LEGISLATIVE BILL 548

Introduced by Campbell, 25.
Read first time January 21, 2015
Committee: Health and Human Services

A BILL FOR AN ACT relating to surgical assistants; to amend section 38-2025, Reissue Revised Statutes of Nebraska, and sections 38-101, 38-121, and 38-186, Revised Statutes Cumulative Supplement, 2014; to adopt the Surgical Assistant Practice Act; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 21 of this act shall be known and may be cited as the Surgical Assistant Practice Act.

Sec. 2. The Legislature finds that:

(1) Surgical assisting is an established health profession in Nebraska;

(2) Surgical assistants aid in ensuring a safe surgical environment by maximizing patient safety by using appropriate techniques for processes, including, but not limited to, maintaining hemostasis, proper patient positioning, clear visualization of the operative site, proper closure of the operative site, and correct dressing of a wound; and

(3) It is necessary to encourage the most effective utilization of the skills of certified surgical first assistants by enabling them to perform tasks delegated by a licensed individual practitioner.

Sec. 3. For purposes of the Surgical Assistant Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 4 to 13 of this act apply.

Sec. 4. Approved certifying body means a national certification organization which is approved by the board, certifies qualified credentialed surgical first assistants, has eligibility requirements related to education and practice, and offers an examination in an area of practice which meets guidelines and tests approved by the board.

Sec. 5. Approved surgical first assistant education program means a program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools or other accreditation entity approved by the board.

Sec. 6. Board means the Board of Medicine and Surgery.

Sec. 7. Certified surgical first assistant means a person determined eligible through examination and granted certification as a surgical first assistant by the National Board of Surgical Technology and Surgical Assisting or a similar entity approved by the Board of Medicine and Surgery.
Sec. 8. **Licensed certified surgical first assistant** means a person licensed to practice surgical assisting under the Surgical Assistant Practice Act.

Sec. 9. **Licensed practitioner** means any physician licensed to practice pursuant to the Medicine and Surgery Practice Act.

Sec. 10. **Personal supervision** means physical attendance in the room during the performance of a service or procedure.

Sec. 11. **Supervising physician** means a licensed practitioner who provides personal supervision of a licensed certified surgical first assistant.

Sec. 12. **Surgical assistant** means a person trained to actively assist a surgeon during a surgical operation.

Sec. 13. **Surgical assisting** means the practice of promoting patient safety through provision of primary assistance to the primary surgeon during a surgical procedure.

Sec. 14. A licensed certified surgical first assistant may engage in the practice of surgical assisting including one or a combination of the following:

1. **Positioning the patient** according to the following procedures:
   
   (a) The surgeon shall convey the exact position that will give the best exposure for the surgical procedure. The surgical assistant will carry out this order:

   (b) Points of pressure shall be padded, including elbows, heels, knees, eyes, face, and axillary region;

   (c) Circulation shall not be impaired;

   (d) Nerve damage shall be guarded against;

   (e) The temperature of the patient should be discussed with the anesthesia personnel and methods employed to maintain the desired temperature range;

   (f) The assistant shall be familiar with common positions related to the surgical procedure and able to use the equipment necessary to provide
the position. Competencies shall include the following:

(i) Fracture tables;
(ii) Head stabilizers;
(iii) Body stabilizers;
(iv) C-arm extensions; and
(v) Any other equipment needed; and

(g) Upon completion of the procedure, the patient shall be evaluated for any possible damage from positioning which includes assessment of the skin. The abnormal condition shall be reported to the surgeon, and treatment and documentation shall be carried out;

(2) Providing visualization of the operative site by the following:

(a) Appropriate placement and securing of retractors with or without padding;
(b) Packing with sponges;
(c) Digital manipulation of tissue;
(d) Suctioning, irrigating, or sponging;
(e) Manipulation of suture materials, including loops, tags, and running sutures; and
(f) Proper use of body mechanics to prevent obstruction of the surgeon's view;

