



## **Nurse Anesthetists Providing Independent Anesthesia Care in Wisconsin**

July 29, 2011

### Overview

Both [federal regulations](#) and Wisconsin law (an [Administrative Law Judge](#), the [Medical Examining Board](#), and the [Governor](#)) provide that nurse anesthetists are able to provide anesthesia care independently and without physician supervision or direction. The summation of these regulations and administrative rulings is what is known as the “[Opt Out](#)”. Underlying those public policy decisions is [substantial evidence](#) that patient outcomes are the same, whether anesthesia is provided by a nurse anesthetist or by a physician (anesthesiologist). In addition to quality being the same, nurse anesthesia care is typically [less costly](#) than care provided by an anesthesiologist.

The ability of Wisconsin-licensed nurse anesthetists to practice independently presents hospitals with a desirable option. The related federal regulations enable hospitals to bill Medicare for the independent anesthesia care that nurse anesthetists provide. The relevant Wisconsin law confirms that nurse anesthetists have the scope of practice to provide the independent care that the federal Medicare reimbursement regulations are premised upon.

This memo will provide more details about how Wisconsin Certified Registered Nurse Anesthetists (CRNAs) provide care and the regulatory requirements that apply to them.

### The Wisconsin Nursing Practices Act

Nurse anesthetists who provide independent anesthesia care in Wisconsin are licensed as professional nurses (per [s. 441.001\(4\)](#)) and also are required to be certified as Advanced Practice Nurse Prescribers (APNPs) (see [s. 441.16](#)). If a nurse anesthetist is not also an APNP, then the nurse anesthetist must practice under the supervision or direction of a physician or other health care provider whose scope of practice includes anesthesia. Examples of these other providers would be dentists or podiatrists.

The Wisconsin Board of Nursing has issued administrative rules to interpret the APNP law. These are found in [N 8](#) of the Wisconsin Administrative Code.

Notably, the [Wisconsin Medical Society](#) has advised its members that nurse anesthetists who are also APNPs can practice without physician supervision.

### Collaboration

Virtually all health care providers collaborate with other providers, as needed, when doing so serves the best interests of the patient. That is true for registered nurses, APNPs and for nurse anesthetists. Administrative rule N 8 of the Board of Nursing applies to all APNPs including nurse anesthetists. It defines the collaborative relationship as a “process which involves two or more health care professionals working together, in each other’s presence when necessary, each contributing one’s respective area of expertise to provide more comprehensive care than one alone can offer.”

This same rule N 8 requires the collaborative relationship to be documented. The documenting could be done several ways. For example:

- A nurse anesthetist and physician could both sign a simple collaborative statement. A copy of such an agreement is attached to this memo.
- The hospital where the nurse anesthetist provides care could include a collaboration provision in its bylaws. A copy of this approach is also attached.
- The nurse anesthetist could document the collaborative relationship with physician on the anesthesia pre-operative evaluation. A copy of this approach is also attached.

Please note these are simply examples. The documenting of a collaborative relationship between a CRNA and a physician could take other forms too. The key point is that the nurse anesthetist has a legal responsibility to document the collaborative relationship with a physician.

### The Collaborating Physician

It is important to note that when a Wisconsin CRNA is practicing independently and without supervision or direction, a collaborative relationship with a physician is required (see [N 8.10](#)). A dentist or podiatrist cannot satisfy this collaborative requirement, even if the anesthesia relates to dental or podiatry care.

The collaborative relationship can be with any physician and need not be with an anesthesiologist. That is, it could be with a family physician or a surgeon, for example.

With regard to the licensing credentials of the collaborating physician, N 8 has no specific definition of “physician”. The related and controlling statute in the Wisconsin Nursing Practice Act, [s. 441.16](#) regarding APNPs, uses the term “physician” in (6) regarding delegated medical acts. Neither that subsection nor the Nursing Practice Act Chapter 441 Wisconsin Statutes has a definition of “physician”. The default definition of “physician” when there is none specified is found at [s. 990.01\(28\)](#). It speaks to the person “holding a license or certificate of registration from the medical examining board”. Hence that could

be interpreted by the Board of Nursing or a judge as requiring the physician to be Wisconsin licensed.

### Malpractice Liability

Under Wisconsin law, nurse anesthetists are covered separately by the state-run malpractice fund, the Injured Patients and Families Compensation Fund (see [655.001\(9\)](#)). That is, all nurse anesthetists practicing in Wisconsin must (mandatory) maintain coverage by the Injured Patients and Families Compensation Fund, just as is required for all physicians.

Wisconsin does not have a [“captain of the ship” doctrine](#) when providers such as nurse anesthetists provide care to patients who are receiving related care from a physician. The Wisconsin Supreme Court expressly noted that the doctrine is not recognized in our state. As such, a physician is not automatically responsible for the acts of other health care providers who provide care to a common patient. Rather, important is the degree of supervision and control the physician exercises over the care provided by the nurse anesthetist in a particular circumstance.

It should also be noted that a physician who collaborates with an Advanced Practice Nurse Prescriber (APNP) is not automatically or necessarily liable for the acts of the APNP. Recall from our earlier discussion of collaboration and Administrative Rule N 8, the type of collaboration involving nurse anesthetists recognizes that each health care professional is contributing their “respective area of expertise”. Therefore the collaboration provision for nurse anesthetists and other Wisconsin APNPs recognizes the particular area of expertise of both the physician and the nurse anesthetist.

