

Department of State Health Services
Agenda Item for State Health Services Council
January 12-13, 2006

Agenda Item Title: Amendments 25 TAC Chapter 143 relating to the certification and regulation of medical radiologic technologists.

Agenda Number: 3g

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: Revisions to the rules are necessary to implement provisions of House Bill 2680, 79th Legislature, Regular Session (2005), relating to reduced fees and continuing education requirements for retired health professionals, including medical radiologic technologists, engaged in the provision of voluntary charity care.

These rules constitute the agency review of rules required by Government Code §2001.039, which was delayed due to the abolishment of the Board of Health.

Summary: The proposed amendments, repeal, and adoption of new sections are necessary to implement House Bill 2292, 78th Legislature (2003) which added Health and Safety Code, §§12.0111 and 12.0112; House Bill 2985, 78th Legislature (2003) which added Occupations Code, Chapter 101, Subchapter G relating to fees; and HB 2680, 79th Legislature, Regular Session (2005), relating to reduced fees and continuing education requirements for retired health professionals, including medical radiologic technologists, engaged in the provision of voluntary charity care.

In addition, the rules clarify and refine several specific technical requirements in accordance with advisory committee recommendations. The proposed amendments provide new definitions for x-ray equipment, portable x-ray equipment and stationary x-ray equipment; amend the fee and add a new section concerning language for returned checks to the department; remove language allowing a 120-day continuing education extension; amend language for how many copies of an application for a limited certificate program must be submitted to the department; amend wording for a site inspection; reduce instructor-directed continuing education requirements from 50% of required hours to 3 hours; change the allowed verifiable independent self-study from 50% of hours to no more than 21 hours for a medical radiological technologist and 9 hours for a limited medical radiological technologist; add new language defining engaging in sexual misconduct as unprofessional conduct; amend language on mammography to coordinate with the Radiation Control Program; and amend language concerning the expiration date for non-certified technicians; Amendments have been added to update and clarify the rules.

These rules constitute the agency review of rules required by Government Code §2001.039, which was delayed due to the abolishment of the Board of Health.

Summary of Stakeholder Input to Date (including advisory committees):

Stakeholder input has been solicited through verbal and written communication with stakeholders and through the medical radiologic technologist program web site.

Proposed Motion: Motion to recommend to HHSC approval for publication of rules contained in agenda item # 3g.

Agenda Item Approved by: Richard B. Bays /s/ -

Presented by: Debbie Peterson **Title:** Unit Manager

Program/Division: PLC **Contact Name/Phone:** Debbie Peterson 834-2725

Date Submitted

11/30/05

Title 25. HEALTH SERVICES.
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 143. Medical Radiologic Technologists
Amendments §§143.1 – 143.20

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§143.1 - 143.20, concerning the certification and regulation of Medical Radiologic Technologists.

BACKGROUND AND PURPOSE

Revisions to the rules are necessary to implement House Bill 2680, 79th Texas Legislature, Regular Session (2005), located in Occupations Code, Chapter 112, relating to reduced fees and continuing education requirements for retired health professionals, including medical radiologic technologists, engaged in the provision of voluntary charity care. In addition, the proposed amendments to Chapter 143 concern medical radiologic technologists definitions; fees; standards for the approval of curricula and instructors; continuing education; disciplinary actions; dangerous or hazardous procedures; mandatory training programs for non-certified technicians; and hardship exemptions. Government Code Chapter 2054 directs all department administered licensing programs to participate in Texas Online, an electronic fee payment system developed and maintained by the Texas Online Authority. Wording is added that authorizes the department to collect subscription and convenience fees, in amounts to be determined by the Texas Online Authority, to recover costs associated with application and renewal application processing. Occupations Code Chapter 101, Subchapter G establishes, the Office of Patient Protection with the Health Professions Council and requires additional fees to fund it. Wording is added to allow the collection of fees required by the Office of Patient Protection.

The proposed amendments are necessary to implement House Bill 2292, 78th Texas Legislature, Regular Session (2003) which added Health and Safety Code, §§12.0111 and 12.0112; and House Bill 2680, 79th Texas Legislature, Regular Session (2005), relating to reduced fees and continuing education requirements for retired health professionals, including medical radiologic technologists engaged in the provision of voluntary charity care.

The proposed amendments provide new definitions for the commissioner, x-ray equipment, portable x-ray equipment, and stationary x-ray equipment; amend the fee and add a new section concerning language for returned checks to the department; remove language allowing a 120-day continuing education extension; amend language for how many copies of an application for a limited certificate program must be submitted to the department; amend wording for a site inspection; reduce instructor-directed continuing education requirements from 50% of required hours to 3 hours; change the allowed verifiable independent self-study from 50% of hours to no more than 21 hours for a medical radiological technologist and 9 hours for a limited medical radiological technologist; add new language defining engaging in sexual misconduct as unprofessional conduct; add language to include non-certified technicians in certifying persons with criminal backgrounds; amend language concerning the expiration date for non-certified technicians; and remove language regarding persons registered to take Texas Medical Association's/Texas Osteopathic Medical Association's Physician Training program.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001

(Administrative Procedure Act). Sections 143.1-143.20 have been reviewed and the need for the rules continues to exist; however revisions are necessary to implement recent legislation and to update and clarify the rules.

SECTION-BY-SECTION SUMMARY

An amendment to §143.1 updates the scope of these rules with language on applicability of chapter; exemptions. Amendments to §143.2 update language to reflect the change in agency name; delete 'Board of Health' and administrator; update the definition of mobile service operation, add the definition for x-ray equipment portable and stationary equipment, and remove current definition of portable and mobile x-ray equipment. Section 143.3 is amended to update language to reflect the agency name change and change 'board' to 'department'. Amendments to §143.4 change the fee for limited, non-certified technician training program to reflect biennial renewals; include language to reflect collection of fees for returned checks; include the renewal fee for retired medical radiologic technologists providing voluntary charity care; and include language to reflect the authority to collect fees for Texas Online and Office of Patient Protection. Section 143.5 is amended to update language to reflect the agency name change. Amendments to §143.6 remove language requiring submission of a photo with the application packet and change language from "administrator" to "department". Section 143.7 is amended to remove grandfather clause on requirements and update language. Section 143.8 is amended to clarify language for temporary general and temporary limited certificates. Amendments to §143.9 reflect a change in how many copies an applicant is required to send to the department regarding an application for limited certificate program and update language for site inspections. Amendments to §143.10 update the term of licensure from annual to biennial; remove the 120-day continuing education extension; and add new language for renewal of a retired medical radiologic technologist performing voluntary charity care. Amendments to §143.11 modify the continuing education requirements for MRTs and LMRTs; and remove continuing education extension language. Section 143.12 is amended to change language from "administrator" to "department". Section 143.13 is amended to add the non-certified technician to language regarding applications by persons with criminal backgrounds. Section 143.14 is amended to add language regarding sexual misconduct. Section 143.15 is amended to clarify language to include all certificate holders limited and non-certified technicians. Amendments to §143.16 replace "mobile radiography" with "portable x-ray equipment", update language for agency name, and update rule citations. Section 143.17 is amended to update rule citations. Section 143.18 is amended to update language to reflect two-year renewal terms. An amendment to 143.19 removes language regarding persons registered to take Texas Medical Association's/Texas Osteopathic Medical Association's Physician Training program, which no longer exists and replaces "administrator" with "department". An amendment to 143.20 removes language regarding persons registered to take Texas Medical Association's/Texas Osteopathic Medical Association's Physician Training program, which no longer exists and updates agency's new name.

