

# Advisory Board on Surgical Assisting

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Virginia Board of Medicine

May 31, 2022

10:00 a.m.

**Advisory Board on Surgical Assisting**

Board of Medicine

Tuesday, May 31, 2022 @ 10:00 a.m.

9960 Mayland Drive, Suite 201,

Henrico, VA

	Page
Call to Order – Deborah Redmond, LSA, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Beulah Archer	
Approval of Minutes of February 7, 2022	1 - 3
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
<b>New Business</b>	
1. Legislative Update from the 2022 General Assembly ..... Erin Barrett	4
2. Discuss HB598 ..... Erin Barrett	5
3. Regulatory Action: Recommend Adoption of Final Regulations for Surgical Assistants .... Erin Barrett	6 - 19
4. Discuss Provisional License, Renewal, Inactive License, and Reactivation ..... Deborah Redmond	-- --
5. Discuss Inactive Certification and Reinstatement Requirements for Surgical Technologists... Michael Sobowale	-- --
6. Consider Adoption of Bylaws for Advisory Board on Surgical Assisting .....	20 - 22

Announcements:

Next Scheduled Meeting: September 26, 2022 @ 10:00 a.m.

Adjournment

**PERIMETER CENTER CONFERENCE CENTER  
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS**

**Training Room 2**

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

<< DRAFT >>

ADVISORY BOARD ON SURGICAL ASSISTING  
**Minutes**  
February 7, 2022

The Advisory Board on Surgical Assisting met on Monday, February 7, 2022 at 10:00 a.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

**MEMBERS PRESENT:** Deborah Redmond, LSA, Chair  
Jessica Wilhelm, LSA, Vice-Chair  
Srikanth Mahavadi, MD  
Nicole Meredith, RN  
Thomas Gochenour, LSA

**MEMBERS ABSENT:** None

**STAFF PRESENT:** William L. Harp, M.D., Executive Director  
Michael Sobowale, LLM, Deputy Executive Director, Licensure  
Colanthia M. Opher, Deputy Executive Director, Administration  
Elaine Yeatts, DHP Senior Policy Analyst  
Erin Barrett, J.D., DHP Senior Policy Analyst  
Delores Cousins, Licensing Specialist

**GUESTS PRESENT:** Hunter Jamerson – Virginia Association of Surgical Assistants

**CALL TO ORDER**

Deborah Redmond called the meeting to order at 10:00 am.

**EMERGENCY EGRESS PROCEDURES**

Dr. Harp gave the emergency egress procedures.

**ROLL CALL**

Roll was called; quorum was declared.

**PUBLIC HEARING**

Deborah Redmond opened the floor for public comment on the proposed regulations to amend current regulations for surgical assistants consistent with a licensed profession.

The advisory board received public comments from Mr. Jamerson. He spoke in support of the provisions in the proposed regulations. He stated that he believes the regulations proposed are appropriate regulations for the profession. Ms. Yeatts reminded members that public comments can still be received up until April 1, 2022. After the public comments period is over, the advisory board will need to meet to discuss and make a recommendation to the full board to adopt these regulations.

Hearing no other comment, Ms. Redmond closed the public hearing.

### **APPROVAL OF MINUTES**

Thomas Gochenour moved to approve the minutes of the October 12, 2021 meeting. Srikanth Mahavadi seconded the motion. The minutes were approved as presented.

### **ADOPTION OF AGENDA**

There was no change to the meeting agenda. Agenda was accepted as presented.

### **PUBLIC COMMENT**

Mr. Jamerson commented on House Bill 598. He stated that under current law, certified surgical technologist is a trademarked credential. He informed members that Chester Career College is currently seeking accreditation to train surgical technologists. He expressed support for this bill which extends the grandfathering clause for those who had previously been practicing as a surgical technologist or attended a surgical technologist training program any time prior to October 1, 2022 to register with the Board for certification by December 31, 2022.

### **NEW BUSINESS**

#### **1. Report of Regulatory Actions and 2022 General Assembly**

Ms. Yeatts discussed various bills of interest in the General Assembly in the current legislative session. She highlighted House Bill 598 which extends the grandfather clause for surgical technologists until December 31, 2022.

#### **2. Grace Period for Registration of Surgical Technologists**

Ms. Redmond stated that this topic has already been covered by the discussion held on House Bill 598. No further action required.

