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 2824 to read as follows:

S 2824. SURGICAL TECHNOLOGY AND SURGICAL TECHNOLOGISTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

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

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

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

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

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

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
(IV) HOLDING A RETRACTOR TO EXPOSE THE OPERATING FIELD, AS DIRECTED BY
THE SURGEON;
(V) ASSISTING THE SURGEON'S PROVISION OF HEMOSTASIS DURING SURGERY BY
HANDING INSTRUMENTS;
(VI) HOLDING A RETRACTOR AFTER PLACEMENT BY A HEALTHCARE PROFESSIONAL;
(VII) ANTICIPATING INSTRUMENT NEEDS OF A SURGEON; AND
(VIII) OTHER TASKS INCIDENTAL TO SURGERY THAT DO NOT FALL WITHIN THE
SCOPE OF PRACTICE OF A LICENSED PROFESSION, AS DIRECTED BY THE SURGEON.
SERVICES THAT FALL WITHIN THE PRACTICE OF LICENSED PROFESSIONS INCLUDE,
BUT ARE NOT LIMITED TO:
(A) RETRACTING TISSUE TO EXPOSE THE OPERATING FIELD DURING A SURGICAL
PROCEDURE;
(B) ADMINISTERING ANY MEDICATION BY ANY ROUTE, INCLUDING LOCAL AND
TOPICAL MEDICATIONS;
(C) PLACING HEMOSTATIC INSTRUMENTS OR DEVICES OR APPLYING CAUTERY OR
TYING OFF BLEEDERS;
(D) APPLYING SUTURES OR ASSISTING WITH OR PERFORMING WOUND CLOSURE;
(E) ASSISTING THE SURGEON IN IDENTIFYING STRUCTURES THAT SHOULD NOT BE
LIGATED; AND
(F) APPLYING WOUND DRESSINGS.
(D) "HEALTHCARE PROFESSIONAL" MEANS A PERSON LICENSED OR CERTIFIED TO
PRACTICE A HEALTHCARE PROFESSION UNDER TITLE EIGHT OF THE EDUCATION LAW,
ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE.

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

3. MINIMUM STANDARDS FOR CERTIFICATION OF SURGICAL TECHNOLOGISTS. A
PERSON MAY NOT FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTHCARE
FACILITY, AND A HEALTHCARE 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 NATIONALLY ACCREDITED
SURGICAL TECHNOLOGIST CREDENTIALING ORGANIZATION;
(B) HAS COMPLETED AN APPROPRIATE TRAINING PROGRAM FOR SURGICAL TECH-
NOLOGY 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 TECH-
NOLOGIST IN A HEALTHCARE FACILITY FOR A CUMULATIVE PERIOD OF TWO YEARS,
OCCURRING WITHIN THE FOUR YEARS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE
OF THIS SECTION. IN FURTHERANCE OF THIS PARAGRAPH, ANY EMPLOYER OF
PERSONS PERFORMING SURGICAL TECHNOLOGY ON THE EFFECTIVE DATE OF THIS
SECTION SHALL CONFIRM IN WRITING TO EACH EMPLOYEE HIS OR HER EMPLOYMENT
IN A CAPACITY PERFORMING SURGICAL TECHNOLOGY IN A HEALTHCARE 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.

4. A PERSON MAY BE EMPLOYED OR CONTRACTED TO PRACTICE SURGICAL TECH-
NOLOGY DURING THE TWELVE MONTH PERIOD IMMEDIATELY FOLLOWING SUCCESSFUL
COMPLETION OF A SURGICAL TECHNOLOGY PROGRAM UNDER PARAGRAPH (A) OF
SUBDIVISION THREE OF THIS SECTION, 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 TECHNOL-
OGIST CREDENTIAL REQUIRED IN PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION.

5. A PERSON WHO QUALIFIES TO FUNCTION AS A SURGICAL TECHNOLOGIST IN A HEALTHCARE FACILITY MUST ANNUALLY COMPLETE FIFTEEN HOURS OF CONTINUING EDUCATION TO REMAIN QUALIFIED TO PRACTICE AS A SURGICAL TECHNOLOGIST. A HEALTHCARE 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.

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

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

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

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

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

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

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

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

8. NOTHING IN THIS SECTION SHALL PROHIBIT ANY HEALTHCARE 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 HEALTHCARE PROFESSIONAL UNDER SUCH TITLE.

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

10. THE COMMISSIONER SHALL PROMULGATE 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.