

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF HEALTH SERVICES

(AGENCY)

Kenneth W. Kizer
AGENCY OFFICER WITH RULEMAKING AUTHORITY

For use of Office of Adm Law

Date: 30 December 1987

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Ron C. Wetherall, Chief, Office of Regulations		(916) 322-4990
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)		
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction		
3. a. Specify California Administrative Code title and sections as follows:		
Title <u>22</u>		
SECTIONS ADOPTED:		
SECTIONS AMENDED: <u>51237, 51326</u>		
SECTIONS REPEALED: <u>51158</u>		
b. The following sections listed in 3a contain modifications to the text originally made available to the public: <u>N/A</u>		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)		
☐ prior to the emergency adoption		
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?		
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____		
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?		
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____		
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)		
☐ Fair Political Practices Commission (Include FPCC approval stamp)	☐ Building Standards Commission (Attach approval)	
☐ State Fire Marshall (Attach approval)	☐ Department of Finance (Attach properly signed Std. 399)	
☐ Other _____ (SPECIFY AGENCY)		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOV CODE SEC. 11346.8(c))
January 9, 1987	December 30, 1987	N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)		
a. ☒ Effective 30th day after filing with the Secretary of State.		
b. ☐ Effective upon filing with the Secretary of State.		
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____		
d. ☐ Effective on _____ (Designate effective date <i>earlier than</i> 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)		
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.		
e. ☐ Effective on _____ (Designate effective date <i>later than</i> the normal effective date for the type of order filed.)		

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET
SACRAMENTO, CA 95814

(916) 322-4990

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF HEALTH
SERVICES REGARDING NURSE
ANESTHETISTS (R-34-85)

The Department of Health Services will hold a public hearing commencing at 10:00 a.m. on March 4, 1987, in the Auditorium at 714 P Street, Sacramento, CA, at which time any person may present statements or arguments orally or in writing relevant to the proposed administrative action summarized below. The action is proposed pursuant to the authority vested by Sections 14105, 14115.3 and 14124.5, Welfare and Institutions Code and is to implement, interpret or make specific Section 14115.3, Welfare and Institutions Code.

INFORMATIVE DIGEST:

Sections 51158, 51237 and 51326, Title 22, California Administrative Code (CAC), describes the conditions under which nurse anesthetist services may be reimbursed as Medi-Cal covered benefits.

Senate Bill (SB) 661 (Chapter 696, Statutes of 1983) adopted the Nurse Anesthetist Act, which was codified in Article 7, Chapter 6, Division 2 of the Business and Professions (B&P) Code. This legislation specifies in detail the conditions which must be met for a person to be certified as a nurse anesthetist in California.

As a result of the Nurse Anesthetist Act, much of the language contained in Sections 51158, 51237 and 51326, Title 22, CAC, is now inconsistent, unnecessary, obsolete, or redundant. Accordingly, Section 51158 is being repealed and Sections 51237 and 51326 are being amended to incorporate by reference the licensing and certification requirements of the Nurse Anesthetist Act, as outlined below:

Section 51158

Existing regulation Title 22, CAC, Section 51158 defines a nurse anesthetist as a registered nurse who has completed a course of training in a School of Anesthesia accredited by the American Association of Nurse Anesthetists.

This regulation is being repealed because it duplicates Section 2826 of the B&P Code, which requires completion of the required course as a prerequisite for certification as a nurse anesthetist.

Section 51237

Existing regulation Title 22, CAC, Section 51237 requires nurse anesthetists to be licensed as registered nurses by the California Board of Registered Nursing or similarly registered or licensed by a

comparable agency in the state in which he/she practices, and certified by the American Association of Nurse Anesthetists.

Under Article 7, Chapter 6, Division 2 of the B&P Code, it is unlawful for any person to hold himself or herself out as a nurse anesthetist without having been certified by the Board of Registered Nursing. Section 51237 is necessary to make clear that there are no additional licensing and certification requirements for nurse anesthetists to participate in the Medi-Cal program.

Section 51326

Existing regulation Title 22, CAC, Section 51326 allows for coverage of nurse anesthetists' services only when administered under the immediate direction, supervision and in the presence of a licensed physician, podiatrist, or dentist who is attending the patient, or a physician who is authorized by the attending physician to administer or supervise the administration of such anesthesia or analgesia. Existing regulation also precludes nurse anesthetists from administering regional anesthesia. This amendment would delete the direct supervision requirement and allow nurse anesthetists to administer the types of anesthesia within their scope of licensure.

Specifically, these regulation changes: Repeal Section 51158 and amend Sections 51237 and 51326, Title 22, California Administrative Code.

