

**TEXAS ADMINISTRATIVE CODE**

**\*\*\* THIS DOCUMENT REFLECTS ALL RULES IN EFFECT AS OF JULY 31, 2007  
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**TITLE 22. EXAMINING BOARDS  
PART 9. TEXAS MEDICAL BOARD  
CHAPTER 192. OFFICE-BASED ANESTHESIA**

**§ 192.1. Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the contents indicate otherwise.

- (1) ACLS--Advanced Cardiac Life Support, as defined by the AHA.
- (2) AED--Automatic External Defibrillator.
- (3) AHA--American Heart Association.
- (4) Analgesics--Dangerous or scheduled drugs that alleviate pain.
- (5) Anesthesia--The loss of feeling or sensation resulting from the use of dangerous or scheduled drugs to depress nerve function. Anesthetics are scheduled or dangerous drugs used to induce anesthesia.
- (6) Anesthesia Services--The use of dangerous and scheduled drugs, including anesthetics, analgesics, and anxiolytics, to permit the performance of surgery or other painful medical procedures.
- (7) Anxiolytics--Dangerous or scheduled drugs used to treat episodes of anxiety.
- (8) Anesthesiologist assistant--A graduate of an approved anesthesiologist assistant training program.
- (9) Anesthesiology resident--A physician who is presently in an approved Texas anesthesiology residency program who is either licensed as a physician in Texas or holds a postgraduate resident permit issued by the Texas Medical Board.
- (10) BCLS--Basic Cardiac Life Support, as defined by the AHA.
- (11) Certified registered nurse anesthetist--A person licensed by the Board of Nurse Examiners for the State of Texas (BNE) as a registered professional nurse, authorized by the BNE as an advanced practice nurse in the role of nurse anesthetist, and certified by a national certifying body recognized by the BNE.
- (12) Dangerous drugs--medications defined by the Texas Dangerous Drug Act, Chapter 483, Texas Health and Safety Code. Dangerous drugs require a prescription, but are not included in the list of scheduled drugs. A dangerous drug bears the legend "Caution: federal law prohibits dispensing without a prescription" or "Prescription Only."

(13) Level I services--delivery of analgesics or anxiolytics by mouth, as prescribed for the patient on order of a physician, at a dose level low enough to allow the patient to remain ambulatory.

(14) Level II services--delivery of analgesics or anxiolytics by mouth in dosages greater than allowed at Level I and tunescant anesthesia, as prescribed for the patient on order of a physician.

(15) Level III services--delivery of analgesics or anxiolytics other than by mouth, including intravenously, intramuscularly, or rectally.

(16) Level IV services--delivery of general anesthetics, including regional anesthetics and monitored anesthesia care.

(17) Monitored anesthesia care--Situations where a patient undergoing a diagnostic or therapeutic procedure receives doses of medication that create a risk of loss of normal protective reflexes or loss of consciousness and the patient remains able to protect the airway during the procedure. If the patient is rendered unconscious and loses normal protective reflexes, then anesthesia care shall be considered a general anesthetic.

(18) Outpatient setting--Any facility, clinic, center, office, or other setting that is not a part of a licensed hospital or a licensed ambulatory surgical center with the exception of all of the following listed in subparagraphs (A) - (D) of this paragraph:

(A) a clinic located on land recognized as tribal land by the federal government and maintained or operated by a federally recognized Indian tribe or tribal organization as listed by the United States secretary of the interior under 25 U.S.C. (479-1 or as listed under a successor federal statute or regulation;

(B) a facility maintained or operated by a state or governmental entity;

(C) a clinic directly maintained or operated by the United States or by any of its departments, officers, or agencies; and

(D) an outpatient setting accredited by either the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers, the American Association for the Accreditation of Ambulatory Surgery Facilities, or the Accreditation Association for Ambulatory Health Care.

(19) Board--The Texas Medical Board.

(20) PALS--Pediatric Advanced Life Support, as defined by the AHA.

(21) Physician--A person licensed by the Texas Medical Board as a medical doctor or doctor of osteopathic medicine who diagnoses, treats, or offers to treat any disease or disorder, mental or physical, or any physical deformity or injury by any system or method or effects cures thereof and charges therefor, directly or indirectly, money or other compensation. "Physician" and "surgeon" shall be construed as synonymous.

(22) Scheduled Drugs--medications defined by the Texas Controlled Substances Act, Chapter 481, Texas Health and Safety Code. This Act establishes five categories, or

schedules of drugs, based on risk of abuse and addiction. (Schedule I includes drugs that carry an extremely high risk of abuse and addiction and have no legitimate medical use. Schedule V includes drugs that have the lowest abuse/addiction risk).

## **§ 192.2. Provision of Anesthesia Services in Outpatient Settings**

(a) The purpose of these rules is to identify the roles and responsibilities of physicians providing, or overseeing by proper delegation, anesthesia services in outpatient settings and to provide the minimum acceptable standards for the provision of anesthesia services in outpatient settings.

(b) The rules promulgated under this title do not apply to physicians who practice in the following settings listed in paragraphs (1)-(8) of this subsection:

(1) an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used;

(2) any setting physically located outside the State of Texas;

(3) a licensed hospital, including an outpatient facility of the hospital that is separately located apart from the hospital;

(4) a licensed ambulatory surgical center;

(5) a clinic located on land recognized as tribal land by the federal government and maintained or operated by a federally recognized Indian tribe or tribal organization as listed by the United States secretary of the interior under 25 U.S.C. (479-1 or as listed under a successor federal statute or regulation;

(6) a facility maintained or operated by a state or governmental entity;

(7) a clinic directly maintained or operated by the United States or by any of its departments, officers, or agencies; and

(8) an outpatient setting accredited by:

(A) the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers;

(B) the American Association for the Accreditation of Ambulatory Surgery Facilities;  
or

(C) the Accreditation Association for Ambulatory Health Care.

(c) Standards for Anesthesia Services. The following standards are required for outpatient settings providing anesthesia services that are administered within two hours before an out patient procedure. If personnel and equipment meet the requirements of a higher level, lower level anesthesia services may also be provided.

