REPORT OF RECOMMENDATIONS AND FINDINGS

By the Surgical First Assistants'
Technical Review Committee

To the Nebraska State Board of Health, the
Director of the Division of Public Health, Department of Health and
Human Services, and the Members of the Health and Human
Services Committee of the Legislature

September 18, 2015

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Part One: Preliminary Information

Introduction

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

LIST OF MEMBERS OF THE SURGICAL FIRST ASSISTANTS' TECHNICAL REVIEW COMMITTEE (September, 2014)

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Meetings Held

Orientation and initial discussion: March 6, 2015
Discussion one: April 8, 2015
Discussion two: May 27, 2015
Preliminary recommendations: June 18, 2015
Public hearing: July 8, 2015
Final recommendations: August 28, 2015
Approval of the final report: September 18, 2015

Part Two: Summary of Committee Recommendations

The committee members recommended approval of the Surgical First Assistants' proposal. Additional information on this action can be found on pages twenty-five through twenty-seven in this report.

Part Three: Summary of the Applicants' Proposal, Committee Questions about the Proposal, and Responses to Questions about the Proposal by Interested Parties

Surgical First Assistant Credentialing Review Application as Amended

1. The following replaces the response to Question #4 on the credentialing review application for surgical first assistants submitted on February 23, 2015.

PART A: Licensure of Surgical First Assistants

Part A of this proposal seeks to license surgical first assistants that have obtained a level of education, training, and examination as approved by the Nebraska Department of Health and Human Services (hereafter, "the Department"). The surgical first assistant occupation has its own specific educational standards as well as private certification requirements. Under this proposal, the Department would collaborate with the private certifying bodies issuing certification for surgical first assistants to facilitate the State of Nebraska's endorsement of the education, training and testing upon which the private credential is based. These standards would become part of the new licensure standard for surgical first assistants in Nebraska. Under this proposal, only those surgical assistants who have met the new licensure standard of appropriate education, training and examination are eligible for licensure. The applicant group recommends that the Board of Medicine and Surgery oversees this license.

According to The American College of Surgeons, "[t]he [surgical first assistant] participates during a surgical operation and is a trained individual who is able to participate in and actively assist the surgeon in completing the operation safely and expeditiously by helping to provide exposure, maintain hemostasis, and serve other technical functions." The surgical first assistant works under the personal supervision of a physician as an allied health care provider, providing quality health care services.

Under Part A of the application, the proposed scope of practice for a surgical first assistant includes but is not limited to the following list of items. These would comprise the proposed statutorily defined scope of practice for surgical first assistants.

1. Assisting the surgical team in the intraoperative care of a surgical patient,
2. Positioning the patient,
3. Preparing and draping the patient for the operative procedure,
4. Providing visualization of the operative site,
5. Assist with hemostasis,
6. Assist with closure of body planes,
    a. Utilizing running or interrupted subcutaneous sutures with absorbable or nonabsorbable material,
    b. Utilizing subcuticular closure technique with or without adhesive skin closure strips,
    c. Closing skin with method indicated by surgeon (suture, stapes, etc.),

d. Postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon,

7. Applying appropriate wound dressings,
8. Providing assistance in securing drainage systems to tissue,
9. Preparing specimens, such as grafts, and
10. Performing tasks during a surgical procedure delegatable under the personal supervision of a licensed physician appropriate to the level of competence of the surgical first assistant.

The applicants want to ensure that training for surgical first assistants can occur in Nebraska. This requires that trainees are allowed, under state law, to perform tasks integral to the accredited program in which he or she is enrolled while unlicensed. Under this proposal, the applicants are requesting that statutory language similar to that which applies to physician assistants under Neb. Rev. Stat. 38-2048 is developed and included in the legislative proposal to facilitate training of surgical first assistants in the state. This will also pave the way for development of accredited programs in Nebraska's educational institutions.

The proposed language is as follows: Notwithstanding any other provision of law, a trainee may perform medical services when he or she renders such services within the scope of an approved program.

The following health care practitioners will be exempted from the Surgical First Assistant Practice Act: Physician, Nurse Practitioner, Physician Assistant, Registered Nurse and Licensed Practical Nurse.

PART B: Registry for Surgical Technologists

Part B of this proposal requests creation of a mandatory registry with a competency assessment requirement for surgical technologists. The purpose of this registry is to assist the State of Nebraska in ensuring that individuals functioning in the surgical technology occupation meet the competency requirements necessary to provide quality care in the State. The applicant group recommends that the Board of Nursing oversee the creation and maintenance of the registry.

Completion of an accredited surgical technology program is not a requirement of the registry but a component of the information collected. As a provision of Part B of this proposal, the registry shall include the highest level of education of the registrant. Applicants will be required to provide a copy of his or her transcript in support of an indication that he or she has completed a surgical technology program. The proposal also requests that the documentation includes an opportunity for the applicant to acknowledge his or her possession of certification in surgical technology from a private certifying board.

The proposed model for the mandatory registry qualifications includes:

To qualify for placement on the Registry, the applicant must:

1. Be at least 19 years of age;
2. Be of good moral character; and
3. Be a citizen of the United States, or an alien lawfully admitted into the United States;
4. Submit to the Department:

a. A completed application including:
   1. applicant name, address, birth date, last four digits of the applicant's Social Security Number;
   2. identification of any felony or misdemeanor conviction along with date of occurrence and county in which the conviction occurred;
   3. whether or not the applicant has completed an accredited program in surgical technology;
   4. whether or not the applicant has obtained private certification in surgical technology; and
   5. certification of competency assessment completed by a licensed health care professional.

b. All records, documents or information requested by the Department;
c. The required non-refundable fee as determined.

