AN ACT

Regulating medical physicists; establishing the State Board of Medical Physicists; providing for funds, for licensure, for disciplinary action, for remedies, for penalties and for preemption.

The General Assembly of the Commonwealth of Pennsylvania finds and declares as follows:

The practice of medical physics by unqualified individuals is a threat to public health and safety. It is, therefore, the responsibility of the Commonwealth to protect public health and safety from the harmful effects of excessive and unnecessary radiation by ensuring that the practice of medical physics is entrusted only to individuals licensed under this act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.
This act shall be known and may be cited as the Medical Physicists Law.

Section 2. Definitions.
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:


"Applicant." An individual who applies for a license.

"Board." The State Board of Medical Physicists.

"Bureau." The Bureau of Professional and Occupational Affairs.

"Clinical." Activities directly relating to the treatment of diagnosis of human ailments.

"Commissioner." The Commissioner of Professional and Occupational Affairs.

"Conviction." A judgment of guilt, an admission of guilt or a plea of nolo contendere.

"Department." The Department of State of the Commonwealth.

"Diagnostic radiological physics." The branch of medical physics relating to the diagnostic applications of x-rays, gamma rays from sealed sources, ultrasonic radiation, radio frequency radiation and magnetic fields; the equipment associated with their production, use, measurement and evaluation; and the quality of images resulting from their production and the use of medical health physics associated with this subfield.

"License." A license to practice medical physics under this act.

"Licensee." An individual who holds a license to practice medical physics.

"Medical health physics." The branch of medical physics pertaining to the safe use of x-rays, gamma rays, electron and other charged particle beams or neutrons or radionuclides and of radiation from sealed and unsealed radionuclide sources for
diagnostic and therapeutic purposes and the instrumentation required to perform appropriate radiation surveys.

"Medical nuclear physics." The branch of medical physics pertaining to the therapeutic and diagnostic applications of radionuclides, except those used in sealed sources for therapeutic purposes; the equipments associated with their production, use, measurement and evaluation; and the quality of the images resulting from their production and use and the medical health physics associated with this subfield.

"Medical physics." The branch of physics that is associated with the practice of medicine.

"Practice of medical physics." The use of principles and accepted protocols of physics to provide the quality, quantity and placement of radiation during the performance of a radiological procedure.

"Radiation." Ionizing or nonionizing radiation above background levels which is used to perform a diagnostic or therapeutic medical or dental radiological procedure.

"Radiological physics." Diagnostic radiological physics, therapeutic radiological physics or radiation oncology physics, medical nuclear physics and medical health physics.

"Radiological procedure." A test, measurement, calculation or radiation exposure used in the diagnosis or treatment of disease or other medical or dental conditions in human beings that includes therapeutic radiation, diagnostic radiation, nuclear magnetic resonance or nuclear medicine procedures.

"Specialty" or "special area." The following branch or branches of special competence within medical physics:

diagnostic radiological physics, medical health physics, medical nuclear physics, radiation oncology physics and therapeutic
"Therapeutic radiological physics" or "radiation oncology physics." The branch of medical physics relating to the therapeutic applications of x-rays, gamma rays, electron and charged particle beams, neutrons and radiations from sealed radionuclide sources; the equipment associated with their production, use, measurement, and evaluation; the quality of images resulting from their production and use; and the medical health physics associated with this subfield.

Section 3. Board.

(a) Establishment.--There is established the State Board of Medical Physicists, an administrative board within the department. The board shall consist of 11 members who are citizens of the United States and who have been residents of this Commonwealth for at least a five-year period prior to the effective date of this section. The board shall be composed of the following individuals:

(1) One member who is a member of the public.
(2) Four members who meet the educational and experience qualifications for licensure under section 5. One member shall be from each of the following specialties:
   (i) Diagnostic radiological physics.
   (ii) Therapeutic radiological or radiation oncology physics.
   (iii) Medical nuclear physics.
   (iv) Medical health physics.
(3) Three members shall be licensed physicians represented by each of the following specialties:
   (i) Diagnostic radiology.
   (ii) Radiation therapy or radiation oncology.
(iii) Nuclear medicine.

(4) The Secretary of Health or a designee.

(5) The Attorney General or a designee.

(6) The commissioner or a designee.