For those nurse anesthetists who are not practicing independently – those who are supervised or directed – there may be physician responsibility depending on the degree of physician direction and control that occurred or should have occurred in a particular case. Hence if a physician wishes to not be responsible for the acts of a nurse anesthetist, it could be said to be better to work with a nurse anesthetist who is practicing independently, with collaboration, than to supervise or direct the nurse anesthetist.

### Conclusion

Nurse anesthetists (CRNAs) are authorized to practice independently in Wisconsin. That is, physician supervision and direction is not required if a Wisconsin nurse anesthetist is also certified as an advanced practice nurse prescriber. However, it is important to recognize that collaboration among health care providers is encouraged in Wisconsin. And for nurse anesthetists practicing independently in Wisconsin, the ability to collaborate with a physician is required and the collaborative relationship must be documented.

Attachments (3)

**EXAMPLE**

**Collaborative Practice Agreement**

Background

Under Wisconsin law, nurse anesthetists can provide care either as a delegated medical act or as an independent provider. To provide care independently and without supervision, the nurse anesthetist must be certified by the Wisconsin Board of Nursing as an advanced practice nurse prescriber (an “APNP”).

The Wisconsin Board of Nursing has an administrative rule in effect for APNPs. Among other things, it encourages collaboration among health care professionals who hold different licenses.

All Wisconsin APNPs are required by the Board of Nursing to work in a collaborative relationship with a physician. The rule defines the collaborative relationship as “a process in which an advanced practice nurse prescriber is working with a physician, in each other's presence when necessary, to deliver health care services within the scope of the practitioner's professional expertise.”

The Board of Nursing rule then requires the collaborative relationship to be documented.

Collaborative Relationship

Advanced Practice Nurse Prescribers in Wisconsin work in a collaborative relationship with a physician. This means a nurse anesthetist who is also certified as an APNP is “working with a physician, in each other's presence when necessary, to deliver health care services within the scope of the practitioner's professional expertise.”

The purpose of this agreement is to document this collaborative relationship.

\_\_\_\_\_  
physician’s signature

\_\_\_\_\_  
date

\_\_\_\_\_  
nurse anesthetist’s signature

\_\_\_\_\_  
date

## **EXAMPLE**

### Example of Hospital Bylaw or Medical Staff Policy Regarding Anesthesia Collaboration

#### Background

The Wisconsin Department of Health Services addresses anesthesia care in hospitals in the Administrative Code, DHS 124. It is commonly referred to as “the Hospital Code”. Clinical services such as surgery, anesthesia, maternity and dental care policies and procedures are addressed by DHS 124.20. The anesthesia provisions address supervision and state in part:

“The hospital, on recommendation of the medical staff, shall designate persons qualified to administer anesthetics and shall determine what each person is qualified to do.” (s. 124.20 (3) (b) 3.)

In addition, the Nursing Practice Act, Chapter 441, addresses the ability of nurse anesthetists to practice independently and without physician supervision and control. The Board of Nursing has issued an administrative rule, N 8, that speaks to nurse anesthetists and other advanced practice nurse prescribers collaborating with physicians. One provision of N 8 requires nurse anesthetists to document their collaborative relationship with a physician.

To address supervision and collaboration between nurse anesthetists, some Wisconsin hospitals prefer to address these policies through their bylaws. One effective approach is presented below to address the situation where anesthesia is provided by a nurse anesthetist who practices independently (without physician direction or control), yet collaboration is involved.

#### Example

The primary responsibility of the nurse anesthetist (Certified Registered Nurse Anesthetist) is to provide quality care to the patient who needs anesthesia services. In collaboration with the primary care physician and/or surgeon or other practitioner, the nurse anesthetist will assist the patient and/or physician or other practitioner in choosing the most appropriate anesthetic(s) or anesthesia-related procedure for the patient’s medical indication, given the patient’s pre-procedure medical condition. The nurse anesthetist will document the collaboration.

**Physician/Nurse Anesthetist Collaborative Practice Agreement**

It is the intent of this practice agreement to authorize  [name of CRNA-APNP] , at  [hospital name]  to practice as a Certified Registered Nurse Anesthetist (CRNA) within the scope of the State of Wisconsin for the CRNA – Advanced Practice Nurse Prescriber (APNP).

The CRNA APNP will practice in collaboration with credentialed members of the medical staff physicians of  [hospital name]  in the role of CRNA. This agreement serves as documentation of a collaborative relationship.

We, the undersigned, agree to the terms of this collaborative practice agreement. This agreement is only in effect while both the CRNA and collaborating physician/s agree to the collaborative relationship.

\_\_\_\_\_/\_\_\_\_\_  
Certified Registered Nurse Anesthetist-APNP      Date

\_\_\_\_\_/\_\_\_\_\_  
Physician Chief of Staff      Date

(Physician Chief of Staff signs agreement representing  [hospital name]  credentialed members of the medical staff physicians)

Comment

This example is intended to be representative of one potential approach. The unique approach of each hospital may merit alternative bylaw or medical staff policy language.

**EXAMPLE**

Documented Collaborative Relationship on Anesthesia Pre-operative Evaluation

Another example of a documented collaborative relationship with a physician could be as simple as placing the following on your anesthesia pre-operative evaluation.

\_\_\_ Upon chart review, patient assessment, and continuing collaboration with physician, patient is ready to proceed to the procedure area.

Signature \_\_\_\_\_, CRNA

Date \_\_\_\_\_ Time \_\_\_\_\_