RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Testimony before the Assembly Committee on Health, Aging, and Long-Term Care

Senator Rachael Cabral-Guevara

November 12, 2025

Hello, members of the Assembly Committee on Health, Aging, and Long-Term Care. Thank you for allowing me to provide testimony on Assembly Bill 563, which addresses a critical but often-overlooked issue in our healthcare facilities: surgical smoke.

Surgical smoke is an unavoidable byproduct generated when energy-generating devices, such as lasers and electrocautery tools, are used to destroy or cut tissue. This smoke is not merely an inconvenience; it is a complex, toxic mix of gases, cellular debris, viruses, and carcinogens. The health risks associated with consistent, unmitigated exposure are alarming. The Occupational Safety and Health Administration (OSHA) has drawn a stark comparison, noting that exposure to surgical smoke without proper ventilation can be the equivalent of smoking several dozen cigarettes in a single day. To put a finer point on this, a study by *Hill et al.* found that, on average, the surgical smoke produced daily was equivalent to 27–30 cigarettes. This means that thousands of our dedicated operating room professionals—surgeons, nurses, anesthesiologists, and technicians—are inhaling these toxic, lung-damaging contaminants every day they step into an operating room that lacks proper smoke evacuation.

This creates a significant, long-term health risk that we have a moral and professional obligation to help address. Despite the documented hazards, some facilities still do not consistently use proper smoke evacuation systems during procedures. However, the tide is turning across the nation, as at least 18 states, from West Virginia to California, have recognized this workplace safety issue and have implemented policies to ensure operating rooms are smoke-free. It is time for Wisconsin to join this growing, bipartisan movement to improve workplace safety and patient care.

This bill is a proactive, common-sense step to update our workplace safety and health standards. It directly addresses the long-term risks of exposure to surgical smoke for thousands of our healthcare professionals. The bill directs the Department of Health Services to require hospitals and ambulatory surgical centers to adopt and implement policies that prevent exposure to surgical smoke in operating rooms by requiring the use of a smoke evacuation procedure during any surgical procedure that is likely to generate surgical smoke.

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For clarity, the bill defines "surgical smoke" broadly to mean the gaseous byproduct produced by energy-generating devices, including surgical plume, smoke plume, bio-aerosols, and laser-generated airborne contaminants. A "smoke evacuation system" is defined as equipment that effectively captures and filters surgical smoke at the site of origin *before* the smoke makes contact with the eyes or respiratory tract of occupants in the room.

Crucially, this bill includes a critical protection for healthcare providers: it *does not* require the use of a smoke evacuation system if the healthcare provider engaging in the surgical procedure concludes that using such a system is not necessary or advisable under the circumstances. This ensures the legislation improves safety without compromising a provider's professional judgment regarding patient care.

This proposal will protect the health of our operating room staff, align Wisconsin with national best practices, and demonstrate our commitment to a safer work environment for those who care for us. I am hopeful you are able to support this important proposal.

NATE GUSTAFSON

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Chair and Members of the Committee,

I am pleased to present my support for Assembly Bill 563, which addresses a critical but often-overlooked hazard in our operating rooms—surgical smoke. When tissue is cauterized or cut with lasers or other devices, this smoke contains toxic gases and carcinogens. Research indicates that just one day of exposure can be equivalent to breathing the smoke from 27 to 30 cigarettes.

Too many of our operating rooms still lack proper smoke evacuation systems. AB 563 takes a practical, balanced approach: it requires hospitals and ambulatory surgical centers to implement smoke evacuation procedures for operations likely to generate smoke, while still allowing surgeons to exercise professional judgment in situations where use may not be appropriate.

Eighteen other states have already taken steps to protect their surgical teams. It's time for Wisconsin to do the same. This bill is a commonsense measure that enhances workplace safety, protects the health of our health care professionals, and fosters safer environments for patients.

I urge the Committee to support AB 563.

Thank you.

Representative Nate Gustafson

State of Wisconsin
Department of Health Services
Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Assembly Committee on Health, Aging and Long-Term Care

FROM: Arielle Exner, Legislative Director

DATE: November 12, 2025

RE: Assembly Bill 563, relating to: requiring hospitals and ambulatory surgical centers to implement policies to prevent exposure to surgical smoke in operating rooms

The Department of Health Services (DHS) would like to submit written testimony for information only on AB 563. This bill directs DHS to require hospitals and ambulatory surgical centers (ASCs) to adopt and implement policies to prevent exposure to surgical smoke in operating rooms. Specifically, the bill mandates that these facilities adopt smoke evacuation procedures during any surgical procedure likely to generate surgical smoke, in line with evolving standards under NFPA 99. For hospitals already regulated under Wis. Stat. 50 and DHS 124, these updated provisions could improve safety by ensuring the removal of potentially harmful surgical smoke in operating rooms.

