How do I practice as a CRNA in New York State (NYS)?

The CRNA must be a New York State licensed and registered RN, a graduate of a CRNA educational program accredited by the Council on Accreditation of Nurse Anesthesia Programs and have passed a national certification exam offered by the National Board of Certification and Recertification of Nurse Anesthetists (NBCRNA), which was previously known as the Council on Certification of Nurse Anesthetists. CRNAs who are also New York State certified nurse practitioners may order or prescribe medications (including agents classified by the FDA as anesthetics).

How do I obtain an RN license in NYS?

Click here for the application forms required for NYS licensure, as well as the requirements for licensure.

Do I need an Advanced Practice license to practice as a CRNA & how do I obtain it?

You do not need an advanced practice license to practice as a CRNA in NYS. However, many CRNAs who have graduated from Nurse Practitioner Programs found acceptable to the NYS Education Department have decided to obtain NYS certification as acute care nurse practitioners in addition to being certified as a CRNA.

Click here for the NYS Board for Nursing website where the requirements and forms.

Click here for our ACNP How-To.

Do I need to apply for a DEA number to practice?

CRNAs who are not also licensed as Acute Care Nurse Practitioners do not have prescriptive authority in NYS, and therefore do not need to apply for a DEA number to practice as a CRNA.

If you are licensed as an Acute Care Nurse Practitioner in NYS, and would like to apply for a DEA number, you may find this application information as well as other helpful links in the "Practice Information, Prescriptive Privileges" section of the Board for Nursing website, click here.

Is it legal for a CRNA to practice in NYS without anesthesiologist supervision?

Yes.

CRNAs are qualified, by virtue of their education, training, and national certification to provide anesthesia services in healthcare facilities regulated by the New York State Department of Health. 10 NYCRR § 700.2 (a)(22) defines the education and training of this medical staff professional for the purposes of Chapter V of Title 10.

According to 10 NYCRR § 405.13 for hospitals, and 10 NYCRR § 755.4 for ambulatory surgery centers, anesthesia services may be administered by CRNAs, subject to the following:

The CRNA must be supervised by either an anesthesiologist who is immediately available as needed or the operating physician;

- If supervision is provided by the operating physician: (i) the operating physician must have been found qualified by the hospital's governing body and medical staff to supervise the

administration of anesthetics; and (ii) the operating physician must have accepted responsibility for supervision of the CRNA; (This is generally accomplished by the requesting of specific clinical privileges by the surgeon, and approval of these privileges by the governing body)

- To provide supervision, the operating physician: (i) does not need to be an anesthesiologist; (ii) does not need to have special training or expertise in the provision of anesthesia services; and (iii) does not need to personally know how to perform the anesthesia services administered by the CRNA. (DOH Commissioner Axelrod, 1989)
- The operating physician's role in supervising the CRNA is to provide medical oversight and knowledge as needed in connection with the patient's care, including determining the patient's need for an anesthetic, and to accept that role.

Can CRNA do their own billing for the services they provide?

Yes. Typically this occurs when the CRNA is an independent contractor and/or has a business of their own. This may take the form of a single-proprietor practice or as a member of a CRNA owned professional corporation (P.C.) or limited liability corporation (L.L.C.).

Since 1989, CRNAs were the first advanced practice nurses to become eligible to receive direct reimbursement for the delivery of anesthesia services from federal healthcare plans such as Medicare, and private insurance companies who participate in Medicare. Maximum reimbursement requires expert billing advice and proper coding and documentation.

It is also important to separate the requirements for physician supervision contained within the Medicare Conditions of Participation for Part A (facility reimbursement) and the requirements promulgated in the NYS Public Health regulations directing how care is delivered within facilities licensed by the Department of Health. These two regulations are very different. There has never been a Medicare Part B reimbursement requirement for physician supervision of CRNA provided anesthesia services.

Can CRNAs practice in CRNA-only groups?

