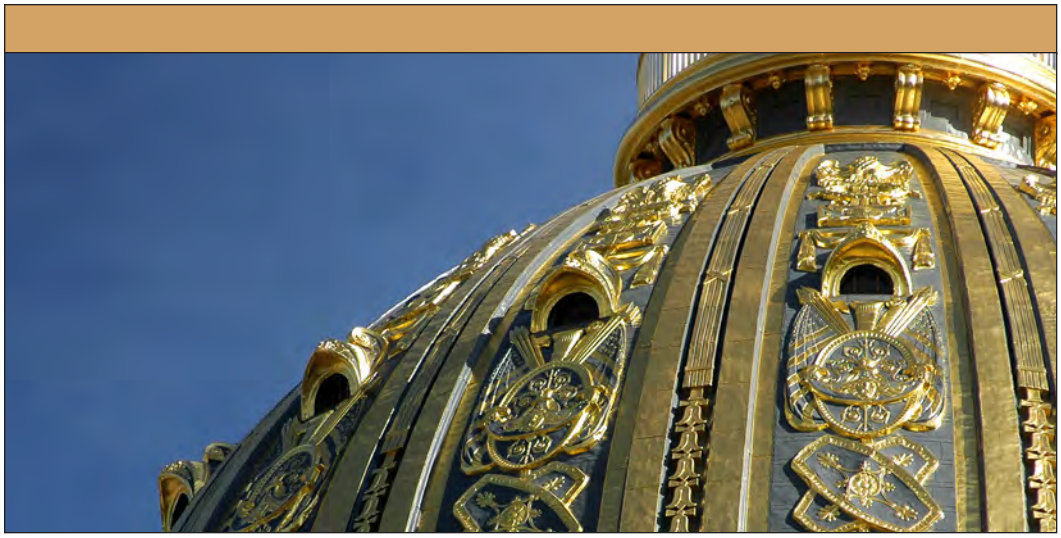

September 2013
PE 13-04-540

REGULATORY BOARD REVIEW

WEST VIRGINIA MEDICAL IMAGING AND RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

AUDIT OVERVIEW

The Legislative Auditor Determines That the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Does Not Provide Additional Protection to the Public That Justifies Its Existence and Therefore Should Be Terminated

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Is in Compliance With the General Provisions of Chapter 30

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Decision to Maintain Two Staffed Offices That Are a Considerable Distance From Each Other Has Resulted in Inefficiencies and Higher Costs Than If It Had One Office in the Vicinity of Charleston

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Website Needs Improvement

WEST VIRGINIA LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION

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EXECUTIVE SUMMARY

The Legislative Auditor conducted a regulatory board review of the Medical Imaging and Radiation Therapy Technology Board of Examiners authorized pursuant to West Virginia Code §4-10-10(b)(5). Objectives of this audit were to determine the need for the Board, assess compliance with provisions of Chapter 30 and other applicable laws, determine the efficiency of operating and maintaining two separate offices, and evaluate the website for user friendliness and transparency. The report contains the following issues:

Report Highlights

Issue 1: The Legislative Auditor Determines That the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Does Not Provide Additional Protection to the Public That Justifies Its Existence and Therefore Should Be Terminated.

- The Board duplicates the work of regulatory national organizations (ARRT, NMTCB, ASPMA, and JRCERT), and relies on their information to regulate the medical imaging profession.

- The Board provides minimal additional protection to the public. Regulatory functions are carried out by the national organizations. Furthermore, hospitals, medical imaging facilities, and doctors are integral to medical imaging and radiation services, and they provide an adequate layer of oversight of these professions.

- If the Medical Imaging Board were terminated there would be no consequence with respect to medical insurance coverage from the Public Employees Insurance Agency (PEIA) or the state Medicaid program.

Issue 2: The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Is in Compliance With the General Provisions of Chapter 30.

- The Board is in compliance with continuing education requirements, complaints are resolved in a timely manner with due process, the Board is financially self -sufficient, and the Board is publicly accessible.

- The Board's internal control for financial management is deficient because it lacks proper segregation of duties. The Board has only one employee who

handles all financial matters. The Legislative Auditor recommends that the Board enroll in the State's lockbox system.

Issue 3: The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Decision to Maintain Two Staffed Offices That Are a Considerable Distance From Each Other Has Resulted in Inefficiencies and Higher Costs Than If It Had One Office in the Vicinity of Charleston.

- The Board operates two independent offices, one out of the executive director's home in Chapmanville, West Virginia and another public office in Cool Ridge, West Virginia at a combined cost of $1,100 a month. The Medical Imaging Board has indicated that it would prefer to have the executive director in close proximity to Charleston, but the rent is inexpensive at the Cool Ridge office, thus the reason for the current office locations.

- The Board maintains and leases a Jeep Patriot from Fleet Management at a cost of $400 per month. The only other licensing board to lease a vehicle is the Board of Medicine. A substantial portion of the vehicle usage is for traveling between the two office locations.

Issue 4: The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Website Needs Improvement.

- The Board's website needs increased transparency and user-friendliness to improve accountability and public accessibility.

PERD's Evaluation of the Agency's Written Response

The Office of the Legislative Auditor's Performance Evaluation and Research Division received the Medical Imaging Board's response on August 29, 2013. The Board concurs with the recommendations in issues two and four of the report. However, the Board disagrees with recommendations made in issues one and three. In issue one, the Board contends that terminating the Board would not allow for the proper oversight of Radiologic Technologists. The Legislative Auditor's response is that the national organizations, hospitals, and doctors, provide adequate oversight and protection to the public. The Board duplicates the national regulatory organizations and does not provide any added protection that justifies the Board's continued existence. In issue three, the Board states that a leased vehicle from Fleet Management is needed to conduct proper inspections and for other business. The Legislative Auditor contends that the inspections mentioned by the

Board are not needed and some of these inspections can be done by the DHHR, which inspects the same facilities. Furthermore, the other business for which the Board uses the leased vehicle is primarily the result of the inefficiencies of the Board maintaining two offices that are at a considerable distance from each other instead of having one office closer to the Charleston area. The agency's response can be found in Appendix F.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider terminating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.*

2. *The Legislature should consider simplifying regulations for medical imaging professionals by either placing in statute the requirement that they be certified by the respective national certifying organization or that they be registered with a medical-related state agency in which registration requires proof of being certified by a national certifying organization.*

3. *The Legislative Auditor recommends that the Medical Imaging Board enroll in the Office of the State Treasurer's lockbox system.*

4. *The Medical Imaging Board should continue to improve its financial condition by having at least one year of expenditures in cash reserves.*

5. *The Legislative Auditor recommends that the Medical Imaging Board give greater priority to search for affordable office space in or near the city of Charleston.*

6. *Once office space has been found close to Charleston, the Medical Imaging Board should discontinue the practice of allowing a home office for its executive director, discontinue the home-office internet service, the cell phone service, and the lease of the state vehicle.*

7. *The Board should also inquire into the possibility of the Department of Health and Human Resources including in its imaging equipment inspection process the review of publicly displayed licenses and providing its findings to the Board.*

8. *The Legislative Auditor recommends that the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners should consider enhancing the user-friendliness and transparency of its website by incorporating more of the website elements identified.*

ISSUE1

The Legislative Auditor Determines That the *West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners* Does Not Provide Additional Protection to the Public That Justifies Its Existence and Therefore Should Be Terminated.

Issue Summary

This is the first regulatory board review of the *West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners* (Medical Imaging Board) conducted by the Legislative Auditor. It is a routine procedure that when a regulatory board is reviewed for the first time, the Legislative Auditor assesses the need for the board. **The Legislative Auditor has determined that the Medical Imaging Board's existence is not justified because it does not enhance public protection beyond what is provided by national regulatory authorities.** The primary factor in this decision is that the Board's license is simply based on confirming that professionals have a national certification. The national organizations require proof of education, an examination, and continuing education. The Medical Imaging Board receives confirmation from the national agencies that these requirements have been completed, and then it issues or renews a state license. The national organizations address complaints from the public as does the Medical Imaging Board. In some cases the national organizations and the Board are addressing the same complaints. If the Board did not exist, medical facilities would have to confirm the national certification when hiring these professionals, which they have likely been doing for some time. The Board was created in 1977, prior to the State's sunrise process. If the Board had been proposed through the sunrise process, the Legislative Auditor would not have recommended its creation. **Therefore, the Legislative Auditor recommends that the Legislature consider termination of the Medical Imaging Board, and have national certification requirements written in Code or have certified professionals register with an appropriate state agency.**

The Legislative Auditor has determined that the Medical Imaging Board's existence is not justified because it does not enhance public protection beyond what is provided by national regulatory authorities.

The Medical Imaging & Radiation Therapy Technology Board of Examiners Licenses Over 2,800 Individuals

The Medical Imagining Board was created to promote, preserve, and protect the public health, safety, and welfare of the citizens of West

Virginia by licensing individuals who use ionizing radiation as medical imaging professionals. West Virginia Code §30-23-1 authorizes the Board to regulate the following professions:

- radiologic technologists,
- radiation therapists,
- nuclear medicine technologists,
- magnetic resonance imaging technologists, and
- podiatric medical assistants.

In 2012, the Board licensed 2,851 professionals.

In 2012, the Board licensed 2,851 professionals. Of that number, 2,176 reside in West Virginia and 675 reside out of state. Table 1 shows the number of licensees from 2009 – 2012.

Table 1
Number of Licensees (2009 – 2012)

Year	Total Number of Licensees	In-state Licensees	Out of State Licensees
2012	2,851	2,176	675
2011	2,816	2,476	340
2010	2,557	1,946	611
2009	2,178	1,728	450

Source: WV Board of Radiologic Technologists Annual Reports (Unaudited)

Table 2 illustrates the number of licensees with each type of license or permit as of 2012. Note that the totals in Table 2 equal more than the total number licensed in year 2012 because some individuals have multiple licenses.

Table 2
2012 Licensee Status

License Type	Number
Podiatry Medical Assistants	14
Magnetic Resonance Apprentice	38
Nuclear Medicine Apprentice	15
Nuclear Medicine Technology Certification Board	254
ARRT Certified and Active	2,797

Source: West Virginia Board of Radiologic Technologists Active Roster (Unaudited).

Regulation of Medical Imaging Professionals in Other States

West Virginia is one of six states that regulate its medical imaging professionals by using a stand-alone licensing board. Arizona, Louisiana, Oregon, South Carolina, and Wyoming are the five other states. The majority of states regulate the profession through a health-related state agency. Nine states have no state regulation of the professionals. Table 3 illustrates the regulatory requirements and oversight agencies for medical imaging professionals in West Virginia and the surrounding states. Pennsylvania does not license professionals in the medical imaging field; however, the state does have oversight of the profession via the Board of Medicine.

Table 3
State Regulation of Radiologic Technologists
West Virginia & Surrounding States

State	State Regulatory Body	State Credential	Requirement	Renewal
Kentucky	Cabinet of Health and Family Services	License	ARRT Exam	Biannual
Maryland	Maryland Board of Physicians	License	ARRT Exam	Biannual
Ohio	Ohio Department of Health	License	ARRT Exam	Biannual
Pennsylvania	State Board of Medicine	N/A	ARRT Exam	N/A
Virginia	Department of Health Professions/ Board of Medicine	License	ARRT Exam	Biannual
West Virginia	West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners	License	ARRT Exam	Annual

Source: American Society of Radiologic Technologists (ASRT.org) (Unaudited), *State statutes and regulations*

The Board Provides Minimal Public Protection Beyond What Is Provided by Certifying National Organizations

The Medical Imaging Board's license is based strictly on confirming the certification granted by several national organizations for each profession. The national organizations and the respective medical imaging professions are shown below.

1. The American Registry of Radiologic Technologists (ARRT) is a national organization that certifies and registers individuals practicing in medical imaging and radiation therapy.
2. The Nuclear Medicine Technology Certification Board (NMTCB) is a national organization that certifies individuals practicing in nuclear medicine technology.
3. The American Society of Podiatric Medical Assistants (ASPMA) is a national organization that certifies podiatric medical assistants.

In granting a state license, the Board simply verifies that individuals are certified by a respective national organization, oftentimes by checking the respective web site.

These national agencies determine if applicants have the appropriate education from accredited programs, administer the initial examination, and determine whether an individual's continuing education is appropriate, eligible, and properly documented. After individuals receive national certification, they apply to the Medical Imaging Board for a state license. In granting a state license, the Board simply verifies that individuals are certified by a respective national organization, oftentimes by checking the respective web site. The Board's Code of Ethics mimics the respective national agency's Code of Ethics, and the Board relies on the continuing education determinations of the national organizations in order to renew the state license. According to the Administrative Secretary of the Board:

> *The person* (licensee) *must be current with either the ARRT or the NMTCB, we accept the auditing done on that person's certification by those National Boards, or if the person submits their continuing education credits with their renewal instead of a copy of their current National Board certification we audit these to insure that they have the required number of credits in the Medical Imaging field.*

Essentially, the Medical Imaging Board "piggybacks" the national organizations. **All regulatory functions over these medical imaging professionals are clearly carried out by national organizations.** The duplication created by the Board results in professionals paying fees to the respective national organization and the Board. The Board's initial license fee is $100, and the annual renewal fee is $65. The national agencies charge up to $200 for the initial exam and their annual renewal fees range from $25 to $65.

Essentially, the Medical Imaging Board "piggybacks" the national organizations. All regulatory functions over these medical imaging professionals are clearly carried out by national organizations.

Furthermore, while the Board investigates a relatively small number of complaints each year against licensees, the national organizations review complaints as well, and in some cases the same complaints. For example, between the years of 2009-2012 the state board has revoked two licenses, while the ARRT has revoked four licenses. The licenses revoked by the ARRT were not able to practice in West Virginia or any other state that is recognized by ARRT because of the action taken by the national organization. In Appendix C, the complaints for years 2009-2012 are listed with action taken upon each complaint.

Additionally, medical imaging professionals are in part overseen by the doctors and hospitals that employ them. Some complaints may be received and addressed directly by medical facilities. The Executive Director pointed out:

> *…there are (on occasion) complaints directed to a hospital, clinic or physician by a patient that are never reported to our Board for investigation and without an official report directly to the Board we would have no method of identifying or investigating this type of patient complaint.*

Additionally, medical imaging professionals are in part overseen by the doctors and hospitals that employ them.

Finally, the Board has statutory authority under West Virginia Code §30-23-6 to approve schools in the state that provide education for Medical Imaging and Radiation Therapy Technology, and to establish standards for these schools. There are 11 schools in the state that provide this training. However, the Board again simply piggybacks what is done in this area by the *Joint Review Committee on Education in Radiologic Technology (JRCERT), and the Joint Review Committee on Educational Programs in Nuclear Medicine Technology (JRCNMT)*. These are national organizations that provide accreditation of educational programs in radiography, radiation therapy, magnetic resonance, medical dosimetry, and nuclear medicine. Individuals must complete their formal education from programs accredited by JRCERT or JRCNMT. The

Medical Imaging Board indicates in its rules (CSR §18-1-5.1) that the standards for West Virginia schools to follow are established by JRCERT and JRCNMT. Also, the Board conducts site visits at these schools at the same time the national organizations inspect the schools. **In effect, the Board adds nothing to the accreditation process.**

The Board's existence is not justified because it does not provide added value to what is done by national agencies.

The redundancy of the Board is evident in that without the Board's license, the general public would suffer little if any loss of protection from these professionals. The Board's existence is not justified because it does not provide added value to what is done by national agencies. The safety to the public is primarily provided by the national agencies' credential and oversight, and the Board confirms information that medical establishments likely confirm in their employment practices. The only function the Board performs that a national agency does not perform is the processing of complaints against podiatric medical assistants. The 2012 active roster of the Board lists 14 podiatric medical assistants. Complaints against these individuals could be addressed by their respective employers who oversee them. **Thus, the Legislative Auditor finds that the Board piggybacks the regulations of national agencies, provides little added protection to the public, and adds an unnecessary cost to licensees.**

If the Medical Imaging Board were terminated there would be no consequence with respect to medical insurance coverage from the Public Employees Insurance Agency (PEIA) or the state Medicaid program.

Insurance Coverage for Medical Imaging Services Would Not Be Affected If the Board Were Terminated.

If the Medical Imaging Board were terminated there would be no consequence with respect to medical insurance coverage from the Public Employees Insurance Agency (PEIA) or the state Medicaid program. According to PEIA:

> The PEIA PPB Plans A, B & D will pay for covered services rendered by a health care professional or facility if the provider is:
>
> - **licensed or certified** under the law of the jurisdiction in which the care is rendered;
> - providing treatment within the scope or limitation of the **license or certification**; and
> - not under sanction by Medicare, Medicaid or both.

According to Medicaid's policy, radiology services, which include diagnostic x-ray tests, radiation treatments, magnetic resonance imaging,

and nuclear medicine, are eligible for reimbursement by Medicaid if the providers have current licenses and/or certifications on file with the State's Bureau for Medical Services.

Both Medicaid and PEIA policy make general statements that providers of medical imaging and radiation services must be either licensed or certified in order to be eligible for insurance reimbursement. PERD contacted PEIA and the state Medicaid program. Their representatives confirmed that if the Legislature were to amend West Virginia Code to rely strictly on the national certification for medical imaging and radiation services, it would have no consequence with their current reimbursement policies for these services, nor would there be a need for them to modify their policies to be consistent with state law.

If the Legislature were to amend West Virginia Code to rely strictly on the national certification for medical imaging and radiation services, it would have no consequence with their current reimbursement policies for these services, nor would there be a need for them to modify their policies to be consistent with state law.

Conclusion

The Legislative Auditor has reviewed sunrise applications over the years from groups that have sought to establish a licensing board that would simply verify a national certification. In each instance, the Legislative Auditor has recommended against establishing a licensing board for that purpose. For example, in 2007 a sunrise application was filed to create state licensure of athletic trainers who were certified by the National Athletic Trainers Association Board of Certification (NATABOC). The Legislative Auditor did not recommend establishing state licensure, but recommended that if the Legislature chose to have some form of state regulation it should consider something less than licensure (certification or registration) "*that does not duplicate NATABOC certification.*" In 2012, the Legislative Auditor determined that there was no need for state licensure of behavior analysts because the national certification of the Behavior Analyst Certification Board provided adequate protection to the citizens of the state. Also in 2012, the Legislative Auditor concluded that "*establishing a state licensing board for CPMs (certified professional midwives) that uses NARM's (North American Registry of Midwives) credential will not enhance their competency, which in turn means that state licensing would not be directly addressing a need for greater public safety.*"

In each of these cases in which the national organization was deemed to provide adequate regulation of a profession, the Legislative Auditor has not recommended a state licensing board be established.

