

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1070

Short Title: Radiation Tech. Practice Act.

(Public)

Sponsors: Representatives Tart; Hackney, Wisner, Bowman, and Miller.

Referred to: Commerce.

April 7, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE RADIATION TECHNOLOGY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 25.

“RADIATION TECHNOLOGY PRACTICE ACT.

“§ 90-345.1. Short title.

This Article may be cited as the ‘Radiation Technology Practice Act’.

“§ 90-345.2. Policy and purpose.

In order to protect the public health and safety, it is the policy of the State of North Carolina to reduce the harmful effect of excessive and improper exposure to ionizing radiation during medical diagnosis and treatment. The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of radiation technology is necessary to ensure minimum standards of competency and to provide the public with safe care.

“§ 90-345.3. Definitions.

In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) ‘Board’ means the North Carolina Board of Radiation Technology Examiners as created herein.
- (2) ‘Educational program’ means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article. An educational program

1 will be approved if it is a program in Radiation Technology that has
2 been accredited by an accrediting agency which is a member of the
3 Council on Postsecondary Accreditation and which is recognized by
4 the United States Department of Education, or if it is one of the
5 programs in a postsecondary educational institution which holds
6 regional or national accreditation by an accrediting agency which is a
7 member of the Council on Postsecondary Accreditation and which is
8 recognized by the United States Department of Education.

9 (3) 'Individual' means any human being.

10 (4) 'Ionizing radiation' means gamma rays, X rays, alpha particles, beta
11 particles, neutrons, high speed electrons, high speed protons and other
12 nuclear particles.

13 (5) 'License' means a license issued by the Board to an individual to
14 practice as a radiologic technologist (radiographer) or nuclear
15 medicine technologist, or radiation therapy technologist.

16 (6) 'Licensed practitioner' means any individual licensed or otherwise
17 authorized by law to practice medicine, dentistry, osteopathy,
18 chiropractic, or podiatry in North Carolina.

19 (7) 'Nuclear medicine technologist' means any individual who is licensed
20 under this Article for the administration of radionuclides to human
21 beings for diagnostic and/or therapeutic purposes while under the
22 supervision of a licensed practitioner.

23 (8) 'Person' means an individual corporation, partnership, association, unit
24 of government, or other legal entity.

25 (9) 'Radiation technologist' means any individual, other than a licensed
26 practitioner, who administers ionizing radiation to human beings for
27 medical purposes and practices radiation technology, or nuclear
28 medicine technology, or radiation therapy technology.

29 (10) 'Radiation technology' means the direct application of ionizing
30 radiation using imaging techniques, modalities, and therapeutic
31 procedures to render diagnostic information or treatment under the
32 supervision of a licensed practitioner.

33 (11) 'Radiation therapy technologist' means any individual who is licensed
34 under this Article for the technical application of ionizing radiation to
35 human beings for therapeutic purposes while under the supervision of
36 a licensed practitioner.

37 (12) 'Radioactive material' means any material that spontaneously, or as
38 applied, emits ionizing radiation to a medically significant extent.

39 (13) 'Radionuclides' means a species of atom whose nucleus disintegrates
40 spontaneously, emitting radiation in the form of alpha, beta, or gamma
41 radiation.

42 (14) 'Radiologic technologist' or 'radiographer' means any individual who
43 is licensed under this Article for the technical application to a human
44 being of ionizing radiation other than radioactive materials, for

1 diagnostic purposes while under the supervision of a licensed
2 practitioner.

3 (15) 'Supervision' means a determination by a licensed practitioner that
4 ionizing radiation shall be applied to a human being for diagnostic or
5 therapeutic purposes but supervision does not mean overseeing the
6 application of ionizing radiation to the patient.

7 **"§ 90-345.4. Board of Examiners created.**

8 (a) The North Carolina Board of Radiation Technology Examiners is hereby
9 created.

