

Senate Bill 630

Sponsored by Senator BATES; Representatives CONGER, FREEMAN, KENNEMER, LIVELY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides for licensing and regulation of anesthesiologist assistants.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to anesthesiologist assistants; creating new provisions; amending ORS 677.280, 677.290,
3 677.320, 677.330 and 677.990; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 10 of this 2013 Act:

5
6 (1) **"Anesthesiologist" has the meaning given that term in ORS 678.245.**

7 (2) **"Anesthesiologist assistant" means a person who provides health care services as**
8 **delegated by an anesthesiologist.**

9 (3) **"Drug" has the meaning given that term in ORS 689.005.**

10 **SECTION 2. (1) An anesthesiologist assistant licensed under section 4 of this 2013 Act**
11 **may assist an anesthesiologist in developing and implementing an anesthesia care plan for**
12 **a patient. In providing assistance to an anesthesiologist, an anesthesiologist assistant may:**

13 (a) **Obtain a patient history, perform a physical examination for purposes related to an**
14 **anesthesia care plan and present the patient history and examination results to the**
15 **anesthesiologist;**

16 (b) **In consultation with the anesthesiologist, pretest and calibrate an anesthesia delivery**
17 **system and obtain and interpret information from systems and monitors;**

18 (c) **Assist the anesthesiologist with the implementation of medically accepted monitoring**
19 **techniques;**

20 (d) **Establish airway interventions, including tracheal intubation and ventilatory support;**

21 (e) **Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;**

22 (f) **Administer anesthetic drugs, adjuvant drugs and other drugs necessary to implement**
23 **an anesthesia care plan;**

24 (g) **Assist the anesthesiologist with the performance of epidural anesthetic procedures,**
25 **spinal anesthetic procedures and other regional anesthetic procedures;**

26 (h) **Administer blood, blood products and supportive fluids;**

27 (i) **Provide assistance to a cardiopulmonary resuscitation team in response to a life-**
28 **threatening situation;**

29 (j) **As authorized by the anesthesiologist, participate in administrative, research or clin-**
30 **ical teaching activities; and**

31 (k) **Perform under the supervision of the anesthesiologist any other task not prohibited**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 by law that the anesthesiologist assistant has the training and proficiency to perform.

2 (2) An anesthesiologist assistant licensed under section 4 of this 2013 Act may not:

3 (a) Prescribe drugs;

4 (b) Administer drugs, devices or therapies that the anesthesiologist who supervises the
5 anesthesiologist assistant is not authorized to prescribe;

6 (c) Develop or implement, or attempt to develop or implement, an anesthesia care plan
7 without the supervision of an anesthesiologist or at a location where an anesthesiologist is
8 not available for consultation, assistance and intervention; or

9 (d) Use the title “doctor,” “doctor of optometry,” “physician,” “optometric physician” or
10 “podiatric physician” or any other title that identifies the anesthesiologist assistant as a
11 person licensed to practice medicine or podiatry.

12 (3) An anesthesiologist is responsible for the oversight of the health care services pro-
13 vided by an anesthesiologist assistant who assists the anesthesiologist.

14 (4) A health care facility, as defined in ORS 442.015, may limit the scope of activity au-
15 thorized by this section.

16 **SECTION 3.** (1) An anesthesiologist who is assisted by an anesthesiologist assistant as
17 described in section 2 of this 2013 Act:

18 (a) May supervise only four or fewer anesthesiologist assistants;

19 (b) Shall supervise anesthesiologist assistants in a manner that is consistent with federal
20 regulations for reimbursement for services related to the delivery of anesthesia;

21 (c) Shall adopt a written practice protocol that:

22 (A) Is consistent with sections 1 to 10 of this 2013 Act and rules adopted under sections
23 1 to 10 of this 2013 Act;

24 (B) Delineates the services that an anesthesiologist assistant is authorized to provide;

25 (C) Describes the manner in which the anesthesiologist will supervise an anesthesiologist
26 assistant; and

27 (D) Incorporates quality assurance standards, including regular review by the
28 anesthesiologist of the medical records of each patient who receives care from an
29 anesthesiologist assistant; and

30 (d) Supervise each anesthesiologist assistant who works under the anesthesiologist’s
31 supervision in accordance with the terms of the written practice protocol.

