HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 427 CS Surgical First Assistance
SPONSOR(S): Homan and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1044

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	6 Y, 5 N, w/CS	Hamrick	Mitchell
2) Insurance Committee		Cooper	Cooper
3) Health Care Appropriations Committee			
4) Health & Families Council			
5)			

SUMMARY ANALYSIS

HB 427 establishes the licensure of certified surgical first assistants. A surgical assistant works under the direct supervision of a surgeon and provides technical functions that help a surgeon perform an operation. The bill creates a regulatory framework, provides definitions, scope of practice, employment guidelines, continuing education, accountability, and rules and guidelines. The licensure is voluntary. The bill exempts hospital employees who perform surgical assisting from licensure. Proponents of the bill have stated that the majority of surgical assistants in the state are employed by hospitals. According to the Department of Health, hospitals currently are largely responsible for providing oversight and setting standards for the performance of surgical assistants in Florida.

Section 11.62, F.S., the Sunrise Act that establishes criteria for new regulation of professions, states that it is the intent of the Legislature that no profession or occupation be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage; and no profession or occupation be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation. The Sunrise Act requires proponents of regulation to provide information to the Legislature that establishes the need and effects of regulation. The proponent for the regulation that submitted this information is the Florida Association of Surgical Assistants (FASA). The bill provides for regulation of approximately 432 certified practitioners, which currently perform the duties of a surgical first assistant.

Currently, surgeons have been unable to bill for the services of a surgical assistant unless the assistant was licensed as a physician assistant or nurse. The bill amends s. 627.419(6), F.S., Part II of the Florida Insurance Code, to allow for direct reimbursement of a certified first assistant.

Fiscal Impact: At present, the services of surgical assistants are generally covered by global payments made by health insurance plans to hospitals and surgeons. To the extent this bill has the effect of requiring any additional payments not already provided, it may result in increased health care costs. According to the Department of Health, this profession is expected to operate in a deficit and the allocated expenses for administrative, complaint, investigative, and prosecution services range from $19,000 and $243,000 or more annually in addition to the direct expenses for licensure.

The bill will take effect on October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government-The bill increases regulation of hospital surgical practices and provides for the creation of a regulatory framework for a new profession.

B. EFFECT OF PROPOSED CHANGES:

HB 427 provides for the regulation of certified surgical first assistants. A surgical assistant works under the direct supervision of a surgeon and provides aid in operative technical functions that help a surgeon perform a safe operation. A wide range of health professionals function as surgical assistants, such as physician assistants, nurses, and surgical technologists.

The bill does not establish mandatory licensure. The bill provides that licensure of certified surgical first assistants is not required of hospital employees who perform surgical assisting duties. The proponents of the bill have stated that the majority of surgical first assistants or assistants-at-surgery practicing in the state are employed by hospitals. The bill provides that a certified surgical first assistant license is not required of a registered nurse, an advanced registered nurse practitioner, a registered nurse first assistant, or a physician assistant as a condition of employment. The bill creates a regulatory framework, provides definitions, scope of practice, employment guidelines, continuing education, accountability, rules and guidelines and proposes licensure. According to the proponents, the bill creates a system of monitoring to safeguard the consumer. The bill provides for regulation of an estimated 432 certified practitioners, who currently perform the duties of a surgical first assistant.

The bill provides for the regulation of a new profession, certified surgical first assistants. According to s. 11.62, F.S., the Sunrise Act, it is the intent of the Legislature that:

- No profession or occupation is subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and

- No profession or occupation is regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

In determining whether to regulate a profession or occupation, s. 11.62, F.S., requires the Legislature to consider the following:

I. Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
II. Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
III. Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
IV. Whether the public is or can be effectively protected by other means; and
V. Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Section 11.62, F.S., requires the proponents of regulation to submit information, which is structured as a sunrise questionnaire to document that regulation meets these criteria. The effects section of the bill analysis is structured to address these five criteria. A sunrise questionnaire was submitted to staff by the proponents of the legislation to assist the Legislature in determining the need for regulation of certified surgical first assistants and analyzing the proposed legislation seeking to establish regulation under the Department of Health. The proponent for the regulation and entity responsible for submitting the sunrise questionnaire is the Florida Association of Surgical Assistants (FASA). FASA represents the certified surgical first assistants and during their 2005 annual business meeting, the Board of Directors responded to the requests of its members by selecting a core group of nine practitioners to represent them in this endeavor.

