



# Ohio Legislative Service Commission

## Bill Analysis

Laura Gengo

### H.B. 205

128th General Assembly  
(As Introduced)

**Reps.** Letson, Ujvagi, Hagan, Luckie, Murray, Mallory, Lehner, Winburn

---

## BILL SUMMARY

- Requires hospitals and ambulatory surgical facilities to assign a circulating nurse to each procedure performed in an operating room or invasive procedure room and to meet additional requirements regarding the role of the circulating nurse in the operating or invasive procedure room.
- Permits the Director of Health to grant a hospital or ambulatory surgical facility an opportunity to correct violations of the bill's provisions.
- Permits the Director to seek an injunction against a hospital or ambulatory surgical facility for violating the bill's provisions, and, in the case of an ambulatory surgical facility, to issue an order requiring the facility to cease operation or prohibiting the facility from performing services in violation of the bill.
- Requires the Director to deposit any money collected under the bill regarding ambulatory surgical facilities into the Quality Monitoring and Inspection Fund.
- Requires the Director to adopt rules regarding administrative orders, civil penalties, and the intraoperative tasks that require a person assisting with a surgical procedure to work under the direct supervision of a circulating nurse.

---

## CONTENT AND OPERATION

### Circulating nurses

(R.C. 3702.40(A) and (B) and 3727.60(A) and (B))

The bill establishes requirements for the use of circulating nurses by hospitals and ambulatory surgical facilities in operating rooms and invasive procedure rooms. A

"circulating nurse" is defined by the bill as a registered nurse<sup>1</sup> who is educated, trained, or experienced in perioperative nursing and who is responsible for coordinating the nursing care and safety needs of a patient in an operating room or invasive procedure room.

Specifically, the bill requires a hospital or ambulatory surgical facility to do all of the following:

(1) Assign a circulating nurse to each procedure performed in an operating room or invasive procedure room of the hospital or ambulatory surgical facility;

(2) Ensure that the circulating nurse is present in the operating room or invasive procedure room for the entire duration of the procedure unless it becomes necessary for the nurse to leave the room as required by the procedure or the nurse is relieved by another circulating nurse;

(3) Ensure that the circulating nurse is not assigned to another procedure that is scheduled to occur concurrently or that may overlap in time with the procedure to which the nurse was originally assigned;

(4) Ensure that any person the hospital or ambulatory surgical facility has employed or contracted with to work as a surgical technologist for a procedure, or has assigned to assist with the performance of one or more intraoperative tasks for a procedure, works under the direct supervision of the circulating nurse assigned to the same procedure or the circulating nurse who relieves the circulating nurse assigned to the procedure.

### **Opportunity for correction of violations**

(R.C. 3702.40(C)(1) and 3727.60(C))

If the Director of Health determines that a hospital or ambulatory surgical facility has violated the bill's requirements for use of circulating nurses, the bill permits the

---

<sup>1</sup> A licensed registered nurse is authorized to provide to individuals and groups nursing care requiring specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes: (1) identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen, (2) executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions, (3) assessing health status for the purpose of providing nursing care, (4) providing health counseling and health teaching, (5) administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, and (6) teaching, administering, supervising, delegating, and evaluating nursing practice (R.C. 4723.01(A) and (B), not in the bill).

Director to provide the hospital or facility with an opportunity to correct the violation. The bill provides for the Director to specify the period of time within which the violation must be corrected.

## **Enforcement**

(R.C. 3702.40(C)(2) and (D) and 3727.60(D))

The bill permits the Director of Health to seek a court order enjoining a hospital from continuing to operate or perform services in violation of the bill if the hospital fails to correct the violation within the period of time specified by the Director when granting the hospital an opportunity to correct the violation. Upon a showing that the hospital is continuing to operate or perform the services, the court must grant the injunction.

With regard to an ambulatory surgical facility, the bill permits the Director to take an additional course of action against the facility, before seeking an injunction. Prior to or during the pendency of an administrative hearing, the Director may issue an order that requires the facility to cease operation or prohibits the facility from performing services in violation of the bill.<sup>2</sup> Then, similar to the action against a hospital, the Director may seek a court order enjoining the facility from continuing to operate or perform the services if the facility fails to comply with the Director's order. Upon a showing that the facility is continuing to operate or perform the services, the court must grant the injunction.

## **Quality Monitoring and Inspection Fund**

(R.C. 3702.31)

The bill requires the Director of Health to deposit any money collected pursuant to the provisions of the bill regarding ambulatory surgical facilities into the existing Quality Monitoring and Inspection Fund in the state treasury. The money in the fund must also be used to administer and enforce the bill's provisions.

## **Rules**

(R.C. 3702.30(F) and 3727.60(E))

The bill requires the Director of Health to adopt rules regarding the following:

---

<sup>2</sup> Ambulatory surgical facilities are licensed by the Director of Health, thereby granting the Director powers in governing their operation that are not available to the Director relative to hospitals. Hospitals are not licensed in Ohio.

- The orders that the Director can issue against an ambulatory surgical facility that requires the facility to cease operation or prohibits the facility from performing services in violation of the bill;
- The imposition of civil penalties on an ambulatory surgical facility for violating the bill's provisions;<sup>3</sup>
- The "intraoperative tasks" for which the bill requires a person to work under the direct supervision of a circulating nurse when the person has been assigned to assist with a procedure in a hospital or ambulatory surgical facility.

---

## HISTORY

ACTION	DATE
Introduced	06-02-09

H0205-I-128.docx/jc

---

<sup>3</sup> An amendment may be necessary to expressly grant the Director authority to impose civil penalties against an ambulatory surgical facility for violations of the bill's requirements for the use of circulating nurses.

