



**HB 4106 Surgical Technologist Apprenticeship
Community Partners Meeting
May 25, 2022
9:00 a.m. via Zoom**

ATTENDEES	
Amy Aldust	Mt. Hood Community College
Angie Hansen	Mt. Hood Community College
Ben Price	NBSTSA
Bill Teutsch	Association of Surgical Technologists
Bill Bouska	Samaritan Health Services
Bill Ehlers	
Carrie Norris	Samaritan Health Services
Chris Skagen	Oregon Ambulatory Surgery Center Association
Courtnei Dresser	Oregon Medical Association, Oregon Rural Health Care Association (OASCA)
Dana Van Laeys	National Center for Competency Testing
Darla Sowa	OASCA, East Pavilion Surgery Center, NW Spine & Pain, Or. Outpatient Surgery Center
Doug Riggs	OASCA
Erin Lowrie	Lane Surgery Center
Gerald Hale	Concorde Career College
Josephine Colacci	Association of Surgical Technologists
Kecia Norling	OASCA
Kelli Coelho	Day Surgery at Riverbend
Linda Carroll	Linn-Benton Community College
Lisa Freeman	Surgery Center at Mt. Scott
Lynn Anderson	International Joint Commission on Allied Health Personnel in Ophthalmology (JCAHPO)
Mallory Sussman	OASCA
Maureen McGee	Concorde Career College
Montana Lewellen	Association of Surgical Technologists
Paula Smith	Eye Health NW Eastside Surgery Center
Peggy Pashby	Ashland Surgery Center
Peter Donshik	
Rachel Bruce	Linn Benton Community College
Randy Hubbard	Mercy Health – Roseburg
Ron Woita	Sky Lakes Medical Center
Ryan Grimm	The Portland Clinic
Sabrina Riggs	Oregon Academy of Ophthalmology
Scott Smallwood	Bend Surgery Center
Stephanie Wahne	Concorde Career College

Tammy Spohn	Southern Oregon Orthopedics ASC
Terry Fitzpatrick	Oregon Urology Institute
Todd Currier	Bend Surgery Center
Travis Meuwissen	Oregon Association of Hospitals and Health Systems (OAHHS)
Wade Delk	JCAHPO

OHA and BOLI Staff

Abby Bandurraga	Oregon Bureau of Labor and Industries
Anna Davis	Oregon Health Authority, PHD-Health Facility Licensing & Certification
Beverly Shields	Oregon Health Authority, PHD-Health Facility Licensing & Certification
Erin Seiler	Oregon Bureau of Labor and Industries
Lisa Ransom	Oregon Bureau of Labor and Industries
Mellony Bernal	Oregon Health Authority, PHD-Health Care Regulation & Quality Improvement

Welcome and Overview

Mellony Bernal welcomed attendees to the HB 4106 Community Partners meeting. The purpose of this meeting is to provide an overview of the responsibilities of both the Oregon Health Authority and the Oregon Bureau of Labor and Industries as it relates to passage of HB 4106.

- Attendees were asked to enter their name and organization into the Chat.
- Attendees were asked to hold all comments or questions until the end of the presentations and then were asked to enter their name into the Chat and identify whether they wanted to comment or ask a question. Persons will be called upon in the order appearing on the Chat.
- Attendees who do not necessarily want to speak but want the agencies to consider information were asked to type into the Chat “For Your Information” or “For the Record” and include the information they wish to share.
- Attendees were asked not to use the Chat feature to talk amongst themselves.
- Information typed into the Chat is a matter of public record and will be considered for purposes of drafting rules or education requirements.

M. Bernal noted that representatives from the certifying bodies, National Center for Competency Testing (NCCT), National Board of Surgical Technologists and Surgical Assisting (NBSTSA), and the International Joint Commission on Allied Health Personnel in Ophthalmology (IJCAPO) were contacted and are on the call.

Public Health Division, Health Facility Licensing and Certification – Who We Are and What We Do

Anna Davis, Survey and Certification Program Manager, provided an overview of the Health Facility Licensing & Certification (HFLC) program.

