

RNFA Reimbursement Language

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Colorado:

Colorado Revised Statutes, Title 10, Article 16, Part 1, § 10-16-104

- (B) The licensed persons who may not be denied reimbursement pursuant to subparagraph (A) of this subparagraph (I) shall include registered professional nurses and licensed clinical social workers. However, such inclusion shall not be interpreted as enlarging the scope of professional nursing or licensed clinical social worker practice. For purposes of this subsection (7), "licensed clinical social worker" shall have the meaning set forth in subparagraph (III) of paragraph (b) of subsection (5) of this section.

Florida:

Florida Statutes, Title XXXII, Chapter 464, Part 1, § 464.027

- (1) Legislative Intent – The purposes of this section are to:
- a. Encourage the use of registered nurse first assistants
 - b. Provide for reimbursement for the registered nurse first assistant from managed health care agencies, state agencies, workers' compensation carriers, and private insurance companies.

Florida Statutes, Title XXXVII, Chapter 627, Part II, § 627.419

- (6) Notwithstanding any other provision of law, when any 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 is to be construed as providing for payment to a registered nurse first assistant or employers of a physician assistant or 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. The provisions of this subsection apply 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.

Georgia:

Georgia Code, Title 13, Chapter 24, Article 1, § 33-24-59.9

- (a) This Code section shall be known and may be cited as the "Registered Nurse First Assistant Consumer Act."
- (b) It is the intent of the General Assembly to:
- (1) Encourage the continued use of registered nurse first assistants who meet the qualifications of this Code section as "assistants at surgery" by physicians and surgical facilities to provide quality, cost-effective surgical intervention to health care recipients in the state; and
 - (2) Establish policies within managed health care agencies, workers' compensation carriers, and all private insurance companies to provide for adequate and justifiable reimbursement for the registered nurse first assistant for services rendered.
- (c) As used in this Code section, the term:

- (1) "Health benefit policy" means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, or renewed in this state, including, but not limited to, those policies, plans, or contracts executed by the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of Title 45, by a health care corporation, health maintenance organization, preferred provider organization, accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, workers' compensation insurance carrier in accordance with Chapter 9 of Title 34, or other insurer or similar entity.
 - (2) "Insurer" means an accident and sickness insurer, fraternal benefit society, hospital service corporation, workers' compensation insurance carrier, medical service corporation, health care corporation, health maintenance organization, managed care plan other than a dental plan, or any similar entity authorized to issue contracts under this title, but shall exclude any state program funded under Title XIX of the federal Social Security Act, 42 U.S.C.A. Section 1396, et seq., and any other publicly funded state health care program.
- (d) Notwithstanding any provisions in policies or contracts which might be construed to the contrary, whenever any health benefit policy which is issued, executed, or renewed in this state on or after July 1, 2001, provides that any of its benefits are payable to a surgical first assistant for services rendered, the insurer shall be required to directly reimburse any registered nurse first assistant who has rendered such services at the request of a physician and within the scope of a registered nurse first assistant's professional license. This Code section shall not apply to a registered nurse first assistant who is employed by the requesting physician or renders such services in the capacity as an employee of the hospital where services are rendered.

Illinois:

Illinois Compiled Statutes, Chapter 210, Act 85, § 10.7

[Similar provision for Ambulatory Surgical Centers at Act 5, § 6.5]

- (2) Operative surgical procedures shall be performed only by a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987, a dentist licensed under the Illinois Dental Practice Act, or a podiatrist licensed under the Podiatric Medical Practice Act of 1987, with medical staff membership and surgical clinical privileges granted at the hospital. A licensed physician, dentist, or podiatrist may be assisted by a physician licensed to practice medicine in all its branches, dentist, dental assistant, podiatrist, licensed advanced practice nurse, licensed physician assistant, licensed registered nurse, licensed practical nurse, surgical assistant, surgical technician, or other individuals granted clinical privileges to assist in surgery at the hospital. Payment for services rendered by an assistant in surgery who is not a hospital employee shall be paid at the appropriate non-physician

modifier rate if the payor would have made payment had the same services been provided by a physician.

