HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 579 Anesthesiologist Assistants
SPONSOR(S): Kyle
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 626 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)	8 Y, 1 N	Mitchell	Collins
2) Health Care			
3) Finance & Tax			
4) Health Appropriations (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

HB 579 creates a new licensed profession, anesthesiologist assistants (AAs), who will be licensed and regulated by the Department of Health (DOH) and required to practice under protocols and direct supervision of Florida licensed anesthesiologists. This bill provides a new category of physician extenders to assist physician anesthesiologists in providing pain management treatment and care for patients during surgery.

Currently, in Florida, the only professions allowed to assist anesthesiologists in providing care are certified registered nurse anesthetists (CRNAs) regulated under s. 464.012, F.S., and physician assistants (PAs) regulated under chapters 458 and 459, F.S. Physician assistants may practice in the area of anesthesia only if they meet specified requirements of the Boards of Medicine and Osteopathic Medicine and have graduated from an approved training program for anesthesia assistants (AAs). There are currently only two anesthesia trained physician assistants licensed to practice in Florida and there are 2,441 CRNAs licensed to practice in Florida.

Anesthesiologist assistants are currently licensed or certified in five states, and allowed to practice through physician delegation in nine others. Approximately 700-800 anesthesiologist assistants provide care to patients under the supervision of anesthesiologists nationwide.

There are two accredited programs for anesthesia assistants in the country – Emory University in Atlanta, Georgia and Case Western Reserve University in Cleveland, Ohio. The Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredits both of these programs. They are master degree programs and require an undergraduate degree at the bachelor level prior to admission.

According to DOH, based on the number of estimated licensees, the profession is expected to operate at a deficit. DOH estimates that 50 applicants will apply for licensure in year 1 and in year 2. Total estimated biennial expenses would range from $139,000 to $164,000, including “direct" expenses of $113,738, and $25,000 to $50,000 "allocated" expenditures for other regulatory functions, including investigations. Biennial licensure and renewal fees for 100 licensees would have to be an estimated $1,390 to $1,640 to meet expenditures. These fees exceed the limit established by the bill and would have to be covered by the Medical Quality Assurance Trust Fund from fees charged to other licensed professions.

The effective date of the bill is July 1, 2004.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[X]	N/A[]
2. Lower taxes?	Yes[]	No[X]	N/A[]
3. Expand individual freedom?	Yes[X]	No[]	N/A[]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	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 1 FTE to implement this program.

B. EFFECT OF PROPOSED CHANGES:

HB 579 bill creates a new licensed profession, anesthesiologist assistants (AAs), who will be licensed and regulated by the Department of Health, and required to practice under protocols and direct supervision of Florida licensed anesthesiologists.

The bill creates ss. 458.3475 and 459.023, F.S., to provide for licensing and regulation of AAs under the Board of Medicine and the Board of Osteopathic Medicine.

The bill provides specific limitations on physician supervision and areas of practice by AAs, including allowing AAs to administer legend and controlled drugs, but not to prescribe, order or dispense legend drugs, medical devices, controlled substances, or sample drugs to patients. It requires an anesthesiologist to be in the same office or surgical/obstetrical suite and be immediately available to provide assistance during the delivery of anesthesia.

Licensure of AAs requires graduation from a board approved program and a passing score on a proficiency examination. The score is established by the National Commission on Certification of Anesthesiologist Assistants. AAs are not subject to practitioner profiling, but must submit a sworn statement of no felony convictions in the immediately preceding 2 years. AAs will be required to renew biennially.

The chairman of the Board of Medicine or Osteopathic Medicine may appoint an anesthesiologist and an anesthesiologist assistant to advise the board as to the promulgation of rules for the licensure of anesthesiologist assistants. The board may utilize a committee to receive recommendations on rules and all matters relating to AAs.

The bill provides that AAs are subject to the disciplinary provisions of Chapters 458 and 459, F.S. It establishes grounds for discipline for allopathic and osteopathic physicians who fail to adequately supervise AAs.

The bill requires the Boards of Medicine and Osteopathic Medicine to establish, by rule, that AAs maintain medical malpractice insurance or provide proof of financial responsibility in an amount sufficient to cover claims arising out of the rendering of professional care.

