

June 19, 2014

Senator Jane Nelson
Chairman, Texas Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711

In response to the May 2014 Texas Sunset Advisory Commission Staff Report on the Department of State Health Services

Dear Senator Nelson and Members of the Commission:

The American Society of Radiologic Technologists (ASRT) has reviewed the staff report of the activities of the Texas Department of State Health Services submitted to the Sunset Advisory Commission. ASRT, which represents more than 5,200 highly educated and qualified medical imaging technologists and radiation therapists in Texas, is shocked and dismayed by the recommendation to dissolve the medical radiologic technologist licensure program and medical physics licensure program currently managed by the department's Professional Licensing and Certification Unit.

The Medical Radiologic Technologist Certification Program provides Texas citizens with a number of safeguards. It ensures that the individuals who perform medical imaging and radiation therapy treatments have been evaluated for criminal history, are compliant with educational and certification standards, meet continuing education requirements and adhere to state policies for professional practice. ASRT is steadfast in its belief that by dissolving this program and repealing the state's statutes and regulations related to medical radiologic technologist and medical physicist licensure, the state of Texas is taking a step backward and putting patients in harm's way.

ASRT, along with the Texas Society of Radiologic Technologists, believes that the staff compiling the report and making its recommendation does not fully understand the role

radiologic technologists and radiation therapists play in the provision of safe health care. Radiologic technologists are responsible for making sure patients receive the lowest dose of ionizing radiation possible during procedures. This is the No. 1 priority during medical imaging and radiation therapy procedures because ionizing radiation is a known carcinogen and is extremely dangerous in the wrong hands. For a radiologic examination or procedure to be successful, the individual ultimately responsible for administering the ionizing radiation used to generate an image or treat a disease must know more than simply which buttons on the machine to push. Radiologic technologists complete a robust educational curriculum that includes intensive coursework and training in radiation safety, radiation protection, anatomy, physics, ethics and pharmacology. Following the completion of the comprehensive program, they receive an associate or bachelor's degree. It's unreasonable and unjustified to assume that an individual who has not completed this level of education is equally qualified to safely administer the potentially-carcinogenic radiation used in x-rays, computed tomography scans, fluoroscopy and radiation therapy treatments.

In response to the criteria used to determine licensure programs to be discontinued in *Issue 3* of the *Sunset Commission Staff Report*:

Would deregulation have little impact on public health or safety?

Radiologic technologists and medical physicists are technical personnel involved in the administration of ionizing radiation to create medical images used to diagnose disease and illness, or used to treat many forms of cancer. Ionizing radiation is also a known carcinogen and can be harmful, or even deadly if misadministered. Even though a physician or other provider oversees these exams and treatments, they are rarely present in the imaging or radiation therapy suite during procedures. As a result, the equipment operator must be educated, skilled and highly qualified in the areas of patient care, radiation safety, radiation biology and patient positioning. Quite simply, if a medical imaging or radiation therapy procedure is not performed correctly, then the procedure must be repeated, doubling the patient's exposure to ionizing radiation. The correct and proper performance of these procedures directly affects patient safety and the overall health care the patient receives. Since ill patients already have a compromised health status, they are even more vulnerable to the effects of poorly performed imaging and

radiation therapy procedures. The bottom line is the dissolution of the medical radiologic technologist licensing program would greatly impact public health and safety.

Do practitioners operate in a highly regulated environment?

Medical imaging using ionizing radiation takes place in a wide variety of health care settings – from academic medical centers, to rural hospitals and acute care centers, to local physician offices. While larger facilities are highly regulated, these quality of care standards do not extend to every setting where imaging is performed. As documented by the Texas Radiation Control Program at (<http://www.dshs.state.tx.us/radiation/pdf/Files/Violations/EnforcementRadiation05-14.pdf>), the majority of situations where administrative fines were levied for violations of 25 *Texas Administrative Code* §289 (*Texas Regulations for Control of Radiation*) took place outside of a hospital environment, most frequently in a health care office or non-hospital clinic. Imaging examinations do not always take place in a highly regulated environment, and licensed, skilled and competent imaging equipment operators are responsible for safeguarding patient safety.

