

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 300
92ND GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, February 27, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0737S.05C

AN ACT

To amend chapter 334, RSMo, by adding thereto sixteen new sections relating to anesthesiologist assistants, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 334, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 334.400, 334.402, 334.404, 334.406, 334.408, 334.410, 334.412, 334.414, 334.416, 334.418, 334.420, 334.422, 334.424, 334.426, 334.428, and 334.430, to read as follows:

334.400. As used in sections 334.400 to 334.430, the following terms shall mean:

(1) "Anesthesiologist", a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology;

(2) "Anesthesiologist assistant", a person who meets each of the following conditions:

(a) Has graduated from a anesthesiologist assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency;

(b) Has passed the certifying examination administered by the National Commission on Certification of Anesthesiologist Assistants;

(c) Has active certification by the National Commission on Certification of Anesthesiologist Assistants; and

(d) Provides health care services delegated by a licensed anesthesiologist;

(3) "Anesthesiologist assistant supervision agreement", a written agreement, jointly agreed upon protocols or standing order between a supervising

anesthesiologist and an anesthesiologist assistant, which provides for the delegation of health care services from a supervising anesthesiologist to an anesthesiologist assistant and the review of such services;

(4) "Applicant", any individual who seeks to become licensed as an anesthesiologist assistant;

(5) "Continuing education", the offering of instruction or information to license holders for the purpose of maintaining or increasing skills necessary for the safe and competent practice of anesthetic care;

(6) "Department", the department of economic development or a designated agency thereof;

(7) "Immediately available", in the same physical location or facility in which the services are provided;

(8) "Physician", an individual licensed pursuant to this chapter, to practice medicine and surgery or osteopathic medicine and surgery;

(9) "Supervision", control exercised over an anesthesiologist assistant working within the same facility of the supervising anesthesiologist.

334.402. 1. An anesthesiologist assistant may assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to the supervising anesthesiologist, an anesthesiologist assistant shall have the authority to:

(1) Obtain a comprehensive patient history, perform relevant elements of a physical exam and present the history to the supervising anesthesiologist;

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

(3) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;

(4) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;

(5) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;

(6) Administer anesthetic drugs, adjuvant drugs, and accessory drugs;

(7) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures, spinal anesthetic procedures, and other regional anesthetic techniques;

(8) Administer blood, blood products, and supportive fluids;

(9) Provide assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation;

(10) Participate in administrative, research, and clinical teaching activities as authorized by the supervising anesthesiologist; or

(11) Perform such other tasks not prohibited by law under the supervision of a licensed anesthesiologist that an anesthesiologist assistant has been trained and is proficient to perform.

2. An anesthesiologist shall at all times accept and be responsible for the oversight of the health care services rendered by the anesthesiologist assistant.

3. Anesthesiologist assistants are prohibited from the following:

(1) An anesthesiologist assistant shall not prescribe any medications or controlled substances;

(2) An anesthesiologist assistant shall not administer any drugs, medicines, devices, or therapies the supervising anesthesiologist is not qualified or authorized to prescribe;

(3) An anesthesiologist assistant shall not practice or attempt to practice without the supervision of a licensed anesthesiologist or in any location where the supervising anesthesiologist is not immediately available for consultation, assistance, and intervention; and

(4) An anesthesiologist assistant shall not bill a patient independently or directly for any services or procedures provided by the anesthesiologist assistant.

4. An anesthesiologist assistant shall be clearly identified as an anesthesiologist assistant and shall not use or permit to be used in the anesthesiologist assistant's behalf the terms "doctor", "Dr.", or "doc" or in any way be identified as a physician or surgeon. An anesthesiologist assistant shall not refer to a certificate of registration or authority, permit, or license as "board-certified" or use any other terminology that may imply that the anesthesiologist assistant is a physician or surgeon.

5. A student in any anesthesiologist assistant training program shall be identified as a student anesthesiologist assistant or an anesthesiologist assistant student. Under no circumstances shall such a student use or permit to be used on the student's behalf, the terms "intern", "resident", or "fellow" or be identified in any way as a physician or surgeon.

334.404. 1. Each person desiring a license pursuant to sections 334.400 to 334.430 shall make application to the board upon such forms and in such manner as may be prescribed by the board and shall pay the required application fee as set by the board. The application fee shall cover the cost of issuing the license and shall not be refundable. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge

and belief of the person signing the application, subject to the penalties of making a false declaration or affidavit. Such application shall include proof of certification from the National Commission on Certification of Anesthesiologist Assistants or its successor, date of the certification, any identification numbers, and any other information necessary for the board to verify the certification.

