

By: Sheffield

H.B. No. 4412

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of surgical assistants.

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

SECTION 1. Section 206.002(a), Occupations Code, is amended to read as follows:

(a) A person is not required to hold a license under this chapter if the person is:

(1) a student enrolled in a surgical assistant education program approved by the medical board who is assisting in a surgical operation that is an integral part of the program of study;

(2) a surgical assistant employed in the service of the federal government while performing duties related to that employment;

~~(3) [a person acting under the delegated authority of a licensed physician];~~

~~[(4)]~~ a licensed health care worker acting within the scope of the person's license;

(4) ~~[(5)]~~ a registered nurse; or

(5) ~~[(6)]~~ a licensed physician assistant.

SECTION 2. Section 206.052(a), Occupations Code, is amended to read as follows:

(a) The advisory committee consists of five ~~[six]~~ members appointed by the president of the medical board as follows:

1 (1) one [~~. One member must be a~~] registered
2 perioperative nurse with at least five years of clinical experience
3 as a registered perioperative nurse;

4 (2) three licensed [~~. Each of the remaining members~~
5 ~~must be.~~

6 [~~(1) a~~] practicing surgical assistants [~~assistant~~]
7 who have [~~has~~] at least five years of clinical experience as a
8 surgical assistant; and

9 (3) one [~~or~~

10 [~~(2) a~~] physician licensed in this state who
11 supervises a surgical assistant.

12 SECTION 3. Section [206.056](#), Occupations Code, is amended to
13 read as follows:

14 Sec. 206.056. OFFICERS. The president of the medical board
15 shall designate biennially a committee member who is a licensed
16 surgical assistant as the presiding officer of the advisory
17 committee to serve in that capacity at the will of the president.

18 SECTION 4. Section [206.058](#)(a), Occupations Code, is amended
19 to read as follows:

20 (a) The advisory committee shall meet at the call of the
21 presiding officer [~~as requested by the medical board~~].

22 SECTION 5. Section [206.203](#), Occupations Code, is amended by
23 amending Subsections (a) and (b) and adding Subsection (d) to read
24 as follows:

25 (a) Except as provided by Section [206.206](#), to be eligible
26 for a license, a person must:

27 (1) [~~be of good moral character,~~

1 ~~[(2) have not been convicted of a felony or a crime~~
2 ~~involving moral turpitude,~~

3 ~~[(3)]~~ not use drugs or alcohol to an extent that
4 affects the applicant's professional competency; and

5 (2) ~~[(4)]~~ not have had a license or certification
6 revoked by a licensing agency or by a certifying professional
7 organization~~[, and~~

8 ~~[(5) not have engaged in fraud or deceit in applying~~
9 ~~for a license under this chapter].~~

10 (b) In addition to meeting the requirements of Subsection
11 (a), a person must:

12 (1) pass the examination required by Section 206.204;

13 (2) hold at least an associate's degree based on
14 completion of an educational program that is substantially
15 equivalent to the education required for a registered nurse or
16 physician assistant who specializes in surgical assisting;

17 (3) demonstrate to the satisfaction of the medical
18 board the completion of full-time work experience performed in this
19 country under the direct supervision of a physician licensed in
20 this country and consisting of at least 1,000 ~~[2,000]~~ hours of
21 performance as an assistant in surgical procedures ~~[for the three~~
22 ~~years preceding the date of application]~~; and

23 (4) possess a current certification by a national
24 certifying body approved by the medical board.

25 (d) Clinical hours completed by a person under an
26 educational program described by Subsection (b)(2) apply toward the
27 1,000 hours required under Subsection (b)(3) if the person

1 successfully completed the program. The medical board shall adopt
2 rules regarding the evaluation and verification of hours completed
3 under this subsection.

4 SECTION 6. Subchapter E, Chapter 206, Occupations Code, is
5 amended by adding Sections 206.2031, 206.2051, and 206.2131 to read
6 as follows:

7 Sec. 206.2031. CRIMINAL HISTORY RECORD INFORMATION
8 REQUIREMENT FOR LICENSE ISSUANCE. (a) The medical board shall
9 require that an applicant for a license under this chapter submit a
10 complete and legible set of fingerprints, on a form prescribed by
11 the medical board, to the medical board or to the Department of
12 Public Safety for the purpose of obtaining criminal history record
13 information from the Department of Public Safety and the Federal
14 Bureau of Investigation.

15 (b) The medical board may not issue a license to a person who
16 does not comply with the requirement of Subsection (a).

17 (c) The medical board shall conduct a criminal history
18 record information check of each applicant for a license using
19 information:

20 (1) provided by the individual under this section; and
21 (2) made available to the medical board by the
22 Department of Public Safety, the Federal Bureau of Investigation,
23 and any other criminal justice agency under Chapter 411, Government
24 Code.