(1) Level I services:

(A) at least two personnel must be present, including the physician who must be currently certified at least in AHA approved BCLS; and

(B) the following age-appropriate equipment must be present:

(i) bag mask valve;

(ii) oxygen;

(iii) AED or other defibrillator; and

(iv) pre-measured doses of epinephrine, atropine, adreno-corticoids, and antihistamines.

(2) Level II services:

(A) at least two personnel must be present, including the physician who must be currently certified at least in AHA approved ACLS or PALS, as appropriate;

(i) another person must be currently certified at least in AHA approved BCLS; and

(ii) a licensed health care provider, who may be one of the two required personnel, must attend the patient, until the patient is ready for discharge; and

(B) a crash cart must be present containing drugs and equipment necessary to carry out ACLS protocols, including, but not limited to, the following age-appropriate equipment:

(i) bag mask valve and appropriate airway maintenance devices;

(ii) oxygen;

(iii) AED or other defibrillator;

(iv) pre-measured doses of first line cardiac medications, including epinephrine, atropine, adreno-corticoids, and antihistamines;

(v) IV equipment;

(vi) pulse oximeter; and

(vii) EKG Monitor.

(3) Level III services:

(A) at least two personnel must be present, including the physician who must be currently certified at least in AHA approved ACLS or PALS, as appropriate;

(i) another person must be currently certified at least in AHA approved BCLS;

(ii) a licensed health care provider, which may be either of the two required personnel, must attend the patient, until the patient is ready for discharge; and

(iii) a person, who may be either of the two required personnel, must be responsible for monitoring the patient during the procedure; and

(B) the same equipment required for Level II;

(4) Level IV services: Physicians who practice medicine in this state and who administer anesthesia or perform a procedure for which anesthesia services are provided in outpatient settings at Level IV shall follow current, applicable standards and guidelines as put forth by the American Society of Anesthesiologists (ASA) including, but not limited to, the following listed in paragraphs (1)-(8) of this subsection:

(A) Basic Standards for Preanesthesia Care;

(B) Standards for Basic Anesthetic Monitoring;

(C) Standards for Postanesthesia Care;

(D) Position on Monitored Anesthesia Care;

(E) The ASA Physical Status Classification System;

(F) Guidelines for Nonoperating Room Anesthetizing Locations;

(G) Guidelines for Ambulatory Anesthesia and Surgery; and

(H) Guidelines for Office-Based Anesthesia.

(d) A physician delegating the provision of anesthesia or anesthesia-related services to a certified registered nurse anesthetist shall be in compliance with ASA standards and guidelines when the certified registered nurse anesthetist provides a service specified in the ASA standards and guidelines to be provided by an anesthesiologist.

(e) In an outpatient setting, where a physician has delegated to a certified registered nurse anesthetist the ordering of drugs and devices necessary for the nurse anesthetist to administer an anesthetic or an anesthesia-related service ordered by a physician, a certified registered nurse anesthetist may select, obtain and administer drugs, including determination of appropriate dosages, techniques and medical devices for their administration and in maintaining the patient in sound physiologic status. This order need not be drug-specific, dosage specific, or administration-technique specific. Pursuant to a physician's order for anesthesia or an anesthesia-related service, the certified registered nurse anesthetist may order anesthesia-related medications during perianesthesia periods in the preparation for or recovery from anesthesia. In providing anesthesia or an anesthesia-related service, the certified registered nurse anesthetist shall select, order, obtain and administer drugs which fall within categories of drugs generally utilized for anesthesia or anesthesia-related services and provide the concomitant care required to maintain the patient in sound physiologic status during those experiences.

(f) The anesthesiologist or physician providing anesthesia or anesthesia-related services in an outpatient setting shall perform a pre-anesthetic evaluation, counsel the patient, and prepare the patient for anesthesia per current ASA standards. If the physician has delegated the provision of anesthesia or anesthesia-related services to

a CRNA, the CRNA may perform those services within the scope of practice of the CRNA. Informed consent for the planned anesthetic intervention shall be obtained from the patient/legal guardian and maintained as part of the medical record. The consent must include explanation of the technique, expected results, and potential risks/complications. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained per indications and assessment findings. Pre-anesthetic diagnostic testing and specialist consultation should be obtained as indicated by the pre-anesthetic evaluation by the anesthesiologist or suggested by the nurse anesthetist's pre-anesthetic assessment as reviewed by the surgeon. If responsibility for a patient's care is to be shared with other physicians or non-physician anesthesia providers, this arrangement should be explained to the patient.

(g) Physiologic monitoring of the patient shall be determined by the type of anesthesia and individual patient needs. Minimum monitoring shall include continuous monitoring of ventilation, oxygenation, and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry and EKG continuously and non-invasive blood pressure to be measured at least every five minutes. If general anesthesia is utilized, then an O<sub>2</sub> analyzer and end-tidal CO<sub>2</sub> analyzer must also be used. A means to measure temperature shall be readily available and utilized for continuous monitoring when indicated per current ASA standards. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure. Postoperatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable by a licensed health care provider. Monitoring and observations shall be documented per current ASA standards. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, at a minimum, heart rate and breath sounds will be monitored on a continuous basis using a precordial stethoscope or similar device, and blood pressure measurements will be reestablished using a non-electrical blood pressure measuring device until electricity is restored. There should be in each location, sufficient electrical outlets to satisfy anesthesia machine and monitoring equipment requirements, including clearly labeled outlets connected to an emergency power supply. A two-way communication source not dependent on electrical current shall be available. Sites shall also have a secondary power source as appropriate for equipment in use in case of power failure.

(h) All anesthesia-related equipment and monitors shall be maintained to current operating room standards. All devices shall have regular service/maintenance checks at least annually or per manufacturer recommendations. Service/maintenance checks shall be performed by appropriately qualified biomedical personnel. Prior to the administration of anesthesia, all equipment/monitors shall be checked using the current FDA recommendations as a guideline. Records of equipment checks shall be maintained in a separate, dedicated log which must be made available upon request. Documentation of any criteria deemed to be substandard shall include a clear description of the problem and the intervention. If equipment is utilized despite the problem, documentation must clearly indicate that patient safety is not in jeopardy. All documentation relating to equipment shall be maintained for seven years or for a period of time as determined by the board.

