**Question:** What is the Texas Department of State Health Services “Clarification to House Bill 643 and Employing Surgical Technologists”?

**Answer:** The Texas Department of State Health Services recently issued a document entitled, Clarification: House Bill 643 and Employing Surgical Technologists, viewable on the AST website. The clarification concerns certain language from House Bill 643.

It specifically references the provision that states a surgical technologist employed to practice surgical technology before September 1, 2009 would not be required to successfully complete and accredited educational program for surgical technologists and hold and maintain certification as a surgical technologist to be employed as a surgical technologist after the effective date of HB 643.

The clarification was written to respond to health care facilities’ questions about how to comply with the law if the facility wants to keep or hire an employee that is not certified and only allowed to practice because he or she was employed to practice surgical technology in a health care facility before September 1, 2009.

**Question:** Does the Texas Department of State Health Services’ clarification state that the law allows health care facilities to hire people who do not hold or maintain proper certification as surgical technologists?

**Answer:** Yes, but only if the hospitals can demonstrate and keep a record that the person meets the requirements of the law. The clarification states the burden of proof is on the health care facility to prove the employee meets the requirements of the law. If the health care facility hires someone who was “grandfathered”, the health facility must verify and maintain documentation of the applicant’s employment as a surgical technologist before September 1, 2009.

**Question:** What is the Texas Department of State Health Services?

**Answer:** The Texas Department of State Health Services is the state agency that oversees public health programs and enforces certain health laws in the State of Texas. The Texas Department of State Health Services enforces the surgical technologist certification law.

When a state regulatory agency is responsible for enforcing a law, they may provide clarification on the law. However, state regulatory agencies, such as the Texas Department of State Health Services, may not add to the law or provide any clarification that contradicts or exceeds the scope of the statute passed by the legislature.