

1-1 By: Duncan S.B. No. 1079  
 1-2 (In the Senate - Filed March 4, 2013; March 12, 2013, read  
 1-3 first time and referred to Committee on Health and Human Services;  
 1-4 April 15, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 15, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1079 By: Nelson

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of medical radiologic technology;  
 1-22 providing penalties; imposing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 601.002, Occupations Code, is amended by  
 1-25 amending Subdivision (3) and adding Subdivisions (5-a), (10-a), and  
 1-26 (11-a) to read as follows:

1-27 (3) "Department" means the [~~Texas~~] Department of State  
 1-28 Health Services.

1-29 (5-a) "Executive commissioner" means the executive  
 1-30 commissioner of the Health and Human Services Commission.

1-31 (10-a) "Radiologist" means a physician specializing  
 1-32 in radiology certified by or board-eligible for the American Board  
 1-33 of Radiology, the American Osteopathic Board of Radiology, the  
 1-34 British Royal College of Radiologists, or the Canadian College of  
 1-35 Physicians and Surgeons.

1-36 (11-a) "Registered radiologist assistant" means an  
 1-37 advanced-level medical radiologic technologist, other than a  
 1-38 practitioner, who is registered under Chapter 207 as a registered  
 1-39 radiologist assistant.

1-40 SECTION 2. Subsections (a) and (b), Section 601.056,  
 1-41 Occupations Code, are amended to read as follows:

1-42 (a) The executive commissioner [~~board~~] with the assistance  
 1-43 of other appropriate state agencies shall identify by rule  
 1-44 radiologic procedures, other than radiologic procedures described  
 1-45 by Subsection (c), that are dangerous or hazardous and that may be  
 1-46 performed only by a practitioner, ~~or~~ a medical radiologic  
 1-47 technologist certified under this chapter, or a registered  
 1-48 radiologist assistant.

1-49 (b) In adopting rules under Subsection (a), the executive  
 1-50 commissioner [~~board~~] may consider whether the radiologic procedure  
 1-51 will be performed by a registered nurse, ~~or~~ a licensed physician  
 1-52 assistant, or a registered radiologist assistant.

1-53 SECTION 3. Subtitle C, Title 3, Occupations Code, is  
 1-54 amended by adding Chapter 207 to read as follows:

1-55 CHAPTER 207. REGISTERED RADIOLOGIST ASSISTANTS

1-56 SUBCHAPTER A. GENERAL PROVISIONS

1-57 Sec. 207.001. DEFINITIONS. In this chapter:

1-58 (1) "Board" means the Texas Medical Board.

1-59 (2) "Radiologist" means a physician specializing in  
 1-60 radiology certified by the American Board of Radiology, the

2-1 American Osteopathic Board of Radiology, the British Royal College  
2-2 of Radiologists, or the Canadian College of Physicians and  
2-3 Surgeons.

2-4 (3) "Registered radiologist assistant" means a person  
2-5 who is registered under this chapter as a registered radiologist  
2-6 assistant and who performs a variety of activities under the  
2-7 personal, direct, or general supervision of a radiologist in the  
2-8 areas of patient care, patient management, clinical imaging, and  
2-9 interventional procedures.

2-10 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

2-11 Sec. 207.051. GENERAL POWERS AND DUTIES. The board shall:

2-12 (1) establish qualifications for a registered  
2-13 radiologist assistant to practice in this state;

2-14 (2) establish requirements for an examination for  
2-15 registration to practice as a registered radiologist assistant;

2-16 (3) establish minimum education and training  
2-17 requirements necessary for registration to practice as a registered  
2-18 radiologist assistant;

2-19 (4) prescribe the application form for registration to  
2-20 practice as a registered radiologist assistant; and

2-21 (5) develop an approved program of mandatory  
2-22 continuing education and the manner in which attendance at all  
2-23 approved courses, clinics, forums, lectures, programs, or seminars  
2-24 is monitored and recorded.

2-25 Sec. 207.052. GIFTS, GRANTS, AND DONATIONS. In addition to  
2-26 any fees paid to the board or money appropriated to the board, the  
2-27 board may receive and accept under this chapter a gift, grant,  
2-28 donation, or other item of value from any source, including the  
2-29 United States or a private source.

