

1-1 By: Estes S.B. No. 848  
 1-2 (In the Senate - Filed February 27, 2015; March 4, 2015,  
 1-3 read first time and referred to Committee on Health and Human  
 1-4 Services; May 4, 2015, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 May 4, 2015, 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. 848 By: Estes

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

1-21 relating to the regulation of medical radiologic technology;  
 1-22 providing an administrative penalty; imposing fees; requiring an  
 1-23 occupational license.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 601.002, Occupations Code, is amended by  
 1-26 adding Subdivisions (10-a) and (12) to read as follows:

1-27 (10-a) "Radiologist" means a physician specializing  
 1-28 in radiology certified by or board-eligible for the American Board  
 1-29 of Radiology, the American Osteopathic Board of Radiology, the  
 1-30 British Royal College of Radiologists, or the Canadian College of  
 1-31 Physicians and Surgeons.

1-32 (12) "Registered radiologist assistant" means an  
 1-33 advanced-level medical radiologic technologist, other than a  
 1-34 practitioner, who is registered under Chapter 207 as a registered  
 1-35 radiologist assistant.

1-36 SECTION 2. Section 601.056, Occupations Code, is amended by  
 1-37 adding Subsection (d) to read as follows:

1-38 (d) The rules adopted under Subsection (a) must identify  
 1-39 radiologic procedures that may be performed by a registered  
 1-40 radiologist assistant.

1-41 SECTION 3. Subtitle C, Title 3, Occupations Code, is  
 1-42 amended by adding Chapter 207 to read as follows:

1-43 CHAPTER 207. REGISTERED RADIOLOGIST ASSISTANTS

1-44 SUBCHAPTER A. GENERAL PROVISIONS

1-45 Sec. 207.001. DEFINITIONS. In this chapter:

1-46 (1) "Board" means the Texas Medical Board.

1-47 (2) "Radiologist" means a physician specializing in  
 1-48 radiology certified by the American Board of Radiology, the  
 1-49 American Osteopathic Board of Radiology, the British Royal College  
 1-50 of Radiologists, or the Canadian College of Physicians and  
 1-51 Surgeons.

1-52 (3) "Registered radiologist assistant" means a person  
 1-53 who is registered under this chapter as a registered radiologist  
 1-54 assistant and who performs a variety of activities under the  
 1-55 personal, direct, or general supervision of a radiologist in the  
 1-56 areas of patient care, patient management, clinical imaging, and  
 1-57 interventional procedures.

1-58 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

1-59 Sec. 207.051. GENERAL POWERS AND DUTIES. The board shall:

1-60 (1) establish qualifications for a registered

2-1 radiologist assistant to practice in this state;

2-2 (2) establish requirements for an examination for  
2-3 registration to practice as a registered radiologist assistant;

2-4 (3) establish minimum education and training  
2-5 requirements necessary for registration to practice as a registered  
2-6 radiologist assistant;

2-7 (4) prescribe the application form for registration to  
2-8 practice as a registered radiologist assistant; and

2-9 (5) develop an approved program of mandatory  
2-10 continuing education and the manner in which attendance at all  
2-11 approved courses, clinics, forums, lectures, programs, or seminars  
2-12 is monitored and recorded.

2-13 Sec. 207.052. GIFTS, GRANTS, AND DONATIONS. In addition to  
2-14 any fees paid to the board or money appropriated to the board, the  
2-15 board may receive and accept under this chapter a gift, grant,  
2-16 donation, or other item of value from any source, including the  
2-17 United States or a private source.

2-18 Sec. 207.053. ADVISORY COMMITTEE. (a) The registered  
2-19 radiologist assistant advisory committee consists of five members  
2-20 appointed by the president of the board as follows:

2-21 (1) four registered radiologist assistant members  
2-22 with at least three years of experience as a registered radiologist  
2-23 assistant, two of whom must be engaged in practice in a clinical  
2-24 setting; and

2-25 (2) one radiologist member licensed in this state who  
2-26 supervises a registered radiologist assistant.

2-27 (b) Appointments to the advisory committee shall be made  
2-28 without regard to the race, color, disability, sex, religion, age,  
2-29 or national origin of the appointee.

