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

2945--A

2013-2014 Regular Sessions

I N S E N A T E

January 25, 2013

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:

Section 1. The education law is amended by adding a new section 6529-a to read as follows:

S 6529-A. ANESTHESIOLOGIST ASSISTANTS. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

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

(C) "ADMINISTRATION OF ANESTHESIA IN THE HOSPITAL OR AMBULATORY SURGICAL CENTER" MEANS ANESTHESIA SERVICES SHALL BE DIRECTED BY AN ANESTHESIOLOGIST WHO HAS RESPONSIBILITY FOR THE CLINICAL ASPECTS OR ORGANIZATION AND DELIVERY OF ALL ANESTHESIA SERVICES PROVIDED BY THE HOSPITAL OR AMBULATORY SURGICAL CENTER. THAT ANESTHESIOLOGIST SHALL DIRECT THE ADMINISTRATION 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. FOR THE PURPOSES OF THIS

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

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SECTION, "ADMINISTRATION OF ANESTHESIA IN OFFICE-BASED SURGERY VENUES" MEANS THE ANESTHESIA COMPONENT OF THE MEDICAL OR DENTAL PROCEDURE SHALL BE SUPERVISED BY AN ANESTHESIOLOGIST WHO IS PHYSICALLY PRESENT AND AVAILABLE TO IMMEDIATELY DIAGNOSE AND TREAT THE PATIENT FOR ANESTHESIA COMPLICATIONS OR EMERGENCIES.

(D) "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 DEEP SEDATION, AND THE ABILITY TO APPROPRIATELY AND RATIONALLY RESPOND TO PHYSICAL STIMULI AND VERBAL COMMANDS IS LOST.

(E) "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.

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

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

(H) "IMMEDIATELY AVAILABLE" MEANS REMAINING IN PHYSICAL PROXIMITY SO AS TO ALLOW THE ANESTHESIOLOGIST TO RETURN TO RE-ESTABLISH DIRECT CONTACT WITH THE PATIENT IN ORDER TO MEET THE PATIENT'S MEDICAL NEEDS AND ADDRESS ANY URGENT OR EMERGENT CLINICAL PROBLEMS.

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

(J) "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.

(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 COMPLICATIONS 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;

(B) EACH ANESTHESIOLOGIST WHO AGREES TO ACT AS THE SUPERVISING ANESTHESIOLOGIST OF AN ANESTHESIOLOGIST ASSISTANT SHALL ADOPT A WRITTEN PRACTICE PROTOCOL WHICH DELINEATES THE SERVICES THAT THE ANESTHESIOLOGIST ASSISTANT IS AUTHORIZED TO PROVIDE AND THE MANNER IN WHICH THE ANESTHESIOLOGIST WILL SUPERVISE THE ANESTHESIOLOGIST ASSISTANT. THE ANESTHESIOLOGIST SHALL BASE THE PROVISIONS OF THE PROTOCOL ON CONSIDERATION OF RELEVANT QUALITY ASSURANCE STANDARDS, INCLUDING REGULAR REVIEW BY THE ANESTHESIOLOGIST OF THE MEDICAL RECORDS OF THE PATIENTS OF THE ANESTHESIOLOGIST ASSISTANT. THE SUPERVISING ANESTHESIOLOGIST SHALL SUPERVISE THE ANESTHESIOLOGIST ASSISTANT IN ACCORDANCE WITH THE TERMS OF THE PROTOCOL UNDER WHICH THE ASSISTANT PRACTICES AND THE RULES FOR SUPERVISION OF ANESTHESIOLOGIST ASSISTANTS; AND

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

5. AN INDIVIDUAL WHO IS DULY ENROLLED IN A PROGRAM OF EDUCATIONAL PREPAREDNESS TO BECOME AN ANESTHESIOLOGIST ASSISTANT MAY ADMINISTER ANESTHESIA TO A PATIENT BUT ONLY UNDER THE DIRECT PERSONAL SUPERVISION OF AN ANESTHESIOLOGIST.

6. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the first of the twelfth month which commences after this act shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.