

SENATE BILL No. 5

By Senator Kelsey

1-11

1 AN ACT concerning the Kansas board of healing arts; relating to
2 licensure and education of perfusionists; establishing perfusion
3 council.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Sections 1 through 18, and amendments thereto, shall
7 be known and may be cited as the perfusion practice act.

8 Sec. 2. As used in sections 1 through 18, and amendments thereto:

9 (a) "Act" means the perfusion practice act.

10 (b) "Board" means the state board of healing arts.

11 (c) "Council" means the perfusion council.

12 (d) "Extracorporeal circulation" means the diversion of a patient's
13 blood through a heart-lung machine or a similar device that assumes the
14 functions of the patient's heart, lungs, kidney, liver, or other organs.

15 ~~(e) "Perfusionist" means a person who practices perfusion as~~
16 ~~defined in this act.~~

17 ~~(f)~~ **(e)** "Perfusion" means the functions necessary for the support,
18 treatment, measurement, or supplementation of the cardiovascular,
19 circulatory, respiratory systems or other organs, or a combination of
20 those activities, and to ensure the safe management of physiologic
21 functions by monitoring and analyzing the parameters of the systems
22 under an order and under the supervision of a ~~licensed physician~~
23 **person licensed to practice medicine and surgery**, including:

24 (1) The use of extracorporeal circulation, long-term
25 cardiopulmonary support techniques including extracorporeal carbon-
26 dioxide removal and extracorporeal membrane oxygenation, and
27 associated therapeutic and diagnostic technologies;

28 (2) counterpulsation, ventricular assistance, autotransfusion, blood
29 conservation techniques, myocardial and organ preservation,
30 extracorporeal life support, and therapeutic modalities including
31 isolated limb perfusion and intra-peritoneal hyperthermic
32 chemotherapy;

33 (3) the use of techniques involving blood management, advanced

1 life support, and other related functions;

2 (4) the administration of pharmacological and therapeutic agents,
3 blood products and anesthetic agents through the extracorporeal circuit
4 as ordered by a ~~physician~~ **person licensed to practice medicine and**
5 **surgery** or certified registered nurse anesthetist pursuant to K.S.A. 65-
6 1158, and amendments thereto;

7 (5) the performance and use of coagulation monitoring and
8 analysis, physiologic monitoring and analysis, blood gas and chemistry
9 monitoring and analysis, hematologic monitoring and analysis,
10 hypothermia, hyperthermia, hemoconcentration and hemodilution and
11 hemodialysis; and

12 (6) the observation of signs and symptoms related to perfusion
13 services, the determination of whether the signs and symptoms exhibit
14 abnormal characteristics, and the implementation of appropriate
15 reporting, perfusion protocols, or changes in or the initiation of
16 emergency procedures.

17 ~~(e)~~ **(f)** "Perfusion protocols" means perfusion related policies and
18 protocols developed or approved by a licensed medical care facility or a
19 ~~physician~~ **person licensed to practice medicine and surgery** through
20 collaboration with administrators, licensed perfusionists, and other
21 health care professionals.

22 **(g) "Perfusionist" means a person who practices perfusion as**
23 **defined in this act.**

24 (h) This section shall take effect on and after July 1, 2012.

25 Sec. 3. (a) On and after July 1, 2012, except as otherwise
26 provided in this act, no person shall perform perfusion unless the
27 person possesses a valid license issued under this act.

28 (b) No person shall depict one's self orally or in writing, expressly
29 or by implication, as holder of a license who does not hold a current
30 license under this act.

31 (c) Only persons licensed under this act as a perfusionist shall be
32 entitled to use the title "perfusionist," "licensed perfusionist," or
33 "licensed clinical perfusionist," abbreviations thereof, words similar to
34 such title or the designated letters "LP" or "LCP."

35 Sec. 4. (a) Nothing in this act is intended to limit, preclude or
36 otherwise interfere with the practices of other health care providers
37 formally trained and licensed, registered, credentialed or certified by
38 appropriate agencies of the state of Kansas from performing duties
39 considered appropriate to their recognized scope of practice.