10 (b) Composition. The Board shall consist of seven members including six
11 radiation technologists, four of whom shall be radiologic technologists, one of whom
12 shall be a nuclear medicine technologist, and one of whom shall be a radiation therapy
13 technologist, and one public member.

14 The initial Board members shall be selected on or before January 1, 1990, as
15 follows:

16 The Speaker of the House of Representatives shall appoint two radiologic
17 technologists and one nuclear medicine technologist to the Board. One of the radiologic
18 technologists shall serve for a term of three years and the other radiologic technologist
19 shall serve for a term of one year. The nuclear medicine technologist shall serve for a
20 term of two years.

21 The Lieutenant Governor shall appoint two radiologic technologists and one
22 radiation therapy technologist to the Board. The radiologic technologists shall serve for
23 terms of two years. The radiation therapy technologist shall serve for a term of one
24 year.

25 The Governor shall appoint for a three-year term a public member to the Board who
26 shall be the President of one of the member institutions of the North Carolina System of
27 Community Colleges which offers a Radiation Technology program meeting all
28 requirements of this Article.

29 (c) Selection. The Board shall conduct an election each year to fill vacancies of
30 radiation technologists of the Board scheduled to occur during the next year. All
31 radiation technologists licensed to practice radiation technology in North Carolina and
32 residing or practicing in North Carolina shall be eligible to vote in the election. The
33 holding of such a license to practice radiation technology in North Carolina shall
34 constitute registration to vote in such elections.

35 Nominations of candidates for the Board shall be made by written petitions signed
36 by not less than 10 radiation technologists eligible to vote in the election. The list of
37 nominations shall be filed with the Board after January 1 of the year in which the
38 election is to be held and no later than midnight of the first day of April of such year.
39 Before preparing ballots, the Board shall notify each person who has been duly
40 nominated of his nomination and request permission to enter his name on the ballot. A
41 member of the Board who is nominated to succeed himself and who does not withdraw
42 his name from the ballot is disqualified to participate in the conduct of the election.
43 Elected members shall begin their term of office on January 1 of the year following
44 their election.

1 Board members shall be commissioned by the Governor upon their election or
2 appointment.

3 (d) Qualifications. The six radiation technologist members shall hold current
4 licenses and shall reside in North Carolina. They shall each have at least five years'
5 experience in radiation technology practice, education, administration, or radiation
6 technology training, including the three years immediately preceding appointment to the
7 Board, and shall continue such practice, administration, or education and training while
8 on the Board. The first radiation technologists appointed to the Board pursuant to this
9 section shall, upon their appointment and qualification, immediately become licensed as
10 radiation technologists by complying with the provisions of this Article.

11 (e) Term of Office. Each elected member shall be elected for a term of three
12 years and shall serve until a successor is appointed.

13 No member shall serve more than two consecutive full terms.

14 (f) Vacancies. The Governor shall fill all unexpired terms on the Board within
15 30 days after the term is vacated. For vacancies of radiologic technologists on the
16 Board, the Governor shall select the radiologic technologist who received the next
17 highest number of votes to the radiologic technologist elected at the most recent
18 election. For vacancy of the nuclear medicine technologist on the Board, the Governor
19 shall select the nuclear medicine technologist who received the next highest number of
20 votes to the nuclear medicine technologist elected at the most recent election. The same
21 procedure shall be used to fill a vacancy of the radiation therapy technologist. The
22 Governor shall select a public member to fill the vacancy of the public member.
23 Appointees shall serve the remainder of the unexpired term and until their successors
24 have been duly elected or appointed and qualified.

25 (g) Removal. The Board may remove any of its members for neglect of duty,
26 incompetence, or unprofessional conduct. A member subject to disciplinary
27 proceedings shall be disqualified from Board business until the charges are resolved.

28 (h) Compensation. Each member of the Board shall receive such per diem
29 compensation and reimbursement for travel and subsistence as shall be set for licensing
30 boards generally.

