

STORAGE NAME: h1233.hr.doc
DATE: February 12, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH REGULATION
ANALYSIS**

BILL #: HB 1233
RELATING TO: Surgical First Assistants
SPONSOR(S): Representative Harrell
TIED BILL(S): None.

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH REGULATION
 - (2) INSURANCE
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill permits physician surgical first assistants to assist an operating surgeon in a health care facility licensed pursuant to chapter 395, Florida Statutes. It also requires certain health insurers and health maintenance organizations to provide reimbursement for the services provided by a physician surgical first assistant.

Although the bill does not define who a physician surgical first assistant is, research of the American College of Surgeons' website revealed a 1999 study entitled *Physicians as Assistants at Surgery*. This study attempted to determine which surgical operations require the use of a physician as an assistant at surgery. The study resulted in a table of surgical procedures, listed by Current Procedural Terminology codes (CPT codes), with an indication of whether the survey respondents believed that the operation requires the use of a physician as an assistant at surgery: (1) almost always; (2) almost never; or (3) some of the time. Therefore, it is assumed that this bill relates to physicians who are serving in the capacity of an assistant during a surgical procedure.

According to the Agency for Health Care Administration, this bill creates a new mandate for health maintenance organizations, indemnity plans, and group, blanket or franchise health insurers. This will increase premium costs to policyholders and HMO subscribers.

The effective date of the bill is July 1, 2002, and the provisions contained in this bill will apply to policies and contracts issued or renewed after that date.

The Department of Insurance has reported that the fiscal impact of this bill is indeterminate.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Neither the term "surgical first assistant" nor "physician surgical first assistant" is defined in statute, nor are these persons licensed by the state as such.

According to the Agency for Health Care Administration, most current reimbursement coverages pay only for the services of physicians in the surgical process. Accordingly, when procedures require additional assistance, the assignment of a second physician is required, otherwise payment for an assistant's services may be denied.

C. EFFECT OF PROPOSED CHANGES:

This bill requires internal risk management programs within hospitals, ambulatory surgical centers, and mobile surgical facilities to permit the primary operating surgeon to select a physician surgical first assistant in accordance with the guidelines of the American College of Surgeons from among the appropriately credentialed members of the facility's medical staff.

The bill requires health insurers to provide coverage for the medically necessary services of a physician surgical first assistant, as defined by the American College of Surgeons, selected by the primary surgeon to assist in a covered surgical procedure.

The bill also requires a health maintenance organization to provide coverage for the medically necessary services of a physician surgical first assistant, as defined by the American College of Surgeons, selected by the primary surgeon to assist in a covered surgical procedure. The bill provides that if the use of contracted surgeons is mandated for a specific procedure, that the health maintenance organization may also require that the physician surgical first assistant be contracted by the health maintenance organization. It further provides that payment to a hospital may not be reduced by any portion of the payment to the physician surgical first assistant.

An effective date of July 1, 2002, is provided by the bill and the provisions in the bill shall apply to policies and contracts issued or renewed after that date.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 395.0197, F.S., to require internal risk management programs within hospitals, ambulatory surgical centers, and mobile surgical facilities to permit the primary operating surgeon to select a physician surgical first assistant in accordance with the guidelines of the American College of Surgeons from among the appropriately credentialed members of the facility's medical staff.

Section 2. Creates s. 627.64165, F.S., to require health insurers to provide coverage for the medically necessary services of a physician surgical first assistant, as defined by the American College of Surgeons, selected by the primary surgeon to assist in a covered surgical procedure.

Section 3. Creates s. 627.6572, F.S., to require health insurers who provide group, blanket, or franchise health policies to provide coverage for the medically necessary services of a physician surgical first assistant, as defined by the American College of Surgeons, selected by the primary surgeon to assist in a covered surgical procedure.

Section 4. Amends s. 641.31, F.S., to require a health maintenance organization to provide coverage for the medically necessary services of a physician surgical first assistant, as defined by the American College of Surgeons, selected by the primary surgeon to assist in a covered surgical procedure. The bill provides that if the use of contracted surgeons is mandated for a specific procedure, that the health maintenance organization may also require that the physician surgical first assistant be contracted by the health maintenance organization. It further provides that payment to a hospital may not be reduced by any portion of the payment to the physician surgical first assistant.

Section 5. Provides an effective date of July 1, 2002, and that the provisions in the bill shall apply to policies and contracts issued or renewed after that date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

The Department of Insurance stated that if there are increased claims costs from the coverage requirement, this legislation could have a cost impact for local government plans that comply with benefits provisions of the Florida Insurance Code.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Department of Insurance reports that the impact is indeterminate. However, the department indicated that insurers might suggest that the coverage will result in increased utilization of physician surgical first assistants, giving rise to increased claims costs, and thus, will increase rates that will increase premium costs to policyholders and health maintenance organization subscribers. The Department of Insurance also indicated that providers may suggest that the specific mandate is necessary to assure there is adequate reimbursement for those surgical procedures that requires the assistance of a physician other than the principal surgeon performing the procedure.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Although the bill does not define what a physician surgical first assistant is, research of the American College of Surgeons' website revealed a 1999 study entitled *Physicians as Assistants at Surgery*. This study attempted to determine which surgical operations require the use of a physician as an assistant at surgery. The study resulted in a table of surgical procedures, listed by Current Procedural Terminology codes (CPT codes), with an indication of whether the survey respondents believed that the operation requires the use of a physician as an assistant at surgery: (1) almost always; (2) almost never; or (3) some of the time. Therefore, it is assumed that this bill relates to physicians who are serving in the capacity of an assistant during a surgical procedure. It is suggested that a definition of "physician surgical first assistant" be added to the bill.

STORAGE NAME: h1233.hr.doc

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PAGE: 5

The Department of Insurance noted that this bill would apply to individual and group insurance policies and health maintenance organization contracts; however, the coverage requirement would not apply to small group policies regulated under s. 627.6699, F.S., nor out of state group benefit requirements in s. 627.6515(2)(c), F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:

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Wendy Smith Hansen

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