



Ohio Legislative Service Commission

Bill Analysis

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H.B. 373

131st General Assembly
(As Introduced)

Reps. LaTourette and Huffman, Koehler, T. Johnson, Grossman, Rezabek

BILL SUMMARY

Surgical technologists

- Creates licensing requirements for surgical technologists and requires surgical technologists to be licensed by the State Medical Board.
- Prohibits unlicensed persons from practicing as a surgical technologist, using the title "surgical technologist," or holding the person out as such.
- Specifies the activities in which a licensed surgical technologist may engage.
- Lists the requirements and establishes procedures for obtaining initial and renewed surgical technologist licenses.
- Establishes grounds and procedures for taking disciplinary action against a license holder or license applicant.
- Authorizes the Medical Board to adopt rules to implement the bill's provisions.

Technical changes

- Makes technical corrections to current law's provision requiring an applicant for an occupational license to undergo a criminal records check by adding references to an applicant for a certificate to practice as a radiation assistant and a genetic counselor license.

CONTENT AND OPERATION

Surgical technologists

Current law does not regulate the practice of surgical technologists or require surgical technologists to be licensed. To practice as a surgical technologist, the bill requires a person to be licensed by the State Medical Board. A "surgical technologist," under the bill, is an individual, other than a licensed health professional, who assists in a surgical procedure by engaging in any of the activities authorized by the bill (see "**Scope of practice**," below).¹

Unlicensed practice prohibited

Beginning two years after the bill's effective date, a person is prohibited from knowingly practicing as a surgical technologist without a valid license issued by the State Medical Board. The bill also prohibits a person from using the title "surgical technologist" or otherwise holding the person's self out as such without a license.²

A person who violates either prohibition is guilty of a first degree misdemeanor for the first offense and a fifth degree felony for each subsequent offense.³

The bill's prohibitions do not apply to a physician, physician assistant, registered nurse, or licensed practical nurse who is authorized in Ohio to practice their respective professions.⁴

Scope of practice

A surgical technologist holding a valid license under the bill is authorized to engage in all of the following:

- Preparing the operating room, including the sterile field, for surgical procedures by doing one or both of the following:
 - Ensuring that surgical equipment is functioning properly and safely;

¹ R.C. 4785.01(C).

² R.C. 4785.02 and Section 3.

³ R.C. 4785.99.

⁴ R.C. 4785.02(B).

- Handling sterile supplies, equipment, and instruments using sterile techniques;
- Performing one or more of the following tasks within the sterile field:
 - Passing supplies, equipment, and instruments;
 - Sponging or suctioning of the patient's operative site or performing both activities;
 - Preparing and cutting suture material;
 - Transferring fluids and irrigating with fluids;
 - Transferring, but not administering, drugs;
 - Handling specimens;
 - Holding retractors;
 - Assisting a nurse performing circulatory duties in counting sponges, needles, and other supplies and instruments.
- Anticipating and fulfilling the surgical team's needs by applying human anatomy and pathophysiology knowledge.⁵

Licensure

Eligibility for licensure

To be eligible to receive a license to practice as a surgical technologist, the bill requires a person to demonstrate to the Medical Board that the person meets all of the following requirements:

- Is at least 18 and of good moral character;
- Has attained a high school degree or its equivalent;
- Meets either of the following requirements:
 - **Holds certification as a surgical technologist**—The person meets both of the following requirements:

⁵ R.C. 4785.09.

- Holds current certification as a surgical technologist from the National Board of Surgical Technology and Surgical Assisting, its successor, or an equivalent organization recognized by the Medical Board;
- Has attained the certification by meeting the standard certification requirements established by National Board of Surgical Technology and Surgical Assisting, including graduating from an accredited educational program for surgical technology and passing the national certifying examination for surgical technologists offered by that Board.

"Accredited educational program for surgical technology" is defined as an educational program for surgical technology accredited by (1) the Commission on Accreditation of Allied Health Education Programs, its successor, or an equivalent organization recognized by the Medical Board or (2) the Accrediting Bureau of Health Education Schools, its successor, or an equivalent organization.

- **Does not hold certification as a surgical technologist**— The person meets any of the following requirements:
 - The person practiced as a surgical technologist at a hospital (which includes a nursing home, extended care facilities, and certain education and training facilities)⁶ or an ambulatory surgical facility during any part of the six months that preceded the bill's general effective date.
 - The person successfully completed an educational program for surgical technology operated by a branch of the U.S. Armed Forces or the U.S. Public Health Service.
 - The person is employed as a surgical technologist by the U.S. government and performs a surgical technologist's duties during that employment.⁷

⁶ R.C. 3701.01, not in the bill.

