WSR 25-08-028
PROPOSED RULES
DEPARTMENT OF HEALTH
(Washington Medical Commission)
[Filed March 25, 2025, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-18-057.

Title of Rule and Other Identifying Information: Anesthesiologist assistants; the Washington medical commission (commission) is proposing new chapter 246-921 WAC, Anesthesiologist assistants, to implement SB 5184 (chapter 362, Laws of 2024), codified under chapter 18.71D RCW, which created the new anesthesiologist assistant (AA) license. The commission is proposing this new chapter to establish licensing regulations for AAs.

Hearing Location(s): On May 9, 2025, at 9:30 a.m., via Teams at https://tinyurl.com/j7kc38pr; or in person at Capital Event Center, ESD 113, 6005 Tyee Drive S.W., Tumwater, WA 98512. To join the commission's rules interested parties email list, please visit https://public.govdelivery.com/accounts/WADOH/subscriber/new?topic_id=WADOH_153.

Date of Intended Adoption: May 9, 2025.

Submit Written Comments to: Amelia Boyd, Program Manager, P.O. Box 47866, Olympia, WA 98504-7866, email medical.rules@wmc.wa.gov, https://fortress.wa.gov/doh/policyreview/, beginning the date and time of this filing, by May 2, 2025, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Amelia Boyd, program manager, phone 1-800-525-0127, TTY 711, email medical.rules@wmc.wa.gov, by May 2, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SB 5184 (chapter 362, Laws of 2024) mandates the commission to establish and implement a regulatory framework for the new profession of AA, ensuring appropriate qualifications, safe practice standards, and effective supervision.

The proposed rules establish clear licensure requirements that ensure AAs have met high educational and competency standards before they are allowed to practice. The proposed rules define and clarify the scope of practice, establish proper supervision regulations, and implement disciplinary measures and enforcement for licensed AAs. The proposed rules are clear, concise, and flexible for the health workforce that clarify the AA's role in anesthesia care that promotes the public trust in anesthesia.

Reasons Supporting Proposal: Chapter 18.71D RCW directs the commission to undertake several specific actions regarding the licensure, regulation, and supervision of anesthesiologist assistants. Below is a breakdown of the commission's responsibilities required by chapter 18.71D RCW:

(1) Adoption of Rules for Licensure:

- Set Qualifications and Training Standards:
  - The commission must establish the qualifications, educational, and training requirements for anesthesiologist assistant licensure.
- Application Process:
  - Create an application form with required details, including education, training, experience, and other commission-defined information.

- Require applicants to provide proof of completing an accredited program and eligibility to take the required exam.
- Assess physical and mental fitness of applicants to practice safely, with the ability to mandate examinations to verify fitness if necessary.

(2) Authority Over Licenses:

- Approve, deny, or take disciplinary action on license applications based on the Uniform Disciplinary Act.
- Set requirements for license renewal, including requesting professional practice information from licensees at the time of renewal.

(3) Regulating Practice:

- Prohibit unlicensed practice.
- Establish rules governing the scope of practice and supervision requirements for anesthesiologist assistants. These rules must:
  - Define how many anesthesiologist assistants a single anesthesiologist may supervise concurrently, with a default maximum of four unless otherwise approved by the commission.
  - Develop rules for backup or on-call supervisory arrangements for anesthesiologists overseeing multiple assistants.

Statutory Authority for Adoption: RCW 18.71.017, 18.130.050, 18.71D.020, and 18.71D.030.

Statute Being Implemented: Chapter 18.71D RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington medical commission, governmental.

