

STATE OF NEW YORK

1745

2019-2020 Regular Sessions

IN ASSEMBLY

January 16, 2019

Introduced by M. of A. GOTTFRIED, DINOWITZ, GUNTHER, ORTIZ, VANEL, JAFFEE, BARRON, PEOPLES-STOKES, SANTABARBARA, ZEBROWSKI -- Multi-Sponsored by -- M. of A. CROUCH, ENGLEBRIGHT, LENTOL -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the profession of nurse anesthesia (Part A); and to amend the education law, in relation to practice agreements with nurse anesthetists; and to repeal certain provisions of such law relating thereto (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 relating to the practice of nurse anesthesia. Each component is wholly
3 contained within a Part identified as Parts A through B. The effective
4 date for each particular provision contained within such Part is set
5 forth in the last section of such Part. Any provision in any section
6 contained within a Part, including the effective date of the Part, which
7 makes reference to a section "of this act", when used in connection with
8 that particular component, shall be deemed to mean and refer to the
9 corresponding section of the Part in which it is found. Section three
10 of this act sets forth the general effective date of this act.

11 PART A

12 Section 1. Section 6902 of the education law is amended by adding a
13 new subdivision 4 to read as follows:

14 4. (a) (i) The practice of registered professional nursing by a certi-
15 fied registered nurse anesthetist, certified under section sixty-nine
16 hundred twelve of this article may include the practice of nurse anes-
17 thesia. Nurse anesthesia includes: the administration of anesthesia and
18 anesthesia related care to patients; preanesthetics evaluation and prep-
19 aration; anesthetic induction, maintenance and emergence; post anes-

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

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1 thetia care; perianesthetics and clinical support functions; and pain
2 management, in collaboration with a licensed physician qualified by law
3 to determine the need for anesthesia services, provided such services
4 are performed in accordance with a written practice agreement and writ-
5 ten practice protocols except as permitted by paragraph (b) of this
6 subdivision. The written practice agreement shall include explicit
7 provisions for the resolution of any disagreement between the collab-
8 orating physician and the certified registered nurse anesthetist regard-
9 ing a matter of anesthesia treatment that is within the scope of prac-
10 tice of both. To the extent the practice agreement does not so provide,
11 then the collaborating physician's treatment shall prevail.

12 (ii) Prescriptions for drugs, devices and anesthetic agents may be
13 issued by a certified registered nurse anesthetist, under this paragraph
14 and section sixty-nine hundred twelve of this article, in accordance
15 with the practice agreement and practice protocols, except as provided
16 by paragraph (b) of this subdivision. The certified registered nurse
17 anesthetist shall obtain a certificate from the department upon success-
18 fully completing a program including an appropriate pharmacology compo-
19 nent, or its equivalent, as established by the commissioner's regu-
20 lations, prior to prescribing under this paragraph. The certificate
21 issued under section sixty-nine hundred twelve of this article shall
22 state whether the certified registered nurse anesthetist has successful-
23 ly completed such a program or equivalent and is authorized to prescribe
24 under this subdivision.

25 (iii) Each practice agreement shall provide for patient records review
26 by the collaborating physician in a timely fashion but in no event less
27 often than every three months. The names of the certified registered
28 nurse anesthetist and the collaborating physician shall be clearly post-
29 ed in the practice setting of the certified registered nurse anesthe-
30 tist.

31 (iv) The practice protocol shall reflect current accepted medical and
32 nursing practice. The protocols shall be filed with the department with-
33 in ninety days of the commencement of the practice and may be updated
34 periodically. The commissioner shall make regulations establishing the
35 procedure for the review of protocols and the disposition of any issues
36 arising from such review.

37 (v) No physician shall enter into practice agreements with more than
38 four certified registered nurse anesthetists who are not located on the
39 same physical premises as the collaborating physician.

