

**Department of State Health Services
Council Agenda Memo for State Health Services Council
April 10, 2008**

Agenda Item Title: Repeal and new rules concerning the certification of medical radiologic technologists

Agenda Number: 4c

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: The Medical Radiologic Technologist Certification Program is located within the Professional Licensing and Certification Unit, Health Care Quality Section, Division for Regulatory Services. The program's purpose is to protect and promote public health, safety, and welfare through the effective regulation of medical radiologic technologists. Services provided through the program include the evaluation of credentials, the issuance of licenses and registrations, and the intake and investigation of consumer complaints against license holders. Services are provided directly to license holders and consumers by central office staff. The program collects licensing fees to cover its cost, and is funded through a general revenue appropriation to the Health Care Professionals Strategy and through federal block grant funds.

Summary: The overall purpose of the rule amendments is to ensure the rules reflect current operational, legal, and policy considerations, thereby improving the regulation of medical radiologic technologists. Proposed changes to the rules were made following a four-year rule review as required by §2001.039 of the Government Code. The proposal consolidates the rules into 25 TAC, Chapter 140 (Health Professions Regulation), along with other professional licensing rules, through the repeal of 25 TAC, Chapter 143, and the adoption of new 25 TAC, Chapter 140, Subchapter J. Existing rule text is being transferred and updated in the new rules. Additionally, new language is added in several sections that are intended to clarify terms and procedures.

One change in response to stakeholder input is that the proposal would require registered non-certified technicians (NCTs) to complete 6 hours of continuing education hours, which may include verifiable independent self-study of reading materials, audio materials, audiovisual materials, programs online, attendance and participation in instructor-directed activities, or a combination thereof. The current rules do not require non-certified technicians to complete continuing education in order to renew the registration, although other categories of certification are required to complete continuing education. The purpose of requiring continuing education for this group of registrants is to maintain and improve the technician's knowledge, skills, and abilities as a means to improve the quality of services provided to consumers.

Summary of Input from Stakeholder Groups: The rules were reviewed and discussed by the Medical Radiologic Technologist Advisory Committee on August 30, 2007. The committee recommended that the rules be forwarded to the State Health Services Council for review and recommendation to publish as proposed rules. The rules were sent to stakeholder associations (Texas Society of Radiologic Technologists, DSHS Radiation Control Program, and Texas Board of Nursing) for input on December 4, 2007. No unfavorable comments have been received.

The Medical Radiologic Technologist Advisory Committee voted to recommend the rules be published for a 30-day comment period and specifically indicated support for the entire proposal. At the meeting, stakeholders (which were both individual license holders and representatives of the Texas Society of Radiologic Technologists) suggested that continuing education should be required for non-certified technicians. The committee agreed and supports the proposed requirement of continuing education for NCTs as a means to maintain and improve knowledge for this group of registrants.

The Texas Society of Radiologic Technologists reviewed early drafts of the rule proposal and made minor suggestions for modifications, which were incorporated into the proposed rules. The Society was also present at the meeting of the Medical Radiologic Technologist Advisory Committee and participated in discussion on the proposed rules.

Representatives of the Texas Board of Nursing (TBN) reviewed the initial draft of the proposed rules and recommended modifications, some of which were incorporated into the proposed rules. The representatives met with program staff to review the final draft and stated their support of the proposal. The TBN representatives focused on the portions of the rules that directly relate to registered nurses; specifically, the section relating to Dangerous and Hazardous Procedures.

Staff from the DSHS Radiation Control Program also attended the meeting of the Medical Radiologic Technologist Advisory Committee at which the rules were discussed, participated in the discussion, and stated their support of the rule proposal.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #4c.

Approved by Assistant Commissioner/Director: <u>Kathryn C. Perkins</u>	Date: <u>March 17, 2008</u>
Presenter: <u>Pam Kaderka</u> Program: <u>Professional Licensing & Certification Unit</u>	Phone: <u>(512) 834-6634</u>
Approved by CCEA: Rosamaria Murillo	Date: March 17, 2008

Title 25. HEALTH SERVICES
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 143. Medical Radiologic Technologists
Repeals §§143.1-143.20
Chapter 140. Health Professions Regulation
Subchapter J. Medical Radiologic Technologists
New §§140.501-140.522

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §§143.1-143.20 and new §§140.501-140.522, concerning the regulation and certification of medical radiologic technologists.

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for re-adoption 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 department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed; however, the department is proposing to repeal the existing sections and adopt the rules in 25 Texas Administrative Code (TAC), Chapter 140, Health Professions Regulation. The proposed repeals and new rules are necessary to consolidate existing Professional Licensing and Certification Unit program rules in 25 TAC, Chapter 140, Health Professions Regulation.

The new rules transfer and update existing language. Many sections were transferred with no modification. New language is added in some sections in order to clarify the rules for medical radiologic technologists, health care practitioners and professionals, and consumers. Additionally, the rules require continuing education for non-certified technicians.

SECTION-BY-SECTION SUMMARY

The repeal of §§143.1-143.20 is necessary to combine the Professional Licensing and Certification Unit rules in one chapter, 25 TAC Chapter 140, Health Professions Regulation.

New §140.501 sets out purpose and scope of the rules. New §140.502 defines terms used in the subchapter and adds a new definition of mobile stationary x-ray equipment to clarify that such equipment is not portable x-ray equipment. New 140.503 covers the membership and operations of the Medical Radiologic Technologists Advisory Committee. New §140.504 sets out the fees required for application, registration, upgrade, renewal, and issuance of a duplicate certificate. New §140.505 covers exemptions from certification as a medical radiologic technologist, including the definition of a student. New §140.506 describes the procedures and criteria for approval or disapproval of an application by the department. New §140.507 explains the types of

certificates and temporary permits and applicant eligibility for certification. New §140.508 sets out the procedures for examination eligibility for medical radiologic technologists. New §140.509 provides standards for the approval of curricula and instructors. New §140.510 provides timelines for the processing of renewal and late renewal applications, and sets out the requirements for inactive status and certificate renewal for voluntary charity care and military status certificate holders. New §140.511 sets out continuing education requirements and requires non-certified technicians to complete 6 hours of continuing education hours, which may be obtained through self-directed study, in order to renew the non-certified technician registration.

New §140.512 covers procedures for changes of name and address. New §140.513 sets out procedures for certifying or permitting persons with criminal backgrounds. New §140.514 sets out violations and prohibited actions, procedures concerning complaints, and disciplinary actions the department may take against a person when violations have occurred. New §140.515 establishes rules relating to advertising and competitive bidding by a medical radiologic technologist. New §140.516 sets out dangerous and hazardous radiologic procedures and the restrictions on who may perform those procedures. The section clarifies that positron emission tomography is included within nuclear medicine studies. New §140.517 contains provisions regarding registered nurses and physician assistants who perform radiologic procedures. The provisions of this section are not new requirements and are also contained within §140.516; however, the new §140.517 is proposed for clarity and ease of use. New §140.518 provides guidelines for mandatory training programs for non-certified technicians. New §140.519 establishes procedures for the registry of non-certified technicians. New §140.520 establishes procedures regarding hardship exemptions, including clarification of documentation required when an applicant is unable to attract or retain a certificate holder. New §140.521 sets out training requirements for person who perform bone densitometry training and who are not licensed, certified, or registered. New §140.522 sets out requirements for alternate training.

FISCAL NOTE

Cindy Bourland, Manager, Professional Licensing and Certification Unit, has determined that for each year of the first five-year period that the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Bourland 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. Individual certificate holders and registrants are required to comply with the sections.

There may be impact to individuals who are required to comply with the sections as proposed. If an individual is a registered non-certified technician, the person will be required to complete six hours of continuing education every two years in order to renew the registration. It is estimated

that the cost to each non-certified technician will be \$150 biennially. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Ms. Bourland has also determined that for each year of the first five years the sections are in effect, the public will benefit from the 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 proposal does 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, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Pam K. Kaderka, Program Director, Medical Radiologic Technologists Certification Program, Professional Licensing and Certification Unit, Division for Regulatory Services, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6617 or by email to mrt@dshs.state.tx.us. When emailing comments, please indicate "Comments on Proposed Rules" in the e-mail subject line. 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, Lisa Hernandez, 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 repeals and new sections are authorized by Occupations Code, §604.052 and §604.053, which authorizes the adoption of rules for the regulation of medical radiologic

technologists; and 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 Health and Safety Code, Chapter 1001. Review of these rules implements Government Code, §2001.039.

The proposed repeals and new sections affect the Occupations Code, Chapter 604; Government Code, Chapter 531; and Health and Safety Code, Chapter 1001.

Sections for repeal.

§143.1. Purpose and Scope.

§143.2. Definitions.

§143.3. Medical Radiologic Technologist Advisory Committee.

§143.4. Fees.

§143.5. Applicability of Chapter; Exemptions.

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

§143.7. Types of Certificates and Applicant Eligibility.

§143.8. Examinations.

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

§143.10. Certificate Issuance, Renewals, and Late Renewals

§143.11. Continuing Education Requirements.

§143.12. Changes of Name and Address.

§143.13. Certifying Persons with Criminal Backgrounds.

§143.14. Disciplinary Actions.

§143.15. Advertising or Competitive Bidding.

§143.16. Dangerous or Hazardous Procedures.

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

§143.18. Registry of Non-Certified Technicians.

§143.19. Hardship Exemptions.

§143.20. Alternate Training Requirements.

Legend: Proposed New Rules
Regular Print = Proposed new language.

§140.501. Purpose and Scope.

(a) Purpose. These sections are intended to implement the provisions of the Medical Radiologic Technologist Certification Act, Texas Occupations Code, Chapter 601.

(b) Scope. These sections cover definitions; the Medical Radiologic Technologist Advisory Committee; fees; applicability of subchapter; exemptions; application requirements and procedures for examination and certification; types of certificates and eligibility; examinations; standards for curricula and instructor approval; certificate renewal; continuing education requirements; changes of name and 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.

§140.502. Definitions.

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

(1) Act – The Medical Radiologic Technologist Certification Act, Texas Occupations Code, Chapter 601.

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

(3) ARRT – The American Registry of Radiologic Technologists and its predecessor or successor organizations.

(4) 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) Certificate – A medical radiologic technologist certificate, general, limited or provisional, unless the wording specifically refers to one or the other, issued by the Department of State Health Services.

(6) Chiropractor – A person licensed by the Texas Board of Chiropractic Examiners to practice chiropractic.

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

- (8) Committee – The Medical Radiologic Technologist Advisory Committee.
- (9) Dentist – A person licensed by the Texas State Board of Dental Examiners to practice dentistry.
- (10) Department – The Department of State Health Services.
- (11) Direct supervision – A practitioner must be physically present and immediately available.
- (12) Federally qualified health center (FQHC) – A health center as defined by 42 United States Code, §1396d(2)(B).
- (13) Fluoroscopy – The practice of examining tissues using a fluorescent screen, including digital and conventional methods.
- (14) Fluorography – Hard copy of a fluoroscopic image; also known as spot films.
- (15) General certification – An authorization to perform radiologic procedures.
- (16) Instructor – An individual approved by the department to provide instruction and training in the discipline of medical radiologic technology in an educational setting.
- (17) Limited certification – An authorization to perform radiologic procedures that are limited to specific parts of the human body.
- (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.
- (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.
- (20) Mobile service operation – 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.
- (21) NMTCB – Nuclear Medicine Technology Certification Board and its successor organizations.

(22) 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.

(23) 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.

(24) Physician – A person licensed by the Texas Medical Board to practice medicine.

(25) Physician assistant – A person licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners.

(26) Podiatrist – A person licensed by the Texas State Board of Medical Podiatric Examiners to practice podiatry.

(27) 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.

(28) 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.

(29) Radiation – Ionizing radiation in addition to beyond normal background levels from sources such as medical and dental radiologic procedures.

(30) 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.

(31) Registered nurse – A person licensed by the Texas Board of Nursing to practice professional nursing.

(32) Registry – A list of names and other identifying information of non-certified technicians.

(33) 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.

(34) 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.

(35) Temporary certification, general or limited – An authorization to perform radiologic procedures for a limited period, not to exceed one year.

(36) TRCR – Texas Regulations for Control of Radiation, 25 Texas Administrative Code, Chapter 289. The regulations are available from Radiation Control, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189, phone 1-512-834-6688 or at www.dshs.state.tx.us/radiation.

(37) 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;

(B) stationary x-ray equipment – x-ray equipment that is installed in a fixed location; or

(C) mobile stationary x-ray equipment – x-ray equipment that is permanently affixed to a motor vehicle or trailer with appropriate shielding.

§140.503. Medical Radiologic Technologist Advisory Committee.

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

(1) The name of the committee shall be the Medical Radiologic Technologist Advisory Committee.

(2) The committee is established under Government Code, §531.012, which allows the Executive Commissioner of the Health and Human Services Commission to appoint advisory committees as needed.

(b) Applicable law. The committee is subject to the Government Code, Chapter 2110, concerning state agency advisory committees.

(c) Purpose. The purpose of the committee is to recommend rules and examinations for the approval of the Executive Commissioner of the Health and Human Services Commission.

(d) Tasks.

(1) The committee shall advise the Executive Commissioner of the Health and Human Services Commission 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 Executive Commissioner of the Health and Human Services Commission.

(e) Review and duration. By November 1, 2012, the Executive Commissioner of the Health and Human Services Commission 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 Executive Commissioner of the Health and Human Services Commission. The composition of the committee shall include:

(1) four consumers;

(2) one licensed physician who is a radiologist;

(3) one licensed medical physicist or a hospital administrator;

(4) one certified medical radiologic technologist whose primary practice is in diagnostic radiography;

(5) one certified medical radiologic technologist whose primary practice is in nuclear medicine technology;

(6) one certified medical radiologic technologist whose primary practice is in radiation therapy;

(7) one licensed physician who has experience in radiologic procedures and who practices in a rural community or at a site serving a medically underserved population in Texas as defined in the Medical Practice Act, Texas Occupations Code, Chapter 152; and

(8) one registered nurse or certified physician assistant who has experience in radiologic procedures and who practices in a rural community or at a site serving a medically underserved population in Texas as defined in the Medical Practice Act, Texas Occupations Code, Chapter 152.

(g) Terms of office. The term of office of each member shall be six years. Members shall serve after expiration of their term until a replacement is appointed.

(1) Members shall be appointed for staggered terms so that the terms of three members will expire on January 1 of each odd-numbered year.

(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.

(h) Officers. The committee shall select from its members the presiding officer and an assistant presiding officer to begin serving on November 1 of each odd-numbered year.

(1) Each officer shall serve until October 31 of each odd-numbered year. Each officer may holdover until his or her replacement is elected.

(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the Executive Commissioner of the Health and Human Services Commission. The presiding officer may serve as an ex-officio member of any subcommittee of the committee.

(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. In case the office of presiding officer becomes vacant, the assistant presiding officer will complete the unexpired portion of the term of the office of presiding officer.

(4) If the office of assistant presiding officer becomes vacant, it may be filled by vote of the committee.

(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer.

(6) The committee may reference its officers by other terms, such as chairperson and vice-chairperson.

(i) Meetings. The committee shall meet only as necessary to conduct committee business.

(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee.

(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to determine availability of a meeting date and place.

(3) The committee is not a "governmental body" as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551, with the exception that the provisions allowing executive sessions shall not apply.

(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.

(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.

(6) The committee is authorized to transact official business only when in a legally constituted meeting with quorum present.

(7) The agenda for each committee meeting shall include an item entitled public comment under which any person will be allowed to address the committee on matters relating to committee business. The presiding officer may establish procedures for public comment, including a time limit on each comment.

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

(1) A member shall notify the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.

(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.

(4) The attendance records of the members shall be reported to the Executive Commissioner of the Health and Human Services Commission. The report shall include attendance at committee and subcommittee meetings.

(k) Staff. Staff support for the committee shall be provided by the department.

(l) Procedures. Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by the committee must be approved by a majority vote of the members present once quorum is established.

(2) Each member shall have one vote.

(3) A member may not authorize another individual to represent the member by proxy.

(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, gender, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each committee meeting shall be taken by department staff. Upon approval by the committee, the minutes shall be signed by the presiding officer.

(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.

(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.

(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee's presiding officer.

(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.

(n) Statements by members.

(1) The Executive Commissioner of the Health and Human Services Commission, 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 Executive Commissioner of the Health and Human Services Commission, department, or the committee.

(2) The committee and its members may not participate in legislative activity in the name of the Executive Commissioner of the Health and Human Services Commission, the department or the committee except with approval by the department. Committee members are not prohibited from representing themselves or other entities in the legislative process.

(3) A committee member should not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(4) A committee member should not disclose confidential information acquired through his or her committee membership.

(5) A committee member should not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.

(6) A committee member who has a personal or private interest in a matter pending before the committee shall publicly disclose the fact in a committee meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter but does not include the committee member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

(o) 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) No compensatory per diem shall be paid to committee members unless required by law.

(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.

(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.

(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.

§140.504. 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. All fees are nonrefundable.

(b) The schedule of fees is as follows:

(1) application and initial certification fee – \$75;

(2) biennial certificate renewal fee – \$60;

(3) one to 90-day late renewal fee – one and one half of the normally required renewal fee;

(4) 91-day to one year late renewal fee – two times the normally required renewal fee;

(5) certificate and/or identification card replacement or duplicate fee – \$20;

(6) temporary certificate fee – \$25;

(7) general examination fee – the fee for the examination as set by contract with the examining body;

(8) chiropractic examination fee – the fee for the examination as set by contract with the examining board;

(9) skull, chest, spine, extremities or podiatric examination fee – the fee for the examination as set by contract with the examining board;

(10) upgrade of a temporary certificate to a renewable certificate, limited or general – \$25;

(11) limited instructor approval fee – \$50;

(12) limited curriculum application fee – \$900 two-year term per course of study;

(13) site visit fee – a fee equal to the round trip travel expenses including meals and lodging of the inspection committee members, not to exceed \$1,000;

(14) training program application fee – \$350 (the application fee for training programs accredited by the Texas Higher Education Coordinating Board shall be waived);

(15) training program amendment fee – \$40 (the amendment fee for training - programs accredited by the Texas Higher Education Coordinating Board shall be waived);

(16) training program biennial renewal fee – \$300 (the renewal fee for training programs accredited by the Texas Higher Education Coordinating Board shall be waived);

(17) limited curriculum amendment fee – \$40;

(18) biennial limited curriculum approval fee for general certificate programs – \$450;

(19) non-certified technician application fee – \$50;

(20) non-certified technician renewal fee – \$50;

(21) non-certified technician late renewal fee – \$50;

(22) hardship exemption application fee – \$25;

(23) provisional certificate fee – \$75;

(24) returned check fee – \$50; and

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

(c) For all applications and renewal applications, the department 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.

§140.505. Applicability of Subchapter; Exemptions.

(a) Except as specifically exempted by subsections (b) and (c) of this section, the provisions of the Act and this subchapter apply to any person representing that he or she performs radiologic procedures.

(b) This subchapter does not prohibit the performance of a radiologic procedure by the following:

(1) a person who is a practitioner and performs the procedure in the course and scope of the profession for which that person holds the license; or

(2) a person who performs a radiologic procedure involving a dental x-ray machine, including panorex or other equipment designed and manufactured only for use in dental radiography and under the instruction or direction of a dentist, if the person and the dentist are in compliance with rules adopted under the Act, §601.251 and §601.252 by the Texas State Board of Dental Examiners.

(c) This subchapter does not prohibit the performance of a radiologic procedure which has not been identified as dangerous or hazardous under §140.516 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 §140.518 of this title (relating to Mandatory Training Programs for Non-Certified Technicians), §140.521 of this title (relating to Bone Densitometry Training) 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 Board of Chiropractic Examiners, Texas Medical Board, Texas Board of Nursing or Texas State Board of Podiatric Medical Examiners;

(2) a person who has successfully completed a training program for NCTs, in accordance with §140.518 of this title and who performs the procedure in a hospital that participates in the federal Medicare program or is accredited by the Joint Commission on Accreditation of Healthcare Organizations;

(3) students of medicine, osteopathic medicine, podiatry or chiropractic when under instruction or direction of a practitioner and if the student and the practitioner are in compliance with paragraph (1) of this subsection;

(4) a person who performs only in-vitro clinical or laboratory testing procedures as described in the Texas Regulations for the Control of Radiation;

(5) a student enrolled in a radiologic technology program which meets the requirements of §140.509 of this title (relating to Standards for the Approval of Curricula and Instructors) or §140.518 of this title, who is performing radiologic procedures in an academic or clinical setting as part of the program; or

(6) a person who performs radiologic procedures for a period of not more than ten days, while enrolled in and as a part of continuing education activities which meet the minimum standards set out in §140.511 of this title (relating to Continuing Education Requirements) and who is licensed or otherwise registered as a medical radiologic technologist in or by another state, District of Columbia, a territory of the United States, the American Registry of Radiologic Technologists (ARRT), the Nuclear Medicine Technology Certification Board (NMTCB), the Board of Registry of the American Society of Clinical Pathologists, the Canadian Association of Medical Radiologic Technologists, the British Society of Radiographers, the Australian Institute of Radiography, or the Society of Radiographers of South Africa; or

(7) a person who performs the procedure in a hospital, federally qualified health center (FQHC), or for a practitioner, if a hardship exemption was granted to the hospital, FQHC or practitioner by the department during the previous 12-month period under §140.520 of this title (relating to Hardship Exemptions).

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

(a) General.

(1) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department forms.

(2) The department shall not consider an application as officially submitted until the applicant pays the correct fee in accordance with §140.504 of this title, (relating to Fees). The correct fee must accompany the application form.

(3) The department shall send a notice listing the additional materials required to an applicant whose application is incomplete. An application not completed within 30 calendar days after the date of notice shall be invalid unless the applicant has advised the department of a valid reason for the delay.

(4) Applications will be accepted for a temporary certificate from students not more than 28 calendar days prior to the date of graduation from an approved medical radiologic technologist education program.

(5) A certificate may be reinstated only in accordance with §140.510(e) of this title (relating to Certificate Issuance, Renewals, and Late Renewals).

(b) Required application materials.

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

(A) specific information regarding personal data, social security number, birth date, current and previous places of employment, other state licenses and certificates held, misdemeanor and felony convictions, and educational and training background;

(B) a statement that the applicant has read the Texas Medical Radiologic Technologist Certification Act (the Act) and this chapter and agrees to abide by them;

(C) the applicant's permission to the department to seek any information or references which are material in determining the applicant's qualifications;

(D) a statement that the applicant, if issued a certificate, shall return the certificate and identification card(s) to the department upon the expiration, revocation, surrender or suspension of the certificate;

(E) a statement that the applicant understands that the fees submitted are nonrefundable unless the processing time is exceeded without good cause as set out in subsection (e)(1) of this section;

(F) a statement that the applicant understands that the materials submitted become the property of the department and are nonreturnable (unless prior arrangements have been made);

(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) a statement that the applicant shall advise the department of his or her current mailing address within 30 working days of any change of address;

(2) Applicants for a certificate who do not qualify under the provisions of §140.507(b) of this title (relating to Types of Certificates and Applicant Eligibility) must submit the following additional documents:

(A) if the applicant is not a graduate of or expected to graduate within 28 calendar days from a general certificate program in accordance with §140.509(a) of this title (relating to Standards for the Approval of Curricula and Instructors), a photocopy which has been notarized as a true and exact copy of an unaltered official diploma or official transcript indicating graduation from high school; a certificate of high school equivalency issued by the appropriate educational agency; or an official transcript from an accredited college or university indicating that the applicant received a high school diploma or the equivalency or was awarded an associate, baccalaureate, or post-baccalaureate degree; and

(B) at least one of the items set out as follows:

(i) a photocopy of an unaltered certificate of completion from an approved medical radiologic technologist educational program in accordance with §140.509 of this title. The certificate must contain the following items: name of the program; name of the graduate; the exact day and month applicant is recognized as a program graduate; and the signature of the program director or his designate;

(ii) a photocopy of original letter or other notification from either the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board (NMTCB) that the applicant is considered examination eligible; or

(iii) if applying prior to graduation, from an approved medical radiologic program in accordance with §140.509 of this title, an expected graduation statement signed by the program director or registrar. Within 30 working days of the completion date noted in the graduation statement, the department must receive:

(I) a photocopy of the certificate of completion or letter on letterhead indicating graduation, containing the items set out in clause (i) of this subparagraph; or

(II) a statement signed by the program director or registrar indicating that the applicant officially completed the program.

(3) Persons applying under the provisions of §140.507(d)(5) of this title must submit to the department a properly completed other license/registration documentation report form which has been completed and signed by an authorized representative of the governmental agency which issued the license or other form of registration. A photocopy of the license or other form of registration in medical radiologic technology issued by the government of another state, District of Columbia, or territory of the United States shall be submitted by the applicant.

(c) Application approval.

(1) The department shall be responsible for reviewing all applications.

(2) The department 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) The department may disapprove the application if the applicant:

(A) has not met the eligibility and application requirements set out in this section and §140.507 of this title;

(B) has failed to pass the examination prescribed in §140.508 of this title (relating to Examinations);

(C) has failed to remit any required fees;

(D) has failed or refused to properly complete or submit any application form(s) or endorsement(s) or has knowingly presented false or misleading information on the

application form, or any other form or documentation required by the department to verify the applicant's qualifications for certification;

(E) has obtained or attempted to obtain a certificate issued under the Act by bribery or fraud;

(F) has made or filed a false report or record made in the person's capacity as a medical radiologic technologist;

(G) has intentionally or negligently failed to file a report or record required by law;

(H) has intentionally obstructed or induced another to intentionally obstruct the filing of a report or record required by law;

(I) has engaged in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the board in §140.514 of this title, (relating to Disciplinary Actions);

(J) has developed an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:

(i) an illness;

(ii) drug or alcohol dependency; or

(iii) another physical or mental condition or illness;

(K) has failed to report to the department the violation of the Act or this subchapter by another person;

(L) has employed, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with the Act;

(M) has violated a provision of the Act, a rule adopted under the Act, an order of the department previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;

(N) has had a certificate revoked, suspended, or otherwise subjected to adverse action or been denied a certificate by another certification authority in another state, territory, or country;

(O) has been convicted of, pled nolo contendere to, or received deferred adjudication for a crime which directly relates to the practice of radiologic technology; or

(P) has been initially convicted of a felony or a misdemeanor involving moral turpitude, or whose probation imposed pursuant to such conviction has been revoked by the court.

