S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sens. HASSELL-THOMPSON, DIAZ, HUNTLEY, MONSERRATE, OPPENHEIMER, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the profession of nurse anesthesia

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds that certified registered nurse anesthetists are highly educated and trained advanced practice nurses who hold a national professional certification, and whose competency in the professional practice of nurse anesthesia in hospitals, free-standing ambulatory surgery centers, clinics, professional offices and other facilities is well known. Nurse anesthetists are integral to the continued professional delivery of services in such health care facilities throughout the state.

The legislature further finds that statutory recognition of nurse anesthetists will further enhance patient safety by codifying their professional scope of practice that is currently governed in this state by regulations promulgated pursuant to the public health law in the case of hospitals and ambulatory surgery centers.

The legislature also finds that while nurse anesthetists are advanced practice nurses, licensed as registered professional nurses under article 139 of the education law, no provision of this act is meant to limit, diminish or in any way impinge upon the practice of the profession of nursing as a registered professional nurse under such article.

Therefore, the legislature hereby declares that, due to the intrinsic nature of the administration of anesthesia services, the integral part that certified registered nurse anesthetists play in the safe delivery of such services and the need to protect and enhance patient safety in all health care facilities, it is in the interest of the people of this state to recognize the national professional certification of registered

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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nurse anesthetists and that the existing scope of practice of nurse anesthesia, as currently practiced in this state, be codified in statute.

S 2. Section 6902 of the education law is amended by adding a new subdivision 4 to read as follows:

4. (A) THE PRACTICE OF REGISTERED PROFESSIONAL NURSING BY A CERTIFIED REGISTERED NURSE ANESTHETIST, CERTIFIED UNDER SECTION SIXTY-NINE HUNDRED ELEVEN OF THIS ARTICLE MAY INCLUDE THE PRACTICE OF NURSE ANESTHESIA. NURSE ANESTHESIA INCLUDES: THE ADMINISTRATION OF ANESTHESIA AND ANESTHESIA RELATED CARE TO PATIENTS; PREANESTHETICS EVALUATION AND PREPARATION; ANESTHETIC INDUCTION, MAINTENANCE AND EMERGENCE; POST ANESTHESIA CARE; PERIANESTHETICS AND CLINICAL SUPPORT FUNCTIONS; AND PAIN MANAGEMENT, IN COLLABORATION WITH A LICENSED PHYSICIAN QUALIFIED BY LAW TO DETERMINE THE NEED FOR ANESTHESIA SERVICES, PROVIDED SUCH SERVICES ARE PERFORMED IN ACCORDANCE WITH A WRITTEN PRACTICE AGREEMENT AND WRITTEN PRACTICE PROTOCOLS. THE WRITTEN PRACTICE AGREEMENT SHALL INCLUDE EXPLICIT PROVISIONS FOR THE RESOLUTION OF ANY DISAGREEMENT BETWEEN THE COLLABORATING PHYSICIAN AND THE CERTIFIED REGISTERED NURSE ANESTHETIST REGARDING A MATTER OF ANESTHESIA TREATMENT THAT IS WITHIN THE SCOPE OF PRACTICE OF BOTH. TO THE EXTENT THE PRACTICE AGREEMENT DOES NOT SO PROVIDE, THEN THE COLLABORATING PHYSICIAN'S TREATMENT SHALL PREVAIL.

