

Advisory Board on Surgical Assisting

Virginia Board of Medicine

June 10, 2024

10:00 a.m.

Advisory Board on Surgical Assisting

Board of Medicine

Monday, June 10, 2024 @ 10:00 a.m.

9960 Mayland Drive, Suite 201, Henrico, VA

Training Room 2

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Call to Order – Jessica Wilhelm, LSA, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Joshlynn Jones	
Introduction of Members – Jessica Wilhelm, LSA	
Approval of Minutes of June 20, 2023	1 - 4
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
New Business	
1. Regulatory Update Erin Barrett	5
2. Discuss Continuing Education Process for Grandfathered Surgical Assistants and Technologists... Jessica Wilhelm	6 - 9
3. Discuss Legislation Allowing Athletic Trainers to Assist in the Operating Room..... Jessica Wilhelm	10 - 13
4. Virginia Surgical Technologist Certifications Obtained Through the NCCT Credential Jessica Wilhelm	-- --
5. Orientation to the Board of Medicine and Advisory Board Dr. Harp	14 - 45

Announcements:

Next Scheduled Meeting: October 15, 2024 @ 10:00 a.m.

Adjournment

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

Training Room 2

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

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
June 20, 2023

The Advisory Board on Surgical Assisting met on Tuesday, June 20, 2023, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Jessica Wilhelm, LSA Chair [Joined at 10:30 am]
Thomas Gochenour, CSA Vice-Chair
Deborah Redmond, CSA
Nicole Meredith, RN

MEMBERS ABSENT: Srikanth Mahavadi, MD

STAFF PRESENT: William L. Harp, M.D., Executive Director [Joined at 10:39 am]
Michael Sobowale, LLM, Deputy Director, Licensure
Erin Barret, JD, Director of Legislative and Regulatory Affairs
Jennifer Deschenes, Deputy Director for Discipline
Brent Saunders, Senior Assistant Attorney General
Colanthia Morton Opher, Deputy Director for Administration
Roslyn Nickens, Licensing Supervisor
Joshlynn Jones, License Specialist

GUESTS PRESENT: Vanessa Stannermann, AST
Lisa Day, VCCS
Thea Franke, Fortis College
Hunter Jamerson, Esq.
Brittany Toth, CST

Call to Order

Thomas Gochenour called the meeting to order @ 10:22 a.m.

Emergency Egress Procedures

Jennifer Deschenes announced the emergency egress instructions.

Roll Call

Roslyn Nickens called the roll; a quorum was declared.

Approval of Minutes

Nicole Meredith motioned to approve the minutes of the February 13, 2023, meeting as presented. The motion was seconded by Deborah Redmond and carried unanimously.

Adoption of Agenda

Nicole Meredith motioned to adopt the agenda as presented. The motion was seconded by Deborah Redmond and carried unanimously.

Public Comment on Agenda Items

Vanessa Stannermann spoke in opposition of NCCT being an acceptable credential for the Board of Medicine.

Lisa Day spoke in opposition of NCCT being an acceptable credential for the Board of Medicine.

Hunter Jamerson stated the original intent of HB2222 was to create a provisional pathway to allow surgical assistants to enter the workforce pending passing the certification exam. He stated that in the 2013 sunrise study for credentialing of surgical technologists in the state, NBSTSA was the first to be recognized as the only pathway to certification. Currently, other states recognize CAHEP and I.PASS accredited education.

Brittany Toth spoke in opposition of NCCT being an acceptable credential for the Board of Medicine.

New Business

1. Report on Status of Regulatory /Policy Actions

Erin Barrett reviewed the status of the regulatory actions for the Advisory. She noted that, hopefully, the proposed regulations would move forth this summer.

2. Consider Recommendation of Approved Surgical Technologist Training Programs

Erin Barrett directed the advisory board's attention to HB2222, passed into law in the 2023 General Assembly Session. This legislation added new credentialing pathways that the Board of Medicine can accept for certification of applicants to practice as a surgical technologist in Virginia. Several new pathways were added, including Board approval of accrediting entities. The National Center for Competency Testing (NCCT) requested approval by the Board as an accrediting entity under this pathway. The advisory board reviewed letters of support and associated documents received from various stakeholders in support of NCCT's proposal to be recognized Board as an accredited credentialing organization for certification of surgical technologists. Ms. Barrett advised the advisory board can either make a recommendation to the full Board

of Medicine for approval or recommend that the Board not accept NCCT as a credentialing organization. Brent Saunders, Board Counsel, advised that in its deliberations, the advisory should focus more on what the actual program core requirements are.

