

By: Duncan

S.B. No. 1079

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of medical radiologic technology;  
providing penalties; imposing fees.

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

SECTION 1. Section 601.002, Occupations Code, is amended by amending Subdivision (3) and adding Subdivisions (5-a), (10-a), and (11-a) to read as follows:

(3) "Department" means the ~~[Texas]~~ Department of State Health Services.

(5-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(10-a) "Radiologist" means a physician specializing in radiology certified by or board-eligible for the American Board of Radiology, the American Osteopathic Board of Radiology, the British Royal College of Radiologists, or the Canadian College of Physicians and Surgeons.

(11-a) "Registered radiologist assistant" means an advanced-level medical radiologic technologist, other than a practitioner, who is registered under Chapter 207 as a registered radiologist assistant.

SECTION 2. Subsections (a) and (b), Section 601.056, Occupations Code, are amended to read as follows:

(a) The executive commissioner ~~[board]~~ with the assistance of other appropriate state agencies shall identify by rule

1 radiologic procedures, other than radiologic procedures described  
2 by Subsection (c), that are dangerous or hazardous and that may be  
3 performed only by a practitioner, ~~or~~ a medical radiologic  
4 technologist certified under this chapter, or a registered  
5 radiologist assistant.

6 (b) In adopting rules under Subsection (a), the executive  
7 commissioner ~~[board]~~ may consider whether the radiologic procedure  
8 will be performed by a registered nurse, ~~or~~ a licensed physician  
9 assistant, or a registered radiologist assistant.

10 SECTION 3. Subtitle C, Title 3, Occupations Code, is  
11 amended by adding Chapter 207 to read as follows:

12 CHAPTER 207. REGISTERED RADIOLOGIST ASSISTANTS

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 207.001. DEFINITIONS. In this chapter:

15 (1) "Board" means the Texas Medical Board.

16 (2) "Radiologist" means a physician specializing in  
17 radiology certified by the American Board of Radiology, the  
18 American Osteopathic Board of Radiology, the British Royal College  
19 of Radiologists, or the Canadian College of Physicians and  
20 Surgeons.

21 (3) "Registered radiologist assistant" means a person  
22 who is registered under this chapter as a registered radiologist  
23 assistant and who performs a variety of activities under the  
24 personal, direct, or general supervision of a radiologist in the  
25 areas of patient care, patient management, clinical imaging, and  
26 interventional procedures.

27 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

1        Sec. 207.051. GENERAL POWERS AND DUTIES. The board shall:

2            (1) establish qualifications for a registered  
3 radiologist assistant to practice in this state;

4            (2) establish requirements for an examination for  
5 registration to practice as a registered radiologist assistant;

6            (3) establish minimum education and training  
7 requirements necessary for registration to practice as a registered  
8 radiologist assistant;

9            (4) prescribe the application form for registration to  
10 practice as a registered radiologist assistant; and

11           (5) develop an approved program of mandatory  
12 continuing education and the manner in which attendance at all  
13 approved courses, clinics, forums, lectures, programs, or seminars  
14 is monitored and recorded.

15        Sec. 207.052. GIFTS, GRANTS, AND DONATIONS. In addition to  
16 any fees paid to the board or money appropriated to the board, the  
17 board may receive and accept under this chapter a gift, grant,  
18 donation, or other item of value from any source, including the  
19 United States or a private source.

20        Sec. 207.053. ADVISORY COMMITTEE. (a) The registered  
21 radiologist assistant advisory committee consists of five members  
22 appointed by the president of the board as follows:

23           (1) four registered radiologist assistant members  
24 with at least three years of experience as a registered radiologist  
25 assistant, two of whom must be engaged in practice in a clinical  
26 setting; and

27           (2) one radiologist member licensed in this state who

1 supervises a registered radiologist assistant.

2 (b) Appointments to the advisory committee shall be made  
3 without regard to the race, color, disability, sex, religion, age,  
4 or national origin of the appointee.

5 (c) Notwithstanding Subsection (a)(1), the president of the  
6 board may appoint to the advisory committee those persons who:

7 (1) before January 1, 2015, have met the eligibility  
8 requirements of Section 207.153 for the three years preceding the  
9 date of appointment, regardless of whether the members hold a  
10 registration under this chapter; and

11 (2) before January 1, 2018, hold a registration under  
12 this chapter and who have met the eligibility requirements of  
13 Section 207.153 for the three years preceding the date of  
14 appointment, regardless of whether the members have held a  
15 registration under this chapter for the three years preceding the  
16 date of appointment.