Although the Medical Imaging Board was created in 1977, prior to the State's sunrise process, **the Legislative Auditor must recommend that the Board be terminated in order to be consistent with previous sunrise decisions.** The Legislative Auditor finds that the Medical Imaging Board provides minimal additional regulatory value and public protection over what is already provided by the national organizations, and it imposes additional costs to licensees.

The Legislative Auditor also finds that the number of complaints addressed by the Board is relatively small, and they can be resolved in the employer setting or by the respective national agency, which would provide the public with adequate protection. Furthermore, hospitals, medical imaging facilities, and doctors are integral to medical imaging and radiation services, and they provide an adequate layer of oversight of these professions.

The Legislative Auditor concludes that the Legislature should consider an alternative to state licensure of medical imaging professionals.

It should be noted that in 2006 the Medical Imaging Board submitted a sunrise application to allow it to license a few additional professions, including nuclear medicine technologists, and magnetic resonance imaging technologists. Although the Legislative Auditor recommended that these professions be licensed by the Board, the logic of the decision was that the Board already existed and was licensing radiologic technologists. Determining the need for the Board was not within the scope of the sunrise application, and at that time the Legislative Auditor had never conducted a regulatory board review of the Board. Since the Legislative Auditor is now reviewing the Board for the first time, the decision to recommend termination is the only fitting conclusion, despite the decisions made in the 2006 sunrise report.

The Legislative Auditor concludes that the Legislature should consider an alternative to state licensure of medical imaging professionals. One alternative would be to simply state in statute that medical imaging professionals must be certified by the respective national certifying body and adhere to the scope of practice and Code of Ethics established by the organization. This would require employers to confirm a person's certification, and complaints would either be forwarded to the national certifying organization or addressed directly by the employer. Another regulatory alternative would be to require these professionals to be registered with a medical-related state agency. This would require the professionals to show proof of their certification, and the state agency would place their names on a register. This could be a one-time or an annual registration at a nominal fee. Any complaints received by the

state agency can be forwarded to the national certifying agency and/or the professional's employer.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider terminating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.*

2. *The Legislature should consider simplifying regulations for medical imaging professionals by either placing in statute the requirement that they be certified by the respective national certifying organization or that they be registered with a medical-related state agency in which registration requires proof of being certified by a national certifying organization.*

Issue 2

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Is in Compliance With the General Provisions of Chapter 30.

Issue Summary

The Medical Imaging Board is in satisfactory compliance with most general provisions of Chapter 30 of the West Virginia Code. These provisions are important for the effective operation of regulatory boards. The Board is in compliance with the following provisions:

- The chairperson or chief financial officer must attend annually an orientation session conducted by the State Auditor (§30-1-2a);
- The Board has adopted an official seal (§30-1-4);
- The Board meets at least once annually (§30-1-5(a));
- The Board's complaints are investigated and resolved with due process (§30-1-5(b)); (§30-1-8);
- Rules have been promulgated specifying the investigation and resolution procedure of all complaints (§30-1-8(h));
- The Board must be financially self-sufficient in carrying out its responsibilities (§30-1-6(c));
- The Board has established continuing education requirements (§30-1-7a);
- The Board has compiled with public access requirements as specified by (§30-1-12(c)):
- A roster has been prepared and maintained of all licensees that includes names, and office address (§30-1-13).

Although the Board has maintained positive cash balances over the 2006-2012 period, it has been at precariously low levels.

The Board Is Improving Its Financial Condition

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). Table 4 shows the Medical Imaging Board's end-of-year cash balances from FY 2006 through FY 2012. The Legislative Auditor's evaluation of a board's finances includes determining whether the board has positive cash reserves and if cash reserves are at an appropriate level. Although the Board has maintained positive cash balances over the 2006-2012 period, it has been at precariously low levels. The Legislative Auditor considers a prudent cash reserve to be equivalent to at least one year of expenditures. The Board had cash reserves of only

13 percent of annual expenditures in FY 2006. However, in FY 2006 the Board had a $15 renewal fee increase, and the number of licensees increased due in part from new professionals who were required to be licensed by the Board through the State's sunrise process. Since these changes in FY 2006, the Board's cash reserves have gradually increased to more prudent levels.

Table 4
Medical Imaging Board
Revenues and Expenditures FY 2006 – FY 2012

Year	Beginning of Year Cash Balance	Total Revenue	Total Expenditures	End-of-Year Cash Balance
2006	$24,011	$141,545	$145,958	$19,598
2007	$19,598	$188,357	$156,836	$51,120
2008	$51,120	$191,390	$169,455	$73,054
2009	$73,054	$196,187	$171,607	$97,634
2010	$97,634	$202,192	$183,698	$116,128
2011	$116,128	$206,792	$168,262	$154,658
2012	$154,658	$220,180	$202,479	$172,359

Source: West Virginia Digest of Revenue Sources (2006-2012), Budget Division of Legislative Auditor's Office.

The Board Has Set Dues and Fees in Legislative Rules

The Board is funded by dues, licenses and fees. In accordance with §30-1-6 the Board has the power to establish licensure and renewal fees by legislative rule. Table 5 shows that West Virginia is about in the middle when compared to how much the surrounding states charge licensees. It should be noted that Pennsylvania only registers medical imaging professionals and does not require a license or renewal fees.

Table 5 Radiologic Technologist Fees			
State	**License Fee**	**Renewal Fee**	**Date**
Kentucky	$60.00	$35.00	Biannual
Maryland	$150.00	$135.00	Biannual
Ohio	$65.00	$45.00	Biannual
Pennsylvania	N/A	N/A	Pennsylvania does not license Radiologic Technicians
Virginia	$130.00	$135.00	Biannual
West Virginia	$100.00	$65.00	Annual

Source: State Health Departments of Kentucky, Maryland, Ohio, Virginia, and Pennsylvania and the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Unaudited).

The Board Should Enroll in the State Treasurer's Lockbox System to Enhance Internal Control

The Board's internal control for financial management is deficient because it lacks proper segregation of duties. The Board has only two employees who handle all financial matters. The employee receives all revenue, deposits checks, reconciles the bank statements, orders merchandise, pays for and receives the merchandise. The Legislative Auditor acknowledges that it is virtually impossible for a small regulatory board with few employees to have adequate internal controls. However, the Board can enhance its internal control by utilizing the State Treasurer's lockbox system. This system would require that the Board's licensees mail fees directly to a post office box accessible only by the State Treasurer. This would preclude the Board's employee from handling all revenues. Furthermore, the lockbox system would ensure timely deposit of the Board's revenue. The Board is required to deposit revenue within 24 hours of receipt, according to W. Va. Code §12-2-2(a). However, according to FIMS documents the Board only deposits revenue once a week. The Legislative Auditor recommends that the Board enroll in the State's lockbox system. The State Treasurer offers the lockbox service to state agencies for a nominal cost.

The Board's internal control for financial management is deficient because it lacks proper segregation of duties.

The Board Is Accessible to the Public

The Medical Imaging Board has an office accessible to the public located in Cool Ridge, West Virginia approximately 10 miles southeast of Beckley, West Virginia. The Board has complied with West Virginia Code §30-1-12(c) which states, in part, that in order to promote public accessibility every board shall "ensure that the address and telephone number of the board are included every year in the state governments listing of the Charleston area telephone directory." The Board has listings in additional telephone directories, toll-free telephone numbers, and a website.

The Board Investigates and Resolves Complaints in a Timely Manner and With Due Process

The Medical Imaging Board adheres to a complaint process specified both by legislative and procedural rule. Complaints can be received from individual, doctors, hospitals, or other licensees. When complaints are received, the complainant receives acknowledgement of its receipt. If the matter is to be reviewed by the Board, a copy of the complaint and any supporting documentation is sent to the licensee whom the complaint is against. The licensee has 30 days to respond to all issues of the complaint as well as provide relevant documentation. This response is then forwarded to the complainant.

Complaints that are presented to the Board where the action of suspending or revoking a license is rare.

Complaints that are presented to the Board where the action of suspending or revoking a license is rare. When the Board does act on a complaint, the board adheres to §30-1-5-C when concerning time frames of complaints and complaint procedure. However, on occasion some complaints will take more than the allotted in code because of litigation or failure by the licensee to comply with the consent agreement. Table 6 illustrates the complaint timeline.

Table 6 Medical Imaging Board Complaints (2010-2012)				
Year	**Total Number of Complaints**	**Disciplinary Actions**	**Complaints Dismissed**	**Average Resolution Time**
2010	6	3	3	4.3 months
2011	5	1	4	6.4 months
2012	9	7	2	N/A
Total	20	11	9	5.4 months
Source: West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.				

The nature of the complaints received by the Board are primarily 1) working without a license, 2) performing procedures on an expired license, and 3) non-radiologic related substance abuse issues (stealing medication, failing drug tests and driving under the influence). Around half of the complaints end with a consent agreement signed by the licensee.

The nature of the complaints received by the Board are primarily 1) working without a license, 2) performing procedures on an expired license, and 3) non-radiologic related substance abuse issues (stealing medication, failing drug tests and driving under the influence).

Continuing Education Requirements Have Been Established

The Medical Imaging Board has established continuing education requirements for radiologic technologists, radiation therapists, nuclear medicine technologists, and magnetic resonance imaging technologists in legislative rules CSR §18-2-3. The rules require licensees to comply with the continuing education requirements of the ARRT, the NMTCB, or the ASPMA, depending on the profession. The administrative secretary of the Board stated that continuing education is confirmed for all licensees primarily by checking the website of the respective organization.

Conclusion

The Medical Imaging Board is in compliance with most of the general provisions of Chapter 30. The Board is accessible to the public, and complaints are resolved with due process and with an average resolution time of less than nine months. For continuing education, the

Board requires that licensees are in compliance with the respective national regulatory organization. The Board is improving its financial condition by increasing its cash reserves to more prudent levels. The Legislative Auditor recognizes that small regulatory boards will invariably have deficient financial internal control because of the small number of staff. In order to address this deficiency, the Legislative Auditor recommends that small boards improve their internal controls by enrolling in the Office of the State Treasurer's lockbox system.

Recommendations

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendations should be considered:

3. *The Legislative Auditor recommends that the Medical Imaging Board enroll in the Office of the State Treasurer's lockbox system.*

4. *The Medical Imaging Board should continue to improve its financial condition by having at least one year of expenditures in cash reserves.*

Issue 3

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Decision to Maintain Two Staffed Offices That Are a Considerable Distance From Each Other Has Resulted in Inefficiencies and Higher Costs Than If It Had One Office in the Vicinity of Charleston.

Issue Summary

The Medical Imaging Board operates out of two offices: one in Cool Ridge, West Virginia, which is approximately 76 miles south of Charleston, and the other is in the Chapmanville home of the executive director, which is 45 miles from Charleston. The Board has indicated that it would prefer to have one office located in Charleston, but the rent would be higher than the $350 per month it pays in Cool Ridge. Consequently, since the Board would like to have the executive director close to Charleston but does not have an office in Charleston, it has allowed the current and previous executive directors to work out of their homes. **The Legislative Auditor finds that the Board's decision to maintain two staffed offices has resulted in costs that would be unnecessary and higher than if it operated one office in or near Charleston.** The unnecessary expenditures include the monthly cost of $415 on average to lease a state vehicle, over $1,500 in fuel and maintenance expenses for the vehicle, $90 per month for the home-office internet service, and a monthly average cost of $142 for a cell phone to be used by the executive director. In addition, it is inefficient for the executive director to spend much of her work hours in transit, and the Board grants the director comp time when her travel time occurs beyond normal work hours. The Legislative Auditor recommends that if the Medical Imaging Board is continued, it should establish one office located in the vicinity of Charleston. The lease of a state vehicle would be unnecessary and should be discontinued, along with the cell phone and the home-office internet service.

The Medical Imaging Board operates out of two offices: one in Cool Ridge, West Virginia, which is approximately 76 miles south of Charleston, and the other is in the Chapmanville home of the executive director, which is 45 miles from Charleston.

The Medical Imaging Board Should Take Steps to Eliminate the Use of a State Vehicle

Since 2006 the Medical Imaging Board has leased a state vehicle from the Department of Administration's Fleet Management Division. Table 7 shows all costs incurred by the Board to lease a state vehicle. The Board is not only responsible for the monthly lease amount for the vehicle

but also for fuel and maintenance expenses. The first vehicle leased was a 2002 Dodge Stratus, and the current vehicle is a 2012 Jeep Patriot, which was leased beginning in September 2012. The lease amount for the 2012 Jeep Patriot has had an average monthly cost of $415.

Table 7
Leased Vehicle Costs (2006 – 2013)*

	Lease Amount	Fuel Expenses**	Maintenance Expenses	Total Cost
2002 Dodge Stratus	$7,610	$6,574	$9,640	$23,824
2012 Jeep Patriot	$3,744	$1,516	$71	$5,331
Totals	$11,354	$8,090	$9,711	**$29,155**

Source: Fleet Management Leased Vehicle Reports, Department of Administration.
**Through June 2013.*
(Fuel expenses based on gross purchase)
***(Fuel expenses include state taxes; however, state taxes are later deducted from the gross purchase price since a state agency is exempt from state taxes.)*

Leasing a state vehicle is not common practice for licensing boards. Generally, board representatives are reimbursed for travel expenses incurred in using their personal vehicles. According to the Director of Fleet Management, the only other licensing board that leases a vehicle is the West Virginia Board of Medicine. The current executive director, who was employed in April 2012, is leasing the 2012 Jeep Patriot, the previous executive director leased the 2002 Dodge Stratus. The former executive director drove the 2002 Dodge Stratus from January 2006 through April 2012 when he retired. He received the vehicle in 2006 with 48,062 miles, and it had accumulated 105,035 miles until his retirement in 2012. This amounts to 56,973 miles driven over the six-year period, or 9,000 miles annually on average. According to board minutes, on March 31, 2011 the former executive director was granted permission by the Board to lease a vehicle from Fleet Management for up to $400 per month. The current executive director has driven the 2012 Jeep Patriot almost 10,000 miles from September 2012, when the lease on the vehicle started, through June 2013.

According to the Director of Fleet Management, the only other licensing board that leases a vehicle is the West Virginia Board of Medicine.

In order to understand what type of travel the vehicles were being used for, the Legislative Auditor requested the travel log for each executive director. The previous director indicated that he did not keep

a log of his travel. For proper internal control, the Board should require documentation, such as a travel log, on the use of the vehicle to prevent the personal use of it. However, the current director has maintained a travel log since she was hired in April 2012. Table 8 shows the frequency and use of the vehicles by the current director from April 2012 to June 2013. She logged 158 trips and her travel can be segmented into 5 major categories: 1) inspections, 2) trips to the Cool Ridge office, 3) travel to the post office, 4) Board Meetings, and 5) other travel such as attending board meetings or training.

Table 8
Travel Purpose of the Board's State Vehicle
April 2012 - June 2013

Travel Purpose	Number of Trips	Percent of Trips
Inspections	35	21%
Cool Ridge Office	47	28%
Mail	31	18%
Board Meetings	11	6%
Other Travel (Trainings and Other)	46	27%
Total	**170**	**100%**

Source: WV Medical Imaging Board Travel Log for the current executive director.

The Legislative Auditor determined the mileage by using travel logs provided by the Board along with collaborating evidence from Fleet Management records. Table 9 below shows the total mileage for the 170 trips. The Legislative Auditor determined that the calculated mileage of all the trips equals the accumulated mileage recorded by Fleet Management on the two vehicles since the current executive director has been employed by the Board. The current director has logged over 16,000 miles on state vehicles from April 2012 through June 2013. There is no evidence that the leased vehicle has been used significantly for personal use by the current director. However, the Legislative Auditor cannot assess the previous executive director's use of the state vehicle because he indicated that he did not keep a travel log. If the state vehicle was used for non-business purposes then there would be personal income tax issues involved.

The Legislative Auditor determined the mileage by using travel logs provided by the Board along with collaborating evidence from Fleet Management records.

Table 9 Travel Log for the Current Executive Director Mileage for 2002 Dodge Stratus and 2012 Jeep Patriot				
Travel Purposes	**2002 Dodge Stratus Miles Traveled**	**2012 Jeep Patriot Miles Traveled**	**Total Miles**	**Total Percent**
Inspections	2,765	2,292	5,057	31%
Cool Ridge Office	1,597	3,170	4,767	29%
Mail	30	135	165	1%
Board Meetings	325	349	674	4%
Trainings and Miscellaneous	1,645	4,193	5,838	35%
Total	**6,276**	**10,139**	**16,415**	**100%**
Source: WV Medical Imaging Board Travel Log for the current executive director.				

The Legislative Auditor concludes that the use of a leased state vehicle is primarily caused by the Board's decision to maintain two offices that are at a considerable distance from each other and from the city of Charleston. Cool Ridge is approximately 76 miles south of Charleston and about 104 miles from Chapmanville. Charleston and Chapmanville are about 45 miles apart (see Appendix D). In addition, the two-office arrangement creates the inefficiency of having the executive director spending many work hours traveling long distances between offices and to Charleston. Furthermore, the executive director has accumulated over 100 hours of compensation time for when her travel occurs after business hours. The Legislative Auditor's concerns for justifying the need to lease a state vehicle are as follows:

The two-office arrangement creates the inefficiency of having the executive director spending many work hours traveling long distances between offices and to Charleston. Furthermore, the executive director has accumulated over 100 hours of compensation time for when her travel occurs after business hours.

Travel for Inspections: Nearly a third of travel miles are for conducting inspections. The Board travels to schools when they are being reviewed by national accreditation authorities, and to hospital facilities to determine if licensees have their licenses publicly displayed as required by law (W. Va.. §30-23-23). A legal opinion indicates that although the law and the Board's legislative rules do not explicitly require the Board to check hospitals for public display of licenses displays or attend the accreditation reviews of schools, these inspections do not appear to be out of the scope of the Board's statutory powers. However, the concerns are that the Board's attendance at schools while an accreditation organization evaluates it has little value. The Board has no influence in the accreditation process. Furthermore, inspecting hospitals for public

displays of licenses is a costly procedure compared to the benefits of the inspections. The Board's renewal process can reveal when a licensee has not renewed a license and where the person works. The Board can contact a facility to find if a licensee who has not renewed his or her license is working with an expired license.

Travel to the Cool Ridge Office: Nearly a third of travel miles are to the Cool Ridge office. There would be no need for these trips if the Board had only one office located in or near Charleston.

Nearly a third of travel miles are to the Cool Ridge office. There would be no need for these trips if the Board had only one office located in or near Charleston.

Mail: Trips to the post office are incidental travel that the executive director could be reimbursed for using her personal vehicle if the state vehicle lease is discontinued.

