MA Department of Public Health
Public Health Council
August 10, 2011

Proposed Amendments to 105 CMR 700.000
Authority for Nurse Anesthetists

Drug Control Program
Bureau of Health Care Safety and Quality
Chapter 191 of the Acts of 2010 - An Act Relative to Nurse Anesthetists was signed into law by Governor Deval Patrick on July 29, 2010

The Act amended the Controlled Substances Act (M.G.L. c. 94C) and Nursing Licensing Provisions (new M.G.L. c.112 § 80H)

The law is intended to improve access to safe patient care and reduce medication errors, adverse effects and health care costs
Background: Authority for Nurse Anesthetists

- The Act requires the DPH Commissioner to promulgate rules and regulations allowing a nurse anesthetist to register with the Department to write prescriptions in accordance with guidelines mutually developed with a supervising physician.

- The Act also provides that a nurse anesthetist registered with the Department may:
  - Issue medication orders
  - Dispense medication for immediate treatment of a patient
  - Administer medication without the order of a physician
  - Dispense a sample medication
Background: Authority for Nurse Anesthetists

- The statutory provision amending the Controlled Substances Act (M.G.L. c. 94C) relative to authority for nurse anesthetists parallels those for other advance practice nurses:
  - Nurse practitioner
  - Nurse midwife
  - Psychiatric nurse mental health clinical specialist
Background:
Purpose of Boards of Registration and DCP Regulations Relative to Nurse Anesthetists

- **Boards of Registration**
  - Regulations of the Board of Registration in Nursing set the licensing and clinical practice standards for nurse anesthetists, including prescribing.
  - Regulations of the Board of Registration in Medicine set the standards for the supervising physician with whom the nurse anesthetist has established mutually-developed and agreed upon guidelines.

- **Department of Public Health**
  - Regulations of DPH’s Drug Control Program (DCP) provide for a nurse anesthetist, authorized by BORN to prescribe, to be registered to prescribe and dispense controlled substances (Massachusetts Controlled Substances Registration).
The law permits a nurse anesthetist authorized by the BORN to issue written prescriptions and order tests and therapeutics for the immediate perioperative care of a patient pursuant to guidelines mutually developed and agreed upon by the nurse anesthetist and supervising physician.

The mutually developed guidelines establish the scope of prescriptive practice of the authorized nurse anesthetist.
Background:
Provisions of Chapter 191 to be Addressed in BORN and BORIM Regulations

- BORN regulations would:
  - Define the scope of prescriptive practice of a nurse anesthetist
  - Require the nurse anesthetist to have training and experience commensurate with the scope of the prescriptive practice
  - Specify requirements for development, approval and review of guidelines

- BORIM regulations would:
  - Set requirements for physician supervision of a nurse anesthetist’s prescriptive practice
  - Specify requirements for development, approval and review of guidelines
Public Hearing on proposed amendments to 105 CMR 700.000

- The Drug Control Program and BORN held a joint public hearing on the proposed amendments on January 26, 2011.
- Testimony was received from the Massachusetts Association of Nurse Anesthetists, Massachusetts Medical Society, Massachusetts Society of Anesthesiologists, and Scott Corin, M.D.
- The testimony was generally supportive of the amendments to 105 CMR 700.000. The Massachusetts Association of Nurse Anesthetists (MANA) offered a number of changes to the regulatory proposal.
### Public Comments

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<td>Add “registered individual practitioner” in cases in which only the term “practitioner” appears</td>
<td>Staff agree with this suggestion in the case of 105 CMR 700.010 related to sample medications and have made the necessary changes, as appropriate</td>
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<td>Add language to clarify that the regulations apply only to prescriptive authority</td>
<td>Change not made because Chapter 191 of the Acts of 2010 included provisions regarding registration of nurse anesthetists for prescribing, ordering, dispensing, and administering controlled substances</td>
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<td>Change the definition of “supervising physician” to include consistent references to practice acts</td>
<td>Staff have simplified and clarified this definition by adding language requiring supervision by the physician to be in accordance with regulations of the Board of Registration in Medicine</td>
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<td>Add language to permit a nurse anesthetist to obtain anesthetics from any registered practitioner, not only the supervising physician</td>
<td>Such language was added, with the caveat that such administration must be in accordance with guidelines of the Board of Registration in Medicine</td>
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<td>Add language to state that the administration of anesthesia by a nurse anesthetist to a patient shall not require a written prescription and is not an activity requiring registration under M.G.L. c. 94C and DPH regulations at 105 CMR 700.003(C)</td>
<td>Change not included because (1) there is no current requirement for a written prescription to administer anesthesia; (2) c. 191 of the Acts of 2010 requires registration of a nurse anesthetist with DPH for the prescribing, dispensing and administering of any controlled substance, including anesthetics, when conducted other than pursuant to the order of a registered practitioner; and (3) a nurse anesthetist without registration may administer anesthesia pursuant to the order of a registered practitioner</td>
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<td>The definition of &quot;medication order&quot; does not appear to include all current, applicable health care delivery settings</td>
<td>Staff agree that the definition is unduly restrictive to inpatient health care settings, particularly given that the statute does not have such restrictions; staff have added language to broaden the definition to also cover ambulatory and other health care settings</td>
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Guidance Document for Nurse Anesthetists on Activities Involving Controlled Substances

- DCP has created a document outlining the rules and regulations of the Department of Public Health, Drug Control Program, governing the practices and activities of a nurse anesthetist involving controlled substances (i.e., prescription medications, including anesthetics and therapeutics).

- This guidance on DCP regulations is separate and distinct from the guidelines mutually developed and agreed upon by the nurse anesthetist and supervising physician.
Conclusion

- Public testimony was supportive of the amendments.
- Staff have incorporated recommended changes that are consistent with the statute and that clarify or add to the completeness of the amendments.
- Therefore, staff request that the Public Health Council approve final promulgation of the amendments to 105 CMR 700.000.