

By: Coleman

H.B. No. 3414

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of the Texas Medical Radiologic
3 Technology Board of Examiners and the regulation of medical
4 radiologic technology.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 601.002, Occupations Code, is amended
7 by amending Subdivisions (2) and (5) and adding Subdivisions (5-a),
8 (12), and (13) to read as follows:

9 (2) "Medical radiologic technology board" [~~"Board"~~]
10 means the Texas Medical Radiologic Technology Board of Examiners
11 [~~Health~~].

12 (5) "Education program" means clinical training or any
13 other program offered by an organization approved by the medical
14 radiologic technology board that:

15 (A) has a specified objective;

16 (B) includes planned activities for
17 participants; and

18 (C) uses an approved method for measuring the
19 progress of participants.

20 (5-a) "Medical board" means the Texas Medical Board.

21 (12) "Radiologist" means a physician specializing in
22 radiology certified by or board-eligible for the American Board of
23 Radiology, the American Osteopathic Board of Radiology, the British
24 Royal College of Radiology, or the Canadian College of Physicians

1 and Surgeons.

2 (13) "Radiologist assistant" means an advanced-level
3 medical radiologic technologist certified under this chapter,
4 other than a practitioner, who works under the supervision of a
5 radiologist to enhance patient care by assisting the radiologist in
6 the medical imaging environment.

7 SECTION 2. Chapter 601, Occupations Code, is amended by
8 adding Subchapter A-1 to read as follows:

9 SUBCHAPTER A-1. TEXAS MEDICAL RADIOLOGIC TECHNOLOGY BOARD
10 OF EXAMINERS

11 Sec. 601.011. TEXAS MEDICAL RADIOLOGIC TECHNOLOGY BOARD OF
12 EXAMINERS. The Texas Medical Radiologic Technology Board of
13 Examiners is an advisory board to the Texas Medical Board.

14 Sec. 601.012. APPOINTMENT OF BOARD. (a) The medical
15 radiologic technology board consists of 12 members appointed by the
16 governor with the advice and consent of the senate as follows:

17 (1) six practicing medical radiologic technologists
18 each of whom hold general certificates and have at least five years
19 of clinical experience as a medical radiologic technologist;

20 (2) two radiologists who are licensed in this state
21 and supervise medical radiologic technologists;

22 (3) one medical physicist who is licensed in this
23 state and currently practices in one of the subfields of medical
24 physics; and

25 (4) three public members who are not licensed as
26 physicians or medical radiologic technologists.

27 (b) Appointments to the medical radiologic technology board

1 shall be made without regard to the race, color, disability, sex,
2 religion, age, or national origin of the appointee.

3 Sec. 601.013. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a)
4 In this section, "Texas trade association" means a cooperative and
5 voluntarily joined statewide association of business or
6 professional competitors in this state designed to assist its
7 members and its industry or profession in dealing with mutual
8 business or professional problems and in promoting their common
9 interest.

10 (b) A person may not be a public member of the medical
11 radiologic technology board if the person or the person's spouse:

12 (1) is registered, certified, or licensed by a
13 regulatory agency in the field of health care;

14 (2) is employed by or participates in the management
15 of a business entity or other organization regulated by or
16 receiving money from the medical board or medical radiologic
17 technology board;

18 (3) owns or controls, directly or indirectly, more
19 than a 10 percent interest in a business entity or other
20 organization regulated by or receiving money from the medical board
21 or medical radiologic technology board; or

22 (4) uses or receives a substantial amount of tangible
23 goods, services, or money from the medical board or medical
24 radiologic technology board other than compensation or
25 reimbursement authorized by law for medical radiologic technology
26 board membership, attendance, or expenses.

27 (c) A person may not be a member of the medical radiologic

1 technology board and may not be a medical board employee in a "bona
2 fide executive, administrative, or professional capacity," as that
3 phrase is used for purposes of establishing an exemption to the
4 overtime provisions of the federal Fair Labor Standards Act of 1938
5 (29 U.S.C. Section 201 et seq.), if:

6 (1) the person is an officer, employee, or paid
7 consultant of a Texas trade association in the field of health care;
8 or

9 (2) the person's spouse is an officer, manager, or paid
10 consultant of a Texas trade association in the field of health care.

11 (d) A person may not be a member of the medical radiologic
12 technology board or act as the general counsel to the medical
13 radiologic technology board if the person is required to register
14 as a lobbyist under Chapter 305, Government Code, because of the
15 person's activities for compensation on behalf of a profession
16 related to the operation of the medical board or medical radiologic
17 technology board.

18 Sec. 601.014. TERMS; VACANCIES. (a) Members of the
19 medical radiologic technology board are appointed for staggered
20 six-year terms. The terms of three members expire on February 1 of
21 each odd-numbered year.

22 (b) A member may not serve more than:

23 (1) two consecutive full terms; or

24 (2) a total of three full terms.

25 (c) If a vacancy occurs during a member's term, the governor
26 shall appoint a new member to fill the unexpired term.

27 Sec. 601.015. OFFICERS. The governor shall designate a

1 member of the medical radiologic technology board as the presiding
2 officer of the board to serve in that capacity at the will of the
3 governor. The medical radiologic technology board shall select
4 from its membership a secretary to serve a one-year term.