#### **3. Graduate Students and Licensure**

Members discussed recommending to the full board to include in the package of approved legislative proposals for 2023, a proposal to allow graduate students to begin practicing as a surgical assistant or surgical technologist while waiting to sit for the

national board certification examination prior to grant of a license or certification issued by the Board.

4. Reinstatement of Certification for Surgical Technologists

Mr. Sobowale informed members that the Board currently lacks a certification reinstatement process for surgical technologists. He asked members to consider putting in place regulations that would provide guidance on how a surgical technologist whose registered certification with the Board has expired can apply to the Board to have the certification reinstated for practice after the expiration period. After a brief discussion, members decided to table the item and add the topic to the agenda for additional discussion at the May meeting.

## ANNOUNCEMENTS

### Licensing Statistics

Delores Cousins gave a report on licenses issued for licensed surgical assistants and certified surgical technologists. There are currently 410 active licensed surgical assistants in Virginia and 72 out of state, for a total of 482. There are 577 certified surgical technologists in Virginia and 72 out of state, for a total of 649.

### Next Meeting Date:

The next meeting is scheduled to be held on Tuesday, May 31, 2022 at 10:00 a.m.

## ADJOURNMENT

With no other business to conduct, Deborah Redmond adjourned the meeting at 11:16 a.m.

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Deborah Redmond, LSA, Chair

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William L. Harp, MD, Executive Director

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Delores Cousins, License Specialist

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 464

*An Act to amend the Code of Virginia by adding a section numbered 54.1-2408.4, relating to out-of-state health care practitioners; temporary authorization to practice pending licensure; licensure by reciprocity for physicians; emergency.*

[S 317]

Approved April 11, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2408.4 as follows:**

**§ 54.1-2408.4. Temporary authorization to practice.**

*A. A health care practitioner licensed, certified, or registered in another state or the District of Columbia may temporarily practice for one 90-day period, provided that the following conditions are met:*

*1. The practitioner is contracted by or has received an offer of employment in the Commonwealth from a licensed hospital, a nursing home, a dialysis facility, the Department of Health, or a local health department;*

*2. The employer or contractor verifies that the out-of-state health care provider possesses an active and unencumbered license, certification, or registration for the profession in which he will be employed or contracted in another state or the District of Columbia;*

*3. The employer or contractor obtains a report from the National Practitioner Data Bank if the applicant is subject to reporting; and*

*4. Prior to the out-of-state health care practitioner's practicing, the employer or contractor notifies the appropriate health regulatory board that the out-of-state health care practitioner is employed or under contract and will practice under the temporary authorization. This notice shall include the out-of-state health care practitioner's out-of-state license, certification, or registration number and a statement that such practitioner meets all of the requirements set forth in this section.*

*B. If the health care practitioner practicing with a temporary authorization has submitted an application for licensure, certification, or registration, the applicable health regulatory board shall expedite such applications for out-of-state health care practitioners practicing pursuant to this section. If licensure, certification, or registration remains pending after the initial 90-day temporary authorization, the authorization may be extended for an additional 60 days, provided that the employer or contractor submits notice to the applicable health regulatory board.*

*C. Out-of-state health care practitioners practicing pursuant to this section shall be subject to the laws and regulations of the Commonwealth and shall be subject to disciplinary action by the applicable health regulatory board.*

**2. That the Board of Medicine shall pursue reciprocity agreements with jurisdictions that surround the Commonwealth to streamline the application process in order to facilitate the practice of medicine. Such agreements shall include a provision that, as a requirement for reciprocal licensure, the applicant shall not be the subject of any pending disciplinary actions in the reciprocal jurisdiction. The Board of Medicine shall grant a license by reciprocity to a physician who meets the requirements for licensure by reciprocity within 20 days of receipt of an application that complies with the criteria established in the applicable reciprocity agreement and in an expedited manner consistent with the Commonwealth's reciprocal agreements with each surrounding jurisdiction.**

**3. That the Department of Health Professions shall, beginning July 1, 2023, annually report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions the number of out-of-state health care practitioners who have utilized the temporary authorization to practice pending licensure and have not subsequently been issued full licensure.**

