

# STATE OF NEW YORK

7381

2019-2020 Regular Sessions

## IN ASSEMBLY

April 29, 2019

Introduced by M. of A. SCHIMMINGER, STIRPE, JAFFEE -- Multi-Sponsored by  
-- M. of A. FAHY, RICHARDSON -- read once and referred to the Committee on Higher Education

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. The education law is amended by adding a new section  
2 6529-a to read as follows:

3 § 6529-a. Anesthesiologist assistants. 1. Definitions. For the  
4 purposes of this section, the following terms shall have the following  
5 meanings:

6 (a) "Anesthesiologist assistant" means a person who is licensed as an  
7 anesthesiologist assistant pursuant to this section.

8 (b) "Anesthesiologist" means a physician who has successfully  
9 completed a residency in anesthesiology approved by the American Board  
10 of Medicine of Anesthesiology or the American Osteopathic Board of  
11 Anesthesiology and who is actively and directly engaged in the clinical  
12 practice of medicine as an anesthesiologist.

13 (c) "Administration of anesthesia in the hospital or ambulatory surgi-  
14 cal center" means anesthesia services shall be directed by an anes-  
15 thesiologist who has responsibility for the clinical aspects or organiza-  
16 tion and delivery of all anesthesia services provided by the hospital or  
17 ambulatory surgical center. That anesthesiologist shall direct the  
18 administration aspects of the service, and shall be responsible, in  
19 conjunction with the medical staff, for recommending to the governing  
20 body privileges to those persons qualified to administer anesthetics,  
21 including the procedures each person is qualified to perform and the  
22 levels of required supervision as appropriate. For the purposes of this  
23 section, "administration of anesthesia in office-based surgery venues"

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

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1 means the anesthesia component of the medical or dental procedure shall  
2 be supervised by an anesthesiologist who is physically present and  
3 available to immediately diagnose and treat the patient for anesthesia  
4 complications or emergencies.

5 (d) "Deep sedation" means the administration of medication by the  
6 oral, parenteral or inhalation routes which results in a controlled  
7 state of depressed consciousness accompanied by partial loss of protec-  
8 tive reflexes. There may be an inability to independently and contin-  
9 uously maintain an open airway and/or regular breathing pattern with  
10 deep sedation, and the ability to appropriately and rationally respond  
11 to physical stimuli and verbal commands is lost.

12 (e) "General anesthesia" means the administration of a medication by  
13 the parenteral or inhalation routes which results in a controlled state  
14 of unconsciousness accompanied by a complete loss of protective reflexes  
15 including loss of the ability to independently and continuously maintain  
16 patient airway and a regular breathing pattern. There is also an  
17 inability to respond purposefully to verbal commands and/or tactile  
18 stimulation.

19 (f) "Hospital" means an institution or facility possessing a valid  
20 operating certificate issued pursuant to article twenty-eight of the  
21 public health law.

22 (g) "Ambulatory surgical center" means an institution or facility  
23 possessing a valid operating certificate issued pursuant to article  
24 twenty-eight of the public health law.

25 (h) "Immediately available" means remaining in physical proximity so  
26 as to allow the anesthesiologist to return to re-establish direct  
27 contact with the patient in order to meet the patient's medical needs  
28 and address any urgent or emergent clinical problems.

29 (i) "Moderate sedation" means a drug-induced depression of conscious-  
30 ness during which (i) the patient responds purposefully to verbal  
31 commands, either alone or accompanied by light tactile stimulation; (ii)  
32 no interventions are required to maintain a patient airway; (iii) spon-  
33 taneous ventilation is adequate; and (iv) the patient's cardiovascular  
34 function is usually maintained without assistance.

35 (j) "Monitoring" means the continual clinical observation of a patient  
36 and the use of instruments to measure, display, and record the values of  
37 certain physiologic variables such as pulse, oxygen saturation, level of  
38 consciousness, blood pressure and respiration.

39 (k) "Office-based surgery" means any surgical or other invasive proce-  
40 dure, requiring general anesthesia, moderate sedation or deep sedation,  
41 and any liposuction procedure, where such surgical or other invasive  
42 procedure or liposuction is performed by a licensee in a location other  
43 than a hospital, excluding minor procedures and procedures requiring  
44 minimal sedation.