2-30 (c) Notwithstanding Subsection (a)(1), the president of the  
2-31 board may appoint to the advisory committee those persons who:

2-32 (1) before January 1, 2017, have met the eligibility  
2-33 requirements of Section 207.153 for the three years preceding the  
2-34 date of appointment, regardless of whether the members hold a  
2-35 registration under this chapter; and

2-36 (2) before January 1, 2020, hold a registration under  
2-37 this chapter and who have met the eligibility requirements of  
2-38 Section 207.153 for the three years preceding the date of  
2-39 appointment, regardless of whether the members have held a  
2-40 registration under this chapter for the three years preceding the  
2-41 date of appointment.

2-42 (d) Subsection (c) and this subsection expire December 31,  
2-43 2020.

2-44 SUBCHAPTER C. PUBLIC INTEREST INFORMATION; COMPLAINT AND  
2-45 INVESTIGATIVE INFORMATION

2-46 Sec. 207.101. PUBLIC PARTICIPATION. (a) The board shall  
2-47 develop and implement policies that provide the public with a  
2-48 reasonable opportunity to appear before the board and speak on any  
2-49 issue relating to registered radiologist assistants.

2-50 (b) The executive director of the board shall prepare and  
2-51 maintain a written plan that describes how a person who does not  
2-52 speak English may be provided reasonable access to the board's  
2-53 programs and services under this chapter.

2-54 Sec. 207.102. PUBLIC INTEREST INFORMATION. (a) The board  
2-55 shall prepare information of public interest describing the  
2-56 functions of the board and the procedures by which complaints are  
2-57 filed and resolved under this chapter.

2-58 (b) The board shall make the information available to the  
2-59 public and appropriate state agencies.

2-60 Sec. 207.103. COMPLAINTS. (a) The board by rule shall  
2-61 establish methods by which consumers and service recipients are  
2-62 notified of the name, mailing address, and telephone number of the  
2-63 board for the purpose of directing complaints about registered  
2-64 radiologist assistants to the board.

2-65 (b) The board shall list with its regular telephone number  
2-66 any toll-free telephone number established under other state law  
2-67 that may be called to present a complaint about a registered  
2-68 radiologist assistant.

2-69 Sec. 207.104. RECORDS OF COMPLAINTS. (a) The board shall

3-1 maintain a file on each written complaint filed with the board under  
 3-2 this chapter. The file must include:  
 3-3 (1) the name of the person who filed the complaint;  
 3-4 (2) the date the complaint is received by the board;  
 3-5 (3) the subject matter of the complaint;  
 3-6 (4) the name of each person contacted in relation to  
 3-7 the complaint;  
 3-8 (5) a summary of the results of the review or  
 3-9 investigation of the complaint; and  
 3-10 (6) an explanation of the reason the file was closed,  
 3-11 if the board closed the file without taking action other than to  
 3-12 investigate the complaint.

3-13 (b) The board shall provide to the person filing the  
 3-14 complaint and to each person who is a subject of the complaint a  
 3-15 copy of the board's policies and procedures relating to complaint  
 3-16 investigation and resolution. A person who reports a complaint by  
 3-17 phone shall be given information on how to file a written complaint.

3-18 (c) The board, at least quarterly and until final  
 3-19 disposition of the complaint, shall notify the person filing the  
 3-20 complaint and each person who is a subject of the complaint of the  
 3-21 status of the investigation unless the notice would jeopardize an  
 3-22 undercover investigation.

3-23 Sec. 207.105. REGISTRATION HOLDER ACCESS TO COMPLAINT  
 3-24 INFORMATION. (a) The board shall provide a registration holder  
 3-25 who is the subject of a formal complaint filed under this chapter  
 3-26 with access to all information in its possession that the board  
 3-27 intends to offer into evidence in presenting its case in chief at  
 3-28 the contested hearing on the complaint, subject to any other  
 3-29 privilege or restriction established by rule, statute, or legal  
 3-30 precedent. The board shall provide the information not later than  
 3-31 the 45th day after receipt of a written request from the  
 3-32 registration holder or the registration holder's counsel, unless  
 3-33 good cause is shown for delay.

