

By: Zedler

H.B. No. 2834

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of surgical technologists;  
providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 3, Occupations Code, is amended by adding Chapter 207 to read as follows:

CHAPTER 207. SURGICAL TECHNOLOGISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 207.001. DEFINITIONS. In this chapter:

(1) "Board" means the Board of Surgical Technologists.

(2) "Commissioner" means the commissioner of public health.

(3) "Department" means the Texas Department of Health.

(4) "Physician" has the meaning assigned by Section 151.002.

(5) "Supervising physician" means a physician or a doctor of osteopathic medicine who assumes responsibility and liability for the services provided by a licensed surgical technologist.

(6) "Surgical technologist" means a person who prepares the intraoperative setting for surgery and performs functions within the person's scope of practice under the supervision of a physician.

Sec. 207.002. APPLICATION OF SUNSET ACT. The Board of

1 Surgical Technologists is subject to Chapter 325, Government Code  
2 (Texas Sunset Act). Unless continued in existence as provided by  
3 that chapter, the board is abolished and this chapter expires  
4 September 1, 2015.

5 [Sections 207.003-207.050 reserved for expansion]

6 SUBCHAPTER B. BOARD OF SURGICAL TECHNOLOGISTS

7 Sec. 207.051. BOARD; MEMBERSHIP. (a) The Board of Surgical  
8 Technologists is part of the department and shall perform its  
9 duties as a board within the department.

10 (b) The board consists of nine members appointed by the  
11 governor with the advice and consent of the senate as follows:

12 (1) three members who are practicing surgical  
13 technologists licensed under this chapter, each of whom has at  
14 least five years of clinical experience as a surgical technologist;

15 (2) three members who are supervising physicians; and

16 (3) three members who represent the public.

17 (c) Appointments to the board shall reflect the historical  
18 and cultural diversity of the inhabitants of this state.

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

22 Sec. 207.052. PUBLIC MEMBER ELIGIBILITY. A person may not  
23 be a public member of the board if the person or the person's  
24 spouse:

25 (1) is registered, certified, or licensed by a  
26 regulatory agency in the field of surgical technology;

27 (2) is employed by or participates in the management

1 of a business entity or other organization regulated by or  
2 receiving money from the board;

3 (3) owns or controls, directly or indirectly, more  
4 than a 10 percent interest in a business entity or other  
5 organization regulated by or receiving money from the board; or

6 (4) uses or receives a substantial amount of tangible  
7 goods, services, or money from the board other than compensation or  
8 reimbursement authorized by law for board membership, attendance,  
9 or expenses.

10 Sec. 207.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
11 In this section, "Texas trade association" means a cooperative and  
12 voluntarily joined statewide association of business or  
13 professional competitors in this state designed to assist its  
14 members and its industry or profession in dealing with mutual  
15 business or professional problems and in promoting their common  
16 interests.

17 (b) A person may not be a member of the board and may not be a  
18 board employee employed in a "bona fide executive, administrative,  
19 or professional capacity," as that phrase is used for purposes of  
20 establishing an exemption to the overtime provisions of the federal  
21 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and  
22 its subsequent amendments, if:

23 (1) the person is an officer, employee, or paid  
24 consultant of a Texas trade association in the field of surgical  
25 technology; or

26 (2) the person's spouse is an officer, manager, or paid  
27 consultant of a Texas trade association in the field of surgical

1 technology.

2 (c) A person may not be a member of the board or act as the  
3 general counsel to the board or the department if the person is  
4 required to register as a lobbyist under Chapter 305, Government  
5 Code, because of the person's activities for compensation on behalf  
6 of a profession related to the operation of the board.

7 Sec. 207.054. GROUNDS FOR REMOVAL. (a) It is a ground for  
8 removal from the board that a member:

9 (1) does not have at the time of taking office the  
10 qualifications required by Section 207.051;

11 (2) does not maintain during service on the board the  
12 qualifications required by Section 207.051;

13 (3) is ineligible for membership under Section 207.052  
14 or 207.053;

15 (4) cannot, because of illness or disability,  
16 discharge the member's duties for a substantial part of the member's  
17 term;

18 (5) violates this chapter; or

19 (6) is absent from more than half of the regularly  
20 scheduled board meetings that the member is eligible to attend  
21 during a calendar year without an excuse approved by a majority vote  
22 of the board.

