

Part 89

PRACTICE OF RADIOLOGIC TECHNOLOGY

(Statutory authority: Public Health Law, Sections 3504, 3510(1)(g), 3502(4), 3507(2) and (7))

Section

Section

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PRACTICE OF RADIOLOGIC TECHNOLOGY

Section 89.0 Purpose and scope.

This Part establishes educational, licensing and certification requirements for persons engaged in the practice of radiologic technology. This Part also describes standards for educational programs in radiologic technology.

Section 89.1 Definitions.

(a) As used in this Part, unless the context otherwise requires:

- (1) Applicable regulations means this Part, and for persons and facilities located outside New York City, Part 16 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York and, for persons and facilities located in New York City, Article 175 of the New York City Health Code.
- (2) Accrediting organization means an organization accepted by the department as a reliable authority for the purpose of accrediting examinations, certifications, registrations or educational programs in the fields of radiography, radiation therapy, or nuclear medicine technology.
- (3) Authorized person means a certified nurse practitioner or a duly licensed physician assistant working under the supervision of a physician.

- (4) Board means the department's Radiologic Technologist Advisory Board.
- (5) Department means the New York State Department of Health.
- (6) Direct supervision means that 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.
- (7) Licensed Practitioner means any person licensed or otherwise authorized under the State Education Law to practice medicine, dentistry, podiatry, or chiropractic.
- (8) Negligence and/or incompetence in the practice of radiologic technology means any failure to adhere to generally accepted standards of such practice and includes, but is not limited to:

- (i) failure to exercise due regard for the safety or life or health of the patient;
 - (ii) failure to perform radiologic tests, procedures or treatments as ordered;
 - (iii) failure to comply with applicable regulations or the Public Health Law;
 - (iv) failure to protect patients and other persons from unnecessary exposure to radiation, including failure to properly use protective devices such as mechanical patient restraints;
 - (v) failure to wear an identification badge, as required by this Part; or,
 - (vi) abandonment or neglect of any patient in need of immediate medical attention without making reasonable arrangements to ensure that the patient receives such attention.
- (9) Personal Supervision means the physician must be in attendance in the room during the performance of the procedure.
 - (10) Sponsoring institution means a medical or educational organization that offers educational programs in the field of radiologic technology.

- (11) 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.
- (12) Unethical conduct is behavior that indicates unfitness to practice radiologic technology and includes, but is not limited to:
 - (i) engaging in the practice of radiologic technology while in an intoxicated condition or under the influence of narcotic or other drug(s) that impair consciousness, judgment or behavior;
 - (ii) immoral conduct while engaged in the practice of radiologic technology or immoral behavior indicating an unfitness to practice radiologic technology;
 - (iii) willful falsification, destruction or theft of property or records relating to the practice of radiologic technology;
 - (iv) unauthorized disclosure of information or records relating to a patient;
 - (v) discrimination in the practice of radiologic technology against any person based on race, religion, creed, national origin, gender or sexual orientation;

- (vi) verbally or physically harassing, abusing or intimidating a patient or other person (including, but not limited to, sexual harassment or abuse) while on the premises of a health care facility or while practicing radiologic technology;
- (vii) failure to report in writing to the department of a felony conviction by any federal or state court within 30 days of the conviction;
- (viii) failure to report in writing to the department of a conviction by any federal or state court of a crime that 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;
- (ix) directly or indirectly offering, giving or soliciting or receiving or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services; or,

- (x) being convicted of any crime consistent with the provisions of article twenty-three-A of the correction law.
- (13) The terms “radiologic technologist,” “radiographer,” “radiation therapist,” and “nuclear medicine technologist” mean an individual licensed and currently registered with the department pursuant to this Part.
- (14) Authorized user means a physician authorized by a radioactive materials license issued under the applicable regulations to use radiopharmaceuticals for diagnostic studies and/or therapeutic treatments.

Section 89.2 Practice of radiologic technology.

