

# Surgical Technologist          AORN Model Bill

Approved by AORN Board on September 8, 2008

*This AORN Model Bill addresses the AORN legislative priority to preserve and protect the Perioperative Registered Nurse's scope of practice. Specifically to ensure the supervisory presence of the RN in the perioperative setting (e.g.; RN as Circulator) and to respond to any legislative initiatives by allied health care personnel that may affect the perioperative nursing scope of practice and profession (e.g.; surgical technologists).*

*This Model Bill addresses surgical technologists. For states that have not addressed this issue we recommend the entire Model Bill as a proactive effort to preserve and protect the perioperative nurse's scope of practice.*

*This version of the AORN Model Bill includes 'Notes' to provide explanation for certain provisions and also to provide reference to the AORN principles and other AORN policy that guide the bill language. These Notes are in italics. A clean copy of the AORN Model Bill without the Notes is also available.*

*This Model Bill must be used carefully. While every attempt has been made to highlight key issues and provide suggested language, the specific terminology and use of words must be adapted to the terminology and history within your state. The intent for each Model Bill provision as it relates to AORN policy and principles should guide the drafting of your bill for your state. We strongly encourage you to obtain feedback on terminology from your state Board of Nursing and obtain expert advice and review of your specific draft legislative language through your AORN National Legislative Committee (NLC) Regional Coordinator who can bring in other AORN members and staff resources to review the draft language and intent for your state.*

*Legislative activities require a team effort and the Model Bill gives us a clear national objective to achieve patient safety through the AORN legislative priorities to preserve and protect Perioperative Registered Nurses' scope of practice*

**MODEL SURGICAL TECHNOLOGISTS BILL**

CHAPTER \_\_\_\_\_

SUBCHAPTER A.

SURGICAL TECHNOLOGISTS

GENERAL PROVISIONS

**Sec. \_\_\_\_\_ SHORT TITLE.** This chapter may be cited as the Surgical Technologist Registration Act.

**Sec. \_\_\_\_\_ DEFINITIONS**

( ) “Certificate” or “Certificate of Registration” means the certificate issued by the board/regulating agency to register a person who has met the requirements of this chapter.

*Note: See AORN Glossary of Legislative Terms relating to “certification” versus “regulation”. In some states, “certification” is used interchangeably with “license”. “Certificate of registration” is used instead and is not the same as the CST credential.*

( ) “Board/Regulating Agency” means the regulating agency of this act

( ) “Executive Commissioner” refers to the individual in charge of the regulating agency.

( ) “Circulating RN” means a registered nurse who utilizes professional judgment to direct, manage, and delegate the nursing aspects of care throughout the perioperative phase. Directing, guiding, and overseeing care does not encompass “administrative management” of allied health personnel.

*Note: This is the same definition as in the RN Circulator Language and should be in both the RN Circulator bill language as well as in the Surgical Technologist bill language to ensure the definitions apply to both parts. This meets Principle # 2 regarding delegation/supervision.*

( ) “Direct Supervision/Supervision” means the active process of directing, guiding and influencing the outcome of a planned activity. Direct supervision/supervision of the range of functions delegated by the Circulating RN to the surgical technologist applies to the intraoperative phase of patient care. Direct supervision/supervision by the Circulating RN shall be accomplished by a registered nurse who is physically present in the operating room during the surgical procedure except for brief periods when the RN Circulator may leave the room to fulfill required responsibilities related to same surgical procedure. During a surgical procedure, the Circulating RN may leave the operating room for extended personal breaks if relieved by another Circulating RN. *Note: Meets Principle #2 regarding supervision of the surgical technologist performing tasks/functions of the scrub role. See FAQ’s.*

( ) “Scrub role” means a role in which a member of the sterile team establishes and maintains the integrity, safety, and efficiency of the sterile field throughout the surgical procedure. It requires the knowledge of and experience with aseptic and sterile technique to prepare and arrange instruments and supplies and to facilitate the performance of a surgical procedure by providing the required sterile instruments and supplies. The person in the scrub role plans for and responds to the needs of the surgeon and other team members by constantly watching the sterile field. This role may be performed by a Registered Nurse, a Licensed Vocational/Practical Nurse, or a Surgical Technologist. “Scrub role” does not mean surgical first assisting