**4. That an emergency exists and this act is in force from its passage.**

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 71

*An Act to amend and reenact § 54.1-2956.12 of the Code of Virginia, relating to registered surgical technologist; criteria for registration.*

[H 598]

Approved April 1, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2956.12 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2956.12. Registered surgical technologist; use of title; registration.**

A. No person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist," or use the designation "~~C.S.T.~~" or "S.T." or any variation thereof, unless such person is certified by the Board. *No person shall use the designation "C.S.T." or any variation thereof unless such person (i) is certified by the Board and (ii) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor.*

B. The Board shall certify as a surgical technologist any applicant who presents satisfactory evidence that he (i) has successfully completed an accredited surgical technologist training program and 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 training program for surgical technology 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 *or attended a surgical technologist training program* at any time ~~in the six months~~ prior to ~~July 1, 2021~~ *October 1, 2022*, provided he registers with the Board by December 31, ~~2021~~ 2022.



**Agenda Items: Recommend full Board adopt final regulations for licensure of surgical assistants**

**Included in your agenda package are:**

- Town Hall summary page of proposed stage;
- Comments received on Town Hall following publication of proposed stage;
- Written comment received by the Board; and
- Text of proposed final regulations.

**Action needed:**

- Motion to recommend full Board adopt final regulations.



**Agency** Department of Health Professions  
**Board** Board of Medicine  
**Chapter** Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists [18 VAC 85 - 160]

**Action:** Amendments for surgical assistants consistent with a licensed profession

**Proposed Stage** Action 5639 / Stage 9324

[Edit Stage](#) [Withdraw Stage](#) [Go to RIS Project](#)

Documents		
<a href="#">Proposed Text</a>	1/27/2022 9:31 am	<a href="#">Sync Text with RIS</a>
<a href="#">Agency Background Document</a>	7/16/2021	<a href="#">Upload / Replace</a>
<a href="#">Attorney General Certification</a>	7/29/2021	
<a href="#">DPB Economic Impact Analysis</a>	9/13/2021	
<a href="#">Agency Response to EIA</a>	9/28/2021	<a href="#">Upload / Replace</a>
<a href="#">Governor's Review Memo</a>	12/30/2021	
<a href="#">Registrar Transmittal</a>	12/30/2021	

Status	
<b>Incorporation by Reference</b>	No
<b>Exempt from APA</b>	No, this stage/action is subject to Article 2 of the <i>Administrative Process Act</i>
<b>Attorney General Review</b>	Submitted to OAG: 7/16/2021 Review Completed: 7/29/2021 Result: Certified
<b>DPB Review</b>	Submitted on 7/29/2021 Economist: <a href="#">Larry Getzler</a> Policy Analyst: <a href="#">Jerry Gentile</a> Review Completed: 9/13/2021
<b>Secretary Review</b>	Secretary of Health and Human Resources Review Completed: 10/10/2021
<b>Governor's Review</b>	Review Completed: 12/30/2021 Result: Approved
<b>Virginia Registrar</b>	Submitted on 12/30/2021 <a href="#">The Virginia Register of Regulations</a> Publication Date: 1/31/2022 <b>Volume: 38 Issue: 12</b>
<b>Public Hearings</b>	<b><u>02/07/2022 10:05 AM</u></b>
<b>Comment Period</b>	<b><u>Ended 4/1/2022</u></b>

**5 comments**

**Contact Information**

**Name / Title:** William L. Harp, M.D. / *Executive Director*

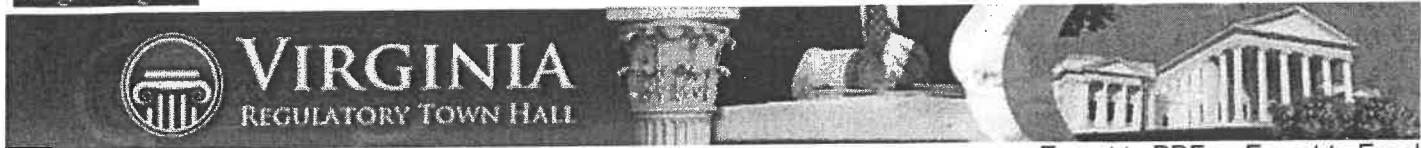
**Address:** 9960 Mayland Drive  
Suite 300  
Richmond, VA 23233