Travel to Board Meetings: The Board's meetings are usually near Charleston. The Board is incurring higher costs by the executive director traveling to meetings from Chapmanville than if the Board had an office in Charleston. If the Board had an office in Charleston, it could reimburse the executive director for the use of her personal vehicle to attend meetings from the Charleston office instead of from Chapmanville.

Attend Training and Miscellaneous Travel: If the Board had an office in Charleston, it could reimburse the executive director for the use of her personal vehicle to attend training and miscellaneous travel from the Charleston office.

Over the last 9 months, the Board has incurred an average of $590 per month in expenses associated with leasing the vehicle, most of which would be unnecessary if an office was maintained in the Charleston area.

Having one office located in the vicinity of Charleston, and significantly reducing inspection travel would eliminate the need for leasing a state vehicle. Over the last 9 months, the Board has incurred an average of $590 per month in expenses associated with leasing the vehicle, most of which would be unnecessary if an office was maintained in the Charleston area.

One Centralized Office Would Eliminate Expenses Associated With Maintaining a Home Office for the Executive Director

The main office of the Medical Imaging Board is located in Cool Ridge, West Virginia. The Board has two full-time employees, an administrative secretary and an executive director. The administrative secretary works out of the Cool Ridge office, which is accessible to the

public. The Board allows the executive director to work from her home in Chapmanville. The previous executive director worked out of his home in St. Albans. The Board provides a cell phone for the executive director at an average monthly cost of $142, and the Board also pays for the home-office internet service at $90 per month. According to the current executive director, the Board has always maintained a separate office for the executive director from the Cool Ridge location. She justified this decision by stating the following:

> *The Board believes it is important for the Executive Director to be in close proximity to Charleston, and both Mr. Bowyer's and Ms. Godby's residence location fit within the guidelines established by the Board. Moreover, maintaining a separate office from Cool Ridge, WV has proven to be beneficial to our licensees during unusual weather conditions such as power outages that have halted operations in Cool Ridge. When this situation has arisen the Executive Director's separate office has continued to have power and internet connectivity that has permitted the Board to address issues and respond to licensees without interruption.*
>
> *Further, the Executive Director travels quite extensively on behalf of the Board, and the separate office location at the Executive Director's residence allows for the performance of job duties more efficiently.*

The Legislative Auditor finds that the above-stated argument is inconsistent in one sense because Chapmanville, being 45 miles from Charleston, is arguably not in close proximity to Charleston.

The Legislative Auditor finds that the above-stated argument is inconsistent in one sense because Chapmanville, being 45 miles from Charleston, is arguably not in close proximity to Charleston. Moreover, if the Board established one office in the vicinity of Charleston, the expense for the home-office internet service and the cell phone would be eliminated. The Legislative Auditor assumes that the cell phone was provided because the executive director would frequently be traveling between Chapmanville, Charleston, and Cool Ridge. Under those circumstances the Board would have to contact the executive director on his or her personal phone, which could lead to personal expenses to the executive director. Having one office from which the executive director would work would preclude the need for the cell phone expenses.

Conclusion

Although the Board would like to have the executive director in close proximity to Charleston, it stated that it maintains the main office in Cool Ridge because office rent would be more expensive in Charleston. However, in keeping its main office in Cool Ridge and having the home office in Chapmanville, the Board is incurring considerable expenses that would not be incurred if the Board established its only office close to Charleston. These expenses include $415 for the monthly lease of a state vehicle, $90 per month for the home-office internet service, $142 per month for a cell phone, $168 in monthly fuel expenses for travel, and maintenance expenses that will increase as the current vehicle ages. At a minimum, the Board is paying $755 per month in expenses that would not be necessary if it had its office near Charleston. However, in addition to these costs, the Board occasionally pays for lodging and meals when the executive director stays in Cool Ridge for more than one day, and when the executive director's travel occurs during non-business hours, the Board grants her comp-time. Over 100 hours of comp-time has been approved by the Board since the current executive director started in April 2012. Furthermore, it is not an efficient use of the executive director's time when she is forced to spend many work hours traveling.

However, in keeping its main office in Cool Ridge and having the home office in Chapmanville, the Board is incurring considerable expenses that would not be incurred if the Board established its only office close to Charleston.

The Medical Imaging Board currently pays $350 monthly rent for the Cool Ridge office. Add to this amount the minimum monthly cost of $755 associated with the current two-office arrangement, the Board has the capability of affording monthly office rent of at least $1,100 for an office near Charleston, which would provide for a more efficient operation. Information from the Finance Division of the Department of Administration shows that several regulatory boards have secured office space in or near Charleston for under $1,000 monthly. These boards are listed below in Table 10.

The Board has the capability of affording monthly office rent of at least $1,100 for an office near Charleston, which would provide for a more efficient operation.

Table 10 Monthly Office Rent Under $1,000 for Regulatory Boards Near Charleston		
Regulatory Board	Location	Monthly Rent
Funeral Services Examiners	Summers St., Charleston	$912
Social Workers Examiners	Capitol Complex, Charleston	$712
Board of Chiropractors	D Street, South Charleston	$300
Board of Optometry	Summers St., Charleston	$650
Board of Psychology	Quarrier St., Charleston	$414
Board of Physical Therapy	Dee Drive, Charleston	$883
Board of Veterinary Medicine	Big Tyler Road, Cross Lanes	$563
Board of Dietitians	Kanawha Blvd, Charleston	$131
Boards of Acupuncture, and Massage Therapy	Summers St., Charleston	$626
Board of Hearing Aid Dealers	Summers St., Charleston	$244
Source: Finance Division, Department of Administration.		

In addition, if the Board is continued and it desires inspections of publicly displayed licenses, consideration should be given to seeking the cooperation of the Department of Health and Human Resources (DHHR). The DHHR regularly inspects medical imaging equipment at the same facilities that are inspected by the Board. If the DHHR incorporated in its inspection process the review of license displays, this would save the Board the cost of making the inspection.

If the DHHR incorporated in its inspection process the review of license displays, this would save the Board the cost of making the inspection.

The Legislative Auditor concludes that it is unreasonable to believe that the Board cannot find adequate office space within Kanawha County under the monthly amount of $1,000. Therefore, it is the Legislative Auditor's opinion that if the Medical Imaging Board is continued, it should make the search for adequate office space in the proximity of Charleston a priority, and subsequently eliminate the offices in Cool Ridge and Chapmanville. In addition, the Board should discontinue the cell phone service provided to the executive director, the home-office internet service, and the lease of the state vehicle once suitable office space is found near Charleston.

Recommendations

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendations should be considered:

5. *The Legislative Auditor recommends that the Medical Imaging Board give greater priority to search for affordable office space in or near the city of Charleston.*

6. *Once office space has been found close to Charleston, the Medical Imaging Board should discontinue the practice of allowing a home office for its executive director, discontinue the home-office internet service, the cell phone service, and the lease of the state vehicle.*

7. *The Board should also inquire into the possibility of the Department of Health and Human Resources including in its imaging equipment inspection process the review of publicly displayed licenses and providing its findings to the Board.*

Issue 4

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners' Website Needs Improvement.

Issue Summary

It has become common and expected that government convey information to the public through websites. A number of organizations have developed assessment criteria to evaluate federal and state government websites for transparency and user-friendliness. The Legislative Auditor conducted a literature review on assessments of government websites and developed an assessment tool to evaluate West Virginia's state agency websites (see Appendix E).

Improvements can be made such as adding a Site Map to allow the user to view all pages on the website if needed, and publishing the most recent budget information.

The Board's Website Scores Relatively Low in User-Friendliness and Transparency

The assessment tool lists a large number of website elements; however, some elements should be included in every state website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for certain agencies. Table 11 indicates that the Medical Imaging Board integrates 36 percent of the checklist items within its website. Improvements can be made in the areas of user-friendliness and transparency.

Table 11
Medical Imaging Board
Website Evaluation

Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
	Board 38%		

Source: The Legislative Auditor's review of the Board's website.

The Board's Website Has Both User-Friendly and Transparency Components, But Improvements Can Be Made

In order for citizens to actively engage with a board online, they must first be able to access and comprehend information on the website. Therefore, the website should be designed with the public in mind. A user-friendly website is readable, efficient and allows for the public to easily navigate from page to page. The Board's website should also be transparent and provide the public with confidence and trust in the Board. Transparency promotes accountability and provides information for citizens about the Board's activities.

The Board's website is easy to navigate as every page is linked to its homepage; however, the page lacks a search tool that acts as an index of the entire website.

The Legislative Auditor reviewed the Board's website for both user-friendliness and transparency. Table 12 shows the website's score as being 18 out of a possible 50 points. Thus, more improvements are needed to address areas that are lacking.

Table 12
Medical Imaging Board
Website Evaluation Score

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	7	39%
Transparent	32	12	35%
Total	**50**	**19**	**38%**

Source: The Legislative Auditor's calculations based on a criteria checklist of common website features.

Changes to the Board's Website Are Needed to Improve User-friendliness

The Board's website is easy to navigate as every page is linked to its homepage; however, the page lacks a search tool that acts as an index of the entire website. According to Flesch-Kincaid test the website is written at a college level, making it difficult for most citizens to comprehend. A majority of the information on the site is related to state statutes, information from the American Registry of Radiologic Technologists, medical terminology, and has no visual aids.

User-Friendly Considerations

The following are a few attributes that could lead to a more user-friendly website:

- **Readability-** When posting information about the Board, ensure that it can be understood by the general public.
- **Foreign Language Accessibility** - A link to translate all web pages into one or more languages other than English.
- **Site Functionality** - The website should use sans serif fonts, the website should include buttons to adjust the font size, and resizing of text should not distort site graphics.
- **Feedback Options** - A page where users can voluntarily submit feedback about the website or particular section of the website.
- **Search Tool and Help Link**- These provide page uses with easy access to wanted information.

Changes to the Board's Website Are Needed to Improve Transparency

A website that is transparent will have elements such as email contact information, the location of the agency, the agency's phone number, as well as public records, the budget and performance measures. The Board's website has only 34 percent of the common website transparency.

Transparency Considerations

The following are a few attributes that could be beneficial to the BRT in increasing its transparency:

- **Board Budget-** A link to the annual budget.
- **Performance Measures**- A link from the homepage explaining the agency's performance measures.
- **Agency History-** The agency's website should include a page explaining how the agency was created, what the Board does, and how its mission changed over time.
- **Mapped Location of Board Office**- The Board's contact page should include an embedded map that shows the Board's location.
- **Administrator(s) Biography**- A biography explaining the administrator(s) professional qualifications and experience.

- **Calendar of Events-** Provide the public and licensees with pertinent information about when and where board events are taking place.
- **Website Updates-** To inform the public and licensees when information is added or deleted from the website.

Conclusion

The Legislative Auditor finds that improvements are needed in the areas of user-friendliness and transparency to the Board's website. The website could benefit from incorporating several common website features.

Positive features of the board's website allow users to review state statute, review board minutes, obtain information from the American Registry of Radiologic Technologists, and submit license renewal forms. Currently the Board's performance measures and budget information are not listed within the website. Providing users with this information would enhance transparency. It is the Legislative Auditor's opinion that to continue to strive for open government and transparency, the board should consider implementing a link to the board budget, performance measures, board history, mapped location to the office, administrator biographies, calendar of events, mission statement and website updates.

The Legislative Auditor finds that improvements are needed in the areas of user-friendliness and transparency to the Board's website.

Recommendation

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendation should be considered:

8. *The Legislative Auditor recommends that the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners should consider enhancing the user-friendliness and transparency of its website by incorporating more of the website elements identified.*

Appendix A
Transmittal Letter

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
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(304) 347-4939 FAX

John Sylvia
Director

August 6, 2013

Nancy Godby
Medical Imaging and Radiation Therapy Technology
Board of Examiners
1715 Flat Top Road
Post Office Box 638
Cool Ridge, WV 25825-0638

Dear Executive Director Godby:

This is to transmit the revised draft copy of the Regulatory Board Review of the Medical Imaging Board. This report is scheduled to be presented during the September 23-25 interim meetings of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

We need your written response by noon on August 30th in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, September 19th to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

John Sylvia

John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B
Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the West Virginia Medical Imaging and Radiation Therapy Board of Examiners as required and authorized by the West Virginia Performance Review Act, §4-10-10(b)5, of the West Virginia Code, as amended. The purpose of the Board, as established in West Virginia Code §30-23, is to protect the public interest through its license process and to be the regulatory and disciplinary body for individuals practicing in the Medical Imaging field throughout the state.

Objective

The purpose of this review is to determine if the Board should be continued, consolidated or terminated, and if conditions warrant a change in the degree of regulation. In addition, this review is intended to assess the Board's compliance with the general provisions of Chapter 30, Article 1 of the *West Virginia Code*, the Board's enabling statute, and other applicable rules and laws such as the Open Governmental Proceedings Act (WVC §6-9A). This review also evaluated the efficiency of the Board's operation. Finally, it was the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The evaluation included a review of the Board's internal controls, policy and procedures, meeting minutes, complaint files from 2009-2012, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures for the period from FY 2006 through 2012, continuing education requirements and verification, the Board's compliance with the general statutory provisions for regulatory boards and other applicable laws, and key features of the Board's website. Additionally, PERD evaluated several national organizations to determine if services are being duplicated by the state board. Lastly, a review of surrounding states laws was conducted to determine how other states regulate the medical imaging profession.

Methodology

PERD staff gathered the information used in this report by reading and reviewing annual reports, pertinent state code and applicable laws, electronic communication with the board staff, information from the Legislative Auditor's Budget Division, West Virginia Digest of Revenue Sources, Fleet Management, national medical imaging organizations, and reviewing surrounding states' code.

PERD collected and analyzed the Board's complaint files, meeting minutes, annual reports, budget information, licensee roster, procedures for investigating and resolving complaints, procedures regarding background checks and continuing education. This information was assessed against statutory requirements in §30-1 and §6-9A of the West Virginia Code as well as the Board's enabling statute §30-23 to determine the Board's compliance with such laws.

The Legislative Auditor tested the Board's expenditures for fiscal years 2006 through 2012 to assess the risk of fraud. The test involved determining if verifiable expenditures were at least 90 percent of total expenditures. Verifiable expenditures include: salaries and benefits, per diem payments, travel reimbursement, board-member compensation, insurance, office rent and utilities, printing and binding costs, rental fees, telecommunication costs, and contractual agreements. The Legislative Auditor determined that during the scope of the review, verifiable expenses were between 88 and 93 percent of total expenditures. These percentages gave reasonable assurance that the risk of fraud was at a satisfactory level with regards to expenditures. On the revenue side we tested how many licensees were stated by the Board, then calculated that number versus fees to reach revenue. Lastly, we took the revenue stated by the Board and compared it to the amount published by the West Virginia State Auditor's Office.

This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit is planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The Legislative Auditor believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C
West Virginia Medical Imaging Board Complaint Investigations and Resolutions Fiscal Years 2010-2012

FY 2009

CASE # 01-2009: LICENSEE TERMINATED FOR INJECTION OF MEDICATION WITHOUT A PHYSICIAN'S INVOLVEMENT

A. Complaint received that licensee was terminated for injection of medication without a physician's involvement
B. Certified Notice of Complaint sent to licensee
C. Response received from licensee stating patient had a reaction to contrast, doctor paged but injection of medication was given prior to doctor answering page, thus without a physician's order
D. Ethics Committee met with licensee and attorney to discuss issues
E. Consent agreement sent to licensee but was rejected
F. Status report sent certified to individual signing complaint letter
G. Hearing held before Hearing Examiner
H. Hearing Examiners report received and was decided in Board's favor
I. Final Order issued certified to licensee's attorney with a copy to the WV Secretary of State's office
J. Notice of resolution sent certified to individual signing complaint
K. Appealed to Monongalia Circuit Court
L. Monongalia Circuit Court overturned Board's ruling
M. Board has appealed Circuit Court ruling to WV Supreme Court
N. Pending before WV Supreme Court

CASE # 02-2009: CONVICTION OF A FELONY FOR ATTEMPTING TO OBTAIN DRUGS WITH A FORGED PRESCRIPTION

A. Licensee notified Board that a conviction of a felony as the result of a two (2) year old charge had been entered
B. Ethics Committee met with licensee to discuss issues concerning this matter
C. Board offered a Consent Agreement to licensee
D. Licensee accepted Consent Agreement
E. Final Order sent to the WV Secretary of State's office

CASE # 03-2009: LICENSEE TERMINATED FOR FAILURE OF DRUG TEST GIVEN FOR CAUSE

A. Notification received that licensee was terminated for failure of a drug test given for cause
B. Notification of Complaint sent certified to licensee
C. Licensee signed for Notice of Complaint letter
D. No response received from licensee to the Notice of Complaint letter
E. Ethics Committee recommend setting the case for hearing and was approved by the Board
F. Hearing held & recommendation from hearing examiner was to proceed as deemed necessary
G. Board approved license revocation
H. Licensee & Secretary of State so notified

Fiscal Year 2010

CASE # 01-FY 2010: FAILURE OF PRE-EMPLOYMENT DRUG SCREEN
A. Notification received that licensee had failed a pre-employment drug screen
B. Notification of Complaint sent certified to licensee
C. Licensee signed for Notice of Complaint letter
D. Subpoena Duces Tecum sent to employer
E. Response to complaint received from licensee
F. Licensee met with Board's Ethics Committee
G. Licensee accepted Consent Agreement
H. Consent Agreement entered into record of the Board & Secretary of State's office notified.

CASE # 02-FY 2010: SELF REPORT OF MEDICATION ABUSE
A. Licensee notified Board of abuse of prescription medications
B. Subpoena Duces Tecum sent to employer & response received
C. Licensee met with Board's Ethics Committee
D. Licensee accepted Consent Agreement
E. Consent Agreement entered into record of the Board & Secretary of State's office notified
F. Licensee failed required drug screen as part of Consent Agreement
G. Revised Consent Agreement negotiated with license suspension
H. Licensee again failed required drug screen
I. Board approved setting matter for a hearing
J. Hearing held
K. License suspended for five (5) years & payment of Administrative fees.
L. Final Order entered into record of the Board & Secretary of State's office notified.