( ) “Surgical technology” means:

(A) Collaborating with the RN Circulator prior to the surgical procedure to carry out the plan of care by preparing the operating room by gathering and preparing sterile supplies, instruments and equipment and by preparing and maintaining the sterile field using sterile and aseptic technique;

(B) Intraoperatively, planning for and responding to the needs of the surgeon and other team members by watching the sterile field and applying the knowledge of the planned surgical procedure and the anatomy of the patient to adjust to unexpected findings that may alter the surgical procedure and required instruments or supplies.

(C) Performing, under direct supervision/supervision by the RN Circulator, the following tasks/functions associated with the scrub role in each and any operating room setting:

*Note: The following tasks/functions should be carefully addressed in your legislation. The drafting challenge is to permit these tasks/functions but not to the extent they may evolve or be interpreted as surgical first assistant level activities.*

(i) passing supplies, equipment, or instruments;

(ii) sponging or suctioning an operative site;

(iii) preparing and cutting suture material;

(iv) transferring and pouring irrigation fluids;

(v) transferring but not administering drugs;

*Note: does not allow STs to administer drugs.*

(vi) holding retractors (should not be performed concurrently

by the same individual passing instruments/supplies)

the RN Circulator; and

(viii) other similar tasks delegated in accordance to Section \_\_\_\_.

*Note: \* Insert the reference # to this same language from the above RN Circulator Bill*

*Note: Subsection (viii) (above) allows for additional tasks to be performed by the ST as long as they are similar and delegated/supervised by the RN Circulator.*

(C) Provisions of CHAPTER (insert Surgical Technologist Bill Chapter #) , Subchapter A. GENERAL PROVISIONS, Section (insert section #) DEFINITIONS, Sub-section (insert sub-section #) B (i)-(viii) shall not be expanded to allow or provide authorization for the performance of surgical first assistant activities by the surgical technologist.

*Note: Meets Principle # 3. The above section precisely defines the role of the surgical technologist and does not provide for independent practice of the scrub role (which is nursing according to the AORN Position Statement). Subsection (C) is intended to prohibit this bill from being interpreted to provide authorization for the ST to function as a first assistant or to expand these tasks/functions to include first assisting activities.*

## **SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND BOARD/REGULATING AGENCY**

**Sec. \_\_\_\_\_ REGISTRATION PROGRAM** The board/regulating agency shall administer the registration program required by this chapter.

**Sec. \_\_\_\_\_ RULES** The executive commissioner may adopt rules necessary to implement this chapter. These rules shall be consistent with this chapter.

**Sec. \_\_\_\_\_ MINIMUM STANDARDS**

(a) The executive commissioner by rule shall establish minimum standards for:

- (1) issuing, renewing, suspending, or revoking a certificate of registration issued under this chapter;
- (2) approving curricula and education programs to train persons to function as a surgical technologist;

(3) approving instructors to teach approved curricula or education programs to train persons to function as a surgical technologist; and

**Sec. \_\_\_\_\_ APPROVAL AND REVIEW OF CURRICULUM AND TRAINING PROGRAMS.**

(a) An applicant for approval of a curriculum or training program must apply to the board/regulating agency on a form and under rules adopted by the executive commissioner.

(b) The board/regulating agency shall approve a curriculum or training program that meets the minimum standards adopted under Section \_\_\_\_\_ (MINIMUM STANDARDS) Subsection (a)(2). The board/regulating agency may review the approval annually.

(c) The executive commissioner may set a fee for approval of a curriculum or training program not to exceed the estimated amount that the board/regulating agency projects to be required for the evaluation of the curriculum or training program.

**Sec. \_\_\_\_\_ APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.**

(a) An applicant for approval to be an instructor must apply to the board/regulating agency on a standardized form to be determined by the executive commissioner.

(b) The board/regulating agency shall approve an instructor who meets the minimum standards adopted under Section \_\_\_\_\_ (MINIMUM STANDARDS) Subsection (a)(3). The board/regulating agency may review the approval annually.

