

## LEGISLATIVE BILL 721

Approved by the Governor April 19, 2016

Introduced by Baker, 30.

A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend section 38-2025, Reissue Revised Statutes of Nebraska, section 38-121, Revised Statutes Cumulative Supplement, 2014, and section 38-101, Revised Statutes Supplement, 2015; to adopt the Surgical First Assistant Practice Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 17 of this act shall be known and may be cited as the Surgical First Assistant Practice Act.

Sec. 2. The Legislature finds that:

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

(2) Surgical first 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 surgical first assistants by enabling them to perform tasks delegated by a licensed physician.

Sec. 3. For purposes of the Surgical First Assistant Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 4 to 10 of this act apply.

Sec. 4. Approved certifying body means a national certification organization which is approved by the board, certifies qualified 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. Licensed surgical first assistant means a person licensed to practice surgical assisting under the Surgical First Assistant Practice Act.

Sec. 8. Personal supervision by a physician means the physical attendance of a physician in the room during the performance of a surgical procedure.

Sec. 9. Surgical assisting means the practice of promoting patient safety through provision of primary assistance to the primary surgeon during a surgical procedure.

Sec. 10. Surgical first assistant means a person who meets the requirements of section 12 of this act.

Sec. 11. A licensed surgical first assistant may engage in the practice of surgical assisting, including, but not limited to, the following:

(1) Assisting in the intraoperative care of a surgical patient;

(2) Positioning the patient;

(3) Preparing and draping the patient for the surgical procedure;

(4) Providing visualization of the operative site;

(5) Assisting with hemostasis;

(6) Assisting with closure of body planes, including the following:

(a) Inserting running or interrupted subcutaneous sutures with absorbable or nonabsorbable material;

(b) Utilizing subcuticular closure technique with or without adhesive skin closure strips; and

(c) Closing skin with method indicated by surgeon, including, but not limited to, suture and staples;

(7) Applying appropriate wound dressings;

(8) Providing assistance in securing drainage systems to tissue;

(9) Preparing specimens, such as grafts; and

(10) Performing other tasks during a surgical procedure delegated by and under the personal supervision of a physician appropriate to the level of competence of the surgical first assistant.

Sec. 12. (1) An applicant for licensure under the Surgical First Assistant Practice Act shall:

(a) Be certified as a surgical first assistant by an approved certifying body;

(b) 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;

(c) Have passed a nationally recognized surgical first assistant examination adopted by the board; and

(d) Have a high school diploma or the equivalent as determined by the board.

(2) The department may waive the education and examination requirements under the Surgical First Assistant Practice Act for an applicant who:

(a) By January 1, 2017, submits demonstrated evidence satisfactory to the board that he or she has been functioning as a surgical first assistant as his or her primary function in a licensed health care facility within the last five years prior to September 1, 2016;

(b) By January 1, 2017, submits evidence of holding a current certification as a surgical first assistant issued by an approved certifying body; or

(c) Submits evidence of holding a credential as a surgical first assistant issued by another state or territory of the United States or the District of Columbia which has standards substantially equivalent to those of this state.

Sec. 13. The Surgical First Assistant Practice Act shall not be construed to:

(1) Prohibit any nurse practitioner, registered nurse, physician, or physician assistant credentialed to practice under the Uniform Credentialing Act from engaging in the practice for which he or she is credentialed; or

(2) Prohibit any student enrolled in a bona fide surgical first assistant training program recognized by the board from performing those duties which are necessary for the student's course of study, if the duties are performed under the personal supervision of a physician.

Sec. 14. A person holding an active license 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. 15. The department shall establish and collect fees for initial licensure and renewal under the Surgical First Assistant Practice Act as provided in sections 38-151 to 38-157.

Sec. 16. A licensed surgical first assistant shall perform delegated functions only under the personal supervision of a physician.

Sec. 17. (1) The board shall, pursuant to section 38-126: (a) Recommend to the department the issuance of licenses to practice surgical assisting under the Surgical First Assistant Practice Act; (b) investigate and adopt standards based on national standards for surgical assisting and implement changes as needed to carry out the act; and (c) provide for distribution of information regarding practice of licensed surgical first assistants.

(2) The department shall: (a) Receive and investigate complaints, conduct hearings, and impose disciplinary actions in relation to complaints against licensed surgical first assistants under the Uniform Credentialing Act; and (b) perform other duties as required under the Surgical First Assistant Practice Act and Uniform Credentialing Act.

Sec. 18. Section 38-101, Revised Statutes Supplement, 2015, is amended to read:

38-101 Sections 38-101 to 38-1,141 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 First Assistant Practice Act;
- (34) ~~33~~ The Veterinary Medicine and Surgery Practice Act; and
- (35) ~~34~~ The Water Well Standards and Contractors' Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,139 and 38-1,141 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. 19. 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) Veterinary medicine and surgery;~~  
~~(oo) Public water system operation; and~~  
~~(pp) 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. 20. 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) Surgical first assistants practicing in accordance with the Surgical First Assistant Practice Act;

~~(18~~ 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;

~~(19~~ 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

~~(20~~ 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.

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.

Sec. 21. This act becomes operative on January 1, 2017.

Sec. 22. Original section 38-2025, Reissue Revised Statutes of Nebraska, section 38-121, Revised Statutes Cumulative Supplement, 2014, and section 38-101, Revised Statutes Supplement, 2015, are repealed.