

H.656

Introduced by Representatives O'Brien of Richmond, Burke of Brattleboro,  
French of Shrewsbury, Lenos of Shelburne, Masland of  
Thetford, McCullough of Williston, Spengler of Colchester,  
Stevens of Waterbury, Wheeler of Derby and Zenie of  
Colchester

Referred to Committee on

Date:

Subject: Professions and occupations; radiologist assistants; certification

Statement of purpose: This bill proposes to establish a system for regulating  
and certifying radiologist assistants.

An act relating to regulating and certifying radiologist assistants

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. chapter 52 is added to read:

CHAPTER 52. RADIOLOGIST ASSISTANTS

§ 2851. DEFINITIONS

As used in this chapter:

(1) "ARRT" means the American Registry of Radiologic Technologists  
or its successor, as recognized by the board.

(2) "Board" means the state board of medical practice established under

1 chapter 23 of this title.

2 (3) “Contract” means a legally binding written agreement containing the  
3 terms of employment of a radiologist assistant.

4 (4) “Disciplinary action” means any action taken by the board against a  
5 certified radiologist assistant or an applicant or an appeal of that action when  
6 that action suspends, revokes, limits, or conditions certification in any way or  
7 when it results in a reprimand of the person.

8 (5) “Protocol” means a detailed description of the duties and scope of  
9 practice delegated by a radiologist to a radiologist assistant.

10 (6) “Radiologist” means a person licensed to practice medicine or  
11 osteopathy under chapter 23 or 33 of this title and who is certified by or  
12 eligible for certification by the American Board of Radiology or the American  
13 Osteopathic Board of Radiology or their predecessors or successors or is  
14 credentialed by a hospital to practice radiology and engages in the practice of  
15 radiology at that hospital full-time.

16 (7) “Radiologist assistant” means a person certified by the state of  
17 Vermont under this chapter who is qualified by education, training, experience,  
18 and personal character to provide medical services under the direction and  
19 supervision of a radiologist.

20 (8) “Supervision” means the direction and review by the supervising  
21 physician, as determined to be appropriate by the board, of the medical

1 services provided by the radiologist assistant. At a minimum, supervision shall  
2 mean that a radiologist is readily available at the facility for consultation and  
3 intervention.

4 § 2852. CERTIFICATION AND RULEMAKING

5 The board shall certify radiologist assistants, and the commissioner of  
6 health shall adopt rules regarding the training, practice, supervision,  
7 qualification, scope of practice, places of practice, and protocols for radiologist  
8 assistants and regarding patient notification and consent.

9 § 2853. APPLICATION

10 (a) An application for certification shall be accompanied by an application  
11 by the proposed supervising radiologist that shall contain a statement that the  
12 radiologist shall be responsible for all professional activities of the radiologist  
13 assistant.

14 (b) An application for certification shall be accompanied by a protocol  
15 signed by the proposed supervising radiologist and a copy of the radiologist  
16 assistant employment contract.

17 (c) The applicant shall submit to the board any other information the board  
18 considers necessary to evaluate the applicant's qualifications.

19 § 2854. ELIGIBILITY

20 To be eligible for certification as a radiologist assistant, an applicant shall:

1           (1) have obtained a degree from a radiologist assistant educational  
2           program that is recognized by the ARRT under its “Recognition Criteria for  
3           Radiologist Assistant Educational Programs” adopted on July 1, 2005, as  
4           periodically revised and updated;

5           (2) have satisfactorily completed the radiologist assistant certification  
6           examination given by the ARRT and be currently certified by the ARRT; and

7           (3) be licensed as a radiologic technologist in this state under chapter 51  
8           of this title.

9           § 2855. TEMPORARY CERTIFICATION

10          (a) The board may issue a temporary certification to a person who applies  
11          for certification for the first time in this state and meets the educational  
12          requirements under subsection 2854 of this title.

13          (b) Temporary certification may be issued only for the purpose of allowing  
14          an otherwise qualified applicant to practice as a radiologist assistant until the  
15          applicant takes and passes the next ARRT certification examination and a  
16          determination is made that he or she is qualified to practice in this state.

17          (c) Temporary certification shall be issued upon payment of the specified  
18          fee for a fixed period of time to be determined by the board and shall only be  
19          renewed by the board if the applicant demonstrates proof of an exceptional  
20          cause.

1     § 2856. RENEWAL OF CERTIFICATION

2         (a) Certifications shall be renewable every two years upon payment of the  
3         required fee and submission of proof of current, active ARRT certification.

4         (b) A certification that has lapsed may be reinstated on payment of a  
5         renewal fee and a late renewal fee. The applicant shall not be required to pay  
6         back renewal fees for the periods when certification was lapsed. However, if  
7         certification remains lapsed for a period of three years, the board may, after  
8         notice and an opportunity for hearing, require reexamination as a condition of  
9         renewal.

