

STATE OF FLORIDA  
BOARD OF NURSING

IN RE: THE PETITION  
FOR DECLARATORY  
STATEMENT OF  
PAUL DOW, CRNA

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**FINAL ORDER**

THIS CAUSE came before the BOARD OF NURSING (hereinafter Board) pursuant to §120.565, Florida Statutes, and Rule Chapter 28-105, Florida Administrative Code, at a duly-noticed meeting in Tampa, Florida on June 7, 2006, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed by PAUL DOW, CRNA (hereinafter Petitioner). Having considered the petition, the arguments submitted by counsel for Petitioner, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions.

**FINDINGS OF FACT**

1. This petition was noticed by the Board in Vol. 32, No. 19, dated May 12, 2006 of the Florida Administrative Weekly at page 2247.
2. Petitioner, PAUL DOW, CRNA, is a certified registered nurse anesthetist licensed to practice professional and advanced practice nursing in the State of Florida, having license number ARNP 1342752.
3. Petitioner is employed by Anesthesia Associates of Dunedin (AAD).
4. AAD recently agreed to provide clinical training for an unlicensed anesthesiologist assistant (AA) trainee. The AA trainee is reported to be a student at an anesthesiologist assistant training program located outside Florida.
5. On or about April 7, 2006, Petitioner's supervising anesthesiologist was

directly supervising the AA trainee in the performance of an anesthetic procedure at Mease Countryside Hospital in Safety Harbor, Florida.

6. Prior to the completion of the procedure, the anesthesiologist ordered Petitioner to take over the supervision of the unlicensed AA trainee while the AA trainee completed the procedure.

7. Petitioner refused to comply with the order, because he questioned whether he, as a CRNA, should supervise an AA trainee in the administration of anesthesia.

8. The supervising anesthesiologist advised Petitioner that he was an employee of AAD, and as an employee he would have to supervise the AA trainee if directed to do so. Petitioner still refused to supervise the AA trainee.

9. Petitioner seeks a declaratory statement as to whether the supervision of an unlicensed AA trainee by a CRNA is authorized by Florida law, or whether it would violate Florida statutes and rules governing the practice of nursing.

10. The statutory provisions on which the declaratory statement is sought are Sections 456.072(1)(j), 456.072(1)(p), 464.012(3) and (4), 464.018(1)(l) and 464.018(1)(o), Florida Statutes. The provisions of the Florida Administrative Code upon which this declaratory statement is sought are Rules 64B9-4.001, 64B9-4.010, 64B9-8.005, and 64B9-14, Florida Administrative Code.

11. Licensure as an AA requires completion of an approved graduate level program. Section 458.3475(6)(a)4.a., Florida Statutes.

12. An approved program is one accredited by the Committee on Accreditation of Allied Health Education Programs (CAAHEP). Rule 64B8-31.004, Florida Administrative Code. The accreditation standards of CAAHEP are not described in

Chapter 458, Chapter 459, or Rule 64B8-31.004.

13. The Board assumes for purposes of this Order that the clinical training by AAD is part of the requirements for accreditation by CAAHEP.

14. According to the Petition, AA trainees are not required to have any type of health care training or licensure before they enter an AA training program; nor is any such preliminary licensure or education required by Section 458.3475.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

2. The petition filed in this cause is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

3. The practice of AAs in Florida is governed by Sections 458.3475 and 459.023, Florida Statutes. Pursuant to Sections 458.3475(1)(b) and 459.023(3)(a), an AA must be directly supervised by an anesthesiologist, *e.g.*, a licensed physician as defined in Sections 458.3475(1)(a) or 459.023(1)(a).

4. AA trainees are not required to be licensed registered nurses, are not required to have nursing training or clinical nursing experience, and are not governed by Chapter 464, Florida Statutes or Rule 64B9, Florida Administrative Code.

5. Petitioner does not know the extent of the didactic curriculum of an accredited program or this AA trainee's program, the extent of clinical training provided as part of the didactic program, the extent of what appears to be an internship requirement.

6. Since an AA is licensed to *assist* an anesthesiologist, not perform services as an anesthesiologist, Petitioner does not have sufficient knowledge of the appropriate scope

of practice of an AA in Florida.

7. Sections 464.012(3) and (4), together with an appropriate protocol, set forth the scope of practice of a CRNA. The Board has approved ARNPs to serve as faculty in practical nursing programs and registered nursing programs, and requires ARNP faculty members in post-graduate programs leading to licensure as an ARNP. See, Rules 64B9-2.005(3)(d) and 64B9-4.003(2)(e). Neither Section 464.012(3) or (4), nor Section 458.3475 authorize a CRNA to train or supervise an AA.

8. Section 456.072(1)(j), Florida Statutes, and Rule 64B9-8.005(2)(g) prohibit aiding, assisting, procuring, employing or advising any unlicensed person to practice a profession contrary to the chapter regulating the profession. It would appear to be contrary to Section 458.3475 for anyone other than a physician to supervise an AA, much less an unlicensed AA intern or trainee. Therefore, supervision by petitioner would be assisting or advising an unlicensed person to practice contrary to the supervision requirements of Section 458.3475.

9. Rule 64B9-8.005(2)(n), Florida Administrative Code, provides that practicing beyond the scope of the licensee's license, educational preparation or nursing experience constitutes a departure from the minimal standards of acceptable and prevailing nursing practice. There is no statutory authority for a Petitioner to supervise an AA, trainee or licensee. Without specific knowledge of the content of an approved training program and the appropriate scope of practice for the knowledge base acquired therein, Petitioner does not have adequate educational preparation or nursing experience to supervise an AA trainee.

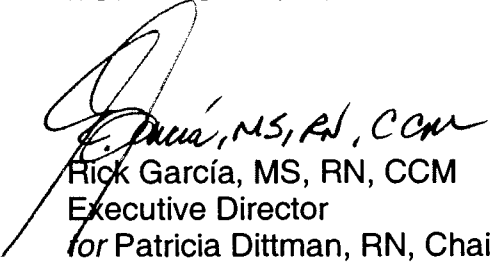
10. Supervision of an AA, trainee or licensee, would be practicing beyond the

scope of Petitioner's license in violation of 464.018(1)(h) and 456.072(1)(o), Florida Statutes.

WHEREFORE, the Board hereby finds that under the specific facts of the petition, as set forth above, Petitioner, Paul Dow, is not authorized by statute, and is not qualified by licensure, education or experience, to supervise an AA trainee engaged in the practice of anesthesia assistance during an approved training program.

DONE AND ORDERED this 25 day of July, 2006.

**BOARD OF NURSING**

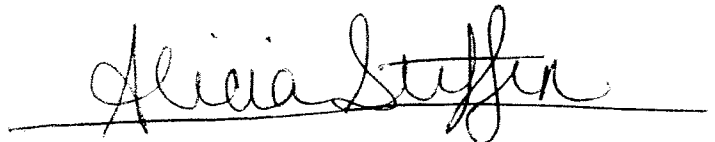
  
Rick García, MS, RN, CCM  
Executive Director  
for Patricia Dittman, RN, Chair

**NOTICE OF APPEAL RIGHTS**

Pursuant to Section 120.569, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the department and by filing a filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty days of the date this Final Order is filed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Petitioner PAUL DOW, CRNA, 1014 Martin Luther King Jr. Blvd., Dunedin FL 34698 and James W. Linn, Esquire, P.O. Box 10788, Tallahassee FL 32302, this 26<sup>th</sup> day of July, 2006.



**Deputy Agency Clerk**