(i) Each location must have emergency supplies immediately available. Supplies should include emergency drugs and equipment appropriate for the purpose of cardiopulmonary resuscitation. This must include a defibrillator, difficult airway equipment, and drugs and equipment necessary for the treatment of malignant

hyperthermia if "triggering agents" associated with malignant hyperthermia are used or if the patient is at risk for malignant hyperthermia. Equipment shall be appropriately sized for the patient population being served. Resources for determining appropriate drug dosages shall be readily available. The emergency supplies shall be maintained and inspected by qualified personnel for presence and function of all appropriate equipment and drugs at intervals established by protocol to ensure that equipment is functional and present, drugs are not expired, and office personnel are familiar with equipment and supplies. Records of emergency supply checks shall be maintained in a separate, dedicated log and made available upon request. Records of emergency supply checks shall be maintained for seven years or for a period of time as determined by the board.

(j) The operating surgeon shall verify that the appropriate policies or procedures are in place. Policies, procedure, or protocols shall be evaluated and reviewed at least annually. Agreements with local emergency medical service (EMS) shall be in place for purposes of transfer of patients to the hospital in case of an emergency. EMS agreements shall be evaluated and re-signed at least annually. Policies, procedure, and transfer agreements shall be kept on file in the setting where procedures are performed and shall be made available upon request. Policies or procedures must include, but are not limited to the following listed in paragraphs (1)-(2) of this subsection:

(1) Management of outpatient anesthesia. At a minimum, these must address:

(A) patient selection criteria;

(B) patients/providers with latex allergy;

(C) pediatric drug dosage calculations, where applicable;

(D) ACLS (advanced cardiac life support) or PALS (pediatric advanced life support) algorithms;

(E) infection control;

(F) documentation and tracking use of pharmaceuticals, including controlled substances, expired drugs and wasting of drugs; and

(G) discharge criteria.

(2) Management of emergencies. At a minimum, these must include, but not be limited to:

(A) cardiopulmonary emergencies;

(B) fire;

(C) bomb threat;

(D) chemical spill; and

(E) natural disasters.

(k) Physicians, and anesthesiologists shall maintain current competency in ACLS, PALS, or a course approved by the board. In all settings under these rules, at a minimum, at least two persons, including the surgeon or anesthesiologist, shall maintain current competency in basic life support.

(l) Physicians or surgeons must notify the board in writing within 15 days if a procedure performed in any of the settings under these rules resulted in an unanticipated and unplanned transport of the patient to a hospital for observation or treatment for a period in excess of 24 hours, or a patient's death intraoperatively or within the immediate postoperative period. Immediate postoperative period is defined as 72 hours.

### **§ 192.3. Compliance with Office-Based Anesthesia Rules**

(a) A physician who provides anesthesia services or performs a procedure for which anesthesia services are provided in an outpatient setting shall comply with the rules adopted under this title.

(b) The board may require a physician to submit and comply with a corrective action plan to remedy or address any current or potential deficiencies with the physician's provision of anesthesia services in an outpatient setting in accordance with the Medical Practice Act, Title 3 Subtitle C §§ 162.101-.107 of the Texas Occupations Code, or rules of the board.

(c) Any physician who violates these rules shall be subject to disciplinary action and/or termination of the registration issued by the board as authorized by the Medical Practice Act or rules of the board.

### **§ 192.4. Registration**

(a) Each physician who provides anesthesia services or performs a procedure for which anesthesia services are provided in an outpatient setting shall register with the board on a form prescribed by the board and pay a fee to the board in an amount established by the board.

(b) The board shall coordinate the registration required under this section with the registration required under the Medical Practice Act, Texas Occupations Code Chapter 156, so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and provide a minimum of administrative burden to the board and to physicians.

### **§ 192.5. Inspections**

(a) The board may conduct inspections to enforce these rules, including inspections of an office site and of documents of a physician's practice that relate to the provision of anesthesia services in an outpatient setting. The board may contract with another state agency or qualified person to conduct these inspections.

(b) Unless it would jeopardize an ongoing investigation, the board shall provide at least five business days' notice before conducting an on-site inspection under this section.

(c) This section does not require the board to make an on-site inspection of a physician's office.

#### **§ 192.6. Requests for Inspection and Advisory Opinion**

(a) The board may consider a request by a physician for an on-site inspection. The board may, in its discretion and on payment of a fee in an amount established by the board, conduct the inspection and issue an advisory opinion.

(b) An advisory opinion issued by the board under this section is not binding on the board, and the board, except as provided by subsection (c) of this section, may take any action under the Medical Practice Act, in relation to the situation addressed by the advisory opinion that the board considers appropriate.

(c) A physician who requests and relies on an advisory opinion of the board may use the opinion as mitigating evidence in an action or proceeding to impose an administrative or civil penalty under the Medical Practice Act. The board or court, as appropriate, shall take proof of reliance on an advisory opinion into consideration and mitigate the imposition of administrative or civil penalties accordingly.

### **TITLE 22. EXAMINING BOARDS**

#### **PART 11. BOARD OF NURSE EXAMINERS**

#### **CHAPTER 221. ADVANCED PRACTICE NURSES**

#### **§ 221.3. Education**

(a) In order to be eligible to apply for authorization as an advanced practice nurse, the registered nurse must have completed a post-basic advanced educational program of study appropriate for practice in an advanced nursing specialty and role recognized by the Board. RN to BSN programs shall not be considered post-basic programs for the purpose of this rule.

(b) Individuals prepared in more than one advanced practice role and/or specialty (including blended role or dual specialty programs) shall be considered to have completed separate advanced educational programs of study for each role and/or specialty area.

