

By: Estes

S.B. No. 848

A BILL TO BE ENTITLED

AN ACT

1
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 amending Subdivision (3) and adding Subdivisions (5-a), (10-a), and
8 (12) to read as follows:

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

11 (5-a) "Executive commissioner" means the executive
12 commissioner of the Health and Human Services Commission.

13 (10-a) "Radiologist" means a physician specializing
14 in radiology certified by or board-eligible for the American Board
15 of Radiology, the American Osteopathic Board of Radiology, the
16 British Royal College of Radiologists, or the Canadian College of
17 Physicians and Surgeons.

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

22 SECTION 2. Sections 601.056(a) and (b), Occupations Code,
23 are amended to read as follows:

24 (a) The executive commissioner [~~board~~] with the assistance

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

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

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

13 CHAPTER 207. REGISTERED RADIOLOGIST ASSISTANTS

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 207.001. DEFINITIONS. In this chapter:

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

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

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

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) before January 1, 2020, hold a registration under
13 this chapter and who have met the eligibility requirements of
14 Section 207.153 for the three years preceding the date of
15 appointment, regardless of whether the members have held a
16 registration under this chapter for the three years preceding the
17 date of appointment.

18 (d) Subsection (c) and this subsection expire December 31,
19 2020.

20 SUBCHAPTER C. PUBLIC INTEREST INFORMATION; COMPLAINT AND
21 INVESTIGATIVE INFORMATION

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

26 (b) The executive director of the board shall prepare and
27 maintain a written plan that describes how a person who does not

1 speaking English may be provided reasonable access to the board's
2 programs and services under this chapter.

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

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

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

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

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

21 (1) the name of the person who filed the complaint;
22 (2) the date the complaint is received by the board;
23 (3) the subject matter of the complaint;
24 (4) the name of each person contacted in relation to
25 the complaint;

26 (5) a summary of the results of the review or
27 investigation of the complaint; and

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

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

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

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

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

27 (1) board investigative reports;

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

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

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

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

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

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

17 (B) an agreed settlement; and

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

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

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

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

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

13 (2) a peer review committee reviewing:

14 (A) an application for privileges; or

15 (B) the qualifications of the registration
16 holder with respect to retaining privileges.

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

27 Sec. 207.109. IMMUNITY AND REPORTING REQUIREMENTS. (a) A

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

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

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

19 SUBCHAPTER D. REGISTRATION REQUIREMENTS

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

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

25 (1) the title "Registered Radiologist Assistant"; or

26 (2) any other designation that would imply that the
27 person is a registered radiologist assistant.

1 Sec. 207.152. REGISTRATION APPLICATION. An applicant for
2 registration must:

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

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

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

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

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

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

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

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

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

27 (2) applies for a registration within a period set by

1 the board; and

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

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

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

9 Sec. 207.1536. ELIGIBILITY FOR TRANSITIONAL REGISTRATION.

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

12 (1) applies for the registration before September 1,
13 2019; and

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

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

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

21 (d) A person who meets the eligibility requirements of
22 Section 207.153 on September 1, 2020, may renew the person's
23 registration. A person who does not meet the eligibility
24 requirements of Section 207.153 on that date may not renew the
25 person's registration and may not practice as a registered
26 radiologist assistant after that date unless the person applies for
27 and obtains a new registration.

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

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

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

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

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

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

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

1 the total registration renewal fee is payable.

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

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

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

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

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

26 Sec. 207.159. CONTINUING EDUCATION. A registration holder
27 must complete at least 24 hours of continuing education under the

1 program adopted under Section 207.051(5) during the two years
2 preceding the registration expiration date in order to renew the
3 registration.

4 Sec. 207.160. REGISTRATION HOLDER INFORMATION. (a) Each
5 registration holder shall file with the board:

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

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

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

11 (4) the address for the location of each of the
12 registration holder's offices if that address is different from the
13 office's mailing address.

14 (b) A registration holder shall:

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

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

20 SUBCHAPTER E. SCOPE OF PRACTICE

21 Sec. 207.201. SCOPE OF PRACTICE. (a) The board shall adopt
22 rules to determine the scope of practice of a registered
23 radiologist assistant. The board shall consider guidelines adopted
24 by the American College of Radiology, the American Society of
25 Radiologic Technologists, and the American Registry of Radiologic
26 Technologists in adopting rules under this subsection.

27 (b) The practice of a registered radiologist assistant may

1 be performed in any place authorized by a delegating radiologist,
2 including a clinic, hospital, health care center, or other
3 institutional setting.

4 Sec. 207.202. ESTABLISHMENT OF CERTAIN FUNCTIONS AND
5 STANDARDS. A registered radiologist assistant and the registered
6 radiologist assistant's delegating radiologist shall ensure that:

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

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

11 (3) the relationship between the registered
12 radiologist assistant and the delegating radiologist and the access
13 of the registered radiologist assistant to the delegating
14 radiologist are defined; and

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

17 Sec. 207.203. SUPERVISION OF REGISTERED RADIOLOGIST
18 ASSISTANTS. (a) In this section:

19 (1) "Direct supervision" means supervision provided
20 by a radiologist who is present in the same area or an area adjacent
21 to the area where a registered radiologist assistant performs a
22 procedure and who is immediately available to provide assistance
23 and direction during the performance of the procedure.

24 (2) "General supervision" means supervision provided
25 by a radiologist who provides overall direction and control of a
26 registered radiologist assistant's performance of a procedure but
27 who is not required to be present during the performance of the

1 procedure.

