



Kansas Legislative Research Department

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68-West-Statehouse | 300 SW 10th Ave. | Topeka, Kansas 66612-1504
(785) 296-3181

kslegres@klrd.ks.gov

kslegislature.org/klrd

October 21, 2019

To: Special Committee on Health

From: Iraida Orr, Principal Research Analyst

Re: Proposed Anesthesiologist Assistant Licensure Act

This memorandum provides background information on the hearings on proposed legislation to enact the Anesthesiologist Assistant Licensure Act (Act). The memorandum will focus on 2019 HB 2295, which was heard before the House Committee on Health and Human Services in February 2019. A similar bill, 2019 SB 223, was heard before the Senate Committee on Public Health and Welfare and is included for reference. A brief reference to anesthesiologist assistant (AA) licensure legislation introduced in 2017 is also included.

[*Note:* The bill brief below is not intended to be a complete overview of the bill's provisions. The bill brief on HB 2295 by the Office of Revisor of Statutes should be consulted for a thorough review of the bill.]

HB 2295

Brief

As introduced, HB 2295 would enact the Act to take effect on January 6, 2020. To practice in the state, the bill would require AAs to be licensed by the Kansas Board of Healing Arts (Board) by the effective date of the Act. The bill would:

- Define terms;
- Establish the requirements for active, temporary, and inactive licenses and licenses by endorsement;
- Set maximum licensure fees;
- Require the Board to adopt all necessary rules and regulations to carry out the provisions of the Act;
- Establish the findings required for the revocation, suspension, and limitation of a license or the denial of an application for a license or reinstatement and provide an appeals process for such Board actions;

- Authorize the Board to file an action in court when it appears a licensee has violated any provision of the Act;
- Outline an AA's scope of practice under the supervision of an anesthesiologist who is physically present or is immediately available in the same facility in which the AA performs the delegated medical acts and who is available to provide direct supervision;
- Limit a supervising or designated anesthesiologist to the supervision of no more than four AAs at any one time; and
- Establish an Anesthesiology Assistant Council (Council) to advise the Board in carrying out the provisions of the Act and provide for the appointment of Council members, the terms of service, and compensation for attending meetings of the Council or its subcommittees.

Background

On February 13, 2019, HB 2295 was introduced by the House Committee on Health and Human Services at the request of Representative Barker on behalf of the Kansas Society of Anesthesiologists (KSA), and the bill was referred to this House Committee.

In the House Committee hearing on February 18, 2019, two certified AAs, two physician anesthesiologists, and representatives of the American Academy of Anesthesiologist Assistants (AAAA), Kansas Medical Society (KMS), and KSA testified in favor of the bill. The proponents generally stated the bill would establish a license for AAs, who are currently unable to provide care for patients in Kansas. Several proponents stated the professional education and clinical training of an AA is comparable to the specialization of certified registered nurse anesthetists (CRNAs) after nursing school; AAs have the skills to perform their jobs at the same capacity as CRNAs but do so under the direct supervision of an anesthesiologist; licensure for AAs will not adversely impact nurse anesthesia training; and there is a need for another mid-level anesthesia provider in the anesthesia care team to expand the ability to provide needed care.

Testimony was provided about the Kansas Department of Health and Environment (KDHE) health occupations credentialing (HOC) process undertaken to seek approval for the licensure of AAs. The executive summary in the January 2019 KDHE Technical Committee report notes, "The members of the Technical Committee thoroughly reviewed each criterion as set forth in KSA 65-5006. The final findings and recommendations of the Technical Committee concluded that the nine criteria were met by the Applicant." The Secretary of Health and Environment issued a Final Report on February 14, 2019, adopting the Technical Committee report. The KMS representative stated the licensure of AAs is consistent with their mission of ensuring access to high quality care delivered by a physician-lead team and supports an integrated, team-based approach to health care delivery that includes an array of advance practice providers. Written-only proponent testimony was provided by eight certified AAs, the Program Director of the University of Missouri-Kansas City (UMKC) Anesthesiologist Assistant Program, a professor and the chairperson of the UMKC Department of Graduate Health Professions in Medicine, a UMKC AA student, two physicians, two private citizens, a physician anesthesiologist, and representatives of KSA, Phoenix Home Care and Hospice, and Wesley Medical Center.

Opponent testimony was provided by a CRNA, a physician anesthesiologist, the chairperson of a nurse anesthesia education program presenting her own views, and representatives of the Kansas Association of Nurse Anesthetists (KANA) and Newman Regional Health. The opponents generally stated the licensure of AAs would impact training for student registered nurse anesthetists (SRNAs) by reducing the opportunity to find clinical sites, which would require further travel within the state or out of state and promote the loss of graduates to other states. Reference was also made to the economic impact to state revenue with CRNAs leaving the state. The Newman Regional Health representative testified a supervised AA model is not financially feasible for most hospitals in the state. Written-only opponent testimony was provided by two CRNAs, a KDHE HOC team member, the Program Director of the Newman University Nurse Anesthesia Program, and representatives of the American Association of Nurse Anesthetists (AANA) and the Kearny County Hospital.

Neutral testimony was provided by a KDHE representative, who testified generally as to the HOC process and specifically regarding the credentialing process for AAs. The KDHE representative noted the HOC Technical Committee approved the AA credentialing application, finding the nine required criteria had been met “by clear and convincing evidence.” The Secretary of Health and Environment issued a final report on February 14, 2019, adopting the HOC Technical Committee report. Written-only neutral testimony was provided by representatives of the Board and the Kansas Association of Osteopathic Medicine.

The testimony presented at the House Committee hearing and the minutes of the meeting are available on the Legislature’s website at http://kslegislature.org/li/b2019_20/committees/ctte_h_hhs_1/documents/?date_choice=2019-02-18. An audio archive of the House Committee hearing may be accessed at <http://sg001-harmony.sliq.net/00287/Harmony/en/PowerBrowser/PowerBrowserV2/20190218/-1/6231>.

