



Sub. S.B. 229
127th General Assembly
(As Passed by the Senate)

**Sens. Gardner, Mumper, Spada, Wagoner, Padgett, Coughlin, Harris,
Schaffer, R. Miller, Wilson**

BILL SUMMARY

- Requires the State Medical Board to regulate the practice of radiologist assistants and establishes criminal penalties for unauthorized practice.
- Specifies that radiologist assistants may (1) perform fluoroscopic procedures, (2) assess and evaluate the responsiveness of patients undergoing radiologic procedures, (3) evaluate image quality, make initial image observations, and communicate observations to the supervising radiologist, (4) administer contrast media, radio-isotopes, other prescribed drugs directly related to the procedure being performed, and (5) other procedures if authorized by Board rule.
- Authorizes the Board to take disciplinary action against radiologist assistants.
- Permits a radiologist assistant to practice only under the supervision of a physician who is practicing as a radiologist.
- Requires that a supervising radiologist provide on-site supervision (at the same location) in most cases, including when a patient is under minimal sedation, and direct supervision (in the same room and within the radiologist's actual sight) when a radiologist assistant performs a procedure on a patient who is under general anesthesia or other higher levels of sedation or analgesia.
- Specifies that a supervising radiologist assumes legal liability for the services performed by a radiologist assistant and requires the Board to take disciplinary action against a radiologist who fails to provide appropriate supervision.

- Requires that an applicant for a certificate to practice hold all of the following: (1) certification as a registered radiologic technologist from the National Registry of Radiologic Technologists, including passage of a competency examination, (2) licensure as a radiographer from the Department of Health, (3) certification in advanced cardiac life support, and (4) a bachelor's degree or postbaccalaureate certificate from an advanced academic program for radiologist assistants.
- Establishes reporting requirements for certain entities that have information about violations of the law regulating the practice of radiologist assistants and establishes criminal penalties for failure to report, but establishes immunities for good faith actions pursuant to the reporting requirements.
- Extends to the Board in its regulation of radiologist assistants powers and duties similar to those granted the Board in its regulation of other health professions.

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CONTENT AND OPERATION

Regulation of the practice of radiologist assistants

(R.C. 4774.01, 4774.03, and 4774.04; Sections 3 and 4)

The bill requires the State Medical Board to regulate the practice of radiologist assistants. It defines "radiologist assistant" as an individual who assists a radiologist in the care of patients by engaging in any of the activities authorized by the bill. A "radiologist" is defined as a physician (doctor of medicine or osteopathic medicine) who has successfully completed an approved radiology program as part of the physician's graduate medical education. "Radiology" is defined as the branch of medicine that deals with the use of radiation in diagnosis and treatment of disease or conditions.

Prohibition against unauthorized practice

(R.C. 4774.02 and 4774.99)

The bill prohibits an individual from practicing as a radiologist assistant unless the person holds a current, valid certificate to practice as a radiologist assistant issued by the Board. It also prohibits a person from using the title "radiologist assistant" or otherwise holding the person out as such without a certificate to practice. A person who violates either prohibition is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense, the person is guilty of a felony of the fourth degree.

The bill specifies that its prohibition against practicing without a certificate does not apply to either of the following:

(1) A student participating in an advanced academic program that must be completed under the bill to receive a certificate to practice as a radiologist assistant;

(2) A person who is otherwise authorized to perform any of the activities that a radiologist assistant is authorized to perform, either pursuant to another statutory provision or the Board's rules governing physician delegation of medical tasks.

Implementation schedule

(Sections 3 and 4)

Not later than six months after the bill's effective date, the Board must implement all procedures necessary to accept applications from individuals

seeking to obtain certificates to practice as radiologist assistants, process the applications, and issue the certificates. By the same deadline, the Board must adopt all necessary rules to implement its program for regulation of radiologist assistants.

The bill delays the prohibition against practicing without a certificate from the Board until nine months after the bill's effective date.

Scope of practice of radiologist assistant

(R.C. 4774.08(A))

The bill requires a radiologist assistant to practice only under the supervision of a radiologist. Under this supervision, a radiologist assistant may do all of the following:

- (1) Perform fluoroscopic procedures;
- (2) Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures;
- (3) Evaluate image quality, make initial image observations, and communicate observations to the supervising radiologist;
- (4) Administer contrast media, radio-isotopes,¹ and other drugs prescribed by the supervising radiologist that are directly related to the radiologic procedures being performed;
- (5) Perform any other radiologic procedures specified by the Board in rules it is to adopt under the bill.

