

By: Estes

S.B. No. 848

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of medical radiologic technology;
3 providing an administrative penalty; imposing fees; requiring an
4 occupational license.

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

6 SECTION 1. Section 601.002, Occupations Code, is amended by
7 adding Subdivisions (10-a) and (12) to read as follows:

8 (10-a) "Radiologist" means a physician specializing
9 in radiology certified by or board-eligible for the American Board
10 of Radiology, the American Osteopathic Board of Radiology, the
11 British Royal College of Radiologists, or the Canadian College of
12 Physicians and Surgeons.

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

17 SECTION 2. Section 601.056, Occupations Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) The rules adopted under Subsection (a) must identify
20 radiologic procedures that may be performed by a registered
21 radiologist assistant.

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

1 CHAPTER 207. REGISTERED RADIOLOGIST ASSISTANTS

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 207.001. DEFINITIONS. In this chapter:

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

5 (2) "Radiologist" means a physician specializing in
6 radiology certified by the American Board of Radiology, the
7 American Osteopathic Board of Radiology, the British Royal College
8 of Radiologists, or the Canadian College of Physicians and
9 Surgeons.

10 (3) "Registered radiologist assistant" means a person
11 who is registered under this chapter as a registered radiologist
12 assistant and who performs a variety of activities under the
13 personal, direct, or general supervision of a radiologist in the
14 areas of patient care, patient management, clinical imaging, and
15 interventional procedures.

16 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

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

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

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

22 (3) establish minimum education and training
23 requirements necessary for registration to practice as a registered
24 radiologist assistant;

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

27 (5) develop an approved program of mandatory

1 continuing education and the manner in which attendance at all
2 approved courses, clinics, forums, lectures, programs, or seminars
3 is monitored and recorded.

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

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

12 (1) four registered radiologist assistant members
13 with at least three years of experience as a registered radiologist
14 assistant, two of whom must be engaged in practice in a clinical
15 setting; and

16 (2) one radiologist member licensed in this state who
17 supervises a registered radiologist assistant.

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

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

23 (1) before January 1, 2017, have met the eligibility
24 requirements of Section 207.153 for the three years preceding the
25 date of appointment, regardless of whether the members hold a
26 registration under this chapter; and

27 (2) before January 1, 2020, hold a registration under

1 this chapter and who have met the eligibility requirements of
2 Section 207.153 for the three years preceding the date of
3 appointment, regardless of whether the members have held a
4 registration under this chapter for the three years preceding the
5 date of appointment.

6 (d) Subsection (c) and this subsection expire December 31,
7 2020.

8 SUBCHAPTER C. PUBLIC INTEREST INFORMATION; COMPLAINT AND
9 INVESTIGATIVE INFORMATION

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

14 (b) The executive director of the board shall prepare and
15 maintain a written plan that describes how a person who does not
16 speak English may be provided reasonable access to the board's
17 programs and services under this chapter.

18 Sec. 207.102. PUBLIC INTEREST INFORMATION. (a) The board
19 shall prepare information of public interest describing the
20 functions of the board and the procedures by which complaints are
21 filed and resolved under this chapter.

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

24 Sec. 207.103. COMPLAINTS. (a) The board by rule shall
25 establish methods by which consumers and service recipients are
26 notified of the name, mailing address, and telephone number of the
27 board for the purpose of directing complaints about registered

1 radiologist assistants to the board.

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

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

9 (1) the name of the person who filed the complaint;

10 (2) the date the complaint is received by the board;

11 (3) the subject matter of the complaint;

12 (4) the name of each person contacted in relation to
13 the complaint;

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

16 (6) an explanation of the reason the file was closed,
17 if the board closed the file without taking action other than to
18 investigate the complaint.

19 (b) The board shall provide to the person filing the
20 complaint and to each person who is a subject of the complaint a
21 copy of the board's policies and procedures relating to complaint
22 investigation and resolution. A person who reports a complaint by
23 phone shall be given information on how to file a written complaint.

