

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

MISSOURI ASSOCIATION OF NURSE ANESTHETISTS, INC.,
GLENN KUNKEL, M.D., and KEVIN SNYDERS, CRNA,

Appellants,

v.

STATE BOARD OF REGISTRATION FOR THE HEALING ARTS,

Respondent.

DOCKET NUMBER WD72412

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 21, 2010

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

APPELLATE JUDGES

Division One: James M. Smart, Jr., Presiding Judge, and Mark D. Pfeiffer
and Cynthia L. Martin, Judges

ATTORNEYS

Thomas W. Rynard and James B. Deutsch
Jefferson City, MO

Attorneys for Appellants,

Chris Koster, Attorney General
Jefferson City, MO

Edwin R. Frownfelter, Assistant Attorney General
Kansas City, MO

Attorneys for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

MISSOURI ASSOCIATION OF NURSE)
ANESTHETISTS, INC., GLENN KUNKEL,)
M.D., and KEVIN SNYDERS, CRNA,)
)
Appellants,)
v.)
)
STATE BOARD OF REGISTRATION FOR)
THE HEALING ARTS,)
)
Respondent.)

WD72412

Cole County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, and
Mark D. Pfeiffer and Cynthia L. Martin, Judges

The Missouri Association of Nurse Anesthetists, Inc., Glenn Kunkel, M.D., and Kevin Snyners, CRNA, appeal the Circuit Court of Cole County’s grant of summary judgment in favor of the State Board of Registration for the Healing Arts (Board) finding the Board’s statements regarding certain treatment provided by advanced practice nurses (APNs) contained in an advisory letter does not constitute a rule under section 536.010(6) RSMo 2000.

Appellants raise two points on appeal, contending that the Board’s letter constitutes a rule because it responds to a particular and specific request to adopt a standard of conduct for the scope of practice of APNs and that the Board has no jurisdiction to define the scope of practice for APNs.

AFFIRMED.

Division One holds:

We find that the Board’s letter is nothing more than an expression of opinion based upon a fact pattern presented to the Board and, therefore, not subject to the rule making procedures of Chapter 536. Implicit in the concept of the word “rule” is that the agency statement has a

potential of impacting substantive or procedural rights. Here, the Board's letter in no way orders physicians to refrain from using APNs for the procedure; thus, it creates no new obligations or liabilities. Furthermore, the Board's letter does not regulate the scope of practice of nursing. It is nothing more than an agency declaration that might only possibly lead to future regulatory rules. But, until such a rulemaking event occurs, Appellants do not present a controversy ripe for review. We affirm the decision of the circuit court granting summary judgment.

Opinion by: Mark D. Pfeiffer, Judge

September 21, 2010

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.