

State of Utah  
Administrative Rule Analysis  
Revised June 2022

DAR FILE NO. 95023

DUP FILED 11-7-2022

**NOTICE OF PROPOSED RULE**

TYPE OF RULE: New XXXX; Amendment \_\_\_; Repeal \_\_\_; Repeal and Reenact \_\_\_

Title No. - Rule No. - Section No.

Rule or Section Number:

R156-70b

Filing ID: Office Use Only

**Agency Information**

1. Department:	Department of Commerce	
Agency:	Division of Professional Licensing	
Room number:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state and zip:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Larry Marx	801-530-6254	lmarx@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule or section catchline:**

R156-70b Anesthesiologist Assistant Practice Act Rule

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

During the 2022 Legislative General Session SB121 created the Anesthesiologist Assistant Licensing Act (Title 58, Chapter 70b). This rule defines licensing, supervision, renewal, continuing education requirements and unprofessional conduct.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

R156-70b-102 provides additional definitions related to the practice of anesthesiology.  
R56-70b-103 establishes supervision standards for anesthesiologist to supervise anesthesiologist assistants.  
R156-70b-302a describes the qualifications for licensure as an anesthesiologist assistant.  
R156-70b-303a establishes the renewal requirements.  
R156-70b-303b defines the continuing education requirements for anesthesiologist assistants.  
R156-70b-402 defines unprofessional conduct for anesthesiologist assistants.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The Division does not anticipate any fiscal impact beyond that determined by the SB121 Fiscal note which can be found at <https://le.utah.gov/~2022/bills/static/SB0121.html>.

**B) Local governments:**

The Division does not anticipate any fiscal impact for local governments beyond that determined by the SB121 Fiscal note which can be found at <https://le.utah.gov/~2022/bills/static/SB0121.html>.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

The Division does not anticipate any fiscal impact for small businesses beyond that determined by the SB121 Fiscal note which can be found at <https://le.utah.gov/~2022/bills/static/SB0121.html>.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The Division does not anticipate any fiscal impact for non-small businesses beyond that determined by the SB121 Fiscal note which can be found at <https://le.utah.gov/~2022/bills/static/SB0121.html>.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division does not anticipate a fiscal impact for other persons beyond that determined by the SB121 Fiscal note which can be found at <https://le.utah.gov/~2022/bills/static/SB0121.html>.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

As described in Box 5E for other persons, the Division does not anticipate a compliance cost for affected persons.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division of Professional Licensing ("Division") proposes amendments to R156-70b, the Anesthesiologist Assistant Practice Act Rule. Changes to the rule are proposed to comply with S.B. 121 passed during the 2022 Legislative General Session. These amendments incorporate definitions for licensing, supervision, renewal, continuing education requirements, and unprofessional conduct. Also, the Division has made formatting changes throughout the rule to conform the rule to the Office of Administrative Rules' Formatting Manual in accordance with Executive Orders 2021-1 and 2021-12.

**Small Businesses (less than 50 employees):**

The Division finds that will not be a fiscal impact to small businesses in the Utah healthcare industry with the proposed amendments. The changes are to update the rule to encompass current statutory requirements and practices in the profession. Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make the rule comport to the Office of Administrative Rules Rule Writing Manual.

**Regulatory Impact to Non-Small Businesses (50 or more employees)**

The Division finds that the non-small businesses will not suffer a negative fiscal impact from the proposed rule amendments. However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 58-1-106(1)(a)	Section 58-70b-101	
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**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	American Society of Anesthesiologists Physical Status Classification System
<b>Publisher</b>	American Society of Anesthesiologists
<b>Issue Date</b>	December 13, 2020
<b>Issue or Version</b>	

**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	American Society of Anesthesiologists Guidelines for the Ethical Practice of Anesthesiology
<b>Publisher</b>	American Society of Anesthesiologists
<b>Issue Date</b>	December 13, 2020
<b>Issue or Version</b>	

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 12/15/2022

**B) A public hearing (optional) will be held:**

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
11/22/2022	10:00 AM	160 East 300 South, Conference Room 402 (4th floor) and also electronically by Google Meet  Meeting link meet.google.com/har-yfec-vbm  Join by phone (US) +1 443-574-7046 PIN: 108791761

**9. This rule change MAY become effective on:** 12/22/2022

**NOTE:** The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	10/31/2022
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R156. Commerce, Professional Licensing

R156-70b. Anesthesiologist Assistant Practice Act Rule.

R156-70b-101. Title - Authority - Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Anesthesiologist Assistant Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) and Section 58-70b-102 to enable the Division to administer Title 58, Chapter 70b, Anesthesiologist Assistant Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1, General Rule of the Division of Occupational and Professional Licensing, is as described in Section R156-1-107.