5 Sec. 601.016. GROUNDS FOR REMOVAL. (a) It is a ground for
6 removal from the medical radiologic technology board that a member:

7 (1) does not have at the time of taking office the
8 qualifications required by Sections 601.012 and 601.013;

9 (2) does not maintain during service on the medical
10 radiologic technology board the qualifications required by
11 Sections 601.012 and 601.013;

12 (3) is ineligible for membership under Section
13 601.012;

14 (4) cannot, because of illness or disability,
15 discharge the member's duties for a substantial part of the member's
16 term; or

17 (5) is absent from more than half of the regularly
18 scheduled medical radiologic technology board meetings that the
19 member is eligible to attend during a calendar year without an
20 excuse approved by a majority vote of the medical radiologic
21 technology board.

22 (b) The validity of an action of the medical radiologic
23 technology board is not affected by the fact that it is taken when a
24 ground for removal of a medical radiologic technology board member
25 exists.

26 (c) If the executive director of the medical board has
27 knowledge that a potential ground for removal exists, the executive

1 director shall notify the presiding officer of the medical
2 radiologic technology board of the potential ground. The presiding
3 officer shall then notify the governor and the attorney general
4 that a potential ground for removal exists. If the potential ground
5 for removal involves the presiding officer, the executive director
6 shall notify the next highest ranking officer of the medical
7 radiologic technology board, who shall then notify the governor and
8 the attorney general that a potential ground for removal exists.

9 Sec. 601.017. PER DIEM. A member of the medical radiologic
10 technology board is entitled to receive a per diem as set by
11 legislative appropriation for each day that the member engages in
12 the business of the board. If the General Appropriations Act does
13 not prescribe the amount of the per diem, the per diem is equal to a
14 member's actual expenses for meals, lodging, and transportation
15 plus \$100.

16 Sec. 601.018. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE LAW.
17 Except as otherwise provided by this chapter, the medical
18 radiologic technology board is subject to Chapters 551 and 2001,
19 Government Code.

20 Sec. 601.019. TRAINING. (a) A person who is appointed to
21 and qualifies for office as a member of the medical radiologic
22 technology board may not vote, deliberate, or be counted as a member
23 in attendance at a meeting of the medical radiologic technology
24 board until the person completes a training program that complies
25 with this section.

26 (b) The training program must provide the person with
27 information regarding:

1 (1) this chapter and the medical radiologic technology
2 board's programs, functions, rules, and budget;

3 (2) the results of the most recent formal audit of the
4 medical radiologic technology board;

5 (3) the requirements of laws relating to open
6 meetings, public information, administrative procedure, and
7 conflicts of interest; and

8 (4) any applicable ethics policies adopted by the
9 medical radiologic technology board, the medical board, or the
10 Texas Ethics Commission.

11 (c) A person appointed to the medical radiologic technology
12 board is entitled to reimbursement, as provided by the General
13 Appropriations Act, for the travel expenses incurred in attending
14 the training program regardless of whether the attendance at the
15 program occurs before or after the person qualifies for office.

16 SECTION 3. The heading to Subchapter B, Chapter 601,
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER B. POWERS AND DUTIES OF MEDICAL RADIOLOGIC TECHNOLOGY
19 BOARD AND MEDICAL BOARD [~~DEPARTMENT~~]

20 SECTION 4. Section 601.051, Occupations Code, is amended to
21 read as follows:

22 Sec. 601.051. CERTIFICATION PROGRAM. The medical
23 radiologic technology board [~~bureau of licensing and compliance of~~
24 ~~the department~~] shall administer the certification program
25 required by this chapter.

26 SECTION 5. Subchapter B, Chapter 601, Occupations Code, is
27 amended by adding Sections 601.0521, 601.0522, 601.0523, 601.0524,

1 and 601.0525 to read as follows:

2 Sec. 601.0521. GENERAL POWERS AND DUTIES. The medical
3 radiologic technology board shall:

4 (1) adopt rules that are reasonable and necessary for
5 the performance of the medical radiologic technology board's duties
6 under this chapter, as provided by Chapter 2001, Government Code,
7 including rules to establish:

8 (A) certification and other fees;

9 (B) certificate renewal dates; and

10 (C) procedures for disciplinary actions;

11 (2) review and approve or reject each application for
12 the issuance or renewal of a certificate;

13 (3) issue each certificate;

14 (4) deny, suspend, or revoke a certificate or
15 otherwise discipline a certificate holder; and

16 (5) take any action necessary to carry out the
17 functions and duties of the medical radiologic technology board
18 under this chapter.

19 Sec. 601.0522. GUIDELINES FOR EARLY INVOLVEMENT IN
20 RULEMAKING PROCESS. (a) The medical radiologic technology board
21 shall adopt guidelines to establish procedures for receiving input
22 during the rulemaking process from individuals and groups that have
23 an interest in matters under the medical radiologic technology
24 board's jurisdiction. The guidelines must provide an opportunity
25 for those individuals and groups to provide input before the
26 medical radiologic technology board submits the rule to the medical
27 board for approval.

1 (b) A rule adopted by the medical board may not be
2 challenged on the grounds that the medical radiologic technology
3 board did not comply with this section. If the medical radiologic
4 technology board was unable to solicit a significant amount of
5 input from the public or affected persons early in the rulemaking
6 process, the medical radiologic technology board shall state in
7 writing the reasons why the board was unable to do so.

