

Negotiations with Surgical Technologists Results in Passage of Legislation



by Denise Jackson, MSN, RN, CNS, CRNFA

Each legislative session, legislation is initiated by other groups that, while perhaps is not the intent, does have the potential to affect nursing negatively. I experienced that firsthand this session with legislation (HB 643) initiated by surgical technologists. As originally filed, HB 643: 1) broadly defined "surgical technology" in a way that could be expanded to allow tasks beyond what nursing considered to be within a surgical technologist's range of function; 2) could have possibly been interpreted in the future as precluding RNs and LVNs from functioning in the "scrub role;" and 3) did not reflect current RN supervision of the surgical technologist; and 4) repealed current law which requires the circulator to be a registered nurse.

The Texas Nurses Association (TNA) and Texas Council of periOperative Registered Nurses (TCORN) joined together to articulate nursing's concerns to the bill author, Representative John Zerwas. Rep. Zerwas is an anesthesiologist and is very familiar with the operating room environment. He expressed his concern that the surgical technologist was the only member of the surgical team not regulated and his belief that patient safety would be promoted by surgical technologists being regulated. He also indicated that legislation to regulate surgical technologists had been unsuccessfully filed in the 2005 and 2007 sessions and that he was committed to working very hard with all of the stakeholders to try to reach agreement on a bill that everyone could support. In addition to nursing and the surgical technologists, the other stakeholders actively

involved were hospitals which were represented by the Texas Hospital Association (THA).

As the legislative liaison for TCORN, I was actively involved in trying to negotiate with the surgical technologist organizations and worked with TNA's Director of Governmental Affairs, Jim Willmann. TCORN also had a committee of key members who would provide feedback on proposed changes. Although agreement was ultimately reached on a bill that nursing could support, achieving that agreement was not easy. During Summer 2008, representatives of TCORN and TNA met with the surgical technologist representatives and discussed the current RN Circulator supervision and delegation of the surgical technologist. There were also discussions regarding the difference and similarities of the role of the scrub person as performed by a surgical technologist or by a registered nurse. We were unable to reach consensus regarding supervision and delegation but did find common ground on several other aspects of the bill. HB 643 was filed early in the session but since stakeholder agreement had not been reached, Rep. Zerwas and his staff held several individual and group stakeholders' meetings. On several occasion, Jim and I would spend a weekend drafting proposed language which I would immediately share with TCORN members so that a proposal could be shared on Monday with Rep. Zerwas' staff or other stakeholders.

The final outcome of the meetings was a bill that nursing and all the other stakeholders could support. Once that agreement was reached, the bill passed the House and Senate without opposition. HB 643 mandates that hospitals and

ambulatory surgical centers employ only surgical technologists who have met certain education and certification requirements. Certification may be through the National Board of Surgical Technology and Surgical Assisting (NBSTSA) or the National Center for Competency Testing (NCCT). Surgical technologists currently employed are grandfathered in. As passed, HB 643 addresses the concerns nursing had about the bill by: 1) precisely defining surgical technology which limits to a definitive list the tasks and functions that may be performed by surgical technologists; 2) specifically exempting both RNs and LVNs to ensure the scrub role remains in their scope of practice; 3) stating clearly that HB 643 makes no change in how surgical technologists are currently supervised or their relationship to the circulating RN; and 4) removing the RN Circulator repealer clause.

Nursing was pleased with the outcome on HB 643. Rep. Zerwas' commitment to keeping everyone at the table and his openness to hearing everyone's concerns made it possible to eventually reach agreement. The best outcome is that patients will be the ultimate beneficiaries of raising the standards in OR. ★

About the Author:

Denise Jackson, MSN, RN, CNS, CRNFA, is a Clinical Nurse Specialist and a Certified RN First Assistant who practices in San Angelo. She just completed her terms as the legislative committee chair for the Texas Council of periOperative RNs (TCORN), the Texas State Legislative Coordinator for the Association of periOperative Nurses (AORN), and the TCORN representative to the Texas Nursing Legislative Agenda Coalition. Denise is a member of TNA District 16. She was also actively involved in previous legislative sessions with legislation addressing RN First Assistant reimbursement, and the RN circulator role.