(b) Term of office.--Except as provided in subsection (c), the members of the board shall serve for four-year terms and shall be appointed by the Governor by and with the advice and consent of a majority of the members elected to the Senate.

(c) Initial appointments.--Within 180 days of the effective date of this section, the Governor shall nominate two professional members to serve four-year terms, one public member and one professional member to serve three-year terms, one professional member to serve two-year terms and one professional member to serve a one-year term. A professional member initially appointed to the board under this act need not be licensed by the Commonwealth at the time of appointment, but at the time of appointment must have satisfied the eligibility requirements for licensure and must have practiced medical physics for five consecutive years or more immediately preceding the appointments.

(d) Continuation in office.--Each board member shall continue in office until a successor is appointed and qualified but no longer than six months after the expiration of the term. If a board member shall die, resign or otherwise become disqualified during the term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired portion of the term.

(e) Limit on terms.--No board member shall be eligible for reappointment to serve more than two consecutive four-year
(f) Forfeiture of membership.--A professional or public member who fails to attend three meetings in 18 months shall forfeit the member's seat unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting because of illness or death of a family member.

(g) Compensation.--A member of the board, except the commissioner, shall receive per diem compensation at the rate of $60 when actually attending to the work of the board. Members shall also receive reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with regulations.

(h) Forfeiture for nonattendance.--A public member who fails to attend two consecutive statutorily mandated conferences in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall forfeit the public member's seat unless the commissioner, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

(i) Quorum.--A majority of the members of the board shall constitute a quorum for the purposes of conducting the business of the board. Except for temporary and automatic suspensions under section 9(d), a member may not be counted as part of a quorum or vote on any issue unless the member is physically in attendance at the meeting.

(j) Chairperson.--The board shall annually select a chairperson from among its members.

(k) Meetings.--The board shall meet at least four times a year in Harrisburg and at other times and places as the board
shall determine is necessary to conduct board business.

(1) Operating procedures.--The board shall meet within 30 days after the appointment of its initial members and shall institute operating procedures and an application form for licensing medical physicists. It shall be the responsibility of the board to educate the public as to the requirements of licensing in order to hold oneself out or to practice as a licensed medical physicist within this Commonwealth.

Section 4. Powers and duties of board.

The board has the following powers and duties:

(1) To pass upon the qualifications and fitness of applicants for licenses and reciprocal licenses.

(2) To promulgate regulations not inconsistent with this act and only as necessary to carry out this act.

(3) To examine, deny, approve, issue, revoke, suspend or renew licenses of medical physicists under this act and to conduct hearings in connection with those powers and duties.

(4) To submit annually a report to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of Representatives containing a description of the types of complaints received, status of the cases, board action which has been taken and length of time from the initial complaint to final board resolution.

(5) To submit annually to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives, within 15 days after the Governor has submitted a budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.
To establish standards of eligibility for license renewal. These standards shall include, but not be limited to, the demonstration of satisfactory completion of continuing education related to the practice of medical physics in accordance with board regulations. No credit may be given for courses in office management or practice building. The board may waive all or part of the continuing education requirement to a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirement due to illness, emergency or hardship.

Section 5. Qualification for licensure.

(a) Applicants.--An applicant shall be considered to be qualified for a license if the applicant submits proof satisfactory to the board of all of the following:

(1) The applicant is of good moral character.

(2) The applicant has completed a graduate degree from an accredited college or university in accordance with regulations developed by the board.

(3) The applicant has passed an examination under section 7.

(4) The applicant has paid a fee as established by the board by regulation.

(5) The applicant has not been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:
At least ten years have elapsed from the date of
conviction.

(ii) The applicant satisfactorily demonstrates to
the board that the applicant has made significant
progress in personal rehabilitation since the conviction
and that licensure of the applicant should not be
expected to create a substantial risk of harm to the
health and safety of the applicant’s clients or the
public or a substantial risk of further criminal
violations.

(iii) The applicant otherwise satisfies the
qualifications required under this act.

(b) Waiver of standardized examination.--

(1) The board may promulgate regulations that allow for
an individual to receive a license in a specialty without
taking the standardized examination so long as the
individual:

(i) Meets all other requirements for the license.