23 (b) The validity of an action of the board is not affected by  
24 the fact that it is taken when a ground for removal of a board member  
25 exists.

26 (c) If the executive secretary has knowledge that a  
27 potential ground for removal exists, the executive secretary shall

1 notify the presiding officer of the potential ground. The presiding  
2 officer shall then notify the governor and the attorney general  
3 that a potential ground for removal exists. If the potential ground  
4 for removal involves the presiding officer, the executive secretary  
5 shall notify the next highest ranking officer of the board, who  
6 shall then notify the governor and the attorney general that a  
7 potential ground for removal exists.

8 Sec. 207.055. TERMS; VACANCY. (a) Board members serve  
9 staggered six-year terms with the terms of three members expiring  
10 on February 1 of each odd-numbered year.

11 (b) If a vacancy occurs on the board, the governor shall  
12 appoint a successor to serve for the unexpired portion of the term.

13 Sec. 207.056. COMPENSATION. (a) A member or employee of  
14 the board is entitled to compensation and reimbursement of travel  
15 expenses incurred by the member or employee as provided by the  
16 General Appropriations Act.

17 (b) A member may not receive compensation for services.

18 Sec. 207.057. OFFICERS. Not later than March 1 of each  
19 odd-numbered year, the board shall elect from among its members a  
20 presiding officer and an assistant presiding officer, who hold  
21 office according to board rule.

22 Sec. 207.058. MEETINGS. (a) The board shall meet at least  
23 twice annually.

24 (b) The board may hold additional meetings on the call of  
25 the presiding officer or at the written request of any four members  
26 of the board.

27 Sec. 207.059. TRAINING. (a) A person who is appointed to

1 and qualifies for office as a member of the board may not vote,  
2 deliberate, or be counted as a member in attendance at a meeting of  
3 the board until the person completes a training program that  
4 complies with this section.

5 (b) The training program must provide the person with  
6 information regarding:

7 (1) this chapter;

8 (2) the programs operated by the board;

9 (3) the role and functions of the board;

10 (4) the rules of the board, with an emphasis on the  
11 rules that relate to disciplinary and investigatory authority;

12 (5) the current budget for the board;

13 (6) the results of the most recent formal audit of the  
14 board;

15 (7) the requirements of:

16 (A) the open meetings law, Chapter 551,  
17 Government Code;

18 (B) the public information law, Chapter 552,  
19 Government Code;

20 (C) the administrative procedure law, Chapter  
21 2001, Government Code; and

22 (D) other laws relating to public officials,  
23 including conflict of interest laws; and

24 (8) any applicable ethics policies adopted by the  
25 department or the Texas Ethics Commission.

26 (c) A person appointed to the board is entitled to  
27 reimbursement, as provided by the General Appropriations Act, for

1 the travel expenses incurred in attending the training program,  
2 regardless of whether the attendance at the program occurs before  
3 or after the person qualifies for office.

4 [Sections 207.060-207.100 reserved for expansion]

5 SUBCHAPTER C. BOARD POWERS AND DUTIES

6 Sec. 207.101. GENERAL POWERS AND DUTIES. The board shall  
7 administer this chapter and shall:

8 (1) adopt rules necessary to administer and enforce  
9 this chapter;

10 (2) prescribe the application form for a surgical  
11 technologist license; and

12 (3) develop requirements for out-of-state applicants.

13 Sec. 207.102. ASSISTANCE BY DEPARTMENT. (a) The  
14 department shall provide personnel and facilities necessary to  
15 administer this chapter.

16 (b) If necessary to administer this chapter, the department  
17 by agreement may:

18 (1) obtain and provide compensation for services; and

19 (2) employ professional consultants, technical  
20 assistants, or other persons on a full-time or part-time basis.

21 Sec. 207.103. EXECUTIVE SECRETARY. The commissioner shall  
22 designate a department employee to serve as executive secretary of  
23 the board.

