



**Statement of the Ohio State Medical Association
to the House Health Committee
HB 224: Scope of Practice, Certified Registered Nurse Anesthetists
Opponent Testimony presented by Monica Hueckel
Senior Director, Government Relations
June 11, 2019**

Good morning, Chairman Merrin, Vice-Chairman Manning, Ranking Minority Member Boyd and members of the House Health Committee. As the Senior Director of Government Relations for the Ohio State Medical Association (OSMA), I am here today to advocate on behalf of the roughly 16,000 physician, resident, and medical student members that the OSMA represents as the state's largest physician advocacy organization. You will also hear testimony from several physicians regarding House Bill 224 today in addition to my own. I believe it is extremely important at this point in time that you hear from them directly about specific aspects of the bill, and what they mean in a clinical sense. To that end, I would like to focus my testimony this morning on making a clear statement about where the bill stands as of now, and why we remain concerned about the current language.

House Bill 224 outlines an expansion to the scope of practice for Certified Registered Nurse Anesthetists (CRNAs) which includes allowing them to order medications, including controlled substances, as well as diagnostic tests and treatments for patients. HB 224 also grants broad authority for CRNAs to direct nurses and respiratory therapists to administer drugs and treatments to patients.

The OSMA, along with the Ohio Society of Anesthesiologists, has actively engaged in good faith on this bill for several years now. When the issue resurfaced for this general assembly, we remained just as committed. We are interested in reaching a compromise that protects patient safety and sensibly fits into the care model utilized by anesthesia care teams.

CRNAs are an important member of the surgical team, and physicians deeply appreciate their contributions to patient care. As a reminder, under current law, they work in a supervisory relationship with a physician, dentist or podiatrist- they are not required to be supervised by an anesthesiologist. Anesthesiologists have always supported supervision of CRNAs by other types of physicians, such as surgeons, as well as podiatrists and dentists where appropriate. This team-based model of care is safe and effective, and it is essential that any changes made to the

scope of practice of CRNAs does not disrupt the synchronicity and efficacy of anesthesia care delivery.

I want to be very clear about where HB 224 stands with a brief description of the current expansions in the scope of practice of CRNAs as currently laid out in HB 224, for the purpose of creating context:

- HB 224 grants CRNAs authority to order drugs, tests, treatments and fluids for patients.
- The bill also extends the authority for the CRNA to order drugs, tests, treatments and fluids for a patient when the CRNA is performing a "clinical function" which is not clearly defined in the bill. HB 224 also allows the CRNA to give orders to nurses and respiratory therapists when performing these undefined clinical functions.

Within this context, our concerns stem from the extremely broad nature of the bill language.

While the supervision by a physician is maintained in HB 224, it is not fully defined. The OSMA has worked with a variety of allied health care professionals on many scope of practice issues in the past and in any other instance, physician supervision is specifically defined. Questions have already arisen as to whether the supervising physician can supervise CRNAs remotely, away from the facility, and if so, to what expansions of scope does remote supervision suffice? Given an expanded scope of practice, supervision needs to be further defined so it is clear what it involves. Just stating the word "supervision" is simply not enough. The supervision by a physician and what that specifically entails must be described for each expansion of scope presented in this legislation in order for it to truly be clear about what the bill changes about the anesthesia care model.

Additionally, a few weeks ago, the committee heard from the proponents of HB 224, and members of the committee may recall that a witness testified that it would be ideal for the CRNA to be able to order medications, blood tests, or x-rays in the immediate pre- or post-operative period as their current inability to do so might create significant burden for the attending physician. Another witness testified about specific abilities the CRNA could be granted the authority to perform during the "recovery period" following a procedure.

Unfortunately, the language in the current version of HB 224 does not contain any of these specific examples or scenarios. Not only are the specific drugs, treatments, and fluids mentioned in the bill language, neither are any timeframes during which these

orders are permitted. Under the broad provisions in HB 224, it would appear that the CRNA could order these drugs, treatments or fluids at essentially any time during the administration of patient care, and we do not know to what extent the physician would be supervising these actions.

Attorney General Opinion:

Before I conclude my testimony, I want to once again touch upon claims that this legislation restores CRNA practice of writing drug orders for patients for another person to administer, a practice claimed to have been taken away by the Board of Nursing. CRNAs have never had the authority to order drugs for patients or order another person to administer them. I would request that members of the committee refer to the timeline document submitted with my testimony today. In 2008, the Board of Nursing made it clear in writing to CRNAs that they did not have the authority under Ohio law to order drugs for patients or direct another person to administer drugs to patients. When CRNAs expressed disagreement with the Board's clear statement on the issue, the Board then requested an Attorney General Opinion. In 2013, Attorney General Mike DeWine issued an opinion that the Nurse Practice Act does not authorize a CRNA to order or prescribe preoperative or postoperative medication to be administered by another licensee.

Again, I want to stress that the OSMA remains committed to reaching a suitable compromise on this legislation. However, we cannot accept the current version of HB 224 because it falls short of fully defining the expansions in scope of practice it proposes in a way that makes it clear exactly how the anesthesia care model would be impacted. An expansion in scope of practice that lacks specificity and yet makes significant changes to the anesthesia care model risks creating confusion, duplicative or unnecessary orders, increased health care costs and ultimately jeopardizing patient care.

Thank you for your attention to my comments today, and I would be happy to answer any questions you may have.

FACT: Certified Registered Nurse Anesthetists (CRNAs) have never had the authority under Ohio law to order drugs or tests for patients during the pre- or post-operative period.