The House Committee took no action on HB 2295. The bill was referred to the House Committee on Appropriations, where it remained at the end of the 2019 Legislative Session.

According to the attached fiscal note prepared by the Division of the Budget on HB 2295, the Board states the bill would change the Board’s responsibilities to require new training of licensing staff; drafting and implementing of rules and regulations; creating online documents or agency website items to reflect the new regulatory status of licensure and scope of practice; and making changes to the Board’s electronic database and on-line renewal system, which could be accomplished with existing information technology staff. Additionally, the Board notes the new licensure category may increase the number of investigations and disciplinary cases for which it is responsible.

The Board further states agency staff is working at full capacity, and any increase in complaints, investigations, and caseloads would require additional staff. The Board estimates 1.00 legal assistant full-time equivalent position would be needed to research and assist in drafting rules and regulations. The Board estimates additional expenditures in fiscal year (FY) 2020 of \$63,483 from the agency fee fund that would include \$47,023 for salary and wage expenditure and \$16,460 for other operating expenditures, of which \$7,000 would be one-time expenditures for office equipment.

The Board estimates additional revenue of \$4,000 in FY 2020 for licensing fees for the new group, of which 10.0 percent would be deposited in the State General Fund and the remainder in the agency fee fund. Any fiscal effect associated with HB 2295 is not reflected in *The FY 2020 Governor’s Budget Report* (Attachment 1).

A request for a 2019 interim study on HB 2295 was made and approved by the Legislative Coordinating Council (LCC). The LCC appointed the Special Committee on Health, authorized one meeting day, and directed the Special Committee to study the licensure of AAs as follows: review 2019 HB 2295, consider the economic impact of the proposed licensure, hold a roundtable discussion of issues surrounding licensure, and receive information on the results of licensure in other states.

2019 SB 223

Background

SB 223 was introduced on March 12, 2019, by the Senate Committee on Federal and State Affairs and referred to the Senate Committee on Public Health and Welfare on March 13, 2019 (Attachment 2).

In the Senate Committee on Public Health and Welfare hearing on March 18, 2019, three physician anesthesiologists, a certified AA, and representatives of the Kansas Academy of Anesthesiologist Assistants (KAAA) and KMS testified in favor of the bill. The proponents generally stated the bill would authorize and license a new health care provider to assist a physician anesthesiologist in providing medical services under the direct supervision of the supervising or designated anesthesiologist. Proponent testimony provided at the Senate Committee hearing was similar in nature to testimony provided at the House Committee hearing on HB 2295. However, at the Senate Committee hearing, the KAAA representative discussed a proposed amendment that would limit the counties where AAs may practice to those counties where licensed anesthesiologists currently practice, which would be specifically listed in the bill, and would create a process for a hospital or medical facility in a non-listed county to be added if an anesthesiologist were to practice in that county in the future. The proposed amendment was described in testimony, but a formal written amendment was not provided to the Senate Committee. Written-only proponent testimony was provided by three physician anesthesiologists, two physician anesthesiologists who are assistant professors of anesthesiology, and a representative of AAAA.

Opponent testimony was provided by the chairperson of the University of Kansas Nurse Anesthesia Education Program and representatives of KANA and Newman Regional Health. The opponents generally stated the bill would have a devastating effect on the state's academic programs for CRNAs, resulting in an inability to provide enough CRNAs for the approximately 85 percent of the facilities in the state that utilize CRNA-only practices where AAs cannot work. Opponents also noted using AAs results in billing for more than one anesthesia provider, as AAs require the presence of an anesthesiologist, and expressed concern over the lack of required healthcare experience caring for patients prior to attending an AA school when compared to a CRNA who must be a registered nurse and certified in Advanced Cardiac Lifesaving and Pediatric Lifesaving. The Newman Regional Health representative stated a supervised AA practice model is not financially feasible for most Kansas hospitals. Written-only opponent testimony was provided by two CRNAs, the Program Director of the Newman University Nurse Anesthesia Program, and representatives of AANA, KANA, and Kearny County Hospital.

Neutral testimony was provided by a KDHE representative, who explained the HOC process. Written-only neutral testimony was provided by a representative of the Board.

The testimony presented at the Senate Committee hearing and the minutes of the meeting are available on the Legislature's website at

http://kslegislature.org/li/b2019_20/committees/ctte_s_phw_1/documents/?date_choice=2019-03-18. An audio archive of the Senate Committee hearing may be accessed at <http://sg001-harmony.sliq.net/00287/Harmony/en/PowerBrowser/PowerBrowserV2/20190318/-1/6596>.

On March 21, 2019, the Senate Committee considered SB 223 for final action. A three-part amendment was offered by a Senate Committee member. The amendment would prohibit AAs from participating in a clinical rotation of an anesthesia training program within Kansas prior to July 1, 2022; allow AAs licensed in accordance with the Act to practice only in the four largest counties in Kansas (Johnson, Sedgwick, Shawnee, and Wyandotte); and allow medical care facilities or an anesthesiologist group in a county other than the four counties authorized for AA practice in the amendment to apply to the Board for approval of an AA licensed according with the Act to practice in such other county. The amendment would require the Board to approve the application for an AA in such other county if the Board is provided with satisfactory evidence that the anesthesiologist is able to meet the requirements for supervision of an AA, as specified in the Act. The amendment would also prohibit counties from exempting from or affecting changes in the Act. Committee discussion and questions followed, some of which were answered by proponents and opponents of the bill who were in attendance. A KANA representative stated portions of the amendment had previously been offered by proponents of the bill, but those amendments were not accepted by bill's opponents because they did not address the CRNA concerns. The KANA representative stated portions of the three-part amendment offered were new, and those representing the CRNAs had not had an opportunity to review the language. The Chairperson of the Senate Committee suspended work on the bill until the following day and asked the parties to continue discussion. The following day, March 22, 2019, the Chairperson suspended work on the bill, asked the parties to continue discussion and review of the amendment, and stated the bill would lay over until the 2020 Legislative Session.