(3) Utilizing appropriate techniques to assist with hemostasis, including the following:

(a) Permanent:
(i) Clamping or cauterizing vessels or tissue;
(ii) Tying or ligating clamped vessels or tissue;
(iii) Applying hemostatic clips; and
(iv) Placing local hemostatic agents; and
(b) Temporary:
(i) Applying tourniquets and demonstrating awareness of the indications and contraindications for use with knowledge of side effects of extended use;
(ii) Applying vessel loops;
(iii) Applying noncrushing clamps; and
(iv) Applying direct digital pressure;
(4) Utilizing appropriate techniques to assist with closure of body planes, including the following:
   (a) Utilizing running or interrupted subcutaneous sutures with absorbable or nonabsorbable material;
   (b) Utilizing subcuticular closure technique with or without adhesive skin closure strips;
   (c) Closing skin with method indicated by surgeon, including suture and staples;
   (d) Postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon;
   (e) Facilitate closure of skin layer by proper approximation of the tissue with forceps in collaboration with the surgical technologist who applies skin staples; and
   (f) Use of skin adhesive for primary closure;
(5) Selecting and applying appropriate wound dressings, including the following:
   (a) Liquid or spray occlusive materials;
   (b) Absorbent material affixed with tape or circumferential wrapping; and
   (c) Immobilizing dressing which is soft or rigid;
(6) Providing assistance in securing drainage systems to tissue; and
(7) Preparing specimens, such as grafts, at the back table in the surgical suite.
Sec. 15. An applicant for licensure under the Surgical Assistant Practice Act shall:
(1) Be certified as a surgical first assistant by an approved certifying body;
(2) Have successfully completed an approved surgical first assistant
education program approved by the board or other experiential or training
program as approved by the board;
(3) Have passed a nationally recognized surgical first assistant
examination adopted by the board;
(4) Be certified in basic-life support skills, or the equivalent
thereof, for both adult and neonatal resuscitation by the American Heart
Association or other national organization which has procedures for such
certification as approved by the board; and
(5) Have a high school diploma or the equivalent as determined by
the board.
Sec. 16. The department may, with approval of the board, grant
temporary licensure as a licensed certified surgical first assistant upon
application if all requirements for licensure have been met and the fee
required pursuant to the Uniform Credentialing Act has been paid. A
temporary license issued under this section shall be valid until the
meeting of the board at which a decision is made on the applicant's
licensure application.
Sec. 17. The department, with the recommendation of the board, may
issue a license based on licensure in another jurisdiction to an
individual who meets the requirements of the Surgical Assistant Practice
Act or substantially equivalent requirements as determined by the
department, with the recommendation of the board. An applicant for
licensure who has met the standards set by the board for a license based
on licensure in another jurisdiction but is not practicing at the time of
application for licensure shall present proof satisfactory to the
department that he or she has within the three years immediately
preceding the application for licensure completed continuing competency
requirements approved by the board pursuant to section 38-145.
Sec. 18. A person licensed as a licensed certified surgical first
assistant has the right to use the title licensed surgical first
assistant and the abbreviation L.S.F.A.
Sec. 19. The department shall establish and collect fees for initial licensure and renewal under the Surgical Assistant Practice Act as provided in sections 38-151 to 38-157.

Sec. 20. A licensed certified surgical first assistant shall perform functions only under the personal supervision of a licensed practitioner.

Sec. 21. The board shall, pursuant to section 38-126:
   (1) Recommend to the department the issuance of licenses to practice surgical assisting under the Surgical Assistant Practice Act;
   (2) Investigate and adopt standards based on national standards for surgical assisting and implement changes as needed to carry out the act;
   (3) Provide for distribution of information regarding practice of licensed certified surgical first assistants;
   (4) Receive and investigate complaints, conduct hearings, and impose disciplinary actions in relation to complaints against licensed surgical assisting under the Uniform Credentialing Act; and
   (5) Perform other duties as required under the Surgical Assistant Practice Act and Uniform Credentialing Act.

