

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 309 Radiological Personnel

**SPONSOR(S):** Health & Human Services Quality Subcommittee; Oliva

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 376

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	15 Y, 0 N, As CS	Holt	Calamas
2) Health Care Appropriations Subcommittee	13 Y, 0 N	Clark	Pridgeon
3) Health & Human Services Committee	17 Y, 0 N	Holt	Gormley

### SUMMARY ANALYSIS

The Division of Environmental Health in collaboration with the Division of Medical Quality Assurance within the Department of Health (DOH) regulates the certification of radiologic personnel pursuant to chapter 468, part IV, F.S.

The bill creates a new licensure type called the "specialty technologist" for a licensed radiologic technologist. The bill is not creating a new profession; instead the bill is adding a skill modifier called the "specialty technologist" to the existing radiology technologist license. A specialty technologist is a person who is qualified by education and certification to use radiation on humans under the specific direction and general supervision of a licensed practitioner.

The bill authorizes DOH to issue a certificate by endorsement to practice as a specialty technologist and collect a nonrefundable fee not to exceed \$100 if the applicant demonstrates that he or she is currently certified or registered by a national organization in an advanced, postprimary, or specialty area. The bill prohibits individuals from obtaining a specialty technologist license by examination to decrease duplication.

The bill directs DOH to approve letter designations by rule for each specialty area, consistent with the designation used by a national organization and authorizes DOH to determine the duties of a specialty technologist by rule. The bill specifies that the duties must be consistent with the scope of practice of a national organization for each particular advanced, post primary, or specialty area.

The bill has a positive fiscal impact to the Medical Quality Assurance trust fund within the Department of Health.

The bill takes effect July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

##### Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.<sup>1</sup> Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

##### Radiology

The Division of Environmental Health in collaboration with the Division of Medical Quality Assurance within the Department of Health regulates the certification of radiologic personnel pursuant to chapter 468, part IV, F.S.

Radiological personnel certification is governed by chapter 468, part IV, F.S., the Radiologic Personnel Certification Act. Radiation is the emission of x-rays and gamma rays, alpha and beta particles, high-speed electrons, neutrons, and other nuclear particles.<sup>2</sup> In 1973, the state began regulating persons who use radiation and radiation-emitting equipment.<sup>3</sup> In 1981, the federal Consumer-Patient Radiation Health and Safety Act<sup>4</sup> was passed, which required the Secretary of the U.S. Department of Health and Human Services to establish standards for the accreditation of radiologic programs, the education of certain persons who administer radiologic procedures, and for the credentialing of such persons. Section 468.3003, F.S., declares that it is the policy of the state that the health and safety of the people must be protected against the harmful effects of excessive and improper exposure to ionizing radiation by establishing standards of education, training, and experience and to require the examination and certification of users of radiation and radiation-emitting equipment. The federal Consumer-Patient Radiation Health and Safety Act defines radiation to include ionizing and non-ionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures.<sup>5</sup>

The term radiologic personnel generally refers to anyone who is trained as a basic x-ray machine operator, general radiographer, radiologic technologist, radiology assistant, or a radiologist.<sup>6</sup> A basic x-ray machine operator<sup>7</sup> is a person who is employed by a licensed practitioner to perform certain

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<sup>1</sup> S. 456.001, F.S.

<sup>2</sup> S. 468.301(14), F.S.

<sup>3</sup> Ch. 73-383, L.O.F.

<sup>4</sup> 42 U.S.C. § 10004

<sup>5</sup> 42 U.S.C. §10003(1)

<sup>6</sup> S. 468.301, F.S.

<sup>7</sup> The state regulates two basic x-ray machine operator types: the basic x-ray machine and the basic x-ray operator-podiatric medicine. The only difference is that the latter is employed by and under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed pursuant to chapter 461, F.S.

radiographic functions under direct supervision.<sup>8</sup> A basic x-ray operator is not permitted to perform nuclear medicine or radiation therapy procedures. A general radiographer is a person who is employed and certified in radiography, other than a basic x-ray machine operator. A radiologic technologist is a person who uses radiation on human beings under the specific direction and general supervision<sup>9</sup> of a licensed practitioner<sup>10</sup>. A radiologist assistant is a person who is an advanced-level radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the medical imaging environment. A radiologist is a licensed physician who specializes in radiology and is certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or the Canadian College of Physicians and Surgeons.<sup>11</sup>

### Radiology Technologist

All applicants for certification as a radiology technologist may not receive a Florida license to practice until they have successfully passed an examination administered by the American Registry of Radiologic Technologists.<sup>12</sup>

