

By Senator Garcia

40-01074-12

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1 A bill to be entitled
2 An act relating to surgical first assistants;
3 providing definitions; providing requirements for the
4 performance of supervising physicians; providing the
5 duties and scope and location of practice for
6 certified surgical first assistants; providing
7 contracting and employment guidelines for physicians,
8 hospitals, clinics, or ambulatory surgical centers
9 employing certified surgical first assistants;
10 providing licensure criteria for certified surgical
11 first assistants; providing for application fees and
12 licensure renewal fees; providing for licensure
13 renewal; providing continuing education requirements;
14 authorizing the Board of Medicine to impose penalties;
15 providing the scope of a certified surgical first
16 assistant's license; providing for reciprocity of
17 licenses among states; providing for inactive and
18 delinquent status; providing that an unlicensed person
19 who holds himself or herself out as, or indicates or
20 implies that he or she is, licensed commits a third-
21 degree felony and is subject to applicable penalties;
22 providing for denial, suspension, or revocation of
23 licensure; authorizing the board to adopt rules;
24 providing that supervising physicians may be liable
25 for certain acts or omissions of certified surgical
26 first assistants; providing guidelines for the use of
27 fees collected by the board; amending s. 627.419,
28 F.S.; providing for payments to a physician assistant
29 under contracts providing for payment for surgical

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30 first assisting benefits or services; including
31 certified surgical first assistants, as defined,
32 within certain benefits or services payment
33 provisions; limiting such application; providing an
34 effective date.

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36 Be It Enacted by the Legislature of the State of Florida:

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38 Section 1. (1) DEFINITIONS.—As used in this section, the term:

39 (a) "Board" means the Board of Medicine.

40 (b) "Certified surgical first assistant" means a person who
41 provides primary surgical assistance to the primary surgeon
42 during a surgical procedure, is listed on the operative record
43 as the first assistant, and meets the qualifications for
44 licensure under this section.

45 (c) "Continuing medical education" means courses recognized
46 and approved by the board, the Liaison Council on Certification
47 for the Surgical Technologist, the National Surgical Assistant
48 Association, the American Board of Surgical Assistants, the
49 American Medical Association, the American Osteopathic
50 Association, or the Accreditation Council on Continuing Medical
51 Education.

52 (d) "Direct supervision" means supervision by a delegating
53 physician who is physically present and who personally directs
54 delegated acts and remains immediately available to personally
55 respond to any emergency until the patient is released from the
56 operating room or the physician's care and has been transferred
57 to the care and responsibility of another physician.

58 (e) "Surgical assisting" means providing aid under direct

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59 supervision in exposure, hemostasis, closures, and other
60 intraoperative technical functions that assist a physician in
61 performing a safe operation with optimal results for the
62 patient.

63 (2) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or
64 group of physicians supervising a certified surgical first
65 assistant must be qualified in the medical areas in which the
66 certified surgical first assistant is to perform and may be
67 individually or collectively responsible and liable for the
68 performance and the acts and omissions of the certified surgical
69 first assistant.

70 (3) PERFORMANCE OF CERTIFIED SURGICAL FIRST ASSISTANTS.—

71 (a) A certified surgical first assistant may perform duties
72 limited to the scope of certification in surgical assisting
73 functions while under the direct supervision of a physician.

74 (b) The scope of practice of a certified surgical first
75 assistant is limited to surgical assisting and tasks delegated
76 by the supervising physician.

77 (c) A certified surgical first assistant may perform his or
78 her duties only in a medical clinic, hospital, ambulatory
79 surgical center, or similar medical institution.

80 (4) EMPLOYMENT OF CERTIFIED SURGICAL FIRST ASSISTANTS.—

81 (a) A physician or hospital is not required to contract
82 with a certified surgical first assistant.

83 (b) A health maintenance organization, preferred provider
84 organization, or health benefit plan may not require a
85 physician, hospital, clinic, or ambulatory surgery center to
86 contract with a certified surgical first assistant as a
87 condition of payment to a certified surgical first assistant.

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88 (c) The board may not limit in any way by rule the
89 employment arrangement of a certified surgical first assistant.

90 (5) CERTIFIED SURGICAL FIRST ASSISTANT LICENSURE.—

91 (a) A person desiring to be licensed as a certified
92 surgical first assistant shall apply to the board. The board
93 shall issue a license to any person determined by the board as
94 having met the following requirements:

95 1. Is at least 18 years of age.

96 2. Holds and maintains certification from one of the
97 following recognized certifying agencies:

98 a. The Liaison Council on Certification for the Surgical
99 Technologist.

100 b. The National Surgical Assistant Association.

101 c. The American Board of Surgical Assistants.

102 3. Has completed the application form and remitted an
103 application fee not to exceed \$750 as set by the board. An
104 application for licensure made by a certified surgical first
105 assistant must include:

106 a. A certificate from one of the recognized certifying
107 agencies specified in subparagraph 2.