(2) If the department determines that the application should not be approved, the department 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. Within ten days after receipt of the written notice, the applicant shall give written notice to the department 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 that the hearing be waived, the department shall disapprove the application.

(3) An applicant whose application has been disapproved under paragraph (1)(A) - (P) of this subsection shall be permitted to reapply after a period of not less than one year from the date of the disapproval and shall submit a current application, the certification fee and proof, satisfactory to the department, of compliance with the then current requirements of this chapter and the provisions of the Act.

(e) Application processing.

(1) The department shall comply with the following procedures in processing applications for a certificate.

(A) The following periods of time shall apply from the date of receipt of an application until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a complete application. The time periods are as follows:

(i) letter of acceptance of application for certification – 21 working days. The notice of acceptance may include a statement that an application for temporary certificate received more than 28 calendar days from the date of the applicant's graduation will be held pending until the applicant is within 28 calendar days of graduation; and

(ii) letter of application deficiency – 21 working days.

(B) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The time periods for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with the law and of the opportunity for a formal hearing. The time periods are as follows:

(i) letter of approval – 42 working days; and

(ii) letter of denial of certificate – 90 working days.

(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. If the department 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) Good cause for exceeding the time period is considered to exist if the number of applications for certification or renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the department in the application process caused the delay; or any other condition exists that gives the department good cause for exceeding the time period.

(3) 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.

§140.507. Types of Certificates and Applicant Eligibility.

(a) General.

(1) The department shall issue general certificates, limited certificates, temporary certificates (general or limited) or provisional certificates.

(2) Certificates and identification cards shall bear the signature of the commissioner of the department.

(3) Any certificate or identification card(s) issued by the department remains the property of the department and shall be surrendered to the department on demand.

(4) A person certified as an MRT, LMRT, NCT or PMRT shall carry or display the original certificate or current identification card at the place of employment. Photocopies shall not be carried or displayed.

(5) A person certified as an MRT, LMRT, NCT or PMRT shall only allow his or her certificate to be copied for the purpose of verification by employers, licensing boards, professional organizations and third party payors for credentialing and reimbursement purposes. Other persons and/or agencies may contact the board's office in writing or by phone to verify certification.

(6) No one shall display, present, or carry a certificate or an identification card which has been altered, photocopied, or otherwise reproduced.

(7) No one shall make any alteration on any certificate or identification card issued by the department.

(b) Special provisions for persons who are nationally certified. Upon payment of the application fee, submission of the application forms and approval by the department, the department shall issue a general certificate to a person who is currently registered by the American Registry of Radiologic Technologists (ARRT) as a radiographer, is currently registered by the ARRT as a radiation therapist, or is currently registered by the ARRT or is currently certified by the Nuclear Medicine Technologist Certification Board (NMTCB) as a nuclear medicine technologist.

(c) Minimum eligibility requirements for certification. The following requirements apply to all individuals applying for certification who do not meet the requirements of subsection (b) of this section:

(1) graduation from high school or its equivalent as determined by the Texas Education Agency;

(2) attainment of 18 years of age;

(3) freedom from physical or mental impairment which interferes with the performance of duties or otherwise constitutes a hazard to the health or safety of patients;

(4) submission of a satisfactory completed application on a form supplied by the department;

(5) payment of the required fees; and

(6) eligibility for the specific certificate requested as set out in subsections (d), (e), (f), (g), (h) or (i), of this section.

(d) Medical radiologic technologist. To qualify for a general certificate an applicant shall meet at least one of the following requirements:

(1) possess current national certification as a registered technologist by the ARRT;

(2) have successfully completed the ARRT's examination in radiography, radiation therapy, or nuclear medicine technology;

(3) possess current national certification as a certified nuclear medicine technologist by the NMTCB;

(4) have successfully completed the NMTCB's examination in nuclear medicine technology; or

(5) be currently licensed or otherwise registered as a medical radiologic technologist in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or are substantially equivalent to the requirements for Texas certification; and

(6) any other documentation acceptable to the department.

(e) Limited medical radiologic technologist. To qualify for a limited certificate, an applicant shall meet the requirements in paragraph (4) of this subsection and subsection (c) of this section.

(1) The limited categories shall be as follows: skull; chest; spine; extremities; chiropractic; podiatry; and cardiovascular.

(2) Holding a limited certificate in all categories shall not be construed to mean that the holder of the limited certificate has the rights, duties, and privileges of a general certificate holder.

(3) Persons holding a limited certificate in one or more categories may not perform radiologic procedures involving the use of contrast media, utilization of fluoroscopic equipment, mammography, tomography, portable radiography, nuclear medicine, and/or radiation therapy procedures. However, a person holding a limited certificate in the cardiovascular category may perform 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.

(4) To qualify for a certificate as an LMRT an applicant must provide satisfactory documentary evidence to the department of the following:

(A) the successful completion of a limited course of study as set out in §140.509 of this title, (relating to Standards for the Approval of Curricula and Instructors) and the successful completion of the appropriate limited examination in accordance with §140.508 of this title (relating to Examinations);

(B) current licensure or registration as an LMRT in another state, the District of Columbia, or a territory of the United States of America whose requirements are more stringent than or substantially equivalent to the requirements for the Texas limited certificate at the time of application to the department; or

(C) current general certification as an MRT issued by the department. The MRT must surrender the general certificate and submit a written request for a limited certificate indicating the limited categories requested. The request shall be postmarked on or before the certificate expiration date and shall be accompanied by the general certificate and the certificate and/or identification card replacement fee; and

(D) any other documentation acceptable to the department.

(f) Temporary general medical radiologic technologist. To qualify as a temporary general medical radiologic technologist, 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) have successfully completed or be within 28 calendar days of successful completion of a course of study in radiography, radiation therapy, or nuclear medicine technology which is accredited by the United States Department of Education including but not limited to the Joint Committee on Education in Nuclear Medicine Technology (JRCNMT) or the Joint Review Committee on Education in Radiologic Technology (JRCERT);

(2) be approved by the ARRT as examination eligible;

(3) be approved by the NMTCB as examination eligible;

(4) be currently licensed or otherwise registered as an MRT in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or substantially equivalent to the Texas requirements for certification at the time of application to the department; or

(5) have completed education, training and clinical experience which is equivalent to that of an accredited educational program in radiography as listed in paragraph (1) of this subsection. An applicant who meets this requirement is eligible to be examined for state certification purposes only.

(g) Temporary limited medical radiologic technologist. The applicant shall meet at least one of the following requirements. These are in addition to those listed in subsection (c) of this section. The applicant must:

(1) have successfully completed or be within 28 calendar days of successful completion of a limited certificate program in the categories of skull, chest, spine, abdomen or extremities, which is approved in accordance with §140.509(b) of this title.

(2) be currently enrolled in a course of study in a general certificate program approved in accordance with §140.509(a) of this title and have been issued a certificate of completion by the program signifying that the person has completed classroom instruction, clinical instruction, evaluations and competency testing in all areas included in the limited curriculum, as set out in §140.509(d) of this title; or

(3) be currently licensed or otherwise registered as an LMRT in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or substantially equivalent to the Texas requirements for certification at the time of application to the department.

(h) Special provisions for technologists on active military duty. An MRT or LMRT whose certificate has expired and was not renewed under §140.510(g) of this title (relating to Certificate Issuance, Renewals, and Late Renewals) may file a complete application for another certificate of the same type as that which expired.

(1) The application shall be on official department forms and be filed with the application and initial certification fee.

(2) An applicant shall be entitled to a certificate of the same type as that which expired based upon the applicant's previously accepted qualification and no further qualifications or examination shall be required.

(3) The application must include a copy of the official orders or other official military documentation showing that the holder was on active duty during any portion of the period for which the applicant was last certified.

(4) An application is subject to disapproval in accordance with §140.506(d) of this title, (relating to Application Requirements and Procedures for Examination and Certification).

(5) An applicant for a different type of certificate than that which expired must meet the requirements of this chapter generally applicable to that type of certificate.

(i) Provisional medical radiologic technologist. A provisional certificate may be issued to an applicant who is currently licensed or certified in another jurisdiction and who:

(1) has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of the Act;

(2) has passed a national or other examination recognized by the department relating to the practice of radiologic technology; and

(3) is sponsored by a medical radiologic technologist certified by the department under this Act with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

§140.508. Examinations.

(a) Examination eligibility.

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

(2) Persons who qualify under §140.507(b), (d), (e) or (i) of this title (relating to Types of Certificates and Applicant Eligibility) are not required to be reexamined for state certification.

(b) Approved examination for the general certificate. A general certificate shall be issued upon successful completion of the Nuclear Medicine Technology Certification Board (NMTCB) examination or the appropriate examination of the American Registry of Radiologic Technologists (ARRT). The three disciplines are radiography, nuclear medicine technology, and radiation therapy. Determination of the appropriate examination shall be made on the basis of the type of educational program completed by the general temporary certificate holder.

(c) Approved examination for the limited certificate. An approval letter requesting the limited certification fee shall be issued upon successful completion of the appropriate examination, as follows:

(1) skull – the ARRT examination for the limited scope of practice in radiography (skull);

(2) chest – the ARRT examination for the limited scope of practice in radiography (chest);

(3) spine – the ARRT examination for the limited scope of practice in radiography (spine);

(4) extremities – the ARRT examination for the limited scope of practice in radiography (extremities);

(5) chiropractic – the ARRT examinations for the limited scope of practice in radiography (spine and extremities);

(6) podiatric – the ARRT examination for the limited scope of practice in radiography (podiatry); or

(7) cardiovascular – the Cardiovascular Credentialing International invasive registry examination.

(d) Applicants approved for the limited certification examination will be allowed three attempts to pass the examination. The three attempts must be made within a three-year period of time. When either three unsuccessful attempts have been made or three years have expired, the individual is no longer considered eligible under this section. To be eligible for an additional examination the applicant must submit documentation indicating completion of remedial activities. The fourth attempt must occur within the one-year period following the third unsuccessful attempt. Those failing the fourth attempt, or waiting longer than one year following the third unsuccessful attempt, shall only become eligible by re-entering and completing an approved limited certification program. Upon the applicant's successful completion of the examination, the department shall issue an approval letter for the limited certificate.

(e) Examination schedules. A schedule of examinations indicating the date(s), location(s), fee(s) and application procedures shall be provided by the agency or organization administering the examination(s).

(f) Standards of acceptable performance. The scaled score to determine pass or fail performance shall be 75. For the cardiovascular limited certificate, the Cardiovascular Credentialing International examinations (Cardiovascular Science Examination and/or the Invasive Registry Examination as required to obtain the Registered Cardiovascular Invasive Specialist RCIS credential) the scaled score to determine pass or fail performance shall be 70.

(g) Completion of examination application forms. Each applicant shall be responsible for completing and transmitting appropriate examination application forms and paying appropriate examination fees by the deadlines set by the department or the agency or organization administering the examinations prescribed by the department.

(h) Examination Results.

(1) Notification to examinees. Results of an examination prescribed by the department but administered under the auspices of another agency will be communicated to the applicant by the department, unless the contract between the department and that agency provides otherwise.

(2) Score release. The applicant is responsible for submitting a signed score release to the examining agency or organization or otherwise arranging to have examination scores forwarded to the department.

(3) Deadlines. The department shall notify each examinee of the examination results within 14 days of the date the department receives the results.

(i) Refunds. Examination fee refunds will be in accordance with policies and procedures of the department or the agency or organization prescribed by the department to administer an examination. No refunds will be made to examination candidates who fail to appear for an examination.

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

(a) General certificate programs. All curricula and programs to train individuals to perform radiologic procedures must be accredited by the United States Department of Education including but not limited to the Joint Review Committee on Education in Nuclear Medicine Technology (JRCNMT) or the Joint Review Committee on Education in Radiologic Technology (JRCERT).

(b) Limited certificate programs. All curricula and programs to train individuals to perform limited radiologic procedures must:

(1) be accredited by the JRCERT to offer a limited curriculum in radiologic technology;

(2) be accredited by the Joint Review Committee on Education in Cardiovascular Technology (JRCCVT) to offer a curriculum in invasive cardiovascular technology;

(3) be accredited by JRCERT under paragraph (1) of this section; or

(4) be approved by the department and be offered within the geographic limits of the State of Texas. Subsections (c) - (g) of this section apply only to department-approved programs.

(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 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) All official application forms must be notarized and shall be accompanied by the application fee in accordance with §140.504 of this title (relating to Fees).

(2) An original and one copy 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) Narrative materials must be typed, double-spaced, and clearly legible. All signatures on the official forms and supporting documentation must be originals. Photocopied signatures will not be accepted.

(4) Notices will be mailed to applicants informing the applicant of the completeness or within 60 days of receipt of the application in the department. Applications which are received incomplete may cause postponement of the program starting date. The time of receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying the application is 120 days. In the event these time periods are exceeded, the applicant has the right to request reimbursement of fees, as set out in §140.506(e)(2) and (3) of this title (relating to Application Requirements and Procedures for Examination and Certification).

(5) If the application is revised or supplemented during the review process, the applicant shall submit an original and four copies of a transmittal letter plus an original and three

copies of the revision or supplement. If a page is to be revised, the complete new page must be submitted with the changed item/information clearly marked on five copies.

(6) The application shall include:

(A) the anticipated dates of the program or course of study;

(B) the daily hours of the program or course of study;

(C) the location, mailing address, phone and facsimile numbers of the program;

(D) a list of instructors approved by the department, in accordance with subsection (f) of this section, and any other persons responsible for the conduct of the program including management and administrative personnel. The list must indicate what courses each will teach or instruct or the area(s) of responsibility for the non-instructional staff;

(E) a list of clinical facilities, written agreements on forms prescribed by the department from clinical facilities signed by the program director and the chief executive officer(s) of each facility, and clinical schedules, including the following items identified for each clinical site utilized. A clinical facility which is not listed on the application may not be utilized for a student's clinical practicum until the department has accepted the additional clinical facility in accordance with paragraph (10) of this subsection. The items are:

(i) the number and types (name brands and model numbers) of radiologic equipment to be utilized in the limited curriculum;

(ii) a copy of the current registration(s) for the radiologic equipment from the department's Radiation Control Program;

(iii) the number and location(s) of examination rooms available;

(iv) whether or not the clinical facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or certified to participate in the federal Medicare program, and if required, is licensed by the appropriate statutory authority. For example, if the facility is an ambulatory surgical center, licensure by the department is required;

(v) an acknowledgement that students may only perform radiologic procedures under supervision of a practitioner, a limited medical radiologic technologist (LMRT) employed at the clinical facility or medical radiologic technologist (MRT) employed at the clinical facility;

(vi) copies of the current identification cards issued by the department to the LMRTs or MRTs who will supervise the students at all times while performing radiologic procedures;

(vii) an acknowledgment that the students in a limited curriculum program in the categories of skull, chest, spine, abdomen, extremities, chiropractic or podiatric shall not perform procedures utilizing contrast media, mammography, fluoroscopy, tomography, nuclear medicine studies, radiation therapy or other procedures beyond the scope of the limited curriculum; and

(viii) an acknowledgment that the students in a limited curriculum program in the cardiovascular category shall not perform mammography, tomography, nuclear medicine studies, radiation therapy or other procedures beyond the scope of the limited curriculum. Such students may only perform radiologic procedures of the cardiovascular system which involve the use of contrast media and fluoroscopic equipment.

(F) clearly defined and written policies regarding admissions, costs, refunds, attendance, disciplinary actions, dismissals, re-entrance, and graduation which are provided to all prospective students prior to registration and by which the program director shall administer the program. The admission requirements shall include the minimum eligibility requirements for certification in accordance with §140.507(c)(1) - (2) of this title relating to Types of Certification and Applicant Eligibility).

(G) the name of the program director who is an approved instructor in accordance with subsection (f) of this section, and who has not less than three years of education or teaching experience in the appropriate field or practice;

(H) a letter of acknowledgement and a photocopy of the current Texas license from a practitioner in the appropriate field of practice who is knowledgeable in radiation safety and protection and who shall be known as the designated medical director. The practitioner shall work in consultation with the program director in developing goals and objectives and in implementing and assuring the quality of the program;

(I) a letter or other documentation from the Texas Workforce Commission, Proprietary Schools Section indicating that the proposed training program has complied with or has been granted exempt status under the Texas Proprietary School Act, Texas Education Code, Chapter 32, and 19 Texas Administrative Code, Chapter 175, or verification of accreditation by the Texas Higher Education Coordinating Board; and

(J) the correct number of students to be enrolled in each cycle of the program, and if more than one cycle will be conducted concurrently, the maximum number of students to be enrolled at any one time.

(7) All applications must identify the type of curriculum according to the limited categories in accordance with §140.507(e) of this title. Each application must be accompanied by an outline of the curriculum and course content which clearly indicates that students must complete a structured curriculum in proper sequence according to subsection (d) of this section. If the curriculum differs from that set out in subsection (d) of this section, a typed comparison in

table format clearly indicating how the curriculum differs from the required curriculum, including the number of hours for each topic or unit of instruction, shall be included.

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

(A) provide a ratio of not more than three students to one full-time certified medical radiologic technologist engaged in the supervision of the students in the clinical environment;

(B) provide on-site instruction and direction by a practitioner for students when performing radiologic procedures on human beings;

(C) prohibit students from being assigned to any situation where they would be required to apply radiation to a human being while not under the on-site instruction or direction of a practitioner;

(D) prohibit intentional exposure to human beings from any source of radiation except for medically prescribed diagnostic purposes;

(E) provide appropriate facilities, sufficient volume of procedures, and a variety of diagnostic radiologic procedures to properly conduct the course. Facilities, agencies, or organizations utilized in the program shall be accredited or certified and licensed by the appropriate agencies. Equipment and radioactive materials utilized in the program shall be used only in facilities registered or licensed by the department's Radiation Control Program;

(F) keep an accurate record of each student's attendance and participation, evaluation instruments and grades, clinical experience including radiation exposure history, and subjects completed for not less than five years from the last date of the student's attendance. Such records shall be made available to examining boards, regulatory agencies, and other appropriate organizations, if requested;

(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) site inspections by departmental representatives to determine compliance and conformity with the provision of this section will be at the discretion of the department;

(I) understand and recognize that the graduates' success rate on the prescribed examination will be monitored by the department and utilized as a criteria for rescinding approval. In addition to this criteria, the department may rescind approval in accordance with §140.514 of this title (relating to Disciplinary Actions); and

(J) comply with the Texas Regulations for the Control of Radiation, including but not limited to, personnel monitoring devices for each student upon the commencement of the clinical instruction and clinical experience.

(9) A site visit may be necessary to grant approval of the program. If a site visit is required, a site visit fee must be paid in accordance with §140.504 of this title.

(10) Following program approval, a written request(s) for amendment(s) shall be submitted to and approved by the department in advance of taking the anticipated action. The request to add or drop an instructor, clinical site, category of instruction, program director or other change, shall be accompanied by the limited curriculum program amendment application and fee in accordance with §140.504 of this title.

(d) Curricula requirements. Each student must complete a curriculum which meets or exceeds the following requirements:

(1) at least 132 clock hours of basic theory or classroom instruction in the categories of skull, chest, extremities, spine, and chiropractic, and not less than 66 clock hours of basic theory instruction for podiatric is required. The required clock hours of basic theory/classroom instruction need not be repeated if two or more categories of curriculum are completed simultaneously or to add a category to a temporary limited or limited certificate. Pediatric instruction shall be included in the hours of training. The following subject areas and minimum number of hours (in parentheses) must be included in all programs and must be instructor directed. The recommended clock hours for each shall be:

(A) radiation protection for the patient, self, and others – 40;

(B) radiographic equipment including safety standards, operation, and maintenance – 15;

(C) image production and evaluation – 35;

(D) applied human anatomy and radiologic procedures – 20;

(E) patient care and management essential to radiologic procedures and recognition of emergency patient conditions and initiation of first aid – 10;

(F) medical terminology – 6; and

(G) medical ethics and law – 6; and

(2) a clinical practicum for each category of limited curriculum including pediatrics is required. The practicum must include clinical instruction and clinical experience under the instruction or direction of a practitioner and an MRT or LMRT in accordance with the following chart.

Figure: 25 TAC §140.509(d)(2)

<u>TYPE OF LIMITED CERTIFICATE</u>	<u>CLINICAL INSTRUCTION (# OF CLOCK HOURS)</u>	<u>CLINICAL EXPERIENCE (# OF CLOCK HOURS)</u>
Skull	50	100
Chest	6	100
Spine	25	100
Extremities	30	100
Chiropractic	60	100
Podiatric	4	50

(A) The clinical instruction must be concurrent with the classroom instruction, as set out in paragraph (1) of this subsection.

(B) The clinical experience must commence immediately following the clinical instruction and be completed within 180 calendar days of the starting date of the clinical experience. Variances from this must be approved in advance by the department and must demonstrate good cause. A request for a variance must be submitted in writing to the administrator. For the purposes of this section, a normal pregnancy or medical disability shall constitute good cause.

(C) For the skull category, the 100 hours of clinical experience must include a minimum of 4 independently performed procedures to include the skull (posterior/anterior, anterior/posterior, lateral and occipital), paranasal sinuses, facial bones, and the mandible. At least one procedure must be the mandible. The mandible procedure may be completed by simulation with 90% accuracy. Only one student shall receive credit for any one radiologic procedure performed.

(D) The program director shall be responsible for supervising and directing the evaluation of the students' clinical experience and shall certify in writing that the student has or has not successfully completed the required clinical instruction and clinical experience. Such written documentation must be provided to each student within 14 working days of completion of the clinical experience. Students who successfully complete the required

clinical experience may be required to submit such documentation to the department if applying for a temporary limited certificate with an expected graduation statement, as set out in §140.506(b)(2)(B)(iii) of this title. Persons who participate in the evaluation of students' clinical experience must be an MRT or LMRT and have a minimum of two years of practical work experience performing radiologic procedures. For cardiovascular, persons who makes the final evaluation of students' clinical experience must be an MRT or LMRT and have a minimum of two years of practical work experience performing cardiovascular procedures.

(e) Limited certificate educational program approval.

(1) Provided the requirements are met, the sponsoring institution shall receive a letter from the department indicating approval of the educational program in accordance with §113.1 of this title (relating to Processing Permits for Special Health Services Professionals).

(2) A program shall be denied approval if the application is incomplete or not submitted as set out in this section. The applicant shall be notified in accordance with §113.1 of this title.

(3) If approval is proposed to be denied, the applicant shall be notified in writing of the proposed denial and shall be given an opportunity to request a formal hearing within 10 days of the applicant's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures in Chapter 1 of this title. If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.

(f) Instructor approval for limited certificate programs.

(1) All persons who plan to or who will provide instruction and training in the limited certificate courses of study or programs shall:

(A) submit a completed application form prescribed by the department;

(B) submit the prescribed application fee in accordance with §140.504 of this title;

(C) document the appropriate instructor qualifications in accordance with subsection (g) of this section.

(2) Guest lecturers who are not full or part-time employees of the sponsoring institution are not required to apply for instructor approval.

(3) Within 21 days of receipt of the application in the department, a notice will be mailed informing the applicant of the completeness or deficiency of the application. The time of receipt of the last item necessary to complete the application to the date of issuance of a written notice approving or denying the application is 42 working days. In the event these time periods are exceeded, the applicant has the right to request reimbursement of fees paid as set out in §140.506(e)(2) and (3) of this title.

(4) An applicant who is not approved by the department shall be given an opportunity to request a formal hearing within ten days of the applicant's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures. If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.

(g) Instructor qualifications for limited certificate programs.

(1) An instructor(s) shall have education and not less than 6 months classroom or clinical experience teaching the subjects assigned, shall meet the standards required by a sponsoring institution, if any, and shall meet at least one or more of the following qualifications:

(A) be a currently certified MRT who is also currently credentialed as a radiographer by the American Registry of Radiologic Technologists (ARRT);

(B) be a currently certified LMRT (excluding a temporary certificate) whose limited certificate category(ies) matches the category(ies) of instruction and training;

(C) be a practitioner who is in good standing with all appropriate regulatory agencies including, but not limited to, the department, the Texas Board of Chiropractic Examiners, Texas Medical Board, or Texas State Board of Podiatric Medical Examiners, the Texas Health and Human Services Commission, and the United States Department of Health and Human Services; or

(D) be a currently licensed medical physicist.

(2) A limited medical radiologic technologist may not teach, train, or provide clinical instruction in a program or course of study different from the technologist's current level of certification. An LMRT who holds a limited certificate in spine radiography may not teach, train, or provide clinical instruction in a limited course of study for chest radiography.

(h) Application procedures for limited certificate programs accredited by JRCERT or JRCCVT.

(1) Application shall be made by the program director on official forms available from the department.

(2) The application must be notarized and shall be accompanied by the following items:

(A) the limited curriculum application fee, in accordance with §140.504 of this title;

(B) a copy of the current accreditation issued to the program by the JRCERT or JRCCVT;

(C) a description in narrative and/or table format clearly indicating that the applicable content of the limited certificate program curriculum be equal to the general certificate curriculum; and

(D) an agreement to allow the department to conduct an administrative audit of the program to determine compliance with this section.