10    § 2857. SUPERVISION AND SCOPE OF PRACTICE

11         (a) The number of radiologist assistants permitted to practice under the  
12         direction and supervision of a radiologist shall be determined by the board  
13         after review of the system of care delivery in which the supervising radiologist  
14         and radiologist assistants propose to practice. The authority of a radiologist  
15         assistant to practice shall terminate immediately upon dissolution of the  
16         radiologist assistant's employment contract, and the supervising radiologist  
17         shall immediately notify the board and the commissioner of the department of  
18         health of the termination. The radiologist assistant's authority to practice shall  
19         not resume until he or she provides proof of another employment contract and  
20         protocol as approved under this chapter.

21         (b) The radiologist assistant's scope of practice shall be limited to that

1 delegated to the radiologist assistant by the supervising radiologist and for  
2 which the radiologist assistant is qualified by education, training, and  
3 experience. At no time shall the practice of the radiologist assistant exceed the  
4 normal scope of the supervising radiologist's practice.

5 § 2858. UNPROFESSIONAL CONDUCT

6 (a) The following conduct by a certified radiologist assistant constitutes  
7 unprofessional conduct. When that conduct is by an applicant or person who  
8 later becomes an applicant, it may constitute grounds for denial of  
9 certification:

10 (1) fraudulent procuring or use of certification;

11 (2) occupational advertising that is intended or has a tendency to deceive  
12 the public;

13 (3) exercising undue influence on or taking improper advantage of a  
14 person using the radiologist assistant's services or promoting the sale of  
15 professional goods or services in a manner that exploits a person for the  
16 financial gain of the radiologist assistant or of a third party;

17 (4) failing to comply with provisions of federal or state law governing  
18 the profession;

19 (5) conviction of a crime related to the profession or conviction of a  
20 felony, whether or not related to the practice of the profession;

21 (6) conduct that evidences unfitness to practice in the profession;

1           (7) making or filing false professional reports or records, impeding or  
2           obstructing the proper making or filing of professional reports or records, or  
3           failing to file the proper professional report or record;

4           (8) practicing the profession when mentally or physically unfit to do so;

5           (9) professional negligence;

6           (10) accepting and performing responsibilities that the person knows or  
7           has reason to know that he or she is not competent to perform;

8           (11) making any material misrepresentation in the practice of the  
9           profession, whether by commission or omission;

10           (12) holding one's self out as or permitting one's self to be represented  
11           as a licensed physician;

12           (13) performing otherwise than at the direction and under the  
13           supervision of a radiologist licensed by the board;

14           (14) accepting the delegation of or performing or offering to perform a  
15           task or tasks beyond the person's scope of practice as defined by the board;

16           (15) administering, dispensing, or prescribing any controlled substance  
17           other than as authorized by law;

18           (16) failing to comply with an order of the board or violating any term  
19           or condition of a certification restricted by the board;

20           (17) delegating professional responsibilities to a person whom the  
21           certified professional knows or has reason to know is not qualified by training.

1 experience, education, or licensing credentials to perform;

2 (18) in the course of practice, gross failure to use and exercise on a  
3 particular occasion or the failure to use and exercise on repeated occasions that  
4 degree of care, skill, and proficiency that is commonly exercised by the  
5 ordinary skillful, careful, and prudent professional engaged in similar practice  
6 under the same or similar conditions, whether or not actual injury to a patient  
7 has occurred; or

8 (19) revocation of certification to practice as a radiologist assistant in  
9 another jurisdiction on one or more of the grounds specified in subdivisions  
10 (1)–(18) of this subsection.

11 (b) A person aggrieved by a final order of the board may, within 30 days of  
12 the order, appeal that order to the Vermont supreme court on the basis of the  
13 record created before the board.

14 § 2859. DISPOSITION OF COMPLAINTS

15 (a) Complaints and allegations of unprofessional conduct shall be  
16 processed in accordance with the rules of procedure of the board.

17 (b) The board shall accept complaints from a member of the public, a  
18 physician, a hospital, a radiologist assistant, a state or federal agency, or the  
19 attorney general. The board shall initiate an investigation of a radiologist  
20 assistant when a complaint is received or may act on its own initiative without  
21 having received a complaint.



1       (c) If the board determines that the action of a radiologist assistant that is  
2       the subject of a complaint falls entirely within the scope of practice of a  
3       radiologic technologist, the board shall refer the complaint to the board of  
4       radiologic technology for review under chapter 51 of this title.

5       (d) After giving opportunity for hearing, the board shall take disciplinary  
6       action against a radiologist assistant or applicant found guilty of unprofessional  
7       conduct.

8       (e) The board may approve a negotiated agreement between the parties  
9       when it is in the best interest of the public health, safety, or welfare to do so.  
10       That agreement may include any of the following conditions or restrictions  
11       which may be in addition to or in lieu of suspension:

12             (1) a requirement that the person submit to care or counseling;

13             (2) a restriction that the person practice only under supervision of a  
14       named person or a person with specified credentials;

15             (3) a requirement that the person participate in continuing education in  
16       order to overcome specified practical deficiencies;

17             (4) a requirement that the scope of practice permitted be restricted to a  
18       specified extent.