24 Sec. 207.104. EXECUTIVE SECRETARY POWERS AND DUTIES. In  
25 addition to performing the duties prescribed by this chapter and  
26 the board, the executive secretary shall:

27 (1) administer licensing activity for the board;

1           (2) keep full and accurate minutes of the board's  
2 transactions and proceedings;

3           (3) serve as custodian of the board's files and other  
4 records;

5           (4) prepare and recommend to the board plans and  
6 procedures necessary to implement the objectives of this chapter,  
7 including rules and proposals on administrative procedure;

8           (5) exercise general supervision over persons  
9 employed by the department in the administration of this chapter;

10          (6) investigate complaints and present formal  
11 complaints;

12          (7) attend all board meetings as a nonvoting  
13 participant;

14          (8) handle the board's correspondence; and

15          (9) obtain, assemble, or prepare reports and other  
16 information as directed or authorized by the board.

17          Sec. 207.105. FEES. The board by rule shall set fees under  
18 this chapter in amounts reasonable and necessary to cover the cost  
19 of administering this chapter.

20          Sec. 207.106. DIVISION OF RESPONSIBILITIES. The board  
21 shall develop and implement policies that clearly separate the  
22 policy-making responsibilities of the board and the management  
23 responsibilities of the staff of the department assigned to the  
24 board under this chapter.

25          Sec. 207.107. STANDARDS OF CONDUCT INFORMATION. The  
26 commissioner or the commissioner's designee shall provide to  
27 members of the board and to department employees assigned to the



1 board, as often as necessary, information regarding the  
2 requirements for office or employment under this chapter, including  
3 information regarding a person's responsibilities under applicable  
4 laws relating to standards of conduct for state officers or  
5 employees.

6 Sec. 207.108. EQUAL EMPLOYMENT OPPORTUNITY. (a) The  
7 executive secretary or the executive secretary's designee shall  
8 prepare and maintain a written policy statement that implements a  
9 program of equal employment opportunity to ensure that all  
10 personnel decisions are made without regard to race, color,  
11 disability, sex, religion, age, or national origin.

12 (b) The policy statement must include:

13 (1) personnel policies, including policies relating  
14 to recruitment, evaluation, selection, training, and promotion of  
15 personnel, that show the intent of the board to avoid the unlawful  
16 employment practices described by Chapter 21, Labor Code; and

17 (2) an analysis of the extent to which the composition  
18 of the department's personnel assigned to the board is in  
19 accordance with state and federal law and a description of  
20 reasonable methods to achieve compliance with state and federal  
21 law.

22 (c) The policy statement must be:

23 (1) updated annually;  
24 (2) reviewed by the state Commission on Human Rights  
25 for compliance with Subsection (b)(1); and  
26 (3) filed with the governor.

27 Sec. 207.109. STATE EMPLOYEE INCENTIVE PROGRAM. The

1 executive secretary or the executive secretary's designee shall  
2 provide to department employees assigned to the board information  
3 and training on the benefits and methods of participation in the  
4 state employee incentive program.

5 Sec. 207.110. TECHNOLOGY POLICY. The board shall develop  
6 and implement a policy that requires the executive secretary and  
7 department employees to research and propose appropriate  
8 technological solutions to improve the board's ability to perform  
9 its mission. The technological solutions must:

10 (1) ensure that the public is able to easily find  
11 information about the board on the Internet;

12 (2) ensure that persons who use the board's services  
13 are able to:

14 (A) interact with the board through the Internet;  
15 and

16 (B) access any services that can be provided  
17 effectively through the Internet; and

18 (3) be cost effective and developed through the  
19 board's planning processes.

20 Sec. 207.111. ALTERNATIVE DISPUTE RESOLUTION POLICY. (a)  
21 The board shall develop and implement a policy to encourage the use  
22 of appropriate alternative dispute resolution procedures under  
23 Chapter 2009, Government Code, to assist in the resolution of  
24 internal and external disputes under the board's jurisdiction.

25 (b) The board's procedures relating to alternative dispute  
26 resolution must conform, to the extent possible, to any model  
27 guidelines issued by the State Office of Administrative Hearings

1 for the use of alternative dispute resolution by state agencies.