- (a) The practice of radiography includes, but is not limited to, the following activities performed under the supervision of a licensed practitioner:
 - (1) measuring and positioning patients;
 - (2) selecting and setting up exposure factors on x-ray equipment;
 - (3) making x-ray exposures;

- (4) using fluoroscopy for localization purposes prior to taking a spot film of a mobile organ such as the gall bladder or the duodenal cap;
- (5) operating fluoroscopy equipment under the personal supervision of a physician;
- (6) administering non-intravenous contrast media pursuant to a physician’s order;
- (7) performing quality control tests; and,
- (8) for individuals certified under section 89.40 of this Part, the intravascular administration of contrast media under the direct supervision when such administration is an integral part of an x-ray or imaging procedure.
- (b) The practice of radiation therapy includes, but is not limited to, the following activities performed under the supervision of a radiation oncologist:
 - (1) setting up the treatment position;
 - (2) delivering the required daily dose prescribed by the physician;
 - (3) maintaining an accurate record of the technical details of the treatment;
 - (4) selecting the required filter and treatment distance;
 - (5) making beam directional shells and molds;

- (6) using diagnostic x-ray equipment only for treatment planning and not for diagnostic purposes;
- (7) assisting the medical physicist in calibration procedures;
- (8) performing quality control tests; and,
- (9) assisting in treatment planning procedures.
- (c) The practice of nuclear medicine technology includes, but is not limited to, the following activities performed under the supervision of an authorized user:
 - (1) elution of a radiopharmaceutical generator;
 - (2) dosage preparation;
 - (3) assay of radiopharmaceutical dosages administered to patients;
 - (4) use of nuclear medicine equipment on patients;
 - (5) performance of quality control tests;
 - (6) administration of radiopharmaceuticals to patients for diagnostic purposes as ordered by an authorized user;
 - (7) administration of radiopharmaceuticals to patients for therapeutic purposes under the personal supervision of an authorized user; and,

- (8) the use of technology that merges radiopharmaceutical imaging technology with other forms of medical imaging technology for diagnostic purposes. All nuclear medicine technologists who use x-ray and radiopharmaceutical imaging as part of a merged imaging procedure shall:
- (i) be a licensed radiographer, or hold a post primary certification in computed tomography from a national accrediting organization approved by the department, and,
 - (ii) operate the merged imaging technology under the personal supervision of an authorized user until the authorized user acknowledges in writing that the nuclear medicine technologist can operate the merged technology competently without such personal supervision; and,
 - (iii) use only Single Photon Emission Computed Tomography (SPECT/CT) or Positron Emission Tomography (PET)/CT technology and no other x-ray imaging technology.

- (d) Radiologic technologists shall wear, at all times while engaged in the practice of radiologic technology, identification tags giving their name and title as “Licensed Radiographer”, or “Licensed Radiation Therapist” or “Licensed Nuclear Medicine Technologist” or a derivative of such a title. The tag shall not be smaller than $\frac{3}{4}$ " x 3" in dimension, and the lettering shall be in clear contrast to the background color of the tag. The tag shall be prominently displayed while worn. The tag shall not be worn by, or issued to a person not licensed to practice radiologic technology, or not licensed and registered in the category of practice indicated on the tag.

EDUCATIONAL PROGRAMS IN RADIOLOGIC TECHNOLOGY

Section 89.3 Registration

- (a) The department may issue a certificate of registration to a sponsoring institution with an educational program that is recognized by the department as leading to licensure as a radiologic technologist if a sponsoring institution fulfills the following requirements in a manner acceptable to the department:
- (1) files an application for registration with the department on such forms as the department may prescribe;

- (2) provides documentation describing the sponsoring institution’s financial resources, instructional curriculum, faculty, classroom and clinical facilities, student policies and administrative organization;
- (3) passes a site inspection of the sponsoring institution’s administrative, didactic and clinical facilities conducted by the department, the Joint Review Committee on Education in Radiologic Technology or other accrediting body approved by the department; and,
- (4) upon request, provides documentation from any accrediting organization of any certification or approval of the educational program.