2-30 Sec. 207.053. ADVISORY COMMITTEE. (a) The registered  
2-31 radiologist assistant advisory committee consists of five members  
2-32 appointed by the president of the board as follows:

2-33 (1) four registered radiologist assistant members  
2-34 with at least three years of experience as a registered radiologist  
2-35 assistant, two of whom must be engaged in practice in a clinical  
2-36 setting; and

2-37 (2) one radiologist member licensed in this state who  
2-38 supervises a registered radiologist assistant.

2-39 (b) Appointments to the advisory committee shall be made  
2-40 without regard to the race, color, disability, sex, religion, age,  
2-41 or national origin of the appointee.

2-42 (c) Notwithstanding Subsection (a)(1), the president of the  
2-43 board may appoint to the advisory committee those persons who:

2-44 (1) before January 1, 2015, have met the eligibility  
2-45 requirements of Section 207.153 for the three years preceding the  
2-46 date of appointment, regardless of whether the members hold a  
2-47 registration under this chapter; and

2-48 (2) before January 1, 2018, hold a registration under  
2-49 this chapter and who have met the eligibility requirements of  
2-50 Section 207.153 for the three years preceding the date of  
2-51 appointment, regardless of whether the members have held a  
2-52 registration under this chapter for the three years preceding the  
2-53 date of appointment.

2-54 (d) Subsection (c) and this subsection expire December 31,  
2-55 2018.

2-56 SUBCHAPTER C. PUBLIC INTEREST INFORMATION; COMPLAINT AND

2-57 INVESTIGATIVE INFORMATION

2-58 Sec. 207.101. PUBLIC PARTICIPATION. (a) The board shall  
2-59 develop and implement policies that provide the public with a  
2-60 reasonable opportunity to appear before the board and speak on any  
2-61 issue relating to registered radiologist assistants.

2-62 (b) The executive director of the board shall prepare and  
2-63 maintain a written plan that describes how a person who does not  
2-64 speak English may be provided reasonable access to the board's  
2-65 programs and services under this chapter.

2-66 Sec. 207.102. PUBLIC INTEREST INFORMATION. (a) The board  
2-67 shall prepare information of public interest describing the  
2-68 functions of the board and the procedures by which complaints are  
2-69 filed and resolved under this chapter.

3-1 (b) The board shall make the information available to the  
3-2 public and appropriate state agencies.

3-3 Sec. 207.103. COMPLAINTS. (a) The board by rule shall  
3-4 establish methods by which consumers and service recipients are  
3-5 notified of the name, mailing address, and telephone number of the  
3-6 board for the purpose of directing complaints about registered  
3-7 radiologist assistants to the board.

3-8 (b) The board shall list with its regular telephone number  
3-9 any toll-free telephone number established under other state law  
3-10 that may be called to present a complaint about a registered  
3-11 radiologist assistant.

3-12 Sec. 207.104. RECORDS OF COMPLAINTS. (a) The board shall  
3-13 maintain a file on each written complaint filed with the board under  
3-14 this chapter. The file must include:

- 3-15 (1) the name of the person who filed the complaint;
- 3-16 (2) the date the complaint is received by the board;
- 3-17 (3) the subject matter of the complaint;
- 3-18 (4) the name of each person contacted in relation to  
3-19 the complaint;

3-20 (5) a summary of the results of the review or  
3-21 investigation of the complaint; and

3-22 (6) an explanation of the reason the file was closed,  
3-23 if the board closed the file without taking action other than to  
3-24 investigate the complaint.

3-25 (b) The board shall provide to the person filing the  
3-26 complaint and to each person who is a subject of the complaint a  
3-27 copy of the board's policies and procedures relating to complaint  
3-28 investigation and resolution. A person who reports a complaint by  
3-29 phone shall be given information on how to file a written complaint.

3-30 (c) The board, at least quarterly and until final  
3-31 disposition of the complaint, shall notify the person filing the  
3-32 complaint and each person who is a subject of the complaint of the  
3-33 status of the investigation unless the notice would jeopardize an  
3-34 undercover investigation.

3-35 Sec. 207.105. REGISTRATION HOLDER ACCESS TO COMPLAINT  
3-36 INFORMATION. (a) The board shall provide a registration holder  
3-37 who is the subject of a formal complaint filed under this chapter  
3-38 with access to all information in its possession that the board  
3-39 intends to offer into evidence in presenting its case in chief at  
3-40 the contested hearing on the complaint, subject to any other  
3-41 privilege or restriction established by rule, statute, or legal  
3-42 precedent. The board shall provide the information not later than  
3-43 the 45th day after receipt of a written request from the  
3-44 registration holder or the registration holder's counsel, unless  
3-45 good cause is shown for delay.