2 (c) The board shall designate a trained person to:

3 (1) coordinate the implementation of the policy  
4 adopted under Subsection (a);

5 (2) serve as a resource for any training needed to  
6 implement the procedures for alternative dispute resolution; and

7 (3) collect data concerning the effectiveness of  
8 those procedures, as implemented by the board.

9 Sec. 207.112. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
10 BIDDING. (a) The board may not adopt rules restricting advertising  
11 or competitive bidding by a license holder except to prohibit  
12 false, misleading, or deceptive practices.

13 (b) In its rules to prohibit false, misleading, or deceptive  
14 practices, the board may not include a rule that:

15 (1) restricts the use of any medium for advertising;

16 (2) restricts the use of a license holder's personal  
17 appearance or voice in an advertisement;

18 (3) relates to the size or duration of an  
19 advertisement by the license holder; or

20 (4) restricts the license holder's advertisement under  
21 a trade name.

22 [Sections 207.113-207.150 reserved for expansion]

23 SUBCHAPTER D. PUBLIC INTEREST AND COMPLAINT PROCEDURES

24 Sec. 207.151. GENERAL RULES REGARDING COMPLAINT  
25 INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules

26 concerning the investigation of a complaint filed with the board.

27 The rules adopted under this subsection must:

1           (1) distinguish among categories of complaints;

2           (2) ensure that a complaint is not dismissed without  
3 appropriate consideration;

4           (3) require that the board be advised of a complaint  
5 that is dismissed and that a letter be sent to the person who filed  
6 the complaint explaining the action taken on the dismissed  
7 complaint;

8           (4) ensure that the person who filed the complaint has  
9 an opportunity to explain the allegations made in the complaint;  
10 and

11           (5) prescribe guidelines concerning the categories of  
12 complaints that require the use of a private investigator and the  
13 procedures for the board to obtain the services of a private  
14 investigator.

15           (b) The board shall:

16           (1) dispose of each complaint in a timely manner; and

17           (2) establish a schedule for conducting each phase of  
18 a complaint that is under the control of the board not later than  
19 the 30th day after the date the board receives the complaint.

20           (c) Each party to the complaint shall be notified of the  
21 projected time requirements for pursuing the complaint. Each party  
22 shall be notified of any change in the schedule established under  
23 Subsection (b)(2) not later than the seventh day after the date the  
24 change is made.

25           (d) The executive secretary shall notify the board of a  
26 complaint that is not resolved in the time prescribed by the board  
27 for resolving the complaint so that the board may take necessary

1 action on the complaint.

2 Sec. 207.152. COMPLAINTS. The board by rule shall  
3 establish methods by which consumers and service recipients are  
4 notified of the name, mailing address, and telephone number of the  
5 board for the purpose of directing complaints to the board.

6 Sec. 207.153. RECORD OF COMPLAINTS. (a) The board shall  
7 maintain a file on each written complaint filed with the board. The  
8 file must include:

9 (1) the name of the person who filed the complaint;

10 (2) the date the complaint was received by the board;

11 (3) the subject matter of the complaint;

12 (4) the name of each person contacted in relation to  
13 the complaint;

14 (5) a summary of the results of the review or  
15 investigation of the complaint; and

16 (6) an explanation of the reason the file was closed,  
17 if the board closed the file without taking action other than to  
18 investigate the complaint.

19 (b) The board shall provide to the person filing the  
20 complaint and to each person who is a subject of the complaint a  
21 copy of the board's policies and procedures relating to complaint  
22 investigation and resolution.

23 (c) The board, at least quarterly and until final  
24 disposition of the complaint, shall notify the person filing the  
25 complaint and each person who is a subject of the complaint of the  
26 status of the investigation unless the notice would jeopardize an  
27 undercover investigation.

1       Sec. 207.154. SUBPOENAS. (a) In an investigation of a  
2 complaint filed with the board, the board may request that the  
3 commissioner or the commissioner's designee approve the issuance of  
4 a subpoena. If the request is approved, the board may issue a  
5 subpoena to compel the attendance of a relevant witness or the  
6 production, for inspection or copying, of relevant evidence that is  
7 in this state.

