CHAPTER 43-62
MEDICAL IMAGING AND RADIATION THERAPY

43-62-01. Definitions.

As used in this chapter:

1. "Board" means the North Dakota medical imaging and radiation therapy board.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.
3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, limited x-ray machine operator, sonographer, or magnetic resonance imaging technologist.
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the diagnosis or visualization of disease or other medical conditions in human beings, including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or x-rays.
6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.
7. "Primary modality" means an individual practicing as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist.
8. "Protected health information" has the same meaning as provided under section 23-01.3-01.
9. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.
10. "Radiation therapist" means an individual, other than a licensed practitioner or authorized user, who performs procedures and applies ionizing radiation emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes.

43-62-02. License required.

An individual may not perform or offer to perform medical imaging or radiation therapy on humans for diagnostic or therapeutic purposes or otherwise indicate or imply that the individual is licensed to perform medical imaging or radiation therapy unless that individual is licensed under this chapter.

43-62-03. Exemptions.

This chapter does not apply to the following:

1. A licensed practitioner performing medical imaging or radiation therapy.
2. A dental assistant or dental hygienist licensed under chapter 43-20.
3. A student enrolled in and attending a school or college of medicine, medical imaging, or radiation therapy who performs medical imaging or radiation therapy on humans while under the supervision of a licensed practitioner or a radiographer, radiation therapist, nuclear medicine technologist, radiologist assistant, sonographer, or

magnetic resonance imaging technologist holding a license in the medical imaging or radiation therapy modality which the student is enrolled or attending.

4. An individual administering medical imaging or radiation therapy and who is employed by the United States government when performing duties associated with that employment.
5. A nurse licensed under chapter 43-12.1 who performs sonography on a focused imaging target to assess specific and limited information about a patient's immediate medical condition or to provide real-time visual guidance for another procedure.
6. Medical imaging performed as a part of a post-mortem examination or on other nonliving remains.
7. Medical imaging performed by emergency medical services personnel certified or licensed under section 23-27-04.3.

43-62-04. North Dakota medical imaging and radiation therapy board.

1. The governor shall appoint a North Dakota medical imaging and radiation therapy board consisting of nine members including:
   a. Five medical imaging or radiation therapy professionals chosen to represent the areas of radiography, radiation therapy, nuclear medicine technology, sonography, magnetic resonance imaging, and medical imaging or radiation therapy education;
   b. One radiologist;
   c. One medical physicist;
   d. One physician from a rural area; and
   e. One public member.
2. Each medical imaging or radiation therapy member of the board must:
   a. Be a practicing medical imaging or radiation therapy licensee of integrity and ability.
   b. Be a resident of and currently licensed pursuant to subsection 2 of section 43-62-14 in the member's primary modality in this state.
   c. Be currently certified by a certification organization in the member's primary modality.
   d. Have been engaged in the active practice of the medical imaging or radiation therapy profession within this state for a period of at least five years.
3. Each public member of the board must:
   a. Be a resident of this state.
   b. Be at least twenty-one years of age.
   c. Not be affiliated with any group or profession that provides or regulates health care.
4. The radiologist, medical physicist, and physician members of the board must:
   a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
   b. Be a resident of and be licensed to practice as a physician or registered as a medical physicist in this state.
5. An individual appointed to the board shall qualify by taking the oath required of civil officers.

43-62-05. Term of office.

The term of office of each member of the board is four years and until a successor is appointed and qualified. The terms must be so arranged that no more than four terms expire on the thirty-first of July of each year. The governor shall fill all vacancies by appointment. In case of a vacancy before the expiration of a term, the appointment must be for the residue of the term. A member of the board may not serve on the board for more than two successive four-year terms.

43-62-06. Removal of members of the board.

The governor for good cause shown and upon the recommendation of three-fourths of the members of the board may remove any member of the board for misconduct, incapacity, or neglect of duty.

43-62-07. Officers of the board.

The board shall elect a president and vice president from its members and a secretary-treasurer. The secretary-treasurer need not be a member of the board. The secretary-treasurer must be the general administrative and prosecuting officer of the board.

43-62-08. Meetings of the board.

The board shall hold at least two meetings each year to conduct business and to review the standards and rules for improving the administration of medical imaging or radiation therapy. The board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of board members constitutes a quorum.