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

(a) Issuance of certificates.

(1) The department shall send each applicant whose application has been approved a general, limited or provisional certificate with an expiration date and a certificate number. An identification card shall be included with the certificate.

(2) The department shall replace a lost, damaged, or destroyed certificate or identification card(s) upon a written request and payment of the replacement fee. Requests shall include a statement detailing the loss or destruction of the original certificate and/or identification card(s), or be accompanied by the damaged certificate or card(s).

(b) Temporary certificates.

(1) The department shall send each applicant whose application has been approved for the temporary certificate (general or limited) an appropriate temporary certificate which shall expire one year from the date of issue.

(2) All temporary certificates are not subject to renewals or extensions for any reason. A person whose temporary certificate has expired is not eligible to reapply for another temporary certificate.

(c) Certificates. The initial general, limited certificate and NCT is valid from date of issuance through the medical radiologic technologist's (MRT's), limited medical radiologic technologist's (LMRT's) or Non-Certified Technician (NCT's) birth month.

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

(1) Each MRT, LMRT, and NCT is responsible for renewing the certificate before the expiration date and shall not be excused from paying late fees. Failure to receive notification from the department prior to the expiration date will not excuse failure to file for renewal or late renewal.

(2) At least 60 days prior to the expiration of an MRT's, LMRT's, or NCT's certificate, the department shall send notice to the MRT, LMRT or NCT at the address in the department's records at the time the notice is sent, of the expiration date of the certificate, the

amount of renewal fee due, and a renewal form which the MRT, LMRT or NCT must complete and return to the department with the required renewal fee.

(3) The renewal form shall require the provision of the MRT's, LMRT's or NCT's preferred mailing address, primary employment address and phone number, information regarding misdemeanor and felony convictions (if any since initial certification or last renewal), and continuing education completed in accordance with §140.511 of this title, (relating to Continuing Education Requirements).

(4) The MRT, LMRT, or NCT 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. The postmarked date shall be considered the date of mailing. The processing times and procedures set out in §140.506(e) of this title (relating to Application Requirements and Procedures for Examination and Certification) shall apply to renewals.

(5) The department is not responsible for lost, misdirected, or undelivered renewal application forms, fees, renewal certificates, or renewal identification cards.

(6) The department shall issue renewal identification cards for the current renewal period to an MRT, LMRT or NCT who has met all the requirements in paragraph (4) of this subsection 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.

(7) The department shall deny renewal of a certificate if required by the Education Code, §57.491, concerning defaults on guaranteed student loans.

(8) The department may not renew the certificate of an MRT, LMRT or NCT who is in violation of the Act or this chapter at the time of renewal.

(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 §140.504 of this title (relating to Fees); and the continuing education hours required by §140.511 of this title.

(f) 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, and the late renewal fee. An active annual registration or credential card issued by the American Registry of Radiologic Technologists does constitute supporting documentation. A certificate issued under this subsection shall expire two years from the date the previous certificate expired.

(A) If the certificate has been expired for 90 days or less, a person may renew the certificate by paying the one to 90-day late renewal fee.

(B) If the certificate has been expired for over 90 days but not more than one year, a person may renew the certificate by paying the 91-day to one-year late renewal fee.

(C) A person must comply with the continuing education requirements for renewal as set out in §140.511 of this title before the late renewal is effective.

(2) The late renewal is effective if it is mailed to the department or personally delivered by the MRT, LMRT, or NCT or his/her agent to the department not more than one year after certificate expiration. If mailed, the postmark date shall be considered the date of mailing. A postage metered date is not considered as a postmark. A certificate not renewed within one year after expiration cannot be renewed.

(3) A person whose certificate has expired may not administer a radiologic procedure during the one-year period in violation of the Act. A person may not use a title that implies certification while the certificate is expired.

(4) A person whose certificate has been expired for more than one year may apply for another certificate by meeting the then-current requirements of the Act and this chapter which apply to all new applicants.

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

(1) Renewal of the certificate may be requested by the MRT, LMRT, or NCT a spouse, or an individual having power of attorney from the MRT, LMRT, or NCT. The renewal

form shall include a current address and telephone number for the individual requesting the renewal.

(2) A copy of the official orders or other official military documentation showing that the MRT, LMRT, or NCT was on active duty for any portion of the renewal period shall be filed with the department along with the renewal form.

(3) An affidavit stating that the MRT or LMRT has not administered a radiologic procedure in a setting outside of the MRT or LMRT's active duty responsibilities during the time of active duty shall be filed with the department along with the renewal form. The affidavit may be executed by the MRT, LMRT, or NCT a spouse, or an individual having power of attorney from the MRT, LMRT, or NCT.

(4) A certificate covered by this subsection may be renewed in accordance with subsection (e) of this section. The 60-day late fee shall be waived for a renewal under this subsection.

(5) An MRT, LMRT, or NCT on active duty with the United States armed forces serving outside the State of Texas may request renewal of the certificate at any time before or after the expiration of the certificate. An MRT, LMRT, or NCT on active duty serving within the State of Texas may request renewal before the expiration of the certificate or under subsection (e) of this section. An MRT, LMRT, or NCT on active duty serving within the State of Texas who does not renew under subsection (e) of this section may file a complete application for another certificate in accordance with §140.507(h) of this title (relating to Types of Certificates and Applicant Eligibility).

§140.511. 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, LMRT's, or NCT's birth month and ending on the last day of each MRT's, LMRT's, or NCT's birth month two years thereafter.

(1) An MRT must complete 24 hours of continuing education acceptable to the department during each biennial renewal period.

(2) An LMRT must complete 12 hours of continuing education acceptable to the department during each biennial renewal period. The continuing education activities must be general radiation health and safety topics or related to the categories of limited certificate held.

(3) At least 3 hours of the required number of hours shall be satisfied by attendance and participation in instructor-directed activities.

(4) No more than 21 hours for MRTs or 9 hours for LMRTs 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.

(5) An MRT or LMRT who also holds a current Texas license/registration/certification in another health profession may satisfy the continuing education requirement for renewal of the MRT or LMRT with hours counted toward renewal of the other license, registration, or certification provided the hours meet all the requirements of this section.

(6) 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 and meet or exceed the requirements set out in paragraph (5) of this subsection 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.

(7) An NCT must complete 6 hours of continuing education acceptable to the department during the biennial renewal period. The continuing education activities may include verifiable independent self-study of reading materials, audio materials, audiovisual materials, programs online, attendance and participation in instructor-directed activities, or a combination thereof.

(8) A contact hour shall be defined as 50 minutes of attendance and participation. One-half contact hour shall be defined as 30 minutes of attendance and participation during a 30-minute period.

(9) Persons who hold temporary certificates, either general or limited, are not subject to these continuing education requirements.

(b) Content. All continuing education activities should provide for the professional growth of the technologist.

(1) At least 50% of the required number of hours must be activities which are directly related to the use and application of ionizing forms of radiation to produce diagnostic images and/or administer treatment to human beings for medical purposes. For the purpose of this section, directly related topics include, but are not limited to: radiation safety, radiation biology and radiation physics; anatomical positioning; radiographic exposure technique; radiological exposure technique; emerging imaging modality study; patient care associated with a radiologic procedure; radio pharmaceuticals, pharmaceuticals, and contrast media application; computer function and application in radiology; mammography applications; nuclear medicine application; and radiation therapy applications.

(2) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are related to the use and application of non-ionizing forms of radiation for medical purposes.

(3) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are indirectly related to radiologic technology. For the purpose of the section, indirectly related topics include, but are not limited to, patient care, computer science, computer literacy, introduction to computers or computer software, physics, human behavioral sciences, mathematics, communication skills, public speaking, technical writing, management, administration, accounting, ethics, adult education, medical sciences, and health sciences. Other courses may be accepted for credit provided there is a demonstrated benefit to patient care.

(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) is offered for semester hour or quarter hour credit by an institution accredited by a regional accrediting organization such as the Southern Association of Colleges and Schools and is directly or indirectly related to the disciplines of radiologic technology as specified in subsection (a) of this section; or

(2) is offered for continuing education credit by an institution accredited by the Joint Review Committee on Education in Radiologic Technology (JRCERT), Joint Review Committee on Education in Nuclear Medicine Technology (JRCNMT), Joint Review Committee on Education in Cardiovascular Technology (JTCCVT), or the Council on Chiropractic Education (CCE) and is directly or indirectly related to the disciplines of radiologic technology; or

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

(A) the content meets the requirements set out in subsection (b) of this section; and

(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.

(d) Additional acceptable activities. The additional activities for which continuing education credit will be awarded are as follows:

(1) successful completion of an entry-level or advanced-level examination previously passed in the same discipline of radiologic technology administered by or for the ARRT during the renewal period. The examinations shall be topics dealing with ionizing forms of radiation administered to human beings for medical purposes. Such successful completion shall be limited to not more than one-half of the continuing education hours required;

(2) successful completion or recertification in a cardiopulmonary resuscitation course, basic cardiac life support course, or advanced cardiac life support course during the continuing education period. Such successful completion or recertification shall be limited to not more than:

(A) three hours credit during a renewal period for a cardiopulmonary resuscitation course or basic cardiac life support course; or

(B) 6 hours credit during a renewal period for an advanced cardiac life support course;

(3) attendance and participation in tumor conferences (limited to six hours), in-service education and training offered or sponsored by Joint Commission on Accreditation of Healthcare Organizations (JCAHO)-accredited or Medicare certified hospitals, provided the education/training is properly documented and is related to the profession of radiologic technology;

(4) teaching in a program described in subsection (c) of this section with a limit of one contact hour of credit for each hour of instruction per topic item once during the continuing education reporting period for up to a total of 6 hours. No credit shall be given for teaching that is required as part of one's employment. Credit may be granted in direct, indirect or non-ionizing radiation based on the topic; or

(5) developing and publishing a manuscript of at least 1,000 words in length related to radiologic technology with a limit of six contact hours of credit during a continuing education period. Upon audit by the department the MRT must submit a letter from the publisher indicating acceptance of the manuscript for publication or a copy of the published work. The date of publication will determine the continuing education period for which credit will be granted. Credit may be granted in direct, indirect or non-ionizing radiation based on the topic.

(e) Reporting of continuing education. 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)(6) 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 of the required number of hours shall be verifiable independent self-study activities.

(1) At the time of renewal or at other times determined by the department, the department will select a random sample of technologists to verify compliance with the continuing education requirements. The technologists selected in the random sample shall submit at the time of renewal or within 30 days following notification from the department:

(A) documentation of participation in and completion of continuing education acceptable to the department; and

(B) any additional information or documentation deemed necessary by the department to verify the technologist's compliance with the continuing education requirements.

(2) The department shall notify the technologist of the results of the verification process.

(f) Determination of contact hour credits. The department shall credit continuing education experiences and activities as follows.

(1) Semester hour or quarter hour credits as set in subsection (c)(1) of this section shall be credited on the basis of 15 contact hour credits for each semester hour and 10 contact hour credits for each quarter hour successfully completed with a grade of "C" or better, evidenced by an official transcript.

(2) Activities or experiences as set out in subsection (c)(2) and (3) of this section shall be credited on a one-for-one basis with one contact hour credit for each contact hour of attendance and participation. Credit will be accepted only in whole hour or half-hour increments. Minutes in excess of whole or half-hour increments shall not be aggregated for additional credit.

(g) Activities unacceptable as continuing education. The department shall not grant credit for:

(1) education incidental to the regular professional activities of an MRT, LMRT or NCT such as learning from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional association, society, or other organization;

(3) any activities completed before or after the two-year continuing education period for which the credit is submitted;

(4) verifiable independent study activities which have no post-test or other measurement or evaluation instrument provided;

(5) verifiable independent study activities as set out in subsection (a)(5) of this section which exceed 50% of the clock hour requirements;

(6) learning activities indirectly related to radiologic technology as set out in subsection (b)(3) of this section which exceed 50% of the contact hour requirements;

(7) learning activities which are related to non-ionizing forms of radiation as set out in subsection (b)(2) of this section which exceed 50% of the contact hour requirements;

(8) any activities or experiences which do not meet the criteria set out in subsections (a), (b), (c) or (d) of this section;

(9) activities in accordance with subsection (d)(1) and (2) of this section which are repeated during the renewal period;

(10) activities in accordance with subsection (d)(4) of this section in excess of the one-time credit per topic of instruction or in excess of a total of 6 contact hours during a continuing education period;

(11) activities in accordance with subsection (d)(5) of this section in excess of 6 contact hours during a continuing education period; or

(12) activities that are an employment requirement or concerning specific institutional policies and procedures.

(h) Failure to complete the required continuing education. A person may renew late under §140.510(f) of this title (relating to Certificate Issuance, Renewals, and Late Renewals) after all the continuing education requirements have been met.

(i) Exemptions. The department will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(1) a technologist completes and forwards to the department a sworn affidavit indicating retirement status for the entire renewal period for which the exemption is requested. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours. These hours shall be accrued immediately following the technologist's return to performing radiologic procedures to satisfy the continuing education requirements for renewal in accordance with subsection (a) of this section;

(2) a technologist completes and forwards to the department a sworn affidavit indicating that the technologist is employed but does not perform radiologic procedures for the entire renewal period. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours. These hours shall accrue immediately following the technologist's return to performing radiologic procedures to satisfy the continuing education requirements for renewal in accordance with subsection (a) of this section;

(3) a technologist shows reasons of health, certified by a licensed physician, that prevent compliance with the continuing education requirement for the entire renewal period. A technologist must complete and forward to the department a sworn affidavit and provide documentation that clearly establishes the period of disability and resulting physical limitations;

(4) a technologist submits a sworn statement and shows reason which prevents compliance and the reason is acceptable to the department;

(5) a technologist is called to or on active duty with the armed forces of the United States for the entire renewal period and so long as the technologist does not administer a radiologic procedure in a setting outside of the active duty responsibilities during the time on active duty. The technologist must file a copy of orders to active military duty with the department; or

(6) a technologist submits proof of successful completion of an advanced level examination or an entry level examination in another discipline of radiologic technology administered or approved by the ARRT during the renewal period. All examinations shall be topics dealing with ionizing forms of radiation administered to human beings for medical purposes.

(j) Partial exemption. The department may consider granting an exemption for one-half of the continuing education requirement if the technologist submits proof of successful completion during the renewal period of an examination accepted by the department in a topic dealing with non-ionizing radiation. The balance of the hours must be directly related to the performance of a radiologic procedure utilizing ionizing radiation in accordance with subsection (b)(1) of this section. The following are examinations accepted by the department:

(1) the registry examination offered by the American Registry of Diagnostic Medical Sonographers; and

(2) the advanced-level examination in non-ionizing imaging offered by the ARRT.

(k) Denial of request for exemption. A technologist whose request for exemption is denied by the department 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.

(l) Record keeping. An MRT, LMRT or NCT shall be responsible for keeping, for a period of not less than two years, accurate and complete documentation or other records of continuing education reported to the department. An MRT, LMRT or NCT shall submit documentation of attendance and participation in continuing education activities upon written request by the department.

§140.512. Changes of Name and Address.

(a) The certificate holder shall notify the department of changes in name, preferred mailing address, or place(s) of business or employment within 30 calendar days of such change(s).

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

(c) Before any certificate and identification cards will be issued by the department, notification of name changes must be mailed to the department 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 §140.504 of this title (relating to Fees). Upon receipt of the new certificate and identification cards, the MRT , LMRT, or NCT shall return the previously issued certificate and cards immediately to the department.

§140.513. Certifying Persons with Criminal Backgrounds.

(a) This section sets out the guidelines and criteria for the eligibility of persons with criminal backgrounds to obtain certification as a medical radiology technologist, limited medical radiologic technologist or non-certified technician.

(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, LMRT or NCT.

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

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for certification;

(C) the extent to which a certification might offer an opportunity to engage in further criminal activity of the same type as that which the person previously has been involved;

(3) The following felonies and misdemeanors apply to any certificate because these criminal offenses indicate an inability or a tendency to be unable to perform as an MRT, LMRT, or NCT:

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

(B) any misdemeanor and/or felony offense defined as a crime of moral turpitude by statute or common law;

(C) a misdemeanor or felony offense involving:

(i) forgery;

(ii) tampering with a governmental record;

(iii) delivery, possession, manufacturing, or use of controlled substances and dangerous drugs;

(D) a misdemeanor or felony offense under various titles of the Texas Penal Code:

(i) Title 5 concerning offenses against the person;

(ii) Title 7 concerning offenses against property;

(iii) Title 9 concerning offenses against public order and decency;

(iv) Title 10 concerning offenses against public health, safety, and morals; and

(v) Title 4 concerning offenses of attempting or conspiring to commit any of the offenses in this subsection;

(E) the extent to which any certificate might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(F) 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.

(4) The misdemeanors and felonies listed in paragraph (3) of this subsection are not inclusive in that the department may consider other particular crimes in special cases in order to promote the intent of the Act and these sections.

(b) Procedures for revoking, suspending, or denying a certificate or temporary certificate to persons with criminal backgrounds.

(1) The administrator shall give written notice to the person that the department intends to deny, suspend, or revoke the certificate or temporary certificate after hearing in accordance with the provisions of the Administrative Procedure Act, the Government Code, Chapter 2001, and the formal hearing procedures in §§1.21, 1.23, 1.25 and 1.27 of this title.

(2) If the department denies, suspends, or revokes a certificate or temporary certificate under these sections after hearing, the administrator shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a District Court of Travis County for review of the evidence presented to the department and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable.

§140.514. Disciplinary Actions.

(a) The department is authorized to take the following disciplinary actions for the violation of any provisions of the Medical Radiologic Technologist Certification Act (Act) or this chapter:

- (1) suspension, revocation, or nonrenewal of a certificate;
- (2) rescission of curriculum, training program, or instructor approval;
- (3) denial of an application for certification or approval;
- (4) assessment of a civil penalty in an amount not to exceed \$1,000 for each separate violation of the Act;
- (5) issuance of a reprimand; or
- (6) placement of the offender's certificate on probation and requiring compliance with a requirement of the department, including submitting to medical or psychological treatment, meeting additional educational requirements, passing an examination, or working under the supervision of an MRT or other practitioner.

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

- (1) obtaining or attempting to obtain a certificate issued under the Act by bribery or fraud;
- (2) making or filing a false report or record made in the person's capacity as an MRT;
- (3) intentionally or negligently failing to file a report or record required by law;
- (4) intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;
- (5) engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the department;

(6) developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:

(A) an illness;

(B) drug or alcohol dependency; or

(C) another physical or mental condition or illness;

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

(8) employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with the Act;

(9) violating a provision of the Act or this chapter, an order of the department previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;

(10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country; or

(11) being convicted of or pleading nolo contendere to a crime directly related to the practice of radiologic technology.

(c) Engaging in unprofessional conduct means the following:

(1) making any misleading, deceptive, or false representations in connection with service rendered;

(2) engaging in conduct that is prohibited by state, federal, or local law, including those laws prohibiting the use, possession, or distribution of drugs or alcohol;

(3) performing a radiologic procedure on a patient or client which has not been authorized by a practitioner;

(4) aiding or abetting a person in violating the Act or rules adopted under the Act;

(5) any practice or omission that fails to conform to accepted principles and standards of the medical radiologic technology profession;

(6) performing a radiologic procedure which results in mental or physical injury to a patient or which creates an unreasonable risk that the patient may be mentally or physically harmed;

(7) misappropriating medications, supplies, equipment, or personal items of the patient, client or employer;

(8) performing or attempting to perform radiologic procedures in which the person is not trained by experience or education or in which the procedure is performed without appropriate supervision;

(9) performing or attempting to perform any medical procedure which relates to or is necessary for the performance of a radiologic procedure and for which the person is not trained by experience or education or when the procedure is performed without appropriate supervision;

(10) performing a radiologic procedure which is not within the scope of an LMRT's certificate, as set out in §140.507(e) of this title (relating to Types of Certificates and Applicant Eligibility);

(11) performing a radiologic procedure which is not within the scope of an NCT's registration, as set out in §140.518(a) of this title (related to Mandatory Training Programs for Non-Certified Technicians);

(12) disclosing confidential information concerning a patient or client except where required or allowed by law;

(13) failing to adequately supervise a person in the performance of radiologic procedures;

(14) providing false or misleading information on an application for employment to perform radiologic procedures;

(15) providing information which is false, misleading, or deceptive regarding the status of certification; registration with the American Registry of Radiologic Technologists, Cardiovascular Credentialing International, or Nuclear Medicine Technology Certification Board; or licensure by another country, state, territory, or the District of Columbia;

(16) discriminating on the basis of race, creed, gender, sexual orientation, religion, national origin, age, physical handicaps or economic status in the performance of radiologic procedures;

(17) impersonating or acting as a proxy for an examination candidate for any examination required for certification;

(18) acting as a proxy for an MRT, LMRT, or NCT at any continuing education required under §140.511 of this title (relating to Continuing Education Requirements);

(19) obtaining, attempting to obtain, or assisting another to obtain certification or placement on the registry by bribery or fraud;

(20) making abusive, harassing or seductive remarks to a patient, client or co-worker in the workplace or engaging in sexual contact with a patient or client in the workplace;

(21) misleadingly, deceptively or falsely offering to provide education or training relating to radiologic technology;

(22) failing to complete the continuing education requirements for renewal as set out in §140.511 of this title;

(23) failing to document the continuing education requirements for renewal as required by the department;

(24) failing to cooperate with the department by not furnishing required documents or responding to a request for information or a subpoena issued by the department or the department's authorized representative;

(25) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts to the department or its authorized representative or by use of threats or harassment against any person;

(26) failing to follow appropriate safety standards or the Texas Regulations for the Control of Radiation in the operation of diagnostic or therapeutic radiologic equipment or the use of radioactive materials;

(27) failing to adhere to universal precautions or infection control standards as required by the Health and Safety Code, Chapter 85, Subchapter I;

(28) defaulting on a guaranteed student loan, as provided in the Education Code, §57.491;

(29) assaulting any person in connection with the practice of radiologic technology or in the workplace;

(30) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage to or from a person licensed, certified or registered by a state health care regulatory agency. The provisions of the Health and Safety Code, §161.091, concerning the prohibition of illegal remuneration apply to MRTs and LMRTs;

(31) using or permitting or allowing the use of the person's name, certificate, or professional credentials in a way that the person knows, or with the exercise of reasonable diligence should know:

(A) violates the Act, this chapter or department rule relating to the performance of radiologic procedures; or

(B) is fraudulent, deceitful or misleading;

(32) knowingly allowing a student enrolled in an education program to perform a radiologic procedure without direct supervision; or

(33) knowingly concealing information relating to enforcement of the Act or this chapter.

(34) failing reasonably to protect the certificate from fraudulent or unlawful use.

(35) 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 except as necessary for the performance of a radiologic procedure as defined in §140.502 of this title (relating to Definitions);

(B) any touching of the breasts of a female except as necessary for the performance of a radiologic procedure as defined in §140.502 of this title;

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

(D) sexual contact in the work place 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) A person subject to disciplinary action under subsection (b)(6) of this section shall, at reasonable intervals, be afforded an opportunity to demonstrate that the person is able to resume the practice of radiologic technology.

(e) An instructor engages in unprofessional conduct if the instructor violates any of the provisions of subsection (b) or (c) of this section or if the instructor:

(1) is an MRT or LMRT who fails to renew the certificate;

(2) is a practitioner who fails to renew his or her license or who has the license suspended, revoked, or otherwise restricted by the appropriate regulatory agency;

(3) discriminates in decisions regarding student recruitment, selection of applicants, student training or instruction on the basis of race, creed, gender, religion, national origin, age, physical handicaps, sexual orientation, or economic status;

(4) abandons an approved course of study or a training program with currently enrolled students;

(5) knowingly provides false or misleading information on the application for instructor approval or on any student's application for certification; or

(6) fails to provide instruction on universal precautions as required by the Health and Safety Code, §85.203.

(f) An education program engages in unprofessional conduct if the program, including its employees or agents, violates any of the provisions of subsection (b) or (c) of this section or if the program:

(1) makes any misleading, deceptive, or false representations in connection with offering or obtaining approval of an education program;

(2) fails to follow appropriate safety standards or the TRCR in the operation of diagnostic or therapeutic radiologic equipment or the use of radioactive materials;

(3) discriminates in decisions regarding student recruitment, selection of applicants, student training or instruction on the basis of race, creed, gender, sexual orientation, age, physical handicaps, economic status, religion or national origin;

(4) aids or abets a person in violating the Act or rules adopted under the Act;

(5) abandons an approved education program with currently enrolled students; or

(6) fails to provide instruction on universal precautions as required by the Health and Safety Code, Section 85, Subchapter I.

(g) The department may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

(h) In determining the appropriate action to be imposed in each case, the department shall take into consideration the following factors:

- (1) the severity of the offense;
- (2) the danger to the public;
- (3) the number of repetitions of offenses;
- (4) the length of time since the date of the violation;
- (5) the number and type of previous disciplinary cases filed against the person or program;
- (6) the length of time the person has performed radiologic procedures;
- (7) the length of time the instructor or education program has been approved;
- (8) the actual damage, physical or otherwise, to the patient or student, if applicable;
- (9) the deterrent effect of the penalty imposed;
- (10) the effect of the penalty upon the livelihood of the person or program;
- (11) any efforts for rehabilitation; and
- (12) any other mitigating or aggravating circumstances.

(i) Formal hearing requirements:

(1) Notice requirements.

(A) Notice of the hearing shall be given according to the notice requirements of the Administrative Procedure Act (APA).

(B) If a party fails to appear or be represented at a hearing after receiving notice, the Administrative Law Judge examiner may proceed with the hearing or take whatever action is fair and appropriate under the circumstances.

(C) All parties shall timely notify the Administrative Law Judge of any changes in their mailing addresses.