FISCAL NOTE

Kathy Perkins, Director, Health Care Quality Section, has determined that for each year of the first five years the sections are in effect, there will be fiscal implications to state or local government as a result of enforcing or administering the sections as proposed. The impact of the possible decrease in renewal fees collected due to the implementation of reduced renewal fees for retired medical radiologic technologists over the age of 55 providing voluntary charity care is estimated to be \$4,712. Approximately 377 medical radiologic technologists are estimated to provide retired voluntary charity care services at a reduced renewal fee of \$25 biennially.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Perkins has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Ms. Perkins has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to continue to ensure public health and safety through the certification and regulation of medical radiologic technologists.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Pam K. Kaderka, Professional Licensing and Certification Unit, Division for Regulatory Services, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/834-6628 or by email to Pam.Kaderka@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Cathy Campbell, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments are authorized by Texas Occupations Code, Chapter 601; Government Code, §531.0055; and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Chapter 1001, Health and Safety Code.

The proposed amendments affect the Occupations Code, Chapter 601; Health and Safety Code, Chapter 1001; and Government Code, Chapter 531.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§143.1. Purpose and Scope.

(a) (No change.)

(b) Scope. These sections cover definitions; the Medical Radiologic Technologist Advisory Committee; fees; applicability of chapter; exemptions **[(exceptions to certification)]**; application requirements and procedures; types of certificates; examinations; standards for curricula and instructor approval; certificate renewal; continuing education requirements; changes of name or address; certifying persons with criminal backgrounds to be medical radiologic technologists; disciplinary actions; alternate eligibility requirements; dangerous or hazardous procedures; mandatory training programs for non-certified technicians; registry of non-certified technicians; hardship exemptions; and alternate training requirements.

§143.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

[(2) Administrator--The department employee designated as the administrator of regulatory activities authorized by the Act.]

(2) [(3)] Applicant--A person who applies to the [Texas] Department of State Health Services for a certificate or temporary certificate, general or limited or a provisional certificate.

(3) [(4)] ARRT--The American Registry of Radiologic Technologists and its predecessor or successor organizations.

[(5) Board--The Texas Board of Health.]

(4) [(6)] Cardiovascular (CV)--Limited to radiologic procedures involving the use of contrast media and or ionizing radiation for the purposes of diagnosing or treating a disease or condition of the cardiovascular system.

(5) [(7)] Certificate--A medical radiologic technologist certificate, general, limited or provisional, unless the wording specifically refers to one or the other, issued by the [Texas] Department of State Health Services.

(6) [(8)] Chiropractor--A person licensed by the Texas State Board of Chiropractic Examiners to practice chiropractic.

(7) Commissioner – The Commissioner of the Department of State Health Services.

(8) [(9)] Committee--The Medical Radiologic Technologist Advisory Committee.

(9) [(10)] Dentist--A person licensed by the Texas State Board of Dental Examiners to practice dentistry.

(10) [(11)] Department--The [Texas] Department of State Health Services.

(11) [(12)] Federally qualified health center (FQHC)--A health center as defined by 42 United States Code, §1396d(2)(B).

(12) [(13)] Fluoroscopy--The practice of examining tissues using a fluorescent screen, including digital and conventional methods.

(13) [(14)] Fluorography--Hard copy of a fluoroscopic image; also known as spot films.

(14) [(15)] General certification--An authorization to perform radiologic procedures.

(15) [(16)] Instructor--An individual approved by the department to provide instruction and training in the discipline of medical radiologic technology in an educational setting.

(16) [(17)] Limited certification--An authorization to perform radiologic procedures that are limited to specific parts of the human body.

(17) [(18)] Limited Medical Radiologic Technologist (LMRT)--A person who holds a limited certificate issued under the Act, and who under the direction of a practitioner, intentionally administers radiation to specific parts of the bodies of other persons for medical reasons. The limited categories are the skull, chest, spine, extremities, podiatric, chiropractic and cardiovascular.

(18) [(19)] Medical radiologic technologist (MRT)--A person who holds a general certificate issued under the Act, and who, under the direction of a practitioner, intentionally administers radiation to other persons for medical reasons.

(19) ~~[(20)]~~ Mobile service operation **[radiography]**--The provision of radiation machines and personnel at temporary sites for limited time periods. The radiation machines may be fixed inside a motorized vehicle or may be a portable radiation machine that may be removed from the vehicle and taken into a facility for use **[Includes mobile x-ray equipment and portable x-ray equipment]**.

[(21) Mobile x-ray equipment--Equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled.]

(20) ~~[(22)]~~ NMTCB--Nuclear Medicine Technology Certification Board and its successor organizations.

(21) ~~[(23)]~~ Non-Certified Technician (NCT)--A person who has completed a training program and who is listed in the registry. An NCT may not perform a radiologic procedure which has been identified as dangerous or hazardous.

(22) ~~[(24)]~~ Pediatric--A person within the age range of fetus to age 18 or otherwise required by Texas law, when the growth and developmental processes are generally complete. These rules do not prohibit a practitioner taking into account the individual circumstances of each patient and determining if the upper age limit requires variation by not more than two years.

(23) ~~[(25)]~~ Physician--A person licensed by the Texas Medical **[State]** Board **[of Medical Examiners]** to practice medicine.

(24) ~~[(26)]~~ Physician assistant--A person licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners.

