

SENATE No. 1387

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating surgical assistants.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/25/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/6/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>3/24/2023</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>4/3/2023</i>

SENATE No. 1387

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1387) of John F. Keenan, Joanne M. Comerford and James B. Eldridge for legislation to regulate surgical assistants. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1449 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act regulating surgical assistants.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by inserting after Section 242 the following new sections:-

3 Section 243. (a) As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 "Board", the board of registration in surgical assistants established in section 110 of
6 chapter 13.

7 "Health care practitioner", a person licensed or registered under sections 2, 16, 74 or 74A
8 of chapter 112 who conducts or assists with the performance of surgery; provided, however, that
9 "health care practitioner" shall also include an intern, resident, fellow or medical officer.

10 "Surgical facility", an entity that provides surgical health care services, whether inpatient
11 or outpatient and whether overnight or ambulatory, including, but not limited to, a hospital, clinic
12 or private office of a health care practitioner, whether conducted for charity or for profit and
13 whether or not subject to section 25C, and any organization, partnership, association,
14 corporation, trust or the commonwealth or any subdivision thereof.

15 "Surgical assistant", an individual who has met the requirements of the board for
16 licensure as a surgical assistant and who works under the direct supervision of a licensed doctor
17 of medicine, osteopathy or podiatry.

18 "Surgical assisting", surgical patient care, including, but not limited to, any of the
19 following: (i) manipulation of organs; (ii) suturing of tissue; (iii) placement of hemostatic agents;
20 (iv) injection of local anesthetic; (v) harvesting of veins; (vi) implementation of devices; and,
21 (vii) other duties as directed by a licensed doctor of medicine, osteopathy or podiatry under the
22 direct supervision of a licensed doctor of medicine, osteopathy or podiatry.

23 (b) A surgical facility shall not employ or otherwise retain the services of a surgical
24 assistant unless such person is licensed by the board of registration in surgical assistants.

25 (c) Nothing in this section shall prohibit a registered nurse, licensed or registered health
26 care provider or other health care practitioner from performing surgical assistant tasks or
27 functions if such person is acting within the scope of such person's license.

28 (d) Notwithstanding subsection (b), a surgical facility may employ as a surgical assistant
29 an individual who does not meet the requirements of this section if said individual receives a
30 waiver from the department certifying that the individual has met special circumstances as
31 determined by the department. The department, in consultation with an advisory committee of

32 clinicians, shall establish criteria for such waiver. Said waivers shall be valid for not longer than
33 three months; provided however said waivers may be renewed upon determination by the
34 department.

35 Section 244. The board shall have the following powers and duties:

36 (a) to promulgate regulations and adopt such rules as are necessary to regulate the field
37 and practice of surgical assisting and surgical assistants;

38 (b) to receive, review, approve or disapprove applications for licensing and to issue
39 licenses;

40 (c) to establish administrative procedures for processing applications for licenses and
41 license renewals and to hire or appoint such agents as are appropriate for processing applications
42 for licenses and license renewals;

43 (d) to retain records of its actions and proceedings in accordance with public records
44 laws;

45 (e) to fine, censure, revoke, suspend or deny a license, place on probation, reprimand or
46 otherwise discipline licensees for violations of the code of ethics or the rules of the board;

47 (f) to summarily suspend the license of a licensee who poses an imminent danger to the
48 public; provided, that a hearing shall be afforded to the licensee within seven days of an action
49 by the board to determine whether such summary action is warranted;

50 (g) to establish standards for continued licensure of surgical assistants, including
51 continuing education requirements;

52 (h) to establish standards relating to the professional conduct, termination and
53 reinstatement and renewal of licenses of surgical assistants; and

54 (i) to perform such other functions and duties as may be required to carry out the
55 provisions of this section and sections 243 to 246, inclusive.

56 Section 245. An application for original license, a license renewal or the licensing
57 examination shall be made on forms approved by the board and accompanied by the appropriate
58 fee. The fee for original license and renewal shall be determined by the secretary of
59 administration and finance. An application for original license shall be sworn and shall furnish
60 satisfactory proof if the applicant is: (i) at least 18 years of age; (ii) of good moral character; and
61 (iii) has met the educational and professional experience requirements. Requirements for
62 licensing shall include:

63 (a) a current credential as a surgical assistant or surgical first assistant issued by the
64 National Board of Surgical Technology and Surgical Assisting, the National Surgical Assistant
65 Association or the National Commission for Certification of Surgical Assistants or their
66 successors;

67 (b) successful completion of a surgical assistant training program during the person's
68 service as a member of any branch of the armed forces of the United States; or

69 (c) at least one year of experience as a surgical assistant in the commonwealth and
70 practice as a surgical assistant at any time in the twelve months immediately prior to July 1,
71 2023, provided the applicant registers with the Board by July 1, 2025.

72 Section 246. (a) For renewal of a license as a surgical assistant, a licensee shall attest to
73 having successfully completed 38 hours of continuing education in courses directly related to the
74 practice of surgical assisting as approved and documented by a provider recognized by one of the
75 following: (i) the National Board of Surgical Technology and Surgical Assisting; (ii) the
76 National Commission for the Certification of Surgical Assistants; or (iii) the National Surgical
77 Assistant Association;

78 (b) the practitioner shall retain a completed form with all supporting documentation in his
79 or her records for a period of four years following the renewal of an active license;

80 (c) the board shall periodically conduct a random audit of its active licensees to determine
81 compliance and the practitioners selected for the audit shall provide all supporting
82 documentation within 30 days of receiving notification of the audit;

83 (d) failure to comply with these requirements may subject the licensee to disciplinary
84 action by the board;

85 (e) the board may grant an extension of the deadline for continuing competency
86 requirements, for up to one year, for good cause shown upon a written request from the licensee
87 prior to the renewal date; and,

88 (f) the board may grant an exemption for all or part of the requirements for circumstances
89 beyond the control of the licensee, such as temporary disability, mandatory military service, or
90 officially declared disasters.

91 SECTION 2. Chapter 13 of the General Laws is hereby amended by adding after section
92 109 the following new section:-

93 Section 110. There shall be a board of registration of surgical assistants, herein called the
94 board, to consist of five members to be appointed by the governor. Three members of the board
95 shall be, at the time of appointment, surgical assistants who have practiced in the commonwealth
96 for not less than three years; one member shall be a doctor of medicine, osteopathy or podiatry
97 whose practice shall include surgery; and one member shall be a resident of the commonwealth.
98 No member shall be an employee of a trade association in the field of health care and no member
99 who is a representative of the general public shall be engaged in the practice of any health care
100 profession. Members shall be appointed for terms of four years. No member shall be appointed
101 to more than two consecutive full terms but a member appointed for less than a full term may
102 serve two full terms in addition to such part of a full term and a former member shall again be
103 eligible for appointment after a lapse of at least one year. A member may be removed by the
104 governor for neglect of duty, misconduct or malfeasance or misfeasance in office after a written
105 notice of the charges against him and an opportunity to be heard. The board shall, at its first
106 meeting and annually thereafter, elect from among its members a chairman, vice chairman and
107 secretary. Officers shall serve until successors are elected and qualified. The board shall meet at
108 the call of the chairman or upon request of three members of the board. The board shall meet at
109 least two times annually. A quorum shall consist of three members present. Board members shall
110 serve without compensation but shall be reimbursed for actual and reasonable expenses incurred
111 in the performance of their duties.