After a lengthy discussion, Thomas Gochenour moved that the advisory should recommend that the Board not accept NCCT as a recognized credentialing organization. Motion was seconded by Deborah Redmond. Three members voted in favor of the motion, with one abstention. The motion passed.

3. Discuss Surgical Technologist Accredited Program Requirements and Apprenticeships

Members discussed accreditation and apprenticeships for surgical technologists. Jessica Wilhelm stated that there is a difference between apprenticeships and clinical training. Apprentices do not receive their clinical training while they are a student. They have to seek employment after getting their didactic education and the employers have to be the ones to provide clinical, hands-on training. Ms. Barrett advised the advisory board that there may be many types of suitable training programs. Nicole Meredith asked if discussion could be tabled.

4. Discuss Regulations for Reactivation of Inactive Licensure

Jessica Wilhelm stated this agenda item was satisfactorily addressed by Erin Barrett when giving her report on pending regulatory actions for the advisory and no other discussion was needed.

5. Discuss Licensure Requirements for Temporary Traveling Surgical Assistants

Jessica Wilhelm inquired about the requirements for the Board to issue a temporary license. Dr. Harp stated that the Board of Medicine does not issue a paper license for 90-day temporary license. Erin Barrett stated that if a practitioner is licensed or authorized to practice as a surgical technologist in another state prior to being contracted or receiving an offer of employment from an eligible employer, the employer is still required to verify that the license in the other state is in good standing prior to being able to practice in Virginia.

6. Discussion Practice Prior to Licensure for Surgical Assistant

Jessica Wilhelm inquired as to timeline when a person/applicant can begin practicing as a licensed surgical assistant prior to licensure by the Board of Medicine. Michael Sobowale responded that a new graduate can begin practicing as a surgical assistant with the title, "surgical assistant license applicant" while waiting for passage of the NBSTSA or NCCSA certification examination and until licensed, not to exceed six months from the date of graduation. If they fail the examination, they would need to stop practicing.

Announcements

Roslyn Nickens provided the following licensure totals for surgical assistants and surgical technologists:

Licensed Surgical Assistant	Surgical Technologist
Current Active in Virginia 588	Current Active in Virginia 1500
Current Active out of State 144	Current Active out of State 631
Total 712	Total 2131

Licensure totals from January 1, 2023, to June 20, 2023.

Licensed Surgical Assistant	Surgical Technologist
76	354

Next Scheduled Meeting:

The next meeting is scheduled for Monday, October 10, 2023 @ 10:00 a.m.

Adjournment

With no other business to conduct, Jessica Wilhelm adjourned the meeting @ 11:46 a.m.

Board of Medicine – Advisory Board on Surgical Assisting
Regulatory Actions
May 2024 Update

In the Governor’s Office

None.

In the Secretary’s Office

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-160	Final	Amendments for surgical assistants consistent with a licensed profession	6/17/2022	682 days	Finalizes changes consistent with licensing surgical assistants and certifying surgical technologists.
18VAC85-160	Fast-track	Reinstatement of certification as a surgical technologist	6/17/2022	626 days	Addresses oversight in licensure regulatory action to allow reinstatement of a surgical technologist

At DPB or OAG

None.

Recently effective/awaiting publication

None.

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 222

An Act to amend and reenact § 54.1-2900 of the Code of Virginia, relating to practice of athletic training; definition.

[H 1389]

Approved March 28, 2024

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2900 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Advanced practice registered nurse" means a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that

should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse, other than an advanced practice registered nurse licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist, who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions, *including in an inpatient or outpatient setting*, under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health

care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the

Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

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: November 8, 2023

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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.
- C. The board will certify a surgical technologist who registers with the board by December 31, 2023, if that surgical technologist provides satisfactory evidence of:
 1. Practice as a surgical technologist prior to October 1, 2022; or
 2. Attendance of a surgical technologist training program prior to October 1, 2022.

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.

