

The Problem with Nurse Anesthetists Providing Services in Dental Offices

By Daniel J. Schulte, JD
MDA Legal Counsel

Question: Certified Registered Nurse Anesthetists (“CRNAs”) are marketing their services directly to dentists. They have approached me and offered to provide anesthesia and sedation to patients in my office undergoing dental procedures. Is this legal?

Answer: You should proceed very carefully. Such practice would likely be illegal in most dental practices.

Michigan’s Public Health Code provides for the issuance of specialty certifications to nurses who have completed advanced training. CRNAs are an example of nurses who have completed advanced training in anesthesia practice. But a CRNA may practice in your office under your delegation and supervision only if you meet Michigan Administrative Code provisions applicable to dentists providing general anesthesia and intravenous conscious sedation to dental patients. These requirements are explained below. If you do not meet these provisions, a CRNA may not provide services in your office unless a Medical Doctor or Doctor of Osteopathy is present in your office — an unlikely occurrence.

There are two areas of the law that must be considered:

Rules applicable to dentists. Michigan’s Administrative Code contains provisions applicable to dentists providing general anesthesia and intravenous conscious sedation to dental patients. Administrative Code Rule 338.11601 prohibits a dentist from administering general anesthesia or delegating (to a qualified person who has complied with the Rule, which may include a CRNA) the performance of any act, task or function involved in the administration of general anesthesia to a dental patient *unless*:

- the dentist has completed a minimum of one year of advanced training in general anesthesia and pain control in an approved program (defined in Rule 338.11603(1));

- the dentist and anyone assisting the dentist maintains current certification in basic and advanced cardiac life support from an agency or organization that grants such certification pursuant to standards substantially equivalent to those listed in Rule 338.11603(3);

- the office or other facility in which the anesthesia is administered meets detailed requirements contained in Rule 338.11603(4).

The dentist must be physically present with the patient until the patient has regained consciousness, and the dentist must remain in the premises where the anesthesia was provided with the patient until the patient is capable of being discharged.

Administrative Code Rule 338.11601 further provides that a dentist not meeting the requirements listed above may only provide general anesthesia in his or her practice if done so directly through association with an MD or DO or another dentist who does meet all of the requirements listed above. This other MD, DO or dentist meeting the above requirements must be physically present with the patient given general anesthesia until he or she regains consciousness, and remain on the premises until the patient is capable of being discharged.

The Administrative Code Rule covering intravenous conscious sedation is the same as set forth above for general anesthesia with the exception of differing education and training requirements.

Law applicable to MDs and DOs. Certain portions of the Public Health Code applicable to MDs and DOs and the practice of nursing also address this issue. These statutes generally provide that nurses may perform certain duties that would be considered the practice of medicine, but they may only do so at the delegation and under the supervision of an MD or DO. Were it not for Michigan Administrative Code rules applicable to anesthesia practice in dentistry (described above) a CRNA would not legally be able to provide anesthesia services to your patients at all unless an MD or DO somehow provided the required delegation and supervision. I question how this would occur since the patients are yours and not the MD’s or DO’s.

To sum up: A CRNA may legally provide his or her services in your practice only: (1) pursuant to your delegation and supervision *if* you are in compliance with the applicable administrative code rules; or (2) if you partner with an MD or DO or another dentist and you otherwise comply with all the applicable administrative rules. ✦