Sec. 22. Section 38-101, Revised Statutes Cumulative Supplement, 2014, is amended to read:
38-101 Sections 38-101 to 38-1,140 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:
(1) The Advanced Practice Registered Nurse Practice Act;
(2) The Alcohol and Drug Counseling Practice Act;
(3) The Athletic Training Practice Act;
(4) The Audiology and Speech-Language Pathology Practice Act;
(5) The Certified Nurse Midwifery Practice Act;
(6) The Certified Registered Nurse Anesthetist Practice Act;
(7) The Chiropractic Practice Act;
(8) The Clinical Nurse Specialist Practice Act;
(9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
Body Art Practice Act;
(10) The Dentistry Practice Act;
(11) The Emergency Medical Services Practice Act;
(12) The Environmental Health Specialists Practice Act;
(13) The Funeral Directing and Embalming Practice Act;
(14) The Genetic Counseling Practice Act;
(15) The Hearing Instrument Specialists Practice Act;
(16) The Licensed Practical Nurse-Certified Practice Act;
(17) The Massage Therapy Practice Act;
(18) The Medical Nutrition Therapy Practice Act;
(19) The Medical Radiography Practice Act;
(20) The Medicine and Surgery Practice Act;
(21) The Mental Health Practice Act;
(22) The Nurse Practice Act;
(23) The Nurse Practitioner Practice Act;
(24) The Nursing Home Administrator Practice Act;
(25) The Occupational Therapy Practice Act;
(26) The Optometry Practice Act;
(27) The Perfusion Practice Act;
(28) The Pharmacy Practice Act;
(29) The Physical Therapy Practice Act;
(30) The Podiatry Practice Act;
(31) The Psychology Practice Act;
(32) The Respiratory Care Practice Act;
(33) The Surgical Assistant Practice Act;
(34) The Veterinary Medicine and Surgery Practice Act; and
If there is any conflict between any provision of sections 38-101 to 38-1,139 and any provision of a practice act, the provision of the practice act shall prevail.
The Revisor of Statutes shall assign the Uniform Credentialing Act,
including the practice acts enumerated in subdivisions (1) through (33) of this section, to articles within Chapter 38.

Sec. 23. Section 38-121, Revised Statutes Cumulative Supplement, 2014, is amended to read:

38-121 (1) No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:

(a) Acupuncture;
(b) Advanced practice nursing;
(c) Alcohol and drug counseling;
(d) Asbestos abatement, inspection, project design, and training;
(e) Athletic training;
(f) Audiology;
(g) Speech-language pathology;
(h) Body art;
(i) Chiropractic;
(j) Cosmetology;
(k) Dentistry;
(l) Dental hygiene;
(m) Electrology;
(n) Emergency medical services;
(o) Esthetics;
(p) Funeral directing and embalming;
(q) Genetic counseling;
(r) Hearing instrument dispensing and fitting;
(s) Lead-based paint abatement, inspection, project design, and training;
(t) Licensed practical nurse-certified;
(u) Massage therapy;
(v) Medical nutrition therapy;
(w) Medical radiography;
(x) Medicine and surgery;
(y) Mental health practice;
(z) Nail technology;
(aa) Nursing;
(bb) Nursing home administration;
(cc) Occupational therapy;
(dd) Optometry;
(ee) Osteopathy;
(ff) Perfusion;
(gg) Pharmacy;
(hh) Physical therapy;
(ii) Podiatry;
(jj) Psychology;
(kk) Radon detection, measurement, and mitigation;
(ll) Respiratory care;
(mm) Surgical assisting;
(nn mm) Veterinary medicine and surgery;
(oo oo) Public water system operation; and
(pp oo) Constructing or decommissioning water wells and installing water well pumps and pumping equipment.

(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:

(a) Registered environmental health specialist;
(b) Certified marriage and family therapist;
(c) Certified professional counselor; or
(d) Social worker.

