STATE OF NEW YORK

987

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. GAUGHRAN, KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the registration of nurse anesthetists

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

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

4. (a) The administration of anesthesia to a patient shall be performed only by a qualified anesthesia practitioner as legally authorized under this title.

(b) The practice of professional nursing by a registered nurse anesthetist, certified under section sixty-nine hundred twelve of this article, shall (i) include the administration of anesthesia to a patient but only under the supervision of an anesthesiologist who is immediately available; or under the supervision of the operating physician who is physically present; or under the supervision of a dentist, oral surgeon or podiatrist who is physically present and who is authorized by law to administer anesthesia, to the extent such person is qualified by law, regulation or hospital appointment to perform and supervise the administration of anesthesia; and

(ii) include the execution of medical regimens prescribed by the supervisory physician, dentist, oral surgeon or podiatrist who is authorized by law to prescribe; and

(iii) be consistent with policies and procedures approved by the medical staff and governing body of the health care facility, or free standing ambulatory surgical center defined under article twenty-eight of the public health law, where applicable, and as legally authorized

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

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under this title and in accordance with applicable regulations of the commissioner of health.

(c) The following terms shall have the following meanings:

(i) "Administration of anesthesia" in the hospital or ambulatory surgical center means anesthesia services shall be directed by a physician who has responsibility for the clinical aspects of organization and delivery of all anesthesia services provided by the hospital or ambulatory surgical center. That physician or another individual qualified by education and experience shall direct the administrative aspects of the service, and shall be responsible, in conjunction with the medical staff, for recommending to the governing body privileges to those persons qualified to administer anesthetics, including the procedures each person is qualified to perform and the levels of required supervision as appropriate. Administration of anesthesia in office based surgery venues means the anesthesia component of the medical or dental procedure shall be supervised by an anesthesiologist, physician, dentist or podiatrist qualified to supervise the administration of anesthesia who is physically present and available to immediately diagnose and treat the patient for anesthesia complications or emergencies, and nurse anesthetists with the appropriate training and experience may be permitted to administer unconscious or deep sedation, and/or general anesthesia, regional anesthesia, and/or monitor the patient.

(ii) "Conscious sedation" or "sedation analgesia" means a minimally depressed level of consciousness that retains the patient's ability to maintain adequate cardiorespiratory function and the ability to independently and continuously maintain an open airway, a regular breathing pattern, protective reflexes, and respond purposefully and rationally to tactile stimulation and verbal command. This does not include unsupplemented oral pre-operative medications or nitrous oxide analgesia.

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

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

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

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

(vii) "Office-based surgery" means any surgical or other invasive procedure, requiring general anesthesia, moderate sedation, or deep sedation, and any liposuction procedure, where such surgical or other invasive procedure or liposuction is performed by a licensee in a

location other than a hospital, as such term is defined in article twenty-eight of the public health law, excluding minor procedures and procedures requiring minimal sedation.

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

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

(x) "Physically present" by a physician means the ability to react and respond in an immediate and appropriate manner so as to make possible the continuous exercise of medical judgment throughout the administration of the anesthesia. "Physically present" by a dentist, oral surgeon or podiatrist means the ability of such person who is performing the procedure requiring the administration of anesthesia to react and respond in an immediate and appropriate manner so as to make possible the continuous exercise of professional judgment throughout the administration of the anesthesia.

(xi) "Qualified anesthesia practitioner" means a physician, dentist, podiatrist or certified registered nurse anesthetist whose professional practice is subject to the department of health for professional medical or professional conduct or the state education department office of professional discipline.

(xii) "Regional anesthesia" means the administration of local anesthesia agents to interrupt nerve impulses in a major region of the body. Included in this category, for example, are spinal, epidural, caudal, upper or lower extremity plexus block anesthesia, and intravenous regional anesthesia.

