The Commonwealth of Massachusetts

PRESENTED BY:

Carlo Basile

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the practice of medical physics.

PETITION OF:

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<td>Carlo Basile</td>
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An Act relative to the practice of medical physics.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1. Purpose and Scope.

2 The Massachusetts Legislature finds that the practice of medical physics by incompetent persons is a threat to the public health and safety. It is, therefore, the responsibility of this state to protect the 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 persons who are licensed under this section.

7 Section 2. Definitions.

8 As used in this article:

9 1. "Clinical" shall mean activities directly relating to the treatment or diagnosis of human ailments.
2. "Specialty" or "specialty area" shall mean the following branch or branches of special
competence within medical physics:

(a) "Diagnostic radiological physics" shall mean 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; the quality of images resulting from their production and the use of
medical health physics associated with this subfield;

(b) "Medical health physics" shall mean 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 radionuclide sources for both diagnostic and therapeutic purposes,
except with regard to the application of radiation to patients for diagnostic or therapeutic
purposes and the instrumentation required to perform appropriate radiation surveys;

(c) "Medical nuclear physics" shall mean the branch of medical physics pertaining to the
therapeutic and diagnostic applications of radionuclides, except those used in sealed sources
for therapeutic purposes; 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; and

(d) "Therapeutic radiological physics" or "radiation oncology physics" shall mean 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.

3. "Medical physics" shall mean the branch of physics that is associated with the practice of
medicine

4. “Radiation” means ionizing or non-ionizing radiation above background levels which is used
to perform a diagnostic or therapeutic medical or dental radiological procedure.

5. "Radiological physics" shall mean diagnostic radiological physics, therapeutic radiological
physics or radiation oncology physics, medical nuclear physics and medical health physics.

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

7. “General Supervision” means a procedure is performed under a Qualified Medical Physicist’s
(QMP) overall direction and control but the QMP’s presence is not required during the
performance of the procedure. The training of the personnel who actually perform the procedure
and the maintenance of the necessary equipment and supplies are the continuing responsibility of
the QMP.

8. “Direct Supervision” means a Qualified Medical Physicist must exercise General Supervision
and be present in the facility and immediately available to furnish assistance and direction
throughout the performance of the procedure but is not required to be present in the room when
the procedure is being performed.
9. “Personal Supervision” means a Qualified Medical Physicist must exercise General
Supervision and be present in the room during the performance of the procedure.

Section 3. Definition of "practice of medical physics".

1. The "practice of the profession of medical physics" shall mean 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.

2. A license to practice medical physics shall be issued with special competency in one or more
specialty areas in which the licensee has satisfied the requirements of section 6 of this article.

3. The practice in any specialty by a person whose license is not issued with special competency
for such specialty shall be deemed the unauthorized practice of the profession of medical
physics.

4. Only a person licensed under this article shall practice the profession of medical physics.

Section 4. Use of the title "licensed medical physicist".

Only a person licensed under this article shall use the title "licensed medical physicist".

Section 5. State Board for medical physics.

1. A state board for medical physics shall be appointed by the Department of Public Health upon
the recommendation of the commissioner and shall assist on matters of licensure and
professional conduct in accordance with provisions of existing physician licensure laws.

Notwithstanding these provisions, the state board shall assist the board for medicine solely in
medical physics matters and shall also function as the state board for medical physics. The
licensure requirements for licensed medical physicists shall be waived for the initial state board appointees, provided that such appointees shall have received national certification in their specialty.

2. The state board shall consist of eight individuals, to be composed of the following:

(a) Four licensed medical physicists represented by each of the following specialties:

(i) diagnostic radiological physics,

(ii) therapeutic radiological or radiation oncology physics,

(iii) medical nuclear physics, and

(iv) medical health physics;

(b) Three licensed physicians represented by each of the following specialties:

(i) diagnostic radiology,

(ii) radiation therapy or radiation oncology, and

(iii) nuclear medicine; and

(c) A representative of the public at large.

3. The state board must meet at least twice a year to provide administrative review of the licensure program to include review of applications, continuing education requirements and enforcement actions.