17 (d) Subsection (c) and this subsection expire December 31,  
18 2018.

19 SUBCHAPTER C. PUBLIC INTEREST INFORMATION; COMPLAINT AND

20 INVESTIGATIVE INFORMATION

21 Sec. 207.101. PUBLIC PARTICIPATION. (a) The board shall  
22 develop and implement policies that provide the public with a  
23 reasonable opportunity to appear before the board and speak on any  
24 issue relating to registered radiologist assistants.

25 (b) The executive director of the board shall prepare and  
26 maintain a written plan that describes how a person who does not  
27 speak English may be provided reasonable access to the board's

1 programs and services under this chapter.

2 Sec. 207.102. PUBLIC INTEREST INFORMATION. (a) The board  
3 shall prepare information of public interest describing the  
4 functions of the board and the procedures by which complaints are  
5 filed and resolved under this chapter.

6 (b) The board shall make the information available to the  
7 public and appropriate state agencies.

8 Sec. 207.103. COMPLAINTS. (a) The board by rule shall  
9 establish methods by which consumers and service recipients are  
10 notified of the name, mailing address, and telephone number of the  
11 board for the purpose of directing complaints about registered  
12 radiologist assistants to the board.

13 (b) The board shall list with its regular telephone number  
14 any toll-free telephone number established under other state law  
15 that may be called to present a complaint about a registered  
16 radiologist assistant.

17 Sec. 207.104. RECORDS OF COMPLAINTS. (a) The board shall  
18 maintain a file on each written complaint filed with the board under  
19 this chapter. The file must include:

- 20 (1) the name of the person who filed the complaint;  
21 (2) the date the complaint is received by the board;  
22 (3) the subject matter of the complaint;  
23 (4) the name of each person contacted in relation to  
24 the complaint;  
25 (5) a summary of the results of the review or  
26 investigation of the complaint; and  
27 (6) an explanation of the reason the file was closed,

1 if the board closed the file without taking action other than to  
2 investigate the complaint.

3 (b) The board shall provide to the person filing the  
4 complaint and to each person who is a subject of the complaint a  
5 copy of the board's policies and procedures relating to complaint  
6 investigation and resolution. A person who reports a complaint by  
7 phone shall be given information on how to file a written complaint.

8 (c) The board, at least quarterly and until final  
9 disposition of the complaint, shall notify the person filing the  
10 complaint and each person who is a subject of the complaint of the  
11 status of the investigation unless the notice would jeopardize an  
12 undercover investigation.

13 Sec. 207.105. REGISTRATION HOLDER ACCESS TO COMPLAINT  
14 INFORMATION. (a) The board shall provide a registration holder  
15 who is the subject of a formal complaint filed under this chapter  
16 with access to all information in its possession that the board  
17 intends to offer into evidence in presenting its case in chief at  
18 the contested hearing on the complaint, subject to any other  
19 privilege or restriction established by rule, statute, or legal  
20 precedent. The board shall provide the information not later than  
21 the 45th day after receipt of a written request from the  
22 registration holder or the registration holder's counsel, unless  
23 good cause is shown for delay.

24 (b) Notwithstanding Subsection (a), the board is not  
25 required to provide:

26 (1) board investigative reports;

27 (2) investigative memoranda;

- 1           (3) the identity of a nontestifying complainant;
- 2           (4) attorney-client communications;
- 3           (5) attorney work product; or
- 4           (6) other material covered by a privilege recognized  
5 by the Texas Rules of Civil Procedure or the Texas Rules of  
6 Evidence.

7           (c) The provision of information does not constitute a  
8 waiver of privilege or confidentiality under this chapter or other  
9 law.

10           Sec. 207.106. HEALTH CARE ENTITY REQUEST FOR INFORMATION.

11 On the written request of a health care entity, the board shall  
12 provide to the entity:

13           (1) information about a complaint filed against a  
14 registration holder that was resolved after investigation by:

15                   (A) a disciplinary order of the board; or

16                   (B) an agreed settlement; and

17           (2) the basis of and current status of any complaint  
18 under active investigation that has been referred by the executive  
19 director of the board or the director's designee for legal action.