(25) ~~[(27)]~~ Podiatrist--A person licensed by the Texas State Board of Medical Podiatric **[Medical]** Examiners to practice podiatry.

[(28) Portable x-ray equipment – Equipment designed to be hand-carried.]

(26) ~~[(29)]~~ Practitioner--A doctor of medicine, osteopathy, podiatry, dentistry, or chiropractic who is licensed under the laws of this state and who prescribes radiologic procedures for other persons for medical reasons.

(27) ~~[(30)]~~ Provisional medical radiologic technologist (PMRT)--An authorization to perform radiologic procedures not to exceed 180 days for individuals currently licensed or certified in another jurisdiction.

(28) ~~[(31)]~~ Radiation--Ionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures.

(29) [(32)] Radiologic procedure--Any procedure or article intended for use in the diagnosis of disease or other medical or dental conditions in humans (including diagnostic x-rays or nuclear medicine procedures) or the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of ionizing radiation.

(30) [(33)] Registered nurse--A person licensed by the Board of Nurse Examiners to practice professional nursing.

(31) [(34)] Registry--A list of names and other identifying information of non-certified technicians.

(32) [(35)] Sponsoring institution--A hospital, educational, or other facility, or a division thereof, that offers or intends to offer a course of study in medical radiologic technology.

(33) [(36)] Supervision--Responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

(34) [(37)] Temporary certification, general or limited--An authorization to perform radiologic procedures for a limited period, not to exceed one year.

(35) [(38)] TRCR--Texas Regulations for the Control of Radiation, 25 Texas Administrative Code, Chapter 289 of this title. The regulations are available from the [Standards Branch, Bureau of] Radiation Branch [Control, Texas] Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189 (phone 1-512-834-6688).

(36) X-ray equipment--An x-ray system, subsystem, or component thereof. For the purposes of this rule, types of x-ray equipment are as follows:

(A) portable x-ray equipment--x-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled. Portable x-ray equipment may also include equipment designed to be hand-carried; or

(B) stationary x-ray equipment--x-ray equipment that is installed in a fixed location.

§143.3. Medical Radiologic Technologist Advisory Committee.

(a) The committee. An advisory committee shall be appointed under and governed by this section.

(1) (No change.)

(2) The committee is established under the Health and Safety Code, §11.016, which allows the department [**Board of Health (board)**] to establish advisory committees.

(b) (No change.)

(c) Purpose. The purpose of the committee is to recommend rules and examinations for the approval of the department [**board**].

(d) Tasks.

(1) The committee shall advise the department [**board**] concerning rules to implement standards adopted under the Act relating to the regulation of persons performing radiologic procedures.

(2) The committee shall carry out any other tasks given to the committee by the department [**board**].

(e) Review and duration. By November 1, 2007, the department [**board**] will initiate and complete a review of the committee to determine whether the committee should be continued, consolidated with another committee, or abolished. If the committee is not continued or consolidated, the committee shall be abolished on that date.

(f) Composition. The committee shall be composed of eleven members appointed by the department [**board**]. The composition of the committee shall include:

(1) – (8) (No change.)

(g) – (i) (No change.)

(j) Attendance. Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which the member is assigned.

(1) – (3) (No change.)

(4) The attendance records of the members shall be reported to the department [**board**]. The report shall include attendance at committee and subcommittee meetings.

(k) – (m) (No change.)

(n) Statements by members.

(1) The [**board, the**] department[,], and the committee shall not be bound in any way by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the [**board,**] department[,], or the committee.

(2) – (6) (No change.)

[(o) Reports to board. The committee shall file an annual written report with the board.]

[(1) The report shall list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished the tasks given to the committee by the board, the status of any rules which were recommended by the committee to the board, and anticipated activities of the committee for the next year.]

[(2) The report shall identify the costs related to the committee's existence, including the cost of department staff time spent in support of the committee's activities and the source of funds used to support the committee's activities.]

[(3) The report shall cover the meetings and activities in the immediate preceding 12 months and shall be filed with the board each November. It shall be signed by the presiding officer and appropriate department staff.]

(o) **[(p)]** Reimbursement for expenses. In accordance with the requirements set forth in the Government Code, Chapter 2110, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business if authorized by the General Appropriations Act or budget execution process.

(1) – (5) (No change.)

§143.4. Fees.

(a) Unless otherwise specified, the fees established in this section must be paid to the department before a certificate is issued. All fees shall be submitted in the form required by the department **[of a personal check, certified check or a money order, if paid by mail. If submitted in person, cash may be accepted by the department's cashier]**. All fees are nonrefundable.

(b) The schedule of fees is as follows:

(1) – (13) (No change.)

(14) limited curriculum application fee--~~\$900~~ **[\$450 per year]** two-year term per course of study;

(15) – (17) (No change.)

(18) training program biennial renewal fee--~~\$300~~ **[\$150]** (the renewal fee for training programs accredited by the Texas Higher Education Coordinating Board shall be waived);

(19) (No change.)

(20) biennial **[annual]** limited curriculum approval fee for general certificate programs--~~\$450~~ **[\$225]**;

(21) non-certified technician application fee--~~\$50~~ **[\$25]**;

(22) non-certified technician renewal fee--~~\$50~~ **[\$25]**;

(23) – (25) (No change.)

(26) returned check fee--~~\$50~~; and **[\$25.]**

(27) retired medical radiologic technologist biennial renewal fee--\$25.

(c) For all applications and renewal applications, the board is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

(d) For all applications and renewal application, the department is authorized to collect fees to fund the Office of Patient Protection, Health Professions Council, as mandated by law.

(e) An applicant whose check for the application and initial certification fee is returned due to insufficient funds, account closed, or payment stopped shall be allowed to reinstate the application by remitting to the department a money order or check for guaranteed funds in the amount of the application and initial certification fee plus the returned check fee within 30 days of the date of receipt of the department's notice. An application will be considered incomplete until the fee has been received and cleared through the appropriate financial institution.

(f) An approved applicant whose check for the temporary or certificate fee is returned marked insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the temporary or certificate fee plus the returned check fee within 30 days of the date of receipt of the department's notice. Otherwise, the application and the approval shall be invalid.

(g) A certificate holder whose check for the renewal fee is returned due to insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the renewal fee plus the returned check fee within 30 days of the date of receipt of the department's notice. Otherwise, the certificate shall not be renewed. If a renewal certificate has already been issued, it shall be invalid.