R156-70b-102. Definitions.

The following definitions supplement the definitions in Title 58 Chapter 1, Division of Professional Licensing Act, Title 58 Chapter 67 Medical Practice Act, and Title 58, Chapter 70b, Anesthesiologist Assistant Practice Act:

(1) "Acceptable medical practice" under Subsection 58-70b-101(4) and Section 58-70b-402 includes complying with the ASA Ethical Guidelines and the ASA PS.

(2) "ASA Ethical Guidelines" means the American Society of Anesthesiologists Guidelines for the Ethical Practice of Anesthesiology, last amended December 13, 2020, which is incorporated by reference.

(3) "ASA PS" means the American Society of Anesthesiologists Physical Status Classification System last amended December 13, 2020, which is incorporated by reference.

(4) "CAA" means an NCCAA Certified Anesthesiologist Assistant.

(5) "CAAHEP" means the Commission on Accreditation of Allied Health Education Programs.

(6) "Care team" under Subsection 58-70b-101(4), "anesthesia care team," or "ACT" means the anesthesia care team that is led by a physician anesthesiologist, includes physicians and non-physicians, and may include a certified registered nurse anesthetist, a certified anesthesiologist assistant, an anesthesiology fellow physician, or an anesthesiology resident physician.

(7) "CDQ" means the Continued Demonstration of Qualifications exam administered by the NCCAA or its successor organization.

(8) "NCCAA" means the National Commission for Certification of Anesthesiologist Assistants.

R156-70b-103. Supervision Standards.

(1) Under Subsections 58-70b-101(5) and 58-70b-301(1)(b), an anesthesiologist assistant shall be supervised by an anesthesiologist who is licensed in good standing, in accordance with the supervision standards in this section.

(2) An anesthesiologist may supervise up to four anesthesiologist assistants at any one time.

(3) A supervising anesthesiologist shall:

(a) be qualified in the medical areas in which the anesthesiologist assistant performs;

(b) remain physically present in the same facility as the anesthesiologist assistant and be immediately available if needed; and

(c) under Subsection 58-70b-101(5)(b), perform the required physician activities, including at minimum:

(i) prescribing the anesthesia plan;

(ii) personally participating in the most demanding procedures in the anesthesia plan, including induction and emergence;

(iii) monitoring the course of anesthesia administration at frequent intervals; and

(iv) remaining physically present and available in the same facility for immediate diagnosis and treatment of emergencies.

(4) A supervising anesthesiologist is professionally responsible for the performance of the anesthesiologist assistant.

#### **R156-70b-302. Qualifications for Licensure - Application - Education - Exam.**

(1) Under Section 58-70b-102 and Subsection 58-70b-302(1), the application form established by the Division shall require the applicant to submit a National Practitioner Data Bank self-query report.

(2) Under Subsection 58-70b-302(3), to provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization, an applicant shall cause an official transcript to be submitted to the Division from a CAAHEP-accredited institution verifying completion of at least a master's level anesthesiology assistant program.

(3) Under Subsection 58-70b-302(4), the NCCAA certification exam requirement for licensure is a passing score on:

(a) the NCCAA Certifying Examination for Anesthesiologist Assistants (CERT); or

(b) the NCCAA Continued Demonstration of Qualifications exam (CDQ).

#### **R156-70b-303a. Renewal Cycle - Procedures.**

(1) Under Subsections 58-1-308(1) and 58-70b-303(1), the renewal date for the two-year renewal cycle for licensees under Title 58, Chapter 70b, Anesthesiologist Assistant Licensing Act is established in Section R156-1-308a.

(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308a through R156-1-308l.

#### **R156-70b-303b. Continuing Education.**

(1) Under Subsection 58-70b-303(2), the continuing education requirements for renewal or reinstatement of an anesthesiologist assistant license are completion of the NCCAA continuing medical education (CME) and interval exam (CDQ) requirements for ongoing certification, as evidenced by current NCCAA certification.

(2) A licensee shall maintain documentation sufficient to prove compliance with this section for two years after the end of the renewal cycle for which the continuing education is due.

(3) The Division may not defer or waive continuing education requirements under this section, as under Subsection 58-70b-302(5) a

licensee is required to maintain NCCAA certification throughout the term of their license.

**R156-70b-402. Unprofessional Conduct.**

Under Sections 58-70b-102 and 58-70b-402 and Subsection R156-70b-102(1), an anesthesiologist assistant commits unprofessional conduct by:

- (1) failing to comply with the ASA Ethical Guidelines; or
- (2) failing to comply with the ASA PS in evaluating a patient for the administration of anesthesia.

**KEY: anesthesiologist assistant, licensing**

**Date of Enactment or Last Substantive Amendment: 2022**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-70b-101**