

(S. B. 654)

(No. 76)

(Approved April 12, 2006)

AN ACT

To create the “Act to Regulate the Profession of Diagnostic Imaging and Treatment Radiologic Technologists in Puerto Rico,” to create the Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists of Puerto Rico; to define its functions, duties, and powers, fix penalties, and to repeal Act No. 78 of June 24, 1963, as amended, which regulates the profession of Radiological and Radiotherapy Technicians.

STATEMENT OF MOTIVES

The Act that regulates the practice of the profession of Radiological and Radiotherapy Technicians in Puerto Rico was approved approximately forty-two (42) years ago. During the last three decades new disciplines, techniques and concepts have been developed in the diagnostic imaging field or of other professions that use electromagnetic energy. Thus, we deem it necessary to revise the law, which until today has regulated said professions, in order to temper it to the reality and current scientific events and those to be developed in the future.

Public health, as the urgent interest of the Commonwealth, makes imperative the regulation of this profession, that for many years has been practiced under an obsolete law, which has always endangered the public health.

The primary responsibility of the patient’s safety belongs to the professional who directly renders the service. The patients who receive

diagnostic imaging and treatment services trust that the persons who are providing them such services have the necessary knowledge, skills and attitudes to render them a service of quality. Only a professional qualified in each one of the modalities of the diagnostic imaging and treatment has the qualities stated above.

When rendering these services, the diagnostic imaging and treatment professionals integrate the following: knowledge of the operation of the equipment used, knowledge of the normal anatomy and common pathological changes, and knowledge of the needs of the patients under their responsibility, in order to offer the quality service expected by consumers.

The Commonwealth must be certain that the approval of this measure not only does justice to a forgotten professional class, but also that it guarantees optimum health to the population, which is a fundamental right of every human being.

Act No. 78 of June 24, 1963, as amended, is repealed through this Act, and a new statute is hereby adopted to regulate the practice of these professions in order to incorporate provisions to conform, not only with current knowledge on this professional field, but also with the requirements of Act No. 11 of June 23, 1976, as amended, known as the “Health Services Integral Reform Act of Puerto Rico,” and Act No. 170 of August 12, 1988, as amended, better known as the “Uniform Administrative Procedure Act.”

To these effects, various provisions on the procedures to be followed in the registration and recertification of professionals, based on continuing education, are incorporated and the administrative procedures of the Board are conformed to the provisions of the Uniform Administrative Procedure Act.

Therefore, this Legislature deems it necessary and convenient to approve this legislation in order to do justice to such an important and essential sector for the health of the People of Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title of the Act

This Act shall be known and may be cited as the “Act to Regulate the Profession of Diagnostic Imaging and Treatment Radiologic Technologists in Puerto Rico.”

Section 3.- Definitions

For the purposes of this Act, the following terms shall have the meanings stated below:

- a) Board – shall refer to the Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists of Puerto Rico created by this Act.
- b) License – document duly issued by the Board, which certifies that the person to whom it was issued is a Licensed Radiologic Technologist in Diagnostic Imaging and Treatment duly authorized to practice the Radiologic Technologist profession pursuant to the provisions of this Act.
- c) Specialty Certificate – document issued by the Board to the person who has completed the requirements established in each one of the specialty areas.
- d) Recertification – the procedure provided in Act No. 11 of June 23, 1976, as amended, known as the “Health Services Integral Reform Act of Puerto Rico,” for health professionals.
- e) Secretary – the Secretary of the Department of Health of the Commonwealth of Puerto Rico.