3-34 (b) Notwithstanding Subsection (a), the board is not  
 3-35 required to provide:

- 3-36 (1) board investigative reports;
- 3-37 (2) investigative memoranda;
- 3-38 (3) the identity of a nontestifying complainant;
- 3-39 (4) attorney-client communications;
- 3-40 (5) attorney work product; or
- 3-41 (6) other material covered by a privilege recognized

3-42 by the Texas Rules of Civil Procedure or the Texas Rules of  
 3-43 Evidence.

3-44 (c) The provision of information does not constitute a  
 3-45 waiver of privilege or confidentiality under this chapter or other  
 3-46 law.

3-47 Sec. 207.106. HEALTH CARE ENTITY REQUEST FOR INFORMATION.  
 3-48 On the written request of a health care entity, the board shall  
 3-49 provide to the entity:

- 3-50 (1) information about a complaint filed against a  
 3-51 registration holder that was resolved after investigation by:
  - 3-52 (A) a disciplinary order of the board; or
  - 3-53 (B) an agreed settlement; and
- 3-54 (2) the basis of and current status of any complaint  
 3-55 under active investigation that has been referred by the executive  
 3-56 director of the board or the director's designee for legal action.

3-57 Sec. 207.107. CONFIDENTIALITY OF INVESTIGATIVE  
 3-58 INFORMATION. A complaint, adverse report, investigation file, or  
 3-59 other report, the identity of and reports made by a physician or  
 3-60 registered radiologist assistant performing or supervising  
 3-61 compliance monitoring for the board, or other investigative  
 3-62 information in the possession of or received or gathered by the  
 3-63 board, a board employee, or an agent relating to a registration  
 3-64 holder, a registration application, or a criminal investigation or  
 3-65 proceeding is privileged and confidential and is not subject to  
 3-66 discovery, subpoena, or other means of legal compulsion for release  
 3-67 to any person other than the board or a board employee or agent  
 3-68 involved in registration holder discipline.

3-69 Sec. 207.108. PERMITTED DISCLOSURE OF INVESTIGATIVE

4-1 INFORMATION. (a) Investigative information in the possession of  
 4-2 the board, a board employee, or an agent that relates to the  
 4-3 discipline of a registration holder may be disclosed to:

4-4 (1) a licensing authority in another state or a  
 4-5 territory or country in which the registration holder is licensed  
 4-6 or registered or has applied for a license or registration; or

4-7 (2) a peer review committee reviewing:

4-8 (A) an application for privileges; or

4-9 (B) the qualifications of the registration  
 4-10 holder with respect to retaining privileges.

4-11 (b) If the investigative information in the possession of  
 4-12 the board or a board employee or agent indicates a crime may have  
 4-13 been committed, the board shall report the information to the  
 4-14 proper law enforcement agency. The board shall cooperate with and  
 4-15 assist all law enforcement agencies conducting criminal  
 4-16 investigations of a registration holder by providing information  
 4-17 relevant to the investigation. Confidential information disclosed  
 4-18 by the board to a law enforcement agency remains confidential and  
 4-19 may not be disclosed by the law enforcement agency except as  
 4-20 necessary to further the investigation.

4-21 Sec. 207.109. IMMUNITY AND REPORTING REQUIREMENTS. (a) A  
 4-22 medical peer review committee in this state, a quality assurance  
 4-23 committee in this state, a registered radiologist assistant, a  
 4-24 registered radiologist assistant student, or a physician  
 4-25 practicing medicine in this state shall report relevant information  
 4-26 to the board related to the acts of a registered radiologist  
 4-27 assistant in this state if, in that person's opinion, a registered  
 4-28 radiologist assistant poses a continuing threat to the public  
 4-29 welfare through the person's practice as a registered radiologist  
 4-30 assistant. The duty to report under this section may not be  
 4-31 nullified through contract.

4-32 (b) A person who, without malice, furnishes records,  
 4-33 information, or assistance to the board under this section is  
 4-34 immune from any civil liability arising from that action in a suit  
 4-35 against the person brought by or on behalf of a registered  
 4-36 radiologist assistant who is reported under this section.

