

ARTICLE 14E
Medical Radiation Health and Safety

Section

- 61-14E-1 Short title.
- 61-14E-2 Purpose of act.
- 61-14E-3 Administration; enforcement.
- 61-14E-4 Definitions.
- 61-14E-5 Board; powers; duties.
- 61-14E-5.1 Medical imaging and radiation therapy advisory council; creation and organization.
- 61-14E-6 Division; powers; duties.
- 61-14E-7 Licensure; exceptions.
- 61-14E-7.1 Emergency provision.
- 61-14E-8 Temporary certification.
- 61-14E-9 Fees for licensure.
- 61-14E-10 Fund established; disposition; method of payment.
- 61-14E-11 Suspension; revocation; application of Uniform Licensing Act.
- 61-14E-12 Violations; penalties.

61-14E-1. Short title.

Chapter 61, Article 14E NMSA 1978 may be cited as the "Medical Imaging and Radiation Therapy Health and Safety Act".

61-14E-2. Purpose of act.

The purpose of the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978] is to maximize the protection practicable for the citizens of New Mexico from ionizing and non-ionizing radiation in the practice of medical imaging. This purpose is effectuated by establishing requirements for appropriate education and training of persons operating medical equipment emitting ionizing and non-ionizing radiation, establishing standards of education and training for the persons who administer medical imaging and radiation therapy procedures and providing for the appropriate examination and licensure of those persons.

61-14E-3. Administration; enforcement.

The administration and enforcement of the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978] is vested in the department.

61-14E-4. Definitions.

As used in the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978]:

- A. "advisory council" means the medical imaging and radiation therapy advisory council;
- B. "board" means the environmental improvement board;
- C. "certificate of limited practice" means a certificate issued pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act to persons who perform restricted diagnostic radiography under direct supervision of a licensed practitioner limited to the following specific procedures:
 - (1) the viscera of the thorax;
 - (2) extremities;
 - (3) radiation to humans for diagnostic purposes in the practice of dentistry;
 - (4) axial/appendicular skeleton; or
 - (5) the foot, ankle or lower leg;
- D. "certified nurse practitioner" means a person licensed pursuant to Section 61-3-23.2 NMSA 1978;
- E. "credential" or "certification" means the recognition awarded to an individual who meets the requirements of a credentialing or certification organization;
- F. "credentialing organization" or "certification organization" means a nationally recognized organization recognized by the board that issues credentials or certification through testing or evaluations that determine whether an individual meets defined standards for training and competence in a medical imaging modality;
- G. "department" means the department of environment;
- H. "diagnostic medical sonographer" means a person, including a vascular technologist or echocardiographer, other than a licensed practitioner, who provides patient care services using ultrasound;
- I. "division" means the environmental health division of the department of environment;
- J. "ionizing radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons and other particles capable of producing ions; "ionizing radiation" does not include non-ionizing radiation, such as sound waves, radio waves or microwaves, or visible, infrared or ultraviolet light;
- K. "license" means a document issued by the department pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act to an individual who has met the requirements of licensure;
- L. "licensed practitioner" means a person licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state;
- M. "licensure" means a grant of authority through a license or limited license to perform specific medical imaging and radiation therapy services pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
- N. "magnetic resonance technologist" means a person other than a licensed practitioner who performs magnetic resonance procedures under the supervision of a licensed practitioner using magnetic fields and radio frequency signals;

