



STATE LINES – Component Society News

Rhode Island Society of Anesthesiologists

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Reserved for State Component Society Specific Subtitle of Main Newsletter Header or Title

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Mississippi Governor Denies Nurse Anesthetist Supervision Opt-Out Request

On September 3, 2019, Mississippi Governor Phil Bryant (R) protected Mississippi patient safety and denied a request that the State of Mississippi “opt-out” of the federal supervision requirements for nurse anesthetists. The governor agreed with numerous medical organizations that opting-out would not be in the best interests of patient safety and would be inconsistent with state law. The American Society of Anesthesiologists (ASA) worked closely with the Mississippi Society of Anesthesiologists and the Mississippi State Medical Association to strongly urge the governor to protect Mississippi patients and oppose an opt-out in Mississippi.



In July, Governor Bryant issued a fourteen day comment period to the state's boards of medicine and nursing seeking input on whether to opt-out. The [September 3 letter](#) referenced the “nearly one thousand pieces of correspondence received” on the issue. The Mississippi State Board of Medical Licensure, American Society of Anesthesiologists, Mississippi Society of Anesthesiologists, Mississippi State Medical Association, American College of Surgeons, American College of Emergency Physicians, American Psychiatric Association, American Society of Plastic Surgeons, American Medical Association, American Osteopathic Associations, and many other organizations and members of the public sent letters of opposition to the governor on this critical patient safety matter. ASA also thanks Mississippi State Medical Association Executive Director and ASA member Claude Brunson, M.D., FASA for his leadership in coordinating medicine's response.

Governor Bryant's letter:

- Highlighted that the opt-out would not be consistent with existing state law and would not be in the best interests of the citizens of Mississippi.
- “Deferred to the judgment and experience of the expert physician boards and associations on matters of public health and safety.”
- Stated that the plain meaning of “collaborative/consultative relationship” would appear to be coextensive with supervision.”
- Noted that multitude of boards and physician organizations unanimously opposed opt-out on the basis that it would not be in the best interest of citizens.

45 states plus the District of Columbia require some level of physician involvement during anesthesia care. In 2001, the Bush Administration published a final rule regarding the Medicare and Medicaid anesthesia Conditions of Participation (COP) for hospitals, critical access hospitals (CAHs) and ambulatory surgical centers (ASCs). The rule retains the current requirement for physician supervision of nurse anesthetists, but allows state governors to opt out of this requirement under certain circumstances. Physician anesthesiologists strongly oppose gubernatorial opt-outs as a matter of patient safety. Removing physician supervision from anesthesia in surgery lowers the standard of care and jeopardizes patients' lives. The World Health Organization's (WHO) standards for anesthesia “highly recommend” that anesthesia should be provided, led, or overseen by an anesthesiologist.

ASA applauds Governor Bryant for his protection of Mississippi patients and MSA's members' impressive grassroots efforts on this patient safety initiative.

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Texas AG Affirms: Texas is Not an Independent Practice State

On September 5, 2019, Texas Attorney General Ken Paxton issued a written opinion stating nurse anesthetists do not have independent practice authority in Texas.

The Opinion ([Attorney General Opinion KP-0266](#)) addressed regulatory authority over the administration of anesthesia when delegated by a physician to a nurse anesthetist. Attorney general opinions provide written interpretations of existing law.

The Opinion addresses the following questions from the Texas Medical Board:

- Is providing anesthesia the practice of medicine?
- Does the Texas Medical Board possess regulatory authority over a physician's decision to delegate the providing and administration of anesthesia to a certified registered nurse anesthetist?
- Does a certified registered nurse anesthetist have independent authority to administer anesthesia without delegation by a physician?

Under Texas law, nurse anesthetists practice pursuant to written protocols or authorization developed with a physician when providing medical aspects of care. A physician may delegate to a nurse anesthetist “the ordering of drugs and devices necessary for the nurse anesthetist to administer an anesthetic or an anesthesia-related service ordered by the physician.” This includes selecting, obtaining and administering such drugs.

Addressing whether providing anesthesia constitutes the practice of medicine, the Attorney General recognized that overlapping can occur between the scopes of practice of regulated professions. When nurse anesthetists administer anesthesia under the delegation of a licensed physician, the act would fall within the practice of nursing and not medicine. The Opinion affirmed that the medical board has authority over a physician's decision to delegate the administration of anesthesia to a nurse anesthetist. Finally, the Opinion addressed whether a nurse anesthetist could administer anesthesia without delegation by a physician. Texas law includes within “professional nursing” the administration of anesthesia if delegated by a physician. Texas law does not include within nursing scope of practice “medical diagnosis or the prescription of therapeutic or corrective measures.” As such, the Opinion states nurse anesthetists lack authority to administer anesthesia unless delegated by a physician.