31 (i) Officers. The officers of the Board shall be a chairman, who shall be a
32 licensed radiation technologist, a vice-chairman and other officers deemed necessary by
33 the Board to carry out the purposes of this Article. All officers shall be elected annually
34 by the Board for one-year terms and shall serve until their successors are elected and
35 qualified.

36 (j) Immunity from Suit. Individual Board members shall be immune from civil
37 liability arising from activities performed within the scope of their official duties.

38 (k) Meetings. The Board shall hold at least two meetings each year to conduct
39 business and shall adopt rules governing the calling, holding, and conducting of regular
40 and special meetings. A majority of the Board members shall constitute a quorum.

41 **"§ 90-345.5. Powers of the Board.**

42 (a) The Board shall have the following general powers and duties:

43 (1) Administer this Article;

44 (2) Issue its interpretations of this Article;

- 1 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
2 provisions of this Article in accordance with Chapter 150A of the
3 General Statutes;
- 4 (4) Establish qualifications of, employ, and set the compensation of the
5 executive director who shall be a radiologic technologist and shall not
6 be a member of the Board;
- 7 (5) Employ and fix the compensation of other personnel that the Board
8 determines are necessary to carry into effect the provisions of this
9 Article and incur other expenses necessary to effectuate this Article;
- 10 (6) Examine, determine qualifications and fitness, and renew the license of
11 duly qualified applicants for licensure or re-licensure;
- 12 (7) Issue, renew, deny, suspend, or revoke licenses to practice radiation
13 technology and carry out any of the disciplinary actions authorized by
14 this Article;
- 15 (8) Accept approved educational programs, as defined in G.S. 90-345.3;
- 16 (9) Conduct investigations for the purpose of determining whether
17 violations of this Article or grounds for disciplining licensees exist;
- 18 (10) Conduct investigations to determine the manpower need for radiation
19 technologists in North Carolina;
- 20 (11) Maintain a record of all proceedings and make available to licensees
21 and other concerned parties an annual report of all Board action;
- 22 (12) Set fees for licensure, license renewal, examination, reexamination,
23 and other services deemed necessary to carry out the purposes of this
24 Article; and
- 25 (13) Adopt a seal containing the name of the Board for use on all
26 certificates, licenses, and official reports issued by it.

27 (b) The powers and duties enumerated above are granted for the purpose of
28 enabling the Board to protect the public health, welfare, and safety against unqualified
29 or incompetent practitioners of radiation technology and shall be liberally construed to
30 accomplish this objective.

31 **"§ 90-345.6. Executive Director.**

32 The Executive Director shall perform the duties prescribed by the Board, serve as
33 treasurer to the Board and furnish a surety bond as required by the Board. The bond
34 shall be made payable to the Board.

35 **"§ 90-345.7. Custody and use of funds.**

36 The Executive Director shall deposit in financial institutions designated by the
37 Board as official depositories all fees payable to the Board. The funds shall be
38 deposited in the name of the Board and shall be used to pay all expenses incurred by the
39 Board in carrying out the purposes of this Article. Such funds shall be annually audited
40 by the State Auditor.

41 **"§ 90-345.8. The Board may accept contributions, etc.**

42 The Board may accept grants, contributions, devices, bequests, and gifts that shall be
43 kept in a separate fund and shall be used by it to enhance the practice of radiation
44 technology.

1 **"§ 90-345.9. Expenses and fees.**

2 (a) All salaries, compensation, and expenses incurred or allowed for the purpose
3 of carrying out the purposes of this Article shall be paid by the Board exclusively out of
4 the fees received by the Board as authorized by this Article, or funds received from
5 other sources. In no case shall any salary, expense, or other obligations of the Board be
6 charged against the Treasury of the State of North Carolina. All monies and receipts
7 shall be kept in a special fund by and for the use of the Board for the exclusive purpose
8 of carrying out the provisions of this Article.

