Current Legislative and Regulatory Issues Being Faced by CRNAs

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Safe and Effective Anesthesia Care

Resources

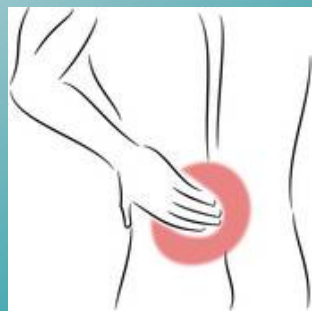
- www.aana.com
  - Member-only portion of the website
    - State Government Affairs
      - State Update
      - 50 State Requirements
      - Issues and Information
      - Toolkits

Interventional Pain Management

Safe and Effective Anesthesia Care

Interventional Pain Management

- According to a landmark IOM report from 2011, approximately 100 million U.S. adults suffer from chronic pain, at an annual economic cost ranging from $560 to $635 billion.
- Pain is a universal experience.
- “Effective pain management is a moral imperative, a professional responsibility, and the duty of people in the healing professions.”



Interventional Pain Management

- **AANA Position: Pain management is within CRNA professional scope.**
- **Per AANA Scope of Nurse Anesthesia Practice and Position Statements 2.6 and 2.11.**
- **State law governs what CRNAs may do in particular state.**

Interventional Pain Management

- **ASA Position: Interventional pain management is exclusively the practice of medicine.**
- **On a national level, state legislative, regulatory and litigation activities concerning CRNA pain management practice are increasing.**
- **Recent CMS rule making concerning pain management**

What Medicare Ruled on Pain Care

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 414, 415, 421, 423, 425, 486, and 495

[CMS-1590-FC]

12. Section 410.69 is amended in paragraph (b) by adding the definition of "Anesthesia and related care" in alphabetical order to read as follows:

§410.69 Services of a certified registered nurse anesthetist or an anesthesiologist's assistant:

Basic rule and definitions.

(b) * * *

Anesthesia and related care means those services that a certified registered nurse anesthetist is legally authorized to perform in the state in which the services are furnished.

What Does the Pain Care Rule Say

- Medicare will cover services within CRNA scope of practice in a state
- “The primary responsibility for establishing the scope of services CRNAs are sufficiently trained and, thus, should be authorized to furnish, resides with the states.”

Where They Stood

For CRNA Pain Care

- AARP
- American Hospital Association and select State Hospital Associations
- National Rural Health Association
- Nursing Associations

Opposed to CRNA Pain Care

- AMA
- "ASA Rebukes CMS Rule for Jeopardizing Patient Safety and Quality Health Care"

Source: Comments at www.regulations.gov, and http://www.asahq.org/For-Members/Advocacy/Washington-Alerts/ASA-Rebukes-CMS-Rule-for-Jeopardizing-Patient-Safety-and-Quality-Health-Care.aspx

Interventional Pain Management

- Tennessee
  - A bill passed which requires on-site supervision of CRNAs performing certain interventional pain management procedures in unlicensed facilities.
  - FTC commented on this bill.

Interventional Pain Management

- **Missouri**
  - **Missouri Supreme Court ruling favorable to CRNA pain management practice.**
  - **Restrictive interventional pain management bill passed in 2012.**
  - **FTC commented on this bill.**

Interventional Pain Management

- Iowa
  - Long history of statutory, regulatory and litigation battles.
  - Restrictive interventional pain management bill introduced in 2012 and 2013.
  - Iowa Supreme Court recently affirmed that CRNAs can supervise fluoroscopy.

Interventional Pain Management

- **Illinois**
  - **Restrictive interventional pain management bill introduced in 2011 and 2013.**
  - **FTC commented on the 2013 bill.**

Interventional Pain Management

- **In recent years the Federal Trade Commission (FTC) has expressed significant concern about overbroad state proposals that would prohibit or unduly restrict CRNA pain management practice.**

- **FTC indicated in 2010 (Alabama), 2011 (Tennessee), 2012 (Missouri), and 2013 (Illinois) that restrictive pain management bills would likely, if adopted, raise prices and reduce availability to CRNA services.**

Interventional Pain Management

- Concerns voiced by the FTC
  - Increased prices
  - Reduced access to care and reduced consumer choice
  - Reduced innovation in health care delivery

- FTC letters help in advocacy efforts but are no replacement for grassroots lobbying.

Pain Management Clinics

- **Legislation introduced and passed in several states in response to the prescription painkiller epidemic.**

- **Legislation targeted at prescription drug abuse may come in many forms.**

Pain Management Clinics

- **Bills to regulate pain management clinics or “pill mills” on the increase.**

- **CRNAs supportive of regulation so long as there are no limitations on CRNA scope of practice.**

Anesthesiologist Assistants

Safe and Effective Anesthesia Care

Anesthesiologist Assistants

- ASA has supported AAs after years of neutrality.
- The ASA sponsors the Commission on Accreditation of Allied Health Education Programs (CAAHEP) Accreditation Review Committee on Education for the Anesthesiologist Assistant (ARC-AA).

