

# Legislative Analysis

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## CERTIFIED SURGICAL TECHNOLOGISTS AND SURGICAL FIRST ASSISTANTS

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**House Bill 4403 (Substitute H-1)**

**Sponsor: Rep. Howard Walker**

**Committee: Health Policy**

### **First Analysis (3-16-05)**

**BRIEF SUMMARY:** The bill would allow a physician to delegate tasks involving the use of surgical instrumentation to an individual who is a certified surgical technologist or certified surgical first assistant when that physician was present during the procedure and provided direct supervision.

**FISCAL IMPACT:** The bill's fiscal impact on the State of Michigan as a payor of health services for Medicaid participants and for employees is not known. Use of a surgical technologist may provide cost savings over use of a higher paid health care professional for a given task in the surgical setting; however, the opportunity for savings is moderated by the necessity for the licensed physician delegating the task to directly supervise the performance of the task.

### **THE APPARENT PROBLEM:**

In general, the Public Health Code allows certain licensed health care providers to delegate the performance of selected tasks, acts, or functions to a licensed or unlicensed individual as long as that individual is otherwise qualified by education, training, or experience to perform the delegated task, and the licensed healthcare professional provides supervision. If the performance of a procedure involves the use of surgical instrumentation, a licensed allopathic physician (M.D.) or osteopathic physician and surgeon (D.O.) can only delegate the task, act, or function to an individual who is licensed under the health code; for example, another licensed physician or registered nurse. However, the code does provide an exception to this restriction and allows an M.D. or D.O. to delegate acts, tasks, and functions involving the use of surgical instrumentation to medical students or students enrolled in an approved physician's assistant training program – as long as the physician provides direct supervision and is physically present during the performance of the procedure. Many believe that the code should be amended to include individuals who have completed formal training and certification as a surgical technologist or surgical first assistant.

According to information supplied by supporters of the bill, a surgical first assistant assists the surgeon to complete an operation safely. Under a physician's delegation, he or she may position the patient, apply wound dressings, and maintain hemostasis, among other duties. Surgical technicians help prepare the operating room by setting up surgical instruments, sterile drapes, and sterile solutions. They prepare patients for surgery by washing and shaving them, transporting them to the operating room, positioning them on

the operating table, helping to identify the surgery site, observing the patients' vital signs, checking charts, and observing surgical procedures to ensure that a sterile field is maintained at all times. During surgery, surgical technologists and first assistants may pass instruments and other sterile supplies to the surgeon, hold retractors, cut sutures, and help count sponges, needles, supplies, and instruments to ensure patient safety. They also help prepare or dispose of specimens taken for laboratory analysis. Some operate sterilizers, lights, suction machines, or diagnostic equipment.

Though surgical technologists and surgical first assistants are unlicensed allied health care professionals, surgeons have incorporated them into the surgical team for decades. Many therefore believe that the health code should be amended to reflect this practice, but should restrict the use of these individuals to those who have successfully completed an accredited education program and attained certification by nationally recognized entities.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Public Health Code to allow, under certain conditions, a licensed physician (both allopathic and osteopathic) to delegate certain tasks, acts, or functions involving the performance of a procedure that involved the use of surgical instrumentation to a certified surgical technologist or certified surgical first assistant.

Currently, delegation for procedures involving the use of surgical instrumentation can only be made to an individual licensed under the health code, though the code does provide two exceptions. Those to whom delegation is possible under the exceptions include 1) students enrolled in a school of medicine (approved by either the Michigan Board of Medicine, or the Michigan Board of Osteopathic Medicine and Surgery); and 2) students enrolled in an approved physician's assistant training program. House Bill 4403 would retain these provisions, but extend them.

Under the bill, physicians also could delegate acts, tasks, or functions for procedures involving the use of surgical instrumentation to an individual who had successfully completed an accredited education program in surgical technology or surgical first assisting. The surgical technologist would have to be certified by the Liaison Council on Certification for the Surgical Technologist, and the surgical first assistant would have to be certified by the National Surgical Assistance Association, the Liaison Council on Certification for the Surgical Technologist, or by the American Board of Surgical Assisting.