Excluded activities

(R.C. 4774.08(B))

The bill prohibits a radiologist assistant from doing any of the following: (1) interpreting radiologic images, (2) making diagnoses, (3) prescribing therapies, and (4) administering or participating in the administration of general anesthesia,

¹ According to the National Cancer Institute a "radio-isotope" is "[an] unstable form of a chemical element that releases radiation as it breaks down and becomes more stable. Radioisotopes may occur in nature or be made in a laboratory. In medicine, they are used in imaging tests and in treatment." (National Cancer Institute of the U.S. National Institutes of Health. Dictionary of Cancer Terms (last visited April 15, 2008), available at <http://nci.nih.gov/Templates/db_alpha.aspx?CdrID=45856>).

deep sedation, deep analgesia, moderate sedation, moderate analgesia, or minimal sedation.

Identification while providing direct patient care

(R.C. 4774.09)

At all times when an individual who is a radiologist assistant is providing direct patient care, the bill requires the individual to display in an appropriate manner the title "radiologist assistant" as a means of identifying the individual's authority to practice. In the case of a student participating in a radiologist assistant academic program, when the student is providing direct patient care or is otherwise involved with direct patient care under the program, the bill requires the student to display in an appropriate manner the title "student radiologist assistant" or another appropriate designation as a means of identifying the individual as a student participating in the program.

Supervision by a radiologist

(R.C. 4774.10)

Under the bill, to be eligible to supervise a radiologist assistant, a physician must be actively and directly engaged in the clinical practice of medicine or osteopathic medicine as a radiologist. In providing supervision of a radiologist assistant, a supervising radiologist is subject to all of the following:

(1) In most cases, the supervising radiologist must provide on-site supervision. The bill describes on-site supervision as being physically present in the same location as the radiologist assistant, but not necessarily in the same room. On-site supervision must be provided when the radiologist assistant performs a radiologic procedure on a patient who is under minimal sedation.

(2) When a radiologist assistant performs a radiologic procedure on a patient who is under general anesthesia, deep sedation, deep analgesia, moderate sedation, or moderate analgesia, the supervising radiologist must provide direct supervision. The supervision must be provided by being physically present in the same room as the radiologist assistant, with the radiologist assistant in the actual sight of the supervising radiologist when the radiologist assistant is performing the radiologic procedure.

(3) In the case of any radiologic procedure that a radiologist assistant is authorized to perform pursuant to rules the Board is to adopt under the bill, the supervising radiologist must provide the level of supervision specified by the Board in the rules authorizing performance of the procedure.

Liability of the supervising radiologist; administrative sanctions

(R.C. 4731.22(B)(39) and 4774.10(C))

The bill specifies that the supervising radiologist of a radiologist assistant assumes legal liability for the services provided by the assistant. Failure to provide appropriate supervision of a radiologist assistant constitutes a reason for which the Board must take disciplinary action against the supervising radiologist.²

Eligibility requirements for a certificate to practice

(R.C. 4774.03(B) and 4774.031)

To be eligible to receive a certificate to practice as a radiologist assistant, the bill requires that an applicant meet all of the following requirements:

- (1) Be at least 18 years of age and of good moral character;
- (2) Hold a current, valid license from the Department of Health as a radiographer;³
- (3) Have attained a baccalaureate degree or postbaccalaureate certificate from an advanced academic program encompassing a nationally recognized radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship;
- (4) Hold current designation as a registered radiologist assistant from the American Registry of Radiologic Technologists by meeting the Registry's requirements for initial certification, including passage of an examination to determine competency to practice as a radiologist assistant and, if applicable in the applicant's case, by meeting the Registry's requirements for annual registration of the certification;
- (5) Hold current certification in advanced cardiac life support.

² The law governing discipline of physicians says that the State Medical Board "shall" act for one or more of the listed reasons; however the Board must have the affirmative vote of at least six Board members to take the action.

³ "Radiographer" is defined under current law as an individual who performs a comprehensive scope of diagnostic radiologic procedures employing equipment that emits ionizing radiation, exposes radiographs, and performs other procedures that contribute significantly to determining the site or dosage of ionizing radiation to which a patient is exposed (R.C. 4773.01, not in the bill).