(c) Applicants for authorization to practice in an advanced role and specialty recognized by the Board must submit verification of completion of all requirements of an advanced educational program that meets the following criteria:

(1) Advanced educational programs in the State of Texas shall be approved by the Board or accredited by a national accrediting body recognized by the Board.

(2) Programs in states other than Texas shall be accredited by a national accrediting body recognized by the board or by the appropriate licensing body in that state. A state licensing body's accreditation process must meet or exceed the requirements of accrediting bodies specified in board policy.

(3) Programs of study shall be at least one academic year in length and shall include a formal preceptorship.

(4) Beginning January 1, 2003, the program of study shall be at the graduate degree level.

(5) Applicants prepared in more than one advanced practice role and/or specialty shall demonstrate that all curricular requirements set forth in this subsection have been met for each role and/or specialty.

(d) Applicants for authorization as clinical nurse specialists must submit verification of the following requirements in addition to those specified in subsection (c) of this section:

(1) completion of a master's degree in the discipline of nursing, and

(2) completion of a minimum of nine semester credit hours or the equivalent in a specific clinical major. Clinical major courses must include didactic content and offer clinical experiences in a specific clinical specialty/practice area.

(e) Those applicants who completed nurse practitioner or clinical nurse specialist programs on or after January 1, 1998 must demonstrate evidence of completion of the following curricular requirements:

(1) separate, dedicated courses in pharmacotherapeutics, advanced assessment and pathophysiology and/or psychopathology (psychopathology accepted for advanced practice nurses prepared in the psychiatric/mental health specialty only). These must be graduate level academic courses;

(2) evidence of theoretical and clinical role preparation;

(3) evidence of clinical major courses in the specialty area; and

(4) evidence of a practicum/preceptorship/internship to integrate clinical experiences as reflected in essential content and the clinical major courses.

(5) In this subsection, the following terms have the following definitions:

(A) Advanced Assessment Course means a course that offers content supported by related clinical experience such that students gain the knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans.

(B) Pharmacotherapeutics means a course that offers content in pharmacokinetics and pharmacodynamics, pharmacology of current/commonly used medications, and the application of drug therapy to the treatment of disease and/or the promotion of health.

(C) Pathophysiology means a course that offers content that provides a comprehensive, system-focused pathology course that provides students with the knowledge and skills to analyze the relationship between normal physiology and pathological phenomena produced by altered states across the life span.

(D) Role preparation means formal didactic and clinical experiences/content that prepare nurses to function in an advanced nursing role.

(E) Clinical major courses means courses that include didactic content and offer clinical experiences in a specific clinical specialty/practice area.

(F) Clinical specialty area means specialty area of clinical practice based upon formal didactic preparation and clinical experiences.

(G) Essential content means didactic and clinical content essential for the educational preparation of individuals to function within the scope of advanced nursing practice. The essential content includes but is not limited to: advanced assessment, pharmacotherapeutics, role preparation, nursing specialty practice theory, physiology/pathology, diagnosis and clinical management of health status, and research.

(H) Practicum/Preceptorship/Internship means a designated portion of a formal educational program that is offered in a health care setting and affords students the opportunity to integrate theory and role in both the clinical specialty/practice area and advanced nursing practice through direct patient care/client management. Practicums/Preceptorships/Internships are planned and monitored by either a designated faculty member or qualified preceptor.

(f) Those applicants who complete nurse practitioner or clinical nurse specialist programs on or after January 1, 2003 must demonstrate evidence of completion of a minimum of 500 separate, non-duplicated clinical hours for each advanced role and specialty within the advanced educational program.

#### **§ 221.4. Requirements for Full Authorization to Practice**

(a) The registered professional nurse who seeks authorization to practice as an advanced practice nurse must:

(1) hold a current, valid, unencumbered license as a registered nurse in the State of Texas or reside in any party state and hold a current, valid, unencumbered registered nurse license in that state;

(2) submit to the board such evidence as required by the board to insure compliance with § 221.3 of this chapter (relating to Education);

(3) attest, on forms provided by the board to having met the minimum of 400 hours of current practice within the preceding biennium unless the applicant has completed an advanced educational program within the preceding biennium;

(4) attest, on forms provided by the board, to having obtained 20 contact hours of continuing education in the advanced specialty and role recognized by the board every two years. Continuing education in the advanced specialty and role must meet the requirements of chapter 216 of this title (relating to Continuing Education). The 20 contact hours required for RN licensure may be met by the 20 hours required by this subsection; and

(5) submit the required credentialing fee, which is not refundable.

(b) The applicant for advanced practice nurse authorization who completed an advanced educational program on or after January 1, 1996 must submit to the board such evidence as required by the board to ensure the applicant holds current

certification in an the advanced nursing role and specialty recognized by the board. Such certification must be granted by a national certifying body recognized by the board. The board reserves the right to designate an available national examination in a closely related specialty which that must be taken in lieu of an examination specifically related to the specialty. If an appropriate certification examination is not available and the board has not designated an alternate examination, the applicant may petition the board for waiver from the certification requirement, according to § 221.7(c) of this chapter (relating to Petitions for Waiver).

(c) Advanced practice nurse applicants who wish to be authorized by the board for more than one designation shall complete additional education in the desired area(s) of approval in compliance with § 221.3 of this chapter and obtain national certification in the advanced role and specialty from a national certifying body recognized by the board. To apply for authorization for more than one designation, the applicant shall submit a separate application and fee for each desired designation.

(d) After review by the board, notification of acceptability of credentials and a certificate verifying approval shall be sent to the advanced practice nurse.

#### **§ 221.5. Provisional Authorization**

(a) A registered nurse who has completed an advanced educational program as required by § 221.3 of this chapter (relating to Education) and registered for a board approved national certification examination following completion of the program may be issued a provisional authorization to practice as a Graduate Advanced Practice Nurse pending notification of the results of the certification examination. An applicant may be eligible for provisional authorization only one time per authorized role. The applicant must apply for provisional authorization within six months of program completion.

(b) The applicant shall request the respective certifying body to notify the board of the applicant's certification examination results.