Orientation
to the Board of Medicine &
Your Advisory Board

June 2024

Executive Branch

- Governor Glenn Youngkin
- Secretary of Health and Human Resources – John Littel
- DHP Director – Arne Owens
- Board of Medicine President – Randy Clements, DPM
- Board members cannot speak for the Board or anyone in the Executive Branch.

Department of Health Professions

- Umbrella Agency for 13 Health Regulatory Boards
- Director Owens and Deputy Director Jenkins appointed by the Governor
- Administration, Communications, Finance, Enforcement, Administrative Proceedings, Prescription Monitoring, Health Practitioners' Monitoring, Healthcare Workforce Data Center, IT
- Medicine joined the Department in 1977

Today's Board of Medicine

18 members
appointed by
the Governor

1 MD from each
Congressional
District

1 DO

1 DPM

1 DC

4 citizen
members

Today's Board

- Pure Board of Medicine
- Composite Board
- Doctors of Medicine, Osteopathy, Podiatry & Chiropractic
- Physician Assistants, Acupuncturists, Athletic Trainers, Licensed Midwives, Licensed Certified Midwives, Occupational Therapists, Occupational Therapy Assistants, Radiologic Technologists, Radiologic Technologists-Limited, Radiologist Assistants, Respiratory Therapists, Polysomnographic Technologists, Behavior Analysts, Assistant Behavior Analysts, Genetic Counselors, Licensed Surgical Assistants, Certified Surgical Technologists & Advanced Practice Registered Nurses

Today's Advisory Boards

Today's Advisory Boards

- 11 Advisory Boards
- Similar structure & function
- 5 members
 - 3 of the profession
 - 1 physician
 - 1 citizen member

Today's Advisory Boards

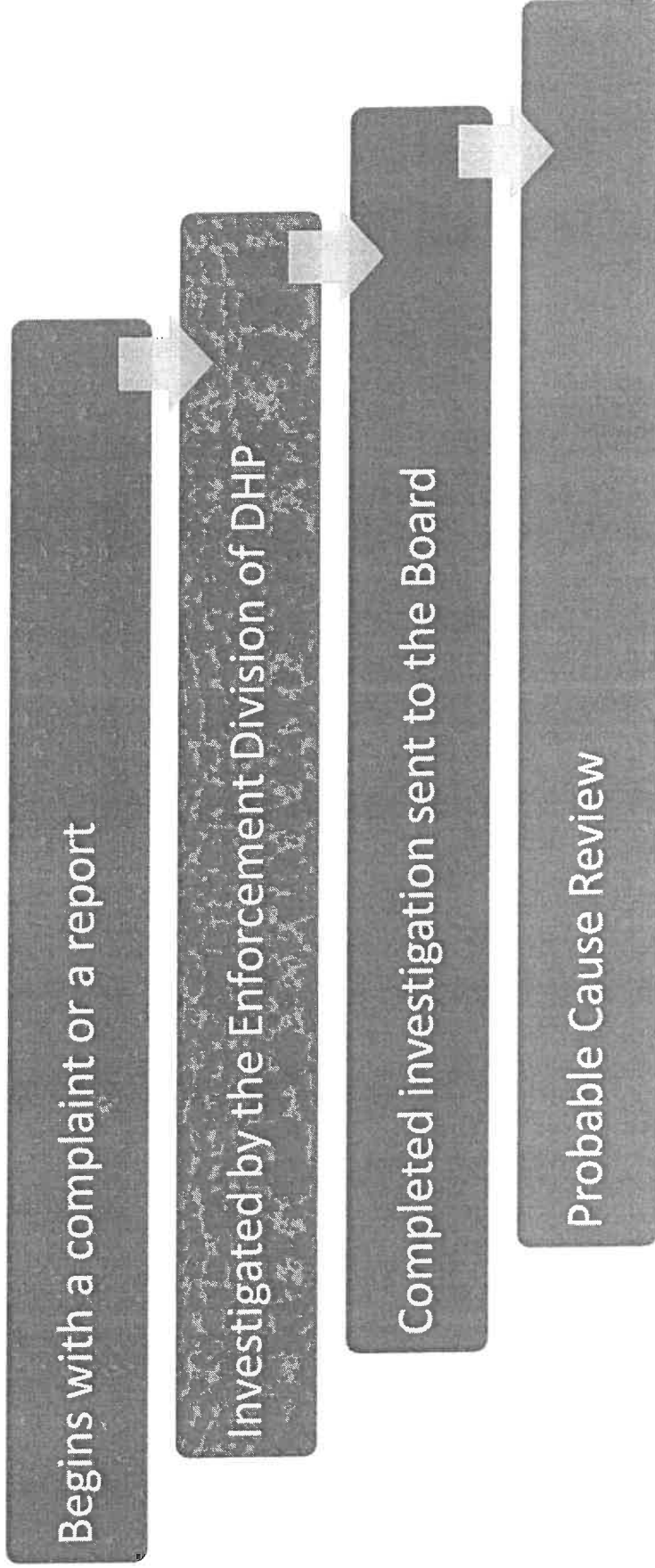
Today's Advisory Boards (cont.)

