Diagnostic medical sonographers (including cardiovascular and vascular technologists) use high-frequency sound waves (ultrasound) to create medical images of patients’ organs and tissues that help physicians assess, diagnose, and treat medical conditions ("sonography").

Tennessee does not require sonographers to be certified or licensed and this results in under-educated and untrained operators performing sonography examinations. This poses a significant health risk for Tennesseans as improperly performed sonography examinations can cause preventable injuries and deaths, waste healthcare services, and increase healthcare costs.

This proposed legislation ensures that certified sonographers will perform the lifesaving diagnostic medical sonography examinations by offering an innovative alternative to licensure that does not add complex licensure requirements, fees, or administrative costs.

BACKGROUND

In Tennessee, tens of thousands of sonography examinations are performed each day. Sonography is not an easy skill to master and two or more years of formal education, training, and clinical experience is typically needed to achieve competency. Certification ensures that a sonographer has the knowledge, education, training, and experience to properly perform sonography examinations.

Sonography is often the first imaging test performed when disease is suspected. If the sonography examination is not properly performed, the physician may make the wrong diagnosis or treatment decision based on incorrect information. This could lead to unnecessary and costly invasive procedures (e.g., surgery) or no treatment (e.g., a blocked carotid artery and the patient subsequently experiences a stroke or dies).

While sonography is generally considered safer than ionizing radiation imaging examinations (e.g., x-ray or computed tomography), it is not without risk, particularly when used improperly. Certified sonographers understand the physics behind ultrasound use and work diligently to obtain the best possible image for the physician, while exposing the patient to the least amount of sound energy for the shortest time possible. This is particularly important with obstetrical/fetal sonography examinations.

All sonography examinations should be performed under the supervision and authorization (i.e., prescription) of a licensed physician. To demonstrate competency, some Tennessee sonographers have voluntarily obtained certification from one or more of the three nationally accredited sonography certification organizations:

- American Registry for Diagnostic Medical Sonography (www.ardms.org)
- American Registry of Radiologic Technologists (www.arrt.org)
- Cardiovascular Credentialing International (www.cci-online.org)

While some hospitals, clinics, and physician offices in Tennessee hire certified sonographers, Tennesseans don’t know whether or not the person performing their sonography examination is qualified and if the scan will be completed properly since certification of sonographers is not mandatory in Tennessee.

No one knows exactly how many people are performing sonography examinations in Tennessee without the proper knowledge, education, training, experience, and certification.

SOLUTION

A Different Approach to Licensure: Rather than creating a new state bureaucracy to manage the licensure, scope of practice, etc. of diagnostic medical sonographers, the proposed legislation
relies on existing state and national standards and infrastructure to ensure those who are performing sonography examinations in Tennessee have met the national standards for education, training, certification, and continuing education.

Although no licenses would be issued, the legislation includes a “licensure equivalency” to ensure that sonographers are subject to the same responsibilities as other licensed healthcare professions (e.g., child abuse reporting, employment background checks, etc.).

Accountability: Each sonographer would be responsible for obtaining and maintaining sonography certification. The sonographer would also be subject to the sonography certification organization’s disciplinary policies. Additionally, employers would be responsible for ensuring their sonographers meet the legislation’s requirements, just like they do with the other licensed healthcare employees in their facility.

To protect the public, the legislation requires sonographers to self-report non-compliance (e.g., failed to complete continuing education requirements, revoked certification due to criminal conviction, etc.) and ensures that information about non-compliance and legal, civil, or disciplinary action against the sonographer is shared with the employer, applicable certification organization(s), and the National Practitioner Data Bank.

Exemptions: The legislation exempts physicians who may perform sonography procedures in their practice. The legislation also exempts other licensed healthcare professions that may use “point-of-care” ultrasound in limited, non-diagnostic roles within their scope of practice, education, training, and competence. Point-of-care ultrasound is increasingly used for needle guidance (e.g., central arterial or venous lines) or a limited assessment of a patient’s immediate medical condition (e.g., nurse-midwife assessing whether a baby is in breech position, a paramedic checking for blood in a car crash victim’s abdomen, etc.).

