

Testimony of Julie Weis

for the Oregon Association of Nurse Anesthetists

Before the Senate Health Care and Human Services Committee

February 14, 2013

In support of SB 210

Chair Monnes Anderson and Members of the Committee:

My name is Julie Weis, and I am an attorney representing the Oregon Association of Nurse Anesthetists (ORANA). ORANA has been representing Oregon nurse anesthetists for more than 70 years, and my firm Haglund Kelley first started working with ORANA shortly after passage of the current Oregon statutes relating to the practice of nurse anesthetists 15 years ago. I urge you to support SB 210, which codifies the existing office practice of certified registered nurse anesthetists (CRNAs) throughout the state and clarifies an apparent ambiguity in the existing statutory scheme regulating CRNAs. Those statutory provisions are found at ORS §§ 678.245-.285 and referred to in this testimony as "the CRNA Statute."

SB 210 codifies CRNA office practice in Oregon. The legislation is needed because the CRNA Statute does not explicitly address office practice. Although ORANA has never viewed the CRNA Statute as ambiguous with respect to office practice, we learned in late 2012 that some have questioned whether CRNAs should be practicing in offices in light of the CRNA Statute's silence on the issue. This is no small matter for CRNAs and the Oregonians they serve, particularly in rural communities where many practitioners rely solely on CRNAs.

Oregon nurse anesthetists have long practiced in the office setting. Oregon CRNAs practiced in the office setting before the passage of the CRNA Statute. Today, CRNAs practice in all medical care settings, including the offices of dentists, podiatrists, ophthalmologists, plastic surgeons and women's care providers. This is in addition to the hospital and ambulatory surgical center care settings.

You may wonder how we ended up with an ambiguous statutory scheme. Prior to the 1997 passage of the CRNA Statute, nurse anesthetists practiced in all settings in Oregon without any governing statute. The lack of a governing statute became an issue in 1996 after a legal opinion (that originated from competitors) was circulated among a number of hospitals that employed independent CRNAs. The testimony from 1997 indicates that

the legal opinion threatened that hospitals using independent CRNAs were at risk of losing their national accreditation, and at risk of being sued over their use of independent CRNAs. Because of that cloud of legal risk, ORANA was forced to pursue legislation to codify existing practice.

The final form of the 1997 legislation was a compromise bill endorsed by the Oregon Medical Association, the Oregon Society of Anesthesiologists, the Oregon Association of Hospitals and Health Systems and ORANA. From ORANA's perspective, the compromise bill was designed to do two main things: (1) authorize the Oregon State Board of Nursing to adopt a scope of practice for nurse anesthetists working in any setting, and to promulgate rules for certifying nurse anesthetists, similar to the situation for certified nurse practitioners; and (2) explicitly authorize hospitals and ambulatory surgical centers to establish at the facility level how nurse anesthetists would be employed.

Because the compromise bill singled out hospitals and ambulatory surgical centers, shortly after the legislation passed, the Assistant Attorney General advising the Oregon State Board of Nursing was asked to advise the Board of Nursing whether the CRNA Statute in some way limited the settings in which CRNAs could practice. The resulting 1998 legal opinion concluded that the compromise bill was not intended to limit the settings in which CRNAs may practice. Rather, the CRNA Statute authorized the Board of Nursing to establish the CRNA scope of practice, which subsequently was tied to the skill, knowledge and experience levels of individual CRNAs regardless of setting.

Not surprisingly, after passage of the CRNA Statute, CRNAs continued to practice in all settings, including the office setting, within the scope of their skills, knowledge and experience. It was not until late 2012 that ORANA was notified that the CRNA Statute's silence as to office practice was troublesome to some. The perceived ambiguity puts at risk Oregonians' continued access to healthcare services, particularly in rural areas served only by CRNAs. ORANA determined that the best and most expeditious way to resolve the ambiguity was to come back to you, 15-plus years after passage of the CRNA Statute, to ask you to explicitly codify CRNA office practice.

We urge you to support SB 210. Passage of SB 210 is particularly important in this era of healthcare reform, where it is essential that advanced practice registered nurses like CRNAs be able to practice to the full extent of their education and training. CRNAs are doing so now in all practice settings, and SB 210 will make clear that they can continue to serve us in the office setting.