

By: Zerwas

H.B. No. 1893

A BILL TO BE ENTITLED

AN ACT

relating to the licensure of anesthesiologist assistants;
providing penalties.

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

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

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

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

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

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

Sec. 157.061. DELEGATION TO ANESTHESIOLOGIST ASSISTANTS.

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

(b) Under the anesthesiologist's order and in accordance with facility policies or medical staff bylaws, an anesthesiologist assistant may select, obtain, and administer the drugs and apply 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, 2023.

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 care; 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) If a vacancy occurs during a member's term, the governor
3 shall appoint a new member to serve the unexpired term.

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

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

11 Sec. 207.058. APPLICABILITY OF OTHER LAW. (a) Chapter
12 2110, Government Code, does not apply to the anesthesiologist
13 assistant board.

14 (b) Except as otherwise provided by this chapter, the
15 anesthesiologist assistant board is subject to Chapters 551 and
16 2001, Government Code.

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

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

21 (2) does not maintain during service on the
22 anesthesiologist assistant board the qualifications required by
23 Sections 207.052, 207.053, and 207.055;

24 (3) is ineligible for membership under Section
25 207.054;

26 (4) cannot, because of illness or disability,
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly
3 scheduled anesthesiologist assistant board meetings that the
4 member is eligible to attend during a calendar year without an
5 excuse approved by a majority vote of the anesthesiologist
6 assistant board.

7 (b) The validity of an action of the anesthesiologist
8 assistant board is not affected by the fact that it is taken when a
9 ground for removal of an anesthesiologist assistant board member
10 exists.

11 (c) If the executive director of the medical board has
12 knowledge that a potential ground for removal of an
13 anesthesiologist assistant board member exists, the executive
14 director shall notify the presiding officer of the anesthesiologist
15 assistant board of the potential ground. The presiding officer
16 shall then notify the governor and the attorney general that a
17 potential ground for removal exists. If the potential ground for
18 removal involves the presiding officer, the executive director
19 shall notify the next highest officer of the anesthesiologist
20 assistant board, who shall notify the governor and the attorney
21 general that a potential ground for removal exists.

22 Sec. 207.060. TRAINING. (a) A person who is appointed to
23 and qualifies for office as a member of the anesthesiologist
24 assistant board may not vote, deliberate, or be counted as a member
25 in attendance at a meeting of the anesthesiologist assistant board
26 until the person completes a training program that complies with
27 this section.

1 (b) The training program must provide the person with
2 information regarding:

3 (1) this chapter;

4 (2) the results of the most recent formal audit of the
5 anesthesiologist assistant board;

6 (3) the requirements of laws relating to open
7 meetings, public information, administrative procedure, and
8 conflict of interest; and

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

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

16 Sec. 207.061. QUALIFICATIONS AND STANDARDS OF CONDUCT
17 INFORMATION. The executive director of the medical board or the
18 executive director's designee shall provide, as often as necessary,
19 to members of the anesthesiologist assistant board information
20 regarding their:

21 (1) qualifications for office under this chapter; and

22 (2) responsibilities under applicable laws relating
23 to standards of conduct for state officers.

24 Sec. 207.062. COMPENSATION; REIMBURSEMENT. An
25 anesthesiologist assistant board member may not receive
26 compensation for service on the anesthesiologist assistant board
27 but is entitled to receive reimbursement under the General

1 Appropriations Act for transportation and related expenses
2 incurred while conducting the anesthesiologist assistant board's
3 business.

4 [Sections 207.063-207.100 reserved for expansion]

5 SUBCHAPTER C. POWERS AND DUTIES OF ANESTHESIOLOGIST

6 ASSISTANT BOARD AND MEDICAL BOARD

7 Sec. 207.101. GENERAL POWERS AND DUTIES OF ANESTHESIOLOGIST

8 ASSISTANT BOARD. The anesthesiologist assistant board shall:

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

13 (A) licensing and other fees;

14 (B) license renewal dates; and

15 (C) procedures for disciplinary actions;

16 (2) review and approve or reject each application for
17 the issuance or renewal of a license;

18 (3) issue each license;

19 (4) deny, suspend, or revoke a license or otherwise
20 discipline a license holder; and

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

23 Sec. 207.102. GUIDELINES FOR EARLY INVOLVEMENT IN
24 RULEMAKING PROCESS. (a) The anesthesiologist assistant board
25 shall adopt guidelines to establish procedures for receiving input
26 during the rulemaking process from individuals and groups that have
27 an interest in matters under the anesthesiologist assistant board's

1 jurisdiction. The guidelines must provide an opportunity for those
2 individuals and groups to provide input before the anesthesiologist
3 assistant board submits the rule to the medical board for approval.