There are four types of designations that a radiology technologist may currently receive in Florida: certified radiologic technologist-radiographer (CRT-R), certified radiologic technologist-computed tomography (CRT-T), certified radiologic technologist-therapy (CRT-T), and certified radiologic technologist-nuclear medicine (CRT-N).<sup>13</sup> A person who holds a certificate as a radiologic technologist may only use radiation or radiation-producing equipment on human beings for diagnostic or therapeutic purposes while operating under the general supervision of a licensed practitioner and only if the application of radiation is limited to a person or parts of the human body the CRT is authorized to treat.<sup>14</sup> CRT's are required to complete 4-hours of HIV/AIDS continuing education every biennium, and twelve additional continuing education hours in the radiologic technology practice area.<sup>15</sup>

As of June 30, 2011, there were 24,057 individuals who possessed active in-state licenses as a radiologic technologist and 11,323 in-state licenses were in delinquency<sup>16</sup> status.<sup>17</sup>

### National Organizations

The American Society of Radiologic Technologists (ASRT) is the largest and oldest membership association for individuals in the radiologic sciences. Founded in 1920, the ASRT now has more than 142,000 members. ASRT is also the only association that represents all medical imaging technologists, no matter what their area of practice. Fifty-two associations are affiliates of the ASRT.<sup>18</sup>

The Joint Review Committee on Education in Radiologic Technology (JRCERT) is the largest of three programmatic agencies that evaluates and accredits degree-granting colleges and universities that

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<sup>8</sup> Direct supervision means supervision and control by a licensed practitioner who assumes legal liability for the services rendered by the basic x-ray machine operator or basic x-ray machine operator-podiatric medicine. Supervision requires the physical presence of the licensed practitioner for consultation and direction of the actions of the basic x-ray machine operator or basic x-ray machine operator-podiatric medicine.

<sup>9</sup> General supervision is supervision whereby a practitioner authorizes services to be performed by a radiologic technologist, except emergency situations. Supervision requires the easy availability or physical presence of the licensed practitioner for consultation and direction of the actions of the radiologic technologist.

<sup>10</sup> A licensed practitioner is a person who is a physician, chiropractor, podiatrist, or a naturopath.

<sup>11</sup> *Supra* at FN 5.

<sup>12</sup> S. 468.306, F.S. and 64E-3.004, F.A.C.

<sup>13</sup> S. 468.302(2), F.S.

<sup>14</sup> S. 468.302(4), F.S.

<sup>15</sup> 64E-3.009, 64E-3.008, and 64E-3.003(4), F.A.C.

<sup>16</sup> A delinquency status of a license means that a licensee has an in-state mailing address of record and is not authorized to practice in the state because he or she has failed to renew the license.

<sup>17</sup> The Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 Annual Report, *available at*: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed December 28, 2011).

<sup>18</sup> American Society of Radiologic Technologists, History of the American Society of Radiologic Technologists, *available at*: <https://www.asrt.org/content/aboutasrt/history.aspx> (last viewed December 27, 2011).

offer degrees in radiologic science.<sup>19</sup> In 2010, the JRCERT accredited 629 radiography programs, 82 radiation therapy programs, 15 medical dosimetry<sup>20</sup> programs, and 3 magnetic resonance programs.<sup>21</sup> There are 42 JRCERT accredited programs in Florida.<sup>22</sup>

The American Registry of Radiologic Technologists (ARRT) was founded in 1922 as the Radiological Society of North America, with the support of the American Roentgen Ray Society and the American Society of Radiologic Technologists (formerly called the American Society of X-Ray Technicians).<sup>23</sup> ARRT is a certifying body that certifies and registers individuals in 17 disciplines. Candidates for ARRT certification must meet basic education, ethics, and clinical experience requirements to become eligible to take a certification examination. The ARRT awards the following designations for a registered technologist (RT).<sup>24</sup>

- (R) for Radiography
- (N) for Nuclear Medicine Technology
- (T) for Radiation Therapy
- (MR) for Magnetic Resonance Imaging
- (S) for Sonography
- (M) for Mammography
- (CT) for Computed Tomography
- (QM) for Quality Management
- (BD) for Bone Densitometry
- (CI) for Cardiac-Interventional Radiography
- (VI) for Vascular-Interventional Radiography
- (CV) for Cardiovascular-Interventional Radiography
- (VS) for Vascular Sonography
- (BS) for Breast Sonography