- Chair & Vice-Chair
- Meets at least once a year
- May attend 1 meeting a year
virtually for good cause
- Advise the Board of Medicine on:
 - Licensing
 - Discipline
 - Regulations

THE BOARD'S MISSION

- The protection of the public
- License only qualified applicants
- Discipline for unprofessional conduct
- Promulgate regulations to implement law

THE BOARD'S DISCIPLINARY PROCESS



PROBABLE CAUSE REVIEW



Board staff and Board members



Review to understand what happened in the case



Apply the law and the regulations to determine if a violation has occurred



Two Board members must agree on standard of care



If specialized review is required, retain an expert reviewer for the standard of care

OPTIONS FOR RESOLVING THE MATTER

- 85% are closed administratively
- Other options
 - Advisory letters
 - Confidential Consent Agreements
 - Pre-Hearing Consent Orders
 - Informal Conferences
 - Formal Hearings
 - Summary Suspensions

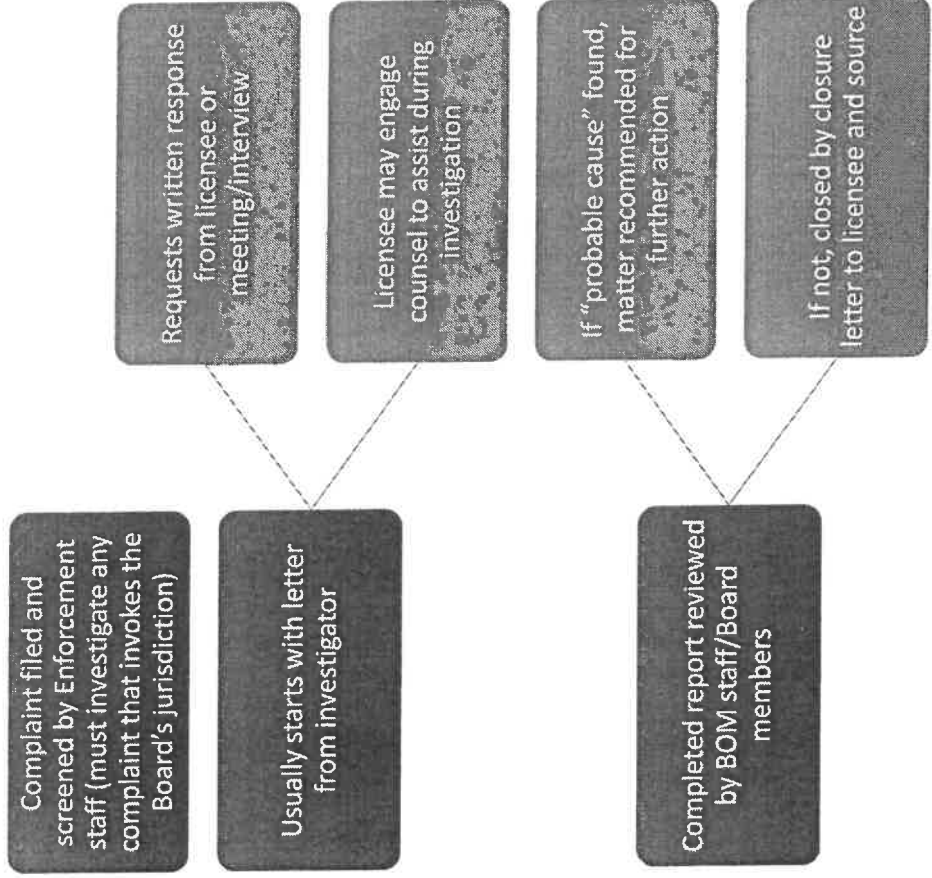
PRINCIPLES OF THE DISCIPLINARY PROCESS

- Confidentiality
- Protection of the public
- Due process
- Proportionate sanctions
- Strive to be fair to all parties