The Opinion supports Texas Medical Board guidance on the question of whether nurse anesthetists are authorized to practice independent of physician delegation and supervision. [According to the medical board](#): “No, neither the Medical Practice Act, nor the Nursing Practice Act, authorize independent practice by a CRNA. Since the selection and administration of anesthesia is a medical act, CRNAs must be properly delegated this act and practice under the supervision of a physician. CRNA's administering anesthesia without proper delegation and supervision from a physician



would be liable for the unlicensed practice of medicine.” See also: [AG Opinion Reaffirms No Independent Practice of Anesthesia by CRNAs in Texas](#).

ASA applauds Attorney General Paxton’s guidance on this important subject. In 1999, then-Attorney General John Cornyn issued an Opinion that addressed similar questions submitted from the Texas Nursing Board ([Attorney General Opinion JC-0117](#)). While the laws governing physician delegation of anesthesia administration to nurse anesthetists have not changed significantly, lawmakers, the public, and lawmakers in other states considering testimony from Texas nurse anesthetists benefit from a current review of the physician involvement requirements which unequivocally state nurse anesthetists do not and cannot practice independently in the state of Texas.

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ASA Applauds New Hampshire Medical Board’s Prohibition of Medical Title Manipulation

The American Society of Anesthesiologists (ASA) commends the New Hampshire Board of Medicine’s unanimous vote to prohibit the use of the term “anesthesiologist” unless licensed by the board of medicine.

This patient safety decision comes shortly after lawmakers in Florida prefiled legislation to similarly prohibit the manipulation of the title anesthesiologist, which confuses patients and the public. The New Hampshire Society of Anesthesiologists and the New Hampshire Medical Society worked diligently to protect the public from New Hampshire nurse anesthetists using misleading and manipulated medical titles. “Patients deserve to know the medical education and licensure of the professional providing their care,” said ASA President Mary Dale Peterson, M.D., MSHCA, FACHE, FASA. “ASA adamantly opposes any effort to confuse or mislead patients through the manipulation of medical titles. We are pleased the New Hampshire Board of Medicine put patients ahead of the political maneuvering of some individuals.”

Earlier this year in New Hampshire, the Board of Nursing released a position statement authorizing use of the optional descriptors “nurse anesthesiologist” and “certified registered nurse anesthesiologist.” The board action occurred without any formal rules process or public comment period. Since that time, the New Hampshire Society of Anesthesiologists, New Hampshire Medical Society, ASA, and American Medical Association have strongly opposed the nursing board’s action and urged it to rescind its inappropriate position statement.

ASA congratulates the New Hampshire Board of Medicine on its efforts to protect patients and the public.

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Texas Medical Board Proposes New Delegating Physician Rule Based on Recent AG Opinion

The Texas Medical Board (TMB) recently proposed [regulations](#) clarifying language relating to the roles and responsibilities of the delegating physician and nurse anesthetist. Interested members [may submit comments](#) on this important effort to ensure patient safety, **by December 8, 2019**. This clarifying language is a direct result of the recent [Attorney General opinion](#) on this topic. In his September 5 opinion, Attorney General Ken Paxton made it clear that nurse anesthetists in Texas do not have independent practice authority and as such, nurse anesthetists lack authority to administer anesthesia unless delegated by a physician. Click [here](#) to view ASA's Washington Alert on this issue.

To further clarify regulatory language based on this opinion, the Texas Medical Board proposed regulations which include the following important changes:

- The proposed rule states nurse anesthetists do not possess independent authority to administer anesthesia without physician delegation.
- The proposed rule prohibits a physician from delegating their medical authority to a non-physician, if such delegation would authorize the non-physician to exercise independent medical judgment or treatment.
- The proposed rule clarifies that physician supervision is required for procedures and ordering of drugs and devices delegated to nurse anesthetists.
- The proposed rule states if a physician and nurse anesthetist have a prescriptive authority agreement, the terms and conditions of that agreement will control the provision of the delegated anesthesia or anesthesia-related services.
- The proposed rule states that the delegating physician is required to make an assessment of the patient to determine that delegation of anesthesia care can be done properly and safely and that such delegation is a reasonable, sound medical judgment.

A full draft of the proposed rule may be viewed [here](#). The deadline for the Texas Medical Board to receive comments on this language is **December 8, 2019**.

Those members wishing to ensure strong patient safety focused language in Texas are encouraged to submit comments to the TMB in support of these changes. It is vital that physician leaders on the Medical Board hear from other physicians, colleagues, family and friends in support of these important changes that seek to protect patients. [Please click here to send a comment](#).

