



Legal, Ethical & Cultural Considerations in Training the Surgical Technology Student & Novice

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Learning Objectives

Upon completing this module the learner will be able to:

- Define the legal risks both to the student and preceptor in the clinical setting.
- Identify the ethical considerations of training students and novices.
- Recognize cultural barriers to preceptorship.

Legal Risks

As a surgical technologist, it is important for you to consider the legal risks during the preceptorship of students and new employees. The key is accountability for all, whether you are the preceptor or the student/novice. As a practicing surgical technologist you may be reluctant to become involved with a training a student/novice due to feeling that is difficult to manage your own responsibilities and teach at the same time. Surgical Technologists may also be reluctant to become involved in training students due to being held legally accountable for the student's action. It is important to remember that the student/novice is also legally accountable for his or her own actions. We, as surgical technologists, also have the responsibility to train the next generation of surgical technologists in order to ensure only safe, competent practitioners are involved in patient care.

- The key to mitigating the legal risk in training students/novices is accountability.
- All practitioners, including students & new employees, are legally accountable for their actions.
- Experienced surgical technologists have an ethical & moral obligation to provide optimum patient care by training the next generation of surgical technologists.

Managing the Legal Risk: Competence

Competence is one of the foremost considerations in the preceptorship of student/ novice surgical technologists. It is up to the preceptor, the educator and the student to ensure that the clinical experience is safe for patients while at the same time being beneficial to the student or novice. The student, preceptor and educator are in a teaching-learning triad in which each member plays a vital role in ensuring patient safety. Educators are held responsible to ensure that the student/novice has received current and relevant training prior to entering the clinical site. Before placing a student/novice in a clinical experience, educators must be aware of the capabilities of the student to ensure that they are in a clinical area that matches their clinical competency level.

- Clinical competency is one of the foremost considerations when training students & novices.
- Care givers are responsible for insuring the experience is safe for patients, while being beneficial to the learner.
- Educators are responsible that the student/novice completed training prior to entering the clinical site.

Managing the Legal Risk: Competence con't

As a preceptor you must be aware of the scope of the students or novice's knowledge and skills. Students and novices should be able to articulate to the preceptor where they feel their strengths and weaknesses are prior to the clinical experience. If a student/novice is not competent to perform a certain action, she or he must not perform that action until they are qualified to carry out the task. Students/novices, however, should not be held to a standard of perfection, rather, they should be held to the standard of their peers.

- Preceptors must be aware of the scope of the student/novice's knowledge & skills.
- Students/novices should be held to a standard of their peers.

Managing the Legal Risk: Effective Communication

Communication between the educator, the preceptor, and the student must be clear and unambiguous. Each must clearly understand their role in the educational process and communicate problems and concerns promptly. Educators must clearly identify which preceptor/s would benefit a particular student, depending on their competency level.

- Communication between the educator, preceptor & student must not be confusing.
- Each member is part of a teaching-learning triad in which each plays a vital role.
- Educators must identify which preceptor(s) are the best match for a student/novice.

Managing the Legal Risk: Effective Communication con't

Preceptors should be able to clearly communicate any skills or competencies that are lacking in a student in a clear, concise, manner which aids the educator in determining a course of action that will benefit the student. Students should be able to accept any constructive criticism without becoming defensive or hurt and use these experiences as learning opportunities for improvement. Students/novices are also responsible for seeking clarification and assistance on any clinical experience that they do not understand.

- Preceptors should be able to communicate skills or competencies that are lacking in a student to the educator.
- Students are responsible for asking the preceptor for assistance on any clinical experience that they do not understand.

Managing the Legal Risk: Delegation & Supervision

Delegation and Supervision are important considerations when surgical technologists precept students and novices. "**Delegation**" is defined as the transfer of responsibility for the performance of a task from one person to another" or "transferring to a competent individual the authority to perform a selected clinical task in a selected clinical situation." The **preceptor** retains accountability for **delegation**".

- *Delegation* is defined as the transfer of responsibility for the performance of a task from one person to another.
- *Delegation* in a clinical setting refers to transferring to a competent individual the authority to perform a selected clinical task.
- Preceptor is accountable for delegation.

Managing the Legal Risk: Delegation & Supervision

There are five rights to delegation, they are as follows: (a) the **right** task, (b) the **right** circumstance, (c) the **right** person, (d) the **right** direction/communication, and (e) the **right** supervision. As surgical technologists, we have the obligation to provide safe, quality care to all of our patients. Delegating can create challenges and concerns, especially in today's healthcare setting with the environment of shrinking resources, patients with complex conditions and the use of new technology in the operating room. All delegation decisions must be based on the fundamental principle of protecting our patients.

- There are five **rights** to delegation: a) **right** task, b) **right** circumstance, c) **right** person, d) **right** direction/communication, & e) **right** supervision.