20           Sec. 207.107. CONFIDENTIALITY OF INVESTIGATIVE  
21 INFORMATION. A complaint, adverse report, investigation file, or  
22 other report, the identity of and reports made by a physician or  
23 registered radiologist assistant performing or supervising  
24 compliance monitoring for the board, or other investigative  
25 information in the possession of or received or gathered by the  
26 board, a board employee, or an agent relating to a registration  
27 holder, a registration application, or a criminal investigation or

1 proceeding is privileged and confidential and is not subject to  
2 discovery, subpoena, or other means of legal compulsion for release  
3 to any person other than the board or a board employee or agent  
4 involved in registration holder discipline.

5 Sec. 207.108. PERMITTED DISCLOSURE OF INVESTIGATIVE  
6 INFORMATION. (a) Investigative information in the possession of  
7 the board, a board employee, or an agent that relates to the  
8 discipline of a registration holder may be disclosed to:

9 (1) a licensing authority in another state or a  
10 territory or country in which the registration holder is licensed  
11 or registered or has applied for a license or registration; or

12 (2) a peer review committee reviewing:  
13 (A) an application for privileges; or  
14 (B) the qualifications of the registration  
15 holder with respect to retaining privileges.

16 (b) If the investigative information in the possession of  
17 the board or a board employee or agent indicates a crime may have  
18 been committed, the board shall report the information to the  
19 proper law enforcement agency. The board shall cooperate with and  
20 assist all law enforcement agencies conducting criminal  
21 investigations of a registration holder by providing information  
22 relevant to the investigation. Confidential information disclosed  
23 by the board to a law enforcement agency remains confidential and  
24 may not be disclosed by the law enforcement agency except as  
25 necessary to further the investigation.

26 Sec. 207.109. IMMUNITY AND REPORTING REQUIREMENTS. (a) A  
27 medical peer review committee in this state, a quality assurance



1 committee in this state, a registered radiologist assistant, a  
2 registered radiologist assistant student, or a physician  
3 practicing medicine in this state shall report relevant information  
4 to the board related to the acts of a registered radiologist  
5 assistant in this state if, in that person's opinion, a registered  
6 radiologist assistant poses a continuing threat to the public  
7 welfare through the person's practice as a registered radiologist  
8 assistant. The duty to report under this section may not be  
9 nullified through contract.

10 (b) A person who, without malice, furnishes records,  
11 information, or assistance to the board under this section is  
12 immune from any civil liability arising from that action in a suit  
13 against the person brought by or on behalf of a registered  
14 radiologist assistant who is reported under this section.

15 (c) Sections 160.002, 160.003, 160.006, 160.007, 160.009,  
16 160.013, and 160.014 apply to medical peer review regarding a  
17 registered radiologist assistant.

18 SUBCHAPTER D. REGISTRATION REQUIREMENTS

19 Sec. 207.151. REGISTRATION REQUIRED. (a) A person may not  
20 practice as a registered radiologist assistant unless the person is  
21 registered under this chapter.

22 (b) Unless the person holds a registration under this  
23 chapter, a person may not use, in connection with the person's name:

- 24 (1) the title "Registered Radiologist Assistant"; or  
25 (2) any other designation that would imply that the  
26 person is a registered radiologist assistant.

27 Sec. 207.152. REGISTRATION APPLICATION. An applicant for

1 registration must:

2 (1) file a written application with the board on a form  
3 prescribed by the board; and

4 (2) pay the application fee set by the board.

5 Sec. 207.153. REGISTRATION ELIGIBILITY. To be eligible for  
6 a registration, a person must:

7 (1) be a medical radiologic technologist certified  
8 under Chapter 601;

9 (2) have a baccalaureate degree, postbaccalaureate  
10 certificate, or graduate degree from an advanced academic program  
11 encompassing a nationally recognized radiologist assistant  
12 curriculum that incorporates a radiologist-directed clinical  
13 preceptorship;

14 (3) be certified as a registered radiologist assistant  
15 by the American Registry of Radiologic Technologists or be  
16 certified as a radiology practitioner assistant by the  
17 Certification Board for Radiology Practitioner Assistants; and

18 (4) be credentialed to provide radiology services  
19 under the supervision of a radiologist.

20 Sec. 207.1535. ELIGIBILITY OF APPLICANT HOLDING  
21 OUT-OF-STATE LICENSE. (a) Notwithstanding Section 207.153, a  
22 person is eligible for a registration if the person:

23 (1) was licensed or otherwise registered as a  
24 radiologist assistant in another state that has requirements at  
25 least as stringent as the requirements of this chapter;

26 (2) applies for a registration within a period set by  
27 the board; and

1           (3) meets other requirements as determined by the  
2 board.