The minutes for March 21 and 22, 2019, are available at http://kslegislature.org/li/b2019_20/committees/ctte_s_phw_1/documents/?date_choice=2019-03-21 and http://kslegislature.org/li/b2019_20/committees/ctte_s_phw_1/documents/?date_choice=2019-03-22, respectively. An audio archive of the Senate Committee hearing for both dates may be accessed at <http://sg001-harmony.sliq.net/00287/Harmony/en/PowerBrowser/PowerBrowserV2/20190321/-1/6599> and <http://sg001-harmony.sliq.net/00287/Harmony/en/PowerBrowser/PowerBrowserV2/20190322/-1/6600>, respectively.

The bill remained in the Senate Committee at the end of the 2019 Legislative Session.

The attached fiscal note prepared by the Division of the Budget on SB 223 reports the same additional agency responsibilities, revenue, and expenditures as noted by the Board in the fiscal note for HB 2295 (Attachment 3).

AA Legislation Introduced in the 2017 Legislative Session

HB 2046 was introduced by the House Committee on Health and Human Services on January 12, 2017, and referred to the same House Committee on January 13, 2017. There was a hearing on the bill on January 30, 2017. The minutes and testimony for the bill hearing are available at http://kslegislature.org/li_2018/b2017_18/committees/ctte_h_hhs_1/documents/?date_choice=2017-01-30. No audio archive of the bill hearing is available. The bill died in the House Committee at the end of the 2018 Legislative Session.

IVO/kmb

February 18, 2019

The Honorable Brenda Landwehr, Chairperson
House Committee on Health and Human Services
Statehouse, Room 352-S
Topeka, Kansas 66612

Dear Representative Landwehr:

SUBJECT: Fiscal Note for HB 2295 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2295 is respectfully submitted to your committee.

HB 2295 would create the Anesthesiologist Assistant Licensure Act. In order to practice in Kansas, anesthesiologist assistants would have to be licensed by the Kansas Board of Healing Arts beginning January 6, 2020. The bill includes definitions of terms, establishes licensure requirements, maximum license fees, and causes for revoking, suspending, or limiting a license. The bill would limit the number of anesthesiologist assistants an anesthesiologist could supervise at any one time to four. The bill would establish the Anesthesiologist Assistant Council within the Board of Healing Arts to advise the Board in carrying out the provisions of the Act.

Estimated State Fiscal Effect				
	FY 2019 SGF	FY 2019 All Funds	FY 2020 SGF	FY 2020 All Funds
Revenue	--	--	\$400	\$4,000
Expenditure	--	--	--	\$63,483
FTE Pos.	--	--	--	1.00

The State Board of Healing Arts states that enactment of this bill would result in significant change in agency responsibilities. The Board would need to train licensing staff on this new licensing group. Board staff would also need to draft and implement rules and regulations and create applications, forms, booklets, and other affected on-line or agency website items to reflect

the new regulatory status of licensure and the new scope of practice. Reports and complaints of practitioners not complying with new licensure category requirements may increase the number of investigations and disciplinary cases assigned to and performed by board staff. Substantial changes would also need to be made to the Board's electronic database and on-line renewal system; however, most of this work could be accomplished in-house with existing IT staff.

The Board states that agency staff is currently at full workload capacity. Any increase in complaints, investigations, and caseloads would necessitate an increase in staff positions to accomplish the agency's statutory requirements. The agency estimates 1.00 additional legal assistant FTE position would be required to research and assist with drafting rules and regulations mandated by this bill. The Board estimates additional expenditures in FY 2020 of \$63,483 from the agency fee fund. The amount includes \$47,023 for salary and wage expenditures and \$16,460 for other operating expenditures, of which \$7,000 would be one-time expenditures for office equipment.

The Board also estimates additional revenue of \$4,000 in FY 2020 from licensing fees for the new group, 10.0 percent of those fees would be deposited in the State General Fund and the rest would be deposited in the agency fee fund. Any fiscal effect associated with HB 2295 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in cursive script that reads "L. L. Campbell".

Larry L. Campbell
Director of the Budget

cc: Beth Visocsky, Board of Healing Arts

SENATE BILL No. 223

By Committee on Federal and State Affairs

3-12

1 AN ACT enacting the anesthesiologist assistant licensure act; providing
2 for the powers, duties and functions of the state board of healing arts;
3 amending K.S.A. 65-1163 and 65-28,127 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. Sections 1 through 12, and amendments thereto, shall
8 be known and may be cited as the anesthesiologist assistant licensure act.

9 New Sec. 2. As used in the anesthesiologist assistant licensure act:

10 (a) "Board" means the state board of healing arts.

11 (b) "Direction and supervision" means the guidance, direction and
12 coordination of the activities of an anesthesiologist assistant by such
13 anesthesiologist assistant's supervising or designated anesthesiologist,
14 whether written or verbal, whether immediate or by prior arrangement, in
15 accordance with standards established by the board by rules and
16 regulations and designed to ensure adequate direction and supervision of
17 the anesthesiologist assistant by the supervising or designated
18 anesthesiologist.

19 (c) "Physician" means any person licensed by the state board of
20 healing arts to practice medicine and surgery.

21 (d) "Anesthesiologist" means a physician who has completed a
22 residency in anesthesiology approved by the American board of
23 anesthesiology or the osteopathic board of anesthesiology.

24 (e) "Anesthesiologist assistant" means a person who is licensed in
25 accordance with the provisions of the anesthesiologist assistant licensure
26 act and who provides patient services under the direction and supervision
27 of a supervising or designated anesthesiologist.

28 (f) "Supervising anesthesiologist" means an anesthesiologist who has
29 accepted continuous and ultimate responsibility for the medical services
30 rendered by and actions of the anesthesiologist assistant while performing
31 under the direction and supervision of the designated anesthesiologist.

32 (g) "Designated anesthesiologist" means an anesthesiologist
33 designated by the supervising anesthesiologist to ensure direction and
34 supervision of the anesthesiologist assistant.

