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

9303

I N A S S E M B L Y

February 15, 2012

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Health

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:

Section 1. The public health law is amended by adding a new section 2823 to read as follows:

S 2823. SURGICAL TECHNOLOGY AND SURGICAL TECHNOLOGISTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HEALTH CARE FACILITY" MEANS A HOSPITAL AS DEFINED BY SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE SUBJECT TO THE OVERSIGHT AND REGULATION OF THE DEPARTMENT OR AN AMBULATORY SURGICAL CENTER ISSUED AN OPERATING CERTIFICATE PURSUANT TO THIS ARTICLE SUBJECT TO THE OVERSIGHT AND REGULATION OF THE DEPARTMENT.

(B) "SURGICAL TECHNOLOGIST" MEANS A PERSON WHO PERFORMS SURGICAL TECHNOLOGY OTHER THAN IN THE COURSE OF PRACTICING AS A HEALTH CARE PROFESSIONAL.

(C) "SURGICAL TECHNOLOGY" MEANS SURGICAL PATIENT CARE THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING TASKS OR FUNCTIONS:

(I) PREPARING THE OPERATING ROOM FOR SURGICAL PROCEDURES BY ENSURING THAT SURGICAL EQUIPMENT IS FUNCTIONING PROPERLY AND SAFELY;

(II) PREPARING THE OPERATING ROOM AND THE STERILE FIELD FOR SURGICAL PROCEDURES BY PREPARING STERILE SUPPLIES, INSTRUMENTS, AND EQUIPMENT USING STERILE TECHNIQUE;

(III) ANTICIPATING THE NEEDS OF THE SURGICAL TEAM BASED ON KNOWLEDGE OF HUMAN ANATOMY AND PATHOPHYSIOLOGY AND HOW THEY RELATE TO THE SURGICAL PATIENT AND THE PATIENT'S SURGICAL PROCEDURE; AND

(IV) AS DIRECTED, PERFORMING TASKS AT THE STERILE FIELD INCLUDING:

(A) IDENTIFYING AND CORRECTING BREACHES IN ASEPSIS;

(B) PASSING SUPPLIES, EQUIPMENT OR INSTRUMENTS;

(C) PREPARING AND CUTTING SUTURE MATERIAL;

(D) TRANSFERRING AND IRRIGATING WITH FLUIDS;

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

LBD14349-02-2

(E) TRANSFERRING, BUT NOT ADMINISTERING, DRUGS WITHIN THE STERILE FIELD;

(F) HANDLING SPECIMENS;

(G) HOLDING RETRACTORS AND OTHER INSTRUMENTS THAT ARE PLACED ON OR WITHIN THE PATIENT'S BODY BY A SURGEON OR OTHER HEALTH CARE PROFESSIONAL;

(H) CONNECTING DRAINS TO SUCTION APPARATUS; AND

(I) PERFORMING SPONGE, NEEDLE, SUPPLY, AND INSTRUMENT COUNTS WITH THE REGISTERED NURSE.

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

2. MINIMUM STANDARDS FOR CERTIFICATION OF SURGICAL TECHNOLOGISTS. A PERSON MAY NOT FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTH CARE FACILITY, AND A HEALTH CARE FACILITY SHALL NOT EMPLOY OR OTHERWISE CONTRACT FOR THE SERVICES OF A SURGICAL TECHNOLOGIST, UNLESS THE PERSON MEETS ONE OF THE FOLLOWING:

(A) HAS SUCCESSFULLY COMPLETED A NATIONALLY ACCREDITED EDUCATIONAL PROGRAM FOR SURGICAL TECHNOLOGISTS AND HOLDS AND MAINTAINS A CERTIFIED SURGICAL TECHNOLOGIST CREDENTIAL ADMINISTERED BY A SURGICAL TECHNOLOGIST CREDENTIALING ORGANIZATION ACCREDITED BY THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES AND ACCEPTABLE TO THE COMMISSIONER;

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

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

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

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

3. A PERSON WHO QUALIFIES TO FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTH CARE FACILITY MUST ANNUALLY COMPLETE FIFTEEN HOURS OF CONTINUING EDUCATION TO REMAIN QUALIFIED TO PRACTICE AS A SURGICAL TECHNOLOGIST. A HEALTH CARE FACILITY THAT EMPLOYS OR CONTRACTS WITH A PERSON TO PRACTICE SURGICAL TECHNOLOGY SHALL VERIFY THAT THE PERSON MEETS THE CONTINUING EDUCATION REQUIREMENTS OF THIS SUBDIVISION.

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

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

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

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

5. NOTHING IN THIS SECTION SHALL PROHIBIT ANY HEALTH CARE PROFESSIONAL FROM PERFORMING SURGICAL TECHNOLOGY TASKS OR FUNCTIONS IF THE PERSON IS ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE. NOTHING IN THIS SECTION SHALL MEAN THAT ANY INDIVIDUAL NOT LICENSED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW MAY PERFORM TASKS OR FUNCTIONS LIMITED TO THE SCOPE OF PRACTICE OF A HEALTH CARE PROFESSIONAL UNDER SUCH TITLE.

6. A HEALTH CARE FACILITY WHO EMPLOYS OR CONTRACTS A SURGICAL TECHNOLOGIST SHALL, UPON REQUEST OF A SURGICAL TECHNOLOGIST EMPLOYED BY, FORMERLY EMPLOYED BY OR CONTRACTED TO PERFORM SURGICAL TECHNOLOGY TASKS AT THE HEALTH CARE FACILITY, VERIFY THE DATES OF EMPLOYMENT OR CONTRACT OF SUCH PERSON.

7. ENFORCEMENT. THE DEPARTMENT SHALL ENFORCE THE PROVISIONS OF THIS SECTION.

8. RULEMAKING AUTHORITY. THE COMMISSIONER SHALL MAKE, ADOPT, PROMULGATE AND ENFORCE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 2. This act shall take effect on the first day of the eighteenth month after it shall have become a law.