

5403

2009-2010 Regular Sessions

I N   S E N A T E

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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.