**Sec. \_\_\_\_\_ FEES** The executive commissioner may set fees for examination, certificate issuance, registration of a person under this chapter, and application processing under Section \_\_\_\_\_ (FEES) Subsection (a)(3) in amounts that are reasonable to cover the costs of administering this chapter without the use of additional general revenue.

**SUBCHAPTER C. ADVISORY COMMITTEE**

**Sec. \_\_\_\_\_ ADVISORY COMMITTEE.**

(a) The executive commissioner may appoint a “surgical technology” advisory committee to oversee the implementation of this act.

(b)The surgical technology advisory committee consists of 9 members appointed by the executive commissioner of board/regulating agency as follows:

- (1) two surgical technologists
- (2) one registered nurse recommended by the Board of Nursing or the State Council of periOperative Nursing who is actively practicing as a perioperative registered nurse.
- (3) one physician member recommended by the Medical Board/State Medical Association who is licensed by the STATE Medical Board and is certified to practice surgery.
- (4) one hospital administrator recommended by the (insert your state) Hospital Association.
- (5) one ambulatory surgery center administrator recommended by an organization representing state ambulatory surgery centers.
- (6) three members who represents the public.

*Note: This ensures representation of all key stakeholders when decisions regarding the regulation of STs are made.*

(c) Appointments to the advisory committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(d) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. \_\_\_\_\_ **ELIGIBILITY OF PUBLIC MEMBERS**

Sec. \_\_\_\_\_ **MEMBERSHIP AND EMPLOYEE RESTRICTIONS**

Sec. \_\_\_\_\_ **TERMS**

Sec. \_\_\_\_\_ **GROUND FOR REMOVAL**

Sec. \_\_\_\_\_ **REIMBURSEMENT**

Sec. \_\_\_\_\_ **MEETINGS**

Sec. \_\_\_\_\_ **TRAINING**

## SUBCHAPTER D. REGISTRATION REQUIREMENTS

*Note: Subchapter D contains the provisions required to meet Principle # 5*

**Sec. \_\_\_\_\_ CERTIFICATE REQUIRED.** A person may not function as a surgical technologist or use the title “registered surgical technologist” or other title implying that one holds a certificate of registration under this chapter unless the person holds a certificate of registration as a surgical technologist under this chapter except as otherwise provided by Subchapter E. An individual exempted under Subchapter E may use the title “surgical technologist” as long as they do not use it in combination with “registered”, “licensed” or other term that implies that the individual holds a certificate of registration under this chapter.

*Note: The “Certificate of Registration” is not the same thing as the NBSTSA’s Certified Surgical Technologist (CST). They are not interchangeable.*

*Note: This section provides for the highest level of regulation by making this a title act and a practice act. This is not ideal but as long as nursing delegation and supervision are specified as a requirement to function as a surgical technologist than it could be “ok”*

**Sec. \_\_\_\_\_ APPLICATION; APPLICATION FEE.** An applicant for a certificate under this chapter must:

(a) apply to the board/regulating agency on a form and under rules adopted by the executive commissioner; and

(b) submit with the application a nonrefundable application fee in an amount determined by the executive commissioner.

**Sec. \_\_\_\_\_ EXAMINATION.** The executive commissioner shall prepare, recognize, or administer an examination for applicants for a certificate or may recognize and use a national examination selected by the board/regulating agency.

**Sec. \_\_\_\_\_ ISSUANCE OF CERTIFICATE.**

(a) The board/regulating agency shall issue a certificate of registration to an applicant who meets the minimum standards for registration established under Section \_\_\_\_\_.

(b) A certificate is valid for a period established by the executive commissioner.

**Sec. \_\_\_\_\_ TRANSFER OF CERTIFICATE PROHIBITED**

**Sec. \_\_\_\_\_ REGISTRATION BY ENDORSEMENT.**

(a) In adopting minimum standards for issuing a certificate of registration to surgical technologists, the executive commissioner shall establish criteria for issuing a certificate to persons registered or otherwise recognized to function as surgical technologists by another state, a territory or possession of the United States or a foreign country whose

requirements for registration or recognition were on the date of registration or recognition, substantially equal to the requirements of this chapter.