3-46 (b) Notwithstanding Subsection (a), the board is not  
3-47 required to provide:

- 3-48 (1) board investigative reports;
- 3-49 (2) investigative memoranda;
- 3-50 (3) the identity of a nontestifying complainant;
- 3-51 (4) attorney-client communications;
- 3-52 (5) attorney work product; or
- 3-53 (6) other material covered by a privilege recognized

3-54 by the Texas Rules of Civil Procedure or the Texas Rules of  
3-55 Evidence.

3-56 (c) The provision of information does not constitute a  
3-57 waiver of privilege or confidentiality under this chapter or other  
3-58 law.

3-59 Sec. 207.106. HEALTH CARE ENTITY REQUEST FOR INFORMATION.  
3-60 On the written request of a health care entity, the board shall  
3-61 provide to the entity:

3-62 (1) information about a complaint filed against a  
3-63 registration holder that was resolved after investigation by:

- 3-64 (A) a disciplinary order of the board; or
- 3-65 (B) an agreed settlement; and

3-66 (2) the basis of and current status of any complaint  
3-67 under active investigation that has been referred by the executive  
3-68 director of the board or the director's designee for legal action.

3-69 Sec. 207.107. CONFIDENTIALITY OF INVESTIGATIVE

4-1 INFORMATION. A complaint, adverse report, investigation file, or  
 4-2 other report, the identity of and reports made by a physician or  
 4-3 registered radiologist assistant performing or supervising  
 4-4 compliance monitoring for the board, or other investigative  
 4-5 information in the possession of or received or gathered by the  
 4-6 board, a board employee, or an agent relating to a registration  
 4-7 holder, a registration application, or a criminal investigation or  
 4-8 proceeding is privileged and confidential and is not subject to  
 4-9 discovery, subpoena, or other means of legal compulsion for release  
 4-10 to any person other than the board or a board employee or agent  
 4-11 involved in registration holder discipline.

4-12 Sec. 207.108. PERMITTED DISCLOSURE OF INVESTIGATIVE  
 4-13 INFORMATION. (a) Investigative information in the possession of  
 4-14 the board, a board employee, or an agent that relates to the  
 4-15 discipline of a registration holder may be disclosed to:

4-16 (1) a licensing authority in another state or a  
 4-17 territory or country in which the registration holder is licensed  
 4-18 or registered or has applied for a license or registration; or

4-19 (2) a peer review committee reviewing:  
 4-20 (A) an application for privileges; or  
 4-21 (B) the qualifications of the registration  
 4-22 holder with respect to retaining privileges.

4-23 (b) If the investigative information in the possession of  
 4-24 the board or a board employee or agent indicates a crime may have  
 4-25 been committed, the board shall report the information to the  
 4-26 proper law enforcement agency. The board shall cooperate with and  
 4-27 assist all law enforcement agencies conducting criminal  
 4-28 investigations of a registration holder by providing information  
 4-29 relevant to the investigation. Confidential information disclosed  
 4-30 by the board to a law enforcement agency remains confidential and  
 4-31 may not be disclosed by the law enforcement agency except as  
 4-32 necessary to further the investigation.

4-33 Sec. 207.109. IMMUNITY AND REPORTING REQUIREMENTS. (a) A  
 4-34 medical peer review committee in this state, a quality assurance  
 4-35 committee in this state, a registered radiologist assistant, a  
 4-36 registered radiologist assistant student, or a physician  
 4-37 practicing medicine in this state shall report relevant information  
 4-38 to the board related to the acts of a registered radiologist  
 4-39 assistant in this state if, in that person's opinion, a registered  
 4-40 radiologist assistant poses a continuing threat to the public  
 4-41 welfare through the person's practice as a registered radiologist  
 4-42 assistant. The duty to report under this section may not be  
 4-43 nullified through contract.

4-44 (b) A person who, without malice, furnishes records,  
 4-45 information, or assistance to the board under this section is  
 4-46 immune from any civil liability arising from that action in a suit  
 4-47 against the person brought by or on behalf of a registered  
 4-48 radiologist assistant who is reported under this section.