(c) Provisional authorization to practice as a graduate advanced practice nurse shall expire with the first occurrence of any of the following:

(1) One year from the date of completion of the advanced educational program,

(2) When the applicant receives full authorization to practice as an advanced practice nurse, or

(3) When the applicant receives notice from the national certifying body that he/she has failed the national certification examination.

(d) Failure to pass the certification examination on the first attempt will immediately render the applicant ineligible to practice in the advanced practice role or utilize advanced practice titles. The provisional authorization to practice is rescinded and the application for full authorization to practice is denied.

(1) The applicant must immediately notify the board of the examination results and return the original provisional authorization to practice document to the board's office accompanied by a photocopy of the examination results.

(2) The applicant who fails to pass the certification examination on the first attempt may continue to test until he/she achieves national certification in the advanced role and specialty.

(3) An applicant who fails to pass the certification examination may continue to practice as a registered nurse.

(A) The applicant may not:

(i) Practice as an advanced practice nurse,

(ii) Claim to be an advanced practice nurse or hold himself/herself out to be an advanced practice nurse, or

(iii) Use a title or any other designation tending to imply that the person is authorized as an advanced practice nurse.

(B) The applicant may utilize his/her advanced knowledge, skills, and abilities if an advanced practice nurse authorized to practice in the same role and an appropriate specialty or a physician in the specialty area:

(i) Agrees to continuously monitor all aspects of the applicant's practice that are beyond the scope of practice of a registered nurse,

(ii) Assumes complete responsibility for all aspects of the care and services provided by the applicant that are beyond the scope of practice of the registered nurse,

(iii) Co-signs all documentation, and

(iv) Continuously remains on site with the applicant and is physically present or immediately available at all times.

(4) When the applicant obtains national certification in the advanced role and specialty, he/she may be eligible to reapply for authorization to practice as an advanced practice nurse. The applicant must meet all requirements for full authorization to practice as an advanced practice nurse as specified in § 221.4 of this chapter at the time he/she reapplies.

### **§ 221.6. Interim Approval**

(a) Interim approval may be granted by the board pending completion of the application process for a period not to exceed 90 days. Extensions of the interim approval period shall not be granted.

(1) The registered nurse seeking interim approval as an advanced practice nurse must complete documentation provided by the board verifying that he/she meets all requirements of this chapter and has completed and mailed the appropriate documents to the educational program or organization for completion.

(2) A letter shall be issued by the board granting interim approval.

(3) An applicant is eligible for interim approval one time only per specialty and role.

(b) An applicant who submits a request for waiver from the requirements of the rules as set forth in § 221.4 (relating to Full Authorization to Practice) and § 221.5 (relating to Provisional Authorization) of this chapter shall not be eligible for interim approval.

(c) If an applicant is deemed ineligible for advanced practice authorization, the interim approval will be rescinded immediately, effective on the date the notice is sent by mail. The applicant must cease holding him/herself out as or using titles to imply that he/she is an advanced practice nurse.

### **§ 221.7. Petitions for Waiver and Exemptions**

(a) A registered nurse who submits a request for waiver from requirements of the rules must submit documentation as required by the board to support his or her petition and assure the board that he or she possesses the knowledge, skills and abilities appropriate for the role and specialty desired. Those petitioners who are under investigation or current board order are not eligible for waiver.

(b) Petitions for waiver from the program accreditation requirements of § 221.3 of this chapter (relating to Education), may be granted by the board for individuals who completed their educational programs on or before December 31, 1996. Petitioners must meet the length of academic program requirements of § 221.3 of this chapter and obtain national certification in the advanced role and specialty area.

(c) Petitions for waiver from the current certification requirements of § 221.4 of this chapter (relating to Requirements for Full Authorization to Practice) and § 221.8 of this chapter (relating to Maintaining Active Authorization as an Advanced Practice Nurse) may be granted by the board.

(1) Under this section, only those petitioners for which no national certification examination within the advanced role and specialty or a related advanced specialty exists will be considered for waiver by the board.

(2) The board may determine that an available national certification examination in a related specialty and/or role must be taken in lieu of an examination specific to the advanced specialty area.

(d) Waivers from the master's degree requirement will be granted to qualified certificate-prepared nurse-midwives and women's health care nurse practitioners who complete their programs on or after January 1, 2003 through December 31, 2006. Applicants must meet all other requirements as stated in § 221.4 of this chapter.

(1) Those individuals approved on the basis of this waiver shall be limited to providing advanced practice nursing care within the geographical boundaries of the State of Texas. This shall not prevent the individual from utilizing Nurse Licensure Compact privileges to function as a registered nurse.

(2) The applicant must submit all required documentation necessary to demonstrate that the requirements (except for the master's degree) for authorization to practice have been met.

(3) The applicant must submit a written request for waiver of the master's degree requirement.

(4) Interim, provisional or full authorization may be granted to qualified certificate-prepared nurse-midwives and women's health care nurse practitioners.

(e) Exemptions granting authorization to utilize titles not authorized by § 221.2 of this chapter may be granted to qualified applicants who complete their advanced educational programs prior to January 1, 2010. Applicants must meet all other requirements as stated in § 221.4 of this chapter,

(1) The following specialty titles may be considered for exemption if the individual is not qualified for authorization to utilize a title authorized by § 221.2 of this chapter:

(A) Acute Care Clinical Nurse Specialist,

(B) Critical Care Nurse Practitioner;

(C) Cardiovascular Clinical Nurse Specialist;

(D) Emergency Nurse Practitioner or Clinical Nurse Specialist;

(E) Family Clinical Nurse Specialist;

(F) Home Health Clinical Nurse Specialist;

(G) Maternal (Parent)-Child Health Clinical Nurse Specialist (with or without subspecialization);

(H) Neonatal Clinical Nurse Specialist;

(I) Oncology Nurse Practitioner or Clinical Nurse Specialist;

(J) Pediatric Critical Care Nurse Practitioner;

(K) Perinatal Nurse Practitioner or Clinical Nurse Specialist;

(L) School Nurse Practitioner; and

(M) Women's Health Clinical Nurse Specialist.

