

## Court: "Anesthesiologist" title is restricted to MDs, DOs

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In New Hampshire, only licensed MDs and DOs who have gone through the extensive specialty training in anesthesiology will be allowed to call themselves anesthesiologists.

A recent New Hampshire Supreme Court decision upheld a New Hampshire Board of Medicine (NHBOM) ruling that prevents people from identifying themselves as anesthesiologists if they are not licensed as such.

The NHBOM voted to take that stance after the state's nursing board approved a position statement in 2019 that let certified registered nurse anesthetists (CRNAs) call themselves "nurse anesthesiologists." The New Hampshire Association of Nurse Anesthetists asked New Hampshire's highest court to throw out NHBOM's ruling.

The New Hampshire Supreme Court ruling is a win for the Litigation Center of the American Medical Association and State Medical Societies and the American Society of Anesthesiologists (ASA), which filed a joint amicus brief urging the court to uphold the NHBOM ruling.

While recognizing the level of service and professionalism CRNAs bring to anesthesia care, the brief told the court that patients and boards of medicine nationwide recognize that physicians are health professionals properly referred to as anesthesiologists, not nurses with specialized training in anesthesia.

Find out more about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center's case-selection criteria.

### **Subset of the practice of medicine**

In the case, *Petition of New Hampshire Association of Nurse Anesthetists*, the New Hampshire Supreme Court ruled that the NHBOM's ruling was not arbitrary or capricious and instead was based

on facts.

“The record before the [NH]BOM included, among another things, studies, surveys and licensure requirements highlighting similarities and differences between CRNAs and physician anesthesiologists and the public’s understanding of that distinction,” the court said. “It is evident that those materials formed the foundation for the [NH]BOM conclusion that anesthesiology is a subset of the practice of medicine and professionals who refer to themselves as ‘anesthesiologists’ must hold a license to practice medicine.”

For example, the AMA Litigation Center brief told the court that an MD or DO anesthesiologist has education and training that spans at least 12 to 14 years after high school and includes 12,000 to 16,000 hours of patient care training in the curriculum—twice the educational years and five times the clinical hours of a CRNA.

Also, there is a significant difference in the depth of the curricula. As physicians, anesthesiologists complete all courses relevant to practicing medicine, including laboratory courses and courses that give them comprehensive medical knowledge. Anesthesiologists are the professionals expected to medically manage patient care and prevent or respond to complications and complex situations for patients receiving anesthesia.

The New Hampshire Supreme Court also ruled that the board of medicine’s decision did not violate the First Amendment by unconstitutionally restricting commercial speech.

The justices noted that commercial speech is “expression related solely to the economic interests of the speaker and its audience,” and that professional titles generally do not fall under that definition.

Find out how calling CNRAs “nurse anesthesiologists” misleads patients.

Learn more about what the AMA is doing through research, advocacy and education to vigorously defend the practice of medicine against scope-of-practice expansions that threaten patient safety.