



Ohio Legislative Service Commission

Bill Analysis

Lisa Musielewicz

S.B. 291

129th General Assembly
(As Introduced)

Sens. Lehner, Manning, Jones, Tavares

BILL SUMMARY

- Generally prohibits a facility that is a hospital or ambulatory surgical facility from authorizing a person who is not a physician, physician assistant, registered nurse, or licensed practical nurse from engaging in the practice of surgical technology at the facility unless the person meets certain requirements, but permits the Director of Health to waive the prohibition under certain circumstances.
- Defines "surgical technology" as patient care during a surgical procedure through completion of such tasks as preparing the operating room, performing certain tasks within the sterile field, or anticipating and fulfilling the needs of the surgical team.
- Requires a facility to require non-licensed persons who engage in the practice of surgical technology to complete continuing education requirements.
- Permits the Director to inspect a facility to determine whether it is in compliance with the bill and requires the Director of Health to fine a facility for failing to comply with the bill.

CONTENT AND OPERATION

Overview

Current law does not recognize surgical technologists or provide for their licensure. The bill does not provide for licensure, but prohibits, with exceptions, a person who is not one of the licensed health professionals specified in the bill from engaging in the practice of surgical technology in a facility that is a hospital or ambulatory surgical facility unless the person meets certain requirements. For the persons who meet those requirements, the bill requires the facilities in which they work to require that they complete continuing education requirements established by the bill.

Prohibition

The bill generally prohibits a facility classified by the state Department of Health as a hospital or licensed by the Department as an ambulatory surgical facility from authorizing any person who is not a licensed health professional to engage in the practice of surgical technology in the facility unless the person is nationally certified or meets another of the requirements described below.¹ The bill defines "licensed health professional" as a physician, physician assistant, registered nurse, or licensed practical nurse authorized to practice in Ohio.² "Surgical technology" is defined as patient care during a surgical procedure that includes one or more of the following:³

(1) Preparing the operating room, including the sterile field, for surgical procedures by doing one or both of the following: (a) ensuring that surgical equipment is functioning properly and safely, and (b) handling sterile supplies, equipment, and instruments using sterile technique;

(2) Performing one or more of the following tasks within the sterile field: (a) passing supplies, equipment, and instruments, (b) sponging or suctioning of the patient's operative site or performing both activities, (c) preparing and cutting suture material, (d) transferring fluids and irrigating with fluids, (e) transferring, but not administering, drugs, (f) handling specimens, (g) holding retractors, and (h) assisting a nurse performing circulatory duties in counting sponges, needles, and other supplies and instruments;

(3) Anticipating and fulfilling the needs of the surgical team by applying knowledge of human anatomy and pathophysiology.

Persons who may practice surgical technology

Under the bill, the following persons may be authorized by a facility that is a hospital or ambulatory surgical facility to engage in the practice of surgical technology in the facility:⁴

(1) Grandfathered persons – persons who, during all or part of the six-month period immediately preceding the bill's effective date, were actively engaged in the practice of surgical technology in an Ohio hospital or ambulatory surgical facility.

¹ R.C. 3701.77(B).

² R.C. 3701.77(A)(2).

³ R.C. 3701.77(A)(3).

⁴ R.C. 3701.77(B)(1)(a) to (d) and (2).

(2) Nationally certified persons – persons who hold valid certification as surgical technologists from the National Board of Surgical Technology and Surgical Assisting or an entity recognized by the Director of the state Department of Health as a successor of the Board.

(3) Persons educated by the military or the federal Public Health Service – persons who have successfully completed an educational program for surgical technology operated by the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or the United States Public Health Service.

(4) Federally employed persons – persons employed by the federal government as surgical technologists who perform the duties of surgical technologists during the course of their employment.

(5) New graduates of accredited surgical technology educational programs – persons, other than those described in (1) to (4), above, who have graduated from an accredited educational program for surgical technology.

An "accredited educational program for surgical technology" is either of the following: (a) an educational program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs or by an entity the Director of Health recognizes as the Commission's successor, or (b) an educational program for surgical technology accredited by the Accrediting Bureau of Health Education Schools or an entity the Director of Health recognizes as the Bureau's successor.

New graduates are limited to engaging in the practice of surgical technology during one of the following time periods, as applicable:

- If graduation was before the bill becomes effective, the graduate is limited to engaging in the practice of surgical technology during the one-year period immediately following the bill's effective date.
- If graduation is on or after the bill's effective date, the graduate is limited to engaging in the practice of surgical technology during the one-year period following graduation.

Waiver

A facility that is unable to avoid violating the bill's prohibition may apply to the Director of Health for a waiver. The bill authorizes the Director to grant the waiver only if the facility includes in the application evidence satisfactory to the Director that the facility has made reasonable efforts but is unable to obtain the number of persons

who meet the general or new graduate conditions that authorize the person to practice surgical technology in the facility.⁵

If the Director grants the waiver, the facility may permit persons to engage in the practice of surgical technology pursuant to the waiver. The waiver must specify the number of persons who may practice pursuant to it, and is valid for six months from the date it is granted.⁶

A facility may apply for one six-month extension of a waiver. The Director of Health may grant the extension only if the facility includes in the application evidence satisfactory to the Director that the facility, after making reasonable efforts, continues to be unable to obtain the number of persons it needs who meet the general or new graduate conditions specified in the bill.⁷

Continuing education requirements

Under the bill, a facility must require that persons who are not licensed health professionals but engage in the practice of surgical technology because they meet the general or new graduate conditions specified in the bill do both of the following:⁸

- (1) Complete 15 hours of continuing education in the field of surgical technology annually;
- (2) Provide evidence to the facility that they have met the annual continuing education requirements.

A facility is permitted to allow a person not more than six additional months to meet the requirements.⁹

Verification

A facility must annually verify that each person who is not a licensed health professional that it permits to engage in the practice of surgical technology meets (1) the bill's conditions for engaging in the practice of surgical technology without being a licensed health professional, and (2) if applicable, the continuing education

⁵ R.C. 3701.77(C).

⁶ R.C. 3701.77(C).

⁷ R.C. 3701.77(C).

⁸ R.C. 3701.77(D).

⁹ R.C. 3701.77(D).

requirements specified in the bill.¹⁰ The facility must maintain records of its verification and make the records available to the Director of Health.

Inspections and penalties

The bill authorizes the Director of Health to inspect a facility to determine whether it is in compliance with the bill. If the Director determines that an infraction has occurred, the Director must impose a fine in an amount determined in accordance with rules the bill requires the Director to adopt.¹¹

Rulemaking

The bill requires the Director of Health to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) as the Director considers necessary to carry out the bill's provisions, including rules regarding the following:¹²

(1) The application form to be used by a facility when applying for a waiver or an extension of a waiver of the bill's requirements (see "**Waiver**," above);

(2) The amount of a fine to be imposed by the Director for an infraction, which may vary according to the severity of the infraction and may include an increased amount when the fine is imposed for repeat infractions.

HISTORY

ACTION	DATE
Introduced	02-07-12

s0291-i-129.docx/ks

¹⁰ R.C. 3701.77(E).

¹¹ R.C. 3701.77(F).

¹² R.C. 3701.77(G).