



February 15, 2022

The Office of Gov. Spencer J. Cox
350 N. State Street, Suite 200
P.O. Box 142220
Salt Lake City, UT 84114-2220

Dear Governor Cox,

The undersigned medical and specialty organizations represent physicians providing medical and surgical care for Utah patients every day. Our organizations write to strongly urge you to retain the Medicare physician supervision requirement that is currently followed by most states. A decision to remove or “opt-out” of the supervision requirement would not be in the best interest of the residents and patients of Utah as it would jeopardize patient safety, not increase access to care, not save costs, and ignore patients’ overwhelming preference for a physician to be responsible for their care.

The Medicare Conditions of Participation (CoP) are effectively a federal accreditation standard. These health and safety standards are the foundation for improving quality and protecting the health and safety of beneficiaries. They apply to all patients in a participating hospital and are intended to ensure that facilities are providing Medicare and Medicaid beneficiaries an appropriate level of care which includes ensuring high quality care is provided to enrollees who are often the sickest and highest risk patients at these facilities. Since the inception of the Medicare program, hospitals seeking to participate in the Medicare and Medicaid program must meet the heightened patient safety and quality requirements delineated within the CoP. Consistent with numerous other quality and patient safety standards, the CoP require supervision of nurse anesthetists administering anesthesia.

The proper patient preparation for and administration of anesthesia is a complex and technically demanding medical process that requires physician supervision. Nurse anesthetists are qualified and important members of the anesthesia care team but cannot replace a physician. Compared to physicians, nurse anesthetists have about half the education and one-fifth the hours of clinical training.

Removing physician supervision from anesthesia in surgery lowers the standard of care and jeopardizes patients’ lives. To date, there are no well-designed outcomes studies on the practice of unsupervised nurse anesthetists. Since 2016, five studies have been published in peer reviewed journals examining the relationship between opt-out and anesthesia access. All five published studies found that opt-out

was not associated with an increase in access to anesthesia care.^{1, 2, 3, 4} Most recently, a 2021 *Journal of Rural Health* article provided in part, “Given that we found no evidence that being in an opt-out state increases the odds of using CRNAs in hospitals, we contribute to the growing literature suggesting that states adopting the opt-out policy have not realized increased health care access or reduced health care costs.”⁵

Opting-out similarly fails to save patients’ or taxpayers’ money. Medicare (and in a majority of states, Medicaid) pays the same for the totality of the anesthesia care whether the service is provided by a physician anesthesiologist, a physician anesthesiologist medically directing a nurse anesthetist or anesthesiologist assistant, a nurse anesthetist supervised by the operating surgeon, or in those rare circumstances where it takes place, a nurse anesthetist practicing without physician supervision. When a physician anesthesiologist medically directs a nurse anesthetist, the Medicare payment is divided equally between the physician and the nurse. When a surgeon supervises a nurse anesthetist, the surgeon does not receive any portion of the anesthesia fee; the full amount goes to the nurse anesthetist or his or her employer. The amount of the Medicare payment, no matter how it is allocated, is the same regardless of who provides the anesthesia care.

Finally, there is little support from the general public for opt-outs. Surveys repeatedly show patients want physicians in charge. In a recent American Medical Association survey, 91 percent of respondents said that a physician’s years of medical education and training are vital to optimal patient care, especially in the event of a complication or medical emergency. Eighty-four percent said that they prefer a physician to have primary responsibility for the diagnosis and management of their health care.⁶

Opt-out is a failed policy experiment. It decreases patient safety in operating rooms and hospitals, it does not improve access to care, it does not save the state or patients money, and it ignores the public’s preference for physician-led care.

We strongly encourage you to continue the important Medicare supervision patient safety standard.

¹ Sun EC, Miller TR, Halzack NM. In the United States, "Opt-Out" States Show No Increase in Access to Anesthesia Services for Medicare Beneficiaries Compared with Non-"Opt-Out" States. *A&A Case Reports*. 2016; 6(9):283-5

² Sun EC, Dexter F, Miller TR. The Effect of "Opt-Out" Regulation on Access to Surgical Care for Urgent Cases in the United States: Evidence from the National Inpatient Sample. *Anesthesia & Analgesia*. 2016; 122(6):1983-91.

³ Sun EC, Dexter F, Miller TR, Baker LC. "Opt Out" and Access to Anesthesia Care for Elective and Urgent Surgeries among U.S. Medicare Beneficiaries. *Anesthesiology*. 2017; 126(3):461-71.

⁴ Schneider JE, Ohsfeldt R, Li P, Miller TR, Scheibling C. Assessing the impact of state "opt-out" policy on access to and costs of surgeries and other procedures requiring anesthesia services. *Health Econ Rev*. 2017; 7(1):10.

⁵ Feyereisen SL, Puro N, McConnell, W. Addressing provider shortages in rural America: The role of state opt-out policy adoptions in promoting hospital anesthesia provision. *J Rural Health*. 2021; 37(4):684-691.

⁶ Baselice & Associates conducted a telephone survey on behalf of the AMA Scope of Practice Partnership between March 8–12, 2012. Baselice & Associates surveyed 801 adults nationwide. The overall margin of error is +/- 3.5 percent at the 95 percent level. Baselice & Associates conducted an internet survey of 802 adults on behalf of the AMA Scope of Practice Partnership, July 12-19, 2018. The overall margin of error is +/- 3.5 percent at the 95 percent confidence level.

Sincerely,

American Society of Anesthesiologists

Utah Society of Anesthesiologists

American Medical Association

Utah Medical Association

American College of Surgeons

Utah Chapter of the
American College of Surgeons

American Society of Plastic Surgeons

American Association of
Orthopaedic Surgeons

American College of Emergency Physicians

American College of Radiology

American Osteopathic Association