

By: Uresti

S.B. No. 1314

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the licensure of anesthesiologist assistants;
3 providing penalties.

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

5 SECTION 1. The heading to Subchapter B, Chapter 157,
6 Occupations Code, is amended to read as follows:

7 SUBCHAPTER B. DELEGATION TO ADVANCED PRACTICE NURSES, ~~[AND]~~
8 PHYSICIAN ASSISTANTS, AND ANESTHESIOLOGIST ASSISTANTS

9 SECTION 2. Section 157.051, Occupations Code, is amended by
10 adding Subdivision (1-a) to read as follows:

11 (1-a) "Anesthesiologist assistant" means a person who
12 holds a license issued under Chapter 207.

13 SECTION 3. Subchapter B, Chapter 157, Occupations Code, is
14 amended by adding Section 157.061 to read as follows:

15 Sec. 157.061. DELEGATION TO ANESTHESIOLOGIST ASSISTANTS.

16 (a) In a licensed hospital or ambulatory surgical center, a board
17 certified anesthesiologist may delegate to an anesthesiologist
18 assistant the ordering of drugs and devices necessary for the
19 anesthesiologist assistant to administer an anesthetic or an
20 anesthesia-related service.

21 (b) Under the anesthesiologist's order and in accordance
22 with facility policies or medical staff bylaws, an anesthesiologist
23 assistant may select, obtain, and administer the drugs and apply
24 the medical devices appropriate to accomplish the

1 anesthesiologist's order and maintain the patient within a sound
2 physiological status.

3 (c) This section shall be liberally construed to permit the
4 full use of safe and effective medication orders to use the skills
5 and services of anesthesiologist assistants.

6 SECTION 4. Subtitle C, Title 3, Occupations Code, is
7 amended by adding Chapter 207 to read as follows:

8 CHAPTER 207. ANESTHESIOLOGIST ASSISTANTS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 207.001. SHORT TITLE. This chapter may be cited as the
11 Anesthesiologist Assistant Licensing Act.

12 Sec. 207.002. DEFINITIONS. In this chapter:

13 (1) "Anesthesiologist" means a physician licensed by
14 the Texas Medical Board who specializes in anesthesiology.

15 (2) "Anesthesiologist assistant" means a person who
16 holds a license issued under this chapter.

17 (3) "Anesthesiologist assistant board" means the
18 Texas Anesthesiologist Assistant Board.

19 (4) "Anesthesiologist assistant practice protocol"
20 means a written agreement of jointly agreed protocols or a standing
21 order between a supervising anesthesiologist and an
22 anesthesiologist assistant that provides for the delegation of
23 health care services from a supervising anesthesiologist to an
24 anesthesiologist assistant and the review of those services.

25 (5) "Anesthesiology" means the practice of medicine
26 that specializes in the relief of pain during and after surgical
27 procedures and childbirth, during certain chronic disease

1 processes, and during the resuscitation and critical care of
2 patients in the operating room and intensive care environments.

3 (6) "Direct supervision" means supervision by an
4 anesthesiologist who is present in the facility in which the
5 anesthesiologist assistant is performing anesthesia services and
6 is immediately available to provide assistance and direction while
7 anesthesia services are being performed.

8 (7) "Immediately available" means in the same physical
9 location or facility in which the services are provided.

10 (8) "Medical board" means the Texas Medical Board.

11 (9) "Physician" means a person licensed by the Texas
12 Medical Board to practice medicine and surgery or osteopathic
13 medicine and surgery.

14 Sec. 207.003. APPLICATION OF SUNSET ACT. The Texas
15 Anesthesiologist Assistant Board is subject to Chapter 325,
16 Government Code (Texas Sunset Act). Unless continued in existence
17 as provided by that chapter, the board is abolished and this chapter
18 expires September 1, 2019.

19 Sec. 207.004. APPLICABILITY OF CHAPTER. (a) A person is
20 not required to hold a license issued under this chapter to practice
21 as:

22 (1) a technician, assistant, or employee of a
23 physician who performs delegated tasks but does not act as an
24 anesthesiologist assistant or represent that the person is an
25 anesthesiologist assistant; or

26 (2) any other licensed health care worker acting
27 within the scope of that person's license if the person:

1 (A) does not use the title "anesthesiologist
2 assistant" or the initials "A.A." or "A.A.-C"; or

3 (B) is not represented or designated as an
4 anesthesiologist assistant.

5 (b) This chapter does not limit the employment arrangement
6 of an anesthesiologist assistant.

7 [Sections 207.005-207.050 reserved for expansion]

8 SUBCHAPTER B. TEXAS ANESTHESIOLOGIST ASSISTANT BOARD

9 Sec. 207.051. ANESTHESIOLOGIST ASSISTANT BOARD. (a) The
10 Texas Anesthesiologist Assistant Board is an advisory board to the
11 medical board.

12 (b) The anesthesiologist assistant board shall:

13 (1) guide, advise, and make recommendations to the
14 medical board; and

15 (2) assist the medical board in carrying out this
16 chapter.

17 (c) The medical board is responsible for the ongoing
18 examination of the scope of practice and promoting the continuing
19 role of anesthesiologist assistants in the delivery of health care
20 services.

21 Sec. 207.052. APPOINTMENT OF BOARD. The anesthesiologist
22 assistant board consists of six members appointed by the governor
23 with the advice and consent of the senate as follows:

24 (1) one member who is a physician;

25 (2) one anesthesiologist assistant;

26 (3) two anesthesiologists; and

27 (4) two members who represent the public and are not

1 licensed or trained in a health care profession.