8       (b) A subpoena may be served personally or by certified  
9 mail.

10       (c) If a person fails to comply with the subpoena, the  
11 board, acting through the attorney general, may file suit to  
12 enforce the subpoena in a district court in Travis County or in the  
13 county in which a hearing conducted by the board may be held.

14       (d) On finding that good cause exists for issuing the  
15 subpoena, the court shall order the person to comply with the  
16 subpoena. The court may punish a person who fails to obey the court  
17 order.

18       (e) The board may delegate the authority granted under  
19 Subsection (a) to the executive secretary.

20       (f) The board shall pay a reasonable fee for photocopies  
21 subpoenaed under this section in an amount not to exceed the amount  
22 the board may charge for copies of its records.

23       (g) The reimbursement of the expenses of a witness whose  
24 attendance is compelled under this section is governed by Section  
25 2001.103, Government Code.

26       (h) All information and materials subpoenaed or compiled by  
27 the department or board in connection with a complaint and

1 investigation are confidential and not subject to disclosure under  
2 Chapter 552, Government Code, and not subject to disclosure,  
3 discovery, subpoena, or other means of legal compulsion for release  
4 to anyone other than the board, the department, or employees or  
5 agents involved in discipline of a license holder, except that this  
6 information may be disclosed to:

7 (1) surgical technologist licensing or disciplinary  
8 boards in other jurisdictions;

9 (2) peer assistance programs approved by the board  
10 under Chapter 467, Health and Safety Code;

11 (3) law enforcement agencies; and

12 (4) persons engaged in bona fide research, if all  
13 individual-identifying information has been deleted.

14 (i) The filing of formal charges by the board against a  
15 license holder, the nature of the charges, disciplinary proceedings  
16 of the board, and final disciplinary actions by the board,  
17 including warnings and reprimands, are not confidential and are  
18 subject to disclosure in accordance with Chapter 552, Government  
19 Code.

20 Sec. 207.155. PUBLIC PARTICIPATION. The board shall  
21 develop and implement policies that provide the public with a  
22 reasonable opportunity to appear before the board and to speak on  
23 any issue under the jurisdiction of the board.

24 [Sections 207.156-207.200 reserved for expansion]

25 SUBCHAPTER E. LICENSE REQUIREMENTS

26 Sec. 207.201. LICENSE REQUIRED. A person may not use the  
27 title "licensed surgical technologist" or use any form or

1 abbreviation of that title to indicate or imply the person is a  
2 licensed surgical technologist unless the person holds a license  
3 under this chapter.

4 Sec. 207.202. ISSUANCE OF LICENSE. (a) The board shall  
5 issue a surgical technologist license to a person who meets the  
6 requirements of this chapter and the rules adopted under this  
7 chapter.

8 (b) An applicant for a license must submit to the board:

- 9 (1) the prescribed application form;  
10 (2) the required application fee; and  
11 (3) any other information the board considers  
12 necessary to evaluate the applicant's qualifications.

13 Sec. 207.203. APPLICANT QUALIFICATIONS. An applicant for a  
14 surgical technologist license must:

15 (1) have successfully completed an educational  
16 program for surgical technologists accredited by the Commission on  
17 Accreditation of Allied Health Education Programs or another entity  
18 approved by the board;

19 (2) have passed the national surgical technologist's  
20 certifying examination administered by the Liaison Council on  
21 Certification for the Surgical Technologist or by another entity  
22 approved by the board;

23 (3) certify that the applicant is mentally and  
24 physically able to function safely as a surgical technologist;

25 (4) not have had a license or certification as a  
26 surgical technologist issued under this chapter or by any other  
27 licensing authority revoked, suspended, or subject to probation or



1 other disciplinary action for cause resulting from the applicant's  
2 acts as a surgical technologist, unless the board considers the  
3 disciplinary action in their determination of whether to issue a  
4 license under this chapter;

5 (5) be of good moral character; and

6 (6) meet any other requirements established by the  
7 board.