- The HFLC program is located under the Oregon Health Authority, Public Health Division’s, Center for Health Protection, Health Care Regulation and Quality Improvement (HCRQI) section.
- The HCRQI section has four primary activities: 1) Regulating health care facilities, providers and suppliers in acute care and community-based settings including licensing and surveying,

2) regulating facility construction, such as reviewing the building plans for constructing new or remodeling existing ambulatory surgery centers or hospitals, 3) establishing Oregon EMS and trauma systems and regulating EMS providers and ambulance agencies, and 4) administering the Certificate of Need program – determining whether there is a need for new hospitals.

- The types and numbers of regulated facilities and agencies by HCRQI were shared including whether the facility/agency is covered by both federal and state survey requirements.
- Hemodialysis technicians are the only provider type that is regulated by the Health Facility Licensing & Certification (HFLC) program.
- The HFLC program is staffed by the following: 1 full time manager, 1 full time nurse staffing policy analyst, 14 full time surveyors that specialize in one license type and cross train in at least one additional license type, and one full time nurse staffing administrative specialist.
 - It was noted that while all surveyors are cross trained, the hospital surveyors only survey hospitals due to the variety and volume of work in that program area.
 - All surveyors are registered nurses.
 - Recruitment is often difficult for these positions due to pay.
- Workload consists of:
 - State licensure surveys which include initial licensure and relicensure surveys which are conducted once every three years. Compliance is measured with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OARs); and
 - Federal initial and recertification surveys. Compliance is measured with Code of Federal Regulations (CFRs) using the Centers for Medicare and Medicaid Services (CMS) State Operations Manual. An agreement is in place between the CMS and OHA to conduct these certification surveys which are required in order for a facility to receive Medicare or Medicaid reimbursement.
 - Validation surveys after an accrediting organization (i.e., Joint Commission, DNV, etc.) conduct an accreditation or reaccreditation survey.
 - CMS has approved accrediting organizations that measure compliance with an accrediting organization’s standards that meet or exceed CMS standards. This federal accreditation takes the place of OHA’s federal certification survey.
 - A facility may ask the OHA to conduct a federal certification survey or pay an accrediting organization to conduct an accreditation survey. An accreditation survey may include giving “deemed status.” Example – ASC obtains a license from OHA; they want to receive Medicare or Medicaid reimbursement so they must get receive either accreditation or accreditation with deemed status. To receive accreditation, they must pay the Joint Commission to conduct a survey, the Joint Commission conducts survey and makes a recommendation for accreditation. The Joint Commission then will continue to conduct reaccreditation surveys once every three years for as long as the facility wants to be accredited. If the ASC decides to no longer be accredited, then the OHA would be responsible for ensuring recertification.
 - After an accrediting organization completes an accrediting survey, CMS may ask the OHA to conduct a validation survey. The OHA sends a surveyor to conduct a full certification survey and a report is submitted to CMS. CMS uses the OHA as a comparison with the report from the accrediting organization to measure the efficacy of accrediting organization surveys.

- One to two validation surveys per facility type are conducted every year. These validation surveys are identified by the CMS not the OHA with a specified time frame to complete.
- Complaint investigations which may involve a federal compliance issue where there is a violation of a CFR using the CMS State Operations Manual as interpretive guidance. Complaint investigations may result in a standard level deficiency or a condition level deficiency. A condition level deficiency that is not corrected may result in loss of federal certification which would result in loss of CMS reimbursement for Medicaid or Medicare patients. Private insurance may often also decide to not reimburse for patient care.
 - If a facility has deemed status, the OHA may only investigate a condition level complaint. Complaints are screened to determine whether the allegations, if proven, would establish standard level or condition level noncompliance and whether the facility is deemed.
 - If a complaint allegations are condition level and the facility is deemed, the OHA must request permission from CMS to conduct an investigation.
 - Standard level complaints are referred to the accrediting organization.
 - Condition level sanctions in acute and continuing care include possible termination of accreditation. A facility must get into compliance to avoid losing Medicare or Medicaid reimbursement. There are no civil penalty options for compliance with federal regulations in accredited facilities.
- Complaint investigations for a state compliance issue which include violation of ORS or OARs.
 - OHA will review to determine whether there is also a federal compliance issue.
 - If there is overlap of both state and federal compliance issues, federal allegations will be looked at first.
- Complaint investigations are unannounced – neither the complainant nor the facility are informed before an investigation will take place.
 - A complainant’s identity is not disclosed to the facility under investigation.
 - During an investigation, the OHA will select a sample of similarly situated patients to review along with the original complainant’s incident.