2 Sec. 207.053. PUBLIC MEMBER ELIGIBILITY. A person is not
3 eligible for appointment as a public member of the anesthesiologist
4 assistant board if the person or the person's spouse:

5 (1) is registered, certified, or licensed by an
6 occupational regulatory agency in the field of health care;

7 (2) is employed by or participates in the management
8 of a business entity or other organization regulated by the medical
9 board or receiving funds from the medical board or anesthesiologist
10 assistant board;

11 (3) owns or controls, directly or indirectly, more
12 than a 10 percent interest in a business entity or other
13 organization regulated by the medical board or anesthesiologist
14 assistant board or receiving funds from the medical board or
15 anesthesiologist assistant board; or

16 (4) uses or receives a substantial amount of tangible
17 goods, services, or money from the medical board or
18 anesthesiologist assistant board, other than compensation or
19 reimbursement authorized by law for anesthesiologist assistant
20 board membership, attendance, or expenses.

21 Sec. 207.054. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
22 In this section, "Texas trade association" means a cooperative and
23 voluntarily joined association of business or professional
24 competitors in this state designed to assist its members and its
25 industry or profession in dealing with mutual business or
26 professional problems and in promoting their common interest.

27 (b) A person may not be a member of the anesthesiologist

1 assistant board or an employee of the medical board employed in a
2 "bona fide executive, administrative, or professional capacity,"
3 as that phrase is used for purposes of establishing an exemption to
4 the overtime provisions of the federal Fair Labor Standards Act of
5 1938 (29 U.S.C. Section 201 et seq.) if:

6 (1) the person is an officer, employee, manager, or
7 paid consultant of a Texas trade association in the field of health;
8 or

9 (2) the person's spouse is an officer, board member,
10 employee, or paid consultant of a Texas trade association in the
11 field of health care.

12 (c) A person may not be a member of the anesthesiologist
13 assistant board if the person is required to register as a lobbyist
14 under Chapter 305, Government Code, because of the person's
15 activities for compensation on behalf of a profession related to
16 the operation of the medical board or anesthesiologist assistant
17 board.

18 Sec. 207.055. MEMBERSHIP REQUIREMENTS. Each member of the
19 anesthesiologist assistant board must be a citizen of the United
20 States and a resident of this state. Each physician member of the
21 anesthesiologist assistant board must be licensed to practice
22 medicine in this state.

23 Sec. 207.056. TERMS; VACANCIES. (a) Members of the
24 anesthesiologist assistant board serve staggered three-year terms.
25 The terms of two members expire on January 31 each year.

26 (b) An anesthesiologist assistant board member who is an
27 anesthesiologist assistant or a physician may not serve more than

1 two consecutive terms.

2 (c) At least 90 days before the expiration of a term of a
3 member who is an anesthesiologist or anesthesiologist assistant or
4 as soon as possible after a vacancy occurs, the president of the
5 Texas Society of Anesthesiologists, or its successor, shall submit
6 a list to the medical board of not more than three qualified and
7 willing individuals for each vacancy with a request and
8 recommendation that the governor appoint one of the individuals
9 listed to each vacancy as indicated on the list. The president of
10 the Texas Society of Anesthesiologists, or its successor, shall
11 include a letter of transmittal with the list that describes the
12 method by which the individuals were chosen.

13 (d) If a vacancy occurs during a member's term, the governor
14 shall appoint a new member to serve the unexpired term.

15 Sec. 207.057. OFFICERS; MEETINGS. (a) The
16 anesthesiologist assistant board shall hold an open annual meeting
17 and elect a presiding officer and secretary from among its members.

18 (b) The anesthesiologist assistant board may hold
19 additional meetings as necessary provided that notice of each
20 meeting is given to each member not less than 10 days before the
21 date of the meeting.

22 Sec. 207.058. APPLICABILITY OF OTHER LAW. (a) Chapter
23 2110, Government Code, does not apply to the anesthesiologist
24 assistant board.

25 (b) Except as otherwise provided by this chapter, the
26 anesthesiologist assistant board is subject to Chapters 551 and
27 2001, Government Code.

1 Sec. 207.059. GROUNDS FOR REMOVAL. (a) It is a ground for
2 removal from the anesthesiologist assistant board that a member:

3 (1) does not have at the time of taking office the
4 qualifications required by Sections 207.052, 207.053, and 207.055;

5 (2) does not maintain during service on the
6 anesthesiologist assistant board the qualifications required by
7 Sections 207.052, 207.053, and 207.055;

8 (3) is ineligible for membership under Section
9 207.054;

10 (4) cannot, because of illness or disability,
11 discharge the member's duties for a substantial part of the member's
12 term; or

13 (5) is absent from more than half of the regularly
14 scheduled anesthesiologist assistant board meetings that the
15 member is eligible to attend during a calendar year without an
16 excuse approved by a majority vote of the anesthesiologist
17 assistant board.

18 (b) The validity of an action of the anesthesiologist
19 assistant board is not affected by the fact that it is taken when a
20 ground for removal of an anesthesiologist assistant board member
21 exists.

22 (c) If the executive director has knowledge that a potential
23 ground for removal of an anesthesiologist assistant board member
24 exists, the executive director shall notify the presiding officer
25 of the anesthesiologist assistant board of the potential ground.
26 The presiding officer shall then notify the governor and the
27 attorney general that a potential ground for removal exists. If the

1 potential ground for removal involves the presiding officer, the
2 executive director shall notify the next highest officer of the
3 anesthesiologist assistant board, who shall notify the governor and
4 the attorney general that a potential ground for removal exists.

5 Sec. 207.060. TRAINING. (a) A person who is appointed to
6 and qualifies for office as a member of the anesthesiologist
7 assistant board may not vote, deliberate, or be counted as a member
8 in attendance at a meeting of the anesthesiologist assistant board
9 until the person completes a training program that complies with
10 this section.

11 (b) The training program must provide the person with
12 information regarding:

13 (1) this chapter;

14 (2) the results of the most recent formal audit of the
15 anesthesiologist assistant board;

16 (3) the requirements of laws relating to open
17 meetings, public information, administrative procedure, and
18 conflict of interest; and

19 (4) any applicable ethics policies adopted by the
20 medical board or the Texas Ethics Commission.