8 Sec. 601.0523. POWERS AND DUTIES OF THE TEXAS MEDICAL BOARD
9 RELATING TO MEDICAL RADIOLOGIC TECHNOLOGISTS. (a) The medical
10 board shall adopt rules consistent with this chapter to regulate
11 medical radiologic technologists and physicians who supervise
12 medical radiologic technologists.

13 (b) The medical board, by a majority vote, shall approve or
14 reject each rule adopted by the medical radiologic technology
15 board. If approved, the rule may take effect. If the rule is
16 rejected, the medical board shall return the rule to the medical
17 radiologic technology board for revision.

18 Sec. 601.0524. FEES. The medical radiologic technology
19 board shall establish and collect fees in amounts that are
20 reasonable and necessary to cover the cost of administering this
21 chapter.

22 Sec. 601.0525. DIVISION OF RESPONSIBILITIES. Subject to
23 the advice and approval of the medical board, the medical
24 radiologic technology board shall develop and implement policies
25 that clearly separate the policymaking responsibilities of the
26 medical radiologic technology board and the management
27 responsibilities of the executive director and the staff of the

1 medical board.

2 SECTION 6. Section 601.053, Occupations Code, is amended to
3 read as follows:

4 Sec. 601.053. MINIMUM STANDARDS FOR MEDICAL RADIOLOGIC
5 TECHNOLOGIST. The medical radiologic technology board by rule
6 shall establish minimum standards for:

7 (1) issuing, renewing, suspending, or revoking a
8 certificate issued under this chapter;

9 (2) approving curricula and education programs to
10 train individuals and~~[7]~~ registered nurses~~[, and physician~~
11 ~~assistants]~~ to perform radiologic procedures;

12 (3) approving instructors to teach approved curricula
13 or education programs to train individuals to perform radiologic
14 procedures; and

15 (4) rescinding an approval described by Subdivision
16 (2) or (3).

17 SECTION 7. Subchapter B, Chapter 601, Occupations Code, is
18 amended by adding Section 601.0535 to read as follows:

19 Sec. 601.0535. MINIMUM STANDARDS FOR RADIOLOGIST
20 ASSISTANT. The medical radiologic technology board by rule shall
21 establish minimum standards for issuing, renewing, suspending, or
22 revoking a radiologist assistant certificate.

23 SECTION 8. Section 601.054, Occupations Code, is amended to
24 read as follows:

25 Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA,
26 INSTRUCTORS, AND TRAINING PROGRAMS. (a) An applicant for approval
27 of a curriculum, instructor, or training program must apply to the

1 medical radiologic technology board [~~department~~] on a form and
2 under rules adopted by the board.

3 (b) The medical radiologic technology board [~~department~~]
4 shall approve a curriculum, instructor, or training program that
5 meets the minimum standards adopted under Section 601.053. The
6 medical radiologic technology board [~~department~~] may review the
7 approval annually.

8 (c) The medical radiologic technology board may set a fee
9 for approval of a curriculum, instructor, or training program not
10 to exceed the estimated amount that the board [~~department~~] projects
11 to be required for the evaluation of the curriculum, instructor, or
12 training program.

13 SECTION 9. Sections 601.056(a) and (b), Occupations Code,
14 are amended to read as follows:

15 (a) The medical radiologic technology board with the
16 assistance of other appropriate state agencies shall identify by
17 rule radiologic procedures, other than radiologic procedures
18 described by Subsection (c), that are dangerous or hazardous and
19 that may be performed only by a practitioner or a medical radiologic
20 technologist or radiologist assistant certified under this
21 chapter.

22 (b) In adopting rules under Subsection (a), the medical
23 radiologic technology board may consider whether the radiologic
24 procedure will be performed by a registered nurse [~~or a licensed~~
25 ~~physician assistant~~].

26 SECTION 10. Subchapter B, Chapter 601, Occupations Code, is
27 amended by adding Sections 601.0571, 601.0572, and 601.0573 to read

1 as follows:

2 Sec. 601.0571. PUBLIC PARTICIPATION. Subject to the advice
3 and approval of the medical board, the medical radiologic
4 technology board shall develop and implement policies that provide
5 the public with a reasonable opportunity to appear before the
6 medical radiologic technology board and to speak on any issue under
7 the jurisdiction of the medical radiologic technology board.

8 Sec. 601.0572. RECORDS OF COMPLAINTS. (a) The medical
9 radiologic technology board shall maintain a system to promptly and
10 efficiently act on complaints filed with the medical radiologic
11 technology board. The board shall maintain:

12 (1) information about the parties to the complaint and
13 the subject matter of the complaint;

14 (2) a summary of the results of the review or
15 investigation of the complaint; and

16 (3) information about the disposition of the
17 complaint.

18 (b) The medical radiologic technology board shall make
19 information available describing its procedures for complaint
20 investigation and resolution.

21 (c) The medical radiologic technology board shall
22 periodically notify the parties of the status of the complaint
23 until final disposition of the complaint, unless the notice would
24 jeopardize an investigation.

25 Sec. 601.0573. NEGOTIATED RULEMAKING AND ALTERNATIVE
26 DISPUTE RESOLUTION POLICY. (a) Subject to the advice and approval
27 of the medical board, the medical radiologic technology board shall

1 develop and implement a policy to encourage the use of:

2 (1) negotiated rulemaking procedures under Chapter
3 2008, Government Code, for the adoption of medical radiologic
4 technology board rules; and

5 (2) appropriate alternative dispute resolution
6 procedures under Chapter 2009, Government Code, to assist in the
7 resolution of internal and external disputes under the medical
8 radiologic technology board's jurisdiction.

