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Senate Bill 605 (as introduced 5-21-09)  
Sponsor: Senator Roger Kahn, M.D.  
Committee: Health Policy

Date Completed: 11-4-09

### **CONTENT**

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

- **Require a freestanding surgical outpatient facility or hospital that performs procedures under general anesthesia or deep sedation 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 (RNs) 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.**
- **Allow a licensed practical nurse (LPN) or surgical technologist to perform scrub nurse duties or circulating duties under the supervision of an RN.**

Specifically, a freestanding surgical outpatient facility or hospital licensed under Article 17 (Facilities and Agencies) that performs surgical procedures under general anesthesia or deep sedation 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.

("Deep sedation" would mean a drug-induced depression of consciousness during which a patient is not easily aroused but may respond to purposefully repeated or painful stimulation, a patient's cardiovascular function is usually maintained, and at least one of the following may occur:

- The ability to maintain ventilatory function may be impaired.
- Assistance may be required in maintaining a patient airway.
- Spontaneous ventilation may be inadequate.

"General anesthesia" would mean a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, and at least one of the following may occur:

- The ability to maintain ventilatory function independently may be impaired.
- Assistance may be required in maintaining a patient airway.
- Cardiovascular function may be impaired.
- Positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.)

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.

A licensed practical nurse (LPN) or a surgical technologist could perform scrub nurse duties under the supervision of the qualified RN who was performing circulating duties in the operating room. If the RN who was performing circulating duties were immediately available to respond to emergencies, an LPN or surgical technologist could assist by performing circulating duties under the supervision of that RN.

("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.)

Proposed MCL 333.20135

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.