The bill provides an effective date of July 1, 2004.

PRESENT SITUATION

Approximately 700-800 anesthesiologist assistants (AAs) nationwide provide care to patients under the direct supervision of anesthesiologists. Five states allow AAs to practice through licensure or certification (Alabama, Georgia, New Mexico, Ohio and South Carolina). In addition, 9 states allow AAs to practice through physician delegation.

In Florida, the only professions currently licensed to assist anesthesiologists in providing care are Certified Registered Nurse Anesthetists (CRNAs) regulated under Chapter 464, F.S., and Physician Assistants (PAs) regulated under Chapters 458 and 459, F.S. Physician Assistants cannot practice in the area of anesthesia unless they meet specified requirements established in rules of the Boards of Medicine and Osteopathic Medicine. They must have graduated from an approved training program for anesthesia assistants. There are currently only two (2) anesthesia trained physician assistants licensed to practice in Florida and over 2,400 CRNAs licensed to practice in Florida.

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 (CAAHEP) accredits both of these programs as anesthesiologist assistant programs. These programs are master level programs and require an undergraduate degree at the bachelor level prior to admission.

There are currently four Certified Registered Nurse Anesthetist master level programs in Florida that are projected to graduate 136 CRNAs in 2004.

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

Comparison of Licensure Requirements of Anesthesiologist Assistants and Related Professions

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

	Certified Registered Nurse Anesthetists	**Physician Assistants with Anesthesiologist Assistant Training**	**Anesthesiologist Assistants**
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 1½ 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)
Supervision	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.

Anesthesiologist Assistants Licensure Requirements in Other States
Licensure requirements for anesthesiologist assistants (AAs) in other states vary in terms of the level of supervision and the number of assistants that a physician anesthesiologist can supervise. The level of supervision ranges from direct supervision by an anesthesiologist in the facility to requiring anesthesiologists to be physically present in the anesthetizing area or operating suite. In Alabama, the anesthesiologist does not need to be constantly present but the AA is prohibited from independent, unsupervised practice. In Ohio, the anesthesiologist is required to personally participate in the most demanding procedures to the anesthetic plan including induction and emergence. The anesthesiologist is required to provide enhanced supervision required for the first four years of an AA's practice. The maximum number of AAs under supervision at one time ranges from 2 to 4 or no specified number.

C. SECTION DIRECTORY:

Section 1. Amends s. 456.048, F.S., to require the Boards of Medicine and Osteopathic Medicine to establish, by rule, that AAs maintain medical malpractice insurance or provide proof of financial responsibility in an amount sufficient to cover claims arising out of the rendering of professional care.

Section 2. Amends s. 458.331, F.S., to establish grounds for discipline for allopathic physicians who fail to adequately supervise AAs.

Section 3. Creates s. 458.3475, F.S., to provide for licensing and regulation of AAs under the Board of Medicine. It requires that an AA practice under a protocol with a board certified or board-eligible anesthesiologist and under the direct supervision of an anesthesiologist who must be in the same office or surgical/obstetrical suite and be immediately available to provide assistance during the delivery of anesthesia. The proposal provides specific limitations on physician supervision and areas of practice by AAs.

Section 4. Amends s. 459.015, F.S., to establish grounds for discipline for osteopathic physicians who fail to adequately supervise AAs.

Section 5: Creates s. 459.023, F.S., to provide for licensing and regulation of AAs under the Board of Osteopathic Medicine.

Section 6: Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Health:

Estimated Expenditures	1st Year	2nd Year (Annualized/Recurring)
Salaries		
1 FTE (Regulatory Specialist I (RS I) based on the midrange of pay band 3 plus 28% fringe. This is not lapsed and requires a full 12-month funding for implementation purposes. Position to be split between Board of Medicine (BOM) and Board of Osteopathic (BOO).	$42,850	$42,850
Other Personal Services		
Board Member Compensation	$4,000	$4,000
Expense		
Non-recurring for ½ FTE in BOM	$2,603	
Non-recurring for ½ FTE in BOO	$2,603	
Recurring for 1 RS I	$5,416	$5,416
Operating Capital Outlay		
Non-recurring for ½ FTE in BOM	$2,000	
Non-recurring for ½ FTE in BOO	$2,000	
Total Estimated Expenditures	$61,472	$52,266