- f) Radiologic Technologist – is the technologist who operates radiological equipment that emits x-rays over the human body producing diagnostic images. They may operate mobile x-ray equipment in Operating Rooms, emergency rooms and in the rooms where patients are supervised by a Radiology Physician.
- g) Radiotherapy Technologist – is the Radiologic Technologist specially trained to operate equipment that emits high energy penetrating radiation or subatomic particles to treat diseases. He/she must be supervised by a Radiology Physician.
- h) Cardiovascular and Peripheral Vascular Radiologic Technologist – is the technologist that operates imaging equipment, in which tests of the cardiovascular system are conducted, using catheters inserted into the body by a specialized physician. He/she must be supervised by a Radiology Physician.
- i) Computerized Tomography Radiologic Technologist – is the technologist that operates computerized tomographic equipment to produce intravenous bi-dimensional and tridimensional images, whether by the radiologist or the infirmity personnel. There is a direct supervision to the patient by electronic intercommunicators and through the window of the control room. He/she must be supervised by a Radiology Physician.
- j) Magnetic Resonance Imaging Technologist – is the technologist that operates resonance equipment in which images of the body are produced using electromagnetic energy. After explaining the procedure and making sure that there are no absolute contraindications that may endanger the health or life of the

patient, any clinical and personal information of the patient that may help the radiology physician to make an accurate diagnosis is collected. He/she is always in communication with the patient through a microphone or the control room window. He/she must be supervised by a Radiology Physician.

- k) Radiologic Technologist Mammographer – is the technologist that operates radiological equipment to obtain high quality diagnostic images of the mammary glands. These professionals use ionizing radiation with accurate techniques, skills, positioning, and special procedures. They perform quality control to the mammography equipment and the radiography processors according to the requirements of the ACR and FDA, thus meeting the radiology safety standards, being supervised by a radiology physician at all times.
- l) Bone Densitometry Radiologic Technologist – is the technologist that operates radiological equipment that emits x-rays over the human body producing images of the musculoskeletal system of the human body at the exam table. This technologist practices radiation protection techniques with all individuals, supervised by a radiology physician.
- m) Radiology Physician – is a specialist physician duly certified by a formal training documented in an institution accredited by the Board of Medical Examiners of Puerto Rico, and who has demonstrated his/her capacity and skills on the matter and has been certified by said Board.
- n) ACR – means the American College of Radiology.
- o) FDA – means the Food and Drug Administration.

- p) Credential Evaluation Agencies – are agencies engaged in the evaluation of the academic credentials of the candidates to Diagnostic Imaging and Treatment Technology who have studied in foreign universities to determine the equivalence with the established requirements to practice the profession. The Board shall provide a list of recognized evaluation agencies.

Section 3.- The Practice of the Diagnostic Imaging and Treatment Technology

Any person who is engaged in the practice of the Diagnostic Imaging and Treatment Technology, and who as such intervenes in the operation or functioning of equipment that emit radiation, or other forms of electromagnetic energy, whether these are used for medical diagnosis or for treatment, shall carry out his/her functions under the supervision of a radiology physician and shall have a Diagnostic Imaging and Treatment Technologist license. Veterinarians, dentists, nuclear technologists and radiation physicists while operating such equipment in the regular course of their professions are hereby exempted from the application of this Act, provided, that they are authorized by the law that regulates the practice of said functions.

Section 4.- Creation of the Board

The Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists of Puerto Rico is hereby created, which shall be composed of seven (7) members, to wit, two (2) radiology physicians, one (1) generalist physician, one (1) Radiotherapy Technologist, one (1) Vascular Technologist, one (1) Magnetic Resonance Technologist, one (1) Computerized Tomography Technologist, one (1) Bone Densitometry Technologist and one (1) Mammography Radiologic Technologist,

respectively, appointed by the Governor with the advice and consent of the Senate for a term not to exceed four (4) years.

Section 5.- Term of Appointments

The term of the appointment of the members of the Board and the duration of their office shall be of two (2) members for (1) year, two (2) members for two (2) years, and three (3) members for three (3) years or until their successors take office. Vacancies shall be filled by extended appointments for the remainder of the term of the member causing the vacancy. The Governor may discharge any member of the Board from his/her office for immoral conduct, negligence, incompetence, or inefficiency in the performance of his/her duties, noncompliance with his/her obligations, inappropriate behavior in the office held by him/her, for any conviction due to a felony or misdemeanor, or for having his/her license cancelled or suspended, or any other just cause, upon previous notice and hearing. None of the members of the Board shall be appointed for more than two (2) consecutive terms.