8 Sec. 207.204. OUT-OF-STATE LICENSE APPLICANTS. (a) Except  
9 as provided by Subsection (b), a license applicant who acts as a  
10 surgical technologist in another state must:

11 (1) satisfy the requirements of Section 207.203;

12 (2) submit to the board proof of active engagement as a  
13 surgical technologist in another state; and

14 (3) meet any other requirement established by the  
15 board.

16 (b) The board may waive any prerequisite to obtaining a  
17 license for an applicant under this section if, after reviewing the  
18 applicant's credentials, the board determines that the applicant  
19 holds a license issued by another jurisdiction that has licensing  
20 requirements substantially equivalent to the requirements of this  
21 state.

22 Sec. 207.205. REQUIREMENTS FOR LICENSE ISSUANCE. An  
23 applicant for a surgical technologist license is entitled to  
24 receive the license if the applicant:

25 (1) satisfies the requirements of Section 207.203 or  
26 207.204;

27 (2) pays the required license fee; and

1           (3) has not committed an act that constitutes grounds  
2 for refusal of a license under Section 207.301.

3           Sec. 207.206. LICENSE EXPIRATION. (a) Except as provided  
4 by Subsection (b), a license issued under this subchapter expires  
5 on the second anniversary of the date of issuance.

6           (b) The board by rule may adopt a system under which  
7 licenses expire on various dates during the year. For the year in  
8 which the license expiration date is changed, the board shall  
9 prorate license fees on a monthly basis so that each license holder  
10 pays only that portion of the license fee that is allocable to the  
11 number of months during which the license is valid. On renewal of  
12 the license on the new expiration date, the total license renewal  
13 fee is payable.

14           Sec. 207.207. LICENSE RENEWAL. (a) A person who is  
15 otherwise eligible to renew a license under this chapter may renew  
16 the unexpired license before the expiration date of the license by:

- 17                   (1) paying the required renewal fee;  
18                   (2) submitting the appropriate form;  
19                   (3) satisfying the continuing education requirements  
20 of Section 207.209; and  
21                   (4) meeting any other requirement established by board  
22 rule.

23           (b) Not later than the 30th day before the date a person's  
24 license is scheduled to expire, the board shall send written notice  
25 of the impending expiration to the person at the person's last known  
26 address according to the board's records.

27           Sec. 207.208. RENEWAL OF EXPIRED LICENSE. (a) A person

1 whose license has expired may not use the title "licensed surgical  
2 technologist" until the license has been renewed.

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

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

10 (d) A person whose license has been expired for one year or  
11 more may not renew the license. The person may obtain a new license  
12 by complying with the requirements and procedures for obtaining an  
13 original license.

14 Sec. 207.209. CONTINUING EDUCATION. (a) To renew a license  
15 under this chapter, a person must submit proof satisfactory to the  
16 board that the person has complied with the continuing education  
17 requirements required by this chapter and board rule.

18 (b) An individual licensed under this chapter is required to  
19 participate in 15 hours of continuing education each year.

20 (c) The board shall develop a process to evaluate and  
21 approve continuing education courses.

22 [Sections 207.210-207.250 reserved for expansion]

23 SUBCHAPTER F. PRACTICE BY SURGICAL TECHNOLOGIST

24 Sec. 207.251. SCOPE OF PRACTICE. (a) The practice of a  
25 surgical technologist includes providing surgical medical services  
26 delegated by a supervising physician that are within the education,  
27 training, and experience of the surgical technologist.

1       (b) The practice of a surgical technologist may be performed  
2 in any place authorized by a supervising physician, including a  
3 clinic, hospital, ambulatory surgical center, nursing home, or  
4 other institutional setting, or a patient's home.

5       Sec. 207.252. SUPERVISION REQUIREMENTS. (a) A surgical  
6 technologist may practice only under the continuous supervision of  
7 a supervising physician. The supervision requirement does not  
8 require the physical presence of the supervising physician while  
9 the surgical technologist disassembles instruments and equipment  
10 at the surgical location after the physician performs surgery.

11       (b) A surgical technologist may have more than one  
12 supervising physician.