2. The board, upon approval of the application from an applicant, shall issue a license to such applicant.

3. A license is valid for two years from the date it is issued and may be renewed biennially by filing an application for renewal with the board and paying the required renewal fee as set by the board.

4. A blank form for application for renewal of licensure shall be mailed to each person licensed in this state at his or her last known office or residence address.

5. A new license to replace any license lost, destroyed, or mutilated may be issued to any applicant, subject to rules and regulations issued by the board upon the payment of a reasonable fee.

334.406. Notwithstanding any of the provisions of sections 334.400 to 334.430, the board may issue a temporary license to practice as an anesthesiologist assistant to an applicant that has taken the examination and is awaiting the results. A temporary license may be granted upon the payment of a temporary license fee, the submission of all required documents, and the applicant meeting the necessary qualifications, as defined by board rule. The temporary license shall be valid until the results of the examination are announced. The temporary license may be renewed at the discretion of the board and upon payment of the temporary license fee.

334.408. 1. Notwithstanding any law to the contrary, any person licensed pursuant to sections 334.400 to 334.430 may apply to the board for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and a determination by the board that the licensee meets the requirements defined by board rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person that has an inactive license or has discontinued the practice of an anesthesiologist assistant because of retirement shall not practice as an anesthesiologist assistant within this state.

2. During the period of inactive status, the licensee shall not be required to comply with the board's minimum requirements for continuing education.

3. If a licensee is granted inactive status, the licensee may return to active status by notifying the board of the intention to resume the practice of an anesthesiologist assistant, paying the appropriate fees, and meeting all established licensure requirements of the board, as a condition of reinstatement.

4. Any licensee that allows the license to become inactive for a period of five years or less may return the license to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established licensure requirements of the board, excluding the licensing examination, as a condition of reinstatement.

334.410. Any person licensed to practice as an anesthesiologist assistant in this state who retires from such practice shall file with the board an affidavit, on a form to be furnished by the board, which states the date of retirement and such other facts to verify the retirement as defined by board rule. Registration with the board must be renewed pursuant to section 334.414 for any person that wants to resume the practice of an anesthesiologist assistant.

334.412. 1. Upon the applicant paying a fee equivalent to the required licensing fee and furnishing the board with all locations of previous practice and licensure in chronological order, the board may, subject to the prescribed rules and regulations, license, without examination or additional certification, any qualified applicant that meets the requirements of this state including any person that is licensed in any state or territory of the United States or the District of Columbia with the authority to practice in the same manner and to the same extent as an anesthesiologist assistant is authorized to practice pursuant to sections 334.400 to 334.430. Pursuant to sections 334.400 to 334.430, the board shall have the authority to negotiate reciprocal compacts with licensing boards of other states for the admission of licensed anesthesiologist assistants from Missouri to practice in other states.

2. The board shall issue a license to any anesthesiologist assistant, who is licensed in another jurisdiction and who has had no violations, suspensions, or revocations of a license, to practice as an anesthesiologist assistant in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of anesthesiologist assistants in Missouri at the time the applicant applies for licensure.

334.414. 1. The board shall issue a certificate of registration to any applicant that meets the qualifications for an anesthesiologist assistant and that has paid the required fees.

2. The board shall promulgate rules and regulations pertaining to:

(1) Establishing application forms to be furnished to all persons seeking registration pursuant sections 334.400 to 334.430;

(2) Accepting certification by the National Commission on Certification of

Anesthesiologist Assistants or its successor in lieu of examinations for applicants for registration pursuant to sections 334.400 to 334.430;

(3) Determining the form and design of the registration to be issued pursuant to sections 334.400 to 334.430;

(4) Setting the amount of the fees for registration, licensure, and renewal pursuant to sections 334.400 to 334.430. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 334.400 to 334.430;

(5) Keeping a record of all of its proceedings regarding sections 334.400 to 334.430 and of all anesthesiologist assistants registered in this state.

No rule or portion of a rule promulgated pursuant to the authority of sections 334.400 to 334.430 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

3. The board shall have the authority to:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke registration; and

(2) Establish guidelines for anesthesiologist assistants pursuant to sections 334.400 to 334.430.