CRITERIA FOR THE PROPOSED PROFESSIONAL REGULATION

I. Substantial Harm or Endangerment

According to the information provided to staff in response to the sunrise questionnaire, there is an external and internal need for a regulatory standard for these reasons:

- There is an inherent risk of physical harm in surgery and a wide range of health care professionals, with varying educational and professional experience who perform as a surgical first assistant.
- The lack of a standard of practice places an undue burden and responsibility on hospitals to determine whether or not a practitioner will be allowed to practice in a given hospital.
- The lack of a regulatory body to ensure that only the most qualified individuals are involved in the practice of surgical first assisting, places a great risk on the general public.
- The lack of any recordkeeping by a centralized regulatory agency endangers the public health in as much as there is no way for a patient to ensure that the particular individual performing as a surgical first assistant is qualified to assist in surgery and that they do not have a history of malpractice in the profession.
- There is a demand from certified surgical assistants to ensure that only qualified individuals are allowed to practice.

In their response, regulation proponents also stated that they did not know of any documented harm to the public and were unable to find any instances of consumer injury. Also, proponents did not provide estimated numbers of complaints against professionals practicing in this profession.

II. Specialized Skill or Training, and Measurability

According to the information provided in the sunrise questionnaire, the practice of the profession requires specialized training and may require practitioners to handle or operate electrosurgical instruments, endoscopic or laproscopic instrumentation, laser equipment or gas beam coagulation equipment as well as other technology. Surgical assistants are required to use sophisticated equipment as well as other technology, which require highly specialized knowledge and skill that is acquired through education and experience.

Proponents of the legislation claim that surgeons depend on certified surgical first assistants to perform skills, offer input and insight based on his/her knowledge of a procedure or equipment used, for the task at hand. The proponents also state “there is no consensus of competency in Florida, and that is why the bill proposes to create guidelines through licensure.” According to the questionnaire, “competent practice can be measured and currently the surgeons and the credentialing body at the

hospital perform practitioner peer review. The burden is placed on the hospital and the employer to grade competency."

Surgical first assistants work under the direct supervision of the surgeon and may be asked to assist in a wide variety of devices in many multi-specialties. The surgeon is always present, but according to the proponents of the legislation, the judgment and the skill of the assistant plays a large part in the success of a surgery.

The Government Accountability Office (GAO)[1] in a study of the issue found a different result. It stated "there is no widely accepted set of uniform requirements for experience and education that the health professionals who serve as assistants-at-surgery [or surgical assistants] are required to meet." "GAO found that there was insufficient information about the quality of care provided by assistants-at-surgery [or surgical assistants] generally, or by a specific type of health professional, to access the adequacy of the requirements for members of a particular profession to perform the role." According to the questionnaire, currently, first assistants must provide documented experience and submit to a written test that serves to document the knowledge, skills and abilities they possess. Each of the national credentialing agencies sets their own criteria requirements and examination.

It is not clear that only one licensed profession should perform the duties of a certified surgical first assistant. The educational requirements required of a surgical assistant seeking certification by any of the two accreditation credentialing bodies identified in the bill are varied.

III. Unreasonable Effect on Job Creation or Job Retention

According to the sunrise questionnaire, "hospitals set their own policy and procedures regarding who can perform as a surgical assistant. Certified Surgical Technologists, non-certified surgical technologists, along with other non-certified assistive personnel, may be employed by hospitals and out-patient surgery centers throughout the state. It would be impossible to estimate how many individuals this encompasses. Best estimate would be over 1700."

The proponents of the regulation state that registered nurse first assistants and physician assistants provide the same service in the operating room as a certified surgical first assistant, but have a larger scope of practice that may involve the assessment of the patient before and after surgery. Certified surgical first assistants are trained specifically to assist the surgeon in the operating room.

Since the bill does not require licensure, there may not be an unreasonable effect on job creation or retention.

IV. Can the Public be Effectively Protected by Other Means?

The proponents for the regulation claim that the existing protections available to consumers are insufficient, and that the burden of protecting the public lies on hospitals and professional organizations. They contend that there are other means to protect the public, but they are not being utilized to oversee the duties of surgical first assistants. These other means are: code of ethics; codes of practice enforced by professional associations; dispute-resolution mechanisms such as mediation or arbitration; recourse to current applicable law; regulation of those who employ or supervise practitioners; caveat empor, i.e., "let the buyer be beware"; and supervision that is the burden of the employer and/or facility. Proponent's state that volunteer certification as it currently exists, is good, but does not offer all the safety nets that government intervention provides in the form of licensure.