21 (c) A person appointed to the anesthesiologist assistant
22 board is entitled to reimbursement, as provided by the General
23 Appropriations Act, for travel expenses incurred in attending the
24 training program regardless of whether the attendance at the
25 program occurs before or after the person qualifies for office.

26 Sec. 207.061. QUALIFICATIONS AND STANDARDS OF CONDUCT
27 INFORMATION. The executive director of the medical board or the

1 executive director's designee shall provide, as often as necessary,
2 to members of the anesthesiologist assistant board information
3 regarding their:

- 4 (1) qualifications for office under this chapter; and
5 (2) responsibilities under applicable laws relating
6 to standards of conduct for state officers.

7 Sec. 207.062. COMPENSATION; REIMBURSEMENT. An
8 anesthesiologist assistant board member may not receive
9 compensation for service on the anesthesiologist assistant board
10 but is entitled to receive reimbursement under the General
11 Appropriations Act for transportation and related expenses
12 incurred while conducting the anesthesiologist assistant board's
13 business.

14 [Sections 207.063-207.100 reserved for expansion]

15 SUBCHAPTER C. POWERS AND DUTIES OF ANESTHESIOLOGIST
16 ASSISTANT BOARD AND MEDICAL BOARD

17 Sec. 207.101. GENERAL POWERS AND DUTIES OF ANESTHESIOLOGIST
18 ASSISTANT BOARD. The anesthesiologist assistant board shall:

19 (1) adopt rules that are reasonable and necessary for
20 the performance of the board's duties under this chapter, as
21 provided by Chapter 2001, Government Code, including rules to
22 establish:

- 23 (A) licensing and other fees;
24 (B) license renewal dates; and
25 (C) procedures for disciplinary actions;
26 (2) review and approve or reject each application for
27 the issuance or renewal of a license;

1 (3) issue each license;

2 (4) deny, suspend, or revoke a license or otherwise
3 discipline a license holder; and

4 (5) take any action necessary to carry out the
5 functions and duties of the board under this chapter.

6 Sec. 207.102. GUIDELINES FOR EARLY INVOLVEMENT IN
7 RULEMAKING PROCESS. (a) The anesthesiologist assistant board
8 shall adopt guidelines to establish procedures for receiving input
9 during the rulemaking process from individuals and groups that have
10 an interest in matters under the anesthesiologist assistant board's
11 jurisdiction. The guidelines must provide an opportunity for those
12 individuals and groups to provide input before the anesthesiologist
13 assistant board submits the rule to the medical board for approval.

14 (b) A rule adopted by the medical board may not be
15 challenged on the grounds that the anesthesiologist assistant board
16 did not comply with this section. If the anesthesiologist
17 assistant board was unable to solicit a significant amount of input
18 from the public or affected persons early in the rulemaking
19 process, the anesthesiologist assistant board shall state in
20 writing the reasons why the anesthesiologist assistant board was
21 unable to do so.

22 Sec. 207.103. POWERS AND DUTIES OF MEDICAL BOARD RELATING
23 TO ANESTHESIOLOGIST ASSISTANTS. (a) The medical board shall adopt
24 rules consistent with this chapter to regulate anesthesiologist
25 assistants and anesthesiologists who supervise anesthesiologist
26 assistants.

27 (b) The medical board, by a majority vote, shall approve or

1 reject each rule adopted by the anesthesiologist assistant board.
2 If approved, the rule may take effect. If the rule is rejected, the
3 medical board shall return the rule to the anesthesiologist
4 assistant board for revision.

5 Sec. 207.104. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
6 The anesthesiologist assistant board shall adopt rules and
7 guidelines as necessary to comply with Chapter 53, except to the
8 extent the requirements of this chapter are stricter than the
9 requirements of Chapter 53.

10 Sec. 207.105. ASSISTANCE BY MEDICAL BOARD. (a) The medical
11 board shall provide administrative and clerical employees as
12 necessary to enable the anesthesiologist assistant board to
13 administer this chapter.

14 (b) Subject to the advice and approval of the medical board,
15 the anesthesiologist assistant board shall develop and implement
16 policies that clearly separate the policy-making responsibilities
17 of the anesthesiologist assistant board and the management
18 responsibilities of the executive director and the staff of the
19 medical board.

20 Sec. 207.106. FEES. The medical board shall set and collect
21 fees in amounts that are reasonable and necessary to cover the costs
22 of administering and enforcing this chapter without the use of any
23 other funds generated by the medical board.

24 Sec. 207.107. RULES RESTRICTING ADVERTISING OR COMPETITIVE
25 BIDDING. (a) The medical board may not adopt rules under this
26 chapter restricting advertising or competitive bidding by a license
27 holder except to prohibit false, misleading, or deceptive

1 practices.

2 (b) In its rules to prohibit false, misleading, or deceptive
3 practices, the medical board may not include a rule that:

4 (1) restricts the use of any medium for advertising;

5 (2) restricts the use of a license holder's personal
6 appearance or voice in an advertisement;

7 (3) relates to the size or duration of an
8 advertisement by the license holder; or

9 (4) restricts the license holder's advertisement under
10 a trade name.

11 Sec. 207.108. ANNUAL REPORT. (a) The medical board shall
12 prepare annually a complete and detailed written report accounting
13 for all funds received and disbursed by the medical board or the
14 anesthesiologist assistant board under this chapter during the
15 preceding fiscal year.

16 (b) The annual report must meet the reporting requirements
17 applicable to financial reporting provided in the General
18 Appropriations Act.

19 Sec. 207.109. TECHNOLOGY POLICY. The medical board shall
20 implement a policy requiring the anesthesiologist assistant board
21 to use appropriate technological solutions to improve the
22 anesthesiologist assistant board's ability to perform its
23 functions. The policy must ensure that the public is able to
24 interact with the anesthesiologist assistant board on the Internet.