32 (2) The Oregon Medical Board may, at its discretion, inspect a written practice protocol
33 under which an anesthesiologist assistant works.

34 **SECTION 4.** (1)(a) To obtain a license as an anesthesiologist assistant, an applicant shall:

35 (A) Apply to the Oregon Medical Board on a form and in a manner prescribed by the
36 board by rule; and

37 (B) Pay a license fee adopted by the board by rule.

38 (b) An application submitted under this subsection must include proof that the applicant:

39 (A) Has graduated from an anesthesiologist assistant program accredited by the Com-
40 mission on Accreditation of Allied Health Education Programs or its successor organization;

41 (B) Has passed the certifying examination administered by the National Commission for
42 Certification of Anesthesiologist Assistants or its successor organization; and

43 (C) Is certified from the National Commission for Certification of Anesthesiologist As-
44 sistants or its successor organization.

45 (2) Upon approval of an application, the board shall issue to the applicant a license to

1 practice as an anesthesiologist assistant.

2 (3)(a) A license issued under subsection (2) of this section is valid for two years. A license
3 may be renewed by applying to the board on a form and in a manner prescribed by the board
4 by rule and paying a renewal fee adopted by the board by rule.

5 (b) The board shall, prior to the date that an anesthesiologist assistant's license expires,
6 provide the anesthesiologist assistant with notice of the expiration.

7 (4) The board may issue a license to an anesthesiologist assistant to replace a license
8 that has been lost, destroyed or damaged. A license may be replaced by applying to the board
9 on a form and in a manner prescribed by the board by rule and paying a replacement fee
10 adopted by the board by rule.

11 (5) The board may issue a temporary license to practice as an anesthesiologist assistant
12 to an applicant who has taken the certifying examination described in subsection (1)(b)(B)
13 of this section and has not received the results of the examination. A temporary license may
14 be issued by applying to the board on a form and in a manner prescribed by the board by rule
15 and paying a fee adopted by the board by rule. A temporary license is valid only until the
16 results of the examination are announced.

17 (6) The board may not adopt fees under this section that exceed the cost of administering
18 sections 1 to 10 of this 2013 Act.

19 **SECTION 5.** (1) An anesthesiologist assistant licensed under section 4 of this 2013 Act
20 may apply to the Oregon Medical Board for an inactive license. An inactive license may be
21 issued by applying to the board on a form and in a manner prescribed by the board by rule
22 and paying a fee adopted by the board by rule. An anesthesiologist assistant who holds an
23 inactive license may not assist an anesthesiologist as described in section 2 of this 2013 Act.

24 (2) The board shall keep and maintain a record of all anesthesiologist assistants who hold
25 an inactive license.

26 (3) An anesthesiologist assistant who holds an inactive license is not required to comply
27 with the minimum requirements for continuing education adopted by the board under section
28 8 of this 2013 Act.

29 (4) To reactivate a license issued under section 4 of this 2013 Act, an anesthesiologist
30 assistant who holds an inactive license shall make an application to the board in the manner
31 prescribed under section 4 (1) of this 2013 Act, except that an anesthesiologist assistant who
32 has held an inactive license for five years or less is not required to take the certifying ex-
33 amination administered by the National Commission for Certification of Anesthesiologist
34 Assistants or its successor organization.

35 **SECTION 6.** (1) An anesthesiologist assistant licensed under section 4 of this 2013 Act
36 who retires shall file with the Oregon Medical Board an affidavit attesting to the retirement
37 on a form and in a manner prescribed by the board by rule. An anesthesiologist assistant
38 who retires may not assist an anesthesiologist as described in section 2 of this 2013 Act.

39 (2) The board shall keep and maintain a record of all anesthesiologist assistants who are
40 retired.

41 (3) An anesthesiologist assistant who is retired is not required to comply with the mini-
42 mum requirements for continuing education adopted by the board under section 8 of this 2013
43 Act.

44 (4) To resume practice as an anesthesiologist assistant, an anesthesiologist assistant who
45 is retired shall apply to the board on a form and in a manner prescribed by the board by rule

1 and pay a fee adopted by the board by rule.