40 (b) Notwithstanding subparagraph (i) of paragraph (a) of this subdivi-
41 sion, a certified registered nurse anesthetist, certified under section
42 sixty-nine hundred twelve of this article and practicing for more than
43 three thousand six hundred hours may comply with this paragraph in lieu
44 of complying with the requirements of paragraph (a) of this subdivision
45 relating to collaboration with a physician, a written practice agreement
46 and written practice protocols. A certified registered nurse anesthetist
47 complying with this paragraph shall have collaborative relationships
48 with one or more licensed physicians qualified by law to determine the
49 need for anesthesia services or a hospital, licensed under article twen-
50 ty-eight of the public health law, that provides services through
51 licensed physicians qualified by law to determine the need for anes-
52 thetia services and having privileges at such institution. As evidence
53 that the certified registered nurse anesthetist maintains collaborative
54 relationships, the certified registered nurse anesthetist shall complete
55 and maintain a form, created by the department, to which the certified
56 registered nurse anesthetist shall attest, that describes such collabo-

1 rative relationships. For purposes of this paragraph, "collaborative
2 relationships" shall mean that the certified registered nurse anesthe-
3 tist shall communicate, whether in person, by telephone or through writ-
4 ten (including electronic) means, with a licensed physician qualified by
5 law to determine the need for anesthesia services or, in the case of a
6 hospital, communicate with a licensed physician qualified by law to
7 determine the need for anesthesia services and having privileges at such
8 hospital, for the purposes of exchanging information, as needed, in
9 order to provide comprehensive patient care and to make referrals as
10 necessary. Such form shall also reflect the certified registered nurse
11 anesthetist's acknowledgement that if reasonable efforts to resolve any
12 dispute that may arise with the collaborating physician or, in the case
13 of a collaboration with a hospital, with a licensed physician qualified
14 by law to determine the need for anesthesia services and having privi-
15 leges at such hospital, about a patient's care are not successful, the
16 recommendation of the physician shall prevail. Such form shall be
17 updated as needed and may be subject to review by the department. The
18 certified registered nurse anesthetist shall maintain documentation that
19 supports such collaborative relationships. Failure to comply with the
20 requirements of this paragraph by a certified registered nurse anesthe-
21 tist, who is not complying with such provisions of paragraph (a) of this
22 subdivision, shall subject the certified registered nurse anesthetist to
23 the professional misconduct provisions set forth in article one hundred
24 thirty of this title.

25 (c) Nothing in this subdivision shall be deemed to limit or diminish
26 the practice of the profession of nursing as a registered professional
27 nurse under this article or any other law, rule, regulation or certif-
28 ication, nor to deny any registered professional nurse the right to do
29 any act or engage in any practice authorized by this article or any
30 other law, rule, regulation or certification.

31 (d) The provisions of this subdivision shall not apply to any activity
32 authorized, pursuant to statute, rule or regulation, to be performed by
33 a registered professional nurse in a hospital as defined in article
34 twenty-eight of the public health law.

35 § 2. The education law is amended by adding a new section 6912 to read
36 as follows:

37 § 6912. Certificates for nurse anesthesia practice. 1. For issuance of
38 a certificate to practice as a certified registered nurse anesthetist
39 under subdivision four of section sixty-nine hundred two of this arti-
40 cle, the applicant shall fulfill the following requirements:

41 (a) Application: file an application with the department;

42 (b) License: be licensed as a registered professional nurse in the
43 state;

44 (c) Education: (i) have satisfactorily completed educational prepara-
45 tion for provision of these services in a program registered by the
46 department or in a program accredited by a national body recognized by
47 the department or determined by the department to be the equivalent; and
48 (ii) submit evidence of current certification or recertification by a
49 national certifying body, recognized by the department;

50 (d) Fees: pay a fee to the department of fifty dollars for an initial
51 certificate authorizing nurse anesthesia practice and a triennial regis-
52 tration fee of thirty dollars.

53 After a certified registered nurse anesthetist's initial registration,
54 registration under this section shall be coterminous with the certified
55 registered nurse anesthetist's registration as a professional nurse.

1 2. Only a person certified under this section shall use the title
2 "certified registered nurse anesthetist".

3 3. The provisions of this section shall not apply to any act or prac-
4 tice authorized by any other law, rule, regulation or certification.

5 4. The provisions of this section shall not apply to any activity
6 authorized, pursuant to statute, rule or regulation, to be performed by
7 a registered professional nurse in a hospital as defined in article
8 twenty-eight of the public health law.