9 (b) The medical radiologic technology board's procedures
10 relating to alternative dispute resolution must conform, to the
11 extent possible, to any model guidelines issued by the State Office
12 of Administrative Hearings for the use of alternative dispute
13 resolution by state agencies.

14 (c) The medical radiologic technology board shall designate
15 a trained person to:

16 (1) coordinate the implementation of the policy
17 adopted under Subsection (a);

18 (2) serve as a resource for any training needed to
19 implement the procedures for negotiated rulemaking or alternative
20 dispute resolution; and

21 (3) collect data concerning the effectiveness of those
22 procedures, as implemented by the medical radiologic technology
23 board.

24 SECTION 11. Section 601.058, Occupations Code, is amended
25 to read as follows:

26 Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE
27 BIDDING. (a) The medical radiologic technology board may not adopt

1 rules restricting advertising or competitive bidding by a medical
2 radiologic technologist or radiologist assistant except to
3 prohibit false, misleading, or deceptive practices.

4 (b) In its rules to prohibit false, misleading, or deceptive
5 practices, the medical radiologic technology board may not include
6 a rule that:

7 (1) restricts the use of any medium for advertising;

8 (2) restricts the use of a medical radiologic
9 technologist's or radiologist assistant's personal appearance or
10 voice in an advertisement;

11 (3) relates to the size or duration of an
12 advertisement by the medical radiologic technologist or
13 radiologist assistant; or

14 (4) restricts the medical radiologic technologist's or
15 radiologist assistant's advertisement under a trade name.

16 SECTION 12. Section 601.101, Occupations Code, is amended
17 to read as follows:

18 Sec. 601.101. CERTIFICATION REQUIRED. A person may not
19 practice as a medical radiologic technologist in this state or
20 perform a radiologic procedure unless the person holds an
21 appropriate [a] certificate issued under this chapter, except as
22 otherwise provided by Subchapter D.

23 SECTION 13. Section 601.102, Occupations Code, is amended
24 to read as follows:

25 Sec. 601.102. CLASSES OF CERTIFICATES. (a) The medical
26 radiologic technology board shall establish classes of
27 certificates to include all radiologic procedures used in the

1 course and scope of the practice of practitioners licensed in this
2 state.

3 (b) The medical radiologic technology board may issue to a
4 person:

5 (1) a general certificate to perform radiologic
6 procedures;

7 (2) a certificate that authorizes the person to
8 perform radiologic procedures as a radiologist assistant;

9 (3) a certificate as a medical radiologic
10 technologist; or

11 (4) [~~(2)~~] a limited certificate that authorizes the
12 person to perform radiologic procedures only on specific parts of
13 the human body.

14 (c) The medical radiologic technology board may issue to a
15 person a temporary general certificate or a temporary limited
16 certificate that authorizes the person to perform radiologic
17 procedures for a period not to exceed one year.

18 SECTION 14. Section 601.103, Occupations Code, is amended
19 to read as follows:

20 Sec. 601.103. APPLICATION; APPLICATION FEE. An applicant
21 for a certificate under this chapter must:

22 (1) apply to the medical radiologic technology board
23 [~~department~~] on a form and under rules adopted by the medical
24 radiologic technology board; and

25 (2) submit with the application a nonrefundable
26 application fee in an amount determined by the medical radiologic
27 technology board.

1 SECTION 15. Section 601.104, Occupations Code, is amended
2 to read as follows:

3 Sec. 601.104. EXAMINATION. The medical radiologic
4 technology board may prepare and conduct an examination for
5 applicants for a certificate.

6 SECTION 16. Section 601.1041, Occupations Code, is amended
7 to read as follows:

8 Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a)
9 Not later than the 30th day after the date a person takes an
10 examination for a certificate under this chapter, the medical
11 radiologic technology board [~~department~~] shall notify the person of
12 the results of the examination.

13 (b) If the examination is graded or reviewed by a testing
14 service, the medical radiologic technology board [~~department~~]
15 shall notify the person of the results of the examination not later
16 than the 14th day after the date the medical radiologic technology
17 board [~~department~~] receives the results from the testing service.
18 If notice of the examination results will be delayed for longer than
19 90 days after the examination date, the medical radiologic
20 technology board [~~department~~] shall notify the person of the reason
21 for the delay before the 90th day.

22 (c) The medical radiologic technology board [~~department~~]
23 may require a testing service to notify a person of the results of
24 the person's examination.

25 (d) If requested in writing by a person who fails an
26 examination for a certificate administered under this chapter, the
27 medical radiologic technology board [~~department~~] shall furnish the

1 person with an analysis of the person's performance on the
2 examination.

3 SECTION 17. Section 601.105, Occupations Code, is amended
4 to read as follows:

5 Sec. 601.105. ISSUANCE OF CERTIFICATE. (a) The medical
6 radiologic technology board [~~department~~] shall issue a certificate
7 to an applicant who:

8 (1) meets the minimum standards for certification
9 established under this chapter;

10 (2) submits an application on a form prescribed by the
11 medical radiologic technology board;

12 (3) pays the required application fee;

13 (4) certifies that the applicant is mentally and
14 physically able to function safely as a medical radiologic
15 technologist; and

16 (5) submits to the medical radiologic technology board
17 any other information the medical radiologic technology board
18 considers necessary to evaluate the applicant's qualifications
19 [~~Section 601.053~~].

