

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

3 § 6913. Definitions. As used in this article:

4 1. "Healthcare facility" means:

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

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

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

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

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

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

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

24 § 6914. Definition of practice of certified registered nurse anes-  
25 thetist. 1. In addition to the provisions of practice for registered  
26 professional nursing outlined in section sixty-nine hundred two of this  
27 title, the practice of a certified registered nurse anesthetist further  
28 includes, but is not limited to, administration of anesthesia to a  
29 patient during the peri-anesthetic, peri-obstetric, or peri-procedural  
30 period at a healthcare facility; performing and documenting a preanes-  
31 thetic assessment and evaluation of the patient, including requesting  
32 consultations and diagnostic studies; selecting, obtaining, ordering,  
33 and administering preanesthetic medications and fluids; obtaining  
34 informed consent for anesthesia, developing and implementing an anes-  
35 thetic plan; initiating the anesthetic technique; monitoring the patient  
36 including selecting, applying, and inserting appropriate noninvasive and  
37 invasive monitoring modalities for continuous evaluation of the  
38 patient's physical status; selecting, obtaining, and administering the  
39 anesthetics, adjuvant and accessory drugs, and fluids necessary to  
40 manage the anesthetic; ordering and evaluating laboratory and diagnostic  
41 tests and performing point-of-care testing; ordering and evaluating  
42 radiographic imaging studies; managing a patient's airway and pulmonary  
43 status using current practice modalities; facilitating emergence and  
44 recovery from anesthesia by selecting, obtaining, ordering and adminis-  
45 tering medications, fluids, and ventilatory support; discharging the  
46 patient from a postanesthesia care area and providing postanesthesia  
47 follow-up evaluation and care; implementing acute and chronic pain  
48 management modalities; and responding to emergency situations by provid-  
49 ing airway management, administration of emergency fluids and drugs, and  
50 using basic or advanced cardiac life support techniques.

51 2. Nurse anesthesia must be provided in collaboration with a collab-  
52 orating physician, provided such services are performed in accordance  
53 with a written practice agreement and written practice protocols as set  
54 forth in subdivision four of this section or pursuant to collaborative  
55 relationships as set forth in subdivision five of this section, whichev-  
56 er is applicable.

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

14 4. A certified registered nurse anesthetist licensed under this arti-  
15 cle and practicing for thirty-six hundred hours or less shall do so in  
16 accordance with a written practice agreement and written practice proto-  
17 cols agreed upon by a collaborating physician, who shall be reasonably  
18 available for consultation as needed.

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

25 (b) 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 available in  
29 the practice setting of the certified registered nurse anesthetist.

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

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

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

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

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

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 as a certified registered nurse anesthetist or nurse  
18 anesthetist, provided that any person who was practicing as a certified  
19 registered nurse anesthetist in the state before the effective date of  
20 this article shall have the right to continue using the title.

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

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

- 27 1. Application: file an application with the department;
- 28 2. License: be licensed as a registered professional nurse;
- 29 3. Education: have received a master's degree or higher in a program  
30 of nurse anesthesia in accordance with the commissioner's regulations;
- 31 4. Examination: meet the standards to sit for the certifying exam  
32 provided by the national board for certification of nurse anesthetists;
- 33 5. Character: be of good moral character as determined by the depart-  
34 ment;

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

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

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

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

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

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

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

13 § 6919. Exempt persons. This article shall not be construed:

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

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

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

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

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

37 6. as prohibiting or preventing the practice of nurse anesthesia in  
38 this state, in obedience to the requirements of the laws of the United  
39 States, by any commissioned nurse anesthetist officer in the armed forc-  
40 es of the United States or by any nurse anesthetist employed in the  
41 United States veterans administration or United States public health  
42 service while engaged in the performance of the actual duties prescribed  
43 for him or her under the United States statutes, provided such person  
44 does not represent or hold himself or herself out as a certified regis-  
45 tered nurse anesthetist registered to practice in this state; or

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

48 § 6920. Special provisions. A certified registered nurse anesthetist  
49 licensed under this article is required to purchase and maintain, or  
50 otherwise be covered by, professional liability insurance in an amount  
51 not less one million dollars per claim with an aggregate liability for  
52 all claims during the year of three million dollars. Professional  
53 liability insurance required by this section shall cover all acts within  
54 the scope of practice of registered nurse anesthetist.

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

1 § 6903. Practice of nursing and use of title "registered professional  
2 nurse" or "licensed practical nurse". Only a person licensed or other-  
3 wise authorized under this article shall practice nursing and only a  
4 person licensed under section sixty-nine hundred five of this article  
5 shall use the title "registered professional nurse" and only a person  
6 licensed under section sixty-nine hundred six of this article shall use  
7 the title "licensed practical nurse". No person shall use the title  
8 "nurse" or any other title or abbreviation that would represent to the  
9 public that the person is authorized to practice nursing unless the  
10 person is licensed or otherwise authorized under this article or article  
11 one hundred thirty-nine-A of this title.

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

15 § 6904. State board for nursing. A state board for nursing shall be  
16 appointed by the board of regents on recommendation of the commissioner  
17 for the purpose of assisting the board of regents and the department on  
18 matters of professional licensing and professional conduct in accordance  
19 with section sixty-five hundred eight of this title. The board shall be  
20 composed of not less than [~~fifteen~~] seventeen members, eleven of whom  
21 shall be registered professional nurses and four of whom shall be  
22 licensed practical nurses and two of whom shall be certified registered  
23 nurse anesthetists all licensed and practicing in this state for at  
24 least five years. An executive secretary to the board shall be  
25 appointed by the board of regents on recommendation of the commissioner  
26 and shall be a registered professional nurse registered in this state.

27 § 4. This act shall take effect immediately.