

Representative Jordan D. Teuscher proposes the following substitute bill:

ANESTHESIA PRACTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to anesthesia administration.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that a nurse anesthetist does not need supervision when administering anesthesia;
- ▶ requires the Physicians Licensing Board to regulate anesthesiologist assistants;
- ▶ establishes a license for anesthesiologist assistants;
- ▶ establishes qualifications for licensure;
- ▶ establishes terms for the license;
- ▶ establishes supervision standards for an anesthesiologist assistant to administer anesthesia; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **58-31b-102**, as last amended by Laws of Utah 2021, Chapter 263

29 **58-67-201**, as last amended by Laws of Utah 1997, Chapter 10

30 ENACTS:

31 **58-70b-101**, Utah Code Annotated 1953

32 **58-70b-102**, Utah Code Annotated 1953

33 **58-70b-201**, Utah Code Annotated 1953

34 **58-70b-301**, Utah Code Annotated 1953

35 **58-70b-302**, Utah Code Annotated 1953

36 **58-70b-303**, Utah Code Annotated 1953

37 **58-70b-401**, Utah Code Annotated 1953

38 **58-70b-402**, Utah Code Annotated 1953

39 **58-70b-501**, Utah Code Annotated 1953

40

41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **58-31b-102** is amended to read:

43 **58-31b-102. Definitions.**

44 In addition to the definitions in Section **58-1-102**, as used in this chapter:

45 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
46 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
47 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
48 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
49 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

50 (2) "Applicant" means an individual who applies for licensure or certification under
51 this chapter by submitting a completed application for licensure or certification and the
52 required fees to the department.

53 (3) "Approved education program" means a nursing education program that is
54 accredited by an accrediting body for nursing education that is approved by the United States
55 Department of Education.

56 (4) "Board" means the Board of Nursing created in Section **58-31b-201**.

57 (5) "Diagnosis" means the identification of and discrimination between physical and
58 psychosocial signs and symptoms essential to the effective execution and management of
59 health care.

60 (6) "Examinee" means an individual who applies to take or does take any examination
61 required under this chapter for licensure.

62 (7) "Licensee" means an individual who is licensed or certified under this chapter.

63 (8) "Long-term care facility" means any of the following facilities licensed by the
64 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
65 Inspection Act:

66 (a) a nursing care facility;

67 (b) a small health care facility;

68 (c) an intermediate care facility for people with an intellectual disability;

69 (d) an assisted living facility Type I or II; or

70 (e) a designated swing bed unit in a general hospital.

71 (9) "Medication aide certified" means a certified nurse aide who:

72 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

73 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
74 that is approved by the division in collaboration with the board, in administering routine

75 medications to patients or residents of long-term care facilities; and

76 (c) is certified by the division as a medication aide certified.

77 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
78 under the supervision, as defined by the division by rule made in accordance with Title 63G,
79 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
80 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
81 an individual who:

82 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
83 disability; and

84 (ii) is in a regulated long-term care facility.

85 (b) "Practice as a medication aide certified":

86 (i) includes:

87 (A) providing direct personal assistance or care; and

88 (B) administering routine medications to patients in accordance with a formulary and
89 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
90 Utah Administrative Rulemaking Act; and

91 (ii) does not include assisting a resident of an assisted living facility, a long term care
92 facility, or an intermediate care facility for people with an intellectual disability to self
93 administer a medication, as regulated by the Department of Health by rule made in accordance
94 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

95 (11) "Practice of advanced practice registered nursing" means the practice of nursing
96 within the generally recognized scope and standards of advanced practice registered nursing as
97 defined by rule and consistent with professionally recognized preparation and education
98 standards of an advanced practice registered nurse by a person licensed under this chapter as an
99 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

100 (a) maintenance and promotion of health and prevention of disease;

101 (b) diagnosis, treatment, correction, consultation, and referral;

102 (c) prescription or administration of prescription drugs or devices including:

103 (i) local anesthesia;

104 (ii) Schedule III-V controlled substances; and

105 (iii) Subject to Section 58-31b-803, Schedule II controlled substances; [or]

106 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
107 related services upon the request of a licensed health care professional by an advanced practice
108 registered nurse specializing as a certified registered nurse anesthetist, including:

109 (i) preanesthesia preparation and evaluation including:

110 (A) performing a preanesthetic assessment of the patient;

111 (B) ordering and evaluating appropriate lab and other studies to determine the health of
112 the patient; and

113 (C) selecting, ordering, or administering appropriate medications;

114 (ii) anesthesia induction, maintenance, and emergence, including:

115 (A) selecting and initiating the planned anesthetic technique;

116 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

117 (C) administering general, regional, and local anesthesia;

118 (iii) postanesthesia follow-up care, including:

119 (A) evaluating the patient's response to anesthesia and implementing corrective
120 actions; and

121 (B) selecting, ordering, or administering the medications and studies listed in this
122 Subsection (11)(d); and

123 (iv) other related services within the scope of practice of a certified registered nurse
124 anesthetist, including:

125 (A) emergency airway management;

126 (B) advanced cardiac life support; and

127 (C) the establishment of peripheral, central, and arterial invasive lines; and

128 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
129 professional":

130 (A) means a health care professional practicing within the scope of the health care
131 professional's license, requests anesthesia services for a specific patient; and

132 (B) does not require an advanced practice registered nurse specializing as a certified
133 registered nurse anesthetist to be supervised by any health care professional or obtain additional
134 authority to select, administer, or provide preoperative, intraoperative, or postoperative
135 anesthesia care and services[-]; or

136 (e) supervising an individual licensed under Chapter 70b, Anesthesiologist Assistant
137 Licensing Act.

