

S T A T E O F N E W Y O R K

6539--B

2011-2012 Regular Sessions

I N A S S E M B L Y

March 21, 2011

Introduced by M. of A. CAHILL, N. RIVERA, COOK, MARKEY, STEVENSON, WEISENBERG -- Multi-Sponsored by -- M. of A. CERETTO, COLTON, GIBSON, JOHNS, McENENY, TOBACCO -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to surgical technology and surgical technologists

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The public health law is amended by adding a new section
2 2823 to read as follows:
3 S 2823. SURGICAL TECHNOLOGY AND SURGICAL TECHNOLOGISTS. 1. AS USED
4 IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "HEALTH CARE FACILITY" MEANS A HOSPITAL, AMBULATORY SURGICAL
6 CENTER, OR FREESTANDING SURGICAL OUTPATIENT FACILITY.
7 (B) "SURGICAL TECHNOLOGIST" MEANS A PERSON WHO PERFORMS SURGICAL TECH-
8 NOLOGY OTHER THAN IN THE COURSE OF PRACTICING AS A HEALTH CARE PROFES-
9 SIONAL.
10 (C) "SURGICAL TECHNOLOGY" MEANS SURGICAL PATIENT CARE THAT INCLUDES,
11 BUT IS NOT LIMITED TO, THE FOLLOWING TASKS OR FUNCTIONS:
12 (I) PREPARING THE OPERATING ROOM FOR SURGICAL PROCEDURES BY ENSURING
13 THAT SURGICAL EQUIPMENT IS FUNCTIONING PROPERLY AND SAFELY;
14 (II) PREPARING THE OPERATING ROOM AND THE STERILE FIELD FOR SURGICAL
15 PROCEDURES BY PREPARING STERILE SUPPLIES, INSTRUMENTS, AND EQUIPMENT
16 USING STERILE TECHNIQUE;
17 (III) ANTICIPATING THE NEEDS OF THE SURGICAL TEAM BASED ON KNOWLEDGE
18 OF HUMAN ANATOMY AND PATHOPHYSIOLOGY AND HOW THEY RELATE TO THE SURGICAL
19 PATIENT AND THE PATIENT'S SURGICAL PROCEDURE; AND
20 (IV) AS DIRECTED, PERFORMING TASKS AT THE STERILE FIELD INCLUDING:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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- 1 (A) IDENTIFYING AND CORRECTING BREACHES IN ASEPSIS;
2 (B) PASSING SUPPLIES, EQUIPMENT OR INSTRUMENTS;
3 (C) PREPARING AND CUTTING SUTURE MATERIAL;
4 (D) TRANSFERRING AND IRRIGATING WITH FLUIDS;
5 (E) TRANSFERRING, BUT NOT ADMINISTERING, DRUGS WITHIN THE STERILE
6 FIELD;
7 (F) HANDLING SPECIMENS;
8 (G) HOLDING RETRACTORS AND OTHER INSTRUMENTS THAT ARE PLACED ON OR
9 WITHIN THE PATIENT'S BODY BY A SURGEON OR OTHER HEALTH CARE PROFES-
10 SIONAL;
11 (H) CONNECTING DRAINS TO SUCTION APPARATUS; AND
12 (I) PERFORMING SPONGE, NEEDLE, SUPPLY, AND INSTRUMENT COUNTS WITH THE
13 REGISTERED NURSE.

14 (D) "HEALTH CARE PROFESSIONAL" MEANS A PERSON LICENSED, REGISTERED,
15 CERTIFIED OR AUTHORIZED TO PRACTICE A HEALTH CARE PROFESSION UNDER TITLE
16 EIGHT OF THE EDUCATION LAW, ACTING WITHIN THE SCOPE OF HIS OR HER PRAC-
17 TICE.

18 2. A PERSON MAY NOT FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTH
19 CARE FACILITY, AND A HEALTH CARE FACILITY SHALL NOT EMPLOY OR OTHERWISE
20 CONTRACT FOR THE SERVICES OF A SURGICAL TECHNOLOGIST, UNLESS THE PERSON
21 MEETS ONE OF THE FOLLOWING:

22 (A) HAS SUCCESSFULLY COMPLETED A NATIONALLY ACCREDITED EDUCATIONAL
23 PROGRAM FOR SURGICAL TECHNOLOGISTS AND HOLDS AND MAINTAINS THE CERTIFIED
24 SURGICAL TECHNOLOGIST CREDENTIAL ADMINISTERED BY THE NATIONAL BOARD OF
25 SURGICAL TECHNOLOGY AND SURGICAL ASSISTING OR ITS SUCCESSOR OR A
26 NATIONALLY ACCREDITED CREDENTIALING AGENCY ACCEPTABLE TO THE COMMISSION-
27 ER;

28 (B) HAS COMPLETED AN APPROPRIATE TRAINING PROGRAM FOR SURGICAL TECH-
29 NOLOGY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST
30 GUARD OR PUBLIC HEALTH SERVICE COMMISSIONED CORPS;

31 (C) PROVIDES EVIDENCE THAT THE PERSON WAS EMPLOYED AS A SURGICAL TECH-
32 NOLOGIST IN A HEALTH CARE FACILITY ON OR IN THE TWO YEARS IMMEDIATELY
33 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. IN FURTHERANCE OF THIS
34 CLAUSE, ANY EMPLOYER OF PERSONS PERFORMING SURGICAL TECHNOLOGY ON THE
35 EFFECTIVE DATE OF THIS SECTION SHALL CONFIRM IN WRITING TO SUCH EMPLOYEE
36 HIS OR HER EMPLOYMENT IN A CAPACITY PERFORMING SURGICAL TECHNOLOGY IN A
37 HEALTH CARE FACILITY AS OF THE EFFECTIVE DATE OF THIS SECTION; OR

38 (D) IS IN THE SERVICE OF THE FEDERAL GOVERNMENT, TO THE EXTENT THE
39 PERSON IS PERFORMING DUTIES RELATED TO THAT SERVICE.

