

State of California—Health and Human Services Agency
Department of Health ServicesARNOLD SCHWARZENEGGER
Governor

AMENDED LETTER

February 4, 2005

Ms. Ruth Ann Terry, MPH, RN
Executive Officer
Board of Registered Nursing
PO Box 944210
Sacramento, CA 94244-2100

Dear Ms. Terry:

Thank you for your letter regarding the scope of practice of Certified Registered Nurse Anesthetists (CRNAs) and the Board of Registered Nursing's (BRN) determination of their status as independent practitioners who do not require the supervision of a surgeon or an anesthesiologist.

The California Department of Health Services (CDHS) understands that it is the BRN's prerogative to interpret state licensure laws and regulations regarding the scope of practice for CRNAs, and CDHS defers to the BRN for those determinations. However, it is the CDHS Licensing and Certification Program (L&C) that licenses and certifies general acute care hospitals in California. As such, CDHS L&C is charged with the enforcement of California Code of Regulations (CCR) Title 22, Division 5, Chapter 1 for all licensed hospitals, as well as the Code of Federal Regulations (CFR), Part 482 for those hospitals certified to participate in the Medicare and MediCal programs.

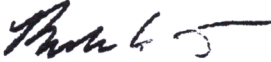
CFR 482.52(a) states, in relevant part, "Anesthesia must be administered by only: (1) a qualified anesthesiologist; (2) A doctor of medicine or osteopathy (other than an anesthesiologist); (3) A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law; (4) A certified registered nurse anesthetist (CRNA), as defined in 410.69(b) of this chapter, who is *under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed*....." (emphasis added). Therefore, even though CRNAs are considered independent practitioners under state law, for those hospitals certified to participate in the Medicare and MediCal programs, CRNAs must be under the supervision of a physician. If they are not, the hospital will appropriately be found deficient in meeting the federal condition of participation at CFR 482.52(a).

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However, there is allowance at 42 CFR 482.52(c) for a State exemption from this requirement. It allows hospitals to be exempted from the requirement for physician supervision of CRNAs if the State in which the hospitals are located submits a letter to CMS signed by the Governor. The letter must state that the Governor has consulted with the State Boards of Medicine and Nursing about issues related to access to and the quality of anesthesia services in the State, and has concluded that it is in the best interests of the State's citizens to opt out of the physician supervision requirement. The "opt out" must also be consistent with State law. The exemption from the physician supervision requirement is automatically effective upon submission to CMS. I have included a copy of the current 42 CFR 482.52 Condition of Participation: Anesthesia Services with this letter for your convenience. Your Board may wish to discuss this allowance for a State exemption with the Governor's office.

I sincerely hope that this clarifies CDHS L&C's understanding of the respective duties and responsibilities of this program and the BRN. Please do not hesitate to contact me if you wish to discuss this matter further.

Sincerely,



Brenda G. Klutz
Deputy Director

Enclosure