13       Sec. 207.253. REQUIREMENTS FOR ACTING AS SUPERVISING  
14 PHYSICIAN. (a) A supervising physician:

15               (1) must hold an unrestricted and active license as a  
16 physician in this state; and

17               (2) retains professional and legal responsibility for  
18 the care provided by a surgical technologist.

19       (b) In providing supervision, a supervising physician  
20 shall:

21               (1) identify the surgical technologist's scope of  
22 practice;

23               (2) delegate only medical tasks appropriate to the  
24 surgical technologist's level of competence;

25               (3) define the relationship between the surgical team  
26 members; and

27               (4) ensure that the surgical technologist has access

1 to the supervising physician.

2 Sec. 207.254. COPY OF LICENSE AT FACILITY. A person  
3 licensed under this chapter shall maintain a copy of the person's  
4 license in the appropriate records of each health care facility in  
5 which the license holder provides services.

6 Sec. 207.255. LICENSE HOLDER INFORMATION. A license holder  
7 shall keep the board informed of the license holder's current  
8 address.

9 Sec. 207.256. IDENTIFICATION REQUIREMENTS. A surgical  
10 technologist licensed under this chapter shall, when engaged in the  
11 surgical technologist's professional activities, wear a name tag  
12 identifying the person as a licensed surgical technologist.

13 [Sections 207.257-207.300 reserved for expansion]

14 SUBCHAPTER G. DISCIPLINARY PROCEDURES

15 Sec. 207.301. GROUNDS FOR DENIAL OF LICENSE OR DISCIPLINARY  
16 ACTION. (a) The board may refuse to issue a license, publicly or  
17 privately reprimand a license holder, or suspend, revoke, or place  
18 other restrictions on a license if an applicant or license holder:

19 (1) fraudulently or deceptively obtains or attempts to  
20 obtain a license;

21 (2) fraudulently or deceptively uses a license;

22 (3) violates this chapter or a rule adopted under this  
23 chapter;

24 (4) is convicted of a felony;

25 (5) is a habitual user of intoxicants or nontherapeutic  
26 drugs to the extent the person cannot safely perform as a surgical  
27 technologist;

1           (6) has been adjudicated as mentally incompetent or  
2 has a mental or physical condition that renders the person unable to  
3 safely perform as a surgical technologist;

4           (7) has committed an act of moral turpitude;

5           (8) represents that the person is a physician without  
6 being licensed as a physician;

7           (9) has acted in an unprofessional or dishonorable  
8 manner that is likely to deceive, defraud, or injure a member of the  
9 public;

10           (10) has failed to practice as a surgical technologist  
11 in an acceptable manner consistent with public health and welfare;

12           (11) has committed any act that is in violation of the  
13 laws of this state if the act is connected with practice as a  
14 surgical technologist; or

15           (12) has had the person's license suspended, revoked,  
16 or restricted or has had other disciplinary action taken by another  
17 state or the uniformed services of the United States regarding  
18 practice as a surgical technologist based on acts by the person  
19 similar to acts described in this subsection.

20           (b) For the purposes of Subsection (a)(11), a complaint,  
21 indictment, or conviction is not necessary for enforcement of that  
22 provision. Proof of the commission of a proscribed act while in  
23 practice as a surgical technologist is sufficient for action by the  
24 board under that subdivision.

25           (c) For the purposes of Subsection (a)(12), a certified copy  
26 of the record of the state or uniformed services of the United  
27 States that took the action is conclusive evidence of the action.

1           Sec. 207.302. ADDITIONAL DISCIPLINARY AUTHORITY;  
2 PROBATION. (a) On determining that a surgical technologist has  
3 engaged in conduct described by Section 207.301, the board may:

4           (1) require a surgical technologist to submit to the  
5 care, counseling, or treatment of a health care practitioner  
6 designated by the board;

7           (2) stay enforcement of an order and place the  
8 surgical technologist on probation with the board retaining the  
9 right to vacate the probationary stay and enforce the original  
10 order for noncompliance with the terms of probation or impose any  
11 other remedial measure or sanction authorized by this section;

12           (3) order the surgical technologist to perform public  
13 service; or

14           (4) require the surgical technologist to complete  
15 additional training.