43-62-09. Powers of the board.

In addition to any other powers, the board may:

1. Administer this chapter.
2. Issue interpretations of this chapter.
3. Adopt rules as may be necessary to carry out this chapter.
4. Employ and fix the compensation of personnel the board determines necessary to carry into effect this chapter and incur other expenses necessary to effectuate this chapter.
5. Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions authorized by this chapter.
6. Set fees for licensure, license renewal, and other services deemed necessary to carry out the purposes of this chapter.
7. Conduct investigations for the purpose of determining whether violations of this chapter or grounds for disciplining licensees exist. The board may establish an investigative panel to conduct an investigation under this subsection and may subpoena records.
8. Develop standards and adopt rules for the improvement of the administration of medical imaging or radiation therapy in this state.
9. Employ or contract with one or more certification organizations known to provide acceptable examinations leading to certification of technical personnel performing medical imaging or radiation therapy.
10. Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal penalties against anyone who violates or attempts to violate examination security, anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone who knowingly assists in that type of activity.
11. Require information on an applicant's or licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, licensing and disciplinary authorities of other jurisdictions, certification organizations, professional education and training institutions, liability insurers, health care institutions, or other employers, and law enforcement agencies be reported to the board. The board or its investigative panels may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.
12. Require the self-reporting by an applicant or a licensee of any information the board determines may indicate possible deficiencies in practice, performance, fitness, or qualifications.

13. Establish a mechanism for dealing with a licensee who abuses or is dependent upon or addicted to alcohol or other addictive chemical substances, and enter an agreement with a professional organization possessing relevant procedures and techniques the board has evaluated and approved for the organization's cooperation or participation.
14. Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed practice, a violation of this chapter, or a violation of the rules of the board.
15. Issue a conditional, restricted, or otherwise circumscribed license as the board determines necessary.

43-62-10. Conflict of interest.

A member of the board may not participate in the making of any decision or the taking of any action by the board or a board committee which affects the member's personal, professional, or pecuniary interest, or that of a known relative or business or professional associate.

43-62-11. Records of the board.

The board shall keep a record of its proceedings and applications for licensure. An application record must be preserved for at least six years beyond the disposition of the application or the last annual registration of the licensee, whichever is later. Protected health information in the possession of the board is an exempt record.

43-62-12. Biennial report.

The board may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

43-62-13. Compensation - Expenses of board.

A member of the board is entitled to receive for each day during which the member actually is engaged in the performance of the duties of the member's office per diem as determined by the board and mileage as provided in section 54-06-09. The secretary of the board is entitled to receive salary or other compensation and allowance for clerical and other expenses of the board as the board determines.

43-62-14. License requirements.

1. The board shall issue a license to a qualified applicant. To qualify for licensure, an applicant shall comply with the modality licensure requirements under subsection 2, 3, 4, or 7, comply with board requirements adopted by rules, and submit satisfactory evidence, verified by oath or affirmation, that the applicant:
   a. At the time of the application is at least eighteen years of age.
   b. Has successfully completed a four-year course of study in a high school or passed an approved equivalency test.
2. To qualify for licensure to practice one or more of the primary modalities as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist, an applicant shall meet the requirements for the applicable specific modality, including:
   a. Provide satisfactory completion of a course of study appropriate for the specified modality. The curriculum for each course of study may not be less stringent than the standards approved by the joint review committee on education in radiologic technology, joint review committee on nuclear medicine technology, commission on accreditation of allied health education programs, or any other appropriate accreditation agency approved by the board, provided the standards are not in conflict with board policy.
   b. Pass a certification examination established or approved by the board given by a certification organization recognized by the board.

c. Show evidence of compliance with continuing education or recertification requirements required for registration of certification by a certification organization recognized by the board.