4 (b) A rule adopted by the medical board may not be
5 challenged on the grounds that the anesthesiologist assistant board
6 did not comply with this section. If the anesthesiologist
7 assistant board was unable to solicit a significant amount of input
8 from the public or affected persons early in the rulemaking
9 process, the anesthesiologist assistant board shall state in
10 writing the reasons why the anesthesiologist assistant board was
11 unable to do so.

12 Sec. 207.103. POWERS AND DUTIES OF MEDICAL BOARD RELATING
13 TO ANESTHESIOLOGIST ASSISTANTS. (a) The medical board shall adopt
14 rules consistent with this chapter to regulate anesthesiologist
15 assistants and anesthesiologists who supervise anesthesiologist
16 assistants.

17 (b) The medical board, by a majority vote, shall approve or
18 reject each rule adopted by the anesthesiologist assistant board.
19 If approved, the rule may take effect. If the rule is rejected, the
20 medical board shall return the rule to the anesthesiologist
21 assistant board for revision.

22 Sec. 207.104. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
23 The anesthesiologist assistant board shall adopt rules and
24 guidelines as necessary to comply with Chapter 53, except to the
25 extent the requirements of this chapter are stricter than the
26 requirements of Chapter 53.

27 Sec. 207.105. ASSISTANCE BY MEDICAL BOARD. (a) The medical

1 board shall provide administrative and clerical employees as
2 necessary to enable the anesthesiologist assistant board to
3 administer this chapter.

4 (b) Subject to the advice and approval of the medical board,
5 the anesthesiologist assistant board shall develop and implement
6 policies that clearly separate the policy-making responsibilities
7 of the anesthesiologist assistant board and the management
8 responsibilities of the executive director and the staff of the
9 medical board.

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

14 Sec. 207.107. RULES RESTRICTING ADVERTISING OR COMPETITIVE
15 BIDDING. (a) The medical board may not adopt rules under this
16 chapter restricting advertising or competitive bidding by a license
17 holder except to prohibit false, misleading, or deceptive
18 practices.

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

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

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

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

26 (4) restricts the license holder's advertisement under
27 a trade name.

1 Sec. 207.108. ANNUAL REPORT. (a) The medical board shall
2 prepare annually a complete and detailed written report accounting
3 for all funds received and disbursed by the medical board or the
4 anesthesiologist assistant board under this chapter during the
5 preceding fiscal year.

6 (b) The annual report must meet the reporting requirements
7 applicable to financial reporting provided in the General
8 Appropriations Act.

9 Sec. 207.109. TECHNOLOGY POLICY. The medical board shall
10 implement a policy requiring the anesthesiologist assistant board
11 to use appropriate technological solutions to improve the
12 anesthesiologist assistant board's ability to perform its
13 functions. The policy must ensure that the public is able to
14 interact with the anesthesiologist assistant board on the Internet.

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

18 (1) negotiated rulemaking procedures under Chapter
19 2008, Government Code, for the adoption of medical board rules for
20 the anesthesiologist assistant board; and

21 (2) appropriate alternative dispute resolution
22 procedures under Chapter 2009, Government Code, to assist in the
23 resolution of internal and external disputes under the
24 anesthesiologist assistant board's jurisdiction.

25 Sec. 207.111. PUBLIC INTEREST INFORMATION. (a) The
26 anesthesiologist assistant board shall prepare information of
27 public interest describing the functions of the anesthesiologist

1 assistant board and the procedures by which complaints are filed
2 with and resolved by the anesthesiologist assistant board.

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

5 Sec. 207.112. PUBLIC PARTICIPATION. Subject to the advice
6 and approval of the medical board, the anesthesiologist assistant
7 board shall develop and implement policies that provide the public
8 with a reasonable opportunity to appear before the anesthesiologist
9 assistant board and to speak on any issue under the jurisdiction of
10 the anesthesiologist assistant board.