Yes. This does require a great deal of business management and administrative skills including sharp negotiation abilities.

Do I need to get prescriptive privileges in order to practice as a CRNA in NYS?

At the present time, there is no requirement for CRNAs to have prescriptive authority in NYS, since there is no law describing CRNA scope of practice. CRNAs may find it useful to become licensed as Acute Care Nurse Practitioners with prescriptive authority especially if they practice in an office-based setting or medically underserved area where they may be the sole provider of anesthesia services.

How do I apply for my ACNP license and what are the benefits of obtaining it?

CRNAs who are graduates of Nurse Practitioner educational programs acceptable to the New York State Education Department may find information about how to apply for this license by clicking here.

The benefit of having this license is specific to individual situations. It may be of most benefit to CRNAs practicing in medically underserved areas where they may be the sole provider of anesthesia services; those who practice in small rural communities where they can cover the emergency room, intensive care unit, or anesthesia care areas; or CRNAs practicing in an office based setting.

Once the license is obtained, it remains in place as long as registration is current and there are no disciplinary actions to revoke it. Collaborating Physician and Collaborating Agreements are only necessary within 90 days of beginning practice as an Acute Care NP, and are not a requirement for licensure.

Can a CRNA practice independently under the supervision of a dentist?

Since Dentists are not physicians, they may not treat any other part of the body but the teeth. Oral Surgeons are physicians, and some Dentists are also Oral Surgeons, so they may in fact be physicians. Therefore, CRNAs may not provide anesthesia services for a non-physician Dentist, in the office setting, but may provide anesthesia services to the patients of an oral surgeon physician in the office setting. In hospitals and ambulatory surgery centers, CRNAs may provide anesthesia services to dental patients in accordance with the public health regulations as long as they are supervised by an anesthesiologist or the operating surgeon.

Can a CRNA practice independently under the supervision of a surgeon in NYS?

Yes. CRNAs are qualified, by virtue of their education, training, and national certification to provide anesthesia services in healthcare facilities regulated by the New York State Department of Health. 10 NYCRR § 700.2 (a)(22) defines the education and training of this medical staff professional for the purposes of Chapter V of Title 10.

According to New York State's public health regulations 10 NYCRR § 405.13 for hospitals, and 10 NYCRR § 755.4 for ambulatory surgery centers, anesthesia services may be administered by CRNAs, subject to the following:

- The CRNA must be supervised by either an anesthesiologist who is immediately available as needed or the operating physician;
- Once a determination of the patient's need for an anesthetic has been made by the operating physician, the substantive course of the anesthetic process shall be determined and controlled by the CRNA, who is responsible for determining the details and means of providing a safe anesthetic.
- If supervision is provided by the operating physician: (i) the operating physician must have been found qualified by the hospital's governing body and medical staff to supervise the administration of anesthetics; and (ii) the operating physician must have accepted responsibility for supervision of the CRNA; (This is generally accomplished by the requesting of specific clinical privileges by the surgeon, and approval of these privileges by the governing body)
- To provide supervision, the operating physician: (i) does not need to be an anesthesiologist; (ii) does not need to have special training or expertise in the provision of anesthesia services; and

(iii) does not need to personally know how to perform the anesthesia services administered by the CRNA. (DOH Commissioner Axelrod, 1989)

- The operating physician's role in supervising the CRNA is to provide medical oversight and knowledge as needed in connection with the patient's care, including determining the patient's need for an anesthetic, and to accept that role.

Is there a new mandatory continuing education requirement for New York State prescribers?

Yes. As part of the New York State (NYS) Prescription Drug Overdose (PDO) Prevention Program to advance and evaluate comprehensive state-level interventions for preventing prescription drug overuse, misuse, abuse, and overdose, effective July 22, 2016, Public Health Law Article 33 §3309-a was updated to require prescribers with a Drug Enforcement Administration (DEA) number and medical residents prescribing under a facility DEA number to complete a minimum of three (3) hours of coursework or training in pain management, palliative care and addiction.

