

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

4509--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. MORELLE, HOYT, SCHIMMINGER, ORTIZ, GUNTHER, TOWNS, COOK, JACOBS, MARKEY, BRENNAN, LENTOL, POWELL, CARROZZA, SEMINERIO -- Multi-Sponsored by -- M. of A. BOYLAND, BRADLEY, CYMBROWITZ, DELMONTE, DESTITO, DINOWITZ, EDDINGTON, ESPAILLAT, GIANARIS, GORDON, HEASTIE, KOON, MAGEE, MAGNARELLI, MCENENY, MILLMAN, PRETLOW, REILLY, J. RIVERA, P. RIVERA, SCARBOROUGH, WEISENBERG, WEPRIN, WRIGHT -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the registration of nurse anesthetists

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

1 Section 1. Section 6902 of the education law is amended by adding a
2 new subdivision 4 to read as follows:
3 4. (A) THE ADMINISTRATION OF ANESTHESIA TO A PATIENT SHALL BE
4 PERFORMED ONLY BY A QUALIFIED ANESTHESIA PRACTITIONER AS LEGALLY AUTHOR-
5 IZED UNDER THIS TITLE.
6 (B) THE PRACTICE OF PROFESSIONAL NURSING BY A REGISTERED NURSE ANESTH-
7 ETIST, CERTIFIED UNDER SECTION SIXTY-NINE HUNDRED ELEVEN OF THIS ARTI-
8 CLE, SHALL (I) INCLUDE THE ADMINISTRATION OF ANESTHESIA TO A PATIENT BUT
9 ONLY UNDER THE SUPERVISION OF AN ANESTHESIOLOGIST WHO IS IMMEDIATELY
10 AVAILABLE; OR UNDER THE SUPERVISION OF THE OPERATING PHYSICIAN WHO IS
11 PHYSICALLY PRESENT; OR UNDER THE SUPERVISION OF A DENTIST, ORAL SURGEON
12 OR PODIATRIST WHO IS PHYSICALLY PRESENT AND WHO IS AUTHORIZED BY LAW TO
13 ADMINISTER ANESTHESIA, TO THE EXTENT SUCH PERSON IS QUALIFIED BY LAW,
14 REGULATION, OR HOSPITAL APPOINTMENT TO PERFORM AND SUPERVISE THE ADMIN-
15 ISTRATION OF ANESTHESIA; AND
16 (II) INCLUDE THE EXECUTION OF MEDICAL REGIMENS PRESCRIBED BY THE
17 SUPERVISORY PHYSICIAN, DENTIST, ORAL SURGEON OR PODIATRIST WHO IS
18 AUTHORIZED BY LAW TO PRESCRIBE; AND

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

LBD02130-04-9

(III) BE CONSISTENT WITH POLICIES AND PROCEDURES APPROVED BY THE MEDICAL STAFF AND GOVERNING BODY OF THE HEALTH CARE FACILITY, OR FREE STANDING AMBULATORY SURGICAL CENTER DEFINED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHERE APPLICABLE, AND AS LEGALLY AUTHORIZED UNDER THIS TITLE AND IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE COMMISSIONER OF HEALTH.