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

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

8 (c) A supervising radiologist shall determine whether to
9 provide general supervision, direct supervision, or personal
10 supervision of a registered radiologist assistant performing a
11 procedure based on the registered radiologist assistant's
12 technical ability, the procedure, the patient's history and
13 clinical presentation, and other relevant factors.

14 Sec. 207.204. PROHIBITED PRACTICES. A registered
15 radiologist assistant may not:

- 16 (1) interpret an image;
17 (2) make a diagnosis; or
18 (3) prescribe a medication or therapy.

19 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

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

24 (1) deny the person's registration application or
25 revoke the person's registration;

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

1 (3) stay enforcement of an order and place the person
2 on probation;

3 (4) require the person to complete additional
4 training;

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

7 (A) limiting the practice of the person to, or
8 excluding from the person's practice, one or more specified
9 activities of radiologist assisting; or

10 (B) stipulating periodic board review;

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

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

14 (8) administer a public reprimand.

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

20 (c) The board may restore or reissue a registration or
21 remove any disciplinary or corrective measure that the board has
22 imposed.

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

26 (1) fraudulently or deceptively obtains or attempts to
27 obtain a registration;

1 (2) fraudulently or deceptively uses a registration;

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

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

6 (5) fraudulently alters any registered radiologist
7 assistant registration, certificate, or diploma;

8 (6) uses any registered radiologist assistant
9 registration, certificate, or diploma that has been fraudulently
10 purchased, issued, or counterfeited or that has been materially
11 altered;

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

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

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

20 (1) violates this chapter or a rule adopted under this
21 chapter;

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

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

26 Sec. 207.254. CONDUCT INDICATING LACK OF FITNESS. (a) The
27 board may take action under Section 207.251 against an applicant or

1 registration holder who:

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

5 (2) has been adjudicated as mentally incompetent;

6 (3) has a mental or physical condition that renders
7 the person unable to safely perform as a registered radiologist
8 assistant;

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

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

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

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

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

26 (9) has repeated or recurring meritorious health care
27 liability claims that, in the board's opinion, are evidence of

1 professional incompetence likely to harm the public; or
2 (10) sexually abuses or exploits another person during
3 the registration holder's practice as a registered radiologist
4 assistant.

5 (b) For the purpose of Subsection (a)(7), a certified copy
6 of the record of the state or uniformed services of the United
7 States taking the action constitutes conclusive evidence of that
8 action.

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

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

15 (1) to conduct an investigation or a contested case
16 proceeding related to:

17 (A) alleged misconduct by a registered
18 radiologist assistant;

19 (B) an alleged violation of this chapter or
20 another law related to the practice of a registered radiologist
21 assistant; or

22 (C) the provision of health care under this
23 chapter; or

24 (2) for purposes of determining whether to issue,
25 deny, suspend, restrict, or revoke a registration under this
26 chapter.

27 (b) Failure to timely comply with a subpoena issued under

1 this section is a ground for:

2 (1) disciplinary action by the board or another
3 licensing or regulatory agency with jurisdiction over the person
4 subject to the subpoena; and

5 (2) denial of a registration application.

6 Sec. 207.256. PROTECTION OF PATIENT IDENTITY. In a
7 disciplinary investigation or proceeding conducted under this
8 chapter, the board shall protect the identity of each patient whose
9 medical records are examined and used in a public proceeding unless
10 the patient:

11 (1) testifies in the public proceeding; or

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

14 Sec. 207.257. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of
15 practice adopted under this chapter by the board under Section
16 2001.004, Government Code, applicable to the proceedings for a
17 disciplinary action may not conflict with rules adopted by the
18 State Office of Administrative Hearings.

19 Sec. 207.258. REQUIRED SUSPENSION OF INCARCERATED
20 REGISTERED RADIOLOGIST ASSISTANT. Regardless of the offense, the
21 board shall suspend the registration of a registered radiologist
22 assistant serving a prison term in a state or federal penitentiary
23 during the term of the incarceration.

24 Sec. 207.259. TEMPORARY SUSPENSION. (a) The president of
25 the board, with board approval, shall appoint a three-member
26 disciplinary panel consisting of board members to determine whether
27 a registered radiologist assistant's registration should be

1 temporarily suspended.

2 (b) If the disciplinary panel determines from the evidence
3 or information presented to the panel that a person registered to
4 practice as a registered radiologist assistant would, by the
5 person's continuation in practice, constitute a continuing threat
6 to the public welfare, the disciplinary panel shall temporarily
7 suspend the registration of that person.

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

10 (1) institution of proceedings for a hearing before
11 the board is initiated simultaneously with the temporary
12 suspension; and

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

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

19 SUBCHAPTER G. ADMINISTRATIVE PENALTY

20 Sec. 207.301. ADMINISTRATIVE PENALTY. (a) The board by
21 order may impose an administrative penalty against a person
22 registered under this chapter who violates this chapter or a rule or
23 order adopted under this chapter.

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

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

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

22 (d) The board by rule shall prescribe the procedures by

23 which it may impose an administrative penalty. A proceeding under

24 this section is subject to Chapter 2001, Government Code.

25 (e) If the board by order determines that a violation has

26 occurred and imposes an administrative penalty, the board shall

27 give notice to the person of the order. The notice must include a

1 statement of the person's right to judicial review of the order.

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

5 SECTION 5. Notwithstanding Chapter 207, Occupations Code,
6 as added by this Act, a registered radiologist assistant is not
7 required to hold a registration under that chapter to practice as a
8 registered radiologist assistant in this state before September 1,
9 2016.

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