

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

7628--A

I N S E N A T E

June 8, 2012

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed 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 providing for the licensing of anesthesiologist assistants and regulating the practice of such professionals

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

1 Section 1. Section 6523 of the education law, as amended by chapter
2 364 of the laws of 1991, is amended to read as follows:
3 S 6523. State board for medicine. A state board for medicine shall be
4 appointed by the board of regents on recommendation of the commissioner
5 for the purpose of assisting the board of regents and the department on
6 matters of professional licensing in accordance with section sixty-five
7 hundred eight of this title. The board shall be composed of not less
8 than twenty physicians licensed in this state for at least five years,
9 two of whom shall be doctors of osteopathy. The board shall also consist
10 of not less than two physician's assistants licensed to practice in this
11 state. The participation of physician's assistant members shall be
12 limited to matters relating to article one hundred thirty-one-B of this
13 [chapter] TITLE. THE BOARD OF MEDICINE SHALL ALSO CONSIST OF NOT LESS
14 THAN TWO ANESTHESIOLOGIST ASSISTANTS LICENSED TO PRACTICE IN THIS STATE.
15 THE PARTICIPATION OF ANESTHESIOLOGIST ASSISTANTS SHALL BE LIMITED TO
16 MATTERS RELATING TO SECTION SIXTY-FIVE HUNDRED TWENTY-NINE-A OF THIS
17 ARTICLE. An executive secretary to the board shall be appointed by the
18 board of regents on recommendation of the commissioner and shall be
19 either a physician licensed in this state or a non-physician, deemed
20 qualified by the commissioner and board of regents.
21 S 2. The education law is amended by adding a new section 6529-a to
22 read as follows:
23 S 6529-A. ANESTHESIOLOGIST ASSISTANTS. 1. DEFINITIONS. FOR THE
24 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
25 MEANINGS:

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

LBD16171-02-2

1 (A) "ANESTHESIOLOGIST ASSISTANT" MEANS A PERSON WHO IS LICENSED AS AN
2 ANESTHESIOLOGIST ASSISTANT PURSUANT TO THIS SECTION.

3 (B) "ANESTHESIOLOGIST" MEANS A PHYSICIAN WHO HAS SUCCESSFULLY
4 COMPLETED A RESIDENCY IN ANESTHESIOLOGY APPROVED BY THE AMERICAN BOARD
5 OF MEDICINE OF ANESTHESIOLOGY OR THE AMERICAN OSTEOPATHIC BOARD OF
6 ANESTHESIOLOGY AND WHO IS ACTIVELY AND DIRECTLY ENGAGED IN THE CLINICAL
7 PRACTICE OF MEDICINE AS AN ANESTHESIOLOGIST.

8 (C) "ADMINISTRATION OF ANESTHESIA IN THE HOSPITAL OR AMBULATORY SURGI-
9 CAL CENTER" MEANS ANESTHESIA SERVICES SHALL BE DIRECTED BY AN ANESTHE-
10 SIOLOGIST WHO HAS RESPONSIBILITY FOR THE CLINICAL ASPECTS OR ORGANIZA-
11 TION AND DELIVERY OF ALL ANESTHESIA SERVICES PROVIDED BY THE HOSPITAL OR
12 AMBULATORY SURGICAL CENTER. THAT ANESTHESIOLOGIST SHALL DIRECT THE
13 ADMINISTRATION ASPECTS OF THE SERVICE, AND SHALL BE RESPONSIBLE, IN
14 CONJUNCTION WITH THE MEDICAL STAFF, FOR RECOMMENDING TO THE GOVERNING
15 BODY PRIVILEGES TO THOSE PERSONS QUALIFIED TO ADMINISTER ANESTHETICS,
16 INCLUDING THE PROCEDURES EACH PERSON IS QUALIFIED TO PERFORM AND THE
17 LEVELS OF REQUIRED SUPERVISION AS APPROPRIATE. FOR THE PURPOSES OF THIS
18 SECTION, "ADMINISTRATION OF ANESTHESIA IN OFFICE-BASED SURGERY VENUES"
19 MEANS THE ANESTHESIA COMPONENT OF THE MEDICAL OR DENTAL PROCEDURE SHALL
20 BE SUPERVISED BY AN ANESTHESIOLOGIST WHO IS PHYSICALLY PRESENT AND
21 AVAILABLE TO IMMEDIATELY DIAGNOSE AND TREAT THE PATIENT FOR ANESTHESIA
22 COMPLICATIONS OR EMERGENCIES.