Surgical Technologist Education Requirements – Legislative and Administrative Rule History

M. Bernal provided an overview of legislation and administrative rules relating to educational requirements for surgical technologists.

- In 2015, HB 2876 (2015 Oregon Laws, Chapter 373) was passed and provided that a person practicing surgical technology in a health care facility must meet certain education standards.
 - Health care facility is defined as a hospital or ambulatory surgery center.
 - Surgical technology is defined.
 - In order to practice surgical technology, an individual must have completed a nationally accredited educational program approved by OHA and hold and maintain a national certification approved by OHA.
 - Individuals were allowed one year to obtain certification while working.
 - Exceptions included persons completing a training program through the armed forces or who had prior work experience within specified time frame; and 16 hours of CE must be completed every two years.

- A rural hospital or ASC was allowed to have person practice while attending an educational program for up to three years.
- Law does not apply to licensed health practitioners who are performing duties within scope of their license.
- Gave the OHA authority to issue civil penalties for non-compliance.
- Required the OHA to adopt rules.
- The OHA convened a RAC in November 2015. Invitees included the Oregon Association of Ambulatory Surgery Centers (OASCA), the Oregon Association of Hospital and Health Systems (OAHHS), the Oregon State Board of Nursing (OSBN) and the Oregon Association of Surgical Technologists (OAST.)
 - Initial draft rules proposed that:
 - Education programs must be accredited by the Commission on Accreditation of Allied Health Education Program (CAAHEP) or the Accrediting Bureau of Health Education Schools (ABHES).
 - Certification by the National Board of Surgical Technology and Surgical Assisting (NBSTSA) or the National Center for Competency Testing (NCCT).
 - 16 hours of required continuing education every two years that must be verified and approved by the hospital or ASC. CE must be relevant to the medical-surgical practice of surgical technology. CE may include credits approved by the Association of Surgical Technologists, health care sponsored conferences, forums, seminars, symposiums, online distance learning courses, live lectures at national conference or college courses.
 - Amendments proposed by the RAC included:
 - Only allowing certification by the NBSTSA
 - Removing verification and approval of CE by the hospital or ASC. Surgical technologist is responsible for tracking CE which is subject to audit.
 - Require the hospital or ASC to conduct random audits every two years of a sample of surgical technologists to verify compliance.
 - Notice of Proposed Rulemaking Hearing was filed with Secretary of State on November 13, 2015, and interested parties notified on November 17 including all licensed hospitals and ASCs.
 - Public hearing held on December 17, 2015. No oral or written comments were received.
 - Final rules were filed and effective February 24, 2016.

HCRQI Administrative Rulemaking Process

- M. Bernal provided an overview of the administrative rule making process.
- RACs are convened to address proposed changes to administrative rules as a result of new (or changes to) state or federal laws, implementing national guidelines, stakeholder request, health care innovation, housekeeping clean-up, etc.
 - Proposed rules are drafted by the affected program and brought to the RAC to consider the draft rule language, discuss and make recommendations.
 - The RAC's role is advisory only and consensus is not necessary. In accordance with OHA policy, the program will consider the RAC's input, however, the OHA retains the final decision on final rule text.

- Final proposed rules will be filed with the Secretary of State's Office and a public hearing scheduled to obtain public comment. Both oral and written comments may be submitted.
- Staff will review and respond to all public comments and may revise rules based on comments received.
- Program will file final rules with Secretary of State's Office and identify the effective date.

HB 2993 requires a RAC to consist of members that represent the interests of both persons affected by the rule as well as communities affected by the rule. The primary intent of this legislation was to ensure the communities of color are invited to and participate on rule advisory committees.

HB 2993 also requires input from the RAC on how the rules will impact racial equity in Oregon.

HB 4106 Overview

Erin Seiler with the Bureau of Labor and Industries (BOLI) provided an overview of HB 4106.

