

BILL ANALYSIS

C.S.H.B. 643
By: Zerwas
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Surgical technologists maintain the sterile field during surgical procedures, assist the surgeon by handling sterile instruments during a surgery, and function as a member of the surgical team. This role has become increasingly important recently as surgical instrumentation and procedures have become more complex. Encouraging health care facilities to hire qualified surgical technologists will help improve patient safety without creating a license or other new administrative framework.

C.S.H.B. 643 requires a health care facility to employ a surgical technologist who has certain qualifications set forth by the bill's provisions. The bill authorizes a health care facility to employ a surgical technologist that does not meet the required qualifications if the health care facility is unable to locate an individual who meets those qualifications and the facility retains a record of the hiring effort.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 643 amends the Health and Safety Code to prohibit a health care facility licensed by the Department of State Health Services (DSHS) or owned or operated by the state from employing a person to practice surgical technology unless that person provides evidence that the person has successfully completed an accredited educational program for surgical technologists and holds and maintains certification as a surgical technologist by the National Board of Surgical Technology and Surgical Assisting or its successor, the National Center for Competency Testing or its successor, or another surgical technologist certification program approved by DSHS; has completed an appropriate training program for surgical technology in the army, navy, air force, marine corps, or coast guard of the United States or in the United States Public Health Service; was employed to practice surgical technology in a health care facility before September 1, 2009; or is in the service of the federal government, to the extent the person is performing duties related to that service. The bill provides an exception for a health care facility to employ a person to practice surgical technology from the date the person graduates from an accredited

educational program for surgical technologists until the 180th day after the date of graduation but prohibits the person from continuing to practice surgical technology after the specified time period without showing documentation to the health care facility that the person holds and maintains the required surgical technologist certification. The bill provides an exception for a health care facility to employ a surgical technologist who does not meet the prescribed requirements if after a diligent and thorough effort has been made, the health care facility is unable to employ a sufficient number of qualified surgical technologists who meet the prescribed requirements and the health care facility makes a written record of its employment efforts and retains the record at the health care facility.

C.S.H.B. 643 establishes that its provisions do not repeal or modify any law relating to the supervision of surgical technologists or prohibit a licensed practitioner from performing a task or function within the scope of the practitioner's license. The bill exempts from its provisions a licensed registered nurse or a licensed vocational nurse or the employment by a health care facility of an individual whose primary functions include the cleaning or sterilization of supplies, instruments, equipment, or operating rooms.

C.S.H.B. 643 authorizes DSHS to adopt rules to administer and enforce regulations for surgical technologists at health care facilities. The bill makes a health care facility that violates a DSHS rule or requirements for practicing surgical technology subject to an administrative penalty, a civil penalty, or other disciplinary action, as applicable, in the same manner as if the facility violated the rule or provision of law under which the facility is licensed. The bill specifies that a health care facility is not required to comply with the requirements relating to employing a person to practice surgical technology before September 1, 2010.

C.S.H.B. 643 defines "surgical technology" to mean intraoperative surgical patient care as follows: preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely; preparing the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique; anticipating the needs of the surgical team based on knowledge of human anatomy and pathophysiology and how they relate to the surgical patient and the patient's surgical procedure; as directed in an operating room setting, at the sterile field, passing supplies, equipment, or instruments, sponging or suctioning an operative site; preparing and cutting suture material, transferring and pouring irrigation fluids, transferring but not administering drugs within the sterile field; handling specimens, holding retractors and other instruments, applying electrocautery to clamps on bleeders; connecting drains to suction apparatus, applying dressings to closed wounds, and assisting in counting sponges, needles, supplies, and instruments with the registered nurse circulator; cleaning and preparing instruments for sterilization on completion of the surgery; and assisting the surgical team with cleaning of the operating room on completion of the surgery. The bill defines "department" and "surgical technologist."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 643 differs from the original by including a health care facility owned or operated by the state among the facilities prohibited from employing a person to practice surgical technology unless that person meets the prescribed qualifications. The substitute differs from the original by adding certification from the National Center for Competency Training or another surgical technologist certification program approved by the Department of State Health Services to the entities or programs from one of which a person is required to hold and maintain certification to qualify to practice as a surgical technologist and making related conforming changes.

C.S.H.B. 643 omits a provision from the original requiring a health care facility that employs a surgical technologist to supervise the surgical technologist according to the health care facility's policies and procedures and to ensure that the surgical technologist competently performs delegated tasks intraoperatively. The substitute adds provisions not in the original establishing that its provisions do not repeal or modify any law relating to the supervision of surgical technologists and establishing an exemption for a licensed registered nurse or a licensed vocational nurse or a person employed by a health care facility whose primary function involves cleaning and sterilization of equipment or operating rooms.

C.S.H.B. 643 includes tasks not in the original within the meaning of the term "surgical technology" related to tasks performed at the sterile field in an operating room setting, cleaning and preparing for sterilization instruments on completion of a surgery, and assisting with cleaning of the operating room on completion of surgery. The substitute retains current law by omitting a provision included in the original repealing the requirement that circulating duties in the operating room be performed by a qualified registered nurse. The substitute makes conforming and technical corrections not included in the original.