⁷ R.C. 4785.03(B) and 4785.01(A) and (B).

License application and issuance

A person seeking a license to practice as a surgical technologist must file with the Medical Board an application in a manner prescribed by the Board, pay a nonrefundable and nontransferable application fee of \$150, and submit to a criminal records check. The application must include all the information the Board considers necessary to process the application, including evidence that the applicant meets the bill's licensure eligibility requirements.⁸

The Board must review all complete applications within 60 days after receipt. After review, if at least six Board members determine that an applicant meets the licensing requirements, the Board's secretary must issue a license to the applicant. A license is valid for two years and may be renewed.⁹

License renewal and continuing education

A person seeking to renew a surgical technologist license must, on or before January 31 of each even-numbered year, apply for license renewal. The Medical Board must send renewal notices at least one month before the license expiration date.¹⁰

To be eligible for renewal, a surgical technologist must certify to the Board that the technologist has done both of the following:¹¹

- Maintained the technologist's status as a certified surgical technologist, unless the technologist does not hold certification and satisfied the second set of eligibility requirements to receive a license (see "**Does not hold certification as a surgical technologist**," above);
- Completed at least 30 hours of continuing education in surgical technology approved by the National Board of Surgical Technology and Surgical Assisting.

Renewal applications must be submitted to the Medical Board in a manner prescribed by the Board and must be accompanied by a biennial renewal fee of \$100. An applicant must report any criminal offense to which the applicant has pleaded guilty to or been found guilty of or for which the applicant has been found eligible for

⁸ R.C. 4785.03(A) and 4785.04, with conforming changes in R.C. 109.572 and 4776.01.

⁹ R.C. 4785.03(C) and 4785.05.

¹⁰ R.C. 4785.06(A).

¹¹ R.C. 4785.06(B).

intervention in lieu of conviction, since last signing a license application. If an applicant submits a complete application and qualifies for renewal, the Board must issue to the applicant a renewed license.¹²

The Medical Board may require a random sample of surgical technologists to submit materials documenting that their status as certified surgical technologists has been maintained and that the required number of hours of continuing education has been completed.

If a surgical technologist certifies that the technologist has completed the number of hours and type of continuing education required for renewal, and the Medical Board finds through the random sample or any other means that the technologist did not complete the required continuing education, the bill authorizes the Board to impose a civil penalty of not more than \$5,000. The Board's finding must be made by an adjudication and an affirmative vote of at least six Board members. Any civil penalty imposed may be in addition to or in lieu of any other disciplinary action the Board is authorized to take under the bill.¹³

License restoration and reinstatement

A surgical technologist license that is not renewed on or before its expiration date is automatically suspended on that date. Continued practice after a license has been automatically suspended is considered to be practicing without a license. If a license has been suspended for two years or less, the Medical Board must reinstate it on submission of a complete renewal application, the renewal fee, and a \$25 penalty.

If a license has been suspended for more than two years, it may be restored on submission of a complete restoration application, the renewal fee, a \$50 penalty, and satisfactory completion of a criminal records check.¹⁴

Duplicate license

On receipt of an application and payment of a \$35 fee, the Medical Board must issue a duplicate license to a surgical technologist to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause.¹⁵

¹² R.C. 4785.06(A) and (C).

¹³ R.C. 4785.06(D).

¹⁴ R.C. 4785.07.

¹⁵ R.C. 4785.08.

Disciplinary actions

The bill authorizes the Medical Board to take any of the following, or a combination of the following professional disciplinary actions, against a licensed surgical technologist or an applicant for a license, as applicable:¹⁶

- Place a license on probation;
- Reprimand a license holder;
- Refuse to issue, renew, or reinstate a license;
- Limit, suspend, or revoke a license;
- Impose a civil penalty of not more than \$20,000 (see "**Civil penalties**," below).

Civil penalties

The bill authorizes the Board to impose a civil penalty for violating the regulations applied to surgical technologists under the bill (other than failure to renew a license on or before its expiration date), or any rules adopted by the Board. The Board's finding that a violation occurred must be made pursuant to an adjudication and an affirmative vote of at least six Board members.