20 (b) A certificate is valid for a period established by the
21 medical radiologic technology board.

22 (c) The medical radiologic technology board may delegate
23 authority to medical board employees to issue licenses under this
24 chapter to applicants who clearly meet all licensing requirements.
25 If the medical board employees determine that an applicant does not
26 clearly meet all licensing requirements, the application shall be
27 returned to the medical radiologic technology board. A license

1 issued under this subsection does not require formal medical
2 radiologic technology board approval.

3 SECTION 18. Subchapter C, Chapter 601, Occupations Code, is
4 amended by adding Section 601.1055 to read as follows:

5 Sec. 601.1055. RADIOLOGIST ASSISTANT CERTIFICATE. (a) A
6 person seeking to obtain certification as a radiologist assistant
7 must:

8 (1) hold a general certificate to perform radiologic
9 procedures;

10 (2) have satisfactorily completed an advanced
11 academic program encompassing a nationally recognized radiologist
12 assistant curriculum that:

13 (A) culminates in the award of a baccalaureate
14 degree, postbaccalaureate certificate, or graduate degree; and

15 (B) incorporates a radiologist-directed clinical
16 preceptorship;

17 (3) be certified in advanced cardiac life support;
18 and

19 (4) be certified as a radiologist assistant by the
20 American Registry of Radiologic Technologists.

21 (b) The medical radiologic technology board by rule shall
22 determine the specific duties a radiologist assistant may perform.
23 A rule adopted under this subsection must be consistent with
24 guidelines adopted by the American College of Radiology, the
25 American Society of Radiologic Technologists, and the American
26 Registry of Radiologic Technologists.

27 (c) A radiologist assistant may not interpret images, make

1 diagnoses, or prescribe medications or therapies.

2 SECTION 19. Section 601.107, Occupations Code, is amended
3 to read as follows:

4 Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting
5 minimum standards for certifying medical radiologic technologists,
6 the medical radiologic technology board may establish criteria for
7 issuing a certificate to a person licensed or otherwise registered
8 as a medical radiologic technologist or radiologist assistant by
9 the American Registry of Radiologic Technologists, the Nuclear
10 Medicine Technology Certification Board [~~American Registry of~~
11 ~~Clinical Radiography Technologists~~], or another state whose
12 requirements for licensure or registration were on the date of
13 licensing or registration substantially equal to the requirements
14 of this chapter.

15 SECTION 20. Section 601.108, Occupations Code, is amended
16 to read as follows:

17 Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.

18 (a) The medical radiologic technology board may establish
19 guidelines.

20 (b) The medical radiologic technology board shall prepare,
21 recognize, or administer continuing education programs for medical
22 radiologic technologists or radiologist assistants in which
23 participation is required, to the extent required by the medical
24 radiologic technology board, to keep the person's certificate.

25 SECTION 21. Section 601.109, Occupations Code, is amended
26 to read as follows:

27 Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The medical

1 radiologic technology board may issue a provisional certificate to
2 an applicant currently licensed or certified in another
3 jurisdiction who seeks certification in this state and who:

4 (1) has been licensed or certified in good standing as
5 a medical radiologic technologist or radiologist assistant for at
6 least two years in another jurisdiction, including a foreign
7 country, that has licensing or certification requirements
8 substantially equivalent to the requirements of this chapter;

9 (2) has passed a national or other examination
10 recognized by the medical radiologic technology board relating to
11 the practice of radiologic technology or radiologist assistant; and

12 (3) is sponsored by a medical radiologic technologist
13 or radiologist assistant certified by the medical radiologic
14 technology board under this chapter with whom the provisional
15 certificate holder will practice during the time the person holds a
16 provisional certificate.

17 (b) The medical radiologic technology board may waive the
18 requirement of Subsection (a)(3) for an applicant if the board
19 determines that compliance with that subsection would be a hardship
20 to the applicant.

21 (c) A provisional certificate is valid until the date the
22 medical radiologic technology board approves or denies the
23 provisional certificate holder's application for a certificate.
24 The medical radiologic technology board shall issue a certificate
25 under this chapter to the provisional certificate holder if:

26 (1) the provisional certificate holder is eligible to
27 be certified under Section 601.107; or

1 (2) the provisional certificate holder passes the part
2 of the examination under Section 601.104 that relates to the
3 applicant's knowledge and understanding of the laws and rules
4 relating to the practice of radiologic technology in this state
5 and:

6 (A) the medical radiologic technology board
7 verifies that the provisional certificate holder meets the academic
8 and experience requirements for a certificate under this chapter;
9 and

10 (B) the provisional certificate holder satisfies
11 any other licensing requirements under this chapter.

12 (d) The medical radiologic technology board must approve or
13 deny a provisional certificate holder's application for a
14 certificate not later than the 180th day after the date the
15 provisional certificate is issued. The board may extend the
16 180-day period if the results of an examination have not been
17 received by the medical radiologic technology board before the end
18 of that period.

19 (e) The medical radiologic technology board may establish a
20 fee for a provisional certificate in an amount reasonable and
21 necessary to cover the cost of issuing the certificate.

22 SECTION 22. Section 601.110, Occupations Code, is amended
23 to read as follows:

24 Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than
25 the 30th day before the date a person's certificate is scheduled to
26 expire, the medical radiologic technology board [~~department~~] shall
27 send written notice of the impending expiration to the person at the

1 person's last known address according to the records of the board
2 [~~department~~].