25 Sec. 207.110. NEGOTIATED RULEMAKING AND ALTERNATIVE
26 DISPUTE RESOLUTION POLICY. The medical board shall develop and
27 implement a policy to encourage the use of:

1 (1) negotiated rulemaking procedures under Chapter
2 2008, Government Code, for the adoption of medical board rules for
3 the anesthesiologist assistant board; and

4 (2) appropriate alternative dispute resolution
5 procedures under Chapter 2009, Government Code, to assist in the
6 resolution of internal and external disputes under the
7 anesthesiologist assistant board's jurisdiction.

8 Sec. 207.111. PUBLIC INTEREST INFORMATION. (a) The
9 anesthesiologist assistant board shall prepare information of
10 public interest describing the functions of the anesthesiologist
11 assistant board and the procedures by which complaints are filed
12 with and resolved by the anesthesiologist assistant board.

13 (b) The anesthesiologist assistant board shall make the
14 information available to the public and appropriate state agencies.

15 Sec. 207.112. PUBLIC PARTICIPATION. Subject to the advice
16 and approval of the medical board, the anesthesiologist assistant
17 board shall develop and implement policies that provide the public
18 with a reasonable opportunity to appear before the anesthesiologist
19 assistant board and to speak on any issue under the jurisdiction of
20 the anesthesiologist assistant board.

21 Sec. 207.113. RECORDS OF COMPLAINTS. (a) The
22 anesthesiologist assistant board shall maintain a system to
23 promptly and efficiently act on complaints filed with the board.

24 The board shall maintain:

25 (1) information about the parties to the complaint and
26 the subject matter of the complaint;

27 (2) a summary of the results of the review or

1 investigation of the complaint; and

2 (3) information about the disposition of the
3 complaint.

4 (b) The anesthesiologist assistant board shall make
5 information available describing its procedures for complaint
6 investigation and resolution.

7 (c) The anesthesiologist assistant board shall periodically
8 notify the parties of the status of the complaint until final
9 disposition of the complaint, unless the notice would jeopardize an
10 investigation.

11 [Sections 207.114-207.150 reserved for expansion]

12 SUBCHAPTER D. LICENSE REQUIREMENTS; EXEMPTIONS; RENEWALS

13 Sec. 207.151. LICENSE REQUIRED. A person may not practice
14 as an anesthesiologist assistant in this state unless the person
15 holds an anesthesiologist assistant license issued under this
16 chapter.

17 Sec. 207.152. ISSUANCE OF LICENSE. (a) The
18 anesthesiologist assistant board shall issue a license to an
19 applicant who:

20 (1) meets the eligibility requirements of Section
21 207.153;

22 (2) submits an application on a form prescribed by the
23 board;

24 (3) pays the required application fee;

25 (4) certifies that the applicant is mentally and
26 physically able to function safely as an anesthesiologist
27 assistant; and

1 (5) submits to the board any other information the
2 board considers necessary to evaluate the applicant's
3 qualifications.

4 (b) The anesthesiologist assistant board may delegate
5 authority to medical board employees to issue licenses under this
6 chapter to applicants who clearly meet all licensing requirements.
7 If the medical board employees determine that the applicant does
8 not clearly meet all licensing requirements, the application shall
9 be returned to the anesthesiologist assistant board. A license
10 issued under this subsection does not require formal
11 anesthesiologist assistant board approval.

12 Sec. 207.153. ELIGIBILITY REQUIREMENTS. (a) To be eligible
13 for a license under this chapter, an applicant must:

14 (1) successfully complete an educational program
15 accredited by the Commission on Accreditation of Allied Health
16 Education Programs or another national accrediting agency approved
17 by the medical board;

18 (2) pass the Certifying Examination for
19 Anesthesiologist Assistants as administered by the National
20 Commission for Certification of Anesthesiologist Assistants or
21 another national testing service and examination approved by the
22 medical board;

23 (3) be of good moral character; and

24 (4) meet any other requirement established by
25 anesthesiologist assistant board rule.

26 (b) In addition to the requirements of Subsection (a), an
27 applicant is not eligible for a license, unless the

1 anesthesiologist assistant board takes into consideration in
2 determining whether to issue the license, if the applicant:

3 (1) has been issued a license, certificate, or
4 registration as an anesthesiologist assistant in this state or from
5 a licensing authority in another state that is revoked or
6 suspended; or

7 (2) is subject to probation or other disciplinary
8 action for cause in this state or another state resulting from the
9 applicant's acts as an anesthesiologist assistant.

10 Sec. 207.154. EXEMPTION FROM LICENSING REQUIREMENT FOR
11 CERTAIN ANESTHESIOLOGIST ASSISTANTS. A person is not required to
12 hold a license issued under this chapter to practice as:

13 (1) an anesthesiologist assistant student enrolled in
14 an anesthesiologist assistant educational program accredited by
15 the Commission on Accreditation of Allied Health Education Programs
16 or by its successor; or

17 (2) an anesthesiologist assistant employed in the
18 service of the federal government while performing duties related
19 to that employment.

20 Sec. 207.155. TEMPORARY LICENSE. (a) The anesthesiologist
21 assistant board may issue a temporary license to an applicant who:

22 (1) meets all the qualifications for a license under
23 this chapter but is waiting for the license to be issued at the next
24 scheduled meeting of the board;

25 (2) seeks to temporarily substitute for a licensed
26 anesthesiologist assistant during the license holder's absence, if
27 the applicant:

1 (A) is licensed or registered in good standing in
2 another state;

3 (B) submits an application on a form prescribed
4 by the board; and

5 (C) pays the appropriate fee prescribed by the
6 board; or

7 (3) has graduated from an educational program for
8 anesthesiologist assistants described by Section 207.153(a)(1) not
9 later than six months before applying for a temporary license and is
10 waiting for examination results from the National Commission on
11 Certification of Anesthesiologist Assistants or another national
12 accrediting agency approved by the medical board.