Kentucky:

Kentucky Revised Statutes, Title XXV, Chapter 304, Subtitle 17A, §304.17A-146

Notwithstanding any provision of law, a health plan issued or renewed on or after July 15, 2000, that provides coverage for surgical first assisting benefits or services shall be construed as providing coverage for a registered nurse first assistant who performs services that are within the scope of practice of the registered nurse first assistant.

Louisiana:

Louisiana Revised Statutes, Title 22, Chapter 1, Part 5, § 215.24

A. Any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health maintenance organization subscriber agreement, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan and a self-insurance plan that provides medical and surgical benefits which are delivered, issued for delivery, or renewed in this state on or after January 1, 2004, shall not deny coverage of perioperative services rendered by a registered nurse first assistant if the insurer covers the same such first assistant perioperative services when they are rendered by an advanced practice nurse, a physician assistant, or a physician other than the operating surgeon. Payments to RNFAs for such services shall be subject to the same credentialing and contracting requirements that apply to other health care providers paid for such services.

Maine:

Maine Revised Statutes, Title 24, Chapter 19, Subchapter I, § 2332-L

3. Required coverage for services. Notwithstanding any other provisions of this chapter, a nonprofit hospital and medical service organization that issues Individual and group health care contracts that provide coverage for surgical first assisting benefits or services shall provide coverage and payment under those contracts to a registered nurse first assistant who performs services that are within the scope of a registered nurse first assistant's qualifications. The provisions of this subsection apply only if reimbursement for an assisting physician would be covered and a registered nurse first assistant who performed those services is used as a substitute.

Maryland:

Code of Maryland, Title 15, Subtitle 7, § 15-701

(2) Notwithstanding any other provision of a policy, contract, or certificate subject to this subsection, if the policy, contract, or certificate provides for reimbursement for a service that is within the lawful scope of practice of a health care provider licensed under the Health Occupations Article, the insured or any other person covered by or entitled to reimbursement under the policy, contract, or certificate is entitled to reimbursement for the service.

Minnesota:

Minnesota Statutes, Chapter 62A, § 62A.3092

Subd. 2. Requirement. Coverage described in subdivision 1 that provides for payment for surgical first assisting benefits or services shall be construed as providing for payment for a registered nurse who performs first assistant functions and services that are within the scope of practice of a registered nurse.

Montana:

Montana Code Annotated, Title 33, Chapter 22, Part 1 §33-22-114 (eff. July 1, 2011)

Coverage required for services provided by physician assistants, advanced practice registered nurses, and registered nurse first assistants. An insurer, a health service corporation, or any employee health and welfare fund that provides accident or health insurance benefits to residents of this state shall provide, in group and individual insurance contracts, coverage as well as payment or reimbursement for health services provided by:

- (1) A physician assistant as normally covered by contracts for services supplied by a physician if health care services that the physician assistant is approved to perform are covered by the contract;
- (2) An advanced practice registered nurse, defined in 37-8-102, as normally covered by contracts for services supplied by a physician or a physician assistant if health care services that the advanced practice registered nurse is approved to perform are covered by the contract; and
- (3) A registered nurse first assistant, licensed under Title 37, chapter 8, as normally covered by contracts for surgical services supplied by a physician, a physician assistant, or an advanced practice registered nurse if surgical services that the registered nurse first assistant is approved to perform are covered by the contract.

New Jersey:

13:35-4.1 Major surgery; qualified first assistant

(a) A major surgical procedure is one with a substantial hazard to the life, health or welfare of a patient. By way of example, but not limitation, a major surgical procedure includes:

- (1) A procedure in which an opening is made into any of the three major body cavities (abdomen, chest or head), exclusive of Endoscopic approaches which explore existing channels and involve no transverse of a body wall (for example, bronchoscopy, colonoscopy) or are exclusively diagnostic (for example, laparoscopy, colposcopy). With respect to non-diagnostic Endoscopic procedures requiring the transverse of a body wall, a duly qualified first assistant shall be immediately available in the operating suite;
- (2) A procedure performing a major amputation;