- (b) In the event that the department finds deficiencies in an educational program offered by a sponsoring institution seeking a certificate of registration, the department may issue a provisional certificate of registration to a sponsoring institution if the sponsoring institution agrees in writing to correct deficiencies in the educational program within a period of time specified by the department.
- (c) The department may deny, revoke or suspend a certificate of registration or a provisional certificate of registration upon a determination by the department that:

- (1) the sponsoring institution has not, or is not likely to comply with this Part, applicable regulations, or the Public Health Law;
- (2) the sponsoring institution has not complied with the standards and policies of the accrediting organization that approved or recognized its educational program; or,
- (3) the educational program does not have any students for a period of two successive years. The department shall notify the sponsoring institution of its intent to deny, revoke or terminate a certificate of registration or provisional certificate of registration. The sponsoring institution may, within 30 days of notification, petition the department in writing for a review. The sponsoring institution shall then be given the opportunity to be heard by the commissioner or his or her designee.
- (d) A sponsoring institution whose registration has been suspended or revoked pursuant to this section shall not be eligible to apply for a new registration until such time as the deficiencies have been corrected to the satisfaction of the department.

Section 89.4 Educational Program Standards.

- (a) In addition to meeting all applicable provisions of this Part, a sponsoring institution with an educational program registered with the department shall:
- (1) ensure that the educational program curriculum includes current didactic and clinical standards set by the American Society of Radiologic Technologists, the Society of Nuclear Medicine or other accrediting organization approved by the department;
 - (2) ensure that clinical training will occur at hospitals accredited by the Joint Commission on Accreditation of Healthcare Organizations or other accrediting organizations approved by the department or at other clinical facilities approved by the department;
 - (3) conform to all provisions relating to radiation safety standards as prescribed in applicable regulations;
 - (4) submit or make available to the department such information or records as the department requests and shall permit the department to perform site inspections.
- (b) The sponsoring institution shall ensure, as applicable, that, while engaging in clinical practice:

- (1) all radiography students are under the supervision of diagnostic radiologists;
- (2) all radiation therapy students are under the supervision of a radiation oncologist; and,
- (3) all nuclear medicine technology students are under the supervision of an authorized user.

Section 89.5 Students.

- (a) A sponsoring institution shall report in writing to the department the name of each student who has successfully completed the radiologic technology course of study within 30 days of such completion.
- (b) A sponsoring institution shall ensure that students do not apply radiation to a human being for clinical practice until they have completed instruction in, and have understanding of radiation safety as it pertains to protecting themselves, patients and personnel from unnecessary exposure to radiation. This instruction shall include practical experience using phantoms or other non-human devices. The sponsoring institution shall ensure that the initial applications of radiation to human beings by students shall be under the personal supervision of a radiologist, radiographer, radiation therapist or nuclear medicine technologists, as applicable, until the student's performance has been evaluated as satisfactory.

- (c) Notwithstanding the requirements of section 16.11(a)(1) of the State Sanitary Code, a sponsoring institution shall provide all students with a personal radiation monitoring device during their radiologic technology course of study. The sponsoring institution shall ensure that student exposure to radiation shall be within the occupational limits prescribed by the applicable regulations and shall routinely inform students of their radiation exposure readings.
- (d) A sponsoring institution shall ensure that its students apply radiation to human beings only at its clinical facilities and only for the purpose of clinical practice in the use of medical imaging or radiation therapy equipment.
- (e) A sponsoring institution shall ensure that students enrolled in and attending a radiologic technology program shall wear at all times, while at any of the sponsoring institution's clinical facilities, identification tags that conspicuously shows their name and title as "STUDENT, Radiographer" or "STUDENT, Radiation Therapist", or "STUDENT" Nuclear Medicine Technologist", as appropriate. A sponsoring institution shall issue identification tags only to enrolled students and shall collect the identification tag of each student who graduates or withdraws from the school.

- (e) A sponsoring institution may assign students to clinical practice on evenings, nights, weekends or legal holidays, provided that such clinical assignments:
- (1) shall be given only to students in the final six months of training;
 - (2) shall not exceed a total of 80 hours;
 - (3) shall not result in the student attending in excess of eight hours in a 24-hour period of combined classroom and clinical assignments; and,
 - (4) shall be based upon a written plan and adequately maintained records, which include the designation of a radiologic technologist to supervise each such assignment.

LICENSURE

Section 89.10 General Provisions.

