STATE OF NEW YORK

5435--B

2021-2022 Regular Sessions

IN SENATE

March 4, 2021

Introduced by Sens. COONEY, BAILEY, GOUNARDES, JACKSON, RAMOS, RIVERA, SALAZAR, SKOUFIS -- 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 -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. The education law is amended by adding a new article 139-A 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.

§ 6912. Introduction. This article applies to the profession of certified registered nurse anesthetist. The general provisions for all

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

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professions contained in article one hundred thirty of this title apply to this article.

§ 6913. Definitions. As used in this article:

1. "Healthcare facility" means:

a. a hospital or ambulatory surgery center authorized under article twenty-eight of the public health law;

b. a facility authorized to perform office-based surgery pursuant to article two of section two hundred thirty-d of the public health law; or

c. the office of a professional licensed to practice in the state pursuant to article one hundred thirty-three of the education law.

2. "Peri-anesthetic period" means the period of time commencing upon the pre-operative evaluation of the patient before surgery and ending upon the patient's post-operative discharge.

3. "Peri-obstetric period" means the period of time commencing upon the preanesthetic preparation or evaluation, anesthesia induction, maintenance or emergence, or postanesthesia care of the obstetric patient and ending upon the patient's post-obstetric discharge.

4. "Peri-procedural period" means the period of time commencing upon the pre-procedure evaluation of the patient before a procedure and ending upon the patient's post-procedure discharge.

5. "Collaborating physician" means an anesthesiologist or other licensed physician qualified to determine the need for anesthesia services.

§ 6914. Definition of practice of certified registered nurse anesthetist. 1. In addition to the provisions of practice for registered professional nursing outlined in section sixty-nine hundred two of this title, the practice of a certified registered nurse anesthetist further includes, but is not limited to, administration of anesthesia to a patient during the peri-anesthetic, peri-obstetric, or peri-procedural period at a healthcare facility; performing and documenting a preanesthetic assessment and evaluation of the patient, including requesting consultations and diagnostic studies; selecting, obtaining, ordering, and administering preanesthetic medications and fluids; obtaining informed consent for anesthesia, developing and implementing an anesthetic plan; initiating the anesthetic technique; monitoring the patient including selecting, applying, and inserting appropriate noninvasive and invasive monitoring modalities for continuous evaluation of the patient's physical status; selecting, obtaining, and administering the anesthetics, adjuvant and accessory drugs, and fluids necessary to manage the anesthetic; ordering and evaluating laboratory and diagnostic tests and performing point-of-care testing; ordering and evaluating radiographic imaging studies; managing a patient's airway and pulmonary status using current practice modalities; facilitating emergence and recovery from anesthesia by selecting, obtaining, ordering and administering medications, fluids, and ventilatory support; discharging the patient from a postanesthesia care area and providing postanesthesia follow-up evaluation and care; implementing acute and chronic pain management modalities; and responding to emergency situations by providing airway management, administration of emergency fluids and drugs, and using basic or advanced cardiac life support techniques.

2. Nurse anesthesia must be provided in collaboration with a collaborating physician, provided such services are performed in accordance with a written practice agreement and written practice protocols as set forth in subdivision four of this section or pursuant to collaborative relationships as set forth in subdivision five of this section, whichever is applicable.

3. Prescriptions for drugs, devices, and anesthetic agents, anesthesia related agents, and analgesics may be issued by a certified registered nurse anesthetist during the peri-anesthetic, peri-obstetric, or peri-operative period, in accordance with the written practice agreement and written practice protocols described in subdivision four of this section if applicable. The certified registered nurse anesthetist shall obtain a certificate from the department upon successfully completing a program including an appropriate pharmacology component, or its equivalent, as established by the commissioner's regulations, prior to prescribing under this subdivision. The license issued under this article shall state whether the certified registered nurse anesthetist has successfully completed such a program or equivalent and is authorized to prescribe under this subdivision.

4. A certified registered nurse anesthetist licensed under this article and practicing for thirty-six hundred hours or less shall do so in accordance with a written practice agreement and written practice protocols agreed upon by a collaborating physician, who shall be reasonably available for consultation as needed.

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

(b) Each practice agreement shall provide for patient records review by the collaborating physician in a timely fashion but in no event less often than every three months. The names of the certified registered nurse anesthetist and the collaborating physician shall be available in the practice setting of the certified registered nurse anesthetist.

(c) The practice protocol shall reflect current accepted medical and nursing practice. The commissioner shall make regulations establishing the procedure for the review of protocols and the disposition of any issues arising from such review.

5. A certified registered nurse anesthetist licensed under this article and practicing for more than thirty-six hundred hours shall have collaborative relationships with one or more collaborating physicians, who shall be reasonably available for consultation as needed, or a hospital, licensed under article twenty-eight of the public health law, that provides services through collaborating physicians having privileges at such institution.