35 (h) "Licensee" means all persons issued a license or temporary
36 license pursuant to the anesthesiologist assistant licensure act.

1 (i) "License" means any license or temporary license granted under
2 the anesthesiologist assistant licensure act.

3 New Sec. 3. (a) There is hereby created a designation of active
4 license. The board shall issue an active license to an anesthesiologist
5 assistant who makes written application for such license on a form
6 provided by the board, meets the requirements for license under the
7 anesthesiologist assistant licensure act and remits the fee for an active
8 license established pursuant to subsection (g). As a condition of engaging
9 in active practice as an anesthesiologist assistant, each licensed
10 anesthesiologist assistant shall file a request to engage in active practice
11 signed by the anesthesiologist assistant and the supervising
12 anesthesiologist who will be responsible for supervising the
13 anesthesiologist assistant. The request shall contain such information as
14 required by rules and regulations adopted by the board. The board shall
15 maintain a list of the names of anesthesiologist assistants who may engage
16 in active practice in this state.

17 (b) All licenses, except temporary licenses, shall expire on the date of
18 expiration established by rules and regulations of the board and may be
19 renewed as required by the board. The request for renewal shall be on a
20 form provided by the board and shall be accompanied by the renewal fee
21 established pursuant to this section, paid not later than the expiration date
22 of the license.

23 (c) At least 30 days before the expiration of the license of an
24 anesthesiologist assistant, except for a temporary license, the board shall
25 notify the licensee of the expiration in writing, including, but not limited to,
26 electronic service. If the licensee fails to pay the renewal fee by the
27 date of the expiration of the license, the licensee shall be given a second
28 notice that the licensee's license has expired and the license may be
29 renewed only if the renewal fee and the late renewal fee are received by
30 the board within the 30-day period following the date of expiration and
31 that, if both fees are not received within the 30-day period, the license
32 shall be deemed canceled by operation of law without further proceedings
33 for failure to renew and shall be reissued only after the license has been
34 reinstated pursuant to the provisions of subsection (d).

35 (d) Any license canceled for failure to renew may be reinstated upon
36 recommendation of the board, payment of the reinstatement fee and
37 submission of evidence of satisfactory completion of any applicable
38 continuing education requirements established by the board. The board
39 shall adopt rules and regulations establishing appropriate continuing
40 education requirements for reinstatement of licenses canceled for failure to
41 renew.

42 (e) There is hereby created the designation of inactive license. The
43 board shall issue an inactive license to any licensee who makes written

1 application for such license on a form provided by the board, meets the
2 requirements for licensure under the anesthesiologist assistant licensure act
3 and remits the fee for an inactive license established pursuant to subsection
4 (g). The board may issue an inactive license only to a person who meets all
5 the requirements for a license to practice as an anesthesiologist assistant
6 but who does not engage in active practice as an anesthesiologist assistant
7 in the state of Kansas. An inactive license shall not entitle the holder to
8 engage in active practice. The provisions of subsections (c) and (d) relating
9 to expiration, renewal and reinstatement of a license shall be applicable to
10 an inactive license issued under this subsection. Each inactive licensee
11 may apply to engage in active practice by submitting an application
12 required by subsection (a). The application shall be accompanied by the
13 fee established pursuant to subsection (g).

14 (f) (1) There is hereby created a license by endorsement. The board
15 shall issue a license by endorsement without examination to a person who
16 has been in active practice as an anesthesiologist assistant in some other
17 state, territory, the District of Columbia or other country upon certification
18 of the proper licensing authority of that state, territory, the District of
19 Columbia or other country certifying that the applicant is duly licensed,
20 that the applicant's license has never been limited, suspended or revoked,
21 that the licensee has never been censured or had other disciplinary action
22 taken and that, so far as the records of such authority indicate, the
23 applicant is entitled to its endorsement. The applicant shall also present
24 proof satisfactory to the board:

25 (A) That the state, territory, the District of Columbia or country in
26 which the applicant last practiced has and maintains standards at least
27 equal to those maintained by this state;

28 (B) that the applicant's original licensure was based upon an
29 examination at least equal in quality to the examination required in this
30 state and that the passing grade required to obtain such original license
31 was comparable to that required in this state;

32 (C) the date of the applicant's original and all endorsed licenses and
33 the date and place from which any license was attained;

34 (D) that the applicant has been actively engaged in practice under
35 such license or licenses since issuance. The board may adopt rules and
36 regulations establishing appropriate qualitative and quantitative practice
37 activities to qualify as active practice; and

38 (E) that the applicant has a reasonable ability to communicate in
39 English.

40 (2) An applicant for a license by endorsement shall not be granted
41 such license unless, as determined by the board, the applicant's
42 qualifications are substantially equivalent to Kansas requirements. In lieu
43 of any other requirement prescribed by law for satisfactory passage of any

1 examination for anesthesiologist assistants, the board may accept evidence
2 demonstrating that the applicant or licensee has satisfactorily passed an
3 equivalent examination given by a national board of examiners for
4 physician assistants.

5 (g) The following fees shall be fixed by rules and regulations adopted
6 by the board and shall be collected by the board:

7 (1) An application for any license as an anesthesiologist assistant, not
8 more than \$200;

9 (2) an application for temporary licensure as an anesthesiologist
10 assistant, not more than \$30;

11 (3) for the renewal of a license to practice as an anesthesiologist
12 assistant, not more than \$150;

13 (4) for the renewal of an inactive license, not more than \$75;

14 (5) for the late renewal of any license as an anesthesiologist assistant,
15 an additional fee shall be assessed, not more than \$100;

16 (6) for reinstatement of a license canceled for failure to renew, not
17 more than \$250;

18 (7) for a certified statement from the board that an anesthesiologist
19 assistant is licensed in this state, not more than \$30;

20 (8) for a copy of the licensure certificate of an anesthesiologist
21 assistant, not more than \$25; and

22 (9) for conversion of an inactive license to an active license as an
23 anesthesiologist assistant, not more than \$150.

