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HOUSE OF REPRESENTATIVES

COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 599

RELATING TO: Anesthesiologist Assistants

SPONSOR(S): Representative Fasano

TIED BILL(S): None.

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) HEALTH REGULATION YEAS 9 NAYS 2
(2) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 2
(3)
(4)
(5)

I. SUMMARY:

This bill provides for the regulation of the practice of anesthesiology assistants under the jurisdiction of the Board of Medicine, Board of Osteopathic Medicine, and Council on Physician Assistants. An anesthesiology assistant would be required to practice under the direct supervision of a Florida licensed anesthesiologist.

The Department of Health estimates that this bill will require one ½ full-time equivalent (FTE) position. The department estimates that the regulation of anesthesiologist assistants would cost approximately $32,154 for fiscal year 02-03. The cost would be offset partially by the expected revenues of approximately $15,250.

On January 8, 2002, the Committee on Health Regulation adopted a strike-everything amendment which was traveling with the bill. Please see the Amendments section of this analysis for an explanation of the strike-everything amendment adopted by the Committee on Health Regulation.

On January 23, 2002, the Council for Healthy Communities adopted 4 amendments to the strike-everything amendment. Please see the Amendments section of this analysis for an explanation of the Council amendments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [x]	N/A []
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a "no" above, please explain:

This bill creates a licensure program for a group of health care providers not currently authorized to practice in Florida. The Department of Health anticipates that it will need ½ FTE to implement this program.

B. PRESENT SITUATION:

Currently, anesthesiologist assistants are not licensed to practice in Florida. The only professions currently allowed to assist anesthesiologists in providing care are certified registered nurse anesthetists (CRNA) regulated under s. 464.012, F.S., and physician assistants (PA) regulated under chapters 458 and 459, F.S. However, physician assistants may practice in the area of anesthesia only if they meet specified requirements of the boards' rules of having graduated from an approved training program for anesthesia assistants (AA).

There are currently only two (2) anesthesia trained physician assistants licensed to practice in Florida and there are 2,441 CRNAs licensed to practice in Florida.

At this time there are two (2) accredited programs for anesthesia assistants – Emory University, in Atlanta, Georgia, and Case Western Reserve University, in Cleveland, Ohio. The Commission on Accreditation of Allied Health Education Programs accredits both of these programs as anesthesiologist assistant programs. These programs are Master programs and do require an undergraduate degree prior to admission.

The United States Department of Health and Human Services, Health Care Financing Administration has ruled that anesthesiologist assistants are substantially equivalent to nurse anesthetists for Medicare reimbursement purposes.

The following chart is a brief comparison of the education, training/experience, level of supervision, and type of supervision between non-physician anesthesia providers:

	CRNA	**PA/AA***	**AA**
Education	Masters Degree (as of 10/01) from CRNA Program, plus prior RN license	Masters Degree from AA Program, plus prior PA license and bachelors degree	Masters Degree from AA Program, plus bachelors degree
Training/Experience	Clinical Training Usually 1 ½ to 2 years, plus RN license	AA Program provides 2 years clinical training as part of anesthesia team, plus PA license	AA Program provides 2 years clinical training as part of anesthesia team
Level of Supervision	General Supervision, as defined by protocol established between CNRA and supervisor	Direct Supervision, as required by rule 64B15-6.010(2)(b)6.	Direct Supervision, as defined in bill: present in office/suite and immediately available to provide assistance and direction
Supervisor	Licensed MD, DO, DDS	Licensed MD or DO	Licensed MD or DO who has completed anesthesiology training program, and is either board-certified or board-eligible in anesthesiology

* While PAs and AAs are not interchangeable and generally have different scopes of practice, since all PAs in Florida are required to complete an AA training program before assisting in the delivery of anesthesia, the requirements listed on this chart reflect those for a PA wishing to provide anesthesia in Florida, not for a general PA license.

Section 456.003, F.S., provides parameters for determining when a new profession should be regulated, and states:

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.

(2) The Legislature further believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

(3) It is further legislative intent that the use of the term "profession" with respect to those activities licensed and regulated by the department shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4)(a) Neither the department nor any board may create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. Neither the department nor any board may take any action that tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b) Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a profession or occupation to find employment.

(c) The Legislature shall evaluate proposals to increase the regulation of regulated professions or occupations to determine the effect of increased regulation on job creation or retention and employment opportunities.

(5) Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.