24 (c) The board, at least quarterly and until final
25 disposition of the complaint, shall notify the person filing the
26 complaint and each person who is a subject of the complaint of the
27 status of the investigation unless the notice would jeopardize an

1 undercover investigation.

2 Sec. 207.105. REGISTRATION HOLDER ACCESS TO COMPLAINT
3 INFORMATION. (a) The board shall provide a registration holder
4 who is the subject of a formal complaint filed under this chapter
5 with access to all information in its possession that the board
6 intends to offer into evidence in presenting its case in chief at
7 the contested hearing on the complaint, subject to any other
8 privilege or restriction established by rule, statute, or legal
9 precedent. The board shall provide the information not later than
10 the 45th day after receipt of a written request from the
11 registration holder or the registration holder's counsel, unless
12 good cause is shown for delay.

13 (b) Notwithstanding Subsection (a), the board is not
14 required to provide:

- 15 (1) board investigative reports;
- 16 (2) investigative memoranda;
- 17 (3) the identity of a nontestifying complainant;
- 18 (4) attorney-client communications;
- 19 (5) attorney work product; or
- 20 (6) other material covered by a privilege recognized
21 by the Texas Rules of Civil Procedure or the Texas Rules of
22 Evidence.

23 (c) The provision of information does not constitute a
24 waiver of privilege or confidentiality under this chapter or other
25 law.

26 Sec. 207.106. HEALTH CARE ENTITY REQUEST FOR INFORMATION.
27 On the written request of a health care entity, the board shall

1 provide to the entity:

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

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

5 (B) an agreed settlement; and

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

9 Sec. 207.107. CONFIDENTIALITY OF INVESTIGATIVE
10 INFORMATION. A complaint, adverse report, investigation file, or
11 other report, the identity of and reports made by a physician or
12 registered radiologist assistant performing or supervising
13 compliance monitoring for the board, or other investigative
14 information in the possession of or received or gathered by the
15 board, a board employee, or an agent relating to a registration
16 holder, a registration application, or a criminal investigation or
17 proceeding is privileged and confidential and is not subject to
18 discovery, subpoena, or other means of legal compulsion for release
19 to any person other than the board or a board employee or agent
20 involved in registration holder discipline.

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

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

1 (2) a peer review committee reviewing:

2 (A) an application for privileges; or

3 (B) the qualifications of the registration
4 holder with respect to retaining privileges.

5 (b) If the investigative information in the possession of
6 the board or a board employee or agent indicates a crime may have
7 been committed, the board shall report the information to the
8 proper law enforcement agency. The board shall cooperate with and
9 assist all law enforcement agencies conducting criminal
10 investigations of a registration holder by providing information
11 relevant to the investigation. Confidential information disclosed
12 by the board to a law enforcement agency remains confidential and
13 may not be disclosed by the law enforcement agency except as
14 necessary to further the investigation.

15 Sec. 207.109. IMMUNITY AND REPORTING REQUIREMENTS. (a) A
16 medical peer review committee in this state, a quality assurance
17 committee in this state, a registered radiologist assistant, a
18 registered radiologist assistant student, or a physician
19 practicing medicine in this state shall report relevant information
20 to the board related to the acts of a registered radiologist
21 assistant in this state if, in that person's opinion, a registered
22 radiologist assistant poses a continuing threat to the public
23 welfare through the person's practice as a registered radiologist
24 assistant. The duty to report under this section may not be
25 nullified through contract.

26 (b) A person who, without malice, furnishes records,
27 information, or assistance to the board under this section is

1 immune from any civil liability arising from that action in a suit
2 against the person brought by or on behalf of a registered
3 radiologist assistant who is reported under this section.

4 (c) Sections 160.002, 160.003, 160.006, 160.007, 160.009,
5 160.013, and 160.014 apply to medical peer review regarding a
6 registered radiologist assistant.