Though the Department will develop registry requirements, the following is a potential model based on the Medication Aide Registry (71-6723, 71-6725), including the elements for the competency assessment. Surgical technologists are allied health professionals who are an integral part of the team of medical practitioners providing surgical care to patients. Surgical technologists work under the direction of hospital and clinic policies to ensure that the operating room environment is safe, equipment functions properly and the operative procedure is conducted under conditions that maximize patient safety. As part of the registry application, a determination will be made by a licensed health care professional and placed in writing that the surgical technologist is competent to perform the following functions and procedures. These items would be defined in statute as the range of functions and procedures for surgical technologists. The statute will also include wording that clarifies that surgical first assistants are also able to use these same functions and procedures.

1. Checks supplies and equipment needed for surgical procedure,
2. Scrubs, gowns and gloves,
3. Sets up sterile table with instruments, supplies, equipment, and medications/solutions needed for procedure,
4. Performs appropriate counts with circulator prior to the operation and before incision is closed,
5. Gowns and gloves surgeon and assistants,
6. Helps in draping sterile field,
7. Passes instruments, etc., to surgeon during procedure,
8. Maintains highest standard of sterile technique during procedure,
9. Prepares sterile dressings,
10. Cleans and prepares instruments for terminal sterilization,
11. Assists other members of team with terminal cleaning of room,
12. Assists in prepping room for the next patient,
13. Positioning the patient,
14. Preparing and draping the patient for the operative procedure, and
15. Providing visualization of the operative site.

The applicant group recommends that proof of current national certification exempts registry applicants from the competency requirement if the Department deems it appropriate.

Questions about defining and clarifying the proposal from the members of the Technical Review Committee

1. Pertinent to the definition of 'misdemeanors': The applicants clarified that misdemeanors as discussed in Part B, 4, a, 2 of the proposal for the purpose of qualification to be placed on the registry are outlined in each set of regulations.
2. 'Due diligence' pertinent to the following items NOT to be included in the SFA scope of practice:
    a. positioning the patient,
    b. preparing and draping the patient for the operative procedure,
    c. providing visualization of the operative site, and,
    d. applying wound dressings.

3. The role of SFAs in the closure of body planes: the following techniques should be used for the closure of body planes, and these could be delegated to SFAs by a physician if necessary:
    a. Utilizing running or interrupted subcutaneous sutures with absorbable or non-absorbable material.
    b. Utilizing subcuticular closure technique with or without adhesive skin closure strips.
    c. Closing skin with method indicated by surgeon (suture, staples).
    d. Postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon.

4. The role of SFAs in preparing and harvesting specimens and grafts:
   SFAs would be allowed only to prepare specimens, not harvest them.
5. Who should or should not be required to sit for the ST assessment procedure?
6. Which board or boards should administer the regulation of STs and SFAs? The Board of Medicine and Surgery would administer the regulation of SFAs. The Board of Nursing would administer the regulation of STs.
7. Which health professionals should administer or evaluate the competency assessment for STs?
8. The nature of the assessment process for STs: Is it a formal examination? Or is it an interview? Or something else?
9. A scope of practice for SFAs and a range of functions for STs would be created under the terms of the proposal, with the exception that SFAs would have both a scope of practice and a range of functions, whereas STs would only have a range of functions.

Responses by applicant group representatives to Committee questions about further defining and clarifying the proposal

1. Comments regarding the definition of 'misdemeanors' being used. What are some examples?

Please see the original submission from SRMC and the NHA in response to this question, included below.

> Please see the document entitled "Examples of DHHS Regulations On 'Misdemeanor' & 'Felony'" dispersed at the June 18th meeting of the Technical Review Committee (TRC) for examples of current professional and occupational licensure regulatory definitions of "misdemeanor" and "felony."
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> As discussed at the meeting, the applicant group wants to ensure the absence of subjectivity in interpretation of the reporting requirements in the licensure application process. Requiring reporting of all misdemeanors and felonies while excluding infractions ensures full disclosure on the part of the applicant. Additionally, the applicant group wants to facilitate the Department of Health and Human Services' ("Department") efforts to standardize credentialing regulations while maintaining public safety. Recent occupational licensure regulations do not limit the definition of "misdemeanor" and "felony."
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> The applicant group recommends that application requirements for both licensure of surgical first assistants and registry of surgical technologists exclude minor traffic violations and do not limit the definition of "misdemeanor" and "felony."

2. Comments on 'due diligence' pertinent to the following items NOT being included in the SFA scope of practice: a. positioning the patient, b. preparing and draping the patient for the operative procedure, c. providing visualization of the operative site, and d. applying wound dressings.

As discussed at the June 18th TRC meeting, inclusion of functions within a statutory scope of practice are specific to the occupation addressed and do not preclude other allied health care professionals or health care practitioners from performing them. In meeting with the Department, it was recommended that functions integral to an occupation are included in the proposed scope of practice. Based on the Department's recommendation, these functions will remain in the proposed scope of practice for the surgical first assistant.