4-49 (c) Sections 160.002, 160.003, 160.006, 160.007, 160.009,  
 4-50 160.013, and 160.014 apply to medical peer review regarding a  
 4-51 registered radiologist assistant.

#### 4-52 SUBCHAPTER D. REGISTRATION REQUIREMENTS

4-53 Sec. 207.151. REGISTRATION REQUIRED. (a) A person may not  
 4-54 practice as a registered radiologist assistant unless the person is  
 4-55 registered under this chapter.

4-56 (b) Unless the person holds a registration under this  
 4-57 chapter, a person may not use, in connection with the person's name:

4-58 (1) the title "Registered Radiologist Assistant"; or

4-59 (2) any other designation that would imply that the  
 4-60 person is a registered radiologist assistant.

4-61 Sec. 207.152. REGISTRATION APPLICATION. An applicant for  
 4-62 registration must:

4-63 (1) file a written application with the board on a form  
 4-64 prescribed by the board; and

4-65 (2) pay the application fee set by the board.

4-66 Sec. 207.153. REGISTRATION ELIGIBILITY. To be eligible for  
 4-67 a registration, a person must:

4-68 (1) be a medical radiologic technologist certified  
 4-69 under Chapter 601;

5-1           (2) have a baccalaureate degree, postbaccalaureate  
5-2 certificate, or graduate degree from an advanced academic program  
5-3 encompassing a nationally recognized radiologist assistant  
5-4 curriculum that incorporates a radiologist-directed clinical  
5-5 preceptorship;

5-6           (3) be certified as a registered radiologist assistant  
5-7 by the American Registry of Radiologic Technologists or be  
5-8 certified as a radiology practitioner assistant by the  
5-9 Certification Board for Radiology Practitioner Assistants; and

5-10           (4) be credentialed to provide radiology services  
5-11 under the supervision of a radiologist.

5-12           Sec. 207.1535. ELIGIBILITY OF APPLICANT HOLDING  
5-13 OUT-OF-STATE LICENSE. (a) Notwithstanding Section 207.153, a  
5-14 person is eligible for a registration if the person:

5-15           (1) was licensed or otherwise registered as a  
5-16 radiologist assistant in another state that has requirements at  
5-17 least as stringent as the requirements of this chapter;

5-18           (2) applies for a registration within a period set by  
5-19 the board; and

5-20           (3) meets other requirements as determined by the  
5-21 board.

5-22           (b) A registration issued under this section must be renewed  
5-23 under Section 207.156.

5-24           (c) A registration issued under this section expires on the  
5-25 first anniversary of the date the registration is issued and may not  
5-26 be renewed except as provided by Subsection (b).

5-27           Sec. 207.1536. ELIGIBILITY FOR TRANSITIONAL REGISTRATION.

5-28           (a) Notwithstanding Section 207.153, a person is eligible for a  
5-29 registration if the person:

5-30           (1) applies for the registration before September 1,  
5-31 2017; and

5-32           (2) meets the requirements of Section 207.153 other  
5-33 than Section 207.153(2).

5-34           (b) A registration issued under the eligibility  
5-35 requirements of this section must be renewed under Section 207.156.

5-36           (c) A registration issued under the eligibility  
5-37 requirements of this section expires on September 1, 2018, and may  
5-38 not be renewed except as provided by Subsection (d).

5-39           (d) A person who meets the eligibility requirements of  
5-40 Section 207.153 on September 1, 2018, may renew the person's  
5-41 registration. A person who does not meet the eligibility  
5-42 requirements of Section 207.153 on that date may not renew the  
5-43 person's registration and may not practice as a registered  
5-44 radiologist assistant after that date unless the person applies for  
5-45 and obtains a new registration.

5-46           (e) This section expires September 1, 2020.

5-47           Sec. 207.154. FEES. (a) The board shall set and collect  
5-48 fees in amounts that are reasonable and necessary to cover the costs  
5-49 of administering and enforcing this chapter without the use of any  
5-50 other funds generated by the board.

5-51           (b) Fees collected by the board under this chapter shall be  
5-52 deposited by the board in the state treasury to the credit of an  
5-53 account in the general revenue fund and may be spent to cover the  
5-54 costs of administering and enforcing this chapter. At the end of  
5-55 each fiscal biennium, the comptroller shall transfer any surplus  
5-56 money remaining in the account to the general revenue fund.

