

# 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.