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COMMISSION ON RADIATION PROTECTION

DIVISION OF ENVIRONMENTAL SAFETY AND HEALTH

RADIATION PROTECTION AND RELEASE PREVENTION ELEMENT

Radiation Protection Programs

Radiologic Technology

Adopted Repeal and New Rule: N.J.A.C. 7:28-19

Proposed October 1, 2007 at 39 N.J.R. 4024(a)

Adopted: _____ by Lisa Jackson, Commissioner, Department of Environmental

Protection and _____ by Julie Timins, M.D., Chairman, Commission on Radiation Protection

Filed: _____ as adoption **with substantive changes** not requiring additional public notice and comments (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:2D-1 et seq.

DEP Docket Number: 19-07-08/310

Effective Date: August 18, 2008

Expiration Date:

The New Jersey Department of Environmental Protection (Department) and the Commission on Radiation Protection (Commission) are repealing and adopting new N.J.A.C. 7:28-19, Radiologic Technology. N.J.A.C. 7:28-19 establishes the requirements for education and licensure of radiologic technologists, requirements for radiologic technology educational programs as well as students enrolled in radiologic technology programs and delineates the scope of practice of radiologic technology. This subchapter prohibits any individual or organization

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from training unauthorized personnel in the use of ionizing radiation-producing equipment. This subchapter also establishes educational and certification requirements for radiologic technologists who wish to be recognized as radiologist assistants in New Jersey. Finally, this subchapter establishes fees for the examination and licensing of radiologic technologists as well as application and annual fees for schools of radiologic technology.

Summary of Hearing Officer Recommendations and Agency Response:

A public hearing was held on November 14, 2007 at the Department of Environmental Protection in Ewing, New Jersey. Paul Baldauf, Assistant Director of the Radiation Protection and Release Prevention Element, served as the hearing officer. After reviewing the comments presented at the hearing and the written comments received, the Hearing Officer has recommended that the proposed new rules be adopted with the changes described below in the Summary of Public Comments and Agency Responses and in the Summary of Agency-Initiated Changes. The Department and the Commission accept the Hearing Officer's recommendations.

The record of the public hearing is available for inspection in accordance with applicable law by contacting:

New Jersey Department of Environmental Protection

Office of Legal Affairs

Attn: DEP Docket No. 19-07-08/310

401 East State Street

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PO Box 402

Trenton, New Jersey 08625-0402

Summary of Public Comments and Agency Responses:

The Department and the Commission received oral and/or written comments on the proposed amendments from the following persons:

1. Larry A. Caputo, MD, Thomas Jefferson University Hospital
2. Eileen M. Ferguson, RPA, RT(R)(VI)
3. Stuart Fischer, MD, Orthopedic Surgeons of New Jersey
4. Patrick Foster, RT(R)(M), New Jersey Educators in Radiation Imaging
5. Shontell Graham, RT(R)
6. Christopher Hanifin, PA-C, New Jersey State Society of Physician Assistants
7. Martina Harris, MA.Ed, RT(R), Cooper University Hospital
8. Sandra L. Kerr, MA, RT(R)(M), Mercer County Community College
9. Theresa Levitsky, MA, RT(R), St. Francis Medical Center
10. Norman McLeod, RT(R), UMDNJ
11. Gladys M. Montane, MA, RT(T)(M), UMDNJ
12. George Nassoor, DPM, New Jersey Podiatric Medical Society
13. Kimberly Poss, RPA, RT(R)
14. Mary S. Tartaglione, BS, RT(R), Cooper University Hospital
15. Carolyn Torre, RN, MA, APN, C, New Jersey State Nurses Association
16. Francis V. Williams, BS, RT(R), Cooper University Hospital

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A summary of the comments timely submitted and the agencies' responses follow. The number(s) in parentheses after each comment correspond to the commenter(s) listed above:

GENERAL COMMENTS

1. COMMENT: The Radiologic Technology Board of Examiners and Department have provided tremendous support and valued guidance, advice and cooperation to educational programs. (4, 9)

2. COMMENT: The collaborative efforts of the Radiologic Technology Board of Examiners, Department and educational programs benefit the educational programs, students and ultimately patients. (9)

3. COMMENT: The Department should be commended for its diligence in undertaking this revision of the regulatory framework for radiologic technologists. (12)

RESPONSE TO COMMENTS 1 THROUGH 3: The Department and the Commission acknowledge the commenters' support.

4. COMMENT: The new inspector, who will be employed as a result of the new fees, should hold at least a master's degree. This would reflect the Joint Review Committee on Education in

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Radiologic Technology's (JRCERT) new degree requirement for program directors and allow for a true peer review of programs. (4, 8, 9)

5. COMMENT: The new inspector should also have experience in educational methodologies. Technologist Certification professional staff should be called "Accreditation Specialists" instead of inspectors. (9)

RESPONSE TO COMMENTS 4 AND 5: Job titles held by the Department's Bureau of Radiological Health's professional staff include environmental specialist, radiation physicist and research scientist. These titles are assigned by the State's Department of Personnel. The term "inspector" referred to throughout the rules is used to describe a function provided by the Department. The title "Accreditation Specialist" is not within the titles available, nor is it appropriate to describe the function of Department employees, inasmuch as the employees are not responsible for accreditation of a program. The Radiologic Technology Board of Examiners, rather than the Department, accredits the programs.

The Bureau's inspectors of radiologic technology educational programs possess many years of experience in reviewing the content of these programs and are capable of determining whether the Radiologic Technology Board of Examiners' requirements are being employed by the programs they are inspecting. Although some inspectors do possess Master's degrees, such a degree is not necessary in order for an inspector to perform his or her job effectively.

The Department's goal when inspecting a radiologic technology educational program is to ascertain whether the program has implemented all Radiologic Technology Board of

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Examiners requirements. Although some of the Department's inspectors do have experience in educational methodologies, such experience is not necessary in order for an inspector to perform his or her job effectively. While the Department does have input, the Radiologic Technology Board of Examiners is charged with evaluating the effectiveness of the educational methods used by radiologic technology educational programs.

Radiologic technology educational programs do receive "true peer review" by the Department and Radiologic Technology Board of Examiners. Several staff members have graduated from radiologic technology programs, one staff member formerly taught within a Radiologic Technology Board of Examiners approved program. In addition, the Radiologic Technology Board of Examiners' membership is designed to ensure that radiologic technology programs and other regulated entities are represented by their peers. The Radiologic Technologist Act at N.J.S.A. 26:2D-28 requires that the Radiologic Technology Board of Examiners consist of members of the Commission, radiologists, a physician, a dentist, a podiatrist, a hospital administrator, a health physicist, radiologic technologists, members of the public and a representative of the Department.

6. COMMENT: Radiologic Technology Board of Examiners members should hold at least a Master's degree. (8)

RESPONSE: The qualifications for members of the Radiologic Technology Board of Examiners are defined by the legislature at N.J.S.A. 26:2D-28. The Legislature requires some members of the Board to have specific relevant education (two radiologists, a physician, a

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dentist, a podiatrist, a health physicist, three radiologic technologists). The remaining members have no specific educational requirements, and include members of the general public.

As a practical matter, of the 13 current members of the Radiologic Technology Board of Examiners (there are two vacancies), 11 possess graduate degrees.

7. COMMENT: The additional record maintenance requirements will put an undue financial hardship on programs. Program directors will need additional release time to perform the administrative tasks, thereby requiring additional faculty. Many programs may not be able to hire additional faculty and may be forced to close. (8)

RESPONSE: Educational programs are required to keep student admission records, quizzes, tests and other academic progress records in order to demonstrate that their decisions were conducted in a fair and equitable manner, without discrimination and to demonstrate satisfactory completion of educational objectives. Educational programs must keep such records to demonstrate to both the Radiologic Technology Board of Examiners and national accrediting agencies that admission practices are equitable and consistent and that graduates demonstrate both didactic and clinical competency of the subject matter taught. The record keeping requirements of the rules do not introduce any new record keeping requirements; rather, they specify the minimum time period that such records must be kept.

The programs already keep the records that the rules require them to maintain. The required retention period does not seem to be a reason that programs would have to divert or hire faculty.

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8. COMMENT: Can an educational program be accredited only by the Radiologic Technology Board of Examiners? Is the Radiologic Technology Board of Examiners' accreditation recognized by the United States Department of Education for Title IV funding? (14, 16)

RESPONSE: Only the Radiologic Technology Board of Examiners' accreditation is required to operate a radiologic technology program in New Jersey. The Higher Education Act, 20 U.S.C. § 1070 et seq., is the Federal law that governs the administration of Federal higher education programs. Title IV of the Act covers the administration of the Federal student financial aid programs. The U.S. Department of Education does not currently recognize the Radiologic Technology Board of Examiners as an accrediting agency for purposes of Title IV.

9. COMMENT: The Department's Quality Assurance regulation (N.J.A.C. 7:28-22) has had a negative impact on New Jersey podiatric physicians. As a result of this regulation, 40 percent of podiatric physicians no longer perform x-ray procedures in their offices. Instead, patients are referred out to other offices. This potentially endangers patients by the inability of the podiatric physician to provide x-ray services. What is the status of quality assurance regulation for dental offices since at the time of the adoption of N.J.A.C. 7:28-22, podiatric physicians were told that these regulations would follow? (12)

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RESPONSE: The adopted rules establish requirements for the State's Radiologic Technology program at N.J.A.C. 7:28-19. The dental and podiatric quality assurance regulations are not part of this rulemaking and, consequently, this comment is beyond the scope of this adoption.

SPECIFIC COMMENTS

N.J.A.C. 7:28-19.1(c)3 and 19.2

10. COMMENT: New Jersey P.L. 2005, c. 259 updated the references throughout relevant statutes that reflect the practice of modern podiatric medicine. It is recommended that the terms chiropody and podiatry be replaced with podiatric medicine. (12)

RESPONSE: The Department and the Commission have modified the rules on adoption to replace the terms chiropody and podiatry at N.J.A.C. 7: 28-19.1(c)3 and in the definition of "licensed practitioner" at N.J.A.C. 7:28-19.2 with "podiatric medicine," to reflect the language of N.J.S.A. 45:5-1 et seq., as amended by P.L. 2005, c. 259.

N.J.A.C. 7:28-19.2

11. COMMENT: The proposed definitions of "direct supervision" and "indirect supervision" should be identical to the JRCERT definition. (9)

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RESPONSE: As defined in N.J.A.C. 7:28-19.2, “direct supervision” and “indirect supervision” require more restrictive levels of supervision than under the JCERT definitions. The Department and the Commission intend that the higher level of technologist supervision be provided, in order to enhance patient safety and radiation protection.

12. COMMENT: The proposed definition for “indirect supervision” should be expanded to include the supervising technologist to be in the “location” where the student is performing an x-ray procedure. This would permit the supervising technologist to be across the hallway from the student, such as in an operating room setting. There is immediate access to the student, although the supervisor is not in the adjacent room. (7)

RESPONSE: The definition of “indirect supervision” limits the location of the supervising technologist to specific areas near the student technologist (in the room or adjacent to the room) so that the supervising technologist can provide immediate assistance to the student should the need arise. However the definition of “indirect supervision” does not preclude an adjacent room separated by a hallway from meeting the standard.

13. COMMENT: The proposed definition of “licensed practitioner” should be revised to include nurse practitioners so that they can continue to order diagnostic and laboratory tests, which may include radiologic examinations. (15)

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RESPONSE: “Licensed practitioner” is defined in the Radiologic Technologist Act at N.J.S.A. 26:2D-26(g) as “a person licensed or otherwise authorized by law to practice medicine, dentistry, dental hygiene, podiatric medicine, osteopathy or chiropractic.” The definition does not include those licensed or otherwise authorized to practice nursing, which is a separate profession or occupation subject to the oversight of the New Jersey State Board of Nursing, and governed by N.J.S.A. 45:9-1 et seq. (The practice of medicine, as governed by N.J.S.A. 7:45-9.1 et seq., does not include the practice of nursing.) Accordingly, a nurse practitioner is not, by virtue of the Radiologic Technologist Act, a “licensed practitioner.”

The definition at N.J.A.C. 7:28-19.2 reflects the limited scope of the Act. However, the scope of practice for a nurse practitioner is established by the Board of Nursing, in accordance with N.J.S.A. 45:9-1 et seq., and N.J.A.C. 7:13:37. To the extent that the scope of practice allows a nurse practitioner to initiate diagnostic or laboratory tests, the authority of a nurse practitioner is not limited by these rules.

14. COMMENT: The proposed definition of “licensed practitioner” should be revised to include the physician assistant (PA) so that they would be exempt from obtaining a radiologic technologist license and, therefore, would be permitted to perform radiological procedures. (6)

RESPONSE: As discussed in the response to Comment 13, above, “licensed practitioner” is defined in the Radiologic Technologist Act at N.J.S.A. 26:2D-26(g). The statute does not include the PA within the definition of “licensed practitioner.” Additionally, a PA is not authorized to practice medicine under N.J.S.A. 45-9.1 et seq. According to the New Jersey State Board of

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Medical Examiners and its PA Advisory Committee, a PA is not a “licensed practitioner” and is not permitted to perform radiographic procedures.