4-37 (c) Sections 160.002, 160.003, 160.006, 160.007, 160.009,  
 4-38 160.013, and 160.014 apply to medical peer review regarding a  
 4-39 registered radiologist assistant.

#### 4-40 SUBCHAPTER D. REGISTRATION REQUIREMENTS

4-41 Sec. 207.151. REGISTRATION REQUIRED. (a) A person may not  
 4-42 practice as a registered radiologist assistant unless the person is  
 4-43 registered under this chapter.

4-44 (b) Unless the person holds a registration under this  
 4-45 chapter, a person may not use, in connection with the person's name:

4-46 (1) the title "Registered Radiologist Assistant"; or

4-47 (2) any other designation that would imply that the  
 4-48 person is a registered radiologist assistant.

4-49 Sec. 207.152. REGISTRATION APPLICATION. An applicant for  
 4-50 registration must:

4-51 (1) file a written application with the board on a form  
 4-52 prescribed by the board; and

4-53 (2) pay the application fee set by the board.

4-54 Sec. 207.153. REGISTRATION ELIGIBILITY. To be eligible for  
 4-55 a registration, a person must:

4-56 (1) be a medical radiologic technologist certified  
 4-57 under Chapter 601;

4-58 (2) have a baccalaureate degree, postbaccalaureate  
 4-59 certificate, or graduate degree from an advanced academic program  
 4-60 encompassing a nationally recognized radiologist assistant  
 4-61 curriculum that incorporates a radiologist-directed clinical  
 4-62 preceptorship;

4-63 (3) be certified as a registered radiologist assistant  
 4-64 by the American Registry of Radiologic Technologists or be  
 4-65 certified as a radiology practitioner assistant by the  
 4-66 Certification Board for Radiology Practitioner Assistants; and

4-67 (4) be credentialed to provide radiology services  
 4-68 under the supervision of a radiologist.

4-69 Sec. 207.1535. ELIGIBILITY OF APPLICANT HOLDING

5-1 OUT-OF-STATE LICENSE. (a) Notwithstanding Section 207.153, a  
5-2 person is eligible for a registration if the person:  
5-3 (1) was licensed or otherwise registered as a  
5-4 radiologist assistant in another state that has requirements at  
5-5 least as stringent as the requirements of this chapter;  
5-6 (2) applies for a registration within a period set by  
5-7 the board; and  
5-8 (3) meets other requirements as determined by the  
5-9 board.

5-10 (b) A registration issued under this section must be renewed  
5-11 under Section 207.156.

5-12 (c) A registration issued under this section expires on the  
5-13 first anniversary of the date the registration is issued and may not  
5-14 be renewed except as provided by Subsection (b).

5-15 Sec. 207.1536. ELIGIBILITY FOR TRANSITIONAL REGISTRATION.  
5-16 (a) Notwithstanding Section 207.153, a person is eligible for a  
5-17 registration if the person:  
5-18 (1) applies for the registration before September 1,  
5-19 2019; and  
5-20 (2) meets the requirements of Section 207.153 other  
5-21 than Section 207.153(2).

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

5-24 (c) A registration issued under the eligibility  
5-25 requirements of this section expires on September 1, 2020, and may  
5-26 not be renewed except as provided by Subsection (d).

5-27 (d) A person who meets the eligibility requirements of  
5-28 Section 207.153 on September 1, 2020, may renew the person's  
5-29 registration. A person who does not meet the eligibility  
5-30 requirements of Section 207.153 on that date may not renew the  
5-31 person's registration and may not practice as a registered  
5-32 radiologist assistant after that date unless the person applies for  
5-33 and obtains a new registration.

5-34 (e) This section expires September 1, 2022.

5-35 Sec. 207.154. FEES. (a) The board shall set and collect  
5-36 fees in amounts that are reasonable and necessary to cover the costs  
5-37 of administering and enforcing this chapter without the use of any  
5-38 other funds generated by the board.

5-39 (b) Fees collected by the board under this chapter shall be  
5-40 deposited by the board in the state treasury to the credit of an  
5-41 account in the general revenue fund and may be spent to cover the  
5-42 costs of administering and enforcing this chapter. At the end of  
5-43 each fiscal biennium, the comptroller shall transfer any surplus  
5-44 money remaining in the account to the general revenue fund.