CASE # 03-FY 2010: BREECH OF PATIENT CONFIDENTIALITY AND DELEGATING TECHNOLOGIST DUTIES TO UNLICENSED INDIVIDUAL
A. Notification received that licensee had been terminated for breech of patient confidentiality and delegating technologist duties to an unlicensed individual
B. Notification of Complaint sent certified to licensee
C. Licensee signed for Notice of Complaint letter
D. Subpoena Duces Tecum sent to employer and information received
E. Response received from licensee denying allegations
F. Licensee met with Board's Ethics Committee
G. Documentation and pictures from employer presented to licensee at Ethics Committee meeting
H. Consent Agreement presented to licensee and accepted
I. Entered into record of the Board & Secretary of State notified

CASE # 04-FY 2010: PATIENT CARE ISSUE
A. Notification received that patient's arm had been broken and licensee was accused of causing the fracture
B. Licensee notified of complaint
C. Licensee denied causing injury to patient and stated there were other individuals

involved with patient's care.
D. Case dismissed as unsustained

CASE#05-FY2010:ALLOWING UNLICENSED INDIVIDUAL TO OPERATE RADIATION PRODUCING EQUIPMENT

A. Notification received that doctor was allowing unlicensed individuals to operate a radiation producing machine
B. Complaint notification letter sent to doctor with copy to the Board of Medicine
C. Response received that only doctor or licensed individual would operate the radiation producing equipment in the future
D. Case dismissed since jurisdiction over doctor belongs to the Board of Medicine

CASE#06-FY2010:ALLOWING UNLICENSED INDIVIDUAL TO OPERATE RADIATION PRODUCING EQUIPMENT

A. Notification received that doctor was allowing unlicensed individuals to operate a radiation producing machine
B. Complaint notification letter sent to doctor with copy to the Board of Medicine
C. Response received that only doctor would operate the radiation producing equipment in the future
D. Case dismissed since jurisdiction over doctor belongs to the Board of Medicine

Fiscal Year 2011

CASE# 01-FY-2011: ALLOWING UNLICENSED INDIVIDUAL TO OPERATE RADIATION PRODUCING EQUIPMENT, (Complaint)
A. Notification received that doctor was allowing unlicensed individuals to operate a radiation producing machine;
B. Complaint notification letter sent to doctor with copy to the Board of Medicine;
C. Response received that only doctor would operate the radiation producing equipment in the future;
D. Case dismissed since jurisdiction over doctor belongs to the Board of Medicine.

CASE# 02-FY-2011: THEFT OF PATIENT'S MEDICATION, (Complaint)
A. Notification received that licensee dismissed for gross misconduct - theft of patient's medication;
B. Licensee notified of complaint;
C. No response from licensee;
D. Consent Agreement offered to licensee;
E. No response from licensee;
F. Matter set for hearing;
G. Licensee failed to appear at the hearing as scheduled;
H. License revoked.

CASE# 03-FY-2011: UNETHICAL, VIOLATION OF HIPAA & GIVING MEDICAL DIAGNOSIS OUTSIDE OF SCOPE OF PRACTICE, (Complaint)
A. Notification received that licensee violated HIPAA by discussing the patient's condition in a public area;
B. Licensee notified of complaint;
C. Response received from licensee;
D. Hospital Department manager notified Board that this matter was discussed with licensee and hospital policy changed as a result of the complaint;
E. Licensee met with Board's Ethics Committee to explain her reasoning and discussion with patient;
F. Complaint dismissed without penalty after meeting with licensee as lack of probable cause.

CASE# 04-FY-2011: QUESTIONING PATIENT OF MEDICAL CONDITION & DISCUSSING WITH COMPLAINANT'S PHYSICIAN, (Complaint)
A. Notification received that licensee discussed patient's medical condition with patient and also discussed with the patient's physician;
B. Licensee notified of complaint;
C. Response received from licensee;
D. Licensee met with Board's Informal Ethics Committee;
E. After review of information from complainant & licensee, Board voted to dismiss without penalty as probably cause was not determined.

CASE# 05-FY-2011: CHANGING PROTOCOLS RESULTING IN OVER EXPOSURE TO PATIENTS, (Complaint)
A. Notification received that licensee changed protocol for patient exposure, resulting in over-exposure to patients;
B. Licensee notified of complaint;
C. Response received from licensee, licensee's attorney & hospital;
D. Meeting with Ethic Committee scheduled and then re-scheduled due to attorney's schedule;

E. Licensee met with the Board's Informal Ethics Committee;
F. After review of information, the Board voted to dismiss without penalty as probable cause was not determined.

Fiscal Year 2012

CASE# 01-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Verification received that licensee performed Medical Imaging Procedures while WV Medical Imaging License was expired;
B. Licensee notified of violation and invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 02-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Verification received that licensee performed Medical Imaging Procedures while WV Medical Imaging License was expired;
B. Licensee notified of violation and invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 03-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Verification received that licensee performed Medical Imaging Procedures while WV Medical Imaging License was expired;
B. Licensee notified of violation and invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 04-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Verification received that licensee performed Medical Imaging Procedures while WV Medical Imaging License was expired;
B. Licensee notified of violation and invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 05-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Verification received that licensee performed Medical Imaging Procedures while WV Medical Imaging License was expired;

B. Licensee notified of violation and invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

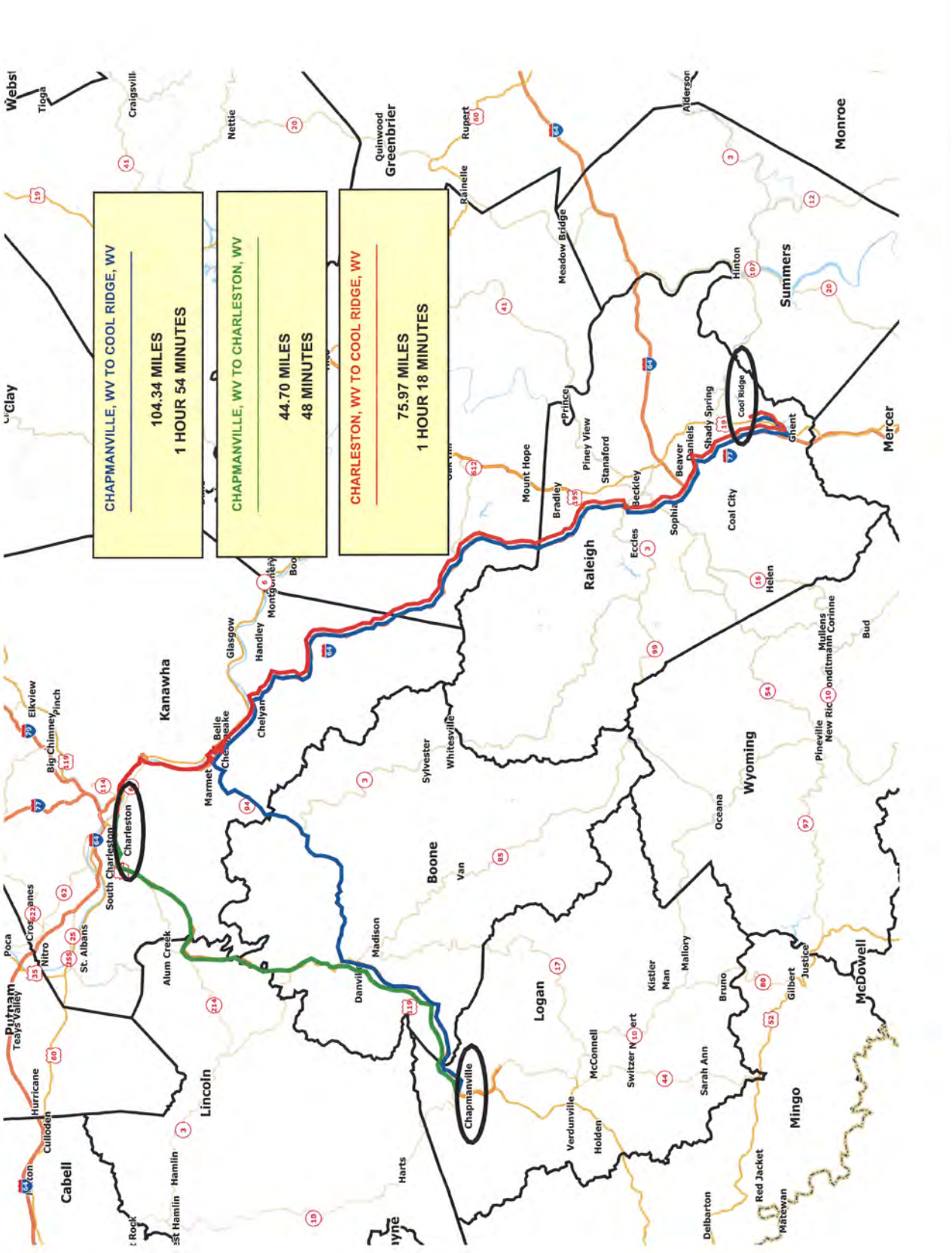
CASE# 06-FY-2012: Performing Imaging Studies without a WV Medical Imaging License, (Practice Violation)
A. Identified violation during site inspection and verified accuracy of findings with Licensee;
B. Licensee invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Informal Ethics Committee;
D. After review of information, the Board voted to dismiss without penalty as probable cause was not determined.

CASE# 07-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Identified violation during site inspection and verified accuracy of findings with Licensee;
B. Licensee invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Informal Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 08-FY-2012: Performing Imaging Studies while WV Medical Imaging License Expired, (Practice Violation)
A. Identified violation during site inspection and verified accuracy of findings with Licensee;
B. Licensee invited to attend an Informal Ethics Committee Meeting;
C. Licensee met with the Board's Informal Ethics Committee;
D. After review of information, the Board voted to offer the Licensee a Consent Agreement and asses $200.00 in fines and fees;
E. The Licensee accepted the Consent Agreement, paid all fines and fees, and the issue was closed.

CASE# 09-FY-2012: ALLOWING UNLICENSED INDIVIDUAL TO OPERATE RADIATION PRODUCING EQUIPMENT, (Complaint)
A. Complaint received that an unlicensed individuals was being allowed to operate a radiation producing machine;
B. Certified complaint notification letter sent to Clinic;
C. Complaint forwarded to the Chiropractic Board of Medicine;
D. Response received from the Clinic denying allegations;
F. Chiropractic Board dismissed complaint due to unwillingness of the complainant to testify;
G. Case dismissed. Jurisdiction over doctor lies with the Chiropractic Board.

Appendix D
Geographical Proximity of Chapmanville, Charleston, and Cool Ridge



Appendix E
Website Criteria Checklist and Point System

West Virginia Board of Radiologic Technologists			
User-Friendly	**Description**	**Total Points Possible**	**Total Agency Points**
Criteria	The ease of navigation from page to page along with the usefulness of the website.	**18**	**7**
		Individual Points Possible	**Individual Agency Points**
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	0 Points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I…", "Questions?" or "Need assistance?")	2 points	0 Points
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 Points
Content Readability	The website should be written on a 6th-7th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	0 Points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1 Point
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	1 Point

West Virginia Board of Radiologic Technologists			
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 Points
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	1 Point
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	1 Point
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0 Points
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 Points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	1 Point
Transparency	**Description**	**Total Points Possible**	**Total Agency Points**
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	**32**	**11**
		Individual Points Possible	**Individual Agency Points**
Email	General website contact.	1 point	1 Point
Physical Address	General address of stage agency.	1 point	1 Point
Phone Number	Correct phone number of state agency.	1 point	1 Point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	1 Point

West Virginia Board of Radiologic Technologists			
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	1 Point
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 Points
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	0 Points
Public Records	The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points: • Statutes • Rules and/or regulations • Contracts • Permits/licensees • Audits • Violations/disciplinary actions • Meeting Minutes • Grants	2 points	2 Points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2 Points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 Points
Mission statement	The agency's mission statement should be located on the homepage.	1 point	0 Points
Calendar of events	Information on events, meetings, etc. (1) ideally embedded using a calendar program (1).	2 points	0 Points
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2 Points
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	0 Points
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	0 Points
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 Points

West Virginia Board of Radiologic Technologists			
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 Points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 Points
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0 Points
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 Points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 Points

Appendix F
Agency Response

WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS
Mailing Address: P.O. Box 638 – Cool Ridge, WV 25825-0638
Physical Address: 1715 Flat Top Road - Cool Ridge, WV 25825-0638
Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030
E-mail: wvrtboe@suddenlinkmail.com Web Page: www.wvrtboard.org

CERTIFIED MAIL: 7012 2920 0001 8773 9840

August 28, 2013

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

Dear Director Sylvia,

This is to transmit the written response and attachments of the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners (Board) to the DRAFT report of the Regulatory Board Review received by the Board via email on August 6, 2013 from Thomas Belli, Research Analyst.

Please contact us at your earliest convenience with the schedule for presentation during the Joint Committee on Government Operations and the Joint Committee on Government Organization.

Also, if at all possible, please send email confirmation to the Board that you have received this information prior to the deadline of noon on August 30, 2013.

On behalf of the Board, thank you for your consideration of the enclosed documents. I trust you will contact the Board if additional information is required.

Respectfully,

Nancy Godby, MS-MHA, MA, RT(R)(M) ARRT, CHC
Executive Director
Nancy.A.Godby@wv.gov
Cell: 304-923-7879

Enclosure
nag/cc: Nancy Oughton, Board Chair; Katherine Campbell; Assistant Attorney General; Office File.

Issue 1: The Legislative Auditor Determines That the *West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners* Does Not Provide Additional Protection to the Public That Justifies Its Existence and Therefore Should Be Terminated.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider terminating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.*

2. *The Legislature should consider simplifying regulations for medical imaging professionals by either placing in statute the requirement that they be certified by the respective national certifying organization or that they be registered with a medical-related state agency in which registration requires proof of being certified by a national certifying organization.*

Response

West Virginia has long been a pioneer in the Medical Imaging Profession, and among the first ten (10) states across the nation to recognize the importance of the public safety issues related to allowing individuals to perform imaging procedures who were not educationally prepared and clinically competent to do so, (*Attachment 1, U.S.States with Licensure/Certification Laws or Regulations and Year of Implementation*). The American Society of Radiologic Technologists (ASRT) has long been an industry leader and trusted resource for education and information in the medical imaging community. According to an article published on the ASRT website:

> *"U.S. Senator Jennings Randolph, D-WV, introduced legislation in 1970 to establish federal minimum standards for the education and licensure of radiologic technologists. Following the issuance of these standards, the states would have two years either to adopt them or enact their own, more stringent, standards.*
>
> *Senator Randolph's original bill was not heard by the full Senate in 1970 and was reintroduced to Congress several times over the next decade. In 1978, the bill was retitled the Consumer-Patient Radiation Health and Safety Act, and it underwent congressional hearings in 1978 and 1980.*
>
> *Supporters of Senator Randolph's bill found it ironic that the federal government saw fit to regulate radiologic equipment through agencies such as the Nuclear Regulatory Commission and the Food and Drug Administration's Bureau of Radiological Health yet did not regulate the personnel who operated the*

equipment. According to testimony before the House Subcommittee on Oversight and investigations, in 1979 there were an estimated 130,000 to 170,000 operators of radiologic equipment in the United States. Of those, only 80,000 had demonstrated competence through certification. The remaining 50,000 to 90,000 had no recognized credential."

"...the U.S. Congress voted in 1981 to adopt the Consumer-Patient Radiation Health and Safety Act that directed the Secretary of Health and Human Services to develop minimum standards for state certification and licensure of personnel who administer ionizing or nonionizing radiation in medical and dental radiologic procedures."

This same article concludes:

"With the passage of proposed federal legislation and state licensure laws, the public will benefit from being cared for by properly educated and certified radiologic personnel. No matter what the radiologic procedure, the technologist's detailed knowledge of anatomy, careful application of radiation and skill for operation of sophisticated medical equipment are the keys to success. To be clinically useful, diagnostic imaging exams must be accurate."

By the time the bill introduced by Senator Randolph was passed in 1981, West Virginia had demonstrated their commitment to public safety and had been overseeing radiological imaging practices for four (4) years. The entire article is available on the ASRT's website at (www.asrt.org/main/standards-regulations/federal-legislative-affaires/state-and-federal-licensure-issues), (*Attachment 1: State and Federal Licensure Issues*).

The report from the Legislative Auditor's Office recommends that the Legislature consider terminating the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners (hereafter, Board) based on conclusions that the Board serves no other function than to "*piggyback*" the approval of national certification organizations such as the American Registry of Radiologic Technologists, (ARRT); the Nuclear Medicine Technology Certification Board, (NMTCB); and/or the American Registry of Magnetic Resonance Imaging Technology, (ARMRIT). The Board believes that it is important to point out that oversight by a national certification organization is limited to individuals who hold a certification with their respective organization and the national certification organization would only be able to take disciplinary action against their respective populations.

Grandfathered and WV State Only Licensees

There exists within West Virginia a specific group of licensees who do not have national certifications with any of these aforementioned national certification organizations and would be unregulated. The individuals included within this category were either granted "grandfathered" status when the original Medical Imaging Legislation was instituted, or have taken the "WV State Only" exam.

A review was conducted of the Board's database to identify current active licensees who would not fit within any of the national certification organization's members. The results of the Board's review revealed that there are currently twenty-five (25) grandfathered licensees in the active status and two additional licensees who have taken and passed the WV State Only examination. None of these twenty-seven (27) individuals would fall into categories of oversight by the three (3) national certification organizations named, (ARRT; NMTCB; and/or ARMRIT). If the Legislature were to adopt the recommendation of the Legislative Auditor's report to eliminate the Board, these twenty-seven (27) individuals would not be able to continue to work in West Virginia as they are not nationally certified. A decision to eliminate the Board and to rely on the national certification would result in financial harm to these citizens of West Virginia in their inability to continue to perform medical imaging procedures for their respective categories. The loss of these individuals would also impact the facilities in which they are employed due to loss of staff and the need for hiring, as well as loss of income and tax contributions to the communities in which they live and work.

The Executive Director contacted the ARRT in an effort to determine how they would address issues. Following are the questions asked and responses received from Barbara Kummer, Supervisor of Ethics Requirements and included, *(Attachment 2: Practice of Oversight Questions)*:

1. If a medical facility or member of the public were to contact the ARRT regarding suspected practice violations of an ARRT Certified Medical Imaging Professional, how would the ARRT address the issue for a ***licensure state***? Would the steps the ARRT takes change if the individual in question were not an ARRT Certified Medical Imaging Professional, and if so, how?

   Response:

   "Whether the individual is certified or not, all allegations must be substantiated and a violation of the ARRT Rules of Ethics identified. If the individual is a Certificate Holder or Candidate, and there is a violation of the Rules as identified in the ARRT Standards of Ethics, the Ethics Committee may take action. If the individual is not certified, registered, or a candidate for the ARRT examination, the information may be considered in conjunction with any future review.

   Whether the individual is in a licensure state or not is information that may be a factor used by the Ethics Committee in determining the appropriate sanction. The Ethics Committee will consider the severity of the conduct and the mitigating and aggravating factors.

   The Board of Trustees may change the procedures as necessary; therefore, whenever there is a concern regarding an individual's activities or conduct, the ARRT Standards of Ethics should always be referenced."