11 Sec. 207.113. RECORDS OF COMPLAINTS. (a) The
12 anesthesiologist assistant board shall maintain a system to
13 promptly and efficiently act on complaints filed with the board.
14 The board shall maintain:

15 (1) information about the parties to the complaint and
16 the subject matter of the complaint;

17 (2) a summary of the results of the review or
18 investigation of the complaint; and

19 (3) information about the disposition of the
20 complaint.

21 (b) The anesthesiologist assistant board shall make
22 information available describing its procedures for complaint
23 investigation and resolution.

24 (c) The anesthesiologist assistant board shall periodically
25 notify the parties of the status of the complaint until final
26 disposition of the complaint, unless the notice would jeopardize an
27 active investigation.

1 [Sections 207.114-207.150 reserved for expansion]

2 SUBCHAPTER D. LICENSE REQUIREMENTS; EXEMPTIONS; RENEWALS

3 Sec. 207.151. LICENSE REQUIRED. A person may not practice
4 as an anesthesiologist assistant in this state unless the person
5 holds an anesthesiologist assistant license issued under this
6 chapter.

7 Sec. 207.152. ISSUANCE OF LICENSE. (a) The
8 anesthesiologist assistant board shall issue a license to an
9 applicant who:

10 (1) meets the eligibility requirements of Section
11 207.153;

12 (2) submits an application on a form prescribed by the
13 board;

14 (3) pays the required application fee;

15 (4) certifies that the applicant is mentally and
16 physically able to function safely as an anesthesiologist
17 assistant; and

18 (5) submits to the board any other information the
19 board considers necessary to evaluate the applicant's
20 qualifications.

21 (b) The anesthesiologist assistant board may delegate
22 authority to medical board employees to issue licenses under this
23 chapter to applicants who clearly meet all licensing requirements.

24 If the medical board employees determine that the applicant does
25 not clearly meet all licensing requirements, the application shall
26 be returned to the anesthesiologist assistant board. A license
27 issued under this subsection does not require formal

1 anesthesiologist assistant board approval.

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

4 (1) successfully complete an educational program
5 accredited by the Commission on Accreditation of Allied Health
6 Education Programs or another national accrediting agency approved
7 by the medical board;

8 (2) pass the Certifying Examination for
9 Anesthesiologist Assistants as administered by the National
10 Commission for Certification of Anesthesiologist Assistants or
11 another national testing service and examination approved by the
12 medical board;

13 (3) be of good moral character; and

14 (4) meet any other requirement established by
15 anesthesiologist assistant board rule.

16 (b) In addition to the requirements of Subsection (a), an
17 applicant is not eligible for a license, unless the
18 anesthesiologist assistant board takes into consideration in
19 determining whether to issue the license, if the applicant:

20 (1) has been issued a license, certificate, or
21 registration as an anesthesiologist assistant in this state or from
22 a licensing authority in another state that is revoked or
23 suspended; or

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

27 Sec. 207.154. EXEMPTION FROM LICENSING REQUIREMENT FOR

1 CERTAIN ANESTHESIOLOGIST ASSISTANTS. A person is not required to
2 hold a license issued under this chapter to practice as:

3 (1) an anesthesiologist assistant student enrolled in
4 an anesthesiologist assistant educational program accredited by
5 the Commission on Accreditation of Allied Health Education Programs
6 or by its successor; or

7 (2) an anesthesiologist assistant employed in the
8 service of the federal government while performing duties related
9 to that employment.

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

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

15 (2) seeks to temporarily substitute for a licensed
16 anesthesiologist assistant during the license holder's absence, if
17 the applicant:

18 (A) is licensed or registered in good standing in
19 another state;

20 (B) submits an application on a form prescribed
21 by the board; and

22 (C) pays the appropriate fee prescribed by the
23 board; or

24 (3) has graduated from an educational program for
25 anesthesiologist assistants described by Section 207.153(a)(1) not
26 later than six months before applying for a temporary license and is
27 waiting for examination results from the National Commission for

1 Certification of Anesthesiologist Assistants or another national
2 accrediting agency approved by the medical board.

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

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

- 9 (1) paying the required renewal fee;
10 (2) submitting the appropriate form; and
11 (3) meeting any other requirement established by board
12 rule.

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

16 (c) A person who is otherwise eligible to renew a license
17 may renew an unexpired license by paying the required renewal fee to
18 the anesthesiologist assistant board before the expiration date of
19 the license. A person whose license has expired may not engage in
20 activities that require a license until the license has been
21 renewed.