(2) Parties to the hearing.

(A) The parties to the hearing shall be the applicant or licensee and the complaints subcommittee or executive director, as appropriate.

(B) A party may appear personally or be represented by counsel or both.

(3) Prehearing conferences.

(A) In a contested case, the Administrative Law Judge, on his own motion or the motion of a party, may direct the parties to appear at a specified time and place for a conference prior to the hearing for the purpose of:

(i) the formulation and simplification of issues;

(ii) the necessity or desirability of amending the pleading;

(iii) the possibility of making admissions or stipulations;

(iv) the procedure at the hearing.

(v) specifying the number of witnesses;

(vi) the mutual exchange of prepared testimony and exhibits;

(vii) the designation of parties; and

(viii) other matters which may expedite the hearing.

(B) The Administrative Law Judge shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering said matters or issues.

(C) Any action taken at the prehearing conference may be reduced to writing, signed by the parties, are made a part of the record.

(4) Assessing the cost of a court reporter and the record of the hearing.

(A) In the event a court reporter is utilized in the making of the record of the proceedings, the department shall bear the cost of the per diem or other appearance fee for such reporter.

(B) The department may prepare, or order the preparation of, a transcript (statement of facts) of the hearing upon the written request of any party. The department may pay the cost of the transcript or assess the cost to one or more parties.

(C) In the event a final decision of the department is appealed to the district court wherein the department is required to transmit to the reviewing court a copy of the

record of the hearing proceeding, or any part thereof, the department may be require the appealing party to pay all or part of the cost of preparations of the original or a certified copy of the record of the department proceedings that is required to be transmitted to the reviewing court.

(5) Disposition of case. Unless precluded by law, informal disposition may be made of any contested case by agreed settlement order or default order.

(6) Agreements in writing. No stipulation or agreement between the parties with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, dictated into the record during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate away any right or privilege afforded by these sections.

(7) Final orders or decisions.

(A) The final order or decision will be rendered by the department. The department is not required to adopt the recommendation of the Administrative Law Judge and may take action as it deems appropriate and lawful.

(B) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law.

(C) All final orders shall be signed by the commissioner; however, interim orders may be issued by the Administrative Law Judge.

(D) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(8) Motion for rehearing. A motion for rehearing shall be governed by the APA, Texas Government Code, §2001.146, and shall be addressed to the department and filed with the administrator.

(9) Appeals. Subchapter G, Texas Government Code, all appeals from final department orders or decisions shall be governed by the APA and communications regarding any appeal shall be to the administrator.

(j) The following applies after disciplinary action has been taken.

(1) The department may not reinstate a certificate to a holder or cause a certificate to be issued to an applicant previously denied a certificate unless the department is satisfied that the holder or applicant has complied with requirements set by the department and is capable of engaging in the practice of radiologic technology. The person is responsible for securing and providing to the department such evidence, as may be required by the department. The administrator or the department shall investigate prior to making a determination.

(2) During the time of suspension, the former certificate holder shall return the certificate and identification card(s) to the department.

(3) If a suspension overlaps a certificate renewal period, the former certificate holder shall comply with the normal renewal procedures in this chapter; however, the department may not renew the certificate until the administrator or the department determines that the reasons for suspension have been removed and that the person is capable of engaging in the practice of radiologic technology.

(4) If the commissioner of health revokes or does not renew the certificate, the former certificate holder may reapply in order to obtain a new certificate by complying with the requirements and procedures at the time of reapplication. The department may not issue a new certificate until the administrator or the department determines that the reasons for revocation or nonrenewal have been removed and that the person is capable of engaging in the practice of radiologic technology. An investigation may be required.

(5) If the commissioner rescinds the approval of an instructor or program, the formerly approved instructor or program may reapply for approval by complying with the requirements and procedures at the time of reapplication. Approval will not be issued until the administrator or the department determines that the reasons for revocation have been removed. An investigation may be required.

(k) Pursuant to the Act, §601.351, the department is authorized to assess an administrative penalty against a person who violates the Act or this chapter.

§140.515. Advertising or Competitive Bidding.

(a) The department may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) A person, including a medical radiologic technologist, who is not certified under the Act shall not use the word "medical radiologic technologist", on any sign, display, or other form of advertising unless the person is expressly exempt from the certification requirement.

(c) A certificate holder shall not use advertising that is false, misleading, or deceptive or that is not readily subject to verification. False, misleading, or deceptive advertising or advertising that is not really subject to verification includes advertising that:

(1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or registration of a health care professional;

(6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) advertises or represents in the use of a professional name, title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(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) A limited medical radiologic technology educational program or a training program for non-certified technicians shall not make false, misleading, or deceptive statements concerning the activities or programs of another limited medical radiologic technology education program or a training program for non-certified technicians.

(f) A limited medical radiologic technology educational program or a training program for non-certified technicians shall not maintain, advertise, solicit for or conduct any course of instruction intended to qualify a person for certification or placement on the registry without first obtaining approval from the department.

(g) Advertisement by an educational or training program seeking prospective students must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

(h) Advertisements seeking prospective students must include the full and correct name of the educational or training program.

(i) No statement or representation shall be made to prospective or enrolled students that employment will be guaranteed upon completion of any program or that falsely represents opportunities for employment.

(j) No statement shall be made by an educational or training program that it has been accredited unless the accreditation is that of an appropriate nationally recognized accrediting agency listed by the United States Office of Education.

(k) No educational or training program shall advertise an employment agency under the same name or a confusingly similar name or at the same location as the educational or training program. No representative shall solicit students for a program through an employment agency.

§140.516. Dangerous or Hazardous Procedures.

(a) General. This section identifies radiologic procedures which are dangerous or hazardous and may only be performed by a practitioner, medical radiologic technologist (MRT) or limited medical radiologic technologist (LMRT). There are specific procedures identified in §140.517 of this title (relating to Registered Nurses and Physician Assistants Performing Radiologic Procedures) which may be performed by a registered nurse (RN) or a physician assistant trained under §140.518 of this title (relating to Mandatory Training Programs for Non-Certified Technicians) or §140.522 of this title (relating to Alternative Training Programs). A person trained under §140.518 or §140.522 of this title is not an MRT, LMRT or otherwise certified under the Act and shall not perform a dangerous or hazardous procedure identified in this section unless expressly permitted by this section or by §140.517 of this title.

(b) Dangerous procedures. Except as otherwise provide in this chapter, the list of dangerous procedures which may only be performed by a practitioner or MRT are:

(1) nuclear medicine studies to include positron emission tomography (PET);

(2) administration of radio-pharmaceuticals; administration does not include preparation or dispensing except as regulated under the authority of the Texas State Board of Pharmacy;

(3) radiation therapy, including simulation, brachytherapy and all external radiation therapy beams including Grenz rays:

(4) computed tomography (CT) or any variation thereof;

(5) interventional radiographic procedures, including angiography, unless performed by an LMRT with a certificate issued in the cardiovascular category;

(6) fluoroscopy unless performed by an LMRT with a certificate issued in the cardiovascular category; and

(7) cineradiography (including digital acquisition techniques), unless performed by an LMRT with a certificate issued in the cardiovascular category.

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

(1) conventional tomography;

(2) skull radiography, excluding anterior-posterior/posterior-anterior (AP/PA), lateral, Townes, Caldwell, and Waters views;

(3) portable x-ray equipment;

(4) spine radiography, excluding AP/PA, lateral and lateral flexion/extension views;

(5) spine radiography;

(6) shoulder girdle radiographs, excluding AP and lateral shoulder views, AP clavicle and AP scapula;

(7) pelvic girdle radiographs, excluding AP or PA views;

(8) sternum radiographs; and

(9) radiographic procedures which utilize contrast media;

(10) pediatric radiography, excluding extremities, unless performed by an LMRT with the appropriate category. Pediatric studies must be performed with radioprotection so that proper collimation and shielding is utilized during all exposures sequences during pediatric studies. If an emergency condition exists which threatens serious bodily injury, protracted loss of use of a bodily function or death of a pediatric patient unless the procedure is performed without delay, or if other extenuating circumstances deemed by the practitioner exist, a pediatric radiographic procedure is also excluded. The emergency condition or extenuating circumstance must be documented by the ordering practitioner in the patient's clinical record and the record must document that a regularly scheduled MRT, LMRT, RN or physician assistant is not reasonably available to perform the procedure.

(d) Performance of a hazardous procedure by an LMRT. An LMRT may perform a radiologic procedure listed in subsection (c) of this section only if the procedure is within the scope of the LMRT's certification, as described in §140.507(f) of this title (relating to Types of Certificates and Applicant Eligibility).

(e) Performance of a dangerous or hazardous procedure by a practitioner. This section does not authorize a practitioner to perform a radiologic procedure which is outside the scope of the practitioner's license.

(f) Dental radiography. This section does not apply to a radiologic procedure involving a dental x-ray machine, including panorex or other equipment designed and manufactured only for use in dental radiography.

(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 25 TAC Chapter 289 of the Radiation Control Program rules relating to mammography. Mammography shall not be performed by an LMRT, an NCT, or any other person.

(h) 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) 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 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.

§140.517. Registered Nurses and Physician Assistants Performing Radiologic Procedures.

(a) An appropriately trained registered nurse (RN) or physician assistant (PA) may perform the following procedures:

(1) administration of radio-pharmaceuticals, performed by an RN or physician assistant who is appropriately trained as authorized by the department's Radiation Control Program for licensure of radioactive materials and who meets the training requirements identified in §140.518 of this title (relating to Mandatory Training Programs for Non-Certified Technicians) or §140.522 of this title (relating to Alternate Training Requirements); administration does not include preparation or dispensing as regulated under the authority of the Texas State Board of Pharmacy.

(2) fluoroscopy by an RN or physician assistant who assists in the performance of the procedure under the direct supervision of a practitioner.

(3) spine radiography lumbar oblique views performed by an RN or physician assistant who performs the procedure under the supervision of a practitioner.

(4) shoulder girdle radiographs – AP and lateral shoulder views, AP clavicle and AP scapula performed by an RN or physician assistant who performs the procedure under the direct supervision of a practitioner.

(5) sternum radiographs performed by an RN or physician assistant under the direct supervision of a practitioner; and

(6) radiographic procedures which utilize contrast media, performed by an RN or physician assistant who assists in the performance of the procedure under the supervision of a practitioner.

(7) pediatric radiography performed by an RN or physician assistant who is appropriately trained, as set out in §140.518 or §140.522 of this title.

(b) Appropriately trained in this section means an RN or physician assistant must be trained under §140.518 of this title or §140.522 of this title, or have been approved to perform radiologic procedures under a hardship exemption granted under §140.520 of this title (relating to Hardship Exemptions), in addition to performing the listed procedure under the direction and supervision of a practitioner. Subsections (a)(2), (a)(5), and (a)(6) of this section shall not be construed to authorize an RN or physician assistant to independently perform fluoroscopy or procedures utilizing contrast media.

§140.518. 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, 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. Before a person performs a radiologic procedure, the person must complete all the hours in subsection (d)(2)(A) - (C) of this section, and at least one unit in subsection (d)(3)(A) - (G) of this subsection.

(b) Instructor direction required. All hours of the training program completed for the purposes of this section must be live and interactive and directed by an approved instructor. No credit will be given for training completed by self-directed study or correspondence.

(c) Instructor qualifications.

(1) An instructor(s) shall have education in accordance with §140.509(a) of this title (relating to Standards for the Approval of Curricula and Instructors) and not less than six months classroom or clinical experience teaching the subjects assigned, shall meet the standards required by a sponsoring institution, if any, and shall meet at least one or more of the following qualifications:

(A) be a currently certified MRT who is also currently credentialed as a radiographer by the American Registry of Radiologic Technologists;

(B) be a currently certified LMRT (excluding a temporary certificate) whose limited certificate category(ies) matches the category(ies) of instruction and training; or

(C) be a practitioner who is in good standing with all appropriate regulatory agencies including, but not limited to, the department, the Texas Board of

Chiropractic Examiners, Texas Medical Board, or Texas State Board of Podiatric Medical Examiners, the Texas Health and Human Services Commission, the United States Department of Health and Human Services.

(2) An LMRT may not teach, train, or provide clinical instruction in a portion of a training program that is different from the LMRT's level of certification. An LMRT holding a limited certificate in the chest and extremities categories may not participate in the portion of a training program relating to radiologic procedures of the spine. The LMRT may participate in the portions of the training program which are of a general nature and those specific to the specific categories on the limited certificate.

(d) Training requirements. In order to successfully complete a program, each student must complete the following minimum training:

(1) prerequisites recommended for admission include high school graduation or general equivalency diploma; certified medical assistant; graduation from a medical assistant program; or six months full time patient care experience, otherwise determined by the practitioner.

(2) courses which are fundamental to diagnostic radiologic procedures:

(A) radiation safety and protection for the patient, self and others – 22 classroom hours;

(B) image production and evaluation – 24 classroom hours; and

(C) radiographic equipment maintenance and operation – 16 classroom hours which includes at least 6 hours of quality control, darkroom, processing, and Texas Regulations for Control of Radiation; and

(3) one or more of the following units of applied human anatomy and radiologic procedures of the:

(A) skull (5 views: Caldwell, Townes, Waters, AP/PA, and lateral) – 10 classroom hours;

(B) chest – 8 classroom hours;

(C) spine – 8 classroom hours;

(D) abdomen, not including any procedures utilizing contrast media – 4 classroom hours;

(E) upper extremities – 14 classroom hours;

(F) lower extremities – 14 classroom hours; and/or

(G) podiatric – 5 classroom hours.

(e) Application procedures for training programs. An application shall be submitted to the department at least 30 days prior to the starting date of the training program. Official application forms are available from the department and must be completed and signed by an approved instructor, who shall be designated as the training program director. The training program director shall be responsible for the curriculum, the instructors, and determining whether students have successfully completed the training program.

(1) Official application forms must be executed in the presence of a notary public and shall be accompanied by the application fee in accordance with §140.504 of this title (relating to Fees). Photocopied signatures will not be accepted.

(2) Application forms and fees shall be mailed to the address indicated on the application materials. The department is not responsible for lost, misdirected, or undeliverable application forms. An application received without the application fee will be returned to the applicant.

(f) Application materials. The application shall include, at a minimum:

(1) the beginning date and the anticipated length of the training program;

(2) the number of programs which will be conducted concurrently and whether programs will be conducted consecutively;

(3) the number of students anticipated in each program;

(4) the daily hours of operation;

(5) the location, mailing address, phone and facsimile numbers of the program;

(6) the name of the training program director;

(7) a list of the names of the approved instructors and the topics each will teach, and a list of management and administrative personnel and any practitioners who will participate in conducting the program;

(8) clearly defined and written policies regarding the criteria for admission, discharge, readmission and completion of the program;

(9) evidence of a structured pre-planned learning experience with specific outcomes;

(10) a letter or other documentation from the Texas Workforce Commission, Proprietary Schools Section indicating that the proposed training program has complied with or

has been granted exempt status under the Texas Proprietary School Act, Texas Education Code, Chapter 32. If approval has been granted by the Texas Higher Education Coordinating Board, a letter or other documentation is not necessary; and

(11) specific written agreements to:

(A) provide the training as set out in subsection (d) of this section and provide not more than 75 students per instructor in the classroom;

(B) advise students that they are prohibited from performing radiologic procedures which have been identified as dangerous or hazardous in accordance with §140.516 of this title (relating to Dangerous or Hazardous Procedures) unless they become an LMRT, MRT or a practitioner;

(C) use written and oral examinations to periodically measure student progress;

(D) keep an accurate record of each student's attendance and participation in the program, accurate evaluation instruments and grades for not less than five years. Such records shall be made available upon request by the department or any governmental agency having authority;

(E) issue to each student who successfully completes the program a certificate or written statement including the name of the student, name of the program, dates of attendance and the types of radiologic procedures covered in the program completed by the student;

(F) retain an accurate copy for not less than five years and submit an accurate copy of the document described in subparagraph (E) of this paragraph to the department within 30 days of the issuance of the document to the student; and

(G) permit site inspections by employees or representatives of the department to determine compliance with this section.

(g) Application approval.

(1) The administrator shall be responsible for reviewing all applications for training program approval. The administrator shall approve any application which is in compliance with this section. A letter of approval shall be issued for a period of one year.

(2) A program shall be denied approval if the application is incomplete or not submitted as set out in this section. The training program director shall be notified in accordance with §113.1 of this title (relating to Processing Permits for Special Health Services Professionals).

(3) If approval is proposed to be denied, the training program director shall be notified in writing of the proposed denial and shall be given an opportunity to request a formal hearing within ten days of the training program director's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures. If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.

(h) Application processing. The department shall use the same process as described in §140.506(e) of this title (relating to Application Requirements and Procedures for Examination and Certification), except the time periods are as follows:

- (1) letter of acceptance – 30 working days;
- (2) letter of application deficiency—30 working days;
- (3) letter of approval – 42 working days; and
- (4) letter of denial of approval – 42 working days.

(i) Renewal.

(1) The training program director shall be responsible for renewing the approval of the training program on or before the anniversary date of the initial application.

(2) The department shall send a renewal notice to the training program at least 60 days prior to the anniversary date. The department is not responsible for lost, misdirected, undeliverable or misplaced mail.

(3) The renewal is effective if the official renewal form and fee in accordance with §140.504 of this title are postmarked or delivered to the department on or before the anniversary date.

(4) Failure to submit the renewal form and renewal fee in accordance with §140.504 of this title by the deadline will result in the expiration of the training program's approval.

(5) A training program which does not renew the approval shall cease representing the program as an approved training program. The program director shall notify, or cause the notification of currently enrolled students that the training program is no longer approved under this section. The notification shall be in writing and must be issued within ten days of the expiration of the approval.

(6) The training program may reapply for approval and meet the then current requirements for approval under this section.

§140.519. Registry of Non-Certified Technicians.

(a) General. This section sets forth the rules for administering the registry of non-certified technicians performing radiologic procedures, established in accordance with the Act, §601.202. The department's registry is to provide a mechanism for consumers or employers to ascertain or verify that a person performing radiologic procedures has complied with the Act, §601.201, by successfully completing a training program in accordance with §140.518 of this title (relating to Mandatory Training Programs for Non-Certified Technicians) or §140.522 of this title (relating to Alternate Training Requirements).

(b) Information on the application for the registry. The application shall include the information as follows for each person on the registry:

(1) full name;

(2) current mailing address;

(3) place of employment, including address, city and state;

(4) date of birth;

(5) social security number;

(6) gender;

(7) a copy of the training program certificate with the name and location of the training program and the date of successful completion of the training program approved in accordance with §140.518 of this title; and

(8) the types of radiologic procedures covered in the person's training program. A person listed on the registry may not perform a dangerous or hazardous procedure as set out in §140.516 of this title (relating to Dangerous or Hazardous Procedures).

(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 submitted to the department once the applicant has completed the training approved under §140.518 or §140.522 of this title.

(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. Each registrant must complete continuing education as set out in §140.511 of this title (relating to Continuing Education Requirements) in order to renew the registration.

(2) The department shall send a renewal notice to each registrant at least 60 days before the expiration date. 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. The renewal form shall include, at a minimum, the person's name, current mailing address, and current place of employment.

(4) If an NCT fails to renew the non-certified technician registration by the expiration date, the NCT can renew 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.

(5) If an expired non-certified technician registration is lapsed for more than 2 years past the expiration date, the registrant will be required to retake the training program §140.518 or §140.522 of this title and reapply to be listed on the non-certified technician registration.

(e) Changes in name, address or place of employment. A person listed on the registry is responsible for submitting changes in name, address or place of employment to the department, in writing, within 30 days of any change.

(f) Employer responsibility. If a person performing radiologic procedures is not a 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 §140.518 or §140.522 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.

(g) Complaints. Complaints regarding persons on the registry may be submitted in writing to the Department of State Health Services, Professional Licensing and Certification Unit, Complaints Management and Investigation Section, 1100 West 49th Street, Austin, Texas 78756-3183.

§140.520. Hardship Exemptions.

(a) General.

(1) A hospital, federally qualified health center (FQHC) or practitioner may apply to the department for a hardship exemption from employing an MRT, LMRT, or NCT.

(2) The applicant must demonstrate a hardship as described in subsection (b)(5) of this section in employing an MRT, LMRT, or NCT.

(3) The applicant shall not allow a person who is not an MRT, LMRT, or NCT to perform a radiologic procedure until the department grants a hardship exemption.

(4) A hardship exemption granted by the department does not constitute licensure, certification, registration, or authorization to perform a dangerous or hazardous radiologic procedure or mammography.

(b) Required application materials.

(1) The applicant must apply for a hardship on the forms prescribed by the department. The date of application shall be the date the application and application fee is postmarked. If there is no visible postmark, or if the application is hand-delivered, the application date shall be the date the department receives the application.

(2) The application must be accompanied by documentation clearly indicating that the applicant is a licensed hospital, FQHC or licensed practitioner. A copy of the current hospital license, certificate of qualification issued to the FQHC, or current license of the practitioner shall be acceptable documentation.

(3) If the application is from a hospital or FQHC, the administrator or chief executive officer of the hospital or FQHC must sign the application form. If the applicant is a practitioner, the practitioner must sign the application form.

(4) The application must include a list of the person(s) performing radiologic procedures who is not an MRT, LMRT, or NCT.

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

(A) if the applicant is unable to attract or retain an MRT or LMRT, a sworn affidavit describing the reasons the applicant is unable attract and retain an MRT or LMRT at a comparable salary for the area, the applicant's attempts to attract and retain an MRT or LMRT, evidence of recruiting efforts during the 30 day period prior to application for the hardship exemption, and copies of advertisements to hire an MRT or LMRT;

(B) if the applicant is located more than 200 highway miles from the nearest school of medical radiologic technology approved in accordance with §140.509 of this title relating to (Standards for the Approval of Curricula and Instructors), a sworn affidavit describing in narrative form the physical address of the nearest school of medical radiologic technology; the physical address of the applicant hospital, FQHC, or primary practice location of the practitioner; and the actual distance in highway miles between the school and the applicant hospital, FQHC, or practitioner's primary practice. The applicant shall include a map of the area clearly indicating the locations of each entity;

(C) if the nearest school of medical radiologic technology approved in accordance with §140.509 of this title has a waiting list of school applicants due to a lack of faculty or space, a sworn affidavit from the applicant indicating that admissions to the school are pending because of a lack of faculty or space;

(D) if the applicant's need for graduates in medical radiologic technology exceeds the number of graduates from the nearest school of medical radiologic technology approved in accordance with §140.509 of this title, a sworn affidavit from the applicant indicating that the number of graduates from the nearest school does not meet the applicant's needs for radiologic technologists;

(E) if emergency conditions have occurred during the 90 days prior to making application for the hardship exemption, a sworn affidavit from the applicant describing the emergency conditions, the hardship(s) the emergency conditions have created and how long the hardship(s) is anticipated to continue. For the purposes of this subparagraph, emergency conditions may include a disaster, epidemic, or other catastrophic event;

(F) 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) a copy of the current certificate of registration for radiation machine issued by the Department of State Health Services; and

(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.

(6) All application materials and information are subject to verification by the department.

(7) The department shall send a written notice listing the additional materials required to an applicant whose application is incomplete. An application not completed within 30 days after the date of the written notice shall be invalid unless the applicant has advised the department of a valid reason for the delay.

(c) Application approval.

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

(2) If granted by the department, a letter of exemption shall be issued for a period of one year.

(d) Disapproved applications.

(1) The department shall disapprove the application if the applicant has not met the application requirements set out in this section or has failed or refused to complete or submit any form or documentation required by the department to verify the eligibility for the exemption.

(2) If the department determines that the application should not be approved, the department shall give the applicant written notice of the reason for the disapproval. The applicant may appeal the decision to the department by submitting a written request within 10 days after receipt of the written notice of the reason(s) for the disapproval.

(3) An applicant whose application has been disapproved under this subsection shall be permitted to reapply after a period of not less than one year from the date of the disapproval and shall submit a new application and supporting information. The applicant may reapply for an exemption any time the basis for the exemption application changes.

(e) Application processing. The department shall use the same process as described in §140.506(e) of this title (relating to Application Requirements and Procedures For Examination and Certification), except the time periods are as follows:

- (1) letter of acceptance—30 working days;
- (2) letter of application deficiency – 30 working days;
- (3) letter of approval – 42 working days; and
- (4) letter of denial of exemption – 42 working days.

(f) Reapplication for hardship exemption.

(1) The hospital, FQHC, or a practitioner must reapply annually for the exemption and meet the then current requirements for a hardship exemption.

(2) A hospital, FQHC, or a practitioner who does not reapply for an exemption shall not allow a person to perform a radiologic procedure unless the person is a practitioner, MRT, LMRT, or NCT.

§140.521. Bone Densitometry Training.

(a) The provisions of this section do not apply to a person who is certified or registered under the Act, a practitioner, a registered nurse, a physician assistant, or other licensed or certified person who is authorized to operate a bone densitometry unit which utilizes x-radiation.

(b) A person who operates a bone densitometry unit(s) which utilizes x-radiation who is in compliance with this section is not required to obtain a hardship exemption as long as the person is not performing radiologic procedures other than bone densitometry.

(c) A person who operates a bone densitometry unit(s) which utilizes x-radiation must have proof that the person is a certified densitometry technologist in good standing with the International Society for Clinical Densitometry (ISCD), or have successfully completed the ARRT bone density exam or has completed at least 20 hours of training as follows:

(1) 16 hours of specific training using bone densitometry equipment utilized x-radiation, presented by a medical radiologic technologist (MRT) or an equipment applications specialist knowledgeable of the specific equipment to be utilized; and

(2) 4 hours of radiation safety and protection training for the patient, operator and others. The training shall be presented by an MRT or a licensed medical physicist. A person must complete the 4 hours of radiation safety and protection training every 2 years.

