

SUBJECT: Regulating radiologic procedures

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Hirschi, Delisi, Glaze, Janek, Maxey, McDonald, Rodriguez

0 nays

2 absent — Berlanga, Coleman

WITNESSES: (*On original bill*)

For — Cheryl A. Timm, Linda Cluff, Carolyn Nicholas and Frank Collazo Jr., Texas Society of Radiologic Technologists; Marilyn Sackett, Advanced Health Education Center; David Sack; D. Clifford Burross, Texas Medical Association and Texas Academy of Family Physicians

Against — Matthew T. Wall, Texas Hospital Association; James Willman, Texas Nurses Association

On — Donna Flippen, Texas Department of Health

BACKGROUND: To legally perform radiographic procedures such as x-rays, a person must be certified by the board of health as having met minimum standards of training and education, with some exceptions. The board of health issues a *limited* certificate to qualified individuals who successfully complete a 120-hour training course and who may perform x-rays of the head, chest, spine and extremities. A *general* certificate is issued to certified medical radiologic technologists (MRTs) who complete a two-year training program and who may perform radiography (i.e., diagnostic x-rays, computed tomography and mammography) and nuclear medicine and radiation therapies.

No certificate is required if the person is a practitioner (licensed doctors of medicine, osteopathy, podiatry, dentistry or chiropractic) or working under the direction of a practitioner in an accredited hospital, is a radiologic technologist student or is licensed or registered in another state or by national radiologic technologist professional organizations.

DIGEST:

CSHB 1200 would require the board of health to establish mandatory training guidelines for persons performing radiologic procedures who are neither practitioners nor certified medical radiologic technologists (MRTs) and create a registry of persons required to take the training. CSHB 1200 would also increase the offenses and disciplinary actions for violations of the medical radiologic technologist certification act and would add injunctive relief and a civil penalty. CSHB 1200 would take effect September 1, 1995.

Mandatory training guidelines would apply to persons other than practitioners or certified MRTs who perform radiologic procedures under the direction of a practitioner or in a hospital. The board would be required to establish a registry of persons required to meet training program guidelines and to identify hazardous procedures that could only be performed by a practitioner or an MRT. Persons working under the direction of a dentist or using a dental x-ray machine would be exempt from the training or certification requirements.

Education and training rules would have to be adopted by the board of health by January 1, 1996, and persons subject to the training requirements would have to meet the requirements by January 1, 1998.

The Texas Department of Health would be required to grant an exemption to the training requirements for a hospital, federally qualified health center or a practitioner who demonstrated a hardship in employing a certified MRT or trained individual. A hardship to a hospital, federally qualified health center or a practitioner would be found if they report inability to attract or retain MRTs, if they are in a location "at a geographic distance from" a school of medical radiologic technology, or if a medical radiologic technology school had a list of applicants whose admission was pending due to lack of faculty or space or produced an insufficient number of graduates to meet need, or any other criteria adopted by the health department.

The boards of Medical Examiners, Chiropractic Examiners, Dental Examiners and Podiatry Examiners would be required to adopt rules to regulate how licensees could instruct or order another person who met TDH

training requirements in the performance of radiologic procedures, including the delegation of certain radiologic procedures to persons not certified as MRTs.

CSHB 1200 would add the following disciplinary actions for violations of the act: denial of an application for certification, assessment of a civil penalty of up to \$1,000 for each separate violation, issuance of a reprimand, placement of the offender's certificate on probation and requiring the offender to meet additional supervision, educational or examination requirements.

The bill would also add disciplinary actions against persons other than trained individuals subject to the medical radiologic technologist act for attempting to obtain a certificate by bribery or fraud, for filing a false report, for intentionally or negligently failing to file or obstructing the filing of a report or record required by law, for engaging in unprofessional conduct or developing an incapacity to competently x-ray as the result of an illness, drug or alcohol dependency or a mental condition, for failing to report a violation perpetrated by any other person, by employing a person for x-ray who is not in compliance with the act, for violating orders of the department, for having a certificate revoked or suspended by another authority in another state or country or for being convicted of or pleading *nolo contendere* to a crime related to the practice of radiologic technology. The department could also take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

A person subjected to disciplinary actions for reduced capacity as the result of chemical dependency, illness or a mental condition would be afforded the opportunity to demonstrate resumed competency.