In addition to the other requirements, an applicant must comply with existing law requirements for criminal records checks of licensed professionals. The Board is not permitted to grant a certificate to practice as a radiologist assistant unless it, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate.

Application process

(R.C. 4774.03(C), 4774.04, and 4774.05)

The Board is required to review all applications. Not later than 60 days after receiving an application it considers complete, the Board must determine whether the applicant meets the requirements to receive a certificate to practice as a radiologist assistant. The affirmative vote of not fewer than six members of the Board is required to determine that the applicant meets the requirements. If the Board makes that determination, the Board's secretary must register the applicant and issue a certificate. The certificate is valid for two years and may be renewed as provided in the bill.

Eligibility requirements for biennial renewal

(R.C. 4774.06)

A radiologist assistant must apply for renewal of the assistant's certificate to practice on or before January 31 of each even-numbered year. To be eligible for renewal, a radiologist assistant must certify to the Board that the assistant has maintained designation as a registered radiologist assistant from the American Registry of Radiologic Technologists by meeting the Registry's requirements for annual registration of the initial certification received from the Registry, including completion of the continuing education requirements established by the Registry.

The applicant must report any criminal offense that constitutes grounds for refusing to issue a certificate to which, since last signing a certificate application, the applicant has pleaded guilty, been found guilty, or been found eligible for intervention in lieu of conviction.

A certificate to practice that is not renewed on or before its expiration date is automatically suspended on that date (unless the failure to renew is the result of the failure of the Board to act on the application). If a certificate has been suspended for two years or less, the Board must reinstate it on receipt of a renewal application, renewal fee, and a \$25 reinstatement penalty. If the certificate has been suspended longer than two years, it may be restored on submission of a restoration application, the renewal fee, a \$50 restoration penalty, and satisfactory completion of a criminal records check.

Rulemaking

(R.C. 4774.01(E), 4774.06(A), and 4774.11)

The bill requires the Board to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to implement and administer the bill's requirements for regulation of radiologist assistants. In adopting the rules, the Board is required to take into consideration the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists. The Board's rules must include all of the following:

- (1) Standards and procedures for issuing and renewing certificates to practice as a radiologist assistant;
- (2) Application fees for an initial or renewed certificate to practice;
- (3) Any additional radiologic procedures that radiologist assistants may perform that are not expressly identified by the bill and the level of supervision that the supervising radiologist is required to provide;
- (4) Definitions of "general anesthesia," "deep sedation," "deep analgesia," "moderate sedation," "moderate analgesia," and "minimal sedation";
- (5) Any other standards and procedures the Board considers necessary to govern the practice of radiologist assistants, the supervisory relationship between radiologist assistants and supervising radiologists, and the administration and enforcement of its program for regulation of radiologist assistants.

Disciplinary actions

(R.C. 4774.13 and 4774.131)

In the same manner that the Board is authorized to take disciplinary actions against the other health professionals under its jurisdiction, the bill either permits or requires the Board to take disciplinary actions against a radiologist assistant or an applicant for a certificate to practice. Specifically, the Board is permitted to revoke or refuse to issue a certificate to an individual found by the Board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate. For any of a number of other specified reasons, the Board is required to take disciplinary action.⁴ The actions that may be taken are (1) limiting, revoking, or suspending a certificate, (2) refusing to issue a certificate to an

⁴ However, the affirmative vote of six Board members is required.

applicant, (3) refusing to reinstate a certificate, or (4) reprimanding or placing on probation the holder of a certificate.

The bill specifies the following as reasons for which the Board is required to take action against a radiologist assistant or applicant:

(1) Permitting the certificate holder's name or certificate to be used by another person;

(2) Failure to comply with the bill's provisions governing radiologist assistants, any provision in the Board's statutes governing the practice of medicine, or any rules adopted by the Board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any of the bill's provisions governing radiologist assistants, any provision in the Board's statutes governing the practice of medicine, or any rules adopted by the Board;

(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant;

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(11) Commission of an act that constitutes a felony in Ohio, regardless of the jurisdiction in which the act was committed;

(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in Ohio, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in Ohio, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by the state agency responsible for regulating the practice of radiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the Board on a certificate to practice as a radiologist assistant;

(19) Failure to use universal blood and body fluid precautions established by Board rule;

