

45:25-13

LEGISLATIVE HISTORY CHECKLIST

NJSA 45:25-13 (X-ray technicians--employment of
unlicensed technician--misdemeanor)

LAWS 1980 CHAPTER 177

Bill No. A311

Sponsor(s) Visotcky and others

Date Introduced Pre-filed

Committee: Assembly Commerce, Industry and Professions

Senate Labor, Industry and Professions

Amended during passage Yes ~~No~~ Amendments during passage
denoted by asterisks

Date of Passage: Assembly April 14, 1980

Senate Nov. 24, 1980

Date of approval Dec. 31, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings ~~Yes~~ No

Sponsor's statement:

This bill would make it a crime of the fourth degree for any person to knowingly or negligently employ as an X-ray technician a person who requires and does not possess a valid certificate for such activities.

(over)

974.90 N.J. Commission of Investigation.
E55 Final report and recommendations
1974 on the investigation of the Workmen's
Compensation system...January, 1974. Trenton,
1974.
(See pp.261-263--attached)

177

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12-31-80

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 311

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Assemblymen VISOTCKY, BAER, HOLLENBECK and KOSCO

AN ACT regarding the employment of X-ray technicians, and
amending P. L. 1968, c. 291.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 13 of P. L. 1968, c. 291 (C. 45:25-13) is amended to
2 read as follows:

3 13. (a) It shall be unlawful for any person to

4 (1) Sell or fraudulently obtain or furnish an X-ray technician
5 diploma, certificate, or record, or to aid or abet in the same;

6 (2) Engage in the activities of an X-ray technician under cover
7 of a diploma, or certificate illegally or fraudulently obtained or
8 signed or issued unlawfully, or under fraudulent representation or
9 mistake of fact in material regard;

10 (3) Engage in the activities of an X-ray technician under a false
11 or assumed name;

12 (4) Engage in, or hold himself out as entitled to engage in, the
13 activities of an X-ray technician without a valid certificate;

14-15 (5) *Knowingly* ***[or negligently]*** *employ as an X-ray technician*
16 *person who requires and does not possess a valid certificate to*
17 *engage in the activities of an X-ray technician;*

18 **[(5)]** (6) Otherwise violate any of the provisions of this act.

19 (b) Any person who violates any provision of section 13 (a) of
20 this act shall be guilty of a **[misdemeanor]** *crime of the fourth*
21 *degree.*

1 2. This act shall take effect immediately.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 311
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1980

This bill, as amended by the Assembly Commerce, Industry and Professions Committee, would make it a crime of the fourth degree for any person to knowingly employ as an x-ray technician a person who requires and does not possess a valid certificate for such activities.

The State Commission of Investigation has recommended such a change in the law in its *Final Report and Recommendations on the Investigation of the Workmen's Compensation System* (1974). The commission “. . . found that instances of use of unlicensed personnel to administer x-rays in some doctors' offices posed a threat to personal health in the State.”

The State Commission of Investigation and the State Department of Environmental Protection have stated that irreparable medical injury could result from the use of unlicensed personnel for the administration of x-ray and radiation treatment.

The committee, therefore, felt that those persons who knowingly use unlicensed technicians should be held legally responsible for their use.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 311

STATE OF NEW JERSEY

DATED: OCTOBER 9, 1980

This bill provides that it would be unlawful for any person to *knowingly* employ an individual as an x-ray technician when that individual does not hold a valid certificate for such work. Any person who violates this provision would be guilty of a crime of the fourth degree.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 31, 1980

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

A-311, sponsored by Assemblyman Richard F. Visotcky (D-Bergen) which makes it a misdemeanor for any person to knowingly employ someone as an X-ray technician who requires but does not possess a valid certificate for such activities.

Under current law, it is illegal for an X-ray technician to work without a certificate but not a crime for a doctor to employ the person.

A-515, sponsored by Assemblyman Thomas F. Cowan (D-Hudson) which permits municipalities to establish by resolution, regulation or ordinance restricted parking spaces for handicapped persons possessing special ID cards issued by the State Department of Motor Vehicles.

Under prior law, municipalities could not establish such spaces by ordinance and this bill, by allowing them to take this type of action by resolutions or regulations, eliminates the costly and time-consuming hearing and publication process which the ordinance procedure requires.

The bill also provides for a fine not to exceed \$50 to be imposed on a person violating the restricted area.

A-615; sponsored by Assemblyman Martin Herman (D-Gloucester) which provides that prior to granting a public utility a rate adjustment, the Board of Public Utilities or the Office of Administrative Law must hold at least one public hearing in the municipality affected by the proposed adjustment.

