Laws & Regulations Governing CRNA Practice in Massachusetts

Disclaimer
The information in this presentation does not provide nor replace legal or insurance advice; be sure to utilize professional counsel in the areas of legal or insurance. The Massachusetts Association of Nurse Anesthetists (MANA) accepts no liability if there is any damages caused by you or your organization due to the use or interpretation of the information in this document.

MANA has exercised due and customary care in providing this information but has not independently verified information provided by others in this document. No other warranty, express or implied, is made in relation to the conduct of the contents of this document. Therefore, MANA assumes no liability for any loss resulting from errors, omissions or misrepresentations made by others.

Any recommendations, opinions or findings stated in this content are based on circumstances and facts as they existed at the time MANA performed the work. Any changes in such circumstances and facts upon which this presentation is based may adversely affect any recommendations, opinions or findings contained within.
AANA defines CRNA Scope of Practice to include, but not limited to...

- performing a comprehensive history and physical
- conducting a pre-anesthesia evaluation
- obtaining informed consent for anesthesia
- selecting, ordering, prescribing and administering drugs and controlled substances
- provide acute, chronic and interventional pain management services critical care and resuscitation services
- order and evaluate diagnostic tests, request consultations; and perform point-of-care testing
- plan and initiate anesthetic techniques, including general, regional, local, and sedation
- facilitate emergence and recovery from anesthesia; and provide post-anesthesia care, including medication management, conducting a post-anesthesia evaluation, and discharge from the post-anesthesia care area or facility

AANA describes CRNA Scope of Practice determined by...

- Experience
- Education
- Board Certification
- State and Federal Law (licensure)
- Facility Policy
CRNA Practice in Massachusetts is Governed and Regulated by

1. Statute
   • Massachusetts General Laws (MGL’s)
     • Laws are passed by the Massachusetts Legislature

2. Regulations
   • Based on MGL’s, the Board of Registration in Nursing (BORN) protects the public's health and welfare by assuring that safe and competent nursing care is provided by licensed nurses. The BORN achieves this mission by outlining the standards for safe nursing care and issuing licenses to practice nursing. In Massachusetts, these standards are set forth in the Code of Massachusetts Regulations (CMR)

CRNA Practice Laws and Regulations in Massachusetts at a glance

Nurse Practice Act
1. Statute: Massachusetts General Laws
   • MGL 112 Section 80B
   • MGL 112 Section 80H
2. Board of Registration in Nursing (BORN)
   • APRN (CRNA's are licensed as APRN's in MA) regulations are found in the Code of Massachusetts Regulations at 244 CMR 4.00

Controlled Substance Act
• MGL 94C
  • A law that regulates the safe prescribing and dispensing of controlled substances
  • All prescription medications are considered controlled substances in Massachusetts
Nurse Practice Act
1) Statute Massachusetts General Laws

- MGL 112 Section 80B
  - Defines the requirements to practice as a nurse (including advanced practice) in Massachusetts
  - Massachusetts licenses 5 categories of advanced practice registered nurses (APRN’s)
    - CRNAs, Nurse Practitioners, Nurse Midwives, Psychiatric Clinical Nurse Specialists, Certified Nurse Specialists
  - Requires advanced practice nursing regulations which govern the ordering of tests, therapeutics and prescribing of medications be promulgated by the BORN in conjunction with the board of registration in medicine (BORiM)
    - This means that the BORN has to develop regulations for APRN’s to write orders/prescriptions with the Board of Registration in Medicine (BORiM)
      - Has resulted in the requirement of physician supervision of APRN prescriptive authority

*This law does not require supervision of APRN Practice, just prescriptive authority*

---

Nurse Practice Act
1) Statute Massachusetts General Laws (cont’d)

- MGL 112 Section 80H
  - Like the other APRN groups, CRNAs may issue written prescriptions and order tests and therapeutics for the immediate perioperative care of a patient
  - However, in addition to physician supervision of prescriptive authority, CRNA prescriptive authority is further restricted to the immediate perioperative care of the patient
    - The immediate perioperative care of a patient shall be defined as the period commencing on the day prior to surgery and ending upon discharge of the patient from post-anesthesia care
    - The administration of anesthesia by a nurse anesthetist directly to a patient shall not require a written prescription

*Take note: this law does not require physician supervision of CRNAs to administer anesthesia; it only requires supervision of CRNA prescriptive practice*
Nurse Practice Act
2) Board of Registration in Nursing (BORN)

- Pursuant to MGL’s, regulations for all licensed disciplines in the state are defined in the Code of Massachusetts Regulations (CMR’s).
- Massachusetts BORN is the agency authorized to regulate nursing education, licensing and practice in the state.
- APRN (which includes CRNAs) regulations are listed in 244 CMR 4.00

Chapter 94C: The Controlled Substance Act

- Regulates the safe prescribing and prescribing of controlled substances (ALL prescription medications are considered controlled substances in the state of Massachusetts).
- Extremely complicated and difficult to understand.
- A likely cause of prescriptive authority confusion.
- To briefly summarize:
  - The Controlled Substance Act identifies the following items as the act of prescribing, requiring registration as a “practitioner”:
    1. Issuing a written prescription
    2. Issuing a verbal prescription
    3. Writing medication orders (the most common form of prescriptive practice that CRNAs are engaged in)
- All practitioners who engage in prescriptive practice must register with the Department of Public Heath (DPH) – Drug Control Program (DCP) and the Drug Enforcement Agency (DEA).
Summary: Massachusetts Laws and Regulations Governing CRNA Practice

- **Nurse Practice Act:** Comprised of MGL's and MA BORN
  - MGL 112 Section 80B – definition of nursing in Massachusetts, BORiM oversight of BORN for APRN (including CRNAs) prescriptive practice
  - MGL 112 Section 80H – in addition to requiring physician supervision of prescriptive practice, CRNA prescriptive authority is further restricted to the immediate 24-hour peri-operative period, specifies that CRNAs do not need a prescription to administer anesthesia
  - BORN Regulations 244 CMR 4.00

- **Chapter 94C: Controlled Substance Act** – regulates safe prescribing and dispensing of controlled substances

*There are NO Massachusetts laws that require physician supervision of CRNAs to administer anesthesia*

What about “Medical Direction” and “Medical Supervision”?

