
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

Bill No:	SB 377	Hearing Date:	March 8, 2021
Author:	Archuleta		
Version:	February 10, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Mason		

Subject: Radiologist assistants

SUMMARY: Establishes title protection for radiologist assistants by prohibiting a person from holding themselves out a radiologist assistant or using the title "Radiologist Assistant" or any other term to imply or to suggest that the person is a radiologist assistant (RA), unless the person meets specified requirements.

Existing law:

- 1) Establishes the Unfair Practices Act which defines unfair competition as any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising. (Business and Professions § 17000 *et. seq.*)
- 2) Establishes the Medical Practice Act which provides for the licensing and regulation of physicians and surgeons by the Medical Board of California (MBC). MBC also has statutory and regulatory authority over medical assistants (MAs). (Business and Professions Code (BPC) § 2000 *et seq.*)
- 3) Defines a MA as a person at least 18 years of age who may be unlicensed, who performs basic administrative, clerical, and technical supportive services, as specified, for a licensed physician and surgeon or a licensed podiatrist, a physician or podiatrist group, a medical or podiatry corporation, a physician assistant, a nurse practitioner, a certified nurse-midwife or for a health care service plan. Requires a MA to have at least the minimum amount of hours of appropriate training pursuant to standards established MBC. Authorizes a MA to administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or podiatrist. A MA may also perform all these tasks and services upon the specific authorization of a physician assistant, nurse practitioner, or certified nurse-midwife. (BPC § 2069)
- 4) Permits a MA to perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and supervision of a licensed physician and surgeon, podiatrist, physician assistant, nurse practitioner or nurse-midwife if the MA has met minimum training requirements established by MBC. (BPC § 2070)
- 5) Provides the Radiologic Health Branch (RHB) within the Department of Public Health (DPH) with responsibility for administering and enforcing the Radiologic Technology

Act (RT Act). Requires DPH to approve RT schools, to certify RTs who satisfactorily completed a course in an approved RT school, and prohibits individuals other than those certified by DPH to use the designation "certified RT." (Health and Safety Code (HSC) §§ 106955 *et seq.*)

- 6) Prohibits a person from administering or using diagnostic or therapeutic X-ray on human beings unless that person is certified by, or granted a permit from, RHB and is acting under the supervision of a healing arts licensee. (HSC § 106965)
- 7) Exempts the following from the requirement in 6) above: (HSC § 106975)
 - a) Healing arts licensees.
 - b) Students in an approved school for RTs and in schools of medicine, podiatry or chiropractic when the students are operating X-ray machines under the supervision of an instructor who is a certified RT or a certified supervisor or operator; and students of dentistry, dental hygiene and dental assisting when the students are operating X-ray machines under the supervision of an instructor who is a licensed dentist.
 - c) Any person employed by an agency of the government of the United States while performing the duties of employment.
 - d) A licensed dentist or person who, under the supervision of a licensed dentist, operates only dental radiographic equipment for the sole purpose of oral radiography.
 - e) A person who has been certified or granted a limited permit who performs dental radiography in a dental X-ray laboratory upon the written order of a licensed dentist.
- 8) Authorizes a certified RT under the direct supervision of a licensed physician and surgeon, and in accordance with certain facility protocols, to perform venipuncture in an upper extremity to administer contrast materials, as specified. (HSC § 106985)
- 9) Requires the RHB to provide for the certification of RTs, as well as physicians and surgeons, to use certain radiologic technology. (HSC § 114870)
- 10) Prohibits any healing arts licensee from administering or using diagnostic, mammographic, or therapeutic X-rays on human beings unless that person is certified and acting within the scope of that certification. (HSC § 107110)
- 11) Allows the RHB to grant limited-term special permits to persons exempting them from certification requirements if there is substantial evidence that the people in the locality in which the exemption is sought would be denied adequate medical care because of unavailability of certified RTs. (HSC § 114885)

This bill:

- 1) Prohibits a person from holding themselves out to be a RA or use the title “Radiologist Assistant” or any other term to imply or to suggest that the person is a RA, unless the person meets specified requirements.
- 2) Requires a person using the title RA to pass the radiologist assistant examination administered by the American Registry of Radiologic Technologists, the radiology practitioner assistant examination administered by the Certification Board for Radiology Practitioner Assistants, or another examination offered by a successor or comparable entity that has been determined by the department to evaluate the knowledge and skills necessary to ensure the protection of the public and approved by the department. Requires a RA to maintain current registration with the American Registry of Radiologic Technologists, the Certification Board for Radiology Practitioner Assistants, or a successor or comparable entity. Requires a RA to be certified or permitted to conduct radiologic technology or possess a RA license from a state that licenses RAs.
- 3) Specifies that a RA has to work under the supervision of a radiologist and shall not function in their capacity as a RA independent of a supervising radiologist.
- 4) Prohibits a RA from interpreting images, making diagnoses, or prescribing medications or therapies but authorizes a RA to administer prescribed drugs only as directed by a supervising radiologist or their designee.
- 5) Authorizes a RA to communicate and document initial clinical and imaging observations or procedures only to a radiologist for the radiologist’s use. Authorizes a RA to communicate a supervising radiologist’s report to an appropriate health care provider consistent with the American College of Radiology guideline for communicating diagnostic imaging findings.
- 6) Authorizes a supervising radiologist to delegate tasks or services that a radiologist usually performs and is qualified to perform to a RA, as the radiologist determines appropriate to the assistant’s competence.
- 7) States that a violation of this section is a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** This bill is sponsored by the American Registry of Radiologic Technologists (ARRT) and California Radiological Society. According to the Author, “California does not yet recognize the profession of RAs. RA’s must work as RTs in the state of California thereby limiting their usefulness.” The Author states that 31 states license, accept or otherwise recognize RAs as a profession and that “Federal agencies and state governments agree that RAs greatly increase hospital efficiency,