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

26 (e) A person whose license has been expired for more than 90
27 days but less than one year may renew the license by paying to the

1 anesthesiologist assistant board a fee equal to two times the
2 renewal fee for the license.

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

9 Sec. 205.157. CONTINUING EDUCATION REQUIREMENTS. The
10 anesthesiologist assistant board by rule shall establish
11 continuing education requirements for an anesthesiologist
12 assistant licensed under this chapter. The rules may require a
13 license holder, as a condition for license renewal, to successfully
14 complete the continuing education required to maintain
15 certification by the National Commission for Certification of
16 Anesthesiologist Assistants or another national certification
17 agency selected by the board.

18 Sec. 205.158. INACTIVE STATUS. (a) A person licensed under
19 this chapter may place the person's license on inactive status by
20 applying to the anesthesiologist assistant board. A person whose
21 license is on inactive status is not required to pay renewal fees
22 for the license.

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

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

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

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

9 [Sections 207.159-207.200 reserved for expansion]

10 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

11 Sec. 207.201. SCOPE OF PRACTICE. (a) An anesthesiologist
12 assistant may assist the supervising anesthesiologist in
13 developing and implementing an anesthesia care plan for a patient.
14 In providing assistance to the supervising anesthesiologist, an
15 anesthesiologist assistant may:

16 (1) obtain from the patient a comprehensive patient
17 history, perform relevant elements of a physical examination, and
18 present the patient's history to the supervising anesthesiologist;

19 (2) pretest and calibrate anesthesia delivery systems
20 and obtain and interpret information from the systems and monitors,
21 in consultation with an anesthesiologist;

22 (3) initiate multiparameter monitoring before
23 anesthesia or in other acute care settings under anesthesiologist
24 supervision, including American Society of Anesthesiologists
25 standard monitors and arterial and venous catheters, and may use
26 and interpret data from central venous, pulmonary artery, and
27 intracranial catheters and other monitors or devices that are

1 indicated;

2 (4) establish basic and advanced airway
3 interventions, including intubation of the trachea and the
4 performance of ventilatory support;

5 (5) administer intermittent vasoactive drugs and
6 start and adjust vasoactive infusions;

7 (6) administer anesthetic drugs, adjuvant drugs, and
8 accessory drugs;

9 (7) assist and initiate with the supervising
10 anesthesiologist the performance of epidural anesthetic
11 procedures, spinal anesthetic procedures, and other regional
12 anesthetic techniques;

13 (8) administer blood, blood products, and supportive
14 fluids;

15 (9) provide initial cardiopulmonary resuscitation in
16 response to a life-threatening situation as directed by a physician
17 or protocol until the supervising anesthesiologist arrives;

18 (10) participate in administrative, research, and
19 clinical teaching activities as authorized by the supervising
20 anesthesiologist; or

21 (11) perform other tasks not prohibited by law that
22 are delegated by a licensed anesthesiologist and that the
23 anesthesiologist assistant has been trained and is proficient to
24 perform.

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

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

4 Sec. 207.202. CERTAIN PROHIBITED PRACTICES. An
5 anesthesiologist assistant may not:

6 (1) prescribe medication or a controlled substance;

7 (2) administer any drug, medicine, device, or therapy
8 the supervising anesthesiologist is not qualified or authorized to
9 prescribe; or

10 (3) practice or attempt to practice without the
11 supervision of an anesthesiologist or in any location where the
12 supervising anesthesiologist is not immediately available for
13 consultation, assistance, and intervention.

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

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

20 (2) "physician assistant" or "P.A." or another term
21 that may imply that the anesthesiologist assistant is a physician
22 assistant.

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

26 (c) A student in an anesthesiologist assistant training
27 program shall be identified as a student anesthesiologist assistant

1 or an anesthesiologist assistant student. A student may not use or
2 permit to be used on the student's behalf the term "intern,"
3 "resident," or "fellow," or another term that identifies the
4 student as a physician or surgeon.

5 Sec. 207.204. SUPERVISION REQUIREMENTS. (a) An
6 anesthesiologist assistant shall practice only under the direct
7 supervision of an anesthesiologist who is physically present or
8 immediately available. A supervising anesthesiologist may
9 supervise not more than four anesthesiologist assistants
10 consistent with federal rules or regulations for reimbursement for
11 anesthesia services. An anesthesiologist assistant may have more
12 than one supervising anesthesiologist.

