



PHIL BRYANT
GOVERNOR

September 3, 2019

Andy Taggart, Esquire
Taggart, Rimes & Graham, PLLC
100 Renaissance Building
1022 Highland Colony Parkway, Suite 101
Ridgeland, MS 39157

Dear Andy:

I write to notify you that after careful consideration of the nearly one thousand pieces of correspondence received by my office and review of the issue with legal counsel, I am denying your request to send a letter to CMS on behalf of the State of Mississippi to “opt out” from the federal supervision requirement of CRNAs under 42 CFR 482.52 (hospitals), 42 CFR 485.639 (critical access hospitals) and 42 CFR 416.42 (ambulatory surgical centers).

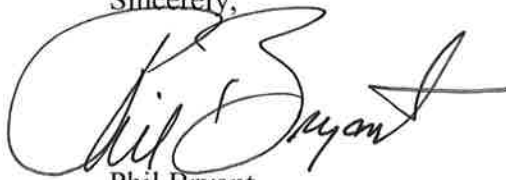
While reasonable minds can differ, I do not believe that the requested “opt-out” is consistent with current state law. Specifically, Miss. Code Ann. § 73-15-20(3) mandates that CRNAs “shall” practice “within a collaborative/consultative relationship with a . . . physician with an unrestricted license to practice. . . medicine in this state and within an established protocol or practice guidelines. . . filed with the board. . .” No authority has been provided to my office to support the position that the federal “supervision” requirement is a higher level of oversight than the “collaborative/consultation relationship” mandated by Miss. Code Ann. § 73-15-20(3). In the absence of such authority, the plain meaning of “collaborative/consultative relationship” would appear to be coextensive with “supervision.”

Moreover, even if the requested “opt-out” is consistent with current state law, it would not appear to be in the best interests of the citizens of Mississippi. Pursuant to federal guidance, I have sought the “consultation” of various medical licensing boards and associations in connection with your request. It is the unanimous view of the Mississippi State Board of Medical Licensure, Mississippi Osteopathic Medical Association, American Medical Association, American Osteopathic Association, Mississippi State Medical Association, Mississippi Society of Anesthesiologists, American Society of Anesthesiologists, American Psychiatric Association, Mississippi Academy of Family Physicians, and Mississippi Academy of Eye Physicians and Surgeons that the requested “opt out” is not in the best interests of the citizens of Mississippi. Specifically, the members of the Mississippi State Board of Medical Licensure are unanimous in their “opinion that the safety and welfare of the citizens of Mississippi would be jeopardized if [I] choose to ‘opt out’.” Further, the American Medical Association is of the view that “Maintaining physician supervision or collaboration of nurse anesthetists is critical in maintaining patient safety.” Finally, the American Osteopathic

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Association and Mississippi Osteopathic Medical Association have urged me “to protect the safety of Mississippi’s patients and not ‘opt-out’ of the physician supervision requirements of CRNAs.” While I do not question the dedication, competency or level of skill and professionalism exhibited by the CRNAs practicing in Mississippi, prudence dictates that I defer to the judgment and experience of the expert physician boards and associations on matters of public health and safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Bryant". The signature is fluid and cursive, with a large initial "P" and "B".

Phil Bryant
GOVERNOR

cc: Kenneth Cleveland, M.D.
Phyllis Johnson