

A7268-A Gottfried Same as S 5435-B COONEY

Education Law

TITLE. ...Relates to creating the profession of nurse anesthetist

04/29/21 referred to higher education

01/05/22 referred to higher education

05/06/22 amend and recommit to higher education

05/06/22 print number 7268a

GOTTFRIED, STIRPE, FERNANDEZ, FORREST, BURDICK, WEPRIN, JACOBSON, EPSTEIN,
SANTABARBARA, DICKENS, GONZALEZ-ROJAS

Add Art 139-A §§6912 - 6920, amd §§6903 & 6904, Ed L

Defines the practice of certified registered nurse anesthetist; requires collaboration with a licensed physician qualified to determine the need for anesthesia services; requires licensing; defines qualifications.

STATE OF NEW YORK

7268--A

2021-2022 Regular Sessions

IN ASSEMBLY

April 29, 2021

Introduced by M. of A. GOTTFRIED, STIRPE, FERNANDEZ, FORREST, BURDICK, WEPRIN, JACOBSON, EPSTEIN, SANTABARBARA -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

ANACT 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.

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

LBD08447-02-2

1 § 6913. Definitions. As used in this article:
2 1. "Healthcare facility" means:
3 a. a hospital or ambulatory surgery center authorized under article
4 twenty-eight of the public health law;
5 b. a facility authorized to perform office-based surgery pursuant to
6 article two of section two hundred thirty-d of the public health law; or
7 c. the office of a professional licensed to practice in the state
8 pursuant to article one hundred thirty-three of the education law.
9 2. "Peri-anesthetic period" means the period of time commencing upon
10 the pre-operative evaluation of the patient before surgery and ending
11 upon the patient's post-operative discharge.
12 3. "Peri-obstetric period" means the period of time commencing upon
13 the preanesthetic preparation or evaluation, anesthesia induction, main-
14 tenance or emergence, or postanesthesia care of the obstetric patient
15 and ending upon the patient's post-obstetric discharge.
16 4. "Peri-procedural period" means the period of time commencing upon
17 the pre-procedure evaluation of the patient before a procedure and
18 ending upon the patient's post-procedure discharge.
19 5. "Collaborating physician" means an anesthesiologist or other
20 licensed physician qualified to determine the need for anesthesia
21 services.
22 § 6914. Definition of practice of certified registered nurse anes-
23 tist. 1. In addition to the provisions of practice for registered
24 professional nursing outlined in section sixty-nine hundred two of this
25 title, the practice of a certified registered nurse anesthetist further
26 includes, but is not limited to, administration of anesthesia to a
27 patient during the peri-anesthetic, peri-obstetric, or peri-procedural
28 period at a healthcare facility; performing and documenting a preanes-
29 thetic assessment and evaluation of the patient, including requesting
30 consultations and diagnostic studies; selecting, obtaining, ordering,
31 and administering preanesthetic medications and fluids; obtaining
32 informed consent for anesthesia, developing and implementing an anes-
33 thetic plan; initiating the anesthetic technique; monitoring the patient
34 including selecting, applying, and inserting appropriate noninvasive and
35 invasive monitoring modalities for continuous evaluation of the
36 patient's physical status; selecting, obtaining, and administering the
37 anesthetics, adjuvant and accessory drugs, and fluids necessary to
38 manage the anesthetic; ordering and evaluating laboratory and diagnostic
39 tests and performing point-of-care testing; ordering and evaluating
40 radiographic imaging studies; managing a patient's airway and pulmonary
41 status using current practice modalities; facilitating emergence and
42 recovery from anesthesia by selecting, obtaining, ordering and adminis-
43 tering medications, fluids, and ventilatory support; discharging the
44 patient from a postanesthesia care area and providing postanesthesia
45 follow-up evaluation and care; implementing acute and chronic pain
46 management modalities; and responding to emergency situations by provid-
47 ing airway management, administration of emergency fluids and drugs, and
48 using basic or advanced cardiac life support techniques.
49 2. Nurse anesthesia must be provided in collaboration with a collab-
50 orating physician, provided such services are performed in accordance
51 with a written practice agreement and written practice protocols as set
52 forth in subdivision four of this section or pursuant to collaborative
53 relationships as set forth in subdivision five of this section, whichev-
54 er is applicable.
55 3. Prescriptions for drugs, devices, and anesthetic agents, anesthesia
56 related agents, and analgesics may be issued by a certified registered

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

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

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

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

28 (c) The practice protocol shall reflect current accepted medical and
29 nursing practice. The commissioner shall make regulations establishing
30 the procedure for the review of protocols and the disposition of any
31 issues 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 collaborating physicians,
35 who shall be reasonably available for consultation as needed, or a
36 hospital, licensed under article twenty-eight of the public health law,
37 that provides services through collaborating physicians having privi-
38 leges 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 collaborating physician, or, in the case of a
43 hospital, communicate with a collaborating physician having privileges
44 at such hospital, for the purposes of exchanging information, as needed,
45 in order to provide comprehensive patient care and to make referrals as
46 necessary.