C. EFFECT OF PROPOSED CHANGES:

This bill provides for the regulation of the practice of anesthesiology assistants under the jurisdiction of the Board of Medicine, Board of Osteopathic Medicine, and Council on Physician Assistants. An anesthesiology assistant would be required to practice under the direct supervision of a Florida licensed anesthesiologist.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 458.3475, F.S.; provides guidelines for the regulation of anesthesia assistants, including pertinent definitions, requirements for licensure, and rulemaking authority for the Board of Medicine.

Section 2. Creates s. 459.023, F.S.; provides guidelines for the regulation of anesthesia assistants, including pertinent definitions, requirements for licensure, and rulemaking authority for the Board of Osteopathic Medicine.

Section 3. Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

$15,250

2. Expenditures:

$32,154

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would allow anesthesiologist assistants to practice in Florida.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Board of Medicine and the Board of Osteopathic Medicine would need to promulgate rules to implement the licensure provisions set forth in this bill. The bill provides rulemaking authority to each board to promulgate rules necessary to implement each section.

C. OTHER COMMENTS:

The Department of Health asserts that the shortage of physician extenders that can assist anesthesiologists in providing pain management treatment and providing care for patients during surgery is a growing problem in Florida and nationwide. This shortage limits the availability of health care providers to consumers.

The Florida Board of Medicine supports the implementation of an avenue for licensure of anesthesiologist assistants in Florida in order to address the current need for additional health care extenders in the area of anesthesiology.

The information provided by the Department of Health indicates that anesthesiology assistants are currently regulated or allowed to practice in 14 states nationwide, and that approximately 700 anesthesiology assistants provide care to patients under the direct supervision of an anesthesiologist within these states. Proponents of this bill provided information indicating that 5 states allow AAs to practice through licensure or certification and 7 states allow AAs to practice through physician delegation. Proponents also indicated that proposed legislation or rules are pending in 3 other states to allow AAs to practice.

Proponents of this bill have provided committee staff with information supporting the establishment of anesthesiologist assistant regulation in the state of Florida. Proponents assert that regulation will protect the public and will increase the supply of qualified providers of anesthesia. Proponents acknowledge that AAs would compete against CRNAs for positions within anesthesiologist-led anesthesia care teams.

Opponents of this bill have also provided committee staff with information on how CRNAs and the existing CRNA training programs might be adversely affected by the passage of this legislation. Opponents assert that there are already enough anesthesia training programs in Florida and with the addition of the two newest programs, Florida will have a sufficient supply of anesthesia providers.

Opponents have also asserted that there will be no cost savings to patients as a result of the use of AAs since anesthesia providers are reimbursed at the same rate.

Information provided by the Department of Health indicates that the clinical training varies between CRNAs and AAs/PAs. The department asserts that the anesthesia training for AAs and PAs does not include training in administration of general or regional anesthetic agents.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 8, 2002, the Committee on Health Regulation adopted a strike-everything amendment which is traveling with the bill. The strike-everything amendment:

- Clarifies that the supervising anesthesiologist must hold an active and unrestricted license;
- Requires anesthesiologist assistants to maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the Board of Medicine and Board of Osteopathic Medicine to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services;
- Limits the supervision by an anesthesiologist to two anesthesiologist assistants, but allows the board to increase the number to four by rule after July 1, 2006;
- Clarifies the scope of practice of an anesthesiologist assistant relating to the administration, prescription, compounding, and ordering of prescription drugs;
- Prohibits anesthesiologist assistants who have not yet been certified from practicing in Florida;
- Requires training programs to be graduate level; and
- Deletes the temporary licensure provisions.

On January 23, 2002, the Council for Healthy Communities adopted 4 amendments to the strike-everything amendment. The amendments:

- Clarify the definition of "direct supervision" to require that the supervising anesthesiologist must be present in the same room or an immediately adjacent room or hallway, so that the supervising anesthesiologist is able to monitor the on-going anesthetic and be immediately available to the anesthesiologist assistant. The definition further requires the supervising anesthesiologist to personally begin the patient's pre-anesthetic assessment.
- Specify the minimum requirements for the written protocol between the anesthesiologist and anesthesiologist assistant.
- Provide the scope of practice of an anesthesiologist assistant to specifically list the functions that an anesthesiologist assistant may perform under direct supervision and protocol of the anesthesiologist.
- Correct the reference to the Accreditation Council on Graduate Medical Education.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:	Staff Director:
Wendy Smith Hansen	Lucretia Shaw Collins

AS REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:	Council Director:
Wendy Smith Hansen	David M. De la Paz