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INSURANCE

General Provisions Relative to Insurance: Provide for Reimbursement by Insurers to Registered Nurse First Assistants Who Perform Surgical First Assistant Services

CODE SECTION: O.C.G.A. § 33-24-59.9 (new)
BILL NUMBER: HB 355
ACT NUMBER: 14
GEORGIA LAWS: 2001 Ga. Laws 28
SUMMARY: The Act, called the “Registered Nurse First Assistant Consumer Act,” amends Code section 33-24-59 by adding new subsection 33-24-59.9. The Act provides for the consistent reimbursement of registered nurse first assistants acting as independent contractors for their services performed in interoperative care. The Act further provides definitions and intent of the General Assembly in enacting this piece of legislation.
EFFECTIVE DATE: July 1, 2001

History

The American College of Surgeons, Association of Perioperative Nurses, National League of Nurses, American Nursing Association, National Association of Orthopedic Nurses, and all fifty state nursing boards recognize registered nurse first assistants (RNFAs) as important parts of the surgical team.¹ When a surgeon requires assistance in the surgical suite, the surgeon decides what level of assistance is needed, and she has the option to secure services from a fellow surgeon or from an RNFA.² An RNFA may render services as an employee of the surgeon, as an employee of the hospital, or as an independent

1. See Audio Recording of Senate Proceedings, Mar. 12, 2001 (remarks by Sen. Nadine Thomas), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

2. See Electronic Mail Interview with Rep. Nan Orrock, House District No. 56 (July 17, 2001) [hereinafter Orrock interview]; Audio Recording of House Proceedings, Feb. 13, 2001 (remarks by Rep. Nan Orrock), at <http://www.ganet.org/services/leg/audio/2001archive.html> [hereinafter House Audio].

contractor.³ RNFAs are the most cost-effective way to have an assistant in the surgical suite, costing sixteen to twenty-five percent of the surgeon's rate, as compared to thirty to seventy-five percent of the surgeon's rate, the typical charge for assisting surgeons.⁴ However, RNFAs acting as independent contractors often have difficulties getting reimbursed for services rendered.⁵ Currently, several other states have enacted legislation for the consistent reimbursement for the services of RNFAs in surgical care.⁶ Although some third parties already reimburse the RNFAs for their services in Georgia, HB 355 was drafted to establish consistency in the direct reimbursement of RNFAs that work as independent contractors.⁷ The legislative intent was to encourage the continued use of quality, cost-effective surgical care provided by RNFAs and to establish consistent reimbursement of the RNFAs.⁸

HB 355

Introduction

Representatives Nan Orrock, Ben Harbin, David Graves, Tommy Smith, Alan Powell, and Steven Cash of the 56th, 113th, 125th, 169th, 23rd, and 108th House Districts, respectively, sponsored HB 355.⁹ The House passed HB 355 as a committee substitute with a floor

3. See House Audio, *supra* note 2 (remarks by Rep. Nan Orrock).

4. See *id.* Representative Orrock noted that a surgeon is more likely to request RNFA services (lowering the overall cost of the surgical procedure) if the surgeon can be assured that the RNFA services are reimbursable. See Orrock Interview, *supra* note 2.

5. See Orrock Interview, *supra* note 2; Telephone Interview with Sen. Nadine Thomas, Senate District No. 10 (May 29, 2001) [hereinafter Thomas Interview].

6. See Senate Audio, *supra* note 1 (remarks by Sen. Nadine Thomas); see also FLA. STAT. ch. 464.027 (2000); KY. REV. STAT. ANN. § 304.17A-146 (Michie 2000); ME. REV. STAT. ANN. tit. 24A, § 2758 (West 2000); R.I. GEN. LAWS § 27-18-48.1 (2000).

7. See Thomas Interview, *supra* note 5; Senate Audio, *supra* note 1 (remarks by Sen. Nadine Thomas); House Audio, *supra* note 2 (remarks by Rep. Nan Orrock). Senator Nadine Thomas was instrumental in introducing the legislation in the Senate as SB 82 and asked Rep. Nan Orrock to sponsor identical legislation in the House as HB 355. See Orrock Interview, *supra* note 2; Thomas Interview, *supra* note 5. The RNFA Association secured the services of a professional lobbying team, the Omni Resources Group, to help expedite the passage of the bill. See Orrock Interview, *supra* note 2. Representative Orrock noted that it is plausible that the refusal of some payors to reimburse RNFAs is a reflection of the second-class treatment of the nursing profession—a profession traditionally staffed almost exclusively by women. See *id.*

8. See HB 355, as introduced, 2001 Ga. Gen. Assem.

9. See *id.*

amendment.¹⁰ The Senate passed the bill without changes,¹¹ and Governor Roy Barnes signed the bill into law on March 22, 2001.¹²

Consideration by the House

The bill was introduced on February 1, 2001, and the House of Representatives assigned the bill to the House Health and Ecology Committee.¹³ The House Health and Ecology Committee favorably reported HB 355 as substituted on February 7, 2001.¹⁴ The House Health and Ecology Committee primarily changed the wording of HB 355 for clarity.¹⁵ The Committee also added a sentence to specify that the provisions for reimbursement would not apply to RNFAs that are employed by the requesting physician.¹⁶

The bill was introduced on the floor on February 13, 2001 for debate.¹⁷ Representatives Jeff Brown and Nan Orrock proposed a floor amendment, and the House adopted the committee substitute with floor amendment.¹⁸ The floor amendment to the Committee version of HB 355 provided that the reimbursement provisions of HB 355 exclude RNFAs who render their services in an employee capacity at the hospital where the services are rendered.¹⁹ The House unanimously passed the bill, as substituted with the floor amendment, on February 13, 2001.²⁰

10. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 21, 2001; Georgia House of Representatives Voting Record, HB 355 (Feb. 13, 2001). Compare HB 355, as introduced, 2001 Ga. Gen. Assem., with HB 355 (HCSFA), 2001 Ga. Gen. Assem.

