

# Senate Bill 379

Sponsored by Senators MORRISETTE, BATES, Representatives CANNON, GELSER; Senator PROZANSKI, Representatives BOONE, BUCKLEY

## 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 administering regulation of surgical technologists.

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-**

**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 ments of section 2 of this 2009 Act; and

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

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

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

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

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

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

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

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

32 **SECTION 5.** (1) A health care facility shall supervise each surgical technologist employed  
 33 by or under contract with 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.** (1) The Department of Human Services may impose a civil penalty not to  
 45 exceed \$5,000 for each violation by a health care facility of any provision of section 2, 4, 5

1 or 6 of this 2009 Act.

2 (2) Civil penalties under this section shall be imposed in the manner provided by ORS  
3 183.745.

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

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

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

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

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

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

19 (3) As used in this section:

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

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

22 **SECTION 10.** (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 7 and 9 of this 2009 Act.

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

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

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

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

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

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