Anesthesiologist Assistants

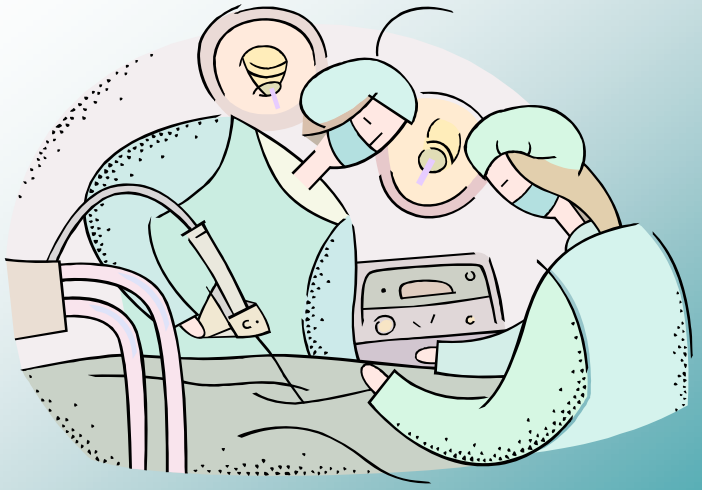
- AANA has not taken an official position on AAs
  - SGA works closely with state associations on addressing AA issues
- Only approximately 1,800 AAs, but a long-term threat.
- 8 current programs, 2 new programs
- Explicit recognition in more states.
  - Explicit recognition of AA practice in 12 states and the District of Columbia (includes states that authorize PA/AA practice)

AA Education

- Admission Criteria:
  - Baccalaureate degree in the arts or sciences from an accredited institution.
- CAAHEP Standards
  - No minimum hours for core courses
  - Limited scope of training
  - Masters degree