- (a) To qualify for a license to practice as a radiologic technologist, an applicant shall fulfill the following requirements in a manner acceptable to the department:
- (1) file an application on a form prescribed by the department along with a nonrefundable license fee of one hundred twenty dollars;

- (2) submit documentation that the applicant has successfully completed an education program in radiologic technology that is registered with the department, the State Department of Education, or an accrediting organization approved by the department;
- (3) submit evidence that the applicant has passed an examination administered by an accrediting organization approved by the department with a passing grade, as determined by the department;
- (4) be at least 18 years of age and;
- (5) be of good moral character. Any person who has been convicted of one or more criminal offenses involving a threat or use of physical violence, sexual behavior, illegal possession or use of drugs, theft or fraud, shall be deemed to not be of good moral character unless the department determines that sufficient mitigating factors exist to warrant a finding of good moral character. In making such a determination, the department shall consider the following factors:
 - (i) the number and seriousness of the underlying offenses of such conviction;
 - (ii) the time that has elapsed since such conviction;

- (iii) the age of the applicant when the underlying offenses occurred; and,
- (iv) evidence of rehabilitation and good conduct since such convictions, including the issuance to the applicant of a certificate of relief from disability or a certificate of good conduct.
- (b) No person shall be licensed pursuant to this Part who has been convicted of a crime consistent with the provisions of Article twenty-three A of the Corrections Law.
- (c) Nothing in this Part shall be construed to apply to the practice of nuclear medicine technology prior to January 1, 2009.
- (d) Notwithstanding any provision herein to the contrary, any individual practicing as a nuclear medicine technologist prior to July 26, 2007 may be licensed to practice nuclear medicine technology provided that he or she has completed an education program in nuclear medicine technology acceptable to the department and has five years of verifiable and satisfactory employment within the previous ten years as a nuclear medicine technologist, or possesses certification by the Nuclear Medicine Technology Certifying Board or registration with the American Registry of Radiologic Technology in nuclear medicine technology.

Section 89.11 Denial of licensure.

- (a) If the department determines that an applicant is ineligible for licensure pursuant to this Part, the department shall provide written notice to the applicant of the determination, the reasons therefor and information regarding his/her rights to petition.
- (b) An applicant who has been denied licensure may petition the department, within 30 days of notification of the denial, for a review thereof. If the Commissioner or his or her designee decides in his/her discretion that a hearing should be held, the petitioner shall be entitled to all the rights of a respondent specified in subdivisions 2, 3, and 4 of section 3511 of the Public Health Law.
- (c) Where an applicant has been denied licensure, the department may, after the expiration of two years or upon the granting to the applicant of a pardon or of a certificate of good conduct, or of a certification of relief from disability, entertain a new application for examination.
- (d) Where an applicant is a defendant in a pending criminal proceeding under charges for an offense that bears a direct relationship to the practice of radiologic technology, the department may withhold the final determination of eligibility for a license pending the outcome of the proceeding.

Section 89.12 Issuance of a temporary permit.

- (a) A temporary permit is a document issued by the department that allows an individual who qualifies under section 3505 of the Public Health Law to practice radiologic technology pending an examination. The permit shall be in effect for 180 days from the date of issue. It shall expire 10 days after notification by an accrediting organization that the individual has failed to pass the qualifying examination. An individual with a temporary permit does not qualify for intravenous contrast administration certification.
- (b) The department may issue a temporary permit to an applicant who has been discharged from active duty with the Armed Forces of the United States or has satisfactorily completed an accredited course of study located outside of the State of New York, within one year preceding the date of application, who otherwise qualifies for admission to examination and provides a copy of the examination admission letter from an approved accrediting organization.

REGISTRATION AND CONTINUING EDUCATION

Section 89.20 Registration and continuing education.

