

Law & Order Practice & Finance Unit

State & Federal Regulation
of Nurse Anesthesia Practice

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Objectives

At the end of this presentation the learner will be able to:

- discuss the evolution of state regulation of nursing practice.
- explain how nurse anesthesia practice recognized and regulated in the state of Missouri
- describe the extent of federal regulation of nurse anesthesia practice
- discuss current Medicare reimbursement policies for CRNAs

Introduction

- Nurse Anesthesia – legally recognized specialty of nursing
- As a profession, we set our own standard of care (SOC) and scope of practice
- Our scope of practice can be affected by federal and state regulation
- Regulators often give deference to and rely on the SOC set by a profession



If you need anesthesia, just holler.

State Regulation

Evolution of state regulation of nursing practice

- Developed during the 1900's
- Medical licensure paved way for state regulation of nursing
 - Pro – state licensing laws legitimate
 - Con – medicine defined broadly
- Three phases of nursing regulation development.

State Regulation

Phase I (1903-1938)

- 1903 - NC enacts of first nurse registration act
- By 1923, similar laws passed in all states
- Weaknesses
 - Title protection only
 - Nursing boards often had physician members
 - Minimal education requirements
 - Nursing practice not defined

State Regulation

Phase II (1938-1971)

- 1938 – NY passes first mandatory licensure law
 - Included definition of practice and prohibition against unauthorized practice
- 1955 – ANA adopts model definition of nursing
 - excluded ‘acts of diagnosis or prescription of therapeutic or corrective measures’

State Regulation

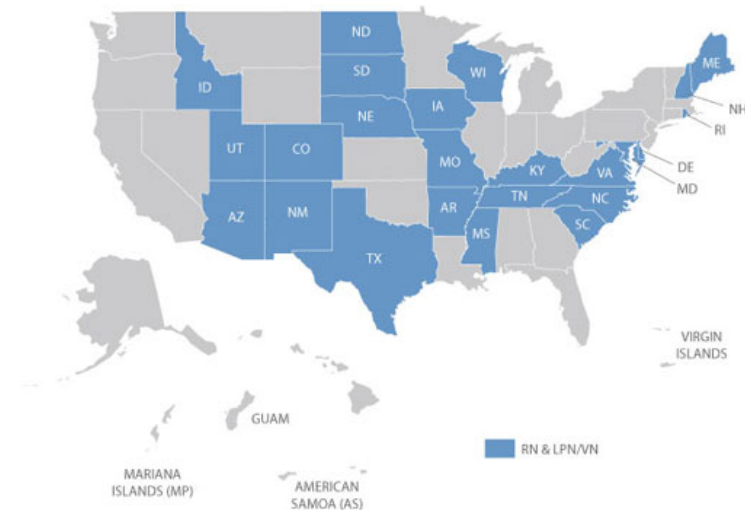
Phase III (1971-present)

- Increasing recognition of advanced/expanded role
- ANA's model nursing practice act evolves
 - revised in 1996
 - includes broad definition of nursing and recognition of APRNs
 - broad definition of nursing scope allows flexibility

State Regulation

Phase III (1971-present)

- National Council on State Boards of Nursing (NCSBN)
 - Nurse Licensure Compact
 - Initiated in 1996, now includes 24 states
 - Nursys™ (coordinated nurse licensure database)
 - APRN Compact
 - Initiated in 2000 but not yet implemented
 - 2009 Model Nursing Practice Act
 - Includes Scope of Nursing and APRN Practice
 - Nurse Licensure Compact
 - APRN Compact



State Regulation

Recognition of CRNAs

- Few states formally recognized CRNAs prior to 1970
- Primary sources
 - Nurse Practice Act (law)
 - State Board of Nursing (rules and regulations)
 - Department of Health
- May be just one or a combination

Missouri Statute

Missouri [Nurse Practice Act](#) – Chapter 335
Sections 335.011 to 335.096

- CRNAs recognized as APRNs
- A CRNA is a registered nurse who is currently certified as a nurse anesthetist by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists



State Regulation

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2200 - State Board of Nursing
Chapter 4 – General Rules

- [20 CSR 2200-4](#)
 - 100 – Advanced Practice Nurses
 - (2)(A)1-3 – current RN license, “satisfactory, active, up-to-date certification/recertification”
 - (4)(A) – Titling (1997)

State Regulation

Title 19 - Department of Health and Senior Services

Division 30 – Regulation & Licensure

Chapter 20 - Hospitals

- [19 CSR 30-20](#)
- Defines CRNAs
- "Anesthesia services, if provided, shall be under the medical direction of a qualified physician member of the medical staff and appointed by the governing body. This physician shall be responsible for implementing the rules of the medical staff governing the quality and scope of anesthesia care provided."