5-45 (c) All money paid to the board under this chapter is  
5-46 subject to Subchapter F, Chapter 404, Government Code.

5-47 Sec. 207.155. ISSUANCE OF REGISTRATION. The board shall  
5-48 issue a registered radiologist assistant registration in this state  
5-49 to a person who meets the requirements of this chapter and the rules  
5-50 adopted under this chapter.

5-51 Sec. 207.156. REGISTRATION RENEWAL. (a) The board by rule  
5-52 shall provide for the annual renewal of a registered radiologist  
5-53 assistant registration.

5-54 (b) The board by rule may adopt a system under which  
5-55 registrations expire on various dates during the year. For the year  
5-56 in which the registration expiration date is changed, registration  
5-57 fees shall be prorated on a monthly basis so that each registration  
5-58 holder pays only that portion of the registration fee that is  
5-59 allocable to the number of months during which the registration is  
5-60 valid. On renewal of the registration on the new expiration date,  
5-61 the total registration renewal fee is payable.

5-62 Sec. 207.157. NOTICE OF REGISTRATION RENEWAL. At least 30  
5-63 days before the expiration of a person's registration, the board  
5-64 shall send written notice of the impending registration expiration  
5-65 to the person at the registration holder's last known address  
5-66 according to the records of the board.

5-67 Sec. 207.158. PROCEDURE FOR RENEWAL. (a) A person who is  
5-68 otherwise eligible to renew a registration may renew an unexpired  
5-69 registration by paying the required renewal fee to the board before

6-1 the expiration date of the registration. A person whose  
 6-2 registration has expired may not engage in activities that require  
 6-3 a registration until the registration has been renewed under this  
 6-4 section.

6-5 (b) If the person's registration has been expired for 90  
 6-6 days or less, the person may renew the registration by paying to the  
 6-7 board one and one-half times the required renewal fee.

6-8 (c) If the person's registration has been expired for longer  
 6-9 than 90 days but less than one year, the person may renew the  
 6-10 registration by paying to the board two times the required renewal  
 6-11 fee.

6-12 (d) If the person's registration has been expired for one  
 6-13 year or longer, the person may not renew the registration. The  
 6-14 person may obtain a new registration by complying with the  
 6-15 requirements and procedures for obtaining an original  
 6-16 registration.

6-17 Sec. 207.159. REGISTRATION HOLDER INFORMATION. (a) Each  
 6-18 registration holder shall file with the board:

6-19 (1) the registration holder's mailing address;  
 6-20 (2) the address of the registration holder's  
 6-21 residence;

6-22 (3) the mailing address of each of the registration  
 6-23 holder's offices; and

6-24 (4) the address for the location of each of the  
 6-25 registration holder's offices if that address is different from the  
 6-26 office's mailing address.

6-27 (b) A registration holder shall:

6-28 (1) notify the board of a change of the registration  
 6-29 holder's residence or business address; and

6-30 (2) provide the board with the registration holder's  
 6-31 new address not later than the 30th day after the date the address  
 6-32 change occurs.

#### 6-33 SUBCHAPTER E. SCOPE OF PRACTICE

6-34 Sec. 207.201. SCOPE OF PRACTICE. (a) The board shall  
 6-35 adopt rules to determine the scope of practice of a registered  
 6-36 radiologist assistant. The board shall consider guidelines adopted  
 6-37 by the American College of Radiology, the American Society of  
 6-38 Radiologic Technologists, and the American Registry of Radiologic  
 6-39 Technologists in adopting rules under this subsection.

6-40 (b) The practice of a registered radiologist assistant may  
 6-41 be performed in any place authorized by a delegating radiologist,  
 6-42 including a clinic, hospital, health care center, or other  
 6-43 institutional setting.