- Medicare requires physician supervision of CRNAs to submit claims for payment. The physician **DOES NOT** have to be an anesthesiologist
- These FEDERAL Medicare billing terms define the requirements for anesthesiologists to submit claims (get paid) for anesthesia services provided by CRNAs.
- **IF** the supervising physician is an anesthesiologist, they have 3 options in order to submit claims for payment
  - **Medical Direction**
    - Most common billing arrangement in Massachusetts
    - Pays the highest Medicare reimbursement
    - Anesthesiologist may participate in up to 4 concurrent cases
    - Anesthesiologist must participate in 7 specified activities in each case
  - **Medical Supervision**
    - Pays less than Medical Direction
    - Anesthesiologist may supervise more than 4 CRNAs
  - **Opt Out**
    - A letter from a state governor to the Centers for Medicare and Medicaid Services allows hospitals and Ambulatory Surgical Centers to opt out of Medicare supervision rules
    - 17 states have opted out as of this presentation

*These billing terms are often confused and/or falsely represented as practice laws or regulations*
Let’s put it all together...

<table>
<thead>
<tr>
<th>CRNA Practice in MA</th>
<th>VS</th>
<th>Federal Medicare Billing Rules For Anesthesia Provided by CRNAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>MGL 112 Section 80B</td>
<td></td>
<td>• Billing terms provide a means to submit claims to Medicare for reimbursement.</td>
</tr>
<tr>
<td>• Defines nursing practice in Massachusetts</td>
<td></td>
<td>• Requires physician supervision; does not have to be an anesthesiologist</td>
</tr>
<tr>
<td>• Requires regulations of APRN Prescriptive Authority be promulgated by the BORN in conjunction with BORIM (physician supervision of APRN prescriptive practice)</td>
<td></td>
<td>• If an anesthesiologist is supervisor, billing options are: Medical Direction, Medical Supervision, Opt Out</td>
</tr>
<tr>
<td>MGL 112 Section 80H</td>
<td></td>
<td>• Often confused and/or falsely represented as CRNA practice laws or regulations</td>
</tr>
<tr>
<td>• Further restricts CRNAs prescriptive authority to immediate post op period in addition to requiring physician supervision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• specifies that CRNAs do not need a prescription to administer anesthesia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 94C: The Controlled Substance Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Ensures safe handling of controlled substance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Inconsistent terminology with the Nurse Practice Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Board of Registration in Nursing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Agency authorized to enforce the MGL’s associated with nursing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Section 244 CMR 4.00: Regulations for advanced practice nursing</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Facility policy to Medically Direct/Supervise CRNA practice

- Regardless of state and federal law, hospitals/facilities are free to adopt their own practice guidelines
- Guidelines cannot be less restrictive than laws, but they CAN be more restrictive
- A common facility guideline in Massachusetts requires supervision of CRNA practice; CRNAs usually agree to this by signing a collaborative agreement during the credentialing process
- If APRN’s (includes CRNAs) are going to write prescriptions/orders, per Massachusetts laws and regulations previously discussed, supervising physicians and CRNAs are required to **jointly** develop additional guidelines for APRN’s to engage in prescriptive practice
- CRNAs who write prescriptions/orders are required to have prescriptive authority guidelines in place and must register with the Massachusetts Controlled Drug Program and obtain a DEA number
Please visit the [www.masscrna.com](http://www.masscrna.com) for more information about Massachusetts Laws and Regulations for CRNA practice and a step-by-step guide with supporting information for CRNA prescriptive authority.

**Disclaimer**

The information in this presentation does not provide nor replace legal, accounting or insurance advice; be sure to utilize professional counsel in the areas of legal, accounting or insurance. The Massachusetts Association of Nurse Anesthetists (MANA) accepts no liability if there is any damages caused by you or your organization due to the use or interpretation of the information in this document.

MANA has exercised due and customary care in conducting providing this information but has not independently verified information provided by others in this document. No other warranty, express or implied, is made in relation to the conduct of the contents of this document. Therefore, MANA assumes no liability for any loss resulting from errors, omissions or misrepresentations made by others.

Any recommendations, opinions or findings stated in this content are based on circumstances and facts as they existed at the time MANA performed the work. Any changes in such circumstances and facts upon which this presentation is based may adversely affect any recommendations, opinions or findings contained within.

**References**

- 289th General Court of the Commonwealth of Massachusetts - General Laws. (2016). Retrieved February 8, 2016, from malegislature.gov: [https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section80B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section80B)
- 289th General Court of the Commonwealth of Massachusetts - General Laws. (2016). Retrieved February 8, 2016, from malegislature.gov: [https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section80K](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section80K)
- General Laws Part 1 Title XV Chapter 94C. (2017). Retrieved January 24, 2017, from The 190th General Court of the Commonwealth of Massachusetts: [https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94C/Section9](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94C/Section9)