

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 548

Introduced by Campbell, 25.

Read first time January 21, 2015

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to surgical assistants; to amend section
2 38-2025, Reissue Revised Statutes of Nebraska, and sections 38-101,
3 38-121, and 38-186, Revised Statutes Cumulative Supplement, 2014; to
4 adopt the Surgical Assistant Practice Act; to harmonize provisions;
5 and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 21 of this act shall be known and may be
2 cited as the Surgical Assistant Practice Act.

3 Sec. 2. The Legislature finds that:

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

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

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

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

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

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

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

27 Sec. 7. Certified surgical first assistant means a person
28 determined eligible through examination and granted certification as a
29 surgical first assistant by the National Board of Surgical Technology and
30 Surgical Assisting or a similar entity approved by the Board of Medicine
31 and Surgery.

1 Sec. 8. Licensed certified surgical first assistant means a person
2 licensed to practice surgical assisting under the Surgical Assistant
3 Practice Act.

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

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

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

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

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

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

19 (1) Positioning the patient according to the following procedures:

20 (a) The surgeon shall convey the exact position that will give the
21 best exposure for the surgical procedure. The surgical assistant will
22 carry out this order;

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

25 (c) Circulation shall not be impaired;

26 (d) Nerve damage shall be guarded against;

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

30 (f) The assistant shall be familiar with common positions related to
31 the surgical procedure and able to use the equipment necessary to provide

1 the position. Competencies shall include the following:

2 (i) Fracture tables;

3 (ii) Head stabilizers;

4 (iii) Body stabilizers;

5 (iv) C-arm extensions; and

6 (v) Any other equipment needed; and

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

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

12 (a) Appropriate placement and securing of retractors with or without
13 padding;

14 (b) Packing with sponges;

15 (c) Digital manipulation of tissue;

16 (d) Suctioning, irrigating, or sponging;

17 (e) Manipulation of suture materials, including loops, tags, and
18 running sutures; and

19 (f) Proper use of body mechanics to prevent obstruction of the
20 surgeon's view;

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

23 (a) Permanent:

24 (i) Clamping or cauterizing vessels or tissue;

25 (ii) Tying or ligating clamped vessels or tissue;

26 (iii) Applying hemostatic clips; and

27 (iv) Placing local hemostatic agents; and

28 (b) Temporary:

29 (i) Applying tourniquets and demonstrating awareness of the
30 indications and contraindications for use with knowledge of side effects
31 of extended use;

- 1 (ii) Applying vessel loops;
2 (iii) Applying noncrushing clamps; and
3 (iv) Applying direct digital pressure;
4 (4) Utilizing appropriate techniques to assist with closure of body
5 planes, including the following:
6 (a) Utilizing running or interrupted subcutaneous sutures with
7 absorbable or nonabsorbable material;
8 (b) Utilizing subcuticular closure technique with or without
9 adhesive skin closure strips;
10 (c) Closing skin with method indicated by surgeon, including suture
11 and staples;
12 (d) Postoperative subcutaneous injection of local anesthetic agent
13 as directed by the surgeon;
14 (e) Facilitate closure of skin layer by proper approximation of the
15 tissue with forceps in collaboration with the surgical technologist who
16 applies skin staples; and
17 (f) Use of skin adhesive for primary closure;
18 (5) Selecting and applying appropriate wound dressings, including
19 the following:
20 (a) Liquid or spray occlusive materials;
21 (b) Absorbent material affixed with tape or circumferential
22 wrapping; and
23 (c) Immobilizing dressing which is soft or rigid;
24 (6) Providing assistance in securing drainage systems to tissue; and
25 (7) Preparing specimens, such as grafts, at the back table in the
26 surgical suite.
27 Sec. 15. An applicant for licensure under the Surgical Assistant
28 Practice Act shall:
29 (1) Be certified as a surgical first assistant by an approved
30 certifying body;
31 (2) Have successfully completed an approved surgical first assistant

1 education program approved by the board or other experiential or training
2 program as approved by the board;

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

5 (4) Be certified in basic-life support skills, or the equivalent
6 thereof, for both adult and neonatal resuscitation by the American Heart
7 Association or other national organization which has procedures for such
8 certification as approved by the board; and

9 (5) Have a high school diploma or the equivalent as determined by
10 the board.

11 Sec. 16. The department may, with approval of the board, grant
12 temporary licensure as a licensed certified surgical first assistant upon
13 application if all requirements for licensure have been met and the fee
14 required pursuant to the Uniform Credentialing Act has been paid. A
15 temporary license issued under this section shall be valid until the
16 meeting of the board at which a decision is made on the applicant's
17 licensure application.

18 Sec. 17. The department, with the recommendation of the board, may
19 issue a license based on licensure in another jurisdiction to an
20 individual who meets the requirements of the Surgical Assistant Practice
21 Act or substantially equivalent requirements as determined by the
22 department, with the recommendation of the board. An applicant for
23 licensure who has met the standards set by the board for a license based
24 on licensure in another jurisdiction but is not practicing at the time of
25 application for licensure shall present proof satisfactory to the
26 department that he or she has within the three years immediately
27 preceding the application for licensure completed continuing competency
28 requirements approved by the board pursuant to section 38-145.

29 Sec. 18. A person licensed as a licensed certified surgical first
30 assistant has the right to use the title licensed surgical first
31 assistant and the abbreviation L.S.F.A.

1 Sec. 19. The department shall establish and collect fees for
2 initial licensure and renewal under the Surgical Assistant Practice Act
3 as provided in sections 38-151 to 38-157.

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

7 Sec. 21. The board shall, pursuant to section 38-126:

8 (1) Recommend to the department the issuance of licenses to practice
9 surgical assisting under the Surgical Assistant Practice Act;

10 (2) Investigate and adopt standards based on national standards for
11 surgical assisting and implement changes as needed to carry out the act;

12 (3) Provide for distribution of information regarding practice of
13 licensed certified surgical first assistants;

14 (4) Receive and investigate complaints, conduct hearings, and impose
15 disciplinary actions in relation to complaints against licensed surgical
16 assisting under the Uniform Credentialing Act; and

17 (5) Perform other duties as required under the Surgical Assistant
18 Practice Act and Uniform Credentialing Act.

19 Sec. 22. Section 38-101, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 38-101 Sections 38-101 to 38-1,140 and the following practice acts
22 shall be known and may be cited as the Uniform Credentialing Act:

23 (1) The Advanced Practice Registered Nurse Practice Act;

24 (2) The Alcohol and Drug Counseling Practice Act;

25 (3) The Athletic Training Practice Act;

26 (4) The Audiology and Speech-Language Pathology Practice Act;

27 (5) The Certified Nurse Midwifery Practice Act;

28 (6) The Certified Registered Nurse Anesthetist Practice Act;

29 (7) The Chiropractic Practice Act;

30 (8) The Clinical Nurse Specialist Practice Act;

31 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and

- 1 Body Art Practice Act;
- 2 (10) The Dentistry Practice Act;
- 3 (11) The Emergency Medical Services Practice Act;
- 4 (12) The Environmental Health Specialists Practice Act;
- 5 (13) The Funeral Directing and Embalming Practice Act;
- 6 (14) The Genetic Counseling Practice Act;
- 7 (15) The Hearing Instrument Specialists Practice Act;
- 8 (16) The Licensed Practical Nurse-Certified Practice Act;
- 9 (17) The Massage Therapy Practice Act;
- 10 (18) The Medical Nutrition Therapy Practice Act;
- 11 (19) The Medical Radiography Practice Act;
- 12 (20) The Medicine and Surgery Practice Act;
- 13 (21) The Mental Health Practice Act;
- 14 (22) The Nurse Practice Act;
- 15 (23) The Nurse Practitioner Practice Act;
- 16 (24) The Nursing Home Administrator Practice Act;
- 17 (25) The Occupational Therapy Practice Act;
- 18 (26) The Optometry Practice Act;
- 19 (27) The Perfusion Practice Act;
- 20 (28) The Pharmacy Practice Act;
- 21 (29) The Physical Therapy Practice Act;
- 22 (30) The Podiatry Practice Act;
- 23 (31) The Psychology Practice Act;
- 24 (32) The Respiratory Care Practice Act;
- 25 (33) The Surgical Assistant Practice Act;
- 26 (~~34~~ 33) The Veterinary Medicine and Surgery Practice Act; and
- 27 (~~35~~ 34) The Water Well Standards and Contractors' Practice Act.

28 If there is any conflict between any provision of sections 38-101 to
29 38-1,139 and any provision of a practice act, the provision of the
30 practice act shall prevail.

31 The Revisor of Statutes shall assign the Uniform Credentialing Act,

1 including the practice acts enumerated in subdivisions (1) through (34
2 33) of this section, to articles within Chapter 38.

3 Sec. 23. Section 38-121, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 38-121 (1) No individual shall engage in the following practices
6 unless such individual has obtained a credential under the Uniform
7 Credentialing Act:

- 8 (a) Acupuncture;
- 9 (b) Advanced practice nursing;
- 10 (c) Alcohol and drug counseling;
- 11 (d) Asbestos abatement, inspection, project design, and training;
- 12 (e) Athletic training;
- 13 (f) Audiology;
- 14 (g) Speech-language pathology;
- 15 (h) Body art;
- 16 (i) Chiropractic;
- 17 (j) Cosmetology;
- 18 (k) Dentistry;
- 19 (l) Dental hygiene;
- 20 (m) Electrology;
- 21 (n) Emergency medical services;
- 22 (o) Esthetics;
- 23 (p) Funeral directing and embalming;
- 24 (q) Genetic counseling;
- 25 (r) Hearing instrument dispensing and fitting;
- 26 (s) Lead-based paint abatement, inspection, project design, and
27 training;
- 28 (t) Licensed practical nurse-certified;
- 29 (u) Massage therapy;
- 30 (v) Medical nutrition therapy;
- 31 (w) Medical radiography;