7 SUBCHAPTER D. REGISTRATION REQUIREMENTS

8 Sec. 207.151. REGISTRATION REQUIRED. (a) A person may not
9 practice as a registered radiologist assistant unless the person is
10 registered under this chapter.

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

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

16 Sec. 207.152. REGISTRATION APPLICATION. An applicant for
17 registration must:

- 18 (1) file a written application with the board on a form
19 prescribed by the board; and
20 (2) pay the application fee set by the board.

21 Sec. 207.153. REGISTRATION ELIGIBILITY. To be eligible for
22 a registration, a person must:

- 23 (1) be a medical radiologic technologist certified
24 under Chapter 601;
25 (2) have a baccalaureate degree, postbaccalaureate
26 certificate, or graduate degree from an advanced academic program
27 encompassing a nationally recognized radiologist assistant

1 curriculum that incorporates a radiologist-directed clinical
2 preceptorship;

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

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

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

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

15 (2) applies for a registration within a period set by
16 the board; and

17 (3) meets other requirements as determined by the
18 board.

19 (b) A registration issued under this section must be renewed
20 under Section 207.156.

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

24 Sec. 207.1536. ELIGIBILITY FOR TRANSITIONAL REGISTRATION.

25 (a) Notwithstanding Section 207.153, a person is eligible for a
26 registration if the person:

27 (1) applies for the registration before September 1,

1 2019; and

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

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

6 (c) A registration issued under the eligibility
7 requirements of this section expires on September 1, 2020, and may
8 not be renewed except as provided by Subsection (d).

9 (d) A person who meets the eligibility requirements of
10 Section 207.153 on September 1, 2020, may renew the person's
11 registration. A person who does not meet the eligibility
12 requirements of Section 207.153 on that date may not renew the
13 person's registration and may not practice as a registered
14 radiologist assistant after that date unless the person applies for
15 and obtains a new registration.

16 (e) This section expires September 1, 2022.

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

21 (b) Fees collected by the board under this chapter shall be
22 deposited by the board in the state treasury to the credit of an
23 account in the general revenue fund and may be spent to cover the
24 costs of administering and enforcing this chapter. At the end of
25 each fiscal biennium, the comptroller shall transfer any surplus
26 money remaining in the account to the general revenue fund.

27 (c) All money paid to the board under this chapter is

1 subject to Subchapter F, Chapter 404, Government Code.

2 Sec. 207.155. ISSUANCE OF REGISTRATION. The board shall
3 issue a registered radiologist assistant registration in this state
4 to a person who meets the requirements of this chapter and the rules
5 adopted under this chapter.

6 Sec. 207.156. REGISTRATION RENEWAL. (a) The board by rule
7 shall provide for the annual renewal of a registered radiologist
8 assistant registration.

9 (b) The board by rule may adopt a system under which
10 registrations expire on various dates during the year. For the year
11 in which the registration expiration date is changed, registration
12 fees shall be prorated on a monthly basis so that each registration
13 holder pays only that portion of the registration fee that is
14 allocable to the number of months during which the registration is
15 valid. On renewal of the registration on the new expiration date,
16 the total registration renewal fee is payable.

17 Sec. 207.157. NOTICE OF REGISTRATION RENEWAL. At least 30
18 days before the expiration of a person's registration, the board
19 shall send written notice of the impending registration expiration
20 to the person at the registration holder's last known address
21 according to the records of the board.

22 Sec. 207.158. PROCEDURE FOR RENEWAL. (a) A person who is
23 otherwise eligible to renew a registration may renew an unexpired
24 registration by paying the required renewal fee to the board before
25 the expiration date of the registration. A person whose
26 registration has expired may not engage in activities that require
27 a registration until the registration has been renewed under this

1 section.

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

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

9 (d) If the person's registration has been expired for one
10 year or longer, the person may not renew the registration. The
11 person may obtain a new registration by complying with the
12 requirements and procedures for obtaining an original
13 registration.