Ethical Considerations

Ethics are defined, according to the Miriam Webster Medical Dictionary, as the rules of behavior based on ideas about what is morally good and bad behavior; it is the branch of philosophy dealing with what is morally right or wrong.¹

They are standards of conduct that indicate how one should behave based on moral duties and virtues. How we approach ethical issues is determined by our individual beliefs about what is good and bad and obligations related to good and bad acts. When we think of ethics, we also think of terms related to ethics.

- *Ethics* are defined as the rules of behavior based on ideas about what is morally good & bad.
- They are standards of conduct that indicate how one should behave based on moral duties & virtues.

More Ethical Considerations

Related terms are those such as *values*, which relate to qualities of behavior, thought and character that society regards as being intrinsically good and worthy of emulation by others. *Morals* are modes of conduct that are taught and accepted as embodying principles of right and good. *Morality* can be defined as a system of determining right and wrong that is established by some authority, such as a church, organization, society, or government.

- Related terms are those such as *values* that relate to a persons character, and...
- *Morals* which are modes of conduct that are accepted as principles of right & good.

More Ethical Considerations

Ethics allow for students and novices, preceptors, and other members of the health care team to understand and respect each other. In the operating room, patients are there to receive care, surgical technologists are there to provide direct patient care and students are there to learn. In order for these values to be compatible, there must be *Beneficence* is an ethical standard that refers to the “duty to help”, or at least to “do no harm”. *Beneficence* applies to clinical teaching in that students and novices have a right to expect that their preceptor is a competent, responsible, and knowledgeable practitioner.

- *Ethics* allow for everyone to understand & respect each other.
- In the OR, in order for ethical values to be compatible, there must be *Beneficence*, the duty to help, or at least do no harm.

More Ethical Considerations

Preceptors have the responsibility for planning or delegating appropriate tasks based on the student/novice's needs and their level of competency. Giving specific, timely feedback on individual student/novice performance is another way that preceptors can practice beneficence. It is also important that the preceptor not compare students and novices to others.

- In clinical teaching, beneficence applies in that students and novices have a right to expect that their preceptor is competent, responsible & knowledgeable.

Code of Ethics from National Task Force in Health Education for Educators

The National Task Force in Health Education issued a code of ethics based on core principles underlying healthcare services.²

Educators have an ethical responsibility to:

- Treat learners with respect and treat all learners the same.
- Provide a quality education as defined by the profession/community.
- Select students based on academic performance, abilities, and potential contribution to their profession.
- Adequately prepare for the training of students.
- Give appropriate rationales.
- Conduct evaluations that are fair, consistent and equitable.
- Provide objective and honest student counseling.
- Provide adequate supervision based on the performance level of the learner.

Barriers to Ethical Treatment of Students/Novices

Each student or novice's behavior must be judged by the same standard. Examples of showing favoritism could include praising, supporting, and offering better learning opportunities with some students and not others. Social relationships between the student/novice and a preceptor should be discouraged, as well social networking sites should only be used for professional purposes between a student/novice and preceptor. The student/novice-preceptor relationship can be friendly and warm without being personal and social.

- Favoritism: Offering learning opportunities with some students & not others.
- Social relationships between student/novice & preceptor should be discouraged.
- Use of social networking sites should be professional.
- Talking about student performances in front of other students.
- Labeling students.
- Failing to model adequate respect for patients.

Student Privacy Rights

Student Privacy Rights should be respected. Students many times have a succession of clinical instructors and it is common for these instructors to communicate information about student performance. However, personal information that the students reveal in confidence should not be shared with other preceptors.

- Student privacy should be respected.
- Personal information that students share in confidence should be kept confidential.

Family Educational Rights & Privacy Act (FERPA)

FERPA (US Family Educational Rights and Privacy Act) restricts disclosure of student's academic information to individuals who have a legitimate need to know. Written permission of the students is necessary to discuss their performance with anyone else. Evaluative statements about student performance should not be shared with other preceptors, but information about a student's need for a particular learning activity, or more practice with a specific skill is necessary for a preceptor to provide the proper guidance. Shared information regarding a student between preceptors or between faculty and preceptors should focus on factual statements about performance without adding personal judgments. Inaccurate characterization or labeling of students is rarely helpful, it also violates ethical standards of privacy as well as respect for students.

- FERPA restricts sharing students information
- Written permission from the student is required.
- Evaluative statements about students' performance not disclosed.
- But information can be shared on specific learning needs of student.
- Labeling students violates privacy standards.

Culturally, the United States is undergoing rapid changes, and includes people from different ethnic backgrounds, belief systems, and economic backgrounds.³ Research suggests that these cultural influences have a profound effect on how healthcare workers perceive patients of various backgrounds. But there are also cultural influences that can affect how the student/novice can be perceived by educators and preceptors. As individuals, we have our own “life-world” based on our own background and culture and we may find relating to a student/novice with a different “life-world” challenging. (The concept of a life-world derives from the German term *lebenswelt* and refers to the individual and social influences on an individual’s life that result in the subjective manner in which the world is viewed through each individual’s eyes.