(ii) Has graduated from:

(A) an approved bachelor's degree program and
has a total of 15 years of full-time work experience
in the specialty field; or

(B) an approved master's or doctoral degree
program and has a total of two years of full-time
work experience in the past seven years and one year
of full-time work experience in the past ten years in
the specialty field.

(2) This waiver shall only be granted within two years
of the effective date of this act.

(c) Temporary practice permit.--
(1) The board may issue a temporary practice permit to an applicant before the applicant has received board certification by a national certifying board in the field of medical physics recognized by the board, or to an applicant currently enrolled in an approved graduate or postgraduate program for medical physics.

(2) The temporary practice permit issued under paragraph (1) shall be renewable at the discretion of the board and shall expire on the earlier of:

(i) two years from the date of issuance; or

(ii) the date the applicant fails the licensing examination.

(3) An applicant licensed in a specialty of medical physics who is in good standing for two years in another jurisdiction that has licensing requirements that are substantially equivalent to this act as determined by the board if the applicant has also:

(i) Passed a national or other examination recognized by the board relating to the specialty of medical physics.

(ii) Is sponsored by a person licensed under this act with whom the professional license holder will practice during the time the applicant holds a temporary license.

(4) The temporary practice permit shall only authorize the holder to practice medical physics under the direct supervision of a licensed medical physicist and only in the specialty of the licensed medical physicist.

(5) Medical physics experience obtained in this Commonwealth credited to the experience requirement for
licensure must be obtained under a temporary license.

(d) Transferability.--A license and a temporary practice permit are not transferable.

Section 6. Biennial renewal of license.

(a) Duration of license.--A license shall be valid for two years. The expiration date shall be established by regulation of the board. Application for renewal of a license shall be forwarded to an individual holding a current license prior to the expiration date of the current renewal.

(b) Procedure.--To renew a license, a licensee must do all of the following:

(1) File a renewal application with the board which includes certification of successful completion of continuing education in the field of medical physics during the immediately preceding two years as required by the board. Certification of continuing education credit hours submitted by the medical physicist shall be properly signed by the medical physicist as being correct and true.

(2) Pay a fee established by regulation of the board.

(c) Inactive status.--Any person licensed under this act may request an application for inactive status. The application may be completed and returned to the board. Upon receipt of each application, the applicant shall be maintained on inactive status without fee and shall be entitled to apply for an active license at any time. An application to reactivate a license which has been placed on inactive status for less than five years shall be accompanied by a verification of nonpractice, the renewal fee and documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period. Any person who requests an active
status license who has been on inactive status for a period of five consecutive years or longer shall, prior to receiving an active license, satisfy the requirements of the board's regulations for ensuring continued competence and remit the required fee. A person shall not be denied active status as a result of any increased educational requirements for licensure since the time he or she received his or her original license.

(d) Reporting of multiple licensure.—A licensee who is licensed to practice medical physics in another jurisdiction shall report this information to the board on the license renewal application. Any disciplinary action taken in another jurisdiction shall be reported to the board on the license renewal application or within 90 days of final disposition, whichever is sooner. Multiple licensure in other states shall be noted by the board on the licensee's record, and the other licensing jurisdiction shall be notified by the board of any disciplinary actions taken against the licensee in this Commonwealth.

Section 7. Examinations.

The board shall require an applicant to have passed a national or other examination in the field of medical physics recognized by the board.

Section 8. Reciprocity.

The board has the power to grant a reciprocal license without further examination to an applicant who is licensed or certified as a medical physicist or similar practice in another state and has demonstrated qualifications which equal or exceed those required under this act in the determination of the board. No license shall be granted under this section to an applicant unless the state in which the applicant is licensed affords
reciprocal treatment to individuals who are residents of this
Commonwealth and who are licensed under this act.

Section 9. Refusal, suspension and revocation of licenses.

(a) Grounds.--The board may refuse, suspend, revoke, limit
or restrict a license or discipline a licensee for any of the
following:

(1) Being convicted under Federal law, under the law of
any state or under the law of another jurisdiction of a crime
of moral turpitude or of an offense which, if committed in
this Commonwealth, would constitute a felony.

