



To: The Economic Affairs Interim Committee

From: Montana Board of Radiologic Technologists

Date: June 10, 2013

Subject: HB525 – RTS response to the Economic Affairs Interim Committee questions

1• What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The regulation of Radiologic Technologists through licensure serves the public interest by protecting the public against becoming contaminated against harmful radiation caused by x-rays. Proper training in the use of the x-ray equipment and human anatomy is crucial in providing doctors accurate images in order to diagnose or treat a patient.

2 • If your profession/occupation were not licensed, what public protection would be lost?

Licensure of Radiologic Technologists is preceded by and premised upon strict standards of education and periods of supervised experience. The failure to regulate those who would assume the role of a Radiologic Technician would be exposing the public to harmful radiation and have an increased risk of being misdiagnosed. If a problem exists with a professional's treatment or actions, there would be no entity with the appropriate knowledge to review and adjudicate public complaints. The board sets the standards needed to insure that competency is met for Radiologic Technologist based off American registry of radiologic technologists (ARRT) code of ethics.

3 • If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight?

If yes, please explain why and describe the purpose of creating a board. Yes. A board is necessary to provide the expertise to evaluate initial licensure applicants (such as appropriate educational, exams administered and passed, and to ensure there are no discipline concerns) and continued monitoring of existing licensees through complaint review, continuing education requirements, etc. As required by law, the Board of Radiologic Technologists is comprised of seven members who include a radiologist licensed to practice medicine, a limited permit holder, a public member and four licensed radiologic technologists registered with the ARRT. The mix of talent on the board is the most appropriate method to deal with oversight issues.

4 • Does your board deal with unlicensed practice issues? If yes, what types of issues?

Occasionally, the board is alerted to the conduct of individuals who portray themselves as having appropriate education and training to address or handle x-rays for which they are not qualified. A great

deal of personal harm or false diagnosis to individuals may result if the exams are erroneous and film is incorrectly processed.

5 • People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The safe and competent practice of x-rays requires a 24-month course of study in radiologic technology. To ensure the proper and necessary preparation, the law currently requires reasonable standards that do not unfairly bar any individual from earning a living once they have met qualifications.

6. • How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

Board member training provided by the Department of Labor and Industry addresses this issue; board members are advised of the need to recuse themselves from decision-making if a conflict exists. The Presiding Officer and staff also monitor bias on a case-by-case basis to help ensure that the possibility or perception of bias is avoided, and a carefully guarded and liberally administered public right of participation ensures a critical review of all such decisions. Also, having a mix of public and professional members who serve together on the board is another safeguard. There are no other professions licensed by this board.

7 • Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

Associations have a certain degree of overlap in their respective purposes. However, professional associations consist of members of the profession who choose to join the associations. Generally speaking, the primary mission of an association is to promote an industry, while the primary mission of a regulatory board is to protect the public. These are two separate functions not well-suited to be performed by the same entity.

8 • Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes, insurance companies are well aware of the advantage of a licensing board being able to determine the qualifications of practitioners, so licensure through an administrative agency is a prerequisite to insurance coverage for Radiologic services. The board is not aware of any alternative billing method.

9 • What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

The board has the expertise of the Radiologic Technologist members who understand the technical aspects of the profession and one public member to represent the consumer view. Both aspects are essential to effective regulation of the profession, and neither would be available to the department without the use of a board.

10 • Is there an optimum ratio between licensees, board size, or public representation?

There may be, and the number might differ for different boards. What we have now, six professional and one public member, appears to work well. A board is unwieldy if it is too large, and the current number (seven board members) seems sufficient for the work load.

11 • If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

A disinterested third party would spend significant time and money learning the profession and hiring consulting Radiologic Technologists and medical professionals in various areas of the profession to address issues as they arise. Radiologic Technologists have specialized skills of assessing professional abilities (and lack thereof) that governmental employees will not typically have. To best protect the public, the regulating entity must have adequate knowledge of "standards of care," with which the board is already uniquely equipped because of its professional members.

12 • If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

The scope of practice involving Radiologic Technologists is overlapped only by the dental profession. 37-14-301((1)(a)(ii), MCA, exempts administering x-rays in the practice of dentistry or dentistry, but still requires the persons in the dental office to be certified by the board of dentistry as having passed an examination testing the person's proficiency to administer x-ray examinations. Physician Assistants are allowed to perform x-rays only if they have training, as well. ARM 24.156.1701.

The public should be able to rely on the distinct titles associated with licensure that indicates the level of education and training associated with that person's practice. While there may be a third-party who may also properly judge whether there is an intrusion into another's practice, the statutes provide adequate notice of the respective scopes of practice and provide that if a person's practice exceeds that person's license, that person may be enjoined from the conduct by a district court action initiated by the board responsible for regulating the practice.

13 • Should any board have the ability to limit use of certain terminology to only a licensee?

Terminology that implies a particular level of training/experience should have its use restricted to those individuals that actually have that training/experience and have been adequately assessed. Physicians, attorneys, and psychologists are amongst that group. These are titles that go with those professional labels and imply a particular level of training/experience. Consumers have a right to know the minimal qualifications of those who utilize the associated titles and terms, which is why some boards should be able to limit the use of certain terminology to only a licensee.