

**SUBJECT:** Regulating nurses assisting in surgery

**COMMITTEE:** Public Health — committee substitute recommended

**VOTE:** 5 ayes — Laubenberg, Jackson, McReynolds, Truitt, Zedler  
0 nays  
4 absent — Delisi, Coleman, Dawson, Solis

**WITNESSES:** For — Denise Jackson, Association of Perioperative Nurses, Texas RNFA Network; Elizabeth Sjoberg, Texas Hospital Association  
  
Against — None  
  
On — Katherine Thomas, Board of Nurse Examiners

**BACKGROUND:** In 2001, the 77th Legislature established the Registered Nurse First Assistant designation for nurses who have completed a training course and been registered. These nurse first assistants may incise skin, hold or retract tissue, or suture, among other functions. In 2003, the 78th Legislature made exceptions to the required designation for certain nurses who had been assisting before the 2001 legislation, those practicing in rural hospitals.  
  
Under Occupations Code, ch. 157.001, a physician may delegate any medical act that the physician believes is appropriate, according to reasonable and prudent medical judgment.

**DIGEST:** CSHB 1718 would replace the existing nurse first assistant statutes with a new act that would define a "nurse first assistant" as a registered nurse who had completed a training program recognized by the Board of Nurse Examiners and was certified in perioperative nursing or advanced practice nursing by the board or qualified to perform the tasks of perioperative nursing. Only a nurse first assistant could use that title or any other that implied qualification as a nurse first assistant.  
  
A nurse who was not a nurse first assistant could assist a physician, under the physician's direction, if the nurse were employed by the physician, a

group practice, or a hospital and if the nurse were qualified by education, experience, or training to perform the assigned tasks. A nurse who was not a nurse first assistant could not bill a patient or third-party payor separately for services. An HMO or insurer could not require a physician to use a nurse first assistant.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

In 2001, the title "nurse first assistant" was created so that assisting nurses could bill insurers separately for their services rather than be compensated by the hospital or the physician. Some nurses and physicians have expressed the view that the act created hurdles for nurses who had been performing these functions for years, those who practice in underserved areas, or other special cases. Also, requiring a nurse to have this designation is counter to a physician's authority to delegate tasks. CSHB 1718 would satisfy all parties' concerns so that nurses who want to reimburse separately could take the required training and become certified while others could continue to practice in the same capacity without the burden of certification or classes.

**OPPONENTS  
SAY:**

Anyone performing the duties of a first assistant should be required to undergo training, regardless of whether that person wants to use the title or bill separately. The billing aspect has no significance to a patient.

**NOTES:**

The committee substitute made technical, grammatical changes to the filed version.