9 (b) The schedule of fees shall not exceed the following:

- 10 (1) Each application for examination (including the cost of examination)
11 \$70.00
12 (2) Certificate of licensure without examination 50.00
13 (3) Each application for reexamination (including the cost of examination)
14 55.00
15 (4) Licensure renewal 35.00
16 (5) Reinstatement of lapsed license to practice 50.00
17 (6) Reasonable charges for duplication services and material.

18 **"§ 90-345.10. Technologists previously registered.**

19 The Board shall issue a license to practice as a radiation technologist to any
20 individual who applies to the Board within one year from the effective date of this
21 Article and furnishes to the Board on a form approved by the Board proof of
22 employment either as a radiologic technologist, or a radiation therapy technologist or
23 nuclear medicine technologist. In addition, the following must be shown for each
24 specialty:

- 25 (1) Radiologic Technologist. A current certificate from the American
26 Registry of Radiologic Technologists in radiologic technology
27 (radiography).
28 (2) Radiation Therapy Technologist. A current certificate from the
29 American Registry of Radiologic Technologists in radiation therapy.
30 (3) Nuclear Medicine Technologist. A current certificate from the
31 American Registry of Radiologic Technologists in nuclear medicine or
32 the Nuclear Medicine Technology Certification Board.

33 **"§ 90-345.11. Technologists not registered.**

34 Individuals who have been engaged in the practice of radiation technology under the
35 supervision of a licensed practitioner for four years after January 1, 1988, shall be
36 eligible for licensure without examination in their specialty of radiologic technology
37 (radiography), radiation therapy technology, or nuclear medicine technology by meeting
38 the following criteria:

- 39 (1) Proof of good moral character; and
40 (2) Proof of practice in North Carolina for the two years immediately
41 preceding the effective date of this Article.

42 Any application made pursuant to this section must be filed with the Board on or
43 before July 1, 1992.

44 **"§ 90-345.12. Licensure without examination.**

1 The Board may issue a license to practice, without examination, to an applicant:

- 2 (1) Who is duly licensed in good standing under laws of another state
3 when that state's requirements for licensure as a radiation technologist
4 are substantially equivalent to or exceed those of the State of North
5 Carolina at the time the applicant was initially licensed, and when in
6 the Board's opinion, the applicant is competent to practice as a
7 radiation technologist or as the case may be; or
8 (2) Who has met all criteria for licensure by examination in North
9 Carolina and who is registered in good standing in conformance with
10 the appropriate criteria established in G.S. 90-345.10(1), (2), or (3).

11 **"§ 90-345.13. Applicants for examination.**

12 Any person who desires to be licensed pursuant to G.S. 90-345.11 must submit an
13 application on a form approved by the Board and must demonstrate proof of (i) good
14 moral character, and (ii) graduation from an educational program as defined in this act.

15 **"§ 90-345.14. Examination.**

16 At least twice each year, the Board shall give an examination to applicants for
17 licensure at a time and place to be determined by the Board. The applicants shall be
18 required to pass a written examination. When the Board determines that an applicant
19 has met all the qualifications for licensure, and has submitted the required fee, the Board
20 shall issue a license to the applicant, showing thereon the appropriate specialty.

21 **"§ 90-345.15. Reexamination.**

22 Any applicant who fails to pass the first licensure examination may take different
23 forms of the examination in accordance with rules adopted by the Board.

24 **"§ 90-345.16. License renewal.**

25 Every license issued under this Article shall be renewed during the month of January
26 of each year. On or before the date the current license expires, every individual who
27 wishes to continue practice shall apply for a license renewal and submit the required
28 fee. Licenses that are not so renewed shall automatically lapse. A license that has
29 lapsed may be reissued in the same manner as for renewal within five years from the
30 date of lapse. A license that has been expired for more than five years may be reissued
31 only in a manner prescribed by the Board.

32 **"§ 90-345.17. Continuing education.**

33 (a) The Board shall require evidence of successful completion of a continuing
34 educational program as a condition of license renewal. The Board shall determine the
35 number of hours and subject matter of continuing education required as a condition of
36 license renewal.

