

5185--A

2013-2014 Regular Sessions

I N S E N A T E

May 14, 2013

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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 TIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
5 FOLLOWING MEANINGS:

6 (A) "HEALTHCARE FACILITY" MEANS A GENERAL HOSPITAL AS DEFINED BY  
7 SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE OR A  
8 HOSPITAL AS DEFINED BY SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED  
9 ONE OF THIS ARTICLE OPERATING AS A DIAGNOSTIC AND TREATMENT CENTER  
10 AUTHORIZED TO PROVIDE AMBULATORY SURGICAL SERVICES.

11 (B) "SURGICAL TECHNOLOGIST" MEANS A PERSON WHO PERFORMS SURGICAL TECH-  
12 NOLOGY OTHER THAN IN THE COURSE OF PRACTICING AS A HEALTHCARE PROFES-  
13 SIONAL.

14 (C) "SURGICAL TECHNOLOGY" MEANS THE FOLLOWING SURGERY RELATED TASKS  
15 AND FUNCTIONS:

16 (I) ASSISTING HEALTHCARE PROFESSIONALS TO PREPARE THE OPERATING ROOM  
17 AND STERILE FIELD FOR SURGICAL PROCEDURES, INCLUDING ASSISTING HEALTH-  
18 CARE PROFESSIONALS TO SET UP STERILE SUPPLIES, INSTRUMENTS AND EQUIPMENT  
19 USING STERILE TECHNIQUE AND ENSURING THAT SURGICAL EQUIPMENT FUNCTION  
20 PROPERLY AND SAFELY;

21 (II) ASSISTING HEALTHCARE PROFESSIONALS TO MOVE AND POSITION PATIENTS  
22 FOR SURGERY;

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

LBD10941-03-3

1 (III) ASSISTING HEALTHCARE PROFESSIONALS TO PERFORM NON-INVASIVE PREP-  
2 PING OF THE SKIN'S SURFACE AND DRAPING PATIENTS FOR SURGERY;

3 (IV) ASSISTING THE SURGEON'S PROVISION OF HEMOSTASIS DURING SURGERY BY  
4 HANDING INSTRUMENTS;

5 (V) HOLDING A RETRACTOR AFTER PLACEMENT BY A HEALTHCARE PROFESSIONAL;

6 (VI) ANTICIPATING INSTRUMENT NEEDS OF A SURGEON; AND

7 (VII) OTHER TASKS INCIDENTAL TO SURGERY THAT DO NOT FALL WITHIN THE  
8 SCOPE OF PRACTICE OF A LICENSED PROFESSION, AS DIRECTED BY THE SURGEON.  
9 SERVICES THAT FALL WITHIN THE PRACTICE OF LICENSED PROFESSIONS INCLUDE,  
10 BUT ARE NOT LIMITED TO:

11 (A) RETRACTING TISSUE TO EXPOSE THE OPERATING FIELD DURING A SURGICAL  
12 PROCEDURE;

13 (B) ADMINISTERING ANY MEDICATION BY ANY ROUTE, INCLUDING LOCAL AND  
14 TOPICAL MEDICATIONS;

15 (C) PLACING HEMOSTATIC INSTRUMENTS OR DEVICES OR APPLYING CAUTERY OR  
16 TYING OFF BLEEDERS;

17 (D) APPLYING SUTURES OR ASSISTING WITH OR PERFORMING WOUND CLOSURE;

18 (E) ASSISTING THE SURGEON IN IDENTIFYING STRUCTURES THAT SHOULD NOT BE  
19 LIGATED; AND

20 (F) APPLYING WOUND DRESSINGS.

21 (D) "HEALTHCARE PROFESSIONAL" MEANS A PERSON LICENSED OR CERTIFIED TO  
22 PRACTICE A HEALTHCARE PROFESSION UNDER TITLE EIGHT OF THE EDUCATION LAW,  
23 ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE.

24 2. A SURGICAL TECHNOLOGIST SHALL NOT PERFORM SURGICAL TECHNOLOGY  
25 EXCEPT UNDER THE DIRECTION AND SUPERVISION OF AN APPROPRIATELY LICENSED  
26 HEALTHCARE PROFESSIONAL PARTICIPATING IN THE SURGERY AND ACTING WITHIN  
27 THE SCOPE OF HIS OR HER PRACTICE TO DIRECT AND SUPERVISE THE SURGICAL  
28 TECHNOLOGIST.

29 3. MINIMUM STANDARDS FOR CERTIFICATION OF SURGICAL TECHNOLOGISTS. A  
30 PERSON MAY NOT FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTHCARE  
31 FACILITY, AND A HEALTHCARE FACILITY SHALL NOT EMPLOY OR OTHERWISE  
32 CONTRACT FOR THE SERVICES OF A SURGICAL TECHNOLOGIST, UNLESS THE PERSON  
33 MEETS ONE OF THE FOLLOWING:

34 (A) HAS SUCCESSFULLY COMPLETED A NATIONALLY ACCREDITED EDUCATIONAL  
35 PROGRAM FOR SURGICAL TECHNOLOGISTS AND HOLDS AND MAINTAINS A CERTIFIED  
36 SURGICAL TECHNOLOGIST CREDENTIAL ADMINISTERED BY A NATIONALLY ACCREDITED  
37 SURGICAL TECHNOLOGIST CREDENTIALING ORGANIZATION;