15. COMMENT: The proposed definition of “radiologic technologists” should be revised to more clearly identify limited licensed radiologic technologists. The name and abbreviations of licensed technologists should be changed. For example, a licensed dental radiologic technologist (LRT(D)) should be called a limited licensed dental radiologic technologist (LLRT(D)).

Combining those with limited licenses in the same title as those who have completed a full time program of radiologic technology takes away from the years of education that the full time educated Radiologic Technologists have acquired. (7)

RESPONSE: Licensure titles and abbreviations are defined in the Radiologic Technologist Act at N.J.S.A. 26:2D-27. The rules are consistent with the statute. The Department does not believe that a change is needed in the licensure abbreviations that have been in use for the past forty years. This abbreviation system is well defined and accepted among the professional community. The current abbreviation system does not imply that limited scope licensees are equal to fully privileged radiologic technologists. Also, the title printed on all Radiologic Technology Board of Examiners-issued licenses further defines the limited scope of each limited licensure category: for example, “Limited to Chest Radiography.”

N.J.A.C. 7:28-19.3(i)

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16. COMMENT: The word "immediate" should be removed so that a technologist would not have to carry their license on their person. (7)

RESPONSE: As proposed, the rule would have allowed a radiologic technologist to carry a copy of his or her license, rather than the original. The proposed rule could also be interpreted as not requiring the radiologic technologist to carry his or her current license at work. At the time the rule was proposed, the Department and Commission were concerned that technologists could not, in some circumstances, comply with the requirement to display the license. For example, some technologists work in sterile environments, such as operating rooms.

However, on further review, the Department and the Commission recognize that the governing statute, N.J.S.A. 26:2D-32d requires every radiologic technologist to carry his or her current license (not a copy) on his or her person at work, but does not require that they display the license at all times, rather upon request. Therefore, the proposed revision is not necessary and in order to reflect the requirement of the statute, the Department and the Commission are modifying the rule on adoption to require a radiologic technologist to carry his or her original license on his or her person at all times while at work. Those technologists who work in sterile environments can take appropriate precautions, such as keeping the license underneath a sterile garment, to maintain sterile conditions and still comply with the law.

N.J.A.C. 7:28 – 19.4(b)

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17. COMMENT: The scope of practice of a licensed diagnostic radiologic technologist should be revised to include the practice standards of the American Society of Radiologic Technologists (ASRT). (7)

RESPONSE: The scope of practice for each of the license categories defined in N.J.A.C. 7:28-19.4 covers those tasks that relate to the use of ionizing radiation. There are other duties that the technologist may perform, including those tasks contained in the American Society of Radiologic Technologists' (ASRT) practice standards, provided that the duties do not conflict with the Radiologic Technologist Act, and these rules.

N.J.A.C. 7:28-19.4(b) and (c)

18. COMMENT: The scopes of practice of both the licensed diagnostic radiologic technologist and radiation therapist include tasks that are limited to prohibiting unnecessary radiation exposure and to prevent improper exposure of humans to ionizing radiation. These scopes should be revised to state that they apply only when the licensed technologist or therapist is using ionizing radiation equipment, and that the tasks published in the scopes is only a partial list of what a licensed technologists or therapist can perform. (7)

RESPONSE: The scopes of practice of a diagnostic radiologic technologist and radiation therapist defined by the rules are limited to those tasks that relate to the use of ionizing radiation. As explained in response to Comment 17, there are other duties that the technologist and

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therapist may perform, including those tasks contained in ASRT practice standards, provided that they do not conflict with the Radiologic Technologist Act and these rules.

N.J.A.C. 7:28-19.4(b)6

19. COMMENT: Proposed N.J.A.C. 7:28-19.4(b)6 should be modified to read, “Assist in fluoroscopic procedures, which use ionizing radiation-producing equipment, while under the direction of a licensed practitioner, who is in the room or at the remote area.” (7)

RESPONSE: N.J.A.C. 7:28-19.4 requires that a diagnostic radiologic technologist perform fluoroscopic procedures only under the direct supervision of a licensed physician who is in the room and directing the procedure. This rule codifies a long standing Radiologic Technology Board of Examiners policy that diagnostic radiologic technologists be permitted to assist physicians in performing fluoroscopic procedures so long as the physician is in the room to provide supervision. Also, the rule does not permit a diagnostic radiologic technologist to assist licensed practitioners other than licensed physicians. This restriction too, codifies the Radiologic Technology Board of Examiners’ policy that limits the medical procedures that a diagnostic radiologic technologist can perform to those supervised by physicians.

Fluoroscopy is an imaging technique commonly used by physicians to obtain real-time moving images of the internal structures of a patient through the use of a fluoroscope. The length of a typical procedure often results in a relatively high dose to the patient. The dose that the patient receives depends, in part, upon the duration of the procedure. A procedure that is not

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properly performed might need to be repeated, or extended, in order to obtain the information sought. In light of the potential for delivery of a relatively high radiation dose to the patient, it is appropriate that a diagnostic radiologic technologist be closely supervised, to ensure that the procedure is properly administered. Supervision from a location other than in the room where the procedure is administered would not allow the necessary oversight.

The commenter proposes that any licensed practitioner be allowed to supervise a diagnostic radiologic technologist in performing a fluoroscopic procedure. A licensed practitioner includes individuals (such as a dentist or chiropractor) who would, in the general scope of their practice, have no need for administering a fluoroscopic procedure. It is, therefore, appropriate to limit the supervisory role to licensed physicians.

N.J.A.C. 7:28-19.4(c)1 and 2

20. COMMENT: Radiation therapists do not have adequate education in CT to use a CT simulator. (7, 14, 16)

RESPONSE: The Radiologic Technology Board of Examiners' approved curriculum includes appropriate instruction in CT and CT simulators. Additionally, radiation therapists are required to demonstrate clinical competency in simulation procedures as part of their education.

N.J.A.C. 7:28-19.4(c)6

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21. COMMENT: Radiation therapists do not have adequate education to perform fluoroscopic simulation procedures with the licensed physician on-site but not in closer proximity. Radiation therapists, who are not diagnostic radiologic technologists first, lack education in radiation biology, radiation protection and the use of fluoroscopic equipment. (7, 14, 16)

RESPONSE: The Radiologic Technology Board of Examiners' approved curriculum in radiation therapy includes appropriate instruction in fluoroscopic procedures including instruction in radiation biology and radiation protection. Additionally, radiation therapists are required to demonstrate clinical competency in simulation procedures as part of their education. The independent use of fluoroscopic equipment by radiation therapists for therapy simulation purposes is justified since training to perform this study is a major component of the curriculum. Licensed radiation therapists will have demonstrated both didactic and clinical competency in simulation procedures and are thereby qualified to perform these procedures without the physician in the room. The curriculum of a licensed diagnostic radiologic technologist does not necessarily include training and clinical competency demonstration in fluoroscopic procedures; therefore, a physician must be in the room to closely supervise the licensed diagnostic radiologic in the use of fluoroscopic equipment, in accordance with N.J.A.C. 7:28-19.4(b)6.

N.J.A.C. 7:28-19.4(f)

22. COMMENT: The scope of practice of an orthopedic radiologic technologist should be expanded to include sterno-clavicular joint, sternum and ribs procedures, since it limits their

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employment opportunities by orthopedic surgeons. Orthopedic surgeons, who are the only providers that treat sterno-clavicular injuries, will be unable to treat these injuries. (3)

RESPONSE: The scope of practice of the orthopedic radiologic technologist is limited to x-ray imaging of the spine and extremities, as provided at N.J.S.A. 26:2D-26. The Department and the Commission do not anticipate that the scope of practice will limit orthopedic surgeons' ability to find qualified radiographers to assist in their diagnosis of sterno-clavicular injuries. Currently, there are more than 8,800 licensed diagnostic radiologic technologists in New Jersey whose scope of practice includes the imaging of these areas of concern.

N.J.A.C. 7:28-19.10(a)3

23. COMMENT: Radiologic technologist salaries in New Jersey do not justify a biennial renewal fee increase of \$40.00. The biennial fee should be incrementally increased over six years. (7)

RESPONSE: The license fees established in this rule reflect the costs incurred by the Department to administer the radiologic technology licensure program. Extensive details on the Department's costs and how fees were calculated was provided in the Economic Impact, 39 N.J.R. at 4033. The increases to license and renewal fees cannot be implemented incrementally over a six year period as suggested by the commenter, since the Department does not currently receive sufficient fees to cover the costs of administering its licensure program. As detailed in

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the Economic Impact, 39 N.J.R. at 4033, the costs to administer the initial and renewal licensure services is approximately \$890,000 annually, which must be recouped from initial and renewal licensing fees.

The commenter suggests that the adopted \$40.00 increase (\$20.00 annually) in license renewal fees is too high and should be implemented over time; however, reducing fees in one area necessitates an increase somewhere else. For example, based on the operating costs stated in the Economic Impact, reducing the renewal fee increase just \$10.00 would require the Department to raise the initial license fee to \$140.00, instead of to \$60.00, in order that the Department's costs to administer the program do not exceed its revenue.

The Department believes that the adopted fee structure is the most equitable method of generating the revenue needed, and is less burdensome on licensees than other approaches to recouping the costs of administering the program.

N.J.A.C. 7:28-19.10(c)

24. COMMENT: The new annual fee to existing diagnostic radiography programs could result in an increased financial burden/hardship, since schools are already paying fees to the JRCERT for their accreditation. (4, 7, 8, 9, 14, 16)

RESPONSE: The Department has investigated the impact of the adopted annual fees to educational programs by comparing the annual fees to the programs' 2007 through 2008 enrollment revenue. Based on this analysis, the adopted annual fee represents 0.3 to 1.5 percent

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of the programs' tuition revenue. The average cost was 0.6 percent of tuition revenue. The Department does not believe that the annual fee represents a hardship to educational programs.

25. COMMENT: The activities performed by the Radiologic Technology Board of Examiners and JRCERT are redundant and it is suggested that schools that are JRCERT accredited not be required to pay the annual fee. (4, 7, 8, 14, 16)

26. COMMENT: The Radiologic Technology Board of Examiners should accept the JRCERT's accreditation in lieu of an annual fee. (4, 8)

27. COMMENT: Since the JRCERT inspects programs for compliance with its Standards, the Department should only inspect programs for New Jersey regulations. This would streamline the process and schools only would need to pay for those activities that the JRCERT does not perform. (9)

RESPONSE TO COMMENTS 25 THROUGH 27: The Department and Commission acknowledge that New Jersey educational programs pay a fee to the JRCERT for its accreditation. However, JRCERT accreditation is a voluntary accreditation sought by the educational programs and is not required by New Jersey law. No matter what other accreditation that a program obtains, New Jersey educational programs must obtain Radiologic Technology Board of Examiners approval to operate a school of radiologic technology in New Jersey, as required by N.J.S.A. 26:2D-24 et seq.

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The fees charged by the Department are to recoup the costs associated with the review of self-study reports, investigation of complaints, on-site compliance inspections and other related activities. Although some of these activities may be similar in nature to those conducted by the JRCERT, they are performed independently; moreover, JRCERT and the State hold the programs to different standards, and conduct inspections at different frequencies.

For example, the Radiologic Technology Board of Examiners specifies program enrollment eligibility criteria not specified by JRCERT. The Radiologic Technology Board of Examiners specifies more descriptive competency based clinical education (CBCE) criteria than the JRCERT, and specifies who may determine competency (such as Radiologic Technology Board of Examiners approved instructors, and supervisors). In contrast, JRCERT accepts a CBCE determination from any staff technologist, whether or not the staff technologist is approved by the Radiologic Technology Board of Examiners.

Moreover, the Radiologic Technology Board of Examiners specifies program performance criteria (for example, 75 percent of a certified program's students must pass the State exam, in accordance with N.J.A.C. 7:28-19.13(f)17); whereas, the JRCERT allows the program to establish its own standard. Also, the Radiologic Technology Board of Examiners specifies student exposure levels that require program investigation, but the JRCERT allows the program to establish its own exposure limit before initiating an investigation. Furthermore, the JRCERT has no standards for limited educational programs, such as dental or chest programs. The Radiologic Technology Board of Examiners has specific standards and criteria that limited programs must meet. Finally, on occasions when the Department and JRCERT have conducted joint inspection of a program, the two have not always agreed on the compliance efforts of

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programs. As a result, the reports of the two inspecting entities differ, and the Radiologic Technology Board of Examiners and JRCERT award different accreditation periods.

For these reasons, it is necessary that the Department continue to evaluate the programs for compliance with Radiologic Technology Board of Examiners standards, as required by New Jersey Statute N.J.S.A. 26:2D-24 et seq., and perform the functions that are the basis for the annual fees assessed to programs.