3. Comments on the role of SFAs in the closure of body planes, if any.

As submitted during the July 8th meeting of the TRC, the following limitations on closure of body planes were amended into the proposed scope of practice:

Assist with closure of body planes,

a. Utilizing running or interrupted subcutaneous sutures with absorbable or nonabsorbable material,
b. Utilizing subcuticular closure technique with or without adhesive skin closure strips,
c. Closing skin with method indicated by surgeon (suture, staples, etc.), and

d. Postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon.

4. Comments on the role of SFAs in preparing specimens, grafts, etc., if any.

As indicated in the proposed scope of practice for surgical first assistants, licensed practitioners will be able to prepare specimens, including grafts, which is an accepted function for the occupation. Harvesting of grafts is not included in the proposed scope of practice.

5. Comments regarding who should or should not be required to sit for the ST assessment procedure.

The applicant group recommends that proof of current national certification exempts registry applicants from the competency requirement if the Department deems it appropriate. If the Department finds exemption of certified surgical technologists is appropriate, any surgical technologist not possessing certification will be required to complete the assessment procedure for registry eligibility.

6. Comments regarding which board or boards should administer the regulation of STs and SFAs?

As indicated in the application amendment dated July 8th, 2015, the applicant group recommends that the Board of Medicine and Surgery administers licensure of surgical first assistants and the Board of Nursing has oversight of the surgical technologist registry. The amendment is supported by both the Nebraska Nurses Association (NNA) and the Nebraska Medical Association (NMA).

The NHA has discussed this issue at length with fellow stakeholders and adheres to the consensus that the Board of Nursing is the most appropriate oversight entity for the registry. Surgical technologists do not practice independently and function primarily under nurse supervision. Though independent practitioners may direct surgical technologists before, during and after operative procedures, nurses are the only practitioners who delegate tasks to surgical technologists.

The Board of Nursing also has experience managing other registries for dependent allied health professionals with oversight of the medication aide and nursing assistant registries. As a framework for registry management already exists under the Board of Nursing, development of a new registry with this Board will be more streamlined and cost effective.
While it has been argued that Nebraska should adopt models attributed to other states and the applicant group should recommend that the Board of Medicine & Surgery oversee the registry, this argument does not consider Nebraska's unique legal boundaries. Physicians cannot delegate tasks to unlicensed individuals in Nebraska. Independent practitioners do not possess the same relationship with allied health care professionals as physicians in other states as they can only direct unlicensed personnel to complete a task. In Nebraska, registered nurses are the primary supervisors of unlicensed personnel and are therefore the appropriate administrators of regulation relating to these fields, including surgical technology.

As registered nurses are the primary supervisors of surgical technologists and delegate tasks integral to the field of surgical technology, and development and management of the registry will be more cost effective for a Board already familiar with this type of oversight, SRMC and the

NHA contend that the Board of Nursing is best suited to regulate the registry of surgical technologists.

7. Comments regarding which health professionals should administer or evaluate the competency assessment for STs?

Though the Department will determine who the appropriate health care professionals are for evaluating surgical technologists for purposes of the competency assessment, the applicant group recommends that it is in line with the medication aide registry requirements of a licensed health care professional who must indicate his or her occupation and medical license number.

8. Comment on the nature of the assessment process for STs: Is it a formal examination? Or is it an interview? Or something else?

SRMC and the NHA agree that demonstration is the appropriate nature of this assessment. As is the case for medication aides in Nebraska, the competency assessment is a demonstration of the registry applicant's ability to perform basic functions of the occupation. The licensed health care professional must observe and certify that s/he witnessed the registry applicant's ability to successfully complete the functions listed. This might occur during the educational process, on-the-job training, or in the course of the applicant's employment.
It has been suggested that a licensed independent practitioner (i.e. physician) should conduct the competency assessment and the applicant group is amenable to this recommendation.

9. Comment on the idea of defining a scope of practice for SFAs and a range of functions for STs under the terms of the proposal, with the exception that SFAs would have both a scope of practice and a range of functions, whereas STs would only have a range of functions.

As licensed health care professionals under this proposal, surgical first assistants will have a statutory scope of practice that defines the functions an individual can perform under the license.

The State of Nebraska does not define range of functions for unlicensed personnel. Statutes surrounding regulation of unlicensed individuals define the occupation and requirements for proposed regulation but do not address the full range of functions that an allied health professional can potentially perform.

The minimum standards for competencies outlined statutorily for a registry define the functions that must be demonstrated for registry eligibility and do not operate as a scope of practice. The statutes outlining Nebraska's medication aide registry (which can be found here) illustrate this principle. While the proposed minimum standards for competencies of a surgical technologist list a range of functions, these are for demonstrative purposes only and do not limit or define the functions of a surgical technologist.

A facility such as a hospital or clinic will determine the appropriate range of functions of a surgical technologist utilizing a job description and/or competency requirements in line with national standards and an individual's experience.

Comments by representatives of the Surgical Technologists to Committee questions about further defining and clarifying the proposal

1. Comments regarding the definition of 'misdemeanors' being used. What are some examples?

NE-AST, AST and ASA will not provide a recommendation related to this area as this is not a technical question related to the practice of the professions of surgical technology and surgical assisting.

2. Comments on 'due diligence' pertinent to the following items NOT being included in the surgical first assistant scope of practice:

a. positioning the patient,
b. preparing and draping the patient for the operative procedure,
c. providing visualization of the operative site
d. applying wound dressings

The American College of Surgeons AST have nationally-approved a job description for surgical technologists that includes all of the tasks listed above as surgical technology tasks and functions. Including these tasks in the surgical assistant license and scope of practice would prevent surgical technologists from performing these functions that are historically and currently part of their job.