Financial Impact: Because the legislation does not require any new licensure processes or fees, sonographers who are already certified would not be impacted. Individuals who are currently performing diagnostic medical sonography examinations without certification would have a two-year window to become certified.

Since sonography examinations should be performed under the direction of a licensed physician, the legislation designates the Tennessee Board of Medical Examiners (“Board”) as the state agency responsible for implementation of the legislation. The legislation does not add a significant financial or administrative burden on the Board, but does provide the authority to adopt rules regarding required reporting and, when necessary, to seek injunctive relief, civil penalties, and cost recovery from individuals who violate the statute and are endangering the public.

FOR MORE INFORMATION

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SUPPORT

1. American Society of Echocardiography
   (www.asecho.org)
2. Society for Vascular Ultrasound
   (www.svunet.org)
3. Society of Diagnostic Medical Sonography
   (www.sdms.org)

TO LEARN MORE ABOUT SONOGRAPHY

Sonography – A Sound Career Decision
http://www.sdms.org/?ID=24

Why Sonographers Do What They Do
http://www.sdms.org/?ID=25

U.S. Dept. of Labor, Occupational Outlook Handbook
http://www.sdms.org/?ID=26

Commission on Accreditation of Allied Health Education Programs
http://www.sdms.org/?ID=27

Sonographer National Education Curriculum (NEC)
http://www.sdms.org/?ID=28

Scope of Practice and Clinical Standards for the Diagnostic Medical Sonographer
http://www.sdms.org/?ID=29
AN ACT to amend Tennessee Code Annotated
Title 63, by adding Chapter 33, relative to
professions of the healing arts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding the following
as a new chapter:

63-33-101.

This chapter shall be known and may be cited as the “Sonographer Practice Act”.

63-33-102.

It is the purpose of this chapter to establish minimum certification standards for
diagnostic medical sonographers in this state. The General Assembly finds and declares
that the practice of diagnostic medical sonography in Tennessee affects the public
health, safety, and welfare and is to be subject to regulation and control in the public
interest to protect the public from the unauthorized and unqualified practice of diagnostic
medical sonography and from unprofessional conduct by persons certified and
registered to practice diagnostic medical sonography. The General Assembly also
recognizes the practice of diagnostic medical sonography is a multispecialty profession
with specializations in abdominal sonography, breast sonography, cardiac sonography,
obstetrics/gynecology sonography, musculoskeletal sonography, pediatric sonography,
phlebology sonography, vascular technology/sonography, and other emerging clinical
areas. Furthermore, the profession is a dynamic and changing art and science, the
practice of which is continually evolving to include new ideas and more sophisticated
ultrasound technologies and techniques in patient care. It is the intent of the Legislature
in this chapter to provide clear legal authority for functions and procedures which have
common acceptance and usage. The General Assembly recognizes that national
Certification organizations are a critical component to ensure minimum competence and continuing education of diagnostic medical sonographers (including cardiovascular and vascular technologists). It is the intent of the General Assembly that the Tennessee Board of Medical Examiners be authorized to enforce this chapter.

63-33-103.

As used in this chapter, unless the context otherwise requires:

(1) "Advanced diagnostic medical sonographer" means a diagnostic medical sonographer who performs advanced or expanded diagnostic medical sonography under the supervision of a physician licensed in this state, in accordance with written facility policy, and, if available, is additionally certified and registered by a certification organization in the advanced sonography specialization being performed.

(2) "Board" means the board of medical examiners established pursuant to Tennessee Code Annotated, Title 63, Chapter 6.

(3) "Business entity" means a corporation, partnership, association, limited liability company, limited liability partnership, or other legal entity recognized by this state.

(4) "Certification organization" means a national certification organization that specializes in the certification and registration of diagnostic medical sonographers and is accredited by the National Commission for Certifying Agencies, American National Standards Institute, or International Organization for Standardization.