13 (b) A temporary license may be valid for not more than one
14 year after the date issued as determined by anesthesiologist
15 assistant board rule.

16 Sec. 207.156. LICENSE RENEWAL. (a) On notification from
17 the anesthesiologist assistant board, a person who holds a license
18 under this chapter may renew the license by:

19 (1) paying the required renewal fee;

20 (2) submitting the appropriate form; and

21 (3) meeting any other requirement established by board
22 rule.

23 (b) The anesthesiologist assistant board by rule may adopt a
24 system under which licenses expire on various dates during the
25 year.

26 (c) A person who is otherwise eligible to renew a license
27 may renew an unexpired license by paying the required renewal fee to

1 the anesthesiologist assistant board before the expiration date of
2 the license. A person whose license has expired may not engage in
3 activities that require a license until the license has been
4 renewed.

5 (d) A person whose license has been expired for 90 days or
6 less may renew the license by paying to the anesthesiologist
7 assistant board a fee that is equal to 1-1/2 times the renewal fee
8 for the license.

9 (e) A person whose license has been expired for more than 90
10 days but less than one year may renew the license by paying to the
11 anesthesiologist assistant board a fee equal to two times the
12 renewal fee for the license.

13 (f) A person who was licensed in this state, moved to
14 another state, and is currently licensed and has been in practice in
15 the other state for the two years preceding the date of the
16 application may obtain a new license by paying to the
17 anesthesiologist assistant board a fee that is equal to two times
18 the normally required renewal fee for the license.

19 Sec. 205.157. CONTINUING EDUCATION REQUIREMENTS. The
20 anesthesiologist assistant board by rule shall establish
21 continuing education requirements for an anesthesiologist
22 assistant licensed under this chapter. The rules may require a
23 license holder, as a condition for license renewal, to successfully
24 complete the continuing education required to maintain
25 certification by the National Commission for Certification of
26 Anesthesiologist Assistants or another national certification
27 agency selected by the board.

1 Sec. 205.158. INACTIVE STATUS. (a) A person licensed under
2 this chapter may place the person's license on inactive status by
3 applying to the anesthesiologist assistant board. A person whose
4 license is on inactive status is not required to pay renewal fees
5 for the license.

6 (b) The holder of a license on inactive status may not
7 practice as an anesthesiologist assistant. A violation of this
8 subsection is considered to be practicing without a license.

9 (c) A person whose license is on inactive status under this
10 section may return the person's license to active status by:

- 11 (1) applying to the anesthesiologist assistant board;
12 (2) paying the fee established by the board for
13 returning a license to active status; and
14 (3) satisfying any other requirements established by
15 the board.

16 (d) The anesthesiologist assistant board by rule shall
17 establish a limit on the length of time an anesthesiologist
18 assistant's license may remain on inactive status.

19 [Sections 207.159-207.200 reserved for expansion]

20 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

21 Sec. 207.201. SCOPE OF PRACTICE. (a) An anesthesiologist
22 assistant may assist the supervising anesthesiologist in
23 developing and implementing an anesthesia care plan for a patient.
24 In providing assistance to the supervising anesthesiologist, an
25 anesthesiologist assistant may:

- 26 (1) obtain from the patient a comprehensive patient
27 history, perform relevant elements of a physical examination, and

- 1 present the patient's history to the supervising anesthesiologist;
2 (2) pretest and calibrate anesthesia delivery systems
3 and obtain and interpret information from the systems and monitors,
4 in consultation with an anesthesiologist;
5 (3) initiate multiparameter monitoring before
6 anesthesia or in other acute care settings under anesthesiologist
7 supervision, including American Society of Anesthesiologists
8 standard monitors and arterial and venous catheters, and may use
9 and interpret data from central venous, pulmonary artery, and
10 intracranial catheters and other monitors or devices that are
11 indicated;
12 (4) establish basic and advanced airway
13 interventions, including intubation of the trachea and the
14 performance of ventilatory support;
15 (5) administer intermittent vasoactive drugs and
16 start and adjust vasoactive infusions;
17 (6) administer anesthetic drugs, adjuvant drugs, and
18 accessory drugs;
19 (7) assist and initiate with the supervising
20 anesthesiologist the performance of epidural anesthetic
21 procedures, spinal anesthetic procedures, and other regional
22 anesthetic techniques;
23 (8) administer blood, blood products, and supportive
24 fluids;
25 (9) provide initial cardiopulmonary resuscitation in
26 response to a life-threatening situation as directed by a physician
27 or protocol until the supervising anesthesiologist arrives;

1 (10) participate in administrative, research, and
2 clinical teaching activities as authorized by the supervising
3 anesthesiologist; or

4 (11) perform other tasks not prohibited by law that
5 are delegated by a licensed anesthesiologist and that the
6 anesthesiologist assistant has been trained and is proficient to
7 perform.

8 (b) An anesthesiologist shall at all times accept and be
9 responsible for the oversight of the health care services rendered
10 by the anesthesiologist assistant.

11 (c) This chapter does not prevent a third-party payor from
12 reimbursing the employer of an anesthesiologist assistant for
13 covered services rendered by the anesthesiologist assistant.

14 Sec. 207.202. CERTAIN PROHIBITED PRACTICES. An
15 anesthesiologist assistant may not:

16 (1) prescribe medication or a controlled substance;

17 (2) administer any drug, medicine, device, or therapy
18 the supervising anesthesiologist is not qualified or authorized to
19 prescribe; or

20 (3) practice or attempt to practice without the
21 supervision of an anesthesiologist or in any location where the
22 supervising anesthesiologist is not immediately available for
23 consultation, assistance, and intervention.

24 Sec. 207.203. IDENTIFICATION REQUIREMENTS. (a) An
25 anesthesiologist assistant must be clearly identified as an
26 anesthesiologist assistant and may not use or permit to be used on
27 the anesthesiologist assistant's behalf the term:

1 (1) "doctor," "Dr.," or "doc," or another term that
2 identifies the person as a physician or surgeon; or

3 (2) "physician assistant" or "P.A." or another term
4 that may imply that the anesthesiologist assistant is a physician
5 assistant.