State Regulation

Title 19 - Department of Health and Senior Services

Division 30 – Regulation & Licensure

Chapter 30 – Ambulatory Surgery Centers

- [19 CSR 30-30](#) Defines CRNA
- “An anesthesiologist or physician with training or experience in the administration of anesthetics shall be on the premises and readily accessible during the administration of anesthetics—whether local, general, or intravenous sedation—and the post-anesthetic recovery period until all patients are alert or medically discharged.”
 - “A person licensed to practice medicine under Chapter 334, RSMo whose training and experience (credentials) have been evaluated by the medical staff and privileges granted to direct the anesthesia service or to administer anesthetics or both.”

Missouri Statute

HB 390, 92nd General Assembly

- Notwithstanding anything to the contrary in this section, a registered nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists shall be permitted to provide anesthesia services **without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed.**

Missouri Statute

[HB 390, 92nd General Assembly](#)

- The anesthesiologist members of the faculty of an anesthesiologist assistant program established in this state shall be comprised of board-certified or board-eligible anesthesiologists. No faculty member of any anesthesiologist assistants program shall concurrently supervise more than two anesthesiologist assistant students who are delivering anesthesia. **Certified registered nurse anesthetists will be excluded from clinical education of anesthesiologist assistants.**

Missouri Statute

Missouri [Medical Practice Act](#) – Chapter 344

Section 104 – Collaborative Practice Arrangements

- Notwithstanding any law to the contrary, a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed. RSMo 334-104.7

State Regulation

Title 20 - Department of Insurance, Financial Institutions
Professional Registration

and

Division 2100 – Missouri Dental Board
Chapter 4 – Sedation

- [20 CSR 2100-4](#)
 - 010(1)(O) Defines CRNA,
 - 010(1)(S) Qualified Sedation Provider
 - Guidelines for conscious and deep sedation, and general anesthesia

Federal Regulation

Legislative Branch

Tax Equity & Fiscal Responsibility Act of 1982 (TEFRA)

- Sets criteria for anesthesiologists to qualify for medical direction or supervision payment
- Billing criteria not to be interpreted as SOC



Federal Regulation

Legislative Branch

Omnibus Reconciliation Act of 1986

- Established direct reimbursement to CRNAs by Medicare Part B
- To correct the inability of hospitals to recoup the actual cost of CRNA services after implementation of the PPS in 1983

Federal Regulation

Legislative Branch

Americans with Disabilities Act of 1990 (ADA)

- To protect disabled persons from discrimination
- An individual, physical or mental impairment that substantially limits one or more major life activities
- “‘working’ is major life activity . . . but ‘working as a global airline pilot’ is not”
- Reasonable accommodation for *recovering* chemically dependent employees – does not cover someone ‘currently engaging in the illegal use of drugs’
- Difference between discharging someone for misconduct vs. a disability

Federal Regulation

Legislative Branch

Health Insurance Portability & Accountability Act of 1996

- Improve access to affordable health care insurance coverage
- Provide a mechanism for administrative efficiencies
- Protect patient privacy
 - Implications for research
 - Password security
 - Medical records access
 - Social Media Policies

Federal Regulation

Executive Branch

Department of Health & Human Services

- Food & Drug Administration (FDA)
- National Institutes for Health (NIH)
- Center for Disease Control (CDC)
- Center for Medicare Services (CMS)

Federal Regulation

Executive Branch

Department of Health & Human Services

CMS - Reimbursement

- Part A
 - Reimbursement for hospitals and ASCs
 - Requires physician supervision of CRNAs unless state governor petitions to opt out

Federal Regulation

Executive Branch

Department of Health & Human Services

CMS - Reimbursement

- **Part B** - CRNAs may receive direct reimbursement
 - Full reimbursement if personally performed
 - 50% reimbursement if medically directed or supervised

Federal Regulation

[CMS - 42 CFR §414.46](#)

- Base unit
 - value for each anesthesia code that reflects all activities other than anesthesia time
 - includes usual preoperative and postoperative visits, administration of fluids and blood incident to anesthesia care, monitoring services
- Anesthesia time
 - time during which an anesthesia practitioner is present with the patient
 - starts when the anesthesia practitioner begins to prepare the patient
 - ends when the anesthesia practitioner is no longer furnishing anesthesia services
 - a continuous time period from the start to the end of an anesthesia service