- (a) Each person licensed pursuant to this Part must obtain a certificate of registration from the department prior to practicing radiology in this state. The department shall register each licensee who submits a completed registration application on a form supplied by the department, pays a fee of twenty dollars per year, and provides evidence of completion of any continuing education requirements required by this section. Every practicing radiologic technologist shall have available for review by the department or other interested parties at all places of employment a copy of his/her current certificate of registration.
- (b) Each registration shall authorize a licensee to practice radiologic technology for a period of up to four years and terminate on the registrant's birth date on either the next ensuing odd-numbered or the next ensuing even-numbered year, depending upon whether the registrant was born in an odd-numbered or even-numbered year, respectively.
- (c) Beginning January 1, 2010, each radiologic technologist, when applying to register pursuant to paragraph 89.20(a) of this section, must provide evidence of continuing education equivalent to 12 credits hours per year according to the following schedule:
- (1) individuals registering in the year 2010 must have 12 credits within the previous 12 months;
 - (2) individuals registering in the year 2011 must have 24 credits within the previous 24 months;
 - (3) individuals registering in the year 2012 must have 36 credits within the previous 36 months; and
 - (4) individuals registering in the year 2013 must have 48 credits within the previous 48 months.
- (d) Thereafter to reregister, the radiologic technologist must provide evidence of the equivalent of 12 credit hours per year for every year since the previous registration period.
- (e) Notwithstanding any provision herein to the contrary, the department may waive the continuing education requirement of a licensee who has recently completed an education program in radiologic technology pursuant to paragraph 89.10(a)(2), and is applying for registration for the first time. Thereafter, to reregister the radiologic technologist must provide evidence of the equivalent of 12 credit hours per year for each succeeding year.

- (f) All continuing education credits must be approved by an accrediting organization approved by the department.
- (g) A copy of a current certificate of registration from an accrediting organization approved by the department is acceptable evidence to meet the continuing education requirement.

EXEMPT PERSONS

Section 89.30 Persons exempt.

- (a) Dental assistants.
- (1) A person acting as a dental assistant shall be exempt from licensure as a radiologic technologist when operating the following equipment under the supervision of a dentist for the sole purpose of routine oral radiography in which the x-ray beam is limited to the patient's head:
 - (i) conventional radiographic dental equipment in which the diameter of the x-ray beam at the patient's face is limited to not more than three inches; and
 - (ii) panoramic radiographic dental equipment.

- (2) Nothing in this Part shall be construed to apply to the practice of the profession of dental hygiene, including the use of x-ray, by persons duly licensed as dental hygienists by the State Education Department or by students enrolled in and under the supervision of the faculty of an educational program in dental hygiene registered by the State Education Department.

(b) Podiatry assistants:

A person authorized to provide supportive services to a licensed podiatrist pursuant to section 7006 (4) of the State Education Law is exempt from licensure as a radiologic technologist when operating a podiatry x-ray unit under the direct supervision of the podiatrist for the sole purpose of routine radiography of the podiatrist's patient's foot.

INTRAVASCULAR CONTRAST MEDIA INJECTION

Section 89.40 Intravascular contrast media injection.

- (a) The department may issue a certificate to administer contrast media intravenously to a licensed and registered radiologic technologist who fulfills the following requirements in a manner acceptable to the department:
- (1) submits an application on a form provided by the department;
 - (2) submits documentation demonstrating satisfactory completion of an educational program, approved by the department, that offers education and training concerning venipuncture of a person's upper extremity in a safe and effective manner, anatomy and physiology of venipuncture sites, venipuncture instruments, intravenous solutions and related equipment, techniques of intravenous line establishment, hazards and complications of venipuncture, post puncture care, the composition and purpose of an anti-anaphylaxis tray, and the recognition of adverse reactions to intravenous administration of contrast media; and

- (3) has satisfactorily completed training in cardiopulmonary resuscitation in a course sponsored by the American Red Cross, the American Heart Association or other sponsoring institution approved by the department.
- (b) A radiologic technologist certified pursuant to this section may establish an intravenous line as part of a procedure requiring contrast media, administer a saline flush and inject intravenous contrast media, manually or by mechanical injector under the direct supervision of a licensed physician who is qualified in a medical specialty related to the radiological procedure.
- (c) Nothing in this section shall be construed to authorize a radiologic technologist certified pursuant to this section to perform arterial puncture, to determine the type or amount of contrast media to be injected or to administer or inject any medication other than contrast media.
- (d) A radiologic technologist shall administer intravascular contrast media pursuant to the healthcare facility's established policies and procedures governing such contrast media administration and the availability of personnel and equipment to treat adverse reactions.

- (e) Nothing in this section 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 State Education Department or Board of Regents.
- (f) Revocation or suspension of a license or registration shall be deemed a revocation or suspension of a certification issued pursuant to this section.