(B) PRESCRIPTIONS FOR DRUGS, DEVICES AND ANESTHETIC AGENTS MAY BE ISSUED BY A CERTIFIED REGISTERED NURSE ANESTHETIST, UNDER THIS SUBDIVISION AND SECTION SIXTY-NINE HUNDRED ELEVEN OF THIS ARTICLE, IN ACCORDANCE WITH THE PRACTICE AGREEMENT AND PRACTICE PROTOCOLS. THE CERTIFIED REGISTERED NURSE ANESTHETIST SHALL OBTAIN A CERTIFICATE FROM THE DEPARTMENT UPON SUCCESSFULLY COMPLETING A PROGRAM INCLUDING AN APPROPRIATE PHARMACOLOGY COMPONENT, OR ITS EQUIVALENT, AS ESTABLISHED BY THE COMMISSIONER'S REGULATIONS, PRIOR TO PRESCRIBING UNDER THIS SUBDIVISION. THE CERTIFICATE ISSUED UNDER SECTION SIXTY-NINE HUNDRED ELEVEN OF THIS ARTICLE SHALL STATE WHETHER THE CERTIFIED REGISTERED NURSE ANESTHETIST HAS SUCCESSFULLY COMPLETED SUCH A PROGRAM OR EQUIVALENT AND IS AUTHORIZED TO PRESCRIBE UNDER THIS SUBDIVISION.

(C) EACH PRACTICE AGREEMENT SHALL PROVIDE FOR PATIENT RECORDS REVIEW BY THE COLLABORATING PHYSICIAN IN A TIMELY FASHION BUT IN NO EVENT LESS OFTEN THAN EVERY THREE MONTHS. THE NAMES OF THE CERTIFIED REGISTERED NURSE ANESTHETIST AND THE COLLABORATING PHYSICIAN SHALL BE CLEARLY POSTED IN THE PRACTICE SETTING OF THE CERTIFIED REGISTERED NURSE ANESTHETIST.

(D) THE PRACTICE PROTOCOL SHALL REFLECT CURRENT ACCEPTED MEDICAL AND NURSING PRACTICE. THE PROTOCOLS SHALL BE FILED WITH THE DEPARTMENT WITHIN NINETY DAYS OF THE COMMENCEMENT OF THE PRACTICE AND MAY BE UPDATED PERIODICALLY. THE COMMISSIONER SHALL MAKE REGULATIONS ESTABLISHING THE PROCEDURE FOR THE REVIEW OF PROTOCOLS AND THE DISPOSITION OF ANY ISSUES ARISING FROM SUCH REVIEW.

(E) NO PHYSICIAN SHALL ENTER INTO PRACTICE AGREEMENTS WITH MORE THAN FOUR CERTIFIED REGISTERED NURSE ANESTHETISTS WHO ARE NOT LOCATED ON THE SAME PHYSICAL PREMISES AS THE COLLABORATING PHYSICIAN.

(F) NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO LIMIT OR DIMINISH THE PRACTICE OF THE PROFESSION OF NURSING AS A REGISTERED PROFESSIONAL NURSE UNDER THIS ARTICLE OR ANY OTHER LAW, RULE, REGULATION OR CERTIFICATION, NOR TO DENY ANY REGISTERED PROFESSIONAL NURSE THE RIGHT TO DO ANY ACT OR ENGAGE IN ANY PRACTICE AUTHORIZED BY THIS ARTICLE OR ANY OTHER LAW, RULE, REGULATION OR CERTIFICATION.

(G) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO ANY ACTIVITY AUTHORIZED, PURSUANT TO STATUTE, RULE OR REGULATION, TO BE PERFORMED BY

A REGISTERED PROFESSIONAL NURSE IN A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

S 3. The education law is amended by adding a new section 6911 to read as follows:

S 6911. CERTIFICATES FOR NURSE ANESTHESIA PRACTICE. 1. FOR ISSUANCE OF A CERTIFICATE TO PRACTICE AS A CERTIFIED REGISTERED NURSE ANESTHETIST UNDER SUBDIVISION FOUR OF SECTION SIXTY-NINE HUNDRED TWO OF THIS ARTICLE, THE APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

(B) LICENSE: BE LICENSED AS A REGISTERED PROFESSIONAL NURSE IN THE STATE;

