

STATE OF NEW YORK

5435--A

2021-2022 Regular Sessions

IN SENATE

March 4, 2021

Introduced by Sen. COONEY -- 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 creating the profession of nurse anesthetist

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 article 139-A
2 to read as follows:

ARTICLE 139-A

CERTIFIED REGISTERED NURSE ANESTHETIST

Section 6912. Introduction.

6913. Definitions.

6914. Definition of practice of certified registered nurse anesthetist.

6915. Practice of certified registered nurse anesthetist and use of the title "certified registered nurse anesthetist" or "nurse anesthetist."

6916. State board for nursing.

6917. Requirements for a license as a certified registered nurse anesthetist.

6918. Limited permits.

6919. Exempt persons.

6920. Special provisions.

18 § 6912. Introduction. This article applies to the profession of certi-
19 fied registered nurse anesthetist. The general provisions for all
20 professions contained in article one hundred thirty of this title apply
21 to this article.

22 § 6913. Definitions. As used in this article: 1. "Administration of
23 anesthesia services." (a) In the hospital or ambulatory surgical center,

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

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1 "administration of anesthesia services" means anesthesia services shall
2 be directed by a physician who has responsibility for the clinical
3 aspects of organization and delivery of all anesthesia services provided
4 by the hospital or ambulatory surgical center. That physician or another
5 individual qualified by education and experience shall direct the admin-
6 istrative aspects of the service, and shall be responsible, in conjunc-
7 tion with the medical staff, for recommending to the governing body
8 privileges to those persons qualified to administer anesthetics, includ-
9 ing the procedures each person is qualified to perform and the levels of
10 required supervision as appropriate.

11 (b) In office based surgery venues, "administration of anesthesia
12 services" means the anesthesia component of the medical or dental proce-
13 dure shall be supervised by an anesthesiologist, physician, dentist or
14 podiatrist qualified to supervise the administration of anesthesia and
15 who is available to immediately diagnose and treat the patient for anes-
16 thesia complications or emergencies, and certified registered nurse
17 anesthetists may be permitted to administer monitored anesthesia care,
18 and/or general anesthesia, regional anesthesia, and/or monitor the
19 patient.

20 2. "General anesthesia" means the administration of a medication by
21 the parenteral or inhalation routes which results in a controlled state
22 of unconsciousness accompanied by a complete loss of protective reflexes
23 including loss of the ability to independently and continuously maintain
24 patient airway and a regular breathing pattern. There is also an inabil-
25 ity to respond purposefully to verbal commands and/or tactile stimu-
26 lation.

27 3. "Local anesthesia" means the introduction of a local anesthetic
28 agent into a localized part of the body by topical application or local
29 infiltration in close proximity to a nerve, which produces a transient
30 and reversible loss of sensation. All local anesthetics possess both
31 excitatory (seizure) and depressant (loss of consciousness) central
32 nervous system effects in sufficient blood levels and may have profound
33 cardiovascular depressant effects. There may also be interactive effects
34 between local anesthetic agents and sedative medications.

35 4. "Monitored anesthesia care" means: (a) a minimally depressed level
36 of consciousness that retains the patient's ability to maintain adequate
37 cardiorespiratory function and the ability to independently and contin-
38 uously maintain an open airway, a regular breathing pattern, protective
39 reflexes, and respond purposefully and rationally to tactile stimulation
40 and verbal command. This does not include unsupplemented oral pre-opera-
41 tive medications or nitrous oxide analgesia; or

42 (b) the administration of medication by the oral, parenteral, or inha-
43 lation routes which results in a controlled state of depressed
44 consciousness accompanied by partial loss of protective reflexes. There
45 may be an inability to independently and continuously maintain an open
46 airway and/or regular breathing pattern with unconscious or deep
47 sedation, and the ability to appropriately and rationally respond to
48 physical stimuli and verbal commands is lost.

49 5. "Monitoring" means the continual clinical observation of a patient
50 and the use of instruments to measure, display, and record the values of
51 certain physiologic variables such as pulse, oxygen saturation, level of
52 consciousness, blood pressure, and respiration.

53 6. "Office-based surgery" means any surgical or other invasive proce-
54 dure, requiring general anesthesia, monitored anesthesia care, and any
55 liposuction procedure, where such surgical or other invasive procedure
56 or liposuction is performed by a licensee in a location other than a

1 hospital, as such term is defined in article twenty-eight of the public
2 health law, excluding minor procedures and procedures requiring minimal
3 sedation.

4 7. "Patient" means an individual who is under the care of a physician,
5 dentist, oral surgeon or podiatrist in a licensed facility or in an
6 office.

7 8. "Peri-anesthetic period" means the period of time commencing upon
8 the pre-operative evaluation of the patient before surgery and ending
9 upon the patient's post-operative discharge from the recovery room.