3           (b) A registration issued under this section must be renewed  
4 under Section 207.156.

5           (c) A registration issued under this section expires on the  
6 first anniversary of the date the registration is issued and may not  
7 be renewed except as provided by Subsection (b).

8           Sec. 207.1536. ELIGIBILITY FOR TRANSITIONAL REGISTRATION.

9           (a) Notwithstanding Section 207.153, a person is eligible for a  
10 registration if the person:

11           (1) applies for the registration before September 1,  
12 2017; and

13           (2) meets the requirements of Section 207.153 other  
14 than Section 207.153(2).

15           (b) A registration issued under the eligibility  
16 requirements of this section must be renewed under Section 207.156.

17           (c) A registration issued under the eligibility  
18 requirements of this section expires on September 1, 2018, and may  
19 not be renewed except as provided by Subsection (d).

20           (d) A person who meets the eligibility requirements of  
21 Section 207.153 on September 1, 2018, may renew the person's  
22 registration. A person who does not meet the eligibility  
23 requirements of Section 207.153 on that date may not renew the  
24 person's registration and may not practice as a registered  
25 radiologist assistant after that date unless the person applies for  
26 and obtains a new registration.

27           (e) This section expires September 1, 2020.

1       Sec. 207.154. FEES. (a) The board shall set and collect  
2 fees in amounts that are reasonable and necessary to cover the costs  
3 of administering and enforcing this chapter without the use of any  
4 other funds generated by the board.

5       (b) Fees collected by the board under this chapter shall be  
6 deposited by the board in the state treasury to the credit of an  
7 account in the general revenue fund and may be spent to cover the  
8 costs of administering and enforcing this chapter. At the end of  
9 each fiscal biennium, the comptroller shall transfer any surplus  
10 money remaining in the account to the general revenue fund.

11       (c) All money paid to the board under this chapter is  
12 subject to Subchapter F, Chapter 404, Government Code.

13       Sec. 207.155. ISSUANCE AND RENEWAL OF REGISTRATION. The  
14 board shall issue a registered radiologist assistant registration  
15 in this state to a person who meets the requirements of this chapter  
16 and the rules adopted under this chapter.

17       Sec. 207.156. REGISTRATION RENEWAL. (a) The board by rule  
18 shall provide for the annual renewal of a registered radiologist  
19 assistant registration.

20       (b) The board by rule may adopt a system under which  
21 registrations expire on various dates during the year. For the year  
22 in which the registration expiration date is changed, registration  
23 fees shall be prorated on a monthly basis so that each registration  
24 holder pays only that portion of the registration fee that is  
25 allocable to the number of months during which the registration is  
26 valid. On renewal of the registration on the new expiration date,  
27 the total registration renewal fee is payable.

1       Sec. 207.157. NOTICE OF REGISTRATION RENEWAL. At least 30  
2 days before the expiration of a person's registration, the board  
3 shall send written notice of the impending registration expiration  
4 to the person at the registration holder's last known address  
5 according to the records of the board.

6       Sec. 207.158. PROCEDURE FOR RENEWAL. (a) A person who is  
7 otherwise eligible to renew a registration may renew an unexpired  
8 registration by paying the required renewal fee to the board before  
9 the expiration date of the registration. A person whose  
10 registration has expired may not engage in activities that require  
11 a registration until the registration has been renewed under this  
12 section.

13       (b) If the person's registration has been expired for 90  
14 days or less, the person may renew the registration by paying to the  
15 board one and one-half times the required renewal fee.

16       (c) If the person's registration has been expired for longer  
17 than 90 days but less than one year, the person may renew the  
18 registration by paying to the board two times the required renewal  
19 fee.

20       (d) If the person's registration has been expired for one  
21 year or longer, the person may not renew the registration. The  
22 person may obtain a new registration by complying with the  
23 requirements and procedures for obtaining an original  
24 registration.

25       Sec. 207.159. REGISTRATION HOLDER INFORMATION. (a) Each  
26 registration holder shall file with the board:

27           (1) the registration holder's mailing address;

1           (2) the address of the registration holder's  
2 residence;

3           (3) the mailing address of each of the registration  
4 holder's offices; and

5           (4) the address for the location of each of the  
6 registration holder's offices if that address is different from the  
7 office's mailing address.