The bill will necessitate revisions to Wisconsin Administrative Code DHS 124 for hospitals, incorporating standards for surgical smoke evacuation and filtration. For ambulatory surgical centers (ASCs), there is currently no comparable regulatory framework addressing surgical smoke safety. Therefore, additional consideration may be needed to establish appropriate oversight or standards for ASCs to ensure consistency across surgical settings. Surgical smoke exposure is a known health risk, and this bill aims to reduce such risks for both patients and surgical staff. While this legislation would enhance safety, DHS recognizes the potential for significant financial and operational impacts on existing hospitals and ASCs, particularly in the cost of updating infrastructure to comply with the new standards. For new facilities, however, these standards can be more easily incorporated into design and construction.

Surgical smoke evacuation is a critical step in mitigating the harmful effects of medical plumes generated by energy devices, such as lasers and electrosurgical units. The bill's provisions align with national guidelines under the 2024 edition of NFPA 99, ensuring that Wisconsin's health care facilities utilize best practices for protecting both patients and staff. However, the financial burden of upgrading HVAC systems and installing new equipment may present challenges, particularly for smaller or older facilities, which could struggle to meet the proposed requirements.

We at DHS thank the Committee for the opportunity to provide written testimony for information only on AB 563 and the Department remains available as a resource to the Committee for any additional information.

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November 12, 2025

Wisconsin State Assembly
Committee on Health, Aging and Long-Term Care

RE: AB 563 Testimony

Dear Chair Moses, Vice-Chair Brooks and Members of the Committee:

On behalf of the Association of periOperative Registered Nurses (AORN) and our 650 members in Wisconsin, thank you for the opportunity to provide written testimony for the Committee on AB 563, *AN ACT requiring hospitals and ambulatory surgical centers to implement policies to prevent exposure to surgical smoke in operating rooms.*

Surgical smoke is the result of human tissue contact with lasers and electrosurgical pencils commonly used for dissection during surgery. Approximately 90% of all surgical procedures generate surgical smoke, and health care workers across Wisconsin are exposed to surgical smoke every day. In fact, the average *daily* impact of surgical smoke to a surgical team is the equivalent of inhaling the smoke of 27-30 unfiltered cigarettes.

Surgical smoke contains over 150 hazardous chemicals and carcinogenic and mutagenic cells. It contains toxic gases and vapors such as benzene, hydrogen cyanide, formaldehyde, bioaerosols, dead and live cellular material, blood fragments, and viruses. In addition to the danger to health care workers, surgical smoke can cause cancer cells to metastasize in the incision site of patients having cancer removal surgery. Babies born by C-section breathe in their mother's surgical smoke at birth.

Surgical smoke has been recognized as hazardous by The Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), and the Centers for Disease Control and Prevention (CDC). AORN's evidence-based *Guidelines for Perioperative Practice* are published annually and provide the only evidence-based recommendations for patient and health care worker safety in the surgical setting. AORN's *Guideline for Surgical Smoke Safety* documents the harmful effects of surgical smoke and the safety hazard it poses to patients and perioperative personnel. The Guideline also outlines recommendations for safe and cost-effective smoke evacuation. A copy of this Guideline has been provided for the Committee's reference.

While its dangers are well-documented, there still are no national or Wisconsin-statewide enforceable standards requiring the control and evacuation of surgical smoke. Many surgical facilities do evacuate during some procedures, but few facilities evacuate consistently during all procedures which generate surgical smoke. Nurses have little control over whether they are

assigned to a smoking or non-smoking operating room. Whether or not smoke is evacuated during surgery tends to be based on one team member's decision to use or not use an evacuator. For that reason, AORN is pleased to see the Wisconsin Assembly take a step toward enacting surgical smoke evacuation legislation. However, as currently written, AB 563 does not adequately protect surgical team members or the patients they serve. As such, AORN would respectfully request that AB 563 be amended to strengthen the bill and provide improved workplace safety for perioperative professionals. Specifically, AORN requests that AB 563 be amended to:

> (b) Except as provided in par. (c)**, in order to protect operating room personnel and patients from the hazards of surgical smoke,** the department shall require hospitals and ambulatory surgical centers, as defined in 42 CFR 416.2, to adopt and implement policies to prevent exposure to surgical smoke in operating rooms by requiring the use of a smoke evacuation system in the operating room during any surgical procedure that is likely to generate surgical smoke.
>
> 16(c) Paragraph (b) does not apply if a health care provider who is engaging in a surgical procedure that is likely to generate surgical smoke concludes that using a smoke evacuation system in the operating room during the surgical procedure is not ~~necessary or~~ **medically** advisable under the circumstances.
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> **Section 2. Effective date.**
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> **(1) This act takes effect on the first day of the 13th month beginning after publication.**

Surgical smoke evacuation is a workforce recruitment and retention issue. Our members report seeking out surgical smoke-free facilities over those that do not require surgical smoke evacuation. At a time when health care workers are leaving the profession, Wisconsin can take the important step to shore up and protect its health care workforce by enacting legislation to protect operating room staff from surgical smoke.

AORN urges Wisconsin to follow in the footsteps of the twenty other states - including Midwestern states like Minnesota, Ohio, Illinois and Missouri - to address the risk of highly preventable negative health outcomes for operating room staff and patients and ensure that Wisconsin residents can continue to receive the health care upon which they rely.

Furthermore, while AORN appreciates the work of the bill's authors and their efforts to reduce surgical smoke exposure, without an amendment to strengthen the language as proposed above, we cannot in good conscience support this legislation. As written, it simply maintains the status quo and does not protect operating room staff or their patients as intended.

Jennifer Pennock
Associate Director, Government Affairs
Association of periOperative Registered Nurses (AORN)

WISCONSIN HOSPITAL ASSOCIATION

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TO: **Members of the Assembly Committee on Health, Aging & Long-Term Care**

FROM: **Kyle O'Brien, President/CEO**
Ann Zenk, Senior Vice President, Workforce & Clinical Practice

DATE: **November 12, 2025**

RE: **Testimony For Information Only – Assembly Bill 563 Related to Surgical Smoke Mandates on Hospitals and Ambulatory Surgery Centers**

While Wisconsin hospitals appreciate and agree with the authors' broader intent in Assembly Bill 563 of providing safe working conditions for all health care providers, we believe this new state-level mandate on hospitals is unnecessary and caution lawmakers on adopting Assembly Bill 563 into law.

The safety and wellbeing of hospital employees is of the upmost importance to Wisconsin hospitals. Wisconsin hospitals already meet and exceed a multitude of federal regulations to protect patients and our staff, including the Medicare Conditions of Participation, OSHA employee safety requirements, and other requirements through various accrediting bodies, including The Joint Commission.

Based on feedback WHA has received from our members, Wisconsin hospitals are furnished with the appropriate equipment to remove surgical smoke in operating rooms and would be able to comply with the requirements set forth in the legislation. **However, just because hospitals across Wisconsin can meet this proposed state mandate doesn't mean the legislature should adopt it into law.**

Hospitals are among the most regulated entities in Wisconsin, with onerous regulatory requirements at both the federal and state levels. According to the American Hospital Association's *Regulatory Overload Report*, the average hospital employs 59 full-time-equivalent staff and spends $1,200 per inpatient admission simply to comply with federal regulations. The regulatory burden foisted upon hospitals is very real and should not be made worse in Wisconsin.

In 2014, WHA received bipartisan support for legislation that modernized state regulations (DHS 124) with federal hospitals requirements due to decades of outdated Wisconsin-specific regulations that eventually conflicted with federal regulations. Over time well intended state-specific regulations, like those proposed in Assembly Bill 563, became outdated with federal regulatory requirements.

While we have concerns with this legislation, we'd like to thank Senator Cabral-Guevera for previously requesting feedback from WHA on this proposed bill. In her legislation, Senator Cabral-Guevara addressed concerns WHA had previously heard from our providers that smoke evacuation equipment may impact dexterity, efficiency or visibility during certain surgery operations and cause noise that can prevent communication amongst the care

team. While we remain in disagreement on the need for this legislation, WHA appreciates the language included in Assembly Bill 563 accommodating providers who believe the use of such equipment is not necessary or advisable under the circumstances.