10 9. "Regional anesthesia" means the administration of local anesthesia
11 agents to interrupt nerve impulses in a major region of the body.
12 Including but not limited to in this category are spinal, epidural,
13 caudal, upper or lower extremity plexus block anesthesia, and intrave-
14 nous regional anesthesia.

15 10. "Supplemented local anesthesia" means the use of local anesthesia
16 supplemented with monitored anesthesia care.

17 11. "Unsupplemented local anesthesia" means the use of local anes-
18 thetia without supplementing with monitored anesthesia care.

19 § 6914. Definition of practice of certified registered nurse anes-
20 thetist. 1. In addition to the provisions of practice for registered
21 professional nursing outlined in section sixty-nine hundred two of this
22 title, the practice of a certified registered nurse anesthetist further
23 includes, but is not limited to, administration of anesthesia, which
24 includes general anesthesia, monitored anesthesia care, local anes-
25 thetia, regional anesthesia, spinal, epidural, caudal anesthesia,
26 supplemented local anesthesia, and unsupplemented local anesthesia to a
27 patient during the peri-anesthetic period; performing and documenting a
28 preanesthetic assessment and evaluation of the patient, including
29 requesting consultations and diagnostic studies; selecting, obtaining,
30 ordering, and administering preanesthetic medications and fluids; and
31 obtaining informed consent for anesthesia, developing and implementing
32 an anesthetic plan; initiating the anesthetic technique; monitoring the
33 patient including selecting, applying, and inserting appropriate nonin-
34 vasive and invasive monitoring modalities for continuous evaluation of
35 the patient's physical status; selecting, obtaining, and administering
36 the anesthetics, adjuvant and accessory drugs, and fluids necessary to
37 manage the anesthetic; managing a patient's airway and pulmonary status
38 using current practice modalities; facilitating emergence and recovery
39 from anesthesia by selecting, obtaining, ordering and administering
40 medications, fluids, and ventilatory support; discharging the patient
41 from a postanesthesia care area and providing postanesthesia follow-up
42 evaluation and care; implementing acute and chronic pain management
43 modalities; and responding to emergency situations by providing airway
44 management, administration of emergency fluids and drugs, and using
45 basic or advanced cardiac life support techniques.

46 2. Nurse anesthesia must be provided in collaboration with a licensed
47 physician qualified to determine the need for anesthesia services,
48 provided such services are performed in accordance with a written prac-
49 tice agreement and written practice protocols as set forth in subdivi-
50 sion four of this section or pursuant to collaborative relationships as
51 set forth in subdivision five of this section, whichever is applicable.

52 3. Prescriptions for drugs, devices, and anesthetic agents, anesthesia
53 related agents, and pain management agents may be issued by a certified
54 registered nurse anesthetist during the peri-anesthetic period, in
55 accordance with the written practice agreement and written practice
56 protocols described in subdivision four of this section if applicable.

1 The certified registered nurse anesthetist shall obtain a certificate
2 from the department upon successfully completing a program including an
3 appropriate pharmacology component, or its equivalent, as established by
4 the commissioner's regulations, prior to prescribing under this subdivi-
5 sion. The license issued under this article shall state whether the
6 certified registered nurse anesthetist has successfully completed such a
7 program or equivalent and is authorized to prescribe under this subdivi-
8 sion.

9 4. A certified registered nurse anesthetist licensed under this arti-
10 cle and practicing for thirty-six hundred hours or less shall do so in
11 accordance with a written practice agreement and written practice proto-
12 cols agreed upon by a licensed physician qualified by education and
13 experience to determine the need for anesthesia.

14 (a) The written practice agreement shall include explicit provisions
15 for the resolution of any disagreement between the collaborating physi-
16 cian and the certified registered nurse anesthetist regarding a matter
17 of anesthesia or pain management treatment that is within the scope of
18 practice of both. To the extent the practice agreement does not so
19 provide, then the collaborating physician's treatment shall prevail.

20 (b) Each practice agreement shall provide for patient records review
21 by the collaborating physician in a timely fashion but in no event less
22 often than every three months. The names of the certified registered
23 nurse anesthetist and the collaborating physician shall be clearly post-
24 ed in the practice setting of the certified registered nurse anesthe-
25 tist.

26 (c) The practice protocol shall reflect current accepted medical and
27 nursing practice. The protocols shall be filed with the department with-
28 in ninety days of the commencement of the practice and may be updated
29 periodically. The commissioner shall make regulations establishing the
30 procedure for the review of protocols and the disposition of any issues
31 arising from such review.