(C) EDUCATION: (I) HAVE SATISFACTORILY COMPLETED EDUCATIONAL PREPARATION FOR PROVISION OF THESE SERVICES IN A PROGRAM REGISTERED BY THE DEPARTMENT OR IN A PROGRAM ACCREDITED BY A NATIONAL BODY RECOGNIZED BY THE DEPARTMENT OR DETERMINED BY THE DEPARTMENT TO BE THE EQUIVALENT; AND (II) SUBMIT EVIDENCE OF CURRENT CERTIFICATION OR RECERTIFICATION BY A NATIONAL CERTIFYING BODY, RECOGNIZED BY THE DEPARTMENT;

(D) FEES: PAY A FEE TO THE DEPARTMENT OF FIFTY DOLLARS FOR AN INITIAL CERTIFICATE AUTHORIZING NURSE ANESTHESIA PRACTICE AND A TRIENNIAL REGISTRATION FEE OF THIRTY DOLLARS.

AFTER A CERTIFIED REGISTERED NURSE ANESTHETIST'S INITIAL REGISTRATION, REGISTRATION UNDER THIS SECTION SHALL BE COTERMINOUS WITH THE CERTIFIED REGISTERED NURSE ANESTHETIST'S REGISTRATION AS A PROFESSIONAL NURSE.

2. ONLY A PERSON CERTIFIED UNDER THIS SECTION SHALL USE THE TITLE "CERTIFIED REGISTERED NURSE ANESTHETIST".

3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY ACT OR PRACTICE AUTHORIZED BY ANY OTHER LAW, RULE, REGULATION OR CERTIFICATION.

4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY ACTIVITY AUTHORIZED, PURSUANT TO STATUTE, RULE OR REGULATION, TO BE PERFORMED BY A REGISTERED PROFESSIONAL NURSE IN A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

5. AN INDIVIDUAL WHO IS AUTHORIZED TO PRACTICE AS A CERTIFIED REGISTERED NURSE ANESTHETIST IN A HOSPITAL UNDER REGULATIONS OF THE DEPARTMENT OF HEALTH MAY USE THE TITLE "CERTIFIED REGISTERED NURSE ANESTHETIST" IN CONNECTION WITH THAT PRACTICE. IF SUCH AN INDIVIDUAL APPLIES FOR A CERTIFICATE UNDER THIS SECTION, HE OR SHE MAY SATISFY THE EDUCATION REQUIREMENT OF SUBDIVISION ONE OF THIS SECTION BY PRESENTING SATISFACTORY EVIDENCE OF SUCH AUTHORITY.

6. (A) A REGISTERED PROFESSIONAL NURSE LICENSED UNDER SECTION SIXTY-NINE HUNDRED FIVE OF THIS ARTICLE WHO HAS SATISFACTORILY COMPLETED A PROGRAM OF EDUCATIONAL PREPARATION AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION MAY, FOR A PERIOD NOT TO EXCEED TWENTY-FOUR MONTHS IMMEDIATELY FOLLOWING THE COMPLETION OF SUCH EDUCATIONAL PROGRAM, PRACTICE NURSE ANESTHESIA UNDER SUBDIVISION FOUR OF SECTION SIXTY-NINE HUNDRED TWO OF THIS ARTICLE AS A GRADUATE NURSE ANESTHETIST IN THE SAME MANNER AS A CERTIFIED REGISTERED NURSE ANESTHETIST UNDER THAT SUBDIVISION.

(B) A REGISTERED PROFESSIONAL NURSE LICENSED UNDER SECTION SIXTY-NINE HUNDRED FIVE OF THIS ARTICLE WHO IS DULY ENROLLED IN A PROGRAM OF EDUCATIONAL PREPARATION, MAY PRACTICE NURSE ANESTHESIA AS A STUDENT NURSE ANESTHETIST UNDER THE SUPERVISION OF AN ANESTHESIOLOGIST OR A CERTIFIED REGISTERED NURSE ANESTHETIST, WHO IS IMMEDIATELY AVAILABLE AS NEEDED.

7. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 4. This act shall take effect immediately.