Section 6. Requirements and procedures for professional licensure.
To qualify for a license as a professional medical physicist, an applicant shall fulfill the following requirements:

1. Application: file an application with the state;

2. Education: have received an education including a graduate degree from an accredited college or university in accordance with state regulations. Such person shall have completed such courses as defined by the state board to practice in the medical physics specialty in which the applicant has applied for a license;

3. Experience: have experience in his or her medical physics specialty satisfactory to the board and in accordance with the state regulations; and

4. Board Certification: receive and maintain board certification in his or her medical physics specialty satisfactory to the board; and

5. Fee. The fees collected will be handled in the following manner:

(a) Payment and distribution.

(i) The state board shall pay all fees collected under the provisions of this subtitle to the Massachusetts Comptroller.

(ii) The Comptroller shall distribute all fees to the state board established under Section five in this article.

(b) Use. The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the state board as provided by the provisions of this subtitle.
Section 7. Provisional Licenses. Provisional Licenses shall be issued by the Department of Public health to eligible applicants, as follows:

1. Eligibility. The following persons shall be eligible for a provisional license:

(a) a person who fulfills all requirements for a licensed medical physicist except those relating to board certification or experience; or

(b) a medical physics student enrolled in a graduate or post-graduate program approved by the state board; or

(c) a person has been licensed or certified in good standing as a practitioner of one the subspecialties of medical physics for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this article as determined by the state board and

(i) has passed a national or other examination recognized by the state board relating to the subspecialties of medical physics; and

(ii) is sponsored by a person licensed under this article with whom the provisional license holder will practice during the time the person holds a provisional license.

2. Limit of practice. An individual with a provisional license shall be authorized to practice medical physics only under the direct supervision of a licensed medical physicist and only in the sub-specialty of such licensed medical physicist;

3. Duration. A provisional license permit shall be valid for two years. It may be renewed at the discretion of the state;
4. Fee. The fees collected will be handled in the following manner:

(a) Payment and distribution.

(i) The state board shall pay all fees collected under the provisions of this subtitle to the Massachusetts Comptroller.

(ii) The Comptroller shall distribute all fees to the state board established under Section five in this article.

(b) Use. The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the state board as provided by the provisions of this subtitle.

5. Experience. Medical physics experience obtained in this state to be credited towards the experience requirement for licensure must be obtained under a provisional license.

Section 8. 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 or agency authorized by law or regulation to regulate the use of radiation, nor

2. Prohibit the repair or calibration of any test equipment used by licensed medical physicists by any person otherwise allowed to do so under state or federal law, nor

3. Serve to limit radiologic and/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, nor
4. Serve to limit neither a service engineer in the repair of radiation producing equipment nor an installation engineer in the installation of radiation producing equipment.

Section 9. Licensure without board certification

Within time frame determined by state of the effective date of regulations implementing the provisions of this article, the state board may issue a license to practice medical physics within one or more specialties in this state, without board certification, to a person who meets the requirements of subdivisions one, two, three and five of Section Six of this article and who in addition has earned a bachelor's, master's or doctoral degree from an accredited college or university that signifies the completion of a course of study acceptable to the state board, and has demonstrated to the state board’s satisfaction, in the case of an earned bachelor's degree, the completion of at least fifteen years of full-time work experience in the medical physics specialty for which application is made, or, in the case of an earned master's or doctoral degree, the completion of at least two years of full-time work experience in the seven years preceding the date of application in the medical physics specialty for which application is made and the equivalent of one year or more of full-time work experience in the ten years preceding the date of application for each additional specialty for which application is made.

Section 10. Continuing Education Requirements

The state shall require continuing education sufficient to maintain professional certification as defined by the state board by regulation.

Section 11. License Term and Renewal

1. A license is valid for two years from the date granted and shall be renewed every two years.
2. The state board by rule may adopt a system under which licenses expire on various dates during the year.

3. A person may renew an unexpired license by paying the required renewal fee to the state board before the expiration date of the license.

4. The state board shall require documentation of continuing education be submitted with the renewal.

5. If a person's license has been expired for 90 days or less, the person may renew the license by paying to the state board the required renewal fee and a penalty fee in an amount equal to one-half of the amount of the renewal fee.

6. If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the state board the renewal fee that was due at expiration and a penalty fee in an amount equal to the amount of the renewal fee.