32 5. A certified registered nurse anesthetist licensed under this arti-
33 cle and practicing for more than thirty-six hundred hours shall have
34 collaborative relationships with one or more licensed physicians quali-
35 fied to determine the need for anesthesia services or a hospital,
36 licensed under article twenty-eight of the public health law, that
37 provides services through licensed physicians qualified to determine the
38 need for anesthesia services and having privileges at such institution.

39 (a) For purposes of this subdivision, "collaborative relationships"
40 shall mean that the certified registered nurse anesthetist shall commu-
41 nicate, whether in person, by telephone or through written (including
42 electronic) means, with a licensed physician qualified to determine the
43 need for anesthesia services or, in the case of a hospital, communicate
44 with a licensed physician qualified to determine the need for anesthesia
45 services and having privileges at such hospital, for the purposes of
46 exchanging information, as needed, in order to provide comprehensive
47 patient care and to make referrals as necessary.

48 (b) As evidence that the certified registered nurse anesthetist main-
49 tains collaborative relationships, the certified registered nurse
50 anesthetist shall complete and maintain a form, created by the depart-
51 ment, to which the certified registered nurse anesthetist shall attest,
52 that describes such collaborative relationships. Such form shall also
53 reflect the certified registered nurse anesthetist's acknowledgement
54 that if reasonable efforts to resolve any dispute that may arise with
55 the collaborating physician or, in the case of a collaboration with a
56 hospital, with a licensed physician qualified to determine the need for

1 anesthesia services and having privileges at such hospital, about a
2 patient's care are not successful, the recommendation of the physician
3 shall prevail. Such form shall be updated as needed and may be subject
4 to review by the department. The certified registered nurse anesthetist
5 shall maintain documentation that supports such collaborative relation-
6 ships.

7 6. Nothing in this section shall be deemed to limit or diminish the
8 practice of the profession of nursing as a registered professional nurse
9 under article one hundred thirty-nine of this title or any other law,
10 rule, regulation or certification, nor to deny any registered profes-
11 sional nurse the right to do any act or engage in any practice author-
12 ized by article one hundred thirty-nine of this title or any other law,
13 rule, regulation or certification.

14 § 6915. Practice of certified registered nurse anesthetist and use of
15 the title "certified registered nurse anesthetist" or "nurse anesthe-
16 tist." Only a person licensed or otherwise authorized under this article
17 shall practice certified registered nurse anesthetist or nurse anesthe-
18 tist.

19 § 6916. State board for nursing. The state board for nursing as estab-
20 lished in section sixty-nine hundred four of this title shall be the
21 governing state board for certified registered nurse anesthetists.

22 § 6917. Requirements for a license as a certified registered nurse
23 anesthetist. To qualify for a license as a certified registered nurse
24 anesthetist, an applicant shall fulfill the following requirements:

25 1. Application: file an application with the department;
26 2. Education: have received a master's degree or higher in a program
27 of nurse anesthesia in accordance with the commissioner's regulations;
28 3. Examination: meet the standards to sit for the certifying exam
29 provided by the national board;

30 4. Age: be at least eighteen years of age;
31 5. Character: be of good moral character as determined by the depart-
32 ment;

33 6. Fees: pay a fee of fifty dollars to the department for an initial
34 license and a fee of thirty dollars for each triennial registration
35 period; and

36 7. Information and documentation: in conjunction with and as a condi-
37 tion of each triennial registration, provide to the department, and the
38 department shall collect, such information and documentation required by
39 the department, in consultation with the department of health, as is
40 necessary to enable the department of health to evaluate access to need-
41 ed services in this state, including, but not limited to, the location
42 and type of setting wherein the certified registered nurse anesthetist
43 practices and other information the department, in consultation with the
44 department of health, deems relevant. The department of health, in
45 consultation with the department, shall make such data available in
46 aggregate, de-identified form on a publicly accessible website. Addi-
47 tionally, in conjunction with each triennial registration, the depart-
48 ment, in consultation with the department of health, shall provide
49 information on registering in the donate life registry for organ and
50 tissue donation, including the website address for such registry.

51 § 6918. Limited permits. 1. A permit to practice as a certified regis-
52 tered nurse anesthetist may be issued by the department upon the filing
53 of an application for a license as a certified registered nurse anesthe-
54 tist and submission of such other information as the department may
55 require to (a) graduates of schools of nurse anesthesia registered by

1 the department or (b) graduates of schools of nursing anesthesia
2 approved in another state, province, or country.

3 2. Such limited permit shall expire one year from the date of issuance
4 or upon notice to the applicant by the department that the application
5 for license has been denied. The limited permit may be renewed, at the
6 discretion of the department, for one additional year.

7 3. A limited permit shall entitle the holder to practice certified
8 registered nurse anesthesia only under the supervision of a certified
9 registered nurse anesthetist currently registered in this state and with
10 the endorsement of the employing agency.

11 4. Fees. The fee for each limited permit shall be thirty-five dollars.