3. A licensee under subsection 2 may not practice a primary modality without meeting the requirements for each specific primary modality being practiced. However, a licensee under subsection 2 may practice other modalities recognized by rule upon meeting the continuing education requirements for each modality practiced by the licensee.
4. An applicant who is not licensed for a primary modality under subsection 2 may qualify for licensure to practice a modality recognized by the board, other than the primary modalities, by complying with certification or registration requirements established by the board by rule. The scope of a license issued under this subsection limits the licensee to the practice of the specific modality for which the applicant meets the requirement. However, a license issued under this subsection may be issued in conjunction with a license for additional modalities issued under subsection 7.
5. The board may establish by rule specific changes or exceptions for those modalities in which the accreditation agency or certification organization differs in certification or registration requirements from this chapter.
6. The board may grant a license to an applicant who submits the necessary application and fees who has been licensed, certified, or registered to perform or administer medical imaging or radiation therapy in another jurisdiction if that jurisdiction's standards of licensure are substantially equivalent to those provided in this chapter in accordance with rules adopted by the board.
7. The board may establish unique individualized licensing and practice standards and requirements for an applicant who does not meet the licensure requirements to receive a license in at least one primary modality of medical imaging or radiation therapy under subsection 2, or who meets the licensure requirements for one primary modality but not for another primary modality the applicant desires to practice.
   a. The board may grant a license limited to one or more modalities practiced by an applicant for three or more of the five years preceding January 1, 2017. The board may establish standards and requirements for the licensee designed to maintain reasonable access to public services and to promote public safety, including continuing education. A license granted for a specified modality under this subdivision expires and may not be renewed if the licensee attains a license in that modality under subsection 2 or 4.
   b. The board may grant a license to an applicant who began practice after December 31, 2016, for a specified modality or modalities if the applicant passes a board-approved examination and maintains specified continuing education requirements for each modality. The board may grant a conditional license allowing an applicant under this subdivision to practice before passing the examination.

43-62-14.1. Fluoroscopy technologist.

1. Effective August 1, 2019, an individual licensed or permitted as a fluoroscopy technologist by the North Dakota board of medicine who is in good standing on that date, automatically becomes licensed as a fluoroscopy technologist by the North Dakota medical imaging and radiation therapy board.
   a. Effective August 1, 2019, the North Dakota board of medicine shall expire every active fluoroscopy technologist's license issued by that board.
   b. Effective August 1, 2019, the North Dakota medical imaging and radiation therapy board shall issue a fluoroscopy technologist license to every individual qualified under this subsection to be automatically licensed.
2. The scope of practice of a licensed fluoroscopy technologist is limited to gastrointestinal fluoroscopy of the esophagus, stomach, and small and large intestines.
3. Fluoroscopy services provided by a licensed fluoroscopy technologist must be provided under the supervision of a primary supervising physician.

4. If a fluoroscopy technologist performs a fluoroscopy procedure outside the presence of the technologist's primary supervising physician, the technologist must be supervised by an onsite supervising physician who is immediately available to the technologist for consultation and supervision at all times the technologist is performing a fluoroscopy procedure.
5. Under this section, a supervising physician may not designate the fluoroscopy technologist to take over the physician's duties or cover the physician's practice. During an absence or temporary disability of a primary supervising physician, the fluoroscopy technologist is responsible to the substitute primary supervising physician.
6. To qualify for biennial license renewal, a fluoroscopy technologist shall submit to the board with radiography license renewal:
   a. Evidence of completion of at least six hours of continuing education on fluoroscopy safety and relevant radiation protection; and
   b. A copy of an agreement with a primary supervising physician.
7. A licensee under this section is subject to the disciplinary authority of the board under section 43-62-19.

43-62-15. Scope of practice.

1. A license issued by the board under this chapter must specify each medical imaging or radiation therapy modality for which the licensee is qualified to practice under section 43-62-14.
2. The board shall adopt by rule standards concerning scope of practice for medical imaging and radiation therapy modalities, including:
   a. Nuclear medicine technologist;
   b. Radiation therapist;
   c. Radiographer;
   d. Radiologist assistant;
   e. Sonographer;
   f. Magnetic resonance imaging technologist; and
   g. Limited x-ray machine operator.
3. A licensee's performance of medical imaging or radiation therapy on humans for diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or radiation therapy and must be under the supervision of a licensed practitioner.
4. A licensee's performance of medical imaging and radiation therapy on humans for diagnostic or therapeutic purposes is limited to the scope of the medical imaging and radiation therapy modality of that license as specified under the rules adopted by the board.

43-62-16. Fees.

