

## **BILL ANALYSIS**

S.B. 1079  
By: Duncan  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties assert that a majority of states currently license the services of radiologist assistants, and the parties note that radiologist assistants provide support and contribute to the delivery of health care imaging services. The parties contend that, even though radiologist assistants are often trained in Texas, they often relocate to other states to practice because of the lack of a registration and regulation process in this state. S.B. 1079 seeks to address this issue by creating a registration and regulation process for certain advanced-level medical radiologic technologists.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 3 and 4 of this bill.

### **ANALYSIS**

S.B. 1079 amends the Occupations Code to include among the radiologic procedures the executive commissioner of the Health and Human Services Commission is required to identify by rule that are dangerous or hazardous and that may only be performed by certain medical professionals such a radiologic procedure that may be performed by a registered radiologist assistant, defined in the bill, among other terms, as an advanced-level medical radiologic technologist, other than a practitioner, who is registered under the bill's provisions. The bill authorizes the executive commissioner, in adopting such rules, to consider whether a radiological procedure will be performed by a registered radiologist assistant, in addition to a registered nurse or a licensed physician assistant.

S.B. 1079 requires the Texas Medical Board to establish qualifications for a registered radiologist assistant to practice in Texas; establish requirements for an examination for registration to so practice; establish minimum education and training requirements necessary for such registration; prescribe the application form for such registration; and develop an approved program of mandatory continuing education and the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars is monitored and recorded. The bill authorizes the board, in addition to any fees paid to the board or money appropriated to the board, to receive and accept under the bill's provisions a gift, grant, donation, or other item of value from any source, including the United States or a private source. The bill establishes the registered radiologist assistant advisory committee that consists of five members appointed by the president of the board. The bill establishes the composition of the committee and provisions relating to the appointment of committee members.

S.B. 1079 requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue relating to registered radiologist assistants and requires the executive director of the board to prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs and services under the bill's provisions. The bill

requires the board to prepare information of public interest describing the functions of the board and the procedures by which complaints are filed and resolved under the bill's provisions and to make the information available to the public and appropriate state agencies.

S.B. 1079 requires the board by rule to establish methods by which consumers and service recipients are notified of certain contact information for the purpose of directing complaints about registered radiologist assistants to the board and sets out requirements relating to a record of a complaint maintained by the board. The bill requires the board to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution and establishes requirements relating to a person who reports a complaint by phone and to the notification of certain parties of the status of the investigation of a complaint.

S.B. 1079 sets out provisions relating to the information and documents the board is required to provide to a registration holder who is the subject of a formal complaint filed under the bill's provisions, specifies that the provision of information does not constitute a waiver of privilege or confidentiality, and establishes the information about a complaint required to be provided to a health care entity on written request. The bill provides for the confidentiality of investigative information in the possession of or received or gathered by the board, a board employee, or an agent relating to a registration holder, a registration application, or a criminal investigation or proceeding and authorizes certain investigative information to be disclosed to a licensing authority in another state or a territory or country in which the registration holder is licensed or registered or has applied for a license or registration or to a peer review committee reviewing an application for privileges or the qualifications of the registration holder with respect to retaining privileges.

S.B. 1079 requires the board to report investigative information in the possession of the board or a board employee or agent to the proper law enforcement agency if such information indicates a crime may have been committed and sets out provisions requiring the board to cooperate with and assist all law enforcement agencies conducting criminal investigations of a registration holder. The bill provides for the continued confidentiality of information disclosed by the board to a law enforcement agency and prohibits its disclosure by the law enforcement agency except as necessary to further the investigation. The bill requires a medical peer review committee, a quality assurance committee, a registered radiologist assistant, a registered radiologist assistant student, or a physician practicing medicine in Texas to report relevant information to the board related to the acts of a registered radiologist assistant in Texas if, in that person's opinion, the assistant poses a continuing threat to the public welfare through the person's practice as a registered radiologist assistant and prohibits the duty to report such a person from being nullified through contract. The bill provides for the immunity of a person who, without malice, furnishes records, information, or assistance to the board. The bill establishes that certain specified provisions and requirements relating to medical peer review under the Medical Practice Act apply to medical peer review regarding a registered radiologist assistant.