[1] United States General Accounting Office, Report to Congressional Committees. January 2004. Medicare: Payment Changes are Needed for Assistants-at-Surgery. GAO 04-97.

It appears that the alternatives to professional licensure, currently utilized, are effective because hospitals currently oversee safety in surgery and surgeons are responsible for the practice of their surgical assistants, and no instances of harm have been documented.

V. Favorable Cost-effectiveness and Economic Impact

According to the sunrise questionnaire, approximately half a million people undergo surgery annually in Florida. "The regulation of this profession will not affect this estimate." Proponents estimate that the cost to insurance companies will increase, but that policyholders have already paid for the services. Insurance companies will be expected to pay for provided services, such as, the services provided by a surgical first assistant. The proponents of the bill project that half of the estimated 432 certified professionals will seek licensure in Florida and another 100-150 applicants will apply annually.

The bill provides for the regulation of the profession by an existing board, requires credentialing and licensure, licensure renewal, enforcement for noncompliance to regulatory guidelines.

See the "Fiscal Impact on State Government" for the Department of Health's projections on the fiscal impact.

BACKGROUND INFORMATION

Legislative History

The occupational group seeking regulation is the Certified Surgical First Assistants. To date, there is no history of regulation or attempts at regulating this profession in Florida.

Who is a Certified Surgical First Assistant?

A wide range of health professionals function as surgical assistants. Surgical assistants may be referred to as first assistants or assistants-at-surgery. Examples of such health professionals that function as surgical assistants are:

- Physicians (post-residency)
- Physicians in residency
- Registered nurses, including those in surgical specialties, such as orthopedics
- Licensed practical nurses
- Nurse practitioners
- Clinical nurse specialists
- Certified registered nurse assistants
- Surgical technologists
- Physician Assistants
- Ophthalmic assistant/technicians
- Surgical assistants
- Orthopedic technologists
- Orthopedic physician assistants
- International medical graduates

Profile of the Profession

According to information provided in the sunrise questionnaire, the American College of Surgeons defines "*surgical assistants*" as those who provide aid in exposure, hemostasis, closure and other operative technical functions that help the surgeon carry out a safe operation with optimal results. Some of the specific tasks include: making initial incisions (opening), exposing the surgical site (retracting), stemming blood flow (hemostasis), reconnecting tissue (suturing) and completing the operation be reconnecting external tissue (closing). Additionally, surgical assistants should possess

knowledge of sterility requirements, aseptic techniques, draping procedures, operating room equipment, drain placement and cauterization, and dressing techniques.

Scope of Practice as Defined in the Bill

The bill provides a scope of practice for a certified surgical first assistant which is limited to surgical assisting and tasks that are delegated by the supervising physician. A definition of "surgical assisting" is provided that means providing aid under the direct supervision in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient. The bill also provides that the duties of a certified surgical first assistant are limited to the scope of the certification in surgical assisting functions while under the direct supervision of a physician. However, the bill does not provide a definition or explanation for the "scope of certification." The bill stipulates that a certified surgical first assistant may only work in a medical clinic, hospital, ambulatory surgical center, or similar medical institution.

The bill specifies that the physician supervising a certified surgical first assistant shall be qualified in the medical areas in which the certified assistant is to perform and may be responsible and liable for the performance and acts and omissions of the assistant.

Certification Bodies and the Requirements for Certification

Currently, there is a wide range of non-physician allied health professionals trained as surgical assistants or technologists in a variety of programs. According to the Department of Labor, most employers prefer to hire surgical assistants or technologists who are certified. Surgical assistants or technologists may obtain voluntary professional certification by graduating from an accredited program and passing a national certification examination. To qualify to take the exam, candidates follow one of three paths: complete an accredited training program, undergo a 2-year hospital on-the-job training program, or acquire seven years of experience working in the field.

The bill requires certified surgical first assistants to be certified by one of the following two professional organizations:

- The National Surgical Assistant Association (NSAA), which began in Virginia in 1979. This body provides for certified surgical assistant (CSA) certification title. The National Surgical Assistant Association established practice standards and develop a certification examination with the help of the Department of Surgery at Norfolk General Hospital.