24 (h) The board shall remit all moneys received from fees, charges or
25 penalties to the state treasurer in accordance with the provisions of K.S.A.
26 75-4215, and amendments thereto. Upon receipt of each such remittance,
27 the state treasurer shall deposit the entire amount in the state treasury to
28 the credit of the healing arts fee fund. All expenditures from such fund
29 shall be made in accordance with appropriation acts upon warrants of the
30 director of accounts and reports issued pursuant to vouchers approved by
31 the president of the board or by a person designated by the president of the
32 board.

33 (i) The board shall adopt all necessary rules and regulations for
34 carrying out the provisions of the anesthesiologist assistant licensure act.
35 The board may grant a temporary variance from an identified rule or
36 regulation when a literal application or enforcement of the rule or
37 regulation would result in serious hardship and the relief granted would
38 not result in any unreasonable risk to the public interest, safety or welfare.

39 New Sec. 4. (a) No person shall be licensed as an anesthesiologist
40 assistant by the board unless such person has:

41 (1) Presented to the board proof that the applicant has successfully
42 completed a course of education and training approved by the board for
43 the education and training of an anesthesiologist assistant, or presented to

1 the board proof that the applicant has acquired experience equivalent to the
2 minimum experience requirements established by the board while serving
3 in the armed forces of the United States;

4 (2) passed an examination approved by the board covering topics
5 incidental to the education and training of an anesthesiologist assistant;
6 and

7 (3) submitted to the board any other information that the board deems
8 necessary through rules and regulations to evaluate the applicant's
9 qualifications.

10 (b) (1) As part of an original application for or reinstatement of any
11 license, registration, permit or certificate or in connection with any
12 investigation of any holder of a license, registration, permit or certificate,
13 the board may require a person to be fingerprinted and submit to a state
14 and national criminal history record check. The fingerprints shall be used
15 to identify the person and to determine whether the person has a record of
16 criminal history in this state or another jurisdiction. The board is
17 authorized to submit the fingerprints to the Kansas bureau of investigation
18 and the federal bureau of investigation for a state and national criminal
19 history record check. The board may use the information obtained from
20 fingerprinting and the criminal history for purposes of verifying the
21 identification of the person and in the official determination of the
22 qualifications and fitness of the person to be issued or to maintain a
23 license, registration, permit or certificate.

24 (2) Local and state law enforcement officers and agencies shall assist
25 the board in taking and processing the fingerprints of applicants for and
26 holders of any license, registration, permit or certificate and shall release
27 all records of adult convictions and non-convictions and adult convictions
28 or adjudications of another state or country to the board.

29 (3) The board may fix and collect a fee as may be required by the
30 board in an amount necessary to reimburse the board for the cost of
31 fingerprinting and the criminal history record check. Any moneys
32 collected under this subsection shall be deposited in the state treasury and
33 credited to the healing arts fee fund.

34 (c) The board may refuse to license a person as an anesthesiologist
35 assistant upon any of the grounds for which the board may revoke,
36 suspend, limit, publicly censure or place under probationary or monitoring
37 conditions such license.

38 (d) The board shall require every licensed anesthesiologist assistant to
39 submit with the renewal application evidence of satisfactory completion of
40 a program of continuing education required by the board. The board, by
41 duly adopted rules and regulations, shall establish the requirements for
42 such program of continuing education as soon as possible after January 6,
43 2020. In establishing such requirements, the board shall consider any

1 existing programs of continuing education currently being offered to
2 anesthesiologist assistants.

3 New Sec. 5. A licensee's license may be revoked, suspended or
4 limited, or the licensee may be publicly censured or placed under
5 probationary or monitoring conditions, fined or an application for a license
6 or for reinstatement of a license may be denied upon a finding that the
7 licensee:

8 (a) Committed an act of unprofessional conduct, as defined by rules
9 and regulations adopted by the board;

10 (b) obtained a license by means of fraud, misrepresentation or
11 concealment of material facts;

12 (c) committed an act of professional incompetency, as defined by
13 rules and regulations adopted by the board;

14 (d) has been convicted of a felony or class A misdemeanor, or
15 substantially similar offense in another jurisdiction or has been convicted
16 in a special or general court-martial, whether or not related to the practice
17 of the healing arts. The board shall revoke a licensee's license following
18 conviction of a felony or substantially similar offense in another
19 jurisdiction, or following conviction in a special or general court-martial,
20 unless a $\frac{2}{3}$ majority of the board members present and voting determine by
21 clear and convincing evidence that such licensee will not pose a threat to
22 the public in such person's capacity as a licensee and that such person has
23 been sufficiently rehabilitated to warrant the public trust. In the case of a
24 person who has been convicted of a felony or convicted in a special or
25 general court-martial and who applies for an original license or to reinstate
26 a canceled license, the application for a license shall be denied unless a $\frac{2}{3}$
27 majority of the board members present and voting on such application
28 determine by clear and convincing evidence that such person will not pose
29 a threat to the public in such person's capacity as a licensee and that such
30 person has been sufficiently rehabilitated to warrant the public trust;

31 (e) violated any provision of the anesthesiologist assistant licensure
32 act;

33 (f) violated any lawful order or rule and regulation of the board;

34 (g) has been found to be mentally ill, disabled, not guilty by reason of
35 insanity, not guilty because the licensee suffers from a mental disease or
36 defect or is incompetent to stand trial by a court of competent jurisdiction;

37 (h) violated a federal law or regulation relating to controlled
38 substances;

39 (i) failed to report to the board any adverse action taken against the
40 licensee by another state or licensing jurisdiction, a peer review body, a
41 healthcare facility, a professional association or society, a governmental
42 agency, a law enforcement agency or a court for acts or conduct similar to
43 acts or conduct that would constitute grounds for disciplinary action under

1 this section;