NE-AST, AST and ASA would recommend that the above items be included in the surgical technologist range of functions and that the surgical assistant license scope of practice read as follows:

1. Performing all tasks included in the surgical technologist range of functions
2. Providing visualization of the operative site through the placement of retractors
3. Assisting with hemostasis
4. Closure of body planes, including only the subcutaneous and skin layer
5. Applying appropriate immobilizing wound dressings
6. Providing assistance in securing drainage systems to tissue
7. Preparing but not procuring grafts after they have been removed from the patient by the surgeon
8. Performing tasks delegatable under the personal supervision of a licensed physician

It should also be noted that the American College of Surgeons, ASA and AST have a nationally-approved job description for surgical assistants to include the task of postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon. It is our recommendation that this task be included in the surgical assistant scope of practice as well.

3. Comments on the role of surgical first assistants in the closure of body planes, if any.

The American College of Surgeons, ASA and AST have nationally approved the following job description for surgical assistants related to closure of body planes:

5. Utilizing appropriate techniques to assist with closure of body planes
    A. Utilizing running or interrupted subcutaneous sutures with absorbable or nonabsorbable material
    B. Utilizing subcuticular closure technique with or without adhesive skin closure strips
    C. Closing skin with method indicated by surgeon (suture, staples, etc)

NE-AST, AST and ASA would recommend utilizing the nationally approved description in defining “closure of body planes” in the scope of practice for the surgical assistant in Nebraska.

4. Comments on the role of surgical first assistants in preparing specimens, grafts, etc., if any.

Surgical assistants assist in preparing specimens and grafts. This includes handling specimens such as skin grafts and biopsy samples after they have been removed from the patient. Surgical assistants often prepare replacement Anterior Cruciate Ligaments (ACLs) at the backtable. The surgeon removes a hamstring muscle from the patient. Then, at the backtable, the surgical assistant removes the muscle tissue. The remaining tendon is fortified by the surgical assistant. The surgeon then uses the new Anterior Cruciate Ligament and places it in the patient.

NE-AST, AST and ASA would recommend that the scope of practice for the surgical assistant license in the state of Nebraska include the task of preparing grafts, after they have been removed from the patient by the surgeon. The Core Curriculum for Surgical Assisting, which is taught in accredited surgical assisting programs, includes graft care.

5. Comments regarding who should or should not be required to sit for the surgical technologist assessment procedure.

NE-AST, AST and ASA agree that the competence of all surgical technologists in the state should be assessed prior to an individual being placed on the surgical technologist registry and being allowed to function in the surgical technology profession to ensure quality patient care.

Surgical technologists who are currently Certified Surgical Technologists (CSTs) should not go through a competency assessment to be placed on the registry. Certified Surgical Technologists have already demonstrated competency. Surgical technologists who are CST certified have:

1. Graduated from an accredited surgical technology program which are 18-24 months in length with many months of clinical training;
2. Passed the national surgical technologist certifying exam administered by the National Board of Surgical Technology and Surgical Assisting, (a non-profit certifying agency); and
3. Maintain current competency through required continuing education.

Currently Certified Surgical Technologists are required to complete 60 continuing education hours in a four-year period to maintain the CST credential.

The passage of the national surgical technologist certifying exam and maintenance of the Certified Surgical Technologist credential is utilized in several other states as the highest level of competence and is required as a condition of employment.

Members of the Nebraska State Assembly of the Association of Surgical Technologists met with members of the Department of Health and Human Services on June 30th to discuss the potential of recognizing the national surgical technologist certifying exam as a method of establishing competence for surgical technologists seeking to be placed on the registry. We were assured that this was an acceptable pathway to establish the potential registrant's competence.

Competency Demonstration Proposal

The NE-AST and AST recommendation remains that two pathways be allowed for potential surgical technologist registrants to establish their competence to be placed on the surgical technologist registry in the state of Nebraska.

1) If the potential registrant is currently a CST (Certified Surgical Technologist), they would need to provide a copy of their current certification card that will serve as proof of passage of the national surgical technologist certifying exam establishing their competence as a surgical technologist.

OR

2) If the potential registrant is not currently a CST (Certified Surgical Technologist), they would need to submit a certification of competency assessment completed by a qualified licensed health care professional with at least 2 years of operating room experience to establish their competence as surgical technologist.

6. Comments regarding which board or boards should administer the regulation of surgical technologists and surgical first assistants?

It was recommended by the applicant group at the technical review committee meeting on June 18th that the surgical assistant license would be administered by the Board of Medicine in Surgery and that at the time they were uncertain as to which board would administer the surgical technologist registry.

The Board of Health or the Board of Medicine administers most registries for surgical technologists in other states. It is the opinion of NE-AST and AST that the registry should be administered by the same board as the surgical assistant licensure as the two professions are so closely related and are a stepping stone to one another. Testimony by the Director of Government and Public Affairs from the Association of Surgical Technologists will be made at the public hearing related to this concern.

7.Comments regarding which health professionals should administer or evaluate the competency assessment for surgical technologists?

According to the amendment that was proposed “a determination will be made by a licensed health care professional and placed in writing that the surgical technologist is competent to perform the following tasks…”. NE-AST and AST would recommend that the wording be changed to reflect a “qualified licensed health care professional with at least two years of operating room experience.” The operating room is a unique environment, one that many licensed health care professionals do not practice in, making them ill-equipped to properly determine if a surgical technologist seeking to be on the registry is competent in the tasks that are required to be assessed. Prior operating room experience is essential to establish the base knowledge for a licensed health care professional to adequately assess the competence of a surgical technologist seeking registration.