(d) Documentation of operator training must be kept on site.

§140.522. Alternate Training Requirements.

(a) General. This section sets out the minimum standards for registered nurses (RNs), physician assistants, podiatric medical assistants (PMAs) and x-ray equipment operators in a physician's office.

(b) Instructor direction required. All hours of the training program completed for the purposes of this section must be live and interactive and directed by an instructor approved by the department. Distance learning activities and audiovisual teleconferencing may be utilized, provided these include two-way, interactive communications which are broadcast or transmitted at the actual time of occurrence. Appropriate on-site supervision of persons participating in the distance learning activities or teleconferencing shall be provided by the approved training program. No credit will be given for training completed by self-directed study or correspondence. The provisions of this subsection shall not apply to the out of classroom training requirements for podiatric medical assistants and x-ray equipment operators in a physician's offices.

(1) Before an RN or physician assistant performs a radiologic procedure, the RN or physician assistant must complete the hours stated in subsection (d) of this section, or the hours stated in §140.518 of this title (relating Mandatory Training Programs for Non-Certified Technicians).

(2) Before a PMA performs a radiologic procedure, the PMA must complete the hours stated in subsection (e) of this section, or the hours stated in §140.518(d) of this title concerning podiatric radiologic procedures.

(3) Individuals who complete training approved under this section may not use that training toward the educational requirements for a general or limited certificate as set out in §140.507 of this title (relating to Types of Certificates and Applicant Eligibility).

(c) Approved instructors.

(1) For purposes of this section, an individual is approved by the department to teach in a training program if the individual meets the requirements of §140.509(g)(1) - (2) of this title (relating to Standards for the Approval of Curricula and Instructors). The application for the training program must demonstrate that the instructors meet the qualifications. No application for individual instructor approval is required.

(2) An LMRT may not teach, train, or provide clinical instruction in a portion of a training program which is different from the LMRT's level of certification. An LMRT holding a limited certificate in the chest and extremities categories may not participate in the portion of a training program relating to radiologic procedures of the spine. The LMRT may participate in the portions of the training program which are of a general nature and those specific to the specific categories on the limited certificate.

(d) Training requirements for registered nurses and physician assistants. A training program preparing RNs and physician assistants to perform radiologic procedures shall be designed to build on the health care knowledge base and skills acquired through completion of an educational program that qualifies the person for licensure as an RN or physician assistant. The training shall consist of:

(1) a minimum of 30 hours of coursework that are fundamental to diagnostic radiologic procedures covering all of the following items:

(A) radiation safety and protection for the patient, self, and others – 10 hours;

(B) radio-pharmaceutical administration – radiation safety – 16 hours

(C) radiologic equipment – 10 hours;

(D) image production and evaluation – 10 hours; and

(2) one or more of the following units of instruction in radiologic procedures:

(A) chest and abdomen (non-pediatric) – 8 hours;

(B) spine (non-pediatric) – 10 hours;

(C) skull (non-pediatric) – 8 hours;

(D) extremities (including pediatric) – 8 hours; and

(3) if the RN or physician assistant will perform pediatric radiologic procedures other than extremities, a minimum of 2 classroom hours for each of the areas identified in paragraph (2)(A) - (C) of this subsection.

(e) Training requirements for podiatric medical assistants PMAs.

(1) In order to successfully complete a program, a PMA must complete the following training:

(A) radiation safety and protection for the patient, self, and others – 5 classroom hours and 5 out of classroom hours;

(B) radiographic equipment used in podiatric medicine, including safety standards, operation, and maintenance – 1 classroom hour and 2 out of classroom hours;

(C) podiatric radiologic procedures, imaging production and evaluation – 1 classroom hour and 4 out of classroom hours; and

(D) methods of patient care and management essential to radiologic procedures, excluding CPR, BCLS, ACLS and similar subjects – 1 classroom hour and 1 out of classroom hour.

(2) Successful completion of PMA training allows the PMA to perform radiologic procedures only under the instruction or direction of a podiatrist.

(3) The out of classroom training hours require successful completion of learning objectives approved by the department as verified by the supervising podiatrist.

(f) Application procedures for training programs. The Department of State Health Services (department) shall use the same process as described in §140.518(e), (f), (g), (h) and (i) of this title.

§143.1 Purpose and Scope

(a) Purpose. ~~These sections are intended to implement the provisions of the Medical Radiologic Technologist Certification Act, Texas Occupations Code, Chapter 601.~~

(b) Scope. ~~These sections cover definitions; the Medical Radiologic Technologist Advisory Committee; fees; applicability of chapter; exemptions; 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) Act—~~The Medical Radiologic Technologist Certification Act Texas Occupations Code, Chapter 601.~~

(2) Applicant—~~A person who applies to the Department of State Health Services for a certificate or temporary certificate, general or limited or a provisional certificate.~~

(3) ARRT—~~The American Registry of Radiologic Technologists and its predecessor or successor organizations.~~

(4) 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) Certificate—~~A medical radiologic technologist certificate, general, limited or provisional, unless the wording specifically refers to one or the other, issued by the Department of State Health Services.~~

(6) 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) Committee—~~The Medical Radiologic Technologist Advisory Committee.~~

(9) Dentist—~~A person licensed by the Texas State Board of Dental Examiners to practice dentistry.~~

- ~~(10) Department—The Department of State Health Services.~~
- ~~(11) Federally qualified health center (FQHC)—A health center as defined by 42 United States Code, §1396d(2)(B).~~
- ~~(12) Fluoroscopy—The practice of examining tissues using a fluorescent screen, including digital and conventional methods.~~
- ~~(13) Fluorography—Hard copy of a fluoroscopic image; also known as spot films.~~
- ~~(14) General certification—An authorization to perform radiologic procedures.~~
- ~~(15) Instructor—An individual approved by the department to provide instruction and training in the discipline of medical radiologic technology in an educational setting.~~
- ~~(16) Limited certification—An authorization to perform radiologic procedures that are limited to specific parts of the human body.~~
- ~~(17) 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) 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) Mobile service operation—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.~~
- ~~(20) NMTCB—Nuclear Medicine Technology Certification Board and its successor organizations.~~
- ~~(21) 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) 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) Physician—A person licensed by the Texas Medical Board to practice medicine.~~

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

~~(25) Podiatrist—A person licensed by the Texas State Board of Medical Podiatric Examiners to practice podiatry.~~

~~(26) 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) 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) Radiation—Ionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures.~~

~~(29) 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) Registered nurse—A person licensed by the Board of Nurse Examiners to practice professional nursing.~~

~~(31) Registry—A list of names and other identifying information of non-certified technicians.~~

~~(32) 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) 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) Temporary certification, general or limited—An authorization to perform radiologic procedures for a limited period, not to exceed one year.~~

~~(35) TRCR—Texas Regulations for the Control of Radiation, 25 Texas Administrative Code, Chapter 289 of this title. The regulations are available from Radiation Control, 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) The name of the committee shall be the Medical Radiologic Technologist Advisory Committee.~~

~~(2) The committee is established under Government Code, §531.012, which allows the Executive Commissioner of the Health and Human Services Commission to appoint advisory committees as needed.~~

~~(b) Applicable law. The committee is subject to the Government Code, Chapter 2110, concerning state agency advisory committees.~~

~~(c) Purpose. The purpose of the committee is to recommend rules and examinations for the approval of the Executive Commissioner of the Health and Human Services Commission.~~

~~(d) Tasks.~~

~~(1) The committee shall advise the Executive Commissioner of the Health and Human Services Commission 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 Executive Commissioner of the Health and Human Services Commission.~~

~~(e) Review and duration. By November 1, 2007, the Executive Commissioner of the Health and Human Services Commission 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 Executive Commissioner of the Health and Human Services Commission. The composition of the committee shall include:~~

~~(1) four consumers;~~

~~(2) one licensed physician who is a radiologist;~~

~~(3) one licensed medical physicist or a hospital administrator;~~

~~(4) one certified medical radiologic technologist whose primary practice is in diagnostic radiography;~~

~~(5) one certified medical radiologic technologist whose primary practice is in nuclear medicine technology;~~

~~(6) one certified medical radiologic technologist whose primary practice is in radiation therapy;~~

~~(7) one licensed physician who has experience in radiologic procedures and who practices in a rural community or at a site serving a medically underserved population in Texas as defined in the Medical Practice Act, Texas Occupations Code, Chapter 152; and~~

~~(8) one registered nurse or certified physician assistant who has experience in radiologic procedures and who practices in a rural community or at a site serving a medically underserved population in Texas as defined in the Medical Practice Act, Texas Occupations Code, Chapter 152.~~

~~(g) Terms of office. The term of office of each member shall be six years. Members shall serve after expiration of their term until a replacement is appointed.~~

~~(1) Members shall be appointed for staggered terms so that the terms of three members will expire on January 1 of each odd-numbered year.~~

~~(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.~~

~~(h) Officers. The committee shall select from its members the presiding officer and an assistant presiding officer to begin serving on November 1 of each odd-numbered year.~~

~~(1) Each officer shall serve until October 31 of each odd-numbered year. Each officer may holdover until his or her replacement is elected.~~

~~(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the Executive Commissioner of the Health and Human Services Commission. The presiding officer may serve as an ex-officio member of any subcommittee of the committee.~~

~~(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. In case the office of presiding officer becomes vacant, the assistant presiding officer will complete the unexpired portion of the term of the office of presiding officer.~~

~~(4) If the office of assistant presiding officer becomes vacant, it may be filled by vote of the committee.~~

~~(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer.~~

~~(6) The committee may reference its officers by other terms, such as chairperson and vice-chairperson.~~

~~(i) Meetings. The committee shall meet only as necessary to conduct committee business.~~

~~(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee.~~

~~(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to determine availability of a meeting date and place.~~

~~(3) The committee is not a "governmental body" as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551, with the exception that the provisions allowing executive sessions shall not apply.~~

~~(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.~~

~~(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.~~

~~(6) The committee is authorized to transact official business only when in a legally constituted meeting with quorum present.~~

~~(7) The agenda for each committee meeting shall include an item entitled public comment under which any person will be allowed to address the committee on matters relating to committee business. The presiding officer may establish procedures for public comment, including a time limit on each comment.~~

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

~~(1) A member shall notify the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.~~

~~(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.~~

~~(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.~~

~~(4) The attendance records of the members shall be reported to the Executive Commissioner of the Health and Human Services Commission. The report shall include attendance at committee and subcommittee meetings.~~

~~(k) Staff. Staff support for the committee shall be provided by the department.~~

~~(l) Procedures. Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.~~

~~(1) Any action taken by the committee must be approved by a majority vote of the members present once quorum is established.~~

~~(2) Each member shall have one vote.~~

~~(3) A member may not authorize another individual to represent the member by proxy.~~

~~(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, gender, religion, national origin, age, physical condition, or economic status.~~

~~(5) Minutes of each committee meeting shall be taken by department staff.~~

~~(A) A summary of the meeting shall be provided to the Executive Commissioner of the Health and Human Services Commission and each member of the committee within 30 days of each meeting.~~

~~(B) After approval by the committee, the minutes shall be signed by the presiding officer.~~

~~(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.~~

~~(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.~~

~~(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee's presiding officer.~~

~~(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.~~

~~(n) Statements by members.~~

~~(1) The Executive Commissioner of the Health and Human Services Commission, 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 Executive Commissioner of the Health and Human Services Commission, department, or the committee.~~

~~(2) The committee and its members may not participate in legislative activity in the name of the Executive Commissioner of the Health and Human Services Commission, the department or the committee except with approval by the department. Committee members are not prohibited from representing themselves or other entities in the legislative process.~~

~~(3) A committee member should not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.~~

~~(4) A committee member should not disclose confidential information acquired through his or her committee membership.~~

~~(5) A committee member should not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.~~

~~(6) A committee member who has a personal or private interest in a matter pending before the committee shall publicly disclose the fact in a committee meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter but does not include the committee member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.~~

~~(o) 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) No compensatory per diem shall be paid to committee members unless required by law.~~

~~(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.~~

~~(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.~~

~~(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.~~

~~(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.~~

~~§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. All fees are nonrefundable.~~

~~(b) The schedule of fees is as follows:~~

- ~~(1) application and initial certification fee—\$75;~~
- ~~(2) biennial certificate renewal fee—\$60;~~
- ~~(3) one to 90 day late renewal fee—one and one half of the normally required renewal fee;~~
- ~~(4) 91 day to one year late renewal fee—two times the normally required renewal fee;~~
- ~~(5) certificate and/or identification card replacement or duplicate fee—\$20;~~
- ~~(6) general certificate to limited certificate conversion fee—\$20;~~
- ~~(7) temporary certificate fee—\$25;~~
- ~~(8) temporary certificate and/or identification card replacement or duplicate fee—\$20;~~
- ~~(9) general examination fee—the fee for the examination as set by contract with the examining body;~~
- ~~(10) chiropractic examination fee—the fee for the examination as set by contract with the examining board;~~
- ~~(11) skull, chest, spine, extremities or podiatric examination fee—the fee for the examination as set by contract with the examining board;~~
- ~~(12) upgrade of a temporary certificate to a renewable certificate, limited or general—\$25;~~
- ~~(13) limited instructor approval fee—\$50;~~
- ~~(14) limited curriculum application fee—\$900 two year term per course of study;~~
- ~~(15) site visit fee—a fee equal to the round trip travel expenses including meals and lodging of the inspection committee members, not to exceed \$1,000;~~

~~(16) training program application fee—\$350 (the application fee for training programs accredited by the Texas Higher Education Coordinating Board shall be waived);~~

~~(17) training program amendment fee—\$40 (the amendment fee for training programs accredited by the Texas Higher Education Coordinating Board shall be waived);~~

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

~~(19) limited curriculum amendment fee—\$40;~~

~~(20) biennial limited curriculum approval fee for general certificate programs—\$450;~~

~~(21) non-certified technician application fee—\$50;~~

~~(22) non-certified technician renewal fee—\$50;~~

~~(23) non-certified technician late renewal fee—\$50;~~

~~(24) hardship exemption application fee—\$25;~~

~~(25) provisional certificate fee—\$75;~~

~~(26) returned check fee—\$50; and~~

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

~~(e) For all applications and renewal applications, the department 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) Except as specifically exempted by subsections (b) and (c) of this section, the provisions of the Act and this chapter apply to any person representing that he or she performs radiologic procedures.~~

~~(b) This chapter does not prohibit the performance of a radiologic procedure by the following:~~

~~(1) A person who is a practitioner and performs the procedure in the course and scope of the profession for which that person holds the license; or~~

~~(2) a person who performs a radiologic procedure involving a dental x-ray machine, including panorex or other equipment designed and manufactured only for use in dental radiography and under the instruction or direction of a dentist, if the person and the dentist are in compliance with rules adopted under the Act, §§601.251 and 601.252 by the Texas State Board of Dental Examiners.~~

~~(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 Board, Texas State Board of Nurse Examiners, or Texas State Board of Medical Podiatry Examiners;~~

~~(2) a person who has successfully completed a training program for NCTs, in accordance with §143.17 of this title and who performs the procedure in a hospital that participates in the federal Medicare program or is accredited by the Joint Commission on Accreditation of Healthcare Organizations;~~

~~(3) students of medicine, osteopathic medicine, podiatry or chiropractic when under instruction or direction of a practitioner and if the student and the practitioner are in compliance with paragraph (1) of this subsection;~~

~~(4) a person who performs only in-vitro clinical or laboratory testing procedures as described in the Texas Regulations for the Control of Radiation;~~

~~(5) a student enrolled in a radiologic technology program which meets the requirements of §143.9 of this title (relating to Standards for the Approval of Curricula and Instructors) or §143.17 of this title who is performing radiologic procedures in an academic or clinical setting as part of the program; or~~

~~(6) a person who performs radiologic procedures for a period of not more than ten days, while enrolled in and as a part of continuing education activities which meet the minimum standards set out in §143.11 of this title (relating to Continuing Education Requirements) and who is licensed or otherwise registered as a medical radiologic technologist in or by another state, District of Columbia, a territory of the United States, the American Registry of Radiologic Technologists (ARRT), the Nuclear Medicine Technology Certification Board (NMTCB), the Board of Registry of the American Society of Clinical Pathologists, the Canadian Association of Medical Radiologic Technologists, the British Society of Radiographers, the Australian Institute of Radiography, or the Society of Radiographers of South Africa; or~~

~~(7) a person who performs the procedure in a hospital, federally qualified health center (FQHC), or for a practitioner, if a hardship exemption was granted to the hospital, FQHC or practitioner by the department during the previous 12-month period under §143.19 of this title (relating to Hardship Exemptions).~~

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

~~(a) General.~~

~~(1) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department forms.~~

~~(2) The department shall not consider an application as officially submitted until the applicant pays the correct fee in accordance with §143.4 of this title. The correct fee must accompany the application form.~~

~~(3) The department shall send a notice listing the additional materials required to an applicant whose application is incomplete. An application not completed within 30 days after the date of notice shall be invalid unless the applicant has advised the department of a valid reason for the delay.~~

~~(4) Applications will be accepted for a temporary certificate from students not more than 28 calendar days prior to the date of graduation from an approved medical radiologic technologist education program.~~

~~(5) A certificate may be reinstated only in accordance with §143.10(e) of this title.~~

~~(b) Required application materials:~~

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

~~(A) specific information regarding personal data, social security number, birth date, current and previous places of employment, other state licenses and certificates held, misdemeanor and felony convictions, and educational and training background;~~

~~(B) a statement that the applicant has read the Texas Medical Radiologic Technologist Certification Act (the Act) and this chapter and agrees to abide by them;~~

~~(C) the applicant's permission to the department to seek any information or references which are material in determining the applicant's qualifications;~~

~~(D) a statement that the applicant, if issued a certificate, shall return the certificate and identification card(s) to the department upon the expiration, revocation, surrender or suspension of the certificate;~~

~~(E) a statement that the applicant understands that the fees submitted are nonrefundable unless the processing time is exceeded without good cause as set out in subsection (e)(1) of this section;~~

~~(F) a statement that the applicant understands that the materials submitted become the property of the department and are nonreturnable (unless prior arrangements have been made);~~

~~(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) a statement that the applicant shall advise the department of his or her current mailing address within 30 days of any change of address;~~

~~(2) Applicants for a certificate who do not qualify under the provisions of §143.7(b) of this title (relating to Types of Certificates and Applicant Eligibility) must submit the following additional documents:~~

~~(A) if the applicant is not a graduate of or expected to graduate within 28 calendar days from a general certificate program in accordance with §143.9(a) of this title (relating to Standards for the Approval of Curricula and Instructors), a photocopy which has been notarized as a true and exact copy of an unaltered official diploma or official transcript indicating graduation from high school; a certificate of high school equivalency issued by the appropriate educational agency; or an official transcript from an accredited college or university indicating that the applicant received a high school diploma or the equivalency or was awarded an associate, baccalaureate, or post-baccalaureate degree; and~~

~~(B) at least one of the items set out as follows:~~

~~(i) a photocopy of an unaltered certificate of completion from an approved medical radiologic technologist educational program in accordance with §143.9 of this title. The certificate must contain the following items: name of the program; name of the graduate; the exact day and month applicant is recognized as a program graduate; and the signature of the program director or his designate;~~

~~(ii) an original letter or other notification from either the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board (NMTCB) that the applicant is considered examination eligible; or~~

~~(iii) if applying prior to graduation, from an approved medical radiologic program in accordance with §143.9 of this title, an expected graduation statement signed by the program director or registrar. Within 30 days of the completion date noted in the graduation statement, the department must receive:~~

~~(I) a photocopy of the certificate of completion or letter on letterhead indicating graduation, containing the items set out in clause (i) of this subparagraph; or~~

~~(II) a statement signed by the program director or registrar indicating that the applicant officially completed the program.~~

~~(3) Persons applying under the provisions of §143.7(d)(5) of this title must submit to the department a properly completed other license/registration documentation report form which has been completed and signed by an authorized representative of the governmental agency which issued the license or other form of registration. A photocopy of the license or other form of registration in medical radiologic technology issued by the government of another state, District of Columbia, or territory of the United States shall be submitted by the applicant.~~

~~(c) Application approval.~~

~~(1) The department shall be responsible for reviewing all applications.~~

~~(2) The department 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) The department may disapprove the application if the applicant:~~

~~(A) has not met the eligibility and application requirements set out in this section and §143.7 of this title;~~

~~(B) has failed to pass the examination prescribed in §143.8 of this title (relating to Examinations);~~

~~(C) has failed to remit any required fees;~~

~~(D) has failed or refused to properly complete or submit any application form(s) or endorsement(s) or has knowingly presented false or misleading information on the application form, or any other form or documentation required by the department to verify the applicant's qualifications for certification;~~

~~(E) has obtained or attempted to obtain a certificate issued under the Act by bribery or fraud;~~

~~(F) has made or filed a false report or record made in the person's capacity as a medical radiologic technologist;~~

~~(G) has intentionally or negligently failed to file a report or record required by law;~~

~~(H) has intentionally obstructed or induced another to intentionally obstruct the filing of a report or record required by law;~~

~~(I) has engaged in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the board in §143.14 of this title (relating to Violations and Subsequent Actions);~~

~~(J) has developed an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:~~

~~(i) an illness;~~

~~(ii) drug or alcohol dependency; or~~

~~(iii) another physical or mental condition or illness;~~

~~(K) has failed to report to the department the violation of the Act by another person;~~

~~(L) has employed, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with the Act;~~

~~(M) has violated a provision of the Act, a rule adopted under the Act, an order of the department previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;~~

~~(N) has had a certificate revoked, suspended, or otherwise subjected to adverse action or been denied a certificate by another certification authority in another state, territory, or country;~~
~~or~~

~~(O) has been convicted of, pled nolo contendere to, or received deferred adjudication for a crime which directly relates to the practice of radiologic technology.~~

~~(2) If the department determines that the application should not be approved, the department 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. Within ten days after receipt of the written notice, the applicant shall give written notice to the department 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 that the hearing be waived, the department shall disapprove the application.~~

~~(3) An applicant whose application has been disapproved under paragraph (1)(D)–(O) of this subsection shall be permitted to reapply after a period of not less than one year from the date of the disapproval and shall submit a current application, the certification fee and proof, satisfactory to the department, of compliance with the then current requirements of this chapter and the provisions of the Act.~~

~~(e) Application processing.~~

~~(1) The department shall comply with the following procedures in processing applications for a certificate.~~

~~(A) The following periods of time shall apply from the date of receipt of an application until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a complete application. The time periods are as follows:~~

~~(i) letter of acceptance of application for certification—21 days. The notice of acceptance may include a statement that an application for temporary certificate received more~~

~~than 28 calendar days from the date of the applicant's graduation will be held pending until the applicant is within 28 calendar days of graduation; and~~

~~(ii) letter of application deficiency—21 days.~~

~~(B) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The time periods for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with the law and of the opportunity for a formal hearing. The time periods are as follows:~~

~~(i) letter of approval—42 days; and~~

~~(ii) letter of denial of certificate—90 days.~~

~~(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. If the department 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) Good cause for exceeding the time period is considered to exist if the number of applications for certification or renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the department in the application process caused the delay; or any other condition exists that gives the department good cause for exceeding the time period.~~

~~(3) 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.~~

~~§143.7 Types of Certificates and Applicant Eligibility~~

~~(a) General.~~

~~(1) The department shall issue general certificates, limited certificates, temporary certificates (general or limited) or provisional certificates.~~

~~(2) Certificates and identification cards shall bear the signature of the commissioner of the department.~~

~~(3) Any certificate or identification card(s) issued by the department remains the property of the department and shall be surrendered to the department on demand.~~

~~(4) A person certified as an MRT, LMRT or PMRT shall carry or display the original certificate or current identification card at the place of employment. Photocopies shall not be carried or displayed.~~

~~(5) A person certified as an MRT, LMRT, or PMRT shall only allow his or her certificate to be copied for the purpose of verification by employers, licensing boards, professional organizations and third party payors for credentialing and reimbursement purposes. Other persons and/or agencies may contact the board's office in writing or by phone to verify certification.~~

~~(6) No one shall display, present, or carry a certificate or an identification card which has been altered, photocopied, or otherwise reproduced.~~

~~(7) No one shall make any alteration on any certificate or identification card issued by the department.~~

~~(b) Special provisions for persons who are nationally certified. Upon payment of the application fee, submission of the application forms and approval by the department, the department shall issue a general certificate to a person who is currently registered by the American Registry of Radiologic Technologists (ARRT) as a radiographer, is currently registered by the ARRT as a radiation therapist, or is currently registered by the ARRT or is currently certified by the Nuclear Medicine Technologist Certification Board (NMTCB) as a nuclear medicine technologist.~~

~~(c) Minimum eligibility requirements for certification. The following requirements apply to all individuals applying for certification who do not meet the requirements of subsection (b) of this section:~~

~~(1) graduation from high school or its equivalent as determined by the Texas Education Agency;~~

~~(2) attainment of 18 years of age;~~

~~(3) freedom from physical or mental impairment which interferes with the performance of duties or otherwise constitutes a hazard to the health or safety of patients;~~

~~(4) submission of a satisfactory completed application on a form supplied by the department;~~

~~(5) payment of the required fees; and~~

~~(6) eligibility for the specific certificate requested as set out in subsections (d), (e), (f), (g), (h) or (i), of this section.~~

~~(d) Medical radiologic technologist. To qualify for a general certificate an applicant shall meet at least one of the following requirements:~~

~~(1) possess current national certification as a registered technologist by the ARRT;~~

~~(2) have successfully completed the ARRT's examination in radiography, radiation therapy, or nuclear medicine technology;~~

~~(3) possess current national certification as a certified nuclear medicine technologist by the NMTCB;~~

~~(4) have successfully completed the NMTCB's examination in nuclear medicine technology;~~
~~or~~