28. COMMENT: The new fee may cause programs to increase student tuition (7, 14, 16)

29. COMMENT: The new fee may result in possible program closures. (4, 8)

RESPONSE TO COMMENTS 28 AND 29: As stated in response to Comment 24, the Department believes that the annual fees will have minimum impact on educational programs. The Department acknowledges that programs may elect to pass this cost on to their students. However, the annual fee assessment of \$1,000 or less per year, in and of itself, is not anticipated to result in the closure of any program.

30. COMMENT: The annual fees to New Jersey nursing, dental hygiene and physical therapy assistant programs are lower than those being proposed for schools in the radiologic field. The annual fee for radiologic technologists should be competitive with those comparable schools in the allied health field. (4)

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31. COMMENT: The Department and Commission refer in the proposal (39 N.J.R. at 4026) to the fees charged by JRCERT in accrediting a program. The re-accreditation fee for a New Jersey nursing program that is nationally accredited is \$400.00. The NJ fee schedules should be established to reflect the fees deemed necessary to determine compliance with State of New Jersey regulations, and not JRCERT standards.(9)

RESPONSE TO COMMENTS 30 AND 31: The Radiation Protection Act at N.J.S.A. 26:2D-9 authorizes the Department to establish and charge fees for the actual or projected expenses incurred by the Department. The adopted fees are necessary to cover the costs incurred by the Department, as discussed in the Economic Impact, 39 N.J.R. at 4033. The Department's fees are not determined by or related to the fees assessed by other accrediting agencies.

32. COMMENT: The program fee is redundant, since JRCERT standards must be followed. If a program is JRCERT accredited, there should not be a corresponding fee from the State. The Radiologic Technology Board of Examiners has routinely accepted the report from the JRCERT in guiding their decision when granting approval. If the Radiologic Technology Board of Examiners will accept the finding of JRCERT in lieu of its own inspection, as stipulated in N.J.A.C. 7:28-19.14, there is no justification for the annual fee. (8)

RESPONSE: As discussed in the Economic Impact, 39 N.J.R. at 4033, the fees charged are not only for inspection of programs. The fees cover the cost of activities that JRCERT does not

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undertake. The fees are charged for similar activities, but evaluated to different standards. Also, outcomes are not always identical. As set forth in the proposal Summary:

These fees are necessary to recoup Department costs for activities associated with program changes. The Department services covered by the annual program fee include review of re-accreditation self studies, onsite re-accreditation visits, updating Department records to reflect staffing changes at the regulated facility, review of new staff credentials, review and approval of changes in clinical sites, investigation of complaints against schools, faculty or clinical sites and all other activities associated with ongoing Board-approved programs. (39 N.J.R. at 4033)

See also the response to Comments 25 through 27.

33. COMMENT: Although the proposed annual fees are a cause for concern, they do have merit, since a new inspector will be employed. (7)

RESPONSE: The Departments acknowledges the commenter's support.

34 COMMENT: What additional services will be provided to programs as result of annual fees? (4)

RESPONSE: A detailed description of the services provided to educational programs covered by the adopted annual fee was provided in the Economic Impact at 39 N.J.R. at 4033. The Department constantly reviews and enhances the services it provides to its constituents. One

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example of improved services is the recently employed “real-time” on-line reports located on the Bureau of Radiological Health’s website that lists all Radiologic Technology Board of Examiners’ approved programs for potential students of radiologic technology. Beyond such enhancements, there are no new services planned to be provided to educational programs. Currently, the Department provides the services described in the Economic Impact at no cost to programs. The annual fee that will be assessed to educational programs will cover the Department’s costs associated with the oversight of approved educational programs.

N.J.A.C. 7:28-19.11(c)

35. COMMENT: With the current maximum accreditation award of eight years, the retention of admission applications for two years is too short. Peer reviewers might not be able to evaluate admissions processes for the program’s entire eight year accreditation cycle if admissions records are kept for only two years. The “Retention of Records: Guide for Disposal of Student Records” published by the American Association of Collegiate Registrars and Admission Offices should be used as a guide. (9)

RESPONSE: The requirement that a program keep records for two years has no correlation to the accreditation period that the Radiologic Technology Board of Examiners awards to a program. The accreditation period that the Radiologic Technology Board of Examiners awards is a reflection of the program’s compliance with all of the applicable regulations, as determined

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during the on-site visit or self-study assessment. Nor does the accreditation period correlate to the number of years of records that the Department reviews during an inspection.

The Department has established a two year minimum requirement for the retention of student admission applications. If a program wishes to follow the Retention of Records: Guide for Disposal of Student Records, it may do so, provided the records are kept for a period no less than two years. The Department and the Commission believe that the records retention requirements are sufficient to permit a valid peer review of a program's admissions process.

N.J.A.C. 7:28-19.12(c)5

36. COMMENT: During the normal course of a day a student would move an image intensifier and/or a fluoroscopic C-arm into position. Remove the words "move or position the image intensifier or" to reflect the true student scope of practice. (7)

RESPONSE: The Department and the Commission are modifying N J.A.C. 7:28-19.12(c)5 on adoption to permit students to position the image intensifier during fluoroscopic procedures. The intent of the proposed requirement is to protect the student, the patient, the supervising radiologic technologist and physician from unintended radiation exposure by limiting the activities that a student technologist can perform during fluoroscopic procedures. The positioning of the image intensifier does not directly affect the dose delivered to patients during fluoroscopic examinations, since the supervisor is controlling the production of x-rays during the procedure. In the event that a student positions the image intensifier in such a manner that dose might

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increase, the supervising radiologic technologist or physician can stop the production of x-rays and instruct the student in positioning methods before administering or continuing the dose of radiation. Permitting the student technologist to move the image intensifier during fluoroscopic procedures will enhance the student's clinical educational experience without compromising radiation safety.

N.J.A.C. 7:28-19.12(c)7

37. COMMENT: Does the Radiologic Technology Board of Examiners use the JRCERT guide for determining student capacity? (7)

RESPONSE: The JRCERT has no guidelines for student capacity. In 1998, the Radiologic Technology Board of Examiners did approve a guideline for determining the program's capacity for first-year students, based upon the number of supervisors and the number of x-ray machines on site, in order to ensure that the students will have the opportunity to perform a sufficient quantity and variety of procedures during their education. This guideline was given to all diagnostic radiography programs and is available from the Department upon request. The Radiologic Technology Board of Examiners applies the guideline when it reviews a program's application.

N.J.A.C. 7:28-19.12(c)9 and 19.13(f)13 and 14

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38. COMMENT: The term radiation dosimeter should replace the old term of badges and film badges. (9)

RESPONSE: The terms “badges” or “film badges” are not used in the rules. Instead, the rules refer to a “personnel radiation-monitoring device.”

N.J.A.C. 7:28-19.13(a) and (b)

39. COMMENT: A curriculum being at least 24 months or the equivalent does not permit schools to completely operate within a competency based format. (14, 16)

RESPONSE: In order to be Radiologic Technology Board of Examiners approved, a program must implement a competency based clinical education program. A program’s course of study can be longer than 24 months. A program can also petition the Radiologic Technology Board of Examiners for approval of a course of study that is less than 24 months, provided that the program can demonstrate to the Radiologic Technology Board of Examiners that it maintains a course of study that is equivalent to a 24 month n equivalent course of study.

40. COMMENT: The curriculum length should be changed to two years to be consistent with JRCERT requirements. If not, 24 months or its equivalent needs to be defined. (4)

RESPONSE: The length of course of study (at least 24 months or its equivalent) is mandated by the statute, N.J.S.A. 26:2D-30. A program could be longer than 24 months. The program could

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also petition the Radiologic Technology Board of Examiners for approval of a course of study of less than 24 months, provided that the program can demonstrate to the Radiologic Technology Board of Examiners that it maintains an equivalent program.

41. COMMENT: It is redundant to list specific subject courses, since schools must implement a JRCERT recognized curriculum. The subject courses should be deleted in case there is change in the JRCERT recognized curriculum. (7, 14, 16)

RESPONSE: The subject courses contained in the rules are the Radiologic Technology Board of Examiners' requirements for the program's course of study. The rule requires the program to use the JRCERT-recognized curriculum, provided it does not conflict with N.J.A.C. 7:28-19.

JRCERT's curriculum and the requirements of the subchapter currently are in line with each other; however, they may not be in the future. In the event of a conflict, the subchapter will govern.

N.J.A.C. 7:28-19.13(f)2

42. COMMENT: Not all programs require course syllabi to include lesson plans, and lesson plans are not required by the JRCERT. If JRCERT standards must be followed, where is the justification for separate course syllabus requirements for New Jersey? (8)

RESPONSE: It was not the intention of the Department and the Commission to require that lesson plans be part of the course syllabus. Rather, the Department and the Commission

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intended that for each course the program maintain a syllabus and other educational documents, including those identified in the rule. The Department and the Commission have modified N.J.A.C. 7:28-19.13(f)2 on adoption to eliminate the implication that the enumerated documents must be part of the syllabus for a course.

N.J.A.C. 7:28-19.13(f)3

43. COMMENT: It is not clear which program officials require Radiologic Technology Board of Examiners approval. (14, 16)

RESPONSE: N.J.A.C. 7:28-19.13(f)3 identifies those program officials who must be Radiologic Technology Board of Examiners approved. These include the program director, clinical coordinator, clinical instructor and clinical supervisor.

44. COMMENT: What criteria does the Radiologic Technology Board of Examiners use to approve program officials including didactic faculty? (7, 14 and 16)

RESPONSE: The Radiologic Technology Board of Examiners use JRCERT's standards when approving program officials identified in response to comment 43. These standards can be obtained from the JRCERT's website at http://www.jrcert.org/acc_standards.html.

45. COMMENT: Does the Radiologic Technology Board of Examiners follow the JRCERT actions? (7)

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RESPONSE: Historically, the majority of the Radiologic Technology Board of Examiners' approval and rejection of program faculty members have aligned with the actions of the JRCERT. There have been and will likely continue to be circumstances where the Radiologic Technology Board of Examiners and JRCERT actions differ. Also see response to Comments 25 through 27.

46. COMMENT: In addition to schools' issuing written catalogs, handbooks, policy manual, etc as required in N.J.A.C. 7:28-19.13(f) 4 and 5, schools should be allowed to issue these documents electronically through the programs' website. (7, 14, 16)

RESPONSE: The rule requires written materials, but does not specify the form of the writing. Accordingly, electronic documents are acceptable. However, because the materials must be provided to a candidate or student, if the candidate or student does not have access to these electronic documents, the program must provide a printed copy.

N.J.A.C. 7:28-19.14(a)3

47. COMMENT: Why does a new school need to submit to the Department the credentials of an instructor and courses they will be teaching, since it should be the prerogative of the program? The listing of specific instructors limits the ability of the institution to change instructors for cause. (14, 16)

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RESPONSE: The identity of the instructor and the courses he or she will teach is needed to ensure that the minimum Radiologic Technology Board of Examiners requirements for program faculty have been met. A program can change faculty at any time, provided notice is given to the Department as required by N.J.A.C. 7:28-19.13(f)3 and 16.

N.J.A.C. 7:28-19.14(f)and (h)

48. COMMENT: What guidelines, processes, and/or policies will the Radiologic Technology Board of Examiners use when considering a change in the school approval status to probation or terminating a school's approval? What objective criteria will be used? (8)

RESPONSE: The decision to reduce a program's approval to probation or to terminate a program's approval is on a case-by-case basis. Objective criteria that the Radiologic Technology Board of Examiners uses are described at N.J.A.C. 7:28-19.13. Particular examples can be found at N.J.A.C. 7:28-19.13(f)17 and 18. In addition, the Board will consider criteria particular to a given program, including the number and severity of the violations discovered, past violation history, and the program's response or ability to correct these violations.

All of the Radiologic Technology Board of Examiners' decisions, including program approvals, reductions of approvals and terminations, are made at quarterly meetings in accordance with N.J.S.A. 26:2D-28(e) and (f), and in compliance with the "Open Public Meetings Act," P.L. 1975, c.231 (N.J.S.A. 10:4-6 et seq.). Any Board decision to reduce or

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terminate a program's approval is issued through an Administrative Order to the affected program, and contains appeal rights should the affected party be aggrieved by the Board's decision, in accordance with N.J.A.C. 7:28-19.17(b).

N.J.A.C. 7:28-19.14(k)

49. COMMENT: Why would a program that changes its terminal award from an A.A.S. to A.S. degree be considered a new school and, therefore, subject to the new school fees in N.J.A.C. 7:28-19.10(b)? The A.S. degree allows graduates greater ability to transfer to a four year colleges and the increased cost may prevent colleges from making this degree change. (4, 8)

RESPONSE: N.J.A.C. 7:28:19.14(k) is premised on a substantial change to an approved program. The Department and the Commission intended that the requirement for an application as a new school (and accompanying payment of fees) would apply to those programs that change the academic level of their terminal award, not those that merely changed the name of their terminal award. For example, a program that changed its award from an Associate's to a Bachelor's degree must apply as a new school and incur the fee for initial application. Such a change in a program would be substantial, such that Department review would be necessary, as contemplated by the rule. A change from an award of an Associate of Applied Science to an Associate of Science would not be subject to a new application and fee, because the academic level of the award remains an Associate's degree.