8           (b) A registration holder shall:

9           (1) notify the board of a change of the registration  
10 holder's residence or business address; and

11           (2) provide the board with the registration holder's  
12 new address not later than the 30th day after the date the address  
13 change occurs.

14                           SUBCHAPTER E. SCOPE OF PRACTICE

15           Sec. 207.201. SCOPE OF PRACTICE. (a) The board shall  
16 adopt rules to determine the scope of practice of a registered  
17 radiologist assistant. The board shall consider guidelines adopted  
18 by the American College of Radiology, the American Society of  
19 Radiologic Technologists, and the American Registry of Radiologic  
20 Technologists in adopting rules under this subsection.

21           (b) The practice of a registered radiologist assistant may  
22 be performed in any place authorized by a delegating radiologist,  
23 including a clinic, hospital, health care center, or other  
24 institutional setting.

25           Sec. 207.202. ESTABLISHMENT OF CERTAIN FUNCTIONS AND  
26 STANDARDS. A registered radiologist assistant and the registered  
27 radiologist assistant's delegating radiologist shall ensure that:

1           (1) the registered radiologist assistant's scope of  
2 function is identified;

3           (2) the delegation of medical tasks is appropriate to  
4 the registered radiologist assistant's level of competence;

5           (3) the relationship between the registered  
6 radiologist assistant and the delegating radiologist and the access  
7 of the registered radiologist assistant to the delegating  
8 radiologist are defined; and

9           (4) a process is established for evaluating the  
10 registered radiologist assistant's performance.

11           Sec. 207.203. SUPERVISION OF REGISTERED RADIOLOGIST  
12 ASSISTANTS. (a) In this section:

13           (1) "Direct supervision" means supervision provided  
14 by a radiologist who is present in the same area or an area adjacent  
15 to the area where a registered radiologist assistant performs a  
16 procedure and who is immediately available to provide assistance  
17 and direction during the performance of the procedure.

18           (2) "General supervision" means supervision provided  
19 by a radiologist who provides overall direction and control of a  
20 registered radiologist assistant's performance of a procedure but  
21 who is not required to be present during the performance of the  
22 procedure.

23           (3) "Personal supervision" means supervision provided  
24 by a radiologist who is present in the room where a registered  
25 radiologist assistant performs a procedure.

26           (b) The board by rule shall establish guidelines for general  
27 supervision, direct supervision, and personal supervision of a

1 registered radiologist assistant.

2 (c) A supervising radiologist shall determine whether to  
3 provide general supervision, direct supervision, or personal  
4 supervision of a registered radiologist assistant performing a  
5 procedure based on the registered radiologist assistant's  
6 technical ability, the procedure, the patient's history and  
7 clinical presentation, and other relevant factors.

8 Sec. 207.204. PROHIBITED PRACTICES. A registered  
9 radiologist assistant may not:

- 10 (1) interpret an image;
- 11 (2) make a diagnosis; or
- 12 (3) prescribe a medication or therapy.

13 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

14 Sec. 207.251. DISCIPLINARY ACTIONS BY THE BOARD. (a) On a  
15 determination that an applicant or registration holder committed an  
16 act described by Section 207.252, 207.253, or 207.254, the board by  
17 order may take any of the following actions:

- 18 (1) deny the person's registration application or  
19 revoke the person's registration;
- 20 (2) require the person to participate in a program of  
21 education or counseling prescribed by the board;
- 22 (3) stay enforcement of an order and place the person  
23 on probation;
- 24 (4) require the person to complete additional  
25 training;
- 26 (5) suspend, limit, or restrict the person's  
27 registration, including:



1           (A) limiting the practice of the person to, or  
2 excluding from the person's practice, one or more specified  
3 activities of radiologist assisting; or

4           (B) stipulating periodic board review;

5           (6) assess an administrative penalty against the  
6 person as provided by Section 207.301;

7           (7) order the person to perform public service; or

8           (8) administer a public reprimand.

9           (b) If the board stays enforcement of an order and places a  
10 person on probation, the board retains the right to vacate the  
11 probationary stay and enforce the original order for noncompliance  
12 with the terms of probation or impose any other remedial measure or  
13 sanction authorized by this section.

14           (c) The board may restore or reissue a registration or  
15 remove any disciplinary or corrective measure that the board has  
16 imposed.