6-44 Sec. 207.202. ESTABLISHMENT OF CERTAIN FUNCTIONS AND  
 6-45 STANDARDS. A registered radiologist assistant and the registered  
 6-46 radiologist assistant's delegating radiologist shall ensure that:

6-47 (1) the registered radiologist assistant's scope of  
 6-48 function is identified;

6-49 (2) the delegation of medical tasks is appropriate to  
 6-50 the registered radiologist assistant's level of competence;

6-51 (3) the relationship between the registered  
 6-52 radiologist assistant and the delegating radiologist and the access  
 6-53 of the registered radiologist assistant to the delegating  
 6-54 radiologist are defined; and

6-55 (4) a process is established for evaluating the  
 6-56 registered radiologist assistant's performance.

6-57 Sec. 207.203. SUPERVISION OF REGISTERED RADIOLOGIST  
 6-58 ASSISTANTS. (a) In this section:

6-59 (1) "Direct supervision" means supervision provided  
 6-60 by a radiologist who is present in the same area or an area adjacent  
 6-61 to the area where a registered radiologist assistant performs a  
 6-62 procedure and who is immediately available to provide assistance  
 6-63 and direction during the performance of the procedure.

6-64 (2) "General supervision" means supervision provided  
 6-65 by a radiologist who provides overall direction and control of a  
 6-66 registered radiologist assistant's performance of a procedure but  
 6-67 who is not required to be present during the performance of the  
 6-68 procedure.

6-69 (3) "Personal supervision" means supervision provided

7-1 by a radiologist who is present in the room where a registered  
7-2 radiologist assistant performs a procedure.

7-3 (b) The board by rule shall establish guidelines for general  
7-4 supervision, direct supervision, and personal supervision of a  
7-5 registered radiologist assistant.

7-6 (c) A supervising radiologist shall determine whether to  
7-7 provide general supervision, direct supervision, or personal  
7-8 supervision of a registered radiologist assistant performing a  
7-9 procedure based on the registered radiologist assistant's  
7-10 technical ability, the procedure, the patient's history and  
7-11 clinical presentation, and other relevant factors.

7-12 Sec. 207.204. PROHIBITED PRACTICES. A registered  
7-13 radiologist assistant may not:

- 7-14 (1) interpret an image;
- 7-15 (2) make a diagnosis; or
- 7-16 (3) prescribe a medication or therapy.

7-17 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

7-18 Sec. 207.251. DISCIPLINARY ACTIONS BY THE BOARD. (a) On a  
7-19 determination that an applicant or registration holder committed an  
7-20 act described by Section 207.252, 207.253, or 207.254, the board by  
7-21 order may take any of the following actions:

- 7-22 (1) deny the person's registration application or
- 7-23 revoke the person's registration;
- 7-24 (2) require the person to participate in a program of
- 7-25 education or counseling prescribed by the board;
- 7-26 (3) stay enforcement of an order and place the person
- 7-27 on probation;
- 7-28 (4) require the person to complete additional
- 7-29 training;
- 7-30 (5) suspend, limit, or restrict the person's
- 7-31 registration, including:
  - 7-32 (A) limiting the practice of the person to, or
  - 7-33 excluding from the person's practice, one or more specified
  - 7-34 activities of radiologist assisting; or
  - 7-35 (B) stipulating periodic board review;
- 7-36 (6) assess an administrative penalty against the
- 7-37 person as provided by Section 207.301;
- 7-38 (7) order the person to perform public service; or
- 7-39 (8) administer a public reprimand.

7-40 (b) If the board stays enforcement of an order and places a  
7-41 person on probation, the board retains the right to vacate the  
7-42 probationary stay and enforce the original order for noncompliance  
7-43 with the terms of probation or impose any other remedial measure or  
7-44 sanction authorized by this section.

7-45 (c) The board may restore or reissue a registration or  
7-46 remove any disciplinary or corrective measure that the board has  
7-47 imposed.