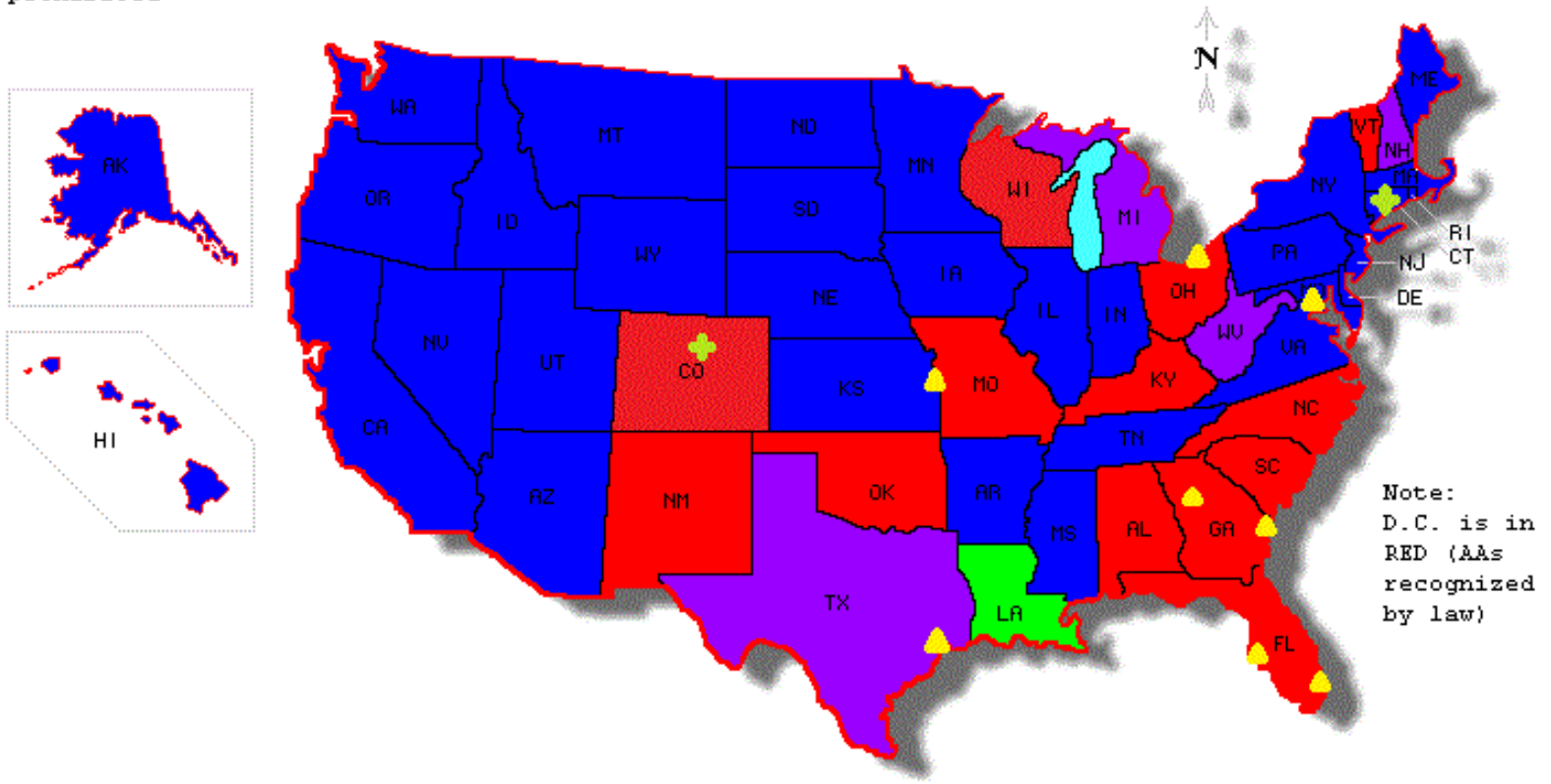
AA Practice

- Practice Setting
- Salary
- Safety Record



AA Practice in the US

- Currently no AAs
- AAs recognized in State Law
- AAs under delegation
- AAs prohibited



Note: D.C. is in RED (AAs recognized by law)

Delegation states are according to the American Academy of Anesthesiologist Assistants, and AA authority to practice in these states has not been independently verified by the AANA.

indicates current AA programs

indicates approved AA programs not yet operating

Anesthesiologist Assistants

Where are AAs Authorized to Practice (includes states that authorize PA/AA practice)?

Law	Regulations	Licensure	Certification
Alabama	Alabama	Alabama	
Colorado		Colorado	
DC	DC	DC	
Florida*	Florida	Florida	
	Georgia	Georgia	
Kentucky**	Kentucky		Kentucky
Missouri	Missouri	Missouri	

Anesthesiologist Assistants

Where are AAs Authorized to Practice (cont'd)?

Law	Regulations	Licensure	Certification
New Mexico	New Mexico	New Mexico	
North Carolina	North Carolina	North Carolina	
Ohio	Ohio		Ohio
Oklahoma	Oklahoma		
South Carolina		South Carolina	
Vermont	Vermont		Vermont
Wisconsin		Wisconsin	

AA Resources

- Tool Kit
- Fact Sheet Regarding Anesthesiologist Assistants
- CRNA-AA Comparison Table
- SGA Staff

2011	2012	2013
Nevada – bill failed to pass	Colorado – passed with amendments	Indiana – passed in Senate and House with amendments, but as vetoed by the governor
New Mexico – bill failed to pass	Kentucky – bill failed to pass	Kentucky – bill failed to pass
Texas – bill failed to pass	New York – bill failed to pass	New Mexico – 2 bills, one failed to pass, one passed as negotiated by NMANA
Utah – bill failed to pass	Wisconsin – passed with amendments	New York – TBD (2 year session)
		Oregon – failed to pass
		Texas – bill failed to pass
		Utah – bill failed to pass
		California - TBD
		Michigan - TBD

APRN Consensus Model, Supervision and Prescriptive Authority

Safe and Effective Anesthesia Care

APRN Consensus Model

- **Adopted in 2008**
- **Endorsed by 48 nursing organizations, including:**
  - **AANA**
  - **Council on Accreditation of Nurse Anesthesia Educational Programs (COA)**
  - **National Board of Certification & Recertification for Nurse Anesthetists (NBCRNA)**

APRN Consensus Model

Elements:

- **Licensure**
- **Accreditation**
- **Certification**
- **Education**

APRN Consensus Model

Licensure:

- Elements that may be implemented by boards of nursing in state law or rules
- Goal is increased clarity and uniformity of APRN regulation

APRN Consensus Model

- **The NCSBN adopted model act and rule language that is consistent with the consensus model**

APRN Consensus Model

- **Most states will implement aspects of the model incrementally**
- **State implementation does <u>not require</u> use of the NCSBN language**

APRN Consensus Model

- **APRN Consensus Model at http://www.aacn.nche.edu/Education/pdf/APRNReport.pdf**
- **NCSBN model act and rules at https://www.ncsbn.org/APRN_leg_language_approved_8_08.pdf**

Licensure Elements

- **Umbrella title and license:**
  - **Advanced Practice Registered Nurse (APRN) title**
  - **APRN license, in addition to RN license**

APRN Consensus Model

Licensure elements:

- Elements that may be implemented by boards of nursing in state law or rules
- Goal is increased clarity and uniformity of APRN regulation

APRN Consensus Model

Licensure elements include:

- **APRN title and license**
- **No restrictive physician involvement (e.g., supervision, collaboration)**
- **Prescriptive authority**

APRN Consensus Model

States may implement elements:

- **Incrementally (may be more feasible politically)**
- **Multiple aspects in one bill**

APRN Title/License

Arkansas – SB 161 enacted (2013)

- **Title and license changed from APN to APRN**

Prescriptive Authority

Independent prescriptive authority

- **No physician involvement**
- **Includes controlled substance schedules II-V (within the APRN's scope of practice)**
- **Granted with the APRN license (without separate application)**

Prescriptive Authority

Oregon – SB 136 enacted (2013)

- Includes controlled substance schedules II-V
- No restrictive physician involvement
- Supply limit: 10 days, with no refills

Prescriptive Authority

Oregon – SB 136

- **Educational requirements:**
  - 45 contact hours in pharmacology
  - Clinical education in pharmacotherapeutics, including management of patients

Prescriptive Authority

Oregon prescriptive authority (SB 136)

- **Not granted with or required for licensure (separate application process)**
- **Protective language: Does not affect authority of a CRNA "to select, order and administer controlled substances in connection with the delivery of anesthesia services."**

Supervision

Goal is for APRNs to be independent practitioners

- **No regulatory requirements for collaboration, direction or supervision**

Supervision

Rhode Island - HB 5656/SB614 enacted (2013)

- **First state to remove supervision of CRNAs from nursing law/rules since 1999!**

Rhode Island Law

Multiple consensus model elements:

- **Title change: APN to APRN**
- **APRN license**
- **CRNAs: Supervision changed to collaboration**
- **Other APRNs: Removal of collaboration and guidelines**

RI CRNA Scope

- **“Under supervision of” removed**
- **CRNAs now practice “in collaboration with anesthesiologists, licensed physicians, or licensed dentists….”**

RI CRNA Scope – New

Explicit authority to:

- **Order drugs and medications**
- **Order/evaluate labs and diagnostic tests**
- **Perform point of care testing**
- **Order/evaluate radiographic imaging studies**

Consensus Model Efforts

- **Efforts to implement significant aspects of the APRN consensus model look a lot like other scope of practice battles at the state level**
- **Some you win, some you lose**

State Implementation

How can your state improve its chances for success?

- **Be prepared!!**

State Implementation Considerations

- Assess current laws and regulations
- Identify provisions that need to be changed
- Determine feasibility
- Determine a course of action

State Implementation Considerations

- **Other APRN groups may push to introduce legislation – are they prepared?**
- **If the bill will affect CRNAs, you must be at the table**

State Implementation Considerations

- **AANA State Government Affairs Division is available to consult with State Associations on legislative and regulatory efforts**

AANA Resources

Chart of state implementation of APRN consensus model for CRNAs at:

www.aana.com/stategovtaffairs

- **Under "Additional Issues and Information – Consensus Model for APRN Regulation"**

AANA Resources

- State chart of APRN title, license:

  www.aana.com/stategovtaffairs
- See “State-by-State Legislative and Regulatory Requirements” in chart “Statutory/Regulatory Nurse Anesthetist Recognition”

AANA Resources

At www.aana.com/stateassociationresources

- **Opt-out/supervision tool kit**
- **Prescriptive authority tool kit**

Other Resources

- **APRN Consensus Model at http://www.aacn.nche.edu/Education/pdf/APRNReport.pdf**
- **NCSBN model act and rules at https://www.ncsbn.org/APRN_leg_language_approved_8_08.pdf**

State Title, License Type

- 50-state chart is at:

  www.aana.com/stategovtaffairs
- See “State-by-State Legislative and Regulatory Requirements” in chart “Statutory/Regulatory Nurse Anesthetist Recognition”

State Implementation Considerations

Lobbyist input is essential: "Can we get this done?"

- **Support from members of key legislative committees**
- **Plan for informing legislators**
- **Relationship with the Governor's office**

State Implementation Considerations

How supportive is the Board of Nursing (BON)?

- **Can BON introduce or strongly support the bill?**
- **BON introduction or support has increased potential for success in states**

State Implementation Considerations

Other APRN groups may push to introduce legislation – are they prepared?

- **If you're not at the table, you may be on the menu!**
- **If the bill will affect CRNAs, your voice must be heard**

State Implementation Considerations

- **Coalitions:**
  - **Other APRNs who are interested in implementation of the Consensus Model**
  - **Existing coalition vs. forming one for a limited purpose**
  - **Ground rules**
  - **Sticking together**

State Implementation Considerations

Other potential allies

- Hospital association and/or rural hospital/health association
- Consumer groups

State Implementation Considerations

Additional considerations:

- **Other legislative and regulatory agenda (proactive and defensive)**
- **Assessing your resources**
- **Knowing when to stop and try again later**

Questions

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