(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:

(a) Body art;
(b) Cosmetology;
(c) Emergency medical services;
(d) Esthetics;
(e) Funeral directing and embalming;
(f) Massage therapy; or
(g) Nail technology.

Sec. 24. Section 38-186, Revised Statutes Cumulative Supplement, 2014, is amended to read:

38-186 (1) A petition shall be filed by the Attorney General in order for the director to discipline a credential obtained under the Uniform Credentialing Act to:

(a) Practice or represent oneself as being certified under any of the practice acts enumerated in subdivisions (1) through (18) and (20) through (32) of section 38-101; or

(b) Operate as a business for the provision of services in body art; cosmetology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology in accordance with subsection (3) of section 38-121.

(2) The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.

(3) The proceeding shall be summary in its nature and triable as an equity action and shall be heard by the director or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district
Sec. 25. Section 38-2025, Reissue Revised Statutes of Nebraska, is amended to read:

38-2025 The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

(1) Persons rendering gratuitous services in cases of emergency;
(2) Persons administering ordinary household remedies;
(3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians, and such members shall not be exempt from the quarantine laws of this state;
(4) Students of medicine who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;
(5) Physicians who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;
(6) Physicians who are licensed in good standing to practice medicine under the laws of another state when incidentally called into this state or contacted via electronic or other medium for consultation with a physician licensed in this state. For purposes of this subdivision, consultation means evaluating the medical data of the patient as provided by the treating physician and rendering a recommendation to such treating physician as to the method of treatment or analysis of the data. The interpretation of a radiological image by a physician who specializes in radiology is not a consultation;
(7) Physicians who are licensed in good standing to practice medicine in another state but who, from such other state, order diagnostic or therapeutic services on an irregular or occasional basis,
to be provided to an individual in this state, if such physicians do not
maintain and are not furnished for regular use within this state any
office or other place for the rendering of professional services or the
receipt of calls;

(8) Physicians who are licensed in good standing to practice
medicine in another state and who, on an irregular and occasional basis,
are granted temporary hospital privileges to practice medicine and
surgery at a hospital or other medical facility licensed in this state;

(9) Persons providing or instructing as to use of braces, prosthetic
appliances, crutches, contact lenses, and other lenses and devices
prescribed by a physician licensed to practice medicine while working
under the direction of such physician;

(10) Dentists practicing their profession when licensed and
practicing in accordance with the Dentistry Practice Act;

(11) Optometrists practicing their profession when licensed and
practicing under and in accordance with the Optometry Practice Act;

(12) Osteopathic physicians practicing their profession if licensed
and practicing under and in accordance with sections 38-2029 to 38-2033;

(13) Chiropractors practicing their profession if licensed and
practicing under the Chiropractic Practice Act;

(14) Podiatrists practicing their profession when licensed and
practicing under and in accordance with the Podiatry Practice Act;

(15) Psychologists practicing their profession when licensed and
practicing under and in accordance with the Psychology Practice Act;

(16) Advanced practice registered nurses practicing in their
clinical specialty areas when licensed under the Advanced Practice
Registered Nurse Practice Act and practicing under and in accordance with
their respective practice acts;

(17) Persons licensed or certified under the laws of this state to
practice a limited field of the healing art, not specifically named in
this section, when confining themselves strictly to the field for which
they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;

(18) Persons obtaining blood specimens while working under an order of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens; and

(19) Other trained persons employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes; and -

(20) Licensed certified surgical first assistants practicing in accordance with the Surgical Assistant Practice Act.

Any person who has held or applied for a license to practice medicine and surgery in this state, and such license or application has been denied or such license has been refused renewal or disciplined by order of limitation, suspension, or revocation, shall be ineligible for the exceptions described in subdivisions (5) through (8) of this section until such license or application is granted or such license is renewed or reinstated. Every act or practice falling within the practice of medicine and surgery as defined in section 38-2024 and not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.