

Senate Bill 353

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 **as introduced**.

Prohibits certain health care facilities from employing 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.

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:**

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

4
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 perioperative surgical patient care in-
10 volving:

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

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

15 (c) Performance of tasks as directed in an operating room, including but not limited to
16 passing instruments, equipment or supplies, sponging or suctioning an operative site, pre-
17 paring and cutting suture material, transferring fluids or drugs, holding retractors, and as-
18 sisting in counting sponges, needles, supplies and instruments.

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

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

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

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

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

30 (a) After making a diligent and thorough effort, the health care facility is unable to em-

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 **ploy a sufficient number of surgical technologists who meet the requirements of section 2**
2 **of this 2007 Act; and**

3 **(b) The health care facility petitions the Department of Human Services for a waiver**
4 **from the requirements of section 2 of this 2007 Act based on the inability to employ a suffi-**
5 **cient number of surgical technologists who meet the requirements of section 2 of this 2007**
6 **Act.**

7 **(2) The health care facility shall demonstrate to the department that the facility has**
8 **made a diligent and thorough effort has been made to employ surgical technologists who**
9 **meet the requirements of section 2 of this 2007 Act.**

10 **(3) The department may not grant a waiver under this section if the department finds**
11 **that the health care facility has not made a diligent and thorough effort to employ surgical**
12 **technologists who meet the requirements of section 2 of this 2007 Act.**

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

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

18 **SECTION 4. (1) A person employed by a health care facility as a surgical technologist**
19 **must complete 15 hours annually of continuing education approved by a national organization**
20 **approved by the Department of Human Services to remain qualified for employment as a**
21 **surgical technologist.**

22 **(2) Continued certification as a surgical technologist as described in section 2 (1) of this**
23 **2007 Act constitutes sufficient evidence of completion of the continuing education require-**
24 **ment under subsection (1) of this section.**

25 **(3) A health care facility that employs a person as a surgical technologist shall verify**
26 **that the person has met the continuing education requirement under subsection (1) of this**
27 **section each year on the anniversary of the person's employment.**

28 **(4) A health care facility shall adopt policies to ensure that the facility and persons em-**
29 **ployed by the facility as surgical technologists comply with this section. A health care facility**
30 **may allow a grace period of up to six months for a person to comply with the requirements**
31 **of subsection (1) of this section.**

32 **SECTION 5. (1) A health care facility shall supervise each surgical technologist employed**
33 **by the facility according to the facility's policies and procedures.**

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

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

38 **(2) A surgical technologist may assist in the performance of the duties of a circulating**
39 **nurse consistent with the surgical technologist's education, training and experience and as**
40 **assigned and supervised by the circulating nurse, provided that the circulating nurse is**
41 **present in the operating room.**

42 **(3) As used in this section, "circulating nurse" has the meaning given that term in ORS**
43 **678.362.**

44 **SECTION 7. Sections 1 to 8 of this 2007 Act do not prohibit a licensed practitioner, as**
45 **defined in ORS 688.405, from practicing surgical technology consistent with the licensed**

1 practitioner's license and scope of practice.

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

5 (2) Civil penalties under this section shall be imposed in the manner provided by ORS
6 183.745.

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

10 **SECTION 10.** (1) A health care facility may employ a person as a surgical technologist
11 who does not meet the requirements of section 2 of this 2007 Act if the health care facility
12 provides sufficient evidence to the Department of Human Services that the person, during
13 two of the five years immediately preceding the effective date of this 2007 Act, was employed
14 as a surgical technologist in a health care facility.

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

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

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

20 **SECTION 12.** This 2007 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
22 on its passage.
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