1 (b) The following shall be exempt from the requirement of a
2 license pursuant to this act:

3 (1) A person licensed by another health professional licensing
4 board if:

5 (A) The person does not represent to the public, directly or
6 indirectly, that the person is licensed under this act, and does not use
7 any name, title, or designation indicating that the person is licensed
8 under this act;

9 (B) the person confines the person's acts or practice to the scope of
10 practice authorized by the other health professional licensing laws; or

11 (C) the person is trained according to the extracorporeal
12 membrane oxygenation specialist (ECMO) guidelines of the
13 extracorporeal life support organization (ELSO) and operates an
14 extracorporeal membrane oxygenation circuit under the supervision of
15 a ~~licensed physician~~ **person licensed to practice medicine and surgery;**

16 (2) a person performing autotransfusion or blood conservation
17 techniques under the supervision of a ~~licensed physician~~ **person**
18 **licensed to practice medicine and surgery;**

19 (3) a student enrolled in an accredited perfusion education
20 program if perfusion services performed by the student:

21 (A) Are an integral part of the student's course of study; and

22 (B) are performed under the direct supervision of a licensed
23 perfusionist assigned to supervise the student and who is on duty and
24 immediately available in the assigned patient care area;

25 (4) health care providers in the United States armed forces, public
26 health services, federal facilities and other military service when acting
27 in the line of duty in this state; or

28 (5) persons rendering assistance in the case of an emergency.

29 (c) This section shall take effect on and after July 1, 2012.

30 Sec. 5. (a) An applicant for licensure as a perfusionist shall file
31 an application, on forms provided by the board, showing to the
32 satisfaction of the board that the applicant meets the following
33 requirements:

34 (1) At the time of the application is at least 18 years of age;

35 (2) has successfully completed a perfusion education program set
36 forth in rules and regulations adopted by the board and which contains
37 a curriculum no less stringent than the standards of existing
38 organizations which approve perfusion programs;

39 (3) except as otherwise provided in this act, has successfully

1 passed a license examination approved by the board; and
2 (4) has paid all fees required for licensure prescribed in this act,
3 which shall not be refundable.
4 (b) The board may issue a temporary license to an applicant
5 seeking licensure as a perfusionist when such applicant meets the
6 requirements for licensure or meets all the requirements for licensure
7 except examination and pays to the board the temporary license fee as
8 required under section 8, and amendments thereto. Such temporary
9 license is valid (1) for one year from the date of issuance or (2) until the
10 board makes a final determination on the applicant's request for
11 licensure. The board may extend a temporary license, upon a majority
12 vote of the members of the board, for a period not to exceed one year.
13 (c) The board, without examination, may issue a license to a
14 person who has been in the active practice of perfusion in some other
15 state, territory, the District of Columbia or other country upon
16 certificate of the proper licensing authority of that state, territory,
17 District of Columbia or other country certifying that the applicant is
18 duly licensed, that the applicant's license has never been limited,
19 suspended or revoked, that the licensee has never been censured or had
20 other disciplinary action taken and that, so far as the records of such
21 authority are concerned, the applicant is entitled to its endorsement.
22 The applicant shall also present proof satisfactory to the board:
23 (1) (A) That the state, territory, District of Columbia or country
24 in which the applicant last practiced maintains standards at least equal
25 to those maintained by Kansas;
26 (B) that the applicant's original license was based upon an
27 examination at least equal in quality to the examination required in this
28 state and that the passing grade required to obtain such original license
29 was comparable to that required in this state;
30 (C) of the date of the applicant's original and any and all endorsed
31 licenses and the date and place from which any license was attained;
32 (D) that the applicant has been actively engaged in perfusion
33 under such license or licenses since issued, and if not, fix the time
34 when and reason why the applicant was out of practice; and
35 (E) that the applicant holds a current certificate as a certified
36 clinical perfusionist initially issued by the American board of
37 cardiovascular perfusion (ABCP), or its successor, prior to July 1,
38 2012; or
39 (2) that the applicant has been practicing perfusion as described in

1 this act in a full-time capacity for a period of more than ~~24 months~~ **two**
2 **of the last 10 years** prior to July 1, 2012.

3 (d) The board, without examination, may issue a license to a
4 person who holds a current certificate as a certified clinical perfusionist
5 initially issued by the American board of cardiovascular perfusion who
6 has been in the active practice of perfusion in Kansas in a full-time
7 capacity for a period of more than two of the last ten years prior to July
8 1, 2012.

9 (e) An applicant for license by endorsement shall not be granted a
10 license unless such applicant's individual qualifications meet the
11 Kansas requirements.

12 (f) A person whose license has been revoked may make written
13 application to the board requesting reinstatement of the license in a
14 manner prescribed by the board, which application shall be
15 accompanied by the fee provided for in section 8, and amendments
16 thereto.