- O. "medical imaging" means the use of substances or equipment emitting ionizing or non-ionizing radiation on humans for diagnostic or interventional purposes;
- P. "medical imaging modality" means:
- (1) diagnostic medical sonography and all of its subspecialties;
 - (2) magnetic resonance imaging and all of its subspecialties;
 - (3) nuclear medicine technology and all of its subspecialties;
 - (4) radiation therapy and all of its subspecialties; and
 - (5) radiography and all of its subspecialties;
- Q. "medical imaging professional" means a person who is a magnetic resonance technologist, radiographer, nuclear medicine technologist or diagnostic medical sonographer and who is licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
- R. "non-ionizing radiation" means the optical radiations, including ultraviolet, visible, infrared and lasers, static and time-varying electric and magnetic fields and radio frequency, including microwave radiation and ultrasound;
- S. "nuclear medicine technologist" means a person other than a licensed practitioner who applies radiopharmaceutical agents to humans for diagnostic or therapeutic purposes under the direction of a licensed practitioner;
- T. "physician assistant" means a person licensed pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978;
- U. "radiation therapy" means the application of ionizing radiation to humans for therapeutic purposes;
- V. "radiation therapy technologist" means a person other than a licensed practitioner whose application of radiation to humans is for therapeutic purposes;
- W. "radiographer" means a person other than a licensed practitioner whose application of radiation to humans is for diagnostic purposes;
- X. "radiography" means the application of radiation to humans for diagnostic purposes, including adjustment or manipulation of x-ray systems and accessories, including image receptors, positioning of patients, processing of films and any other action that materially affects the radiation dose to patients;
- Y. "radiologist" means a licensed practitioner certified by the American board of radiology, the British royal college of radiology, the American osteopathic board of radiology or the American chiropractic board of radiology; and
- Z. "radiologist assistant" means an individual licensed as a radiographer as defined in the Medical Imaging and Radiation Therapy Health and Safety Act who holds additional certification as a registered radiologist assistant by the American registry of radiologic technologists and who works under the supervision of a radiologist; provided that a radiologist assistant shall not interpret images, render diagnoses or prescribe medications or therapies.

61-14E-5. Board; powers; duties.

The board shall, pursuant to the advice and recommendations of the advisory council and following the procedures set forth in Section 74-1-9 NMSA 1978:

- A. adopt and promulgate such rules, regulations and licensure standards as may be necessary to effectuate the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978] and to maintain high standards of practice as verified by credentialing organizations for medical imaging and radiation therapy; and
- B. adopt rules and regulations establishing continuing education requirements as a condition of licensure renewal for the purpose of protecting the health and well-being of the citizens of New Mexico and promoting current knowledge and practice as verified by credentialing organizations for medical imaging and radiation therapy.

61-14E-5.1. Medical imaging and radiation therapy advisory council; creation and organization.

A. The "medical imaging and radiation therapy advisory council" is established, consisting of eleven members. The members shall be appointed by the governor, after consultation with the secretary of environment and professional organizations representing medical imaging and radiation therapy, for three-year staggered terms. The governor shall fill any vacancy occurring on the council within sixty days of the vacancy. The replacement appointee shall serve the remainder of the original member's unexpired term.

B. The members of the council shall be:

(1) six medical imaging professionals licensed by the department, representing each medical imaging modality defined under the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978], including one licensed radiographer and one licensed radiologist assistant;

(2) one individual who holds a certificate of limited practice in radiography;

(3) three physicians licensed pursuant to Section 61-6-1 or 61-10-1 NMSA 1978, each of whom represents a different medical specialty, only one of whom shall be a radiologist and at least one of whom shall be from a rural area; and

(4) one member of the general public who is not licensed by the department nor a relative of anyone licensed by the department.

C. The council may create ad hoc disciplinary review committees to consider medical matters and make recommendations to the council. Ad hoc disciplinary review committees shall, at a minimum, include:

(1) one individual licensed by the department in the specific modality in question and who holds similar credentials as the individual under disciplinary review;

(2) one physician, licensed pursuant to Section 61-6-1 or 61-10-1 NMSA 1978, who is experienced in the modality in question; and

(3) one member of the general public.

D. A member shall serve no more than two consecutive three-year terms.

E. A member of the council may receive per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act [10-9-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance in connection with the discharge of the duties as a council member.

F. A member failing to attend three consecutive regular and properly noticed meetings of the council without a reasonable excuse shall be automatically removed from the council.

