



California Society of Anesthesiologists
951 Mariner's Island Boulevard, Suite 270; San Mateo, CA 94404
(650) 345-3020 FAX (650) 345-3269 csa@csahq.org www.csahq.org

Email not displaying correctly? [View it in your browser.](#)



Contact: (916) 551-2881

Andrew LaMar

February 2, 2010

Doctors Fight to Protect Quality of Care for Senior Citizens

Lawsuit Challenges Governor's Decision to Jeopardize Anesthesia Care for Seniors on Medicare by Allowing Nurses to Give Anesthesia Without Physician Supervision

Sacramento – The California Medical Association (CMA) joined with the California Society of Anesthesiologists (CSA) to file a lawsuit today asking a court to overturn a decision by Gov. Arnold Schwarzenegger to opt out of the federal requirement for physician supervision of anesthesia care for Medicare patients. This would enable hospitals to allow nurses to administer anesthesia on Medicare patients without physician supervision.

The governor acted contrary to California law, which states that nurses who give patients anesthesia must be supervised by a licensed physician to ensure it is done properly. The governor also failed to follow the steps required by the Medicare regulations before requesting the change, according to CMA and CSA. The lawsuit was filed in State Superior Court in San Francisco this afternoon.

“Maintaining physician supervision of anesthesia is important for the safety of care delivered to all patients,” said Dr. Linda Hertzberg, president of the California Society of Anesthesiologists. “Unfortunately, the governor is saying that some patients don’t deserve the same protections that the rest of us do.”

In June 2009, Schwarzenegger submitted a letter to the Centers for Medicare and Medicaid Services (CMS) requesting that California be allowed to “opt out” of the regulation that physicians directly supervise or administer all anesthesia for Medicare

patients.

Medicare allows hospitals to opt out of physician supervision regulation, if the governor submits a request to CMS, provided that the governor consults with the state boards of medicine and nursing on issues relating to access to and quality of anesthesia services, concludes that the change is in the best interests of the state and declares that the action conforms with state law.

According to the complaint, the Schwarzenegger administration did not:

-- Properly consult with the Medical Board of California.

-- Determine the change would be consistent with state law. In fact, it contradicts state law, which requires that physicians order and direct the administration of anesthetic medications.

“If the governor had followed the law, he would have seen that reducing the standards for anesthesiologists could have a detrimental impact on patient safety,” said CMA President Brennan Cassidy, MD. “As doctors, our No. 1 priority is the health and safety of our patients and that’s why the governor is taking a step in the wrong direction.”

The California Medical Association represents more than 35,000 physicians in all modes of practice and specialties. CMA is dedicated to the health of all patients in California.

The California Society of Anesthesiologists represents 4,000 anesthesiologists practicing in California who are dedicated to the art and science of anesthesia practice and the highest quality of patient care.