Offenses by people who are required to be certified under the act would include practicing radiologic technology without a valid certificate, knowingly allowing a student to perform a radiologic procedure without direct supervision, obtaining or attempting to obtain a certificate through bribery or fraud, using the title "certified MRT" without having obtained a certificate under the act, knowingly concealing information relating to act enforcement, or employing a person not in compliance with the act.

A person who violated, had violated or threatened to violate the act could be enjoined by the department through the state attorney general by civil action and would be subject to a civil penalty of up to \$1,000 per day of violation.

**SUPPORTERS  
SAY:**

CSHB 1200 would promote public health and safety by ensuring that individuals performing radiography are sufficiently trained and educated. Both patients and operators would benefit, and board of health oversight and enforcement would improve.

Training guidelines would ensure a minimum standard of knowledge and training for uncertified persons who practice radiography under the direction of practitioners or in hospitals. Practitioners are often trained in interpreting radiographs but not in teaching or performing radiography. Although practitioner boards are required to establish training guidelines and to identify hazardous procedures requiring a certified MRT, to date only the dental board has fully complied. Most boards only register the names of individuals performing radiologic procedures under the direction of a practitioner.

Centralizing training and enforcement authority in the board of health would help the state respond more quickly to consumer or provider complaints. The board of health already monitors the condition of radiographic equipment but cannot penalize or correct situations in which public health is endangered by inappropriate use of the equipment. A centralized registry would make it easier for regulators, health care providers and consumers to assess the skills and experience of an uncertified radiologic technologist.

CSHB 1200 would improve training, but because it would not require a set number of training hours or certification it would not hinder health care providers or raise the cost of health care. Flexibility would help the department tailor training guidelines to provider and student needs. For example, the rules would take into account education and training backgrounds that nurses or physician assistants offer when going through training. Many health care providers have limited routine radiography needs and only need individuals trained in certain areas of the body or in

the use of certain types of equipment. Dentist offices would be exempt because the procedures performed in that line of work entail fairly low risk.

Hardship exemptions would allow hospitals, practitioners and federally qualified health centers to continue to provide radiography services when certified individuals or trained individuals are unavailable. The supply of MRTs varies widely, and as with other health care professionals, often the labor supply is heavily concentrated in urban areas. All practitioners have a direct interest in providing quality care and radiography to their patients and would employ only those individuals who can meet their high standards.

**OPPONENTS  
SAY:**

CSHB 1200 would not do enough to improve public health and safety. The hardship exemptions are too vague and broadly written and would exempt most health care providers who applied. Training and education requirements should be more specific, to guarantee highly trained radiologic technologists. Radiologic technology schools already have waiting lists of applicants due to lack of faculty, and the exact distance from a school constituting a hardship is so vague as to be meaningless; every provider is "a geographic distance from a school."

Providers would apply for exemptions because it may be easier for them to train their own employees than to find those who meet training requirements. Texas no longer has the shortage of trained MRTs it did when it enacted the medical radiologic certification act in 1987. Some students graduating from "rad tech" programs are having trouble finding jobs, yet currently most of the on-the-job trainees reside in the Houston area — an area well served by radiologic technologist programs.

The health department should be given more direction in specifying by regulation the minimum hours of training, as mandatory training guidelines could be too limited to provide much public safety. At the very least, mandatory training should equal training for limited certification. Nurses may have health care background and experience, but they are never specifically taught radiography in nursing schools.

OTHER  
OPPONENTS  
SAY:

The bill would not go far enough in improving the training and education of radiologic technologists and would maintain an uncertified class of radiologic technologist, a "registrant," in addition to individuals with general certification or limited certification.

All radiologic technologists should be certified by the state, and certification requirements should be increased. A hairdresser in Texas must have 1,500 hours of training, but some radiologic technologists must have only 120. The costs associated with obtaining certification and employing certified MRTs would most likely pale beside the cost of poorly performed or duplicative radiographies and the resulting patient endangerment.

It is difficult to determine in the penalty and offenses provisions who is covered and when the department of health, rather than a practitioner's licensing board, would have jurisdiction.

NOTES:

The committee substitute added the establishment of a registry, the dental exemptions, the hardship exemptions and the opportunity to demonstrate resumed competency. The committee substitute removed the requirement that the training program include at least 120 hours of education and the exemption from training requirements for persons who perform radiography under the direction of a practitioner.