8. Comment on the nature of the assessment process for surgical technologists: Is it a formal examination? Or is it an interview? Or something else?

According to the amendment that has been made to the application;
As part of the registry application, a determination will be made by a licensed health care professional and placed in writing that the surgical technologist is competent to perform the following activities:

1. Checks supplies and assess the functionality of equipment needed for surgical procedure,
2. Scrubs, gowns and gloves,
3. Sets up sterile table with instruments, supplies, equipment, and medications/solutions needed for procedure,
4. Performs appropriate counts with circulator prior to the operation and before incision is closed,
5. Gowns and gloves surgeon and assistants,
6. Helps in draping sterile field,
7. Passes instruments, etc., to surgeon during procedure,
8. Maintains highest standard of sterile technique during procedure,
9. Prepares sterile dressings,
10. Cleans and prepares instruments for terminal sterilization,
11. Assists other members of team with terminal cleaning of room, and
12. Assists in prepping room for the next patient.

These skills that are listed are complex and include many intricacies. It is our recommendation that to accurately assess these skills the potential registrant would actually have to demonstrate them and would not be able to simply take an exam to establish their competence.

9. Comment on the idea of defining a scope of practice for surgical first assistants and a range of functions for surgical technologists under the terms of the proposal, with the exception that surgical first assistants would have both a scope of practice and a range of functions, whereas surgical technologists would only have a range of functions.

NE-AST, AST and ASA endorse the definition of a range of functions of the surgical technologist and a scope of practice for the surgical assistant that includes a clause stating that a surgical assistant can perform all of the tasks included in the surgical technologist range of functions as well as the tasks included in the surgical assistant scope of practice.

We recommend the following range of functions for the surgical technologist:

Surgical technologists perform the following tasks or functions:

a) preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely;

b) preparing the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique;

c) anticipating the needs of the surgical team based on knowledge of human anatomy and pathophysiology and how they relate to the surgical patient and the patient's surgical procedure; and

d) performing tasks in an operating room setting in the sterile field, including the following:

(1) scrubbing, gowning and gloving as required for the procedure being performed;
(2) participating in the “Surgical Time Out” to ensure correct patient identification, correct surgery site and correct surgical procedure;
(3) recognizing and correcting breaks in the sterile field to maintain the highest standard of sterile technique throughout the procedure;
(4) passing supplies, equipment or instruments to the surgeon and/or other qualified surgical team members;
(5) applying drapes to the patient to create the sterile field;
(6) gowning and gloving additional surgical team members;
(7) sponging or suctioning an operative site;
(8) preparing and cutting suture material;
(9) transferring and irrigating with fluids;
(10) transferring but not administering medications within the sterile field, according to applicable law following verification and distribution by the registered nurse to the sterile field;
(11) handling specimens;
(12) holding retractors and other instruments including endoscopes to assist in the visualization of surgical site as directed by a licensed independent practitioner;
(13) applying electrocautery to clamps that have been placed by a licensed practitioner on bleeders as directed by a licensed independent practitioner;
(14) connecting drains to a suction apparatus under personal supervision by a licensed independent practitioner;

(15) applying skin staples and skin adhesive under personal supervision by another licensed health care professional who approximates wound edges;
(16) applying dressings to closed wounds;
(17) counting sponges, needles, supplies, and instruments as appropriate for the
procedure being performed with the registered nurse circulator prior to the operation and before the incision is closed;
(18) cleaning and preparing instruments for sterilization on completion of the surgery; and
(19) assisting the surgical team with cleaning of the operating room on completion of the surgery.

e) performing tasks in an operating room setting in the unsterile role as an assistant to and under the supervision of the circulating nurse, including the following:
(1) Verifying and obtaining appropriate sterile and unsterile items needed for procedure
(2) Opening sterile supplies
(3) Transferring the patient to operating room table
(4) Providing comfort and safety measures as well as verbal and tactile reassurance to the patient
(5) Assisting anesthesia personnel
(6) Positioning the patient, using appropriate equipment and safety precautions
(7) Applying electrosurgical grounding pads, tourniquets, monitors, etc., before the procedure begins
(8) Preparing the patient's skin prior to draping by the surgical team by applying the appropriate skin preparation solution and shaving as ordered by the surgeon
(9) Performing urinary catheterization when necessary
(10) Anticipating additional supplies needed during the procedure
(11) Properly caring for specimens
(12) Securing dressings after incision closure
(13) Assisting in transport of the patient to the recovery room or critical care area
(14) Assisting in cleaning of the operating room and preparing for the next surgical procedure

We would recommend the following scope of practice for the surgical assistant:

1. Performing all tasks included in the surgical technologist range of functions
2. Providing visualization of the operative site through the placement of retractors
3. Assisting with hemostasis
4. Assisting with closure of body planes, including only the subcutaneous and skin layer
5. Applying appropriate immobilizing wound dressings
6. Providing assistance in securing drainage systems to tissue
7. Preparing but not procuring specimens, such as grafts after they have been removed from the patient by the surgeon
8. Postoperative subcutaneous injection of local anesthetic agent as directed by the surgeon.