Are CRNAs considered Advanced Practice Nursing Professionals in NYS?

CRNAs are the first advanced practice nursing professionals in the nation. This advanced practice specialty has existed for more than 150 years, and is recognized as such by the Federal Government, national nursing organizations like the American Nurses Association, and the National Council of State Boards of Nursing, as well as its own American Association of Nurse Anesthetists, and by healthcare organizations like the American Hospital Association.

At the present time in New York State, there is statutory recognition (legal recognition) of only two advanced nursing practices in New York State, Nurse Practitioners and Clinical Nurse Specialists, however, CRNAs are recognized in Public Health regulations as qualified providers of anesthesia services.

Are CRNAs allowed to provide anesthesia services in an office-based setting?

Yes. New York Public Health Law requires physician OBS practices that provide moderate or deep sedation or general anesthesia to be accredited by one of the following New York State approved accrediting bodies: The Accreditation Association for Ambulatory Healthcare (AAAHC), the American Association for the Accreditation of Ambulatory Surgery Facilities (AAAASF) or the Joint Commission. These accrediting bodies have standards that require that a qualified anesthesia provider (i.e., a CRNA or physician) provide sedation and anesthesia services for procedures requiring moderate sedation, deep sedation or general anesthesia

Are CRNAs allowed to practice independently with a podiatrist?

NYS Education Law Title VIII, Article 141 states that "The practice of podiatry shall include administering only local anesthetics for therapeutic purposes as well as for anesthesia and treatment under general anesthesia administered by authorized persons."

Selected pertinent practice guidelines for Podiatry on NYSED/OP website:

A podiatrist performing office-based surgery is responsible for all aspects of the sedation procedure including life support procedures, monitoring, recovery and record-keeping and should adhere to the following:

1. You may not administer conscious sedation to more than one patient at a time and should ensure that you or a licensed physician, a registered professional nurse, or a licensed practical nurse personally monitors the patient's recovery.

2. A minimum of two individuals should be present in the operatory during administration of conscious sedation, including the use of nitrous oxide-you[the podiatrist] or a licensed physician qualified to administer the anesthetic drugs or agents and one additional individual who is also competent to perform cardiopulmonary resuscitation.

3. Podiatrists may not provide general anesthesia, but they may treat patients who are receiving general anesthesia administered by an authorized person. For podiatric surgery performed in an office-based setting, only authorized licensed physicians with certification in anesthesiology are authorized to provide general anesthesia.

Due to the above requirements in the scope of practice defined for Podiatrists, they may not treat patients in an office-based setting who require general anesthesia delivered by anyone other than a physician with certification in anesthesiology.

New York Public Health Law requires physician OBS practices that provide moderate or deep sedation or general anesthesia to be accredited by one of the following New York State approved accrediting bodies: The Accreditation Association for Ambulatory Health Care (AAAHC), the American Association for the Accreditation of Ambulatory Surgery Facilities (AAAASF) or the Joint Commission. These accrediting bodies have standards that require that a qualified anesthesia provider (i.e., a CRNA or physician) provide sedation and anesthesia services for procedures requiring moderate sedation, deep sedation or general anesthesia. New York Law has required podiatric OBS practices that perform ankle surgery to be accredited by AAAHC, AAAASF or the Joint Commission since February 2014.