2 **SECTION 7.** (1)(a) The Oregon Medical Board shall issue a license to practice as an
 3 anesthesiologist assistant to an applicant who is licensed in another state or territory of the
 4 United States or the District of Columbia and who has not been disciplined by the licensing
 5 authority in the other state or territory or the District of Columbia if:

6 (A) The licensing requirements of the other state or territory or the District of Columbia
 7 are substantially similar to the licensing requirements of this state; and

8 (B) The applicant pays a fee adopted by the board by rule.

9 (2) The board may issue a license to practice as an anesthesiologist assistant to an ap-
 10 plicant who does not meet the requirements of section 4 (1)(b)(B) and (C) of this 2013 Act to
 11 an applicant whom the board otherwise regards as qualified to be an anesthesiologist assist-
 12 ant if:

13 (a) The applicant provides the board with a list of all previous locations of employment
 14 and, if applicable, licensure; and

15 (b) The applicant pays a fee adopted by the board by rule.

16 (3) The board shall seek to enter into agreements with the licensing authorities of other
 17 states and territories of the United States and the District of Columbia whereby a person
 18 licensed to practice as an anesthesiologist assistant under section 4 of this 2013 Act may
 19 apply for reciprocal licensure in those states or territories or the District of Columbia.

20 **SECTION 8.** (1) The Oregon Medical Board shall adopt by rule requirements for the
 21 continuing education of an anesthesiologist assistant. Continuing education requirements
 22 adopted under this section must include, at a minimum, successful completion at least once
 23 every six years of an examination for continued demonstration of qualifications administered
 24 by the National Commission for Certification of Anesthesiologist Assistants or its successor
 25 organization.

26 (2) The board may not renew a license under section 4 of this 2013 Act unless the
 27 anesthesiologist assistant applying for the renewal has provided satisfactory evidence to the
 28 board that the anesthesiologist assistant has met the board's minimum requirements for
 29 continuing education.

30 **SECTION 9.** The Oregon Medical Board may refuse to grant, suspend or revoke a license
 31 to practice as an anesthesiologist assistant for the following reasons:

32 (1) Use of an intoxicant or a controlled substance, as defined in ORS 475.005, in manner
 33 that impairs the person's ability to assist an anesthesiologist as described in section 2 of this
 34 2013 Act;

35 (2) Being found guilty of, or entering a plea of nolo contendere for, a crime in this state
 36 or any other state that is reasonably related to the duties of an anesthesiologist assistant
 37 described in section 2 of this 2013 Act;

38 (3) Committing fraud or bribery or using deceptive or misleading information in making
 39 an application under sections 4, 5, 6 or 7 of this 2013 Act;

40 (4) Committing fraud, or using deceptive or misleading information, in performing the
 41 duties of an anesthesiologist assistant;

42 (5) Gross negligence or repeated negligence in performing the duties of an
 43 anesthesiologist assistant;

44 (6) Impersonating or purporting to be a person who holds a license to practice as an
 45 anesthesiologist assistant or allowing a person to use a license issued under section 4 of this

1 2013 Act for the purpose of purporting to practice as an anesthesiologist assistant;

2 (7) Committing an act in another state or territory of the United States, the District of
 3 Columbia or another country that would constitute, if committed in this state, a violation
 4 of sections 1 to 10 of this 2013 Act or a rule adopted under sections 1 to 10 of this 2013 Act;

5 (8) Incapacity to perform the duties of an anesthesiologist assistant;

6 (9) Assisting or enabling a person who is not licensed by the board to practice as an
 7 anesthesiologist assistant in the performance of the duties of an anesthesiologist assistant;
 8 or

9 (10) Violating sections 1 to 10 of this 2013 Act or any rule adopted under sections 1 to 10
 10 of this 2013 Act.

11 **SECTION 10.** (1) There is established within the Oregon Medical Board the Advisory
 12 Commission for Anesthesiologist Assistants.

13 (2) The Governor shall appoint the following five members to serve on the commission:

14 (a) One member who represents the board;

15 (b) From among 10 persons nominated by the Oregon Society of Anesthesiologists or its
 16 successor organization, two members who represent licensed anesthesiologists;

17 (c) From among five persons nominated by the Oregon Society of Anesthesiologists or its
 18 successor organization, one member who represents licensed anesthesiologist assistants; and

19 (d) One member who represents the public.

