

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

445M0431

## HOUSE BILL NO. 1105

Introduced by: Representatives Heineman, Boomgarden, Faehn, Glenski, Kraus, Krebs, McCoy, Michels, Rave, Sebert, and Thompson and Senators Bartling, Kelly, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of certain persons operating  
2 X ray equipment for diagnosis and treatment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Board," the Board of Radiologic Technology;

6 (2) "License," a license issued by the board authorizing the licensee to use radioactive  
7 materials, medical imaging, or radiation therapy equipment on humans for diagnostic  
8 or therapeutic purposes in accordance with the provisions of this Act;

9 (3) "Limited X ray machine operator," any person other than a radiologic technologist  
10 or practitioner excluded pursuant to section 16 of this Act, who is granted a limited  
11 permit to perform medical imaging limited to specific radiographic procedures on  
12 specific parts of the human anatomy;

13 (4) "Medical physicist," any person who is certified in radiological physics or one of the  
14 subspecialties of radiological physics by the American Board of Radiology,  
15 American Board of Medical Physics, American Board of Health Physics, and



1 American Board of Science in Nuclear Medicine, or Canadian College of Physics in  
2 Medicine;

3 (5) "Practice of radiologic technology," the use of radiation from a radioactive substance,  
4 radiology equipment, or any other source, in amounts beyond normal background  
5 levels, for diagnostic or therapeutic purposes, not to include dental radiography or  
6 sonography;

7 (6) "Public member," any person who is a resident of the state but who is not currently  
8 or actively a licensed practitioner, radiologic technologist, or limited X ray machine  
9 operator;

10 (7) "Radiologic technologist," any person, other than a licensed physician, who applies  
11 radiation to humans for diagnostic and therapeutic purposes. The term includes  
12 persons performing the full scope of radiography, radiation therapy, and nuclear  
13 medicine technology.

14 Section 2. The Board of Radiologic Technology consists of five members appointed by the  
15 Governor. The terms of the initial members of the board shall be staggered by the drawing of  
16 lots with two of the initial members serving a term of three years, two of the initial members  
17 serving a term of two years, and one of the initial members serving a term of one year. Any  
18 subsequent term on the board shall be three years. One member of the board shall be a public  
19 member. Three members of the board shall be persons licensed by the board. One member of  
20 the board shall be a physician licensed by the South Dakota Board of Medical and Osteopathic  
21 Examiners or a medical physicist. The Governor shall fill any vacancy by appointment to  
22 complete the unexpired portion of that member's term. No person may serve more than three  
23 consecutive full terms on the board. The appointment to an unexpired term is not considered a  
24 full term.

1 Section 3. Any member of the board may resign by giving written notice to the board and  
2 to the Governor. Any resignation is effective when delivered to the Governor and the board.

3 Section 4. The board shall select a president, vice-president, and secretary at its annual  
4 meeting. The board may hire an executive secretary to perform any managerial, clerical, or other  
5 duties directed by the board.

6 Section 5. The board shall hold an annual meeting at a place and time set by the board. The  
7 board may hold special meetings at a time and place set by the president or a majority of the  
8 board by giving written notice to the board prior to the meeting.

9 Section 6. Three board members present at any meeting constitute a quorum. No board  
10 action may occur unless approved by a majority of the membership of the entire board.

11 Section 7. Board members shall receive a per diem set pursuant to § 4-7-10.4 and expenses  
12 at the same rate as other state employees while actually engaged in official duties.

13 Section 8. Any fees collected under this Act shall be used for the operation of the board and  
14 the implementation of this Act.

15 Section 9. No person may engage in the practice of radiologic technology unless licensed  
16 or exempted from licensure pursuant to this Act. A violation of this section is a Class 2  
17 misdemeanor. The board may file a civil action to enjoin any person engaging in the practice  
18 of radiologic technology without a license.

19 Section 10. The board shall issue a license to practice radiologic technology to any person  
20 who meets the requirements of this Act. The classifications of licensing are radiologic  
21 technologist or limited X ray machine operators.

22 Section 11. An applicant for licensure as a radiologic technologist or a limited X ray  
23 machine operator shall meet the following requirements:

24 (1) Be at least eighteen years of age;

1 (2) Be of good moral character; and

2 (3) Meet the education and certification requirements as provided by this Act.

3 The applicant shall submit an application in a form prescribed by the board and pay a fee  
4 as established by the board in rules promulgated pursuant to chapter 1-26.

5 Section 12. The board shall license any person as a radiologic technologist if the person  
6 meets one of the following requirements:

7 (1) Board-certified or eligible for certification by the American Registry of Radiologic  
8 Technologists; or

9 (2) Board-certified or eligible for certification by the Nuclear Medicine Technology  
10 Certification Board.

11 However, the board may deny a license of a person certified as required by this section for  
12 good cause.

13 Section 13. No person, except as provided by section 14 of this Act, may be licensed as a  
14 limited X ray machine operator unless the person has attained a passing score, as established by  
15 the board in rules promulgated pursuant to chapter 1-26, of the limited X ray machine operator  
16 examination developed by the American Registry of Radiologic Technologists.

17 Section 14. No person may practice as a limited operator after June 30, 2007, unless the  
18 person has met the requirements for licensure as provided in this Act. Any person who has  
19 actively practiced as a limited X ray machine operator for at least six months but less than two  
20 years prior to June 30, 2007, shall complete fifteen hundred hours of X ray training or provide  
21 documentation of fifteen hundred hours of X ray training and successfully complete the limited  
22 X ray machine operator examination developed by the American Registry of Radiologic  
23 Technologists. The board shall, in rules promulgated pursuant to chapter 1-26, establish the  
24 requirements of training and the minimum score required for successful completion of the

1 examination.

