



COMPARISON OF BICHOTTE HERMELYN (A.6986) / GAUGHRAN (S.987) BILLS AND NEW YORK STATE HEALTH CODE

Legislative Session 2021-2022

Bichotte Hermelyn/Gaughran Bills Are Consistent With Existing Statewide Minimum Standards Which Have Contributed To Unprecedented Safe Anesthesia Delivery in New York State

	Bichotte Hermelyn (A.6986) / Gaughran (S.987) Bills	NYS Health Code (adopted 1989)
<p>Important Sections of Bills</p>	<p>4(b) The practice of professional nursing by a registered nurse anesthetist, certified under section sixty-nine hundred twelve of this article, shall</p> <p>(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</p> <p>(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</p> <p>(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 under this title and in accordance with applicable regulations of the commissioner of health.</p>	<p><u>10 NYCRR §405.13(a)(1) (Hospitals):</u> ...Anesthesia shall be administered in accordance with their credentials and privileges by the following:</p> <ul style="list-style-type: none"> (i) anesthesiologists; (ii) physicians granted anesthesia privileges; (iii) dentists, oral surgeons, or podiatrists who are qualified to administer anesthesia under State law; and (iv) <u>certified registered nurse anesthetists (CRNA's) under the supervision of an anesthesiologist who is immediately available as needed or under the supervision of the operating physician who has been found qualified by the governing body and the medical staff to supervise the administration of anesthetics and who has accepted responsibility for the supervision of the CRNA;</u> or (v) a student enrolled in a school of nurse anesthesia accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs may administer anesthesia as related to such course of study under the direct personal supervision of a certified registered nurse anesthetist or an anesthesiologist. <p><u>10 NYCRR §405.22(l)(6)(vi) (Critical Care and Special Care Services: Live Adult Liver Transplantation Services):</u> Anesthesia Requirements:</p> <p>(c) These teams shall each be directed by a separate attending anesthesiologist for the live donor and the recipient procedure. In addition to the attending anesthesiologist who shall be present as specified in clause (a) above, at least one member of the anesthesia team who is an anesthesiologist, chief resident, fellow (postgraduate year 3, 4, or 5), and/or qualified certified registered nurse anesthetist shall be present and responsible, under the direction of the attending anesthesiologist, for the evaluation and care of the patient through all phases of the procedure pertaining to the administration of, and recovery from, anesthesia. All team members shall have ongoing education and training in liver and/or cardiac surgery and have had anesthesia responsibility for major liver resections.</p> <p><i>[continued on next page]</i></p>



The New York State Society of Anesthesiologists, Inc.

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	Bichotte Hermelyn (A.6986) / Gaughran (S.987) Bills	NYS Health Code (adopted 1989)
		<p><u>10 NYCRR §755.4 (Free-Standing Ambulatory Surgery Centers):</u> The operator shall ensure that:</p> <ul style="list-style-type: none"> (a) an anesthesiologist, licensed by and currently registered with the New York State Education Department, and who meets the definition of a qualified specialist, is responsible for the anesthesia services and may fulfill the requirement for medical director; (b) administration of anesthesia is in accordance with current standards of professional practice; (c) anesthesia is administered by only a qualified anesthesiologist, or a physician or dentist qualified to administer anesthesia, or a certified registered nurse anesthetist; (d) <u>when nonphysicians administer anesthesia, the anesthetist must be under the direct personal supervision of a qualified physician, who may be the operating surgeon;</u> (e) the person administering the anesthesia, other than local anesthesia, is not the operating surgeon; and (f) a physician examines each patient immediately prior to surgery to evaluate the risk to anesthesia and the procedure to be performed.
Definitions		
"Administration of Anesthesia"	<p>(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.</p> <p>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</p>	<p><u>10 NYCRR §405.13(a) (Hospitals):</u> Organization and direction. 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. That physician or another individual qualified by education and experience shall direct administrative aspects of the service.</p> <p><u>10 NYCRR §405.13(a)(1) (Hospitals):</u> The director 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.</p> <p><u>10 NYCRR 405.13(b):</u> Operation and service delivery. Policies governing anesthesia services shall be designed to ensure the achievement and maintenance of generally accepted standards of medical practice and patient care.</p>



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	sedation, and/or general anesthesia, regional anesthesia, and/or monitor the patient.	
"Supervision"	(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 postanesthesia care.	<p><u>10 NYCRR §405.13(a)(1) (Hospitals):</u> ...Anesthesia shall be administered in accordance with their credentials and privileges by the following:</p> <p>(iv) certified registered nurse anesthetists (CRNA's) under the supervision of an anesthesiologist who is immediately available as needed or under the supervision of the operating physician who has been found qualified by the governing body and the medical staff to supervise the administration of anesthetics and who has accepted responsibility for the supervision of the CRNA; or...</p> <p><u>10 NYCRR §755.4 (Free-Standing Ambulatory Surgery Centers):</u> The operator shall ensure that:</p> <p>(d) when nonphysicians administer anesthesia, the anesthetist must be under the direct personal supervision of a qualified physician, who may be the operating surgeon; Additionally, the Health Department takes the position that, in the hospital and ambulatory surgical center settings, if the operative physician is supervising the delivery of anesthesia, that physician must satisfy the following basic requirements:</p> <ol style="list-style-type: none"> (1) Appreciate the risks of anesthesia; (2) Possess the medical knowledge and judgment with respect to the administration of anesthesia required to supervise the process; and (3) Accept legal and medical responsibility for the supervision and for the patient.
"Physically Present"	(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.	<u>10 NYCRR §405.13(a)(1)(iv) (Hospitals):</u> ...certified registered nurse anesthetists (CRNA's) under the supervision of an anesthesiologist who is immediately available as needed or under the supervision of the operating physician...