Section 6.- Requirements for the Members of the Board

The Members of the Board shall be more than twenty-one (21) years of age, citizens of the United States of America and residents of the Commonwealth of Puerto Rico. Likewise, said members shall hold a Diagnostic Imaging and Treatment Radiologic Technologist license duly recertified pursuant to the laws of Puerto Rico and have actively practiced the Diagnostic Imaging and Treatment Radiologic Technologist profession for not less than three (3) years. Furthermore, the Board members shall be actively practicing the Diagnostic Imaging and Treatment Radiologic Technologist profession at the time of their appointment. However, no more than two (2) members shall have been professors, but in turn, must have

resigned to said office three (3) years before holding any office in the Board. No member of the Board shall be a shareholder or belong to the Board of Trustees or Board of Directors of a Diagnostic Imaging and Treatment Radiologic Technology University, College, or School.

Section 7.- Requirement of Professional Advice

The Board may request or constitute committees in order to provide advice on the standards, procedures, and amendments to the laws and regulations, preparation of tests, and any other necessary areas in the performance of their legal responsibilities. The committees shall be designated by the Examining Board.

Section 8.- Per diems

The members of the Board, including those who are public officials or employees, shall be entitled to a per diem for every day or fraction thereof for each meeting or any examination attended, equivalent to the minimum per diem established for the members of the Legislature, except for the Chairperson of the Board who shall receive a per diem equivalent to one hundred thirty three (133) percent of the per diem received by all other members of the Board.

Section 9.- Quorum, Bylaws, Officers, and Meetings of the Board

Four (4) members of the Board shall constitute quorum, and the vacancy or absence of any three of its members shall not affect the faculty of the remaining four (4) members to exercise all the powers and functions delegated to the Board. The decisions of the Board shall be reached by the vote of the simple majority of the members present therein. The Board shall elect, every two (2) years, from among its members one Chairperson and one Alternate Chairperson, who shall hold office as such during said time, and may be reelected. The Alternate Chairperson shall exercise the powers

of the Chairperson in case of his/her temporary absence. The Board shall adopt Bylaws and shall meet at the seat of the Health Professional Requesting and Certification Office in a regular meeting at least once (1) every month to address all official matters. In addition, the Board shall hold any necessary special meetings deemed necessary, with previous notice to the effect to all its members, within at least twenty-four (24) hours prior to the meeting.

Section 10.- Book of Minutes

The Board shall keep a book of minutes of its agreements, and a complete registry of the persons holding licenses and their mailing addresses, the registry of qualifications, and all other pertinent official attesting documents. At the closing of each fiscal year, the Board shall submit a report on the activities during the closed fiscal year to the Governor of Puerto Rico.

Section 11.- Seal of the Board

The Board shall adopt an official seal, which shall be stamped in the licenses issued, and in the official documents of the Board.

Section 12.- Powers and Duties of the Board

- a) The Board shall comply with the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act,” in the exercise of the powers granted thereto by this Act, to regulate, investigate, and adjudicate any matters under its jurisdiction.
- b) Authorize the practice of the Diagnostic Imaging and Treatment Radiologic Technologist profession in the Commonwealth of Puerto Rico and its specialties and establish the necessary

mechanisms for the license recertification of these professionals every three (3) years, pursuant to the local laws in effect.

- c) Recognize Diagnostic Imaging and Treatment Radiologic Technology schools and programs accredited by the Council on Higher Education or any corresponding accrediting agency.
- d) Issue, deny, suspend, duplicate, recertify, or revoke licenses or specialty certificates for the reasons consigned in this Act.
- e) Render judgments by a majority on any matter within its purview submitted for its consideration.
- f) Take oaths, hear testimonies and receive evidence on the matters within its purview.
- g) Issue summons requiring the appearance of witnesses and the presentation of data and reports deemed necessary by the Board. If a summons issued by the Board is not complied with, the Board may resort to any Part of the Superior Court of Puerto Rico and request the Court to order compliance therewith. The Superior Court shall have authority to issue orders making compulsory the appearance of witnesses and the presentation of any document previously requested by the Board. The Superior Court shall have the power to punish, under penalty of contempt, noncompliance with said orders.
- h) To receive advice from the Office of the Secretary of Justice of Puerto Rico on any matter of legal nature and in judicial actions it shall be represented by said official or his/her representatives in the courts and bodies in which its appearance or representation is required and by those civil procedures necessary to enforce the provisions of the Board.