(h) If the department's notice, as set out in subsections (e)-(g) of this section, is returned unclaimed, the department shall mail the notice to the applicant or certificate holder by certified mail. If a money order or check for guaranteed funds is not received by the department's cashier within 30 days of the postmarked date on the second mailing, the approval or certificate issued shall be invalid.

(i) The department shall make periodic reviews of the fee schedule and recommend any adjustments necessary to provide sufficient funds to meet the expenses of the medical radiologic technologist certification program without creating an unnecessary surplus. Such adjustments shall be made through rule amendments.

(j) The department may notify the applicant's or the certificate holder's employer that the person has failed to comply with this section and that any approval granted or certificate issued is no longer valid.

§143.5. Applicability of Chapter; Exemptions.

(a) – (b) (No change.)

(c) This chapter does not prohibit the performance of a radiologic procedure which has not been identified as dangerous or hazardous under §143.16 of this title (relating to Dangerous or Hazardous Procedures) by the following:

(1) a person who has successfully completed a training program for non-certified technicians (NCT), in accordance with §143.17 of this title (relating to Mandatory Training Programs for Non-Certified Technicians) and who performs the procedure under the instruction or direction of a practitioner if the person and the practitioner are in compliance with rules adopted under the Act, §§601.251 - 601.253, by the Texas State Board of Chiropractic Examiners, Texas Medical [State] Board [of **Medical Examiners**], Texas State Board of Nurse Examiners, or Texas State Board of Medical Podiatry Examiners;

(2) – (7) (No change.)

§143.6. Application Requirements and Procedures For Examination and Certification.

(a) (No change.)

(b) Required application materials.

(1) The application form shall contain the following items:

(A) – (F) (No change.)

(G) a statement that the information in the application is truthful and that the applicant understands that providing false or misleading information which is material in determining the applicant's qualifications may result in the voiding of the application and failure to be granted any certificate or the revocation of any certificate issued; and

(H) (No change.)

[(I) the signature of the applicant which has been dated; and]

[(J) a full-face color photo signed on the reverse side with the applicant's signature as it appears on the application. The photograph must have been taken within the two-year period prior to application to the department and the minimum size is 1-1/2 inches by 1-1/2 inches.]

(2) – (3) (No change.)

(c) Application approval.

(1) The department **[administrator]** shall be responsible for reviewing all applications.

(2) The department **[administrator]** shall approve any application which is in compliance with this chapter and which properly documents applicant eligibility, unless the application is disapproved under the provisions of subsection (d) of this section.

(d) Disapprove applications.

(1) (No change.)

(2) If the department **[administrator]** determines that the application should not be approved, the department **[administrator]** shall give the applicant written notice of the reason for the disapproval and of the opportunity for a formal hearing in accordance with the Administrative Procedure Act [with the department's formal hearing procedures in Chapter 1 of this title (relating to Texas Board of Health)]. Within ten days after receipt of the written notice, the applicant shall give written notice to the department **[administrator]** to waive or request the hearing. If the applicant fails to respond within ten days after receipt of the notice of opportunity or if the applicant notifies the department **[administrator]** that the hearing be waived, the department shall disapprove the application.

(3) (No change.)

(e) Application processing.

(1) (No change.)

(2) The department shall comply with the following procedures in processing refunds of fees paid to the department.

(A) In the event an application is not processed in the time periods stated in paragraph (1) of this subsection, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the department **[administrator]**. If the department **[administrator]** does not agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request will be denied.

(B) (No change.)

[(3) If a request for reimbursement under paragraph (2) of this subsection is denied by the administrator, the applicant may appeal to the commissioner of health for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the commissioner of health at the address of the department that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time period. The administrator shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period. The commissioner of health shall provide written notice of the decision to the applicant and the program administrator. An appeal shall be decided in favor of the applicant, if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.]

(3) [(4)] The time periods for contested cases related to the denial of certification or renewal are not included with the time periods stated in paragraph (1) of this subsection. The time period for conducting a contested case hearing runs from the date the department receives a written request for a hearing and ends when the decision of the department is final and appealable. **[A hearing may be completed within three to six months, but may extend for a longer period of time depending on the particular circumstances of the hearing.]**

§143.7. Types of Certificates and Applicant Eligibility.

(a) – (e) (No change.)

(f) Temporary general medical radiologic technologist **[(general)]**. To qualify as a temporary general medical radiologic technologist **[(general)]**, an applicant shall meet at least one of the following requirements. These are in addition to those listed in subsection (c) of this section. For the general temporary certificate, an applicant must:

(1) – (5) (No change.)

(g) – (i) (No change.)

§143.8. Examinations.

(a) Examination eligibility.

(1) Holders of a temporary general certificate [**certificates**] or temporary limited certificate [**or general**] may take the appropriate examination provided the person complies with the requirements of the Act and this chapter.

(2) (No change.)

(b) – (i) (No change.)

§143.9. Standards for the Approval of Curricula and Instructors.

(a) – (b) (No change.)

(c) Application procedures for limited certificate programs which are not accredited by JRCERT or JRCCVT. An application shall be submitted to the department at least ten weeks prior to the starting date of the program to be offered by a sponsoring institution. Official application forms are available from the department and must be completed and signed by the program director of the sponsoring institution's [**institutions**] program. Program directors shall be responsible for the curriculum, the organization of classes, the maintenance and availability of facilities and records, and all other policies and procedures related to the program or course of study.

(1) (No change.)

(2) An original and one copy [**four copies**] of the entire application and supporting documentation must be submitted in three-ring binders with all pages clearly legible and consecutively numbered. Each application binder must contain a table of contents and must be divided with tabs identified to correspond with the items listed in this section. If any item is inapplicable, a page shall be included behind the tab for that item with a statement explaining the inapplicability.

(3) – (7) (No change.)

(8) In making application to the department, the program director shall agree in writing to:

(A) – (F) (No change.)

(G) issue to each student, upon successful completion of the program, a written statement in the form of a diploma or certificate of completion, which shall include the program's name, the student's name, the date the program began, the date of completion, the

categories of instruction, and the signatures of the program director or independent sponsor and medical director/program advisor;

(H) **[permit]** site inspections by departmental representatives to determine compliance and conformity with the provision of this section will be at the discretion of the department; **[In lieu of a site inspection, the department may accept the most recent site visit report from a recognized accrediting body set out in subsection (b)(1) of this section;]**

(I) – (J) (No change.)

(9) – (10) (No change.)

(d) – (h) (No change.)

§143.10. Certificate Issuance, Renewals, and Late Renewals.

(a) – (b) (No change.)