- 1 (x) Medicine and surgery;
- 2 (y) Mental health practice;
- 3 (z) Nail technology;
- 4 (aa) Nursing;
- 5 (bb) Nursing home administration;
- 6 (cc) Occupational therapy;
- 7 (dd) Optometry;
- 8 (ee) Osteopathy;
- 9 (ff) Perfusion;
- 10 (gg) Pharmacy;
- 11 (hh) Physical therapy;
- 12 (ii) Podiatry;
- 13 (jj) Psychology;
- 14 (kk) Radon detection, measurement, and mitigation;
- 15 (ll) Respiratory care;
- 16 (mm) Surgical assisting;
- 17 (~~nn~~ ~~mm~~) Veterinary medicine and surgery;
- 18 (~~oo~~ ~~nn~~) Public water system operation; and
- 19 (~~pp~~ ~~oo~~) Constructing or decommissioning water wells and installing
- 20 water well pumps and pumping equipment.

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

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

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

- 31 (a) Body art;

- 1 (b) Cosmetology;
- 2 (c) Emergency medical services;
- 3 (d) Esthetics;
- 4 (e) Funeral directing and embalming;
- 5 (f) Massage therapy; or
- 6 (g) Nail technology.

7 Sec. 24. Section 38-186, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 38-186 (1) A petition shall be filed by the Attorney General in
10 order for the director to discipline a credential obtained under the
11 Uniform Credentialing Act to:

12 (a) Practice or represent oneself as being certified under any of
13 the practice acts enumerated in subdivisions (1) through (18) and (20)
14 through (~~33~~ ~~32~~) of section 38-101; or

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

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

24 (3) The proceeding shall be summary in its nature and triable as an
25 equity action and shall be heard by the director or by a hearing officer
26 designated by the director under rules and regulations of the department.
27 Affidavits may be received in evidence in the discretion of the director
28 or hearing officer. The department shall have the power to administer
29 oaths, to subpoena witnesses and compel their attendance, and to issue
30 subpoenas duces tecum and require the production of books, accounts, and
31 documents in the same manner and to the same extent as the district

1 courts of the state. Depositions may be used by either party.

2 Sec. 25. Section 38-2025, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-2025 The following classes of persons shall not be construed to
5 be engaged in the unauthorized practice of medicine:

6 (1) Persons rendering gratuitous services in cases of emergency;

7 (2) Persons administering ordinary household remedies;

8 (3) The members of any church practicing its religious tenets,
9 except that they shall not prescribe or administer drugs or medicines,
10 perform surgical or physical operations, nor assume the title of or hold
11 themselves out to be physicians, and such members shall not be exempt
12 from the quarantine laws of this state;

13 (4) Students of medicine who are studying in an accredited school or
14 college of medicine and who gratuitously prescribe for and treat disease
15 under the supervision of a licensed physician;

16 (5) Physicians who serve in the armed forces of the United States or
17 the United States Public Health Service or who are employed by the United
18 States Department of Veterans Affairs or other federal agencies, if their
19 practice is limited to that service or employment;

20 (6) Physicians who are licensed in good standing to practice
21 medicine under the laws of another state when incidentally called into
22 this state or contacted via electronic or other medium for consultation
23 with a physician licensed in this state. For purposes of this
24 subdivision, consultation means evaluating the medical data of the
25 patient as provided by the treating physician and rendering a
26 recommendation to such treating physician as to the method of treatment
27 or analysis of the data. The interpretation of a radiological image by a
28 physician who specializes in radiology is not a consultation;

29 (7) Physicians who are licensed in good standing to practice
30 medicine in another state but who, from such other state, order
31 diagnostic or therapeutic services on an irregular or occasional basis,

1 to be provided to an individual in this state, if such physicians do not
2 maintain and are not furnished for regular use within this state any
3 office or other place for the rendering of professional services or the
4 receipt of calls;

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

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

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

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

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

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

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

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

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

29 (17) Persons licensed or certified under the laws of this state to
30 practice a limited field of the healing art, not specifically named in
31 this section, when confining themselves strictly to the field for which

1 they are licensed or certified, not assuming the title of physician,
2 surgeon, or physician and surgeon, and not professing or holding
3 themselves out as qualified to prescribe drugs in any form or to perform
4 operative surgery;

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

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

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

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

29 Sec. 26. Original section 38-2025, Reissue Revised Statutes of
30 Nebraska, and sections 38-101, 38-121, and 38-186, Revised Statutes
31 Cumulative Supplement, 2014, are repealed.