(C) THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(I) "ADMINISTRATION OF ANESTHESIA" IN THE HOSPITAL OR AMBULATORY SURGICAL CENTER MEANS ANESTHESIA SERVICES SHALL BE DIRECTED BY A PHYSICIAN WHO HAS RESPONSIBILITY FOR THE CLINICAL ASPECTS OF ORGANIZATION AND DELIVERY OF ALL ANESTHESIA SERVICES PROVIDED BY THE HOSPITAL OR AMBULATORY SURGICAL CENTER. THAT PHYSICIAN OR ANOTHER INDIVIDUAL QUALIFIED BY EDUCATION AND EXPERIENCE SHALL DIRECT THE ADMINISTRATIVE ASPECTS OF THE SERVICE, AND SHALL BE RESPONSIBLE, IN CONJUNCTION WITH THE MEDICAL STAFF, FOR RECOMMENDING TO THE GOVERNING BODY PRIVILEGES TO THOSE PERSONS QUALIFIED TO ADMINISTER ANESTHETICS, INCLUDING THE PROCEDURES EACH PERSON IS QUALIFIED TO PERFORM AND THE LEVELS OF REQUIRED SUPERVISION AS APPROPRIATE. ADMINISTRATION OF ANESTHESIA IN OFFICE BASED SURGERY VENUES MEANS THE ANESTHESIA COMPONENT OF THE MEDICAL OR DENTAL PROCEDURE SHALL BE SUPERVISED BY AN ANESTHESIOLOGIST, PHYSICIAN, DENTIST OR PODIATRIST QUALIFIED TO SUPERVISE THE ADMINISTRATION OF ANESTHESIA WHO IS PHYSICALLY PRESENT AND AVAILABLE TO IMMEDIATELY DIAGNOSE AND TREAT THE PATIENT FOR ANESTHESIA COMPLICATIONS OR EMERGENCIES, AND NURSE ANESTHETISTS WITH THE APPROPRIATE TRAINING AND EXPERIENCE MAY BE PERMITTED TO ADMINISTER UNCONSCIOUS OR DEEP SEDATION, AND/OR GENERAL ANESTHESIA, REGIONAL ANESTHESIA, AND/OR MONITOR THE PATIENT.

(II) "CONSCIOUS SEDATION" OR "SEDATION ANALGESIA" MEANS A MINIMALLY DEPRESSED LEVEL OF CONSCIOUSNESS THAT RETAINS THE PATIENT'S ABILITY TO MAINTAIN ADEQUATE CARDIORESPIRATORY FUNCTION AND THE ABILITY TO INDEPENDENTLY AND CONTINUOUSLY MAINTAIN AN OPEN AIRWAY, A REGULAR BREATHING PATTERN, PROTECTIVE REFLEXES, AND RESPOND PURPOSEFULLY AND RATIONALLY TO TACTILE STIMULATION AND VERBAL COMMAND. THIS DOES NOT INCLUDE UNSUPPLEMENTED ORAL PRE-OPERATIVE MEDICATIONS OR NITROUS OXIDE ANALGESIA.

(III) "GENERAL ANESTHESIA" MEANS THE ADMINISTRATION OF A MEDICATION BY THE PARENTERAL OR INHALATION ROUTES WHICH RESULTS IN A CONTROLLED STATE OF UNCONSCIOUSNESS ACCOMPANIED BY A COMPLETE LOSS OF PROTECTIVE REFLEXES INCLUDING LOSS OF THE ABILITY TO INDEPENDENTLY AND CONTINUOUSLY MAINTAIN PATIENT AIRWAY AND A REGULAR BREATHING PATTERN. THERE IS ALSO AN INABILITY TO RESPOND PURPOSEFULLY TO VERBAL COMMANDS AND/OR TACTILE STIMULATION.

(IV) "IMMEDIATELY AVAILABLE" MEANS REMAINING PHYSICALLY AVAILABLE FOR THE IMMEDIATE TREATMENT OF EMERGENCIES AND PROVIDING INDICATED POST-OPERATIVE CARE.

(V) "LOCAL ANESTHESIA" MEANS THE INTRODUCTION OF A LOCAL ANESTHETIC AGENT INTO A LOCALIZED PART OF THE BODY BY TOPICAL APPLICATION OR LOCAL INFILTRATION IN CLOSE PROXIMITY TO A NERVE, WHICH PRODUCES A TRANSIENT AND REVERSIBLE LOSS OF SENSATION. ALL LOCAL ANESTHETICS POSSESS BOTH EXCITATORY (SEIZURE) AND DEPRESSANT (LOSS OF CONSCIOUSNESS) CENTRAL NERVOUS SYSTEM EFFECTS IN SUFFICIENT BLOOD LEVELS AND MAY HAVE PROFOUND CARDIOVASCULAR DEPRESSANT EFFECTS. THERE MAY ALSO BE INTERACTIVE EFFECTS BETWEEN LOCAL ANESTHETIC AGENTS AND SEDATIVE MEDICATIONS.