- The Liaison Council on Certification for the Surgical Technologist (LCC-ST), was established in 1974 as the certifying agency for surgical technologists. This body provides for certified first assistant (CFA) certification title. The Council determines the eligibility for the granting and revocation of certification of surgical technologists and first assistants.

Current Statutory Prohibition for Unlicensed Activity in Surgery unless Authorized and Pass a Competency Assessment

Section 395.0197(1)(b) 3., F.S., prohibits unlicensed persons from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment. Assistance or participation must be done under the direct and immediate supervision of a licensed physician and must not be an activity that may only be performed by a licensed health care practitioner.

Education and Regulation in Other States

According to a study conducted by the U.S. General Accounting Office (GAO), [2] there is no widely accepted set of uniform requirements for experience and education that the health professionals who serve as assistance-at-surgery or surgical first assistants are required to meet. The health professionals whose members provide assistants-at-surgery services have varying educational requirements. No state licenses all the health professionals who serve as assistants-at-surgery, and the health professional licenses that states do issue typically attest to the completion of broad-based health care education, rather than education or experience as an assistant. Furthermore, the certification programs developed by the various non-physician health professional groups whose members assist at surgery differ. The GAO found that there was insufficient information about the quality of care provided by assistants-at-surgery generally, or by a specific type of health professional, to assess the adequacy of the requirements for members of a particular profession to perform the role.

Based on the findings in the GAO study, in January 2004 only one state, Texas, had a specific assistant-at-surgery license. Even though Texas licenses assistants-at-surgery, a license is not required to serve as an assistant-at-surgery. According to the proponents of the bill two additional states now regulate surgical first assistants: Kentucky and Illinois.

Surgical Education, Experience Requirements, and Licensure Requirements for Surgical First Assistants

Health Profession	General Education Requirements	Licensure Requirements in All States	Example of Surgical Experience Requirements
Physician			
Physicians (post-residency)	Doctor of medicine or osteopathy	Yes	
Physician in residency	Doctor of medicine or osteopathy	Yes	
Nurse			
Registered nurse, including surgical specialties * (*A variety of surgery-related certifications are available for nurses. Some of these are for surgical specialties. Orthopedic nurse certified requires 1,000 hours of experience as an orthopedic nurse. Certified plastic surgical nursing requires 2 years experience in plastic surgery. Both certifications include operating room experience, but neither requires OR experience.)	Associate's or bachelor's degree in nursing or non-degree hospital diploma	Yes	Requirements vary by certification program, but surgical experience is not required for certain surgical-related certifications
Nurse practitioner	Master's of science in nursing or non-degree certificate	Yes	
Clinical nurse specialist	Master's of science in nursing	Yes	
Certified registered nurse first assistant	Bachelor's degree and certification program with 2-3 surgical classes	Yes	2,400 hours of operating room experience in the scrub or circulating role and 2,000 hours as assistant-at-surgery
Licensed practical nurse	1-year program	Yes	

[2] United States General Accounting Office, Report to Congressional Committees. January 2004. Medicare: Payment Changes are Needed for Assistants-at-Surgery. GAO 04-97.

Other health professions			
Surgical technologist	Associate's degree, military or non-degree certificate	No	2 years of surgical experience
Physician assistant	Associate's or bachelor's degree or non-degree certificate	Yes	
Ophthalmic assistant/technician	Certificate programs or work experience	No	18 months of surgical experience
Surgical assistant	Bachelor's degree or non-degree certificate	No	2-3 years of surgical assistant experience, depending upon certification program
Orthopedic physician assistant	Associate's degree, military or non-degree certificate, or 5 years of experience	No	1 year surgical experience
International medical graduate	Non-U.S. degree in medicine	No	

Source: 2004 GAO Report Medicare Payments for Assistants-at-Surgery

Medicare Reimbursement of Surgical Assistants

According to the GAO report on Medicare costs,[3] surgical assistants have a wide range of educational training and expertise, and different levels of professional requirements that do not justify the same level of reimbursement by Medicare. According to representatives from the insurance industry, the industry looks to Medicare and as a basis for their reimbursement and payment structure.