If more than one municipality is located in the service area of the proposed adjustment, the hearing must be held in a centrally located municipality in the affected area.

Commentary:

This provision ties into the statutory presumption that the Workmen's Compensation Article is contained in all contracts. It gives the Director of Workmen's Compensation the duty to approve appropriate booklets (thus encouraging approval and use of *one standard* booklet) and then requires employers to provide them to all employees.

New Jersey Workmen's Compensation Study Commission:

The Report of the Study Commission, while endorsing the S.C.I. goal in this area, believes that its proposals for a Worker Support Section (WSS) and a Safety & Evaluation Section (SES) within the Division alleviate the need for the S.C.I. proposal. The S.C.I. proposal, however, does not duplicate the work of the Study Commission in this area. The S.C.I. pamphlet proposal should be enacted as a concisely articulated, complementary program. The pamphlet proposal offers a simple concrete method for implementing the Study Commission goals, especially in view of the fact that the Director may delegate responsibility for approving such a pamphlet to either of these two sections in the event legislation establishing them is enacted.

I. IMMEDIATE CORRECTIVE MEASURES

a) Legislative Action

9) Liability of Physicians for Unlicensed X-ray Technicians

The Testimony:

Mr. John J. Russo, Chief of the Bureau of Radiation Protection, emphasized that the operation of X-ray machines by unlicensed technicians constituted a grave threat to the public safety and welfare. Statutory enactment has already made it a misdemeanor for anyone unlicensed to operate an X-ray machine. Despite this testimony given at S.C.I. public hearings revealed that Dr. Louis Brandwein employed unlicensed technicians to operate such machines.

The S.C.I. Recommendation:

In view of the irreparable medical injury that could result from the use of unlicensed personnel for the administration of X-ray and radiation treatment, information gathered relative thereto will be turned over to the proper prosecuting authority, the State Board of Medical Examiners and the State Medical Association for whatever action they deem just and necessary. We support the State Environmental Protection position that the X-ray technician statute should be amended to hold physicians legally responsible for the use of unlicensed technicians.

The Background:

Under the current Article governing the regulation and operation of X-ray machines by appropriate technicians, certain unlawful conduct and violations of the Article are made misdemeanors. The Provision, N.J.S.A. 45:25-13 provides as follows:

(a) It shall be unlawful for any person to

(1) Sell or fraudulently obtain or furnish an X-ray technician diploma, certificate, or record, or to aid or abet in the same;

(2) Engage in the activities of an X-ray technician under cover of a diploma, or certificate illegally or fraudulently obtained or signed or issued unlawfully, or under fraudulent representation or mistake of fact in material regard;

(3) Engage in the activities of an X-ray technician under a false or assumed name;

(4) Engage in, or hold himself out as entitled to engage in, the activities of an X-ray technician without a valid certificate;

(5) Otherwise violate any of the provisions of this act.

(b) Any person who violates any provision of section 13(a) of this act shall be guilty of a misdemeanor.

Suggested S.C.I. Proposal:

N.J.S.A. 45:25-13 should be amended to read as follows:

(a) It shall be unlawful for any person to

(1) Sell or fraudulently obtain or furnish an X-ray technician diploma, certificate, or record, or to aid or abet in the same;

(2) Engage in the activities of an X-ray technician under cover of a diploma, or certificate illegally or fraudulently obtained or signed or issued unlawfully, or under fraudulent representation or mistake of fact in material regard;

(3) Engage in the activities of an X-ray technician under a false or assumed name;

(4) Engage in, or hold himself out as entitled to engage in, the activities of an X-ray technician without a valid certificate;

(5) *Knowingly or negligently employ an X-ray technician without a valid certificate to engage in the activities of an X-ray technician;*

(6) Otherwise violate any of the provisions of this act.

(b) Any person who violates any provision of section (13)(a) of this act shall be guilty of a misdemeanor.

Commentary:

This amendment incorporates the S.C.I. recommendation into the section on conduct prescribed as a misdemeanor. N.J.S.A. 45:25-13 is oriented toward unlicensed technicians themselves or those who help them procure fraudulent licenses, and not toward the hiring physicians. Thus, if a separate statute directed specifically toward physicians is desired, the following proposal may be offered as N.J.S.A. 45:25-14:

Any person who knowingly or negligently employs an X-ray technician without a valid certificate to engage in the activities of an X-ray technician shall be guilty of a misdemeanor.

New Jersey Workmen's Compensation Study Commission:

The Report of the Study Commission endorses the S.C.I. recommendation in this area.