Name of Agency Personnel Responsible for Drafting: Amelia Boyd, 111 Israel Road S.E., Tumwater, WA 98501, 360-918-6336; Implementation and Enforcement: Kyle Karinen, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4810.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Amelia Boyd, Program Manager, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-918-6336, TTY 711, email medical.rules@wmc.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed new chapter establishes regulations and impacts an individual professional license, not small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

March 24, 2025
Kyle S. Karinen
Executive Director
Washington Medical Commission

RDS-6060.4

Chapter 246-921 WAC
ANESTHESIOLOGIST ASSISTANTS—WASHINGTON MEDICAL COMMISSION

NEW SECTION

WAC 246-921-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Anesthesiologist" means an actively practicing, board-eligible physician licensed under chapter 18.71, 18.71B, or 18.57 RCW who has completed a residency or equivalent training in anesthesiology.

(2) "Anesthesiologist assistant" or "certified anesthesiologist assistant" means a person who has successfully completed an accredited anesthesiologist assistant program approved by the commission and has successfully passed the certification exam offered by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or other exam approved by the commission. These individuals, who may be known as "AA" or "CAA," are licensed by the commission under chapter 18.71D RCW and this chapter to assist in developing and implementing anesthesia care plans for patients under the supervision of an anesthesiologist or group of anesthesiologists approved by the commission to supervise such assistant.

(3) "Assist" means the anesthesiologist assistant personally performs those duties and responsibilities delegated by the anesthesiologist. Delegated services must be consistent with the delegating anesthesiologist's education, training, experience, and active practice. Delegated services must be of the type that a reasonable and prudent anesthesiologist would find within the scope of sound medical judgment to delegate.

(4) "Commission" means the Washington medical commission.

(5) "Commission approved program" means a Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredited education program specifically designed for training anesthesiologist assistants or other substantially equivalent organization(s) approved by the commission.

(6) "Practice medicine" has the same meaning defined in RCW 18.71.011.

(7) "Supervise" means the immediate availability of the medically directing anesthesiologist for consultation and direction of the activities of the anesthesiologist assistant. A medically directing anesthesiologist is immediately available if they are in physical proximity that allows the anesthesiologist to reestablish direct contact with the patient to meet medical needs and any urgent or emergent clinical problems, and personally participating in the most demanding procedures of the anesthesia plan including, if applicable, induction and emergence. These responsibilities may also be met through coordination among anesthesiologists of the same group or department. Supervision through remote or telecommunications methods are not permitted under this definition and rule.

NEW SECTION

WAC 246-921-100 Application withdrawals. An application for a license may not be withdrawn after the commission determines that grounds exist for denial of the license or for the issuance of a conditional license under chapter 18.130 RCW. Applications that are subject to investigation of unprofessional conduct or impaired practice may not be withdrawn.

NEW SECTION

WAC 246-921-105 Anesthesiologist assistant—Requirements for licensure. (1) An applicant for licensure as an anesthesiologist assistant must submit to the commission:

(a) A completed application on forms provided by the commission;

(b) Proof the applicant has completed a CAAHEP accredited commission-approved anesthesiologist assistant program and successfully passed the NCCAA examination;

(c) All applicable fees as specified in WAC 246-921-990; and

(d) Other information required by the commission.

(2) The commission will only consider complete applications with all supporting documents for licensure.

(3) Internationally trained individuals do not currently have a pathway to licensure as an anesthesiologist assistant due to ineligibility for the certifying exam offered by NCCAA. Should an exam become available the internationally trained individual may petition the commission for licensure.

NEW SECTION

WAC 246-921-110 Background check—Temporary practice permit. The commission may issue a temporary practice permit when the applicant has met all other licensure requirements, except the national criminal background check requirement. The applicant must not be subject to denial of a license or issuance of a conditional license under this chapter.

(1) If there are no violations identified in the Washington criminal background check and the applicant meets all other licensure conditions, including receipt by the department of health of a completed Federal Bureau of Investigation (FBI) fingerprint card, the commission may issue a temporary practice permit allowing time to complete the national criminal background check requirements.

(2) A temporary practice permit that is issued by the commission is valid for six months. A one-time extension of six months may be granted if the national background check report has not been received by the commission.