CRNAs have stated that they previously ordered drugs and tests for patients until the Board of Nursing took away the authority and the Attorney General opinion in 2013 narrowly interpreted their practice. This is a false narrative as CRNAs never had prescriptive authority to order drugs or tests-Any orders they gave for drugs or tests during the pre- or post-operative period were against the law. **Here are the facts since 2000:**

2000: The 123rd General Assembly passed H.B. 241 granting prescriptive authority to certified nurse practitioners, clinical nurse specialists and certified nurse midwives. The Legislative Service Commission stated in the final bill analysis of HB 241 that **“a certified registered nurse anesthetist is not eligible to receive prescriptive authority.”**

2000-2007: Rules promulgated by the Board of Nursing addressing prescriptive authority did not include CRNAs as they were not recognized under Ohio law as prescribers for drugs or therapeutic devices.

2007: An advanced practice consultant for the Board of Nursing who was married at the time to the President of the Ohio State Association of Nurse Anesthetists (OSANA) gave an informal opinion in an email that she believed CRNAs could order drugs and tests. The email specifically stated that it was her view and not a formal Board opinion.

2008: The Board of Nursing learned that the Ohio State Association of Nurse Anesthetists was advising facilities that CRNAs were legally authorized to write orders for drugs. The Board of Nursing firmly stated in writing to OSANA that Ohio law prohibited any advanced practice nurse from prescribing drugs who did not hold a certificate to prescribe. As CRNAs were not authorized to hold a certificate to prescribe, OBN stated they could not order medications. The Board further stated that the informal opinion given by a staff member in an email in 2007 was incorrect and not consistent with the Nurse Practice Act.

2010: A memorandum written from the Board of Nursing further reiterated the Board’s 2008 position that Ohio law requires a certificate to prescribe in order for an advanced practice nurse to prescribe drugs. As CRNAs were not authorized by law to hold a certificate to prescribe, they could not order drugs for patients.

2012: Based on additional pushback from OSANA, the Board of Nursing requested an Attorney General opinion on whether CRNAs are authorized under Ohio law to order drugs for patients and to order other health care professionals to administer those drugs.

2013: Attorney General Mike DeWine issued an opinion clearly stating that the scope of practice of CRNAs does not include prescribing drugs or therapeutic devices and that the legislative history since 2000 supports the conclusion that a CRNA does not have authority to prescribe drugs for individuals.



Ohio Board of Nursing

www.nursing.ohio.gov

17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

August 7, 2008

Garalyn Tomas, President
Ohio State Association of Nurse Anesthetists
32540 Oakhurst Drive
North Ridgeville, Ohio 44039

Dear President Tomas:

I appreciate you meeting with us last week to review questions related to the CRNA scope of practice. To reiterate, we discussed information the Board received indicating that the Ohio State Association of Nurse Anesthetists (OSANA) had advised a nursing administrator that CRNAs were legally authorized to write orders for medications for registered nurses or licensed practical nurses to administer. The purpose of the meeting was to discuss our concern that the information conveyed by OSANA was not consistent with the Nurse Practice Act.

During our meeting, you maintained that the writing of medication orders, including controlled substances, is within the authorized scope of CRNA practice, and that such prescribing occurs frequently during the course of the CRNA's practice. You summarized your position by suggesting that Section 4723.43(B), Ohio Revised Code (ORC), authorizes this prescribing as a "clinical support function."

While Section 4723.43 (B), ORC, states that the CRNA "may administer anesthesia and perform . . . clinical support functions," the language does not authorize the CRNA to order other individuals to administer medications. In addition, even if "clinical support functions" is read to include the administration of medication, the language clearly states that it is the CRNA, not a third party, that "may perform with supervision . . . clinical support functions." Because this language authorizes the CRNA to administer medications, rather than direct another party to administer medications, a CRNA is not required to obtain a certificate to prescribe in order to provide the anesthesia care described above. Section 4723.44, ORC, prohibits any advanced practice nurse that does not hold a current, valid certificate to prescribe from prescribing drugs or therapeutic devices.

Please be advised that Board staff will respond to inquiries concerning a CRNA's authorization to write orders for medications consistent with the position taken in this correspondence, i.e., that this practice is prohibited under Ohio law. As a result, we would respectfully request that OSANA also convey this information to your membership.

In addition, I appreciate being made aware following our meeting of an e-mail exchange

Geralyn Tomas, President
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in 2007 between a CRNA and a former Board employee concerning a similar question. The employee's response was also not consistent with the Nurse Practice Act for the reasons more clearly defined in this correspondence. Furthermore, following our meeting, Board staff requested that the Board's Assistant Attorney General (AAG) further review the statutory language at issue in this matter. The AAG concurred with the legal analysis set forth in this correspondence.

We appreciate your willingness to meet with us and review this question. We would encourage you to contact us anytime you are interested in discussing CRNA-related scope of practice questions that you may have now or in the future.

Very truly yours,

Lisa Emrich, Program Manager, Education, Practice and Administration

cc: Lisa Klenke, President, Ohio Board of Nursing
Betsy Houchen, Executive Director, Ohio Board of Nursing
Holly Fischer, General Counsel, Ohio Board of Nursing
Tom Dilling, Legislative Liaison, Ohio Board of Nursing
Leah O'Carroll, Assistant Attorney General
Paul Blakely, CRNA, OSANA
John Gilchrist, Esq., OSANA