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

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

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

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

21 (4) the address for the location of each of the
22 registration holder's offices if that address is different from the
23 office's mailing address.

24 (b) A registration holder shall:

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

27 (2) provide the board with the registration holder's

1 new address not later than the 30th day after the date the address
2 change occurs.

3 SUBCHAPTER E. SCOPE OF PRACTICE

4 Sec. 207.201. SCOPE OF PRACTICE. (a) The board shall
5 adopt rules to determine the scope of practice of a registered
6 radiologist assistant. The board shall consider guidelines adopted
7 by the American College of Radiology, the American Society of
8 Radiologic Technologists, and the American Registry of Radiologic
9 Technologists in adopting rules under this subsection.

10 (b) The practice of a registered radiologist assistant may
11 be performed in any place authorized by a delegating radiologist,
12 including a clinic, hospital, health care center, or other
13 institutional setting.

14 Sec. 207.202. ESTABLISHMENT OF CERTAIN FUNCTIONS AND
15 STANDARDS. A registered radiologist assistant and the registered
16 radiologist assistant's delegating radiologist shall ensure that:

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

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

21 (3) the relationship between the registered
22 radiologist assistant and the delegating radiologist and the access
23 of the registered radiologist assistant to the delegating
24 radiologist are defined; and

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

27 Sec. 207.203. SUPERVISION OF REGISTERED RADIOLOGIST

1 ASSISTANTS. (a) In this section:

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

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

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

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

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

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

- 26 (1) interpret an image;
27 (2) make a diagnosis; or

1 (3) prescribe a medication or therapy.

2 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

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

7 (1) deny the person's registration application or
8 revoke the person's registration;

9 (2) require the person to participate in a program of
10 education or counseling prescribed by the board;

11 (3) stay enforcement of an order and place the person
12 on probation;

13 (4) require the person to complete additional
14 training;

15 (5) suspend, limit, or restrict the person's
16 registration, including:

17 (A) limiting the practice of the person to, or
18 excluding from the person's practice, one or more specified
19 activities of radiologist assisting; or

20 (B) stipulating periodic board review;

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

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

24 (8) administer a public reprimand.

25 (b) If the board stays enforcement of an order and places a
26 person on probation, the board retains the right to vacate the
27 probationary stay and enforce the original order for noncompliance

1 with the terms of probation or impose any other remedial measure or
2 sanction authorized by this section.

3 (c) The board may restore or reissue a registration or
4 remove any disciplinary or corrective measure that the board has
5 imposed.

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

9 (1) fraudulently or deceptively obtains or attempts to
10 obtain a registration;

11 (2) fraudulently or deceptively uses a registration;

12 (3) falsely represents that the person is a
13 radiologist;

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

16 (5) fraudulently alters any registered radiologist
17 assistant registration, certificate, or diploma;

18 (6) uses any registered radiologist assistant
19 registration, certificate, or diploma that has been fraudulently
20 purchased, issued, or counterfeited or that has been materially
21 altered;

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

25 (8) unlawfully advertises in a false, misleading, or
26 deceptive manner as defined by Section [101.201](#).

27 Sec. 207.253. CONDUCT RELATED TO VIOLATION OF LAW. The

1 board may take action under Section 207.251 against an applicant or
2 registration holder who:

3 (1) violates this chapter or a rule adopted under this
4 chapter;

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

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

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

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

15 (2) has been adjudicated as mentally incompetent;

16 (3) has a mental or physical condition that renders
17 the person unable to safely perform as a registered radiologist
18 assistant;

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

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

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

26 (7) has had other disciplinary action taken by another
27 state or by the uniformed services of the United States regarding

1 practice as a registered radiologist assistant;

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

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

12 (10) sexually abuses or exploits another person during
13 the registration holder's practice as a registered radiologist
14 assistant.

15 (b) For the purpose of Subsection (a)(7), a certified copy
16 of the record of the state or uniformed services of the United
17 States taking the action constitutes conclusive evidence of that
18 action.