(VI) "MONITORING" MEANS THE CONTINUAL CLINICAL OBSERVATION OF A PATIENT AND THE USE OF INSTRUMENTS TO MEASURE, DISPLAY, AND RECORD THE VALUES OF CERTAIN PHYSIOLOGIC VARIABLES SUCH AS PULSE, OXYGEN SATURATION, LEVEL OF CONSCIOUSNESS, BLOOD PRESSURE, AND RESPIRATION.

(VII) "OFFICE-BASED SURGERY" MEANS ANY SURGICAL OR OTHER INVASIVE PROCEDURE REQUIRING ANESTHESIA, ANALGESIA OR SEDATION INCLUDING CRYOSURGERY, LASER SURGERY, AND HIGH-VOLUME LIPOSUCTION WHICH IS PERFORMED BY A PRACTITIONER IN A LOCATION OTHER THAN A HOSPITAL (AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW) OR A DIAGNOSTIC AND TREATMENT CENTER INCLUDING FREESTANDING AMBULATORY SURGERY CENTERS AND WHICH RESULTS IN A PATIENT STAY OF LESS THAN TWENTY-FOUR CONSECUTIVE HOURS.

(VIII) "PATIENT" MEANS AN INDIVIDUAL WHO IS UNDER THE CARE OF A PHYSICIAN IN A LICENSED FACILITY OR, IN AN OFFICE, UNDER THE CARE OF A PHYSICIAN, DENTIST, ORAL SURGEON OR PODIATRIST.

(IX) "PERI-OPERATIVE PERIOD" MEANS THE PERIOD OF TIME COMMENCING UPON THE MEDICAL EVALUATION OF THE PATIENT BEFORE SURGERY AND ENDING UPON THE PATIENT'S MEDICAL DISCHARGE FROM THE RECOVERY ROOM.

(X) "PHYSICALLY PRESENT" BY A PHYSICIAN MEANS THE ABILITY TO REACT AND RESPOND IN AN IMMEDIATE AND APPROPRIATE MANNER SO AS TO MAKE POSSIBLE THE CONTINUOUS EXERCISE OF MEDICAL JUDGMENT THROUGHOUT THE ADMINISTRATION OF THE ANESTHESIA. "PHYSICALLY PRESENT" BY A DENTIST, ORAL SURGEON OR PODIATRIST MEANS THE ABILITY OF SUCH PERSON WHO IS PERFORMING THE PROCEDURE REQUIRING THE ADMINISTRATION OF ANESTHESIA TO REACT AND RESPOND IN AN IMMEDIATE AND APPROPRIATE MANNER SO AS TO MAKE POSSIBLE THE CONTINUOUS EXERCISE OF PROFESSIONAL JUDGMENT THROUGHOUT THE ADMINISTRATION OF THE ANESTHESIA.

(XI) "QUALIFIED ANESTHESIA PRACTITIONER" MEANS A PHYSICIAN, DENTIST, PODIATRIST OR CERTIFIED REGISTERED NURSE ANESTHETIST WHOSE PROFESSIONAL PRACTICE IS SUBJECT TO THE DEPARTMENT OF HEALTH FOR PROFESSIONAL MEDICAL OR PROFESSIONAL CONDUCT OR THE STATE EDUCATION DEPARTMENT OFFICE OF PROFESSIONAL DISCIPLINE.

(XII) "REGIONAL ANESTHESIA" MEANS THE ADMINISTRATION OF LOCAL ANESTHESIA AGENTS TO INTERRUPT NERVE IMPULSES IN A MAJOR REGION OF THE BODY. INCLUDED IN THIS CATEGORY, FOR EXAMPLE, ARE SPINAL, EPIDURAL, CAUDAL, UPPER OR LOWER EXTREMITY PLEXUS BLOCK ANESTHESIA, AND INTRAVENOUS REGIONAL ANESTHESIA.