9 5. An individual who is authorized to practice as a certified regis-
10 tered nurse anesthetist in a hospital under regulations of the depart-
11 ment of health may use the title "certified registered nurse anesthe-
12 tist" in connection with that practice. If such an individual applies
13 for a certificate under this section, he or she may satisfy the educa-
14 tion requirement of subdivision one of this section by presenting satis-
15 factory evidence of such authority.

16 6. (a) A registered professional nurse licensed under section sixty-
17 nine hundred five of this article who has satisfactorily completed a
18 program of educational preparation as provided in subdivision one of
19 this section may, for a period not to exceed twenty-four months imme-
20 diately following the completion of such educational program, practice
21 nurse anesthesia under subdivision four of section sixty-nine hundred
22 two of this article as a graduate nurse anesthetist in the same manner
23 as a certified registered nurse anesthetist under that subdivision.

24 (b) A registered professional nurse licensed under section sixty-nine
25 hundred five of this article who is duly enrolled in a program of educa-
26 tional preparation, may practice nurse anesthesia as a student nurse
27 anesthetist under the supervision of an anesthesiologist or a certified
28 registered nurse anesthetist, who is immediately available as needed.

29 7. The commissioner is authorized to promulgate regulations to imple-
30 ment the provisions of this section.

31 § 3. This act shall take effect on the first of January next succeed-
32 ing the date on which it shall have become a law. Effective immediate-
33 ly, the addition, amendment and/or repeal of any rule or regulation
34 necessary for the implementation of this act on its effective date are
35 authorized and directed to be made and completed on or before such
36 effective date.

37 PART B

38 Section 1. Paragraph (b) of subdivision 4 of section 6902 of the
39 education law is REPEALED.

40 § 2. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4 of
41 section 6902 of the education law, as added by section 1 of part A of
42 this act, are amended to read as follows:

43 (i) The practice of registered professional nursing by a certified
44 registered nurse anesthetist, certified under section sixty-nine hundred
45 twelve of this article may include the practice of nurse anesthesia.
46 Nurse anesthesia includes: the administration of anesthesia and anes-
47 thesia related care to patients; preanesthetics evaluation and prepara-
48 tion; anesthetic induction, maintenance and emergence; post anesthesia
49 care; perianesthetics and clinical support functions; and pain manage-
50 ment, in collaboration with a licensed physician qualified by law to
51 determine the need for anesthesia services, provided such services are
52 performed in accordance with a written practice agreement and written
53 practice protocols [~~except as permitted by paragraph (b) of this subdi-~~
54 ~~vision~~]. The written practice agreement shall include explicit

1 provisions for the resolution of any disagreement between the collab-
2 orating physician and the certified registered nurse anesthetist regard-
3 ing a matter of anesthesia treatment that is within the scope of prac-
4 tice of both. To the extent the practice agreement does not so provide,
5 then the collaborating physician's treatment shall prevail.

6 (ii) Prescriptions for drugs, devices and anesthetic agents may be
7 issued by a certified registered nurse anesthetist, under this paragraph
8 and section sixty-nine hundred twelve of this article, in accordance
9 with the practice agreement and practice protocols~~[, except as provided~~
10 ~~by paragraph (b) of this subdivision]~~. The certified registered nurse
11 anesthetist shall obtain a certificate from the department upon success-
12 fully completing a program including an appropriate pharmacology compo-
13 nent, or its equivalent, as established by the commissioner's regu-
14 lations, prior to prescribing under this paragraph. The certificate
15 issued under section sixty-nine hundred twelve of this article shall
16 state whether the certified registered nurse anesthetist has successful-
17 ly completed such a program or equivalent and is authorized to prescribe
18 under this subdivision.

19 § 3. This act shall take effect June 30 of the sixth year after it
20 shall have become a law.

21 § 2. Severability clause. If any provision of this act, or any appli-
22 cation of any provision of this act, is held to be invalid, that shall
23 not affect the validity or effectiveness of any other provision of this
24 act, or of any other application of any provision of this act, which can
25 be given effect without that provision or application; and to that end,
26 the provisions and applications of this act are severable.

27 § 3. This act shall take effect immediately; provided, however, that
28 the applicable effective dates of Parts A through B of this act shall be
29 as specifically set forth in the last section of such Parts.