Federal Regulation

The Relative Value Scale (RVS)

- A way to establish 'intensity' for a particular anesthesia service
- Medicare uses ASA RVS
 - Assigns various weights (base units) based on type of procedure
 - Time units assigned by 15-minute increments
 - Corresponds with AMA Current Procedural Terminology (CPT)
- Ex) 1 hr appendectomy
 - CPT code 00840 – Anesthesia for intraperitoneal procedures = 6 base units
 - 1 hr = 4 time units
 - Total procedure units = 10 relative value units

Federal Regulation

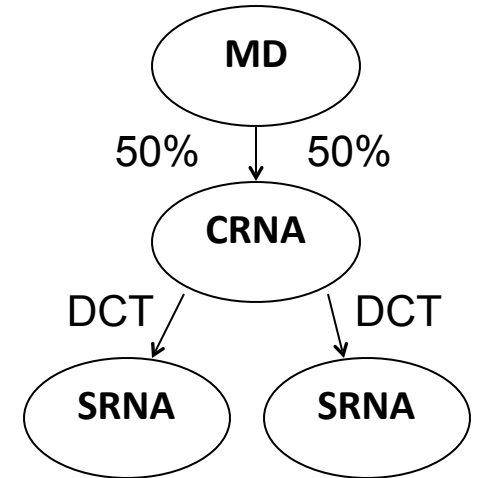
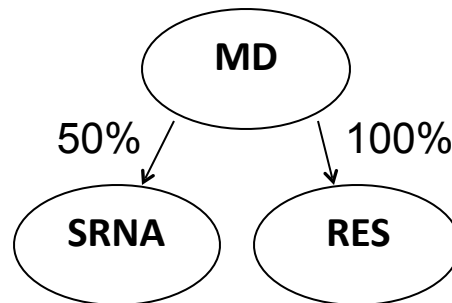
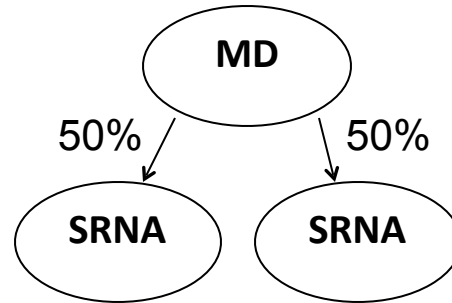
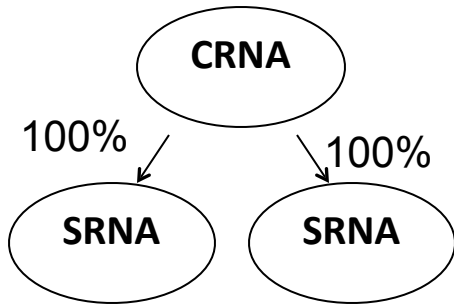
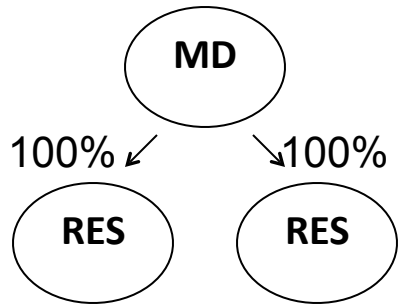
Conversion Factor (CF)

- A dollar amount per unit that converts the total relative value units into an actual charge for services
- Average 2010 Medicare CF is \$21.01 (down from \$21.915)
- The practitioner or facility sets a CF
 - 3.5 – 4 X Medicare CF
 - Should not exceed local CF by more than 10-12%
 - Same for all patients
- Ex) 1 hr appendectomy
 - 10 RVUs X 21.01 = \$210.10

Federal Regulation

Reimbursement for Teaching CRNAs & Anesthesiologists

- Medicare Improvements for Patients & Providers Act (MIPPA) of 2008
 - Directed CMS to reform teaching anesthesiologist reimbursement to 100% of PFS and CRNA teaching reimbursement to be consistent with this change
- 11/09 – CMS published Final Rule on these changes
 - contains inequities in anesthesiologist payment inconsistent with MIPPA



State & Federal Regulation

Links of Interest

- MoBON - <http://pr.mo.gov/nursing.asp>
- MoBOHA - <http://pr.mo.gov/healingarts.asp>
- RSMo– www.moga.mo.gov/statutes/statutes.htm
- Missouri CFR - www.sos.mo.gov/adrules/csr/csr.asp
- AANA - www.aana.com
- NCSBN – www.ncsbn.org
- Code of Federal Regulations - <http://ecfr.gpoaccess.gov>