

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1061

Introduced by Kolterman, 24.

Read first time January 20, 2016

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to surgical technologists; to amend section
- 2 38-2025, Reissue Revised Statutes of Nebraska; to adopt the Surgical
- 3 Technologist Registry Act; to harmonize provisions; and to repeal
- 4 the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Surgical Technologist Registry Act.

3 Sec. 2. All surgical technologists employed by a facility licensed
4 under the Health Care Facility Licensure Act shall be registered with the
5 Surgical Technologist Registry created pursuant to section 4 of this act.

6 Sec. 3. To register as a surgical technologist, an individual
7 shall:

8 (1) Be at least nineteen years of age;

9 (2) Be a high school graduate or be officially recognized by the
10 State Department of Education as possessing the equivalent degree of
11 education;

12 (3) Be of good moral character;

13 (4) Be a graduate of a surgical technology program accredited by the
14 Commission on Accreditation of Allied Health Education Programs or the
15 Accrediting Bureau of Health Education Schools;

16 (5) Be certified by the State of Nebraska or a national certifying
17 body approved by the board;

18 (6) File an application with the department, including:

19 (a) The applicant's name, address, birth date, and social security
20 number;

21 (b) Documentation of any felony or misdemeanor conviction, along
22 with date of occurrence and county in which the conviction occurred; and

23 (c) Documentation of current certification by the State of Nebraska
24 or a national certifying body approved by the board; and

25 (7) Pay the required nonrefundable fee as determined by the
26 Department of Health and Human Services pursuant to section 38-151 to
27 38-157.

28 Sec. 4. The Surgical Technologist Registry is created and shall be
29 implemented January 1, 2017. Individuals employed as surgical
30 technologists in the state that do not meet the certification and
31 education requirements established by section 3 of this act by January 1,

1 2017, may register until January 1, 2018. Proof of employment shall be
2 required when applying for registration if such applicant does not meet
3 the certification and education requirements.

4 Sec. 5. Individuals who register without meeting the certification
5 and education requirements as provided in section 3 of this act shall
6 meet such requirements on or before January 1, 2018.

7 Sec. 6. The Board of Medicine and Surgery shall provide supervision
8 and oversight of the Surgical Technologist Registry.

9 Sec. 7. Section 38-2025, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-2025 The following classes of persons shall not be construed to
12 be engaged in the unauthorized practice of medicine:

13 (1) Persons rendering gratuitous services in cases of emergency;

14 (2) Persons administering ordinary household remedies;

15 (3) The members of any church practicing its religious tenets,
16 except that they shall not prescribe or administer drugs or medicines,
17 perform surgical or physical operations, nor assume the title of or hold
18 themselves out to be physicians, and such members shall not be exempt
19 from the quarantine laws of this state;

20 (4) Students of medicine who are studying in an accredited school or
21 college of medicine and who gratuitously prescribe for and treat disease
22 under the supervision of a licensed physician;

23 (5) Physicians who serve in the armed forces of the United States or
24 the United States Public Health Service or who are employed by the United
25 States Department of Veterans Affairs or other federal agencies, if their
26 practice is limited to that service or employment;

27 (6) Physicians who are licensed in good standing to practice
28 medicine under the laws of another state when incidentally called into
29 this state or contacted via electronic or other medium for consultation
30 with a physician licensed in this state. For purposes of this
31 subdivision, consultation means evaluating the medical data of the

1 patient as provided by the treating physician and rendering a
2 recommendation to such treating physician as to the method of treatment
3 or analysis of the data. The interpretation of a radiological image by a
4 physician who specializes in radiology is not a consultation;

5 (7) Physicians who are licensed in good standing to practice
6 medicine in another state but who, from such other state, order
7 diagnostic or therapeutic services on an irregular or occasional basis,
8 to be provided to an individual in this state, if such physicians do not
9 maintain and are not furnished for regular use within this state any
10 office or other place for the rendering of professional services or the
11 receipt of calls;

12 (8) Physicians who are licensed in good standing to practice
13 medicine in another state and who, on an irregular and occasional basis,
14 are granted temporary hospital privileges to practice medicine and
15 surgery at a hospital or other medical facility licensed in this state;

16 (9) Persons providing or instructing as to use of braces, prosthetic
17 appliances, crutches, contact lenses, and other lenses and devices
18 prescribed by a physician licensed to practice medicine while working
19 under the direction of such physician;

20 (10) Dentists practicing their profession when licensed and
21 practicing in accordance with the Dentistry Practice Act;

22 (11) Optometrists practicing their profession when licensed and
23 practicing under and in accordance with the Optometry Practice Act;

24 (12) Osteopathic physicians practicing their profession if licensed
25 and practicing under and in accordance with sections 38-2029 to 38-2033;

26 (13) Chiropractors practicing their profession if licensed and
27 practicing under the Chiropractic Practice Act;

28 (14) Podiatrists practicing their profession when licensed and
29 practicing under and in accordance with the Podiatry Practice Act;

30 (15) Psychologists practicing their profession when licensed and
31 practicing under and in accordance with the Psychology Practice Act;

1 (16) Advanced practice registered nurses practicing in their
2 clinical specialty areas when licensed under the Advanced Practice
3 Registered Nurse Practice Act and practicing under and in accordance with
4 their respective practice acts;

5 (17) Persons licensed or certified under the laws of this state to
6 practice a limited field of the healing art, not specifically named in
7 this section, when confining themselves strictly to the field for which
8 they are licensed or certified, not assuming the title of physician,
9 surgeon, or physician and surgeon, and not professing or holding
10 themselves out as qualified to prescribe drugs in any form or to perform
11 operative surgery;

12 (18) Persons obtaining blood specimens while working under an order
13 of or protocols and procedures approved by a physician, registered nurse,
14 or other independent health care practitioner licensed to practice by the
15 state if the scope of practice of that practitioner permits the
16 practitioner to obtain blood specimens; ~~and~~

17 (19) Other trained persons employed by a licensed health care
18 facility or health care service defined in the Health Care Facility
19 Licensure Act or clinical laboratory certified pursuant to the federal
20 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
21 or XIX of the federal Social Security Act to withdraw human blood for
22 scientific or medical purposes; and -

23 (20) A skilled professional or nonprofessional assistant, including,
24 but not limited to, a registered surgical technologist performing
25 services, as permitted by a practitioner licensed pursuant to the
26 Medicine and Surgery Practice Act, in a manner consistent with accepted
27 medical standards and appropriate to the assistant's skill.

28 Any person who has held or applied for a license to practice
29 medicine and surgery in this state, and such license or application has
30 been denied or such license has been refused renewal or disciplined by
31 order of limitation, suspension, or revocation, shall be ineligible for

1 the exceptions described in subdivisions (5) through (8) of this section
2 until such license or application is granted or such license is renewed
3 or reinstated. Every act or practice falling within the practice of
4 medicine and surgery as defined in section 38-2024 and not specially
5 excepted in this section shall constitute the practice of medicine and
6 surgery and may be performed in this state only by those licensed by law
7 to practice medicine in Nebraska.

8 Sec. 8. Original section 38-2025, Reissue Revised Statutes of
9 Nebraska, is repealed.