9. Performing tasks delegable under the personal supervision of a licensed physician.

The information in Part Three, above, can be found on the credentialing review program link at http://dhhs.ne.gov/Pages/reg_admcr.aspx

Part Four: Discussion on issues by the Committee Members

What are the shortcomings of the current practice situation?

The role of a surgical first assistant is an emerging health profession. Regulation protects the public by mitigating the degree of risk from the unregulated practice. Although surgical first assistants would practice with the supervision of surgeons, the nature of their work requires independent judgment, knowledge and competence. Licensure is the best means of protecting the public and ensuring the minimum qualifications of surgical first assistants.

In the absence of licensure and regulatory requirements, most surgical first assistants have not pursued formal certification and/or licensure. Licensure would require the applicant to pass a Board approved professional education program and exam. A primary issue related to the lack of regulation of surgical first assistants is the increased use of such unlicensed personnel as assistants-at-surgery or second set of hands for the surgeon. The surgical first assistant does not perform surgery, but performs complex surgical tasks including harvesting veins for bypass grafts, dissecting tissue, removing tissue, altering tissue, clamping and cauterizing vessels, subcutaneous sutures, suctioning, irrigating, sponging and implanting devices. Currently, the surgical first assistant role is often performed by a surgeon, physician, physician assistant, nurse practitioner or registered nurse with a first assist designation.

In the operating room, an increased work load accentuates the need for more licensed health care professionals. Surgeons find their time fractionated by multiple demands. By providing state licensure for the surgical first assistants, they could perform several tasks that improve care, help schedules to be kept, enable the operating room to run more smoothly, reduce patient waiting and recovering times and improve the patient's overall experience. **(The Applicants' Proposal, Page 24)**

Does the public need this proposal?

An applicant group representative indicated that the surgical first assistants would be licensed and have a scope of practice and the surgical technologists would have their job responsibilities but no scope of practice. However, the proposal also seeks to create a state registry to maintain a census of and monitor surgical technologists.

A cardio technologist from Bryan Hospital stated they are trained to suture but that under current Nebraska law only physicians, physician assistants, and some RNs are allowed to suture. This cardio technologist referenced a law from the late 1800's which states that a physician cannot delegate their duties to an unlicensed professional. Addressing this problem is the principal reason why the current SFA proposal was submitted for credentialing review.

Mr. Temme and Ms. Sneckenberg asked the applicants to explain the difference between surgical assistants and surgical technologists. An applicant group representative stated that surgical technologists are entry level personnel with no scope of practice. The next level of SFAs are the Certified Surgical Technologists. The surgical first assistant has additional education and training and stands at the right hand of the surgeon. A representative from the

Association of Surgical Technologists further indicated that surgical technologists do not alter tissue at all whereas a surgical assistant can place stitches and alter tissue.

An applicant representative provided an overview of a survey that occurred at the Sidney Regional Center and it was discovered during the survey that a surgical first assistant was working in Nebraska performing those duties. Since the surgical first assistant is not licensed or recognized in Nebraska they had to alter their practice and this created a ripple effect across Nebraska because there were other surgical first assistants preforming such duties at various locations throughout Nebraska. This resulted in surgical first assistants being allowed to only perform the duties of a surgical technologist.

Dr. Kinney observed that Illinois, Kentucky, Texas and the District of Columbia are the only states that license surgical first assistants and asked if this was a new phenomenon. A representative from the applicant group discussed the national board list of various states with licensure, certification or registry.

Mr. Temme asked what the requirements are in regard to Continuing Education Units for surgical first assistants and surgical technologists. There were a variety of answers given by representatives including surgical first assistants receiving 100 hours within a 4 year period approved by the National Board, 60 hours every 4 years for surgical technologists with the CEU's being easily accessible to complete. An applicant representative indicated the CEU requirements are outlined in the proposal. Mr. Patrick discussed that CEU's shows what they can and can't do. He further stated there are medical staff involved, bylaws and rules and regulations for the professions, best practices prevail.

Questions were asked concerning who trains surgical technologists and who supervises them. An applicant representative stated that the physician would be supervising and in charge of the operating room, and reiterated that surgical technologists have a job description, are subject to compliance, and are accountable to the hospital in which they work. The committee asked the applicant group to expand on definitions for supervision. The applicant representative indicated that direct supervision means the physician is immediately available and personal supervision means the physician is in the operating room.

The discussion above on the need for the proposal occurred during the first meeting of the committee on March 6, 2015

The current role and hierarchy of the staff present in the surgical suite during a procedure is based on education and training and was discussed by the committee members (see attachment 3, posted on the program link at http://dhhs.ne.gov/Pages/reg_admcr.aspx). Dr. Baldwin asked if a surgical assistant (SA) is the same as a surgical first assistant (SFA). He was told that they are the same based on the applicant group's intentions. Ms. Mills stated there is a Certified Surgical Assistant (CSA) and a Certified Surgical First Assistant (CSFA) and that the designations are used interchangeably. In addition, there are two main boards that do testing of SFA's. Mr. Greenfield indicated that perfusionists were not included in the listing of surgical suite staff and they should be. The applicant group indicated they would include perfusionists and other professions that may have been overlooked.