(2) Those individuals authorized on the basis of this exemption shall be limited to providing advanced practice nursing care within the geographical boundaries of the State of Texas. This shall not prevent the individual from utilizing Nurse Licensure Compact privileges to function as a registered nurse.

(3) The applicant must submit all required documentation necessary to demonstrate that all requirements for authorization to practice have been met.

(4) The applicant must submit a written request for exemption to § 221.2 of this chapter and indicate the desired title

(5) Interim, provisional, or full authorization may be granted to qualified applicants.

(6) Advanced practice nurses authorized to practice on the basis of this exemption shall use the advanced practice title specified on the authorization to practice document provided by the board.

#### **§ 221.8. Maintaining Active Authorization as an Advanced Practice Nurse**

(a) In conjunction with RN license renewal, the advanced practice nurse seeking to maintain active advanced practice authorization(s) shall:

(1) attest on forms provided by the board to maintaining current national certification by the appropriate certifying body recognized by the board. This requirement shall apply to advanced practice nurses who:

(A) completed an advanced educational program on or after January 1, 1996, or

(B) were authorized as advanced practice nurses based upon obtaining national certification.

(2) attest, on forms provided by the board, to having a minimum of 400 hours of current practice within the preceding biennium;

(3) attest, on forms provided by the board, to having obtained 20 contact hours of continuing education in the advanced specialty area and role within the preceding biennium. Continuing education in the advanced practice specialty and role must meet requirements of Chapter 216 of this title (relating to Continuing Education). The 20 contact hours required for RN licensure may be met by the 20 hours required by this subsection; and

(4) submit the required fee, which is not refundable.

(b) Failure to renew the registered nurse license or to provide the required fee and documentation for maintaining authorization shall result in expiration of the board's authorization as an advanced practice nurse and limited prescriptive authority where applicable. The individual whose advanced practice authorization has expired may not practice as or use titles to imply that he/she is an advanced practice nurse.

#### **§ 221.9. Inactive Status**

(a) The advanced practice nurse may choose to change advanced practice nurse status to inactive by providing a written request for such change.

(b) Inactive advanced practice status means that the registered professional nurse may not practice in the advanced practice specialty and role and may not hold himself/herself out to be an advanced practice nurse by using titles which imply that he/she is an advanced practice nurse. The inactive advanced practice nurse may not utilize his/her limited prescriptive authority.

#### **§ 221.10. Reinstatement or Reactivation of Advanced Practice Nurse Status**

(a) To reinstate an authorization which has expired due to non-payment of renewal fees for registered nurse licensure and/or advanced practice authorization, the

advanced practice nurse shall meet the requirements as stated in § 221.8 of this chapter (relating to Maintaining Active Authorization as an Advanced Practice Nurse) and pay all required fees.

(b) If less than four years but more than two years have lapsed since completion of the advanced educational program and/or the applicant does not have 400 hours of current practice in the advanced role and specialty during the previous biennium, the advanced practice nurse shall meet the requirements as stated in § 221.8 of this chapter and pay all required fees. The applicant shall be required to demonstrate proof of completion of 400 hours of current practice as well as the continuing education requirement as outlined in Chapter 216 of this title (relating to Continuing Education). The 400 hours of current practice shall be obtained under the direct supervision of an advanced practice nurse authorized by the board in the same role and specialty or by a physician the same specialty.

(c) If more than four years have lapsed since completion of the advanced practice educational program and/or the applicant has not practiced in the advanced role during the previous four years, the applicant shall apply for reactivation and meet current requirements for maintaining authorization to practice under § 221.8 of this chapter and shall:

(1) hold a current, valid, unencumbered license as a registered nurse in the State of Texas or reside in any party state and hold a current, valid, unencumbered registered nurse license in that state; and

(2) successfully complete a refresher course or extensive orientation in the appropriate advanced practice specialty and role which includes a supervised clinical component by a qualified instructor/sponsor.

(A) The course(s)/orientation shall be of sufficient length to satisfy the learning needs of the inactive advanced practice nurse and to assure that he/she meets the minimum standard for safe, competent care. The course(s)/orientation shall cover the entire scope of the authorized advanced specialty area. Content shall include, but not be limited to that which is specified in board guidelines.

(B) The instructor/sponsor must provide written verification of satisfactory completion of the course/orientation on forms provided by the board and assurance that the individual has reviewed current practice-related information pertinent to his/her advanced specialty and role.

### **§ 221.11. Identification**

When providing advanced practice nursing care to patients, the advanced practice nurse shall wear clear identification which indicates the individual is a registered nurse with the appropriate advanced practice designation authorized by the board.

### **§ 221.12. Scope of Practice**

The advanced practice nurse provides a broad range of health services, the scope of which shall be based upon educational preparation, continued advanced practice experience and the accepted scope of professional practice of the particular specialty area. Advanced practice nurses practice in a variety of settings and, according to their practice specialty and role, they provide a broad range of health care services

to a variety of patient populations.

(1) The scope of practice of particular specialty areas shall be defined by national professional specialty organizations or advanced practice nursing organizations recognized by the Board. The advanced practice nurse may perform only those functions which are within that scope of practice and which are consistent with the Nursing Practice Act, Board rules, and other laws and regulations of the State of Texas.

(2) The advanced practice nurse's scope of practice shall be in addition to the scope of practice permitted a registered nurse and does not prohibit the advanced practice nurse from practicing in those areas deemed to be within the scope of practice of a registered nurse.

### **§ 221.13. Core Standards for Advanced Practice**

(a) The advanced practice nurse shall know and conform to the Texas Nursing Practice Act; current board rules, regulations, and standards of professional nursing; and all federal, state, and local laws, rules, and regulations affecting the advanced role and specialty area. When collaborating with other health care providers, the advanced practice nurse shall be accountable for knowledge of the statutes and rules relating to advanced practice nursing and function within the boundaries of the appropriate advanced practice category.

(b) The advanced practice nurse shall practice within the advanced specialty and role appropriate to his/her advanced educational preparation.