2 (j) surrendered a license or authorization to practice as an
3 anesthesiologist assistant in another state or jurisdiction, surrendered the
4 authority to utilize controlled substances issued by any state or federal
5 agency, agreed to a limitation to or restriction of privileges at any medical
6 care facility or surrendered the licensee's membership on any professional
7 staff or in any professional association or society while under investigation
8 for acts or conduct similar to acts or conduct that would constitute grounds
9 for disciplinary action under this section;

10 (k) failed to report to the board the surrender of the licensee's license
11 or authorization to practice as an anesthesiologist assistant in another state
12 or jurisdiction or the surrender of the licensee's membership on any
13 professional staff or in any professional association or society while under
14 investigation for acts or conduct similar to acts or conduct that would
15 constitute grounds for disciplinary action under this section;

16 (l) has an adverse judgment, award or settlement against the licensee
17 resulting from a medical liability claim related to acts or conduct similar to
18 acts or conduct that would constitute grounds for disciplinary action under
19 this section;

20 (m) failed to report to the board any adverse judgment, settlement or
21 award against the licensee resulting from a medical malpractice liability
22 claim related to acts or conduct similar to acts or conduct that would
23 constitute grounds for disciplinary action under this section;

24 (n) no longer has the ability to practice with reasonable skill and
25 safety by reason of physical or mental illness or condition or use of
26 alcohol, drugs or controlled substances. All information, reports, findings
27 and other records relating to impairment shall be confidential and not
28 subject to discovery by or release to any person or entity outside of a board
29 proceeding. The provisions of this subsection providing for the
30 confidentiality of public records shall expire on July 1, 2025, unless the
31 legislature reviews and reenacts such provisions in accordance with K.S.A.
32 45-229, and amendments thereto, prior to July 1, 2025;

33 (o) exceeded or acted outside the scope of authority given the
34 anesthesiologist assistant by the supervising anesthesiologist or by the
35 anesthesiologist assistant licensure act;

36 (p) has assisted suicide in violation of K.S.A. 21-3406, prior to its
37 repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as
38 established by any of the following:

39 (1) A copy of the record of criminal conviction or plea of guilty for a
40 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018
41 Supp. 21-5407, and amendments thereto;

42 (2) a copy of the record of a judgment of contempt of court for
43 violating an injunction issued under K.S.A. 60-4404, and amendments

1 thereto; or

2 (3) a copy of the record of a judgment assessing damages under
3 K.S.A. 60-4405, and amendments thereto.

4 New Sec. 6. (a) It shall be unlawful for any person who is not
5 licensed under the anesthesiologist assistant licensure act or whose license
6 has been revoked or suspended pursuant to the anesthesiologist assistant
7 licensure act to engage in practice as an anesthesiologist assistant.

8 (b) No person shall use any title, abbreviation, letters, figures, sign,
9 card or device to indicate that any person is a licensed anesthesiologist
10 assistant, nor shall any person represent oneself to be a licensed
11 anesthesiologist assistant, unless such person has been duly licensed as an
12 anesthesiologist assistant in accordance with the provisions of the
13 anesthesiologist assistant licensure act.

14 (c) The provisions of the anesthesiologist assistant licensure act shall
15 not be construed to include the following persons:

16 (1) Persons rendering gratuitous services in the case of an emergency;

17 (2) persons gratuitously administering ordinary household remedies;

18 (3) individuals practicing religious beliefs that provide for reliance on
19 spiritual means alone for healing;

20 (4) students, while performing professional services in an approved
21 anesthesiologist assistant education and training program;

22 (5) persons whose professional services are performed under the
23 direct and personal supervision or by an order of a practitioner who is
24 licensed under the Kansas healing arts act;

25 (6) other healthcare providers who are licensed, registered, certified
26 or otherwise credentialed by agencies of the state of Kansas; or

27 (7) anesthesiologist assistants in the United States army, navy, air
28 force, public health service, coast guard, other military service and other
29 federal employment while acting in the line of duty in this state.

30 (d) Any person violating the provisions of this section shall be guilty
31 of a class B misdemeanor.

32 New Sec. 7. (a) The board shall provide for the temporary licensure
33 of any anesthesiologist assistant who has made proper application for
34 licensure, has the required qualifications for licensure, except for
35 examination, and has paid the prescribed license fee. Such temporary
36 license shall authorize the person so licensed to provide patient services
37 within the limits of the temporary license.

38 (b) (1) A temporary license shall be valid until the earlier of one year
39 from the date of issuance or the state board of healing arts makes a final
40 determination on the applicant's request for licensure.

41 (2) The state board of healing arts may extend a temporary license,
42 upon a majority vote of the members of the board, for a period not to
43 exceed one year.

1 New Sec. 8. (a) The practice of an anesthesiologist assistant shall
2 include assisting the supervising or designated anesthesiologist in
3 implementing an anesthesia care plan for a patient. In assisting the
4 supervising or designated anesthesiologist, an anesthesiologist assistant
5 shall have the authority to:

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

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

12 (3) assist the supervising anesthesiologist with the implementation of
13 medically accepted monitoring techniques;

14 (4) establish basic and advanced airway interventions, including
15 intubation of the trachea and performing ventilator support;

16 (5) administer intermittent vasoactive drugs and start and adjust
17 vasoactive infusions;

18 (6) administer anesthetic drugs, adjuvant drugs and accessory drugs;

19 (7) perform epidural anesthetic procedures, spinal anesthetic
20 procedures and other regional anesthetic techniques in coordination with
21 the supervising anesthesiologist;

22 (8) administer blood, blood products and supportive fluids;

23 (9) provide assistance to the cardiopulmonary resuscitation team in
24 response to a life-threatening situation;

25 (10) participate in administrative, research and clinical teaching
26 activities as authorized by the supervising anesthesiologist; and

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

30 (b) An anesthesiologist shall at all times accept and be responsible for
31 the oversight of the healthcare services rendered by the anesthesiologist
32 assistant.

33 (c) An anesthesiologist assistant shall practice only under the
34 supervision of an anesthesiologist who is physically present or
35 immediately available in the same physical facility in which the
36 anesthesiologist assistant performs delegated medical acts and the
37 supervising anesthesiologist is available to provide direct supervision.