2. If a medical facility or member of the public were to contact the ARRT regarding suspected practice violations of an ARRT Certified Medical Imaging Professional, how would the ARRT address the issue for a ***non-licensure state***? Would the steps the ARRT takes change if the individual in question were not an ARRT Certified Medical Imaging Professional, and if so, how?

   Response:

   "ARRT accepts written reports of alleged violations of the Standards of Ethics from individuals, patients, facilities, regulatory authorities and other interested parties. All allegations are reviewed whether the individual holds a state license or not. If the individual is a Certificate Holder or Candidate, and there is a violation of the Rules as identified in the ARRT Standards of Ethics, the Ethics Committee may take action. If the individual is not certified, registered, or a candidate for the ARRT examination, the information may be considered in conjunction with any future review."

3. If a concerned individual in a ***licensure state*** contacted the ARRT to report that an individual was performing imaging procedures, (an example would be a nurse who was not a certified medical imaging professional), and how would the ARRT address this issue? Would the ARRT address the issue, refer the concern to the Medical Imaging Board, refer the concern to the Board of Nursing, or take some other steps not named? In a ***non-licensure state***, what steps would the ARRT take to address the issue?

   Response:

   "If the individual against whom an allegation is made is not under ARRT's purview, we will inform the reporting individual of this and suggest other regulatory authorities that may be contacted.

   As indicated in the Administrative Procedures, adverse decisions made by ARRT against an individual will be: (1) communicated to the appropriate authorities; (2) provided in response to inquiries as to registration status, and (3) published on the ARRT website for one year."

4. If the individual in question is not an imaging professional and does not hold a national certification with the ARRT, what (if any), oversight would the ARRT have for an individual who is not nationally certified with the ARRT?

   Response:

   "ARRT is a national, voluntary certification organization that sets standards for technologists in medical imaging, interventional procedures, and radiation therapy. ARRT's influence extends only to those individuals who choose to seek ARRT certification. ARRT does not consider action against individuals who have never applied to ARRT for certification

(although ARRT will maintain a file of the allegations in case the individual later applies for ARRT certification). Allegations against someone within ARRT's sphere of influence must be substantiated and must be determined to be a violation of ARRT's Rules of Ethics before action would be considered against the individual's eligibility to obtain or retain certification. If the individual against whom an allegation is made is not under ARRT's purview, we will inform the reporting individual of this and suggest other regulatory authorities that may be contacted."

5. For states with no licensure, what (if any) regulatory oversight would the ARRT have for an individual that does not have a certification with the ARRT?

Response:

"Since ARRT cannot require an individual to seek ARRT certification, it is up to the employer and/or the state to require certification. ARRT has no influence over individuals working in a non-licensure state for an employer that does not require certification."

As stated by the responses received, the ARRT would not have any regulatory oversight of individuals within West Virginia if they were not nationally certified through their organization, which is a voluntary certification process.

Oversight by national certification agencies such as the ARRT was also recently addressed by the American Society of Radiologic Technologists (ASRT) in their August/September 2013, Volume 45 No 6, ASRT Scanner. Following is the question received from an individual from Pittsburgh, PA and the response provided by Christine J. Lung, CAE, Vice President of Government Relations & Public Policy, (*Attachment 3: Headscan Feedback: State Licensure, Again?)*. It is provided for your review through written permission from the ASRT:

"State Licensure, Again?

Another issue of *ASRT Scanner* in the mail and yet another article about licensure. What I need is for somebody to please explain to me why I have to have a state license on top of my ARRT certification. This sounds like nothing more than a revenue-raising scheme. In the Advocacy column "In Pursuit of Licensure" (June/ July), the author quotes the ASRT vice president of Government Relations and Public Policy:

"It's a patient safety issue. Since R.T.s are in the business of providing health care to patients, you don't want someone taking an x-ray who could cause an even bigger health issue in the patient. We're trying to address that by having qualified, competent operators — and the only way to ensure that is to insist on licensure."

Is my ARRT certification not good enough for proof of competence? Please don't get me wrong. I'm all for patient safety, but put the onus of having qualified technologists and therapists on the employers. Let them be policed by the regulatory agencies and let the qualified, competent technologists and therapists get on with our profession.
Steven Harkay, R.T.(T)(CT) Pittsburgh, Pa."

"ASRT Responds

Dear Mr. Harkay: *Thank you for your question. ASRT believes that certification by ARRT or another nationally recognized certification organization is a requirement for professional practice, but unless a state requires technologists to be certified or meet other standards*

through licensure, certification is voluntary. Employers can make certification a condition for employment, but without state laws or regulations mandating certification, it is at the discretion of the employer. Licensure or regulation standards and penalties for noncompliance, like fines, only can be established through state statutes. Many states issue licenses to practice through presentation or review of voluntary certifications and this provision is often incorporated to avoid the need for additional state examinations. Patient safety is affected because licensure standards give states the ability to penalize or prohibit practice by individuals who do not meet the mandated standards. Licensure or regulation also assures patients that anyone using the title "radiologic technologist" meets the standards the state has set.

Christine J. Lung, CAE
Vice President of Government Relations & Public Policy"

This current and timely ASRT information further substantiates the Board's position that State Licensure is an important avenue for oversight of the Medical Imaging Professionals in West Virginia and serves as the only method to assure the safety of the citizen of West Virginia.

Temporary Permits for New Graduates

Another group of individuals who would be negatively impacted would be new graduates. Under the regulations new graduates are able to obtain a "Temporary Permit" which allows them to work for six (6) months under supervision while they prepare for and take their national certification examination. A review was conducted of the records in the Board Office and the Board's database to determine those individuals who would be impacted if there were no opportunity for a Temporary Permit. In the period from July 2012 through July 2013 alone, there were thirty (30) new graduates who obtained a Temporary Permit from the Board. Of those individuals, only two had converted to a Permanent License through national certification when the information was reviewed on August 8, 2013. Individuals who historically obtained a Temporary Permit would lose this opportunity if only nationally certified individuals are allowed to be employed.

Magnetic Resonance (MR) Imaging & Nuclear Medicine (NM) Apprentices

West Virginia faces challenges in having enough qualified Magnetic Resonance (MR) Imaging and Nuclear Medicine (NM) Imaging Technologists, in particular in small rural communities. In small rural communities in particular, there is a potential to eliminate the opportunity for provision of care for MR and/or NM procedures due to lack of nationally certified individuals, leading to limitation for access of care to the citizens of the communities in which these individuals currently work. Additionally, reducing availability and/or elimination of specialized MR and/or NM procedures in small rural communities will also create hardship situations for patients who would have a delay in receiving care. Some patients may elect not to receive care if they must travel outside their community for specialized procedures, due to fear of travel or lack of resources for transportation.

The 2007 Legislation that licensed MR and NM Technologists also created an avenue to allow those individuals who were currently practicing in MR and/or NM and were not nationally certified to obtain an Apprentice License for five (5) years during which time

they would be supervised while they worked toward national certification and WV Licensure in MR and/or NM. This legislation also created an avenue for a Medical Imaging Technologist who held an unrestricted WV Medical Imaging License to obtain an apprenticeship for five (5) years during which time they would be supervised while they worked toward national certification and WV Licensure in MR and/or NM. A review was conducted of records in the Board Office and the Board's database of licensees to determine the population that would be impacted if there were no opportunity for apprenticeships.

A total of fifty-one (51) individuals have held an apprentice MR License, and of those there are currently twenty-five (25) individuals who continue through this process toward national certification and WV Licensure in MR. A total of twenty-one (21) individuals have held an apprentice NM License, and of those there are currently eleven (11) that continue through this process toward national certification and WV Licensure in NM. Opportunities for formal training in a higher education learning setting is limited for both MR and NM in West Virginia, thus contributing to the need for apprenticeships with supervised practice to continue. Currently, the only formalized training for MR is at West Virginia University Hospital, (WVUH). WVUH only graduated four (4) students in their 2013 graduating class, far too few to fill the statewide need for MR Imaging in WV. There are only three (3) formalized training institutions for NM: Kanawha Valley Community and Technical College, (KVCTC); West Virginia University Hospital, (WVUH); and Wheeling Jesuit University, (WJU). For 2013, KVCTC reported eight (8) graduates and WJU reported three (3) graduates, again far too few to fill the state wide need for NM imaging in WV. WVUH did not provide the Board with a report to indicate that they had any graduates for 2013. A decision to eliminate the Board and to rely on the national certification would result in harm to these citizens of West Virginia in their inability to continue to perform through their apprenticeship in the medical imaging profession for MR and/or NM. The loss of individuals training toward national certification and WV Licensure in MR and/or NM through apprenticeships will also impact the facilities in which they are currently employed due to loss of staff and need for hiring, as well as loss of income and tax contributions to the communities in which they live and work.

CT Fusion Certification

The last category of individuals who would be negatively impacted is Nuclear Medicine (NM) Imaging Technologists that have passed the CT Fusion Examination administered by the Board. This allows them to perform the perfusion imaging studies associated with Positron Emission Technology (PET) Imaging Procedures. NM Technologists have been given an opportunity to complete fifteen (15) Category A radiation safety education to qualify them to take the CT Fusion Examination administered by the Board. For those who pass this examination, the Board awards these individuals a CT Fusion Permit that qualifies them to perform this portion of the nuclear examination. Holding the CT Fusion Permit in addition to their NM License eliminates the need for duplication of staffing that previously required both a Radiologic Technologist and a Nuclear Medicine Technologist to complete. This process has reduced the cost to the facility of providing PET Imaging examinations where the NM Technologist holds a CT

Fusion Permit from the Board. There are currently twenty-one (21) licensees in West Virginia who hold the CT Fusion Permit. A decision to eliminate the Board and to rely on national certification would result in harm to these citizens of West Virginia in their inability to continue to perform CT Fusion in PET Examinations. The loss of this skillset for this group of individuals will also impact the facilities in which they are currently employed due to loss of staff, need for hiring, as well as loss of income and tax contributions to the communities in which they live and work. Additionally, in small rural communities in particular, there is a potential to eliminate the opportunity for provision of care for this category of NM procedures due to lack of nationally certified individuals leading to limitation for access of care to the citizens of the communities in which these individuals currently work.

The following table shows the number of people in each category who would be adversely affected by a decision to eliminate the Board and to rely on the national certification:

Category	**Total Number** of Licensees
Grandfathered	25
WV State Only	2
Temporary Permits	29
MR Apprentices	25
NM Apprentices	11
CT Fusion Permits	21
TOTAL	**114**

(Source: WV Medica/Imaging Database, August 8, 2013)

This proposed action will cause financial harm to each of these West Virginia Citizens and to the communities in which they live and work.

The report details that between 2009 and 2012 the ARRT revoked four (4) licenses, but does not include the number that the Board has revoked which was a total of two (2). During this same time, the Board has also suspended the license of four (4) individuals and placed three (3) individuals on probation. Whether an individual's license is revoked or suspended the result is the same in that the individual cannot work in West Virginia. Those individuals placed on probation are also sanctioned with fees, fines, and/or educational requirements for a period of time, but are allowed to continue to practice as long as they fulfill the terms of their consent agreements. The report details that complaints are not always reported to the Board and that these may not be investigated, but this is a problem faced by all Boards in that we are limited in our ability to investigate only those issues that are reported and/or that we discover through our own inquiry whether that be through proactive reviews or subsequent to a complaint.

The report details that the safety of the public would be protected through hospitals and physicians who would have the ability to oversee the practice of their employees.

Unfortunately, the Board has seen in practice that violations occur in these settings and the safety of the public is not always protected. A number of the cases in Appendix C of the Legislative Auditor's Report are directly related to physicians who were alleged to have allowed individuals to perform imaging procedures who were not qualified to do so, (i.e. Cases # 05-FY-2010; # 06-FY-2010; and, #01-FY-2011). All of these instances were reported and investigated by the Board, the Board found the informants to be credible, and following evaluation by the Board's Ethics Committee, the Board referred the issues for additional review by the representative Board of the physician. The Medical Imaging Board takes all such claims of the allowance of staff members who are not educationally prepared and clinically competent to perform imaging procedures very seriously. The Board fully investigates each report that untrained and unqualified individuals are subjecting members of the public to radiation exposure that has the potential for harm.

Issue 2: The Medical Imaging Board Is in Compliance With the General Provisions of Chapter 30.

Recommendations

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendations should be considered:

3. *The Legislative Auditor recommends that the Medical Imaging Board enroll in the Office of the State Treasurer's lockbox system.*

4. *The Medical Imaging Board should continue to improve its financial condition by having at least one year of expenditures in cash reserves.*

Response

The Board acknowledges the Legislative Auditor's concern for financial stability, and continues to take steps to monitor spending. The Board has been successful in increasing the End-Of-Year Cash Balance by $20 thousand dollars or more each year beginning in 2007. The Board implemented a variety of cost saving measures throughout Fiscal Year 2013, and was able increase the cash balance by another $20(+) thousand. The Board will continue to scrutinize expenditures and implement cost saving initiatives to achieve the described desired result.

The Board also acknowledges the Legislative Auditor's concern for internal controls. The Board voted to eliminate the acceptance of cash for payment during the April 18, 2013 Board Meeting as one step toward controlling concerns. The Board continues to use the Treasurer's website to process personal checks through the ACH function and

maintains logs that are referenced against daily reports from the eGov reporting system. This system has been in place at the Board for many years, and was successfully implemented by the previous Executive Director. The Board only makes deposits for company checks and money orders at the bank, which may or may not be a daily occurrence, and has typically made weekly deposits to the bank. For the most current fiscal year (July 2012 through June 2013), the Board processed 3,087 payments. The Board processes all personal checks through ACH. Of the total payments received, only 72 were business checks, cash or money orders requiring deposit, approximately 2.3%. The Board eliminated cash payments on April 19, 2013, which will reduce the overall necessity for daily deposits. The Board is willing to change from weekly to daily deposits (when necessary) for company checks and/or money orders when they are received, if this would be an acceptable solution.

In 2009, the Board was scheduled to be the first Agency to implement the State Treasurer's lockbox system and heard a presentation at the July 2009 Board Meeting, but issues arose that preempted the Treasurer's implementation process. The Board is willing to revisit this option and consider utilization of the lockbox system, provided the extra steps required to process documents from the Treasurer's Office to the Board Office do not result in a delay in our ability to process applications and renewals for licensees.

Issue 3: The Medical Imaging Board's Decision to Maintain Two Staffed Offices That Are a Considerable Distance From Each Other Has Resulted in Inefficiencies and Higher Costs Than If It Had One Office in the Vicinity of Charleston.

Recommendations

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendations should be considered:

5. The Legislative Auditor recommends that the Medical Imaging Board give greater priority to search for affordable office space in or near the city of Charleston.

6. Once office space has been found close to Charleston, the Medical Imaging Board should discontinue the practice of allowing a home office for its executive director, discontinue the home-office internet service, the cell phone service, and the lease of the state vehicle.

7. The Board should also inquire into the possibility of the Department of Health and Human Resources including in its imaging equipment inspection

process the review of publicly displayed licenses and providing its findings to the Board.

Response

Historically, the Board has provided a state vehicle for business use by the Executive Director. The current Executive Director implemented a travel log to document her trips and fuel purchases immediately upon receiving the state vehicle in April 2012. The Legislative Auditor's Report details fifty one (51) trips made to the Board Office in Cool Ridge. The previous Executive Director routinely drove to the office in Cool Ridge an average of one day each week for oversight of the office staff. After collaboration with the Administrative Secretary, the current Executive Director was confident that weekly trips were not necessary, but as a new employee for the Agency, recognized that trips were needed in order to become familiar with the processes of the Board. The current Executive Director made monthly trips to the Cool Ridge Office through the end of 2012 and combined this travel with training in Charleston, which resulted in one to two night stays in the Beckley area to maximize efficiency of travel and training, (typically Wednesday and Thursday night). Doing so allowed for review of financial documents and limited training for the new Executive Director.

Travel for Inspections

The Executive Director conducts site inspections on behalf of the Board in order to verify that individuals performing imaging procedures are properly licensed and to verify adherence to existing legislation, (**§ 30-23-23. Display of license.**), which requires that licenses be "conspicuously displayed":

> ***§ 30-23-23. Display of license.***
> *(a) The board shall prescribe the form for a license and permit and may issue a duplicate license or permit, upon payment of a fee.*
> *(b) A licensee shall conspicuously display his or her license at his or her principal place of practice. A photocopy of the original license shall be conspicuously displayed at his or her secondary place of employment.*
> *(c) A permittee shall conspicuously display his or her permit at his or her principal place of practice. A photocopy of the original permit shall be conspicuously displayed at his or her secondary place of employment.*

In addition to checking for display of licenses, the Executive Director uses this opportunity to respond to questions regarding the Board's regulations, provide education about the Board's regulations and function, assure compliance with regulations designed to ensure the safety of the citizens of West Virginia, and determine if individuals performing imaging studies are properly licensed. Site visits present the most efficient method for this review process, particularly in hospitals that employ a large number of licensees. The Executive Director maximizes trips to each county to assure that she is not only visiting the hospital in the community, but also each site in which a licensee is employed. The Executive Director does indeed contact individual facilities through mail, email and telephone conversations to evaluate individual concerns for a specific licensee,

typically in a situation where the licensee has an expired license.

One of the performance expectations outlined by the Board for the current Executive Director was to conduct site inspections in each county annually, which is one of the reasons for the increase in travel and overnight expenses compared to the previous Executive Director. The current Executive Director has been successful in conducting site inspections at thirty eight (38) hospitals; two hundred eight (208) other facilities; and verified 2,194 medical imaging licenses. This travel included site visits for thirty-five (35) of the fifty-five (55) counties of West Virginia beginning in April 2012 and continuing through the end of the fiscal year in June 2013. The following are just a sampling of the items that have been addressed and corrected as a result of site inspections conducted by the current Executive Director beginning in April 2012 through July 2013:

1. Multiple instances were found in which hospitals, clinics, and physician offices failed to properly post licenses in accordance with existing regulations;
2. A hospital in rural central West Virginia had two staff members working on the day of the site visit whose WV medical imaging licenses had expired;
3. A physician's office in central West Virginia allowed a staff member to perform imaging while the WV medical imaging license was expired;
4. A major medical center in central West Virginia allowed a staff member to perform imaging while the WV medical imaging license was expired;
5. A hospital in rural southern West Virginia had a Nuclear Medicine Technologist who did not have a WV medical imaging license;
6. A medical clinic in eastern West Virginia did not have the licenses of their staff posted in accordance with existing regulations;
7. A physician's office in Charleston did not have the licenses of staff members posted;
8. An urgent care clinic in rural central West Virginia leased space to a company from Pennsylvania to perform nuclear imaging studies, and none of their staff members held a WV medical imaging license;
9. A hospital in rural central West Virginia had a contract with a company from Tennessee to perform magnetic resonance imaging with a mobile MR unit. Neither of the company's two (2) staff members held a WV Medical Imaging License and one (1) of the two (2) individuals was not nationally certified to perform MR imaging nor did the individual have an MR Apprentice License in WV as is required by existing regulations;
10. A hospital in northern West Virginia did not have the licenses of all their staff posted in accordance with the existing regulations.