Is regulation also provided by another state or local regulatory program, or private sector accreditation?

ASRT assumes that part of the staff recommendation to dissolve the Medical Radiologic Technologist Certification Program is based on the perception that the American Registry of Radiologic Technologists (ARRT) or Nuclear Medicine Technologist Certification Board (NMTCB) will provide the functions of the state licensure program. These are voluntary certification organizations and they lack the legal authority of state licensure. These voluntary boards rely on self-reported criminal background information of applicants, lack investigative or subpoena powers to compel cooperation in practice-related offense investigation and cannot regulate or monitor the ongoing competence of radiologic technologists in any practice setting. The voluntary certification process for radiologic technologists is very different in scope and effect from state licensure of medical imaging and radiation therapy technical personnel. Licensure is conferred by a state for the purpose of protecting the health, safety and welfare of its citizens. The Texas Legislature enacted licensure for medical radiologic technologists in 1987 and it was at this time that the State of Texas determined that the voluntary certification process did not adequately protect the health and safety of Texans undergoing imaging examinations or

treatments using ionizing radiation. Voluntary certification organizations do not have the authority or ability to prohibit incompetent providers or individuals who do not meet the state's standards for radiologic technologists from performing medical imaging procedures, and to investigate or prosecute individuals for noncompliance with state laws.

Licensure or regulatory standards for radiologic technologists have been adopted in all but five states because of the critical nature of patient care duties performed by radiologic technologists. With the national spotlight focused on the dangers of excessive medical radiation and how it affects patient safety, licensure is clearly required to assure the competence of radiologic technologists. A voluntary certification system alone, without the mandate of state licensure to enforce compliance with the standards is not sufficient to assure the safety of patients undergoing medical imaging examinations or radiation therapy procedures.

Does the program generate little regulatory activity?

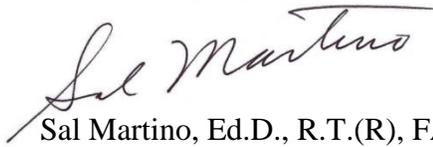
Disciplinary analysis reports for the Texas Medical Radiologic Technologist Certification Program over the past 10 years show that fewer than 1 percent of licensees have had regulatory activity taken against their license or were denied a license based on lack of qualification or inability to pass a background check. Unfortunately, the Sunset Advisory Commission states that "Low numbers of complaints, investigations and enforcement actions typically reflect a lower risk of harm." In reality, this statement is misleading. ASRT believes the absence of regulatory activity is not a quantitative or qualitative justification for determining a health profession licensure program's effectiveness in protecting the state's citizens from unscrupulous or incompetent individuals. Please note that the ASRT and our members would like to commend the Medical Radiologic Technologist Certification Program staff with providing a wealth of information to potential applicants and the public about radiologic technologist qualifications for licensure, what constitutes a dangerous or hazardous procedure and the process for bringing a complaint against a licensee.

As an alternative to dissolving the licensure program for radiologic technologists, ASRT recommends that the Medical Radiologic Technologist Certification Program move to the oversight of the Department of Licensing and Regulation. Alternatively, the Radiation Control Program currently housed within the Department of State Health Services would also be

uniquely qualified to oversee the licensure of radiologic technologists since this program already regulates the registration and control of equipment and materials utilizing, emitting or producing ionizing radiation.

The American Society of Radiologic Technologists, our affiliate chapter, the Texas Society of Radiologic Technologists and the thousands of members we represent strongly opposes the repeal of licensure for medical radiologic technologists in Texas. ASRT also opposes the repeal of licensure standards for our medical physicist colleagues in radiation safety and protection. ASRT believes that the repeal of licensure will lead to higher risks for patients needing medical imaging and radiation therapy if their care is performed by individuals not required to meet the rigorous education and certification standards mandated by the Medical Radiologic Technologist Certification Program.

Sincerely,

A handwritten signature in cursive script that reads "Sal Martino". The signature is written in black ink and is positioned above the typed name and title.

Sal Martino, Ed.D., R.T.(R), FASRT, CAE
Chief Executive Officer