13 (b) Each anesthesiologist who agrees to act as the
14 supervising anesthesiologist of an anesthesiologist assistant
15 shall adopt a written practice protocol that delineates the
16 services the anesthesiologist assistant may provide and the manner
17 in which the anesthesiologist will supervise the anesthesiologist
18 assistant. The protocol must be based on relevant quality
19 assurance standards, including regular review by the supervising
20 anesthesiologist of the medical records of the patients cared for
21 by the anesthesiologist assistant.

22 (c) The supervising anesthesiologist shall oversee the
23 anesthesiologist assistant in accordance with the terms of the
24 protocol and rules adopted by the anesthesiologist assistant board
25 for the supervision of an anesthesiologist assistant. The board
26 may randomly audit or inspect any written practice protocol under
27 which an anesthesiologist assistant works.

Sec. 207.205. REQUIREMENTS OF SUPERVISING

ANESTHESIOLOGIST. (a) A supervising anesthesiologist must:

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

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

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

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

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

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

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

1 [Sections 207.208-207.250 reserved for expansion]

2 SUBCHAPTER F. COMPLAINTS AND INVESTIGATIVE INFORMATION

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

6 (b) If a written complaint is filed with the
7 anesthesiologist assistant board relating to a person licensed by
8 the board, the board, as often as quarterly and until final
9 determination of the action to be taken on the complaint, shall
10 notify the parties to the complaint of the status of the complaint
11 unless the notice would jeopardize an active investigation.

12 Sec. 207.252. CONDUCT OF INVESTIGATION. (a) The
13 anesthesiologist assistant board shall complete a preliminary
14 investigation of a complaint filed with the board not later than the
15 30th day after the date of receiving the complaint.

16 (b) The anesthesiologist assistant board shall first
17 determine whether the anesthesiologist assistant constitutes a
18 continuing threat to the public welfare. On completion of the
19 preliminary investigation, the board shall determine whether to
20 officially proceed on the complaint.

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

25 Sec. 207.253. LICENSE HOLDER ACCESS TO COMPLAINT
26 INFORMATION. (a) The anesthesiologist assistant board shall
27 provide a license holder who is the subject of a formal complaint

1 filed under this chapter with access to all information in its
2 possession that the board intends to offer into evidence in
3 presenting its case at the contested hearing on the complaint,
4 subject to any other privilege or restriction established by rule,
5 statute, or legal precedent. The board shall provide the
6 information not later than the 30th day after receipt of a written
7 request from the license holder or the license holder's counsel,
8 unless good cause is shown for delay.

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

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

19 (c) The provision of information does not constitute a
20 waiver of privilege or confidentiality under this chapter or other
21 law.

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

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

- 27 (A) a disciplinary order of the board; or

1 (B) an agreed settlement; and
2 (2) the basis of and current status of any complaint
3 under active investigation.

4 Sec. 207.255. CONFIDENTIALITY OF INVESTIGATIVE
5 INFORMATION. A complaint, adverse report, investigation file,
6 other report, or other investigative information in the possession
7 of or received or gathered by the anesthesiologist assistant board
8 or a board employee or agent relating to a license holder, a license
9 application, or a criminal investigation or proceeding is
10 privileged and confidential and is not subject to discovery,
11 subpoena, or other means of legal compulsion for release to any
12 person other than the board or a board employee or agent involved in
13 license holder discipline.

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

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

21 (2) a peer review committee reviewing:
22 (A) an application for privileges; or
23 (B) the qualifications of the license holder with
24 respect to retaining privileges.

25 (b) If investigative information in the possession of the
26 anesthesiologist assistant board or a board employee or agent
27 indicates that a crime may have been committed, the board shall

1 report the information to the proper law enforcement agency. The
2 board shall cooperate with and assist each law enforcement agency
3 conducting a criminal investigation of a license holder by
4 providing information relevant to the investigation. Confidential
5 information disclosed by the board to a law enforcement agency
6 under this subsection remains confidential and may not be disclosed
7 by the law enforcement agency except as necessary to further the
8 investigation.