In these cases, the employers had not taken appropriate action to correct the violations, and in most cases expressed a lack of knowledge of the existing regulations. As previously stated, these are only a few of the many examples of violations of practice that were identified during site inspections.

School inspections are conducted in conjunction with the Joint Review Committee on Education in Radiologic Technology, (JRCERT). The JRCERT relies on the state licensure Board to provide information regarding other school settings and individual licensure issues.

The current Executive Director contacted the JRCERT and requested a letter be sent detailing what (if any) value is contributed by the state licensure Board during site inspections within West Virginia, and received the following response from Leslie Winter, CEO of JRCERT. (Attachment 4: JRCERT Letter):

> *"As a key step in the accreditation process, the JRCERT conducts an on-site review of the educational program. The purposes of the site visit are to:*
>
> - *Validate the application/self-study materials,*
> - *Evaluate program's personnel facilities, and resources in support of its mission and goals, and*
> - *Assess the relationship between program efforts and the requirements of the JRCERT Standards.*
>
> *The site visit, generally two days in length, is conducted by a team comprised of volunteer, peer faculty members from other JRCERT-accredited programs. The JRCERT team members are selected based on sponsorship considerations (hospital vs. college or university), professional specialty of radiography, radiation therapy, magnetic resonance, or medical dosimetry, and geographic considerations. Additionally, the selection criteria take into consideration any possible conflicts of interest.*
>
> *Similar to West Virginia, several states (California, Kentucky, Nebraska, New Jersey, and New York) have agencies that oversee state regulations for educational programs in the radiologic sciences and, therefore, participate in the site visits conducted by the JRCERT. Because the JRCERT site visit team is not fully cognizant of the individual state regulations, the participation of representatives from the respective state regulatory agency is of the utmost value.*
>
> *The West Virginia Board has been, and continues to be, an active participant in JRCERT site visits which has added value to the overall accreditation process through its on-site review of the program's compliance with specific West Virginia regulations. It would indeed be problematic for a program if it were to demonstrate compliance with the JRCERT Standards and still not be in compliance with the state's regulations.*
>
> *The JRCERT values and fully supports the continued participation of the West Virginia Board in these coordinated site visits."*

Travel to the Cool Ridge Office

The Legislative Auditor's Office announced their audit to the Board during a meeting at

the Capitol on October 18, 2012. Immediately following, the Executive Director worked along with the Administrative Secretary to locate and prepare documents for submission to the Legislative Auditor's Office in response to requests for information and incorporated this task into the monthly visits to the Cool Ridge Office. The Administrative Secretary was on vacation in October and November of 2012, and the current Executive Director spent a total of eight (8) days in the Cool Ridge Office in order to keep the office open and to continue processing license applications and renewals. October and November are two of the busiest months of the year for the Agency and historically the office has used temporary staffing to cover vacations. The current Executive Director viewed this as a great opportunity to have hands on knowledge of the day to day operations of the office, while at the same time completing a review of Agency documents, conducting a safety assessment of the office, and preparing for development of Policies and Procedures for the Agency. The Executive Director accumulated three (3) hours of COMP time in October and four (4) hours of COMP time in November for these two trips to the Cool Ridge Office.

Extraordinary circumstances were presented in December 2012 when the then Administrative Secretary for the Board announced his retirement, an issue that the Board had not anticipated. Beginning in January 2013 and through his departure at the beginning of May 2013, the current Executive Director made monthly week long trips to the Cool Ridge Office in order to receive training and education about the day to day operations performed by the Administrative Secretary in preparation for his departure. Additionally, interviews of candidates to replace the Administrative Secretary with the current Secretary were conducted at the Cool Ridge Office location in March 2013.

The Board has been in the current location in Cool Ridge, WV since 1997, at a cost of $350.00 for 600 sq. ft. of space. The Board acknowledges that if the office were to relocate to the Charleston area, travel miles would be greatly reduced. The Executive Director met with representatives of West Virginia Real Estate Division (RED) on January 29, 2013 to review the current lease and inquire about available space in the Charleston area. During that meeting it was determined that the Board should remain in the Cool Ridge location through the end of the current lease, (April 2014), unless there were issues which the property owner failed to address. A RED representative visited the Cool Ridge Office on February 7, 2013 and determined the office to be acceptable and reinforced the determination that the Board should remain in the current location through the end of the current lease, (April 2014). The potential for relocation to Charleston was disclosed to each secretarial candidate interviewed in March 2013. The Board has also discussed the potential for relocation at each Board Meeting, (January, April and June 2013), and has remained open to relocation pending the results of the Legislative Audit and availability of space in the Charleston area. The Board cautions that the cost savings detailed by the Legislative Auditor's Report would only be realized if the Board discontinued site inspections for facilities and schools, and would not result in any savings if the Agency retains the use of the state vehicle to accomplish these visits.

In 2004, Robert Kiss, who was House Speaker at the time, opposed the idea of forcing boards to all be in Charleston. An article was published in the Beckley Register Herald

on March 3, 2004, (*Attachment 5*), in which House Speaker Kiss is quoted as saying:

> *"State government certainly should be based in the capital city, but there is no reason why some offices shouldn't be located in other regions of the state. Taxpayers in other areas deserve to receive the same job and income benefits state offices bring. It is a simple fairness issue."*

The Board does not agree with the recommendation of the Legislative Auditor's report that there is an urgent need for relocation, but will continue the established open dialogue with RED and collaborate in efforts to determine the best location for the Agency.

Mail
The Board acknowledges that the Executive Director could be reimbursed for using her personal vehicle for trips to the United States Post Office, but doing so while the Board retains the state vehicle would result in additional cost to the Agency.

Travel to Board Meetings
The Board acknowledges that the Executive Director could be reimbursed for using her personal vehicle for trips to the Board Meetings, but doing so while the Board retains the state vehicle would result in additional cost to the Agency.

Attend Training and Miscellaneous Travel
The Board acknowledges that the Executive Director could be reimbursed for using her personal vehicle for trips to attend training and other functions, but doing so while the Board retains the state vehicle would result in additional cost to the Agency. The Board has determined that it would be an unrealistic expectation for the Executive Director to utilize her personal vehicle for statewide travel for site inspections and therefore provides an Agency vehicle for use by the Executive Director for all work related travel.

Cell Phone
Historically, the Executive Director has worked from a personal residence separate from the Cool Ridge Office and was provided with a cell phone to conduct day to day responses to inquiries. The cell phone is used by the Executive Director for both calls and wv.gov email and allows for communication with the Cool Ridge Office as well as prompt and efficient response to inquiries from licensees, facilities, governmental agencies, and members of the public. This is particularly important when the Executive Director is away from the office and conducting site inspections on behalf of the Board.

The Legislative Auditor's Report indicates the average monthly cost of the cellular phone to be $142. As a cost-saving measure, the current Executive Director eliminated the internet air card from the Agency in November 2012, reducing the monthly fee by $30. The current Executive Director now uses her personal internet air card for connectivity during travel for both business and personal needs, at no cost to the Board. As a result of this change, the monthly cost of the cellular phone has been reduced from an average of $142 to less than $80 monthly.

The Board believes providing the Executive Director with a cell phone has value to the

overall efficiency of the Agency and results in ease of communication.

Travel Expenses and COMP-Time

The Board follows the West Virginia State Travel Policies for any/all travel by the Office Staff as well as Board Members. The Executive Director is reimbursed at the standard state rates for meals and incidentals if/when travel is required to complete the responsibilities and performance standards outlined by the Board.

Historically, Agency staff had kept track of their COMP-Time using an informal process. Staff members of the Agency were allowed to maintain their own documentation and take comp-time at a later date. Beginning in June 2012, the current Executive Director formalized the process of tracking and approval of COMP-Time as well as implementing the use of Individual Attendance Reports that are reviewed and signed by a supervisor to formalize the documentation and time management. The Executive Director approves time, reviews documentation for accuracy, and signs the Individual Attendance Report each month for the Secretary of the Agency. The Board Chair approves time, reviews documentation for accuracy, and signs the Individual Attendance Report each month for the Executive Director.

The Legislative Auditor's conclusion that the current Executive Director's travel resulted in 100 hours of comp-time is accurate, but much of the accumulated time is directly related to out of state travel rather than for site inspections or travel to the Cool Ridge Office. The Executive Director accumulated eleven (11) hours of comp-time in July 2012 due to her attendance at the American Society of Radiologic Technologists,(ASRT) National Conference, a meeting that is held beginning on Thursday and continuing through Sunday. The Executive Director accumulated fifty-five (55) hours of comp-time in September 2012 due to her attendance at the Council on Licensure, Enforcement, and Regulation, (CLEAR) beginning September 2 and continuing through September 9, 2012. This event for CLEAR also incorporated training on Labor Day in 2012. The Executive Director accumulated nineteen (19) hours of comp-time in November 2012 due to her attendance and presentation at the West Virginia Society of Radiologic Technologists, (WVSRT) that began after hours on Thursday and continued through Saturday evening. This is a sample of the reason for the comp-time, and the combined total of these particular meetings as detailed resulted in eighty-five (85) of the total hours accumulated. Comp-time was discussed in executive session during the January 17, 2013 Board Meeting, and the Executive Director has taken steps to eliminate the accumulation of additional comp-time whenever possible, and adjusts her schedule weekly when necessary to eliminate accumulation. It should also be noted that the current Executive Director uses her comp-time hour for hour, and not at a rate of overtime at 1.5 hours.

DHHR Inspection of Licenses

The Executive Director contacted Jason Frame, Chief of the Radiological Health Program at the WV DHHR Office of Environmental Health Services Radiation, Toxics and Indoor Air Division to inquire as to the following recommendation of the Legislative Auditor:

"The Board should also inquire into the possibility of the Department of

Health and Human Resources including in its imaging equipment inspection process the review of publicly displayed licenses and providing its findings to the Board."

Following are the questions asked by the current Executive Director and responses received from Mr. Frame, (Attachment 6: Confidential: Site Inspections):

1. Would it be possible for the DHHR-Radiological Health Division to include the review and documentation of compliance to licensure of medical imaging professionals as detailed in ***West Virginia Code §30-23*** that requires facilities to publicly display licenses as well as specific regulations requiring apprenticeships and licensure issues during their inspection of equipment and provide the results of their findings to the Board?

   Response:
   "Radiological Health Specialists could document compliance with medical imaging professional licensure with additional time allowed for inspections of large medical facilities. Staff would also need additional training to identify potential licensure violations."

2. What are the time frames of the DHHR-Radiological Health Division for equipment inspections for sites performing medical imaging, (please list the normal rotation for each category of facilities you inspect for equipment that would require a licensed medical imaging professional, i.e. Hospitals; Medical Clinics; Facial Surgery Centers with CT-Pans; etc.)?

   Response:
   "All medical imaging facilities are subject to inspection by the Radiological Health Program on a biannual basis."

3. Would the DHHR-Radiological Health Division currently have the human resources necessary to take on the additional task of conducting a review of Medical imaging licenses and all the requirements included within ***West Virginia Code §30-23*** during equipment inspections in addition to their current responsibilities? If not, what would be necessary for you to do so?

   Response:
   "The Radiological Health Program does have the human resources available to conduct on site medical imaging professional licensure review. However the administrative resources needed to issue licenses and track continuing education are not currently available."

4. What would be the financial impact of additional tasks and/or staffing for your Agency if you were able to incorporate inspection for licenses during equipment inspections?

Response:

"There would be minimal financial impact involved with integrating licensure into our onsite inspections."

The Board challenges the response of Mr. Frame regarding the impact of doing site inspections, as we believe he may not be knowledgeable enough about the Board's regulations to understand the amount of time necessary to conduct site visits, in particular at larger facilities. With regard to Mr. Frame's response in question #3 above related to issuance of licenses and tracking of continuing education, it is important to understand that the issuance of licenses and tracking of continuing education are both tasks that require considerable time. Additionally, utilization of Mr. Frame's staff for site inspections would require their personnel to attend Ethics Meetings and disciplinary hearings to present their findings to the Board, a function currently handled by the Executive Director who conducts all site inspections. The Board predicts that investigation of complaints, practice violations, and other ethical violations in addition to the day to day operations of the Board will require the continuation of the staffing levels currently at the Board.

Additionally, the Board believes that the best regulatory oversight is that performed in a consistent fashion by a subject expert. For the Board, that subject expert is the Executive Director. Through site visits, the Executive Director has the ability to communicate directly with managers; address regulatory concerns; review and evaluate processes at the facility to assure compliance with the existing regulations; provide education and guidance; and achieve a proactive approach toward regulatory oversight that results in the most effective protection for the citizens of West Virginia. The Board believes this level of attention from the Executive Director will serve to improve compliance with regulations and is a benefit that is impossible to quantify financially. Introduction of a third party to complete cursory review of licenses at the site eliminates the opportunity for the one on one communication process with the Executive Director, as described.

Issue 4: The Board's Website Needs Improvement.

Recommendation

If the Legislature chooses to continue the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, the following recommendation should be considered:

8. *The Legislative Auditor recommends that the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners should consider enhancing*

the user-friendliness and transparency of its website by incorporating more of the website elements identified

Response

The Board acknowledges the recommendations of the Legislative Auditor and agrees that enhancements are needed to improve the website. The Executive Director met with a representative of the Treasurer's Office on December 7, 2012 to review the current website and plan toward revisions. The Treasurer's Office at that time was undergoing an upgrade, and the Board is on their list for modifications. The Executive Director contacted the Treasurer's Office on August 16, 2013 in an effort to determine a timeline for updates to the Board's website. The Treasurer's Office was unable to provide a definitive date, but understands the interest of the Board in moving forward with modifications and will continue to provide assistance.

The current Executive Director has already taken steps toward improvements to the website. At the request of the Executive Director, the Treasurer's Office added the "Transparency" link to the TransparencyWV.org site that lists State of West Virginia Spending by Agency. The current Executive Director has also assured that all new information added to the site includes a date in the header, footer, or at the beginning of each item to indicate when it was added or modified. The current Executive Director presented a Mission and Vision Statement that was approved at the April 18, 2013 Board Meeting and was added to the website the following day. Additionally, there have always been links embedded within the Board Information "Contact Information" page that allows individuals to click and email directly to either the Board Office or the Executive Director.

The Executive Director will continue to address the list detailed within the Legislative Auditor's Report.

Conclusion:

The Board believes that it is fulfilling its Mission to be the driving force behind the highest quality imaging and radiation safety standards in West Virginia through the licensure of educationally prepared and clinically competent professionals. The Board believes that it is accomplishing the Vision to ensure public safety through a highly skilled and qualified workforce across the entire state of West Virginia providing quality imaging and radiation therapy services in every community and clinical setting.

The Board expresses skepticism with the proposal that medical facilities be self-

regulating, and has demonstrated through examples of violations found during site inspections evidence that facilities are not doing so. Without regulatory oversight, the Board believes the safety of the citizens of West Virginia will be compromised in situations in which individuals who are not educationally prepared and proven to be clinically competent to perform medical imaging procedures will be allowed to do so in West Virginia.

Through site visits, the Executive Director has the ability to communicate directly with managers; address regulatory concerns; review and evaluate processes at the facility to assure compliance with the existing regulations; provide education and guidance; and achieve a proactive approach toward regulatory oversight that results in the most effective protection for the citizens of West Virginia. Introduction of a third party to complete cursory review of licenses at the site eliminates the opportunity for the one on one communication process with the Executive Director.

The Board continually reviews and evaluates expenditures and revenues of the Agency to hold to their duty to remain fiscally responsible to the licensees they serve. The Board will incorporate the recommendations of the Legislative Auditor in all aspects of the cost benefit analysis for the Agency, and will continue to work with the Real Estate Division to evaluate the possibility of relocation versus remaining in the current location going forward.

Additionally, should the recommendations of the Legislative Auditor to eliminate oversight by the Board be adopted, the Board believes a transition period would be needed to allow for individuals currently in the grandfathered status, temporary status, and those nearing the end of their apprenticeships in Magnetic Resonance and/or Nuclear Medicine Imaging to pursue national certification that would allow them to be gainfully employed in their respective professions.

(Attachments follow)

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ATTACHMENT 1

American Society of Radiologic Technologists (ASRT)

1. *U.S. States with Licensure/Certification Laws or Regulations and Year of Implementation;
2. *State and Federal Licensure Issues, (*www.asrt.org/main/standards-regulations/federal-legislature-affiare/state-and-federal-licensure-issues#.UhlvY0FBsws.gmail)*

(Reproduced through written permission from the American Society of Radiologic Technologists.)*

U.S. States with Licensure/Certification Laws or Regulations and Year of Implementation

Arizona-1977
Arkansa-1999
California-1969
Colorado - 2007
Connecticut-1993
Delaware-1989
Florida-1979
Hawaii-1974
Illinois-1990
Indiana-1982
Iowa-1987
Kansas-2004
Kentucky-1978
Louisiana-1984
Maine-1984
Maryland-1992
Massachusetts-1987
Mississippi-1996
Minnesota – 2007
Montana-1977
Nebraska-1987
New Jersey-1968
New Mexico-1983
New York-1965
North Dakota-2003
Ohio-1995
Oregon-1979
Pennsylvania - 1972
Rhode Island-1994
South Carolina-1999
Tennessee - 1982
Texas-1987
Utah-1989
Vermont-1984
Virginia-1997
Washington-1991
West Virginia-1977
Wisconsin - 2009
Wyoming-1985

States With Partial Licensure Laws and/or Other Forms of Regulation

Alaska – Regulations for fluoroscopy only.
Georgia – Regulates RA practice only.
Michigan Laws for mammography only.
Nevada – Laws for mammography only.
New Hampshire – Regulates radiation therapy only.
Oklahoma – Regulates RA practice only.

States Without Any Laws or Regulations

Alabama
District of Columbia
Idaho
Missouri
North Carolina
South Dakota

2/1/2012

State and Federal Licensure Issues

Home > Standards & Regulations > Federal Legislative Affairs > State and Federal Licensure Issues

Introduction

For millions of Americans, quality health care begins with quality radiologic care. Nearly 400 million medical imaging procedures are performed annually in the United States, giving health care providers the power to detect injury, diagnose disease and cure illness. Ultrasound scans provide 70 percent of the pregnant women in the United States with a first glimpse of their developing babies, offering important medical information as well as peace of mind. Screening mammography leads to the early detection and treatment of breast cancer, a disease that kills more than 45,000 U.S. women every year. And new interventional radiology procedures allow physicians to treat vascular diseases without invasive surgery, reducing recovery time and lowering costs.