45 (l) "Patient" means an individual who is under the care of a physician  
46 in a licensed facility or in an office, under the care of a physician,  
47 dentist, oral surgeon or podiatrist.

48 (m) "Peri-operative period" means the period of time commencing upon  
49 the medical evaluation of the patient before surgery and ending upon the  
50 patient's medical discharge from the recovery room.

51 (n) "Physically present" by an anesthesiologist means the ability to  
52 react and respond in an immediate and appropriate manner so as to make  
53 possible the continuous exercise of medical judgment throughout the  
54 administration of the anesthesia.

55 (o) "Supervision" means that an anesthesiologist shall direct the  
56 anesthesia services that the anesthesiologist assistant is performing

1 including but not limited to a pre-anesthetic examination and evalu-  
2 ation, prescribing the anesthesia, including post-operative medications  
3 as needed for pain and discomfort, including nausea and vomiting, and  
4 shall be immediately available during the entire peri-operative period  
5 for diagnosis, treatment, and management of anesthesia-related compli-  
6 cations or emergencies, and assure the provision of indicated post-an-  
7 esthesia care.

8 2. Licensure. For issuance of a license to practice as a licensed  
9 anesthesiologist assistant the applicant shall fulfill the following  
10 requirements:

11 (a) Application: file an application with the department which shall  
12 be in such form as provided by the commissioner;

13 (b) Age: be at least twenty-one years of age and of good moral charac-  
14 ter;

15 (c) Education:

16 (i) have obtained a bachelor's or higher degree approved by the board  
17 of medicine;

18 (ii) have satisfactorily completed an anesthesiologist assistant  
19 program that is accredited by the commission on accreditation of allied  
20 health education programs or by a predecessor or successor entity;

21 (iii) passed the certifying examination administered by and obtained  
22 active certification from the national commission on certification of  
23 anesthesiologist assistants or a successor entity; and

24 (iv) biennially complete forty hours of continuing medical education  
25 or hold a current certificate issued by the national commission on  
26 certification of anesthesiologist assistants or its successor; and

27 (d) Fees: pay to the department a fee of one hundred seventy-five  
28 dollars for initial licensure and a triennial registration fee of one  
29 hundred fifty-five dollars.

30 3. Use of title. Only a person licensed under this section shall use  
31 the title "anesthesiologist assistant" or use the letters "A.A." after  
32 his or her name.

33 4. Performance of anesthesiologist assistants. The practice of anesth-  
34 esiologist assistants licensed under this section shall:

35 (a) include the administration of anesthesia to a patient but only  
36 under the supervision of an anesthesiologist who is immediately avail-  
37 able;

38 (b) each anesthesiologist who agrees to act as the supervising anesth-  
39 esiologist of an anesthesiologist assistant shall adopt a written prac-  
40 tice protocol which delineates the services that the anesthesiologist  
41 assistant is authorized to provide and the manner in which the anesthe-  
42 siologist will supervise the anesthesiologist assistant. The anesthe-  
43 siologist shall base the provisions of the protocol on consideration of  
44 relevant quality assurance standards, including regular review by the  
45 anesthesiologist of the medical records of the patients of the anesthe-  
46 siologist assistant. The supervising anesthesiologist shall supervise  
47 the anesthesiologist assistant in accordance with the terms of the  
48 protocol under which the assistant practices and the rules for super-  
49 vision of anesthesiologist assistants; and

50 (c) be consistent with policies and procedure approved by the medical  
51 staff and governing staff of the health care facility or free standing  
52 ambulatory surgical center defined under article twenty-eight of the  
53 public health law where applicable.

54 5. An individual who is duly enrolled in a program of educational  
55 preparedness to become an anesthesiologist assistant may administer

1 anesthesia to a patient but only under the direct personal supervision  
2 of an anesthesiologist.

3 6. The commissioner is authorized and directed to promulgate regu-  
4 lations to implement the provisions of this section.

5 § 2. This act shall take effect on the first day of the twelfth month  
6 which commences after this act shall have become a law. Effective imme-  
7 diately, the addition, amendment and/or repeal of any rule or regulation  
8 necessary for the implementation of this act on its effective date are  
9 authorized to be made and completed on or before such effective date.