As reported by the GAO, Medicare pays for assistant-at-surgery services through both the hospital inpatient prospective payment system (PPS) and the physician fee schedule, and the hospital payments for surgical care are not adjusted when an assistant receives payment under the physician fee schedule. The majority of assistants-at-surgery are employed by hospitals, where the inpatient hospital PPS pays for their services.[4] Generally, the amount Medicare pays under the physician fee schedule is based on the resources needed to perform a service, the physician's time and skill, practice expenses, that include the cost of staff (which may include a surgical tech), equipment, supplies, and the cost of liability insurance.[5]

Depending on the procedure performed, and the qualifications and training of the provider assisting in surgery, the services may be billable to Medicare. Medicare reimburses only assistants-at-surgery who are licensed personnel (such as physicians, clinical nurse specialists, nurse practitioner, and physician assistant) and does not reimburse for surgical assistants included under the physician fee schedule that are non-physicians. Non-physician assistants-at-surgery include certified registered nurse first assistant, orthopedic physician assistants, licensed practical nurses, or certified surgical technologists.[6] These non-physician assistants-at-surgery are usually paid by the hospital from the inpatient PPS or by the surgeon who pays them from the physician fee schedule (also referred to as the surgeons global fee).[7]

Impact of the Bill on New Insurance Policies and Current Statutory Provisions for Reimbursement

The bill amends s. 627.419(6), F.S., Part II of the Florida Insurance Code relating to the construction of insurance policies, requiring that, if a policy pays for services provided by surgical first assisting benefits, then the policy is construed to make payments to certified surgical first assistants or their

[3] United States General Accounting Office, Report to Congressional Committees. January 2004. Medicare: Payment Changes are Needed for Assistants-at-Surgery. GAO 04-97.
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Ibid.

employers. The bill applies to individual and group health insurance policies, except for small group basic and standard policies. The bill does not require an insurer to directly reimburse a certified first assistant if the assistant is paid or will be paid for their services by a health care facility. Currently, these services are covered by global payments made by health insurance plans to hospitals and surgeons. Any increased payments required by this bill may have the effect of increasing the cost of health care. According to the Office of Insurance Regulation, the bill does not apply to health maintenance organizations contracts.

Currently, s. 627.419(6), F.S., requires health insurance policies, plans and contracts that pay for surgical first assisting to reimburse registered nurse first assistants or their employers and employers of physician assistants for assistance in surgery. Reimbursement is required only if an assisting physician, licensed under chapters 458 or 459, F.S., would be covered, and the physician assistant or registered nurse first assistant performs such services as a substitute for the physician.

According to the Office of Insurance Regulation, the bill does not address polices renewed after the effective date. Therefore, the bill will apply prospectively to new policies issued after the effective date. It was unclear to the Office of Insurance Regulation, if this new, direct payment requirement will significantly impact claims, payments for services provided by certified surgical assistants which may be currently covered under the general reimbursement for a covered surgical procedure.

Even though the Office of Insurance Regulation states that the bill's provisions do not apply to health maintenance organization (HMO) contracts, the language of the bill states that "when any health insurance policy, health services plan or other contract provides for payment for surgical first assisting benefits or services…" If HMOs' contracts provide those services then arguably they would have to comply with the provisions of this bill.

C. SECTION DIRECTORY:

Section 1. Creates s. 458.3465, F.S., to provide definitions; performance requirements; duties, scope and location of practice; contacting and employment guidelines; licensure requirements; application fees and renewal fees; authority to impose penalties; specification for licensure status; title protection; rule making authority; fee guidelines, and states that supervising physicians are liable for certain actions or omissions of a certified surgical first assistant.

Section 2. Amends s. 627.419, F.S., to provide payment mechanisms for physician assistants providing surgical first assistant services, and places payment provisions for certified surgical first assistants.

Section 3. Provides that the bill will take effect on October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

The following the fiscal impact was provided by the Department of Health.

1. Revenues:

Estimated Revenue	1st Year	2nd Year
$100 initial application fee	$50,000	$5,000
$200 initial licensure fee	$100,000	$10,000
$5 unlicensed activity fee	$2,500	$250
Total Estimated Revenue	$152,500	$15,250

This bill provides that the boards, not the department, will set the fees. Assuming that the boards impose the same fees as currently provided for Anesthesiologist Assistants and Physician Assistants, the estimated revenues were based on 500 applicants in year 1 and 50 applicants in year 2. Revenues were computed based on a $100 initial application fee; a $200 initial licensure fee, and a $5 unlicensed activity fee. The bill states that the application fee may not exceed $750 and a renewal fee no more than $1,000.