5-57           (c) All money paid to the board under this chapter is  
5-58 subject to Subchapter F, Chapter 404, Government Code.

5-59           Sec. 207.155. ISSUANCE AND RENEWAL OF REGISTRATION. The  
5-60 board shall issue a registered radiologist assistant registration  
5-61 in this state to a person who meets the requirements of this chapter  
5-62 and the rules adopted under this chapter.

5-63           Sec. 207.156. REGISTRATION RENEWAL. (a) The board by rule  
5-64 shall provide for the annual renewal of a registered radiologist  
5-65 assistant registration.

5-66           (b) The board by rule may adopt a system under which  
5-67 registrations expire on various dates during the year. For the year  
5-68 in which the registration expiration date is changed, registration  
5-69 fees shall be prorated on a monthly basis so that each registration

6-1 holder pays only that portion of the registration fee that is  
6-2 allocable to the number of months during which the registration is  
6-3 valid. On renewal of the registration on the new expiration date,  
6-4 the total registration renewal fee is payable.

6-5 Sec. 207.157. NOTICE OF REGISTRATION RENEWAL. At least 30  
6-6 days before the expiration of a person's registration, the board  
6-7 shall send written notice of the impending registration expiration  
6-8 to the person at the registration holder's last known address  
6-9 according to the records of the board.

6-10 Sec. 207.158. PROCEDURE FOR RENEWAL. (a) A person who is  
6-11 otherwise eligible to renew a registration may renew an unexpired  
6-12 registration by paying the required renewal fee to the board before  
6-13 the expiration date of the registration. A person whose  
6-14 registration has expired may not engage in activities that require  
6-15 a registration until the registration has been renewed under this  
6-16 section.

6-17 (b) If the person's registration has been expired for 90  
6-18 days or less, the person may renew the registration by paying to the  
6-19 board one and one-half times the required renewal fee.

6-20 (c) If the person's registration has been expired for longer  
6-21 than 90 days but less than one year, the person may renew the  
6-22 registration by paying to the board two times the required renewal  
6-23 fee.

6-24 (d) If the person's registration has been expired for one  
6-25 year or longer, the person may not renew the registration. The  
6-26 person may obtain a new registration by complying with the  
6-27 requirements and procedures for obtaining an original  
6-28 registration.

6-29 Sec. 207.159. REGISTRATION HOLDER INFORMATION. (a) Each  
6-30 registration holder shall file with the board:

- 6-31 (1) the registration holder's mailing address;
- 6-32 (2) the address of the registration holder's  
6-33 residence;
- 6-34 (3) the mailing address of each of the registration  
6-35 holder's offices; and
- 6-36 (4) the address for the location of each of the  
6-37 registration holder's offices if that address is different from the  
6-38 office's mailing address.

6-39 (b) A registration holder shall:

- 6-40 (1) notify the board of a change of the registration  
6-41 holder's residence or business address; and
- 6-42 (2) provide the board with the registration holder's  
6-43 new address not later than the 30th day after the date the address  
6-44 change occurs.

SUBCHAPTER E. SCOPE OF PRACTICE

6-46 Sec. 207.201. SCOPE OF PRACTICE. (a) The board shall  
6-47 adopt rules to determine the scope of practice of a registered  
6-48 radiologist assistant. The board shall consider guidelines adopted  
6-49 by the American College of Radiology, the American Society of  
6-50 Radiologic Technologists, and the American Registry of Radiologic  
6-51 Technologists in adopting rules under this subsection.

6-52 (b) The practice of a registered radiologist assistant may  
6-53 be performed in any place authorized by a delegating radiologist,  
6-54 including a clinic, hospital, health care center, or other  
6-55 institutional setting.

6-56 Sec. 207.202. ESTABLISHMENT OF CERTAIN FUNCTIONS AND  
6-57 STANDARDS. A registered radiologist assistant and the registered  
6-58 radiologist assistant's delegating radiologist shall ensure that:

- 6-59 (1) the registered radiologist assistant's scope of  
6-60 function is identified;
- 6-61 (2) the delegation of medical tasks is appropriate to  
6-62 the registered radiologist assistant's level of competence;
- 6-63 (3) the relationship between the registered  
6-64 radiologist assistant and the delegating radiologist and the access  
6-65 of the registered radiologist assistant to the delegating  
6-66 radiologist are defined; and
- 6-67 (4) a process is established for evaluating the  
6-68 registered radiologist assistant's performance.