7-48 Sec. 207.252. CONDUCT RELATED TO FRAUD OR  
7-49 MISREPRESENTATION. The board may take action under Section 207.251  
7-50 against an applicant or registration holder who:

- 7-51 (1) fraudulently or deceptively obtains or attempts to
- 7-52 obtain a registration;
- 7-53 (2) fraudulently or deceptively uses a registration;
- 7-54 (3) falsely represents that the person is a
- 7-55 radiologist;
- 7-56 (4) acts in an unprofessional or dishonorable manner
- 7-57 that is likely to deceive, defraud, or injure the public;
- 7-58 (5) fraudulently alters any registered radiologist
- 7-59 assistant registration, certificate, or diploma;
- 7-60 (6) uses any registered radiologist assistant
- 7-61 registration, certificate, or diploma that has been fraudulently
- 7-62 purchased, issued, or counterfeited or that has been materially
- 7-63 altered;
- 7-64 (7) directly or indirectly aids or abets the practice
- 7-65 as a registered radiologist assistant by any person not registered
- 7-66 by the board to practice as a registered radiologist assistant; or
- 7-67 (8) unlawfully advertises in a false, misleading, or
- 7-68 deceptive manner as defined by Section 101.201.

7-69 Sec. 207.253. CONDUCT RELATED TO VIOLATION OF LAW. The

8-1 board may take action under Section 207.251 against an applicant or  
8-2 registration holder who:  
8-3 (1) violates this chapter or a rule adopted under this  
8-4 chapter;  
8-5 (2) is convicted of a felony, placed on deferred  
8-6 adjudication, or placed in a pretrial diversion program; or  
8-7 (3) violates state law if the violation is connected  
8-8 with practice as a registered radiologist assistant.  
8-9 Sec. 207.254. CONDUCT INDICATING LACK OF FITNESS. (a) The  
8-10 board may take action under Section 207.251 against an applicant or  
8-11 registration holder who:  
8-12 (1) habitually uses drugs or intoxicating liquors to  
8-13 the extent that, in the board's opinion, the person cannot safely  
8-14 perform as a registered radiologist assistant;  
8-15 (2) has been adjudicated as mentally incompetent;  
8-16 (3) has a mental or physical condition that renders  
8-17 the person unable to safely perform as a registered radiologist  
8-18 assistant;  
8-19 (4) has committed an act of moral turpitude;  
8-20 (5) has failed to practice as a registered radiologist  
8-21 assistant in an acceptable manner consistent with public health and  
8-22 welfare;  
8-23 (6) has had the person's registration or other  
8-24 authorization to practice as a registered radiologist assistant  
8-25 suspended, revoked, or restricted;  
8-26 (7) has had other disciplinary action taken by another  
8-27 state or by the uniformed services of the United States regarding  
8-28 practice as a registered radiologist assistant;  
8-29 (8) is removed or suspended from, or has disciplinary  
8-30 action taken by the person's peers in, any professional association  
8-31 or society or is being disciplined by a licensed hospital or medical  
8-32 staff of a hospital, including removal, suspension, limitation of  
8-33 privileges, or other disciplinary action, if that action, in the  
8-34 opinion of the board, was based on unprofessional conduct or  
8-35 professional incompetence that was likely to harm the public;  
8-36 (9) has repeated or recurring meritorious health care  
8-37 liability claims that, in the board's opinion, are evidence of  
8-38 professional incompetence likely to harm the public; or  
8-39 (10) sexually abuses or exploits another person during  
8-40 the registration holder's practice as a registered radiologist  
8-41 assistant.  
8-42 (b) For the purpose of Subsection (a)(7), a certified copy  
8-43 of the record of the state or uniformed services of the United  
8-44 States taking the action constitutes conclusive evidence of that  
8-45 action.  
8-46 (c) An action described by Subsection (a)(8) does not  
8-47 constitute state action on the part of the association, society, or  
8-48 hospital medical staff.  
8-49 Sec. 207.255. SUBPOENA. (a) The executive director of the  
8-50 board, the director's designee, or the secretary-treasurer of the  
8-51 board may issue a subpoena or subpoena duces tecum:  
8-52 (1) to conduct an investigation or a contested case  
8-53 proceeding related to:  
8-54 (A) alleged misconduct by a registered  
8-55 radiologist assistant;  
8-56 (B) an alleged violation of this chapter or  
8-57 another law related to the practice of a registered radiologist  
8-58 assistant; or  
8-59 (C) the provision of health care under this  
8-60 chapter; or  
8-61 (2) for purposes of determining whether to issue,  
8-62 deny, suspend, restrict, or revoke a registration under this  
8-63 chapter.  
8-64 (b) Failure to timely comply with a subpoena issued under  
8-65 this section is a ground for:  
8-66 (1) disciplinary action by the board or another  
8-67 licensing or regulatory agency with jurisdiction over the person  
8-68 subject to the subpoena; and  
8-69 (2) denial of a registration application.



