked or annulled, as provided in this title, the department may, after the expiration of two years, entertain an application for restoration of such license or registration.
6. A licensee whose license registration or certificate has been suspended, revoked or annulled, or who is otherwise disciplined under this article, may commence a proceeding under article seventy-eight of the civil practice law and rules in the supreme court, Albany county, for the purpose of reviewing such determination, but no such determination shall be stayed or enjoined except after notice to the attorney general of the commencement of the proceeding.

§ 3512. Penalties.

1. It shall be a misdemeanor for a person to:
 - (a) sell or fraudulently obtain or furnish a radiologic technologist diploma, license, record or certificate of registration or intravenous contrast administration certificate;
 - (b) practice radiologic technology under cover of a diploma, license, registration or certificate illegally or fraudulently obtained or signed or issued unlawfully, or under fraudulent representation or mistake of fact in material regard;
 - (c) practice radiologic technology under a false or assumed name;
 - (d) practice or act as entitled to practice radiologic technology without a valid license or certificate, without a license appropriate to the purposes for which radiation is applied on human beings, or after having been convicted of a felony which has not been reported to the department; or
 - (e) otherwise violate any of the provisions of this article.
2. Such misdemeanor shall be punishable by imprisonment for not more than one year or by a fine not to exceed two thousand dollars for every such violation, or by both such fine and imprisonment for each separate violation.
3. All violations of this article, when reported to the department and duly substantiated by affidavits or other satisfactory evidence, shall be investigated and if the report is found to be

true and the complaint substantiated, the department shall report such violation to the attorney general and request prompt prosecution of such violation.

4. In the prosecution of any criminal action for violation of this article by the attorney general or his or her deputy, the attorney general or his or her deputy may exercise all the powers and perform all the duties with respect to such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform, and in such action or proceeding the district attorney shall only exercise such powers and perform such duties as are required of him or her by the attorney general or the deputy attorney general so attending.

§ 3513. Disposition of fees, fines, penalties and other moneys.

1. All fees, fines, penalties and other moneys derived from the operation of this article shall be paid to the department and shall be paid by the department to the radiological health protection account as established pursuant to chapter fifty-four of the laws of two thousand three enacting the health and mental hygiene budget.
2. Moneys received pursuant to this article may be refunded within one year from the receipt thereof on proof satisfactory to the department that:
 - (a) such moneys were in excess of the amounts required by law; or
 - (b) the examination for which application was made and for which a fee was paid was denied.
3. Such refund shall, upon audit and warrant of the comptroller, be paid by the department out of any moneys in the custody of the department received pursuant to this article.

§ 3514. Injunctive relief.

The attorney general may apply to the supreme court within the judicial district in which a violation of this article is alleged to have occurred for an order enjoining or restraining commission or continuance of the acts complained of. Thereupon the court shall have jurisdiction of the proceeding and shall have power to grant such temporary relief or restraining order as it deems just and proper. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if such order were not granted. The remedy provided by this section shall be in addition to any other remedy provided by law.

TITLE IV - CONSTRUCTION

Sec.

3515. Construction; rights of licensed radiologic technologists and exemptions from this article.

3516. Use of x-rays with respect to dental services.

3517. Separability.

§ 3515. Construction; rights of licensed radiologic technologists and exemptions from this article.

1. Nothing in the provisions of this article relating to radiologic technologists shall be construed to limit, enlarge or affect, in any respect, the practice of their respective professions by duly licensed practitioners.
2. Nothing in this article shall be construed to limit the authority of any person to administer or inject contrast media under any other law or under any rule or regulation of the commissioner, the department, the department of education or the board of regents.
3. Nothing in title eight of the education law shall be construed or applied to limit the authority of a person licensed or certified under this article to exercise the authority conferred by such license or certification under this article.
4. This article shall not be construed as applying to:
 - (a) a student enrolled in or attending a school or college of medicine, osteopathy, dentistry, podiatry, chiropractic, or radiologic technology who applies radiation to a human being, while under the direct supervision of a licensed physician, dentist, podiatrist, chiropractor, or radiologic technologist respectively;
 - (b) a person engaged in performing the duties of a radiologic technologist as defined pursuant to this article in his or her employment by an agency, bureau or division of the government of the United States;
 - (c) a person acting as a certified dental assistant or uncertified dental assistant who, under the supervision of a licensed dentist, operates only such radiographic dental equipment as may be prescribed by the commissioner in rules and regulations for the sole purpose of dental radiography;
 - (d) a person acting as a certified podiatric assistant or uncertified podiatric assistant who, under the supervision of a licensed podiatrist, operates radiographic podiatry equipment as may be prescribed by the commissioner in rules and regulations for the sole purpose of podiatric radiography; or
 - (e) a person issued a license as a chest radiographer prior to nineteen hundred seventy-two may use x-rays or x-ray producing equipment on human beings only as prescribed by the commissioner in rules and regulations.

§ 3516. Use of x-rays with respect to dental services.

The use of x-rays, performed in the course of dental services, shall be limited solely to diagnostic purposes and shall not be used for the purpose of verifying services performed for which requests for payment were submitted to third party payors. Nothing in this section shall limit the use of radiographic films or duplicates thereof.

§ 3517. Separability.

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 2.

The members of the existing radiologic technology advisory board as provided for in section 3503 of the public health law, as repealed by section one of this act, shall continue to serve their unexpired term of office.

§ 3.

Notwithstanding any inconsistent provision of law:

- (a) Any individual who is currently authorized pursuant to the former article 35 of the public health law, as repealed by section one of this act, to practice radiologic technology or radiation therapy prior to the effective date of this act shall maintain such licensure or authorization pursuant to article 35 of the public health law, as added by section one of this act.
- (b) Any individual currently practicing as a nuclear medicine technologist prior to the effective date of this act may be licensed to practice nuclear medicine technology pursuant to article 35 of the public health law, as added by section one of this act, provided that he or she has
 - (i) satisfactorily completed an educational program in nuclear medical technology acceptable to the department of health and has five years of verifiable and satisfactory employment within the previous ten years as a nuclear medical technologist, or
 - (ii) possesses registration as a nuclear medicine technologist by the American Registry of Radiologic Technologists or certification by the Nuclear Medicine Technology Board.

§ 4.

This act shall take effect one year after it shall have become a law; provided that:

- (a) effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed by the commissioner of health on or before such effective date; and
- (b) the provisions of this act relating to the injection of intravenous contrast media as provided for in subdivisions 3 and 18 of section 3501 and subdivisions 4 and 5 of section 3502 of the public health law, as added by section one of this act, shall take effect on the one hundred eightieth day after this act shall have become a law and the commissioner of health is authorized to add, amend and/or repeal any rule or regulation necessary for the implementation of such provisions.