- i) Keep an up-to-date register of all issued licenses and specialty certificates, in which shall be consigned the complete name and personal data of the professional to whom the license is so issued, date of issuance, number and term of effectiveness of the license, as well as any comment on the margin corresponding to recertified, suspended, revoked or cancelled licenses.
- j) Establish by regulations the requirements and procedures for the recertification of Diagnostic Imaging and Treatment Radiologic Technologists, required by Act No. 11 of June 23, 1976, as amended.
- k) Evaluate and approve continuing education courses and programs for Diagnostic Imaging and Treatment Radiologic Technologists.
- l) Evaluate the continuing education evidencing examination submitted by Diagnostic Imaging and Treatment Radiologic Technologists for their recertification as such.
- m) Address and resolve any claims arising for violations of the provisions of this Act and the regulations adopted hereunder.
- n) Hold administrative hearings, resolve controversies in matters under its jurisdiction, issue orders pursuant to its resolutions and agreements, issue summons requiring the appearance of witnesses or interested parties, require the presentation of documentary evidence, take statements or oaths, and receive proof submitted in any matter under its purview.

- o) Request from the Secretary of Justice to promote those civil and criminal procedures that are necessary to enforce the provisions of this Act.
- p) Evaluate all applications for licenses, specialty certificates and re-certifications submitted before the Board.
- q) May delegate to the Secretary of Health of the Commonwealth of Puerto Rico the functions of the Board or its members, in those cases where the public service is affected or for any reason in which a decision-making of the Board results impossible or inappropriate, due to conflicts of interest, lack of constitution of the Board or other similar special causes.
- r) Evaluate all applications for licenses, specialty certificates and re-certifications submitted before the Board.
- s) Prepare and administer the examinations required by this Act for the granting of licenses; the examinations shall be offered at least twice (2) every year. The call for the same shall be made by publication in a newspaper of general circulation, at least forty-five (45) days before the examination date.
- t) Shall publish notices in the media, such as orientation, to the public on calls for examinations and public hearings for the approval of regulations.
- u) Request and have the power to contract professional and advisory personnel through the Department of Health, as it deems it necessary.
- v) Certify and regulate, through regulations, those new areas or modalities that arise or that are not regulated within the

Diagnostic Imaging and Treatment Radiologic Technology field on the approval of this Act.

Section 13.- Issuance of Licenses

The Board shall issue licenses to practice the Diagnostic Imaging and Treatment Radiologic Technologist profession to any person who has satisfactorily approved theoretical and practical exams offered by the Board, paid the fees established in this Act and met any other requirements established by regulations.

Once the license is issued, every professional shall have the obligation and responsibility of placing his/her license in a conspicuous place at his/her clinical workplace, and copy thereof in all places where said professional renders his/her services.

Section 14.- Application for Examination, Qualifications, and Requirements.

The candidates shall submit to the Board an application to take the revalidation examination in the form provided by the Board to such effects, together with a certified check or money order in the name of the Secretary of the Treasury, in the amount specified in Section 19 of this Act, and any other documents required by regulations to the examination candidates.

- a) Be over than eighteen (18) years of age.
- b) Having obtained at least an Associate Degree in Diagnostic Imaging and Treatment Radiologic Technology from a University or program recognized by the Council on Higher Education or any recognized accrediting agency for each specialty.
- c) The candidate who has obtained his/her degree in a foreign university shall request an evaluation for

equivalency to any credential evaluation agency admitted by the Board. Said candidate shall also request that the agency remit a certified copy of the evaluation directly to the Board.