S.B. 1079 prohibits a person from practicing as a registered radiologist assistant unless the person is registered under the bill's provisions and prohibits a person from using in connection with the person's name the title "Registered Radiologist Assistant" or any other designation that would imply that the person is a registered radiologist assistant unless the person holds such a registration. The bill requires an applicant for registration to file a written application with the board on a form prescribed by the board and to pay the application fee set by the board. The bill requires a person, to be eligible for registration, to be a medical radiologic technologist certified under the Medical Radiologic Technologist Certification Act; have a baccalaureate degree, postbaccalaureate certificate, or graduate degree from an advanced academic program encompassing a nationally recognized radiologist assistant curriculum that incorporates a radiologist-directed clinical preceptorship; be certified as a registered radiologist assistant by the American Registry of Radiologic Technologists or be certified as a radiology practitioner assistant by the Certification Board for Radiology Practitioner Assistants; and be credentialed to

provide radiology services under the supervision of a radiologist. The bill sets out provisions relating to the eligibility of an applicant holding a license or registration as a radiologist assistant in another state for a registration in Texas and, in a temporary provision set to expire September 1, 2020, sets out provisions relating to the eligibility of a person to obtain a transitional registration as a registered radiologist assistant.

S.B. 1079 establishes provisions relating to the setting, deposit, collection, and use of fees by the board and the issuance and annual renewal of registration for a registered radiologist assistant. The bill requires the board by rule to adopt a system under which registrations expire on various dates during the year and establishes requirements regarding required fees for a registration renewal, notice of registration renewal, procedures by which a person may renew an unexpired or an expired registration, and the information a registration holder is required to file with the board.

S.B. 1079 requires the board to adopt rules to determine the scope of practice of a registered radiologist assistant and, in adopting such rules, to consider guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists. The bill authorizes the practice of a registered radiologist assistant to be performed in any place authorized by a delegating radiologist, including a clinic, hospital, health care center, or other institutional setting. The bill requires a registered radiologist assistant and the assistant's delegating radiologist to ensure that the registered radiologist assistant's scope of function is identified, the delegation of medical tasks is appropriate to the registered radiologist assistant's level of competence, the relationship between the registered radiologist assistant and the delegating radiologist and the access of the registered radiologist assistant to the delegating radiologist are defined, and a process is established for evaluating the registered radiologist assistant's performance.

S.B. 1079 requires the board by rule to establish guidelines for general supervision, direct supervision, and personal supervision of a registered radiologist assistant. The bill requires a supervising radiologist to determine what level of supervision to provide a registered radiologist assistant performing a procedure based on the registered radiologist assistant's technical ability, the procedure, the patient's history and clinical presentation, and other relevant factors. The bill prohibits a registered radiologist assistant from interpreting an image, making a diagnosis, or prescribing a medication or therapy.

S.B. 1079 authorizes the board by order to take certain disciplinary actions against an applicant or registration holder on a determination that the person committed conduct related to fraud or misrepresentation, conduct related to violation of the law, or conduct indicating a lack of fitness and establishes the types of actions for which a person may be determined to have committed such conduct. The bill specifies the board's rights when imposing certain disciplinary actions and authorizes the board to restore or reissue a registration or remove any disciplinary or corrective measure that the board has imposed.

S.B. 1079 authorizes the executive director of the board, the director's designee, or the secretary-treasurer of the board to issue a subpoena or subpoena duces tecum to conduct an investigation or a contested case proceeding and sets out provisions related to such subpoenas, including a specification that failure to timely comply with such a subpoena is a ground for disciplinary action by the board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena and a ground for the denial of a registration application.

S.B. 1079 establishes provisions relating to the protection of patient identity in a disciplinary investigation or proceeding, rules for disciplinary proceedings, and the required suspension of an incarcerated registered radiologist assistant and provides for the temporary suspension of a registration on a determination that the continued practice of a registered radiologist assistant would constitute a continuing threat to the public welfare.

S.B. 1079 authorizes the board by order to impose an administrative penalty against a person registered under the bill's provisions who violates the bill's provisions or a rule or order adopted under the bill's provisions. The bill specifies that the penalty may be in an amount not to exceed \$5,000 and requires the board to base the amount of the penalty on certain specified matters. The bill specifies that each day a violation continues or occurs is a separate violation for the purposes of imposing a penalty. The bill requires the board by rule to prescribe the procedures by which it may impose an administrative penalty and specifies that a proceeding relating to an administrative penalty is subject to the Administrative Procedure Act. The bill requires the board, if the board by order determines that a violation has occurred and imposes an administrative penalty, to give notice of the order to the person and requires the order to include a statement of the person's right to judicial review of the order.

S.B. 1079 requires the board to adopt the rules and procedures necessary to administer the bill's provisions not later than January 1, 2014, and specifies that a registered radiologist assistant is not required to hold a registration under the bill's provisions to practice in Texas before September 1, 2014.

**EFFECTIVE DATE**

September 1, 2013.