(5) "Diagnostic medical sonographer" means a person (including a cardiovascular or vascular technologist) who is certified and registered by a
certification organization to perform diagnostic medical sonography and related procedures.

(6) "Diagnostic medical sonography" means the use of high frequency sound waves with specialized equipment to direct the sound waves into an area of the human body to generate an image. This includes related procedures, including but not limited to: non-invasive vascular testing, intravenous administration of ultrasound contrast agent, etc.

(7) "Licensed practitioner" means a person licensed in this state to practice medicine or osteopathy.

(8) "National practitioner data bank" or "NPDB" means the electronic information repository established by Congress under Section 6403 of the Affordable Care Act of 2010, Public Law 111-148, which contains information on medical malpractice payments and certain adverse actions related to health care practitioners, entities, providers, and suppliers.

(9) "Specialization" means a medical specialty area that has a corresponding sonography certification from a certification organization.

63-33-104.

(a) Certification and registration required to perform procedures. Except as provided in this chapter, on and after January 1, 2020, only a person currently certified and registered in sonography by a certification organization may perform, offer to perform diagnostic medical sonography on humans, or state or imply that the person is certified or registered to perform diagnostic medical sonography procedures on humans.

(b) Certification and registration required for employment. Except as provided in this chapter, on and after January 1, 2020, no person or business entity shall knowingly employ a person who does not hold a current certification and registration or is not
exempt under this chapter to perform diagnostic medical sonography procedures on humans.

(c) Exemptions. The provisions of this chapter shall not apply to the following:

(1) A licensed practitioner performing diagnostic medical sonography procedures.

(2) A resident physician or a student enrolled in and attending a school or college of medicine or diagnostic medical sonography who performs authorized diagnostic medical sonography procedures on humans while under the supervision of a licensed practitioner or direct supervision of a person holding a certification and registration in diagnostic medical sonography in the same area of specialization.

(3) A person licensed in this state as a radiologic technologist who is completing the clinical experience requirements for a sonography certification pathway established by a certification organization and is under the supervision of a licensed practitioner or direct supervision of a person holding a certification and registration in the same area of specialization.

(4) A person who graduated from a diagnostic medical sonography school or college accredited by an organization recognized by the Council for Higher Education Accreditation and the U.S. Department of Education within the previous eighteen months, is actively preparing for a sonography examination administered by a certification organization, and is under the supervision of a licensed practitioner or direct supervision of a person holding a certification and registration in the same area of specialization.
(5) A person who is employed by the United States government to perform diagnostic medical sonography procedures associated with that employment.

(6) A person licensed in this state performing a sonography procedure within their scope of practice, education, training, and competence, that is used to assess specific and limited information about a patient’s immediate medical condition, is limited to a focused imaging target, and does not generate a recorded diagnostic medical image. A focused imaging target includes, but is not limited to:

(A) Assessment of fetal presentation or heartbeat;
(B) Assessment of fluid in a body cavity;
(C) Assessment of foreign body position or location;
(D) Fetal monitoring during active labor; or
(E) Identification of an anatomical landmark or blood vessel for vascular access or administration of anesthesia.

(7) An ophthalmic medical technologist using ultrasound for ophthalmic purposes (e.g., ultrasound biometry) within their scope of practice, education, training, and competence.

(8) A person performing diagnostic medical sonography procedures on human cadavers (e.g., for research purposes).

(9) A person licensed in this state performing a medical procedure on a human using ultrasound or ultrasound-emitting equipment for a non-imaging purpose (e.g., lithotripsy, tissue heating or healing, etc.) that is within their scope of practice, education, training, and competence.

63-33-105.
(a) Scope of practice. A person performing diagnostic medical sonography procedures shall perform such procedures under a scope of practice established by a certification organization or a professional society or association and within the parameters or requirements of the facility where the procedures are performed.