9-1 Sec. 207.256. PROTECTION OF PATIENT IDENTITY. In a  
9-2 disciplinary investigation or proceeding conducted under this  
9-3 chapter, the board shall protect the identity of each patient whose  
9-4 medical records are examined and used in a public proceeding unless  
9-5 the patient:

- 9-6 (1) testifies in the public proceeding; or
- 9-7 (2) submits a written release in regard to the  
9-8 patient's records or identity.

9-9 Sec. 207.257. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of  
9-10 practice adopted under this chapter by the board under Section  
9-11 2001.004, Government Code, applicable to the proceedings for a  
9-12 disciplinary action may not conflict with rules adopted by the  
9-13 State Office of Administrative Hearings.

9-14 Sec. 207.258. REQUIRED SUSPENSION OF INCARCERATED  
9-15 REGISTERED RADIOLOGIST ASSISTANT. Regardless of the offense, the  
9-16 board shall suspend the registration of a registered radiologist  
9-17 assistant serving a prison term in a state or federal penitentiary  
9-18 during the term of the incarceration.

9-19 Sec. 207.259. TEMPORARY SUSPENSION. (a) The president of  
9-20 the board, with board approval, shall appoint a three-member  
9-21 disciplinary panel consisting of board members to determine whether  
9-22 a registered radiologist assistant's registration should be  
9-23 temporarily suspended.

9-24 (b) If the disciplinary panel determines from the evidence  
9-25 or information presented to the panel that a person registered to  
9-26 practice as a registered radiologist assistant would, by the  
9-27 person's continuation in practice, constitute a continuing threat  
9-28 to the public welfare, the disciplinary panel shall temporarily  
9-29 suspend the registration of that person.

9-30 (c) A registration may be suspended under this section  
9-31 without notice or hearing on the complaint if:

9-32 (1) institution of proceedings for a hearing before  
9-33 the board is initiated simultaneously with the temporary  
9-34 suspension; and

9-35 (2) a hearing is held under Chapter 2001, Government  
9-36 Code, and this chapter as soon as possible.

9-37 (d) Notwithstanding Chapter 551, Government Code, the  
9-38 disciplinary panel may hold a meeting by telephone conference call  
9-39 if immediate action is required and convening the disciplinary  
9-40 panel at one location is inconvenient for any member of the panel.

9-41 SUBCHAPTER G. ADMINISTRATIVE PENALTY

9-42 Sec. 207.301. ADMINISTRATIVE PENALTY. (a) The board by  
9-43 order may impose an administrative penalty against a person  
9-44 registered under this chapter who violates this chapter or a rule or  
9-45 order adopted under this chapter.

9-46 (b) The penalty may be in an amount not to exceed \$5,000.  
9-47 Each day a violation continues or occurs is a separate violation for  
9-48 purposes of imposing a penalty.

9-49 (c) The board shall base the amount of the penalty on:

- 9-50 (1) the severity of patient harm;
- 9-51 (2) the severity of economic harm to any person;
- 9-52 (3) the severity of any environmental harm;
- 9-53 (4) the increased potential for harm to the public;
- 9-54 (5) any attempted concealment of misconduct;
- 9-55 (6) any premeditated or intentional misconduct;
- 9-56 (7) the motive for the violation;
- 9-57 (8) any prior misconduct of a similar or related

9-58 nature;

9-59 (9) the registration holder's disciplinary history;  
9-60 (10) any prior written warnings or written  
9-61 admonishments from any government agency or official regarding  
9-62 statutes or rules relating to the misconduct;

9-63 (11) whether the violation is of a board order;  
9-64 (12) the person's failure to implement remedial  
9-65 measures to correct or mitigate harm from the misconduct;

9-66 (13) the person's lack of rehabilitative potential or  
9-67 likelihood of future misconduct of a similar nature;

9-68 (14) any relevant circumstances increasing the  
9-69 seriousness of the misconduct; and