**Email Address:** [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov)

**Telephone:** (804)367-4558 FAX: (804)527-4429 TDD: (-)

*This person is the primary contact for this board.*

*This stage was created by Elaine J. Yeatts on 07/16/2021 at 1:07pm  
This stage was last edited by Elaine J. Yeatts on 07/16/2021 at 1:07pm*



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Agency Department of Health Professions

Board Board of Medicine

Chapter Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists [18 VAC 85 - 160]

Action	<b>Amendments for surgical assistants consistent with a licensed profession</b>
Stage	<b>Proposed</b>
Comment Period	Ends 4/1/2022

5 comments

All good comments for this forum [Show Only Flagged](#)

[Back to List of Comments](#)

Commenter: David Jennette

2/18/22 9:50 am

**18VAC85-160-60 Renewal of licensure for a surgical assistant**

I am a Licensed Surgical Assistant currently practicing in Suffolk, Virginia. I support all of the Board's proposed recommendations for Surgical Assistant License renewal, particularly requiring the completion of 38 hours of continuing education that can be validated by the National Surgical Assistant Association.

CommentID: 119497

Commenter: Sharon Sprouse

2/18/22 11:23 am

**18VAC85-160-60 Renewal of licensure for a surgical assistant**

I support this language. As an employer of Surgical Assistants. American Surgical Professionals is one of the largest employers of Surgical Assistants in the world. I want to maintain a highly professional standard for our profession. Please feel free to contact me if you have questions or need anything.

CommentID: 119529

Commenter: Christopher C. Cogswell LifeNet Health

2/21/22 8:55 am

**18VAC85-160-60 Renewal of licensure for a Surgical Assistant**

I am a Certified and Licensed Surgical Assistant currently practicing throughout Virginia with the Organ Procurement Organization, LifeNet Health. I emphatically support all of the Board's proposed recommendations for Surgical Assistant Licensure renewal, particularly requiring the

completion of 38 continuing education that can be validated by the Nation Surgical Assistant Association.

CommentID: 119950

**Commenter:** Susan Summers

2/24/22 11:08 am

**18VAC85-160-60 Renewal of licensure for a surgical assistant**

I am a licensed surgical assistant practicing in the Hampton Roads area, and I am currently the President of the Virginia Association of Surgical Assistants. I support the board's recommendations for surgical assistant license renewal, particularly the 38 hours of continuing education credits that can be validated by the National Surgical Assistant Association.

CommentID: 120162

**Commenter:** LaTanya Sykes

2/25/22 5:00 pm

**18VAC85-160-60 Renewal of licensure for a surgical assistant**

I am a Licensed Surgical Assistant currently practicing in Portsmouth, VA and currently the Vice President of the Virginia Association of Surgical Assistants. As Surgical Assistants I think it is an ethical practice to remain current in our profession. Therefore, I support all of the Board's proposed recommendations for Surgical Assistant License renewal, particularly requiring the completion of 38 hours of continuing education that can be validated by the National Surgical Assistant Association.

Thank you,  
LaTanya Sykes, LSA, MSA, CSA  
ldsykes94@gmail.com  
757-218-7542

CommentID: 120237



6 West Dry Creek Circle, Ste 200 Littleton, CO 80120  
800.637.7433 | 303.694.9130  
(F) 303.694.9169 [www.ast.org](http://www.ast.org)

April 1, 2022

William L. Harp, M.D.  
Executive Director  
Board of Medicine  
9960 Mayland Drive, Suite 300  
Richmond, VA 23233

Re: 18VAC85-160, Regulations Governing the Licensure of Surgical Assistants and Certification of Surgical Technologists (amending 18VAC85-160-40, 18VAC85-160-60; adding 18VAC85-160-65 through 18VAC85-160-130).

Dear Dr. Harp:

The Association of Surgical Technologists (AST) appreciates the opportunity to comment regarding 18VAC85-160, Regulations Governing the Licensure of Surgical Assistants and Certification of Surgical Technologists.

