

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

9303--A

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 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, 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 2824 to read as follows:
3 S 2824. SURGICAL TECHNOLOGY AND SURGICAL TECHNOLOGISTS. 1. DEFINI-
4 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
5 FOLLOWING MEANINGS:
6 (A) "HEALTH CARE FACILITY" MEANS A HOSPITAL AS DEFINED BY SUBDIVISION
7 ONE OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE SUBJECT TO THE
8 OVERSIGHT AND REGULATION OF THE DEPARTMENT OR AN AMBULATORY SURGICAL
9 CENTER ISSUED AN OPERATING CERTIFICATE PURSUANT TO THIS ARTICLE SUBJECT
10 TO THE OVERSIGHT AND REGULATION OF THE DEPARTMENT.
11 (B) "SURGICAL TECHNOLOGIST" MEANS A PERSON WHO PERFORMS SURGICAL TECH-
12 NOLOGY OTHER THAN IN THE COURSE OF PRACTICING AS A HEALTH CARE PROFES-
13 SIONAL.
14 (C) "SURGICAL TECHNOLOGY" MEANS SURGICAL PATIENT CARE THAT INCLUDES,
15 BUT IS NOT LIMITED TO, THE FOLLOWING TASKS OR FUNCTIONS:
16 (I) PREPARING THE OPERATING ROOM FOR SURGICAL PROCEDURES BY ENSURING
17 THAT SURGICAL EQUIPMENT IS FUNCTIONING PROPERLY AND SAFELY;
18 (II) PREPARING THE OPERATING ROOM AND THE STERILE FIELD FOR SURGICAL
19 PROCEDURES BY PREPARING STERILE SUPPLIES, INSTRUMENTS, AND EQUIPMENT
20 USING STERILE TECHNIQUE;
21 (III) ANTICIPATING THE NEEDS OF THE SURGICAL TEAM BASED ON KNOWLEDGE
22 OF HUMAN ANATOMY AND PATHOPHYSIOLOGY AND HOW THEY RELATE TO THE SURGICAL
23 PATIENT AND THE PATIENT'S SURGICAL PROCEDURE; AND
24 (IV) AS DIRECTED, PERFORMING TASKS AT THE STERILE FIELD INCLUDING:
25 (A) IDENTIFYING AND CORRECTING BREACHES IN ASEPSIS;
26 (B) PASSING SUPPLIES, EQUIPMENT OR INSTRUMENTS;

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

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

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

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

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

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

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

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

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

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

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

55 (A) AFTER A DILIGENT AND THOROUGH EFFORT HAS BEEN MADE, THE HEALTH
56 CARE FACILITY IS UNABLE TO EMPLOY OR CONTRACT WITH A SUFFICIENT NUMBER

1 OF QUALIFIED SURGICAL TECHNOLOGISTS WHO MEET THE REQUIREMENTS OF THIS
2 SECTION AND THE HEALTH CARE FACILITY;

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

6 (C) THE PERSON MEETS THE REQUIREMENTS OF SUBDIVISION TWO OF THIS
7 SECTION WITHIN TWO YEARS OF THE START OF EMPLOYMENT OR CONTRACTING FOR
8 THE PERFORMANCE OF SURGICAL TECHNOLOGY.

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

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

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

22 8. RULEMAKING AUTHORITY. THE COMMISSIONER SHALL MAKE, ADOPT, PROMUL-
23 GATE AND ENFORCE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM APPRO-
24 PRIATE TO EFFECTUATE THE PURPOSES OF THIS SECTION.

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