23 (D) "DEEP SEDATION" MEANS THE ADMINISTRATION OF MEDICATION BY THE
24 ORAL, PARENTERAL OR INHALATION ROUTES WHICH RESULTS IN A CONTROLLED
25 STATE OF DEPRESSED CONSCIOUSNESS ACCOMPANIED BY PARTIAL LOSS OF PROTEC-
26 TIVE REFLEXES. THERE MAY BE AN INABILITY TO INDEPENDENTLY AND CONTIN-
27 UOUSLY MAINTAIN AN OPEN AIRWAY AND/OR REGULAR BREATHING PATTERN WITH
28 DEEP SEDATION, AND THE ABILITY TO APPROPRIATELY AND RATIONALLY RESPOND
29 TO PHYSICAL STIMULI AND VERBAL COMMANDS IS LOST.

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

37 (F) "HOSPITAL" MEANS AN INSTITUTION OR FACILITY POSSESSING A VALID
38 OPERATING CERTIFICATE ISSUED PURSUANT TO ARTICLE TWENTY-EIGHT OF THE
39 PUBLIC HEALTH LAW.

40 (G) "AMBULATORY SURGICAL CENTER" MEANS AN INSTITUTION OR FACILITY
41 POSSESSING A VALID OPERATING CERTIFICATE ISSUED PURSUANT TO ARTICLE
42 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

43 (H) "IMMEDIATELY AVAILABLE" MEANS REMAINING PHYSICALLY PRESENT FOR THE
44 IMMEDIATE TREATMENT OF EMERGENCIES AND PROVIDING INDICATED POST-OPERA-
45 TIVE CARE.

46 (I) "MODERATE SEDATION" MEANS A DRUG-INDUCED DEPRESSION OF CONSCIOUS-
47 NESS DURING WHICH (I) THE PATIENT RESPONDS PURPOSEFULLY TO VERBAL
48 COMMANDS, EITHER ALONE OR ACCOMPANIED BY LIGHT TACTILE STIMULATION; (II)
49 NO INTERVENTIONS ARE REQUIRED TO MAINTAIN A PATIENT AIRWAY; (III) SPON-
50 TANEIOUS VENTILATION IS ADEQUATE; AND (IV) THE PATENT'S CARDIOVASCULAR
51 FUNCTION IS USUALLY MAINTAINED WITHOUT ASSISTANCE.

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

(K) "OFFICE-BASED SURGERY" MEANS ANY SURGICAL OR OTHER INVASIVE PROCEDURE, REQUIRING GENERAL ANESTHESIA, MODERATE SEDATION OR DEEP SEDATION, AND ANY LIPOSUCTION PROCEDURE, WHERE SUCH SURGICAL OR OTHER INVASIVE PROCEDURE OR LIPOSUCTION IS PERFORMED BY A LICENSEE IN A LOCATION OTHER THAN A HOSPITAL, EXCLUDING MINOR PROCEDURES AND PROCEDURES REQUIRING MINIMAL SEDATION.

(L) "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.

(M) "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.

(N) "PHYSICALLY PRESENT" BY AN ANESTHESIOLOGIST 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.

(O) "SUPERVISION" MEANS THAT AN ANESTHESIOLOGIST SHALL DIRECT THE ANESTHESIA SERVICES THAT THE ANESTHESIOLOGIST ASSISTANT IS PERFORMING INCLUDING BUT NOT LIMITED TO A PRE-ANESTHETIC EXAMINATION AND EVALUATION, PRESCRIBING THE ANESTHESIA, INCLUDING POST-OPERATIVE MEDICATIONS AS NEEDED FOR PAIN AND DISCOMFORT, INCLUDING NAUSEA AND VOMITING, AND SHALL BE IMMEDIATELY AVAILABLE DURING THE ENTIRE PERI-OPERATIVE PERIOD FOR DIAGNOSIS, TREATMENT, AND MANAGEMENT OF ANESTHESIA-RELATED COMPLICTIONS OR EMERGENCIES, AND ASSURE THE PROVISION OF INDICATED POST-ANESTHESIA CARE.

