



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 9, 2021

Dr. Sherif Z. Zaafran, M.D.
President, Texas Medical Board
333 Guadalupe
Tower 3, Suite 610
Austin, TX 78701

Re: Certified Registered Nurse Anesthetists (CRNAs)

Dear Dr. Zaafran:

It appears representatives of the Texas Medical Board (TMB) misunderstand two recent Attorney General Opinions, KP-0266 and KP-0353, with respect to certified registered nurse anesthetists (CRNAs). During the hearing on House Bill 2029 in the House Public Health Committee, misstatements were made by a board member about these Opinions. As President of the TMB, we hope that you will work to correct the TMB's website and the board member's misunderstanding of our office's Opinions on this topic.

First and foremost, neither Opinion states that CRNAs must be supervised by their delegating physician. To the contrary, in KP-0353, this office concluded, "chapter 157 of the Texas Occupations Code does not, by itself require a physician who properly delegates anesthesia-related acts to a CRNA to supervise the CRNA's performance of those acts." This interpretation of that chapter of the law aligns with our office's previous opinions on the subject. *See* Tex. Att'y Gen. Op. No. JC-0117 (1999).

Second, federal regulations require the supervision of CRNAs, but only as a condition for reimbursement for services provided to Medicaid and Medicare enrollees. Additionally, as noted in KP-0353, the Texas Health & Safety Code requires administration of an anesthetic that is a controlled substance within the presence of a physician. However, this provision applies to all delegated acts of administration of an anesthetic that is a controlled substance, including those

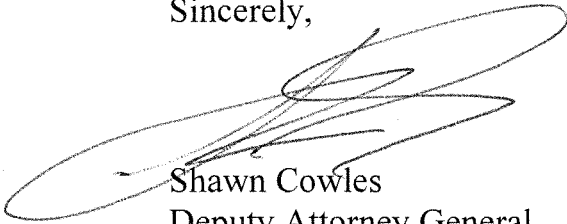
delegated to a Registered Nurse. In other words, this “presence” standard is no different for a CRNA than any other provider who has delegated authority within a facility.

A claim was also made that, based on Opinions from this office, physicians are liable for the acts of a CRNA. This blanket statement runs counter to KP-0353, which stated, “[q]uestions of physician liability in any specific context are highly factual and not an appropriate determination for the opinion process.” Any claim that this office concluded physicians are liable for the acts of a CRNA are simply untrue.

Finally, we are aware that the TMB currently has similar misstatements on its website, under its Frequently Asked Questions section. While these statements existed prior to the most recent Opinions, we ask that the TMB act promptly to remedy any continued confusion by correcting the website and/or removing questions related to CRNAs’ practice altogether.

We hope that this letter clarifies any misinterpretations of prior Opinions regarding agency guidance or state law.

Sincerely,



Shawn Cowles
Deputy Attorney General
for Civil Litigation



Murtaza Sutarwalla
Deputy Attorney General
for Legal Counsel

cc: The Honorable Stephanie Klick