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BILL



ANALYSIS

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Senate Bill 605 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Roger Kahn, M.D.
Committee: Health Policy

Date Completed: 11-18-09

RATIONALE

A team that performs surgical procedures in a hospital or outpatient facility consists of many people, including a perioperative registered nurse (RN) who provides nursing care to patients before, during, and after surgery. Each of the team members fills a specific role, and the perioperative nurse, or RN circulator, is responsible for the coordination, delivery, and evaluation of care while the patient is sedated or anesthetized. According to the Association of periOperative Registered Nurses (AORN), an RN circulator's duties are performed outside of the sterile field and are designed to maintain a safe, comfortable environment for patients who are sedated or anesthetized. These duties include being familiar with a patient's medical history, performing procedures to minimize the risk of surgery on the wrong body part or the wrong patient, communicating with patients and their families to address concerns, and monitoring patients as they awake from anesthesia. In Michigan, hospitals and surgical facilities voluntarily staff their operating rooms with RN circulators. In order to improve patient care, it has been suggested that minimum standards and qualifications be established for a person performing circulating duties.

CONTENT

The bill would amend the Public Health Code to do the following:

- **Require a freestanding surgical outpatient facility or hospital that performs procedures in an operating room to establish policies and procedures regarding surgical**

privileges, operating room maintenance, and patient evaluation.

- **Require such a facility or hospital to meet Federal regulations and guidelines applicable to registered professional nurses performing circulating duties in the operating room.**
- **Allow the facility or hospital to assign an RN to be present in the operating room for the duration of each surgical procedure.**

Specifically, a freestanding surgical outpatient facility or hospital licensed under Article 17 (Facilities and Agencies) that performs surgical procedures in an operating room would have to do all of the following:

- Develop and maintain effective policies and procedures regarding surgical privileges, maintenance of the operating rooms, and evaluation of the surgical patient.
- Meet the requirements of the conditions of participation established under 42 CFR 482.51 as they apply to RNs performing circulating duties in the operating room and as provided in the interpretive guidelines published by the U.S. Department of Health and Human Services.

The facility or hospital could assign a qualified RN to be present in the operating room for the duration of each surgical procedure. This provision would not prevent an RN who was performing circulating duties from leaving the operating room as part of the surgical procedure, leaving the room for

short periods, or, under employee rules or regulations, being relieved during a surgical procedure by another qualified RN who was assigned to continue performing circulating duties for that procedure.

("Registered professional nurse" would mean that term as defined in Section 17201 of the Code, i.e., "an individual licensed...to engage in the practice of nursing which scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities".

Federal regulation 42 CFR 482.51 requires health care organizations to meet certain conditions for surgical services in order to participate in the Medicare and Medicaid programs. The regulation states that qualified RNs may perform circulating duties in the operating room.)

Proposed MCL 333.20135

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

All patients deserve an RN circulator to act in their best interest while they are sedated or anesthetized and cannot speak for themselves. In addition to specialized training and education, circulating nurses have highly developed knowledge and skills pertaining to communication, evaluation, and patient advocacy. An RN circulator's qualifications help to prevent errors, injuries, and deaths on the operating table.

While surgical facilities and hospitals currently use RN circulators, the law does not specify any minimum standards and qualifications for employees performing circulating duties. It is important to codify this practice to improve consistency and guarantee that each surgery patient has a qualified circulating nurse assigned specifically to him or her during the procedure.

Opposing Argument

The bill is unnecessary because hospitals and surgical facilities already employ RN circulators. Furthermore, medical facilities already must follow certain staffing requirements, including those pertaining to

circulating nurses, in order to maintain accreditation and reimbursement from the Centers for Medicare and Medicaid Services. The bill would create an additional regulatory burden that could divert resources from other patient care priorities, and could open the door to further statutory requirements regarding facility staffing.

Response: The bill would not mandate the use of circulating nurses, but simply would establish minimum qualifications for a person performing those duties.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.