- Discussions around adding an apprenticeship pathway has been ongoing for a few years as the current law was interpreted to mean that such a pathway was not an option.
- HB 4106 creates a specific pathway that would allow an apprenticeship model and certification by the NCCT. It further prescribes that an apprentice can perform surgical technology under direct supervision. On the job training occurs during the education process of a registered apprentice.
- The apprenticeship model must comply with ORS chapter 660
- It was noted that there is no language that establishes an apprenticeship program at BOLI. BOLI has had the authority to establish an apprenticeship program. The issue was that under the current legislation a person could not work and could not get certified to work using an apprenticeship model. This educational pathway needed to be added to statute to allow this model.
- The measure goes into effect on January 1, 2023.

Bureau of Labor and Industries, Oregon Apprenticeship – Who We Are and What We Do

Director, Lisa Ransom and Program Manager, Abby Bandurraga provided an overview of Oregon's apprenticeship program.

- The mission of the Apprenticeship and Training Division (ATD) is to bridge the gap between businesses, workers and education partners to support opportunities for family wage jobs and dependable, qualified workforce through registered apprenticeship programs
- The ATD is the Department of Labor's approved certifying authority for registered apprenticeship programs in Oregon.
- The purpose of discussion is to provide a very short, but in depth, briefing of what a registered apprenticeship system is in Oregon and create shared understanding of roles and responsibilities.
- This meeting is part of the process of creating a joint apprenticeship training committee and developing a certified surgical technologist standard of apprenticeship. The process is complex; however, the ATD will be assisting persons along the way.

- The ATD:
 - Is granted authority by the US Department of Labor, Office of Apprenticeship to register and oversee programs and agreements for state and federal purposes. This is done through collaboration with the Oregon State Apprenticeship and Training Council (Council). The Council is appointed by the Governor to provide final approval of an apprenticeship program and to enforce apprenticeship regulations.
 - Helps develop new programs and guide them through the Council approval process.
 - Provides technical assistance to help programs operate efficiently and in compliance with relevant state and federal regulations.
 - Makes recommendations about enforcement activities to the Council.
- The Council makes final determinations on whether to approve program, deregister a program, or hold programs accountable if not complying with rules and regulations and share decisions with the ATD who will carry out the will of the Council.
- There are currently 157 registered apprenticeship programs in Oregon in a broad spectrum of occupations including medical assistants, early childhood learning educator, and pharmacy technician.
- All programs nationwide share the "apprenticeship triangle" in common which includes the industry education standard, paid on-the-job training and certified classroom instruction.
 - The industry standard serves as the blueprint or map that employers that serve as training agents will have apprentices follow to ensure adequate training in a specific occupation is met.
 - It details the training from the minimum qualifications to enter the program, the term of the apprenticeship (time based, competency based, both time and competency), describes the work process and activities for on-the-job training, and provides the subjects that must be included in the classroom instruction.
 - The industry standard will contain the content for on-the-job training and the subject matter included in classroom instruction.
 - Certified classroom instruction, also referred to as related training, is the organized and the systematic form of instruction that provides apprentices with the knowledge of the theoretical and technical subjects related to the occupation.
 - Subjects may include:
 - Occupational specific math
 - Occupational specific science
 - Classes on medical ethics
 - Biohazard protocols
 - Any subject that is related to the occupational skillset needed.
 - Location of instruction may be in:
 - Classroom
 - Labs
 - On-Line
 - Whatever delivery system that is most appropriate.
 - Curriculum is certified either by the state educational certifying authority or a nationally recognized industry association which can include certifying or licensing



authorities. ATD works very closely with groups interested in starting an apprenticeship to identify who is the appropriate certification authority.