INVESTIGATIONS

- **Who Complains?**
 - The Public (e.g., patients, family members, anonymous, media)
 - Other licensees of the BOM (mandated reporters)
 - Employers
 - Healthcare institutions (e.g., hospital CEO = mandated reporter)
 - Medical malpractice insurance carriers

COMPLAINT PROCESS



ADVICE FOR RESPONDING TO COMPLAINTS

- Take the complaint seriously (even if you believe it to be frivolous)
- Fully cooperate w/the investigator (DHP/BOM is “health oversight agency” under HIPAA)
- You are responsible for ensuring a response and complete records are provided (not your office manager)
- Do NOT contact Board members to discuss your complaint
- Consult with an attorney (familiar with DHP/regulatory boards)

LAWS AND REGULATIONS TO KNOW

Fraud or Dishonesty

Substance abuse

Negligence in practice – standard of care

Mental or Physical Incapacity

Aiding and Abetting Unlicensed Practice

Ethical lapses – standards of professional conduct

LAWS AND REGULATIONS TO KNOW

Felony convictions or misdemeanors of moral turpitude

Any provision of the drug law

Failure to timely sign a death certificate

Opioid prescriptions submitted electronically

Surprise billing

Treating self and family

Patient records

LAWS AND REGULATIONS TO KNOW

Confidentiality

Communication/Termination

Subordinates and Disruptive Behavior

Sexual Boundary Violations

Reporting requirements

Continuing Medical Education

LAWS AND REGULATIONS TO KNOW



Office-Based Anesthesia



Mixing, Diluting or Reconstituting



Prescription Monitoring Program



Health Practitioners' Monitoring Program



Renew License every 2 years