12 5. Graduates of schools of nursing anesthesia registered by the
13 department may be employed to practice nurse anesthesia under super-
14 vision of a certified registered nurse anesthetist currently registered
15 in this state and with the endorsement of the employing agency for nine-
16 ty days immediately following graduation from a program in nurse anes-
17 thesia and pending receipt of a limited permit for which an application
18 has been filed as provided in this section.

19 § 6919. Exempt persons. 1. This article shall not be construed:

20 (a) as modifying the scope of practice of certified registered nurse
21 anesthetists pursuant to statute or the rules and regulations of the
22 commissioner of health in a hospital or in a free-standing ambulatory
23 surgery center as defined in article twenty-eight of the public health
24 law;

25 (b) as applying to any activity authorized, pursuant to statutes, rule
26 or regulation, to be performed by a registered professional nurse in a
27 hospital as defined in article twenty-eight of the public health law;

28 (c) as prohibiting an individual who has been licensed as a nurse
29 practitioner in the acute care specialty area from performing the duties
30 of a certified registered nurse anesthetist;

31 (d) as prohibiting the furnishing of nursing anesthesia assistance in
32 case of an emergency;

33 (e) as prohibiting such performance of nursing anesthesia service by
34 students enrolled in registered schools or programs as may be incidental
35 to their course of study;

36 (f) as prohibiting or preventing the practice of nursing anesthesia in
37 this state by any legally qualified nurse or practical nurse of another
38 state, province, or country whose engagement requires him or her to
39 accompany and care for a patient temporarily residing in this state
40 during the period of such engagement provided such person does not
41 represent or hold himself or herself out as a certified registered nurse
42 anesthetist registered to practice in this state;

43 (g) as prohibiting or preventing the practice of nursing anesthesia in
44 this state during an emergency or disaster by any legally qualified
45 nurse anesthetist of another state, province, or country who may be
46 recruited by the American National Red Cross or pursuant to authority
47 vested in the state civil defense commission for such emergency or
48 disaster service, provided such person does not represent or hold
49 himself or herself out as a certified registered nurse anesthetist
50 registered to practice in this state;

51 (h) as prohibiting or preventing the practice of nursing anesthesia in
52 this state, in obedience to the requirements of the laws of the United
53 States, by any commissioned nurse anesthetist officer in the armed forc-
54 es of the United States or by any nurse anesthetist employed in the
55 United States veterans administration or United States public health
56 service while engaged in the performance of the actual duties prescribed

1 for him or her under the United States statutes, provided such person
2 does not represent or hold himself or herself out as a certified regis-
3 tered nurse anesthetist registered to practice in this state; or

4 (i) as prohibiting the care of the sick when done in connection with
5 the practice of the religious tenets of any church.

6 § 6920. Special provisions. A certified registered nurse anesthetist
7 licensed under this article is required to purchase and maintain, or
8 otherwise be covered by, professional liability insurance in an amount
9 not less one million dollars per claim with an aggregate liability for
10 all claims during the year of three million dollars. Professional
11 liability insurance required by this section shall cover all acts within
12 the scope of practice of registered nurse anesthetist.

13 § 2. Section 6903 of the education law, as amended by chapter 323 of
14 the laws of 2006, is amended to read as follows:

15 § 6903. Practice of nursing and use of title "registered professional
16 nurse" or "licensed practical nurse". Only a person licensed or other-
17 wise authorized under this article shall practice nursing and only a
18 person licensed under section sixty-nine hundred five of this article
19 shall use the title "registered professional nurse" and only a person
20 licensed under section sixty-nine hundred six of this article shall use
21 the title "licensed practical nurse". No person shall use the title
22 "nurse" or any other title or abbreviation that would represent to the
23 public that the person is authorized to practice nursing unless the
24 person is licensed or otherwise authorized under this article or article
25 one hundred thirty-nine-A of this title.

26 § 3. Section 6904 of the education law, as amended by chapter 994 of
27 the laws of 1971 and as renumbered by chapter 50 of the laws of 1972, is
28 amended to read as follows:

29 § 6904. State board for nursing. A state board for nursing shall be
30 appointed by the board of regents on recommendation of the commissioner
31 for the purpose of assisting the board of regents and the department on
32 matters of professional licensing and professional conduct in accordance
33 with section sixty-five hundred eight of this title. The board shall be
34 composed of not less than [~~fifteen~~ seventeen] members, eleven of whom
35 shall be registered professional nurses and four of whom shall be
36 licensed practical nurses and two of whom shall be certified registered
37 nurse anesthetists all licensed and practicing in this state for at
38 least five years. An executive secretary to the board shall be
39 appointed by the board of regents on recommendation of the commissioner
40 and shall be a registered professional nurse registered in this state.

41 § 4. This act shall take effect immediately.