25 (d) The medical board may:

26 (1) enter into an agreement with the Department of
27 Public Safety to administer a criminal history record information

1 check required under this section; and

2 (2) authorize the Department of Public Safety to
3 collect from each applicant the costs incurred by the Department of
4 Public Safety in conducting the criminal history record information
5 check.

6 Sec. 206.2051. ALTERNATIVE ELIGIBILITY FOR LICENSE. (a) A
7 person who does not meet the requirements of Section 206.203(b) is
8 eligible for a license if the person:

9 (1) applies for a license before December 1, 2022; and

10 (2) completes the full-time work experience described
11 by Subsection (b).

12 (b) A person satisfies the requirement of Subsection (a)(2)
13 if the person demonstrates to the satisfaction of the medical board
14 that the person has full-time work experience performed in this
15 country under the direct supervision of a physician licensed in
16 this country consisting of:

17 (1) at least 1,000 hours of performance as a first
18 assistant in surgical procedures completed after August 31, 2015;

19 or

20 (2) subject to Subsection (c), less than 1,000 hours
21 of performance as a first assistant in surgical procedures
22 completed after August 31, 2015.

23 (c) A person who qualifies for the issuance of a license
24 based on experience described by Subsection (b)(2) may not renew
25 the license unless the person demonstrates to the satisfaction of
26 the medical board that at the time of renewal the person has
27 full-time work experience performed in this country under the

1 direct supervision of a physician licensed in this country
2 consisting of at least 1,000 hours of performance as a first
3 assistant in surgical procedures.

4 Sec. 206.2131. CRIMINAL HISTORY RECORD INFORMATION
5 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a license
6 issued under this chapter shall submit a complete and legible set of
7 fingerprints for purposes of performing a criminal history record
8 information check of the applicant as provided by Section 206.2031.

9 (b) The medical board may administratively suspend or
10 refuse to renew the license of a person who does not comply with the
11 requirement of Subsection (a).

12 (c) A license holder is not required to submit fingerprints
13 under this section for the renewal of the license if the holder has
14 previously submitted fingerprints under:

15 (1) Section 206.2031 for the initial issuance of the
16 license; or

17 (2) this section as part of a prior renewal of a
18 license.

19 SECTION 7. Section 206.252, Occupations Code, is amended to
20 read as follows:

21 Sec. 206.252. SERVICE CONTRACTS. (a) This chapter does
22 not:

23 (1) limit the employment arrangement of a surgical
24 assistant licensed under this chapter;

25 (2) require a surgeon or hospital to contract with a
26 surgical assistant; or

27 (3) authorize a health maintenance organization,

1 preferred provider organization, or health benefit plan to require
2 a surgeon to contract with a surgical assistant [~~or~~

3 ~~(4) require a hospital to use a licensed surgical~~
4 ~~assistant for surgical assisting].~~

5 (b) A hospital licensed under Chapter 241, Health and Safety
6 Code, or an ambulatory surgical center licensed under Chapter 243,
7 Health and Safety Code, shall use a licensed surgical assistant for
8 surgical assisting.

9 SECTION 8. Sections 206.203(c) and 206.205, Occupations
10 Code, are repealed.

11 SECTION 9. Section 206.052(a), Occupations Code, as amended
12 by this Act, applies only to a member of the advisory committee
13 appointed on or after the effective date of this Act. A member
14 appointed before the effective date of this Act may continue to
15 serve until the expiration of the member's term. As vacancies occur
16 on the advisory committee on and after the effective date of this
17 Act, the president of the Texas Medical Board shall appoint members
18 having the qualifications required by the changes in law made by
19 this Act.

20 SECTION 10. Section 206.203, Occupations Code, as amended
21 by this Act, and Sections 206.2031, 206.2051, and 206.2131,
22 Occupations Code, as added by this Act, apply only to an application
23 for the issuance or renewal of a license submitted to the Texas
24 Medical Board on or after the effective date of this Act. An
25 application submitted before the effective date of this Act is
26 governed by the law in effect on the date the application was
27 submitted, and the former law is continued in effect for that

1 purpose.

2 SECTION 11. Notwithstanding Section 206.252, Occupations
3 Code, as amended by this Act, a hospital or ambulatory surgical
4 center is not required to use a surgical assistant licensed under
5 Chapter 206, Occupations Code, before January 1, 2021.

6 SECTION 12. Not later than September 1, 2021, the Texas
7 Medical Board shall obtain criminal history record information on
8 each person who, on the effective date of this Act, holds a license
9 issued under Chapter 206, Occupations Code, and did not undergo a
10 criminal history record information check based on the license
11 holder's fingerprints on the initial application for the license.
12 The Texas Medical Board may suspend the license of a license holder
13 who does not provide the criminal history record information as
14 required by the board and this section.

15 SECTION 13. Not later than December 1, 2020, the Texas
16 Medical Board shall adopt rules necessary to implement the changes
17 in law made by this Act to Chapter 206, Occupations Code.

18 SECTION 14. This Act takes effect July 1, 2019, if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for effect on that
22 date, this Act takes effect September 1, 2019.