AST is a national, non-profit organization that represents the interests of over 70,000 surgical technologists who hold the Certified Surgical Technologist® (CST) credential. Today, surgical technologists are working in one of the fastest growing professions in the country. The US Bureau of Labor Statistics projects that the surgical technology profession to grow 9% from 2018-2028, which is faster than the average of all other occupations, and it is anticipated that the volume of surgery will increase exponentially due to the expanding senior population.<sup>1</sup> There are 109,000<sup>2</sup> surgical technologists employed nationwide including 2,080<sup>3</sup> in Virginia in 2020.

As the oldest and most widely recognized professional organization for surgical technologists, AST's primary purpose is to ensure that surgical technologists have the knowledge and skills to administer patient care of the highest quality.

**I. Surgical Assistant & Surgical Technologist Licensure/Certification Fees – 18VAC85-160-40**

The Virginia Board of Medicine (Board) is proposing to increase the initial licensure fee for surgical assistants from \$75 to \$130. Additionally, the Board is proposing to increase the renewal licensure fee for

<sup>1</sup> <https://www.bls.gov/ooh/healthcare/surgical-technologists.htm>

<sup>2</sup> <https://www.bls.gov/oes/current/oes292055.htm>

<sup>3</sup> [https://www.bls.gov/oes/current/oes\\_va.htm#31-0000](https://www.bls.gov/oes/current/oes_va.htm#31-0000)

surgical assistants from \$70 to \$135. The current fee for certification of surgical technologists is \$75 with a renewal fee of \$35. The Board is not amending the fees for surgical technologists.

Inflation is wiping out any wage increases for workers.<sup>4</sup> As the costs of groceries, gas, and other living costs are on the rise, any increase in pay workers receive is being wiped out by the rising cost of inflation. Yet, the Board is proposing to increase the initial licensure fee of surgical assistants by 73% and increase their renewal fee by 92%.

AST requests the Board keep current initial and renewal licensure fees of surgical assistants at \$75 and \$70 respectfully. At the same time, AST requests the Board change the fees for surgical technologists to an initial fee of \$35 and a renewal fee of \$30.

## **II. Attestation for Surgical Technologists – 18VAC85-160-65**

The Board is proposing to require surgical technologists to “attest” that their credential is current at the time of renewal; however, the proposed changes do not indicate how the attestation would occur. AST requests the Board provide detail on what surgical technologists are required to do to conform to this requirement.

AST is committed to working with the Board on this and other regulatory efforts regarding regulations impacting surgical assistants and surgical technologists. If you have any questions regarding this letter, please contact Josephine M. Colacci, Esq. with any questions at 303-325-2540 or [josephine.colacci@ast.org](mailto:josephine.colacci@ast.org).

Sincerely,

Bill Teutsch, CAE, FASAHP  
CEO/Executive Director  
Association of Surgical Technologists

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<sup>4</sup> <https://www.forbes.com/advisor/personal-finance/pay-raises-dont-match-high-inflation/>

**Project 6696 - Proposed**

**Board Of Medicine**

**Amendments for surgical assistants consistent with a licensed profession**

Part I

General provisions

**18VAC85-160-40. Fees.**

A. The following fees have been established by the board:

1. The fee for licensure as a surgical assistant shall be \$130 or certification as a surgical technologist shall be \$75.
2. The fee for renewal of licensure ~~or certification~~ as a surgical assistant shall be \$70 \$135 and for certification as a surgical technologist, it shall be \$70. Renewals shall be due in the birth month of the licensee or certificate holder in each even-numbered year. ~~For 2020, the renewal fee shall be \$54.~~
3. The additional fee for processing a late renewal application within one renewal cycle shall be ~~\$25~~ \$50 for a surgical assistant and \$25 for a surgical technologist.
4. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
5. The fees for inactive license renewal shall be \$70 for a surgical assistant and \$35 for inactive certification renewal for a surgical technologist.
6. The fee for reinstatement of a surgical assistant license that has been lapsed for two years or more shall be \$180; for a surgical technologist certification, it shall be \$90.



7. The fee for a letter of good standing or verification to another jurisdiction for a license shall be \$10.

8. The fee for reinstatement of licensure as a surgical assistant pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.

B. Unless otherwise provided, fees established by the board are not refundable.

## Part II

### Requirements for licensure or certification

#### **18VAC85-160-60. Renewal of licensure for a surgical assistant.**

A. A surgical assistant who was licensed based on a credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting or the National Commission for the Certification of Surgical Assistants or their successors shall attest that the credential is current at the time of renewal.