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

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

25 (1) to conduct an investigation or a contested case
26 proceeding related to:

27 (A) alleged misconduct by a registered

1 radiologist assistant;

2 (B) an alleged violation of this chapter or
3 another law related to the practice of a registered radiologist
4 assistant; or

5 (C) the provision of health care under this
6 chapter; or

7 (2) for purposes of determining whether to issue,
8 deny, suspend, restrict, or revoke a registration under this
9 chapter.

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

12 (1) disciplinary action by the board or another
13 licensing or regulatory agency with jurisdiction over the person
14 subject to the subpoena; and

15 (2) denial of a registration application.

16 Sec. 207.256. PROTECTION OF PATIENT IDENTITY. In a
17 disciplinary investigation or proceeding conducted under this
18 chapter, the board shall protect the identity of each patient whose
19 medical records are examined and used in a public proceeding unless
20 the patient:

21 (1) testifies in the public proceeding; or

22 (2) submits a written release in regard to the
23 patient's records or identity.

24 Sec. 207.257. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of
25 practice adopted under this chapter by the board under Section
26 2001.004, Government Code, applicable to the proceedings for a
27 disciplinary action may not conflict with rules adopted by the

1 State Office of Administrative Hearings.

2 Sec. 207.258. REQUIRED SUSPENSION OF INCARCERATED
3 REGISTERED RADIOLOGIST ASSISTANT. Regardless of the offense, the
4 board shall suspend the registration of a registered radiologist
5 assistant serving a prison term in a state or federal penitentiary
6 during the term of the incarceration.

7 Sec. 207.259. TEMPORARY SUSPENSION. (a) The president of
8 the board, with board approval, shall appoint a three-member
9 disciplinary panel consisting of board members to determine whether
10 a registered radiologist assistant's registration should be
11 temporarily suspended.

12 (b) If the disciplinary panel determines from the evidence
13 or information presented to the panel that a person registered to
14 practice as a registered radiologist assistant would, by the
15 person's continuation in practice, constitute a continuing threat
16 to the public welfare, the disciplinary panel shall temporarily
17 suspend the registration of that person.

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

20 (1) institution of proceedings for a hearing before
21 the board is initiated simultaneously with the temporary
22 suspension; and

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

25 (d) Notwithstanding Chapter 551, Government Code, the
26 disciplinary panel may hold a meeting by telephone conference call
27 if immediate action is required and convening the disciplinary

1 panel at one location is inconvenient for any member of the panel.

2 SUBCHAPTER G. ADMINISTRATIVE PENALTY

3 Sec. 207.301. ADMINISTRATIVE PENALTY. (a) The board by
4 order may impose an administrative penalty against a person
5 registered under this chapter who violates this chapter or a rule or
6 order adopted under this chapter.

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

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

11 (1) the severity of patient harm;

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

13 (3) the severity of any environmental harm;

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

15 (5) any attempted concealment of misconduct;

16 (6) any premeditated or intentional misconduct;

17 (7) the motive for the violation;

18 (8) any prior misconduct of a similar or related
19 nature;

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

21 (10) any prior written warnings or written
22 admonishments from any government agency or official regarding
23 statutes or rules relating to the misconduct;

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

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

27 (13) the person's lack of rehabilitative potential or

1 likelihood of future misconduct of a similar nature;

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

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

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

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

12 SECTION 4. Not later than January 1, 2016, the Texas Medical
13 Board shall adopt the rules and procedures necessary to administer
14 Chapter 207, Occupations Code, as added by this Act.

15 SECTION 5. Notwithstanding Chapter 207, Occupations Code,
16 as added by this Act, a registered radiologist assistant is not
17 required to hold a registration under that chapter to practice as a
18 registered radiologist assistant in this state before September 1,
19 2016.

20 SECTION 6. This Act takes effect September 1, 2015.