

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB205

Hearing Date: Wednesday January 23, 2019
Committee On: Health and Human Services
Introducer: Kolterman
One Liner: Adopt the Surgical Technologist Registration Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 4 Senators Cavanaugh, Howard, Walz, Williams
Nay:
Absent:
Present Not Voting: 3 Senators Arch, Hansen, B., Murman

Oral Testimony:

Proponents:

Senator Mark Kolterman
Casey Glassburner

Crystal Livingston
Kim Robak

Opponents:

Maggie Summerfelt

Tiffany Weeks

Douglas Wyatt
Jay Slagle

Kari Wade
Don Wesely
Nicole Fox

Neutral:

Representing:

Introducer
Nebraska State Assembly of the Association of Surgical Technologists
Doctors Outpatient Surgery Center
Nebraska Medical Association

Representing:

Nebraska Association of Independent Ambulatory Centers
Nebraska Association of Independent Ambulatory Centers; Urology Surgical Center/Urology P.C.
LOC Surgery Center
Midwest Eye Surgery Center, LLC; Nebraska Association of Independent Ambulatory Centers
Nebraska Nurses Association
Association for periOperative Registered Nurses
Platte Institute

Representing:

Summary of purpose and/or changes:

LB 205 creates the Surgical Technologist Registration Act. The Act creates the Surgical Technologist Registry, effective January 1, 2020. It requires that beginning January 1, 2020, surgical technologists contracting with or employed by a facility licensed under the Health Care Facility Licensure Act or a physician engaged in the practice of medicine and surgery, must register with the Surgical Technologist Registry no later than 180 days after the commencement of the contract period or date of employment or July 1, 2020, whichever is later. (Sec. 5.)

Section 6 of the act details the requirements to be eligible to register such as being 19, a high school graduate (or equivalent), of good moral character, as well as filing an application to register. The application process is detailed in Sec. 6(2) of the Act and requires, among other things, that the applicant document (1) current certification as a surgical technologist by the State of Nebraska or a national certifying body, (2) completion of an accredited program in surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools, or (3) certification of competency assessment completed by a licensed health care professional.

Sec. 6(2)(b) and Sec. 10 of the Act also create a fee to register.

Section 7 of the Act lists the functions and tasks a surgical technologist can perform, including preparing the operating suite, creating and maintaining a sterile field through organization and preparation of instruments and supplies; assisting surgeons and assistants with gowning and gloving, assisting with the patient including positioning and draping, passing instruments, etc., assisting the surgeon or nurse as otherwise directed.

Supervision and oversight of the Surgical Technologist Registry is delegated to the Board of Medicine and Surgery under Sec. 9.

The Department of Health and Human Services is required to establish and collect the fees for registering as allowed under the Uniform Credentialing Act under Sec. 10.

DHHS is also granted the authority to deny or refuse renewal of registration or may remove a registrant from the Registry for failure to meet the standards or for violation of the Surgical Technologist Registration Act under Section 11. That section also established appeal procedures for an applicant or registrant that is denied or removed. Persons who are denied or removed can reapply under the terms outlines in Sec. 12.

The Department is instructed to adopt and promulgate rules and regulations as deemed necessary to implement the Act, including the minimum competencies required under Sec 7 of the Act. (Sec. 13.)

Section 14 incorporates the Surgical Technologist Registration Act into the existing Medicine and Surgery Practice Act (Neb. Rev. Stat. Secs. 38-2001 to 38-2063).

Section 15 of the Act amends Neb. Rev. Stat. Sec. 38-2025 which lists those professionals that will not be construed as engaging in the unauthorized practice of medicine. LB 205 adds to that list certain professionals and nonprofessionals who are licensed, certified, or registered in their relevant practice area and are assigned tasked by a qualified physician.

Explanation of amendments:

The following changes are made to the green copy of LB 205.

AM 1436 adds a definition of board to mean the Board of Medicine and Surgery and a definition of department to mean the Department of Health and Human Services.

Section 9 is amended to allow surgical technologists to perform certain functions provided the functions are performed under the authority of a practitioner licensed under the Uniform Credentialing Act who is directing (not delegating) surgical tasks and functions based on the surgical technologist's education, knowledge, training, and skill. (AM 1436, pg. 2, lines 27-31.) The types of functions they may perform remain the same as in the green copy.

Section 13 subsections (3), (4), and (5) add additional procedures regarding informal conferences or formal hearings to appeal a denial or revocation of registration. (Pg. 3, lines 19-31 and pg. 4 lines 1-15.)

Section 15 adds a reporting requirement. Facilities or persons using the services of a surgical technologist must report to the department if they take any adverse action against the surgical tech due to alleged incompetence. The report must be made 30 days after the action or event. (Pg. 5, lines 24-31.) Similarly, subsection (2) allows (but does not require) "any person" to report facts concerning the alleged incompetence of a surgical tech to the department. (Pg. 6, lines 1-4.) The remainder of section 15 and section 16 concern the confidentiality of those reports, whether they are discoverable in court, and makes facilities or persons reporting immune from criminal or civil liability for reporting. (Pg. 6, lines 2-8.) Senator Kolterman's office used existing language from the statutes for medication aides for this section.

Section 16 allows, but does not require, the department to maintain an action for an injunction for a violation of the Surgical Technologist Registration Act or the rules and regulations. (Pg. 6, line 31 and pg. 7, lines 1-3.)

Section 18 makes surgical tech eligible for the Licensee Assistance Program which provides education, referrals, and monitoring of credential holders dealing with substance use issues. (Pg. 7, lines 4-5.)

Section 19 allows, but does not require, the department to promulgate rules and regulations.

Section 20 adds surgical techs to the list of practitioners who are not engaged in the unauthorized practice of law. (Pg. 9, lines 29-30.)

Sara Howard, Chairperson