In a hospital or ambulatory surgery setting, NY Public Health Law recognizes that Certified Registered Nurse Anesthetists (CRNAs) are well qualified to provide anesthesia services. DOH regulations allow CRNAs to provide anesthesia services in hospitals and ambulatory surgery centers under the supervision of an anesthesiologist or operating physician. The CRNA must be a New York State licensed and registered RN, a graduate of a CRNA educational program accredited by the Council on Accreditation of Nurse Anesthesia Programs and have passed a national certification exam offered by the National Board of Certification and Recertification of Nurse Anesthetists (NBCRNA), which was previously known as the Council on Certification of Nurse Anesthetists. CRNAs who are also New York State certified nurse practitioners may order or prescribe medications (including agents classified by the FDA as anesthetics). Therefore, a CRNA may provide anesthesia services for a podiatrist in a hospital or ambulatory surgery center under the supervision of a physician. Certified nurse practitioners are presently not identified by the NYS public health law as authorized providers of anesthesia services.

It is the Public Health Law and Regulations that describe the level of supervision required for the delivery of anesthesia in the hospital and ambulatory surgery setting. In the absence of regulations promulgated to describe the delivery of anesthesia in the office setting, or a defined scope of practice for CRNAs, we have only the podiatry regulations to describe what a Podiatrist may do within their scope of practice. Since they are not physicians, they may not treat any other part of the body but the foot and ankle. Therefore, CRNAs may not provide anesthesia services for a podiatrist [non-physician] in

the office setting, but may provide anesthesia services to their patients in hospitals and ambulatory surgery centers, in accordance with the public health regulations.

At what point may a new graduate of a nurse anesthesia educational program begin practice?

There are no provisions in New York State Education Law or regulations, which describe the practice of a Certified Registered Nurse Anesthetist (CRNA). CRNAs are qualified, by virtue of their education, training, and national certification to provide anesthesia services in healthcare facilities regulated by the New York State Department of Health. 10 NYCRR § 700.2 (a)(22) defines the education and training of this medical staff professional for the purposes of Chapter V of Title 10, but does not provide insight for those graduates who await national certification. The position of the NYS Board for Nursing regarding the practice of graduates of nurse anesthesia educational programs accredited by the Council on Accreditation of Nurse Anesthesia Programs is that these individuals are permitted to practice under the supervision of an anesthesiologist or another CRNA (not the operating surgeon) while they are designated by the National Board of Certification and Recertification of Nurse Anesthetists (NBCRNA) as eligible to take the national certification exam and awaiting certification. Graduates who are designated by NBCRNA as eligible to take the national certification exam may provide anesthesia services for up to 24 months after graduation while preparing to pass the national certification exam.

This position is congruent with CRNA practice cited in Federal Regulations, 42CFR, § 410.69(b) which states that:

[A] Certified Registered Nurse Anesthetist means a registered nurse who:

Is licensed as a registered professional nurse by the state in which the nurse practices;

Meets any licensure requirements the state imposes with respect to non-physician anesthetists;

Has graduated from a nurse anesthesia educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Programs, or any other certification organization that may be designated by the Secretary; and

Meets the following criteria:

1. Has passed a certification examination of the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, or any other certification organization that may be designated by the Secretary; or
2. Is a graduate of a program described in paragraph (3) of this definition and within 24 months after that graduation meets the requirements of paragraph (4) (i) of this definition.

Do I need to provide my own malpractice insurance to practice in NYS?

If the CRNA chooses employment with an anesthesia group, generally the malpractice insurance is a benefit provided by the group. The CRNA should be aware, however, that the entity who pays the premium is the entity whose best interests are protected, should an adverse event occur. It may be wise for the CRNA to carry their own malpractice policy or supplemental policy when employed in an anesthesia group. Additionally, most malpractice policies held by physician anesthesia groups are written by physician owned and physician controlled insurance companies. These companies restrict

CRNA practice over and above what NYS law requires by placing additional barriers to the full practice authority of the CRNA. Examples include limiting who can supervise the CRNA, what procedures are covered by the policy, and a number of other factors such as the number of CRNAs an anesthesiologist may supervise. Malpractice coverage that is provided by employers is only in effect while the CRNA is practicing in the facilities contracted to the employer as documented on the individual policy, and does not cover any moonlighting practice.