FISCAL IMPACT ESTIMATE:

- A. Fiscal Effect on Local Government: No effect.
- B. Fiscal Effect on State Government: No adverse effect.
- C. Fiscal Effect on Federal Funding of State Programs: No adverse effect.
- D. Fiscal Effect on Private Persons or Businesses Directly Affected: Anesthesiologists may be affected to the extent that some services they now provide will henceforth be performed by nurse anesthetists. Further, since anesthesiologists would no longer be required to directly supervise nurse anesthetists, the supervision component (roughly ten percent of the reimbursement level for the service) should be eliminated thus resulting in some program savings. There will be no adverse effect on private persons.
- E. Fiscal Effect on Small Businesses: No adverse effect.

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts.

The Department has also determined that the proposed regulations would not have a significant adverse economic impact on small businesses.

- OF HEALTH -

The Department of Health Services has prepared and has available for public review an initial Statement of Reasons for the proposed action, all the information upon which the proposal is based, and the express terms of the proposed action. A copy of the initial Statement of Reasons and a copy of the express terms of the proposed action are available upon request by writing to the Office of Regulations, Department of Health Services, 714 P Street, Sacramento, CA 95814, which address will also be the location of public records, including reports, documentation and other materials related to the proposed action.

The Department of Health Services, upon its own motion or at the instance of any interested person, may, after the above noticed public hearing, take the proposed action without further notice. The full text of any regulation which is changed or modified from the express terms of the proposed action will be available for review at the Department's Office of Regulations at least 15 days prior to the date on which the Department takes the proposed action.

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the proposed action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

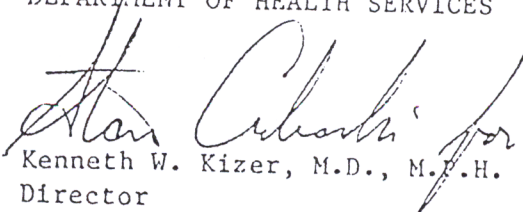
Any written statements or arguments must be received by the Department's Office of Regulations at the address noted above by 5:00 p.m. on March 4, 1987, which is hereby designated as the close of the written comment period. It is requested but not required that written statements or arguments be submitted in duplicate.

Inquiries concerning the proposed administrative action may be directed to Ron C. Wetherall, Chief, Office of Regulations, at (916) 322-4990.

DEPARTMENT OF HEALTH SERVICES

R-34-85

Dated: December 22, 1986


Kenneth W. Kizer, M.D., M.P.H.
Director

STATEMENT OF REASONS

Repeal 51158. Nurse Anesthetist.

Section 51158 is being repealed because it duplicates Section 2826 of the Business and Professions Code.

Amend 51237. Nurse Anesthetist.

This regulation, as now written, is inconsistent with requirements for nurse anesthetists as set forth in the Business and Professions Code. The regulation is being amended to be consistent with those requirements and to clarify that there are no additional requirements for nurse anesthetists to participate in the Medi-Cal program.

Amend 51326. Nurse Anesthetist Services.

This regulation, as now written, does not permit nurse anesthetists to administer regional anesthetics, nor does it permit the administration of anesthesia except under direct supervision, and is therefore inconsistent with the Business and Professions Code.

The suggested change in wording is needed to clarify that the Department of Health Services does not impose additional qualifications on, nor does it limit the practice of nurse anesthetists beyond that specified in the Business and Professions Code.

The Department has determined that these regulations would not impose a mandate on local agencies or school districts.

The Department has also determined that the proposed regulations would not have an impact on small businesses.

51158. Nurse Anesthetist.

Nurse anesthetist means a registered nurse who has completed a course of training in a School of Anesthesia accredited by the American Association of Nurse Anesthetists.

Authority cited: Sections 14105, 14115.3 and 14124.5 Welfare and Institutions Code.

Reference: Section 14115.3 Welfare and Institutions Code.

51237. Nurse Anesthetist.

A nurse anesthetist shall be licensed as a registered nurse by the California Board of Registered Nursing or similarly registered or licensed by a comparable agency in the state in which he practices and certified by the American Association of Nurse Anesthetists who provides services under the Medi-Cal program shall meet the requirements of Article 7, Chapter 6, Division 2 of the Business and Professions Code.

Authority cited: Sections 14105, 14115.3 and 14124.5, Welfare and Institutions Code.

Reference: Section 14115.3 Welfare and Institutions Code.

51326. Nurse Anesthetist Services.

(a) Nurse anesthetist services are covered subject to all of the following conditions:

(1) Anesthesia shall be administered only under the immediate direction, supervision and in the presence of a licensed physician, podiatrist, or dentist who is attending the patient, or a physician, who is authorized by the attending practitioner to administer, or supervise the administration of, such anesthesia or analgesia.

(2) Nurse anesthetists shall administer only general anesthesia by inhalation or intravenous methods.

Nurse anesthetist services are covered when provided by a nurse anesthetist within the scope of his or her licensure.

Authority cited: Sections 14105, 14115.3 and 14124.5, Welfare and Institutions Code.

Reference: Section 14115.3, Welfare and Institutions Code.