2. Expenditures:

Estimated Expenditures	1st Year	2nd Year (Annualized/Recurr.)
Salaries		
.5 FTE, PG 15 –Licensure (BOM)	$17,586	$17,586
.5 FTE, PG 15 – Licensure Maint (BOM)	$17,586	$17,586
.5 FTE, PG 13 – Comm Svcs (BMS)	$12,156	$16,207
.5 FTE, PG 13 – Client Svcs (BMS)	$12,156	$16,207
.5 FTE, Sr Attorney, PG 230 (PSU)	$26,725	$35,633
1 FTE, PG 15 (PSU)	$26,379	$35,172
Expense		
Non-recurring for 5 positions	$13,955	
Recurring exp for 5 positions	$25,975	$25,975
Non-recurring exp for 1 position	$3,343	
Recurring exp w/max travel 1 position	$15,757	$15,757
Processing initial and renewal applications	$5,138	$5,138
Operating Capital Outlay		
Non-recurring for 5 positions	$10,500	
Non-recurring for 1 position	$1,900	
Human Resource Services		
6 positions	$2,358	$2,358
Total Estimated Expenditures	$191,514	$187,619

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent this bill has the effect of requiring any additional payments to surgical first assistants not already provided, it may result in increased health care costs. Regulation of health care providers may have a positive impact on patient safety. This bill encourages all surgical assistants to get certified or face reduced employment opportunities.

D. FISCAL COMMENTS:

Boards of licensed professions with a small licensee base often operate in a deficit. Based on the number of estimated licensees, this profession is expected to operate in a deficit depending on the amount of the renewal fee, and will require subsidization from professions operating with a surplus

cash balance. Expenses for administrative, complaint, investigative, and prosecution services are allocated to each board by DOH, based upon the level of services provided to that board. Allocated expenses for certified surgical first assistants could range between $19,000 and $243,000 or more annually (depending on the enforcement activity) in addition to the direct expenses shown in this analysis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Health with adequate rule-making authority to implement the provisions provided for in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The staff analysis of the first committee of reference, the Health Care Regulation Committee, stated:

> Proponents for licensure of certified surgical first assistants have not provided sufficient documentation, based on the evaluation criteria established in s. 11.62, F.S., to warrant the establishment of a new profession at this time.

According to the Department of Health, the bill is similar to the regulation of Anesthesiologist Assistants; however, the following issues should be considered:

- The bill provides that the employment arrangement of a certified surgical first assistant cannot be limited in any way by statute or rule of the board. It is unclear how this would affect the ability of the board to ensure compliance of the certified surgical first assistants and the supervising physicians with statutes and rules and to take disciplinary actions for violations thereof.
- The bill limits certified surgical first assistants to a “medical clinic, hospital, ambulatory surgical center, or similar medical institution.” It is unclear where the certified surgical first assistant would not be able to practice.

The Board of Medicine has requested clarification of whether the profession would operate in a deficit.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Health Care Regulation Committee adopted 9 amendments offered by the bill’s sponsor. The Committee Substitute differs from the original bill as filed in that it:

- Changes the enactment date from July 1 to October 1;
- Adds the definition of “department” to mean the Department of Health;
- Provides that requiring licensure as a certified surgical first assistant should not be construed to require licensure in order to provide surgical assisting services;
- Clarifies that applications must be submitted and issued by the department and certified by the Board of Medicine;

- Changes an “or” to an “and” to ensure that licensees complete 40 hours of continuing education and hold a current recognized certification;
- Adds clarifying language that physician supervision is direct supervision;
- Adds that licensure is not required as a condition of employment of a hospital employee who performs the duties of a surgical assistant;
- The bill removes The American Board of Surgical Assistants from the list of recognized certifying bodies because it does not require graduation from a program approved by the Commission on Accreditation of Allied Health Education Programs; and
- Removes reciprocity that would limit the ability of the board to ensure that all licenses meet the same requirements for certification as a certified surgical first assistant. With licensure in one state, they could be licensed here without meeting the Florida education and licensure standards.

The bill, as amended, was reported favorably as a committee substitute. This analysis is drafted to the committee substitute.