Section 15.- Penalty, Denial, Suspension, Cancellation or Revocation of License

The Board may fine, deny, suspend, cancel or revoke any license or impose a probation period for the practice of the profession for a determined time, with previous notice of charges and holding of administrative hearings, on any candidate for Diagnostic Imaging and Treatment Radiologic Technologist who:

- (a) Has been convicted of a felony or misdemeanor or, actions that adversely affect the exercise of his/her profession.
- (b) Has been declared mentally disabled by a competent court.
- (c) Is a regular user of narcotics and/or alcoholic beverages.
- (d) Makes false statements for the benefit of another person who has applied for the revalidation examination or in any investigation of complaints filed before the Board, for violations of the provisions of this Act and its regulations.
- (e) Holds, transfers, alters, or falsifies any document or material with the intention to maliciously deceive third parties or the members of the Board in the performance of its official functions.

- (f) Has incurred manifest incompetence or negligence in the practice of the profession.
- (g) Fails to comply with the continuing education requirements and registration, provided in Act No. 11 of June 23, 1976, as amended.
- (h) Incurs in violations of the provisions of HIPAA.

Section 16.- Examination

- a. The revalidation examination shall have two parts:
 - 1) Theoretical
 - 2) Practical
- b. The theoretical part of the examination shall be in writing and shall constitute fifty (50) percent of the curricular cognitive area of the specialty of the candidate.
- c. The practical part shall consist of a practical examination in a hospital or laboratory which provides the necessary equipment according to the application for a license required by the candidates. The practical examination shall constitute fifty (50) percent of the total score thereof.
- d. The Board shall adopt through regulations the necessary mechanisms that guarantee to those candidates who fail one or both parts of the examination the right to examine his/her answer sheet, receive an itemization of the score, and request reconsideration of the score of the examination.

Likewise, it shall provide that, before the taking the examination, the candidate shall receive an orientation to become familiarized with the revalidation process, the standards that govern the administration of the examination and the evaluation method thereof, as well as the regulations of

the Board. To such effects, the Board shall prepare and publish Content Guidelines including all the information concerning the revalidation examination of each specialty, copy of which shall be available and shall be delivered after paying by money order or certified check the sum established by regulations, to every person who applies to be admitted for the examination.

Section 17.- Reciprocity

The Board shall establish reciprocity agreements on the granting of licenses or certificates without the examination requirement, with those entities in the United States of America that grant licenses through an examination, provided that said entities have the same requirements as those established by this Act, to obtain a Diagnostic Imaging and Treatment Radiologic Technologist license.

Section 18.- Validation

The Board shall exempt from the revalidation examination requirement every Diagnostic Imaging and Treatment Radiologic Technologist candidate who, after meeting all the requirements established in Section 13, shows attesting evidence of having approved the examination offered by entities in the United States of America that grant licenses through an examination for the practice of the profession and its modalities.

Section 19.- Fees to be Paid

The Board shall collect a fee for revalidation examination services and license, re-certification and registration, specialty certificate, reciprocity, reexamination, license duplicate and validation, according to the sums stipulated in its Regulations.

Section 20.- Disciplinary Sanctions

The Board shall, upon previous notice and administrative hearing, pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, and the identity protection laws, impose disciplinary sanctions to any Diagnostic Imaging and Treatment Radiologic Technologist who:

- a) Discloses and/or retrieves material that does not belong to him/her or data that identifies a patient, without his/her previous authorization, when the same are obtained in the course of a professional relationship, except as required or authorized by virtue of this Act.
- b) Carries out laboratory practices or methods for which he/she is not professionally authorized or trained.
- c) Requests or receives, directly or indirectly, fees, compensation, reimbursement, or commissions for professional services not rendered.
- d) Causes, by action or omission, that the personnel under his/her direction or supervision incur in illegal acts or perform acts, procedures, or practices not permitted under this Act, or the Regulations adopted hereunder.
- e) Employs or delegates upon unauthorized persons, or helps or incites unauthorized persons to perform illegal procedures or work that, according to the provisions of this Act, shall only be legally performed by duly licensed Diagnostic Imaging and Treatment Radiologic Technologists.
- f) Harasses, abuses or intimidates patients.
- g) Refuses to provide his/her services to a patient without cause or any justified reason.