17 Sec. 6. (a) There is hereby created the designation of inactive
18 license. The board is authorized to issue an inactive license to any
19 licensee who makes written application for such license on a form
20 provided by the board and remits the fee for an inactive license
21 established pursuant to section 8, and amendments thereto. The board
22 may issue an inactive license only to a person who meets all the
23 requirements for a license to practice as a perfusionist and who does
24 not engage in active practice as a perfusionist in the state of Kansas. An
25 inactive license shall not entitle the holder to engage in active practice.
26 The provisions of section 7, and amendments thereto, relating to
27 expiration, renewal, *continuing education* and reinstatement of a
28 license shall be applicable to an inactive license issued under this
29 subsection. Each inactive licensee may apply to engage in active
30 practice by presenting a request required by section 5, and amendments
31 thereto. The request shall be accompanied by the fee established
32 pursuant to section 8, and amendments thereto.

33 (b) There is hereby created a designation of federally active
34 license. The board is authorized to issue a federally active license to
35 any licensee who makes a written application for such license on a
36 form provided by the board and remits the same fee required for a
37 license established under section 8, and amendments thereto. The board
38 may issue a federally active license only to a person who meets all the
39 requirements for a license to practice as a perfusionist and who

1 practices as a perfusionist solely in the course of employment or active
2 duty in the United States government or any of its departments, bureaus
3 or agencies. The provisions of section 7, and amendments thereto,
4 relating to expiration, renewal, *continuing education* and reinstatement
5 of a license shall be applicable to a federally active license issued under
6 this subsection. Each federally active licensee may apply to engage in
7 active practice by presenting a request required by section 5, and
8 amendments thereto.

9 (c) This section shall take effect on and after July 1, 2012.

10 Sec. 7. (a) Licenses issued under this act shall expire on the date
11 of expiration established by rules and regulations of the board unless
12 renewed in the manner prescribed by the board. The request for
13 renewal shall be accompanied by the license renewal fee established
14 pursuant to section 8, and amendments thereto.

15 (b) At least 30 days before the expiration of a licensee's license,
16 the board shall notify the licensee of the expiration by mail addressed
17 to the licensee's last mailing address as noted upon the office records. If
18 the licensee fails to submit an application for renewal on a form
19 provided by the board, or fails to pay the renewal fee by the date of
20 expiration, the board shall give a second notice to the licensee that the
21 license has expired and the license may be renewed only if the
22 application for renewal, the renewal fee, and the late renewal fee are
23 received by the board within the thirty-day period following the date of
24 expiration and that, if both fees are not received within the thirty-day
25 period, the license shall be deemed canceled by operation of law and
26 without further proceedings.

27 (c) The board may require any licensee to submit to a continuing
28 education audit and provide to the board evidence of satisfactory
29 completion of a program of continuing education required by rules and
30 regulations of the board.

31 (d) Any license canceled for failure to renew may be reinstated
32 upon recommendation of the board. An application for reinstatement
33 shall be on a form provided by the board, and shall be accompanied by
34 payment of the reinstatement fee and evidence of completion of any
35 applicable continuing education requirements. The board may adopt
36 rules and regulations establishing appropriate education requirements
37 for reinstatement of a license that has been canceled for failure to
38 renew.

39 (e) The board, prior to renewal of a license, shall require the

1 licensee, if in the active practice of perfusion within the state, to submit
 2 to the board evidence satisfactory to the board that the licensee is
 3 maintaining a policy of professional liability insurance. The board may
 4 require any licensee to provide to the board evidence of malpractice
 5 insurance as required by rules and regulations of the board during an
 6 audit. The board shall fix by rules and regulations the minimum level of
 7 coverage for such professional liability insurance.

8 (f) This section shall take effect on and after July 1, 2012.

9 Sec. 8. (a) The board shall charge and collect in advance fees for
 10 perfusionists as established by the board by rules and regulations, not to
 11 exceed:

12	Application for licensure.....	\$300
13	Annual renewal of license:	
14	Paper renewal	\$150 \$200
15	On-line renewal.....	\$150 \$200
16	Late renewal of licensure:	
17	Late paper renewal	\$100
18	Late on-line renewal	\$100
19	Licensure reinstatement (due to late renewal)	\$250
20	Revoked licensure reinstatement.....	\$325
21	Application for inactive license	\$300
22	Renewal of inactive license	\$75
23	Conversion of inactive license to active	\$150
24	Certified copy of license.....	\$25
25	Written verification of license.....	\$25
26	Temporary license	\$75

27 (b) If the examination is not administered by the board, the board
 28 may require that fees paid for any examination under the perfusion
 29 practice act be paid directly to the examination service by the person
 30 taking the examination.