3 (b) The medical radiologic technology board by rule may
4 adopt a system under which certificates expire on various dates
5 during the year. For the year in which the certificate expiration
6 date is changed, the medical radiologic technology board
7 [~~department~~] shall prorate certificate fees on a monthly basis so
8 that each certificate holder pays only that portion of the
9 certificate fee that is allocable to the number of months during
10 which the certificate is valid. On renewal of the certificate on
11 the new expiration date, the total certificate renewal fee is
12 payable.

13 SECTION 23. Sections 601.111(a), (b), and (c), Occupations
14 Code, are amended to read as follows:

15 (a) A person who is otherwise eligible to renew a
16 certificate may renew an unexpired certificate by paying the
17 required renewal fee to the medical radiologic technology board
18 [~~department~~] before the expiration date of the certificate. A
19 person whose certificate has expired may not engage in activities
20 that require a certificate until the certificate has been renewed.

21 (b) A person whose certificate has been expired for 90 days
22 or less may renew the certificate by paying to the medical
23 radiologic technology board [~~department~~] a renewal fee that is
24 equal to 1-1/2 times the normally required renewal fee.

25 (c) A person whose certificate has been expired for more
26 than 90 days but less than one year may renew the certificate by
27 paying to the medical radiologic technology board [~~department~~] a

1 renewal fee that is equal to two times the normally required renewal
2 fee.

3 SECTION 24. Section 601.112(b), Occupations Code, is
4 amended to read as follows:

5 (b) The person must pay to the medical radiologic technology
6 board [~~department~~] a fee that is equal to two times the normally
7 required renewal fee for the certificate.

8 SECTION 25. Section 601.156, Occupations Code, is amended
9 to read as follows:

10 Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING
11 EDUCATION PROGRAM. A person is not required to hold a certificate
12 issued under this chapter or to comply with the registration
13 requirements adopted under Section 601.252 if the person is:

14 (1) licensed or otherwise registered as a medical
15 radiologic technologist by another state, the American Registry of
16 Radiologic Technologists, the Nuclear Medicine Technology
17 Certification Board [~~American Registry of Clinical Radiography~~
18 ~~Technologists~~], or a professional organization or association
19 recognized by the board;

20 (2) enrolled in a continuing education program that
21 meets the requirements adopted under Section 601.108; and

22 (3) performing a radiologic procedure as part of the
23 continuing education program for not more than 10 days.

24 SECTION 26. Section 601.251, Occupations Code, is amended
25 to read as follows:

26 Sec. 601.251. APPLICABILITY. This subchapter applies to
27 the:

- 1 (1) Board of Nurse Examiners;
- 2 (2) Texas Board of Chiropractic Examiners;
- 3 (3) State Board of Dental Examiners;
- 4 (4) medical board [~~Texas State Board of Medical~~
5 ~~Examiners~~]; and
- 6 (5) Texas State Board of Podiatric Medical Examiners.

7 SECTION 27. Section 601.252(a), Occupations Code, is
8 amended to read as follows:

9 (a) Each agency subject to this subchapter, other than the
10 Board of Nurse Examiners, shall adopt rules to regulate the manner
11 in which a person who holds a license issued by the agency may
12 order [~~, instruct, or direct another authorized person in~~] the
13 performance of a radiologic procedure.

14 SECTION 28. Section 601.301, Occupations Code, is amended
15 to read as follows:

16 Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION.
17 The medical radiologic technology board [~~department~~] may, for a
18 violation of this chapter or a rule adopted under this chapter:

- 19 (1) suspend, revoke, or refuse to renew a certificate;
- 20 (2) rescind approval of a curriculum, training
21 program, or instructor;
- 22 (3) deny an application for certification or approval;
- 23 (4) issue a reprimand; or
- 24 (5) place the offender's certificate on probation and
25 require compliance with a requirement of the medical radiologic
26 technology board [~~department~~], including requiring the offender
27 to:

- 1 (A) submit to medical or psychological
2 treatment;
- 3 (B) meet additional education requirements;
- 4 (C) pass an examination; or
- 5 (D) work under the supervision of a medical
6 radiologic technologist or other practitioner.

7 SECTION 29. Section 601.302, Occupations Code, is amended
8 to read as follows:

9 Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR
10 DISCIPLINARY ACTION. The medical radiologic technology board
11 [~~department~~] may take action under Section 601.301 against a person
12 subject to this chapter for:

13 (1) obtaining or attempting to obtain a certificate
14 issued under this chapter by bribery or fraud;

15 (2) making or filing a false report or record made in
16 the person's capacity as a medical radiologic technologist;

17 (3) intentionally or negligently failing to file a
18 report or record required by law;

19 (4) intentionally obstructing or inducing another to
20 intentionally obstruct the filing of a report or record required by
21 law;

22 (5) engaging in unprofessional conduct, including the
23 violation of the standards of practice of radiologic technology
24 established by the medical radiologic technology board;

25 (6) developing an incapacity that prevents the
26 practice of radiologic technology with reasonable skill,
27 competence, and safety to the public as the result of:

- 1 (A) an illness;
2 (B) drug or alcohol dependency; or
3 (C) another physical or mental condition or
4 illness;

5 (7) failing to report to the medical radiologic
6 technology board [~~department~~] the violation of this chapter by
7 another person;

8 (8) employing, for the purpose of applying ionizing
9 radiation to a person, a person who is not certified under or in
10 compliance with this chapter;

11 (9) violating this chapter, a rule adopted under this
12 chapter, an order of the medical board or medical radiologic
13 technology board [~~department~~] previously entered in a disciplinary
14 proceeding, or an order to comply with a subpoena issued by the
15 medical board or medical radiologic technology board [~~department~~];

16 (10) having a certificate revoked, suspended, or
17 otherwise subjected to adverse action or being denied a certificate
18 by another certification authority in another state, territory, or
19 country; or

20 (11) being convicted of or pleading nolo contendere to
21 a crime directly related to the practice of radiologic technology.