A document titled “differentiating between Surgical Technologists (ST), Certified Surgical Technologists (CST), and Surgical First Assistants (SFA)” was also discussed by the committee members (see attachment 4, posted on the program link at http://dhhs.ne.gov/Pages/reg_admcr.aspx). An applicant representative indicated that a CST can perform all the functions of a ST. However, Nebraska law does not allow a CST to perform items 18 – 23 listed in column #2 of this attachment. This representative indicated that a SFA can perform all of the functions listed in columns #1, #2 and #3 except for items 18 – 23 listed in column #2. It was also noted that functions involving physician delegation to a SFA are not allowable under current Nebraska law.

The discussion in the two paragraphs immediately above occurred during the third meeting of the committee on May 27, 2015

Are there any aspects of the proposal that could put the public safety at risk?

Mr. Greenfield indicated there are between 15 and 20 surgical assistants in Nebraska and about 600 surgical technologists. He suggested that it may be beneficial to create a scope of practice and license surgical technologists and then provide them with the opportunity to become surgical assistants. He said it would solidify what surgical technologists do which is a high profile public health issue in the operating room pertinent to maintaining a sterile field. Mr. Greenfield stated that he does not want the work of surgical technologists to be devalued. One applicant representative expressed the concern that mandating that surgical technologists be licensed would create a burden on them to access the necessary education and training associated with licensure and that this could be a significant hardship for those practicing in rural areas of Nebraska. This representative said that licensing surgical technologists may be worthy of consideration at some point in the future, but not at this point in time. He added that surgical assistants sometimes have professional relationships with surgeons and often assist with ten or more surgeries in a day, providing great patient care and efficiency.

Dr. Kinney asked if the cost of care to the patient would increase if STs were licensed. An applicant representative stated that they are not looking to add additional expense to the patient, however, they are looking to add quality outcomes for the best interest of the patient. It was further indicated that the number of professionals in the operating room performing a procedure doesn’t dictate the charge. The charge is per procedure.

Dr. Baldwin asked how the proposal affects physician assistants and if the education system is ready to accept new students. An applicant representative responded that physician assistants can currently function as surgical assistants. A surgical technologist could acquire the education necessary to become a surgical assistant. However, there is currently no incentive to do this because surgical assistants are not recognized in Nebraska so they could not perform the activities they are trained to do. There are currently, 500 Certified Surgical Technologist programs across the country, two of which are in Nebraska. There are nine Certified Surgical First Assistant programs available across the country. However, there is no such program in Nebraska.

The discussion above regarding possible new harm from the proposal occurred during the first meeting of the committee on March 6, 2015

Mr. Greenfield indicated that perfusionists were not included in the listing of surgical suite staff and they should be. The applicant group indicated they would include perfusionists and other professions that may have been overlooked.

Mr. Greenfield asked if a scope of practice were created for SFA's would this place a hardship on ST's. An applicant representative indicated that it is not the intent to create a hardship for ST's but to focus on patient safety. In addition, the applicant group wants ST's to have the ability to train up to perform the duties and responsibilities of an SFA. Mr. Kinney asked what functions SFA's are not allowed to perform. Ms. Hurst referenced the proposed scope on page 4, 1 – 10 of the document titled "surgical suite occupations, scopes of practice, proposed registry and exemptions" (see attachment 5 posted on the program link). She indicated SFA's are not allowed to perform those functions currently because SFA's are not recognized or licensed in the State of Nebraska. SFA's are currently only allowed to perform the functions of ST's.

An applicant representative provided an overview of the document titled, "Surgical suite occupations, licensure requirements, registry requirements and supervision" (see attachment 6 posted on the program link). Mr. Greenfield asked if a provisional license would be necessary. The applicant representative indicated that folks are already on notice that if the proposal were to pass they would need to bring their education up and pass the exam.

Dr. Baldwin asked if the proposed registry would include ST's who are on-the-job trained. An applicant representative responded that it does when an ST shows competency. They further stated that a SFA has to be a ST before becoming a SFA.

Dr. Baldwin then asked if there were any standards for on-the-job training for ST's. An applicant member stated there were not. Discussion of this topic included that some places only have RN's in the operating room and that they teach ST's their duties and responsibilities. A nurse from the Nebraska Medical Center stated that they only hire ST's who have been trained. A person from McCook stated there are eight ST's employed there and only one of them has been trained. It was noted that greater Nebraska has trouble hiring and keeping ST's that have been trained.

The discussion in the page above occurred during the third meeting of the committee on May 27, 2015

Mr. Greenfield reiterated that he supports SFA's being licensed but is concerned about ST's being left out. Dr. Kissell and Ms. Sneckenberg both voiced support for the idea of including ST's in the pursuit of licensure. Mr. Greenfield added that the committee members should also discuss the idea of exempting perfusionists from the terms of the proposal.

There was discussion involving the delegation of duties to ST's. A late 1800's law which states that a physician cannot delegate to an unlicensed person was referenced. In addition, the Nurse Practice Act was referenced stating that an ST performs their duties under the delegation/supervision of a nurse. An applicant representative stated that his understanding of

this law is that a surgeon can delegate to a licensed person such as a physician assistant or a nurse within their scope of practice, but not to an unlicensed person.

Dr. Kissell asked what happens in rural areas of Nebraska if the proposal is moved forward. An applicant group member stated it would result in better expertise and care being provided. Ms. Jackson asked if there would be a hardship created on ST's if licensure were to be required. Mr. Greenfield responded that there should be a grandfather clause and a honeymoon period outlining the timeline ST's have leading up to the time they would be required to be registered. An applicant representative stated that it is not easy to recruit surgeons in rural areas and described pods of surgeons who take staff with them around to hospitals to perform procedures.