31 Sec. 9. The board shall remit all moneys received by or for the
 32 board from fees, charges or penalties to the state treasurer in
 33 accordance with the provisions of K.S.A. 75-4215, and amendments
 34 thereto. Upon receipt of each such remittance, the state treasurer shall
 35 deposit the entire amount in the state treasury. Twenty percent of such
 36 amount shall be credited to the state general fund and the balance shall
 37 be credited to the healing arts fee fund. All expenditures from the
 38 healing arts fee fund shall be made in accordance with appropriation
 39 acts upon warrants of the director of accounts and reports issued

1 pursuant to vouchers approved by the president of the board or by a
2 person or persons designated by the president.

3 Sec. 10. (a) There is established the perfusion council to assist
4 the state board of healing arts in carrying out the provisions of this act.
5 The council shall consist of five members, all citizens and residents of
6 the state of Kansas appointed as follows: The board shall appoint one
7 member who is a ~~physician~~ **person** licensed to practice medicine and
8 surgery and one member who is a member of the state board of healing
9 arts. Members appointed by the board shall serve at the pleasure of the
10 board. The governor shall appoint three perfusionists who have at least
11 three years experience in perfusion preceding the appointment and are
12 actively engaged, in this state, in the practice of perfusion or the
13 teaching of perfusion. At least two of the governor's appointments shall
14 be made from a list of four nominees submitted by the Kansas
15 practicing perfusionist society.

16 (b) The members appointed by the governor shall be appointed for
17 terms of four years except that of the members first appointed, one shall
18 be appointed for a term of two years, one for a term of three years, and
19 one for a term of four years, with successor members appointed for
20 four years and to serve until a successor member is appointed. If a
21 vacancy occurs on the council, the appointing authority of the position
22 which has become vacant shall appoint a person of like qualifications to
23 fill the vacant position for the unexpired term.

24 (c) Perfusionists initially appointed to the council must be eligible
25 for licensure under section 5, and amendments thereto. On and after
26 October 1, 2012, new appointees shall be licensed under the provisions
27 of this act.

28 (d) The council shall meet at least once each year at a time and
29 place of its choosing and at such other times as may be necessary on
30 the chairperson's call or on the request of a majority of the council's
31 members.

32 (e) A majority of the council constitutes a quorum. No action may
33 be taken by the council except by affirmative vote of the majority of the
34 members present and voting.

35 (f) Members of the council attending meetings of the council, or a
36 subcommittee of the council, shall be paid mileage provided in
37 subsection (c) of K.S.A. 75-3223, and amendments thereto, from the
38 healing arts fee fund.

39 Sec. 11. The perfusion council shall advise the board regarding:

- 1 (a) Examination, licensing and other fees;
- 2 (b) rules and regulations to be adopted to carry out the provisions
- 3 of this act;
- 4 (c) subject areas to be covered during the educational program and
- 5 on the licensure examination;
- 6 (d) the number of yearly continuing education hours required to
- 7 maintain active licensure;
- 8 (e) changes and new requirements taking place in the area of
- 9 perfusion; and
- 10 (f) such other duties and responsibilities as the board may assign.

11 Sec. 12. The board, with the advice and assistance of the perfusion

12 council, shall:

- 13 (a) Pass upon the qualifications of all applicants for examination
- 14 and licensing, contract for examinations, determine the applicants who
- 15 successfully pass the examination, duly license and regulate such
- 16 applicants and keep a roster of all individuals licensed;
- 17 (b) adopt rules and regulations as may be necessary to administer
- 18 the provisions of this act and prescribe forms which shall be issued in
- 19 the administration of this act;
- 20 (c) establish standards for approval of an educational course of
- 21 study and clinical experience, criteria for continuing education,
- 22 procedures for the examination of applicants; and
- 23 (d) establish standards of professional conduct; procedure for the
- 24 discipline of licensees and keep a record of all proceedings.