6 (b) An anesthesiologist assistant may not refer to a license
7 as "board-certified" or use any other terminology that may imply
8 that the anesthesiologist assistant is a physician or surgeon.

9 (c) A student in an anesthesiologist assistant training
10 program shall be identified as a student anesthesiologist assistant
11 or an anesthesiologist assistant student. A student may not use or
12 permit to be used on the student's behalf the term "intern,"
13 "resident," or "fellow," or another term that identifies the
14 student as a physician or surgeon.

15 Sec. 207.204. SUPERVISION REQUIREMENTS. (a) An
16 anesthesiologist assistant shall practice only under the direct
17 supervision of an anesthesiologist who is physically present or
18 immediately available. A supervising anesthesiologist may
19 supervise not more than four anesthesiologist assistants
20 consistent with federal rules or regulations for reimbursement for
21 anesthesia services. An anesthesiologist assistant may have more
22 than one supervising anesthesiologist.

23 (b) Each anesthesiologist who agrees to act as the
24 supervising anesthesiologist of an anesthesiologist assistant
25 shall adopt a written practice protocol that delineates the
26 services the anesthesiologist assistant may provide and the manner
27 in which the anesthesiologist will supervise the anesthesiologist

1 assistant. The protocol must be based on relevant quality
2 assurance standards, including regular review by the supervising
3 anesthesiologist of the medical records of the patients cared for
4 by the anesthesiologist assistant.

5 (c) The supervising anesthesiologist shall oversee the
6 anesthesiologist assistant in accordance with the terms of the
7 protocol and rules adopted by the anesthesiologist assistant board
8 for the supervision of an anesthesiologist assistant. The board
9 may randomly audit or inspect any written practice protocol under
10 which an anesthesiologist assistant works.

11 Sec. 207.205. REQUIREMENTS OF SUPERVISING
12 ANESTHESIOLOGIST. (a) A supervising anesthesiologist must:

13 (1) hold an unrestricted and active license as a
14 physician in this state;

15 (2) be engaged full-time in the medical specialty of
16 anesthesiology; and

17 (3) be certified by the American Board of Medical
18 Specialties, the Bureau of Osteopathic Specialists in
19 Anesthesiology, or another national certifying board approved by
20 the medical board.

21 (b) An individual who does not meet the criteria under
22 Subsection (a) may not supervise or delegate any task to an
23 anesthesiologist assistant.

24 Sec. 207.206. ASSUMPTION OF PROFESSIONAL LIABILITY. (a)
25 Each supervising anesthesiologist retains legal responsibility for
26 an anesthesiologist assistant's patient care activities, including
27 the provision of care and treatment to a patient in a health care

1 facility.

2 (b) If an anesthesiologist assistant is employed by an
3 entity, including a health care facility, the entity shares the
4 legal responsibility for the anesthesiologist assistant's acts or
5 omissions with the anesthesiologist assistant's supervising
6 anesthesiologist.

7 Sec. 207.207. FACILITY LIMITATIONS OF FUNCTIONS. The
8 governing body of each facility in which anesthesiologist
9 assistants practice may limit the functions and activities that an
10 anesthesiologist assistant may perform in the facility.

11 [Sections 207.208-207.250 reserved for expansion]

12 SUBCHAPTER F. COMPLAINTS AND INVESTIGATIVE INFORMATION

13 Sec. 207.251. COMPLAINT INFORMATION AND STATUS. (a) The
14 anesthesiologist assistant board shall keep information on file
15 about each complaint filed with the board.

16 (b) If a written complaint is filed with the
17 anesthesiologist assistant board relating to a person licensed by
18 the board, the board, as often as quarterly and until final
19 determination of the action to be taken on the complaint, shall
20 notify the parties to the complaint of the status of the complaint
21 unless the notice would jeopardize an active investigation.

22 Sec. 207.252. CONDUCT OF INVESTIGATION. (a) The
23 anesthesiologist assistant board shall complete a preliminary
24 investigation of a complaint filed with the board not later than the
25 30th day after the date of receiving the complaint.

26 (b) The anesthesiologist assistant board shall first
27 determine whether the anesthesiologist assistant constitutes a

1 continuing threat to the public welfare. On completion of the
2 preliminary investigation, the board shall determine whether to
3 officially proceed on the complaint.

4 (c) If the anesthesiologist assistant board fails to
5 complete the preliminary investigation in the time required by this
6 section, the board's official investigation of the complaint is
7 considered to commence on that date.

8 Sec. 207.253. LICENSE HOLDER ACCESS TO COMPLAINT
9 INFORMATION. (a) The anesthesiologist assistant board shall
10 provide a license holder who is the subject of a formal complaint
11 filed under this chapter with access to all information in its
12 possession that the board intends to offer into evidence in
13 presenting its case at the contested hearing on the complaint,
14 subject to any other privilege or restriction established by rule,
15 statute, or legal precedent. The board shall provide the
16 information not later than the 30th day after receipt of a written
17 request from the license holder or the license holder's counsel,
18 unless good cause is shown for delay.

19 (b) Notwithstanding Subsection (a), the anesthesiologist
20 assistant board is not required to provide:

- 21 (1) board investigative reports;
22 (2) investigative memoranda;
23 (3) the identity of a nontestifying complainant;
24 (4) attorney-client communications;
25 (5) attorney work product; or
26 (6) other material covered by a privilege recognized
27 by the Texas Rules of Civil Procedure or the Texas Rules of

1 Evidence.

2 (c) The provision of information does not constitute a
3 waiver of privilege or confidentiality under this chapter or other
4 law.