N.J.A.C. 7:28-19.14(k) is modified on adoption accordingly.

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N.J.A.C. 7:28-19.16

50. COMMENT: The Department and the Commission are right to include Radiologist Assistants (RA) in the proposed subchapter 19. (1, 5, 10, 11)

RESPONSE: The Department and the Commission acknowledge the commenters' support.

N.J.A.C. 7:28-19.16(a)

51. COMMENT: The requirements for RAs do not recognize Radiology Practitioner Assistants (RPA). It is recommended that this section be revised to allow a RPA to be recognized as a RA. (2,13)

RESPONSE: The majority of RPAs are graduates of the RPA program at Weber State University, in Utah. Weber State's program conforms to the educational course of study requirements of N.J.A.C. 7:28-19.16(b). The American Registry of Radiologic Technologists (ARRT) has developed a pathway for RPAs to obtain certification as an RA provided that the applicant meets ARRT requirements specified at <http://www.arrt.org>. The ARRT will allow existing RPAs to sit for the RA certification examination through December 31, 2011. Accordingly, an RPA from Weber State, who has passed the ARRT's RA certifying examination and possesses a current New Jersey license in diagnostic radiologic technology, will satisfy the requirements of N.J.A.C.

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7:28-19.16(a) and, thus, be recognized as an RA in the State. RPA graduates from other programs may also be recognized as RAs in New Jersey, provided they meet the requirements of N.J.A.C. 7:28-19.16(a). An RPA graduated from a program other than Weber State must submit his or her educational course of study to the Radiologic Technology Board of Examiners for review to ensure that it meets the requirements of N.J.A.C. 7:28-19.16(b).

52. COMMENT: The proposed regulation for RAs will require RPAs to be licensed in New Jersey. (1)

RESPONSE: The rules do not require RPAs to be licensed in New Jersey. In fact, the State does not recognize the profession of RPA. However, as discussed in response to Comment 52, an RPA can be recognized as an RA in New Jersey, provided he or she satisfies the requirements of N.J.A.C. 7:28-19.16(a).

53. COMMENT: The Department's proposal to permit only RAs to perform "non-invasive fluoroscopic procedures" is more restrictive than the ARRT's "Registered Radiologist Assistant Role Delineation" document. This limitation may adversely affect the school's ability to comply with the ARRT's RA examination clinical competency requirements. It is suggested that the RA be allowed to perform those fluoroscopic procedures identified in the ARRT's RA Role Delineation document. (10,11)

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RESPONSE: On adoption, the Department and the Commission are deleting the definition of “non-invasive fluoroscopic procedure” at N.J.A.C. 7:28-19.2, and including a definition of “delegated fluoroscopic procedures” to make it clear that both the student RA and the RA can perform only those fluoroscopic procedures that are approved by the New Jersey State Board of Medical Examiners while under the level of radiologist supervision specified by the New Jersey State Board of Medical Examiners. The definition incorporates the Registered Radiologist Assistant Role Delineation, as established by the American Registry of Radiologic Technologists (ARRT), available at www.arrt.org. The document identifies activities and clinical procedures performed by RAs, as well as the level of supervision required. However, the definition allows the student RA or RA to perform only those procedures in the document that the New Jersey Board of Medical Examiners approves.

As stated in the summary at 39 N.J.R. at 4032, the Department and the Commission intend that the role of a New Jersey RA will be consistent with the national curriculum and scope of practice. At the time of proposal, the national scope of practice used the term “non-invasive” fluoroscopic procedures. Not long after the Department’s proposal, a new detailed list of fluoroscopic procedures was adopted by the ARRT. This new ARRT document entitled “Registered Radiologist Assistant Role Delineation” dropped the term “non-invasive” from the description of fluoroscopic procedures that the RA can perform. The Department and the Commission are modifying the rules on adoption to replace the term “non-invasive” with “delegated” everywhere the phrase “non-invasive fluoroscopic procedures” appears in the rule.

This does not, however, expand the scope of practice of an RA. Only the New Jersey State Board of Medical Examiners can establish the RA’s scope of practice. As set forth in the

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proposal, “Under the proposed rules, the New Jersey State Board of Medical Examiners, which regulates the practice of medicine, is authorized to define those fluoroscopic procedures that are considered non-invasive and within the scope of practice of the RA.” (39 N.J.R. at 4033)

The New Jersey State Board of Medical Examiners has not yet approved any delegated fluoroscopic procedures or specified any levels of supervision regarding the practice of the student RA or RA. Until such time as delegated fluoroscopic procedures are approved and levels of supervision are defined by the New Jersey State Board of Medical Examiners, the student RA or RA cannot perform any fluoroscopic procedure.

Related modifications on adoption are made to the definition of “radiologist assistant” and to N.J.A.C. 7:28-19.16(g)iii, to replace “non-invasive” with “delegated,” and to require the level of supervision provided to be consistent with that required by the New Jersey State Board of Medical Examiners.

54. COMMENT: The scope of practice for the RA must be clearly defined, since it differs from that of the diagnostic radiologic technologist. A distinction between RA and radiologic technologist scope of practice should be established in the subchapter, and a clear indication of how the RA scope of practice will be determined should be mentioned. (10, 11)

RESPONSE: The RA’s scope of practice falls under the authority of the New Jersey State Board of Medical Examiners, rather than the Commission on Radiation Protection. Consequently, it is beyond the scope of these rules. N.J.A.C 7:28-19.16 defines the pre-requisite education, licensing and certification requirements to be recognized as an RA in the State of New Jersey.

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N.J.A.C. 7:28-19 allows the RA will to perform fluoroscopic procedures, as determined by the New Jersey State Board of Medical Examiners, under the New Jersey State Board of Medical Examiners' prescribed levels of supervision by a radiologist. As yet, the New Jersey State Board of Medical Examiners has not approved any fluoroscopic procedures for an RA. Any concerns regarding the scope of practice of an RA should be addressed to the New Jersey State Board of Medical Examiners.

55. COMMENT: The levels of radiologist supervision provided to an RA should follow the levels used by the Centers for Medicare and Medicaid Service. (11)

RESPONSE: The Department does not have the authority to establish the levels of supervision of the RA. The level of supervision must be defined by the New Jersey State Board of Medical Examiners. Any concerns about level of supervision of an RA should be addressed to the New Jersey State Board of Medical Examiners.

56. COMMENT: The practice of the RA should include tasks approved by the American Registry of Radiologic Technologists (ARRT), such as communicating the reports of the radiologist's findings to the referring physician, obtaining clinical history from patients or medical records and obtaining consent for and injecting agents that facilitate and enable diagnostic imaging. (11)

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RESPONSE: The rules allow an RA to perform fluoroscopic procedures as defined by the New Jersey State Board of Medical Examiners, while under levels of radiologist supervision as determined by the New Jersey State Board of Medical Examiners. The rules define the scope of practice of the RA only as it pertains to the use of ionizing radiation. These rules do not prohibit an RA from performing other tasks, including those stated by the ARRT, provided that they do not conflict with the Radiologic Technologist Act and these rules.

Summary of Agency-Initiated Changes

The Department and the Commission are modifying N.J.A.C. 7:28-19.13(f)7 on adoption to correct a cross reference.

At N.J.A.C. 7:28-19.13(f)14ii, the Department and the Commission are modifying the second sentence on adoption to refer to a “radiologic technology program.” As proposed, the rule would not have afforded protections to pregnant students enrolled in radiation therapy programs. It was not the intent of the Department and the Commission to restrict the program enrollment options for only those pregnant students that are enrolled in radiography programs. In the Summary at 39 N.J.R. 4030 to 4031, the Department and the Commission indicated that the goal is to protect the pregnant student and the fetus. In addition, the section heading at N.J.A.C. 7:28-19.13 “Requirements for schools of radiologic technology” indicates that the requirements contained therein are for all schools of radiologic technology. As modified, this rule covers all educational programs, including radiation therapy.

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The Department and the Commission are modifying N.J.A.C. 7:28-19.14(k) on adoption to capitalize “Board” and to correct a cross reference.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. requires State agencies that adopt readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. There are several Federal statutes that establish regulatory programs concerning radiation; however, the rules do not contain any standards or requirements that exceed Federal law.

The Secretary of the United States Department of Health and Human Services (HHS) has promulgated regulations in 21 CFR Part 1000 et seq. that apply to devices that emit x-rays and other ionizing radiation, electrons, neutrons and other particulate radiation. Examples include television receivers, accelerators, x-ray machines, electron microscopes and neutron generators. These Federal regulations are applicable to manufacturers, distributors and dealers of these radiation-producing devices, and pertain primarily to recordkeeping and reporting requirements as well as to the importation of electronic devices (see 21 CFR Parts 1002, 1003, 1004 and 1005). The adopted regulations are not applicable to the end-user of these devices, such as the medical, dental, hospital, governmental and industrial facilities that possess and use these devices.

In addition, 21 CFR Part 1020 establishes performance standards for ionizing radiation-producing equipment. These requirements apply to the manufacturer and assembler of these devices. Once the devices are sold and placed in use, the Federal government no longer

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regulates them. The use of the devices is, however, regulated in New Jersey where the applicable standards contained in these adopted rules are enforced at the medical, dental, hospital, state governmental and industrial facilities that possess these devices. The State standards governing the use of these radiation-producing devices are identical to the performance standards established by the Secretary of HHS. Moreover, the State standards apply to different regulated entities than the Federal standards, and apply at a different time in the life cycle of the devices.

The State standards contained in these adopted rules prohibit manufacturers, assemblers, distributors, users or any other persons from training individuals who do not meet the qualifications for licensure in the use of x-ray equipment on humans. There are no equivalent Federal standards.

The requirement that radiologic technologists be licensed in New Jersey is pursuant to State law at N.J.S.A. 26:2D-24 et seq. and these adopted rules at N.J.A.C. 7:28-19. There are no comparable Federal regulations on licensure.

Additionally, HHS promulgated regulations in 45 CFR Part 75. The Federal regulations require individuals who operate ionizing radiation-producing equipment at Federally owned or operated facilities to meet certain educational requirements. Neither these adopted rules nor any of the Department's rules governing ionizing radiation-producing equipment apply to Federal facilities.

The Commission and the Department have determined that the adopted rules do not contain any standards or requirements that exceed standards or requirements imposed by Federal

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law. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not require further analysis.

Full Text of the adoption follows (additions to proposal indicated in boldface with asterisks

thus*; deletions from the proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 19. RADIOLOGIC TECHNOLOGY

7:28-19.1 Purpose, scope and applicability

(a) The purpose of this subchapter is to prohibit unnecessary ionizing radiation exposure and to prevent improper exposure of humans to ionizing radiation from radiologic technology, as set forth in the Radiologic Technologist Act.

(b) This subchapter:

1. Requires that all ionizing radiation-producing equipment be used in such a manner as to prevent unnecessary ionizing radiation exposure to humans;
2. Establishes educational and licensure requirements and delineates the scope of practice for persons engaged in the practice of radiologic technology;
3. Establishes responsibilities of licensed practitioners as related to radiologic technology, as well as owners and registrants of ionizing radiation-producing equipment used on humans;

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4. Establishes standards for the approval and operation of schools of radiologic technology; and
 5. Defines the practice of radiologist assistant as it pertains to fluoroscopic procedures.
- (c) The following persons are not required to possess a radiologic technology license under this subchapter in order to perform the activities of a radiologic technologist, but are otherwise subject to the requirements of this subchapter unless specifically exempted:
1. A licensed practitioner as defined in N.J.A.C. 7:28-19.2, provided that the licensed practitioner is practicing within the scope of his or her license;
 2. A dental hygienist registered by the New Jersey State Board of Dentistry, provided that the hygienist is practicing within the scope of his or her registration;
 3. A person enrolled in and attending a school or college of medicine, osteopathy, *[chiropody, podiatry]* *podiatric medicine*, chiropractic, dentistry or dental hygiene, who is acting within the school's curriculum, when the person is performing tasks within the scope of practice of a radiologic technologist and is under the direct supervision of either a licensed practitioner or a licensed radiologic technologist; and
 4. A person who is:
 - i. Enrolled in and attending a Board-approved school of radiologic technology;

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- ii. Acting within the school's curriculum as approved in accordance with this subchapter and with the school's permission;
- iii. Identified on the student list filed by the school with the Department;
- iv. Acting in a clinical education center approved by the Board; and
- v. Acting under the appropriate level of supervision as required by N.J.A.C. 7:28-19.12(b) and (c).

(d) This subchapter does not apply to the use of ionizing radiation in veterinary medicine or in radiological examinations of deceased humans.

(e) This subchapter does not establish educational and licensure requirements for nuclear medicine technologists, which are set forth at N.J.A.C. 7:28-24.

(f) This subchapter does not apply to the use of ionizing radiation-producing equipment, identified at N.J.A.C. 7:28-17, 20 and 21.

7:28-19.2 Definitions

In addition to the terms defined at N.J.A.C. 7:28-1 and N.J.S.A. 26:2D-1 et seq., the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

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“Board” means the Radiologic Technology Board of Examiners created pursuant to N.J.S.A. 26:2D-24 et seq.