4. The board may refuse to issue, suspend, revoke, or renew any certificate of registration or authority, permit, or license required pursuant to sections 334.400 to 334.430 for one or any combination of causes stated in subsection 5 of this section. The board shall notify the applicant in writing of the reasons for the refusal, suspension, or revocation and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

5. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required pursuant to sections 334.400 to 334.430 or against any person who has failed to renew or has surrendered a certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an anesthesiologist assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications,

functions, or duties of an anesthesiologist assistant, for any offense for which an essential element is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 334.400 to 334.430 or in obtaining permission to take any examination given or required pursuant to sections 334.400 to 334.430;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions and duties of an anesthesiologist assistant;

(6) Violation of, or assisting or enabling any person to violate any provision of sections 334.400 to 334.430 or any lawful rule or regulation adopted pursuant to sections 334.400 to 334.430;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use a certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right relating to the practice of an anesthesiologist assistant granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication of insanity or incompetency by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice as an anesthesiologist assistant who is not registered and currently eligible to practice pursuant to sections 334.400 to 334.430;

(11) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Violation of the ethical standards for an anesthesiologist assistant as defined by board rule; or

(14) Violation of chapter 195, RSMo, or rules and regulations of this state, any other state, or the federal government.

6. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 5 of this

section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed ten years, or suspend his or her license for a period not to exceed seven years, or revoke his or her license, certificate, or permit.

7. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure and shall not be eligible for a temporary license. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 334.400 to 334.430.

8. Any person who violates any of the provisions of sections 334.400 to 334.430 is guilty of class A misdemeanor.

334.416. 1. Every person licensed pursuant to sections 334.400 to 334.430 shall renew his or her certificate of registration on or before the registration renewal date. The application shall be made under oath on a form furnished by the board. The application shall include, but not be limited to, disclosure of the following:

- (1) The applicant's full name and his or her office and residence address;
- (2) The date and number of his or her license;
- (3) All final disciplinary actions taken against the applicant by any professional medical or osteopathic association or society, licensed hospital or medical staff of the hospital, state, territory, federal agency, or country; and
- (4) Information concerning the applicant's current physical and mental fitness to practice as an anesthesiologist assistant.

2. A blank form for application for registration shall be mailed to each person licensed in this state at his or her last known office or residence address. The failure to receive the application form does not relieve any person of the duty to register and pay the fee required pursuant to sections 334.400 to 334.430 nor be exempt from the penalties provided pursuant to sections 334.400 to 334.430 for failure to register.

3. If a person licensed, certified, or registered by the board does not renew such license, certification, or registration for two consecutive renewal periods, such license, certification, or registration shall be deemed void.

4. An application for registration pursuant to sections 334.400 to 334.430 shall be accompanied with a registration fee to be payable to the director of revenue. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid. The delinquent fee may be waived by the board based on extenuating circumstances as defined by board rule.

334.418. 1. Except as provided in subsection 2 of this section, no person shall practice as an anesthesiologist assistant unless the person holds a current, valid

certificate of registration issued pursuant to sections 334.400 to 334.430 to practice as an anesthesiologist assistant.

2. The provision of subsection 1 of this section shall not apply to the following:

(1) A person participating in a training program leading toward certification by the National Commission for Certification of Anesthesiologist Assistants, as long as the person is supervised by an anesthesiologist;

(2) An individual participating in a hospital residency program in preparation to practice as an anesthesiologist; and

(3) Any person who is otherwise authorized by subsection 2 of section 334.428 to perform any of the activities that an anesthesiologist assistant is authorized to perform.

334.420. The board shall not renew any certificate of registration unless the anesthesiologist assistant has provided satisfactory evidence that the board's minimum requirements for continuing education have been met. At the discretion of the board, compliance with the provision of this section may be waived for an anesthesiologist assistant that has discontinued the practice of an anesthesiologist assistant due to retirement.

334.422. 1. All fees payable pursuant to the provisions of sections 334.400 to 334.430 shall be collected by the division of professional registration, which shall transmit them to the department of revenue for deposit in the state treasury to the credit of the board of registration for the healing arts fund.

2. Upon appropriation by the general assembly, the money in the fund shall be used to administer the provisions of sections 334.400 to 334.430.

334.424. 1. An anesthesiologist assistant shall practice only under the direct supervision of an anesthesiologist who is physically present or immediately available.