16           (b) The board may place on probation a person whose license  
17 is suspended. If a license suspension is probated, the board may  
18 require the person to:

19           (1) report regularly to the board on matters that are  
20 the basis of the probation;

21           (2) limit practice areas to areas prescribed by the  
22 board; or

23           (3) continue or review professional education until  
24 the person attains a degree of skills satisfactory to the board in  
25 those areas that are the basis of the probation.

26           Sec. 207.303. NOTIFICATION REQUIRED. The board shall  
27 notify the Association of Surgical Technologists of any

1 disciplinary action taken against a licensed surgical technologist  
2 under this chapter.

3 [Sections 207.304-207.350 reserved for expansion]

4 SUBCHAPTER H. ENFORCEMENT

5 Sec. 207.351. OFFENSE. (a) A person commits an offense if,  
6 without holding a license under this chapter, the person:

7 (1) uses the title "licensed surgical technologist";

8 or

9 (2) uses any form or abbreviation of the term  
10 "licensed surgical technologist" to indicate or imply that the  
11 person is a licensed surgical technologist.

12 (b) An offense under this section is a Class B misdemeanor.

13 SECTION 2. (a) In making the initial appointments to the  
14 Board of Surgical Technologists, the governor shall designate three  
15 members for terms expiring January 31, 2005, three members for  
16 terms expiring January 31, 2007, and three members for terms  
17 expiring January 31, 2009.

18 (b) The initial members of the Board of Surgical  
19 Technologists who are surgical technologists are not required to be  
20 licensed under Chapter 207, Occupations Code, as added by this Act,  
21 until September 1, 2005.

22 SECTION 3. (a) The Board of Surgical Technologists shall  
23 issue a surgical technologist license to a qualified applicant  
24 under this section who:

25 (1) applies for a license under this section not later  
26 than September 1, 2004;

27 (2) submits to the board the information required by



1 board rule;

2 (3) has the experience required by Subsection (b); and

3 (4) pays the application fee.

4 (b) An applicant for a license under this section must be:

5 (1) a certified surgical technologist on the effective  
6 date of this Act; or

7 (2) a certified surgical technologist/certified first  
8 assistant on the effective date of this Act.

9 (c) An applicant for a license under this section is  
10 eligible to sit for the examination to receive a surgical  
11 technologist license if the applicant:

12 (1) applies to the board not later than the first  
13 anniversary of the date the board adopts the rules required by  
14 Chapter 207, Occupations Code, as added by this Act;

15 (2) is a surgical technologist who:

16 (A) has successfully completed a program  
17 accredited by the Commission on Accreditation of Allied Health  
18 Education Programs, but has not taken the certification  
19 examination;

20 (B) is not certified, but is employed as a  
21 surgical technologist; or

22 (C) has successfully completed a surgical  
23 technologist program other than a program accredited by the  
24 Commission on Accreditation of Allied Health Education Programs and  
25 is employed as a surgical technologist; and

26 (3) provides written documentation signed by an  
27 operating room director or surgeon showing that the applicant has

1 completed or will complete not later than the first anniversary of  
2 the application date:

3 (A) college level courses in:

4 (i) anatomy and physiology;

5 (ii) microbiology or pathology;

6 (iii) medical or surgical terminology; and

7 (iv) pharmacology; and

8 (B) caseload requirements as solo first scrub  
9 for:

10 (i) 50 general cases;

11 (ii) 25 gynecology cases;

12 (iii) 25 orthopedic cases; and

13 (iv) 25 neurology, cardiovascular, or ear,  
14 nose, and throat cases.

15 (d) This section expires September 1, 2005.

16 (e) The Board of Surgical Technologists shall adopt rules  
17 under Chapter 207, Occupations Code, as added by this Act, not later  
18 than June 1, 2004.

19 SECTION 4. (a) Except as provided by Subsection (b) of this  
20 section, this Act takes effect September 1, 2003.

21 (b) Section 207.201 and Subchapters G and H, Chapter 207,  
22 Occupations Code, as added by this Act, take effect September 1,  
23 2005.