(XIII) "SUPERVISION" MEANS THAT A PHYSICIAN, DENTIST, ORAL SURGEON OR PODIATRIST SHALL PERFORM A PRE-ANESTHETIC EXAMINATION AND EVALUATION, PRESCRIBE THE ANESTHESIA, INCLUDING POST-OPERATIVE MEDICATIONS AS NEEDED FOR PAIN AND DISCOMFORT, INCLUDING NAUSEA AND VOMITING, REMAIN PHYSICALLY PRESENT DURING THE ENTIRE PERI-OPERATIVE PERIOD AND IMMEDIATELY AVAILABLE FOR DIAGNOSIS, TREATMENT, AND MANAGEMENT OF ANESTHESIA-RELATED COMPLICATIONS OR EMERGENCIES, AND ASSURE THE PROVISION OF INDICATED POST-ANESTHESIA CARE.

(XIV) "SUPPLEMENTED LOCAL ANESTHESIA" MEANS THE USE OF LOCAL ANESTHESIA SUPPLEMENTED WITH CONSCIOUS SEDATION.

(XV) "UNCONSCIOUS OR DEEP SEDATION" MEANS THE ADMINISTRATION OF MEDICATION BY THE ORAL, PARENTERAL, OR INHALATION ROUTES WHICH RESULTS IN A CONTROLLED STATE OF DEPRESSED CONSCIOUSNESS ACCOMPANIED BY PARTIAL LOSS OF PROTECTIVE REFLEXES. THERE MAY BE AN INABILITY TO INDEPENDENTLY AND CONTINUOUSLY MAINTAIN AN OPEN AIRWAY AND/OR REGULAR BREATHING PATTERN WITH UNCONSCIOUS OR DEEP SEDATION, AND THE ABILITY TO APPROPRIATELY AND RATIONALLY RESPOND TO PHYSICAL STIMULI AND VERBAL COMMANDS IS LOST.

(XVI) "UNSUPPLEMENTED LOCAL ANESTHESIA" MEANS THE USE OF LOCAL ANESTHESIA WITHOUT SUPPLEMENTING WITH CONSCIOUS SEDATION.

(D) THE PROVISIONS OF THIS CHAPTER SHALL NOT OPERATE TO MODIFY THE SCOPE OF PRACTICE OF CERTIFIED REGISTERED NURSE ANESTHETISTS PURSUANT TO STATUTE OR THE RULES AND REGULATIONS OF THE COMMISSIONER OF HEALTH IN A HOSPITAL OR IN A FREE-STANDING AMBULATORY SURGERY CENTER AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

1 S 2. The education law is amended by adding a new section 6911 to read
2 as follows:

3 S 6911. CERTIFICATION OF NURSE ANESTHETISTS. 1. FOR ISSUANCE OF A
4 CERTIFICATE TO PRACTICE AS A CERTIFIED REGISTERED NURSE ANESTHETIST
5 UNDER SUBDIVISION FOUR OF SECTION SIXTY-NINE HUNDRED TWO OF THIS ARTI-
6 CLE, THE APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

7 (A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT. SUCH APPLI-
8 CATION SHALL BE IN SUCH FORM AS PROVIDED BY THE COMMISSIONER;

9 (B) LICENSE: BE LICENSED AS A REGISTERED PROFESSIONAL NURSE IN THIS
10 STATE;

11 (C) EDUCATION: (I) HAVE SATISFACTORILY COMPLETED A PRESCRIBED COURSE
12 OF STUDY IN A SCHOOL OF NURSE ANESTHESIA ACCREDITED BY THE COUNCIL ON
13 ACCREDITATION OF NURSE ANESTHESIA EDUCATION PROGRAMS OR SCHOOLS OR OTHER
14 ACCREDITING BODY WHICH THE COMMISSIONER FINDS TO BE SUBSTANTIALLY EQUIV-
15 ALENT; AND

