

Indiana Department of Health
410 IAC 5.2 Radiography, Nuclear Medicine, and Radiation Therapy Licensing
LSA Document #23-798

Readoption Review

I. Continued Need for the Rule

There is a continued need for this rule, which is required by IC 16-41-35-29. The rule is necessary to provide the licensure requirements of radiologic technologists, radiation therapists and nuclear medicine technologists, as well as limited scope radiography for chest, chiropractic, dental and podiatric and cardiac catheterization certification. These are the minimum standards for the protection of the health and safety of patients being exposed to radiation for diagnostic or treatment purposes.

It is reasonable for consumers to expect the licensed services have some reassurance of a minimum requirement necessary for individuals to perform these activities of administering diagnostic and therapeutic radiation from x-ray machines and administration of radioactive materials through nuclear medicine procedures. Implementation of licensing standards ensures minimum standards of care. Minimum standards of care reduce overall costs to the public by helping to protect the public from improper use of radiation.

IDOH is obligated to promulgate licensing requirements. This rule only requires an individual to submit an application for licensing and proof that the individual meets the requirements of IC 16-41-35-29.

The rule does not overlap, duplicate or conflict with other federal, state or local laws, rules or ordinances.

The rule is fairly reasonable to comprehend and IDOH has not received complaints about enforcement of the rule.

While there is no routine field enforcement of the rule with state employees, whenever IDOH is made aware of licensing issues, IDOH follows up accordingly to achieve compliance.

Without the rule there would be no minimum competency requirements when citizens of Indiana receive medically indicated radiation. While some facilities may still require their staff to achieve and remain current with professional organizations, some facilities may decide minimal, on-the-job training is sufficient to provide basic services without necessarily an understanding of the science behind the provided service and honing skills to eliminate repeat examinations. All categories of licensure require some form of didactic radiography instruction, clinical training and a testing requirement. Any or all of these components could be gone if there were no rules in place.

II. Analysis of fees, fines, and civil penalties under IC 4-22-2-19.6

The only fee under this rule is the licensing fee set forth in 410 IAC 5.2-4-8. The fee is statutorily set at \$60, therefore this fee is not meant to punish individuals and is only meant to support the activities of the licensing program. This rule does not have any civil penalties; however, there are denial of licensing actions and disciplinary actions under 410 IAC 5.2-4-3. A radiology license or permit may be denied, or disciplinary action may be taken by the department if the department determines a breach of the article has occurred as stated in the rule.

The Indiana Department of Health (IDOH) has not been made aware of individuals or businesses that are unable to pay the licensing fee for operating x-ray machines or administering radioactive materials. This fee is set by IC 16-41-35-29(c). The expenses to individuals regulated by this rule are minimized by the language in 410 IAC 5.2-4-8(h) which sets the maximum licensing fee, regardless of the number of licenses obtained under 410 IAC 5.2-4.

The only fees under this rule are licensing fees set by 410 IAC 5.2-4-8. This fee is set by statute, so this rule does not increase expenses to persons who pay taxes or pay fees for services under this rule.

III. Complaints and Comments

There haven't been complaints relative to the agency's implementation of the rule.

IV. Difficulties Encountered

There have not been any difficulties encountered implementing this rule.

V. Changes in Technology, Economic Conditions, or Other Factors

The basic technology behind the reason for the rule remains consistent: who may operate a medical x-ray machine (diagnostic and therapeutic) and who can perform nuclear medicine examinations on humans and what required level of training and experience for these activities. There seems to be high demand for licensed radiographers in several licensing categories (e.g. radiologic, nuclear medicine, radiation therapy technologists, dental radiographers). Any personnel shortage of these professions should not be viewed as due to overly restrictive regulations.

VI. Revised Regulatory Analysis

There have been no changes to the cost benefit, economic impact, fiscal impact, or regulatory burden of this rule since it was originally proposed in LSA Document #05-190 or when it was readopted in 2012, because the rule has not changed since adoption and the statutory requirements have not changed.