6-69 Sec. 207.203. SUPERVISION OF REGISTERED RADIOLOGIST

7-1 ASSISTANTS. (a) In this section:

7-2 (1) "Direct supervision" means supervision provided  
7-3 by a radiologist who is present in the same area or an area adjacent  
7-4 to the area where a registered radiologist assistant performs a  
7-5 procedure and who is immediately available to provide assistance  
7-6 and direction during the performance of the procedure.

7-7 (2) "General supervision" means supervision provided  
7-8 by a radiologist who provides overall direction and control of a  
7-9 registered radiologist assistant's performance of a procedure but  
7-10 who is not required to be present during the performance of the  
7-11 procedure.

7-12 (3) "Personal supervision" means supervision provided  
7-13 by a radiologist who is present in the room where a registered  
7-14 radiologist assistant performs a procedure.

7-15 (b) The board by rule shall establish guidelines for general  
7-16 supervision, direct supervision, and personal supervision of a  
7-17 registered radiologist assistant.

7-18 (c) A supervising radiologist shall determine whether to  
7-19 provide general supervision, direct supervision, or personal  
7-20 supervision of a registered radiologist assistant performing a  
7-21 procedure based on the registered radiologist assistant's  
7-22 technical ability, the procedure, the patient's history and  
7-23 clinical presentation, and other relevant factors.

7-24 Sec. 207.204. PROHIBITED PRACTICES. A registered  
7-25 radiologist assistant may not:

7-26 (1) interpret an image;

7-27 (2) make a diagnosis; or

7-28 (3) prescribe a medication or therapy.

7-29 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

7-30 Sec. 207.251. DISCIPLINARY ACTIONS BY THE BOARD. (a) On a  
7-31 determination that an applicant or registration holder committed an  
7-32 act described by Section 207.252, 207.253, or 207.254, the board by  
7-33 order may take any of the following actions:

7-34 (1) deny the person's registration application or  
7-35 revoke the person's registration;

7-36 (2) require the person to participate in a program of  
7-37 education or counseling prescribed by the board;

7-38 (3) stay enforcement of an order and place the person  
7-39 on probation;

7-40 (4) require the person to complete additional  
7-41 training;

7-42 (5) suspend, limit, or restrict the person's  
7-43 registration, including:

7-44 (A) limiting the practice of the person to, or  
7-45 excluding from the person's practice, one or more specified  
7-46 activities of radiologist assisting; or

7-47 (B) stipulating periodic board review;

7-48 (6) assess an administrative penalty against the  
7-49 person as provided by Section 207.301;

7-50 (7) order the person to perform public service; or

7-51 (8) administer a public reprimand.

7-52 (b) If the board stays enforcement of an order and places a  
7-53 person on probation, the board retains the right to vacate the  
7-54 probationary stay and enforce the original order for noncompliance  
7-55 with the terms of probation or impose any other remedial measure or  
7-56 sanction authorized by this section.

7-57 (c) The board may restore or reissue a registration or  
7-58 remove any disciplinary or corrective measure that the board has  
7-59 imposed.

7-60 Sec. 207.252. CONDUCT RELATED TO FRAUD OR  
7-61 MISREPRESENTATION. The board may take action under Section 207.251  
7-62 against an applicant or registration holder who:

7-63 (1) fraudulently or deceptively obtains or attempts to  
7-64 obtain a registration;

7-65 (2) fraudulently or deceptively uses a registration;

7-66 (3) falsely represents that the person is a  
7-67 radiologist;

7-68 (4) acts in an unprofessional or dishonorable manner  
7-69 that is likely to deceive, defraud, or injure the public;

- 8-1 (5) fraudulently alters any registered radiologist
- 8-2 assistant registration, certificate, or diploma;
- 8-3 (6) uses any registered radiologist assistant
- 8-4 registration, certificate, or diploma that has been fraudulently
- 8-5 purchased, issued, or counterfeited or that has been materially
- 8-6 altered;
- 8-7 (7) directly or indirectly aids or abets the practice
- 8-8 as a registered radiologist assistant by any person not registered
- 8-9 by the board to practice as a registered radiologist assistant; or
- 8-10 (8) unlawfully advertises in a false, misleading, or
- 8-11 deceptive manner as defined by Section 101.201.