improve access to patient care (especially in rural areas), while providing the highest levels of radiation safety. Other than a radiologist, no other practitioner gets as much specialized training in radiology services and radiation safety.” According to the Author, “RAs extend the reach of the radiologist and free them to focus on those services only a radiologist can provide, such as performing complex procedures, interpreting images, and generally diagnosing and treating patients. RAs also help to alleviate physician burnout.”

2. **Background.**

RTs. RTs work with ionizing radiation and must meet educational, training, and experience requirements designed to prevent “excessive and improper exposure to ionizing radiation” (HSC § 114840). Radiologic Technologists and Technicians must have the appropriate certificate or permit to practice in the State of California. They must complete an educational program approved by the RHB and pass a California examination, or a national examination, for certification.

RTs generally obtain a two-year associate's degree in Radiologic Technology. After obtaining their degree, students are eligible to take the California examination for a diagnostic or therapeutic radiologic technology certificate. They are also eligible to take the national examination for a therapeutic radiologic technology certificate. Both examinations, state and national, are given by the ARRT. Successful passage an examination qualifies a RT to x-ray any part of the body. Those who obtain California state certification may also apply for additional certificates, such as the Radiologic Technologist Fluoroscopy Permit or the Mammographic Radiologic Technology Certificate, if they meet appropriate educational requirements. RTs may also become certified in radiation therapy technology through the ARRT. According to the American Society of Radiologic Technologists, RTs practice in hospitals, clinics and physician's offices, and in many clinical specialties, from prenatal care to orthopedics.

RAs. According to information provided by the Sponsors, RAs, include individuals registered with the American Registry of Radiologic Technologists (known as RRAs) and individuals certified by the Certification Board for Radiology Practitioner Assistants (RPAs). According a 2014 article in the journal Radiologic Technology (the scholarly journal of the American Society of RTs), compared with the careers of physician assistants and nurse practitioners, the RA is relatively new to the field of medicine, with the first training programs developed in the 1970s and the first advanced practice imaging program developed in 1996. Discussions among the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists culminated in a 2003 consensus statement that defined a RA as an advanced level RT who works under the supervision of a radiologist by assisting in the diagnostic imaging setting, including performing patient assessment, patient management, and certain imaging procedures. RAs do not interpret radiologic examinations.

These are in essence advance practice RTs with additional educational training and commensurate additional certification beyond that obtained as a RT. Some states in turn allow for expanded practice authority through licensure of RAs that reflects

this more advanced level of training, experience, and passage of a certification examination.

Medical Assistants. Medical assisting professions have been highlighted as some of the fastest growing employment categories by entities like the United States Bureau of Labor Statistics. MAs are unlicensed personnel who work in health care practitioner offices and are authorized under BPC Section 2069 to administer medication (only by intradermal, subcutaneous, or intramuscular injections), perform skin tests and perform basic administrative, clerical and technical supportive services when conditions regarding supervision, training, specific authorization and records are met.

A MA must receive training either directly from a physician, surgeon, podiatrist, registered nurse, licensed vocational nurse, physician assistant or a qualified MA. Alternatively, a MA may receive training from a secondary, postsecondary or adult education program in a public school authorized by the Department of Education, in a community college program, or a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education.

While MAs are not required to be licensed or register with MBC like other allied health professionals within MBC's jurisdiction, they may be certified by a national certifying body

MAs can be supervised by physicians, podiatrists or optometrists. Additionally, they may work under the direct supervision of a physician assistant, nurse practitioner or nurse midwife when the supervising physician or surgeon is not on site, only if the physician or surgeon has created a written protocol for the activities of the MA.

While MBC does not formally oversee MAs as licensees or registrants, the Act specifies that MAs must be at least 18 years old and meet minimum training as outlined in standards established by MBC. MBC does approve certifying organizations that provide certification to medical assistants.