108 b. A sworn statement of any prior felony convictions.

109 c. A sworn statement of any previous revocation or denial
110 of licensure or certification.

111 (b) A license must be renewed biennially. Each renewal must
112 include:

113 1. A renewal fee not to exceed \$1,000 as set by the board.

114 2. A sworn statement of no felony convictions in the
115 previous 2 years.

116 (c) Each licensed certified surgical first assistant shall

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117 biennially complete 40 hours of continuing medical education or
118 hold a current certificate issued by a recognized certifying
119 agency listed in subparagraph (a)2.

120 (d) The board may impose any of the penalties authorized
121 under ss. 456.072 and 458.331(2), Florida Statutes, upon a
122 certified surgical first assistant if the certified surgical
123 first assistant or the supervising physician has been found
124 guilty of or is being investigated for any act that constitutes
125 a violation of chapter 456 or chapter 458, Florida Statutes.

126 (e) A certified surgical first assistant's license:

127 1. Does not authorize the licensee to engage in the
128 practice of medicine or professional nursing.

129 2. Is not required of a registered nurse, an advanced
130 registered nurse practitioner, a registered nurse first
131 assistant, or a physician assistant as a condition of
132 employment.

133 (6) RECIPROCITY.—The Department of Health shall allow
134 reciprocity to certified surgical first assistants who are
135 determined by the board to:

136 (a) Be licensed in other states and who are in good
137 standing with their state of licensure and their certifying
138 agency.

139 (b) Have paid appropriate licensure fees.

140 (c) Have complied with all other requirements of the board.

141 (7) INACTIVE AND DELINQUENT STATUS.—A license on inactive
142 or delinquent status may be reactivated only as provided in s.
143 456.036, Florida Statutes.

144 (8) PENALTY.—A person who has not been licensed by the
145 board and approved by the Department of Health and who holds

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146 himself or herself out as a licensed certified surgical first
147 assistant or who uses any other term in indicating or implying
148 that he or she is a licensed certified surgical first assistant
149 commits a felony of the third degree, punishable as provided in
150 s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

151 (9) DENIAL, SUSPENSION, OR REVOCATION OF LICENSURE.—The
152 board may deny, suspend, or revoke a certified surgical first
153 assistant license if the board determines that the certified
154 surgical first assistant has violated chapter 456 or chapter
155 458, Florida Statutes.

156 (10) RULES.—The board may adopt rules to administer this
157 section.

158 (11) LIABILITY.—Each supervising physician using a
159 certified surgical first assistant may be liable for acts or
160 omissions of the certified surgical first assistant acting under
161 the physician's supervision and control.

162 (12) FEES.—The fees collected by the board under this
163 section shall be used for the licensure and regulation of
164 certified surgical first assistants in accordance with this
165 section.

166 Section 2. Subsection (6) of section 627.419, Florida
167 Statutes, is amended to read:

168 627.419 Construction of policies.—

169 (6) (a) Notwithstanding any other provision of law, if a
170 ~~when any~~ health insurance policy, health care services plan, or
171 other contract provides for payment for surgical first assisting
172 benefits or services, the policy, plan, or contract shall ~~is to~~
173 be construed as providing for payment to a physician assistant
174 or a registered nurse first assistant or employers of a

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175 physician assistant or registered nurse first assistant who
176 performs such services that are within the scope of a physician
177 assistant's or a registered nurse first assistant's professional
178 license. This paragraph applies ~~The provisions of this~~
179 ~~subsection apply~~ only if reimbursement for an assisting
180 physician, licensed under chapter 458 or chapter 459, would be
181 covered and a physician assistant or a registered nurse first
182 assistant who performs such services is used as a substitute.

183 (b)1. Notwithstanding any other provision of law, if a
184 health insurance policy, health care services plan, or other
185 contract provides for payment for surgical first assisting
186 benefits or services, the policy, plan, or contract shall be
187 construed as providing for payment to a certified surgical first
188 assistant or to the employer of a certified surgical first
189 assistant who performs such services that are assigned by the
190 supervising physician or osteopathic physician. This paragraph
191 applies only if reimbursement for an assisting physician
192 licensed under chapter 458 or chapter 459 would be covered and
193 the certified surgical first assistant who performs such
194 services is used as a substitute. As used in this paragraph, the
195 term "certified surgical first assistant" means a person who is
196 a licensed health care provider who is directly accountable to a
197 physician licensed under chapter 458 or an osteopathic physician
198 licensed under chapter 459 and who is certified by the National
199 Surgical Assistant Association, the Liaison Council on
200 Certification for the Surgical Technologist, or the American
201 Board of Surgical Assistants.

202 2. This paragraph does not require an insurer to directly
203 reimburse a certified surgical first assistant if the certified

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204 surgical first assistant is paid or will be paid for a surgical
205 procedure by the health care facility at which the surgical
206 procedure is performed.

207 Section 3. This act shall take effect July 1, 2012.