

# STATE OF NEW YORK

3000

2023-2024 Regular Sessions

## IN SENATE

January 26, 2023

Introduced by Sens. GOUNARDES, ADDABBO, KRUEGER, SKOUFIS -- 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:

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

3 4. (a) The administration of anesthesia to a patient shall be  
4 performed only by a qualified anesthesia practitioner as legally author-  
5 ized under this title.

6 (b) The practice of professional nursing by a registered nurse anesth-  
7 etist, certified under section sixty-nine hundred twelve of this arti-  
8 cle, shall (i) include the administration of anesthesia to a patient but  
9 only under the supervision of an anesthesiologist who is immediately  
10 available; or under the supervision of the operating physician who is  
11 physically present; or under the supervision of a dentist, oral surgeon  
12 or podiatrist who is physically present and who is authorized by law to  
13 administer anesthesia, to the extent such person is qualified by law,  
14 regulation or hospital appointment to perform and supervise the adminis-  
15 tration of anesthesia; and

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

19 (iii) be consistent with policies and procedures approved by the  
20 medical staff and governing body of the health care facility, or free  
21 standing ambulatory surgical center defined under article twenty-eight  
22 of the public health law, where applicable, and as legally authorized  
23 under this title and in accordance with applicable regulations of the  
24 commissioner of health.

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

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

2 (i) "Administration of anesthesia" in the hospital or ambulatory  
3 surgical center means anesthesia services shall be directed by a physi-  
4 cian who has responsibility for the clinical aspects of organization and  
5 delivery of all anesthesia services provided by the hospital or ambula-  
6 tory surgical center. That physician or another individual qualified by  
7 education and experience shall direct the administrative aspects of the  
8 service, and shall be responsible, in conjunction with the medical  
9 staff, for recommending to the governing body privileges to those  
10 persons qualified to administer anesthetics, including the procedures  
11 each person is qualified to perform and the levels of required super-  
12 vision as appropriate. Administration of anesthesia in office based  
13 surgery venues means the anesthesia component of the medical or dental  
14 procedure shall be supervised by an anesthesiologist, physician, dentist  
15 or podiatrist qualified to supervise the administration of anesthesia  
16 who is physically present and available to immediately diagnose and  
17 treat the patient for anesthesia complications or emergencies, and nurse  
18 anesthetists with the appropriate training and experience may be permit-  
19 ted to administer unconscious or deep sedation, and/or general anes-  
20 thesia, regional anesthesia, and/or monitor the patient.

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

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

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

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

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

51 (vii) "Office-based surgery" means any surgical or other invasive  
52 procedure, requiring general anesthesia, moderate sedation, or deep  
53 sedation, and any liposuction procedure, where such surgical or other  
54 invasive procedure or liposuction is performed by a licensee in a  
55 location other than a hospital, as such term is defined in article twen-

1 ty-eight of the public health law, excluding minor procedures and proce-  
2 dures requiring minimal sedation.

3 (viii) "Patient" means an individual who is under the care of a physi-  
4 cian in a licensed facility or, in an office, under the care of a physi-  
5 cian, dentist, oral surgeon or podiatrist.

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

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

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

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

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

36 (xiv) "Supplemented local anesthesia" means the use of local anes-  
37 thesia supplemented with conscious sedation.

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

45 (xvi) "Unsupplemented local anesthesia" means the use of local anes-  
46 thesia without supplementing with conscious sedation.

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

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

54 § 6912. Certification of nurse anesthetists. 1. For issuance of a  
55 certificate to practice as a certified registered nurse anesthetist

1 under subdivision four of section sixty-nine hundred two of this arti-  
2 cle, the applicant shall fulfill the following requirements:

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

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

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

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

15 (iii) is currently certified by the council on certification of nurse  
16 anesthetists or by the council on recertification of nurse anesthetists  
17 or other accrediting body which the commissioner finds to be substan-  
18 tially equivalent. A registered professional nurse licensed and current-  
19 ly registered with the department who does not meet the requirements as  
20 set forth in this paragraph, shall be permitted to continue the practice  
21 of nurse anesthesia only under the supervision of a qualified anesthe-  
22 siologist until one year after the effective date of this section.  
23 Notwithstanding anything to the contrary in this section, a graduate  
24 nurse anesthetist awaiting certification shall be permitted to adminis-  
25 ter anesthesia only in the hospital or ambulatory surgical center  
26 setting as provided in this section;

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

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

34 3. A registered professional nurse duly enrolled in a program of  
35 educational preparation under subdivision one of this section may admin-  
36 ister anesthesia as a student nurse anesthetist under the direct  
37 personal supervision of a certified registered nurse anesthetist who is  
38 supervised by an anesthetist or an anesthesiologist. The certified  
39 registered nurse anesthetist or anesthesiologist shall be continuously  
40 present.

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

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

45 § 6522. Practice of medicine and use of title "physician". Only a  
46 person licensed or otherwise authorized under this article shall prac-  
47 tice medicine or use the title "physician". No person unless licensed  
48 or otherwise authorized under this article shall use the title "anesthe-  
49 siologist" or any other title or abbreviation or in combination with  
50 another title or abbreviation that would represent to the public that  
51 the person is authorized to practice medicine under this article.

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

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

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