



**COMPARISON OF GOTTFRIED / COONEY BILL (A7268A / S5435B) AND NEW YORK STATE HEALTH CODE**

Legislative Session 2021-2022

**The Gottfried (A7268-A) / Cooney (S5435-B) Bill is Inconsistent With Existing Statewide Minimum Standards Which Have Contributed To Unprecedented Safe Anesthesia Delivery in New York State**

	Gottfried / Cooney (A7268-A / S5435-B) Bill	NYS Health Code (adopted 1989)
<p><b>Important Sections of Bills</b></p>	<p>§ 6913. Definitions. As used in this article:</p> <p>1. "Healthcare facility" means:</p> <p style="padding-left: 20px;">a. a hospital or ambulatory surgery center authorized under article twenty-eight of the public health law;</p> <p style="padding-left: 20px;">b. a facility authorized to perform office-based surgery pursuant to article two of section two hundred thirty-d of the public health law; or</p> <p style="padding-left: 20px;">c. the office of a professional licensed to practice in the state pursuant to article one hundred thirty-three of the education law.</p> <p>5. "Collaborating physician" means <u>an anesthesiologist or other licensed physician qualified to determine the need for anesthesia services.</u></p> <p>§6914. Definition of practice of certified registered nurse anesthetist.</p> <p>5. A certified registered nurse anesthetist licensed under this article and practicing for more than thirty-six hundred hours shall have collaborative relationships with <u>one or more collaborating physicians, who shall be reasonably available for consultation as needed, or a hospital, licensed under article twenty-eight of the public health law, that provides services through collaborating physicians having privileges at such institution.</u></p> <p style="padding-left: 20px;">(a) For purposes of this subdivision, "collaborative relationships" shall mean that the certified registered <u>nurse anesthetist shall communicate, whether in person, by telephone or through written (including electronic) means,</u> with a collaborating physician, or, in the case of a hospital, communicate with a collaborating physician having privileges at such hospital, for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals as necessary.</p>	<p>10 NYCRR §405.13(a)(1) (Hospitals): ...Anesthesia shall be administered in accordance with their credentials and privileges by the following:</p> <p style="padding-left: 20px;">(i) anesthesiologists;</p> <p style="padding-left: 20px;">(ii) physicians granted anesthesia privileges;</p> <p style="padding-left: 20px;">(iii) dentists, oral surgeons, or podiatrists who are qualified to administer anesthesia under State law; and</p> <p style="padding-left: 20px;">(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</p> <p style="padding-left: 20px;">(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> <p>10 NYCRR §755.4 (Free-Standing Ambulatory Surgery Centers): The operator shall ensure that:</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(b) administration of anesthesia is in accordance with current standards of professional practice;</p> <p style="padding-left: 20px;">(c) anesthesia is administered by only a qualified anesthesiologist, or a physician or dentist qualified to administer anesthesia, or a certified registered nurse anesthetist;</p>



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	<p><u>§6914. Definition of practice of certified registered nurse anesthetist.</u>            2. Nurse anesthesia must be provided in collaboration with a collaborating physician, provided such services are performed in accordance with a written practice agreement and written practice protocols as set forth in subdivision four of this section or pursuant to collaborative relationships as set forth in subdivision five of this section, whichever is applicable.</p> <p>4. A certified registered nurse anesthetist licensed under this article and practicing for thirty-six hundred hours or less shall do so in accordance with a written practice agreement and written practice protocols agreed upon by a collaborating physician, who shall be <u>reasonably available for consultation</u> as needed.</p> <p>(b) Each practice agreement shall provide for <u>patient records review</u> by the collaborating physician in a timely fashion but in no event less often than every three months. The names of the certified registered nurse anesthetist and the collaborating physician shall be available in the practice setting of the certified registered nurse anesthetist.</p>	<p>(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></p> <div style="border: 2px solid black; padding: 5px; margin: 10px 0;"> <p>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"> <li>(1) Appreciate the risks of anesthesia;</li> <li>(2) Possess the medical knowledge and judgment with respect to the administration of anesthesia required to supervise the process; and</li> <li>(3) Accept legal and medical responsibility for the supervision and for the patient.</li> </ol> </div> <p>(e) the person administering the anesthesia, other than local anesthesia, is not the operating surgeon; and</p> <p>(f) a physician examines each patient immediately prior to surgery to evaluate the risk to anesthesia and the procedure to be performed.</p> <p><u>10 NYCRR §405.22(l)(6)(vi) (Critical Care and Special Care Services; Live Adult Liver Transplantation Services): Anesthesia Requirements:</u></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><b>“Administration of Anesthesia”</b></p>	<p><u>§6914. Definition of practice of certified registered nurse anesthetist.</u>            1. In addition to the provisions of practice for registered professional nursing outlined in section sixty-nine hundred two of this title, the practice of a certified registered nurse anesthetist further includes,</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</p>



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	<b>Gottfried / Cooney (A7268-A / S5435-B) Bill</b>	<b>NYS Health Code (adopted 1989)</b>
	<p>but is not limited to, administration of anesthesia to a patient during the peri-anesthetic, peri-obstetric, or peri-procedural period at a healthcare facility; performing and documenting a pre-anesthetic assessment and evaluation of the patient, including requesting consultations and diagnostic studies; selecting, obtaining, ordering, and administering pre-anesthetic medications and fluids; obtaining informed consent for anesthesia, developing and implementing an anesthetic plan; initiating the anesthetic technique; monitoring the patient including selecting, applying, and inserting appropriate noninvasive and invasive monitoring modalities for continuous evaluation of the patient's physical status; selecting, obtaining, and administering the anesthetics, adjuvant and accessory drugs, and fluids necessary to manage the anesthetic; ordering and evaluating laboratory and diagnostic tests and performing point-of-care testing; ordering and evaluating radiographic imaging studies; managing a patient's airway and pulmonary status using current practice modalities; facilitating emergence and recovery from anesthesia by selecting, obtaining, ordering and administering medications, fluids, and ventilatory support; discharging the patient from a post-anesthesia care area and providing post-anesthesia follow-up evaluation and care; implementing acute and chronic pain management modalities; and responding to emergency situations by providing airway management, administration of emergency fluids and drugs, and using basic or advanced cardiac life support techniques.</p>	<p>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>