3. **Executive Order in Response to COVID-19 Pandemic.** On March 30, 2020, the Governor issued an Executive Order (EO) that suspended, for the duration of the declared emergency, the following from the certification and permitting requirements of the RT Act:

- all persons whose certificate or permit issued pursuant to RT Act is expired, regardless of expiration date, or has been canceled
- all persons who hold radiography certification issued by the ARRT or are an ARRT registered RA
- all persons credentialed as Radiology Practitioner Assistants by the Certification Board for Radiology Practitioner Assistants

- all persons certified, permitted or otherwise authorized to perform RT by passing a state-required examination by a state other than California
- all persons working under the supervision of MBC licensee (except that the requirement to be under supervision does not apply to a healing arts licensee)
- all persons deemed by a health facility as necessary workforce

4. **Title Act vs. Practice Act Protection.** It is important to note the distinction between "title act" and certification or registration regulation versus "practice act" and licensing regulation. A practice act along with licensure confers the exclusive right to practice a given profession on practitioners who meet specified criteria related to education, experience, and examination, and often is embodied in a statutory licensing act (i.e., those who are not licensed cannot lawfully practice the profession). A practice act is the highest and most restrictive form of professional regulation, and is intended to avert severe harm to the public health, safety or welfare that could be caused by unlicensed practitioners.

A title act and a certification or registration program reserves the use of a particular professional (named) designation to practitioners who have demonstrated specified education, experience or other criteria such as certification by another organization. A title act typically does not restrict the practice of a profession or occupation and allows others to practice within that profession; it merely differentiates between practitioners who meet the specified criteria, and are authorized by law to represent themselves accordingly (usually by a specified title) and those who do not. Some title acts also include a state certification or registration program, or reliance on a national certification or registration program, so that those who use the specified title, and hold themselves out to the public, have been certified or registered by a state created or national entity as having met the specified requirements.

SB 377 does not establish a licensing practice act, but instead provides for a title act. It restricts the use of the title "radiologist assistant" to only those who have met certain education or certification requirements. There is no state program created to provide oversight of this profession; there is, instead, reliance on whether the person meets the education requirements or if they have been certified by a specific corporation and provides awareness to the public that the person has met these qualifications.

5. **Barriers to Employment.** Recent studies and reports have focused on the impacts of licensing requirements for employment and on individuals seeking to become employed. According to a July 2015 report on occupational licensing released by the White House, strict licensing creates barriers to mobility for licensed workers, citing several groups of people particularly vulnerable to occupational licensing laws, including former offenders, military spouses, veterans and immigrants.

In October 2016, the Little Hoover Commission released a report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. The report noted that one out of every five Californians must receive permission from the government to work, and for millions of Californians that means contending with the hurdles of becoming licensed. The report noted that many of the goals to professionalize

occupations, standardize services, guarantee quality and limit competition among practitioners, while well intended, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers. The study found that occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.

The report found that California compares poorly to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. According to the report, researchers from the Institute for Justice selected 102 lower-income occupations, defined by the Bureau of Labor Statistics as making less than the national average income, ranging from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62, or 61 percent of them. According to the report, California ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: on average, California applicants must pay \$300 in licensing fees, spend 549 days in education and/or training and pass one exam.

- 6. Arguments in Support.** The American Registry of Radiologic Technologists, which certifies and registers radiologist assistants, states that “RAs complete advanced education and training that includes a rigorous academic program with a nationally recognized curriculum and a radiologist directed clinical preceptorship. RAs are required to work at least one year as a radiographer to qualify for RA educational programs.

Other than a radiologist, no other practitioner gets as much specialized training in radiology services and radiation safety as the RA. However, RAs do not diagnose patients, prescribe medications or therapies, or interpret images and always work under the supervision of a radiologist.”

The California Radiological Society supports this bill, noting that “RAs in California are not allowed to practice according to their training since there is currently no recognition of the advanced level practitioner. SB 480 would create that opportunity and allow radiology groups to incorporate these professionals into their practice to delegate tasks under their supervision. It would help address the growing issue of workforce capability, complexity of radiology/ imaging practice with the volume of images to be reviewed. This limited delegation of appropriate duties would help address the workload and workforce issues.”

- 7. Arguments in Opposition and Concerns.** The California Nurses Association/National Nurses United is opposed to this bill, writing that “this bill would introduce an additional practitioner to provide care for the patient, thereby further fragmenting the continuum of care. Further, some have asserted that this bill may provide a career ladder for radiological technicians (RT). However, because the bill would require an RA to also be an RT, this bill would potentially undermine the

employability of RTs who do not wish to go on to become an RA, because there would be little incentive to employ both at the same time.”

Also, both physician assistants and nurse practitioners can function in radiology as nonphysician practitioners. The interventional radiology nurse practitioner is a master’s prepared provider that complements the role of the radiologist through the application of advanced practice technical skills in the acute care and ambulatory care setting. In addition, certified radiology technicians perform supportive services under the supervision of radiologist.”

The California Society of Radiologic Technologists requests that the bill be amended to strike the ability for a RA to hold themselves out as such in California by passing the RA exam offered by and being RA certified by the Certification Board for Radiology Practitioner Assistants. CSRT argues that Radiology Practitioner Assistant requirements are not comparable to the “more advanced set of requirements to qualify to become a RA.

NOTE: *Double-referral to Senate Committee on Public Safety, Second.*

SUPPORT AND OPPOSITION:

Support:

American Registry of Radiologic Technologists
California Radiological Society

Opposition:

California Nurses Association/National Nurses United

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