138 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
139 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
140 responses to care and treatment, and requires substantial specialized or general knowledge,
141 judgment, and skill based upon principles of the biological, physical, behavioral, and social
142 sciences. "Practice of nursing" includes:

143 (a) initiating and maintaining comfort measures;

144 (b) promoting and supporting human functions and responses;

145 (c) establishing an environment conducive to well-being;

146 (d) providing health counseling and teaching;

147 (e) collaborating with health care professionals on aspects of the health care regimen;

148 (f) performing delegated procedures only within the education, knowledge, judgment,
149 and skill of the licensee;

150 (g) delegating nursing tasks that may be performed by others, including an unlicensed
151 assistive personnel; and

152 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
153 the individual performs the task.

154 (13) "Practice of practical nursing" means the performance of nursing acts in the
155 generally recognized scope of practice of licensed practical nurses as defined by division rule
156 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
157 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
158 practical nurse and under the direction of a registered nurse, licensed physician, or other
159 specified health care professional as defined by division rule made in accordance with Title
160 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

161 (a) contributing to the assessment of the health status of individuals and groups;

162 (b) participating in the development and modification of the strategy of care;

163 (c) implementing appropriate aspects of the strategy of care;

164 (d) maintaining safe and effective nursing care rendered to a patient directly or
165 indirectly; and

166 (e) participating in the evaluation of responses to interventions.

167 (14) "Practice of registered nursing" means performing acts of nursing as provided in
168 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
169 the generally recognized scope of practice of registered nurses as defined by division rule made
170 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
171 nursing acts include:

172 (a) assessing the health status of individuals and groups;

173 (b) identifying health care needs;

174 (c) establishing goals to meet identified health care needs;

175 (d) planning a strategy of care;

176 (e) prescribing nursing interventions to implement the strategy of care;

177 (f) implementing the strategy of care;

178 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
179 indirectly;

180 (h) evaluating responses to interventions;

181 (i) teaching the theory and practice of nursing; and
182 (j) managing and supervising the practice of nursing.

183 (15) "Routine medications":

184 (a) means established medications administered to a medically stable individual as
185 determined by a licensed health care practitioner or in consultation with a licensed medical
186 practitioner; and

187 (b) is limited to medications that are administered by the following routes:

188 (i) oral;

189 (ii) sublingual;

190 (iii) buccal;

191 (iv) eye;

192 (v) ear;

193 (vi) nasal;

194 (vii) rectal;

195 (viii) vaginal;

196 (ix) skin ointments, topical including patches and transdermal;

197 (x) premeasured medication delivered by aerosol/nebulizer; and

198 (xi) medications delivered by metered hand-held inhalers.

199 (16) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
200 and [58-31b-501](#).

201 (17) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
202 title, who is delegated a task by a licensed nurse as permitted by division rule made in
203 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
204 of the profession.

205 (18) "Unprofessional conduct" means the same as that term is defined in Sections
206 [58-1-501](#) and [58-31b-502](#) and as may be further defined by division rule made in accordance
207 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

208 Section 2. Section **58-67-201** is amended to read:

209 **58-67-201. Board.**

210 (1) There is created the Physicians Licensing Board consisting of nine physicians and
211 surgeons and two members of the general public.

212 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

213 [~~(3) (a) The duties and responsibilities of the board shall be in accordance with~~
214 ~~Sections 58-1-202 and 58-1-203.~~]

215 (3) (a) In addition to any duty or responsibility described in Section 58-1-202 or
216 58-1-203, the board shall regulate anesthesiologist assistants licensed under Chapter 70b,
217 Anesthesiologist Assistant Licensing Act.

218 (b) The board may also designate one of [~~its~~] the board's members on a permanent or
219 rotating basis to:

220 (i) assist the division in reviewing complaints concerning the unlawful or
221 unprofessional conduct of a licensee the board regulates; and

222 (ii) advise the division in [~~its~~] the division's investigation of these complaints.

223 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
224 in [~~its~~] the complaint's investigation may be disqualified from participating with the board
225 when the board serves as a presiding officer in an adjudicative proceeding concerning that
226 complaint.

227 Section 3. Section 58-70b-101 is enacted to read:

228 **CHAPTER 70b. ANESTHESIOLOGIST ASSISTANT LICENSING ACT**

229 **Part 1. General Provisions**

230 **58-70b-101. Definitions.**

231 As used in this chapter:

232 (1) "Anesthesiologist" means an individual who:

233 (a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
234 Osteopathic Medical Practice Act; and

235 (b) has completed a residency program in anesthesiology.

236 (2) "Anesthesiologist assistant" means an individual licensed under this chapter.