(c) Certificates. The initial general or limited certificate is valid for two years through the medical radiologic technologist's (MRT's) or limited medical radiologic technologist's (LMRT's) **[next]** birth month**]; however, when the next birth month occurs within six months, the certificate shall be issued for that period plus the next full year in order to establish a staggered renewal system]**.

(d) Certificate renewal. Each MRT or LMRT shall renew the certificate biennially on or before the last day of the MRT's or LMRT's birth month.

(1) – (3) (No change.)

(4) The MRT or LMRT has renewed the certificate when the renewal form and required renewal fee are mailed on or before the expiration date of the certificate and received by the department **[administrator]**. The postmarked date shall be considered the date of mailing. The processing times and procedures set out in §143.6(e) of this title shall apply to renewals.

(5) (No change.)

(6) The department shall issue renewal identification cards for the current renewal period to an MRT or LMRT who has met all the requirements for renewal. The cards shall be sent to the preferred mailing address provided on the renewal application form. The renewal cards shall be issued for a two-year period **[except when a certificate is renewed in accordance with paragraph (7) of this subsection or subsection (e) of this section]**.

(7) The department shall issue renewal identification cards to an MRT or LMRT who complies with paragraph (4) of this subsection **[but who fails to complete the continuing education requirements for recertification as set out in §143.11 of this title. The renewal**

identification cards shall expire 120 days after the last day of the MRT's or LMRT's birth month. If the deficiency is corrected and proof of completion of the continuing education requirements is sent to the department within the 120-day period, the department shall issue a renewal identification card which expires on the last day of the MRT's or LMRT's next birth month plus one year. An MRT or LMRT who does not correct the deficiency within 120 days shall not be allowed to extend or renew the certificate].

(8) – (9) (No change.)

(e) Renewal for retired medical radiologic technologists performing voluntary charity care.

(1) A “retired medical radiologic technologist” is defined as a person who:

(A) is above the age of 55;

(B) is not employed for compensation in the practice of medical radiology;

and

(C) has notified the department in writing of his or her intention to retire and provide only voluntary charity care.

(2) “Voluntary charity care” for the purposes of this subsection is defined as the practice of medical radiology by a retired medical radiologic technologist without compensation or expectation of compensation.

(3) A retired medical radiologic technologist providing only voluntary charity care may renew his or her license by submitting a renewal form; the retired medical radiologic technologist renewal fee required by §143.4 of this title (relating to Fees); and the continuing education hours required by §143.11 of this title (relating to Continuing Education Requirements).

(f) [(e)] Late renewals.

(1) A person whose certificate has expired for not more than one year may renew the certificate by submitting to the department the completed renewal form, proof of the continuing education taken, [completed continuing education report forms including supporting documentation (if required),] and the late renewal fee. An active annual registration or credential card issued by the American Registry of Radiologic Technologists does **[not]** constitute supporting documentation. A certificate issued under this subsection shall expire two years from the date the previous certificate expired[, **not including a 120-day certificate issued in accordance with subsection (d)(7) of this section].**

(A) – (B) (No change.)

(C) A person must comply with the continuing education requirements for renewal as set out in §143.11 of this title before the late renewal is effective. **[A person is not eligible for a 120-day certificate as described in subsection (d)(7) of this section.]**

(2) – (4) (No change.)

(g) ~~[(f)]~~ Expired certificates. The department, using the last address known, shall attempt to inform each MRT or LMRT who has not timely renewed a certificate, after a period of more than 10 days after the expiration of the certificate that the certificate has automatically expired. A person whose certificate automatically expires is required to surrender the certificate and identification cards to the department.

(h) ~~[(g)]~~ Active duty. If an MRT or LMRT is called to or on active duty with the armed forces of the United States and so long as the MRT or LMRT does not administer a radiologic procedure in a setting outside of the active duty responsibilities during the time the MRT or LMRT is on active duty, the MRT or LMRT shall not be required to complete any continuing education activities during the renewal period in which the MRT or LMRT was on active duty.

(1) – (6) (No change.)

§143.11. Continuing Education Requirements.

(a) General. Continuing education requirements for recertification shall be fulfilled during each biennial renewal period beginning on the first day of the month following each MRT's or LMRT's birth month and ending on the last day of each MRT's or LMRT's birth month two years thereafter.

(1) – (4) (No change.)

(5) At least 3 hours **[50%]** of the required number of hours shall be satisfied by attendance and participation in instructor-directed activities.

(6) No more than 21 hours for MRTs or 9 hours for LMRTs **[50%]** of the required number of hours may be satisfied through verifiable independent self-study. These activities include reading materials, audio materials, audiovisual materials, or a combination thereof which meet the requirements set out in subsection (d) of this section.

(7) (No change.)

(8) An MRT or LMRT who holds a current and active annual registration or credential card issued by the American Registry of Radiologic Technologists (ARRT) indicating that the MRT is in good standing and not on probation satisfies the continuing education requirement for renewal of the general or limited certificate provided the hours accepted by the agency or organization which issued the card were completed during the MRT's biennial renewal period **[not more than one year prior to the expiration of the MRT or LMRT**

certificate] and meet or exceed the requirements set out in paragraph (5) of this subsection **[section]** and subsection (b) of this section. The department shall be able to verify the status of the card presented by the MRT or LMRT electronically or by other means acceptable to the department. The department may review documentation of the continuing education activities in accordance with subsection (e) of this section.

(9) – (10) (No change.)

(b) (No change.)

(c) Types of acceptable continuing education. Continuing education shall be acceptable if the experience or activity is at least 30 consecutive minutes in length and:

(1) – (2) (No change.)

(3) is an educational activity which meets the following criteria:

(A) (No change.)

(B) is approved, recognized, accepted, or assigned continuing education credits by professional organizations or associations, or offered by a federal, state, or local governmental entity. **[A list is available from the department upon request.]**

(d) (No change.)

(e) Reporting of continuing education. **[Each MRT or LMRT is responsible for and shall complete and file with the department at the time of renewal or to be considered for renewal when in an extension, a continuing education report form approved by the department listing the title, date and number of hours for each activity for which credit is claimed. In the alternative,]** A [a] technologist may request an exemption as set out in subsection (i) of this section or may submit a copy of the technologist's current and active annual registration or credential card indicating that the technologist is in good standing and not on probation in accordance with subsection (a)(8) of this section, with a signed statement that the technologist completed during the MRT's biennial renewal period at least 50% of the required number of hours of continuing education directly related to the performance of a procedure utilizing ionizing radiation for medical purposes and that no more than 21 hours for MRTs and 9 hours for LMRTs **[50%]** of the required number of hours shall be verifiable independent self-study activities.