- Paid, supervised on-the-job training
 - Occurs in the workplace
 - Allows apprentice to become familiar with work environment
 - Learn tools, culture, technology, day to day challenges
 - On-the-job training is directly supervised by a journey worker, or subject matter expert. For occupations that require licensure, apprentices must be supervised by an individual who has an equivalent or higher license.
 - Paid on progressive wage scale. As an apprentice is regularly evaluated by a training committee, and as competency increase, wage will also increase.
- At the end of an apprenticeship, the apprentice will have the necessary experience and skillset to take a licensure or certification exam that is appropriate to the trade and to be a journey worker or subject matter expert in their field.
- When a group of employers within an industry identify a need for a training program and would like to establish an apprenticeship, it must be reviewed and approved by the Council.
- The most important piece of this apprenticeship system is the Employer Group or the Joint Apprenticeship Training Committee (JATC). The JATC is required by statute to be comprised of an equal number of employers and employees who would serve as mentors and subject matter experts.
 - The JATC is the industry expert for identifying both the correct training for the occupation, as well as the training to meet needs of the employer industry.
 - The JATC is responsible for every component of the registered apprenticeship program including developing industry standard, developing classroom instruction to be certified by a certifying authority, developing components of on-the-job training, approve new apprenticeship applications, bring on other industry employers to train more apprentices to broadly build a skilled workforce.
 - The JATC needs to identify an administrator or coordinator who keeps the parts moving and communicating information.
 - An apprenticeship cannot operate without a full group of employers.
 - Example shared – United We Health – AFSCME Behavioral Health JATC.
 - Recognized there was a high demand in behavioral health and low supply of behavioral health providers.
 - Representatives from AFSCME, Cascadia Behavioral Health & Clatsop Behavioral Health approached ATD because of desperate need for diverse and multilingual behavioral health care providers.
 - Multiple consultations ensued between ATD and behavioral health to identify a sustainable program and where to start. The greatest need was determined to be a Qualified Mental Health Associate.
 - Research and work ensued on behavioral health program development and requirements for certification and training.
 - ATD engaged with Mental Health and Addictions Certifying Board of Oregon on reviewing the program.
 - Standards were developed and submitted for Council approval.
 - Program approved September 2021. The program started with four apprentices and now has 13. The program continues to grow at a steady rate. The first four apprentices are anticipated to graduate in September 2022.

- Information was also shared on the Medical Assistant Training Program under the administration and guidance of the Southwestern Oregon Workforce Investment Board. That program started in 2018 with five apprentices in two counties and now has 240 apprentices across the state.

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Future Ready Oregon – BOLI Apprenticeship Grants Program Information

<https://www.oregon.gov/boli/apprenticeship/Pages/BOLI-Apprenticeship-Grants.aspx>

Surgical Technologist Certifying Bodies Information

Dana Van Laeys provided information about the National Center for Competency Testing (NCCT).

- NCCT follows National Commission for Certifying Agencies (NCCA) accrediting standards
- There are three routes of eligibility to take certifying exam all of which comply with NCCA standards: Route 1) For current students in a surgical technology program which includes a program certified by ABHES or CAAHEP or a graduate from a surgical technology program with the past five years; Route 2) For individuals with three years of verifiable full-time experience as a surgical technologist within the past five years; or Route 3) For individuals who completed a surgical technology training or its equivalent during U.S. military service.
- An apprenticeship program must be registered with the US Department of Labor and must complete the Program Eligibility Application. A surgical technologist student is required to attend a minimum of 125 surgical procedures to be certified in addition to passing exam.

Lynn Anderson provided information about the Internal Joint Commission on Allied Health Personnel in Ophthalmology.

- JCAHPO certify ophthalmic technicians, assistants, medical technologists, and ophthalmic surgical assistants along with other subspecialties.
- All exams are certified by the NCCA as well as other groups that accredit and validate certification exams and training.
- Training is accredited by the International Council of Accreditation. The curriculum has undergone very rigorous review and establishment of a job analysis and accreditation programs to ensure academic standards are met. It is also accredited by the American Council of Education which has looked at certification exams like the process of the NCCA to validate and qualify examinations through a rigorous psychometric analysis. The outcome of this process is that examinations are qualified and equivalent to academic institutions.

Ben Price provided information about the National Board of Surgical Technologist and Surgical Assistant (NBSTSA).

- It has been an NCCA accredited certifying body that has been in place for over 50 years.
- NBSTSA certifies between 10-11,000 surgical technologists per year.
- NBSTSA's eligibility route for testing has evolved over time. Originally there was an on-the-job training component but in early 2000, with over 350 and now 450 accredited college level programs in the U.S, college level programs have become the primary route for eligibility to sit for exam. Eligibility is currently based on the industry standard for what is safe for patients.

