

**SUBJECT:** Regulating anesthesia in outpatient facilities

**COMMITTEE:** Public Health — favorable, with amendment

**VOTE:** 7 ayes — Gray, Capelo, Delisi, Glaze, Maxey, McClendon, Uresti  
0 nays  
2 absent — Coleman, Hilderbran

**SENATE VOTE:** On final passage, April 13 — voice vote

**WITNESSES:** For — Debra Favors; William H. King, M.D., Texas Society of Anesthesiologists and Texas Medical Association; Les Weisbrod; Dwight Williams, Texas Association of Nurse Anesthetists  
Against — None

**DIGEST:** SB 1340, as amended, would revise the Medical Practice Act and the laws regulating registered nurses to regulate the provision of anesthesia services in outpatient surgical settings. The Board of Medical Examiners (BME) and the Board of Nurse Examiners (BNE) would have to establish by rule the minimum standards for the provision of anesthesia services by doctors and certified registered nurse anesthetists (CRNAs).

An outpatient setting would mean any facility that was not part of a licensed hospital or ambulatory surgical center. The rules adopted would *not* apply to:

- ! outpatient settings in which only local anesthesia, peripheral nerve blocks, or anxiolytics and analgesics were used;
- ! a clinic on federally recognized tribal lands;
- ! a facility operated by the federal, state, or local government;
- ! an outpatient setting accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American Association for the Accreditation of Ambulatory Surgery Facilities, or the Accreditation Association for Ambulatory Health Care.

The boards could conduct inspections for compliance and would have to provide at least five days' notice before an inspection unless such notice would jeopardize an ongoing investigation. Doctors and CRNAs could request on-site inspections, and the boards could issue advisory opinions that could be used as mitigating evidence in administrative actions by the boards.

Beginning September 1, 2000, each doctor and CRNA who administered anesthesia or performed a surgical procedure for which anesthesia was administered would have to register with their respective boards and pay a fee. Doctors would have to register annually and pay a \$300 fee. CRNAs would have to register biennially and pay a fee established by the BNE.

The boards would have to report to the governor, the lieutenant governor, and the House speaker on implementation and enforcement of the rules by January 1, 2001.

The bill would take effect September 1, 1999. The boards would have to adopt the necessary rules by January 7, 2000, and doctors and CRNAs would have to comply with board rules by August 31, 2000. The boards could allow the new registration requirements to be staggered and phased in so that all physicians and CRNAs would be in compliance by September 1, 2002.

**SUPPORTERS  
SAY:**

SB 1340 would ensure that patients are just as safe when undergoing surgery in doctor's offices as they are in licensed or certified hospitals and other surgical facilities. While most doctors do their best to provide a safe surgical environment for their patients, because their offices are not regulated or certified, they may be unaware that their equipment is in dangerous condition or may not know the latest information on the administration of anesthesia under certain patient conditions. There have been several incidences of children dying from fairly common surgical procedures performed in doctors' offices, such as tonsillectomies or the insertion of a small tube in the inner ear, because of faulty or outdated equipment.

The BME estimates that this bill would affect about 500 doctor's offices, mostly doctors who practice in the fields of plastic surgery, otolaryngology (ear, nose, and throat), and obstetrics/gynecology. An estimated 2,000 CRNAs who administer anesthesia in doctor's offices also would have to conform to the new standards and rules. Dentists would not be subject to this

bill because they already must conform with Dental Practice Act laws and with Board of Dental Examiner rules on the administration of anesthesia.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee amendment would specify that the adopted rules would not apply to hospital outpatient facilities located apart from the hospital, nor to facilities maintained or operated by state or local governments.