40 A PERSON MAY BE EMPLOYED OR CONTRACTED TO PRACTICE SURGICAL TECHNOLOGY
41 DURING THE TWELVE MONTH PERIOD IMMEDIATELY FOLLOWING SUCCESSFUL
42 COMPLETION OF A SURGICAL TECHNOLOGY PROGRAM UNDER PARAGRAPH (A) OF THIS
43 SUBDIVISION, BUT MAY NOT CONTINUE TO BE EMPLOYED OR CONTRACTED WITH
44 BEYOND THAT PERIOD WITHOUT DOCUMENTATION THAT THE EMPLOYEE OR CONTRACTOR
45 HOLDS AND MAINTAINS THE CERTIFIED SURGICAL TECHNOLOGIST CREDENTIAL
46 REQUIRED IN PARAGRAPH (A) OF THIS SUBDIVISION.

47 3. A SURGICAL TECHNOLOGIST SHALL NOT PERFORM SURGICAL TECHNOLOGY
48 EXCEPT UNDER THE DIRECTION AND SUPERVISION OF A HEALTH CARE PROFESSIONAL
49 PERFORMING THE SURGERY OR ANOTHER HEALTH CARE PROFESSIONAL PARTICIPATING
50 IN THE SURGERY AND ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE TO
51 DIRECT AND SUPERVISE THE SURGICAL TECHNOLOGIST.

52 4. A PERSON WHO QUALIFIES TO FUNCTION AS A SURGICAL TECHNOLOGIST IN A
53 HEALTH CARE FACILITY UNDER PARAGRAPHS (B) OR (C) OF SUBDIVISION TWO OF
54 THIS SECTION MUST ANNUALLY COMPLETE FIFTEEN HOURS OF CONTINUING EDUCA-
55 TION TO REMAIN QUALIFIED TO PRACTICE AS A SURGICAL TECHNOLOGIST. A
56 HEALTH CARE FACILITY THAT EMPLOYS OR CONTRACTS WITH A PERSON TO PRACTICE

1 SURGICAL TECHNOLOGY SHALL VERIFY THAT THE PERSON MEETS THE CONTINUING
2 EDUCATION REQUIREMENTS OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS
3 SECTION OR, WHERE APPLICABLE, THAT THE PERSON HAS OBTAINED AND MAIN-
4 TAINED THE CERTIFIED SURGICAL TECHNOLOGIST CREDENTIAL.

5 5. A HEALTH CARE FACILITY MAY EMPLOY OR OTHERWISE CONTRACT WITH A
6 PERSON WHO DOES NOT MEET THE REQUIREMENTS OF SUBDIVISION TWO OF THIS
7 SECTION TO FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTH CARE FACILITY
8 IF:

9 (A) AFTER A DILIGENT AND THOROUGH EFFORT HAS BEEN MADE, THE HEALTH
10 CARE FACILITY IS UNABLE TO EMPLOY OR CONTRACT WITH A SUFFICIENT NUMBER
11 OF QUALIFIED SURGICAL TECHNOLOGISTS WHO MEET THE REQUIREMENTS OF THIS
12 SECTION AND THE HEALTH CARE FACILITY;

13 (B) THE HEALTH CARE FACILITY MAKES A WRITTEN RECORD OF ITS EFFORTS
14 UNDER PARAGRAPH (A) OF THIS SUBDIVISION AND RETAINS THE RECORD AT THE
15 HEALTH FACILITY; AND

16 (C) THE PERSON MEETS THE REQUIREMENTS OF SUBDIVISION TWO OF THIS
17 SECTION WITHIN TWO YEARS OF THE START OF EMPLOYMENT OR CONTRACTING.

18 6. NOTHING IN THIS SECTION SHALL PROHIBIT ANY HEALTH CARE PROFESSIONAL
19 FROM PERFORMING SURGICAL TECHNOLOGY TASKS OR FUNCTIONS IF THE PERSON IS
20 ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE. NOTHING IN THIS SECTION
21 SHALL MEAN AN UNLICENSED PROFESSIONAL MAY PERFORM TASKS OR FUNCTIONS
22 LIMITED TO THE SCOPE OF PRACTICE OF A HEALTH CARE PROFESSIONAL UNDER
23 TITLE EIGHT OF THE EDUCATION LAW.

24 7. A HEALTH CARE FACILITY WHO EMPLOYS OR CONTRACTS A SURGICAL TECHNOL-
25 OGIST SHALL, UPON REQUEST, VERIFY THE DATES OF EMPLOYMENT OR CONTRACT OF
26 SUCH PERSON.

27 8. THE DEPARTMENT SHALL ENFORCE THE PROVISIONS OF THIS SECTION.

28 S 2. This act shall take effect on the sixtieth day after it shall
29 have become a law.