



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC85-160-10 et seq.
<b>Regulation title</b>	Regulations Governing the Registration of Surgical Assistants and Surgical Technologists
<b>Action title</b>	Initial regulations for registration
<b>Date this document prepared</b>	8/5/14

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

To implement Chapter 531 of the 2014 Acts of the Assembly, the Board has adopted regulations for registration of surgical assistants and surgical technologists. Regulations establish requirements for registrants to maintain a current name and address, fees for application and renewal and qualifications for registration.

*One of the options to qualify for registration, as set forth in Chapter 531, is practice as a surgical assistant or a surgical technologist in the six months prior to July 1, 2014, provided the applicant registers by July 1, 2015. In order for that “grandfathering” provision to be implemented and available to applicants, regulations should be effective at least 90 days prior to the July 1, 2015 deadline. That would require approval by the Governor during the General Assembly (January 21, 2015) in order to allow for publication and a public comment period. Therefore, the agency requests action on the fast-track regulations by the end of 2014.*

### Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

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N/A

### Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

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On August 1, 2014, the Board of Medicine adopted 18VAC85-160-10 et seq., Regulations Governing Registration of Surgical Assistants and Surgical Technologists.

### Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

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Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Medicine the authority to establish qualifications for registration, register qualified applicants, establish schedules for renewal, levy and collect fees, and promulgate regulations to administer the regulatory system:

**§ 54.1-2400 -General powers and duties of health regulatory boards**

*The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions...*
- 3. To register, certify, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

In addition, Chapter 531 of the 2014 Acts of the Assembly added the following Code sections, mandating that the Board register technologists and assistants who possess certain credentials.

[54.1-2956.12](#). Registered surgical technologist; use of title; registration.

A. No person shall use or assume the title "registered surgical technologist" unless such person is registered with the Board.

B. The Board shall register as a registered surgical technologist any applicant who presents satisfactory evidence that he (i) holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor, (ii) has successfully completed a surgical technologist training program during the person's service as a member of any branch of the armed forces of the United States, or (iii) has practiced as a surgical technologist at any time in the six months prior to July 1, 2014, provided he registers with the Board by July 1, 2015.

§ [54.1-2956.13](#). Registered surgical assistant; use of title; registration.

A. No person shall use or assume the title "registered surgical assistant" unless such person is registered with the Board.

B. The Board shall register as a registered surgical assistant any applicant who presents satisfactory evidence that he (i) holds a current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, the National Surgical Assistant Association, or the National Commission for Certification of Surgical Assistants or their successors, (ii) has successfully completed a surgical assistant training program during the person's service as a member of any branch of the armed forces of the United States, or (iii) has practiced as a surgical assistant at any time in the six months prior to July 1, 2014, provided he registers with the Board by July 1, 2015.

## Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

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The purpose of the regulations is to state general provisions for a registration, including fees for applicants and renewal of registration and to set out the qualifications for registration. While the registration is voluntary for surgical assistants and surgical technologists, the public and potential employers will be able to use the information for greater assurance that the person is qualified to practice with safety and minimal competency.

### Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

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Since this regulation sets out the qualifications for registration already established in the Code by Chapter 531, it will not be controversial. As noted in the summary above, unless there are final regulations in effect prior to July 1, 2015, the “grandfathering” provision for those who were practicing prior to July 1, 2014 cannot be implemented and an avenue for registration will be closed to applicants. Therefore, the Board determined that the fast-track action was necessary and appropriate.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the “Detail of changes” section.) Please be sure to define any acronyms.*

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Regulations establish requirements for registrants to maintain a current name and address, fees for application and renewal and qualifications for registration as a surgical technologist or surgical assistant.

### Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

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1) The primary advantage to the public is a registry of practitioners who hold credentials as a surgical technologist or surgical assistant. There is no requirement for registration in order to practice in the field, so hospitals can continue to hire and train persons on the job. There are no disadvantages.

2) There are no advantages or disadvantages to the agency or the Commonwealth.

3) There is no other pertinent information.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

**Regulatory flexibility analysis**

*Pursuant to §2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative regulatory methods to the establishment of a registry with fees for applicants and registrants and a schedule of renewal for such registration.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

<p><b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think</p>	<p>The individuals affected would be surgical assistants and surgical technologists who choose to submit their credentials for registration by the</p>
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broadly, e.g., these entities may or may not be regulated by this board	Board of Medicine.
<b>Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.	While the Department of Health Professions does not have an exact estimate of affected entities, there are approximately 500 surgical assistants and 2,000 surgical technologists in the Commonwealth. There is no estimate of the number of persons who would qualify for and choose to be registered.
<b>Benefits expected as a result of this regulatory proposal.</b>	The benefit will be a registry of persons who hold a professional credential in the field of surgical assisting or surgical technology.
<b>Projected cost to the state to implement and enforce this regulatory proposal.</b>	Costs to the state for a registry will be offset by fees paid by applicants and registrants.
<b>Projected cost to localities to implement and enforce this regulatory proposal.</b>	There are no costs to localities.
<b>All projected costs of this regulatory proposal for affected individuals, businesses, or other entities.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	Costs to affected individuals will be the fees for application and renewal. The regulation is permissive, and registration is not required for practice.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The regulatory action is in response to a mandate in Chapter 531 of the 2014 Acts of the Assembly to register surgical assistants and surgical technologists. There are no viable alternatives that meet the essential purpose of the action; regulations include only minimal requirements for a regulatory scheme.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

There is no impact on the family.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

<b>Current section number</b>	<b>New requirements</b>
10	Section 10 sets out definitions for words and terms. Only the word “Board” is defined as the Board of Medicine.
20	Section 20 sets out the requirement for a registrant to maintain a current name and address with the Board and states that any notice sent to the address of record is deemed to be validly given. The provision is consistent with regulations for every profession under the Board of Medicine.
30	Section 30 establishes the fees for registration, renewal of registration, late renewal, and a returned check. Since these professions are voluntarily registered rather than licensed, there are no provisions for disciplinary action. Therefore, the fees are set at approximately one-half the fees for the allied professions licensed under the Board of Medicine - \$75 for initial registration and \$70 for biennial renewal of registration.
40	Section 40 establishes the qualifications for registration which are identical to those set out in §§ <a href="#">54.1-2956.12</a> and § <a href="#">54.1-2956.13</a> of the Code of Virginia.