- (3) A procedure performed where the locality, the condition, the difficulty or the length of time required to operate would constitute a direct hazard to the life of the patient.
- (b) A major surgical procedure shall be performed by a duly qualified surgeon with a duly qualified assisting physician who may be a duly qualified resident in or rotating through a training program approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association.
- (c) In addition to those individuals listed in (b) above who may act as qualified first assistants, in a health care facility licensed by the Department of health, a duly qualified registered nurse first assistant (RNFA) or a duly qualified physician assistant may so act.
- (d) A duly qualified surgeon, duly qualified assistant physician, duly qualified resident, duly qualified registered nurse first assistant or duly qualified physician assistant shall be determined by the hospital credentials committee in conjunction with the chairman or chief of the appropriate committee in conjunction with the chairman or chief of the appropriate department or division consistent with the requirements of law or applicable rule.
- (e) It shall be the responsibility of each medical staff to promulgate appropriate rules to fully and carefully implement the requirements of (b), (c), and (d) above by determining which procedures shall be considered major surgery in accordance with (a) above, and determining the credentials of each individual qualified to act as first assistant for any given major surgical procedure. The medical staff and hospital board of trustees shall assure compliance by the individual first assistants with this rule of the Board and the rules of the hospital or other facility licensed by the Department of health.
- (f) In all instances in which a registered nurse first assistant or a physician assistant may act as first assistant pursuant to (c) above, the operation surgeon shall have discretion to determine whether to utilize such an individual as a first assistant, despite the fact that they are permitted to so act pursuant to this rule.
- (g) In the event of incapacity or unavailability of the operating surgeon during a major surgical procedure, the functions of a first assistant who is not a physician shall be limited to maintaining the status of the patient while a substitute operating surgeon is summoned, except in matters of dire emergency. "Dire emergency" shall include only those circumstances posing a significant risk of imminent death or serious bodily injury to the patient, such as uncontrolled bleeding.

See also http://www.state.nj.us/dobi/bulletins/blt05_17.pdf

Oregon:

HB3329 – Enacted 7/22/05

An insurer offering a health insurance policy that provides coverage for hospital, medical, or surgical expenses, other than coverage limited to expenses from accidents or specific diseases, shall provide payment or reimbursement for

professional services performed by a registered nurse whose certification as a registered nurse first assistant has been recognized by the Oregon State Board of Nursing under Section 5 of this 2005 Act.

New York:

Enacted 7/2016 via 1233A

New York Consolidated Laws, Insurance Law - ISC § 3221. Group or blanket accident and health insurance policies; standard provisions

No group or blanket policy delivered or issued for delivery in this state that provides reimbursement for non-physician surgical first assistant services when the services are provided by a non-physician surgical first assistant shall exclude such coverage on the basis that the non-physician surgical first assistant services were performed by a registered nurse first assistant provided that: (A) the registered nurse first assistant is certified in operating room nursing; (B) the services are within the scope of practice of a non-physician surgical first assistant; and (C) the terms and conditions of the policy otherwise provide for the coverage of the services. Nothing in this paragraph shall be construed to prevent the medical management or utilization review of the services or prevent a policy from requiring that services are to be provided through a network of participating providers who meet certain requirements for participation, including provider credentialing.

Rhode Island:

General Laws of Rhode Island, Title 27, Chapter 18, § 27-18-48.1 (Accidents and Sickness Insurance Policies)

[Very similar provisions for nonprofit hospitals, nonprofit medical corporations, and HMOs found at: § 27-19-40.1, § 27-20-35.1, and § 27-41-49.1 respectively]

- (a) Every individual or group hospital or medical services plan contract delivered, issued or renewed by an insurer or nonprofit health service corporation which provides benefits to individual subscribers and members within the state, or to all group members having a principal place of employment within the state, shall provide benefits for services rendered by a registered nurse first assistant designated as a registered nurse first assistant provided, however, that the following conditions are met:
 - (1) The registered nurse first assistant provides certain health care services under the supervision of a licensed physician; is currently licensed as a registered nurse in Rhode Island; has successfully completed a course in preparing the registered nurse as a first assistant in accordance with the Association of Operating Room Nurses core curriculum guide for the registered nurse first assistant and includes a minimum of one academic year in a college or university with didactic instruction and clinical internship programs; and is certified in perioperative nursing by the Certification Board Perioperative Nursing (minimum of two years perioperative experience);
 - (2) The policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the state; and
 - (3) The registered nurse first assistant is not a salaried employee of the

licensed hospital or facility for which the accident and sickness insurer has an alternative contractual relationship to fund the services of a registered nurse first assistant.