B. A surgical assistant who was licensed based on successful completion of 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 based on practice as a surgical assistant in the Commonwealth at any time in the six months immediately prior to July 1, 2020, shall attest to completion of 38 hours of continuing education recognized by the National Surgical Assistant Association at the time of biennial renewal.

#### **18VAC85-160-65. Renewal of certification for a surgical technologist.**

A. A surgical technologist who was certified based on certification as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor shall attest that the credential is current at the time of renewal.

B. A surgical technologist who was certified based on successful completion of a training program for surgical technology during the person's service as a member of any branch of the armed forces of the United States, or based on practice as a surgical technologist at any time in the six months prior to July 1, 2021, shall attest to completion of 30 hours of continuing education recognized by the Association of Surgical Technologists at the time of biennial renewal.

**18VAC85-160-70. Reinstatement or reactivation of surgical assistant licensure.**

A. A licensed surgical assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain hours of active practice or meet the continued competency requirements of 18VAC85-160-60 and shall not be entitled to perform any act requiring a license to practice surgical assisting in Virginia.

B. An inactive licensee may reactivate his license upon submission of the following:

1. An application as required by the board;
2. A payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure; and
3. Documentation of completed continued competency hours as required by 18VAC85-160-60.

C. A surgical assistant who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit a reinstatement application to the board and information on any practice and licensure or certification in other jurisdictions during the period in which the license was lapsed and shall pay the fee for reinstatement of licensure as prescribed in 18VAC85-160-40.

D. The board reserves the right to deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.

E. A surgical assistant whose license has been revoked by the board and who wishes to be reinstated shall make a new application to the board and payment of the fee for reinstatement of his license as prescribed in 18VAC85-160-40 pursuant to § 54.1-2408.2 of the Code of Virginia.

### Part III

#### Standards of conduct

##### **18VAC85-160-80. Confidentiality.**

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

##### **18VAC85-160-90. Patient records.**

A. Practitioners shall comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or the patient's personal representative in a timely manner and in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage and keep timely, accurate, legible, and complete patient records.

D. Practitioners who are employed by a health care institution or other entity in which the individual practitioner does not own or maintain the practitioner's own records shall maintain patient records in accordance with the policies and procedures of the employing entity.

E. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall:

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or the patient's personal representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

2. Post information or in some manner inform all patients concerning the timeframe for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

F. When a practitioner is closing, selling, or relocating his practice, the practitioner shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

**18VAC85-160-100. Communication with patients; termination of relationship.**

A. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or the patient's legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a treatment or procedure provided or directed by the practitioner in the treatment of any disease or condition.

3. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

B. Termination of the practitioner/patient relationship.

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make the patient record available, except in situations where denial of access is allowed by law.

2. A practitioner shall not terminate the relationship or make the practitioner's services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

**18VAC85-160-110. Practitioner responsibility.**

A. A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which the practitioner is not trained and individually competent;

2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or the subordinate's area of responsibility.

Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner/patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in subdivision A 3 of this section.

**18VAC85-160-120. Sexual contact.**

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes sexual behavior or verbal or physical behavior that:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or

2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, key third party of a patient means spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

**18VAC85-160-130. Refusal to provide information.**

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

# BYLAWS



**Virginia Board of Medicine**  
∞  
**Advisory Board on Surgical Assisting**



Virginia Department of  
**Health Professions**



**BYLAWS FOR  
THE ADVISORY BOARD ON SURGICAL ASSISTING**

**Article I - Members of the Advisory Board**

The appointments and limitations of service of the members shall be in accordance with Section 54.1-2956.14. of the Code of Virginia.

**Article II - Officers**

Section 1. Titles of Officers - The officers of the advisory board shall consist of a chairman and vice-chairman elected by the advisory board. The Executive Director of the Board of Medicine shall serve in an advisory capacity.

Section 2. Terms of Office – The chairman and vice-chairman shall serve for a one-year term and may not serve for more than two consecutive terms in each office. The election of officers shall take place at the first meeting after July 1, and officers shall assume their duties immediately thereafter.

Section 3. Duties of Officers.

