

HB 1311

2012

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
 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.

35 |
 36 | Be It Enacted by the Legislature of the State of Florida:
 37 |

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
 41 | who 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
 46 | recognized and approved by the board, the Liaison Council on
 47 | Certification for the Surgical Technologist, the National
 48 | Surgical Assistant Association, the American Board of Surgical
 49 | Assistants, the American Medical Association, the American
 50 | Osteopathic Association, or the Accreditation Council on
 51 | Continuing Medical 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
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
64 or 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
72 duties limited to the scope of certification in surgical
73 assisting functions while under the direct supervision of a
74 physician.

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

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

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

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

84 (b) A health maintenance organization, preferred provider

85 organization, or health benefit plan may not require a
 86 physician, hospital, clinic, or ambulatory surgery center to
 87 contract with a certified surgical first assistant as a
 88 condition of payment to a certified surgical first assistant.

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

91 (5) CERTIFIED SURGICAL FIRST ASSISTANT LICENSURE.—

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

- 96 1. Is at least 18 years of age.
- 97 2. Holds and maintains certification from one of the
 98 following recognized certifying agencies:

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

101 b. The National Surgical Assistant Association.

102 c. The American Board of Surgical Assistants.

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

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

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

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

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

113 must include:

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

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

117 (c) Each licensed certified surgical first assistant shall
 118 biennially complete 40 hours of continuing medical education or
 119 hold a current certificate issued by a recognized certifying
 120 agency listed in subparagraph (a)2.

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

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

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

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

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

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

140 (b) Have paid appropriate licensure fees.

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

143 (7) INACTIVE AND DELINQUENT STATUS.—A license on inactive
 144 or delinquent status may be reactivated only as provided in s.
 145 456.036, Florida Statutes.

146 (8) PENALTY.—A person who has not been licensed by the
 147 board and approved by the Department of Health and who holds
 148 himself or herself out as a licensed certified surgical first
 149 assistant or who uses any other term in indicating or implying
 150 that he or she is a licensed certified surgical first assistant
 151 commits a felony of the third degree, punishable as provided in
 152 s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

153 (9) DENIAL, SUSPENSION, OR REVOCATION OF LICENSURE.—The
 154 board may deny, suspend, or revoke a certified surgical first
 155 assistant license if the board determines that the certified
 156 surgical first assistant has violated chapter 456 or chapter
 157 458, Florida Statutes.

158 (10) RULES.—The board may adopt rules to administer this
 159 section.

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

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

168 Section 2. Subsection (6) of section 627.419, Florida

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169 Statutes, is amended to read:

170 627.419 Construction of policies.—

171 (6) (a) Notwithstanding any other provision of law, if a
172 ~~when any~~ health insurance policy, health care services plan, or
173 other contract provides for payment for surgical first assisting
174 benefits or services, the policy, plan, or contract shall ~~is to~~
175 be construed as providing for payment to a physician assistant
176 or a registered nurse first assistant or employers of a
177 physician assistant or registered nurse first assistant who
178 performs such services that are within the scope of a physician
179 assistant's or a registered nurse first assistant's professional
180 license. This paragraph applies ~~The provisions of this~~
181 ~~subsection apply~~ only if reimbursement for an assisting
182 physician, licensed under chapter 458 or chapter 459, would be
183 covered and a physician assistant or a registered nurse first
184 assistant who performs such services is used as a substitute.

185 (b)1. Notwithstanding any other provision of law, if a
186 health insurance policy, health care services plan, or other
187 contract provides for payment for surgical first assisting
188 benefits or services, the policy, plan, or contract shall be
189 construed as providing for payment to a certified surgical first
190 assistant or to the employer of a certified surgical first
191 assistant who performs such services that are assigned by the
192 supervising physician or osteopathic physician. This paragraph
193 applies only if reimbursement for an assisting physician
194 licensed under chapter 458 or chapter 459 would be covered and
195 the certified surgical first assistant who performs such
196 services is used as a substitute. As used in this paragraph, the

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197 term "certified surgical first assistant" means a person who is
198 a licensed health care provider who is directly accountable to a
199 physician licensed under chapter 458 or an osteopathic physician
200 licensed under chapter 459 and who is certified by the National
201 Surgical Assistant Association, the Liaison Council on
202 Certification for the Surgical Technologist, or the American
203 Board of Surgical Assistants.

204 2. This paragraph does not require an insurer to directly
205 reimburse a certified surgical first assistant if the certified
206 surgical first assistant is paid or will be paid for a surgical
207 procedure by the health care facility at which the surgical
208 procedure is performed.

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