19       (f) Upon application, the board may modify the terms of an order under this  
20       section and, if certification has been revoked or suspended, order reinstatement  
21       on terms and conditions it deems proper.

1     § 2860. USE OF TITLE

2         Any person who is certified to practice as a radiologist assistant in this state  
3         shall have the right to use the title “radiologist assistant” and the abbreviation  
4         “R.A.” No other person may assume that title or use that abbreviation or any  
5         other words, letters, signs, or devices to indicate that the person using them is a  
6         radiologist assistant. A radiologist assistant shall not so represent himself or  
7         herself unless there is currently in existence a valid contract between the  
8         radiologist assistant and his or her employer or supervising radiologist and  
9         unless the protocol under which the radiologist assistant’s duties are delegated  
10        is on file with and has been approved by the board.

11     § 2861. LEGAL LIABILITY

12        (a) The supervising radiologist delegating activities to a radiologist  
13        assistant shall be legally liable for the activities of the radiologist assistant, and  
14        the radiologist assistant shall in this relationship be the radiologist’s agent.

15        (b) Nothing in this chapter shall be construed as prohibiting a radiologist  
16        from delegating to a radiologist assistant certain activities relating to medical  
17        care and treatment now being carried out by custom and usage when those  
18        activities are under the control of the radiologist. Nothing contained in this  
19        chapter shall be construed to apply to nurses acting pursuant to chapter 28 of  
20        this title.

1     § 2862. FEES

2         Applicants and persons regulated under this chapter shall pay the following  
3     fees:

4             (1)(A)(i) Original application for certification             \$75.00;

5                     (ii) Each additional application                     \$50.00;

6             (B) The board shall use at least \$10.00 of these fees to support the  
7     costs of the creation and maintenance of a Vermont practitioner recovery  
8     network which will monitor recovering chemically dependent licensees for the  
9     protection of the public.

10            (2)(A)(i) Biennial renewal                                     \$75.00;

11                    (ii) Each additional renewal                                 \$50.00;

12            (B) The board shall use at least \$10.00 of these fees to support the  
13     costs of the creation and maintenance of a Vermont practitioner recovery  
14     network that will monitor recovering chemically dependent licensees for the  
15     protection of the public. In addition to the fee, an applicant for certification  
16     renewal shall submit evidence in a manner acceptable to the board that he or  
17     she continues to meet the certification requirements of the ARRT and is  
18     licensed as a radiologic technologist under chapter 51 of this title.

19            (3) Transfer of certification                                     \$15.00.

20     § 2863. NOTICE OF USE OF RADIOLOGIST ASSISTANTS

21         A radiologist who uses the services of a radiologist assistant shall post a

1 notice to that effect in an appropriate place and include language in the patient  
2 consent form that the radiologist uses a radiologist assistant.

3 § 2864. PENALTY

4 (a) A person who, not being certified, holds himself or herself out to the  
5 public as being certified under this chapter shall be liable for a fine of not more  
6 than \$1,000.00.

7 (b) In addition to the penalty provided in subsection (a) of this section, the  
8 attorney general or a state's attorney may bring a civil action to restrain  
9 continuing violations of this section.

10 Sec. 2. 26 V.S.A. § 1842(b)(12) is added to read:

11 (12) Use of the services of a radiologist assistant in a manner that is  
12 inconsistent with the provisions of chapter 52 of this title.

13 Sec. 3. 26 V.S.A. § 1354(a) is amended to read:

14 (a) The board shall find that any one of the following, or any combination  
15 of the following, whether or not the conduct at issue was committed within or  
16 outside the state, constitutes unprofessional conduct:

17 \* \* \*

18 (31) use of the services of an anesthesiologist assistant by an  
19 anesthesiologist in a manner that is inconsistent with the provisions of chapter  
20 29 of this title;

21 (32) use of the services of a radiologist assistant by a radiologist in a

1 manner that is inconsistent with the provisions of chapter 52 of this title.

2 Sec. 4. 26 V.S.A. § 1351(e) is amended to read:

3 (e) The commissioner of health shall adopt, amend, and repeal rules of the  
4 board which the commissioner determines necessary to carry out the  
5 provisions of this chapter and chapters 7, 29, ~~and 31,~~ and 52 of this title.

6 Sec. 5. 26 V.S.A. § 1352(a) is amended to read:

7 (a) The commissioner of health shall issue annually a report to the secretary  
8 of human services and the secretary of the Vermont medical society which  
9 shall contain:

10 (1) a separate record of the name, residence, college, and date of  
11 graduation of each individual licensed or certified by the board;

12 (2) a list of all physicians, physician's assistants, podiatrists, radiologist  
13 assistants, and anesthesiologist assistants practicing in the state;

14 (3) a summary of all disciplinary actions undertaken by the board during  
15 the year of the report; and

16 (4) an accounting of all fees and fines received by the board and all  
17 expenditures and costs of the board for such year. A sufficient number of  
18 copies shall be printed to supply the needs of the board and the state library.

19 Sec. 6. EFFECTIVE DATE

20 This act shall take effect from passage.