17           Sec. 207.252. CONDUCT RELATED TO FRAUD OR  
18 MISREPRESENTATION. The board may take action under Section 207.251  
19 against an applicant or registration holder who:

20           (1) fraudulently or deceptively obtains or attempts to  
21 obtain a registration;

22           (2) fraudulently or deceptively uses a registration;

23           (3) falsely represents that the person is a  
24 radiologist;

25           (4) acts in an unprofessional or dishonorable manner  
26 that is likely to deceive, defraud, or injure the public;

27           (5) fraudulently alters any registered radiologist

1 assistant registration, certificate, or diploma;

2 (6) uses any registered radiologist assistant  
3 registration, certificate, or diploma that has been fraudulently  
4 purchased, issued, or counterfeited or that has been materially  
5 altered;

6 (7) directly or indirectly aids or abets the practice  
7 as a registered radiologist assistant by any person not registered  
8 by the board to practice as a registered radiologist assistant; or

9 (8) unlawfully advertises in a false, misleading, or  
10 deceptive manner as defined by Section 101.201.

11 Sec. 207.253. CONDUCT RELATED TO VIOLATION OF LAW. The  
12 board may take action under Section 207.251 against an applicant or  
13 registration holder who:

14 (1) violates this chapter or a rule adopted under this  
15 chapter;

16 (2) is convicted of a felony, placed on deferred  
17 adjudication, or placed in a pretrial diversion program; or

18 (3) violates state law if the violation is connected  
19 with practice as a registered radiologist assistant.

20 Sec. 207.254. CONDUCT INDICATING LACK OF FITNESS. (a) The  
21 board may take action under Section 207.251 against an applicant or  
22 registration holder who:

23 (1) habitually uses drugs or intoxicating liquors to  
24 the extent that, in the board's opinion, the person cannot safely  
25 perform as a registered radiologist assistant;

26 (2) has been adjudicated as mentally incompetent;

27 (3) has a mental or physical condition that renders

1 the person unable to safely perform as a registered radiologist  
2 assistant;

3 (4) has committed an act of moral turpitude;

4 (5) has failed to practice as a registered radiologist  
5 assistant in an acceptable manner consistent with public health and  
6 welfare;

7 (6) has had the person's registration or other  
8 authorization to practice as a registered radiologist assistant  
9 suspended, revoked, or restricted;

10 (7) has had other disciplinary action taken by another  
11 state or by the uniformed services of the United States regarding  
12 practice as a registered radiologist assistant;

13 (8) is removed or suspended from, or has disciplinary  
14 action taken by the person's peers in, any professional association  
15 or society or is being disciplined by a licensed hospital or medical  
16 staff of a hospital, including removal, suspension, limitation of  
17 privileges, or other disciplinary action, if that action, in the  
18 opinion of the board, was based on unprofessional conduct or  
19 professional incompetence that was likely to harm the public;

20 (9) has repeated or recurring meritorious health care  
21 liability claims that, in the board's opinion, are evidence of  
22 professional incompetence likely to harm the public; or

23 (10) sexually abuses or exploits another person during  
24 the registration holder's practice as a registered radiologist  
25 assistant.

26 (b) For the purpose of Subsection (a)(7), a certified copy  
27 of the record of the state or uniformed services of the United

1 States taking the action constitutes conclusive evidence of that  
2 action.

3 (c) An action described by Subsection (a)(8) does not  
4 constitute state action on the part of the association, society, or  
5 hospital medical staff.

6 Sec. 207.255. SUBPOENA. (a) The executive director of the  
7 board, the director's designee, or the secretary-treasurer of the  
8 board may issue a subpoena or subpoena duces tecum:

9 (1) to conduct an investigation or a contested case  
10 proceeding related to:

11 (A) alleged misconduct by a registered  
12 radiologist assistant;

13 (B) an alleged violation of this chapter or  
14 another law related to the practice of a registered radiologist  
15 assistant; or

16 (C) the provision of health care under this  
17 chapter; or

18 (2) for purposes of determining whether to issue,  
19 deny, suspend, restrict, or revoke a registration under this  
20 chapter.

21 (b) Failure to timely comply with a subpoena issued under  
22 this section is a ground for:

23 (1) disciplinary action by the board or another  
24 licensing or regulatory agency with jurisdiction over the person  
25 subject to the subpoena; and

26 (2) denial of a registration application.