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

41 (C) PROVIDES EVIDENCE THAT THE PERSON WAS EMPLOYED AS A SURGICAL TECH-  
42 NOLOGIST IN A HEALTHCARE FACILITY FOR A CUMULATIVE PERIOD OF ONE YEAR,  
43 OCCURRING WITHIN THE FOUR YEARS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE  
44 OF THIS SECTION. IN FURTHERANCE OF THIS PARAGRAPH, ANY EMPLOYER OF  
45 PERSONS PERFORMING SURGICAL TECHNOLOGY ON THE EFFECTIVE DATE OF THIS  
46 SECTION SHALL CONFIRM IN WRITING TO EACH EMPLOYEE HIS OR HER EMPLOYMENT  
47 IN A CAPACITY PERFORMING SURGICAL TECHNOLOGY IN A HEALTHCARE FACILITY AS  
48 OF THE EFFECTIVE DATE OF THIS SECTION; OR

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

51 4. A PERSON MAY BE EMPLOYED OR CONTRACTED TO PRACTICE SURGICAL TECH-  
52 NOLOGY DURING THE TWELVE MONTH PERIOD IMMEDIATELY FOLLOWING SUCCESSFUL  
53 COMPLETION OF A SURGICAL TECHNOLOGY PROGRAM UNDER PARAGRAPH (A) OF  
54 SUBDIVISION THREE OF THIS SECTION, BUT MAY NOT CONTINUE TO BE EMPLOYED  
55 OR CONTRACTED WITH BEYOND THAT PERIOD WITHOUT DOCUMENTATION THAT THE  
56 EMPLOYEE OR CONTRACTOR HOLDS AND MAINTAINS A CERTIFIED SURGICAL TECHNOL-

1 OGIST CREDENTIAL REQUIRED IN PARAGRAPH (A) OF SUBDIVISION THREE OF THIS  
2 SECTION.

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

9 6. (A) A SURGICAL TECHNOLOGIST SHALL DOCUMENT IN WRITING GOOD CAUSE  
10 THAT PREVENTS COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENT AS  
11 PRESCRIBED IN SUBDIVISION FIVE OF THIS SECTION, WHICH SHALL INCLUDE ANY  
12 OF THE FOLLOWING REASONS: A MEDICAL CONDITION WHICH REQUIRES AN EXTENDED  
13 LEAVE OF ABSENCE AND IS DOCUMENTED BY AN APPROPRIATE HEALTHCARE PROFES-  
14 SIONAL, OR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED  
15 STATES. IF ONE OF THESE CONDITIONS IS MET, AN EXTENSION TO MEETING THE  
16 CONTINUING EDUCATION REQUIREMENT, AS PRESCRIBED IN SUBDIVISION FIVE OF  
17 THIS SECTION MAY BE GRANTED BY:

18 (I) THE ACCREDITING AGENCY OF A SURGICAL TECHNOLOGIST QUALIFYING UNDER  
19 PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION; OR

20 (II) A HEALTHCARE FACILITY FOR A SURGICAL TECHNOLOGIST UNDER PARAGRAPH  
21 (C) OF SUBDIVISION THREE OF THIS SECTION.

22 (B) IF AN EXTENSION IS GRANTED, A SURGICAL TECHNOLOGIST SHALL COMPLETE  
23 ALL PAST DUE CONTINUING EDUCATION REQUIREMENTS WITHIN NINETY DAYS UPON  
24 RESOLUTION OF THE MEDICAL CONDITION OR TERMINATION OF EXTENDED ACTIVE  
25 DUTY WITH THE ARMED FORCES OF THE UNITED STATES.

26 7. A HEALTHCARE FACILITY MAY EMPLOY OR OTHERWISE CONTRACT WITH A  
27 PERSON WHO DOES NOT MEET THE REQUIREMENTS OF SUBDIVISION THREE OF THIS  
28 SECTION TO FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTHCARE FACILITY  
29 IF:

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

34 (B) THE HEALTHCARE FACILITY MAKES A WRITTEN RECORD OF ITS EFFORTS  
35 UNDER PARAGRAPH (A) OF THIS SUBDIVISION AND RETAINS THE RECORD AT THE  
36 HEALTHCARE FACILITY; AND

37 (C) THE PERSON MEETS THE REQUIREMENTS OF SUBDIVISION THREE OF THIS  
38 SECTION WITHIN TWO YEARS OF THE START OF EMPLOYMENT OR CONTRACTING FOR  
39 THE PERFORMANCE OF SURGICAL TECHNOLOGY.

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

46 9. A HEALTHCARE FACILITY THAT EMPLOYS OR CONTRACTS WITH A SURGICAL  
47 TECHNOLOGIST SHALL, UPON REQUEST OF ANOTHER HEALTHCARE FACILITY, OR UPON  
48 REQUEST OF A SURGICAL TECHNOLOGIST EMPLOYED BY, FORMERLY EMPLOYED BY OR  
49 CONTRACTED WITH TO PERFORM SURGICAL TECHNOLOGY TASKS AT THE HEALTHCARE  
50 FACILITY, VERIFY THE DATES OF EMPLOYMENT OR CONTRACT OF SUCH PERSON.

51 10. THE COMMISSIONER SHALL PROMULGATE REGULATIONS AS HE OR SHE MAY  
52 DEEM APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS SECTION.

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