2. LICENSURE. FOR ISSUANCE OF A LICENSE TO PRACTICE AS A LICENSED ANESTHESIOLOGIST ASSISTANT THE APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT WHICH SHALL BE IN SUCH FORM AS PROVIDED BY THE COMMISSIONER;

(B) AGE: BE AT LEAST TWENTY-ONE YEARS OF AGE AND OF GOOD MORAL CHARACTER;

(C) EDUCATION:

(I) HAVE OBTAINED A BACHELOR'S OR HIGHER DEGREE APPROVED BY THE BOARD OF MEDICINE;

(II) HAVE SATISFACTORILY COMPLETED AN ANESTHESIOLOGIST ASSISTANT PROGRAM THAT IS ACCREDITED BY THE COMMISSION ON ACCREDITATION OF ALLIED HEALTH EDUCATION PROGRAMS OR BY A PREDECESSOR OR SUCCESSOR ENTITY;

(III) PASSED THE CERTIFYING EXAMINATION ADMINISTERED BY AND OBTAINED ACTIVE CERTIFICATION FROM THE NATIONAL COMMISSION ON CERTIFICATION OF ANESTHESIOLOGIST ASSISTANTS OR A SUCCESSOR ENTITY; AND

(IV) BIENNIALLY COMPLETE FORTY HOURS OF CONTINUING MEDICAL EDUCATION OR HOLD A CURRENT CERTIFICATE ISSUED BY THE NATIONAL COMMISSION ON CERTIFICATION OF ANESTHESIOLOGIST ASSISTANTS OR ITS SUCCESSOR; AND

(D) FEES: PAY TO THE DEPARTMENT A FEE OF ONE HUNDRED SEVENTY-FIVE DOLLARS FOR INITIAL LICENSURE AND A TRIENNIAL REGISTRATION FEE OF ONE HUNDRED FIFTY-FIVE DOLLARS.

3. USE OF TITLE. ONLY A PERSON LICENSED UNDER THIS SECTION SHALL USE THE TITLE "ANESTHESIOLOGIST ASSISTANT" OR USE THE LETTERS "A.A." AFTER HIS OR HER NAME.

4. PERFORMANCE OF ANESTHESIOLOGIST ASSISTANTS. THE PRACTICE OF ANESTHESIOLOGIST ASSISTANTS LICENSED UNDER THIS SECTION SHALL:

(A) INCLUDE THE ADMINISTRATION OF ANESTHESIA TO A PATIENT BUT ONLY UNDER THE SUPERVISION OF AN ANESTHESIOLOGIST WHO IS IMMEDIATELY AVAILABLE;

1 (B) EACH ANESTHESIOLOGIST WHO AGREES TO ACT AS THE SUPERVISING ANESTH-
2 ESIOLOGIST OF AN ANESTHESIOLOGIST ASSISTANT SHALL ADOPT A WRITTEN PRAC-
3 TICE PROTOCOL WHICH DELINEATES THE SERVICES THAT THE ANESTHESIOLOGIST
4 ASSISTANT IS AUTHORIZED TO PROVIDE AND THE MANNER IN WHICH THE ANESTHE-
5 SIOLOGIST WILL SUPERVISE THE ANESTHESIOLOGIST ASSISTANT. THE ANESTHE-
6 SIOLOGIST SHALL BASE THE PROVISIONS OF THE PROTOCOL ON CONSIDERATION OF
7 RELEVANT QUALITY ASSURANCE STANDARDS, INCLUDING REGULAR REVIEW BY THE
8 ANESTHESIOLOGIST OF THE MEDICAL RECORDS OF THE PATIENTS OF THE ANESTHE-
9 SIOLOGIST ASSISTANT. THE SUPERVISING ANESTHESIOLOGIST SHALL SUPERVISE
10 THE ANESTHESIOLOGIST ASSISTANT IN ACCORDANCE WITH THE TERMS OF THE
11 PROTOCOL UNDER WHICH THE ASSISTANT PRACTICES AND THE RULES FOR SUPER-
12 VISION OF ANESTHESIOLOGIST ASSISTANTS; AND

13 (C) BE CONSISTENT WITH POLICIES AND PROCEDURE APPROVED BY THE MEDICAL
14 STAFF AND GOVERNING STAFF OF THE HEALTH CARE FACILITY OR FREE STANDING
15 AMBULATORY SURGICAL CENTER DEFINED UNDER ARTICLE TWENTY-EIGHT OF THE
16 PUBLIC HEALTH LAW WHERE APPLICABLE.

17 5. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE REGU-
18 LATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

19 S 3. This act shall take effect on the first of the twelfth month
20 which commences after this act shall have become a law; provided, howev-
21 er, that effective immediately, the addition, amendment and/or repeal of
22 any rule or regulation necessary for the implementation of this act on
23 its effective date is authorized and directed to be made and completed
24 on or before such effective date.