2. Each anesthesiologist who agrees to act as the supervising anesthesiologist of an anesthesiologist assistant shall adopt a written practice protocol that is consistent with sections 334.400 to 334.430 and delineates the services that the anesthesiologist assistant is authorized to provide and the manner in which the anesthesiologist will supervise the anesthesiologist assistant. The provisions of the protocol shall be based on relevant quality assurance standards, including regular review by the supervising anesthesiologist of the medical records of the patients cared for by the anesthesiologist assistant.

3. The supervising anesthesiologist shall oversee the anesthesiologist assistant in accordance with the terms of the protocol and any rules and regulations as defined by the board for the supervision of an anesthesiologist assistant. The board may randomly audit or inspect any written practice protocol under which an

anesthesiologist assistant works.

334.426. Notwithstanding the provisions of sections 334.400 to 334.430, or the rules of the Missouri state board of registration for the healing arts, the governing body of every hospital shall have full authority to limit the functions and activities that an anesthesiologist assistant performs in such hospital.

334.428. 1. No person shall put forth to the public any title or description that includes the words "licensed anesthesiologist assistant" as defined in section 334.404 unless the person is duly licensed pursuant to the provisions of sections 334.400 to 334.430.

2. Nothing in sections 334.400 to 334.430 shall be construed as prohibiting any individual regardless of whether the individual is licensed pursuant to sections 334.400 to 334.430, from providing the services of anesthesiologist assistant, so long as those services are lawfully performed pursuant to the individual's scope of practice as authorized by law, regulation, and hospital or medical staff policies or credentialing standards.

3. Notwithstanding the specified penalty in section 334.414, any person found guilty of violating any provision of subsections 1 and 2 of this section shall be guilty of an infraction and upon conviction thereof shall be punished as provided by law. For purposes of this subsection, the maximum fine for a violation of this section shall be two hundred dollars.

334.430. 1. There is hereby established an "Advisory Commission for Anesthesiologist Assistants" which shall guide, advise and make recommendations to the board. The commission shall be responsible for the ongoing examination of the scope of practice and promoting the continuing role of anesthesiologist assistants in the delivery of health care services. The commission shall assist the board in carrying out the provisions of sections 334.400 to 334.430.

2. The commission shall be appointed no later than July 1, 2005. The commission shall be composed of five members, to be appointed by the governor, with the advice and consent of the senate, as follows:

- (1) One member of the board;
- (2) One licensed anesthesiologist assistant;
- (3) Two licensed, board-certified anesthesiologists; and
- (4) One lay member.

3. Each licensed anesthesiologist assistant member shall be a citizen of the United States and a resident of this state, and shall be licensed as an anesthesiologist assistant by this state. Each physician member shall be a United States citizen, a resident of this state and have an active license to practice medicine in this state. The

lay member shall be a United States citizen and a resident of this state.

4. The licensed anesthesiologist assistant member shall be appointed to serve a three-year term. The anesthesiologist members and lay member shall each be appointed to serve three-year terms, except at the time the commission is created, when one anesthesiologist member will be appointed for a first term of two years while the second anesthesiologist member will be appointed to a three year term. This will ensure that at least one anesthesiologist member has at least one years experience as a member of the commission. Neither the anesthesiologist assistant member nor the physician members shall be appointed for more than two consecutive three-year terms.

5. The president of the Missouri Society of Anesthesiologists or its successor in office at the time shall, at least ninety days prior to the expiration of a term of a anesthesiologist assistant member or an anesthesiologist member of the commission or as soon as feasible after such a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list, not to exceed five individuals per vacancy, of qualified and willing anesthesiologists or anesthesiologist assistants, respectively, to fill the vacancy in question, with the request and recommendation that the governor appoint one of the persons so listed. With the list so submitted, the president of the Missouri Society of Anesthesiologists shall include in a letter of transmittal a description of the method by which the names were chosen by that association.

6. Until such time as eligible anesthesiologist assistant candidates are identified, the anesthesiologist assistant seat may remain vacant or may be filled by a qualified anesthesiologist candidate, at the governor's discretion with the advice and consent of the senate. This member may serve no more than two consecutive three-year terms or until an eligible anesthesiologist assistant candidate, selected by the governor with the advice and consent of the senate, from a list provided as outlined above is appointed.

7. Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule the guidelines for payment. The board shall provide all staff for the commission.

8. The commission shall hold an open annual meeting at which time it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that

notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its members.

9. No licensing activity or other statutory requirements shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required to administer the provisions of sections 334.400 to 334.430 and the initial rules filed have become effective.

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