(c) The advanced practice nurse acts independently and/or in collaboration with the health team in the observation, assessment, diagnosis, intervention, evaluation, rehabilitation, care and counsel, and health teachings of persons who are ill, injured or infirm or experiencing changes in normal health processes; and in the promotion and maintenance of health or prevention of illness.

(d) When providing medical aspects of care, advanced practice nurses shall utilize mechanisms which provide authority for that care. These mechanisms may include, but are not limited to, Protocols or other written authorization. This shall not be construed as requiring authority for nursing aspects of care.

(1) Protocols or other written authorization shall promote the exercise of professional judgment by the advanced practice nurse commensurate with his/her education and experience. The degree of detail within protocols/policies/practice guidelines/clinical practice privileges may vary in relation to the complexity of the situations covered by such Protocols, the advanced specialty area of practice, the advanced educational preparation of the individual, and the experience level of the individual advanced practice nurse.

(2) Protocols or other written authorization:

(A) should be jointly developed by the advanced practice nurse and the appropriate physician(s),

(B) shall be signed by both the advanced practice nurse and the physician(s),

(C) shall be reviewed and re-signed at least annually,

(D) shall be maintained in the practice setting of the advanced practice nurse, and

(E) shall be made available as necessary to verify authority to provide medical aspects of care.

(e) The advanced practice nurse shall retain professional accountability for advanced practice nursing care.

### **§ 221.16. Provision of Anesthesia Services by Nurse Anesthetists in Outpatient Settings**

(a) Purpose. The purpose of these rules is to identify the roles, and responsibilities of certified registered nurse anesthetists authorized to provide anesthesia services in outpatient settings and to provide the minimum acceptable standards for the provision of anesthesia services in outpatient settings.

(1) On or after August 31, 2000 certified registered nurse anesthetists shall comply with subsections (b)(2)-(e) of this section in order to be authorized to provide general anesthesia, regional anesthesia, or monitored anesthesia care in outpatient settings. This requirement shall include certified registered nurse anesthetists administering any inhaled anesthetic agents, including, but not limited to, nitrous oxide, due to the significant variability in patient response to such drugs.

(2) Subsections (b)(2)-(e) of this section do not apply to the registered nurse anesthetist who practices in the following:

(A) an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used;

(B) an outpatient setting in which only anxiolytics and analgesics are used and only in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes;

(C) a licensed hospital, including an outpatient facility of the hospital that is separately located apart from the hospital;

(D) a licensed ambulatory surgical center;

(E) a clinic located on land recognized as tribal land by the federal government and maintained or operated by a federally recognized Indian tribe or tribal organization as listed by the United States secretary of the interior under [25 U.S.C. Section 479-1](#) or as listed under a successor federal statute or regulation

(F) a facility maintained or operated by a state or governmental entity;

(G) a clinic directly maintained or operated by the United States or by any of its departments, officers, or agencies; and

(H) an outpatient setting accredited by

(i) the Joint Commission on Accreditation of Healthcare Organizations relating to

ambulatory surgical centers;

(ii) the American Association for the Accreditation of Ambulatory Surgery Facilities,

(iii) the Accreditation Association for Ambulatory Health Care.

(b) Roles and Responsibilities

(1) Certified registered nurse anesthetists shall follow current, applicable standards and guidelines as put forth by the American Association of Nurse Anesthetists (AANA) and other relevant national standards regarding the practice of nurse anesthesia as adopted by the AANA or the Board.

(2) Certified registered nurse anesthetists shall comply with all building, fire, and safety codes. A two-way communication source not dependent on electrical current shall be available. Each location should have sufficient electrical outlets to satisfy anesthesia machine and monitoring equipment requirements, including clearly labeled outlets connected to an emergency power supply. Sites shall also have a secondary power source as appropriate for equipment in use in case of power failure.

(3) In an outpatient setting, where a physician has delegated to a certified registered nurse anesthetist the ordering of drugs and devices necessary for the nurse anesthetist to administer an anesthetic or an anesthesia-related service ordered by a physician, a certified registered nurse anesthetist may select, obtain and administer drugs, including determination of appropriate dosages, techniques and medical devices for their administration and in maintaining the patient in sound physiologic status. This order need not be drug-specific, dosage specific, or administration-technique specific. Pursuant to a physician's order for anesthesia or an anesthesia-related service, the certified registered nurse anesthetist may order anesthesia-related medications during perianesthesia periods in the preparation for or recovery from anesthesia. In providing anesthesia or an anesthesia-related service, the certified registered nurse anesthetist shall select, order, obtain and administer drugs which fall within categories of drugs generally utilized for anesthesia or anesthesia-related services and provide the concomitant care required to maintain the patient in sound physiologic status during those experiences.

(c) Standards

(1) The certified registered nurse anesthetist shall perform a pre-anesthetic assessment, counsel the patient, and prepare the patient for anesthesia per current AANA standards. Informed consent for the planned anesthetic intervention shall be obtained from the patient/legal guardian and maintained as part of the medical record. The consent must include explanation of the technique, expected results, and potential risks/complications. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained per indications and assessment findings.

(2) Physiologic monitoring of the patient shall be determined by the type of anesthesia and individual patient needs. Minimum monitoring shall include continuous monitoring of ventilation, oxygenation, and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry and EKG continuously and non-invasive blood pressure to be measured at least every five minutes. If general anesthesia is utilized, then an O<sub>2</sub> analyzer and end-tidal CO<sub>2</sub> analyzer must also be used. A means to measure temperature shall be readily available and utilized

for continuous monitoring when indicated per current AANA standards. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure by the certified registered nurse anesthetist. Postoperatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable by a licensed health care provider. Monitoring and observations shall be documented per current AANA standards. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, at a minimum, heart rate and breath sounds will be monitored on a continuous basis using a precordial stethoscope or similar device, and blood pressure measurements will be reestablished using a non-electrical blood pressure measuring device until electricity is restored.

