

- SUBJECT:** Regulating registered radiologist assistants, establishing penalties
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 7 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, Laubenberg
- 3 nays — S. King, J.D. Sheffield, Zedler
- 1 absent — Coleman
- SENATE VOTE:** On final passage, April 25 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Ray Kirk, Texas Radiological Society and American College of Radiology; Victoria Sanders, American Society of Radiologic Technologist, Texas Society of Radiologic Technologists, Society of Radiology Physicians; (*Registered, but did not testify*: Marisa Finely, Scott & White Healthcare; Kristin Lemery, West Houston Radiology Associates; Bhwana Oberoi, Texas Society of Radiology Practitioner Assistants; Alexander Sardina, Advanced Diagnostics; Rajiv Thakur, Advanced Diagnostics; Ted Wen, Texas Radiology Associated; Darren Whitehurst, Texas Medical Association; and seven individuals)
- Against — None
- On — Mari Robinson, Texas Medical Board
- BACKGROUND:** Occupations Code, ch. 601, governs medical radiologic technicians, but does not currently include registered radiologist assistants.
- DIGEST:** CSSB 1079 would establish a regulatory framework for the registration and oversight of advanced-level medical radiologic technologists (registered radiologist assistants).
- Definitions.** The bill would define “registered radiologist assistant” as a person who performs patient care, patient management, clinical imaging, and interventional procedures under the supervision of a radiologist.

**Board powers and duties.** The bill would require the Texas Medical Board to establish qualifications, examination requirements, and minimum education standards, among other things, for registered radiologist assistants. The bill would authorize the board to accept fees, gifts, grants, or donations under the bill's provisions.

*Advisory committee.* The president of the board would appoint the five members of the radiologist assistant advisory committee. The bill would specify the composition of the committee and would contain a temporary provision expiring December 31, 2018, specifying certain eligibility requirements for members.

*Public participation and information.* The board would have to develop and implement policies that provide the public with opportunities to appear before the board and speak on issues relating to registered radiologist assistants. The executive director of the board would have to establish a plan to allow non-English speakers to access these programs and services. The board would have to develop and make available to the public and state agencies information about the board's functions and complaint procedures related to registered radiologist assistants.

*Complaints and investigations.* The board by rule would have to establish methods by which consumers could report complaints about registered radiologist assistants and the board would have to maintain a file on each written complaint. The bill also would detail when the board would have to provide individuals with information about written complaints, complaint investigation and resolution procedures, and the status of investigations.

The board would have to provide a registration holder who was the subject of a formal complaint with all information that would be offered as evidence at the contested hearing. The bill would also specify a timeframe, exceptions to the rule, and that providing the information would not constitute a waiver of privilege or confidentiality. SB 1079 would provide procedures for giving health-care entities information about complaints and investigations.

*Confidentiality and disclosure.* Certain information would be privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than certain board members, employees, or agents. This information would include complaints, adverse

reports, and investigation files, among other things.

In some situations, investigative information could be disclosed to certain licensing authorities or peer review committees. Information indicating a possible crime would have to be reported to the proper law enforcement agency. The bill would provide additional procedures related to disclosing information to law enforcement agencies.

*Immunity and reporting requirements.* Certain committees and individuals would have to report a registered radiologist assistant to the board if it was believed that the assistant posed a continuing threat to the public welfare by practicing as a registered radiologist assistant. Mandated reporters would include medical peer review committees and physicians, among others. This duty to report could not be nullified in a contract. A person who, without malice, assisted the board in this way would be immune from civil liability. Certain reporting and confidentiality requirements would apply to medical peer review committees regarding a registered radiologist assistant.

**Registration and renewal.** The bill would provide registration and renewal procedures for registered radiologist assistants.

*Registration.* On September 1, 2014, a person would need to be registered in order practice as a registered radiologist assistant in Texas. Without proper registration, a person could not use a title or designation indicating or implying that they were a registered radiologist assistant. The bill would specify eligibility and application requirements, including eligibility requirements and license expiration dates for out-of-state applicants. There would be a temporary provision expiring September 1, 2020, which would provide procedures, eligibility requirements, and renewal provisions for transitional registration. The board would have to set and collect reasonable and necessary fees to cover the costs of enforcing and administering the bill without using any other board funds. The bill would specify fee collection procedures.

*Renewal.* The board would have to issue a registered radiologist assistant registration to anyone who met the bill's requirements. The board by rule would have to provide for the annual renewal of a registration and could adopt a system under which registrations expired on various dates during the year. SB 1079 would provide renewal fee procedures, notice of renewal requirements, and a registration renewal process. The renewal

process would include ways to renew an expired license, but would prohibit a registration from being renewed if it had been expired for a year or longer.

*Information.* The registration holder would have to provide the board with certain information, such as a mailing address, and update the information within the specified timeframe, if needed.