~~(5) be currently licensed or otherwise registered as a medical radiologic technologist in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or are substantially equivalent to the requirements for Texas certification.~~

~~(e) Limited medical radiologic technologist. To qualify for a limited certificate, an applicant shall meet the requirements in paragraph (4) of this subsection and subsection (c) of this section.~~

~~(1) The limited categories shall be as follows: skull; chest; spine; extremities; chiropractic; podiatry; and cardiovascular.~~

~~(2) Holding a limited certificate in all categories shall not be construed to mean that the holder of the limited certificate has the rights, duties, and privileges of a general certificate holder.~~

~~(3) Persons holding a limited certificate in one or more categories may not perform radiologic procedures involving the use of contrast media, utilization of fluoroscopic equipment, mammography, tomography, mobile radiography, nuclear medicine, and/or radiation therapy procedures. However, a person holding a limited certificate in the cardiovascular category may perform 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.~~

~~(4) To qualify for a certificate as an LMRT an applicant must provide satisfactory documentary evidence to the department of the following:~~

~~(A) the successful completion of a limited course of study as set out in §143.9 of this title and the successful completion of the appropriate limited examination in accordance with §143.8 of this title;~~

~~(B) current licensure or registration as an LMRT in another state, the District of Columbia, or a territory of the United States of America whose requirements are more stringent than or substantially equivalent to the requirements for the Texas limited certificate at the time of application to the department; or~~

~~(C) current general certification as an MRT issued by the department. The MRT must surrender the general certificate and submit a written request for a limited certificate indicating the limited categories requested. The request shall be postmarked on or before the certificate expiration date and shall be accompanied by the general certificate and the certificate and/or identification card replacement fee.~~

~~(f) Temporary general medical radiologic technologist. To qualify as a temporary general medical radiologic technologist, 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) have successfully completed or be within 28 calendar days of successful completion of a course of study in radiography, radiation therapy, or nuclear medicine technology which is accredited by the United States Department of Education including but not limited to the Joint Committee on Education in Nuclear Medicine Technology (JRCNMT) or the Joint Review Committee on Education in Radiologic Technology (JRCERT);~~

~~(2) be approved by the ARRT as examination eligible;~~

~~(3) be approved by the NMTCB as examination eligible;~~

~~(4) be currently licensed or otherwise registered as an MRT in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or substantially equivalent to the Texas requirements for certification at the time of application to the department or;~~

~~(5) have completed education, training and clinical experience which is equivalent to that of a accredited educational program in radiography as listed in paragraph (1) of this subsection. An applicant who meets this requirement is eligible to be examined for state certification purposes only.~~

~~(g) Temporary limited medical radiologic technologist. The applicant shall meet at least one of the following requirements. These are in addition to those listed in subsection (c) of this section. The applicant must:~~

~~(1) have successfully completed or be within 28 calendar days of successful completion of a limited certificate program in the categories of skull, chest, spine, abdomen or extremities, which is approved in accordance with §143.9(b) of this title (relating to Standards for the Approval of Curricula and Instructors);~~

~~(2) be currently enrolled in a course of study in a general certificate program approved in accordance with §143.9(a) of this title and have been issued a certificate of completion by the program signifying that the person has completed classroom instruction, clinical instruction, evaluations and competency testing in all areas included in the limited curriculum, as set out in §143.9(d) of this title; or~~

~~(3) be currently licensed or otherwise registered as an LMRT in another state, the District of Columbia, or a territory of the United States whose requirements are more stringent than or substantially equivalent to the Texas requirements for certification at the time of application to the department.~~

~~(h) Special provisions for technologists on active military duty. An MRT or LMRT whose certificate has expired and was not renewed under §143.10(g) of this title may file a complete application for another certificate of the same type as that which expired.~~

~~(1) The application shall be on official department forms and be filed with the application and initial certification fee.~~

~~(2) An applicant shall be entitled to a certificate of the same type as that which expired based upon the applicant's previously accepted qualification and no further qualifications or examination shall be required.~~

~~(3) The application must include a copy of the official orders or other official military documentation showing that the holder was on active duty during any portion of the period for which the applicant was last certified.~~

~~(4) An application is subject to disapproval in accordance with §143.6(d) of this title.~~

~~(5) An applicant for a different type of certificate than that which expired must meet the requirements of this chapter generally applicable to that type of certificate.~~

~~(i) Provisional medical radiologic technologist. A provisional certificate may be issued to an applicant who is currently licensed or certified in another jurisdiction and who:~~

~~(1) has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of the Act;~~

~~(2) has passed a national or other examination recognized by the department relating to the practice of radiologic technology; and~~

~~(3) is sponsored by a medical radiologic technologist certified by the department under this Act with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.~~

~~§143.8 Examinations~~

~~(a) Examination eligibility.~~

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

~~(2) Persons who qualify under §143.7(b), (d), (e) or (i) of this title are not required to be reexamined for state certification.~~

~~(b) Approved examination for the general certificate. A general certificate shall be issued upon successful completion of the Nuclear Medicine Technology Certification Board (NMTCB) examination or the appropriate examination of the American Registry of Radiologic Technologists (ARRT). The three disciplines are radiography, nuclear medicine technology, and radiation therapy. Determination of the appropriate examination shall be made on the basis of the type of educational program completed by the general temporary certificate holder.~~

~~(c) Approved examination for the limited certificate. An approval letter requesting the limited certification fee shall be issued upon successful completion of the appropriate examination, as follows:~~

~~(1) skull—the ARRT examination for the limited scope of practice in radiography (skull);~~

~~(2) chest—the ARRT examination for the limited scope of practice in radiography (chest);~~

~~(3) spine—the ARRT examination for the limited scope of practice in radiography (spine);~~

~~(4) extremities—the ARRT examination for the limited scope of practice in radiography (extremities);~~

~~(5) chiropractic—the ARRT examinations for the limited scope of practice in radiography (spine and extremities);~~

~~(6) podiatric—the ARRT examination for the limited scope of practice in radiography (podiatry); or~~

~~(7) cardiovascular—the Cardiovascular Credentialing International invasive registry examination.~~

~~(d) Applicants approved for the limited certification examination will be allowed three attempts to pass the examination. The three attempts must be made within a three-year period of time. When either three unsuccessful attempts have been made or three years have expired, the individual is no longer considered eligible under this section. To be eligible for an additional examination the applicant must submit documentation indicating completion of remedial activities. The fourth attempt must occur within the one-year period following the third unsuccessful attempt. Those failing the fourth attempt, or waiting longer than one year following the third unsuccessful attempt, shall only become eligible by re-entering and completing an approved limited certification program. Upon the applicant's successful completion of the examination, the department shall issue an approval letter for the limited certificate.~~

~~(e) Examination schedules. A schedule of examinations indicating the date(s), location(s), fee(s) and application procedures shall be provided by the agency or organization administering the examination(s) for the department to each person issued any temporary certificate.~~

~~(f) Standards of acceptable performance. The scaled score to determine pass or fail performance shall be 75. For the cardiovascular limited certificate, the Cardiovascular Credentialing International examinations (Cardiovascular Science Examination and/or the Invasive Registry Examination as required to obtain the Registered Cardiovascular Invasive Specialist RCIS credential) the scaled score to determine pass or fail performance shall be 70.~~

~~(g) Completion of examination application forms. Each applicant shall be responsible for completing and transmitting appropriate examination application forms and paying appropriate examination fees by the deadlines set by the department or the agency or organization administering the examinations prescribed by the department.~~

~~(h) Examination Results.~~

~~(1) Notification to examinees. Results of an examination prescribed by the department but administered under the auspices of another agency will be communicated to the applicant by the department, unless the contract between the department and that agency provides otherwise.~~

~~(2) Score release. The applicant is responsible for submitting a signed score release to the examining agency or organization or otherwise arranging to have examination scores forwarded to the department.~~

~~(3) Deadlines. The department shall notify each examinee of the examination results within 14 days of the date the department receives the results.~~

~~(i) Refunds. Examination fee refunds will be in accordance with policies and procedures of the department or the agency or organization prescribed by the department to administer an examination. No refunds will be made to examination candidates who fail to appear for an examination.~~

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

~~(a) General certificate programs. All curricula and programs to train individuals to perform radiologic procedures must be accredited by the United States Department of Education including but not limited to the Joint Review Committee on Education in Nuclear Medicine Technology (JRCNMT) or the Joint Review Committee on Education in Radiologic Technology (JRCERT).~~

~~(b) Limited certificate programs. All curricula and programs to train individuals to perform limited radiologic procedures must:~~

~~(1) be accredited by the JRCERT to offer a limited curriculum in radiologic technology;~~

~~(2) be accredited by the Joint Review Committee on Education in Cardiovascular Technology (JRCCVT) to offer a curriculum in invasive cardiovascular technology;~~

~~(3) be accredited by JRCERT under subsection (b) of this section; or~~

~~(4) be approved by the department and be offered within the geographic limits of the State of Texas. Subsections (c) — (g) of this section apply only to department approved programs.~~

~~(e) 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 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) All official application forms must be notarized and shall be accompanied by the application fee in accordance with §143.4 of this title.~~

~~(2) An original and one copy 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) Narrative materials must be typed, double spaced, and clearly legible. All signatures on the official forms and supporting documentation must be originals. Photocopied signatures will not be accepted.~~

~~(4) Notices will be mailed to applicants informing the applicant of the completeness or within 60 days of receipt of the application in the department. Applications which are received incomplete may cause postponement of the program starting date. The time of receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying the application is 120 days. In the event these time periods are exceeded, the applicant has the right to request reimbursement of fees, as set out in §143.6(e)(2) and (3) of this title.~~

~~(5) If the application is revised or supplemented during the review process, the applicant shall submit an original and four copies of a transmittal letter plus an original and three copies of the revision or supplement. If a page is to be revised, the complete new page must be submitted with the changed item/information clearly marked on five copies.~~

~~(6) The application shall include:~~

~~(A) the anticipated dates of the program or course of study;~~

~~(B) the daily hours of the program or course of study;~~

~~(C) the location, mailing address, phone and facsimile numbers of the program;~~

~~(D) a list of instructors approved by the department, in accordance with subsection (f) of this section, and any other persons responsible for the conduct of the program including management and administrative personnel. The list must indicate what courses each will teach or instruct or the area(s) of responsibility for the non-instructional staff;~~

~~(E) a list of clinical facilities, written agreements on forms prescribed by the department from clinical facilities signed by the program director and the chief executive officer(s) of each facility, and clinical schedules, including the following items identified for each clinical site utilized. A clinical facility which is not listed on the application may not be utilized for a student's clinical practicum until the department has accepted the additional clinical facility in accordance with paragraph (10) of this subsection. The items are:~~

~~(i) the number and types (name brands and model numbers) of radiologic equipment to be utilized in the limited curriculum;~~

~~(ii) a copy of the current registration(s) for the radiologic equipment from the department's Bureau of Radiation Control;~~

~~(iii) the number and location(s) of examination rooms available;~~

~~(iv) whether or not the clinical facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or certified to participate in the federal Medicare program, and if required, is licensed by the appropriate statutory authority. For example, if the facility is an ambulatory surgical center, licensure by the department is required;~~

~~(v) an acknowledgement that students may only perform radiologic procedures under supervision of a practitioner, a limited medical radiologic technologist (LMRT) employed at the clinical facility or medical radiologic technologist (MRT) employed at the clinical facility;~~

~~(vi) copies of the current identification cards issued by the department to the LMRTs or MRTs who will supervise the students at all times while performing radiologic procedures;~~

~~(vii) an acknowledgment that the students in a limited curriculum program in the categories of skull, chest, spine, abdomen, extremities, chiropractic or podiatric shall not perform procedures utilizing contrast media, mammography, fluoroscopy, tomography, nuclear medicine studies, radiation therapy or other procedures beyond the scope of the limited curriculum; and~~

~~(viii) an acknowledgment that the students in a limited curriculum program in the cardiovascular category shall not perform mammography, tomography, nuclear medicine studies, radiation therapy or other procedures beyond the scope of the limited curriculum. Such students may only perform radiologic procedures of the cardiovascular system which involve the use of contrast media and fluoroscopic equipment.~~

~~(F) clearly defined and written policies regarding admissions, costs, refunds, attendance, disciplinary actions, dismissals, re-entrance, and graduation which are provided to all prospective students prior to registration and by which the program director shall administer the program. The admission requirements shall include the minimum eligibility requirements for certification in accordance with §143.7(c)(1)–(2) of this title.~~

~~(G) the name of the program director who is an approved instructor in accordance with subsection (f) of this section, and who has not less than three years of education or teaching experience in the appropriate field or practice;~~

~~(H) a letter of acknowledgement and a photocopy of the current Texas license from a practitioner in the appropriate field of practice who is knowledgeable in radiation safety and protection and who shall be known as the designated medical director. The practitioner shall work in consultation with the program director in developing goals and objectives and in implementing and assuring the quality of the program;~~

~~(I) a letter or other documentation from the Texas Workforce Commission, Proprietary Schools Section indicating that the proposed training program has complied with or has been granted exempt status under the Texas Proprietary School Act, Texas Education Code, Chapter 32, and 19 Texas Administrative Code, Chapter 175, or verification of accreditation by the Texas Higher Education Coordinating Board; and~~

~~(J) the correct number of students to be enrolled in each cycle of the program, and if more than one cycle will be conducted concurrently, the maximum number of students to be enrolled at any one time.~~

~~(7) All applications must identify the type of curriculum according to the limited categories in accordance with §143.7(e) of this title. Each application must be accompanied by an outline of the curriculum and course content which clearly indicates that students must complete a structured curriculum in proper sequence according to subsection (d) of this section. If the curriculum differs from that set out in subsection (d) of this section, a typed comparison in table format clearly indicating how the curriculum differs from the required curriculum, including the number of hours for each topic or unit of instruction, shall be included.~~

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

~~(A) provide a ratio of not more than three students to one full-time certified medical radiologic technologist engaged in the supervision of the students in the clinical environment;~~

~~(B) provide on-site instruction and direction by a practitioner for students when performing radiologic procedures on human beings;~~

~~(C) prohibit students from being assigned to any situation where they would be required to apply radiation to a human being while not under the on-site instruction or direction of a practitioner;~~

~~(D) prohibit intentional exposure to human beings from any source of radiation except for medically prescribed diagnostic purposes;~~

~~(E) provide appropriate facilities, sufficient volume of procedures, and a variety of diagnostic radiologic procedures to properly conduct the course. Facilities, agencies, or organizations utilized in the program shall be accredited or certified and licensed by the appropriate agencies. Equipment and radioactive materials utilized in the program shall be used only in facilities registered or licensed by the department's Bureau of Radiation Control;~~

~~(F) keep an accurate record of each student's attendance and participation, evaluation instruments and grades, clinical experience including radiation exposure history, and subjects completed for not less than five years from the last date of the student's attendance. Such records shall be made available to examining boards, regulatory agencies, and other appropriate organizations, if requested;~~

~~(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) site inspections by departmental representatives to determine compliance and conformity with the provision of this section will be at the discretion of the department;~~

~~(I) understand and recognize that the graduates' success rate on the prescribed examination will be monitored by the department and utilized as a criteria for rescinding approval. In addition to this criteria, the department may rescind approval in accordance with §143.14 of this title; and~~

~~(J) comply with the Texas Regulations for the Control of Radiation, including but not limited to, personnel monitoring devices for each student upon the commencement of the clinical instruction and clinical experience.~~

~~(9) A site visit may be necessary to grant approval of the program. If a site visit is required, a site visit fee must be paid in accordance with §143.4 of this title.~~

~~(10) Following program approval, a written request(s) for amendment(s) shall be submitted to and approved by the department in advance of taking the anticipated action. The request to add or drop an instructor, clinical site, category of instruction, program director or other change, shall be accompanied by the limited curriculum program amendment application and fee in accordance with §143.4 of this title.~~

~~(d) Curricula requirements. Each student must complete a curriculum which meets or exceeds the following requirements:~~

(1) at least 132 clock hours of basic theory or classroom instruction in the categories of skull, chest, extremities, spine, and chiropractic, and not less than 66 clock hours of basic theory instruction for podiatric is required. The required clock hours of basic theory/classroom instruction need not be repeated if two or more categories of curriculum are completed simultaneously or to add a category to a temporary limited or limited certificate. Pediatric instruction shall be included in the hours of training. The following subject areas and minimum number of hours (in parentheses) must be included in all programs and must be instructor directed. The recommended clock hours for each shall be:

(A) radiation protection for the patient, self, and others (40);

(B) radiographic equipment including safety standards, operation, and maintenance (15);

(C) image production and evaluation (35);

(D) applied human anatomy and radiologic procedures (20);

(E) patient care and management essential to radiologic procedures and recognition of emergency patient conditions and initiation of first aid (10);

(F) medical terminology (6); and

(G) medical ethics and law (6); and

(2) a clinical practicum for each category of limited curriculum including pediatrics is required. The practicum must include clinical instruction and clinical experience under the instruction or direction of a practitioner and an MRT or LMRT in accordance with the following chart.

<u>TYPE OF LIMITED CERTIFICATE</u>	<u>CLINICAL INSTRUCTION (# OF CLOCK HOURS)</u>	<u>CLINICAL EXPERIENCE (# OF CLOCK HOURS)</u>
Skull	50	100
Chest	6	100
Spine	25	100
Extremities	30	100
Chiropractic	60	100
Podiatric	4	50

~~(A) The clinical instruction must be concurrent with the classroom instruction, as set out in paragraph (1) of this subsection.~~

~~(B) The clinical experience must commence immediately following the clinical instruction and be completed within 180 days of the starting date of the clinical experience. Variances from this must be approved in advance by the department and must demonstrate good cause. A request for a variance must be submitted in writing to the administrator. For the purposes of this section, a normal pregnancy or medical disability shall constitute good cause.~~

~~(C) For the skull category, the 100 hours of clinical experience must include a minimum of 4 independently performed procedures to include the skull (posterior/anterior, anterior/posterior, lateral and occipital), paranasal sinuses, facial bones, and the mandible. At least one procedure must be the mandible. The mandible procedure may be completed by simulation with 90% accuracy. Only one student shall receive credit for any one radiologic procedure performed.~~

~~(D) The program director shall be responsible for supervising and directing the evaluation of the students' clinical experience and shall certify in writing that the student has or has not successfully completed the required clinical instruction and clinical experience. Such written documentation must be provided to each student within 14 days of completion of the clinical experience. Students who successfully complete the required clinical experience may be required to submit such documentation to the department if applying for a temporary limited certificate with an expected graduation statement, as set out in §143.6(b)(2)(B)(iii) of this title. Persons who participate in the evaluation of students' clinical experience must be an MRT or LMRT and have a minimum of two years of practical work experience performing radiologic procedures. For cardiovascular, persons who makes the final evaluation of students' clinical experience must be an MRT or LMRT and have a minimum of two years of practical work experience performing cardiovascular procedures.~~

~~(e) Limited certificate educational program approval.~~

~~(1) Provided the requirements are met, the sponsoring institution shall receive a letter from the department indicating approval of the educational program in accordance with §113.1 of this title (relating to Processing Permits for Special Health Services Professionals).~~

~~(2) A program shall be denied approval if the application is incomplete or not submitted as set out in this section. The applicant shall be notified in accordance with §113.1 of this title.~~

~~(3) If approval is proposed to be denied, the applicant shall be notified in writing of the proposed denial and shall be given an opportunity to request a formal hearing within 10 days of the applicant's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures in Chapter 1 of this title. If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.~~

~~(f) Instructor approval for limited certificate programs.~~

~~(1) All persons who plan to or who will provide instruction and training in the limited certificate courses of study or programs shall:~~

~~(A) submit a completed application form prescribed by the department;~~

~~(B) submit the prescribed application fee in accordance with §143.4 of this title;~~

~~(C) document the appropriate instructor qualifications in accordance with subsection (g) of this section.~~

~~(2) Guest lecturers who are not full or part-time employees of the sponsoring institution are not required to apply for instructor approval.~~

~~(3) Within 21 days of receipt of the application in the department, a notice will be mailed informing the applicant of the completeness or deficiency of the application. The time of receipt of the last item necessary to complete the application to the date of issuance of a written notice approving or denying the application is 42 days. In the event these time periods are exceeded, the applicant has the right to request reimbursement of fees paid as set out in §143.6(e)(2) and (3) of this title.~~

~~(4) An applicant who is not approved by the department shall be given an opportunity to request a formal hearing within ten days of the applicant's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures in Chapter 1 of this title. If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.~~

~~(g) Instructor qualifications for limited certificate programs.~~

~~(1) An instructor(s) shall have education and not less than six months classroom or clinical experience teaching the subjects assigned, shall meet the standards required by a sponsoring institution, if any, and shall meet at least one or more of the following qualifications:~~

~~(A) be a currently certified MRT who is also currently credentialed as a radiographer by the American Registry of Radiologic Technologists (ARRT);~~

~~(B) be a currently certified LMRT (excluding a temporary certificate) whose limited certificate category(ies) matches the category(ies) of instruction and training; or~~

~~(C) be a practitioner who is in good standing with all appropriate regulatory agencies including, but not limited to, the department, the Texas State Board of Chiropractic Examiners, Texas State Board of Medical Examiners, or Texas State Board of Podiatry Examiners, the Texas Department of Human Services, and the United States Department of Health and Human Services.~~

~~(2) A limited medical radiologic technologist may not teach, train, or provide clinical instruction in a program or course of study different from the technologist's current level of certification. An LMRT who holds a limited certificate in spine radiography may not teach, train, or provide clinical instruction in a limited course of study for chest radiography.~~

~~(h) Application procedures for limited certificate programs accredited by JRCERT or JRCCVT.~~

~~(1) Application shall be made by the program director on official forms available from the department.~~

~~(2) The application must be notarized and shall be accompanied by the following items:~~

~~(A) the limited curriculum application fee, in accordance with §143.4 of this title;~~

~~(B) a copy of the current accreditation issued to the program by the JRCERT or JRCCVT;~~

~~(C) a description in narrative and/or table format clearly indicating that the applicable content of the limited certificate program curriculum be equal to the general certificate curriculum; and~~

~~(D) an agreement to allow the department to conduct an administrative audit of the program to determine compliance with this section.~~

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

~~(a) Issuance of certificates.~~

~~(1) The department shall send each applicant whose application has been approved a general, limited or provisional certificate with an expiration date and a certificate number. An identification card shall be included with the general certificate.~~

~~(2) The department shall replace a lost, damaged, or destroyed certificate or identification card(s) upon a written request and payment of the replacement fee. Requests shall include a statement detailing the loss or destruction of the original certificate and/or identification card(s), or be accompanied by the damaged certificate or card(s).~~

~~(b) Temporary certificates.~~

~~(1) The department shall send each applicant whose application has been approved for the temporary certificate (general or limited) an appropriate temporary certificate which shall expire one year from the date of issue.~~

~~(2) The department shall send with the temporary certificate information regarding examinations and examination application deadlines.~~

~~(3) All temporary certificates are not subject to renewals or extensions for any reason. A person whose temporary certificate has expired is not eligible to reapply for another temporary certificate.~~

~~(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) birth month.~~

~~(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) Each MRT is responsible for renewing the certificate before the expiration date and shall not be excused from paying late fees. Failure to receive notification from the department prior to the expiration date will not excuse failure to file for renewal or late renewal.~~

~~(2) At least 60 days prior to the expiration of an MRT's or LMRT's certificate, the department shall send notice to the MRT or LMRT at the address in the department's records at the time the notice is sent, of the expiration date of the certificate, the amount of renewal fee due, and a renewal form which the MRT or LMRT must complete and return to the department with the required renewal fee.~~

~~(3) The renewal form shall require the provision of the MRT's or LMRT's preferred mailing address, primary employment address and phone number, information regarding misdemeanor and felony convictions (if any since initial certification or last renewal), and continuing education completed in accordance with §143.11 of this title. The renewal form must be signed and dated by the renewal applicant.~~

~~(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. 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) The department is not responsible for lost, misdirected, or undelivered renewal application forms, fees, renewal certificates, or renewal identification cards.~~

~~(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.~~

~~(7) The department shall issue renewal identification cards to an MRT or LMRT who complies with paragraph (4) of this subsection.~~

~~(8) The department shall deny renewal of a certificate if required by the Education Code, §57.491, concerning defaults on guaranteed student loans.~~

~~(9) The department may not renew the certificate of an MRT or LMRT who is in violation of the Act or this chapter at the time of renewal.~~

~~(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) 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, and the late renewal fee. An active annual registration or credential card issued by the American Registry of Radiologic Technologists does constitute supporting documentation. A certificate issued under this subsection shall expire two years from the date the previous certificate expired.~~

~~(A) If the certificate has been expired for 90 days or less, a person may renew the certificate by paying the one to 90 day late renewal fee.~~

~~(B) If the certificate has been expired for over 90 days but not more than one year, a person may renew the certificate by paying the 91 day to one year late renewal fee.~~

~~(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.~~

~~(2) The late renewal is effective if it is mailed to the department or personally delivered by the MRT or LMRT or his/her agent to the department not more than one year after certificate expiration. If mailed, the postmark date shall be considered the date of mailing. A postage~~

~~metered date is not considered as a postmark. A certificate not renewed within one year after expiration cannot be renewed.~~

~~(3) A person whose certificate has expired may not administer a radiologic procedure during the one-year period in violation of the Act. A person may not use a title that implies certification while the certificate is expired.~~

~~(4) A person whose certificate has been expired for more than one year may apply for another certificate by meeting the then-current requirements of the Act and this chapter which apply to all new applicants.~~

~~(g) 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) 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) Renewal of the certificate may be requested by the MRT or LMRT, a spouse, or an individual having power of attorney from the MRT or LMRT. The renewal form shall include a current address and telephone number for the individual requesting the renewal.~~