(3) The temporary practice permit allows the applicant to work in the state of Washington as an anesthesiologist assistant during the time period specified on the permit. The temporary practice permit is a license to practice medicine as an anesthesiologist assistant, provided that a supervision arrangement exists with an anesthesiologist

or anesthesiologists of the same group or department as provided in this rule.

(4) The commission issues a license once it receives the national background check report, as long as the report is not negative, and the applicant meets all other licensing requirements.

(5) The temporary practice permit is no longer valid after the license is issued or the application for a full license is denied.

NEW SECTION

WAC 246-921-115 Expedited temporary license—Military spouse. A military spouse may receive an expedited temporary license while completing any specific additional requirements that are not related to training or practice standards for anesthesiologist assistants under the following conditions.

(1) An expedited temporary license may be issued to an applicant who is a military spouse and:

(a) Is moving to Washington as a result of the military person's transfer to the state of Washington;

(b) Holds an unrestricted, active license in another state or United States territory that the commission currently deems to have substantially equivalent licensing standards for an anesthesiologist assistant to those in the state of Washington; and

(c) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body in any other state or United States territory in which the applicant holds a license.

(2) An expedited temporary license grants the applicant the full scope of practice for the anesthesiologist assistant.

(3) An expedited temporary license expires when any one of the following occurs:

(a) A full or limited license is issued to the applicant;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the expedited temporary license; or

(c) One hundred eighty days after the expedited temporary license is issued.

(4) To receive an expedited temporary license, the applicant must:

(a) Meet all requirements and qualifications for the license that are specific to the training, education, and practice standards for anesthesiologist assistants;

(b) Submit a written request for an expedited temporary license; and

(c) Submit a copy of the military service member's orders and a copy of one of the following:

(i) The military-issued identification card showing the military service member's information and the applicant's relationship to the military service member;

(ii) A marriage license; or

(iii) A state registered domestic partnership.

(5) For the purposes of this section the following definitions shall apply:

(a) "Military spouse" is someone married to or in a registered domestic partnership with a military person who is serving in the Uni-

ted States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States; and

(b) "Military person" means a person serving in the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States.

NEW SECTION

WAC 246-921-120 Exemption from licensure—Qualified physician assistant pathway. (1) A physician assistant may practice medicine within the full scope of an anesthesiologist assistant without requiring a separate license under chapter 18.71D RCW if the physician assistant:

(a) Fulfills of the practice, education, training, and licensure requirements specified in WAC 246-918-080;

(b) Has graduated from a commission-approved program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) that is specifically designed to train anesthesiologist assistants as required in WAC 246-918-055;

(c) Has successfully passed and maintains certification through the National Council on Certification of Anesthesiologist Assistants; and

(d) Is supervised according to the requirements in this chapter and chapter 18.71D RCW by an anesthesiologist licensed under chapter 18.71, 18.71B, or 18.57 RCW.

NEW SECTION

WAC 246-921-125 Renewal, continuing medical education cycle, and maintenance of licensure. (1) Under WAC 246-12-020, an initial credential issued within 90 days of the anesthesiologist assistant's birthday does not expire until the anesthesiologist assistant's next birthday.

(2) An anesthesiologist assistant must renew their license every two years on their birthday. Renewal fees are accepted no sooner than 90 days prior to the expiration date.

(3) Each anesthesiologist assistant shall have four years to meet the continuing medical education requirements as required in this section. The review period begins at the second renewal after initial licensure or second renewal after reactivation of an expired license.

(4) An anesthesiologist assistant must complete 200 hours of continuing education every four years as required in chapter 246-12 WAC, which may be audited for compliance at the discretion of the commission.

(5) In lieu of 200 hours of continuing medical education, the commission will accept:

(a) Current certification with the NCCAA;

(b) Compliance with a continuing maintenance of competency program through NCCAA; or

(c) Other programs approved by the commission.