22 SECTION 30. Section 601.303, Occupations Code, is amended
23 to read as follows:

24 Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT
25 SUPERVISION. The medical radiologic technology board [~~department~~]
26 may take disciplinary action against a student for intentionally
27 practicing radiologic technology without direct supervision.

1 SECTION 31. Section 601.304, Occupations Code, is amended
2 to read as follows:

3 Sec. 601.304. ADMINISTRATIVE PROCEDURE. The procedure by
4 which the medical radiologic technology board [~~department~~] takes a
5 disciplinary action and the procedure by which a disciplinary
6 action is appealed are governed by:

7 (1) medical radiologic technology board [~~department~~]
8 rules for a contested case hearing; and

9 (2) Chapter 2001, Government Code.

10 SECTION 32. Section 601.305(b), Occupations Code, is
11 amended to read as follows:

12 (b) The medical radiologic technology board may not
13 reinstate a certificate to a holder or issue a certificate to an
14 applicant previously denied a certificate unless the medical
15 radiologic technology board is satisfied that the holder or
16 applicant has complied with requirements set by the medical
17 radiologic technology board and is capable of engaging in the
18 practice of radiologic technology.

19 SECTION 33. Section 601.306(a), Occupations Code, is
20 amended to read as follows:

21 (a) The medical radiologic technology board [~~department~~]
22 shall temporarily suspend the certificate of a certificate holder
23 if the medical radiologic technology board [~~department~~] determines
24 from the evidence or information presented to it that continued
25 practice by the certificate holder would constitute a continuing
26 and imminent threat to the public welfare.

27 SECTION 34. Section 601.351, Occupations Code, is amended

1 to read as follows:

2 Sec. 601.351. IMPOSITION OF PENALTY. The medical
3 radiologic technology board [~~department~~] may impose an
4 administrative penalty against a person who violates this chapter
5 or a rule adopted under this chapter.

6 SECTION 35. Section 601.353(a), Occupations Code, is
7 amended to read as follows:

8 (a) If, after investigating a possible violation and the
9 facts surrounding that possible violation, the medical radiologic
10 technology board [~~department~~] determines that a violation
11 occurred, the medical radiologic technology board [~~department~~]
12 shall give written notice of the violation to the person alleged to
13 have committed the violation.

14 SECTION 36. Section 601.354, Occupations Code, is amended
15 to read as follows:

16 Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
17 Not later than the 20th day after the date the person receives the
18 notice, the person may:

19 (1) accept the medical radiologic technology board's
20 [~~department's~~] determination, including the proposed
21 administrative penalty; or

22 (2) make a written request for a hearing on that
23 determination.

24 (b) If the person accepts the medical radiologic technology
25 board's [~~department's~~] determination, the medical radiologic
26 technology board [~~commissioner of public health~~] or the board's
27 [~~that commissioner's~~] designee by order shall approve the

1 determination and impose the proposed penalty.

2 SECTION 37. Section 601.355(a), Occupations Code, is
3 amended to read as follows:

4 (a) If the person timely requests a hearing, the medical
5 radiologic technology board [~~department~~] shall:

6 (1) set a hearing;

7 (2) give written notice of the hearing to the person;

8 and

9 (3) designate a hearings examiner to conduct the
10 hearing.

11 SECTION 38. Section 601.356(b), Occupations Code, is
12 amended to read as follows:

13 (b) The medical radiologic technology board [~~department~~]
14 shall give notice of the order to the person. The notice must
15 include:

16 (1) separate statements of the findings of fact and
17 conclusions of law;

18 (2) the amount of any penalty imposed; and

19 (3) a statement of the right of the person to judicial
20 review of the order.

21 SECTION 39. Section 601.357(c), Occupations Code, is
22 amended to read as follows:

23 (c) If the medical radiologic technology board [~~department~~]
24 receives a copy of an affidavit as provided by Subsection (b)(2),
25 the medical radiologic technology board [~~department~~] may file with
26 the court a contest to the affidavit not later than the fifth day
27 after the date the copy is received.

1 SECTION 40. Section 601.358, Occupations Code, is amended
2 to read as follows:

3 Sec. 601.358. COLLECTION OF PENALTY. If the person does not
4 pay the administrative penalty and the enforcement of the penalty
5 is not stayed, the medical radiologic technology board [~~department~~]
6 may refer the matter to the attorney general for collection.