20 (3) Each member appointed to the commission must be a resident of this state.

21 (4) The commission shall make recommendations to the board on the adoption of rules
 22 under sections 1 to 10 of this 2013 Act and other matters relating to the scope of practice,
 23 and promotion of the continuing role, of anesthesiologist assistants in this state.

24 (5) The term of office of each member of the commission is three years, but a member
 25 serves at the pleasure of the Governor. Before the expiration of the term of a member, the
 26 Governor shall appoint a successor whose term begins on January 1 next following. A
 27 member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall
 28 make an appointment to become immediately effective for the unexpired term.

29 (6) A majority of the members of the commission constitutes a quorum for the trans-
 30 action of business.

31 (7) Official action by the commission requires the approval of a majority of the members
 32 of the commission.

33 (8) The commission shall elect one of its members to serve as chairperson.

34 (9) The commission shall meet at times and places specified by the call of the chairperson
 35 or of a majority of the members of the commission.

36 (10) The commission may adopt rules necessary for the operation of the commission.

37 (11) A member of the commission is entitled to compensation and expenses as provided
 38 in ORS 292.495.

39 **SECTION 11.** Notwithstanding the term of office specified by section 10 of this 2013 Act,
 40 of the members first appointed to the Advisory Commission for Anesthesiologist Assistants:

41 (1) One shall serve for a term ending January 1, 2015;

42 (2) Two shall serve for a term ending January 1, 2016; and

43 (3) Two shall serve for a term ending January 1, 2017.

44 **SECTION 12.** ORS 677.280 is amended to read:

45 677.280. Subject to any applicable provisions of the State Personnel Relations Law, the Oregon

1 Medical Board may employ consultants, investigators and staff for the purpose of enforcing the laws
 2 relating to this chapter **or sections 1 to 10 of this 2013 Act** and securing evidence of violations
 3 thereof, and may fix the compensation therefor and incur necessary other expenses.

4 **SECTION 13.** ORS 677.290 is amended to read:

5 677.290. (1) All moneys received by the Oregon Medical Board under this chapter **or sections**
 6 **1 to 10 of this 2013 Act** shall be paid into the General Fund in the State Treasury and placed to
 7 the credit of the Oregon Medical Board Account which is established. Such moneys are **contin-**
 8 **uously** appropriated [*continuously*] and shall be used only for the administration and enforcement
 9 of this chapter **or sections 1 to 10 of this 2013 Act**.

10 (2) Notwithstanding subsection (1) of this section, the board may maintain a revolving account
 11 in a sum not to exceed \$50,000 for the purpose of receiving and paying pass-through moneys relating
 12 to peer review pursuant to its duties under ORS 441.055 (4) and (5) and in administering programs
 13 pursuant to its duties under this chapter relating to the education and rehabilitation of licensees in
 14 the areas of chemical substance abuse, inappropriate prescribing and medical competence. The crea-
 15 tion of and disbursement of moneys from the revolving account shall not require an allotment or
 16 allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account are continuously
 17 appropriated for purposes set forth in this subsection.

18 (3) Each year \$10 shall be paid to the Oregon Health and Science University for each in-state
 19 physician licensed under this chapter, which amount is continuously appropriated to the Oregon
 20 Health and Science University to be used in maintaining a circulating library of medical and surgi-
 21 cal books and publications for the use of practitioners of medicine in this state, and when not so in
 22 use to be kept at the library of the School of Medicine and accessible to its students. The balance
 23 of the money received by the board is appropriated continuously and shall be used only for the ad-
 24 ministration and enforcement of this chapter **or sections 1 to 10 of this 2013 Act**, but any part of
 25 the balance may, upon the order of the board, be paid into the circulating library fund.

26 **SECTION 14.** ORS 677.320 is amended to read:

27 677.320. (1) Upon the complaint of any [*citizen*] **resident** of this state, or upon its own initiative,
 28 the Oregon Medical Board may investigate any alleged violation of this chapter **or sections 1 to**
 29 **10 of this 2013 Act**. If, after the investigation, the board has reason to believe that any person is
 30 subject to prosecution criminally for the violation of this chapter **or sections 1 to 10 of this 2013**
 31 **Act**, it shall lay the facts before the proper district attorney.