(xiii) "Supervision" means that a physician, dentist, oral surgeon or podiatrist shall perform a pre-anesthetic examination and evaluation, prescribe the anesthesia, including post-operative medications as needed for pain and discomfort, including nausea and vomiting, remain physically present during the entire peri-operative period and immediately available for diagnosis, treatment, and management of anesthesia-related complications or emergencies, and assure the provision of indicated post-anesthesia care.

(xiv) "Supplemented local anesthesia" means the use of local anesthesia supplemented with conscious sedation.

(xv) "Unconscious or deep sedation" means the administration of medication by the oral, parenteral, or inhalation routes which results in a controlled state of depressed consciousness accompanied by partial loss of protective reflexes. There may be an inability to independently and continuously maintain an open airway and/or regular breathing pattern with unconscious or deep sedation, and the ability to appropriately and rationally respond to physical stimuli and verbal commands is lost.

(xvi) "Unsupplemented local anesthesia" means the use of local anesthesia without supplementing with conscious sedation.

(d) The provisions of this section shall not operate to modify the scope of practice of certified registered nurse anesthetists pursuant to statute or the rules and regulations of the commissioner of health in a hospital or in a free-standing ambulatory surgery center as defined in article twenty-eight of the public health law.

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

§ 6912. Certification of nurse anesthetists. 1. For issuance of a certificate to practice as a certified registered nurse anesthetist

under subdivision four of section sixty-nine hundred two of this article, the applicant shall fulfill the following requirements:

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

(b) License: be licensed as a registered professional nurse in this state;

(c) Education: (i) have satisfactorily completed a prescribed course of study in a school of nurse anesthesia accredited by the council on accreditation of nurse anesthesia education programs or schools or other accrediting body which the commissioner finds to be substantially equivalent; and

(ii) have passed the national certifying examination given by the council on certification of nurse anesthetists or other certifying examination which the commissioner finds to be substantially equivalent; and

(iii) is currently certified by the council on certification of nurse anesthetists or by the council on recertification of nurse anesthetists or other accrediting body which the commissioner finds to be substantially equivalent. A registered professional nurse licensed and currently registered with the department who does not meet the requirements as set forth in this paragraph, shall be permitted to continue the practice of nurse anesthesia only under the supervision of a qualified anesthesiologist until one year after the effective date of this section. Notwithstanding anything to the contrary in this section, a graduate nurse anesthetist awaiting certification shall be permitted to administer anesthesia only in the hospital or ambulatory surgical center setting as provided in this section;

(d) Fees: pay to the department a fee of fifty dollars for initial certification and a triennial registration fee of thirty dollars. After a certified registered nurse anesthetist's initial registration, registration under this section shall be coterminous with the certified registered nurse anesthetist's registration as a professional nurse.

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

3. A registered professional nurse duly enrolled in a program of educational preparation under subdivision one of this section may administer anesthesia as a student nurse anesthetist under the direct personal supervision of a certified registered nurse anesthetist who is supervised by an anesthetist or an anesthesiologist. The certified registered nurse anesthetist or anesthesiologist shall be continuously present.

4. The commissioner may promulgate regulations to implement this section.

§ 3. Section 6522 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 6522. Practice of medicine and use of title "physician". Only a person licensed or otherwise authorized under this article shall practice medicine or use the title "physician". No person unless licensed or otherwise authorized under this article shall use the title "anesthesiologist" or any other title or abbreviation or in combination with another title or abbreviation that would represent to the public that the person is authorized to practice medicine under this article.

§ 4. Notwithstanding any other provision of law to the contrary, a registered professional nurse certified as a certified registered nurse anesthetist on, before or within one year after the effective date of sections one and two of this act may administer anesthesia as a certified registered nurse anesthetist, and shall be deemed to be certified

as a certified registered nurse anesthetist under section 6912 of the education law as added by section two of this act, until one year after the effective date of sections one and two of this act; provided that certification under such section shall be by a national certifying body that has been certifying registered nurse anesthetists for at least five years prior to such section becoming a law.

§ 5. This act shall take effect immediately, except that sections one and two of this act shall take effect on the first of April next succeeding the date on which it shall have become a law.