G. In the event of a vacancy, the department shall immediately notify the governor of the vacancy. Within ninety days of receiving notice of a vacancy, the governor shall appoint a qualified person to fill the remainder of the unexpired term.

H. A majority of the council members currently serving constitutes a quorum of the council.

I. The council shall meet at least once a year and at such other times as it deems necessary.

J. The council shall annually elect officers as deemed necessary to administer its duties.

K. Notwithstanding the provisions of Subsections A through I of this section, members shall initially

be appointed by the governor so that five members shall be appointed for terms of three years and six members shall be appointed for terms of five years. Thereafter, the additional members shall be appointed by the governor for staggered terms of three years each.

L. As used in this section:

- (1) "relative" means a person's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister or spouse's parent; and
- (2) "rural" means an area or location within a county having fifty thousand or fewer inhabitants as of the last federal decennial census.

61-14E-6. Division; powers; duties.

The division, pursuant to the rules and regulations promulgated by the board, shall:

- A. maintain and enforce licensure standards for magnetic resonance, radiography, radiation therapy technology, nuclear medicine technology, diagnostic medical sonography and radiology and licensure standards for restricted diagnostic radiography;
- B. refer to national educational accreditation standards for educational programs and, pursuant to those standards, establish criteria for education programs of magnetic resonance, radiography, radiation therapy technology, nuclear medicine technology and diagnostic medical sonography;
- C. provide for surveys of educational programs preparing persons for certification under the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978];
- D. grant, deny or withdraw approval from educational programs for failure to meet prescribed standards, provided that a majority of the board concurs in any decision;
- E. establish procedures for examination, certification and renewal of certificates of applicants; and
- F. establish scope of practice and ethics rules.

61-14E-7. Licensure; exceptions.

A. It is unlawful, unless licensed by the department as a medical imaging professional or radiation therapist, for any person to:

- (1) use ionizing or non-ionizing radiation on humans;
- (2) use any title, abbreviation, letters, figures, signs or other devices to indicate that the person is a licensed medical imaging professional or radiation therapist; or
- (3) engage in any of the medical imaging modalities as defined by the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978].

B. Notwithstanding any other provision of the Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a medical imaging license shall not apply to a licensed practitioner or auxiliary or health practitioner licensed or certified by an independent board; provided that any certification and examination program for auxiliaries or health practitioners established by an independent board shall be submitted to the advisory council and approved by the board. The requirement of a medical imaging license shall also not apply to a student who is enrolled in and attending a required individual education program of a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry or dental hygiene to apply radiation to humans under the supervision of a licensed practitioner or under the direct supervision of a licensed medical imaging professional or radiation therapist.

C. Notwithstanding any other provision of the Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a license shall not apply to a student completing clinical requirements of an approved education program working under the supervision of a licensed practitioner or under the direct supervision of a medical imaging professional or radiation therapist licensed in the practice for which the student is seeking licensure.

D. The department shall adopt rules and regulations for the education and licensure of advanced medical imaging professionals.

E. The department may require students in medical imaging and radiation therapy educational programs to register with the department while enrolled in an approved education program.

61-14E-7.1. Emergency provision.

A person having a valid certificate of limited practice may authorize diagnostic radiography procedures outside the normal scope of a limited radiographic practitioner if the person issued the certificate of limited practice is employed in an area having a federal designation as a medically underserved area and the person issued the certificate of limited practice is confronted with an emergency situation, where, by order of a licensed practitioner, a certified nurse practitioner or a registered physician assistant, the additional diagnostic radiography procedure is medically necessary for the immediate safety or health of the patient.

61-14E-8. Temporary certification.

The department may issue a temporary certificate to practice as a radiologic technologist to a person who satisfactorily completes an approved program in radiologic technology, provided that the temporary certificate:

- A. is applied for within one year of graduation;
- B. is valid only for a period not to exceed one year;
- C. is only issued to a person once; and
- D. is contingent upon successful completion of an examination required by the board and expires upon failure to pass the examination.