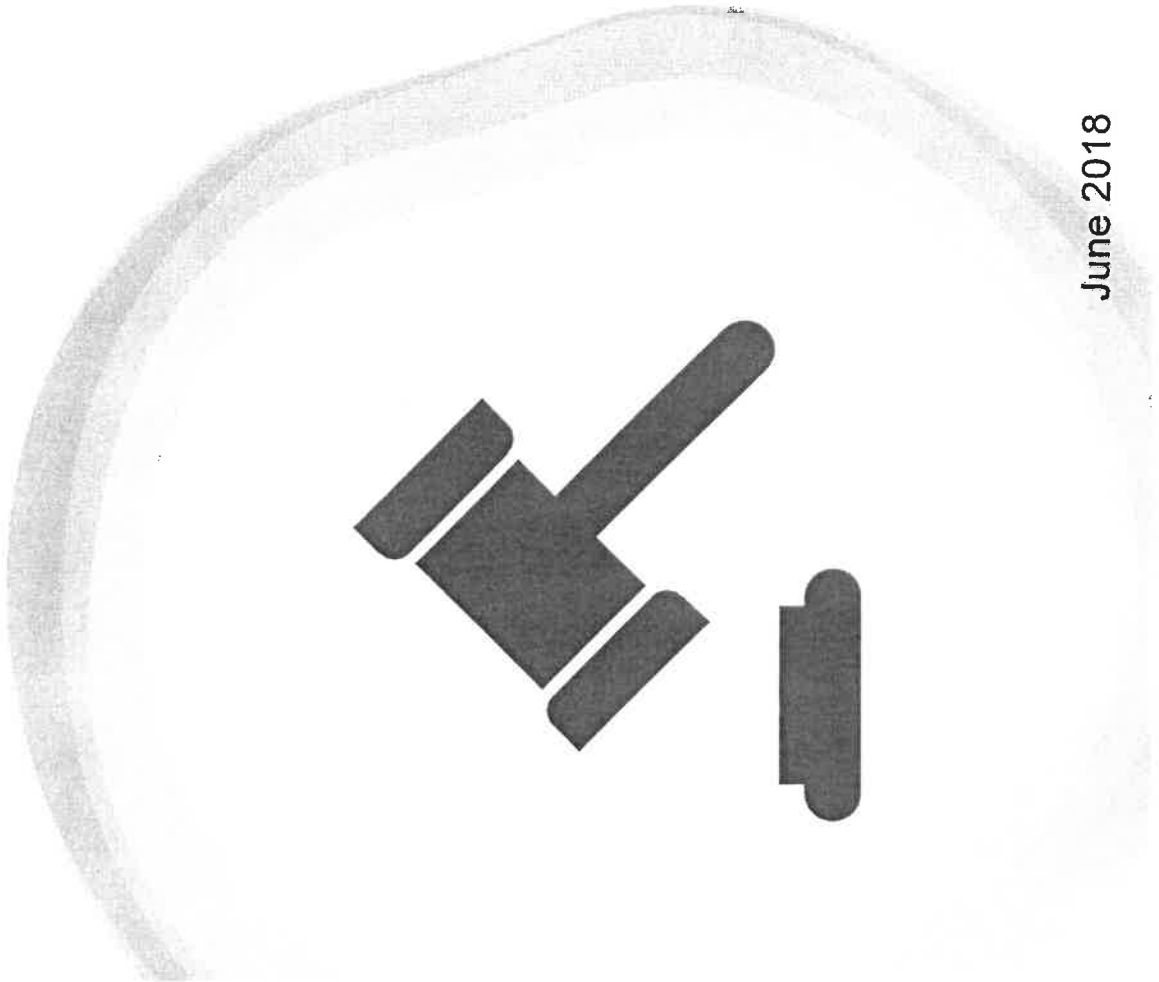
Hearing Protocol

Virginia Board of Medicine

June 14, 2018

Panel Members at Hearings

- Purpose of disciplinary proceedings is to protect the public by regulating professional conduct and provide fair and impartial consideration of the matter before the Board
- Panel members should avoid actual conflicts and the appearance of impropriety—if you receive case material and think you have a conflict, call staff! (procedure for potential conflict at hearing)
- Strive to be fair and impartial—goal is fairness to *respondent* and *also to the public*

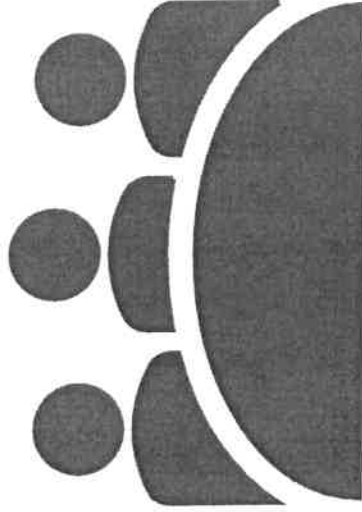


June 2018

Open vs. Closed Sessions

- Board business takes place in open, public forums to foster public accessibility and confidence of the public in the integrity of the regulatory process
- Any meeting of three or more members of the Board at which the members discuss *anything* related to the Board should be considered an open meeting for FOIA purposes (includes group emails).
- Closed meetings: for the Board to deliberate or receive legal advice
- Disciplinary proceedings may also close to deliberate and to protect health information of a respondent

June 2018



Formal Hearings – You are on the record!



A court reporter attends formal hearings



Your words are recorded



The transcript will be reviewed by the Circuit Court if the respondent appeals for evidence of violations of a respondent's constitutional rights, failure of the Board to observe required procedure, indications that the Board may not have had substantial evidence (Erin ex.)