237 (3) "Board" means the Physicians Licensing Board created in Section 58-67-201.

238 (4) "CRNA" means an individual licensed under Section 58-31b-301(e).

239 (5) "Practice of assisting the administration of anesthesia" means personally
240 performing the health care services delegated to the anesthesiologist assistant:

241 (a) in accordance with the acceptable medical practice; and

242 (b) (i) by a supervising anesthesiologist; or

243 (ii) subject to Section [58-70b-501](#), by a supervising CRNA.

244 (6) "Supervision standards" means standards that are established by the division
245 through rule that comply:

246 (a) for anesthesiologist supervision, with the rules and requirements set by the Centers
247 for Medicare and Medicaid Services for anesthesia service reimbursement; or

248 (b) for CRNA supervision, with Section [58-70b-501](#).

249 Section 4. Section **58-70b-102** is enacted to read:

250 **58-70b-102. Rulemaking.**

251 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
252 division may make rules as authorized by this chapter.

253 Section 5. Section **58-70b-201** is enacted to read:

254 **Part 2. Board**

255 **58-70b-201. Board.**

256 The board shall regulate anesthesiologist assistants.

257 Section 6. Section **58-70b-301** is enacted to read:

258 **Part 3. Licensing**

259 **58-70b-301. Licensure required -- Supervision -- Issuance of licenses.**

260 (1) Beginning January 1, 2023, and except as provided in Section [58-1-307](#):

261 (a) a license is required to engage in the practice of assisting the administration of
262 anesthesia; and

263 (b) the practice of assisting the administration of anesthesia requires compliance with
264 supervision standards.

265 (2) The division shall issue to any individual who qualifies under this chapter a license
266 to practice as an anesthesiologist assistant.

267 Section 7. Section **58-70b-302** is enacted to read:

268 **58-70b-302. Qualifications for licensure -- Temporary license.**

269 (1) Except as provided in Subsection (2), each applicant for licensure as an
270 anesthesiologist assistant under this chapter shall:

271 (a) submit an application on a form established by the division;

272 (b) pay a fee determined by the division under Section [63J-1-504](#);

273 (c) provide satisfactory documentation of having graduated from a program certified by

274 the Commission on Accreditation of Allied Health Education Programs the commission's
275 successor organization;

276 (d) within 12 months of completing the training under Subsection (1)(c), pass the
277 certification exam offered by the National Commission for Certification of Anesthesiologist
278 Assistants; and

279 (e) have the certification described in Subsection (1)(d) at the time of the application
280 and maintain the certification throughout the term of the license.

281 (2) The division may issue a temporary license, in accordance with Section [58-1-303](#)
282 and any other conditions established by rule, to an applicant who meets all of the requirements
283 for licensure except the certification requirement of Subsection (1)(d) or (1)(e).

284 Section 8. Section **58-70b-303** is enacted to read:

285 **58-70b-303. Term of license -- Expiration -- Renewal.**

286 (1) (a) The division shall issue each license under this chapter in accordance with a
287 two-year renewal cycle established by rule.

288 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
289 to stagger the renewal cycles the division administers.

290 (2) Each licensee shall, at the time of applying for renewal, demonstrate compliance
291 with continuing education requirements established through rule by the division in
292 collaboration with the board.

293 (3) Each license automatically expires on the expiration date shown on the license
294 unless the licensee renews the license in accordance with Section [58-1-308](#).

295 Section 9. Section **58-70b-401** is enacted to read:

296 **Part 4. Unlawful and Unprofessional Conduct**

297 **58-70b-401. Unlawful conduct.**

298 (1) An individual commits unlawful conduct by:

299 (a) using the title "anesthesiologist assistant" or any other title or designation tending to
300 indicate that the individual is an anesthesiologist assistant unless that individual has a current
301 license as an anesthesiologist assistant issued under this chapter; or

302 (b) engaging in the practice of assisting the administration of anesthesia without being
303 an anesthesiologist assistant.

304 (2) An anesthesiologist assistant commits unlawful conduct by engaging in the practice

305 of assisting the administration of anesthesia without complying with supervision standards.

306 Section 10. Section **58-70b-402** is enacted to read:

307 **58-70b-402. Unprofessional conduct.**

308 An anesthesiologist assistant commits unprofessional conduct by:

309 (1) engaging in any act or practice in a professional capacity which the licensee is not
310 competent to perform through training or experience;

311 (2) failing to refer a client to other competent professionals when the licensee is unable
312 or unwilling to adequately support or serve the client;

313 (3) failing to maintain the confidentiality of any information received from a client,
314 unless released by the client or otherwise authorized or required by law; or

315 (4) exploiting a client for personal advantage, profit, or interest.

316 Section 11. Section **58-70b-501** is enacted to read:

317 **58-70b-501. CRNA supervision.**

318 (1) The division shall make rules to allow a CRNA to supervise an anesthesiologist
319 assistant if the division determines there is no decrease in patient safety.

320 (2) Rules described in Subsection (1) shall include:

321 (a) the level of supervision; and

322 (b) the number of anesthesiologist assistants a CRNA may supervise at any one time.