(1) – (2) (No change.)

[(3) If the department determines that the technologist failed to successfully complete the continuing education requirements, the technologist shall be granted a 120-day extension period in which to complete the continuing education hours needed to fulfill the requirements.]

(f) - (g) (No change.)

(h) Failure to complete the required continuing education.

[(1) An MRT or LMRT who has failed to complete the requirements for continuing education may be granted a 120-day certificate as described in §143.10(d)(7) of this title. The 120-day extension is the maximum that shall be granted and there will be no exceptions, nor may an additional extension period be granted.]

[(2) The next continuing education reporting period shall commence on the day following the completion of continuing education credits to correct the deficiency and shall end two years from the date the previous renewal period ended. The extension period is borrowed from the next reporting period.]

[(3) An MRT or LMRT who has not corrected the deficiency by the expiration date of the 120-day certificate shall be considered as noncompliant with the renewal requirements and may no longer perform radiologic procedures under the expired certificate.]

[(4)] A person may renew late under §143.10(f) [(e)] of this title after all the continuing education requirements have been met. [A person who renews late is not eligible for a 120-day extension.]

(i) – (j) (No change.)

(k) Denial of request for exemption. A technologist whose request for exemption is denied by the department **[may be granted a 120-day extension to complete the continuing education requirements and]** may request a hearing on the denial within 30 days after the date the department notified the technologist of the exemption denial. If no hearing is requested in writing within 30 days, the opportunity for hearing shall be waived.

(1) (No change.)

§143.12. Changes of Name and Address.

(a) (No change.)

(b) Notification of address changes shall be made in writing including the name, mailing address, and zip code **[codes,]** and be mailed to the department **[administrator]**.

(c) Before any certificate and identification cards will be issued by the department, notification of name changes must be mailed to the department **[administrator]** and shall include a copy of a marriage certificate, court decree evidencing such change, or a social security card reflecting the new name. The certificate holder shall submit a certified check or money

order for the replacement fee, as set out in §143.4 of this title. Upon receipt of the new certificate and identification cards, the MRT or LMRT shall return the previously issued certificate and cards immediately to the department. If those items have been lost, destroyed, or are not available to return, a statement detailing the loss or destruction must be signed and submitted to the department.

§143.13. Certifying Persons with Criminal Backgrounds.

(a) Criminal convictions which directly relate to the profession of radiology.

(1) The department may suspend or revoke any existing certificate, disqualify a person from receiving any certificate, or deny to a person the opportunity to be examined for a certificate if the person is convicted of, enters a plea of nolo contendere or guilty to a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a MRT, NCT or LMRT.

(2) In considering whether a pleading of nolo contendere or a criminal conviction directly relates to the occupation of an MRT, NCT or LMRT, the department shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for certification. The following felonies and misdemeanors relate to any certificate because these criminal offenses indicate an inability or a tendency to be unable to perform as an MRT, NCT or LMRT:

(i) the misdemeanor of knowingly or intentionally acting as an MRT, NCT or LMRT without a certificate under the Medical Radiologic Technologist Certification Act (the Act);

(ii) –(iii) (No change.)

(C) (No change.)

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibility of an MRT, NCT or LMRT. In making this determination, the department will apply the criteria outlined in Texas Occupations Code, Chapter 53, the legal authority for the provisions of this section.

(3) (No change.)

(b) (No change.)

§143.14. Disciplinary Actions.

(a) (No change.)

(b) The department may take disciplinary action against a person subject to the Act for:

(1) – (6) (No change.)

(7) failing to report to the department the violation of the Act or any allegations of sexual misconduct by another person;

(8) – (11) (No change.)

(c) Engaging in unprofessional conduct means the following:

(1) – (33) (No change.)

(34) engaging in sexual conduct in the workplace. A MRT, LMRT, NCT or a temporary certificate holder shall not engage in sexual conduct with a client, patient, co-worker, employee, staff member, contract employee, MRT, LMRT, NCT or temporary certificate holder on the premises of any job establishment. For the purposes of this section, sexual conduct includes:

(A) any touching of any part of the genitalia or anus;

(B) any touching of the breasts of a female except as necessary for the performance of a radiologic procedure as defined in §143.2 of this title (relating to Definitions);

(C) any offer or agreement to engage in any activity described in this subsection;

(D) kissing without the consent of both persons;

(E) deviate sexual intercourse, sexual contact, sexual intercourse, indecent exposure, sexual assault, prostitution, and promotion of prostitution as described in the Texas Penal Code, Chapters 21, 22, and 43, or any offer or agreement to engage in any such activities;

(F) any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexual; or

(G) inappropriate sexual comments, including making sexual comments about a person's body.

(d) – (k) (No change.)

§143.15. Advertising or Competitive Bidding.

(a) – (c) (No change.)

(d) When an assumed name is used in a person's practice as a medical radiologic technologist, limited medical radiologic technologist, or non-certified technician the legal name or certificate number of the medical radiologic technologist, limited medical radiologic technologist, or non-certified technician must be listed in conjunction with the assumed name. An assumed name used by a medical radiologic technologist, limited medical radiologic technologist, or non-certified technician must not be false, misleading, or deceptive.

(e) – (k) (No change.)

§143.16. Dangerous or Hazardous Procedures.

(a) – (b) (No change.)

(c) Hazardous procedures. Unless otherwise noted, the list of hazardous procedures which may only be performed by a practitioner or MRT are:

(1) – (2) (No change.)

(3) portable x-ray equipment [**mobile radiography**];

(4) – (10) (No change.)

(d) – (f) (No change.)

(g) Mammography. In accordance with the Health and Safety Code, §401.421 et seq, mammography is a radiologic procedure which may only be performed by an MRT who meets the qualifications set out in Chapter 289 [§289.230(f)(2)] of the Radiation Control rules relating to mammography [**this title (relating to Mammography)**]. Mammography shall not be performed by [**a practitioner,**] an LMRT, an NCT, or any other person.

(h) Prohibited act. A person who performs a dangerous or hazardous procedure in violation of the Act, §601.402(b) [§2.13(a)(1)] commits a Class B misdemeanor, punishable by up to 180 days in jail or a fine up to \$2,000, or both.