(b) If the application is based on being registered in another state, the executive commissioner may issue a provisional certificate of registration to the applicant if the application provides information, if verified to be accurate, demonstrating the person is eligible to be issued a certificate under this chapter.

(c) The board/regulating agency must approve or deny a provisional certificate holder's application for a certificate not later than the 180<sup>th</sup> day after the date the provisional certificate is issued. The department may extend the 180-day period if the results of an examination have not been received by the executive commissioner before the end of that period.

(d) The department may establish a fee for a provisional certificate in an amount reasonable and necessary to cover the cost of issuing the certificate.

**Sec. \_\_\_\_\_ . CONTINUING EDUCATION AND OTHER GUIDELINES.**

(a) The executive commissioner shall establish guidelines for surgical technologists registered under this Chapter

(b) The executive commissioner shall prepare, recognize, or administer continuing education programs for surgical technologists.

(c) A surgical technologist shall complete at least 30 hours of continuing educational programs approved by the board/regulating agency or an organization approved by the board/regulating agency every two years to keep the person's certificate of registration under this chapter.

*Note: The executive commissioner has the option to determine acceptable CE programs and requirements rather than be required by a statute which mandates that the CE has to be AST (a private entity) approved.*

**Sec. \_\_\_\_\_ CERTIFICATE EXPIRATION.**

(a) Not later than the 30<sup>th</sup> day before the date a person's certificate is scheduled to expire, the board/regulating agency shall send notice of the impending expiration to the person at the person's last known address according to the records of the board/regulating agency.

b) The executive commissioner by rule may adopt a system under which certificates of registration expire on various dates during the year. For the year in which the certificate of registration's expiration date is changed, the board/regulating agency shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate that is allocated to the number of months during which the certificate is

valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

**Sec. \_\_\_\_\_ CERTIFICATE RENEWAL PROCEDURE.**

(a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the board/regulating agency before the expiration date of the certificate. A person whose certificate has expired may not engage in the activities that require a certificate until the certificate is renewed.

(b) A person whose certificate has expired for 90 days or less may renew the certificate by paying to the board/regulating agency a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the board/regulating agency a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures including the examination requirements, for an original certificate.

**Sec. \_\_\_\_\_ RENEWAL OF CERTIFICATE BY OUT-OF-STATE SURGICAL TECHNOLOGIST.**

(a) A person who held a certificate in this state, moved to another state, and currently holds a certificate of registration or is otherwise recognized to function as a surgical technologist and has been functioning as a surgical technologist in another state for the two years preceding the date of application may obtain a new certificate of registration without reexamination.

**Sec. \_\_\_\_\_ CRIMINAL BACKGROUND CHECKS.** The board/regulating agency shall conduct criminal background checks.

**SUBCHAPTER E. EXEMPTIONS FROM REGISTRATION  
REQUIREMENTS**

**Sec. \_\_\_\_\_ . EXEMPTION.** This chapter does not apply to:

(1) a registered nurse or licensed vocational nurse *Note: In TX, RNs and LVN/LPNs are under the same BON and are represented by TNA and so both were included here. LVN/LPN can be removed and the Principle would still be met.*

(2) an individual functioning as a surgical technologist in the employment of the federal government including the military; or

*Note: part of a very broad grandfathering clause*

(3) an individual registered or licensed under other law and functions in the scrub role in the course and scope of the profession for which the person holds a license or certificate of registration.

*Note: This is ok as long as (1) above remains specific about exemptions for RNs.*

**Sec. \_\_\_\_\_ . STUDENTS.** A person is not required to hold a certificate issued under this chapter or to comply with the registration requirements adopted under this chapter if the person:

(1) is a student enrolled in a training program that meets the minimum standards adopted under this chapter; and

(2) is functioning in the scrub role in an academic or clinical setting as part of the training program with an appropriate preceptor.

