

5403

2009-2010 Regular Sessions

I N S E N A T E

April 29, 2009

Introduced by Sen. KLEIN -- 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 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

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

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

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

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1 (I) "ADMINISTRATION OF ANESTHESIA" IN THE HOSPITAL OR AMBULATORY
2 SURGICAL CENTER MEANS ANESTHESIA SERVICES SHALL BE DIRECTED BY A PHYSI-
3 CIAN WHO HAS RESPONSIBILITY FOR THE CLINICAL ASPECTS OF ORGANIZATION AND
4 DELIVERY OF ALL ANESTHESIA SERVICES PROVIDED BY THE HOSPITAL OR AMBULA-
5 TORY SURGICAL CENTER. THAT PHYSICIAN OR ANOTHER INDIVIDUAL QUALIFIED BY
6 EDUCATION AND EXPERIENCE SHALL DIRECT THE ADMINISTRATIVE ASPECTS OF THE
7 SERVICE, AND SHALL BE RESPONSIBLE, IN CONJUNCTION WITH THE MEDICAL
8 STAFF, FOR RECOMMENDING TO THE GOVERNING BODY PRIVILEGES TO THOSE
9 PERSONS QUALIFIED TO ADMINISTER ANESTHETICS, INCLUDING THE PROCEDURES
10 EACH PERSON IS QUALIFIED TO PERFORM AND THE LEVELS OF REQUIRED SUPER-
11 VISION AS APPROPRIATE. ADMINISTRATION OF ANESTHESIA IN OFFICE BASED
12 SURGERY VENUES MEANS THE ANESTHESIA COMPONENT OF THE MEDICAL OR DENTAL
13 PROCEDURE SHALL BE SUPERVISED BY AN ANESTHESIOLOGIST, PHYSICIAN, DENTIST
14 OR PODIATRIST QUALIFIED TO SUPERVISE THE ADMINISTRATION OF ANESTHESIA
15 WHO IS PHYSICALLY PRESENT AND AVAILABLE TO IMMEDIATELY DIAGNOSE AND
16 TREAT THE PATIENT FOR ANESTHESIA COMPLICATIONS OR EMERGENCIES, AND NURSE
17 ANESTHETISTS WITH THE APPROPRIATE TRAINING AND EXPERIENCE MAY BE PERMIT-
18 TED TO ADMINISTER UNCONSCIOUS OR DEEP SEDATION, AND/OR GENERAL ANES-
19 THESIA, REGIONAL ANESTHESIA, AND/OR MONITOR THE PATIENT.

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

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

34 (IV) "IMMEDIATELY AVAILABLE" MEANS REMAINING PHYSICALLY AVAILABLE FOR
35 THE IMMEDIATE TREATMENT OF EMERGENCIES AND PROVIDING INDICATED POST-OP-
36 ERATIVE CARE.

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

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

49 (VII) "OFFICE-BASED SURGERY" MEANS ANY SURGICAL OR OTHER INVASIVE
50 PROCEDURE REQUIRING ANESTHESIA, ANALGESIA OR SEDATION INCLUDING CRYOSUR-
51 GERY, LASER SURGERY, AND HIGH-VOLUME LIPOSUCTION WHICH IS PERFORMED BY A
52 PRACTITIONER IN A LOCATION OTHER THAN A HOSPITAL (AS DEFINED IN ARTICLE
53 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW) OR A DIAGNOSTIC AND TREATMENT
54 CENTER INCLUDING FREESTANDING AMBULATORY SURGERY CENTERS AND WHICH
55 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.

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

S 6911. CERTIFICATION OF NURSE ANESTHETISTS. 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:

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

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

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

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

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

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

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

32 3. A REGISTERED PROFESSIONAL NURSE DULY ENROLLED IN A PROGRAM OF
33 EDUCATIONAL PREPARATION UNDER SUBDIVISION ONE OF THIS SECTION MAY ADMIN-
34 ISTER ANESTHESIA AS A STUDENT NURSE ANESTHETIST UNDER THE DIRECT
35 PERSONAL SUPERVISION OF A CERTIFIED REGISTERED NURSE ANESTHETIST WHO IS
36 SUPERVISED BY AN ANESTHESIOLOGIST OR AN ANESTHESIOLOGIST. THE CERTIFIED
37 REGISTERED NURSE ANESTHETIST OR ANESTHESIOLOGIST SHALL BE CONTINUOUSLY
38 PRESENT.

39 4. THE COMMISSIONER MAY PROMULGATE REGULATIONS TO IMPLEMENT THIS
40 SECTION.

41 S 3. Notwithstanding any other provision of law to the contrary, a
42 registered professional nurse certified as a certified registered nurse
43 anesthetist on, before, or within one year after the date on which
44 sections one and two of this act take effect may administer anesthesia
45 as a certified registered nurse anesthetist, and shall be deemed to be
46 certified as a certified registered nurse anesthetist under section 6911
47 of the education law as added by section two of this act, until one year
48 after sections one and two of this act shall take effect; provided that
49 certification under such section shall be by a national certifying body
50 that has been certifying registered nurse anesthetists for at least five
51 years prior to such section becoming a law.

52 S 4. This act shall take effect on the thirtieth day after it shall
53 have become a law, except that sections one and two of this act shall
54 take effect on the first of April next succeeding the date on which it
55 shall have become a law.