9 [Sections 207.257-207.300 reserved for expansion]

10 SUBCHAPTER G. DISCIPLINARY PROCEEDINGS

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

15 (1) deny the person's application for a license or
16 license renewal or revoke the person's license or other
17 authorization;

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

21 (3) stay enforcement of an order and place the person
22 on probation;

23 (4) require the person to complete additional
24 training;

25 (5) suspend, limit, or restrict the person's license,
26 including:

27 (A) limiting the practice of the person to, or

1 excluding from the practice, one or more specified activities of
2 the practice as an anesthesiologist assistant; or

3 (B) stipulating periodic board review;

4 (6) assess an administrative penalty;

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

6 (8) administer a public reprimand.

7 (b) If the anesthesiologist assistant board stays
8 enforcement of an order and places a person on probation, the board
9 retains the right to vacate the probationary stay and enforce the
10 original order for noncompliance with the terms of probation or
11 impose any other remedial measure or sanction authorized by this
12 section.

13 (c) The anesthesiologist assistant board may restore or
14 reissue a license or remove any disciplinary or corrective measure
15 that the board has imposed.

16 Sec. 207.302. CONDUCT INDICATING LACK OF FITNESS. The
17 anesthesiologist assistant board may take action under Section
18 207.301 against an applicant or license holder who:

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

22 (2) has been finally adjudicated and found guilty, or
23 entered a plea of guilty or nolo contendere, in a criminal
24 prosecution under the laws of any state or of the United States, for
25 an offense reasonably related to the qualifications, functions, or
26 duties of an anesthesiologist assistant, for an offense for which
27 an essential element is fraud, dishonesty, or an act of violence, or

1 for an offense involving moral turpitude;

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

4 (A) securing a certificate of registration or
5 authority issued under other law, a permit issued under other law,
6 or a license issued under this chapter; or

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

9 (4) obtains or attempts to obtain a fee, charge,
10 tuition, or other compensation by fraud, deception, or
11 misrepresentation;

12 (5) has acted with incompetence, misconduct, gross
13 negligence, fraud, misrepresentation, or dishonesty in the
14 performance of the functions and duties of an anesthesiologist
15 assistant;

16 (6) has violated or has assisted or enabled another
17 person to violate any provision of this chapter or a rule adopted
18 under this chapter;

19 (7) has impersonated a person holding a certificate of
20 registration or authority, permit, or license, or allowed a person
21 to use a certificate of registration or authority, permit, license,
22 or diploma from any school;

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

27 (9) has been adjudicated as mentally incompetent;

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

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

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

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

10 Sec. 207.303. PHYSICAL OR MENTAL EXAMINATION. (a) The
11 anesthesiologist assistant board shall adopt guidelines, in
12 conjunction with persons interested in or affected by this section,
13 to enable the board to evaluate circumstances in which an
14 anesthesiologist assistant or applicant may be required to submit
15 to an examination for mental or physical health conditions, alcohol
16 and substance abuse, or professional behavior problems.

17 (b) The anesthesiologist assistant board shall refer an
18 anesthesiologist assistant or applicant with a physical or mental
19 health condition to the most appropriate medical specialist for
20 evaluation. The board may not require an anesthesiologist
21 assistant or applicant to submit to an examination by a physician
22 having a specialty specified by the board unless medically
23 indicated. The board may not require an anesthesiologist assistant
24 or applicant to submit to an examination to be conducted an
25 unreasonable distance from the person's home or place of business
26 unless the anesthesiologist assistant or applicant resides and
27 works in an area in which there are a limited number of appropriate

1 medical specialists able to perform an appropriate examination.

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

5 Sec. 207.304. PROTECTION OF PATIENT IDENTITY. In a
6 disciplinary investigation or proceeding conducted under this
7 chapter, the anesthesiologist assistant board shall protect the
8 identity of each patient whose medical records are examined and
9 used in a public proceeding, unless the patient:

10 (1) testifies in the public proceeding; or

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

13 Sec. 207.305. TEMPORARY SUSPENSION. (a) The presiding
14 officer of the anesthesiologist assistant board, with board
15 approval, shall appoint a three-member disciplinary panel
16 consisting of board members to determine whether a person's license
17 to practice as an anesthesiologist assistant should be temporarily
18 suspended.

19 (b) If the disciplinary panel determines from the evidence
20 or information presented to the panel that a person licensed to
21 practice as an anesthesiologist assistant would, by the person's
22 continuation in practice, constitute a continuing threat to the
23 public welfare, the disciplinary panel shall temporarily suspend
24 the license of that person.