“Chest radiologic technologist (LRT(C))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to the chest area for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (d).

"Clinical education center" means a medical or dental facility (such as an office, hospital or imaging center) where students engage in the practice of radiologic technology for clinical education purposes.

“Commission” means the Commission on Radiation Protection as established by the Radiation Protection Act N.J.S.A 26:2D-1 et seq.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection.

"Crime" means any crime as defined by the New Jersey Code of Criminal Justice (N.J.S.A. 2C:1-4(a)) or the equivalent under Federal law or the laws of any state.

*“Delegated fluoroscopic procedures” are those procedures contained in the American Registry of Radiologic Technologists “Registered Radiologist Assistant Role Delineation” (January 2005), as supplemented or amended and incorporated herein by reference, that have been approved by the New Jersey State Board of Medical Examiners (BME) for the Radiologist

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Assistant to perform under the level of radiologist supervision specified by the BME. The Registered Radiologist Assistant Role Delineation is available at www.arrrt.org.*

“Dental radiologic technologist (LRT(D))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to dental radiography for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (e).

“Department” means the New Jersey Department of Environmental Protection.

“Diagnostic radiologic technologist (LRT(R))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology includes all types of radiographic procedures for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (b).

"Direct supervision" means being present in the room with the student to observe and supervise the radiological examination.

"Engage" means to perform or assist in the performance of an activity.

"Indirect supervision" means being immediately available in the room or adjacent to the room where the student is performing the radiographic procedure.

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“Ionizing radiation” means any form of radiation that has the capability of ionizing the medium through which it is passes.

"Ionizing radiation-producing equipment" means a machine or device that produces ionizing radiation.

“JRCERT” means Joint Review Committee in Education for Radiologic Technology.

"License” means a written authorization applied for in accordance with this subchapter and issued by the Board authorizing the licensee to engage in a specific scope of practice of radiologic technology as set forth at N.J.A.C. 7:28-19.4.

“Licensed practitioner” means a person licensed by the State of New Jersey to practice medicine, dentistry, *[podiatry, chiropody]* *podiatric medicine*, osteopathy or chiropractic. Licensed practitioners do not include dental hygienists, nurses, nurse practitioners, physician assistants or radiologist assistants.

“Limited license” means a license with a scope of practice that is limited pursuant to N.J.A.C. 7:28-19.4.

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“*[Non-invasive fluoroscopic procedure]” means a fluoroscopic procedure included within the radiologist assistant scope of practice, as defined by the New Jersey State Board of Medical Examiners.]*

“Operate ionizing radiation-producing equipment” or “operating ionizing radiation-producing equipment” means the use or manipulation of ionizing radiation-producing equipment in any way that leads to or causes the application of radiation to humans or affects the amount or quality of radiation that is received by a human. The term “operate” or “operating” includes activating or terminating the radiation exposure, setting or adjusting technical factors, setting the mode of imaging, setting the camera rate, and setting or adjusting the size of the exposure field.

“Orthopedic radiologic technologist (LRT(O))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to the spine and extremities for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (f).

“Podiatric radiologic technologist (LRT(P))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to the operation of x-ray machines on the foot, ankle and the distal third of the lower leg for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (g).

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"Position patients" or "positioning patients" means the placement and alignment of the x-ray tube, image receptor (to include cassette, film, digital detector, image intensifier) and the area of the patient to be exposed to ionizing radiation. For radiation therapy treatment procedures, "position patients" or "positioning patients" means the placement and alignment of the ionizing radiation source and the area of the patient to be exposed to ionizing radiation.

"Probationary approval" means a reduction in approval status awarded by the Board to an existing school of radiologic technology that is not in full compliance with the requirements of this subchapter and N.J.S.A. 26:2D-24 et seq.

"Provisional approval" means approval awarded by the Board to a new school of radiologic technology which, upon review of the application, is found to not be in full compliance with the requirements of this subchapter and N.J.S.A. 26:2D-24 et seq., but has submitted a plan for future compliance acceptable to the Board.

"Radiation Protection Act" means N.J.S.A. 26:2D-1 et seq., as supplemented or amended

"Radiation therapist (LRT(T))" means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to the use of ionizing radiation-producing equipment for therapy simulation and therapeutic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (c).

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“Radiation Technologist Act” means N.J.S.A. 26:2D-24 et seq., as supplemented or amended.

“Radiologic technologist” means a person who is licensed pursuant to this subchapter, which shall include chest radiologic technologist (LRT(C)), dental radiologic technologist (LRT(D)), diagnostic radiologic technologist (LRT(R)), radiation therapist (LRT(T)), podiatric radiologic technologist (LRT(P)), orthopedic radiologic technologist (LRT(O)), and urologic radiologic technologist (LRT(U)).

“Radiologic technology” means the application of ionizing radiation to humans for diagnostic, therapy simulation, or therapeutic purposes.

"Radiological examination" means a procedure that uses ionizing radiation on humans for diagnostic, therapy simulation, or therapeutic purposes.

"Radiologist" means a physician who is licensed by the New Jersey Board of Medical Examiners and is either board-certified by the American Board of Radiology or the American Osteopathic Board of Radiology or has satisfactorily completed a residency program in radiology approved by the Accreditation Council for Graduate Medical Education.

"Radiologist assistant" means a licensed diagnostic radiologic technologist who has completed additional education in a radiologist assistant program and attained national certification as a radiologist assistant and who may perform *[non-invasive]* *delegated*

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fluoroscopic procedures *[while under the supervision of a radiologist]*, as provided at N.J.A.C.

7:28-19.16(a).

“Student” means any person who is currently enrolled in and attending a school of radiologic technology approved by the Board.

"Temporary license" means a license issued for a limited period of time in accordance with N.J.A.C. 7:29-19.8.

"Unnecessary ionizing radiation" means ionizing radiation that does not confer a diagnostic or therapeutic benefit or is excessive to achieve the medical or dental purpose.

“Urologic radiologic technologist (LRT(U))” means a person licensed in accordance with this subchapter whose scope of practice of radiologic technology is limited to the abdomen and pelvic area for urologic diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (h).

7:28-19.3 General provisions

(a) Except as provided at N.J.A.C. 7:28-19.1(c) through (f):

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1. No person shall engage in any activity within a scope of practice of radiologic technology as defined in N.J.A.C. 7:28-19.4 unless that person possesses a valid license authorizing the person to engage in that scope of radiologic technology.

2. No person shall operate ionizing radiation-producing equipment or position patients for mammographic procedures unless that person possesses a valid license in diagnostic radiologic technology and is in compliance with the radiologic technologist personnel requirements of the Mammography Quality Standards Act (42 U.S.C. 263b) and 21 CFR Part 900, as supplemented or amended, and incorporated herein by reference.
 - (b) No person shall operate ionizing radiation-producing equipment or cause, allow or permit the use of such equipment in such a manner as to expose humans to ionizing radiation, except as provided in this subchapter.

 - (c) No owner, licensed practitioner, or registrant of ionizing radiation-producing equipment shall cause, allow, or permit any person to engage in any activity within a scope of practice of radiologic technology as defined in N.J.A.C. 7:28-19.4, unless that person possesses a valid license authorizing the person to engage in that scope of radiologic technology.

 - (d) No person shall cause, allow, or permit a radiologic technologist to be in the primary beam, unless it is deemed essential for the specific examination by the licensed practitioner and the

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radiologic technologist is wearing protective garments over all body areas in the primary beam as required by N.J.A.C. 7:28-15.9.

(e) No owner, licensed practitioner, or registrant of ionizing radiation-producing equipment shall cause, allow, or permit any person to perform mammographic procedures unless that person complies with the requirements of this subchapter.

(f) No school of radiologic technology subject to this subchapter shall enroll students unless the school is approved by the Board.

(g) No school subject to this subchapter shall hold itself out to be an approved school of radiologic technology or claim in any way that completion of the school's curriculum will enable students to be eligible for New Jersey examination and/or New Jersey licensure, unless the school is approved by the Board.

(h) No person shall use or permit the use of ionizing radiation-producing equipment in such a manner as to expose humans to unnecessary ionizing radiation.

(i) A radiologic technologist shall *[immediately]* *carry his or her current radiologic technology license on his or her person at work, and *display his or her radiologic technology license *[or a true copy thereof]*, upon request of the Department, employer or any patient.

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(j) A radiologic technologist shall notify the Department of any conviction of a crime under Federal law or the law of any state within 30 calendar days of such conviction.

(k) Any conviction of a crime committed while not engaged in the practice of radiologic technology does not, in itself, constitute a lack of good moral character for the purposes of N.J.A.C. 7:28-19.6(a)2, 19.9(e) and 19.11(a)1.

(l) No person or organization shall provide training in the operation of ionizing radiation-producing equipment or patient positioning to persons other than those authorized to use such equipment as specified in this subchapter.

(m) No person licensed pursuant to this subchapter shall use ionizing radiation-producing equipment on humans for any purpose other than for medical diagnosis, dental diagnosis, therapy simulation, therapy or monitoring of dental treatment. All such use must be at the direction of a licensed practitioner who is practicing within the scope of his or her license.

(n) No radiologic technologist licensed pursuant to this subchapter shall prescribe a radiological examination.

(o) No radiologic technologist licensed pursuant to this subchapter shall render an interpretation of a radiological examination.

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(p) The license of a radiologic technologist may be suspended for a fixed period, or may be revoked, or the technologist may be censured, reprimanded or otherwise disciplined in accordance with the provisions and procedures set forth in the Radiologic Technologist Act, if after due process, the Board finds that the technologist has committed an act of unethical conduct, as defined in N.J.A.C. 7:28-19.5, or has violated any provision of this chapter, the Radiation Protection Act or the Radiologic Technologist Act. A radiologic technologist may request a hearing in accordance with N.J.A.C. 7:28-19.17(b) if aggrieved by the Board's actions.

7:28-19.4 Scopes of practice

(a) Any person who possesses a valid license in radiologic technology shall exercise proper principles of radiation protection with regard to radiological examinations.

(b) Any person who possesses a valid license to practice diagnostic radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of diagnostic radiologic technology:

1. Operate ionizing radiation-producing equipment for radiographic procedures;
2. Measure patients for radiographic procedures;
3. Position patients for radiographic procedures;

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4. Set technique factors for radiographic procedures;
 5. Set the source-to-image receptor distance for radiographic procedures;
 6. Assist in fluoroscopic procedures using ionizing radiation-producing equipment provided that a licensed physician is physically in the room and directing the procedure; and
 7. Administer contrast media and pharmaceuticals provided that the material and its administration comply with New Jersey State Board of Medical Examiners (BME) rules, N.J.A.C. 13:35-6.20.
- (c) Any person who possesses a valid license to practice radiation therapy technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of radiation therapy technology:
1. Operate ionizing radiation-producing equipment for therapy simulation and therapeutic procedures only;
 2. Position patients and equipment for therapy simulation and treatment procedures;
 3. Deliver the treatment dose prescribed by a licensed physician;

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4. Record and certify the parameters of each treatment delivered in the patient record;
5. Select and position any required immobilization devices and beam modification devices;
6. Perform fluoroscopic procedures for therapy simulation while under the direction of a licensed physician who is on-site during the procedure; and
7. Assist in treatment planning procedures while under the supervision of a licensed physician or therapy physicist or medical dosimetrist.

(d) Any person who possesses a valid license to practice chest radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of chest radiologic technology; however, the scope of practice does not include radiographic procedures of the ribs or sternum or any type of fluoroscopy, tomography or computed tomography procedure:

1. Operate fixed (not portable) ionizing radiation-producing equipment for chest radiographic procedures only;
2. Measure patients for chest radiographic procedures only;

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3. Position patients for posterior-anterior, anterior-posterior, oblique, lateral, decubitus and apical lordotic views for chest radiographic procedures only;

4. Set the technique factors for chest radiographic procedures only; and

5. Set the source-to-image receptor distance for chest radiographic procedures only.

(e) Any person who possesses a valid license to practice dental radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of dental radiologic technology; however, the scope of practice does not include any type of fluoroscopy, tomography or computed tomography procedure:

1. Operate ionizing radiation-producing equipment for dental radiographic procedures only;

2. Position patients for intra-oral and extra-oral dental radiographic procedures only;

3. Set the correct technique factors for dental radiographic procedures only; and

4. Set the source-to-image receptor distance for dental radiographic procedures only.

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(f) Any person who possesses a valid license to practice orthopedic radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of orthopedic radiologic technology; however, the scope of practice does not include radiographic procedures of the sterno-clavicular joints, sternum and ribs or any type of fluoroscopy, tomography, computed tomography or bone densitometry procedures:

1. Operate fixed (not portable) ionizing radiation-producing equipment for orthopedic radiographic procedures only;
2. Measure patients for orthopedic radiographic procedures only;
3. Position patients for radiographic procedures limited to the spine and extremities;
4. Set the technique factors for orthopedic radiographic procedures only; and
5. Set the source-to-image receptor distance for orthopedic radiographic procedures only.