25 Sec. 13. (a) The license of a perfusionist may be limited,

26 suspended or revoked, or the licensee may be censured, reprimanded,

27 placed on probation, fined pursuant to K.S.A. 65-2863a, and

28 amendments thereto, ***assessed costs incurred by the board in***

29 ***conducting any proceeding in which such licensee is the***

30 ***unsuccessful party*** or otherwise sanctioned by the board or an

31 application for licensure or reinstatement of licensure may be denied if

32 it is found that the licensee or applicant:

- 33 (1) Has committed an act of fraud or deceit in the procurement or
- 34 holding of a license;
- 35 (2) has been convicted of a felony ***or class A misdemeanor*** in a
- 36 court of competent jurisdiction, either within or outside of this state,
- 37 unless the conviction has been reversed and the holder of the license
- 38 discharged or acquitted or if the holder has been pardoned with full
- 39 restoration of civil rights in which case the license shall be restored;

1 (3) is addicted to or has distributed intoxicating liquors or drugs
2 for other than lawful purposes;

3 (4) is found to be mentally or physically incapacitated to such a
4 degree that in the opinion of the board continued practice by the
5 licensee would constitute a danger to the public's health and safety;

6 (5) has aided and abetted a person who is not a licensee under this
7 act or is not otherwise authorized to perform the duties of a license
8 holder;

9 **(6) has had a license to practice perfusion revoked, suspended or**
10 **limited, has been censured or has had other disciplinary action taken,**
11 **or an application for a license denied, by the proper licensing**
12 **authority of another state, territory, District of Columbia, or other**
13 **country, a certified copy of the record of an action of the other**
14 **jurisdiction being conclusive evidence thereof;**

15 ~~(6)~~ (7) has violated any provision of this act, ~~or~~ rules and
16 regulations **promulgated by the board or any lawful order or directive**
17 **of the board previously entered by the board;**

18 ~~(7)~~ (8) has committed an act of unprofessional conduct under
19 criteria which the board may establish by rules and regulations; or

20 ~~(8)~~ (9) is, or has been, found guilty of incompetence or negligence
21 while performing as a license holder.

22 (b) The denial, refusal to renew, suspension, limitation, probation
23 or revocation of a license or other sanction may be ordered by the board
24 upon a finding of a violation of this act. All administrative proceedings
25 conducted pursuant to this act shall be in accordance with the
26 provisions of the Kansas administrative procedure act and shall be
27 reviewable in accordance with the Kansas judicial review act.

28 (c) A person whose license is suspended shall not engage in any
29 conduct or activity in violation of the order by which the license was
30 suspended.

31 (d) This section shall take effect on and after July 1, 2012.

32 Sec. 14. (a) The board shall have jurisdiction of proceedings to
33 take disciplinary action against any licensee practicing under this act.
34 Any such action shall be taken in accordance with the provisions of the
35 Kansas administrative procedure act.

36 (b) Either before or after formal charges have been filed, the board
37 and the licensee may enter into a stipulation which shall be binding
38 upon the board and the licensee entering into such stipulation, and the
39 board may enter its findings of fact and enforcement order based upon

1 such stipulation without the necessity of filing any formal charges or
2 holding hearings in the case. An enforcement order based upon a
3 stipulation may order any disciplinary action against the licensee
4 entering into such stipulation.

5 (c) The board may temporarily suspend or temporarily limit the
6 license of any licensee in accordance with the emergency adjudicative
7 proceedings under the Kansas administrative procedure act if the board
8 determines that there is cause to believe that grounds exist for
9 disciplinary action against the licensee and that the licensee's
10 continuation in practice would constitute an imminent danger to the
11 public health and safety.

12 Sec. 15. (a) Nothing in the perfusion practice act or in the
13 provisions of chapter 40 of the Kansas Statutes Annotated, and
14 amendments thereto, shall be construed to require that any individual,
15 group or blanket policy of accident and sickness, medical or surgical
16 expense insurance coverage or any provision of a policy, contract, plan
17 or agreement for medical service issued on or after the effective date of
18 this act, reimburse or indemnify a person licensed under the perfusion
19 practice act for services provided as a perfusionist.

20 (b) This section shall take effect on and after July 1, 2012.

21 Sec. 16. (a) When it appears that any person is violating any
22 provision of this act, the board may bring an action in the name of the
23 state in a court of competent jurisdiction for an injunction against such
24 violation without regard as to whether proceedings have been or may
25 be instituted before the board or whether criminal proceedings have
26 been or may be instituted.

27 (b) This section shall take effect on and after July 1, 2012.

28 Sec. 17. On and after July 1, 2012, any violation of this act shall
29 constitute a class B misdemeanor.

30 Sec. 18. If any section of this act, or any part thereof, is adjudged
31 by any court of competent jurisdiction to be invalid, such judgment
32 shall not affect, impair or invalidate the remainder or any other section
33 or part thereof.

34 Sec. 19. This act shall take effect and be in force from and after its
35 publication in the statute book.