

A-Engrossed
Senate Bill 353

Ordered by the Senate May 4
Including Senate Amendments dated May 4

Sponsored by Senator MORRISETTE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits certain health care facilities from employing **or contracting with** surgical technologist unless surgical technologist meets certain requirements.
Prohibits health care facility from allowing surgical technologist to serve as circulating nurse.
Imposes civil penalty for certain violations by health care facility.
Directs Department of Human Services to impose and collect fees for purposes of Act.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to surgical technologists; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 8 of this 2007 Act:**

5 (1) **"Health care facility" means:**

6 (a) **A hospital, as defined in ORS 442.015; or**

7 (b) **An ambulatory surgical center, as defined in ORS 442.015.**

8 (2) **"Surgical technologist" means a person who practices surgical technology.**

9 (3) **"Surgical technology" means the practice of surgical patient care involving:**

10 (a) **Preparation of the operating room and the sterile field for surgical procedures by**
11 **preparing sterile supplies, instruments and equipment using sterile techniques;**

12 (b) **Preparation of the operating room for surgical procedures by ensuring that surgical**
13 **equipment is functioning properly and safely; and**

14 (c) **Performance of tasks as directed in an operating room, including passing instru-**
15 **ments, equipment or supplies, sponging or suctioning an operative site, preparing and cutting**
16 **suture material, transferring fluids or drugs, holding retractors, and assisting in counting**
17 **sponges, needles, supplies and instruments.**

18 **SECTION 2. Except as provided in section 3 of this 2007 Act, a health care facility may**
19 **not employ or contract with a person as a surgical technologist unless the person:**

20 (1)(a) **Has successfully completed an educational program for surgical technologists ad-**
21 **ministered by a national organization approved by the Department of Human Services; and**

22 (b) **Holds and maintains a certified surgical technologist credential issued by a national**
23 **organization approved by the department; or**

24 (2) **Has completed an appropriate training program for surgical technologists in the**
25 **Army, Navy, Air Force, Marine Corps or Coast Guard of the United States or in the United**
26 **States Public Health Service Commissioned Corps.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **SECTION 3.** (1) A health care facility may employ or contract with a surgical
2 technologist who does not meet the requirements of section 2 of this 2007 Act if:

3 (a) After making a diligent and thorough effort, the health care facility is unable to em-
4 ploy or contract with a sufficient number of surgical technologists who meet the require-
5 ments of section 2 of this 2007 Act; and

6 (b) The health care facility petitions the Department of Human Services for a waiver
7 from the requirements of section 2 of this 2007 Act based on the inability to employ or con-
8 tract with a sufficient number of surgical technologists who meet the requirements of sec-
9 tion 2 of this 2007 Act.

10 (2) The health care facility shall demonstrate to the department that the facility has
11 made a diligent and thorough effort to employ or contract with surgical technologists who
12 meet the requirements of section 2 of this 2007 Act.

13 (3) The department may not grant a waiver under this section if the department finds
14 that the health care facility has not made a diligent and thorough effort to employ or con-
15 tract with surgical technologists who meet the requirements of section 2 of this 2007 Act.

16 (4) A waiver under this section may not exempt a health care facility from the require-
17 ments of section 2 of this 2007 Act for a period exceeding six months.

18 (5) The department may grant additional waivers under this section, but exemptions to-
19 taling more than 12 consecutive months must be accompanied by a finding by the department
20 that no viable alternative to a waiver is available.

21 **SECTION 4.** (1) A person employed by or under contract with a health care facility as a
22 surgical technologist must complete 15 hours annually of continuing education approved by
23 a national organization approved by the Department of Human Services to remain qualified
24 for employment as a surgical technologist or to continue under contract as a surgical
25 technologist.

26 (2) Continued certification as a surgical technologist as described in section 2 (1) of this
27 2007 Act constitutes sufficient evidence of completion of the continuing education require-
28 ment under subsection (1) of this section.

29 (3) A health care facility that employs or contracts with a person as a surgical
30 technologist shall verify that the person has met the continuing education requirement un-
31 der subsection (1) of this section each year on the anniversary of the person's employment
32 or entry into the contract.

33 (4) A health care facility shall adopt policies to ensure that the facility and persons em-
34 ployed by or under contract with the facility as surgical technologists comply with this sec-
35 tion. A health care facility may allow a grace period of up to six months for a person to
36 comply with the requirements of subsection (1) of this section.

37 **SECTION 5.** (1) A health care facility shall supervise each surgical technologist employed
38 by or under contract with the facility according to the facility's policies and procedures.

39 (2) A surgical technologist may perform only those tasks in the operating room that are
40 within the surgical technologist's scope of practice.

41 **SECTION 6.** (1) A health care facility may not permit a surgical technologist to serve as
42 a circulating nurse.

43 (2) A surgical technologist may assist in the performance of the duties of a circulating
44 nurse consistent with the surgical technologist's education, training and experience and as
45 assigned and supervised by the circulating nurse, provided that the circulating nurse is

1 present in the operating room.

2 (3) As used in this section, “circulating nurse” has the meaning given that term in ORS
3 678.362.

4 SECTION 7. Sections 1 to 8 of this 2007 Act do not prohibit a licensed practitioner, as
5 defined in ORS 688.405, from practicing surgical technology consistent with the licensed
6 practitioner’s license and scope of practice.

7 SECTION 8. (1) The Department of Human Services may impose a civil penalty not to
8 exceed \$5,000 for each violation by a health care facility of any provision of section 2, 4, 5
9 or 6 of this 2007 Act.

10 (2) Civil penalties under this section shall be imposed in the manner provided by ORS
11 183.745.

12 SECTION 9. Sections 1 to 8 of this 2007 Act do not apply to a person who is employed
13 as or under contract as a surgical technologist, as defined in section 1 of this 2007 Act, by
14 the federal government and who is performing duties as a surgical technologist.

15 SECTION 10. (1) A health care facility may employ or contract with a person as a sur-
16 gical technologist who does not meet the requirements of section 2 of this 2007 Act if the
17 health care facility provides sufficient evidence to the Department of Human Services that
18 the person, during two of the five years immediately preceding the effective date of this 2007
19 Act, was employed as or under contract as a surgical technologist in a health care facility.

20 (2) A health care facility may not hire a person described in subsection (1) of this section
21 as a surgical technologist on or after January 1, 2008.

22 SECTION 11. (1) The Department of Human Services shall impose and collect fees to be
23 used to meet the costs of carrying out the duties of the department under sections 2, 3, 4,
24 8 and 10 of this 2007 Act.

25 (2) The fees may not exceed the costs of carrying out the department’s duties imposed
26 by sections 2, 3, 4, 8 and 10 of this 2007 Act.

27 SECTION 12. (1) Sections 1, 2, 3, 5, 6, 7, 8, 9 and 11 of this 2007 Act become operative on
28 January 1, 2008.

29 (2) Section 4 of this 2007 Act becomes operative on January 1, 2009.

30 SECTION 13. This 2007 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
32 on its passage.
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