(g) Any person who possesses a valid license to practice podiatric radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of podiatric radiologic technology; however, the scope of practice does not include bone densitometry or procedures involving the injection of contrast media or fluoroscopy.:

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1. Operate ionizing radiation-producing equipment for podiatric radiographic procedures only;

2. Position patients for radiographic procedures limited to the foot, ankle and distal third of the lower leg (tibia/fibula);

3. Set technique factors for podiatric radiographic procedures only; and

4. Set the source-to-image receptor distance for podiatric radiographic procedures only.

(h) Any person who possesses a valid license to practice urologic radiologic technology issued in accordance with this subchapter may engage in the following activities, which constitute the scope of practice of urologic radiologic technology; however, the scope of practice does not include fluoroscopy, computed tomography or bone densitometry procedures:

1. Operate ionizing radiation-producing equipment for urologic radiographic procedures only;

2. Position patients for radiographic procedures limited to the abdomen and pelvic area for urologic radiographic procedures only;

3. Measure patients for urologic radiographic procedures only;

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4. Set technique factors for urologic radiographic procedures only; and
5. Set the source to image receptor distance for urologic radiographic procedures only.

7:28-19.5 Unethical conduct

(a) The Board may, in its discretion, consider the acts listed below, among others, as acts of unethical conduct by a person subject to this subchapter. Such acts are subject to sanction pursuant to N.J.S.A. 26:2D-34(a) and 36, as supplemented or amended:

1. Conviction of any crime that reasonably relates to any field of radiologic technology.
For the purpose of this section, a plea of guilty, non vult, no contest, or other such disposition of alleged criminal activity shall be deemed a conviction;
2. Revocation or suspension of a certification, registration, or license to practice radiologic technology or censure or reprimand by any other state or certifying agency for reasons consistent with this subchapter;
3. Dishonesty, fraud, deception, misrepresentation, or falsification in:

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- i. Any field relating to radiologic technology or the education of radiologic technology students or in documenting compliance with the Radiation Protection Act, the Radiologic Technologist Act or this chapter as supplemented or amended;
 - ii. Obtaining a radiologic technology license, including taking the examination and completing the required education and training;
 - iii. Statements on any application for examination or license;
 - iv. Statements or documentation regarding the status of any national certification relating to the field of radiologic technology;
 - v. Statements made to a representative of the Department or Board; or
 - vi. Any records relating to the practice of radiologic technology or to the education of radiologic technology students;
4. Altering any license or examination results;
 5. Practicing radiologic technology or reporting to work as a radiologic technologist while under the influence of alcohol or a Controlled Dangerous Substance as defined in the New Jersey Code of Criminal Justice;

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6. Acting in a negligent or incompetent manner relating to radiologic technology or the education of radiologic technology students;

7. Maliciously destroying or stealing property or records relating to the practice of radiologic technology or to the education of radiologic technology students;

8. Failing to exercise due regard for safety, life or health while engaged in the practice of radiologic technology or the education of radiologic technology students;

9. Violating any term limitation, condition or restriction that the Board has placed on his or her radiologic technology license;

10. Failing to comply with any State or Federal law or regulation regarding the confidentiality of a patient's medical or dental information;

11. Impersonating a licensed radiologic technologist;

12. Discriminating in the practice of radiologic technology or in the education of radiologic technology students as defined in Section 3 of New Jersey Law Against Discrimination in N.J.S.A. 10:5-3, as supplemented or amended; or

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13. Engaging in the practice of radiologic technology or in the education of students in an unprofessional or unethical manner as determined by the Board.

(b) There is a rebuttable presumption that a person who has been determined by the Board to have committed an act of unethical conduct or has been convicted of a crime involving moral turpitude does not meet the standard of good moral character as required for purposes of N.J.A.C. 7:28-19.6(a)2, 19.9(e) and 19.11(a)1.

7:28-19.6 Requirements of applicants for the licensing examination

(a) Subject to (c) below, the Board shall admit to a licensing examination any applicant who has paid to the Department a fee as specified in N.J.A.C. 7:28-19.10(a)1 and has submitted satisfactory evidence to the Board, verified by oath or affirmation, that the applicant:

1. At the time of application is at least 18 years of age;
2. Is of good moral character;
3. Has successfully completed a four year course of study in a secondary school (high school) approved or recognized by the State Board of Education, or passed an approved equivalency test; and

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4. Has complied with the applicable requirements of (b) below.

(b) In addition to the requirements of (a) above, any person seeking admission to a licensing examination in a specific scope of practice of radiologic technology (see N.J.A.C. 7:28-19.4) shall comply with the following:

1. Each applicant for examination in diagnostic radiologic technology shall have satisfactorily completed a 24-month course of study in diagnostic radiologic technology approved by the Board or its equivalent as determined by the Board.

2. Each applicant for examination in radiation therapy technology shall have satisfactorily completed a 24-month course of study in radiation therapy technology approved by the Board or its equivalent as determined by the Board. A 12-month radiation therapy technology course of study that requires applicants to have satisfactorily completed a 24-month course of study in diagnostic radiologic technology or its equivalent as determined by the Board is the equivalent of a 24-month course of study in radiation therapy technology.

3. Each applicant for examination in chest radiologic technology shall have satisfactorily completed the curriculum for chest radiography as approved by the Board or its equivalent as determined by the Board.

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4. Each applicant for examination in dental radiologic technology shall have satisfactorily completed the curriculum for dental radiography as approved by the Board or its equivalent as determined by the Board.

5. Each applicant for examination in podiatric radiologic technology shall have satisfactorily completed the curriculum for podiatric radiography as approved by the Board or its equivalent as determined by the Board.

6. Each applicant for examination in orthopedic radiologic technology shall have satisfactorily completed the curriculum for orthopedic radiography as approved by the Board or its equivalent as determined by the Board.

7. Each applicant for examination in urologic radiologic technology shall have satisfactorily completed the curriculum for urologic radiography as approved by the Board or its equivalent as determined by the Board.

(c) The Board may determine that an applicant is ineligible for examination if the applicant does not fulfill the requirements of (a) and (b) or has violated any provision of this chapter, the Radiation Protection Act or the Radiologic Technologist Act. The applicant may request a hearing in accordance with N.J.A.C. 7:28-19.17(a), if aggrieved by the Board's actions.

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(d) An applicant who fails to pass the examination may reapply for the examination provided the applicant meets the requirements of this section.

(e) Any person who has failed a particular examination three times shall not be permitted to take that examination a fourth time until that person has submitted proof of completion of a remedial course that includes a full review of course material in areas of low performance as identified by the examination.

(f) After the fourth failure, the person may not retake a particular examination until that person has submitted proof that he or she has re-enrolled and successfully completed a remedial course of study in a Board-approved school of radiologic technology, or an equivalent school as determined by the Board, in an appropriate time frame determined by the school.

7:28-19.7 Requirements of applicants for licensure

(a) Subject to (d) below, the Board shall issue a license to any applicant who has paid to the Department a fee as specified in N.J.A.C. 7:28-19.10(a)2 and has submitted satisfactory evidence to the Board, verified by oath or affirmation, that the applicant:

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1. Has met the requirements in N.J.A.C. 7:28-19.6(a) and (b), and

2. Has passed the Board's examination in the license category for which the applicant has applied.
 - (b) In lieu of its own examination required by (a)2 above, the Board may accept a valid active certificate issued by the American Registry of Radiologic Technologists (ARRT) or a valid active certificate or license as a radiologic technologist issued by another state, provided the Board determines that the ARRT's or the other state's standards are equivalent to those established by the Board.

 - (c) In lieu of its own examination for a dental radiologic technologist LRT(D), required by (a)2 above, the Board may accept:
 1. A valid registration as a dental assistant issued by the New Jersey Board of Dentistry, provided the applicant passed the certification examination including the "Radiation Health and Safety" examination given by the Dental Assisting National Board and any education requirements as may be prescribed by the New Jersey Board of Dentistry, and provided the Board determines that the above standards are equivalent to those established by the Board; or

 2. A valid active certificate issued by the Dental Assisting National Board demonstrating that the applicant has successfully passed the "Radiation Health and Safety" examination,

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provided the Board determines that the above standards are equivalent to those established by the Board.

(d) The Board may determine that an applicant is ineligible for licensure if the applicant does not fulfill the requirements of (a), (b) and (c) or has violated any provision of this chapter, the Radiation Protection Act or the Radiologic Technologist Act. The applicant may request a hearing in accordance with N.J.A.C. 7:28-19.17(a), if aggrieved by the Board's actions.

7:28-19.8 Temporary, conditional and restricted licenses

(a) The Board may, at its discretion, issue a temporary license to any person who has submitted a license application for a license in diagnostic radiologic technology or radiation therapy technology when the issuance of a temporary license may be justified by reason of special circumstances. A temporary license shall be issued only if the Board finds that its issuance will not violate the purposes of the Radiation Protection Act or the Radiologic Technologist Act, or tend to endanger the public health and safety. A temporary license shall expire 90 calendar days after the date the applicant has successfully completed the course of study in radiologic technology. Only one temporary license in a specific licensure category shall be issued to any person.

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(b) The Board, at its discretion, may place conditions or restrictions on any license including, but not limited to, a condition or restriction limiting the scope of practice of a licensed radiologic technologist.

(c) No person who has been issued a conditional or restricted license shall practice outside of the conditions or restrictions as placed on the license by the Board.

7:28-19.9 License expiration, reissuance and renewal

(a) Except as provided at N.J.A.C. 7:28-19.1(c), no person or radiologic technologist shall engage in any scope of practice of radiologic technology without a valid and effective radiologic technology license issued under this subchapter authorizing the licensee to engage in that scope of practice.

(b) A license issued in accordance with this subchapter is effective as of the date of issuance, or January 1st of an odd numbered year, whichever is later, and expires on the immediately following December 31st of an even numbered year. No license is valid longer than two years. It is the Board's practice, but not its obligation, to mail license renewal applications to all licensees at least 60 calendar days prior to the license expiration date.

(c) A radiologic technologist shall inform the Department of any change in his or her name and/or address no later than 30 calendar days after the change.

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(d) To maintain a valid license, a radiologic technologist shall renew his or her license any time prior to its expiration by submitting a renewal application for a radiologic technology license and the required renewal fee specified in N.J.A.C. 7:28-19.10(a)3.

(e) The Board may deny an application for renewal if the Board has determined that the radiologic technologist is not of good moral character or has violated any provision of this subchapter, the Radiation Protection Act or the Radiologic Technologist Act. The applicant may request a hearing as provided by N.J.A.C. 7:28-19.17(b) if aggrieved by the Board's action.

(f) A radiologic technologist who possesses an expired license may apply to have the license reissued, provided that the license has not been expired for five years or more. An individual who wishes to have a license reissued that has been expired less than five years shall submit an application for reissuance and the fee specified in N.J.A.C. 7:28-19.10(a)3. If such individual has not engaged in the practice of radiologic technology at any time in New Jersey during the period the license was expired, the individual is required only to pay the reissuance fee for the current license period. If such individual has engaged in the practice of radiologic technology at any time in New Jersey during the period the license was expired, in addition to the reissuance fee for the current license period, the individual shall pay the reissuance fee for each previous renewal period, in addition to other sanctions that may be imposed under the Radiation Protection Act or the Radiologic Technologist Act for practicing radiologic technology without a license.

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(g) A radiologic technologist who possesses a license that has been expired for five or more years may not have that license renewed, but may apply for a license in accordance with N.J.A.C. 7:28-19.7.

7:28-19.10 Fees

(a) Any person who submits an application for examination, license or license reissuance or renewal to the Department shall include as an integral part of said application a service fee as follows:

- | | |
|---------------------------------------|----------|
| 1. Examination Fee: | \$160.00 |
| 2. License Application Fee: | \$60.00 |
| 3. License Reissuance or Renewal Fee: | \$90.00 |
| 4. License Reprint Fee | \$20.00 |

(b) Any new school that submits an application for Board approval in any of the categories of radiologic technology shall include, as an integral part of said application, a service fee as follows:

- | | |
|--------------------------------------------|---------|
| 1. Diagnostic Radiography School Fee | \$2,500 |
| 2. Radiation Therapy Technology School Fee | \$2,500 |

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|-----------------------------------|---------|
| 3. Dental Radiography School Fee | \$1,650 |
| 4. Limited Radiography School Fee | \$1,650 |

(c) A Board approved school of radiologic technology shall submit the appropriate annual fee as follows:

- | | |
|--------------------------------------------|----------|
| 1. Diagnostic Radiography School Fee | \$1,000 |
| 2. Radiation Therapy Technology School Fee | \$1,000 |
| 3. Dental Radiography School Fee | \$400.00 |
| 4. Limited Radiography School Fee | \$200.00 |

(d) All fees shall be in the form of a check or money order or any other manner acceptable to the Department made payable to the Treasurer, State of New Jersey. Fees submitted to the Department are not refundable.

