

House Bill 2587

Sponsored by Representative CANNON, Senator MORRISETTE

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 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 7 of this 2009 Act:**

5 (1) **"Health care facility" means a hospital or an ambulatory surgical center, as those**
6 **terms are defined in ORS 442.015.**

7 (2) **"Surgical technologist" means a person who:**

8 (a) **Prepares an operating room or sterile field for surgical procedures by preparing**
9 **sterile supplies, instruments and equipment using sterile techniques;**

10 (b) **Prepares an operating room for surgical procedures by ensuring that surgical equip-**
11 **ment is functioning properly and safely; and**

12 (c) **Performs tasks as directed in an operating room, including passing instruments,**
13 **equipment or supplies, sponging or suctioning an operative site, preparing and cutting suture**
14 **material, transferring fluids or drugs, holding retractors and assisting in counting sponges,**
15 **needles, supplies and instruments.**

16 **SECTION 2. Except as provided in section 3 of this 2009 Act, a health care facility may**
17 **not employ or contract with a person as a surgical technologist unless the person:**

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

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

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

25 **SECTION 3. (1) A health care facility may employ or contract with a person as a surgical**
26 **technologist who does not meet the requirements of section 2 of this 2009 Act if:**

27 (a) **After making a diligent and thorough effort, the health care facility is unable to em-**
28 **ploy or contract with a sufficient number of surgical technologists who meet the require-**
29 **ments of section 2 of this 2009 Act; and**

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 (b) The health care facility petitions the Department of Human Services for a waiver
 2 from the requirements of section 2 of this 2009 Act based on the inability to employ or con-
 3 tract with a sufficient number of surgical technologists who meet the requirements of sec-
 4 tion 2 of this 2009 Act.

5 (2) The department may grant a waiver under this section only if the department finds
 6 that the health care facility has demonstrated that it has made a diligent and thorough effort
 7 to employ or contract with surgical technologists who meet the requirements of section 2
 8 of this 2009 Act.

9 (3) A waiver granted under this section may not exceed six months.

10 (4) The department may not grant additional waivers to a health care facility if, when the
 11 additional waiver period is added to previous waiver periods, the total waiver period exceeds
 12 12 consecutive months. However, the department may grant additional waivers under this
 13 subsection to a health care facility if the department finds that no viable alternative to a
 14 waiver is available.

15 **SECTION 4.** (1)(a) To remain qualified for employment as a surgical technologist or to
 16 continue under contract as a surgical technologist, a person employed by or under contract
 17 with a health care facility as a surgical technologist must complete 15 hours annually of
 18 continuing education approved by a national organization approved by the Department of
 19 Human Services.

20 (b) A person who maintains continued certification as a surgical technologist as described
 21 in section 2 (1) of this 2009 Act has satisfied the continuing education requirement of this
 22 subsection.

23 (2) A health care facility that employs or contracts with a person as a surgical
 24 technologist shall verify that the person has met the continuing education requirement un-
 25 der this section each year on the anniversary of the person's employment or entry into the
 26 contract.

27 (3) A health care facility shall adopt policies to ensure that the facility and persons em-
 28 ployed by or under contract with the facility as surgical technologists comply with this sec-
 29 tion. A health care facility may allow a grace period of up to six months for a person to
 30 comply with the continuing education requirements of this section.

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

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

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

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

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

43 **SECTION 7.** (1) The Department of Human Services may impose a civil penalty not to
 44 exceed \$5,000 for each violation by a health care facility of any provision of section 2, 4, 5
 45 or 6 of this 2009 Act.

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

3 **SECTION 8.** (1) Sections 1 to 7 of this 2009 Act do not apply to:

4 (a) A licensed practitioner, as defined in ORS 688.405, who is performing the duties of a
5 surgical technologist consistent with the licensed practitioner's license and scope of practice;
6 or

7 (b) A person who is employed by or under contract with the federal government and who
8 is performing duties as a surgical technologist.

9 (2) As used in this section, "surgical technologist" has the meaning given that term in
10 section 1 of this 2009 Act.

11 **SECTION 9.** (1) A health care facility may employ or contract with a person as a surgical
12 technologist who does not meet the requirements of section 2 of this 2009 Act if the health
13 care facility provides sufficient evidence to the Department of Human Services that the
14 person, during two of the three years immediately preceding the effective date of this 2009
15 Act, was employed as or under contract as a surgical technologist in a health care facility.

16 (2) A health care facility may not hire or contract with a person described in subsection
17 (1) of this section as a surgical technologist on or after January 1, 2010.

18 (3) As used in this section:

19 (a) "Health care facility" has the meaning given that term in section 1 of this 2009 Act.

20 (b) "Surgical technologist" has the meaning given that term in section 1 of this 2009 Act.

21 **SECTION 10.** (1) The Department of Human Services shall impose and collect fees to be
22 used to meet the costs of carrying out the duties of the department under sections 2, 3, 4,
23 7 and 9 of this 2009 Act.

24 (2) The fees may not exceed the costs of carrying out the department's duties imposed
25 by sections 2, 3, 4, 7 and 9 of this 2009 Act.

26 **SECTION 11.** (1) Sections 1, 2, 3, 5, 6, 7, 8 and 10 of this 2009 Act become operative on
27 January 1, 2010.

28 (2) Section 4 of this 2009 Act becomes operative on January 1, 2011.

29 **SECTION 12.** The Department of Human Services may take any action before the oper-
30 ative dates in section 11 of this 2009 Act that is necessary to enable the department to ex-
31 ercise on or after the operative dates in section 11 of this 2009 Act, all of the duties,
32 functions and powers conferred on the department by this 2009 Act.

33 **SECTION 13.** This 2009 Act being necessary for the immediate preservation of the public
34 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
35 on its passage.

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