- h) Announces the practice of the Diagnostic Imaging and Treatment Radiologic Technology through false or deceitful methods.
- i) Has been adjudicated against in a Professional Malpractice case or incurs in incompetence or negligence.

Section 21.- Penalties for Illegal Practice

Any person who practices the Diagnostic Imaging and Treatment Radiologic Technologist profession without holding the corresponding license, or whose license has been revoked or suspended or the same has not been recertified, and continues to practice the profession shall be guilty of misdemeanor and upon conviction, he/she shall be punished by imprisonment for six (6) months or by a fine of not more than five hundred (500) dollars or both penalties at the discretion of the Court.

- a) Is engaged in the Diagnostic Imaging and Treatment Radiologic Technologist profession without holding the license required by this Act, except for specialty physicians authorized to practice their profession in Puerto Rico, who in order to offer diagnosis and treatment must perform procedures common to his/her specialty; provided, that said procedure shall be performed by said physician.
- b) Employs another person who does not hold a Diagnostic Imaging and Treatment Radiologic Technologist license to engage in the practice of the profession; or
- c) Advertises him/herself as a Diagnostic Imaging and Treatment Radiologic Technologist without the proper supervision of a physician specialized in Diagnostic Imaging and Treatment; or

- d) Acts as a Diagnostic Imaging and Treatment Radiologic Technologist without being duly licensed as such in Puerto Rico; or
- e) Violates any of the provisions of this Act or the regulations duly adopted by the Board.

Section 22.- Severability

The provisions of this Act are severable and shall have their own full force and effect and if any of said provisions were declared null by a competent Court, said nullity shall not affect any other provisions which have been declared null.

Section 23.- Transitory Provisions

The incumbent members in tenure of the Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists of Puerto Rico appointed pursuant to Act No. 78 of June 24, 1963, as amended, shall continue to hold their positions until the Governor of Puerto Rico appoints the members of the new Board and these are confirmed by the Senate and take charge of their office. Likewise, every Diagnostic Imaging and Treatment Radiologic Technologist license issued in accordance with said Act shall remain in effect while it is recertified and is not suspended or revoked pursuant to this or the previous Act.

Every regulation adopted by virtue of Act No. 78 of June 24, 1963, as amended, shall remain in full force and effect until it is amended or repealed, provided, that the same is not in conflict with the present Act. Any pending procedure, application for revalidation exam or license, action or claim before the Board or any Court on the date of the approval of this Act, and which has been initiated pursuant to the provisions of Act No. 78 of June 24, 1963, as amended, shall continue to be processed until a final determination

is issued pursuant to the Act or regulations in effect at the time said procedure, application, action or claim was submitted or indicated.

The provisions of Section 12 of this Act shall not apply to those students who have completed or begin their studies before the date of effectiveness of this Act, and who otherwise would qualify to apply for the Diagnostic Imaging and Treatment Radiologic Technologist revalidation examination, under the provisions of Act No. 78 of June 24, 1963, as amended.

Section 24.- Certificates without Examination

The Board shall grant certificates without examination to practice any specialty or subspecialty in Puerto Rico. Said certificates may be granted to those Diagnostic Imaging and Treatment Radiologic Technologists who, at the time of the approval of this Act, meet the education and experience requirements of the Board, according to the powers granted thereto by the provisions of this Act. The period for certification without examination shall be six (6) months once the approval takes effect.

Section 25.- Effectiveness

This Act shall take effect immediately after its approval, only with respect to the appointment and constitution of the Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists, but the remaining provisions thereof shall take effect ninety (90) days after its approval.

Section 26.- Repeal

Act No. 78 of June 24, 1963, as amended, is hereby repealed.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 76 (S.B. 654) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to create the “Act to Regulate the Profession of Diagnostic Imaging and Treatment Radiologic Technologists in Puerto Rico,” to create the Examining Board for the Diagnostic Imaging and Treatment Radiologic Technologists of Puerto Rico; to define its functions, duties, and powers, fix penalties, and to repeal Act No. 78 of June 24, 1963, as amended, which regulates the profession of Radiological and Radiotherapy Technicians,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 8th of December of 2006.

Francisco J. Domenech
Director