(e) All license renewal or reissuance applications and the associated fees specified in (a)3 above, and the approved school annual fees as specified in (c) above, shall be submitted to:

Department of Treasury

Division of Revenue

PO Box 417

Trenton, New Jersey 08646-0417

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(f) All other applications and associated fees specified in (a)1, 2 and 4 and (b) above shall be submitted to:

Department of Environmental Protection

Bureau of Radiological Health

25 Arctic Parkway

PO Box 415

Trenton, New Jersey 08625-0415

7:28-19.11 Minimum requirements for admission to a school of radiologic technology

(a) A school of radiologic technology approved by the Board pursuant to this subchapter shall only enroll a candidate who at the time of admission meets or exceeds the following minimum requirements:

1. Is of good moral character;
2. Has successfully completed a four-year course of study in a secondary school (high school) approved by the State Board of Education or passed an approved equivalency test; and
3. Meets the admission criteria of that school of radiologic technology.

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(b) The school of radiologic technology shall ensure that each candidate for admission submits a formal application.

(c) Each school of radiologic technology shall keep on file for at least two years after a student graduates, withdraws or is dismissed the student's application and any document used to determine eligibility for admission to the school.

7:28-19.12 Requirements for students engaging in the scope of practice of radiologic technology

(a) Only students who meet the requirements of N.J.A.C. 7:28-19.1(c)4 are permitted to engage in the practice of radiologic technology.

(b) Any licensed practitioner, registered dental hygienist, or licensed radiologic technologist, who is acting within the scope of that license or registration, shall provide direct or indirect supervision to student technologists that includes:

1. The evaluation of the request for the radiological examination in relation to the student's knowledge and competency;

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2. The evaluation of the condition of the patient in relation to the student's knowledge and competency; and

3. The evaluation and approval of all resultant radiological images and/or data.

(c) The school of radiologic technology and the clinical education center shall:

1. For students in schools of diagnostic radiologic technology, ensure that students are supervised in accordance with the following:

i. Prior to a Board-approved faculty member determining that a student is clinically competent in a given radiographic procedure, the student shall perform that procedure only under the direct supervision of a licensed diagnostic radiologic technologist.

ii. After clinical competency in a radiographic procedure has been determined by a Board-approved faculty member, the student may perform that procedure under indirect supervision of a licensed diagnostic radiologic technologist.

iii. Any exposure that needs to be repeated shall be repeated under the direct supervision of a licensed diagnostic radiologic technologist.

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2. For students in schools of radiation therapy technology, ensure that all therapy simulation and therapeutic procedures are performed under direct supervision of a licensed radiation therapist.

3. For students in schools of chest, orthopedic, podiatric, and urologic radiologic technology, ensure that all radiographic procedures are performed under direct supervision of a licensed practitioner, a licensed diagnostic radiologic technologist, or a person licensed in that specific category of radiologic technology.

4. For students in schools of dental radiologic technology, ensure that all procedures are performed under direct supervision of a licensed dentist, registered dental hygienist, a licensed diagnostic radiologic technologist, or a licensed dental radiologic technologist.

5. Ensure that students in schools of diagnostic radiologic technology do not *[move or position the image intensifier or]* initiate x-ray exposure during fluoroscopic procedures.

6. Ensure that students are not assigned to clinical education rotations in such a manner as to substitute for radiologic technologists.

7. Ensure that during clinical education activities the number of students assigned to a clinical education center and on site at any time does not exceed the Board-approved student capacity for that clinical education center.

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8. Ensure that during clinical education activities students wear visible identification name badges that identify them as student radiologic technologists.

9. Ensure that during clinical education activities each student wears a personnel radiation-monitoring device.

10. Ensure that all activities involving clinical education are performed in accordance with the school's published policies and procedures, and the agreement between the school of radiologic technology and the clinical education center.

11. Ensure that students are not:

i. In the primary beam;

ii. Permitted to remain in the x-ray room outside the control booth during an x-ray exposure unless the student is provided with a protective apron or shield that is at least 0.5 mm of lead equivalent; or

iii. Permitted to engage in any other practices likely to result in unnecessary exposure to ionizing radiation.

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7:28-19.13 Requirements for schools of radiologic technology

(a) A school in diagnostic radiologic technology shall provide a course of study that is at least 24 months in length or its equivalent as determined by the Board. The educational curriculum shall include ethics and law in radiologic technology; medical terminology; patient care management; human anatomy and physiology; radiographic procedures; imaging and processing; imaging equipment; image analysis; radiation production and characteristics; radiation physics; radiation protection; radiation biology; radiologic pathology; computers in radiologic technology; pharmacology and drug administration; quality assurance; and shall provide for competency-based clinical education in accordance with the Board's accreditation standards. The curriculum shall be a JRCERT recognized curriculum, provided that it does not conflict with this subchapter.

(b) A school of radiation therapy technology shall provide a course of study that is at least 24 months in length or its equivalent as determined by the Board. This course of study can be 12 months in length if the applicant has successfully completed a Board-approved or equivalent diagnostic radiologic technology program. The educational curriculum shall include ethics and law in radiation therapy; medical terminology; patient care management in radiation therapy; radiation protection; pathology; radiation physics; radiation therapy physics; medical imaging and processing; sectional anatomy; operational issues in radiation therapy; treatment planning, beam modification devices and dosimetry; simulation and therapy procedures and technique;

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quality management; and shall provide for competency-based clinical education. The curriculum shall be a JRCERT recognized curriculum, provided that it does not conflict with this subchapter.

(c) A school of dental radiologic technology shall follow the Board's approved curriculum in dental radiologic technology, which is available from the Department by written request to the address listed at N.J.A.C. 7:28-19.10(f). In the alternative, the curriculum shall be the American Dental Association's or any nationally recognized published curriculum, provided that it does not conflict with this subchapter or the Board's approved curriculum.

(d) A school of podiatric radiologic technology shall follow the Board's approved curriculum in podiatric radiologic technology, which is available from the Department by written request to the address listed at N.J.A.C. 7:28-19.10(f). In the alternative, the curriculum shall be the American Podiatric Medical Assistants Association's or any nationally recognized published curriculum, provided that it does not conflict with this subchapter or the Board's approved curriculum.

(e) A school of chest, orthopedic, or urologic radiologic technology shall follow the Board's approved curriculum in that category of radiologic technology, which is available from the Department by written request to the address listed at N.J.A.C. 7:28-19.10(f). In the alternative, the curriculum shall be any nationally recognized published curriculum, provided that it does not conflict with this subchapter or the Board's approved curriculum.

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(f) Each school of radiologic technology shall:

1. Comply with N.J.A.C. 7:28-19.11 and 12 and the Board's accreditation standards, which are available from the Department's Bureau of Radiological Health.
2. Prepare and maintain a current and accurate written course syllabus *and other educational documents* for each content area delineated in the program's Board approved curriculum. These documents shall include, but are not limited to, lesson plans, learning objectives, classroom schedules, and student evaluation instruments. These documents shall be on file at the school and shall be produced for review by the Department or its representative during an inspection, and shall be submitted to the Department upon request.
3. Employ and/or appoint only Board-approved program directors, clinical coordinators, clinical instructors and clinical supervisors.
4. Issue to each candidate prior to admission a current and dated course catalog, bulletin, or other written statement, which shall include, but not be limited to a description of the curriculum as a whole, the requirements for admission, requirements for graduation, and information concerning amounts and terms of payment of any tuition and fees or expenses to be incurred. The information contained in these documents shall accurately reflect the program offered.

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5. Issue to each enrolled student a current and dated catalog, handbook, or policy manual that includes all program and school policies, which shall include, but not be limited to policies regarding conduct, dismissal, grading, and pregnancy as it relates to radiation protection. All policies and procedures shall accurately reflect the program offered.

6. Enroll only students who meet the school's requirements for admission.

7. Report in writing to the Department, within 30 calendar days of any student's matriculation date, the name and address of each new student enrolled and, within 30 calendar days of the date the student completes the course of study (as set forth on the certificate issued in accordance with (f)*[7]* *15* below), the name and address of each student graduated.

8. Have and comply with an educational plan for didactic and laboratory instruction and clinical assignments, with objectives relating to the specific practice of radiologic technology.

9. Maintain current student records that accurately reflect the student's didactic and clinical progress.

10. Permanently maintain an official course transcript for each graduate.

11. Maintain all academic and clinical records for at least 6 months for each student who has left, withdrawn, or was dismissed from the program.

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12. Ensure that it has adequate administrative, clerical, clinical, faculty, financial and physical resources to support all enrolled students.

13. Ensure that each student is provided with a personnel radiation-monitoring device during his or her period of attendance. Student exposure to radiation shall not exceed any of the occupational limits prescribed in N.J.A.C. 7:28-6.1. Within 30 calendar days of the school's receipt of any radiation dosimetry report, the school shall inform all students of their most recent exposure readings. In the event that a student receives an exposure of 50 mrem (0.5 mSv) or greater on any monthly radiation dosimetry report, or 100 mrem (1.0 mSv) or greater on any bimonthly radiation dosimetry report, or 150 mrem (1.5 mSv) or greater on any quarterly report, or an exposure that exceeds any of the occupational limits in N.J.A.C. 7:28-6.1, the school shall begin an investigation to find the cause and prevent recurrence of the exposure. The investigation report shall be completed within 30 calendar days of the school's receipt of notification of the exposure. This investigation report shall include any action to be taken to reduce unnecessary radiation exposure. The investigation report shall be given to the student and shall be maintained in the student's file. If any of the occupational limits in N.J.A.C. 7:28-6.1 is exceeded, a copy of the investigation report must be submitted to the Department. Within 90 calendar days of departure from the school, the school shall provide each student with a complete record of his or her radiation exposure history.

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14. For each student who has declared her pregnancy in writing, with an approximate date of conception, a school shall:

i. Provide instruction regarding radiation exposure and risks as they relate to the embryo-fetus and pregnancy;

ii. Provide program enrollment options to accommodate pregnancy while allowing the student to complete the curriculum. If the student elects to continue with her education within the *[radiography]* *radiologic technology* program, the school shall ensure that a personnel radiation-monitoring device is worn at the waist level during the term of her pregnancy;

ii. If the student has the potential of engaging in fluoroscopic or portable radiographic procedures, provide to the student with and require her to wear two personnel radiation-monitoring devices. One device shall be worn at the neck level outside the protective apron and the other under the protective apron at the waist level;

iii. Limit the student's exposure, as registered on the personnel radiation-monitoring devices, in order that the exposure of the embryo-fetus does not exceed the most recent recommended limit published by the National Council on Radiation Protection and Measurements (NCRP). As of August 18, 2008, the recommended limit is contained in NCRP Report #116 entitled Limitation of Exposure to Ionizing Radiation, published in 1993. The publication can be obtained from NCRP by contacting them at 7910 Woodmont Ave., Suite 400, Bethesda, Md. 20814 or at: www.ncrponline.org. This report recommends a monthly equivalent dose limit of 50 mrem (0.5 mSv) to the embryo-fetus (excluding medical and natural background radiation) once the

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pregnancy is known. The Deep Dose Equivalent value reported for the device worn at the student's waist will be considered the initial estimated dose received by the embryo-fetus;

iv. Within seven calendar days of the school's receipt of a radiation dosimetry report, the school shall inform the pregnant student of her most recent exposure readings. If the Deep Dose Equivalent in any month is 50 mrem (0.5 mSv) or higher, the school and student shall consult with a medical physicist or health physicist, who is certified by the American Board of Radiology, American Board of Medical Physics, American Board of Health Physics or the equivalent as determined by the Commission; and

v. Submit to the Department, with a copy to the student, a report of the consultation provided in (f)14v, if required, including any recommendation(s), assignment modifications and the student's exposure history, within 21 calendar days of the school's receipt of the radiation dosimetry report.

15. Issue to each student who satisfactorily completes a course of study a dated certificate that specifies the particular course of study completed.

16. Inform the Department within 15 calendar days of any change that could adversely affect the school's ability to fulfill its ability to provide students with appropriate didactic and laboratory instruction and clinical assignments, or has altered how the school operates since its last review and approval by the Board. Such changes include but are not limited to a change in

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status or loss of any official or faculty member, change of curriculum, loss of a clinical affiliate, the sequencing of courses, length of the program or sponsorship of the program.

17. If the school's curriculum is in diagnostic radiologic technology or radiation therapy technology, have no more than two consecutive years in which the pass rate for students taking the American Registry of Radiologic Technologists (ARRT) examination for the first time is below 75 percent.

18. If the school's curriculum is in chest, dental, orthopedic, podiatric or urologic radiologic technology, have no more than two consecutive years in which both the first-time mean score and pass rate for the Board's examination are below 75 percent.

19. Ensure that a student's total academic and clinical instruction does not exceed 40 hours per week.

(g) In addition to (f) above, schools of diagnostic radiologic technology and radiation therapy technology shall comply with the JRCERT Standards for an Accredited Educational Program in Radiologic Sciences (JRCERT Standards). In case of conflict with this subchapter or the Board's accreditation standards, this subchapter and the Board's accreditation standards shall supersede the JRCERT Standards. Copies of the JRCERT Standards and the Board's accreditation standards may be obtained by contacting the Department's Bureau of Radiological Health at PO

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Box 415, Trenton, NJ 08625-0415 or the JRCERT at 20 N. Wacker Dr., Suite 2850, Chicago, IL, 60606 or www.jrcert.org.