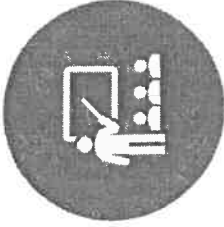
Hearings (IFC or formal)

- Cannot deviate earlier from noticed start time
- Choose your questions carefully (avoid answering questions from R)
- Hearings can be emotional; avoid engaging on emotional level (try not to be swayed by tears or manipulative behavior)
- Avoid texting board members (e.g., Loudoun meeting; FOIA Council)
- Do not state you have more knowledge than others-- or less-- based on specialty or non-MD status. All board members are experts in the matters before the board. This has been clearly stated by CAV.
- Do not give practice advice—do not want to bind the Board (especially if you are wrong)

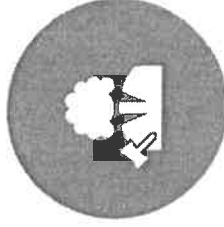
Hearings (IFC or formal)

- Questions should relate to facts of the case and the allegations contained in the Statement of Particulars
- Do not sermonize, do not inject personal, religious, or political beliefs
- Do not express your personal opinion (i.e., "Well, I think your record-keeping was fine.")
- Do not argue with other panel members during hearings, or make statements disparaging other members' statements or questions
- Do not argue with witnesses, respondents, or counsel for respondents – we understand it can be hard with some!

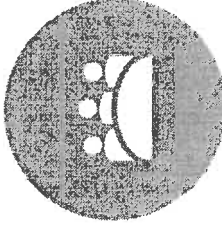
Hearings (IFC or formal)



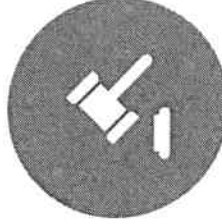
PANEL CHAIR WILL RULE ON ISSUES RELATED TO RELEVANCE OR THE ADMISSION OF EVIDENCE (WITH BOARD COUNSEL GUIDANCE)



AVOID "ATTORNEY TESTIMONY", THIS IS YOUR OPPORTUNITY TO HEAR FROM THE LICENSEE



DELIBERATION HAPPENS IN CLOSED SESSION



DO NOT ENGAGE, INFORM, INSTRUCT ONCE PROCEEDINGS ARE OVER (STAFF WILL HANDLE; E.G. FRIENDLY ATTORNEY AND PATIENT FAMILY IN AUDIENCE)

Procedural mysteries

Board counsel records and enters
evidence

Evidence must be formally admitted
even though Board members
received evidence prior to hearing

Must initial and date evidence to
provide record on appeal.

Procedural mysteries, cont.

Some cases appear old when they reach the formal hearing stage

Can be for any number of reasons (continuances prior to IFC or formal, length of investigation, etc.)

Staff and counsel will answer procedural questions in closed session – NOT open session!

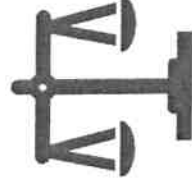
What happens in closed session?



Decision on sanction



Craft order, including findings of fact
(refer to helpful notes you made
during proceeding)



Review conclusions of law alleged;
determine what stays



**What are
grounds
for an
appeal?**

- (1) Violation of a Constitutional right, power, or privilege;
- (2) Failure to comply with statutory authority;
- (3) Failure to observe required procedure where the failure did not result in harmless error; and
- (4) Substantial evidence did not support Board decision.

(Va. Code § 2.2-4027.)

Helping to ensure that the Board's decisions do not get overturned

- Follow staff guidelines, procedures, and scripts for hearings.
- Ask legal questions in *closed session*. Do not state specific legal questions for board counsel on the record. This raises privilege issues.
- Only the chair of a panel may rule on motions made at a hearing.
- Avoid stating opinions on the record (i.e., "That does not sound like a standard of care issue to me.")
- Work with your fellow panel members, board counsel, and staff to craft well thought out orders.
- Be aware that any respondent can appeal.

June 2018

Carthage

2024 Board Meeting Dates

Advisory Board on:

Behavioral Analysts			10:00 a.m.
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February 5	June 3	October 7
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Genetic Counseling			1:00 p.m.
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February 5	June 3	October 7
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Occupational Therapy			10:00 a.m.
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February 6	June 4	October 8
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Respiratory Care			1:00 p.m.
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February 6	June 4	October 8
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Acupuncture			10:00 a.m.
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February 7	June 5	October 9
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Radiological Technology			1:00 p.m.
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February 7	June 5	October 9
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Athletic Training			10:00 a.m.
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February 8	June 6	October 10
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Physician Assistants			1:00 p.m.
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February 8	June 6	October 10
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Midwifery			10:00 a.m.
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February 9	June 7	October 11
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Polysomnographic Technology			1:00 p.m.
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February 9	June 7	October 11
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Surgical Assisting			
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February 12	June 10	October 15
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