But any radiologic procedure is only as effective as the person performing it. An underexposed chest x-ray cannot reveal tuberculosis or pneumonia; an improperly performed ultrasound study cannot detect spina bifida or other growth defects in a developing fetus; and inadequate mammography technique cannot help detect breast cancer. To be clinically useful, radiologic procedures must meet a high standard of quality. Accurate diagnosis is virtually impossible without quality medical imaging information, and quality information is best provided by radiologic personnel educated in anatomy, positioning, exposure technique and radiation safety.

Recognizing this need, the U.S. Congress voted in 1981 to adopt the Consumer Patient Radiation Health and Safety Act. The Act directed the Secretary of Health and Human Services to develop minimum standards for state certification and licensure of personnel who administer ionizing or nonionizing radiation in medical and dental radiologic procedures. These standards were designed to ensure a basic level of education, knowledge and skill for operators of radiologic equipment.

Unfortunately, adoption of these standards was rendered discretionary with each state, and there are no sanctions for noncompliance. As a result, only 43 states have developed any regulatory guidelines for radiologic personnel, and standards vary dramatically from state to state. In the remaining 7 states and the District of Columbia, any individual is permitted to perform sophisticated radiologic procedures after only a few weeks' training. By comparison, a certified radiologic technologist must have at least two years of formal education in radiation protection and technique, pass a national certification exam and earn 24 hours of continuing education every two years.

The American Society of Radiologic Technologists, an association that represents more than 128,000 radiologic science professionals nationwide, believes that all Americans should have access to the highest quality radiologic care, provided by qualified radiologic personnel. One way to achieve that goal is to add an enforcement mechanism to the Consumer Patient Radiation Health and Safety Act that encourages all states to follow its provisions. Currently, states and health care facilities that do not comply with the Act face no repercussions. An enforcement provision would require facilities providing medical imaging and radiation therapy services to patients to comply with the Act or risk losing Medicare reimbursements for radiologic services.

By requiring Medicare providers to comply with the education and certification standards contained within the Act, Congress will ensure that all Americans are cared for by properly educated and certified radiologic personnel. Lack of uniform standards nationwide for operators of radiologic equipment poses a hazard to the public and jeopardizes quality health care.

The American Society of Radiologic Technologists has joined with other health care organizations to form the Alliance for Quality Medical Imaging and Radiation Therapy in an effort to make mandatory the existing voluntary federal minimum standards for medical imaging and radiation therapy professionals. The proposed Consistency, Accuracy, Responsibility and Excellence (CARE) in Medical Imaging and Radiation Therapy Act will strengthen the Consumer Patient Radiation Health and Safety Act of 1981 to ensure that the personnel who perform our nation's diagnostic imaging examinations and who plan and deliver radiation therapy procedures are properly educated and credentialed.

Background State Licensure of Radiologic Technologists

Professional licensure is a process by which a governmental agency grants permission to an individual to engage in a given occupation. To earn a license, the individual must prove that he or she has attained the minimum degree of competency required to ensure that the

In This Section:
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public health, safety and welfare will be protected. Dozens of professions and occupations are licensed at the state level, including teachers, architects, real estate agents, building contractors and barbers. Among the most heavily regulated, however, are individuals who provide health care services. Most states license nurses, pharmacists, chiropractors, physical therapists, dietitians and optometrists. For the patients of those medical professionals, licensure guarantees a basic level of education, knowledge and skill.

In 1965, New York became the first state to enact a licensure law for personnel who operated radiologic equipment. The state's intent was to minimize the public's unnecessary exposure to potentially hazardous radiation delivered during medical imaging procedures. However, the original New York law was weak. It did not include radiation therapists or nuclear medicine technologists, and its educational requirements were not equivalent to the two-year education program recommended by the American College of Radiology and the American Registry of Radiologic Technologists, the national certification body.

In 1969, New Jersey and California became the second and third states to enact licensure laws for radiologic personnel. The New Jersey law closely paralleled the one in New York, but the California law created nine categories of radiologic technologists, with educational requirements varying from three months to two years. Adding to the confusion, in 1970 New York amended its licensure law to allow schools of radiologic technology to accept students who had neither a high school diploma nor its equivalent. Other states were poised to follow suit, creating the potential for a patchwork of state licensure laws that ignored the minimum educational standards recommended by the profession.

The Consumer-Patient Radiation Health and Safety Act of 1981

Alarmed at the disregard for education standards and concerned that state licensure would result in 50 different standards in each of the 50 states, ASRT started advocating federal standards in 1965. U.S. Senator Jennings Randolph, D-W.V., introduced legislation in 1970 to establish federal minimum standards for the education and licensure of radiologic technologists. Following the issuance of these standards, the states would have two years either to adopt them or enact their own, more stringent, standards.

Senator Randolph's original bill was not heard by the full Senate in 1970 and was reintroduced to Congress several times over the next decade. In 1978, the bill was retitled the Consumer-Patient Radiation Health and Safety Act, and it underwent congressional hearings in 1978, 1979 and 1980.

Supporters of Senator Randolph's bill found it ironic that the federal government saw fit to regulate radiologic equipment through agencies such as the Nuclear Regulatory Commission and the Food and Drug Administration's Bureau of Radiological Health yet did not regulate the personnel who operated the equipment. According to testimony before the House Subcommittee on Oversight and Investigations, in 1979 there were an estimated 130,000 to 170,000 operators of radiologic equipment in the United States. Of those, only 80,000 had demonstrated competence through certification. The remaining 50,000 to 90,000 had no recognized credential.

In addition, by 1979 only nine states had enacted licensure laws for radiologic personnel. Those laws were so varied that they created severe employment difficulties for radiologic technologists who relocated from one licensure state to another. For example, the California licensure law had nine limited permit classifications: chest, gastrointestinal, genitourinary, leg, musculoskeletal, photofluorographic chest, skull, extremities and dental. This created odd licensing categories such as skull technologist and leg technologist, who were licensed to perform only one particular type of radiographic examination. If such a limited permit technologist moved to another licensure state, he or she likely would not meet the qualifications for employment.

On Feb. 16, 1981, Senator Randolph reintroduced the Consumer-Patient Radiation Health and Safety Act in the U.S. Senate, and a month later it was reintroduced in the House of Representatives. As Congressional debate on the bill continued throughout the summer of 1981, Senator Randolph faced a difficult decision. Either change the proposal's mandatory licensure provision to an advisory status or risk defeat of the entire bill. Worried that the legislation would again die in committee, Senator Randolph agreed to make the bill voluntary. On Aug. 13, 1981, after 13 years of effort, both houses of Congress passed the Consumer-Patient Radiation Health and Safety Act of 1981 (Title IX of Public Law 97-35). The Act's Statement of Findings reads:

The Congress finds that

1. It is in the interest of public health and safety to minimize unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures;
2. It is in the interest of public health and safety to have a continuing supply of adequately educated persons and appropriate accreditation and certification programs administered by State governments;
3. The protection of the public health and safety from unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures and the assurance of efficacious procedures are the responsibility of State and Federal governments;
4. Persons who administer radiologic procedures, including procedures at Federal facilities, should be required to demonstrate competence by reason of education, training, and experience; and
5. The administration of radiologic procedures and the effect on individuals of such procedures has a substantial and direct effect upon United States interstate commerce.

The Act required the Secretary of Health and Human Services to develop federal standards for the certification of radiologic personnel and the accreditation of educational programs in radiologic technology. It also required the federal government to provide the states with a model statute for licensure. The Secretary as a Notice of Proposed Rulemaking issued the standards on July 12, 1984, and the Final Rule was published in the *Federal Register* on Dec. 11, 1985.

State and Federal Licensure Issues

Although the federal government provided the standards and a model statute, their adoption by the states was not mandatory. Instead, each state was free to establish its own guidelines, continue using its existing standards or take no action of any kind.

Today, 42 states have enacted licensure laws or regulatory processes, many in accordance with the model statute provided by the federal government. In several states, however, it is questionable whether the laws developed to regulate radiologic personnel are sufficient to safeguard the public and uphold the original intention of the federal legislation. Licensure laws or regulations vary widely in the 43 states that regulate medical imaging personnel. According to a 1995 report from the Pew Health Professions Commission, one of the biggest barriers to effective and fair use of health professionals in the United States is the lack of uniform personnel regulations across state lines. The report states, "Standardized in neither form nor substance, the variations in language, laws and regulations are more than confusing. They inhibit access by consumers to health practitioners, unfairly restrict practitioners and prohibit the use of emerging health technologies across state lines." To solve this problem, the Pew Commission recommends that states begin adopting common terms in their licensing and regulatory language.

Although the varying licensure laws or regulations that regulate radiologic technologists in 43 states are confusing and inefficient, the situation is even more dire in the District of Columbia and the 7 states that do not have any type of licensure law at all for radiologic personnel. In these states, individuals are not required to demonstrate any level of competence or complete any formal educational process before being allowed to administer potentially dangerous doses of radiation to patients.

To protect patients from unnecessary radiation exposure and ensure the quality of radiologic procedures, the federal government must encourage all 50 states as well as all health care providers to uphold the educational and certification standards for radiologic personnel that have already been established by the Consumer-Patient Radiation Health and Safety Act of 1981. This law is already on the books; it simply needs an effective enforcement mechanism. Additional legislation enforcing the provisions of the Consumer-Patient Radiation Health and Safety Act of 1981 would:

Increase Quality

Today, radiology plays a role in the assessment of virtually every injury and many forms of disease. In fact, it is estimated that seven of every 10 Americans undergo some type of radiologic procedure annually whether it is something as common as a dental x-ray or something as cutting-edge as magnetic resonance angiography.

The success of any radiologic procedure no matter whether it is conventional x-ray, computed tomography, magnetic resonance imaging, nuclear medicine, mammography, sonography or radiation therapy depends on the skill and education of the person performing it. That individual controls the intensity of the x-ray beam, the duration of exposure, the shielding of the patient's reproductive organs and, ultimately, the quality of the resulting image. An image of poor quality can mean that illness and disease go undetected or that patients are misdiagnosed, possibly leading to delays in treatment and tragic consequences.

Unverified personnel often do not have the education or experience to perform quality imaging exams that produce clinically useful information. If the patient is improperly positioned or the wrong exposure technique is chosen, the diagnostic quality of the resultant image is compromised.

Competence of personnel is important not only during imaging examinations such as radiography, CT, MR and ultrasound, but also in therapeutic procedures. The accurate delivery of cancer-killing radiation depends heavily upon the skill of the person operating the equipment. Just as a certified mammographer who practices under the Mammography Quality Standards Act (MQSA) knows which views and positioning techniques to use to produce the best image, radiologic technologists who are certified in radiation therapy know how to deliver the precise dose of radiation to a diseased area while sparing surrounding tissues.

Increase Safety

Administered properly, radiation is an invaluable tool in the diagnosis, treatment and management of disease. But most radiologic procedures also carry a potential health risk, and radiation can be harmful or even deadly if misadministered. According to the National Academy of Sciences/National Research Council's Committee on Biological Effects of Ionizing Radiation, medical diagnostic radiology accounts for about 90 percent of the total man-made radiation dose to the U.S. population. In many cases, much of this radiation is excessive and unnecessary because it is inappropriately or inaccurately delivered.

Exposure to any radiation holds the potential for harm, and because dosages are cumulative, the effects of low level radiation can take as long as 20 years to show up. Biomedical research shows that exposure to excessive levels of radiation can cause spontaneous abortion, genetic damage, skin burns and other types of injuries, as well as increase the likelihood of leukemia and other cancers. Arthur Upton, M.D., former director of the National Cancer Institute, has estimated that the long-term effects of overexposure to radiation during diagnostic x-ray examinations may be responsible for more than 3,500 cancer deaths a year.

To reduce those numbers, we first must reduce exposure levels. A 1979 Canadian study of 30 radiology facilities found significant variations in x-ray exposure to patients during common diagnostic procedures. For example, dose to the skin for a lateral chest x-ray ranged from 24 millirads to 150 millirads; radiation dose during x-ray examinations of the upper gastrointestinal tract ranged from 1.6 rads to 90 rads; and dose delivered during gallbladder examinations ranged from 4 rads to 48 rads. The authors of the study directly attributed the variation in dosage to the knowledge and technique used by the equipment operator.

State and Federal Licensure Issues

John F. Woches and John R. Cameron, M.D. performed another study that linked operator skill to the safety and quality of diagnostic exams in 1976 from data obtained in the Nationwide Evaluation of X-ray Trends (NEXT) program. The results of their study showed that certified radiologic technologists delivered a significantly lower radiation dose to the patient than untrained operators during x-ray examinations of the lumbosacral spine, cervical spine, lateral skull and abdomen.

The paper evaluated patient exposure from more than 2,900 x-ray units involving 1,789 certified radiologic technologists, 692 operators with no education or certification in radiologic technology and 453 practitioner(physician) operators. It found that certified R.T.s delivered a significantly lower average exposure area product than untrained or practitioner operators, primarily because they used better collimation, resulting in a closer fit between the beam size and the film size. The authors of this study concluded, These data give clear evidence of the need for trained operators and the need for continuing education of radiologic technologists.

Further proof that properly educated radiologic technologists deliver safer radiologic examinations can be demonstrated by comparing the number of radiation misadministrations in licensure states with those of nonlicensure states. The Nuclear Regulatory Commission oversees medical procedures that use nuclear byproducts, including radiopharmaceuticals used during nuclear medicine and radiation therapy procedures. According to NRC records, states with nonexistent or lenient licensure of radiologic technologists generally have higher numbers of technologist misadministrations of radiation or radiopharmaceuticals during nuclear medicine procedures.

For example, Alabama, a state that does not license radiologic technologists, reported 42 misadministrations to the NRC between 1981 and 1997. By comparison, California, a state that licenses radiologic technologists, reported only 29 misadministrations during the same period of time. Those figures are even more sobering when considering the population difference between Alabama, with slightly more than 4 million residents, and California, with 30 million.

Data from the NRC also support the theory that a state's establishment of mandatory licensing and certification for radiologic technologists reduces the number of misadministrations. For example, Ohio enacted licensure laws for radiologic technologists in 1995. From 1981 to 1995, Ohio reported 47 radiation misadministrations during nuclear medicine procedures to the NRC. Since licensure was enacted in 1995, the state has reported only one misadministration. In addition, the number of misadministrations significantly decreased in Massachusetts after the state began licensing radiologic technologists. From 1981 to 1990, Massachusetts reported 55 misadministrations an average of 5.5 per year. A licensure law for radiologic personnel was approved in Massachusetts in 1990. In the period from 1991 to today, the state has reported only seven misadministrations less than one per year. Minnesota, which had one of the highest levels of radiopharmaceutical misadministrations in the nation, has seen a similar drop in error rates since it enacted a law in January 1997 requiring registration of personnel performing radiologic procedures in the state. Results seen in Ohio, Massachusetts and Minnesota prove that enactment of a comprehensive licensure and certification program for radiologic personnel can reduce the number of examination errors, thus ensuring exam quality and improving patient safety.

Public awareness of the safety issues involved in radiologic procedures was heightened in 1993, when Sen. John Glenn held congressional hearings to investigate reports of patients being mutilated, paralyzed and even killed by overdoses of radiation – radiation that was supposed to cure them. The stories Congress heard during Sen. Glenn's hearings included the account of one Ohio woman who had a hole burned into her chest while being treated for breast cancer in 1989. Another widely publicized case involved a 9-year-old child who died of radiation-induced respiratory failure in 1988 after receiving accidental double doses of cobalt-60 radiation to treat a tumor in his sinus cavity. In both cases, the medical personnel delivering the radiation treatments were not certified in radiation therapy.

To ensure patient safety and reduce radiation exposure dose during radiologic procedures, in 1977 the United Nations Scientific Committee on the Effects of Atomic Radiation made the following recommendations:

- Reduce the number of radiographs per patient.
- Reduce the time and intensity of exposure.
- When fluoroscopy is not essential, use conventional radiography.
- Use the smallest possible field size.
- Avoid inclusion of the gonads in the primary beam.
- Protect testicles with gonadal shields.
- Properly train and supervise staff engaged in these examinations.

With the exception of the final recommendation, all of these factors are under the direct control of the person performing the examination. Properly educated, certified and licensed radiologic technologists understand the importance of protecting patients from overexposure to radiation, and they take steps to control the size and intensity of the x-ray beam.

In 1999, the Institute of Medicine released their report To Err is Human, detailing medical errors occurring in a variety of health care settings. Of particular interest is Recommendation 7.2 in the report that deals with performance standards and expectations for health professionals. This recommendation suggests, Health Professional licensing bodies should: (1) implement periodic reexaminations and relicensing of doctors, nurses and other key providers, based on both competence and knowledge of safety practices; and (2) work with certifying and credentialing organizations to develop more effective methods to identify unsafe providers and take action. By ensuring that medical imaging and radiation therapy professionals are properly educated and credentialed, medical errors may be reduced.

Lower Cost

According to numerous studies published in professional journals, between 4 percent and 7 percent of all x-ray examinations performed in the United States must be repeated because of technical errors. Improper positioning, incorrect exposure, use of the wrong technique, or equipment malfunctions or errors in film processing and development all can lead to rejection of the exam. Each exposing the patient to double the original level of radiation. A repeat or failure represents a 100 percent increase in radiation dose to the patient, with no clinical benefit. Repeated radiologic examinations, quite literally, do more harm than good. According to a 1991 analysis of radiographic repeat rate data, exposure errors account for about 50 percent of rejected images. Positioning errors are to blame for nearly 30 percent of repeated procedures. Both of these factors are within the control of the person performing the exam, and both can be solved by allowing only properly educated, certified personnel to administer radiologic procedures.

In addition to exposing patients to unnecessary radiation, repeated radiologic exams cost the U.S. health care system millions of dollars in needless medical bills. Radiographic film, processing chemicals, labor and time are wasted when an exam must be repeated. The United States spends approximately $100 billion a year on diagnostic medical imaging examinations, representing 17 percent of the nation's total spending on health care. Using even a conservative repeat rate of 5 percent, that means more than $5 billion is wasted every year on unnecessary x-ray procedures.

Additionally, delays in diagnosis or misdiagnoses caused by poor quality exams not only exacerbate patient pain and suffering, but also ultimately drive up health care costs. A 1997 study conducted at the Brooke Army Medical Center, Fort Sam Houston, Texas, showed that regular screening mammography for women older than 40 more than pays for itself by detecting breast cancer in its earliest stages, when it may be treated less expensively and more effectively. The study showed that every 40 cents spent on screening mammography saved $1 in managing breast disease. But in order to realize those savings, the mammograms must be performed and interpreted correctly.