**Sec. \_\_\_\_\_ WAIVER FOR HOSPITALS AND AMUPLATORY SURGERY CENTERS.**

The executive commissioner by rule shall adopt a procedure by which a hospital or ambulatory surgical center may apply for a waiver from the requirements of this chapter to authorize the hospital or ambulatory surgery center to employ or use a person to function as a surgical technologist who is not registered because of the inability to employ or use a person meeting the requirements of this chapter because such a person is not available

*Note: this gives hospitals a loophole to not be fined etc. if they hire surgical techs who do not meet the requirements of this Chapter.*

**Sec. \_\_\_\_\_ EXEMPTION FROM REGISTRATION EQUIREMENTS.** *Note: this*

*section provides more grandfathering.* Notwithstanding the requirements for registration under Subchapter D, the board/regulating agency may issue a surgical technologist certificate of registration to a person who:

(1) has completed an appropriate training program for surgical technology in the army, navy, air force, marine corps, or coast guard of the United States or in the United States Public Health Service;

(2) was employed as a surgical technologist for not less than one year in a hospital or ambulatory surgical center during the three years preceding the date the person submits an application under Subchapter D

**Sec. \_\_\_\_\_ SUPERVISION REQUIRED.** A person functioning as a surgical technologist in a hospital or ambulatory surgery center shall function under the direct supervision/supervision of the Circulating Registered Nurse.

*Note: Meets Principle # 2*

## **SUBCHAPTER F.**

### **CERTIFICATION DENIAL AND DISCIPLINARY ACTION**

**Sec. \_\_\_\_\_ CERTIFICATE DENIAL AND DISCIPLINARY ACTION.**

*Note: Meets Principle # 5. The board/regulating agency may take disciplinary action, revoke, or deny a certificate of registration for a violation of this chapter or a rule adopted under this chapter:*

- (1) suspend, revoke, or refuse to renew a certificate of registration;
- (2) rescind approval of a curriculum, training program, or instructor;
- (3) deny an application for certificate of registration ;
- (4) issue a reprimand; or
- (5) place the offender's certificate on probation and require compliance with a requirement of the department, including requiring the offender to:
  - (A) submit to medical or psychological treatment;
  - (B) meet additional educational requirements;
  - (C) pass an examination developed or approved by the department
  - (D) work under the preceptorship of a surgical technologist holding a certificate of registration or a registered perioperative nurse functioning in the scrub role for a time period determined by the board/regulating agency

**Sec. \_\_\_\_\_ GROUNDS FOR CERTIFICATE DENIAL OR DISCIPLINARY ACTION**

*Note: Meets Principle # 5*

**Sec. \_\_\_\_\_ ADMINISTRATIVE PROCEDURE**

*Note: Meets Principle # 5*

Sec. \_\_\_\_\_ REINSTATEMENT

*Note: Meets Principle # 5*

Sec. \_\_\_\_\_ EMERGENCY SUSPENSION

*Note: Meets Principle # 5*

**SUBCHAPTER G. ADMINISTRATIVE PENALTY**

*Note: The sections below would all fall under Principle # 5*

Sec. \_\_\_\_\_ IMPOSITION OF PENALTY

Sec. \_\_\_\_\_ AMOUNT OF PENALTY

Sec. \_\_\_\_\_ NOTICE OF VIOLATION AND PENALTY

Sec. \_\_\_\_\_ PENALTY TO BE PAID OR HEARING REQUESTED

Sec. \_\_\_\_\_ HEARING

Sec. \_\_\_\_\_ DECISION BY COMMISSIONER

Sec. \_\_\_\_\_ OPTIONS FOLLOWING DECISION: PAY OR APPEAL

Sec. \_\_\_\_\_ COLLECTION OF PENALTY

Sec. \_\_\_\_\_ DETERMINATION BY COURT

Sec. \_\_\_\_\_ REMITTANCE OF PENALTY AND INTEREST

Sec. \_\_\_\_\_ EXPENSES AND COSTS

Sec. \_\_\_\_\_ ADMINISTRATIVE PROCEDURE

**SUBCHAPTER H. ENFORCEMENT AND OTHER PENALTY PROVISIONS**

Sec. \_\_\_\_\_ INJUNCTION; CIVIL PENALTY

Sec. \_\_\_\_\_ CRIMINAL OFFENSES