2 Any person who has been actively practicing as a limited X ray operator for more than two  
3 years prior to June 30, 2007, is exempt from the training requirements but shall demonstrate  
4 competence, as required by rules promulgated by the board pursuant to chapter 1-26, and  
5 successfully complete the limited X ray machine operator examination as developed by the  
6 American Registry of Radiologic Technologists. After June 30, 2010, the board may only  
7 license applicants who have met the requirements for a radiologic technologist license in section  
8 12 of this Act.

9 Section 15. Any limited X ray machine operator may only perform the specific examinations  
10 provided in rules promulgated by the board pursuant to chapter 1-26.

11 Section 16. The following persons are exempt from this Act:

- 12 (1) Physician licensed under chapter 36-4;
- 13 (2) Chiropractor licensed under chapter 36-5;
- 14 (3) Podiatrist licensed under chapter 36-8;
- 15 (4) Medical physicist;
- 16 (5) Dentist, licensed under 36-6A;
- 17 (6) Medical dosimetrist working under the supervision of a physician or medical  
18 physicist;
- 19 (7) Student currently enrolled in an educational program accredited by a process  
20 acceptable to the board.

21 Section 17. The license issued pursuant to this Act shall be renewed biennially. The board  
22 shall establish the expiration date by rules promulgated pursuant to chapter 1-26. The board  
23 shall mail an application for renewal of license to the last known address of each licensee at  
24 least ninety days prior to the expiration date of the license. The licensee shall return the

1 application with the required fee to the board before the expiration date. Upon receipt of the  
2 application and fee, the board shall review the application and issue the licensee a certificate of  
3 renewal. Failure to receive the application for renewal of license does not relieve the licensee  
4 of the responsibility for renewing the license and paying the renewal fee within the prescribed  
5 time. Failure of a licensee to renew the license constitutes a forfeiture of the license. However,  
6 any person who has forfeited a license may have it restored by submitting a written application  
7 and paying the biennial renewal fee and the late renewal fee. Late renewal of a license may not  
8 be granted more than one year after its expiration. The board shall establish, by rule  
9 promulgated pursuant to chapter 1-26, requirements for continuing education or retesting for  
10 any person who has not been licensed for a continuous period of time greater than one year. The  
11 board shall establish additional requirements for license renewal including evidence of twenty-  
12 four hours of continuing education biennially.

13 Section 18. The board shall establish fees by rules promulgated pursuant to chapter 1-26.  
14 The licensure fee may not exceed one hundred dollars, the renewal fee may not exceed one  
15 hundred dollars, and the late fee may not exceed fifty dollars.

16 Section 19. For the purposes of this Act, any of the following acts constitute unprofessional  
17 conduct:

- 18 (1) Conviction of any felony;
- 19 (2) Providing the board false or misleading information on any application for a license  
20 or renewal of a license;
- 21 (3) Willful misconduct or negligence;
- 22 (4) Exceeding the scope of practice;
- 23 (5) Engaging in any lewd or immoral conduct;
- 24 (6) Engaging in conduct which endangers the health or welfare of patients or other

1 persons; or

2 (7) Failure to comply with any provision of this Act.

3 Section 20. A license granted under the provisions of this Act may be cancelled, suspended,  
4 or revoked upon any one of the following grounds:

5 (1) The licensee is guilty of fraud in the practice of radiologic technology;

6 (2) The licensee is engaged in the practice of radiologic technology under a false or  
7 assumed name and has not registered that name or is impersonating another  
8 practitioner of a like or different name;

9 (3) The licensee is determined by a medical examiner to be addicted to the habitual use  
10 of intoxicating liquors, narcotics, or stimulants to the extent that it incapacitates the  
11 licensee for the performance of professional duties;

12 (4) The physical or mental condition of the licensee is determined by a medical examiner  
13 to be such as to jeopardize or endanger those who seek diagnosis treatment from the  
14 licensee;

15 (5) The licensee obtains or attempts to obtain a license or renewal of a license by bribery  
16 or fraudulent representation;

17 (6) The licensee is guilty of unprofessional conduct;

18 (7) The licensee has violated or aided or abetted others in violation of any provision of  
19 this Act;

20 (9) The licensee has been convicted of any crimes related to health care or the delivery  
21 of health care.

22 Section 21. A proceeding for cancellation, suspension, or revocation of a license may be  
23 initiated if the board has evidence that any person may have been guilty of any misconduct or  
24 gross incompetence or unprofessional or dishonorable conduct.

1       Section 22. Any proceeding relative to the cancellation, suspension, or revocation of a  
2 license shall conform to the procedures set forth in chapter 1-26.

3       Section 23. Any party who is aggrieved by an act, ruling, or decision of the board relating  
4 to refusal to grant a license or cancellation, suspension, or revocation of a license may appeal  
5 pursuant to chapter 1-26.

6       Section 24. Upon written application establishing compliance with existing licensing  
7 requirements and for reasons the board deems sufficient, the board, for good cause shown, may  
8 under the conditions it may impose, reinstate or reissue a license to any person whose license  
9 has been cancelled, suspended, or revoked. Upon suspension of a license, the board may provide  
10 an automatic reinstatement thereof after a specified period of time.

11       Section 25. The board shall recommend prosecutions for violations of this Act to the  
12 appropriate state's attorney and recommend to the attorney general the commencement of civil  
13 actions to seek injunctions and other relief for violations of this Act.