



Texas Medical Board

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SUBJECT: AG Opinion Reaffirms No Independent Practice of Anesthesia by CRNAs in Texas

To Whom It May Concern,

Attorney General Ken Paxton released Opinion KP-0226 on Thursday, September 5, 2019, that reaffirms there is no independent practice of anesthesia by certified registered nurse anesthetists (CRNAs) in Texas. The opinion was spurred by the Texas Medical Board (TMB) seeking input from the attorney general after a growing number of claims among the CRNA community of “independent” practice in Texas.

A CRNA is indeed an integral and vital member of healthcare teams throughout Texas, and TMB recognizes them as such. However, a CRNA is a form of an advanced practice registered nurse (APRN) as defined by Texas Occupations Code Section 301.152. The Occupations Code, in Section 157.001, provides the general authority for physicians in Texas to delegate and supervise qualified and properly trained individuals to perform medical acts. The Occupations Code, in Section 157.054, also covers delegation and supervision of APRNs at facility-based practice sites. Section 193.13 of the TMB rules provide that a physician may delegate to a CRNA. Further, TMB rules Sections 193.7 and 193.9 provide that a physician may delegate to an APRN practicing within the scope of their license *under adequate physician supervision*. Consequently, all APRNs in Texas are required by a combination of statute and rule to be delegated to and supervised by a physician in Texas when performing certain tasks. For CRNAs, this includes the medical management of a patient under or receiving anesthesia. For clarification, rules properly passed in Texas by regulatory agencies have the same effect as statute and are part of Texas law.

Some entities in the CRNA community have promoted independent practice of CRNAs. The rationale of these entities and some individual CRNAs in promoting independent practice was that Section 157.058 of the code only mentioned “delegate” and not “supervise”. Additionally, the code provided that this section “shall be liberally construed”. However, statutory construction provides that a statute must be read as a whole. The statutes and rules together require physicians to supervise APRNs, including CRNAs, if delegating to them.

Attorney General John Cornyn released Opinion JC-0117 in 1999 that concluded Section 157.058 “does not require that a physician directly supervise the CRNA...[but] [r]ather, the

extent of physician involvement is left to the physician's professional judgment...." In the intervening years, some in the CRNA community began to interpret a lack of a requirement of *direct* supervision to mean *no* supervision. Put another way, some CRNAs began to claim independent practice.

Attorney General Opinion KP-0226 firmly reaffirms there is no independent practice of anesthesia by CRNAs in Texas by concluding, "...the [TMB] possesses regulatory authority over a physician's decision to delegate...to a [CRNA]...[and] a [CRNA] does not possess independent authority to administer anesthesia without delegation by a physician." Section 157.058 does not mention "supervision", but Section 157.001 does generally and TMB rules 193.7 and 193.9 do specifically for APRNs. Section 301.152 specifically includes CRNAs as APRNs.

Anesthesiologists and CRNAs provide tremendous care to the people of Texas. But they do as a team with the CRNA under the delegation *and* supervision of a physician as provided by statute and TMB rules. There is no independent or unsupervised practice of anesthesia by CRNAs allowed in Texas.

Attorney General Opinion KP-0226 can be found here:

<https://www.texasattorneygeneral.gov/opinions/ken-paxton/kp-0266>



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