(6) The commission approves the following categories of creditable continuing medical education as accredited by the Accreditation

Council for Continuing Medical Education (ACCME) or affiliated education providers. A minimum of 80 credit hours must be earned in Category I.

Category I	Continuing medical education activities with accredited sponsorship through ACCME or recognized affiliated education providers.
Category II	Continuing medical education activities with nonaccredited sponsorship and other meritorious learning experience.

(7) The commission adopts the standards approved by the ACCME for the evaluation of continuing medical education requirements in determining the acceptance and category of any continuing medical education experience.

(8) An anesthesiologist assistant does not need prior approval of any continuing medical education. The commission will accept any continuing medical education that reasonably falls within the requirements of this section and relies upon each anesthesiologist assistant's integrity to comply with these requirements.

(9) A continuing medical education sponsor does not need to apply for or expect to receive prior commission approval for a formal continuing medical education program. The continuing medical education category will depend solely upon the accredited status of the organization or institution. The number of hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The commission relies upon the integrity of the program sponsors to present continuing medical education for the anesthesiologist assistant that constitutes a meritorious learning experience.

NEW SECTION

WAC 246-921-130 Training in suicide assessment, treatment, and management. (1) A licensed anesthesiologist assistant must complete a one-time training in suicide assessment, treatment, and management. The training must be at least six hours in length and may be completed in one or more sessions.

(2) The training must be completed by the end of the first full continuing education reporting period after initial licensure.

(3) The training must be on the model list developed by the department of health under RCW 43.70.442.

(4) The hours spent completing training in suicide assessment, treatment, and management count toward meeting applicable continuing education requirements in the same categories specified in WAC 246-921-125.

(5) The commission exempts any licensed anesthesiologist assistant from the training requirements of this section if the anesthesiologist assistant has only brief, limited, or no patient contact.

NEW SECTION

WAC 246-921-135 Health equity continuing education training requirements. (1) An anesthesiologist assistant must complete two hours of health equity continuing education training every four years as described in WAC 246-12-800 through 246-12-830.

(2) The two hours of health equity continuing education an anesthesiologist assistant completes count toward meeting applicable continuing education requirements in the same categories specified in WAC 246-921-125.

NEW SECTION

WAC 246-921-140 Retired license. (1) To obtain a retired license, an anesthesiologist assistant must comply with chapter 246-12 WAC.

(2) An anesthesiologist assistant with a retired license must have a supervision arrangement with an anesthesiologist in order to practice, except when serving as a "covered volunteer emergency worker" as defined in RCW 38.52.180 (5)(a) and engaged in authorized emergency management activities or serving under chapter 70.15 RCW.

(3) An anesthesiologist assistant with a retired license may not receive compensation for health care services.

(4) An anesthesiologist assistant with a retired license may practice under the following conditions:

(a) In emergent circumstances calling for immediate action; or

(b) Intermittent circumstances on a part-time or full-time nonpermanent basis.

(5) A retired license expires every two years on the license holder's birthday. Retired credential renewal fees are accepted no sooner than 90 days prior to the expiration date.

(6) An anesthesiologist assistant with a retired license shall report 100 hours of continuing education at every renewal.

NEW SECTION

WAC 246-921-145 Returning to active status when a license has expired. (1) To return to active status the anesthesiologist assistant must meet the requirements of chapter 246-12 WAC, which includes paying the applicable fees under WAC 246-921-990 and meeting the continuing medical education requirements under WAC 246-921-125.

(2) If the license has expired over three years, the anesthesiologist assistant must:

(a) Meet requirements in subsection (1) of this section;

(b) Meet the current licensure requirements under WAC 246-921-105; and

(c) Satisfy any demonstration of competence requirements deemed necessary by the commission. Demonstration of competence may take the form of clinical knowledge examinations or fitness for duty evaluations conducted by commission-approved entities.