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

27 (1) institution of proceedings for a hearing before

1 the anesthesiologist assistant board is initiated simultaneously
2 with the temporary suspension; and

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

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

9 Sec. 207.306. SURRENDER OF LICENSE. (a) The
10 anesthesiologist assistant board may accept the voluntary
11 surrender of a license.

12 (b) A surrendered license may not be returned to the license
13 holder unless the anesthesiologist assistant board determines,
14 under board rules, that the former holder of the license is
15 competent to resume practice.

16 (c) The anesthesiologist assistant board by rule shall
17 establish guidelines for determining the competency of a former
18 license holder to return to practice.

19 [Sections 207.307-207.350 reserved for expansion]

20 SUBCHAPTER H. PENALTIES AND ENFORCEMENT PROVISIONS

21 Sec. 207.351. ADMINISTRATIVE PENALTY. (a) The
22 anesthesiologist assistant board by order may impose an
23 administrative penalty against a person licensed under this chapter
24 who violates this chapter or a rule or order adopted under this
25 chapter.

26 (b) The penalty may be in an amount not to exceed \$2,000.
27 Each day a violation continues or occurs is a separate violation for

1 purposes of imposing a penalty.

2 (c) The anesthesiologist assistant board shall base the
3 amount of the penalty on:

4 (1) the severity of patient harm;

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

6 (3) the severity of any environmental harm;

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

8 (5) any attempted concealment of misconduct;

9 (6) any premeditated or intentional misconduct;

10 (7) the motive for the violation;

11 (8) prior misconduct of a similar or related nature;

12 (9) the license holder's disciplinary history;

13 (10) prior written warnings or written admonishments
14 from any government agency or official regarding statutes or
15 regulations relating to the misconduct;

16 (11) violation of a board order;

17 (12) failure to implement remedial measures to correct
18 or mitigate harm from the misconduct;

19 (13) lack of rehabilitative potential or likelihood of
20 future misconduct of a similar nature;

21 (14) relevant circumstances increasing the
22 seriousness of the misconduct; and

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

24 (d) The anesthesiologist assistant board by rule shall
25 prescribe the procedure by which it may impose an administrative
26 penalty. A proceeding under this section is subject to Chapter
27 2001, Government Code.

1 (e) If the anesthesiologist assistant board by order
2 determines that a violation has occurred and imposes an
3 administrative penalty, the board shall give notice to the person
4 of the board's order. The notice must include a statement of the
5 person's right to judicial review of the order.

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

9 (1) represents that the person is an anesthesiologist
10 assistant;

11 (2) uses any combination or abbreviation of the term
12 "anesthesiologist assistant" to indicate or imply that the person
13 is an anesthesiologist assistant; or

14 (3) acts as an anesthesiologist assistant.

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

17 Sec. 207.353. CEASE AND DESIST ORDER. (a) If it appears to
18 the anesthesiologist assistant board that a person who is not
19 licensed under this chapter is violating this chapter, a rule
20 adopted under this chapter, or another state statute or rule
21 relating to anesthesiologist assistant practice, the board after
22 notice and opportunity for a hearing may issue a cease and desist
23 order prohibiting the person from engaging in the activity.

24 (b) A violation of an order under this section constitutes
25 grounds for imposing an administrative penalty under this
26 subchapter.

27 SECTION 5. As soon as practicable after the effective date

1 of this Act, the governor shall appoint six members to the Texas
2 Anesthesiologist Assistant Board in accordance with Chapter 207,
3 Occupations Code, as added by this Act. In making the initial
4 appointments, the governor shall designate two members for terms
5 expiring January 31, 2014, two members for terms expiring January
6 31, 2015, and two members for terms expiring January 31, 2016.

7 SECTION 6. Not later than June 1, 2012, the Texas Medical
8 Board with the advice of the Texas Anesthesiologist Assistant Board
9 shall adopt the rules, procedures, and fees necessary to administer
10 Chapter 207, Occupations Code, as added by this Act.

11 SECTION 7. Notwithstanding Chapter 207, Occupations Code,
12 as added by this Act, an anesthesiologist assistant is not required
13 to hold a license under that chapter to practice as an
14 anesthesiologist assistant in this state before September 1, 2012.

15 SECTION 8. (a) Except as provided by Subsection (b) of this
16 section, this Act takes effect September 1, 2011.

17 (b) Sections 207.151 and 207.352, Occupations Code, as
18 added by this Act, take effect September 1, 2012.