47 (b) As evidence that the certified registered nurse anesthetist main-
48 tains collaborative relationships, the certified registered nurse
49 anesthetist shall complete and maintain a form, created by the depart-
50 ment, to which the certified registered nurse anesthetist shall attest,
51 that describes such collaborative relationships. Such form shall also
52 reflect the certified registered nurse anesthetist's acknowledgement
53 that if reasonable efforts to resolve any dispute that may arise with
54 the collaborating physician or, in the case of a collaboration with a
55 hospital, with a collaborating physician having privileges at such
56 hospital, about a patient's care are not successful, the recommendation

1 of the physician shall prevail. Such form shall be updated as needed and
2 may be subject to review by the department. The certified registered
3 nurse anesthetist shall maintain documentation that supports such colla-
4 borative relationships.

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

12 § 6915. Practice of certified registered nurse anesthetist and use of
13 the title "certified registered nurse anesthetist" or "nurse anes-
14 tist." Only a person licensed or otherwise authorized under this article
15 shall practice as a certified registered nurse anesthetist or nurse
16 anesthetist, provided that any person who was practicing as a certified
17 registered nurse anesthetist in the state before the effective date of
18 this article shall have the right to continue using the title.

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. License: be licensed as a registered professional nurse;
- 27 3. Education: have received a master's degree or higher in a program
28 of nurse anesthesia in accordance with the commissioner's regulations;
- 29 4. Examination: meet the standards to sit for the certifying exam
30 provided by the national board for certification of nurse anesthetists;
- 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 anes-
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 nurse anesthesia approved
2 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 nurse anes-
8 thesia only under the supervision of a certified registered nurse
9 anesthetist or collaborating physician currently registered in this
10 state and with the endorsement of the employing agency.

11 4. Fees. The fee for each limited permit shall be thirty-five dollars.
12 § 6919. Exempt persons. This article shall not be construed:

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

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

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

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

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

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

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

47 § 6920. Special provisions. A certified registered nurse anesthetist
48 licensed under this article is required to purchase and maintain, or
49 otherwise be covered by, professional liability insurance in an amount
50 not less one million dollars per claim with an aggregate liability for
51 all claims during the year of three million dollars. Professional
52 liability insurance required by this section shall cover all acts within
53 the scope of practice of registered nurse anesthetist.

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

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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.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A7268A

SPONSOR: Gottfried

TITLE OF BILL:

An act to amend the education law, in relation to creating the profession of nurse anesthetist

PURPOSE OR GENERAL IDEA OF BILL:

This bill creates a scope of practice for certified registered nurse Anesthetists

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of this bill creates a new Article 139-A of the education law and defines the scope of practice for certified registered nurse anesthetist.

Section 2 amends the references to who can use the title of nurse.

Section 3 amends the composition of the state board of nursing to add two certified registered nurse anesthetists.

Section 4 is the effective date of the bill.

JUSTIFICATION:

Certified registered nurse anesthetists (CRNAs) practice is not codified in law in New York. Instead, the scope of practice for CRNAs is defined through educational requirements and Health Department regulations. This bill would create the profession of CRNAs and outline a scope of practice that is reflective of their training and education in New York. Existing requirements for training, education, and certification of CRNAs have resulted in high quality, professional care, and it is time to codify and further define the existing requirements.

CRNAs have been providing anesthesia care to patients for more than 150 years. The value and need for CRNAs was highlighted at a new level during the COVID-19 pandemic when CRNAs stepped into key leadership roles in treating COVID-19 patients. Given the need and value of CRNAs, it is imperative to codify a scope of practice for CRNAs.

PRIOR LEGISLATIVE HISTORY:

New bill

FISCAL IMPLICATIONS:

None

EFFECTIVE DATE:

Immediately