

SB0121S02 compared with SB0121

~~{deleted text}~~ shows text that was in SB0121 but was deleted in SB0121S02.

inserted text shows text that was not in SB0121 but was inserted into SB0121S02.

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~~{ANESTHESIOLOGIST ASSISTANT LICENSING ACT}~~ Repeals the Anesthesia Practice Act. 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 ~~{creates a license for anesthesiologist assistants}~~ 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;

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- ▶ establishes supervision standards for an anesthesiologist assistant to administer anesthesia; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

58-70b-101, Utah Code Annotated 1953

58-70b-102, Utah Code Annotated 1953

58-70b-201, Utah Code Annotated 1953

58-70b-301, Utah Code Annotated 1953

58-70b-302, Utah Code Annotated 1953

58-70b-303, Utah Code Annotated 1953

58-70b-401, Utah Code Annotated 1953

58-70b-402, Utah Code Annotated 1953

58-70b-501, Utah Code Annotated 1953

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

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

58-31b-102. Definitions.

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

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

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

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

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

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

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

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

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

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

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

- (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- (b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and
- (c) is certified by the division as a medication aide certified.

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

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an individual who:

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

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

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

(i) includes:

(A) providing direct personal assistance or care; and

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

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

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

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

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

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

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

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

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

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of

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the patient; and

- (C) selecting, ordering, or administering appropriate medications;
- (ii) anesthesia induction, maintenance, and emergence, including:
 - (A) selecting and initiating the planned anesthetic technique;
 - (B) selecting and administering anesthetics and adjunct drugs and fluids; and
 - (C) administering general, regional, and local anesthesia;
- (iii) postanesthesia follow-up care, including:
 - (A) evaluating the patient's response to anesthesia and implementing corrective

actions; and

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

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

- (A) emergency airway management;
- (B) advanced cardiac life support; and
- (C) the establishment of peripheral, central, and arterial invasive lines; and
- (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care

professional":

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

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

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

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

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- (a) initiating and maintaining comfort measures;
- (b) promoting and supporting human functions and responses;
- (c) establishing an environment conducive to well-being;
- (d) providing health counseling and teaching;
- (e) collaborating with health care professionals on aspects of the health care regimen;
- (f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;
- (g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and
- (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

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

- (a) contributing to the assessment of the health status of individuals and groups;
- (b) participating in the development and modification of the strategy of care;
- (c) implementing appropriate aspects of the strategy of care;
- (d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and
- (e) participating in the evaluation of responses to interventions.

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

- (a) assessing the health status of individuals and groups;
- (b) identifying health care needs;

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- (c) establishing goals to meet identified health care needs;
- (d) planning a strategy of care;
- (e) prescribing nursing interventions to implement the strategy of care;
- (f) implementing the strategy of care;
- (g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

- (h) evaluating responses to interventions;
- (i) teaching the theory and practice of nursing; and
- (j) managing and supervising the practice of nursing.

(15) "Routine medications":

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

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

- (i) oral;
- (ii) sublingual;
- (iii) buccal;
- (iv) eye;
- (v) ear;
- (vi) nasal;
- (vii) rectal;
- (viii) vaginal;
- (ix) skin ointments, topical including patches and transdermal;
- (x) premeasured medication delivered by aerosol/nebulizer; and
- (xi) medications delivered by metered hand-held inhalers.

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

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

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

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

58-67-201. Board.

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

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

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

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

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

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

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

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

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

CHAPTER 70b. ANESTHESIOLOGIST ASSISTANT LICENSING ACT

Part 1. General Provisions

58-70b-101. Definitions.

As used in this chapter:

(1) "Anesthesiologist" means an individual who:

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

(b) has completed a residency program in anesthesiology.

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

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

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

(5) "Practice of assisting ~~an anesthesiologist~~ the administration of anesthesia" means personally performing the health care services delegated to the anesthesiologist assistant ~~by the supervising anesthesiologist~~;

(a) in accordance with the acceptable medical practice ~~and the American Society of Anesthesiologists' guidance for best practice of anesthesia in a care team model.~~

~~— (5) "Supervision" means}; and~~

(b) (i) by a supervising anesthesiologist ~~is immediately available in physical proximity that allows the}; or~~

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

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

(a) for anesthesiologist ~~to return and re-establish direct contact with the patient to meet the medical needs and address any urgent or emergent clinical problems.~~

~~— Section 3} supervision, with the rules and requirements set by the Centers for Medicare and Medicaid Services for anesthesia service reimbursement; or~~

(b) for CRNA supervision, with Section 58-70b-501.

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

58-70b-102. Rulemaking.

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

Section ~~{4}~~5. Section **58-70b-201** is enacted to read:

Part 2. Board

58-70b-201. Board.

The board shall regulate anesthesiologist assistants.

Section ~~{5}~~6. Section **58-70b-301** is enacted to read:

Part 3. Licensing

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

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

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(a) a license is required to engage in the practice of assisting ~~an anesthesiologist~~ the administration of anesthesia; and

(b) the practice of assisting ~~an anesthesiologist~~ the administration of anesthesia requires compliance with supervision standards.

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

Section ~~6~~7. Section **58-70b-302** is enacted to read:

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

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

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

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

(c) provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs the commission's successor organization;

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

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

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

Section ~~7~~8. Section **58-70b-303** is enacted to read:

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

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

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

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

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collaboration with the board.

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

Section ~~{8}~~9. Section **58-70b-401** is enacted to read:

Part 4. Unlawful and Unprofessional Conduct

58-70b-401. Unlawful conduct.

(1) An individual commits unlawful conduct by:

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

(b) engaging in the practice of assisting ~~{an anesthesiologist}~~the administration of anesthesia without being an anesthesiologist assistant.

(2) An anesthesiologist assistant commits unlawful conduct by engaging in the practice of assisting ~~{an anesthesiologist without supervision.~~

~~Section 9}~~the administration of anesthesia without complying with supervision standards.

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

58-70b-402. Unprofessional conduct.

An anesthesiologist assistant commits unprofessional conduct by:

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

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

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

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

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

58-70b-501. CRNA supervision.

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

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

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(a) the level of supervision; and

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