7. If a person's license has been expired for two years or longer, the person may not renew the license. To obtain a new license, a person must comply with the application requirements of this article and must submit to the state board:

(a) a supplemental experience record as required by the state board;

(b) a description of professional activities undertaken during the expiration period;

(c) a list of current professional references; and

(d) a transcript for any degree or college credit earned since the person's previous license application.
Section 12. Enforcement

1. In general. Subject to the hearing provisions of Department of Public Health, the state board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(a) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(b) Fraudulently or deceptively uses a license;

(c) Is guilty of:

(i) Immoral conduct in the practice of medical physics; or

(ii) Unprofessional conduct in the practice of medical physics;

(d) Is professionally, physically, or mentally incompetent;

(e) Habitually is intoxicated;

(f) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Massachusetts criminal law article;

(g) Provides professional services:

(i) While under the influence of alcohol; or

(ii) While using any narcotic or controlled dangerous substance, as defined in Massachusetts criminal law article or other drug that is in excess of therapeutic amounts or without valid medical indication;
(h) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the
patient for financial gain;

(i) Willfully makes or files a false report or record in the practice of medical physics;

(j) Willfully fails to file or record any medical report as required under law, willfully impedes or
obstructs the filing or recording of the report, or induces another to fail to file or record the
report;

(k) On proper request, and in accordance with the provisions of state confidentiality of medical
records article, fails to provide details of a patient's medical record to the patient, another
physician, or hospital;

(l) Makes a willful misrepresentation in treatment;

(m) Practices medical physics with an unauthorized person or aids an unauthorized person in the
practice of medical physics;

(n) Grossly overutilizes health care services;

(o) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of
any state or country or disciplined by any branch of the United States uniformed services or the
Veterans' Administration for an act that would be grounds for disciplinary action under this
section;

(p) Fails to meet appropriate standards as determined by appropriate peer review for the delivery
of quality medical care performed in an outpatient facility, office, hospital, or any other location
in this State;
(q) Willfully submits false statements to collect fees for which services are not provided;

(r) Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee:

(i) Surrendered the license issued by the state or country to the state or country; or

(ii) Allowed the license issued by the state or country to expire or lapse;

(s) Gives away or administers drugs for illegal or illegitimate medical purposes;

(t) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(u) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions;

(v) Fails to display the notice required under notice of CDC guidelines on universal precaution.

(w) Fails to cooperate with a lawful investigation conducted by the state board;

(x) Is convicted of insurance fraud as defined in state insurance article;

(y) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medical physics;

(z) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or
proceedings before the state board or those otherwise delegated to the state office of
administrative hearings;

(aa) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from
making information available to the state board in furtherance of any investigation of the state
board;

(bb) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert
opinion in hearings or proceedings before the state board or those otherwise delegated to state
office of administrative hearings; or

(cc) Fails to keep adequate medical records as determined by appropriate peer review.

2. Crimes involving moral turpitude.

(a) On the filing of certified docket entries with the state board by the Office of the Attorney
General, the state board shall order the suspension of a license if the licensee is convicted of or
pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or
not any appeal or other proceeding is pending to have the conviction or plea set aside.

(b) After completion of the appellate process if the conviction has not been reversed or the plea
has not been set aside with respect to a crime involving moral turpitude, the state board shall
order the revocation of a license on the certification by the Office of the Attorney General.

3. Imposition of penalty. If after a hearing the state board finds that there are grounds under this
article to suspend or revoke a license to practice medical physics, or to reprimand a licensed
medical physicist, the state board may impose a fine subject to the state board's regulations:
(a) Instead of suspending the license; or

(b) In addition to suspending or revoking the license or reprimanding the licensee.

4. Disposition of funds. The state board shall pay any fines collected under this article into the general fund.

5. Conditions for surrender of license.

(a) Agreement of state board required. Unless the state board agrees to accept the surrender of a license of an individual the state board regulates, the individual may not surrender the license nor may the license lapse by operation of law while the individual is under investigation or while charges are pending.

(b) Conditions on agreement. The state board may set conditions on its agreement to accept surrender of a license.

Section 13. Ethical Guidelines

Recommend practice standards for the practice of medical physics which are consistent with the Code of Ethics prepared by the American Association of Physicists in Medicine and American College of Medical Physics and disciplinary guidelines adopted under current applicable state law.

Section 14. Separability.
If any section of this article, or part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of any other section or part thereof.

This act shall take effect eighteen months after the date on which it shall have become a law; provided however, that any actions necessary for the implementation of the provisions of this act on its effective date are authorized and directed to be completed on or before such effective date.