2. Expenditures:

According to the Department of Health:

Estimated Revenue*	1st Year	2nd Year (Annualized/Recurring)
$100 initial application fee-50	$5,000	$5,000
$200 initial licensure fee-50 app	$10,000	
$100 initial licensure fee prorated for year 2		$5,000
$5 unlicensed activity fee-50 app	$250	$250
Total Estimated Revenue	$15,250	10,250

* The bill provides that the Boards, not the Department, set the fees. Estimated revenue is based on the DOH assumption that the Boards will impose the same fees as currently provided for Physician Assistants, not a higher amount of up to $1,000 allowed by the bill.

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:

According to the Department of Health, there will be a workload increase for the Division of Medical Quality Assurance related to implementation and regulation of a new profession that will impact the Medical Quality Assurance Trust Fund.

DOH anticipates that the workload could be handled by 1 FTE, Regulatory Specialist I split between the Board of Medicine and the Board of Osteopathic Medicine. DOH may also incur additional workload if there is an increase in complaint investigations and disciplinary actions.

The requirement for insurance coverage will require the Department to track and audit financial responsibility for AAs in the same manner as currently required for chiropractors, acupuncturists, podiatrists and advanced registered nurse practitioners (ARNPs).

According to the department, based on the number of estimated licensees, the profession is expected to operate at a deficit.

The bill provides that the Boards, not DOH, will set the fees. According to DOH, assuming that the Boards impose the same fees as currently provided for Physician Assistants, the estimated revenues are:

- Year 1 -- $15,250 for 50 applicants (based on $100 initial applicant fees; $200 initial licensure fees, and a $5 unlicensed activity fee).
- Year 2 -- $10,250 (based on the prorated initial licensure fee of $100.)
- Year 3 -- $20,500 from renewals that will begin in FY 06-07 (based on an estimated 100 licensees who will renew at $200 plus $5 unlicensed activity fee).

These revenues are based on an estimated 50 AAs seeking licensure in 2004-2005 and 50 in 2005-2006, with all 100 renewing the following year.

The department estimates that the costs of administering licensure for 100 AAs will be $61,472 in FY 04-05, and $52,266 in FY 05-06. These are direct expenditures for costs that include board member compensation, board member travel reimbursement, rental of meeting sites, enforcement, etc.

On top of these direct costs, there will be “allocated expenditures” recognized by s. 456.025(8), F.S., as expenditures which cannot be directly charged to a profession. The department estimates there will be an additional $25,000-$50,000 of “allocated expenditures” needed to cover other regulatory services provided by the department for anesthesiologist assistants. These allocated expenditures are "direct services" provided by other Medical Quality Assurance (MQA) licensure functions, including costs of investigations, prosecutions, administrative hearings, the impaired practitioner, etc. (For example, there are 120 investigators located in 11 sites in the state. The costs of their salaries, office rent, etc., are allocated to different professions based on a percentage of time used for that profession out of their

total time, using a time tracking system). Each quarter, the department collects statistics from a variety of sources to fairly and appropriately allocate expenditures.

According to the department, when it is required to regulate a small profession, revenues associated with that profession are usually insufficient to cover direct and allocated expenditures. For professions that are in a chronic deficit status, expenditures that exceed revenue are subsidized by the MQA Trust Fund cash balance. According to the department, professions in a surplus status argue that they are subsidizing the deficit professions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

   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. DRAFTING ISSUES OR OTHER COMMENTS:

According to the department, the effective date does not provide the Boards of Medicine and Osteopathic Medicine with adequate time to comply with the proposal.

Proponents of this bill have provided committee staff with information supporting the establishment of anesthesiologist assistant regulation in 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 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 Florida will have a sufficient supply of anesthesia providers. These opponents cite a report by the American Society of Anesthesiologists, November 2003, which states that while there may continue to be a shortage of physician anesthesiologists, "…the number of nurse anesthetists projected to graduate in the next few years represent more than a three-fold increase from 1989. Concerns of a nurse anesthetist shortage may eventually become concerns of a surplus."

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.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES