By Senator Sobel

A bill to be entitled An act relating to surgical first assistants; providing definitions; providing requirements for the performance of supervising physicians; providing the duties and scope and location of practice for certified surgical first assistants; providing contracting and employment guidelines for physicians, hospitals, clinics, or ambulatory surgical centers employing certified surgical first assistants; providing licensure criteria for certified surgical first assistants; providing for application fees and licensure renewal fees; providing for licensure renewal; providing continuing education requirements; authorizing the Board of Medicine to impose penalties; providing the scope of a certified surgical first assistant's license; providing for reciprocity of licenses among states; providing for inactive and delinquent status; providing that an unlicensed person who holds himself or herself out as, or indicates or implies that he or she is, licensed commits a third degree felony and is subject to applicable penalties; providing for denial, suspension, or revocation of licensure; authorizing the board to adopt rules; providing that supervising physicians may be liable for certain acts or omissions of certified surgical first assistants; providing guidelines for the use of fees collected by the board; amending s. 627.419, F.S.; providing for payments to a physician assistant under contracts providing for payment for surgical first assisting benefits or services; including certified surgical first assistants, as defined, within certain benefits or services payment provisions; limiting such application; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) DEFINITIONS.—As used in this section, the term:

(a) "Board" means the Board of Medicine.

(b) "Certified surgical first assistant" means a person who
provides primary surgical assistance to the primary surgeon during a surgical procedure, is listed on the operative record as the first assistant, and meets the qualifications for licensure under this section.

(c) “Continuing medical education” means courses recognized and approved by the board, the Liaison Council on Certification for the Surgical Technologist, the National Surgical Assistant Association, the American Board of Surgical Assistants, the American Medical Association, the American Osteopathic Association, or the Accreditation Council on Continuing Medical Education.

(d) “Direct supervision” means supervision by a delegating physician who is physically present and who personally directs delegated acts and remains immediately available to personally respond to any emergency until the patient is released from the operating room or the physician’s care and has been transferred to the care and responsibility of another physician.

(e) “Surgical assisting” means providing aid under direct supervision in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.

(2) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or group of physicians supervising a certified surgical first assistant must be qualified in the medical areas in which the certified surgical first assistant is to perform and may be individually or collectively responsible and liable for the performance and the acts and omissions of the certified surgical first assistant.

(3) PERFORMANCE OF CERTIFIED SURGICAL FIRST ASSISTANTS.—

(a) A certified surgical first assistant may perform duties limited to the scope of certification in surgical assisting functions while under the direct supervision of a physician.

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

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

(4) EMPLOYMENT OF CERTIFIED SURGICAL FIRST ASSISTANTS.—

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

(b) A health maintenance organization, preferred provider organization, or health benefit plan may not require a physician, hospital, clinic, or ambulatory surgery center to contract with a certified surgical first assistant as a condition of payment to a certified surgical first assistant.

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

(5) CERTIFIED SURGICAL FIRST ASSISTANT LICENSURE.—
(a) A person desiring to be licensed as a certified surgical first assistant shall apply to the board. The board shall issue a license to any person determined by the board as having met the following requirements:

1. Is at least 18 years of age.

2. Holds and maintains certification from one of the following recognized certifying agencies:
   a. The Liaison Council on Certification for the Surgical Technologist.
   b. The National Surgical Assistant Association.
   c. The American Board of Surgical Assistants.

3. Has completed the application form and remitted an application fee not to exceed $750 as set by the board. An application for licensure made by a certified surgical first assistant must include:
   a. A certificate from one of the recognized certifying agencies specified in subparagraph 2.
   b. A sworn statement of any prior felony convictions.
   c. A sworn statement of any previous revocation or denial of licensure or certification.

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

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

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

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

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

(e) A certified surgical first assistant’s license:

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

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

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

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

(b) Have paid appropriate licensure fees.

(c) Have complied with all other requirements of the board.
(7) INACTIVE AND DELINQUENT STATUS.—A license on inactive or delinquent status may be reactivated only as provided in s. 456.036, Florida Statutes.

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

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

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

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

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

Section 2. Subsection (6) of section 627.419, Florida Statutes, is amended to read:

627.419 Construction of policies.—

(6)(a) Notwithstanding any other provision of law, if a health insurance policy, health care services plan, or other contract provides for payment for surgical first assisting benefits or services, the policy, plan, or contract shall be construed as providing for payment to a physician assistant or a registered nurse first assistant who performs such services that are within the scope of a physician assistant’s or a registered nurse first assistant’s professional license. This paragraph applies only if reimbursement for an assisting physician, licensed under chapter 458 or chapter 459, would be covered and a physician assistant or a registered nurse first assistant who performs such services is used as a substitute.

(b) Notwithstanding any other provision of law, if a health insurance policy, health care services plan, or other contract provides for payment for surgical first assisting benefits or services, the policy, plan, or contract shall be construed as providing for payment to a certified surgical first assistant or to the employer of a certified surgical first assistant who performs such services that are assigned by the supervising physician or osteopathic physician. This paragraph

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applies only if reimbursement for an assisting physician licensed under chapter 458 or chapter 459 would be covered and the certified surgical first assistant who performs such services is used as a substitute. As used in this paragraph, the term “certified surgical first assistant” means a person who is a licensed health care provider who is directly accountable to a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 and who is certified by the National Surgical Assistant Association, the Liaison Council on Certification for the Surgical Technologist, or the American Board of Surgical Assistants.

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

Section 3. This act shall take effect July 1, 2011.