RTs must renew their registration each year in order to maintain their certification. Continuing Education (CE) requirements must be fulfilled every biennium. The biennium cycle is defined in relation to the RT's birth month. There are three options for meeting the CE requirements. Only one option must be met to satisfy the requirements. The options are: (1) earn 24 CE A+ or A<sup>25</sup> level credits that meet the criteria set forth by the ARRT; or (2) pass a primary examination in a discipline not previously passed and for which the individual is eligible and which the ARRT recognizes for this purpose; or (3) pass one of the post-primary examinations<sup>26</sup> not previously passed and for which the individual is eligible and recognized by ARRT.<sup>27</sup>

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<sup>19</sup> American Society of Radiologic Technologists, Radiologic Science Organizations, *available at*: [https://www.asrt.org/content/aboutasrt/alphabet\\_soup.aspx](https://www.asrt.org/content/aboutasrt/alphabet_soup.aspx) (last viewed December 28, 2011).

<sup>20</sup> A Medical Dosimetrist is a member of the radiation oncology team who has knowledge of the overall characteristics and clinical relevance of radiation oncology treatment machines and equipment, is cognizant of procedures commonly used in brachytherapy (internal radiotherapy) and has the education and expertise necessary to generate radiation dose distributions and dose calculations in collaboration with the medical physicist and radiation oncologist. *See* American Association of Medical Dosimetrists, *available at*: [http://www.medicaldosimetry.org/generalinformation/medical\\_dosimetrist.cfm](http://www.medicaldosimetry.org/generalinformation/medical_dosimetrist.cfm) (last viewed December 28, 2011).

<sup>21</sup> *Ibid.*

<sup>22</sup> Joint Review Committee on Education in Radiologic Technology Accreditation, Accredited Programs, *available at*: <http://www.jrcert.org/cert/results.jsp#> (last viewed December 28, 2011).

<sup>23</sup> American Registry of Radiologic Technologists, History, *available at*: <https://www.arrt.org/About-ARRT/History> (last viewed December 27, 2011).

<sup>24</sup> American Registry of Radiologic Technologists, Designation Awarded by ARRT, *available at*: <https://www.arrt.org/About-ARRT/Designation-Awarded> (last viewed December 27, 2011).

<sup>25</sup> The distinction between Category A and A+ activities is not based on the nature of the activity itself, but rather is based upon whether the activity has been submitted to, reviewed by, and approved by a Recognized Continuing Education Evaluation Mechanism (RCEEM) or a RCEEM+. ARRT uses RCEEM as a quality control mechanism for CE activities.

<sup>26</sup> The ARRT offers two categories of certification: primary and post-primary. Candidates for post-primary certification must meet two sets of educational requirements: registration by ARRT in an appropriate supporting category and completion of clinical experience requirements. ARRT currently offers certification via the post-primary category for: mammography, computed tomography, quality management, bone densitometry, cardiac-interventional radiography, vascular-interventional radiography, vascular sonography, breast sonography, or in magnetic resonance imaging or sonography.

<sup>27</sup> American Registry of Radiologic Technologists, Education, *available at*: <https://www.arrt.org/Education/#CQR> (last viewed December 28, 2011).

Beginning January 1, 2011, any certifications earned in any specialty designation are time limited to 10 years, at which time an RT will need to demonstrate continuing qualifications as part of the Continuing Qualifications Requirements (CQR). To renew registration of such certificates after 10 years have lapsed, individuals will be subject to Continuing Qualifications Requirements (CQR) as well as Continuing Education requirements.<sup>28</sup> The first time-limited certificates for RTs won't be subject to the CQ requirements until 2021. CQR will apply to RRAs beginning in 2015.<sup>29</sup>

## Effects of Proposed Changes

The bill provides a new licensure type called the "specialty technologist" for a licensed radiologic technologist. A specialty technologist is a person, other than a licensed practitioner, who is qualified by education and certification to use radiation on humans under the specific direction and general supervision of a licensed practitioner. To qualify as a specialty technologist an individual must demonstrate to the department that he or she currently holds a certification or registration granted from a national organization in an advanced, postprimary, or specialty area of radiologic technology such as CT or PET. A national organization is defined in s. 478.301(12), F.S., as a professional organization or registry, approved by the department<sup>30</sup> that examines, certifies, or approves individuals and education programs relating to operators of sources of radiation. A national organization such as the American Registry of Radiologic Technologists, grants certifications and registrations to individuals in 17 disciplines and awards 14 specialty designations in the area of radiation technology.

