

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 721

Introduced by Baker, 30.

Read first time January 06, 2016

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend
2 section 38-2025, Reissue Revised Statutes of Nebraska, section
3 38-121, Revised Statutes Cumulative Supplement, 2014, and section
4 38-101, Revised Statutes Supplement, 2015; to adopt the Surgical
5 First Assistant Practice Act; to harmonize provisions; and to repeal
6 the original sections.

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

1 Section 1. Sections 1 to 17 of this act shall be known and may be
2 cited as the Surgical First 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 first assistants aid in ensuring a safe surgical
7 environment by maximizing patient safety by using appropriate techniques
8 for processes, including, but not limited to, maintaining hemostasis,
9 proper patient positioning, clear visualization of the operative site,
10 proper closure of the operative site, and correct dressing of a wound;
11 and

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

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

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

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

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

29 Sec. 7. Licensed surgical first assistant means a person licensed
30 to practice surgical assisting under the Surgical First Assistant
31 Practice Act.

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

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

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

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

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

14 (2) Positioning the patient;

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

16 (4) Providing visualization of the operative site;

17 (5) Utilizing appropriate techniques to assist with hemostasis;

18 (6) Utilizing appropriate techniques to assist with closure of body
19 planes, including the following:

20 (a) Utilizing running or interrupted subcutaneous sutures with
21 absorbable or nonabsorbable material;

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

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

26 (d) Postoperative subcutaneous injection of local anesthetic agent
27 as directed by the surgeon;

28 (7) Applying appropriate wound dressings;

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

30 (9) Preparing specimens, such as grafts; and

31 (10) Performing other tasks during a surgical procedure delegated by

1 and under the personal supervision of a physician appropriate to the
2 level of competence of the surgical first assistant.

3 Sec. 12. An applicant for licensure under the Surgical First
4 Assistant Practice Act shall:

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

7 (2) Have successfully completed an approved surgical first assistant
8 education program approved by the board or other experiential or training
9 program as approved by the board;

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

12 (4) Have a high school diploma or the equivalent as determined by
13 the board.

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

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

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

24 Sec. 14. A person licensed as a licensed certified surgical first
25 assistant has the right to use the title licensed surgical first
26 assistant and the abbreviation L.S.F.A.

27 Sec. 15. The department shall establish and collect fees for
28 initial licensure and renewal under the Surgical First Assistant Practice
29 Act as provided in sections 38-151 to 38-157.

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

1 Sec. 17. The board shall, pursuant to section 38-126:

2 (1) Recommend to the department the issuance of licenses to practice
3 surgical assisting under the Surgical First Assistant Practice Act;

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

6 (3) Provide for distribution of information regarding practice of
7 licensed surgical first assistants;

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

11 (5) Perform other duties as required under the Surgical First
12 Assistant Practice Act and Uniform Credentialing Act.

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

15 38-101 Sections 38-101 to 38-1,141 and the following practice acts
16 shall be known and may be cited as the Uniform Credentialing Act:

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

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

19 (3) The Athletic Training Practice Act;

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

21 (5) The Certified Nurse Midwifery Practice Act;

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

23 (7) The Chiropractic Practice Act;

24 (8) The Clinical Nurse Specialist Practice Act;

25 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
26 Body Art Practice Act;

27 (10) The Dentistry Practice Act;

28 (11) The Emergency Medical Services Practice Act;

29 (12) The Environmental Health Specialists Practice Act;

30 (13) The Funeral Directing and Embalming Practice Act;

31 (14) The Genetic Counseling Practice Act;

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

22 If there is any conflict between any provision of sections 38-101 to
23 38-1,139 and 38-1,141 and any provision of a practice act, the provision
24 of the practice act shall prevail.

25 The Revisor of Statutes shall assign the Uniform Credentialing Act,
26 including the practice acts enumerated in subdivisions (1) through (33)
27 of this section, to articles within Chapter 38.

28 Sec. 19. Section 38-121, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 38-121 (1) No individual shall engage in the following practices
31 unless such individual has obtained a credential under the Uniform

- 1 Credentialing Act:
- 2 (a) Acupuncture;
- 3 (b) Advanced practice nursing;
- 4 (c) Alcohol and drug counseling;
- 5 (d) Asbestos abatement, inspection, project design, and training;
- 6 (e) Athletic training;
- 7 (f) Audiology;
- 8 (g) Speech-language pathology;
- 9 (h) Body art;
- 10 (i) Chiropractic;
- 11 (j) Cosmetology;
- 12 (k) Dentistry;
- 13 (l) Dental hygiene;
- 14 (m) Electrology;
- 15 (n) Emergency medical services;
- 16 (o) Esthetics;
- 17 (p) Funeral directing and embalming;
- 18 (q) Genetic counseling;
- 19 (r) Hearing instrument dispensing and fitting;
- 20 (s) Lead-based paint abatement, inspection, project design, and
- 21 training;
- 22 (t) Licensed practical nurse-certified;
- 23 (u) Massage therapy;
- 24 (v) Medical nutrition therapy;
- 25 (w) Medical radiography;
- 26 (x) Medicine and surgery;
- 27 (y) Mental health practice;
- 28 (z) Nail technology;
- 29 (aa) Nursing;
- 30 (bb) Nursing home administration;
- 31 (cc) Occupational therapy;

- 1 (dd) Optometry;
- 2 (ee) Osteopathy;
- 3 (ff) Perfusion;
- 4 (gg) Pharmacy;
- 5 (hh) Physical therapy;
- 6 (ii) Podiatry;
- 7 (jj) Psychology;
- 8 (kk) Radon detection, measurement, and mitigation;
- 9 (ll) Respiratory care;
- 10 (mm) Surgical assisting;
- 11 (nn ~~mm~~) Veterinary medicine and surgery;
- 12 (oo ~~nn~~) Public water system operation; and
- 13 (pp ~~oo~~) Constructing or decommissioning water wells and installing
- 14 water well pumps and pumping equipment.

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

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

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

- 25 (a) Body art;
- 26 (b) Cosmetology;
- 27 (c) Emergency medical services;
- 28 (d) Esthetics;
- 29 (e) Funeral directing and embalming;
- 30 (f) Massage therapy; or
- 31 (g) Nail technology.

1 Sec. 20. Section 38-2025, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2025 The following classes of persons shall not be construed to
4 be engaged in the unauthorized practice of medicine:

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

6 (2) Persons administering ordinary household remedies;

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

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

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

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

28 (7) Physicians who are licensed in good standing to practice
29 medicine in another state but who, from such other state, order
30 diagnostic or therapeutic services on an irregular or occasional basis,
31 to be provided to an individual in this state, if such physicians do not

1 maintain and are not furnished for regular use within this state any
2 office or other place for the rendering of professional services or the
3 receipt of calls;

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

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

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

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

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

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

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

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

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

28 (17) Surgical first assistants practicing in accordance with the
29 Surgical First Assistant Practice Act;

30 (~~18~~ 17) Persons licensed or certified under the laws of this state
31 to practice a limited field of the healing art, not specifically named in

1 this section, when confining themselves strictly to the field for which
2 they are licensed or certified, not assuming the title of physician,
3 surgeon, or physician and surgeon, and not professing or holding
4 themselves out as qualified to prescribe drugs in any form or to perform
5 operative surgery;

6 (19 18) Persons obtaining blood specimens while working under an
7 order of or protocols and procedures approved by a physician, registered
8 nurse, or other independent health care practitioner licensed to practice
9 by the state if the scope of practice of that practitioner permits the
10 practitioner to obtain blood specimens; and

11 (20 19) Other trained persons employed by a licensed health care
12 facility or health care service defined in the Health Care Facility
13 Licensure Act or clinical laboratory certified pursuant to the federal
14 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
15 or XIX of the federal Social Security Act to withdraw human blood for
16 scientific or medical purposes.

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

28 Sec. 21. Original section 38-2025, Reissue Revised Statutes of
29 Nebraska, section 38-121, Revised Statutes Cumulative Supplement, 2014,
30 and section 38-101, Revised Statutes Supplement, 2015, are repealed.