*** § 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;

(iv) assisting the surgeon's provision of hemostasis during surgery by handing instruments;

(v) holding a retractor after placement by a healthcare professional;

(vi) anticipating instrument needs of a surgeon; and

(vii) 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 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 healthcare facility for a cumulative period of one year, 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

technology 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 technologist 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.

* NB There are 2 § 2824's