(3) All anesthesia-related equipment and monitors shall be maintained to current operating room standards. All devices shall have regular service/maintenance checks at least annually or per manufacturer recommendations. Service/maintenance checks shall be performed by appropriately qualified biomedical personnel. Prior to the administration of anesthesia, all equipment/monitors shall be checked using the current FDA recommendations as a guideline. Records of equipment checks shall be maintained in a separate, dedicated log which must be made available upon request. Documentation of any criteria deemed to be substandard shall include a clear description of the problem and the intervention. If equipment is utilized despite the problem, documentation must clearly indicate that patient safety is not in jeopardy. All documentation relating to equipment shall be maintained for a period of time as determined by board guidelines.

(4) Each location must have emergency supplies immediately available. Supplies should include emergency drugs and equipment appropriate for the purpose of cardiopulmonary resuscitation. This must include a defibrillator, difficult airway equipment, and drugs and equipment necessary for the treatment of malignant hyperthermia if "triggering agents" associated with malignant hyperthermia are used or if the patient is at risk for malignant hyperthermia. Equipment shall be appropriately sized for the patient population being served. Resources for determining appropriate drug dosages shall be readily available. The emergency supplies shall be maintained and inspected by qualified personnel for presence and function of all appropriate equipment and drugs at intervals established by protocol to ensure that equipment is functional and present, drugs are not expired, and office personnel are familiar with equipment and supplies. Records of emergency supply checks shall be maintained in a separate, dedicated log and made available upon request. Records of emergency supply checks shall be maintained for a period of time as determined by board guidelines.

(5) Certified registered nurse anesthetists shall maintain current competency in advanced cardiac life support and must demonstrate proof of continued competency upon re-registration with the Board. Competency in pediatric advanced life support shall be maintained for those certified registered nurse anesthetists whose practice includes pediatric patients. Certified registered nurse anesthetists shall verify that at least one person in the setting other than the person performing the operative procedure maintains current competency in basic life support (BLS) at a minimum.

(6) Certified registered nurse anesthetists shall verify that the appropriate policies or procedures are in place. Policies, procedures, or protocols shall be evaluated and reviewed at least annually. Agreements with local emergency medical service (EMS)

shall be in place for purposes of transfer of patients to the hospital in case of an emergency. EMS agreements shall be evaluated and re-signed at least annually. Policies, procedures, and transfer agreements shall be kept on file in the setting where procedures are performed and shall be made available upon request. Policies or procedures must include, but are not limited to:

(A) Management of outpatient anesthesia-At a minimum, these must address:

(i) Patient selection criteria

(ii) Patients/providers with latex allergy

(iii) Pediatric drug dosage calculations, where applicable

(iv) ACLS algorithms

(v) Infection control

(vi) Documentation and tracking use of pharmaceuticals: including controlled substances, expired drugs and wasting of drugs

(vii) Discharge criteria

(B) Management of emergencies to include, but not be limited to:

(i) Cardiopulmonary emergencies

(ii) Fire

(iii) Bomb threat

(iv) Chemical spill

(v) Natural disasters

(vi) Power outage

(C) EMS response and transport--Delineation of responsibilities of the certified registered nurse anesthetist and person performing the procedure upon arrival of EMS personnel. This policy should be developed jointly with EMS personnel to allow for greater accuracy.

(D) Pursuant to § 217.11(16) of this title (relating to Standards of Professional Nursing Practice), adverse reactions/events, including but not limited to those resulting in a patient's death intraoperatively or within the immediate postoperative period shall be reported in writing to the Board and other applicable agencies within 15 days. Immediate postoperative period shall be defined as 72 hours.

(d) Registration.

(1) Beginning April 1, 2000, each certified registered nurse anesthetist who intends to provide anesthesia services in an outpatient setting must register with the board and submit the required registration fee, which is non-refundable. The information

provided on the registration form shall include, but not be limited to, the name and business address of each outpatient setting(s) and proof of current competency in advanced life support.

(2) Registration as an outpatient anesthesia provider must be renewed and the registration renewal fee paid on a biennial basis, at the time of registered nurse licensure renewal.

(e) Inspections and Advisory Opinions.

(1) The Board may conduct on-site inspections of outpatient settings, including inspections of the equipment owned or leased by a certified registered nurse anesthetist and of documents that relate to provision of anesthesia in an outpatient setting, for the purpose of enforcing compliance with the minimum standards. Inspections may be conducted as an audit to determine compliance with the minimum standards or in response to a complaint. The Board may contract with another state agency or qualified person to conduct these inspections. Unless it would jeopardize an ongoing investigation, the board shall provide the certified registered nurse anesthetist at least five business days' notice before conducting an on-site inspection.

(2) The Board may, at its discretion and on payment of a fee, conduct on-site inspections of outpatient settings in response to a request from a certified registered nurse anesthetist for an inspection and advisory opinion.

(A) The Board may require a certified registered nurse anesthetist to submit and comply with a corrective action plan to remedy or address current or potential deficiencies with the nurse anesthetist's provision of anesthesia in an outpatient setting.

(B) A certified registered nurse anesthetist who requests and relies on an advisory opinion of the board may use the opinion as mitigating evidence in an action or proceeding by the board to impose an administrative penalty or assess a monetary fine. The board shall take proof of reliance on an advisory opinion into consideration and mitigate the imposition of administrative penalties or the assessment of a monetary fine accordingly.

(C) An advisory opinion issued by the board is not binding on the board and the board except as provided for in subsection (a) of this section, may take any action in relation to the situation addressed by the advisory opinion that the Board considers appropriate.

### **§ 221.17. Enforcement**

(a) The board may conduct an audit to determine compliance with § 221.4 of this chapter (relating to Requirements for Full Authorization to Practice), § 221.8 of this chapter (relating to Maintaining Active Authorization as an Advanced Practice Nurse), and § 221.16 of this chapter (relating to Provision of Anesthesia Services by Nurse Anesthetists in Outpatient Settings).

(b) Any nurse who violates the rules set forth in this chapter shall be subject to disciplinary action and/or termination of the authorization by the board under [Texas Occupations Code, § 301.452](#).