8-12 Sec. 207.253. CONDUCT RELATED TO VIOLATION OF LAW. The

8-13 board may take action under Section 207.251 against an applicant or

8-14 registration holder who:

8-15 (1) violates this chapter or a rule adopted under this

8-16 chapter;

8-17 (2) is convicted of a felony, placed on deferred

8-18 adjudication, or placed in a pretrial diversion program; or

8-19 (3) violates state law if the violation is connected

8-20 with practice as a registered radiologist assistant.

8-21 Sec. 207.254. CONDUCT INDICATING LACK OF FITNESS. (a) The

8-22 board may take action under Section 207.251 against an applicant or

8-23 registration holder who:

8-24 (1) habitually uses drugs or intoxicating liquors to

8-25 the extent that, in the board's opinion, the person cannot safely

8-26 perform as a registered radiologist assistant;

8-27 (2) has been adjudicated as mentally incompetent;

8-28 (3) has a mental or physical condition that renders

8-29 the person unable to safely perform as a registered radiologist

8-30 assistant;

8-31 (4) has committed an act of moral turpitude;

8-32 (5) has failed to practice as a registered radiologist

8-33 assistant in an acceptable manner consistent with public health and

8-34 welfare;

8-35 (6) has had the person's registration or other

8-36 authorization to practice as a registered radiologist assistant

8-37 suspended, revoked, or restricted;

8-38 (7) has had other disciplinary action taken by another

8-39 state or by the uniformed services of the United States regarding

8-40 practice as a registered radiologist assistant;

8-41 (8) is removed or suspended from, or has disciplinary

8-42 action taken by the person's peers in, any professional association

8-43 or society or is being disciplined by a licensed hospital or medical

8-44 staff of a hospital, including removal, suspension, limitation of

8-45 privileges, or other disciplinary action, if that action, in the

8-46 opinion of the board, was based on unprofessional conduct or

8-47 professional incompetence that was likely to harm the public;

8-48 (9) has repeated or recurring meritorious health care

8-49 liability claims that, in the board's opinion, are evidence of

8-50 professional incompetence likely to harm the public; or

8-51 (10) sexually abuses or exploits another person during

8-52 the registration holder's practice as a registered radiologist

8-53 assistant.

8-54 (b) For the purpose of Subsection (a)(7), a certified copy

8-55 of the record of the state or uniformed services of the United

8-56 States taking the action constitutes conclusive evidence of that

8-57 action.

8-58 (c) An action described by Subsection (a)(8) does not

8-59 constitute state action on the part of the association, society, or

8-60 hospital medical staff.

8-61 Sec. 207.255. SUBPOENA. (a) The executive director of the

8-62 board, the director's designee, or the secretary-treasurer of the

8-63 board may issue a subpoena or subpoena duces tecum:

8-64 (1) to conduct an investigation or a contested case

8-65 proceeding related to:

8-66 (A) alleged misconduct by a registered

8-67 radiologist assistant;