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ASA Urges Idaho Board of Nursing to Condemn Medical Title Manipulation

On October 9, the American Society of Anesthesiologists (ASA) strongly urged the Idaho Board of Nursing to demonstrate its commitment to patient safety and deny the use of the descriptor or title “nurse anesthesiologist.” The Idaho Board of Nursing released its [October 10-11 meeting agenda](#) on October 8, which included an action item entitled “certified nurse anesthesiologist” rule / position statement.

ASA [submitted a formal comment](#) on this proposal, which called on health professional boards to explicitly condemn this type of deliberate attempt to confuse patients. ASA also encouraged the Idaho Board of Nursing to immediately adopt a position statement urging nurse anesthetists to use only the descriptors that align with state statute, their nursing license, education and training, and national board certification such as “nurse anesthetist” or “certified registered nurse anesthetist.”

ASA’s letter to the Idaho Board of Nursing included the following patient-focused concerns with the term/descriptor:

- No federal or state statute or regulation recognizes nurse anesthetists as anesthesiologists or authorizes the use of the title “nurse anesthesiologist.”
- These misleading terms will confuse patients and lead to individuals arguing their consent to care was inappropriately obtained through the use or manipulation of medical titles.
- These terms are confusing to the public and the patients that physician anesthesiologists serve in operating rooms and other settings throughout the country.

An anesthesiologist is universally understood to be a physician. Physician anesthesiologists receive 12 to 14 years of education, including medical school, and 12,000 to 16,000 hours of clinical training to specialize in anesthesia care and pain control with the necessary knowledge to understand and treat the entire human body. Nurse anesthetists, on the other hand, receive only half of this education and training and one-fifth of the clinical hours. Nurse anesthetists are nationally certified as Certified Registered Nurse Anesthetists (CRNA) by the National Board of Certification and Recertification for Nurse Anesthetists and are licensed by states as such.

ASA is supportive of the anesthesia and sedation services provided by nurse anesthetists working within the [Anesthesia Care Team](#) that are commensurate with their nursing education and training. To learn more about physician anesthesiologists and patient-centered care visit <https://www.asahq.org/whensecondscount/>.

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Governor Appoints ASA Member Perrin Jones, M.D. to North Carolina House of Representatives

On September 25, Governor Roy Cooper (D) appointed ASA member Perrin Jones, M.D. to the North Carolina House of Representatives. Rep. Jones' appointment followed his September 23 election by the North Carolina Pitt County Republican Party Executive Committee to fill a vacancy in the North Carolina House of Representatives. The position was vacated by U.S. Representative Greg Murphy, a urologist, when he was elected to the 3rd Congressional District in a recent special election. Under North Carolina law, the Governor was required now to appoint Dr. Jones to Rep. Murphy's former 9th District North Carolina House seat.

Dr. Jones is a past president of the North Carolina Society of Anesthesiologists. A longtime member of ASA, he presently serves as an Alternate Delegate to the House of Delegates. Dr. Jones is a graduate of the Bowman Gray School of Medicine at Wake Forest University. Dr. Jones completed his anesthesiology residency at Dartmouth-Hitchcock Medical Center.

Congratulations to Dr. Jones!

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Nova Southeastern University Announces New AA Program

Nova Southeastern University (NSU) has announced it will open a third Anesthesiologist Assistant training program in Jacksonville, Florida in May 2020. NSU has had a presence in the Jacksonville area for more than 40 years, and since 2003, has developed a Regional Campus there. NSU's new AA program will consist of a \$3 million state-of-the-art facility, including two fully functioning operating rooms with high fidelity simulation, an extensive regional anesthesia laboratory, a preoperative/postoperative lab, and 2 exam rooms.

Applications for admission will be accepted beginning October, 2019, for the 30-seat class.

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ASA Launches Continuing Education Product for Anesthesiologist Assistants

With assistance from the National Commission for Certification of Anesthesiologist Assistants (NCCAA) and the American Academy of Anesthesiologist Assistants® (AAAA), ASA has launched a new continuing education program specifically for certified anesthesiologist assistants (CAAs).

Called ACE-CAA, the new program is composed of carefully curated content from ASA's best-selling ACE program, which focuses on established knowledge in anesthesiology. ACE-CAA content has been selected for its relevance to the CAA profession, and reviews an extensive scope of topics such as anesthesia techniques, obstetrics, hematology, pharmacology, trauma and patient safety.

Available online and on ASA's My Learning app, the program provides CAAs with up to 40 continuing education credits. For more information about the program, please visit [ACE-CAA](#).

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