5 Sec. 207.254. HEALTH CARE ENTITY REQUEST FOR INFORMATION.
6 On the written request of a health care entity, the
7 anesthesiologist assistant board shall provide to the entity:

8 (1) information about a complaint filed against a
9 license holder that was resolved after investigation by:

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

11 (B) an agreed settlement; and

12 (2) the basis of and current status of any complaint
13 under active investigation.

14 Sec. 207.255. CONFIDENTIALITY OF INVESTIGATIVE
15 INFORMATION. A complaint, adverse report, investigation file,
16 other report, or other investigative information in the possession
17 of or received or gathered by the anesthesiologist assistant board
18 or a board employee or agent relating to a license holder, a license
19 application, or a criminal investigation or proceeding is
20 privileged and confidential and is not subject to discovery,
21 subpoena, or other means of legal compulsion for release to any
22 person other than the board or a board employee or agent involved in
23 license holder discipline.

24 Sec. 207.256. PERMITTED DISCLOSURE OF INVESTIGATIVE
25 INFORMATION. (a) Investigative information in the possession of an
26 anesthesiologist assistant board employee or agent that relates to
27 the discipline of a license holder may be disclosed to:

1 (1) a licensing authority in another state or country
2 in which the license holder is licensed or has applied for a
3 license; or

4 (2) a peer review committee reviewing:

5 (A) an application for privileges; or

6 (B) the qualifications of the license holder with
7 respect to retaining privileges.

8 (b) If investigative information in the possession of the
9 anesthesiologist assistant board or a board employee or agent
10 indicates that a crime may have been committed, the board shall
11 report the information to the proper law enforcement agency. The
12 board shall cooperate with and assist each law enforcement agency
13 conducting a criminal investigation of a license holder by
14 providing information relevant to the investigation. Confidential
15 information disclosed by the board to a law enforcement agency
16 under this subsection remains confidential and may not be disclosed
17 by the law enforcement agency except as necessary to further the
18 investigation.

19 [Sections 207.257-207.300 reserved for expansion]

20 SUBCHAPTER G. DISCIPLINARY PROCEEDINGS

21 Sec. 207.301. DISCIPLINE AUTHORITY OF BOARD. (a) On a
22 determination that an applicant or license holder committed an act
23 described in Section 207.302, the anesthesiologist assistant board
24 by order shall take any of the following actions:

25 (1) deny the person's application for a license or
26 license renewal or revoke the person's license or other
27 authorization;

1 (2) require the person to submit to the care,
2 counseling, or treatment of a health care practitioner designated
3 by the board;

4 (3) stay enforcement of an order and place the person
5 on probation;

6 (4) require the person to complete additional
7 training;

8 (5) suspend, limit, or restrict the person's license,
9 including:

10 (A) limiting the practice of the person to, or
11 excluding from the practice, one or more specified activities of
12 the practice as an anesthesiologist assistant; or

13 (B) stipulating periodic board review;

14 (6) assess an administrative penalty;

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

16 (8) administer a public reprimand.

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

23 (c) The anesthesiologist assistant board may restore or
24 reissue a license or remove any disciplinary or corrective measure
25 that the board has imposed.

26 Sec. 207.302. CONDUCT INDICATING LACK OF FITNESS. The
27 anesthesiologist assistant board may take action under Section

1 207.301 against an applicant or license holder who:

2 (1) uses or unlawfully possesses a controlled
3 substance or alcoholic beverage to the extent that the person
4 cannot safely perform as an anesthesiologist assistant;

5 (2) has been finally adjudicated and found guilty, or
6 entered a plea of guilty or nolo contendere, in a criminal
7 prosecution under the laws of any state or of the United States, for
8 an offense reasonably related to the qualifications, functions, or
9 duties of an anesthesiologist assistant, for an offense for which
10 an essential element is fraud, dishonesty, or an act of violence, or
11 for an offense involving moral turpitude;

12 (3) has used fraud, deception, misrepresentation, or
13 bribery in:

14 (A) securing a certificate of registration or
15 authority issued under other law, a permit issued under other law,
16 or a license issued under this chapter; or

17 (B) obtaining permission to take an examination
18 given or required under this chapter;

19 (4) obtains or attempts to obtain a fee, charge,
20 tuition, or other compensation by fraud, deception, or
21 misrepresentation;

22 (5) has acted with incompetence, misconduct, gross
23 negligence, fraud, misrepresentation, or dishonesty in the
24 performance of the functions and duties of an anesthesiologist
25 assistant;

26 (6) has violated or has assisted or enabled another
27 person to violate any provision of this chapter or a rule adopted

1 under this chapter;

2 (7) has impersonated a person holding a certificate of
3 registration or authority, permit, or license, or allowed a person
4 to use a certificate of registration or authority, permit, license,
5 or diploma from any school;

6 (8) is subject to disciplinary action relating to
7 practice as an anesthesiologist assistant by another state,
8 territory, federal agency, or country on grounds for which
9 revocation or suspension is also authorized in this state;

10 (9) has been adjudicated as mentally incompetent;

11 (10) assists or enables another person to practice or
12 offer to practice as an anesthesiologist assistant if the person is
13 not licensed and currently eligible to practice under this chapter;

14 (11) is issued a certificate of registration or
15 authority under other law, a permit under other law, or a license
16 under this chapter based on a material mistake of fact;

17 (12) violates a professional trust or confidence; or

18 (13) violates any ethical standard for an
19 anesthesiologist assistant as defined by board rule.

20 Sec. 207.303. PHYSICAL OR MENTAL EXAMINATION. (a) The
21 anesthesiologist assistant board shall adopt guidelines, in
22 conjunction with persons interested in or affected by this section,
23 to enable the board to evaluate circumstances in which an
24 anesthesiologist assistant or applicant may be required to submit
25 to an examination for mental or physical health conditions, alcohol
26 and substance abuse, or professional behavior problems.