~~(2) A copy of the official orders or other official military documentation showing that the MRT or LMRT was on active duty for any portion of the renewal period shall be filed with the department along with the renewal form.~~

~~(3) An affidavit stating that the MRT or LMRT has not administered a radiologic procedure in a setting outside of the MRT or LMRT's active duty responsibilities during the time of active duty shall be filed with the department along with the renewal form. The affidavit may be executed by the MRT or LMRT, a spouse, or an individual having power of attorney from the MRT or LMRT.~~

~~(4) A copy of the power of attorney from the MRT or LMRT shall be filed with the department along with the renewal form if the individual having power of attorney executes any of the documents required by this subsection.~~

~~(5) A certificate covered by this subsection may be renewed in accordance with subsection (e) of this section. The 60-day late fee shall be waived for a renewal under this subsection.~~

~~(6) An MRT or LMRT on active duty with the United States armed forces serving outside the State of Texas may request renewal of the certificate at any time before or after the expiration of~~

~~the certificate. An MRT or LMRT on active duty serving within the State of Texas may request renewal before the expiration of the certificate or under subsection (e) of this section. An MRT or LMRT on active duty serving within the State of Texas who does not renew under subsection (e) of this section may file a complete application for another certificate in accordance with §143.7(h) of this title.~~

~~§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) The initial continuing education period shall begin on the first day of the MRT's or LMRT's first biennial renewal period. Each subsequent period shall begin on the first day of the next biennial renewal period.~~

~~(2) An MRT must complete 24 contact hours of continuing education acceptable to the department during each biennial renewal period.~~

~~(3) An LMRT must complete 12 contact hours of continuing education acceptable to the department during each biennial renewal period. The continuing education activities must be general radiation health and safety topics or related to the categories of limited certificate held.~~

~~(4) Each MRT or LMRT shall be notified of the continuing education requirements with the first biennial renewal certificate sent by the department.~~

~~(5) At least 3 hours 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 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) An MRT or LMRT who also holds a current Texas license/registration/certification in another health profession may satisfy the continuing education requirement for renewal of the MRT or LMRT with hours counted toward renewal of the other license, registration, or certification provided the hours meet all the requirements of this section.~~

~~(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 and meet or exceed the requirements set out in paragraph (5) of this subsection 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) A contact hour shall be defined as 50 minutes of attendance and participation. One half contact hour shall be defined as 30 minutes of attendance and participation during a 30 minute period.~~

~~(10) Persons who hold temporary certificates, either general or limited, are not subject to these continuing education requirements.~~

~~(b) Content. All continuing education activities should provide for the professional growth of the technologist.~~

~~(1) At least 50% of the required number of hours must be activities which are directly related to the use and application of ionizing forms of radiation to produce diagnostic images and/or administer treatment to human beings for medical purposes. For the purpose of this section, directly related topics include, but are not limited to: radiation safety, radiation biology and radiation physics; anatomical positioning; radiographic exposure technique; radiological exposure technique; emerging imaging modality study; patient care associated with a radiologic procedure; radiopharmaceutics, pharmaceuticals, and contrast media application; computer function and application in radiology; mammography applications; nuclear medicine application; and radiation therapy applications.~~

~~(2) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are related to the use and application of non ionizing forms of radiation for medical purposes.~~

~~(3) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are indirectly related to radiologic technology. For the purpose of the section, indirectly related topics include, but are not limited to, patient care, computer science, computer literacy, introduction to computers or computer software, physics, human behavioral sciences, mathematics, communication skills, public speaking, technical writing, management, administration, accounting, ethics, adult education, medical sciences, and health sciences. Other courses may be accepted for credit provided there is a demonstrated benefit to patient care.~~

~~(e) 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) is offered for semester hour or quarter hour credit by an institution accredited by a regional accrediting organization such as the Southern Association of Colleges and Schools and is directly or indirectly related to the disciplines of radiologic technology as specified in subsection (a) of this section; or~~

~~(2) is offered for continuing education credit by an institution accredited by the Joint Review Committee on Education in Radiologic Technology (JRCERT), Joint Review Committee on Education in Nuclear Medicine Technology (JRCNMT), Joint Review Committee on Education in Cardiovascular Technology (JTCCVT), or the Council on Chiropractic Education (CCE) and is directly or indirectly related to the disciplines of radiologic technology; or~~

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

~~(A) the content meets the requirements set out in subsection (b) of this section; and~~

~~(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.~~

~~(d) Additional acceptable activities. The additional activities for which continuing education credit will be awarded are as follows:~~

~~(1) successful completion of an entry level or advanced level examination previously passed in the same discipline of radiologic technology administered by or for the ARRT during the renewal period. The examinations shall be topics dealing with ionizing forms of radiation administered to human beings for medical purposes. Such successful completion shall be limited to not more than one half of the continuing education hours required;~~

~~(2) successful completion or recertification in a cardiopulmonary resuscitation course, basic cardiac life support course, or advanced cardiac life support course during the continuing education period. Such successful completion or recertification shall be limited to not more than:~~

~~(A) three hours credit during a renewal period for a cardiopulmonary resuscitation course or basic cardiac life support course; or~~

~~(B) six hours credit during a renewal period for an advanced cardiac life support course;~~

~~(3) attendance and participation in tumor conferences (limited to six hours), inservice education and training offered or sponsored by Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accredited or Medicare certified hospitals, provided the education/training is properly documented and is related to the profession of radiologic technology;~~

~~(4) teaching in a program described in subsection (c) of this section with a limit of one contact hour of credit for each hour of instruction per topic item once during the continuing education reporting period for up to a total of six hours. No credit shall be given for teaching that is required as part of one's employment. Credit may be granted in direct, indirect or non ionizing radiation based on the topic; or~~

~~(5) developing and publishing a manuscript of at least 1,000 words in length related to radiologic technology with a limit of six contact hours of credit during a continuing education~~

period. Upon audit by the department the MRT must submit a letter from the publisher indicating acceptance of the manuscript for publication or a copy of the published work. The date of publication will determine the continuing education period for which credit will be granted. Credit may be granted in direct, indirect or non-ionizing radiation based on the topic.

(e) Reporting of continuing education. 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 of the required number of hours shall be verifiable independent self-study activities.

(1) At the time of renewal or at other times determined by the department, the department will select a random sample of technologists to verify compliance with the continuing education requirements. The technologists selected in the random sample shall submit at the time of renewal or within 30 days following notification from the department:

(A) documentation of participation in and completion of continuing education acceptable to the department; and

(B) any additional information or documentation deemed necessary by the department to verify the technologist's compliance with the continuing education requirements.

(2) The department shall notify the technologist of the results of the verification process.

(f) Determination of contact hour credits. The department shall credit continuing education experiences and activities as follows.

(1) Semester hour or quarter hour credits as set in subsection (e)(1) of this section shall be credited on the basis of 15 contact hour credits for each semester hour and 10 contact hour credits for each quarter hour successfully completed with a grade of "C" or better, evidenced by an official transcript.

(2) Activities or experiences as set out in subsection (e)(2) and (3) of this section shall be credited on a one-for-one basis with one contact hour credit for each contact hour of attendance and participation. Credit will be accepted only in whole hour or half-hour increments. Minutes in excess of whole or half-hour increments shall not be aggregated for additional credit.

(g) Activities unacceptable as continuing education. The department shall not grant credit for:

(1) education incidental to the regular professional activities of an MRT or LMRT such as learning from experience or research;

~~(2) organizational activity such as serving on committees or councils or as an officer in a professional association, society, or other organization;~~

~~(3) any activities completed before or after the two-year continuing education period for which the credit is submitted;~~

~~(4) verifiable independent study activities which have no post test or other measurement or evaluation instrument provided;~~

~~(5) verifiable independent study activities as set out in subsection (a)(6) of this section which exceed 50% of the clock hour requirements;~~

~~(6) learning activities indirectly related to radiologic technology as set out in subsection (b)(3) of this section which exceed 50% of the contact hour requirements;~~

~~(7) learning activities which are related to non-ionizing forms of radiation as set out in subsection (b)(2) of this section which exceed 50% of the contact hour requirements;~~

~~(8) any activities or experiences which do not meet the criteria set out in subsection (a), (b), (c) or (d) of this section;~~

~~(9) activities in accordance with subsection (d)(1) and (2) of this section which are repeated during the renewal period;~~

~~(10) activities in accordance with subsection (d)(4) of this section in excess of the one-time credit per topic of instruction or in excess of a total of six contact hours during a continuing education period;~~

~~(11) activities in accordance with subsection (d)(5) of this section in excess of six contact hours during a continuing education period; or~~

~~(12) activities that are an employment requirement or concerning specific institutional policies and procedures.~~

~~(h) Failure to complete the required continuing education. A person may renew late under §143.10(f) of this title after all the continuing education requirements have been met.~~

~~(i) Exemptions. The department will consider granting an exemption from the continuing education requirement on a case-by-case basis if:~~

~~(1) a technologist completes and forwards to the department a sworn affidavit indicating retirement status for the entire renewal period for which the exemption is requested. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours. These hours shall be accrued immediately following the technologist's return to performing radiologic procedures to satisfy the continuing education requirements for renewal in accordance with subsection (a) of this section;~~

~~(2) a technologist completes and forwards to the department a sworn affidavit indicating that the technologist is employed but does not perform radiologic procedures for the entire renewal period. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours. These hours shall accrue immediately following the technologist's return to performing radiologic procedures to satisfy the continuing education requirements for renewal in accordance with subsection (a) of this section;~~

~~(3) a technologist shows reasons of health, certified by a licensed physician, that prevent compliance with the continuing education requirement for the entire renewal period. A technologist must complete and forward to the department a sworn affidavit and provide documentation that clearly establishes the period of disability and resulting physical limitations;~~

~~(4) a technologist submits a sworn statement and shows reason which prevents compliance and the reason is acceptable to the department;~~

~~(5) a technologist is called to or on active duty with the armed forces of the United States for the entire renewal period and so long as the technologist does not administer a radiologic procedure in a setting outside of the active duty responsibilities during the time on active duty. The technologist must file a copy of orders to active military duty with the department; or~~

~~(6) a technologist submits proof of successful completion of an advanced level examination or an entry level examination in another discipline of radiologic technology administered or approved by the ARRT during the renewal period. All examinations shall be topics dealing with ionizing forms of radiation administered to human beings for medical purposes.~~

~~(j) Partial exemption. The department may consider granting an exemption for one half of the continuing education requirement if the technologist submits proof of successful completion during the renewal period of an examination accepted by the department in a topic dealing with non-ionizing radiation. The balance of the hours must be directly related to the performance of a radiologic procedure utilizing ionizing radiation in accordance with subsection (b)(1) of this section. The following are examinations accepted by the department:~~

~~(1) the registry examination offered by the American Registry of Diagnostic Medical Sonographers; and~~

~~(2) the advanced level examination in non-ionizing imaging offered by the ARRT.~~

~~(k) Denial of request for exemption. A technologist whose request for exemption is denied by the department 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.~~

~~(l) Record keeping. An MRT or LMRT shall be responsible for keeping, for a period of not less than two years, accurate and complete documentation or other records of continuing education~~

reported to the department. An MRT or LMRT shall submit documentation of attendance and participation in continuing education activities upon written request by the department.

~~§143.12 Changes of Name and Address~~

~~(a) The certificate holder shall notify the department of changes in name, preferred mailing address, or place(s) of business or employment within 30 days of such change(s).~~

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

~~(c) Before any certificate and identification cards will be issued by the department, notification of name changes must be mailed to the department 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) the nature and seriousness of the crime;~~

~~(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) any misdemeanor and/or felony offense defined as a crime of moral turpitude by statute or common law;~~

~~(iii) a misdemeanor or felony offense under various titles of the Texas Penal Code:~~

~~(I) offenses against the person (Title 5);~~

~~(II) offenses against property (Title 7);~~

~~(III) offenses against the public order and decency (Title 9);~~

~~(IV) offenses against public health, safety, and morals (Title 10); and~~

~~(V) offenses of attempting or conspiring to commit any of the offenses in this subsection;~~

~~(C) the extent to which any certificate might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and~~

~~(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) The misdemeanors and felonies listed in paragraph (2)(B)(i)–(iii) of this subsection are not inclusive in that the department may consider other particular crimes in special cases in order to promote the intent of the Act and these sections.~~

~~(b) Procedures for revoking, suspending, or denying a certificate or temporary certificate to persons with criminal backgrounds.~~

~~(1) The administrator shall give written notice to the person that the department intends to deny, suspend, or revoke the certificate or temporary certificate after hearing in accordance with the provisions of the Administrative Procedure Act, the Government Code, Chapter 2001, and the formal hearing procedures in §§1.21–1.34 of this title.~~

~~(2) If the department denies, suspends, or revokes a certificate or temporary certificate under these sections after hearing, the administrator shall give the person written notice:~~

~~(A) of the reasons for the decision;~~

~~(B) that the person, after exhausting administrative appeals, may file an action in a District Court of Travis County for review of the evidence presented to the department and its decision; and~~

~~(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable.~~

§143.14 Disciplinary Actions

~~(a) The department is authorized to take the following disciplinary actions for the violation of any provisions of the Medical Radiologic Technologist Certification Act (Act) or this chapter:~~

- ~~(1) suspension, revocation, or nonrenewal of a certificate;~~
 - ~~(2) rescission of curriculum, training program, or instructor approval;~~
 - ~~(3) denial of an application for certification or approval;~~
 - ~~(4) assessment of a civil penalty in an amount not to exceed \$1,000 for each separate violation of the Act;~~
 - ~~(5) issuance of a reprimand; or~~
 - ~~(6) placement of the offender's certificate on probation and requiring compliance with a requirement of the department, including submitting to medical or psychological treatment, meeting additional educational requirements, passing an examination, or working under the supervision of an MRT or other practitioner.~~
- ~~(b) The department may take disciplinary action against a person subject to the Act for:~~
- ~~(1) obtaining or attempting to obtain a certificate issued under the Act by bribery or fraud;~~
 - ~~(2) making or filing a false report or record made in the person's capacity as an MRT;~~
 - ~~(3) intentionally or negligently failing to file a report or record required by law;~~
 - ~~(4) intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;~~
 - ~~(5) engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the department;~~
 - ~~(6) developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:
 - ~~(A) an illness;~~
 - ~~(B) drug or alcohol dependency; or~~
 - ~~(C) another physical or mental condition or illness;~~~~
 - ~~(7) failing to report to the department the violation of the Act or any allegations of sexual misconduct by another person;~~
 - ~~(8) employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with the Act;~~

~~(9) violating a provision of the Act or this chapter, an order of the department previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;~~

~~(10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country;~~
~~or~~

~~(11) being convicted of or pleading nolo contendere to a crime directly related to the practice of radiologic technology.~~

~~(c) Engaging in unprofessional conduct means the following:~~

~~(1) making any misleading, deceptive, or false representations in connection with service rendered;~~

~~(2) engaging in conduct that is prohibited by state, federal, or local law, including those laws prohibiting the use, possession, or distribution of drugs or alcohol;~~

~~(3) performing a radiologic procedure on a patient or client which has not been authorized by a practitioner;~~

~~(4) aiding or abetting a person in violating the Act or rules adopted under the Act;~~

~~(5) any practice or omission that fails to conform to accepted principles and standards of the medical radiologic technology profession;~~

~~(6) performing a radiologic procedure which results in mental or physical injury to a patient or which creates an unreasonable risk that the patient may be mentally or physically harmed;~~

~~(7) misappropriating medications, supplies, equipment, or personal items of the patient, client or employer;~~

~~(8) performing or attempting to perform radiologic procedures in which the person is not trained by experience or education or in which the procedure is performed without appropriate supervision;~~

~~(9) performing or attempting to perform any medical procedure which relates to or is necessary for the performance of a radiologic procedure and for which the person is not trained by experience or education or when the procedure is performed without appropriate supervision;~~

~~(10) performing a radiologic procedure which is not within the scope of an LMRT's certificate, as set out in §143.7(e) of this title;~~

~~(11) disclosing confidential information concerning a patient or client except where required or allowed by law;~~

- ~~(12) failing to adequately supervise a person in the performance of radiologic procedures;~~
- ~~(13) providing false or misleading information on an application for employment to perform radiologic procedures;~~
- ~~(14) providing information which is false, misleading, or deceptive regarding the status of certification; registration with the American Registry of Radiologic Technologists, Cardiovascular Credentialing International, or Nuclear Medicine Technology Certification Board; or licensure by another country, state, territory, or the District of Columbia;~~
- ~~(15) discriminating on the basis of race, creed, gender, sexual orientation, religion, national origin, age, physical handicaps or economic status in the performance of radiologic procedures;~~
- ~~(16) impersonating or acting as a proxy for an examination candidate for any examination required for certification;~~
- ~~(17) acting as a proxy for an MRT or LMRT at any continuing education required under §143.11 of this title;~~
- ~~(18) obtaining, attempting to obtain, or assisting another to obtain certification or placement on the registry by bribery or fraud;~~
- ~~(19) making abusive, harassing or seductive remarks to a patient, client or co-worker in the workplace or engaging in sexual contact with a patient or client in the workplace;~~
- ~~(20) misleadingly, deceptively or falsely offering to provide education or training relating to radiologic technology;~~
- ~~(21) failing to complete the continuing education requirements for renewal as set out in §143.11 of this title;~~
- ~~(22) failing to document the continuing education requirements for renewal as required by the department;~~
- ~~(23) failing to cooperate with the department by not furnishing required documents or responding to a request for information or a subpoena issued by the department or the department's authorized representative;~~
- ~~(24) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts to the department or its authorized representative or by use of threats or harassment against any person;~~
- ~~(25) failing to follow appropriate safety standards or the Texas Regulations for the Control of Radiation in the operation of diagnostic or therapeutic radiologic equipment or the use of radioactive materials;~~

~~(26) failing to adhere to universal precautions or infection control standards as required by the Health and Safety Code, Chapter 85, Subchapter I;~~

~~(27) defaulting on a guaranteed student loan, as provided in the Education Code, §57.491;~~

~~(28) assaulting any person in connection with the practice of radiologic technology or in the workplace;~~

~~(29) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage to or from a person licensed, certified or registered by a state health care regulatory agency. The provisions of the Health and Safety Code, §161.091, concerning the prohibition of illegal remuneration apply to MRTs and LMRTs;~~

~~(30) using or permitting or allowing the use of the person's name, certificate, or professional credentials in a way that the person knows, or with the exercise of reasonable diligence should know:~~

~~(A) violates the Act, this chapter or department rule relating to the performance of radiologic procedures; or~~

~~(B) is fraudulent, deceitful or misleading;~~

~~(31) knowingly allowing a student enrolled in an education program to perform a radiologic procedure without direct supervision; or~~

~~(32) knowingly concealing information relating to enforcement of the Act or this chapter.~~

~~(33) failing reasonably to protect the certificate from fraudulent or unlawful use.~~

~~(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 except as necessary for the performance of a radiologic procedure as defined in §143.2 of this title (relating to Definitions);~~

~~(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;~~

~~(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) A person subject to disciplinary action under subsection (b)(6) of this section shall, at reasonable intervals, be afforded an opportunity to demonstrate that the person is able to resume the practice of radiologic technology.~~

~~(e) An instructor engages in unprofessional conduct if the instructor violates any of the provisions of subsection (b) or (c) of this section or if the instructor:~~

~~(1) is an MRT or LMRT who fails to renew the certificate;~~

~~(2) is a practitioner who fails to renew his or her license or who has the license suspended, revoked, or otherwise restricted by the appropriate regulatory agency;~~

~~(3) discriminates in decisions regarding student recruitment, selection of applicants, student training or instruction on the basis of race, creed, gender, religion, national origin, age, physical handicaps, sexual orientation, or economic status;~~

~~(4) abandons an approved course of study or a training program with currently enrolled students;~~

~~(5) knowingly provides false or misleading information on the application for instructor approval or on any student's application for certification; or~~

~~(6) fails to provide instruction on universal precautions as required by the Health and Safety Code, §85.203.~~

~~(f) An education program engages in unprofessional conduct if the program, including its employees or agents, violates any of the provisions of subsection (b) or (c) of this section or if the program:~~

~~(1) makes any misleading, deceptive, or false representations in connection with offering or obtaining approval of an education program;~~

~~(2) fails to follow appropriate safety standards or the TRCR in the operation of diagnostic or therapeutic radiologic equipment or the use of radioactive materials;~~

~~(3) discriminates in decisions regarding student recruitment, selection of applicants, student training or instruction on the basis of race, creed, gender, sexual orientation, age, physical handicaps, economic status, religion or national origin;~~

~~(4) aids or abets a person in violating the Act or rules adopted under the Act;~~

~~(5) abandons an approved education program with currently enrolled students; or~~

~~(6) fails to provide instruction on universal precautions as required by the Health and Safety Code, Section 85, Subchapter I.~~

~~(g) The department may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.~~

~~(h) In determining the appropriate action to be imposed in each case, the department shall take into consideration the following factors:~~

~~(1) the severity of the offense;~~

~~(2) the danger to the public;~~

~~(3) the number of repetitions of offenses;~~

~~(4) the length of time since the date of the violation;~~

~~(5) the number and type of previous disciplinary cases filed against the person or program;~~

~~(6) the length of time the person has performed radiologic procedures;~~

~~(7) the length of time the instructor or education program has been approved;~~

~~(8) the actual damage, physical or otherwise, to the patient or student, if applicable;~~

~~(9) the deterrent effect of the penalty imposed;~~

~~(10) the effect of the penalty upon the livelihood of the person or program;~~

~~(11) any efforts for rehabilitation; and~~

~~(12) any other mitigating or aggravating circumstances.~~

~~(i) Formal hearing requirements:~~

~~(1) Notice requirements.~~

~~(A) Notice of the hearing shall be given according to the notice requirements of the Administrative Procedure Act (APA).~~

~~(B) If a party fails to appear or be represented at a hearing after receiving notice, the Administrative Law Judge examiner may proceed with the hearing or take whatever action is fair and appropriate under the circumstances.~~

~~(C) All parties shall timely notify the Administrative Law Judge of any changes in their mailing addresses.~~

~~(2) Parties to the hearing.~~

~~(A) The parties to the hearing shall be the applicant or licensee and the complaints subcommittee or executive director, as appropriate.~~

~~(B) A party may appear personally or be represented by counsel or both.~~

~~(3) Prehearing conferences.~~

~~(A) In a contested case, the Administrative Law Judge, on his own motion or the motion of a party, may direct the parties to appear at a specified time and place for a conference prior to the hearing for the purpose of:~~

- ~~(i) the formulation and simplification of issues;~~
- ~~(ii) the necessity or desirability of amending the pleading;~~
- ~~(iii) the possibility of making admissions or stipulations;~~
- ~~(iv) the procedure at the hearing.~~
- ~~(v) specifying the number of witnesses;~~
- ~~(vi) the mutual exchange of prepared testimony and exhibits;~~
- ~~(vii) the designation of parties; and~~
- ~~(viii) other matters which may expedite the hearing.~~

~~(B) The Administrative Law Judge shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering said matters or issues.~~

~~(C) Any action taken at the prehearing conference may be reduced to writing, signed by the parties, are made a part of the record.~~

~~(4) Assessing the cost of a court reporter and the record of the hearing.~~

~~(A) In the event a court reporter is utilized in the making of the record of the proceedings, the department shall bear the cost of the per diem or other appearance fee for such reporter.~~

~~(B) The department may prepare, or order the preparation of, a transcript (statement of facts) of the hearing upon the written request of any party. The department may pay the cost of the transcript or assess the cost to one or more parties.~~

~~(C) In the event a final decision of the department is appealed to the district court wherein the department is required to transmit to the reviewing court a copy of the record of the hearing proceeding, or any part thereof, the department may be require the appealing party to pay all or part of the cost of preparations of the original or a certified copy of the record of the department proceedings that is required to be transmitted to the reviewing court.~~

~~(5) Disposition of case. Unless precluded by law, informal disposition may be made of any contested case by agreed settlement order or default order.~~

~~(6) Agreements in writing. No stipulation or agreement between the parties with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, dictated into the record during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate away any right or privilege afforded by these sections.~~

~~(7) Final orders or decisions.~~

~~(A) The final order or decision will be rendered by the department. The department is not required to adopt the recommendation of the Administrative Law Judge and may take action as it deems appropriate and lawful.~~

~~(B) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law.~~

~~(C) All final orders shall be signed by the commissioner; however, interim orders maybe issued by the Administrative Law Judge.~~

~~(D) A copy of all final orders and decisions shall be timely provided to all parties as required by law.~~

~~(8) Motion for rehearing. A motion for rehearing shall be governed by APA, §2001.146, Texas Government Code, and shall be addressed to the department and filed with the administrator.~~

~~(9) Appeals. All appeals from final department orders or decisions shall be governed by APA, Subchapter G, Texas Government Code and communications regarding any appeal shall be to the administrator.~~

~~(j) The following applies after disciplinary action has been taken.~~

~~(1) The department may not reinstate a certificate to a holder or cause a certificate to be issued to an applicant previously denied a certificate unless the department is satisfied that the holder or applicant has complied with requirements set by the department and is capable of engaging in the practice of radiologic technology. The person is responsible for securing and providing to the department such evidence, as may be required by the department. The administrator or the department shall investigate prior to making a determination.~~

~~(2) During the time of suspension, the former certificate holder shall return the certificate and identification card(s) to the department.~~

~~(3) If a suspension overlaps a certificate renewal period, the former certificate holder shall comply with the normal renewal procedures in this chapter; however, the department may not renew the certificate until the administrator or the department determines that the reasons for suspension have been removed and that the person is capable of engaging in the practice of radiologic technology.~~