27 Sec. 207.256. PROTECTION OF PATIENT IDENTITY. In a

1 disciplinary investigation or proceeding conducted under this  
2 chapter, the board shall protect the identity of each patient whose  
3 medical records are examined and used in a public proceeding unless  
4 the patient:

- 5           (1) testifies in the public proceeding; or  
6           (2) submits a written release in regard to the  
7 patient's records or identity.

8           Sec. 207.257. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of  
9 practice adopted under this chapter by the board under Section  
10 2001.004, Government Code, applicable to the proceedings for a  
11 disciplinary action may not conflict with rules adopted by the  
12 State Office of Administrative Hearings.

13           Sec. 207.258. REQUIRED SUSPENSION OF INCARCERATED  
14 REGISTERED RADIOLOGIST ASSISTANT. Regardless of the offense, the  
15 board shall suspend the registration of a registered radiologist  
16 assistant serving a prison term in a state or federal penitentiary  
17 during the term of the incarceration.

18           Sec. 207.259. TEMPORARY SUSPENSION. (a) The president of  
19 the board, with board approval, shall appoint a three-member  
20 disciplinary panel consisting of board members to determine whether  
21 a registered radiologist assistant's registration should be  
22 temporarily suspended.

23           (b) If the disciplinary panel determines from the evidence  
24 or information presented to the panel that a person registered to  
25 practice as a registered radiologist assistant would, by the  
26 person's continuation in practice, constitute a continuing threat  
27 to the public welfare, the disciplinary panel shall temporarily

1 suspend the registration of that person.

2 (c) A registration may be suspended under this section  
3 without notice or hearing on the complaint if:

4 (1) institution of proceedings for a hearing before  
5 the board is initiated simultaneously with the temporary  
6 suspension; and

7 (2) a hearing is held under Chapter 2001, Government  
8 Code, and this chapter as soon as possible.

9 (d) Notwithstanding Chapter 551, Government Code, the  
10 disciplinary panel may hold a meeting by telephone conference call  
11 if immediate action is required and convening the disciplinary  
12 panel at one location is inconvenient for any member of the panel.

13 SUBCHAPTER G. ADMINISTRATIVE PENALTY

14 Sec. 207.301. ADMINISTRATIVE PENALTY. (a) The board by  
15 order may impose an administrative penalty against a person  
16 registered under this chapter who violates this chapter or a rule or  
17 order adopted under this chapter.

18 (b) The penalty may be in an amount not to exceed \$5,000.  
19 Each day a violation continues or occurs is a separate violation for  
20 purposes of imposing a penalty.

21 (c) The board shall base the amount of the penalty on:

22 (1) the severity of patient harm;

23 (2) the severity of economic harm to any person;

24 (3) the severity of any environmental harm;

25 (4) the increased potential for harm to the public;

26 (5) any attempted concealment of misconduct;

27 (6) any premeditated or intentional misconduct;

1           (7) the motive for the violation;

2           (8) any prior misconduct of a similar or related  
3 nature;

4           (9) the registration holder's disciplinary history;

5           (10) any prior written warnings or written  
6 admonishments from any government agency or official regarding  
7 statutes or rules relating to the misconduct;

8           (11) whether the violation is of a board order;

9           (12) the person's failure to implement remedial  
10 measures to correct or mitigate harm from the misconduct;

11           (13) the person's lack of rehabilitative potential or  
12 likelihood of future misconduct of a similar nature;

13           (14) any relevant circumstances increasing the  
14 seriousness of the misconduct; and

15           (15) any other matter that justice may require.

16           (d) The board by rule shall prescribe the procedures by  
17 which it may impose an administrative penalty. A proceeding under  
18 this section is subject to Chapter 2001, Government Code.

19           (e) If the board by order determines that a violation has  
20 occurred and imposes an administrative penalty, the board shall  
21 give notice to the person of the order. The notice must include a  
22 statement of the person's right to judicial review of the order.

23           SECTION 4. Not later than January 1, 2014, the Texas Medical  
24 Board shall adopt the rules and procedures necessary to administer  
25 Chapter 207, Occupations Code, as added by this Act.

26           SECTION 5. Notwithstanding Chapter 207, Occupations Code,  
27 as added by this Act, a registered radiologist assistant is not

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1 required to hold a registration under that chapter to practice as a  
2 registered radiologist assistant in this state before September 1,  
3 2014.

4 SECTION 6. This Act takes effect September 1, 2013.