(b) Use of diagnostic medical sonography restricted. Except as provided in this chapter, on and after January 1, 2020, a person may perform diagnostic medical sonography procedures on humans only:

1. With a valid prescription of a person authorized by this state to prescribe diagnostic medical sonography procedures;
2. Under the supervision of a physician; and
3. Within the person’s scope of practice, education, training, and competence.

(c) Authorization for intravenous access and administration of ultrasound contrast agents. A person holding a certification and registration in diagnostic medical sonography may initiate, maintain, and remove intravenous access and may administer intravenous fluids and ultrasound contrast agents in accordance with the person’s scope of practice, education, training, and competence, and in accordance with the policies of the facility where performed.

63-33-106.

A person who holds a sonography certification and registration in accordance with the provisions of this chapter shall be considered licensed by this state for purposes of other applicable statutes or administrative rules and may represent oneself or be referred to as licensed by this state.

63-33-107.
(a) Failure to maintain required certification and registration. If a person who performs diagnostic medical sonography procedures fails to maintain current certification and registration or is subject to revocation or suspension of a certification and registration by a sonography certification organization, the person shall notify their employer and not use ultrasound equipment or perform diagnostic medical sonography procedures.

(b) False use or misrepresentation of required certification and registration. No person shall falsely use or misrepresent a title, words, abbreviation, or insignia to indicate or imply that the person is certified or registered to perform diagnostic medical sonography procedures.

(c) Required reporting of non-compliance with this chapter.

(1) The board shall adopt rules that specify the threshold for required reporting of non-compliance with this chapter by a person or business entity resulting from a legal, civil, or disciplinary action against the person by any:

   (A) Licensing jurisdiction whether in the United States or foreign;
   (B) Health care institution;
   (C) Professional society or association;
   (D) Certification organization;
   (E) Government agency;
   (F) Law enforcement agency, or
   (G) Court.

(2) The board shall adopt rules that specify the threshold for required and optional reporting of actions against a person to the National Practitioner Data Bank.

(3) A person who holds or has held a sonography certification and registration shall notify the board, applicable certification organization, and their employer within seven (7) days of any legal, civil, or disciplinary action against
the person if such action meets or exceeds the threshold reporting requirements established by rule by the board.

(4) A business entity that employs a person who holds or has held a sonography certification and registration shall notify the board and applicable certification organization within seven (7) days of any legal, civil, or disciplinary action against the person by the employer that meets or exceeds the threshold reporting requirements established by rule by the board.

63-33-108.

A person or business entity that violates this chapter shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment in a county jail not exceeding six months, or both, for each offense. Each act of such unlawful practice shall constitute a distinct and separate offense.

63-33-109.

The board may make application to any appropriate court for an order enjoining violations of this chapter or the rules adopted by the board, and upon a showing by the board that a person or business entity has violated or is about to violate this chapter or the rules adopted by the board, the court may grant an injunction, restraining order, or take other appropriate action.

63-33-110.

(a) Authority to assess civil penalties. The board may assess a civil penalty not more than the amount allowable under state law for the violation of any section of this chapter or the violation of any rules adopted by the board. The clear proceeds of any civil penalty assessed under this section shall be collected by the board and deposited in the general fund of this state.
(b) Schedule of civil penalties. The board shall establish a schedule of civil penalties for violations of this chapter and the rules adopted by the board.

(c) Consideration factors. Before imposing and assessing a civil penalty, the board shall consider the following factors:

1. The nature, gravity, and persistence of the violation;
2. The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;
3. Whether the violation was willful and malicious; and
4. Any other factors that would tend to mitigate or aggravate the violations found to exist.

(d) Costs. The board may assess the costs of civil actions against a person or business entity found to be in violation of this chapter or the rules adopted by the board.

63-33-111.

The provisions of this chapter are severable. If any section, subsection, subdivision, paragraph, sentence, or clause of this chapter or its application to any person, business entity, or circumstance is held invalid or unconstitutional, it shall not affect other provisions or applications of this chapter, which can be given effect without the invalid provision or application.

SECTION 2. For purposes of promulgating rules, this chapter shall take effect upon becoming a law, the public welfare requiring it.