8-68 (B) an alleged violation of this chapter or

8-69 another law related to the practice of a registered radiologist



9-1 assistant; or  
9-2 (C) the provision of health care under this  
9-3 chapter; or  
9-4 (2) for purposes of determining whether to issue,  
9-5 deny, suspend, restrict, or revoke a registration under this  
9-6 chapter.  
9-7 (b) Failure to timely comply with a subpoena issued under  
9-8 this section is a ground for:  
9-9 (1) disciplinary action by the board or another  
9-10 licensing or regulatory agency with jurisdiction over the person  
9-11 subject to the subpoena; and  
9-12 (2) denial of a registration application.  
9-13 Sec. 207.256. PROTECTION OF PATIENT IDENTITY. In a  
9-14 disciplinary investigation or proceeding conducted under this  
9-15 chapter, the board shall protect the identity of each patient whose  
9-16 medical records are examined and used in a public proceeding unless  
9-17 the patient:  
9-18 (1) testifies in the public proceeding; or  
9-19 (2) submits a written release in regard to the  
9-20 patient's records or identity.  
9-21 Sec. 207.257. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of  
9-22 practice adopted under this chapter by the board under Section  
9-23 2001.004, Government Code, applicable to the proceedings for a  
9-24 disciplinary action may not conflict with rules adopted by the  
9-25 State Office of Administrative Hearings.  
9-26 Sec. 207.258. REQUIRED SUSPENSION OF INCARCERATED  
9-27 REGISTERED RADIOLOGIST ASSISTANT. Regardless of the offense, the  
9-28 board shall suspend the registration of a registered radiologist  
9-29 assistant serving a prison term in a state or federal penitentiary  
9-30 during the term of the incarceration.  
9-31 Sec. 207.259. TEMPORARY SUSPENSION. (a) The president of  
9-32 the board, with board approval, shall appoint a three-member  
9-33 disciplinary panel consisting of board members to determine whether  
9-34 a registered radiologist assistant's registration should be  
9-35 temporarily suspended.  
9-36 (b) If the disciplinary panel determines from the evidence  
9-37 or information presented to the panel that a person registered to  
9-38 practice as a registered radiologist assistant would, by the  
9-39 person's continuation in practice, constitute a continuing threat  
9-40 to the public welfare, the disciplinary panel shall temporarily  
9-41 suspend the registration of that person.  
9-42 (c) A registration may be suspended under this section  
9-43 without notice or hearing on the complaint if:  
9-44 (1) institution of proceedings for a hearing before  
9-45 the board is initiated simultaneously with the temporary  
9-46 suspension; and  
9-47 (2) a hearing is held under Chapter 2001, Government  
9-48 Code, and this chapter as soon as possible.  
9-49 (d) Notwithstanding Chapter 551, Government Code, the  
9-50 disciplinary panel may hold a meeting by telephone conference call  
9-51 if immediate action is required and convening the disciplinary  
9-52 panel at one location is inconvenient for any member of the panel.  
9-53 SUBCHAPTER G. ADMINISTRATIVE PENALTY  
9-54 Sec. 207.301. ADMINISTRATIVE PENALTY. (a) The board by  
9-55 order may impose an administrative penalty against a person  
9-56 registered under this chapter who violates this chapter or a rule or  
9-57 order adopted under this chapter.  
9-58 (b) The penalty may be in an amount not to exceed \$5,000.  
9-59 Each day a violation continues or occurs is a separate violation for  
9-60 purposes of imposing a penalty.  
9-61 (c) The board shall base the amount of the penalty on:  
9-62 (1) the severity of patient harm;  
9-63 (2) the severity of economic harm to any person;  
9-64 (3) the severity of any environmental harm;  
9-65 (4) the increased potential for harm to the public;  
9-66 (5) any attempted concealment of misconduct;  
9-67 (6) any premeditated or intentional misconduct;  
9-68 (7) the motive for the violation;  
9-69 (8) any prior misconduct of a similar or related

- 10-1 nature;
- 10-2 (9) the registration holder's disciplinary history;
- 10-3 (10) any prior written warnings or written
- 10-4 admonishments from any government agency or official regarding
- 10-5 statutes or rules relating to the misconduct;
- 10-6 (11) whether the violation is of a board order;
- 10-7 (12) the person's failure to implement remedial
- 10-8 measures to correct or mitigate harm from the misconduct;
- 10-9 (13) the person's lack of rehabilitative potential or
- 10-10 likelihood of future misconduct of a similar nature;
- 10-11 (14) any relevant circumstances increasing the
- 10-12 seriousness of the misconduct; and
- 10-13 (15) any other matter that justice may require.

10-14 (d) The board by rule shall prescribe the procedures by  
10-15 which it may impose an administrative penalty. A proceeding under  
10-16 this section is subject to Chapter 2001, Government Code.

10-17 (e) If the board by order determines that a violation has  
10-18 occurred and imposes an administrative penalty, the board shall  
10-19 give notice to the person of the order. The notice must include a  
10-20 statement of the person's right to judicial review of the order.

10-21 SECTION 4. Not later than January 1, 2014, the Texas Medical  
10-22 Board shall adopt the rules and procedures necessary to administer  
10-23 Chapter 207, Occupations Code, as added by this Act.

10-24 SECTION 5. Notwithstanding Chapter 207, Occupations Code,  
10-25 as added by this Act, a registered radiologist assistant is not  
10-26 required to hold a registration under that chapter to practice as a  
10-27 registered radiologist assistant in this state before September 1,  
10-28 2014.

10-29 SECTION 6. This Act takes effect September 1, 2013.

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