- NBSTSA's interest in this process is how do you take a process that takes one to two years of didactic and clinical training and compress that information into whatever time frame an apprenticeship program would take while acknowledging the dangerous situation an operating room is for both the individual being trained and the patient. Via Chat, it was asked how you can take a complex education, hands-on patient care, and compress curricula items that normally take longer into a potentially shorter period, while a person is already working. It was further acknowledged that the ongoing process is about identifying the standards to set. It was also stated via Chat that on day one a certain amount of knowledge is needed before a patient is touched to prevent potentially life-threatening surgical site infections.
- NBSTSA appreciates the opportunity to participate today and in the future as the process moves forward.
- NCCA accredits certification programs and does not set minimum education standards for any profession. The NCCA also does not set requirements for routes for eligibility for certification. They ensure that the certification program is psychometrically sound, that the test development process itself is psychometrically sound, and that the certifying bodies are providing certifying programs that are equal and fare to all applicants.

Questions from Community Partners

The following questions were submitted by community partners:

Travis Meuwissen with the Oregon Association of Hospitals and Health Systems asked about the timeline around the different processes for both OHA and BOLI.

- M. Bernal noted that the bill is effective January 1, 2023. OHA will be convening a rule advisory committee in the next few months. It is anticipated that rules will not go into detail about what the apprenticeship must look like, and instead will point to BOLI administrative rules.
- A. Bandurraga noted that BOLI is ready to go and is waiting for rules to be adopted. It was further noted that BOLI has received requests from employers excited to get this started. It was noted that the Training Council meets quarterly and if rulemaking goes smoothly, programs will likely be submitted for approval by March 2023.

Kecia Norling with the Oregon Ambulatory Surgery Center Association asked via Chat how agencies will ensure there is geographic coverage so that potential apprentices in areas outside the I-5 corridor will have opportunities for this high-quality training and work experience?

- A. Bandurraga responded that this is one of the benefits of registered apprenticeship and developing an approved program includes its ability to operate anywhere in the state where there are employers and access to the certified instruction. The content is what is certified. The delivery method can be based on the best avenue to get the curriculum delivered to apprentices and makes it amendable to reaching people outside the major metropolitan areas.

Chris Skagen expressed appreciation for NBSTSA and the Association of Surgical Technologists being on the call to contribute to discussion.

- OASCA agrees with the original AST education requirements, which may not be what is currently proposed.
- OASCA does not support an AAS degree requirement for the apprenticeship program.

- After the apprenticeship model has been in place for 4-5 years, a minimum baseline education requirement can be reassessed.

Doug Riggs via Chat asked BOLI what opportunities there are to take advantage of federal dollars to help with the costs or pay for students costs for apprenticeship?

- A. Bandurraga noted that the State of Oregon has made a sizable investment in workforce development in many years. That investment is \$200 million in workforce development and \$18.8 million of that is for the Apprenticeship Training Division to specifically expand registered apprenticeship in manufacturing and health care industries. This includes onetime funding that is expected to be available in June 2023.
- Once a year the federal US Department of Labor, Office of Apprenticeship has grant funding for all states to apply. During the last three years this funding has focused on expansion in occupations other than construction trades for registered apprenticeships.
- There is a huge focus on building a sustainable workforce.
- D. Riggs noted that funding has already been sent to the nine local workforce boards and he has reached out to the Southern Oregon Workforce Investment Board who sponsored the state's certified medical assistant apprenticeship program which has done very well. They have incorporated a hybrid model that includes both in-clinic and on-line interaction and should be considered for surgical technologist programs.

A. Bandurraga noted that as curriculum is developed, subject matter experts will be consulted to ensure that appropriate standards are developed and that it will not be expected that a person with minimal training and education will be asked to scrub in for a patient.

Several ASC directors via Chat expressed thanks and appreciation for the work going into this process noting the struggles with hiring and staffing positions and looking forward to the opportunity to participate.

L. Ransom noted that BOLI is currently in round one of three of the RFP process for the \$18.8 million pass through dollars which will end on June 2, 2022. Round 1 was very broad and subsequent rounds will be amended to meet community needs. Information about Future Ready Oregon can be found at:

<https://www.oregon.gov/boli/apprenticeship/Pages/BOLI-Apprenticeship-Grants.aspx>
ATD.Grants@boli.oregon.gov