(a) For purposes of this subdivision, "collaborative relationships" shall mean that the certified registered nurse anesthetist shall communicate, whether in person, by telephone or through written (including electronic) means, with a collaborating physician, or, in the case of a hospital, communicate with a collaborating physician having privileges at such hospital, for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals as necessary.

(b) As evidence that the certified registered nurse anesthetist maintains collaborative relationships, the certified registered nurse anesthetist shall complete and maintain a form, created by the department, to which the certified registered nurse anesthetist shall attest, that describes such collaborative relationships. Such form shall also reflect the certified registered nurse anesthetist's acknowledgement that if reasonable efforts to resolve any dispute that may arise with the collaborating physician or, in the case of a collaboration with a

hospital, with a collaborating physician having privileges at such hospital, about a patient's care are not successful, the recommendation of the physician shall prevail. Such form shall be updated as needed and may be subject to review by the department. The certified registered nurse anesthetist shall maintain documentation that supports such collaborative relationships.

6. Nothing in this section shall be deemed to limit or diminish the practice of the profession of nursing as a registered professional nurse under article one hundred thirty-nine of this title or any other law, rule, regulation or certification, nor to deny any registered professional nurse the right to do any act or engage in any practice authorized by article one hundred thirty-nine of this title or any other law, rule, regulation or certification.

§ 6915. Practice of certified registered nurse anesthetist and use of the title "certified registered nurse anesthetist" or "nurse anesthetist." Only a person licensed or otherwise authorized under this article shall practice as a certified registered nurse anesthetist or nurse anesthetist, provided that any person who was practicing as a certified registered nurse anesthetist in the state before the effective date of this article shall have the right to continue using the title.

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

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

1. Application: file an application with the department;

2. License: be licensed as a registered professional nurse;

3. Education: have received a master's degree or higher in a program of nurse anesthesia in accordance with the commissioner's regulations;

4. Examination: meet the standards to sit for the certifying exam provided by the national board for certification of nurse anesthetists;

5. Character: be of good moral character as determined by the department;

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

7. Information and documentation: in conjunction with and as a condition of each triennial registration, provide to the department, and the department shall collect, such information and documentation required by the department, in consultation with the department of health, as is necessary to enable the department of health to evaluate access to needed services in this state, including, but not limited to, the location and type of setting wherein the certified registered nurse anesthetist practices and other information the department, in consultation with the department of health, deems relevant. The department of health, in consultation with the department, shall make such data available in aggregate, de-identified form on a publicly accessible website. Additionally, in conjunction with each triennial registration, the department, in consultation with the department of health, shall provide information on registering in the donate life registry for organ and tissue donation, including the website address for such registry.

§ 6918. Limited permits. 1. A permit to practice as a certified registered nurse anesthetist may be issued by the department upon the filing of an application for a license as a certified registered nurse anesthetist and submission of such other information as the department may

require to (a) graduates of schools of nurse anesthesia registered by the department or (b) graduates of schools of nurse anesthesia approved in another state, province, or country.

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

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

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

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

1. as applying to any activity authorized, pursuant to statute, rule or regulation, to be performed by a registered professional nurse in a hospital as defined in article twenty-eight of the public health law;

2. as prohibiting the furnishing of nurse anesthesia assistance in case of an emergency;

3. as prohibiting such performance of nurse anesthesia service by students enrolled in registered schools or programs as may be incidental to their course of study;

4. as prohibiting or preventing the practice of nurse anesthesia in this state by any legally qualified nurse or practical nurse of another state, province, or country whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of such engagement provided such person does not represent or hold himself or herself out as a certified registered nurse anesthetist registered to practice in this state;

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

6. as prohibiting or preventing the practice of nurse anesthesia in this state, in obedience to the requirements of the laws of the United States, by any commissioned nurse anesthetist officer in the armed forces of the United States or by any nurse anesthetist employed in the United States veterans administration or United States public health service while engaged in the performance of the actual duties prescribed for him or her under the United States statutes, provided such person does not represent or hold himself or herself out as a certified registered nurse anesthetist registered to practice in this state; or

7. as prohibiting the care of the sick when done in connection with the practice of the religious tenets of any church.

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

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

§ 6903. Practice of nursing and use of title "registered professional nurse" or "licensed practical nurse". Only a person licensed or otherwise authorized under this article shall practice nursing and only a person licensed under section sixty-nine hundred five of this article shall use the title "registered professional nurse" and only a person licensed under section sixty-nine hundred six of this article shall use the title "licensed practical nurse". No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that the person is authorized to practice nursing unless the person is licensed or otherwise authorized under this article **or article one hundred thirty-nine-A of this title**.

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

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

§ 4. This act shall take effect immediately.