38 (d) Anesthesiologist assistants shall not have the authority to:

39 (1) Prescribe medications or controlled substances;

40 (2) administer any drugs, medicines, devices or therapies that the
41 supervising anesthesiologist is not qualified or authorized to prescribe; or

42 (3) practice or attempt to practice without the supervision of a
43 licensed anesthesiologist or in any location where the supervising

1 anesthesiologist is not immediately available for consultation, assistance
2 and intervention.

3 New Sec. 9. (a) If a supervising anesthesiologist temporarily leaves
4 such anesthesiologist's customary location of practice, the supervising
5 anesthesiologist shall, by prior arrangement, name a designated
6 anesthesiologist who shall provide direction and supervision to the
7 anesthesiologist assistant of such supervising anesthesiologist.

8 (b) An anesthesiologist assistant shall not perform professional
9 services unless the name, address and signature of each supervising
10 anesthesiologist and the form required under section 3, and amendments
11 thereto, have been provided to the board. A supervising anesthesiologist
12 shall notify the board when supervision and direction of the
13 anesthesiologist assistant has terminated. The board shall provide forms
14 for identifying each supervising anesthesiologist and for giving notice that
15 direction and supervision has terminated. These forms may direct that
16 additional information be provided, including a copy of any written
17 agreements, as required by rules and regulations adopted by the board.

18 New Sec. 10. The board shall limit the number of anesthesiologist
19 assistants that a supervising or designated anesthesiologist may supervise
20 at any one time to four anesthesiologist assistants. An anesthesiologist,
21 group of anesthesiologists or medical care facility, as defined in K.S.A. 65-
22 425, and amendments thereto, may employ more than four anesthesiologist
23 assistants, but an anesthesiologist may not provide direction and
24 supervision to more than four anesthesiologist assistants at any time.

25 New Sec. 11. (a) There is hereby established an anesthesiologist
26 assistant council to advise the board in carrying out the provisions of the
27 anesthesiologist assistant licensure act. The council shall consist of five
28 members, all citizens and residents of the state of Kansas, appointed as
29 follows: One member shall be an anesthesiologist appointed by the board
30 who is a supervising anesthesiologist for an anesthesiologist assistant; one
31 member shall be the president of the board or a person designated by the
32 president; and three members shall be licensed anesthesiologist assistants
33 appointed by the governor. The governor, insofar as possible, shall appoint
34 persons from different geographical areas and persons who represent
35 various types of practice settings. If a vacancy occurs on the council, the
36 appointing authority of the position that has become vacant shall appoint a
37 person of like qualifications to fill the vacant position for the unexpired
38 term, if any. The Kansas academy of anesthesiologist assistants shall
39 recommend the names of licensed anesthesiologist assistants to the
40 governor in a number equal to at least twice the positions or vacancies to
41 be filled, and the governor may appoint members to fill the positions or
42 vacancies from the submitted list. Members of the council appointed by
43 the governor on and after January 6, 2020, shall be appointed for terms of

1 three years and until their successors are appointed and qualified, except
2 that of the members first appointed by the governor on or after January 6,
3 2020, one shall be appointed for a term of one year, one shall be appointed
4 for a term of two years and one shall be appointed for a term of three
5 years, as designated by the governor. The member appointed by the state
6 board of healing arts shall serve at the pleasure of the board. If the
7 president of the board designates a member to serve on the council in the
8 president's stead, that member shall serve at the pleasure of the president.

9 (b) Members of the anesthesiologist assistant council attending
10 meetings of the council or attending a subcommittee meeting thereof
11 authorized by the council shall be paid amounts provided in K.S.A. 75-
12 3223(e), and amendments thereto, from the healing arts fee fund.

13 New Sec. 12. (a) All administrative proceedings to revoke, suspend,
14 limit or deny a license or to censure a licensee, shall be conducted in
15 accordance with K.S.A 65-2838 and 65-2838a, and amendments thereto,
16 and the provisions of the Kansas administrative procedure act.

17 (b) When it appears to the board that any person is violating any of
18 the provisions of the anesthesiologist assistant licensure act, the board
19 may bring an action in the name of the state of Kansas in a court of
20 competent jurisdiction for an injunction against such violation without
21 regard to whether proceedings have been or may be instituted before the
22 board or whether criminal proceedings have been or may be
23 instituted.

24 Sec. 13. K.S.A. 65-1163 is hereby amended to read as follows: 65-
25 1163. Nothing in this act shall:

26 (a) Prohibit administration of a drug by a duly licensed professional
27 nurse, licensed practical nurse or other duly authorized person for the
28 alleviation of pain, including administration of local anesthetics;

29 (b) apply to the practice of anesthesia by a person licensed to practice
30 medicine and surgery, a licensed dentist or a licensed podiatrist;

31 (c) prohibit the practice of nurse anesthesia by students enrolled in
32 approved courses of study in the administration of anesthesia or analgesic
33 as a part of such course of study;

34 (d) apply to the administration of a pudendal block by a person who
35 holds a valid license as an advanced practice registered nurse in the role of
36 nurse-midwife;

37 (e) apply to the administration by a licensed professional nurse of an
38 anesthetic, other than general anesthesia, for a dental operation under the
39 direct supervision of a licensed dentist or for a dental operation under the
40 direct supervision of a person licensed to practice medicine and surgery;

41 (f) prohibit the practice by any registered nurse anesthetist who is
42 employed by the United States government or in any bureau, division or
43 agency thereof, while in the discharge of official duties; ¶

1 (g) prohibit a registered professional nurse from administering
2 general anesthetic agents to a patient on ventilator maintenance in critical
3 care units when under the direction of a person licensed to practice
4 medicine and surgery or a person licensed to practice dentistry; *or*

5 (h) *prohibit the practice of anesthesia by anesthesiologist assistant*
6 *students enrolled in approved courses of study in the administration of*
7 *anesthesia or analgesic as a part of such course of study.*