1. The board shall set all fees by rules adopted under this chapter. All fees payable to the board must be deposited in the name of the board in financial institutions designated by the board as official depositories and must be used to pay all expenses incurred in carrying out the purposes of this chapter.
2. The board may issue a temporary license to an individual whose licensure or license renewal may be pending or if issuance is for the purpose of providing medical imaging or radiation therapy services to medically underserved areas as determined by the board. A temporary license may be issued only if the board finds it will not violate the purpose of this chapter or endanger the public health and safety. A temporary license expires when the determination is made either to issue or deny the applicant a regular license. A temporary license may not be issued for a period longer than one hundred eighty days.

43-62-17. Renewal.

1. A license issued under this chapter must be renewed before January second every two years. The license must be renewed upon the payment of a renewal fee if the licensee is not in violation of this chapter and has complied with any continuing education requirements adopted by rule of the board.
2. The board shall notify a licensee at least thirty days in advance of the expiration of the licensee's license. The licensee shall inform the board of any change of the licensee's address. Each licensee is responsible for renewing the licensee's license before the expiration date. A license that is not renewed automatically lapses.
3. The board may provide for the late renewal of an automatically lapsed license upon the payment of a reinstatement fee.

43-62-18. Disciplinary action.

The board may take disciplinary action against a licensee by any of the following means:

1. Revocation of license.
2. Suspension of license.
3. Probation.
4. Imposition of stipulations, limitations, or conditions relating to the performance of medical imaging or radiation therapy.
5. Letter of censure.
6. Imposition of a penalty, not to exceed one thousand dollars for any single disciplinary action, which must be deposited in the state general fund.
7. Payment of the board's expenses, including legal fees, which may be deposited in the board's operating fund.

43-62-19. Grounds for disciplinary action.

Disciplinary action may be imposed against a licensee upon any of the following grounds:

1. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
2. The conviction of any misdemeanor determined by the board to have a direct bearing upon an individual's ability to serve the public as a licensee or of any felony. A license may not be withheld contrary to chapter 12.1-33.
3. Habitual use of alcohol or drugs.
4. Physical or mental disability materially affecting the ability to perform the duties of a medical imaging or radiation therapy professional in a competent manner.
5. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
6. Aiding or abetting the performance of medical imaging or radiation therapy by an unlicensed, incompetent, or impaired individual.
7. The violation of any provision of this chapter, any rule of the board, or any federal or state law applicable to the practice of medical imaging or radiation therapy, or any action, stipulation, limitation, condition, or agreement imposed by the board or its investigative panels.
8. The performance of medical imaging or radiation therapy under a false or assumed name.
9. The willful or negligent violation of the confidentiality between medical imaging or radiation therapy professional and patient, except as required by law.
10. Gross negligence in the performance of medical imaging or radiation therapy.
11. Sexual abuse, misconduct, or exploitation related to the licensee's performance of medical imaging or radiation therapy.
12. The use of any false, fraudulent, or deceptive statement in any document connected with the performance of medical imaging or radiation therapy.
13. The failure to maintain in good standing, including completion of continuing education or recertification requirements, a certification from a certification organization

recognized by the board for the medical imaging or radiation therapy modality for which a license has been issued by the board.

14. The imposition by another state, jurisdiction, or certification organization recognized by the board of disciplinary action against a license, certification, or other authorization to perform medical imaging or radiation therapy based upon acts or conduct by the medical imaging or radiation therapy professional which would constitute grounds for disciplinary action under this section. A certified copy of the record of the action taken by the other state, jurisdiction, or certification organization is conclusive evidence of that action.
15. The failure to furnish the board or the investigative panel or investigators or representatives of the board or investigative panel information legally requested by the board or the investigative panel. The board shall keep a record of its proceedings in a disciplinary action or refusal to issue a license, together with the evidence offered.

43-62-20. Costs of prosecution - Disciplinary proceedings.

In any order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a medical imaging or radiation therapy professional, the board may direct any medical imaging or radiation therapy professional to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and its investigative panels in the investigation and prosecution of the case. When applicable, the medical imaging or radiation therapy professional's license may be suspended until the costs are paid to the board. A medical imaging or radiation therapy professional may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the judge is final. The hearing must occur before the medical imaging or radiation therapy professional's license may be suspended for nonpayment.

43-62-21. Practicing without a license - Violation of chapter - Penalty.

An individual who performs medical imaging or radiation therapy in this state without complying with this chapter, and any individual who violates any provision of this chapter for which another penalty is not specified is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin violations of any provision of this chapter without proof of actual damages sustained by any person.