27 (b) The anesthesiologist assistant board shall refer an

1 anesthesiologist assistant or applicant with a physical or mental
2 health condition to the most appropriate medical specialist for
3 evaluation. The board may not require an anesthesiologist
4 assistant or applicant to submit to an examination by a physician
5 having a specialty specified by the board unless medically
6 indicated. The board may not require an anesthesiologist assistant
7 or applicant to submit to an examination to be conducted an
8 unreasonable distance from the person's home or place of business
9 unless the anesthesiologist assistant or applicant resides and
10 works in an area in which there are a limited number of appropriate
11 medical specialists able to perform an appropriate examination.

12 (c) The guidelines adopted under this section do not impair
13 or remove the anesthesiologist assistant board's power to make an
14 independent licensing decision.

15 Sec. 207.304. PROTECTION OF PATIENT IDENTITY. In a
16 disciplinary investigation or proceeding conducted under this
17 chapter, the anesthesiologist assistant board shall protect the
18 identity of each patient whose medical records are examined and
19 used in a public proceeding, unless the patient:

20 (1) testifies in the public proceeding; or
21 (2) submits a written release with regard to the
22 patient's records or identity.

23 Sec. 207.305. TEMPORARY SUSPENSION. (a) The presiding
24 officer of the anesthesiologist assistant board, with board
25 approval, shall appoint a three-member disciplinary panel
26 consisting of board members to determine whether a person's license
27 to practice as an anesthesiologist assistant should be temporarily

1 suspended.

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

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

10 (1) institution of proceedings for a hearing before
11 the anesthesiologist assistant board is initiated simultaneously
12 with the temporary 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 panel at one
18 location is inconvenient for any member of the panel.

19 Sec. 207.306. SURRENDER OF LICENSE. (a) The
20 anesthesiologist assistant board may accept the voluntary
21 surrender of a license.

22 (b) A surrendered license may not be returned to the license
23 holder unless the anesthesiologist assistant board determines,
24 under board rules, that the former holder of the license is
25 competent to resume practice.

26 (c) The anesthesiologist assistant board by rule shall
27 establish guidelines for determining the competency of a former

1 license holder to return to practice.

2 [Sections 207.307-207.350 reserved for expansion]

3 SUBCHAPTER H. PENALTIES AND ENFORCEMENT PROVISIONS

4 Sec. 207.351. ADMINISTRATIVE PENALTY. (a) The
5 anesthesiologist assistant board by order may impose an
6 administrative penalty against a person licensed under this chapter
7 who violates this chapter or a rule or order adopted under this
8 chapter.

9 (b) The penalty may be in an amount not to exceed \$2,000.
10 Each day a violation continues or occurs is a separate violation for
11 purposes of imposing a penalty.

12 (c) The anesthesiologist assistant board shall base the
13 amount of the penalty on:

- 14 (1) the severity of patient harm;
- 15 (2) the severity of economic harm to any person;
- 16 (3) the severity of any environmental harm;
- 17 (4) increased potential for harm to the public;
- 18 (5) any attempted concealment of misconduct;
- 19 (6) any premeditated or intentional misconduct;
- 20 (7) the motive for the violation;
- 21 (8) prior misconduct of a similar or related nature;
- 22 (9) the license holder's disciplinary history;
- 23 (10) prior written warnings or written admonishments
24 from any government agency or official regarding statutes or
25 regulations relating to the misconduct;
- 26 (11) violation of a board order;
- 27 (12) failure to implement remedial measures to correct

1 or mitigate harm from the misconduct;

2 (13) lack of rehabilitative potential or likelihood of
3 future misconduct of a similar nature;

4 (14) relevant circumstances increasing the
5 seriousness of the misconduct; and

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

7 (d) The anesthesiologist assistant board by rule shall
8 prescribe the procedure by which it may impose an administrative
9 penalty. A proceeding under this section is subject to Chapter
10 2001, Government Code.

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

16 Sec. 207.352. CRIMINAL PENALTY. (a) A person commits an
17 offense if, without holding a license issued under this chapter,
18 the person:

19 (1) represents that the person is an anesthesiologist
20 assistant;

21 (2) uses any combination or abbreviation of the term
22 "anesthesiologist assistant" to indicate or imply that the person
23 is an anesthesiologist assistant; or

24 (3) acts as an anesthesiologist assistant.

25 (b) An offense under this section is a felony of the third
26 degree.

27 Sec. 207.353. CEASE AND DESIST ORDER. (a) If it appears to

1 the anesthesiologist assistant board that a person who is not
2 licensed under this chapter is violating this chapter, a rule
3 adopted under this chapter, or another state statute or rule
4 relating to anesthesiologist assistant practice, the board after
5 notice and opportunity for a hearing may issue a cease and desist
6 order prohibiting the person from engaging in the activity.

7 (b) A violation of an order under this section constitutes
8 grounds for imposing an administrative penalty under this
9 subchapter.

10 SECTION 5. As soon as practicable after the effective date
11 of this Act, the governor shall appoint six members to the Texas
12 Anesthesiologist Assistant Board in accordance with Chapter 207,
13 Occupations Code, as added by this Act. In making the initial
14 appointments, the governor shall designate two members for terms
15 expiring January 31, 2010, two members for terms expiring January
16 31, 2011, and two members for terms expiring January 31, 2012.

17 SECTION 6. Not later than June 1, 2008, the Texas Medical
18 Board with the advice of the Texas Anesthesiologist Assistant Board
19 shall adopt the rules, procedures, and fees necessary to administer
20 Chapter 207, Occupations Code, as added by this Act.

21 SECTION 7. Notwithstanding Chapter 207, Occupations Code,
22 as added by this Act, an anesthesiologist assistant is not required
23 to hold a license under that chapter to practice as an
24 anesthesiologist assistant in this state before September 1, 2008.

25 SECTION 8. (a) Except as provided by Subsection (b) of this
26 section, this Act takes effect September 1, 2007.

27 (b) Sections 207.151 and 207.352, Occupations Code, as

S.B. No. 1314

1 added by this Act, take effect September 1, 2008.