32 (2) In the conduct of investigations, the board or its designated representative may:

33 (a) Take evidence;

34 (b) Take the depositions of witnesses, including the person charged;

35 (c) Compel the appearance of witnesses, including the person charged;

36 (d) Require answers to interrogatories; and

37 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
 38 matter under investigation.

39 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas
 40 over the signature of the executive director and the seal of the board in the name of the State of
 41 Oregon.

42 (4) In any proceeding under this section where the subpoena is addressed to a licensee of this
 43 board, it shall not be a defense that the material that is subject to the subpoena is protected under
 44 a patient and physician privilege.

45 (5) If a licensee who is the subject of an investigation or complaint is to appear before members

1 of the board investigating the complaint, the board shall provide the licensee with a current sum-
 2 mary of the complaint or the matter being investigated not less than five days prior to the date that
 3 the licensee is to appear. At the time the summary of the complaint or the matter being investi-
 4 gated is provided, the board shall provide to the licensee a current summary of documents or alleged
 5 facts that the board has acquired as a result of the investigation. The name of the complainant or
 6 other information that reasonably may be used to identify the complainant may be withheld from the
 7 licensee.

8 (6) A licensee who is the subject of an investigation and any person authorized to act on behalf
 9 of the licensee shall not knowingly contact the complainant until the licensee has requested a con-
 10 tested case hearing and the board has authorized the taking of the complainant's deposition pursu-
 11 ant to ORS 183.425.

12 (7) Except in an investigation or proceeding conducted by the board or another public entity,
 13 or in an action, suit or proceeding where a public entity is a party, a licensee shall not be ques-
 14 tioned or examined regarding any communication with the board made in an appearance before the
 15 board as part of an investigation. This section shall not prohibit examination or questioning of a
 16 licensee regarding records dealing with a patient's care and treatment or affect the admissibility of
 17 those records. As used in this section, "public entity" has the meaning given that term in ORS
 18 676.177.

19 **SECTION 15.** ORS 677.330 is amended to read:

20 677.330. (1) The district attorney of each county shall prosecute any violation of this chapter
 21 **or sections 1 to 10 of this 2013 Act** occurring in the county. The Oregon Medical Board shall be
 22 represented by the Attorney General acting under ORS 180.140. Each district attorney shall bring
 23 to the attention of the grand jury of the county any information independently developed by the
 24 district attorney, the Attorney General or other law enforcement agencies pertaining to a violation
 25 of this chapter.

26 (2) Upon any appeal to the Court of Appeals of this state in any of the proceedings referred to
 27 in subsection (1) of this section, the Attorney General shall assist the district attorney in the trial
 28 of the cause in the Court of Appeals.

29 (3) Justice courts and the circuit courts have concurrent jurisdiction of prosecutions for the
 30 violation of this chapter.

31 **SECTION 16.** ORS 677.990 is amended to read:

32 677.990. (1) Violation of any provision of this chapter **or sections 1 to 10 of this 2013 Act** is
 33 a misdemeanor. In any prosecution for such violation, it shall be sufficient to sustain a conviction
 34 to show a single act of conduct in violation of any of the provisions of this chapter **or sections 1**
 35 **to 10 of this 2013 Act** and it shall not be necessary to show a general course of such conduct.

36 (2) Any person who practices medicine without being licensed under this chapter as prohibited
 37 in ORS 677.080 (4) commits a Class C felony.

38 (3) A person who violates the provisions of ORS 677.360 to 677.370 commits a Class C
 39 misdemeanor.

40 **SECTION 17.** (1) **Sections 1 to 10 of this 2013 Act and the amendments to ORS 677.280,**
 41 **677.290, 677.320, 677.330 and 677.990 by sections 12 to 16 of this 2013 Act become operative on**
 42 **January 1, 2014.**

43 (2) **The Oregon Medical Board may take any action before the operative date specified in**
 44 **subsection (1) of this section to enable the board to exercise, on and after the operative date**
 45 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**

1 on the board by sections 1 to 10 of this 2013 Act and the amendments to ORS 677.280, 677.290,
2 677.320, 677.330 and 677.990 by sections 12 to 16 of this 2013 Act.

3 SECTION 18. This 2013 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
5 on its passage.
6