Cultural Considerations

- Culturally, the U.S. is undergoing rapid changes.
- Cultural influences can affect how the student/novice is perceived by educators & preceptors.
- Preceptors may find it culturally challenging to relate to a student/novice.

Cultural Considerations con't.

As early as 1998, the Pew Health Professions Commission recommended “that the health profession workforce reflects the diversity of the nation's population.⁴ Recent government reports have highlighted the need to expand health care workforce diversity and increase provider cultural competence to address persistent health disparities. The message has been embraced, and healthcare classrooms are filled with students of all ages, from every corner of the globe, and from every walk of life.

- Pew Health Professions Commission recommendation that workforce reflect diversity of population.
- Need to expand healthcare provider diversity & cultural competence.
- Healthcare classrooms are reflecting efforts.

Cultural Considerations con't.

An area that greatly affects the education of diverse students is the very nature of culture and cultural differences. Culture, according to classic anthropologist Tylor, is that “complex whole which includes knowledge, belief, art, law, morals, custom, and any other capabilities and habits acquired by man as a member of society”.⁵ Culture is acquired, dynamic, and largely unconscious. Culture changes both through conscious effort, education, and experience, and by unplanned happenstance and history.

- Tylor provided a classic definition of *culture*.
- *Culture* is dynamic & unconscious, but changes occur consciously.

Cultural Considerations con't.

Current American culture is concerned with the issue of political correctness, and the consequences for making an error in speech or action can be dramatic. Preceptors must be aware of the impact that saying “the wrong thing” to a student/novice can have on that persons feeling of self-worth and ultimately their career.

- Current outlook on culture focuses on political correctness & consequences for errors.
- Preceptors must be mindful of what they say, how they say it & impact on the student/novice.

Improve Teaching & Learning in Culturally Challenging Situations

To improve teaching and learning between the preceptor and student/novice it is imperative that preceptors are equipped to deal with cultural diversity in a culturally competent manner. Healthcare professionals should gain an understanding of one another's life-worlds. They need to develop appropriate attitudes and have the knowledge and skills to deal with challenges in a multicultural professional environment.

- Preceptors must know how to handle cultural diversity in a culturally competent manner.
- Understanding of one another's life worlds.
- Preceptors need appropriate attitudes, knowledge & skill in today's multicultural environment.

Specific Barriers to Success for Culturally Diverse Students/Novices

Culturally diverse students/novices often times experience specific barriers to success. They may perceive discrimination, have issues with English proficiency and have perceived cultural tensions. Many culturally diverse students for whom English is not the first language may have difficulty communicating their thoughts and may also be misunderstood by preceptors. Body language and eye contact can also vary from culture to culture and may be misperceived as being aloof or disrespectful.

- Culturally diverse students/novices: Perceive discrimination; challenges with English language; cultural tensions.
 - English language: Challenges communicating with preceptors who may misunderstand
- Body language & eye contact varies from culture to culture.

Other Challenges in Cultural Diversity

Diversity can also expand across generations. Many older students are seeking a change in careers and can be much older than their preceptors. Younger preceptors may have a difficult time correcting a student/novice who could essentially be the same age as their parents.

- Diversity is across generations.
- Students/novices may be older than their preceptors.
- Preceptor may find it challenging to correct a student/novice who is older.

Other Challenges in Cultural Diversity con't.

Many older students have much more to lose if they are not successful in their clinical education. They may have given up a significant amount of income in order to undertake this educational opportunity and may feel much more pressure to be successful and complete tasks without making mistakes. They may be dealing with stressors at home due to parenting and or being a spouse and failure is not an option for them. It becomes important for preceptors to recognize these cultural differences and work with them as individuals.

- Older students have more at stake if not successful in their higher education program.
- Preceptors must recognize cultural differences & students/novices as individuals representing these differences.

Other Challenges in Cultural Diversity con't.

A “one size fits all” approach where we treat everyone the same, regardless of age, culture and ethnicity may not work in all cases. Rather, preceptors should be exposed to multi-cultural sensitivity training at their clinical facility and have the resources to be able to identify differences in their student/novices as well as the tools to effectively teach.

- Treating all students/novices the same does not work.
- Preceptors should complete multi-cultural sensitivity training
- Preceptors should combine identifying cultural differences with teaching tools.

Summary of Key Concepts.

- Key to mitigating legal risk in training students/novices is accountability.
- Clinical competency is one of the foremost considerations when training student/novice surgical technologists.
- Experienced surgical technologists have an ethical & moral obligation to provide optimum patient care by training the next generation of surgical technologists.
- Ethics allow for students/novices, preceptors & other members of the healthcare team to understand & respect each other.
- Student privacy should be respected.
- Preceptors must be aware of the impact that saying “the wrong thing” to a student/novice can have on that person’s feeling of self-worth & ultimately their career.
- To improve teaching & learning between the preceptor & student/novice it is imperative that preceptors are equipped to deal with cultural diversity in a culturally competent manner.

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