NEW SECTION

WAC 246-921-150 Anesthesiologist assistant identification. (1) An anesthesiologist assistant must clearly identify themselves as an anesthesiologist assistant and must appropriately display on their person identification as an anesthesiologist assistant. An anesthesi-

ologist assistant may identify themselves as an anesthesiologist assistant (AA) or a certified anesthesiologist assistant (CAA).

(2) An anesthesiologist assistant must not present themselves in any manner which would tend to mislead the public as to their title.

NEW SECTION

WAC 246-921-155 Mandatory reporting. The commission adopts the rules for mandatory reporting in chapter 246-16 WAC.

NEW SECTION

WAC 246-921-160 Practice limitations and scope of practice. (1) An anesthesiologist assistant is required to have a supervision arrangement with an anesthesiologist or anesthesiologists of the same group or department as provided by this chapter. The supervision arrangements are not required to be filed with the commission.

(2) Duties which an anesthesiologist may delegate to an anesthesiologist assistant include, but are not limited to:

(a) Assisting with preoperative anesthetic evaluations, postoperative anesthetic evaluations, and patient progress notes, all to be cosigned by the supervising anesthesiologist within 24 hours;

(b) Administering and assisting with preoperative consultations;

(c) Under the supervising anesthesiologist's consultation and direction, order perioperative pharmaceutical agents, medications, and fluids, to be used only at the facility where ordered including, but not limited to, controlled substances, which may be administered prior to the cosignature of the supervising anesthesiologist. The supervising anesthesiologist may review and if required by the facility or institutional policy must cosign these orders in a timely manner;

For the purposes of this section, an anesthesiologist assistant may place an order for pharmaceutical agents, medications, and fluids under the consultation, direction, and prescriptive authority of the anesthesiologist. The anesthesiologist assistant does not have independent prescriptive authority.

(d) Changing or discontinuing a medical treatment plan, after consultation with the supervising anesthesiologist;

(e) Calibrating anesthesia delivery systems and obtaining and interpreting information from the systems and monitors, in consultation with an anesthesiologist;

(f) Assisting the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;

(g) Assisting with basic and advanced airway interventions including, but not limited to, endotracheal intubation, laryngeal mask insertion, and other advanced airways techniques;

(h) Establishing peripheral intravenous lines, including subcutaneous lidocaine use;

(i) Establishing radial and dorsalis pedis arterial lines;

(j) Assisting with general anesthesia, including induction, maintenance, and emergence;

(k) Assisting with procedures associated with general anesthesia such as, but not limited to, gastric intubation;

(l) Administering intermittent vasoactive drugs and starting and titrating vasoactive infusions for the treatment of patient responses to anesthesia;

(m) Assisting with spinal and intravenous regional anesthesia;

(n) Maintaining and managing established neuraxial epidurals and regional anesthesia;

(o) Assisting with monitored anesthesia care;

(p) Evaluating and managing patient-controlled analgesia, epidural catheters, and peripheral nerve catheters;

(q) Obtaining venous and arterial blood samples;

(r) Assisting with, ordering, and interpreting appropriate preoperative, point of care, intraoperative, or postoperative diagnostic tests or procedures as authorized by the supervising anesthesiologist;

(s) Obtaining and administering perioperative anesthesia and related pharmaceutical agents including intravenous fluids and blood products;

(t) Participating in management of the patient while in the preoperative suite and recovery area;

(u) Providing assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation;

(v) Participating in administrative, research, and clinical teaching activities as authorized by the supervising anesthesiologist; and

(w) Assisting with such other tasks not prohibited by law under the supervision of a licensed anesthesiologist that an anesthesiologist assistant has been trained and is proficient to assist with.

(3) Nothing in this section shall be construed to prevent an anesthesiologist assistant from having access to and being able to obtain drugs as directed by the supervising anesthesiologist.

(4) An anesthesiologist assistant may not prescribe, order, compound, or dispense drugs, medications, or devices of any kind except as authorized in subsection (2) of this section.

