

October 10, 2016

Catrice C. Williams

Office of the General Counsel

Department of Public Health

250 Washington Street

Boston, MA 02108

**RE: BORN Proposed Amendments to 244 CMR 3.00, 6.00, 7.00 and 10.00**

Dear General Counsel:

The Massachusetts Association of Nurse Anesthetists (MANA) has reviewed the proposed regulatory changes by the Board of Registration in Nursing (BORN) and wishes to submit these written comments to be of assistance in this process. Thank you for this opportunity and your consideration.

As you know, MANA is the state’s professional association of Certified Registered Nurse Anesthetists (CRNAs), recognized as advanced practice registered nurses (APRNs).  Our main objectives are: patient safety through the advancement of the science and art of anesthesia, as well as the promotion of cooperation between nurse anesthetists, all medical professionals, hospitals and other agencies interested in anesthesia. MANA has over 820 active members who practice in a variety of settings across the Commonwealth. Our specialty certification involves the development of an individual anesthesia plan of care for patients who may be undergoing surgery or other invasive procedures/treatment. Operating practitioners communicate to CRNAs what patient result is needed, such as pain relief, amnesia or paralysis. How to achieve that result with the administration of controlled substances to the patient is the practice of nurse anesthesia.

1. **244 CMR 10.01 Definitions**. We have two primary concerns relative to the proposed definitions.

 **A. “Administration of Medication”.** The new definition appears to apply to licensed nurses and also unlicensed medical professionals who may be delegated the task of administering medications. This is problematic as it relates to professional nurses, especially CRNAs, because a definition for “Administer” already exists in the Controlled Substance Act at M.G.L. c. 94C § 1 and the statutory definition is broader than the BORN’s proposed definition of “removing a dose from a properly labeled container…. consistent with the prescriber’s order”. It reads:

[*CHAPTER 94C. CONTROLLED SUBSTANCES ACT.*](http://sll.gvpi.net/document.php?id=mgl:0034435-0000000&type=hitlist&num=9)***Section 1. Definitions.***

 *Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:
”Administer**,” the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject by-
(a) a practitioner, or
(b) a nurse at the direction of a practitioner in the course of his professional practice, or
(c) an ultimate user or research subject at the direction of a practitioner in the course of his professional practice.*

In addition to being inconsistent with the practice of nurse anesthesia by CRNAs, the BORN’s more narrow definition could create conflict for a licensed nurse who has, for example, an order to apply a topical ointment, such as Silvadene, with the strength of the ointment to be applied noted, but not a specific “dose” of medication that will be administered by direct application in covering the burned area of a patient’s body. If BORN is adding this definition to the regulations because of the changes it is proposing in 244 CMR 3.0 with respect to delegation, it may be prudent to move the description of what the “administration of medication” means solely in this context directly to 244 CMR 3.00. A sentence might read something like:

*“The administration of medications through delegation is the giving of a prescribed dose of a medication to the intended patient so long as the qualified licensed nurse verifies that the label information is current and consistent with the prescriber’s order and instructs the unlicensed person that (a) the dose must be removed from a properly labeled container, (b) given at a certain time by a certain route, and (c) pertinent data must be promptly recorded as appropriate.”*

**B. “Supervising Physician,”** This longstanding regulatory definition does not clearly reflect the legislature’s intent in enacting Chapter 191 of the Acts of 2010 stating a “physician” may supervise a CRNA’s prescriptive practice and that this physician does not need to be an anesthesiologist. Upon implementation of CRNA prescriptive authority, BORN will recall that the Board of Registration in Medicine (BORM) initially interpreted this definition as requiring that a CRNA needed an anesthesiologist to supervise their prescription writing. We strongly urge BORN to take this opportunity to update their regulatory definition and make this clear and consistent with the knowledge that CRNAs often times work with operating practitioners in settings where no anesthesiologist is present and that the BORM did adopt a policy guideline back in December of 2011 allowing it. The enclosed “Physician Supervision of CRNAs” guideline can be found on the BORM’s website at <http://www.mass.gov/eohhs/gov/departments/borim/physicians/regulations/>.

MANA would like to therefore propose the addition of the following sentence to the definition: “Supervising Physician’: means a physician holding an unrestricted full license in Massachusetts who:

1. has completed training in the United States approved by the Accreditation Council for Graduate Medical Education (ACGME) or in Canada approved by the Royal College of Physicians and Surgeons in Canada (RCPSC) in a specialty area appropriately related to the APRN’s area of practice, is Board-certified in a specialty area appropriately related to the APRN’s area of practice, or has hospital admitting privileges in a specialty area appropriately related to the APRN’s area of practice.  Notwithstanding the above, a physician who collaborates with a certified Psychiatric Clinical Nurse Specialist must have completed training in psychiatry approved by the ACGME or the RCPSC, or be Board certified in psychiatry. *Notwithstanding the above and consistent with the Board of Registration in Medicine guideline dated December 21, 2011, a physician who does not specialize in the provision of anesthesia may be a supervising physician for a certified registered nurse anesthetist;*
2. **Other Definitions.** We are aware that the proposed 244 CMR 10.01 does include additional definitions currently found at 244 CMR 4.02. Our assumption is that the board intends to move these definitions from 244 CMR 4.02 to the newly proposed 244 CMR 10.01 and therefore strike out 244 CMR 4.02 rather than have duplicate definitions. Please review all the proposed definitions for inclusion of APRN programs or make clear that programs for APRN education that the board recognizes through APRN Certifying Organizations are included. For example, the definitions for “Eligibility” and “Eligibility Period” appear to only apply to a Registered or Practical Nurse applicant taking the NCLEX exam. Do these terms also refer to an applicant for APRN authorization? Lastly, it would be beneficial for the BORN to add to the definitions section a clear understanding of what it means by “Immediate and Serious Threat” and “Serious Threat” when indicated for “Summary Suspension” at 244 CMR 7.05.

MANA is eager for BORN to make the technical corrections needed at 244 CMR 4.0 et seq. and looks forward to the opportunity to comment, as appropriate, at such time. If we can be of further assistance, please do not hesitate to contact us through our legislative agents, Craven & Ober Policy Strategists, LLC at (617) 797-0100.

Best Regards,



Col Brian D. Campbell, CRNA, LTC, USAR

President

Massachusetts Association of Nurse Anesthetists

 **243 CMR 2:10**

The Board of Registration in Medicine’s regulation 243 CMR 2:10 provides that a physician may be a supervising physician for any advanced practice nurse engaged in prescriptive practice if he/she has completed training approved by the ACGME or RCPSC in a specialty area appropriately related to the nurse’s area of practice, is Board-certified in a specialty area appropriately related to the nurses area of practice, or has hospital admitting privileges in a specialty area appropriately related to the nurse’s area of practice. This regulation includes advanced practice nurses who practice pursuant to MGL 112 sec. 80 H. A physician who is not an anesthesiologist may be a supervising physician for a CRNA as long as he/she complies with the requirements of 243 CMR 2:10.

*Approved by the Board on December 21, 2011*