(i) An RN or physician assistant must be trained under §143.17 of this title or §143.20 of this title, or have been approved to perform radiologic procedures under a hardship exemption granted under §143.19 of this title (relating to Hardship Exemptions), in addition to performing the listed procedure under the direction and supervision of a practitioner. Subsections (b)(6), [**and**] (c)(8), and (c)(9) shall not be construed to authorize an RN or physician assistant to independently perform fluoroscopy, fluorography or procedures utilizing contrast media.

(j) Student performance of dangerous or hazardous procedures. The procedures identified in this section are not considered dangerous and hazardous for purposes of §601.056(a) [§2.05(g)] of the Act if the person performing the procedures is a student enrolled in a program

which meets the minimum standards adopted under §601.056 [**§2.05**] of the Act and if the person is performing radiologic procedures in an academic or clinical setting as part of the program. Therefore, such students may perform these procedures in such settings. Students may not perform procedures in an employment setting.

§143.17. Mandatory Training Programs for Non-Certified Technicians.

(a) General. This section sets out the minimum standards for approval of mandatory training programs, as required by the Medical Radiologic Technologist Certification Act (Act), §601.201 [**§2.05(f)**], which are intended to train individuals to perform radiologic procedures which have not been identified as dangerous or hazardous. Individuals who complete an approved training program may not use that training toward the educational requirements for a general or limited certificate as set out in §143.7 of this title (relating to Types of Certificates and Applicant Eligibility). Before a person performs a radiologic procedure, the person must complete all the hours in subsection (d)(2)(A)-(C) [**(d)(1)(A)-(D)**] of this section, and at least one unit in subsection (d)(3)(A)-(G) [**(d)(2)(A)-(G)**] or (d)(4) of this section.

(b) – (i) (No change.)

§143.18. Registry of Non-Certified Technicians.

(a) – (b) (No change.)

(c) Initial placement on the registry. In order to be listed on the registry for the first time, the information described in subsection (b) of this section shall be reported to the department by the training program approved under §143.17 or §143.20 of this title after the person's successful completion of the training. A person who has completed all the training program through previously completed courses in accordance with §143.17(d) of this title may apply directly to the department within two years of completion of the course to be placed on the registry upon receipt of an application and required fee.

(d) Renewal of registration.

(1) Each person on the registry shall be responsible for renewing his or her status on the registry prior to the expiration date [**between January 1 and March 1 of each year**].

(2) The department shall send a renewal notice to each registrant at least 60 days before the expiration date. [**the address indicated on the registry by December 1 of each year**] The department is not responsible for lost, misdirected, undeliverable or misplaced mail.

(3) The renewal is effective if the official renewal form is postmarked or delivered to the department on or before the expiration date of the registrant's certificate [**March 1 of the renewal year**]. The renewal form shall include, at a minimum, the person's name, [**social security number,**] current mailing address, and current place of employment. [**The**

renewal form shall also include the current date and the signature of the renewal applicant.]

(4) Failure to submit the renewal form by the expiration date [**deadline**] will result in the removal of the person's name from the registry.

(5) A person whose name is removed from the registry due to failure to renew may be relisted on the registry by submitting a late renewal form and fee to the department within one year of the expiration date of registrant's certificate. If renewal is not complete within one year, the person may not renew; but must reapply and meet current requirements.

(e) – (f) (No change.)

(g) Employer responsibility. If a person performing radiologic procedures is not a [**an**] medical radiologic technologist, limited medical radiologic technologist or is not registered under this section, the employer shall be responsible for determining whether the person performing radiologic procedures is in compliance with §143.17 or §143.20 of this title. This subsection does not apply to a hospital, federally qualified health center, or practitioner granted a hardship exemption by the department within the previous 12-month period.

(h) (No change.)

§143.19. Hardship Exemptions.

(a) (No change.)

(b) Required application materials.

(1) – (4) (No change.)

(5) The application shall be accompanied by one or more of the following:

(A) – (G) (No change.)

(H) if the applicant uses only a hand-held fluoroscope with a maximum operating capability of 65 kilovolts and 1 milliamperere, or a similar type of x-ray unit for imaging upper extremities only, at the location indicated on the application form and the applicant believes that the radiation produced by the radiographic equipment represents a minimal threat to the patient and the operator of the equipment, the following is required to be submitted:

(i) (No change.)

(ii) a sworn affidavit describing the equipment used; the types of radiographs performed; the training completed by the operator of the equipment within the 24-month period prior to application or reapplication for a hardship exemption; the date(s) the

training was completed by the operator; the radiation safety measures taken for the patient, operator and others; the level or amount of supervision provided by an MRT or a practitioner(s) to the operator while performing the radiographic procedure; and the equipment manufacturer's specifications for the diagnostic radiographic equipment utilized at the location indicated on the application form, including the maximum operating capability. [;]

[(I) if the applicant employs for the purpose of performing radiologic procedures, a person who is registered to take the Texas Medical Association's/Texas Osteopathic Medical Association's Physician's Training program for X-ray Operators approved by the department under §143.20 of this title, a sworn affidavit including justification for application under one of the requirements described in paragraph (5)(A)-(I) of this subsection. The following items must be submitted:]

[(i) the name(s), date of birth and social security number of the person(s) who will perform radiologic procedures pursuant to this hardship exemption;]

[(ii) the name of the facility where the training program will be taken, the date the program will begin and the anticipated date of completion;]

[(iii) the name(s) of the certified medical radiologic technologist instructor meeting the requirements set out in §143.17(c) of this title;]

[(iv) the name(s) of the company and the name of the person(s) who will be the designated equipment applications specialist knowledgeable of the specific equipment to be utilized; and]

[(v) a list of the anatomical categories to be included in the training.]

(6) – (7) (No change.)

(c) Application approval.

(1) The department **[administrator]** shall be responsible for reviewing all applications. The department **[administrator]** shall approve any application which is in compliance with this section and which properly documents applicant eligibility.

(2) (No change.)

(d) Disapproved applications.

(1) (No change.)

(2) If the department **[administrator]** determines that the application should not be approved, the department **[administrator]** shall give the applicant written notice of the reason

for the disapproval. The applicant may appeal the decision to the department [**associate commissioner over the administrator**] by submitting a written request within ten days after receipt of the written notice of the reason(s) for the disapproval.

(3) Based upon the application and any additional information submitted by the applicant, [**or**] the department [**administrator, the associate commissioner**] shall approve or disapprove the application.

(4) (No change.)

(e) – (f) (No change.)

§143.20. Alternate Training Requirements.

(a) – (e) No change.

[(f) Training requirements for an x-ray equipment operator in a physician's office.]