The bill would specify that it would not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by a certified surgical technologist or certified surgical first assistant.

MCL 333.16215

## **ARGUMENTS:**

### ***For:***

Surgical first assistants and surgical technologists have been important members of surgical teams for decades. Traditionally called "first scrubs," these individuals monitor the sterile environment of the operating room both before and during surgical procedures. They are responsible for arranging the surgical implements that will be used during an operation; they assist the other members of the surgical team to scrub; they provide patient care such as pre-op preparations, transport to the operating room, and positioning the patient on the operating table; they pass surgical instruments to the surgeon; some hold retractors and cut sutures during an operation, while others have training in operating some equipment such as sterilizers, suction machines, and diagnostic equipment; and they assist in increasing patient safety by counting and tracking the use of the sponges and other implements used in a surgical procedure. In short, qualified individuals possess and demonstrate knowledge of surgical procedures, aseptic technique, and patient care.

One way to ensure that physicians continue to delegate such tasks to qualified individuals would be to include certified surgical technologists and certified surgical assistants in the state health code. Currently, a physician may only delegate tasks involving the use of surgical instrumentation to a person licensed under the health code. This would include nurses and physicians' assistants. Exceptions are included for unlicensed individuals such as medical students and students studying to be a physician's assistant – but only if the physician provides direct supervision and is physically present during the procedure. The bill would include certified surgical first assistants and surgical technologists within this exception.

To be certified, an individual must first complete an accredited program in surgical technology or surgical first assisting. These programs are offered at universities, community colleges, and in the military. They are at least nine months long, though some educational institutions offer a two-year program with an associate's degree. Individuals also complete extensive clinical experience and must pass an examination before being certified. Completion of continuing education credits is necessary for renewal of a certification. Such educational and clinical training ensure that individuals who have received certification are knowledgeable in this field.

Nationally, many hospitals are now requiring certification as a condition for employment. It is also believed that use of trained and qualified surgical technologists and first assistants may lower health care costs as they can provide quality services for less than registered nurses or other licensed health care professionals. Passage of the bill would increase patient safety by ensuring that individuals possessing the necessary knowledge, skills, and training would be assisting physicians during surgical procedures.

### ***Against:***

Some feel the bill is an attempt to restrict residents, nurses, physicians' assistants, and other allied health care professionals from performing the services of surgical

technologists and surgical first assistants. These individuals have also completed educational and clinical programs and so are more than capable, if not more so, to act in the capacity of a surgical technologist or surgical first assistant. Moreover, since a physician is responsible for the actions of the person to whom he or she delegates a task or function, the discretion should remain with the physician to choose whomever he or she wishes.

***Response:***

The bill would not prevent nurses, residents, or physicians' assistants from performing the duties of a surgical technologist or surgical first assistant because as licensed health care providers, the health code already authorizes physicians to delegate surgical tasks to them. The bill merely codifies the current practice of physicians to delegate the performance of certain tasks involving the use of surgical instrumentation to unlicensed individuals who have been trained in surgical technology and surgical first assisting, though the bill would restrict such delegation to those who demonstrate a basic level of education and training obtained through certification by a nationally recognized accrediting entity.

***Against:***

The bill does not address those individuals currently working as surgical technologists or surgical first assistants who are not licensed as health care providers under the code or who have not completed a formal training program or received certification. Apparently, the accrediting entities do not accept work experience in lieu of completing an accredited program. So, would they lose their jobs if the bill were passed? If possible, some protection for those currently employed as surgical technologists and surgical first assistants should be afforded.

***POSITIONS:***

The Michigan State Assembly of the Association of Surgical Technologists (MSA-AST) supports the bill. (3-15-05)

A representative of the Michigan Health and Hospital Association indicated support for the bill. (3-15-05)

A representative of the Michigan State Medical Society indicated support for the bill. (3-15-05)

A representative of the Michigan Department of Community Health indicated a position of neutrality on the bill. (3-15-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.