61-14E-9. Fees for licensure.

After the promulgation of rules and regulations, the department shall charge and collect the following fees:

- A. an application fee not to exceed ten dollars (\$10.00);
- B. an examination fee not to exceed one hundred fifty dollars (\$150) to cover the costs the department incurs in administering the initial examination required for limited certification;
- C. a biennial licensure fee not to exceed one hundred dollars (\$100);
- D. a temporary licensure fee not to exceed fifty dollars (\$50.00) to cover a period no longer than twelve months when new graduates of an approved program are in the process of taking required licensure examinations; and
- E. miscellaneous fees, such as for requests for duplicate or replacement licenses, legal name change and written verification, not to exceed twenty-five dollars (\$25.00).

61-14E-10. Fund established; disposition; method of payment.

- A. There is created in the state treasury the "radiologic technology fund".
- B. All fees received by the department pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978] shall be deposited with the state treasurer. The state treasurer shall place the money to the credit of the radiologic technology fund.
- C. Payments out of the radiologic technology fund shall be on vouchers issued and signed by the person designated by the department upon warrants drawn by the department of finance and administration and shall be used by the department for the purpose of meeting necessary expenses incurred in the enforcement of the purposes of the Medical Imaging and Radiation Therapy Health and Safety Act, the duties imposed by that act and the promotion of education and standards for medical imaging technology and radiation therapy in this state. All money unexpended or unencumbered at the end of the fiscal year shall remain in the radiologic technology fund for use in accordance with the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act.

61-14E-11. Suspension; revocation; application of Uniform Licensing Act.

The board, pursuant to the advice and recommendation of the advisory council, may deny, revoke or suspend any license held or applied for under the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978], pursuant to the procedures established in the Uniform Licensing Act, upon grounds that the medical imaging professional, radiation therapist or the applicant:

- A. is guilty of fraud or deceit in procuring or attempting to procure a license or certificate of limited practice;
- B. is convicted of a felony subsequent to certification;
- C. is unfit or incompetent;
- D. is habitually intemperate or is addicted to the use of habit-forming drugs;
- E. is mentally incompetent;
- F. has aided and abetted a person who does not possess a license pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act or otherwise authorized by that act in engaging in the activities of a license holder;
- G. has engaged in any practice beyond the scope of authorized activities of an individual licensed or a certificate of limited practice holder pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
- H. is guilty of unprofessional conduct or unethical conduct as defined by rules promulgated by the board;
- I. has interpreted a diagnostic imaging procedure for a patient, the patient's family or the public; or
- J. has willfully or repeatedly violated any provisions of the Medical Imaging and Radiation Therapy Health and Safety Act.

61-14E-12. Violations; penalties.

It is a misdemeanor for any person, firm, association or corporation to:

- A. knowingly or willfully employ as a medical imaging professional or radiation therapist any person who is required to but does not possess a valid license or certificate of limited practice to engage in the practice of medical imaging or radiation therapy;
- B. sell, fraudulently obtain or furnish any medical imaging technology or radiation therapy license or certificate of limited practice or to aid or abet therein;
- C. practice medical imaging or radiation therapy as defined by the Medical Imaging and Radiation Therapy Health and Safety Act [61-14E-1 NMSA 1978] unless exempted or licensed to do so under the provisions of that act; or
- D. otherwise violate any provisions of the Medical Imaging and Radiation Therapy Health and Safety Act.

The department shall assist the proper legal authorities in the prosecution of all persons violating the provisions of the Medical Imaging and Radiation Therapy Health and Safety Act. In prosecutions under that act, it shall not be necessary to prove a general course of conduct. Proof of a single act, a single holding out or a single attempt shall constitute a violation, and, upon conviction, such person shall be sentenced to be imprisoned in the county jail for a definite term not to exceed one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or both. The department shall notify within thirty days of a final disciplinary action any credentialing organization through which the person is credentialed or certified.