[(1) In order to successfully complete a program, an x-ray equipment operator in a physician's office must complete the Texas Medical Association's/Texas Osteopathic Medical Association's Physician's Training Program for X-ray Operators.]

[(2) Successful completion of the x-ray operators training program allows the x-ray operator to perform radiologic procedures only under the instruction or direction of a physician.]

(f) [(g)] Application procedures for training programs. The [Texas] Department of State Health Services (department) shall use the same process as described in §143.17(e) of this title.

(g) [(h)] Application materials. The department shall require the same materials as described in §143.17(f) of this title.

(h) [(i)] Application approval. The department shall use the same process as described in §143.17(g) of this title.

(i) [(j)] Application processing. The department shall use the same process as described in §143.17(h) of this title.

(j) [(k)] Renewal. The department shall use the same process as described in §143.17(i) of this title.

Agency Unit/Section/Division Medical Radiologic Technologist Certification Program, DSHS Professional Licensing and Certification Unit	Council Meeting Date January 12-13, 2006
Agency Program Contact Debbie Peterson	Telephone No. 512-834-2725
Rule Topic Amendments relating to the certification and regulation of medical radiologic technologists.	

1. Rule Summary.

(Briefly summarize the rule change and why the rule may or may not have fiscal implications.)

The amendments and new rules implement 2005 legislation and comply with Government Code §2001.039. The program does not anticipate fiscal increases due to adding language related to the collection of renewal fees for a two year license term, as these fees change have already been implemented as required by legislative mandate.

The impact of the possible decrease in renewal fees collected due to the implementation of reduced renewal fees for retired medical radiologic technologists over the age of 55 providing voluntary charity care is estimated to be \$4,712. Approximately 377 medical radiologic technologists are estimated to provide retired voluntary charity care services at a reduced renewal fee of \$25 biennially.

2. Fiscal Impact.

Does the rule have foreseeable fiscal implications to either costs or revenues of state government for the first five years the rule is in effect?

Yes **No** If yes, complete the following:

(a) If there are estimated additional costs to the department, explain (1) what new responsibilities will be required; (2) what additional staff will be needed (numbers and classifications); and (3) what other expenses, such as capital or professional services, will be required. Explain any key assumptions that will be needed to reach the figures in the chart in 2(d).

(b) If there is an estimated reduction in costs, explain how the reductions will be accomplished.

(c) If there is an estimated increase in revenue, describe the source and amount. If there is an estimated loss of revenue, describe the source and amount.

Source: Estimated Amount: The impact of the possible decrease in renewal fees collected due to the implementation of reduced renewal fees for retired medical radiologic technologists over the age of 55 providing voluntary charity care is estimated to be \$4,712. Approximately 377 medical radiologic technologists are estimated to provide retired voluntary charity care services at a reduced renewal fee of \$25 biennially.

Note: Staff may provide the information in (d) on a separate spreadsheet. If spreadsheet is attached, please check here:

(d)	1. Fiscal Year <u>2006</u>	2. Fiscal Year <u>2007</u>	3. Fiscal Year <u>2008</u>	4. Fiscal Year <u>2009</u>	5. Fiscal Year <u>2010</u>
Estimated Additional/Reduction in Cost (specify reduction in parenthesis)					
STATE FUNDS					
FEDERAL FUNDS					
OTHER FUNDS					

TOTAL:					
Estimated Increase/Loss of Revenue (specify loss in parenthesis)					
STATE FUNDS	(\$4,712)	(\$4,712)	(\$4,712)	(\$4,712)	(\$4,712)
FEDERAL FUNDS					
OTHER FUNDS					
TOTAL:	(\$4,712)	(\$4,712)	(\$4,712)	(\$4,712)	(\$4,712)

3. Local Government Impact.

Does the rule have foreseeable positive or negative fiscal implications to either costs or revenues of local governments for the first five years the rule is in effect?

Yes No If yes, enter the amounts for each of the five years and explain key assumptions you used to reach the figures.

Small Businesses or Micro-Businesses Impact.

4. Does the rule have ANY adverse economic effect on small businesses or micro-businesses* (regardless of whether it will have an adverse effect on businesses in general)?

Yes No If yes, complete 4B-E. If no, complete 4A.

* A small business is a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit, is independently owned and operated, and has fewer than 100 employees OR less than \$1,000,000 in annual gross receipts.

A micro-business is a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit, is independently owned and operated, and has 20 or fewer employees.

A. If the rule **will not** have an adverse economic effect on either small businesses or micro-businesses, or both, explain why there will be no adverse effect on one or both.

The medical radiologic technologist program does not regulate small businesses directly. No fee increases are being proposed for individual registrant.

Complete (B)-(E) if rule will have an adverse economic effect on small businesses or micro-businesses or both.

Note: You must discuss both small businesses and micro-businesses in your analysis regardless of whether the rule will have an adverse economic effect on either one or both.

B.

C. Give an analysis of the cost to small businesses or micro-businesses of complying with the rule. Explain what assumptions you used to calculate these projected costs (for example, a survey of randomly selected assisted living facilities).

D. Compare the cost to small businesses or micro-businesses of complying with the rule with the cost to the largest businesses affected by the rule, analyzing, when possible:

- cost per employee,
- cost per hour of labor, or
- cost per each \$100 of sales.

E. Give an analysis of whether it is legal and feasible to reduce the economic effect of the rule on small businesses or micro-businesses, while still accomplishing the intent of the state or federal law being implemented with the rule.

5. Other Cost Impacts.

If there will be costs to persons who must comply with this rule change, other than costs identified in preceding sections, enter estimated costs for the first five fiscal years of implementation:

FY 1	FY 2	FY 3	FY 4	FY 5

Explain assumptions used to arrive at these costs.

6. Fiscal Impact on Local Employment:

- Rule **will not** have an impact.
- Rule **will** have an impact. You must complete an Economic Impact Request and submit it to TWC at least 30 days before the Council meeting.

7. Takings Impact Assessment.

Does the proposed rule create a burden on private “real property” (i.e. real estate or the buildings and other structures attached to real estate)?

- Yes** **No** If **yes**, contact Legal **immediately** to determine if you are required to complete a Takings Impact Assessment.

Approvals

Signature – Budget Analyst (original signature on file)	Date	Telephone No.
Signature – Budget Director (original signature on file)	Date	Telephone No.
Signature – Chief Financial Officer (original signature on file)	Date	Telephone No.
Signature – Deputy Executive Commissioner (as appropriate) (original signature on file)	Date	Telephone No.