37 (b) Upon request by an accredited educational institution, the Board shall grant
38 approval to a continuing education program or course upon finding that the program or
39 course offers an educational experience designed to enhance the practice of radiation
40 technology.

41 (c) If the program offers to teach licensees to perform advanced skills, the Board
42 may grant approval for the program and the performance of the advanced skills by those
43 successfully completing the program when it finds that the nature of the procedures
44 taught in the program and the program facilities and faculty are such that a licensee

1 fully completing the program can reasonably be expected to carry out those procedures
2 safely and properly.
3 Nothing in this section or in any other part of this Article may be construed to imply,
4 encourage, or authorize site visits to schools, colleges, or college-used facilities as a part
5 of or as being prerequisite to approval of a program.

6 **"§ 90-345.18. Inactive list.**

7 (a) When a licensee submits a request for inactive status, the Board shall issue to
8 the licensee a statement of inactive status and shall place the licensee's name on the
9 inactive list. While on the inactive list, the person shall not be subjected to renewal
10 requirements and shall not practice radiation technology in North Carolina.

11 (b) When such person desires to be removed from the inactive list and returned to
12 the active list, an application shall be submitted to the Board on a form furnished by the
13 Board and the fee shall be paid for license renewal. The Board shall require evidence of
14 competency to resume the practice of radiation technology before returning the
15 applicant to active status.

16 **"§ 90-345.19. Exemptions from licensure.**

17 The following individuals shall be permitted to practice radiologic technology,
18 radiation therapy, or nuclear medicine technology without a license:

- 19 (1) Students enrolled in an educational program, when the student is
20 engaged in completing a clinical education requirement for graduation
21 and is performing under the direction, as defined by the Board, of a
22 licensed technologist;
- 23 (2) Graduates from an educational program for a period of six months
24 following the date of graduation from the approved program;
- 25 (3) Individuals who engage in the practice of radiation technology while
26 seeking licensure pursuant to G.S. 90-345.11 until Board action on
27 their application or July 1, 1990, whichever is sooner;
- 28 (4) A licensed practitioner or a student in a school leading to licensure as
29 such;
- 30 (5) Licensed dental hygienists and certified dental assistants who operate
31 dental X-ray equipment for the sole purpose of oral radiography and
32 who show evidence of satisfactory performance on an examination,
33 established by the Board of Dental Examiners, based on a course of
34 study in the production and use of dental X rays and the application of
35 radiation protection measures.
- 36 (6) Individuals who perform radiation technology on the foot and ankle
37 while under the supervision of a North Carolina licensed podiatrist
38 when such individuals have received a certificate of registration from
39 the North Carolina Board of Podiatry Examiners and when such
40 individuals have successfully completed the course of study approved
41 by the North Carolina Board of Podiatry Examiners testing knowledge
42 of radiography of the foot and ankle. Such individuals shall not use
43 contrast media, radioactive materials, or radiation therapy. Such
44 individuals shall perform radiography of the foot and ankle only under

1 the orders of a licensed podiatrist who shall be on the premises when
2 the radiography is taking place.

3 **"§ 90-345.20. Unlawful practice.**

4 (a) Subject to the provisions of G.S. 90-345.19, it shall be a violation of this
5 Article for a person to:

- 6 (1) Practice radiation therapy, technology, radiologic technology, or
7 nuclear medicine technology without a license;
- 8 (2) Employ or solicit unlicensed individuals to practice radiologic
9 technology, radiation therapy technology, or nuclear medicine
10 technology;
- 11 (3) Use in connection with his name any letters, words, or insignia
12 implying he is a licensed radiologic technologist, radiation therapy
13 technologist or nuclear medicine technologist unless he is licensed in
14 accordance with this Article;
- 15 (4) Sell, fraudulently obtain, or fraudulently furnish any certificate of
16 graduation from an educational program;
- 17 (5) Practice radiologic technology, radiation therapy, technology, or
18 nuclear medicine technology, under cover of any fraudulently obtained
19 license; or
- 20 (6) Conduct an educational program that is not approved by the Board.