(20) Failure to cooperate in an investigation conducted by the Board, including failure to comply with a subpoena or order issued by the Board or failure to answer truthfully a question presented by the Board at a deposition or in written interrogatories, except that failure to cooperate with an investigation does not constitute grounds for discipline if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to maintain a license from the Department of Health as a radiographer;

(22) Failure to maintain designation as a registered radiologist assistant from the American Registry of Radiologic Technologists, including revocation by the Registry of the assistant's initial certification or failure by the assistant to meet the Registry's requirements for annual registration of the certification, or failure to notify the Board that the designation as a registered radiologist assistant has not been maintained;

(23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American Registry of Radiologic Technologists, as those rules apply to an individual who holds the Registry's designation as a registered radiologist assistant;

(24) Failure to comply with an order requiring payment of child support.

General powers and duties of the Board in licensing programs

In addition to the above-described powers and duties granted to the Board, the bill extends other powers and duties to the Board for purposes of regulating radiologist assistants. These powers and duties, which are similar to those granted to the Board in its regulation of other health professions, such as anesthesiologist assistants and physician assistants, pertain to matters that include the following:

--Use of universal blood and body fluid precautions in the performance of exposure prone procedures (R.C. 4731.051);

--Maintenance by the Board of records of its proceedings and a register of applicants for certificates to practice and holders of such certificates (R.C. 4731.07);

--Deposit of fees, penalties, and other funds collected by the Board into the state treasury to the credit of the existing State Medical Board Operating Fund and the authority to increase any statutory fees by not more than 50% with Controlling Board approval (R.C. 4731.24 and 4774.20);

--Procedures to be followed in applying for a certificate to practice and Board review of applications (R.C. 4774.03(A) and (C));

--Procedures for supplying duplicate certificates when needed (R.C. 4774.04 and 4774.05);

--Procedures to be followed by the Board in conducting investigations, including requirements for maintaining confidentiality of patients and persons who file complaints and the Board's authority to share information it receives pursuant to an investigation with law enforcement agencies, licensing boards, and other governmental agencies (R.C. 4774.14);

--Procedures to be followed by the Board in taking disciplinary actions, including the authority to enter into a consent agreement in lieu of an adjudication under the Administrative Procedure Act (R.C. 4774.13);

--Automatic suspension of a certificate to practice because a radiologist assistant is mentally ill or mentally incompetent, including the authority to file in probate court an affidavit for a hearing to determine if the person should be hospitalized or detained (R.C. 4774.132);

--Reports to the Board from drug and alcohol treatment providers, procedures for approval of treatment providers for impaired practitioners, and immunity from civil liability for reporting an impaired radiologist assistant to the Board or referring the assistant to a treatment provider for either examination or treatment (R.C. 4731.25 and 4774.16(H) and (I));

--Reports to the Board from prosecutors when a radiologist assistant pleads guilty to, is found guilty of, or is found to be eligible for intervention in lieu of conviction for committing a drug offense, sex offense, felony, misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude, including provisions that extend the notice requirement to certain cases in which the trial court issues an order of dismissal on technical or procedural grounds (R.C. 4774.15);

--Reports to the Board from health care facilities regarding any formal disciplinary action taken against a radiologist assistant (R.C. 4774.16(A));

--Reports to the Board from practitioners, associations, and malpractice insurers when the person or entity believes that a radiologist assistant has committed a violation of the bill, the laws regulating the practice of medicine, or any of the Board's rules (R.C. 4731.224, 4774.16(B) to (E), and 4774.99(B));⁵

--Enforcement of the bill by the Board's secretary and the duty of the prosecuting attorney to prosecute offenders when requested by the secretary (R.C. 4774.17);

--Issuance of an injunction against a person practicing as a radiologist assistant without a certificate to practice from the Board (R.C. 4774.18);

⁵ For failing to make the required reports, a violator is guilty of a minor misdemeanor on a first offense. On each subsequent offense, the violator is guilty of a misdemeanor of the fourth degree with no term of imprisonment but a fine of up to \$1,000. (R.C. 4774.99(B).)

--Immunity from liability for damages as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to the bill and the duty of the state to (1) provide and pay for the defense of a person who performed those duties and (2) pay for any resulting judgment, compromise, or settlement but not for punitive or exemplary damages (R.C. 4774.21).

HISTORY

ACTION	DATE
Introduced	10-04-07
Reported, S. Health, Human Services & Aging	04-17-08
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