Another 1997 study showed that accurate radiologic imaging of patients with chest pain can decrease the misdiagnosis of heart attack. The study showed that chest x-rays, nuclear medicine scans, ultrasound exams, magnetic resonance imaging scans or computed tomography procedures can be used to accurately determine the cause of a patient's chest pain. In many cases ruling out heart attacks or other dangerous conditions. By offering prompt radiologic imaging of patients experiencing chest pain at just one hospital in Miami, misdiagnoses of heart attacks were reduced and $5.2 million was saved during an 18-month period.

Accurate radiologic procedures that are properly performed by educated personnel can save health care dollars in the long run. Some have argued in the past that the establishment of federal minimum standards and state licensure laws for personnel who operate radiologic equipment would reduce the number of radiologic personnel and drive up health care costs because it would drive salaries to rise. Experience shows this is not true. A 1976 study of those states that established licensure laws for radiologic personnel in the 1960s - New York, New Jersey and California, showed that mandatory state licensure had no significant impact upon technologist manpower in terms of recruitment, availability or compensation. Regulation of radiologic personnel would not increase health care costs; rather, it would reduce costs by ensuring quality exams.

Conclusion

With the passage of proposed federal legislation and state licensure laws, the public will benefit from being cared for by properly educated and certified radiologic personnel. No matter what the radiologic procedure, the technologist's detailed knowledge of anatomy, careful application of radiation and skillful operation of sophisticated medical equipment are the keys to its success. To be clinically useful, diagnostic imaging exams must be accurate. To stop invasive cancers, radiation therapy treatments must be precise.

The current lack of uniform educational standards nationwide for operators of radiologic equipment poses a hazard to the public. State and federal standards will ensure a minimum level of education, knowledge and skill for the operators of radiologic equipment. Ultimately, they will reflect the radiologic technologist's ability to provide the highest quality of patient care.

State and Federal Licensure Issues

WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS
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ATTACHMENT 2

American Registry of Radiologic Technologists (ARRT)

"*Practice Oversight Questions*"

Godby, Nancy A

From: Barbara Kummer <Barbara.Kummer@arrt.org>
Sent: Wednesday, August 07, 2013 4:27 PM
To: Godby, Nancy A
Cc: Carrie Cernohous; Ginny Haselhuhn
Subject: Practice Oversight Question

Nancy,

Carrie forwarded your request for information and my responses are below in blue.

Please let me know if there is anything else I can provide.

Thanks.
Barb

From: Godby, Nancy A [mailto:Nancy.A.Godby@wv.gov]
Sent: Monday, August 05, 2013 2:07 PM
To: Carrie Cernohous
Cc: Oughton, Nancy (noughton@hsc.wvu.edu); kate.campbell@wvago.gov; Board of Radiologic Technologists; Godby, Nancy A
Subject: Practice Oversight Question

Good Afternoon Carrie,

Our Agency is currently undergoing a Legislative Audit. I have been asked questions regarding how the American Registry of Radiologic Technologists (ARRT) would address the following Medical Imaging practice issues, and hope that you will be able to guide me to the most appropriate individual to provide us with a written response:

1. If a medical facility or member of the public were to contact the ARRT regarding suspected practice violations of an ARRT Certified Medical Imaging Professional, how would the ARRT address the issue for a ***licensure state***? Would the steps the ARRT takes change if the individual in question were not an ARRT Certified Medical Imaging Professional and if so how?

Whether the individual is certified or not, all allegations must be substantiated and a violation of the ARRT Rules of Ethics identified. If the individual is a Certificate Holder or Candidate, and there is a violation of the Rules as identified in the *ARRT Standards of Ethics*, the Ethics Committee may take action. If the individual is not certified, registered, or a candidate for the ARRT examination, the information may be considered in conjunction with any future review.

Whether the individual is in a licensure state or not is information that may be a factor used by the Ethics Committee in determining the appropriate sanction. The Ethics Committee will consider the severity of the conduct and the mitigating and aggravating factors.

The Board of Trustees may change the procedures as necessary, therefore, whenever there is a concern regarding an individual's activities or conduct, the *ARRT Standards of Ethics* should always be referenced.

1

2. If a medical facility or member of the public were to contact the ARRT regarding suspected practice violations of an ARRT Certified Medical Imaging Professional, how would the ARRT address the issue for a ***non-licensure state***? Would the steps the ARRT takes change if the individual in question were not an ARRT Certified Medical Imaging Professional and if so how?

ARRT accepts written reports of alleged violations of the *Standards of Ethics* from individuals, patients facilities, regulatory authorities and other interested parties. All allegations are reviewed whether the individual holds a state license or not. If the individual is a Certificate Holder or Candidate, and there is a violation of the Rules as identified in the *ARRT Standards of Ethics*, the Ethics Committee may take action. If the individual is not certified, registered, or a candidate for the ARRT examination, the information may be considered in conjunction with any future review.

3. If a concerned individual in a ***licensure state*** contacted the ARRT to report that an individual was performing imaging procedures, (an example would be a a nurse who was not a certified medical imaging professional), how would the ARRT address this issue? Would the ARRT address the issue, refer the concern to the Medical Imaging Board, refer the concern to the Board of Nursing, or take some other steps not named? In a ***non-licensure state***, what steps would the ARRT take to address the issue?

If the individual against whom an allegation is made is not under ARRT's purview, we will inform the reporting individual of this and suggest other regulatory authorities that may be contacted.

As indicated in the Administrative Procedures, adverse decisions made by ARRT against an individual will be: (1) communicated to the appropriate authorities, (2) provided in response to inquiries as to registration status, and (3) published on the ARRT website for one year.

As you can imagine, time is of the essence for a response as soon as possible and I would appreciate your expertise in getting these questions to the appropriate individual at the ARRT. Please do not hesitate to contact me if additional information or clarification is needed.

Respectfully,

Nancy Godby, MS-MHA, MA, RT(R)(M) ARRT, CHC
Executive Director
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Barbara J. Kurowski, B.S., R.T.(R)(ARRT)

THE AMERICAN REGISTRY OF RADIOLOGIC TECHNOLOGISTS®

[redacted]

From: Barbara Kummer [mailto:Barbara.Kummer@arrt.org]
Sent: Thursday, August 15, 2013 11:55 AM
To: Godby, Nancy A
Subject: practice oversight responses

Nancy,

These are your recent questions (blue) and ARRT responses (red).

If the individual in question is not an imaging professional and does not hold a national certification with the ARRT, what (if any) oversight would you have for an individual that is not nationally certified with the ARRT?

ARRT is a national, voluntary certification organization that sets standards for technologists in medical imaging, interventional procedures, and radiation therapy. ARRT's influence extends only to those individuals who choose to seek ARRT certification. ARRT does not consider action against individuals who have never applied to ARRT for certification (although ARRT will maintain a file of the allegations in case the individual later applies for ARRT certification). Allegations against someone within ARRT's sphere of influence must be substantiated and must be determined to be a violation of ARRT's *Rules of Ethics* before action would be considered against the individual's eligibility to obtain or retain certification. If the individual against whom an allegation is made is not under ARRT's purview, we will inform the reporting individual of this and suggest other regulatory authorities that may be contacted.

For those states with no licensure what (if any) regulatory oversight would the ARRT have for an individual that does not have a certification with the ARRT?

Since ARRT cannot require an individual to seek ARRT certification, it is up to the employer and/or the state to require certification. ARRT has no influence over individuals working in a non-licensure state for an employer that does not require certification.

Please let me know if there is more I can do for you.

Barb

Barbara Kummer, B.S., R.T.(R)(ARRT)
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ATTACHMENT 3

American Society of Radiologic Technologists (ASRT)

*ASRT Scanner, August/September 2013- Vol 45 NO 6

HEADSCAN – Feedback

"*State Licensure, Again*?"

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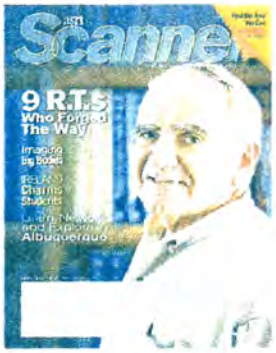

Honoring the "Originals"

I'm writing to say how pleased I am with the April/May issue of *ASRT Scanner*. The feature article "Radiologic Originals" was a welcome one. Those mentioned did much to advance the society and their influence continues to be felt. It is right to honor them in this way. Thank you, *Scanner* staff.

LaVerne Tolley Gurley, Ph.D., R.T.(R)(N)(T), FASRT
Memphis, Tenn.

Options Open Doors

I'm responding to the feature article "Next Stop, Education: A Trip Guide to Your Future," in the June/July issue of *ASRT Scanner*. In the section "Don't Forget to Pack Credentials" on Page 29, it's recommended to earn a new credential or skill set to increase your marketability. I did this by studying medical coding and then taking the Radiology Coding Certification Board and Certified Professional Coder exams. These options have opened many doors for me. I teach coding at a local community college and am employed as a senior radiology coder at a university hospital. Having the knowledge of anatomy, medical terminology and radiology procedures has assisted me in my employment and has increased my marketability. Thank you.

Julia Merritt, M.Ed., R.T.(R), RCC, CPC
Pottstown, Pa.

State Licensure, Again?

Another issue of *ASRT Scanner* in the mail and yet another article about licensure. What I need is for somebody to please explain to me why I have to have a state license on top of my ARRT certification. This sounds like nothing more than a revenue-raising scheme. In the Advocacy column "In Pursuit of Licensure" (June/July), the author quotes the ASRT vice president of Government Relations and Public Policy:

"It's a patient safety issue. Since R.T.s are in the business of providing health care to patients, you don't want someone taking an x-ray who could cause an even bigger health issue in the patient. We're trying to address that by having qualified, competent operators — and the only way to ensure that is to insist on licensure."

Is my ARRT certification not good enough for proof of competence? Please don't get me wrong. I'm all for patient safety, but put the onus of having qualified technologists and therapists on the employers. Let them be policed by the regulatory agencies and let the qualified, competent technologists and therapists get on with our profession.

Steven Harkay, R.T.(T)(CT)
Pittsburgh, Pa.

ASRT Responds

Dear Mr. Harkay: *Thank you for your question. ASRT believes that certification by ARRT or another nationally recognized certification organization is a requirement for professional practice, but unless a state requires technologists to be certified or meet other standards through licensure, certification is voluntary. Employers can make certification a condition for employment, but without state laws or regulations mandating certification, it is at the discretion of the employer. Licensure or regulation standards and penalties for noncompliance, like fines, only can be established through state statutes. Many states issue licenses to practice through presentation or review of voluntary certifications and this provision is often incorporated to avoid the need for additional state examinations. Patient safety is affected because licensure standards give states the ability to penalize or prohibit practice by individuals who do not meet the mandated standards. Licensure or regulation also assures patients that anyone using the title "radiologic technologist" meets the standards the state has set.*

Christine J. Lung, CAE
Vice President of Government Relations & Public Policy

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WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS
Mailing Address: P.O. Box 638 – Cool Ridge, WV 25825-0638
Physical Address: 1715 Flat Top Road - Cool Ridge, WV 25825-0638
Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030
E-mail: wvrtboe@suddenlinkmail.com Web Page: www.wvrtboard.org

ATTACHMENT 4

Joint Review Committee on Education in Radiologic Technology

Letter from Leslie Winter, Chief Executive Officer

Regarding: Role of Board in Site Visits conducted by JRCERT

Joint Review Committee on Education in Radiologic Technology
20 N. Wacker Drive, Suite 2850
Chicago, IL 60606-3182
312.704.5300 • (Fax) 312.704.5304
www.jrcert.org

August 12, 2013

Nancy Godby, M.S.-M.H.A., M.A., R.T.(R)(M), CHC
Executive Director
West Virginia Medical Imaging & Radiation Therapy
Technology Board of Examiners
1715 Flat Top Road
P.O. Box 638
Cool Ridge, WV 25825-0638

Dear Ms. Godby:

I am in receipt of your correspondence of August 5, 2013 requesting additional information regarding the role of the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners (Board) in site visits conducted by the JRCERT.

As a key step in the accreditation process, the JRCERT conducts an on-site review of the educational program. The purposes of the site visit are to:

- Validate the application/self-study materials,
- Evaluate program's personnel facilities, and resources in support of its mission and goals, and
- Assess the relationship between program efforts and the requirements of the JRCERT Standards.

The site visit, generally two days in length, is conducted by a team comprised of volunteer, peer faculty members from other JRCERT-accredited programs. The JRCERT team members are selected based on sponsorship considerations (hospital vs. college or university), professional specialty of radiography, radiation therapy, magnetic resonance, or medical dosimetry, and geographic considerations. Additionally, the selection criteria take into consideration any possible conflicts of interest.

Similar to West Virginia, several states (California, Kentucky, Nebraska, New Jersey, and New York) have agencies that oversee state regulations for educational programs in the radiologic sciences and, therefore, participate in the site visits conducted by the JRCERT. Because the JRCERT site visit team is not fully cognizant of the individual state regulations, the participation of representatives from the respective state regulatory agency is of the utmost value.

The West Virginia Board has been, and continues to be, an active participant in JRCERT site visits which has added value to the overall accreditation process through its on-site review of the program's compliance with specific West Virginia regulations. It would indeed be problematic for a program if it were to demonstrate compliance with the JRCERT Standards and still not be in compliance with the state's regulations.

Nancy Godby, M.S.-M.H.A., M.A., R.T.(R)(M), CHC
August 12, 2013
Page 2

The JRCERT values and fully supports the continued participation of the West Virginia Board in these coordinated site visits.

If I can be of further assistance, do not hesitate to contact me.

Sincerely,

Leslie F. Winter

Ms. Leslie F. Winter, M.S., R.T.(R)
Chief Executive Officer

LFW/jl

The JRCERT promotes excellence in education and elevates quality and safety of patient care through the accreditation of educational programs in radiography, radiation therapy, magnetic resonance, and medical dosimetry.

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ATTACHMENT 5

Register-Herald Reporter

"Capital's grip still solid",

Capital's grip still solid

By Mannix Porterfield
REGISTER-HERALD REPORTER

CHARLESTON — It's known as the capital city, and that's not going to change this year.

With a court ruling in the offing, House Speaker Bob Kiss, D-Raleigh, decided Tuesday to shelve a resolution on the location of West Virginia's state government for this legislative session.

Kiss

Yet, the controversy that has some Kanawha County lawmakers up in arms could return a year from now.

Under House Joint Resolution 111, voters this fall would have decided a proposed amendment allowing offices, agencies, departments and "all entities" of the executive, legislative and judicial branches to set up shop anywhere.

Unaffected would have been constitutional offices required to be located in Charleston.

"If the court rules that state offices only can be located in Charleston, then it is the leadership's intention to re-introduce the resolution next session," Kiss said.

"State government certainly should be based in the capital city, but there is no reason why some offices shouldn't be located in other regions of the state. Taxpayers in other areas deserve to receive the same job and income benefits state offices bring. It's a simple fairness issue."

■■■

A number of federal entities are outside the nation's capital, such as the FBI fingerprint center in Clarksburg.

House Finance Chairman Harold Michael, D-Hardy, suggested many pockets of West Virginia could benefit from having state government in town.

"Aside from the many perks that come with having state offices physically located in Charleston, the Kanawha Valley also has been greatly enriched by many state-funded initiatives, including the very impressive Clay Center," he said. "Other areas of the state are not as well off, and I think it would be very shortsighted to eliminate the possibility of locating a state office in those places."

Beckley Paper 3/3/04

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ATTACHMENT 6

Jason Frame, Chief Radiological Health Program
Office of Environmental Health Services
Radiation, Toxics, and Indoor Air Division

Regarding: Confidential: Site Inspections

Godby, Nancy A

From:	Frame, Jason R
Sent:	Friday, August 09, 2013 10:57 AM
To:	Godby, Nancy A
Cc:	Oughton, Nancy (noughton@hsc.wvu.edu); kate.campbell@wvago.gov; Board of Radiologic Technologists; Turner, Tony
Subject:	RE: CONFIDENTIAL: Site Inspections

Nancy,

Please see my response to your questions below. Thanks

1. Radiological Health Specialists could document compliance with medical imaging professional licensure with additional time allowed for inspections of large medical facilities. Staff would also need additional training to identify potential licensure violations.
2. All medical imaging facilities are subject to inspection by the Radiological Health Program on a biannual basis.
3. The Radiological Health Program does have the human resources available to conduct on site medical imaging professional licensure review. However the administrative resources needed to issue licenses and track continuing education are not currently available.
4. There would be minimal financial impact involved with integrating licensure into our onsite inspections.

Jason R. Frame B.S. R.T. (R), Chief Radiological Health Program
Office of Environmental Health Services/Radiation, Toxics and Indoor Air Division
350 Capitol Street, Room 313
Charleston, West Virginia 25301
Office: (304)356-4303
Fax: (304) 558-0524
Email: Jason.R.Frame@WV.gov

From: Godby, Nancy A
Sent: Monday, August 05, 2013 3:46 PM
To: Frame, Jason R

Cc: Oughton, Nancy (noughton@hsc.wvu.edu); kate.campbell@wvago.gov; Board of Radiologic Technologists; Godby, Nancy A
Subject: CONFIDENTIAL: Site Inspections
Importance: High

Good Afternoon Jason,

Please consider these questions and your responses to be Confidential and maintain as much privacy as possible.

As you may or may not be aware, the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners, (**Board**), is currently undergoing a Legislative Audit. I have been asked to contact your Agency to determine the following:

1. Would it be possible for the DHHR-Radiological Health Division to include the review and documentation of compliance to licensure of medical imaging professionals as detailed in ***West Virginia Code §30-23*** that requires facilities to publicly display licenses as well as specific regulations requiring apprenticeships and licensure issues during their inspection of equipment and provide the results of their findings to the Board?

2. What are the time frames of the DHHR-Radiological Health Division for equipment inspections for sites performing medical imaging, (please list the normal rotation for each category of facilities you inspect for equipment that would require a licensed medical imaging professional, i.e. Hospitals; Medical Clinics; Facial Surgery Centers with CT-Pans; etc.)?

3. Would the DHHR-Radiological Health Division currently have the human resources necessary to take on the additional task of conducting a review of Medical imaging licenses and all the requirements included within ***West Virginia Code §30-23*** during equipment inspections in addition to their current responsibilities? If not, what would be necessary for you to do so?

4. What would be the financial impact of additional tasks and/or staffing for your Agency if you were able to incorporate inspection for licenses during equipment inspections?

As you can imagine, time is of the essence for a response. Please do not hesitate to contact me if additional information or clarification is needed.

Respectfully,

Nancy Godby, MS-MHA, MA, RT(R)(M) ARRT, CHC
Executive Director
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