Mr. Temme asked if a licensure requirement were created for SFAs which includes a scope of practice would this requirement prevent ST's from performing their duties. The applicants indicated that they did not believe that their proposal would negatively impact STs. However, they indicated that careful consideration will be given to this question as the review moves forward. The committee members made it clear that the applicant group needs to further explore which aspects of the SFA scope of practice are exclusive to SFAs and which aspects overlap with the work of ST's and other medical practitioners in the state. It was also suggested that there is a need to be exempt such practitioners as RNs, for example.

Ms. Jackson asked how many hospitals in Nebraska utilized Certified Surgical Technologists versus on-the-job trained ST's. The response was that the majority of hospitals require graduation from an accredited institution. It was further stated that of several hospitals, approximately 1/3 do not use ST's because insurance companies require higher levels of education for them. Ms. Jackson asked if someone could achieve the education and then not sit for the exam. The response was that ST's are not required to sit for the exam. However those that do have a 100% passing rate. Ms. Sneckenberg made the observation that most of the people around the operating table are licensed except for the ST's and she could see a benefit in pursuing licensure for ST's.

The discussion in the page above occurred during the second meeting of the committee on April 8, 2015

All sources used to create Part Four of this report can be found on the credentialing review program link at http://dhhs.ne.gov/Pages/reg_admcr.aspx

Part Five: Committee Recommendations

Committee Discussion on the Issues

Ms. Sneckenberg asked the applicants what their projections are for the number of Surgical First Assistants would come to practice in Nebraska if the proposal were to pass. An applicant spokesperson responded that they don't have a data-based projection for this but went on to say that anecdotal information from health care facilities in out-state Nebraska indicates that there is a very high demand for this profession in these areas of our state.

Mr. Greenfield asked the applicants why the range of functions provisions were taken out of the proposal. An applicant spokesperson responded that these provisions have not been taken out of the proposal. A representative of the Surgical Technologists argued that the proposal needs to include more detail regarding what is included under the various range of functions, and that these additional details could be added from information from either of the national boards of certification for this profession. An applicant spokesperson responded that his group would provide this detail for the members of the Board of Health during the September 10, 2015 meeting of the Board's Credentialing Review Committee.

Dr. Kissell asked the applicants for clarification as to whether Surgical Technologists who have passed certification requirements would be required to undergo additional assessment procedures. An applicant representative responded that these Surgical Technologists would not be required to undergo any additional assessment.

The committee members discussed which board or boards should administer the credentialing programs being proposed. Mr. Greenfield indicated that the Board of Medicine and Surgery would be the best board for this because of their expertise in the area of surgical procedures. An applicant spokesperson responded that this approach would place those nurses who perform the same procedures as Surgical Technologists under the medical board and that this would not be appropriate.

Committee Actions Taken on the Four Statutory Criteria:

Criterion one: Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public.

Action taken: It was moved and seconded that the proposal satisfies this criterion.

Voting that it does satisfy this criterion were Kissell, Sneckenberg, Baldwin, and Greenfield.

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Comments from committee members:

Dr. Baldwin: There is a need for more qualified surgical workers in surgical procedures.
Dr. Kissell: There is a great need for more qualified surgical workers in rural areas of Nebraska.
Ms. Sneckenberg: There is a great need for more qualified surgical workers in rural areas of Nebraska.
Mr. Greenfield: There is a lack of qualified people to assist in surgical procedures.

<u>Criterion two</u>: Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.

Action taken: It was moved and seconded that the proposal satisfies this criterion.

Voting that it does satisfy this criterion were Kissell, Sneckenberg, Baldwin, and Greenfield.

Comments from committee members:

Dr. Baldwin: There would be no new harm stemming from this proposal.
Ms. Sneckenberg: There would be no new harm stemming from this proposal.
Dr. Kissell: The education and training of the personnel under review is of high quality.
Mr. Greenfield: Cooperation between Surgical First Assistants and Surgical Technologists is important to ensure public protection.

<u>Criterion three</u>: Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.

Action taken: It was moved and seconded that the proposal satisfies this criterion.

Voting that it does satisfy this criterion were Kissell, Sneckenberg, Baldwin, and Greenfield.

Comments from committee members:

Ms. Sneckenberg: This is the 'flip' of criterion two; if I support the proposal on criterion two, I also support it on criterion three, as well.
Dr. Baldwin: Indicated his agreement with Ms. Sneckenberg.
Dr. Kissell: Indicated her agreement with Ms. Sneckenberg.

<u>Criterion four</u>: The public cannot be protected by a more effective alternative.

Action taken: It was moved and seconded that the proposal satisfies this criterion.

Voting that it does satisfy this criterion were Kissell, Sneckenberg, and Baldwin.
Voting that it does not satisfy this criterion was Greenfield.

Comments from committee members:

Dr. Kissell: The proposal would address both rural and urban health care needs.
Ms. Sneckenberg: Indicated agreement with Dr. Kissell.
Dr. Baldwin: Indicated that he has not seen a better alternative.
Mr. Greenfield: Indicated that his 'no' vote was because he thinks that Surgical First Assistants and Surgical Technologists should both be licensed.

Action taken on the entire proposal was as follows:

Action taken: It was moved and seconded that the proposal receive a positive recommendation.

Voting that it should receive a positive recommendation were Kissell, Sneckenberg, Baldwin, and Greenfield.

Comments from committee members:

There were no additional comments at this time.