- (a) The chairman shall preside at all meetings when present, make such suggestions as may deem calculated to promote and facilitate its work, and discharge all other duties pertaining by law or by resolution of the advisory committee. The chairman shall preserve order and conduct all proceedings according to and by parliamentary rules and demand conformity thereto on the part of the members. The chairman shall appoint all committees as needed.

The chairman shall act as liaison between the advisory board and the Board of Medicine on matters pertaining to licensing, discipline, legislation and regulation of surgical assistants and surgical technologists.

When a committee is appointed for any purpose, the chairman shall notify each member of the appointment and furnish any essential documents or information necessary.

- (b) The vice-chairman shall preside at meetings in the absence of the chairman and shall take over the other duties of the chairman as may be made necessary by the absence of the chairman.

### **Article III - Meetings**

Section 1. There shall be at least one meeting each year in order to elect the chairman and vice-chairman and to conduct such business as may be deemed necessary by the advisory board.

Section 2. Quorum - Three members shall constitute a quorum for transacting business.

Section 3. Order of Business - The order of business shall be as follows:

- (a) Calling roll and recording names of members present
- (b) Approval of minutes of preceding regular and special meetings
- (c) Adoption of Agenda
- (d) Public Comment Period
- (e) Report of Officers
- (f) Old Business
- (g) New Business

The order of business may be changed at any meeting by a majority vote.

### **Article IV - Amendments**

Amendments to these bylaws may be proposed by presenting the amendments in writing to all advisory board members prior to any scheduled advisory board meeting. If the proposed amendment receives a majority vote of the members present at that regular meeting, it shall be presented as a recommendation for consideration to the Board of Medicine at its next regular meeting.

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*Commonwealth of Virginia*



# REGULATIONS

## GOVERNING LICENSURE OF SURGICAL ASSISTANTS AND CERTIFICATION OF SURGICAL TECHNOLOGISTS

### VIRGINIA BOARD OF MEDICINE

**Title of Regulations:** 18 VAC 85-160-10 et seq.

**Statutory Authority:** § 54.1-2400 and Chapter 29  
of Title 54.1 of the *Code of Virginia*

**Effective Date:** September 1, 2021

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**18VAC85-160-10. Definitions.**

The following word and term when used in this chapter shall have the following meaning unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Medicine.

**18VAC85-160-20. Public participation.**

A separate regulation, 18VAC85-11, Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

**18VAC85-160-30. Current name and address.**

Each licensee or certificate holder shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any such licensee or certificate holder shall be validly given when sent to the latest address of record provided or served to the licensee or certificate holder. Any change of name or address of record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

**18VAC85-160-40. Fees.**

A. The following fees have been established by the board:

1. The fee for licensure as a surgical assistant or certification as a surgical technologist shall be \$75.
2. The fee for renewal of licensure or certification shall be \$70. Renewals shall be due in the birth month of the licensee or certificate holder in each even-numbered year. For 2020, the renewal fee shall be \$54.
3. The additional fee for processing a late renewal application within one renewal cycle shall be \$25.
4. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.

B. Unless otherwise provided, fees established by the board are not refundable.

**18VAC85-160-50. Requirements for licensure as a surgical assistant.**

A. An applicant for licensure shall submit a completed application and a fee as prescribed in 18VAC85-160-40 on forms provided by the board.

B. An applicant for licensure as a surgical assistant shall provide evidence of:

1. A current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting or the National Commission for Certification of Surgical Assistants or their successors;
2. Successful completion of a surgical assistant training program during the applicant's service as a member of any branch of the armed forces of the United States; or
3. Practice as a surgical assistant in the Commonwealth at any time in the six months immediately prior to July 1, 2020.

**18VAC85-160-51. Requirements for certification as a surgical technologist.**

- A. An applicant for certification as a surgical technologist shall submit a completed application and a fee as prescribed in 18VAC85-160-40 on forms provided by the board.
- B. An applicant for certification as a surgical technologist shall provide satisfactory evidence of:
  1. Successful completion of an accredited surgical technologist training program and a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor; or
  2. Successful completion of a training program for surgical technology during the applicant's service as a member of any branch of the armed forces of the United States.

**18VAC85-160-60. Renewal of licensure for a surgical assistant.**

A surgical assistant who was licensed based on a credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting or the National Commission for the Certification of Surgical Assistants or their successors shall attest that the credential is current at the time of renewal.