7:28-19.14 School of radiologic technology: process for approval; provisional approval; probationary approval; termination of approval and other general provisions

(a) In order to be Board-approved, a school of radiologic technology shall submit to the Department a complete application, along with the appropriate fee as set forth in N.J.A.C. 7:28-19.10(b). The Department will forward all complete applications to the Board for its consideration. If the application is incomplete, the Department shall notify the school. The school will be provided an opportunity to complete the application within 90 calendar days of receipt of such notice. If after 90 days the application is still incomplete, it will be forwarded as an incomplete application for the Board's consideration. A complete application shall include:

1. The name, address and contact information of the school;
2. The name and credentials of the program director(s);
3. The name and credentials of each instructor and the courses he or she teaches; and
4. A report(s) describing the school's policies and procedures in place to ensure that:
 - i. Only qualified applicants are admitted into the program, in accordance with N.J.A.C. 7:28-19.11;
 - ii. Clinical education is performed properly and under appropriate supervision, in accordance with N.J.A.C. 7:28-19.12; and

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iii. The educational curriculum includes all Board required elements, in accordance with N.J.A.C. 7:27-19.13.

(b) After review of the school's application, the Board may either award approval or provisional approval to the school or deny the application.

1. The Board shall notify a school that has been awarded provisional approval each requirement that must be satisfied in order for the school to be awarded approval. Provisional approval shall be awarded only if the school agrees in writing to satisfy each requirement within a time period specified by the Board, and shall satisfy each requirement before non-provisional approval is awarded. The Board shall terminate the provisional approval of a school that fails to satisfy the requirements within the specified time period.

(c) A school whose application has been denied for any reason may submit a new application and fee in accordance with N.J.A.C. 7:28-19.14(a).

(d) A school of radiologic technology, including its clinical education centers, shall:

1. Permit one or more Board representatives or Department employees to conduct a site inspection. The Board may accept the findings from a site inspection performed by a national accreditation agency recognized by the Board, in lieu of an inspection by the Board or the Department.

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2. Make available to the Board representative or Department employee such information, records, or persons that may be needed to determine compliance with the requirements of this subchapter; and

3. Demonstrate, to the satisfaction of the Board, that it complies with the requirements of this subchapter.

(e) In order to maintain approval, the school shall comply with the requirements of this subchapter and pay the appropriate annual fee as specified in N.J.A.C. 7:28-19.10(c). The annual fee is due by January 1st of each year or 30 calendar days after the date that the Board awards approval under (b) above.

(f) The Board may reduce the approval status of a school of radiologic technology to probationary approval for failure to comply with this subchapter, provided that the school agrees in writing to correct all items of noncompliance within a time period specified by the Board. The Board shall notify a school of radiologic technology of the reduction to probationary approval status and of the items of noncompliance resulting in such status.

(g) A school on probationary approval shall:

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1. Correct, within a period of time as determined by the Board, all specified deficiencies;
and

2. Notify each enrolled student and applicant, within 15 calendar days of receipt of notification from the Board of probationary approval status, by certified mail of the school's probationary approval status; and

3. Submit to the Department, within 20 calendar days of receipt of notification of probationary approval status, a copy of the notice required in (g)2 above.

(h) A school of radiologic technology may have its approval, provisional approval, or probationary approval terminated by the Board, upon the approval of the Commission, for failure to comply with this subchapter. The Department shall issue an administrative order to a school of radiologic technology terminating the approval, which administrative order shall contain the findings that led to the termination and specify the effective date of the termination.

(i) The approval of a school of radiologic technology may be terminated by the Board if the school does not enroll students for a period of two consecutive years.

(j) A school of radiologic technology whose approval has been terminated may apply for approval as a school of radiologic technology in accordance with this section.

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(k) Any Board-approved school that makes a substantial change to its approved program, including but not limited to a change in *[the type of certificate or degree awarded]* * the level of terminal award (such as a certificate to an associate degree, or associate degree to a bachelor degree)* , or a change in the owner or operator of the program, will be considered a new school and will be subject to the application procedure of this section and fee specified in N.J.A.C. 7:28-19.10(b). The school must notify the *[board]* *Board* of any change, in accordance with *[f)14 above]* *N.J.A.C. 7:27-19.13(f)16*.

(l) A school whose application for approval is denied may request a hearing as provided by N.J.A.C. 7:28-19.17(a) if aggrieved by the Board's actions.

(m) A Board-approved school whose approval is terminated or reduced to probationary may request a hearing as provided by N.J.A.C. 7:28-19.17(b) if aggrieved by the Board's actions.

7:28-19.15 List of approved schools

A list of approved schools of radiologic technology may be obtained by contacting the Department's Bureau of Radiological Health at PO Box 415, Trenton, NJ 08625-0415.

7:28-19.16 Radiologist Assistants - schools and practice

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(a) A diagnostic radiologic technologist who holds a valid license from the Board, has completed a radiologist assistant program that is recognized by the Board, and is certified by the American Registry of Radiologic Technologists as a radiologist assistant, is permitted to perform *[non-invasive]* *delegated* fluoroscopic procedures, as defined in N.J.A.C. 7:28-19.2 *[, under the supervision of a radiologist]*.

(b) The Board will recognize a radiologist assistant program in which the educational curriculum contains, at a minimum, the following content: patient assessment; management and education; pharmacology and clinical decision making in radiology; contrast media; pathophysiology; radiographic and fluoroscopic procedures; fluoroscopic unit operation and safety; radiation safety; radiation biology; health physics; image correlation to anatomy, physiology and pathology; clinical pathways related to radiology; quality of care review and audit; directed readings and research; medico-legal and professional standards and governmental standards; and clinical education, which includes testing to determine clinical competency. The curriculum may follow the American Society of Radiologic Technologists curriculum or any nationally recognized curriculum, provided that it does not conflict with this section.

(c) A radiologist assistant shall comply with all other State regulations regarding his or her practice in New Jersey.

(d) A radiologist assistant student who is enrolled in and attending a Board recognized school, who is acting within the school's curriculum and possesses a valid diagnostic radiologic

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technology license issued by the Board, is permitted to perform *[non-invasive]* *delegated* fluoroscopic procedures in New Jersey under the appropriate supervision as prescribed in (g)6 below.

(e) No person shall perform *[non-invasive]* *delegated* fluoroscopic procedures unless the person is a licensed practitioner who is acting within the scope of his or her license or meets the requirements of (a) or (d) above.

(f) No owner, licensed practitioner, or registrant of ionizing radiation-producing equipment shall cause, allow, or permit any person to perform *[non-invasive]* *delegated* fluoroscopic procedures unless that person is a licensed practitioner who is acting within the scope of his or her license or meets the requirements of (a) or (d) above.

(g) Any school with a radiologist assistant program that assigns radiologist assistant students to a New Jersey facility for clinical education shall:

1. Be recognized by the Board;
2. Ensure that all assigned students possess and maintain a valid diagnostic radiologic technology license issued by the Board;

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3. Develop and implement a log to track fluoroscopic procedures that are performed by each radiologist assistant student. This log shall include, but not be limited to, the name of the student, the procedure performed, the name of the supervisor responsible for the procedure, the type of supervision provided and the fluoroscopic time used. The school shall ensure that the log is reviewed at least weekly by the supervising radiologist. If a trend of unexplained high use of fluoroscopic time is identified, the school shall ensure that corrective action by the supervising radiologist is implemented and recorded in the student's file;

4. Develop and implement an educational plan for competency based clinical education, which shall include, but not be limited to, didactic and laboratory instruction, clinical practice, clinical competency testing and remediation for failed competency evaluations. The school shall ensure that no person other than a radiologist determines clinical competency;

5. Prior to the start of the assignment, inform the Department of the location where the radiologist assistant student will be assigned for clinical education, the name of each supervising radiologist, and the length of the assignment;

6. Ensure that all assigned radiologist assistant students perform *[non-invasive]* *delegated* fluoroscopic procedures as prescribed below under the appropriate level of supervision of a radiologist or a radiologist assistant who meets the requirements in (a) above:

i. Only a radiologist can determine whether a student is clinically competent to perform a *[non-invasive]* *delegated* fluoroscopic procedure.

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ii. Until a student is determined to be clinically competent in a given *[non-invasive]* *delegated* fluoroscopic procedure, the student must perform that procedure under direct supervision by a supervising radiologist or radiologist assistant who meets the requirements in (a) above.

iii. After a student is determined to be clinically competent in a given *[non-invasive]* *delegated* fluoroscopic procedure, the student may perform that procedure without direct supervision, provided that a radiologist or a radiologist assistant who meets the requirements in (a) above is on-site and immediately available to furnish assistance and direction throughout the performance of the procedure *and provided that the level of supervision provided is consistent with the supervision required by the New Jersey State Board of Medical Examiners*; and

7. Provide remedial instruction for any procedure that is performed by a radiologist assistant student and found to be unacceptable by the supervising radiologist or radiologist assistant who meets the requirements in (a) above. If the student's performance of the procedure is determined to be unacceptable after a student has been determined to be clinically competent, the school shall ensure that the student's performance of the procedure is directly supervised as required in (g)6ii above until a radiologist determines that the student is clinically competent to perform that procedure. All remedial instruction shall be documented in the student's file.

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(h) No school shall assign a radiologist assistant student to a New Jersey facility for clinical education unless the school complies with (b) and (g) above.

7:28-19.17 Procedures for requesting and conducting adjudicatory hearings

(a) Subject to the limitation on third-party hearing rights specified in (f) below, an applicant for examination, license or Board-approval for a radiologic technology school, or any person who believes that he or she is aggrieved by any Board finding as it relates to such an application may contest the decision and request a contested case hearing. The request shall be made in writing to the Department at the address listed in (e) below within 20 calendar days from receipt of the Board's findings.

The person requesting the hearing shall include the following information in each hearing request:

1. The name, address, and telephone number of the applicant and its authorized representative;
2. The date the applicant received the Board finding;
3. A copy of the finding and a list of all issues being appealed;
4. The defenses to each of the Board's findings of fact stated in short and plain terms;
5. An admission or denial of each of the Board's findings. If the person is without knowledge or information sufficient to form a belief as to the truth of a finding, the applicant shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the applicant intends in good faith to deny only a part or a qualification of a finding, the applicant shall specify so much of it as is true and material and deny only the remainder. The person may not generally deny all of the findings, but shall make all denials as specific denials of designated findings. For each finding the person denies, the person shall state the fact or facts as the applicant believes it or them to be,

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6. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request,

7. An estimate of the time required for the hearing (in days and/or hours); and

8. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(b) Subject to the limitation on third-party hearing rights specified in (f) below, a licensed technologist, applicant for license renewal, or Board-approved school, or any person who believes that he or she is aggrieved by any Board finding or an administrative order issued pursuant to this subchapter may contest the finding or administrative order and request a contested case hearing. The person requesting the hearing shall submit an original request in writing to the Department at the address at (e) below within 20 calendar days after the violator's receipt of the administrative order.

The person requesting the hearing shall include the following information in each hearing request:

1. The name, address, and telephone number of the person requesting the hearing and any authorized representative;

2. The date the person requesting the hearing received the Board's finding or administrative order being contested;

3. A copy of the Board's finding or administrative order and a list of all issues being appealed;

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4. The person's defenses to each of the findings of fact, stated in short and plain terms;
5. An admission or denial of each of the findings of fact. If the person requesting the hearing is without knowledge or information sufficient to form a belief as to the truth of a finding, the person shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the person intends in good faith to deny only a part or a qualification of a finding, the person shall specify so much of it as is true and material and deny only the remainder. The person may not generally deny all of the findings of fact, but shall make all denials as specific denials of designated findings. For each finding of fact the person requesting the hearing denies, the person shall state the fact or facts as the violator believes it or them to be;
6. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;
7. An estimate of the time required for the hearing (in days and/or hours); and
8. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(c) The Department shall deny the hearing request if:

1. The applicant or person requesting the hearing fails to include all the information required by (a) or (b) above; or
2. The Department does not receive the request within 20 calendar days after the applicant or person requesting the hearing received the Board's finding or administrative order being contested.

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(d) The Department shall conduct all adjudicatory hearings in accordance with the Administrative Procedure Act, N.J.S.A. 52:1413-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C 1:1.

(e) The applicant or violator shall send the request for an adjudicatory hearing to:

The Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, Fourth Floor

PO Box 402

Trenton, New Jersey 08625-0402

Attention: Hearing Request; and

New Jersey Department of Environmental Protection

Bureau of Radiological Health

25 Arctic Parkway

PO Box 415

Trenton, New Jersey 08625-0415

Attention: Hearing Request

(f) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3.

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7:28-19.18 Severability

Each section of this subchapter is severable. In the event that any section, subsection or division, or application thereof, is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.