



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 205 of the 128th G.A.

Date: June 17, 2009

Status: As Introduced

Sponsor: Rep. Letson

Local Impact Statement Procedure Required: Yes

Contents: To require hospitals and ambulatory surgical facilities to assign a circulating nurse to each procedure performed in an operating room or invasive procedure room and to require surgical technologists to work under the direct supervision of circulating nurses

State Fiscal Highlights

STATE FUND	FY 2010
General Revenue Fund	
Revenues	- 0 -
Expenditures	Increase
Quality Monitoring and Inspection Fund (Fund 5B50)	
Revenues	Potential gain
Expenditures	Increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The Department of Health would experience an increase in costs associated with the development and implementation of a monitoring process for hospital operating and procedure rooms. While the Department does not have an estimate at this time, it expects the costs to be substantial. LSC assumes that these costs would be paid for through a mix of GRF moneys, as well as moneys from the Quality Monitoring and Inspection Fund (Fund 5B50).
- The Department of Health is likely to experience an increase in costs as a result of the provisions associated with ambulatory surgical facilities. However, ambulatory surgical facilities are licensed by the Department, so there are currently mechanisms in place to monitor compliance. Additionally, the bill would allow the Department to collect civil penalties for violations of the bill, which would be deposited into Fund 5B50. Thus, some enforcement costs could be partially offset with fine revenues.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Public Hospitals			
Revenues		- 0 -	
Expenditures		Increase	
County Courts			
Revenues		- 0 -	
Expenditures		Potential minimal increase	

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Public hospitals may need to hire additional nursing staff to replace the nurses acting in a circulating nurse role. Thus, costs could increase for public hospitals as a result of the requirements within the bill.
- The bill allows the Director of Health to seek a court order enjoining a hospital or ambulatory surgical facility from continuing to operate or perform services in violation of the bill. Thus, county courts may realize an increase in costs. However, it is anticipated that there would be few violations. Thus, any increase would be minimal.

Detailed Fiscal Analysis

The bill requires hospitals and ambulatory surgical facilities to do the following: (1) assign a circulating nurse to each procedure performed in an operating room or invasive procedure room, (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 the circulating nurse is not assigned to another procedure that is scheduled to occur concurrently or that may overlap, and (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 been 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.

The bill allows the Director of Health to provide a facility an opportunity to correct violations associated with the circulating nurses requirements. The bill also allows the Director 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. The court must grant the injunction if it is shown that a hospital is continuing to operate or perform services. The Director may seek additional course of action against an ambulatory surgical facility before seeking an injunction. The bill requires the Director to adopt rules regarding the orders that can be issued against an ambulatory surgical facility, the imposition of civil penalties, etc.

Any moneys collected regarding ambulatory surgical facilities under the bill are required to be deposited into the Quality Monitoring and Inspection Fund (Fund 5B50) and to be used to administer and enforce the bill's provisions.

State costs

Currently, the Department of Health does not license hospitals. Thus, the Department does not have mechanisms in place to monitor or enforce the requirements of the bill. As a result, the Department would experience an increase in costs associated with the development and implementation of a monitoring process for hospital operating and procedure rooms. While the Department does not have an estimate at this time, it expects the costs to be substantial. LSC assumes that these costs would be paid for through a mix of GRF moneys, as well as moneys from Fund 5B50.

In regard to the ambulatory surgical facilities, the Department is likely to experience an increase in costs as a result of the bill. However, ambulatory surgical facilities are licensed by the Department, so there are currently mechanisms in place to monitor compliance. Additionally, the bill would allow the Department to collect civil

penalties for violations of the bill. Thus, some enforcement costs could be partially offset with fine revenues.

Local costs

There are currently 21 public hospitals in Ohio. According to the Ohio Hospital Association's (OHA) web site, a public hospital is "government-owned, either by the state or county."

The Centers for Medicare and Medicaid Services (CMS) develops conditions of participation that health care organizations must meet in order to begin or to continue participating in the Medicare and Medicaid programs. Currently, CMS requires that operating rooms are supervised by experienced registered nurses or physicians. It permits registered nurses to perform circulating duties in the operating room, but also permits licensed practical nurses and surgical technologists to assist in those duties under the supervision of a qualified registered nurse who is immediately available to respond to emergencies if such is allowed under state law and hospital policies and procedures. According to OHA, some hospitals may currently meet the requirements of the bill. However, for hospitals that do not, additional nursing staff would likely need to be hired to replace the nurses acting in a circulating nurse role. Thus, costs could increase for hospitals.

County courts could experience an increase in costs associated with the provision that allows the Director of Health to seek a court order enjoining a hospital from continuing to operate or perform services in violation of the bill. It is expected that the number of violations would be small. Thus, costs would be minimal.