**Scope of practice.** The board would be required to adopt rules to determine the scope of practice of registered radiologist assistants, and they would have to consider guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists. A registered radiologist assistant could practice in any place authorized by a delegating radiologist, including a clinic, hospital, or health care center, among others.

*Functions and standards.* A registered radiologist assistant and the assistant's delegating radiologist would have to meet certain requirements related to the assistant's scope of duty. This would include identifying their scope of function, delegating appropriate medical tasks, defining the nature of delegation, and establishing evaluation procedures.

*Supervision.* The board by rule would have to establish guidelines for "general supervision," "direct supervision," and "personal supervision" as those terms were defined by the bill. A supervising radiologist would have to determine what level of supervision to provide a registered radiologist assistant based the assistant's technical ability, the procedure, and the patient's history and clinical presentation, among other things. A registered radiologist assistant could not interpret an image, make a diagnosis, or prescribe a medication or therapy.

**Disciplinary actions.** If the board determined that an applicant or registration holder committed a prohibited act, the board could take certain disciplinary actions. This would include denying or revoking a person's registration, requiring participation in an education or counseling program, probation, and public reprimand, among other things. The board could temporarily stop enforcement to place a person on probation, but would retain the right to enforce the original order. The board could also restore or reissue a registration, or remove any disciplinary or corrective measures.

A three-member board disciplinary panel could decide to temporarily suspend a registration if it determined that the registered radiologist assistant's continued practice would threaten the public welfare. The bill would include situations in which a registration could be temporarily suspended without notice to the license holder and provide procedures for telephonic meetings.

*Prohibited conduct.* The bill would establish certain acts that would constitute fraud or misrepresentation and authorize the board to take action against the applicant or registration holder who committed those acts. The board could take action against an applicant or registration holder for certain violations of law, such as a felony conviction, and for conduct indicating a lack of fitness. Conduct indicating a lack of fitness would include being adjudicated mentally incompetent, acts indicating professional incompetence or unprofessional conduct, and sexual abuse or exploitation, among other things.

The bill would specify that certain documents would be considered conclusive evidence of some actions and that certain acts would not constitute state action. The board would have to suspend the registration of a registered radiologist assistant who was serving a prison term in state or federal penitentiary during their period of incarceration.

*Subpoenas.* The executive director of the board, the director's designee, or the secretary-treasurer of the board could issue a subpoena or a subpoena duces tecum (subpoena for production of evidence) to conduct an investigation or a contested case hearing for certain acts of misconduct, violations of law, or the provision of health care. A subpoena or a subpoena duces tecum could also be issued for the purposes of determining whether to issue, deny, suspend, restrict, or revoke a registration. If a person failed to timely comply with a subpoena (or subpoena duces tecum), it would be grounds for disciplinary action by the board or a regulatory agency with jurisdiction over the person, and denial of a registration application.

*Proceedings.* In disciplinary investigations or proceedings, the board would have to protect the identity of each patient whose medical records were examined and used in public proceedings unless the patient testified or submitted a written release for their identity or records. The rules for proceedings adopted by the board from the Government Code could not conflict with rules adopted by the State Office of Administrative Hearings.

*Administrative penalty.* The board by order could impose an administrative penalty against a registered radiologist assistant who violated the bill's laws, rules, or orders. The penalty could not exceed \$5,000. Each day a violation continued to occur would be considered a separate violation. The board would have to consider a number of factors when determining the penalty amount. These factors would include the severity of patient harm, concealment of the conduct, any intentional misconduct, and the person's failure to implement remedial measures, among other things. The board by rule would have to prescribe the procedures by which it could impose an administrative penalty and the bill would provide procedures for giving notice of these penalties.

**Rules.** The executive commissioner of the Health and Human Services Commission by rule would have to identify procedures that could only be performed by a practitioner, medical radiologic technologist, or a registered radiologist assistant. When developing the rules, the executive commissioner could consider whether a radiologic procedure would be performed by registered nurse, a licensed physician, or a registered radiologist assistant. By January 1, 2014 the Texas Medical Board would have to adopt rules and procedures to implement the bill.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

SB 1079 would alleviate health-care workforce shortages. Currently, Texas trains many radiologist assistants who leave for out-of-state jobs due to the lack of state registration and regulation. By establishing a regulatory framework that would enable the state to register and regulate this profession, the bill would encourage these highly skilled health-care professionals to practice in Texas.

The bill would not establish overly burdensome regulations. By establishing eligibility criteria, registration requirements, and disciplinary procedures, the bill would adequately protect patients and ensure that radiologist assistants were high-quality professionals.

**OPPONENTS  
SAY:**

SB 1079 would establish a burdensome and unnecessary regulatory scheme. Texas places onerous occupational licensing and registration requirements on its workforce, a practice that can inhibit economic growth and restrict employment. By requiring that radiologist assistants meet certain requirements in order to obtain state registration, the bill could prevent the employment of an otherwise qualified individual.