

By: Zerwas

H.B. No. 2397

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, an 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. 207.157. 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. 207.158. 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.