The penalty amount must be determined in accordance with guidelines the Board must adopt and may amend. At least six board members must approve of adopting or amending the guidelines.

Under the guidelines, no civil penalty amount can exceed \$20,000. Any civil penalty imposed may be in addition to or in lieu of any other disciplinary action the Board is authorized to take under the bill. The bill requires the Board to use amounts received from payment of civil penalties solely for investigations, enforcement, and compliance monitoring.¹⁷

Grounds for discipline

The bill generally authorizes the Medical Board to take professional disciplinary action against a licensed surgical technologist for the same reasons as continuing law

¹⁶ R.C. 4785.11(A) and (B) and 4785.111.

¹⁷ R.C. 4785.111.

authorizes the Board to take action against other health care professionals the Board regulates.

However, of the reasons for taking disciplinary action, two relate specifically to surgical technologists: (1) failure to maintain the individual's status as a certified surgical technologist, unless the technologist does not hold certification and satisfied the second set of eligibility requirements to receive a license (see "**Does not hold certification as a surgical technologist**," above), and (2) failure to comply with the code of ethics of the National Board of Surgical Technology and Surgical Assisting.¹⁸

Regulatory procedures

The bill establishes additional procedures for the regulation of licensed surgical technologists that are the same as the procedures that apply to the other health care professionals the Medical Board regulates. The issues addressed include the following:

- Investigations of violations and imposition of sanctions;¹⁹
- License suspension or revocation when a surgical technologist is adjudicated mentally ill or mentally incompetent, in default under a child support order, or found guilty of certain sex, human trafficking, or drug offenses;²⁰
- Notifications to be provided to the Board by prosecutors, health care facilities, professional associations or societies, and professional liability insurers regarding actions taken against a surgical technologist;²¹
- Injunctions against a person practicing as a surgical technologist without a license;²²
- Maintenance of records by the Board of its proceedings, a register of license applicants, and a directory of license holders;²³

¹⁸ R.C. 4785.11.

¹⁹ R.C. 4785.14 and 4785.16.

²⁰ R.C. 4776.20, 4785.12, 4785.13, and 4785.20.

²¹ R.C. 4731.224 and 4785.15.

²² R.C. 4785.17.

²³ R.C. 4731.07 and 4731.071.

- Requirements relating to surgical technologists suffering impairment from the use of drugs or alcohol;²⁴
- Use of universal blood and body fluid precautions in the performance of exposure prone procedures;²⁵
- Deposit of fees, penalties, and other funds in the state treasury to the credit of the existing State Medical Board Operating Fund.²⁶

Rulemaking

The bill requires the Medical Board to adopt rules in accordance with the Administrative Procedure Act necessary to implement and administer the bill's provisions. The rules must include all of the following:²⁷

- Any standards and procedures not addressed in the bill that the Board considers necessary for issuing and renewing licenses;
- Any standards and procedures the Board considers necessary governing the practice of surgical technologists;
- Any other standards and procedures the Board considers necessary for administering and enforcing the bill.

Immunity from liability

In the absence of fraud or bad faith, the bill provides that the Medical Board, a Board member or former member, an agent of the Board, a person formally requested by the Board to be the Board's representative, or a Board employee is not liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to the bill.

If any such person asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, the bill requires the state to provide and pay for the person's defense and pay any resulting judgment, compromise, or settlement (other than punitive or

²⁴ R.C. 4731.25.

²⁵ R.C. 4731.051.

²⁶ R.C. 4731.24, 4785.111(B), and 4785.18.

²⁷ R.C. 4785.10.



exemplary damages) if (1) the request is made in writing at a reasonable time before trial and (2) the person requesting defense cooperates in good faith in the claim's or action's defense.²⁸

Technical corrections

The bill makes technical corrections to current law's provision requiring an applicant for an occupational license to undergo a criminal records check conducted by the Bureau of Criminal Identification and Investigation. The bill adds references to a required criminal records check for a person to be eligible for an initial and renewed certificate to practice as a radiation assistant and a genetic counselor license.²⁹ Current law requires criminal records checks for these health professional licenses.³⁰

HISTORY

ACTION	DATE
Introduced	10-19-15

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²⁸ R.C. 4785.19.

²⁹ R.C. 109.572.

³⁰ R.C. 4776.01 and 4776.20 and R.C. 4774.03, 4774.06, 4778.04, and 4778.06, not in the bill.