A CRNA who wishes to provide anesthesia services under the supervision of a surgeon in settings other than within an anesthesia group will most likely want to carry his or her own malpractice policy. Facilities will require that the CRNA produce evidence of coverage as part of the credentialing process. Insurance policies require the CRNA to identify which facilities they will be providing services in and name them specifically on the coverage summary.

Are there differences between what type of supervision is required by NYS facility regulations, what is required for billing purposes, and what is required by malpractice policies?

Public Health regulations for hospitals, ambulatory surgery centers, and physician offices where surgery is performed describe a requirement for the supervision of CRNAs by a physician who may be the operating surgeon or an anesthesiologist. These regulations are promulgated by the New York State Department of Health. <u>There are no requirements, either by New York State or the Centers for Medicare and Medicaid Services (CMS) that would require supervision exclusively by an anesthesiologist.</u>

Unless a particular state has "opted out", reimbursement requirements for CRNAs include a requirement for physician supervision in Medicare Part A, which reimburses facilities for the cost of anesthesia. New York is presently not an "opt out" state. There has never been a requirement for physician supervision of CRNAs as part of Medicare Part B, which reimburses practitioners for their care. Likewise, there is no New York State requirement that CRNAs be medically directed either. Nationwide, CRNAs have received direct reimbursement for their services under Medicare Part B since 1986. It is necessary to distinguish between medical direction of CRNAs by Anesthesiologists and medical supervision of CRNAs by physicians who could be either the operating physician or an anesthesiologist. As part of Medicare Part B, CMS will reimburse anesthesiologists for medical direction of CRNAs as a portion of the amount allocated to the entire anesthetic. They will not reimburse another type of physician when he or she provides medical supervision to satisfy state public health facility regulations. Since it is possible in New York State for a CRNA to deliver care with medical supervision, but not be medically directed, it is important that billing be coded properly so that full reimbursement of anesthesia services can be achieved. There are seven conditions identified by Medicare that must be fulfilled by the anesthesiologist to demonstrate that he or she has had a significant role in the care of a patient for the purposes of justifying reimbursement to both providers for the provision of anesthesia care. These conditions are known as the "TEFRA Rules", because they were passed by congress as an amendment to the Tax Equity and Fiscal Responsibility Act of 1982 (U.S. Department of Health and Human Services [HHS], 48 F.R., March 2, 1983). <u>HHS was very clear in its comments about the rules, stating that, "the criteria for medical direction should not be interpreted as standards of practice or standards of quality, but rather as a description of those elements of common medical practice that are expected to be present when a physician has had significant involvement with an individual patient" (U.S. Department of Health and Human Services [HHS], 48 F.R., March 2, 1983).</u> The requirements for

physician documentation of these conditions was revised and made effective on Jan 1, 1999. As adopted 63 F.R. 58912, November 2, 1998, the Conditions for Payment of Medically Directed Anesthesia Services are as follows:

(1) For each patient, the physician:

- Performs a preanesthetic examination and evaluation;
- Prescribes the anesthesia plan;
- Personally participates in the most demanding aspects of the anesthesia plan including, if applicable, induction and emergence;
- Ensures that any procedures in the anesthesia plan that he or she does not personally perform are performed by a qualified individual as defined in operating instructions;
- Monitors the course of anesthesia administration at frequent intervals;
- Remains physically present and available for immediate diagnosis and treatment of emergencies; and
- Provides indicated postanesthesia care.

Malpractice policies promulgated by physician-owned and operated insurance companies which constitute the majority of physician-owned anesthesia group policies, tend to be very restrictive on CRNA full practice authority. These policies are written in a manner that restricts CRNA practice over and above what the law allows. They limit things like who may supervise CRNAs, what types of procedures they may perform, and the number of CRNAs an anesthesiologist can supervise at one time. These policies not only restrict CRNA practice authority, but add layers of cost to the entire healthcare system, an element that can serve to lower CRNA cost effectiveness.