- (b) It shall remain within the sole discretion of the accident and sickness insurer as to which registered nurse first assistant it shall contract with.

Reimbursement shall be provided according to the respective principles and policies of the health maintenance organization; provided, however, that no accident and sickness insurer may be required to provide direct reimbursement, or pay for duplicative services actually rendered by a registered nurse first assistant and any other health care provider. Nothing contained in this section shall preclude the health maintenance organization from conducting managed care, medical necessity or utilization review.

- (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both; and (9) other limited benefit policies.

Texas:

Texas Statutes and Code, Insurance Code:

Title 6, Subtitle C, Chapter 843, Subchapter I, § 843.3045 – A health maintenance organization may not refuse to contract with a nurse first assistant, as defined by Section 301.1525, Occupations Code, to be included in the provider's network or refuse to reimburse the nurse first assistant for a covered service that a physician has requested the nurse first assistant to perform.

[Similar provision at § 1301.201 for preferred providers]

§ 1451.104. Nondiscriminatory payment or Reimbursement; Exception

Texas Statutes and Code, Labor Code

Title 5, Subtitle A, Chapter 408, Subchapter B, § 408.029 – § 1451.104.

NONDISCRIMINATORY PAYMENT OR REIMBURSEMENT; EXCEPTION.

- (a) An insurer may not classify, differentiate, or discriminate between scheduled services or procedures provided by a health care practitioner selected under this subchapter and performed in the scope of that practitioner's license and the same services or procedures provided by another type of health care practitioner whose services or procedures are covered by a health insurance policy, in regard to:

- (1) the payment schedule or payment provisions of the policy; or
- (2) the amount or manner of payment or reimbursement under the policy.

- (b) An insurer may not deny payment or reimbursement for services or procedures in accordance with the policy payment schedule or payment provisions solely because the services or procedures were performed by a health care practitioner selected under this subchapter.

- (c) Notwithstanding Subsection (a), a health insurance policy may

provide for a different amount of payment or reimbursement for scheduled services or procedures performed by an advanced practice nurse, nurse first assistant, licensed surgical assistant, or physician assistant if the methodology used to compute the amount is the same as the methodology used to compute the amount of payment or reimbursement when the services or procedures are provided by a physician. Added by Acts 2003, 78th Leg., ch. 1274, § 3, eff. April 1, 2005.

Washington:

Revised Code of Washington, Title 48, Chapter 48.41, § 48.41.110

- (3) The health insurance policy issued by the pool shall pay only reasonable amounts for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of illnesses, injuries, and conditions which are not otherwise limited or excluded. Eligible expenses are the reasonable amounts for the health care services and items for which benefits are extended under the pool policy. Such benefits shall at minimum include, but not be limited to, the following services or related items:
 - (b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers.

West Virginia (Medicaid only):

West Virginia Code, Chapter 9, Article 4B, § 9-4B-4

- (c) Nothing in this section gives the board the authority to interfere with the discretion and judgment given to the single state agency that administers the state's medicaid program. If the single state agency disapproves the recommendations or adjustments to the fee schedule, it is expressly authorized to make any modifications to fee schedules as are necessary to ensure that total financial requirements of the agency for the current fiscal year with respect to the state's medicaid plan are met and shall report the same to the joint committee on government and finance on a quarterly basis: *Provided*, That the single state agency shall provide reimbursement for the services of a registered nurse first assistant which reimbursement shall be no less than thirteen and six tenths of one percent of the rate for a surgeon physician. The purpose of the board is to assist and enhance the role of the single state agency in carrying out its mandate by acting as a means of communication between the medicaid provider community and the agency.