(5) An anesthesiologist assistant may sign and attest to any certificates, cards, forms, or other required documentation that the anesthesiologist assistant's supervising anesthesiologist may sign, provided that it is within the anesthesiologist assistant's scope of practice.

NEW SECTION

WAC 246-921-165 Supervision ratios and group supervision. (1) An anesthesiologist may themselves supervise no more than four anesthesiologist assistants. If a supervision ratio above 4:1 is needed, the anesthesiologist may submit a request for an exception to the commission using a form provided by the commission.

(2) In the exception request, the anesthesiologist must provide:

(a) A descriptive justification of need;

(b) What quality review and improvement mechanisms are in place to maintain the patient safety and the standard of care; and

(c) What escalation and anesthesiologist backup procedures are in place should multiple anesthesiologist assistants require the presence or assistance of the anesthesiologist.

(3) Those submitting exception requests may, at the sole discretion of the commission, be denied. In the event of a request denial,

requestors are entitled to appeal the decision utilizing the brief adjudication process as defined in WAC 246-11-420 through 246-11-450.

(4) The commission permits a group supervision model for anesthesiologist assistants in settings where the anesthesiologist led anesthesia care team:

(a) Operates in a single physical location such as a hospital or clinic;

(b) Does not operate above the 4:1 ratio without a commission granted exemption as required in this section; and

(c) Has protocols and staffing available to designate backup and on-call anesthesiologists.

NEW SECTION

WAC 246-921-170 Notification of investigation or disciplinary action. The anesthesiologist assistant shall notify their supervising anesthesiologist whenever the anesthesiologist assistant is the subject of an investigation or disciplinary action by the commission. The commission may notify the supervising anesthesiologist or other supervising anesthesiologist of such matters as appropriate.

NEW SECTION

WAC 246-921-305 Sexual misconduct. (1) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Patient" means a person who is receiving health care or treatment or has received health care or treatment without a termination of the anesthesiologist assistant-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent, and context of the professional relationship between the anesthesiologist assistant and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians, and proxies.

(2) An anesthesiologist assistant shall not engage, or attempt to engage, in sexual misconduct with a current patient or a key third party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. An anesthesiologist assistant engages in sexual misconduct when they engage in the following behaviors with a patient or a key third party:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis, and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key third party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling, or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient, client, or key third party;

(j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity, or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care provider;

(l) Masturbation or other sex act by the health care provider in the presence of the patient, client, or key third party;

(m) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client, or key third party;

(p) Discussing the sexual history, preferences, or fantasies of the health care provider;

(q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(r) Making statements regarding the patient, client, or key third party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client, or key third party;

(t) Photographing or filming the body or any body part or pose of a patient, client, or key third party, other than for legitimate health care purposes; and

(u) Showing a patient, client, or key third party sexually explicit photographs, other than for legitimate health care purposes.

(3) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(4) An anesthesiologist assistant shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client, or key third party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the anesthesiologist assistant's sexual needs.

(5) An anesthesiologist assistant shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if:

(a) There is a significant likelihood that the patient, client, or key third party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity, and/or special knowledge of the professional relationship.

(6) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the anesthesiologist assistant;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

(7) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

(8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

(9) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

(10) A violation of any provision of this rule shall constitute grounds for disciplinary action.

NEW SECTION

WAC 246-921-310 Abuse. (1) An anesthesiologist assistant commits unprofessional conduct if the anesthesiologist assistant abuses a patient. An anesthesiologist assistant abuses a patient when they:

(a) Make statements regarding the patient's body, appearance, sexual history, or sexual orientation that have no legitimate medical or therapeutic purpose;

(b) Remove a patient's clothing or gown without consent;

(c) Fail to treat an unconscious or deceased patient's body or property respectfully; or

(d) Engage in any conduct, whether verbal or physical, which unreasonably demeans, humiliates, embarrasses, threatens, or harms a patient.

(2) A violation of any provision of this rule shall constitute grounds for disciplinary action.