11. See Georgia Senate Voting Record, HB 355 (Mar. 12, 2001).

12. See 2001 Ga. Laws 28, § 2, at 30; State of Georgia Final Composite Status Sheet, HB 355, Mar. 21, 2001.

13. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 12, 2001.

14. See *id.* Compare HB 355, as introduced, 2001 Ga. Gen. Assem., with HB 355 (HCS), 2001 Ga. Gen. Assem.

15. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 12, 2001. Compare HB 355, as introduced, 2001 Ga. Gen. Assem., with HB 355 (HCS), 2001 Ga. Gen. Assem.

16. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 12, 2001. Compare HB 355, as introduced, 2001 Ga. Gen. Assem., with HB 355 (HCS), 2001 Ga. Gen. Assem.

17. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 21, 2001.

18. See *id.*

19. Compare HB 355 (HCS), 2001 Ga. Gen. Assem., with HB 355 (HCSFA), 2001 Ga. Gen. Assem.

20. See Georgia House of Representatives Voting Record, HB 355 (Feb. 13, 2001).

Consideration in the Senate

Upon introduction, the Senate assigned HB 355 to the Senate Insurance and Labor Committee.²¹ Without any changes, the Committee favorably reported the bill to the Senate floor on February 22, 2001.²² Senators Nadine Thomas, Susan Cable, Hugh Gillis, Terrell Starr, Carol Jackson, and Harold Ragan of the 10th, 27th, 20th, 44th, 50th, and 11th Senate Districts, respectively, sponsored legislation identical to HB 355, which was introduced as SB 82 in the Senate.²³ The Senate adopted and unanimously passed SB 82, as substituted by the Senate Insurance and Labor Committee on February 14, 2001.²⁴ As SB 82 moved to the House, however, HB 355 moved simultaneously to the Senate, and Senator Nadine Thomas requested that the Senate pass HB 355 without amendments.²⁵ By a vote of 49-1, the Senate adopted and passed HB 355 without changes on March 12, 2001.²⁶ Governor Roy Barnes signed HB 355 into law on March 22, 2001.²⁷

The Act

The Act amends Chapter 24 of Title 33 by adding new Code section 33-24-59.9 to subsection 59.²⁸ The Act provides that the intent of the General Assembly in enacting this legislation was to encourage the continued use of RNFAs to provide quality, cost-effective surgical care.²⁹ Another purpose of the legislation is to establish consistent policies for the reimbursement of RNFAs by managed health care agencies, workers' compensation carriers, and all private insurance companies.³⁰

21. See State of Georgia Final Composite Status Sheet, HB 355, Mar. 21, 2001.

22. See *id.*

23. See SB 82, as introduced, 2001 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 82, Mar. 21, 2001.

24. Compare SB 82, as introduced, 2001 Ga. Gen. Assem., with SB 82(SCS), 2001 Ga. Gen. Assem.; compare SB 82 (SCS), 2001 Ga. Gen. Assem., with HB 355 (HCSFA), 2001 Ga. Gen. Assem. See Georgia Senate Voting Record, SB 82 (Feb. 14, 2001).

25. See Senate Audio, *supra* note 1 (remarks by Sen. Nadine Thomas and vote on HB 355).

26. See Georgia Senate Voting Record, HB 355 (Mar. 12, 2001).

27. See 2001 Ga. Laws 28, § 2, at 30.

28. See O.C.G.A. § 33-24-59.9 (2001).

29. See *id.* § 33-24-59.9 (b)(1).

30. See *id.* § 33-24-59.9 (b)(2).

The Act defines various terms such as “health benefit policy” and “insurer” as used in the Act.³¹ The Act explicitly defines who qualifies for the reimbursement provided for by this Act.³² The Act defines a “registered nurse first assistant” as a person who is licensed as a registered professional nurse in Georgia, is certified in perioperative nursing, has successfully completed an RNFA education program, and held the title of and was practicing as a registered nurse as of January 1, 1993.³³ The Act excludes RNFAs that are employed by either the physician or the hospital where services are rendered.³⁴ The Act provides that if any health benefit policy issued, executed, or renewed in Georgia on or after July 1, 2001 provides benefits payable to a surgical first assistant, the insurer shall be required to directly reimburse an RNFA who provides such services as an independent contractor.³⁵

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31. *See id.* § 33-24-59.9 (c)(1), (2).

32. *See id.* § 33-24-59.9 (d).

33. *See id.* § 33-24-59.9 (c)(5).

34. *See id.* § 33-24-59.9 (d).

35. *See id.*