7 SECTION 41. Section 601.360(a), Occupations Code, is
8 amended to read as follows:

9 (a) If, after judicial review, the administrative penalty
10 is reduced or not imposed by the court, the court shall, after the
11 judgment becomes final:

12 (1) order the appropriate amount, plus accrued
13 interest, be remitted to the person by the medical radiologic
14 technology board [~~department~~] if the person paid the penalty under
15 Section 601.357(a)(2); or

16 (2) if the person paid the penalty under Section
17 601.357(b)(1)(A) or posted a supersedeas bond, order the medical
18 radiologic technology board [~~department~~] to:

19 (A) execute a complete release of the escrow
20 account or bond, as appropriate, if the penalty is not imposed; or

21 (B) release the escrow account or bond, as
22 appropriate, after the reduced penalty has been paid from the
23 account or by the person.

24 SECTION 42. Section 601.361, Occupations Code, is amended
25 to read as follows:

26 Sec. 601.361. EXPENSES AND COSTS. (a) In this section,
27 "reasonable expenses and costs" includes expenses incurred by the

1 medical radiologic technology board [~~department~~] and the attorney
2 general in the investigation, initiation, or prosecution of an
3 action, including reasonable investigative costs, court costs,
4 attorney's fees, witness fees, and deposition expenses.

5 (b) The medical radiologic technology board [~~department~~]
6 may assess reasonable expenses and costs against a person in an
7 administrative hearing if, as a result of the hearing, an
8 administrative penalty is assessed against the person. The person
9 shall pay expenses and costs assessed under this subsection not
10 later than the 30th day after the date the order of the medical
11 radiologic technology board [~~commissioner of public health~~] or the
12 board's [~~that commissioner's~~] designee requiring the payment of
13 expenses and costs is final. The medical radiologic technology
14 board [~~department~~] may refer the matter to the attorney general for
15 collection of the expenses and costs.

16 (c) If the attorney general brings an action against a
17 person to enforce an administrative penalty assessed under this
18 chapter and the person is found liable for an administrative
19 penalty, the attorney general may recover, on behalf of the
20 attorney general and the medical radiologic technology board
21 [~~department~~], reasonable expenses and costs.

22 SECTION 43. Sections 601.401(a) and (c), Occupations Code,
23 are amended to read as follows:

24 (a) If it appears that a person has violated, is violating,
25 or is threatening to violate this chapter or a rule adopted under
26 this chapter, the medical radiologic technology board or the
27 medical board [~~department~~] may bring an action to enjoin the

1 continued or threatened violation.

2 (c) At the request of the medical radiologic technology
3 board or the medical board [~~department~~], the attorney general shall
4 bring an action in the name of the state for the injunctive relief,
5 to recover the civil penalty, or both.

6 SECTION 44. Section 601.402(a), Occupations Code, is
7 amended to read as follows:

8 (a) A person who is required to be certified under this
9 chapter commits an offense if the person:

10 (1) knowingly administers a radiologic procedure to
11 another person without holding a valid certificate issued by the
12 medical radiologic technology board [~~department~~];

13 (2) practices radiologic technology without holding a
14 certificate under this chapter;

15 (3) uses or attempts to use a suspended or revoked
16 certificate;

17 (4) knowingly allows a student enrolled in an
18 education program to perform a radiologic procedure without direct
19 supervision;

20 (5) obtains or attempts to obtain a certificate
21 through bribery or fraudulent misrepresentation;

22 (6) uses the title or name "certified medical
23 radiologic technologist," "certified radiologist assistant,"
24 [~~technologist~~] or any other name or title that implies the person
25 is certified to practice radiologic technology, unless the person
26 is certified under this chapter;

27 (7) knowingly conceals information relating to

1 enforcement of this chapter or a rule adopted under this chapter; or

2 (8) employs a person not certified by or in compliance
3 with this chapter for the purpose of applying ionizing radiation to
4 a person.

5 SECTION 45. Section 151.004, Occupations Code, is amended
6 to read as follows:

7 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical
8 Board is subject to Chapter 325, Government Code (Texas Sunset
9 Act). Unless continued in existence as provided by that chapter,
10 the board is abolished and this subtitle and Chapters 204, 205,
11 [~~and~~] 206, and 601 expire September 1, 2017.

12 SECTION 46. The following sections of the Occupations Code
13 are repealed:

- 14 (1) Sections 601.002(1) and (3);
15 (2) Section 601.052;
16 (3) Section 601.055;
17 (4) Section 601.057;
18 (5) Section 601.152;
19 (6) Section 601.154;
20 (7) Sections 601.252(b), (c), and (d); and
21 (8) Subchapter E, Chapter 601.

22 SECTION 47. (a) A rule of the Department of State Health
23 Services or the executive commissioner of the Health and Human
24 Services Commission relating to radiologic technology is continued
25 in effect as a rule of the Texas Medical Radiologic Technology Board
26 of Examiners or Texas Medical Board until superseded by a rule of
27 the Texas Medical Radiologic Technology Board of Examiners or Texas

1 Medical Board.

2 (b) A certificate, license, or permit issued by the
3 Department of State Health Services relating to radiologic
4 technology is continued in effect as provided by the law in effect
5 immediately before the effective date of this Act.

6 (c) A complaint, investigation, contested case, or other
7 proceeding pending under Chapter 601, Occupations Code, on the
8 effective date of this Act is continued without change in status
9 after the effective date of this Act.

10 (d) An inspection or other activity conducted by the
11 Department of State Health Services relating to radiologic
12 technology is considered to be an inspection or activity conducted
13 by the Texas Medical Radiologic Technology Board of Examiners or
14 Texas Medical Board.

15 SECTION 48. This Act takes effect September 1, 2007.