~~(4) If the commissioner of health revokes or does not renew the certificate, the former certificate holder may reapply in order to obtain a new certificate by complying with the requirements and procedures at the time of reapplication. The department may not issue a new certificate until the administrator or the department determines that the reasons for revocation or nonrenewal have been removed and that the person is capable of engaging in the practice of radiologic technology. An investigation may be required.~~

~~(5) If the commissioner rescinds the approval of an instructor or program, the formerly approved instructor or program may reapply for approval by complying with the requirements and procedures at the time of reapplication. Approval will not be issued until the administrator or the department determines that the reasons for revocation have been removed. An investigation may be required.~~

~~(k) Pursuant to the Act, §601.351, the department is authorized to assess an administrative penalty against a person who violates the Act or this chapter.~~

~~§143.15 Advertising or Competitive Bidding~~

~~(a) The department may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.~~

~~(b) A person, including a medical radiologic technologist, that is not certified under the Act shall not use the word "medical radiologic technologist", on any sign, display, or other form of advertising unless the person is expressly exempt from the certification requirement.~~

~~(c) A certificate holder shall not use advertising that is false, misleading, or deceptive or that is not readily subject to verification. False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:~~

~~(1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;~~

~~(2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;~~

~~(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;~~

~~(4) contains a testimonial;~~

~~(5) causes confusion or misunderstanding as to the credentials, education, or registration of a health care professional;~~

~~(6) advertises or represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;~~

~~(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;~~

~~(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or~~

~~(9) advertises or represents in the use of a professional name, title or professional identification that is expressly or commonly reserved to or used by another profession or professional.~~

~~(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) A limited medical radiologic technology educational program or a training program for non-certified technicians shall not make false, misleading, or deceptive statements concerning the activities or programs of another limited medical radiologic technology education program or a training program for non-certified technicians.~~

~~(f) A limited medical radiologic technology educational program or a training program for non-certified technicians shall not maintain, advertise, solicit for or conduct any course of instruction intended to qualify a person for certification or placement on the registry without first obtaining approval from the department.~~

~~(g) Advertisement by an educational or training program seeking prospective students must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.~~

~~(h) Advertisements seeking prospective students must include the full and correct name of the educational or training program.~~

~~(i) No statement or representation shall be made to prospective or enrolled students that employment will be guaranteed upon completion of any program or that falsely represents opportunities for employment.~~

~~(j) No statement shall be made by an educational or training program that it has been accredited unless the accreditation is that of an appropriate nationally recognized accrediting agency listed by the United States Office of Education.~~

~~(k) No educational or training program shall advertise an employment agency under the same name or a confusingly similar name or at the same location as the educational or training program. No representative shall solicit students for a program through an employment agency.~~

~~§143.16 Dangerous or Hazardous Procedures~~

~~(a) General. This section identifies the radiologic procedures which are dangerous or hazardous and may only be performed by a practitioner, medical radiologic technologist (MRT) or limited medical radiologic technologist (LMRT). There are specific procedures identified in subsections (b) and (c) of this section which may be performed by a registered nurse (RN) or a physician assistant trained under §143.17 of this title (relating to Mandatory Training Programs for Non-Certified Technicians) or §143.20 of this title (relating to Alternative Training Programs). A person trained under §143.17 or §143.20 of this title and placed on a registry under §143.18 of this title (relating to Registry of Non-Certified Technicians) is not an MRT, LMRT or otherwise certified under the Medical Radiologic Technologist Certification Act (Act) and shall not perform a dangerous or hazardous procedure identified in this section unless expressly permitted under this section.~~

~~(b) Dangerous procedures. Unless otherwise noted, the list of dangerous procedures which may only be performed by a practitioner or MRT are:~~

~~(1) nuclear medicine studies;~~

~~(2) administration of radio-pharmaceuticals, unless performed by an RN or physician assistant who is appropriately trained as authorized by the department's Bureau of Radiation Control for licensure of radioactive materials;~~

~~(3) radiation therapy, including simulation, brachytherapy and all external radiation therapy beams including Grenz rays;~~

~~(4) computed tomography (CT) or any variation thereof;~~

~~(5) interventional radiographic procedures, including angiography, unless performed by an LMRT with a certificate issued in the cardiovascular category;~~

~~(6) fluoroscopy and/or fluorography, unless performed by an LMRT with a certificate issued in the cardiovascular category, or by an RN or physician assistant who assists in the performance of the procedure under the supervision of a practitioner; and~~

~~(7) cineradiography (including digital acquisition techniques), unless performed by an LMRT with a certificate issued in the cardiovascular category.~~

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

~~(1) conventional tomography;~~

~~(2) skull radiography, excluding anterior posterior/posterior anterior (AP/PA), lateral, Townes, Caldwell, and Waters views;~~

~~(3) portable x-ray equipment;~~

~~(4) spine radiography, excluding AP/PA, lateral and lateral flexion/extension views;~~

~~(5) spine radiography, excluding lumbar oblique views performed by an RN or physician assistant who performs the procedure under the supervision of a practitioner;~~

~~(6) shoulder girdle radiographs, excluding AP and lateral shoulder views, AP clavicle and AP scapula, unless performed by an RN or physician assistant who performs the procedure under the direction and supervision of a practitioner;~~

~~(7) pelvic girdle radiographs, excluding AP or PA views;~~

~~(8) sternum radiographs, unless performed by an RN or physician assistant who performs the procedure under the direction and supervision of a practitioner; and~~

~~(9) radiographic procedures which utilize contrast media, unless performed by an RN or physician assistant who assists in the performance of the procedure under the supervision of a practitioner.~~

~~(10) pediatric radiography, excluding extremities, unless performed by an RN or physician assistant who is appropriately trained, as set out in §143.17 or §143.20 of this title or an LMRT~~

~~with the appropriate category. If an emergency condition exists which threatens serious bodily injury, protracted loss of use of a bodily function or death of a pediatric patient unless the procedure is performed without delay, or if other extenuating circumstances deemed by the practitioner exist, a pediatric radiographic procedure is also excluded. The emergency condition or extenuating circumstance must be documented by the ordering practitioner in the patient's clinical record and the record must document that a regularly scheduled MRT, LMRT, RN or physician assistant is not reasonably available to perform the procedure.~~

~~(d) Performance of a hazardous procedure by an LMRT. An LMRT may perform a radiologic procedure listed in subsection (c) of this section only if the procedure is within the scope of the LMRT's certification, as described in §143.7(f) of this title (relating to Types of Certificates and Applicant Eligibility).~~

~~(e) Performance of a dangerous or hazardous procedure by a practitioner. This section does not authorize a practitioner to perform a radiologic procedure which is outside the scope of the practitioner's license.~~

~~(f) Dental radiography. This section does not apply to a radiologic procedure involving a dental x-ray machine, including panarex or other equipment designed and manufactured only for use in dental radiography.~~

~~(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 of the Radiation Control rules relating to mammography. Mammography shall not be performed by 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) 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), (c)(8), and (c)(9) of this section 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) 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 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, 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) of this section, and at least one unit in subsection (d)(3)(A)–(G) or (d)(4) of this section.~~

~~(b) Instructor direction required. All hours of the training program completed for the purposes of this section must be live and interactive and directed by an approved instructor. No credit will be given for training completed by self-directed study or correspondence.~~

~~(c) Instructor qualifications.~~

~~(1) An instructor(s) shall have education and not less than six months classroom or clinical experience teaching the subjects assigned, shall meet the standards required by a sponsoring institution, if any, and shall meet at least one or more of the following qualifications:~~

~~(A) be a currently certified MRT who is also currently credentialed as a radiographer by the American Registry of Radiologic Technologists;~~

~~(B) be a currently certified LMRT (excluding a temporary certificate) whose limited certificate category(ies) matches the category(ies) of instruction and training; or~~

~~(C) be a practitioner who is in good standing with all appropriate regulatory agencies including, but not limited to, the department, the Texas State Board of Chiropractic Examiners, Texas State Board of Medical Examiners, or Texas State Board of Podiatry Examiners, the Texas Health and Human Services Commission, the United States Department of Health and Human Services.~~

~~(2) An LMRT may not teach, train, or provide clinical instruction in a portion of a training program which is different from the LMRT's level of certification. An LMRT holding a limited certificate in the chest and extremities categories may not participate in the portion of a training program relating to radiologic procedures of the spine. The LMRT may participate in the portions of the training program which are of a general nature and those specific to the specific categories on the limited certificate.~~

~~(d) Training requirements. In order to successfully complete a program, each student must complete the following minimum training:~~

~~(1) prerequisites recommended for admission include high school graduation or general equivalency diploma; certified medical assistant; graduation from a medical assistant program; or six months full-time patient care experience, otherwise determined by the practitioner.~~

~~(2) courses which are fundamental to diagnostic radiologic procedures:~~

~~(A) radiation safety and protection for the patient, self and others—22 classroom hours;~~

~~(B) image production and evaluation—24 classroom hours; and~~

~~(C) radiographic equipment maintenance and operation—16 classroom hours which includes at least six hours of quality control, darkroom, processing, and Texas Control of Radiation Regulations; and~~

~~(3) one or more of the following units of applied human anatomy and radiologic procedures of the:~~

~~(A) skull (five views: Caldwell, Townes, Waters, AP/PA, and lateral)—10 classroom hours;~~

~~(B) chest—eight classroom hours;~~

~~(C) spine—eight classroom hours;~~

~~(D) abdomen, not including any procedures utilizing contrast media—four classroom hours;~~

~~(E) upper extremities—14 classroom hours;~~

~~(F) lower extremities—14 classroom hours; and/or~~

~~(G) podiatric—five classroom hours.~~

~~(e) Application procedures for training programs. An application shall be submitted to the department at least 30 days prior to the starting date of the training program. Official application forms are available from the department and must be completed and signed by an approved instructor, who shall be designated as the training program director. The training program director shall be responsible for the curriculum, the instructors, and determining whether students have successfully completed the training program.~~

~~(1) Official application forms must be executed in the presence of a notary public and shall be accompanied by the application fee in accordance with §143.4 of this title. Photocopied signatures will not be accepted.~~

~~(2) Application forms and fees shall be mailed to the address indicated on the application materials. The department is not responsible for lost, misdirected, or undeliverable application forms. An application received without the application fee will be returned to the applicant.~~

~~(f) Application materials. The application shall include, at a minimum:~~

~~(1) the beginning date and the anticipated length of the training program;~~

~~(2) the number of programs which will be conducted concurrently and whether programs will be conducted consecutively;~~

~~(3) the number of students anticipated in each program;~~

~~(4) the daily hours of operation;~~

~~(5) the location, mailing address, phone and facsimile numbers of the program;~~

~~(6) the name of the training program director;~~

~~(7) a list of the names of the approved instructors and the topics each will teach, and a list of management and administrative personnel and any practitioners who will participate in conducting the program;~~

~~(8) clearly defined and written policies regarding the criteria for admission, discharge, readmission and completion of the program;~~

~~(9) evidence of a structured pre-planned learning experience with specific outcomes;~~

~~(10) a letter or other documentation from the Texas Workforce Commission, Proprietary Schools Section indicating that the proposed training program has complied with or has been granted exempt status under the Texas Proprietary School Act, Texas Education Code, Chapter 32 and 19 Texas Administrative Code, Chapter 175. If approval has been granted by the Texas Higher Education Coordinating Board, a letter or other documentation from the Texas Workforce Commission, Proprietary Schools Section is not necessary; and~~

~~(11) specific written agreements to:~~

~~(A) provide the training as set out in subsection (d) of this section and provide not more than 75 students per instructor in the classroom;~~

~~(B) advise students that they are prohibited from performing radiologic procedures which have been identified as dangerous or hazardous in accordance with §143.16 of this title (relating to Dangerous or Hazardous Procedures) unless they become an LMRT, MRT or a practitioner;~~

~~(C) use written and oral examinations to periodically measure student progress;~~

~~(D) keep an accurate record of each student's attendance and participation in the program, accurate evaluation instruments and grades for not less than five years. Such records shall be made available upon request by the department or any governmental agency having authority;~~

~~(E) issue to each student who successfully completes the program a certificate or written statement including the name of the student, name of the program, dates of attendance and the types of radiologic procedures covered in the program completed by the student;~~

~~(F) retain an accurate copy for not less than five years and submit an accurate copy of the document described in subparagraph (E) of this paragraph to the department within 30 days of the issuance of the document to the student; and~~

~~(G) permit site inspections by employees or representatives of the department to determine compliance with this section.~~

~~(g) Application approval.~~

~~(1) The administrator shall be responsible for reviewing all applications for training program approval. The administrator shall approve any application which is in compliance with this section. A letter of approval shall be issued for a period of one year.~~

~~(2) A program shall be denied approval if the application is incomplete or not submitted as set out in this section. The training program director shall be notified in accordance with §113.1 of this title (relating to Processing Permits for Special Health Services Professionals).~~

~~(3) If approval is proposed to be denied, the training program director shall be notified in writing of the proposed denial and shall be given an opportunity to request a formal hearing within ten days of the training program director's receipt of the written notice from the department. The formal hearing shall be conducted according to the department's formal hearing procedures in Chapter 1 of this title (relating to Texas Board of Health). If no hearing is requested, the right to a hearing is waived and the proposed action shall be taken.~~

~~(h) Application processing. The department shall use the same process as described in §143.6(e) of this title, except the time periods are as follows:~~

~~(1) letter of acceptance—30 days;~~

~~(2) letter of application deficiency—30 days;~~

~~(3) letter of approval—42 days; and~~

~~(4) letter of denial of approval—42 days.~~

~~(i) Renewal.~~

~~(1) The training program director shall be responsible for renewing the approval of the training program on or before the anniversary date of the initial application.~~

~~(2) The department shall send a renewal notice to the training program at least 60 days prior to the anniversary date. The department is not responsible for lost, misdirected, undeliverable or misplaced mail.~~

~~(3) The renewal is effective if the official renewal form and fee in accordance with §143.4 of this title are postmarked or delivered to the department on or before the anniversary date.~~

~~(4) Failure to submit the renewal form and renewal fee in accordance with §143.4 of this title by the deadline will result in the expiration of the training program's approval.~~

~~(5) A training program which does not renew the approval shall cease representing the program as an approved training program. The program director shall notify, or cause the notification of currently enrolled students that the training program is no longer approved under this section. The notification shall be in writing and must be issued within ten days of the expiration of the approval.~~

~~(6) The training program may reapply for approval and meet the then current requirements for approval under this section.~~

~~§143.18 Registry of Non-Certified Technicians~~

~~(a) General. This section sets forth the rules for administering the registry of non-certified technicians performing radiologic procedures, established in accordance with the Act, §601.202. The department's registry is to provide a mechanism for consumers or employers to ascertain or verify that a person performing radiologic procedures has complied with the Act, §601.201 by successfully completing a training program in accordance with §143.17 of this title or §143.20 of this title (relating to Alternate Training Requirements).~~

~~(b) Information on the registry. The registry, at a minimum, shall include the information as follows for each person on the registry:~~

~~(1) full name;~~

~~(2) current mailing address;~~

~~(3) place of employment, including address, city and state;~~

~~(4) date of birth;~~

~~(5) social security number;~~

~~(6) gender;~~

~~(7) the name and location of the training program approved in accordance with §143.17 of this title which the person successfully completed;~~

~~(8) the date of successful completion of the training program; and~~

~~(9) the types of radiologic procedures covered in the person's training program. A person listed on the registry may not perform a dangerous or hazardous procedure as set out in §143.16 of this title (relating to Dangerous or Hazardous Procedures).~~

~~(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.~~

~~(2) The department shall send a renewal notice to each registrant at least 60 days before the expiration date. 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. The renewal form shall include, at a minimum, the person's name, current mailing address, and current place of employment.~~

~~(4) Failure to submit the renewal form by the expiration date 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) Changes in name, address or place of employment. A person listed on the registry is responsible for submitting changes in name, address or place of employment to the department, in writing, within 30 days of any change. Name changes must be accompanied by a copy of the person's social security card indicating the new name. The copy must be notarized as a copy of the unaltered original social security card.~~

~~(f) Inquiries regarding registration status. Inquiries regarding a person's registration status may be made in writing or by telephone. The department will issue a non-transferable registration certificate or other document indicating that the person is registered by the department.~~

~~(g) Employer responsibility. If a person performing radiologic procedures is not a 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) Complaints. Complaints regarding persons on the registry may be submitted in writing to the Texas Department of Health, Professional Licensing and Certification Division, Complaints Management and Investigation Section, 1100 West 49th Street, Austin, Texas 78756-3183, or by calling 1-800-942-5540.~~

~~§143.19 Hardship Exemptions~~

~~(a) General.~~

~~(1) A hospital, federally qualified health center (FQHC) or practitioner may apply to the department for an exemption from employing an MRT, LMRT, or NCT.~~

~~(2) The applicant must demonstrate a hardship as described in subsection (b)(5) of this section in employing an MRT, LMRT, or NCT.~~

~~(3) The applicant shall not allow a person who is not an MRT, LMRT, or NCT to perform a radiologic procedure until the department grants a hardship exemption.~~

~~(4) A hardship exemption granted by the department does not constitute licensure, certification, registration, or authorization to perform a dangerous or hazardous radiologic procedure or mammography.~~

~~(b) Required application materials.~~

~~(1) The applicant must apply for a hardship on the forms prescribed by the department. The date of application shall be the date the application and application fee is postmarked. If there is no visible postmark, or if the application is hand-delivered, the application date shall be the date the administrator received the application.~~

~~(2) The application must be accompanied by documentation clearly indicating that the applicant is a licensed hospital, FQHC or licensed practitioner. A copy of the current hospital license, certificate of qualification issued to the FQHC, or current license of the practitioner shall be acceptable documentation.~~

(3) If the application is from a hospital or FQHC, the administrator or chief executive officer of the hospital or FQHC must sign the application form. If the applicant is a practitioner, the practitioner must sign the application form.

(4) The application must include a list of the person(s) performing radiologic procedures who is not an MRT, LMRT, or NCT.

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

(A) if the applicant is unable to attract or retain an MRT or LMRT, a sworn affidavit describing in narrative form the applicant's attempts to attract and retain an MRT or LMRT at a comparable salary for the area;

(B) if the applicant is located more than 50 highway miles from the nearest school of medical radiologic technology approved in accordance with §143.9 of this title, a sworn affidavit describing in narrative form the physical address of the nearest school of medical radiologic technology; the physical address of the applicant hospital, FQHC, or primary practice location of the practitioner; and the actual distance in highway miles between the school and the applicant hospital, FQHC, or practitioner's primary practice. The applicant shall include a map of the area clearly indicating the locations of each entity;

(C) if the nearest school of medical radiologic technology approved in accordance with §143.9 of this title has a waiting list of school applicants due to a lack of faculty or space, a sworn affidavit from the applicant indicating that admissions to the school are pending because of a lack of faculty or space;

(D) if the need for graduates in medical radiologic technology of the applicant exceeds the number of graduates from the nearest school of medical radiologic technology approved in accordance with §143.9 of this title, a sworn affidavit from the applicant indicating that the number of graduates from the nearest school does not meet the applicant's needs for radiologic technologists;

(E) if emergency conditions have occurred during the 90 days prior to making application for the hardship exemption, a sworn affidavit from the applicant describing the emergency conditions, the hardship(s) the emergency conditions have created and how long the hardship(s) is anticipated to continue. For the purposes of this subparagraph, emergency conditions may include a disaster, epidemic, or other catastrophic event;

(F) documentation that the United States government has declared a state of war;

(G) if the equipment operated is a bone densitometry unit(s) which utilizes x radiation, a sworn affidavit from the applicant indicating the name of the person operating the equipment and proof that the person is a certified densitometry technologist in good standing with the International Society for Clinical Densitometry (ISCD) or has completed at least 20 hours of training as follows:

~~(i) specific bone densitometry equipment utilizing x radiation to be used by the operator—16 hours presented by a medical radiologic technologist (MRT) or an equipment applications specialist knowledgeable of the specific equipment to be utilized; and~~

~~(ii) radiation safety and protection for the patient, self and others—four hours presented by an MRT or a licensed medical physicist within the 24-month period prior to application or reapplication for a hardship exemption;~~

~~(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) a copy of the current certificate of registration issued by the Bureau of Radiation Control; and~~

~~(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.~~

~~(6) All application materials and information are subject to verification by the department.~~

~~(7) The department shall send a written notice listing the additional materials required to an applicant whose application is incomplete. An application not completed within 30 days after the date of the written notice shall be invalid unless the applicant has advised the department of a valid reason for the delay.~~

~~(c) Application approval.~~

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

~~(2) If granted by the department, a letter of exemption shall be issued for a period of one year.~~

~~(d) Disapproved applications.~~

~~(1) The department shall disapprove the application if the applicant has not met the application requirements set out in this section or has failed or refused to complete or submit any form or documentation required by the department to verify the eligibility for the exemption.~~

~~(2) If the department determines that the application should not be approved, the department shall give the applicant written notice of the reason for the disapproval. The applicant may appeal the decision to the department 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, the department shall approve or disapprove the application.~~

~~(4) An applicant whose application has been disapproved under this subsection shall be permitted to reapply after a period of not less than one year from the date of the disapproval and shall submit a new application and supporting information. The applicant may reapply for an exemption any time the basis for the exemption application changes.~~

~~(e) Application processing. The department shall use the same process as described in §143.6(e) of this title, except the time periods are as follows:~~

~~(1) letter of acceptance—30 days;~~

~~(2) letter of application deficiency—30 days;~~

~~(3) letter of approval—42 days; and~~

~~(4) letter of denial of exemption—42 days.~~

~~(f) Reapplication for hardship exemption.~~

~~(1) The hospital, FQHC, or a practitioner must reapply annually for the exemption and meet the then current requirements for a hardship exemption.~~

~~(2) A hospital, FQHC, or a practitioner who does not reapply for an exemption shall not allow a person to perform a radiologic procedure unless the person is a practitioner, MRT, LMRT, or NCT.~~

~~§143.20 Alternate Training Requirements~~

~~(a) General. This section sets out the minimum standards for registered nurses (RNs), physician assistants, podiatric medical assistants (PMAs) and x ray equipment operators in a physician's office.~~

~~(b) Instructor direction required. All hours of the training program completed for the purposes of this section must be live and interactive and directed by an instructor approved by the department. Distance learning activities and audiovisual teleconferencing may be utilized,~~

~~provided these include two-way, interactive communications which are broadcast or transmitted at the actual time of occurrence. Appropriate on-site supervision of persons participating in the distance learning activities or teleconferencing shall be provided by the approved training program. No credit will be given for training completed by self-directed study or correspondence. The provisions of this subsection shall not apply to the out-of-classroom training requirements for podiatric medical assistants and x-ray equipment operators in a physician's offices.~~

~~(1) Before an RN or physician assistant performs a radiologic procedure, the RN or physician assistant must complete the hours stated in subsection (d) of this section, or the hours stated in §143.17 of this title.~~

~~(2) Before a PMA performs a radiologic procedure, the PMA must complete the hours stated in subsection (e) of this section, or the hours stated in §143.17(d) of this title concerning podiatric radiologic procedures.~~

~~(3) Individuals who complete training approved under this section may not use that training toward the educational requirements for a general or limited certificate as set out in §143.7 of this title.~~

~~(c) Approved instructors.~~

~~(1) For purposes of this section, an individual is approved by the department to teach in a training program if the individual meets the requirements of §143.9(g)(1)–(2) of this title. The application for the training program must demonstrate that the instructors meet the qualifications. No application for individual instructor approval is required.~~

~~(2) An LMRT may not teach, train, or provide clinical instruction in a portion of a training program which is different from the LMRT's level of certification. An LMRT holding a limited certificate in the chest and extremities categories may not participate in the portion of a training program relating to radiologic procedures of the spine. The LMRT may participate in the portions of the training program which are of a general nature and those specific to the specific categories on the limited certificate.~~

~~(d) Training requirements for registered nurses and physician assistants. A training program preparing RNs and physician assistants to perform radiologic procedures shall be designed to build on the health care knowledge base and skills acquired through completion of an educational program that qualifies the person for licensure as an RN or physician assistant. The training shall consist of:~~

~~(1) a minimum of 30 classroom hours of coursework that are fundamental to diagnostic radiologic procedures covering all of the following items:~~

~~(A) radiation safety and protection for the patient, self, and others—ten classroom hours;~~

~~(B) radiologic equipment—ten classroom hours;~~

~~(C) image production and evaluation—ten classroom hours; and~~

~~(2) one or more of the following units of classroom instruction in radiologic procedures:~~

~~(A) chest and abdomen (non-pediatric)—eight classroom hours;~~

~~(B) spine (non-pediatric)—ten classroom hours;~~

~~(C) skull (non-pediatric)—eight classroom hours;~~

~~(D) extremities (including pediatric)—eight classroom hours; and~~

~~(3) if the RN or physician assistant will perform pediatric radiologic procedures other than extremities, a minimum of two classroom hours for each of the areas identified in paragraph (2)(A)–(C) of this subsection.~~

~~(e) Training requirements for podiatric medical assistants PMAs.~~

~~(1) In order to successfully complete a program, a PMA must complete the following training:~~

~~(A) radiation safety and protection for the patient, self, and others—five classroom hours and five out of classroom hours;~~

~~(B) radiographic equipment used in podiatric medicine, including safety standards, operation, and maintenance—one classroom hour and two out of classroom hours;~~

~~(C) podiatric radiologic procedures, imaging production and evaluation—one classroom hour and four out of classroom hours; and~~

~~(D) methods of patient care and management essential to radiologic procedures, excluding CPR, BCLS, ACLS and similar subjects—one classroom hour and one out of classroom hour.~~

~~(2) Successful completion of PMA training allows the PMA to perform radiologic procedures only under the instruction or direction of a podiatrist.~~

~~(3) The out of classroom training hours require successful completion of learning objectives approved by the department as verified by the supervising podiatrist.~~

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

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

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

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

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