(2) Being found to have engaged in immoral or
unprofessional conduct. In proceedings based on this
paragraph, actual injury to the client need not be
established. As used in this paragraph, the term
"unprofessional conduct" includes a departure from or failure
to conform to the standards of acceptable and prevailing
practice.

(3) Violating standards of professional practice or
conduct as established by board regulation.

(4) Presenting false credentials or documents or making
a false statement of fact in support of the individual's
application for a license.

(5) Submitting a false or deceptive license renewal to
the board.

(6) Having a license suspended, revoked or refused or
receiving other disciplinary action by the proper licensing
authority of another jurisdiction.

(7) Violating a regulation promulgated by the board or
violating an order of the board previously entered in a
disciplinary proceeding.
(8) Incompetence, negligence or misconduct in carrying out the practice of medical physics.

(9) Practicing beyond the licensee's defined scope of practice.

(10) Knowingly aiding, assisting, hiring or advising someone in the unlawful practice of medical physics.

(11) Being unable to practice with reasonable skill and safety by reason of illness, drunkenness, use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the board, upon probable cause, has authority to compel a licensee to submit to a mental or physical examination by a physician approved by the board. Failure of a licensee to submit to an examination when directed by the board, unless the failure is due to circumstances beyond the licensee's control, may result in a default and final order entered against the licensee without the taking of testimony or presentation of evidence. A licensee affected under this paragraph shall be afforded an opportunity to demonstrate that the licensee can resume competent practice with reasonable skill and safety.

(b) Board action.--If the board finds that the license or application for license may be refused, revoked, restricted or suspended under the terms of subsection (a), the board may do any of the following:

(1) Deny the application for a license.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license.

(4) Require a licensee to submit to the care, counseling
or treatment of a physician.

(5) Suspend enforcement of its findings and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore a suspended license and impose any disciplinary or corrective measure which it might originally have imposed.

(c) Administrative Agency Law.--Actions of the board under subsections (a) and (b) are subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(d) Temporary and automatic suspension.--A license issued under this act shall be temporarily suspended under circumstances determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee concerned at his or her last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within 30 days following the issuance of an order temporarily suspending a license, the board shall conduct or cause to be conducted a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel.
examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

Section 10. Reinstatement of license.

Unless ordered to do so by a court of competent jurisdiction, the board shall not reinstate a license which has been revoked. An individual whose license has been revoked may reapply for a license after a period of at least five years, except for a period of at least ten years if the license was revoked because the license holder was convicted of a felony as described in section 5(a)(5) and must meet all of the licensing requirements of this act.

Section 11. Setting of fees and disposition of fees, fines and civil penalties.

(a) Setting of fees.--All fees required under this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. If the revenues raised by the fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that projected revenues will meet or exceed projected expenditures.

(b) Fee increase.--If the bureau determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the Regulatory Review Act, shall increase the fees by regulation in
an amount that adequate revenues are raised to meet the required enforcement effort.

(c) Disposition of fees, fines and civil penalties.--All fees, fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation Account.

(d) Fees permitted.--The board may charge a fee, as set by the board by regulation, for all examinations, registrations, renewals, certifications, licenses or applications permitted by this act or regulations under this act.

Section 12. Public access to list of licensees.

The board shall maintain a current list of any person licensed with the board. The list shall be posted on the board's Internet website and shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Section 13. Other professions.

Nothing in this act shall be construed as preventing, restricting or requiring licensure of any of the following activities:

(1) The practice of a profession by an individual who is licensed, certified or registered by a Commonwealth agency under other law and who is performing services or advertising within the authorized scope of practice.

(2) The practice of medical physics by an individual employed by the Federal Government while the individual is engaged in the performance of duties under Federal law.

(3) A student enrolled in an approved medical physics education program who is:

   (i) conducting medical physics activities under the supervision of:
(A) a licensee; or
(B) instructors or supervisors who meet the licensing criteria of the Department of Education or the board; and
(ii) enrolled in a school approved by the Department of Education or by the board.