8 Sec. 14. K.S.A. 65-28,127 is hereby amended to read as follows: 65-
9 28,127. (a) Every supervising or responsible licensee who directs,
10 supervises, orders, refers, accepts responsibility for, enters into written
11 agreements or practice protocols with, or who delegates acts which
12 constitute the practice of the healing arts to other persons shall:

13 (1) Be actively engaged in the practice of the healing arts in Kansas;

14 (2) review and keep current any required written agreements or
15 practice protocols between the supervising or responsible licensee and
16 such persons, as may be determined by the board, *including the*
17 *responsibility to notify the board when terminating the direction and*
18 *supervision request of a written agreement or practice protocol;*

19 (3) direct, supervise, order, refer, enter into a written agreement or
20 practice protocol with, or delegate to such persons only those acts and
21 functions which the supervising or responsible licensee knows or has
22 reason to believe can be competently performed by such person and is not
23 in violation of any other statute or regulation;

24 (4) direct, supervise, order, refer, enter into a written agreement or
25 practice protocol with, or delegate to other persons only those acts and
26 functions which are within the normal and customary specialty,
27 competence and lawful practice of the supervising or responsible licensee;

28 (5) provide for a qualified, substitute licensee who accepts
29 responsibility for the direction, supervision, delegation and written
30 agreements or practice protocols with such persons when the supervising
31 or responsible licensee is temporarily absent; and

32 (6) comply with all rules and regulations of the board establishing
33 limits and conditions on the delegation and supervision of services
34 constituting the practice of medicine and surgery.

35 (b) "Responsible licensee" means a person licensed by the state board
36 of healing arts to practice medicine and surgery or chiropractic who has
37 accepted responsibility for the actions of persons who perform acts
38 pursuant to written agreements or practice protocols with, or at the order
39 of, or referral, direction, supervision or delegation from such responsible
40 licensee.

41 (c) Except as otherwise provided by rules and regulations of the
42 board implementing this section, the physician assistant licensure act shall
43 govern the direction and supervision of physician assistants by persons

1 licensed by the state board of healing arts to practice medicine and surgery.

2 (d) Nothing in subsection (a)(4) shall be construed to prohibit a
3 person licensed to practice medicine and surgery from ordering,
4 authorizing or directing anesthesia care by a registered nurse anesthetist
5 pursuant to K.S.A. 65-1158, and amendments thereto.

6 (e) Nothing in this section shall be construed to prohibit a person
7 licensed to practice medicine and surgery from ordering, authorizing or
8 directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and
9 amendments thereto.

10 (f) Nothing in this section shall be construed to prohibit a person
11 licensed to practice medicine and surgery from entering into a co-
12 management relationship with an optometrist pursuant to K.S.A. 65-1501
13 et seq., and amendments thereto.

14 (g) The board may adopt rules and regulations establishing limits and
15 conditions on the delegation and supervision of services constituting the
16 practice of medicine and surgery.

17 (h) As used in this section, "supervising physician" shall have the
18 meaning ascribed thereto in K.S.A. 65-28a02, and amendments thereto.

19 (i) This section shall be *a* part of and supplemental to the Kansas
20 healing arts act.

21 Sec. 15. K.S.A. 65-1163 and 65-28,127 are hereby repealed.

22 Sec. 16. This act shall take effect and be in force from and after
23 January 6, 2020, and its publication in the statute book.

March 18, 2019

The Honorable Gene Suellentrop, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 441-E
Topeka, Kansas 66612

Dear Senator Suellentrop:

SUBJECT: Fiscal Note for SB 223 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 223 is respectfully submitted to your committee.

SB 223 would create the Anesthesiologist Assistant Licensure Act. In order to practice in Kansas, anesthesiologist assistants would have to be licensed by the Kansas Board of Healing Arts beginning January 6, 2020. The bill includes definitions of terms, establishes licensure requirements, maximum license fees, and causes for revoking, suspending, or limiting a license. The bill would limit the number of anesthesiologist assistants an anesthesiologist could supervise at any one time to four. The bill would establish the Anesthesiologist Assistant Council within the Board of Healing Arts to advise the Board in carrying out the provisions of the Act.

Estimated State Fiscal Effect				
	FY 2019 SGF	FY 2019 All Funds	FY 2020 SGF	FY 2020 All Funds
Revenue	--	--	\$400	\$4,000
Expenditure	--	--	--	\$63,483
FTE Pos.	--	--	--	1.00

The State Board of Healing Arts states that enactment of this bill would result in significant change in agency responsibilities. The Board would need to train licensing staff on this new licensing group. Board staff would also need to draft and implement rules and regulations and create applications, forms, booklets, and other affected on-line or agency website items to reflect the new regulatory status of licensure and the new scope of practice. Reports and complaints of practitioners not complying with new licensure category requirements may increase the number of investigations and disciplinary cases assigned to and performed by board staff. Substantial

changes would also need to be made to the Board's electronic database and on-line renewal system; however, most of this work could be accomplished in-house with existing IT staff.

The Board states that agency staff is currently at full workload capacity. Any increase in complaints, investigations, and caseloads would necessitate an increase in staff positions to accomplish the agency's statutory requirements. The agency estimates 1.00 additional legal assistant FTE position would be required to research and assist with drafting rules and regulations mandated by this bill. The Board estimates additional expenditures in FY 2020 of \$63,483 from the agency fee fund. The amount includes \$47,023 for salary and wage expenditures and \$16,460 for other operating expenditures, of which \$7,000 would be one-time expenditures for office equipment.

The Board also estimates additional revenue of \$4,000 in FY 2020 from licensing fees for the new group, 10.0 percent of those fees would be deposited in the State General Fund and the rest would be deposited in the agency fee fund. Any fiscal effect associated with SB 223 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a smaller "L." followed by "Campbell".

Larry L. Campbell
Director of the Budget

cc: Beth Visocky, Board of Healing Arts