Typically, individuals may obtain licensure by two pathways: licensure by endorsement and licensure by examination. The bill prohibits individuals from obtaining a license by examination. Requiring individuals to take a licensure examination administered by DOH and an examination administered by a national organization is duplicative. Furthermore, s. 456.017, F.S., states that the department or a board may not administer a state-developed examination if a national examination is available. The bill authorizes DOH to issue a certificate by endorsement to practice as a specialty technologist and collect a nonrefundable fee not to exceed \$100 if the applicant demonstrates that he or she meets the licensure requirements.

The bill provides that a person who holds a license as a specialty technologist may use the title "Certified Radiologic Technologist -X" or the letters "CRT-X". The "X" is a placeholder to represent a single or multiple-letter designation of a particular specialty area. The bill provides examples of how the new designation would work. One such example is that if an individual holds a national organization designation in CT he or she may use the letters "CRT-CT". The bill directs DOH to approve letter designations by rule for each specialty area, consistent with the designation used by a national organization. Furthermore, the bill authorizes DOH to determine the duties of a specialty technologist by rule. The bill specifies that the duties must be consistent with the scope of practice of a national organization for each particular advanced, post primary, or specialty area.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 468.301, F.S., relating to definitions.

**Section 2.** Amends s. 468.302, F.S., relating to the use of radiation and identification of certified persons.

**Section 3.** Amends s. 468.304, F.S., relating to certification.

**Section 4.** Amends s. 468.306, F.S., relating to examinations.

**Section 5.** Amends s. 468.3065, F.S., relating to certification by endorsement.

**Section 6.** Provides an effective date of July 1, 2012.

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<sup>28</sup> As of December 28, 2011, the CQR requirements are still under development and details are unavailable.

<sup>29</sup> American Registry of Radiologic Technologists, Education, *available at*: <https://www.arrt.org/Education/#CQR> (last viewed December 28, 2011).

<sup>30</sup> Currently, DOH recognizes the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board. *See* 64E-3.002(1) and 64E-3.0033(3),F.A.C.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to DOH, the ARRT web site indicates that approximately 9,549 advanced, post-primary and specialty certifications are issued to technologists with Florida addresses. Since a technologist may hold multiple certifications at the same time, the actual number of technologists is actually less than 9,549 (DOH estimates one-third fewer, noting the proportion of Florida certifications to Florida technologists listed on the site is a ratio of 1.33 to 1). Therefore, DOH concludes that approximately 6,398 Floridians hold ARRT technologists certifications.

Many of the technologists who hold ARRT post-primary certifications are already Florida-certified as general radiographers. Radiography includes CT (both use x-rays); so many Florida-certified general radiographers are probably not going to seek Florida CT certification, at least for now. Given this fact, it is estimated that only about 10-20% of the 6,398 ARRT technologists may seek state certification.

The DOH revenue estimate uses the upper 20% figure of 1,280 applicants to calculate the potential increase in revenue to the MQA trust fund over a two year period. The DOH estimates that approximately half of these applicants will seek Florida CT certification in Year 1 and the other half in Year 2. The bill authorizes DOH to collect an endorsement fee not to exceed \$100. The revenue estimate projects collecting a \$45 endorsement fee per applicant.

DOH projects an increase in revenue to the MQA trust fund of \$28,800 per year for the first two years of implementation.

<b>Estimated Revenue</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Total</b>
Endorsement Fee: \$45 for 640 applicants/year	\$28,800	\$28,800	\$57,600

#### 2. Expenditures:

MQA believes that there will be minimal expenditures since the bill is not setting up a new profession, just adding more categories or a skill modifier to the existing radiological technologist profession in the COMPAS licensure system. There will be minimal operational cost to mail and print the specialty technologist certificate. The Division of Environmental health does not anticipate a need for additional staff or equipment to process the endorsement requests for this type of certification and that any increased workload can be accomplished within existing department resources and budget authority.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None identified.

#### 2. Expenditures:

None identified.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals seeking a license as a specialty technologist will have to remit a fee not to exceed \$100.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill provides DOH sufficient authority to promulgate rules to implement the provisions of the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 12, 2012, the Health & Human Services Quality Subcommittee adopted a strike-all and reported the bill favorably as a committee substitute. The strike-all:

- Restores the term “ionizing” in the declaratory statement, which eliminates the bill’s increase in the scope of regulatory authority.
- Deletes authority provided to DOH to change the definition of “radiation” by rule, which implicated the separation of powers doctrine.
- Changes the term “national registry” to “national organization” to be consistent with terms used in current law.
- Makes stylistic changes to conform the word structure to that of current law.

This analysis is drafted to the committee substitute.