Section 14. Unlawful practice.
(a) General rule.--Except as set forth in section 13(1) and (2), an individual may not practice medical physics or hold oneself out as a medical physicist unless licensed by the board.
(b) Title.--Only an individual licensed under this act shall use the title "licensed medical physicist."
(c) Employment.--An individual, corporation, partnership, firm or other entity may not employ an individual in medical physics unless the individual is licensed by the board.
(d) Terminology.--Except as set forth in section 13(1), a business entity may not utilize in connection with a business name or activity any derivative of the terms and their related abbreviations which implies directly or indirectly that medical physics services are being provided, unless services of the business are provided by licensees. The board shall promulgate regulations on this subsection.
(e) Injunction.--It shall be unlawful for any person to practice or attempt to offer to practice medical physics as defined in this act without having, at the time of so doing, a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice may be enjoined by the courts on petition of the board or the commissioner. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If it is
determined that the respondent has engaged in the unlawful
practice, the court shall enjoin the respondent from so
practicing unless and until the respondent has been duly
licensed. Procedure in such cases shall be the same as in any
other injunction suit. The remedy by injunction hereby given is
in addition to any other civil or criminal prosecution and
punishment.

(f) Remedy cumulative.--The injunctive remedy provided in
this section shall be in addition to any other civil or criminal
prosecution and punishment.

Section 15. Violation of act.

(a) General rule.--Notwithstanding any law to the contrary,
a person that violates a provision of this act commits a
misdemeanor of the third degree and shall, upon conviction, be
sentenced to pay a fine of not more than $1,000 or to
imprisonment for not more than six months for the first
violation and to pay a fine of not more than $2,000 or to
imprisonment for not less than six months nor more than one
year, or both, for each subsequent violation.

(b) Civil penalty.--In addition to any other civil remedy or
criminal penalty provided for in this act, the board, by a vote
of the majority of the maximum number of the authorized
membership of the board or by a vote of the majority of the
qualified and confirmed membership or a minimum of five members,
whichever is greater, may levy a civil penalty of up to $10,000
on any of the following:

(1) A medical physicist who violates a provision of this
act.

(2) A person that employs a medical physicist in
violation of this act.
(3) An individual who holds himself out as a licensee without being properly licensed as provided in this act.

(4) The responsible officers or employees of a corporation, partnership, firm or other entity that violates a provision of this act.

(c) Assessment of costs of investigation.--The board may assess against the respondent in a disciplinary action under this act, as part of the sanction, the cost of investigation underlying that disciplinary action.

(d) Administrative Agency Law.--Action of the board under subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

Section 16. Preemption.

This act shall preempt and supersede any ordinance relating to the licensure or regulation of medical physics by a political subdivision in effect on the effective date of this section.

Section 17. Effect of licensure.

Licensure under this act shall not be construed as requiring new or additional third-party reimbursement or otherwise mandating coverage under 75 Pa.C.S. Ch. 17 (relating to financial responsibility) or the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

Section 18. Exemptions.

Nothing in this article shall be construed to:

(1) Affect, prevent or in any manner expand or limit the authority of any person otherwise authorized by law or regulation to practice any function of a medical physicist, or any department of agency authorized by law or regulation to regulate the use of radiation.
(2) Prohibit the repair of calibration of any test
equipment used by licensed medical physicists by any person
otherwise allowed to do so under Federal or State law.

(3) Serve to limit radiological or imaging technologists
or any individual otherwise authorized by law or regulation
from performing quality control measurements or obtaining
quality control data under the supervision of a licensed
medical physicist.

(4) Serve to limit a service engineer in the repair of
radiation-producing equipment or an installation engineer in
the installation of radiation-producing equipment.

Section 49. Funding.

Funds necessary for the payment of costs associated with
processing licenses and renewing licenses, for the operation of
the board and for other costs associated with this act shall be
transferred from the Professional Licensure Augmentation Account
to the department. The transferred funds shall be repaid by the
board to the account within three years of the beginning of
issuance of licenses by the State Board of Medical Physicists.

Section 50. Regulations.

The board shall promulgate regulations to carry out this act.
Publication of the final-form regulations under this section
shall take place within 18 months of the effective date of this
section. The board shall report, within 180 days of the
effective date of this section, and every 30 days thereafter, on
the status of the regulations to the Consumer Protection and
Professional Licensure Committee of the Senate and the
Professional Licensure Committee of the House of
Representatives.

Section 51. Effective date.
This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

   (i) Sections 3, 4 and 50.

   (ii) This section.

(2) The remainder of this act shall take effect in two years.