16 (II) HAVE PASSED THE NATIONAL CERTIFYING EXAMINATION GIVEN BY THE
17 COUNCIL ON CERTIFICATION OF NURSE ANESTHETISTS OR OTHER CERTIFYING EXAM-
18 INATION WHICH THE COMMISSIONER FINDS TO BE SUBSTANTIALLY EQUIVALENT; AND

19 (III) IS CURRENTLY CERTIFIED BY THE COUNCIL ON CERTIFICATION OF NURSE
20 ANESTHETISTS OR BY THE COUNCIL ON RECERTIFICATION OF NURSE ANESTHETISTS
21 OR OTHER ACCREDITING BODY WHICH THE COMMISSIONER FINDS TO BE SUBSTAN-
22 Tially EQUIVALENT. A REGISTERED PROFESSIONAL NURSE LICENSED AND CURRENT-
23 LY REGISTERED WITH THE DEPARTMENT WHO DOES NOT MEET THE REQUIREMENTS AS
24 SET FORTH IN THIS PARAGRAPH, SHALL BE PERMITTED TO CONTINUE THE PRACTICE
25 OF NURSE ANESTHESIA ONLY UNDER THE SUPERVISION OF A QUALIFIED ANESTHE-
26 SIOLOGIST UNTIL ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.
27 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, A GRADUATE NURSE
28 ANESTHETIST AWAITING CERTIFICATION SHALL BE PERMITTED TO ADMINISTER
29 ANESTHESIA ONLY IN THE HOSPITAL OR AMBULATORY SURGICAL CENTER SETTING AS
30 PROVIDED HEREIN;

31 (D) FEES: PAY TO THE DEPARTMENT A FEE OF FIFTY DOLLARS FOR INITIAL
32 CERTIFICATION AND A TRIENNIAL REGISTRATION FEE OF THIRTY DOLLARS. AFTER
33 A CERTIFIED REGISTERED NURSE ANESTHETIST'S INITIAL REGISTRATION, REGIS-
34 TRATION UNDER THIS SECTION SHALL BE COTERMINOUS WITH THE CERTIFIED
35 REGISTERED NURSE ANESTHETIST'S REGISTRATION AS A PROFESSIONAL NURSE.

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

38 3. A REGISTERED PROFESSIONAL NURSE DULY ENROLLED IN A PROGRAM OF
39 EDUCATIONAL PREPARATION UNDER SUBDIVISION ONE OF THIS SECTION MAY ADMIN-
40 ISTER ANESTHESIA AS A STUDENT NURSE ANESTHETIST UNDER THE DIRECT
41 PERSONAL SUPERVISION OF A CERTIFIED REGISTERED NURSE ANESTHETIST WHO IS
42 SUPERVISED BY AN ANESTHESIOLOGIST OR AN ANESTHESIOLOGIST. THE CERTIFIED
43 REGISTERED NURSE ANESTHETIST OR ANESTHESIOLOGIST SHALL BE CONTINUOUSLY
44 PRESENT.

45 4. THE COMMISSIONER MAY PROMULGATE REGULATIONS TO IMPLEMENT THIS
46 SECTION.

47 S 3. Notwithstanding any other provision of law to the contrary, a
48 registered professional nurse certified as a certified registered nurse
49 anesthetist on, before, or within one year after the date on which
50 sections one and two of this act take effect may administer anesthesia
51 as a certified registered nurse anesthetist, and shall be deemed to be
52 certified as a certified registered nurse anesthetist under section 6911
53 of the education law as added by section two of this act, until one year
54 after sections one and two of this act shall take effect; provided that
55 certification under such section shall be by a national certifying body

1 that has been certifying registered nurse anesthetists for at least five
2 years prior to such section becoming a law.
3 S 4. This act shall take effect on the thirtieth day after it shall
4 have become a law, except that sections one and two of this act shall
5 take effect on the first of April next succeeding the date on which it
6 shall have become a law.