21 (b) Any violation of this Article shall be a misdemeanor punishable in the
22 discretion of the court.

23 **"§ 90-345.21. Disciplinary authority of the Board.**

24 Grounds for disciplinary action shall include but not be limited to the following:

- 25 (1) Giving false information or withholding material information from the
26 Board in procuring or attempting to procure a license to practice as a
27 radiation technologist;
- 28 (2) Having been convicted of or pled guilty or no contest to any crime that
29 indicates that the person is unfit or incompetent to practice as a
30 radiation technologist or that indicates that the person has deceived or
31 defrauded the public;
- 32 (3) Having a mental or physical disability or using any drug to a degree
33 that interferes with his or her fitness to practice radiation technology;
- 34 (4) Engaging in professional conduct that endangers the public health;
- 35 (5) Being unfit or incompetent to practice radiation technology by reason
36 of deliberate or negligent acts or omissions regardless of whether
37 actual injury to a patient is established;
- 38 (6) Conduct an educational program other than as defined in this act;
- 39 (7) Willfully violating any provision of this Article or of regulations
40 enacted by the Board;
- 41 (8) Having pled guilty or no contest to an offense under State or federal
42 narcotic or controlled substance laws or having been found guilty of
43 same.

1 In accordance with the provisions of Chapter 150A of the General Statutes, the
2 Board may require remedial education, issue a letter or reprimand, restrict, revoke, or
3 suspend any license to practice as a radiation technologist in North Carolina or deny any
4 application of licensure if the Board determines that the applicant or licensee has
5 committed any of the above acts. The Board may reinstate a revoked license or remove
6 licensure restrictions when it finds that the reasons for revocation or restriction no
7 longer exist and that the person can reasonably be expected to practice radiation
8 technology safely and properly.

9 **"§ 90-345.22. Enjoining illegal practices.**

10 If the Board finds that any person is violating any of the provisions in this Article it
11 may apply in its own name to the superior court for a temporary or permanent
12 restraining order or injunction to prevent such person from continuing such illegal
13 practices. The court is empowered to grant such injunctions regardless of whether
14 criminal prosecution or other action has been or may be instituted as a result of such
15 violation. All actions by the Board shall be governed by the Rules of Civil Procedure
16 and Article 37 of Chapter 1 of the General Statutes.

17 The venue for actions brought under this Article shall be the Superior Court of Wake
18 County, North Carolina.

19 **"§ 90-345.23. Reports; immunity from suit.**

20 Any person who has reasonable cause to suspect misconduct or incapacity of a
21 licensee, or who has reasonable cause to suspect that any person is in violation of this
22 Article, shall report the relevant facts to the Board. Upon receipt of such charge, or
23 upon its own initiative, the Board may give notice of an administrative hearing or may,
24 after diligent investigation, dismiss unfounded charges. Any person making a report
25 pursuant to this section shall be immune from any criminal prosecution or civil liability
26 resulting therefrom.

27 **"§ 90-345.24. Election.**

28 Between September 1, and December 31, 1990, the North Carolina Society of
29 Radiologic Technologists, Inc., and the North Carolina Society of Nuclear Medicine
30 shall conduct an election to select the members of the initial North Carolina Board of
31 Radiation Technology Examiners. All voting members in good standing of the
32 Associations shall be eligible to vote in said election. The Society shall be reimbursed
33 for all reasonable election expenses by the Board and said expenses shall be considered
34 a reasonable expense of the Board. The initial persons elected shall take office in
35 January 1, 1991, and shall meet the qualifications set forth in this Article and shall
36 comply with its provisions in all respects."

37 Sec. 2. Severability. If any provision of this Article or the application
38 thereof to any person or circumstances is held invalid the validity of the remainder of
39 the act and of the application of such provision to other persons and and circumstances
40 shall not be affected thereby.

41 Sec. 3. This act shall become effective January 1, 1990.