As Amended by Senate Committee

Session of 2011

SENATE BILL No. 5

By Senator Kelsey

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

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

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

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

(a) "Act" means the perfusion practice act.
(b) "Board" means the state board of healing arts.
(c) "Council" means the perfusion council.
(d) "Extracorporeal circulation" means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver, or other organs.
(e) "Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of those activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a person licensed to practice medicine and surgery, including:
(1) The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
(2) counterpulsion, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and therapeutic modalities including isolated limb perfusion and intra-peritoneal hyperthermic chemotherapy;
(3) the use of techniques involving blood management, advanced
life support, and other related functions;
(4) the administration of pharmacological and therapeutic agents, 
blood products and anesthetic agents through the extracorporeal circuit 
as ordered by a physician person licensed to practice medicine and 
surgery or certified registered nurse anesthetist pursuant to K.S.A. 65-
1158, and amendments thereto;
(5) the performance and use of coagulation monitoring and 
analysis, physiologic monitoring and analysis, blood gas and chemistry 
monitoring and analysis, hematologic monitoring and analysis, 
hypothermia, hyperthermia, hemoconcentration and hemodilution and 
hemodialysis; and
(6) the observation of signs and symptoms related to perfusion 
services, the determination of whether the signs and symptoms exhibit 
abnormal characteristics, and the implementation of appropriate 
reporting, perfusion protocols, or changes in or the initiation of 
emergency procedures.

(f) "Perfusion protocols" means perfusion related policies and 
protocols developed or approved by a licensed medical care facility or a 
physician person licensed to practice medicine and surgery through 
collaboration with administrators, licensed perfusionists, and other 
health care professionals.
(g) "Perfusionist" means a person who practices perfusion as 
defined in this act.

(h) This section shall take effect on and after July 1, 2012.
Sec. 3. (a) On and after July 1, 2012, except as otherwise 
provided in this act, no person shall perform perfusion unless the 
person possesses a valid license issued under this act.
(b) No person shall depict one's self orally or in writing, expressly 
or by implication, as holder of a license who does not hold a current 
license under this act.
(c) Only persons licensed under this act as a perfusionist shall be 
entitled to use the title "perfusionist," "licensed perfusionist," or 
"licensed clinical perfusionist," abbreviations thereof, words similar to 
such title or the designated letters "LP" or "LCP."

Sec. 4. (a) Nothing in this act is intended to limit, preclude or 
otherwise interfere with the practices of other health care providers 
formally trained and licensed, registered, credentialed or certified by 
appropriate agencies of the state of Kansas from performing duties 
considered appropriate to their recognized scope of practice.
(b) The following shall be exempt from the requirement of a license pursuant to this act:

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

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

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

(C) the person is trained according to the extracorporeal membrane oxygenation specialist (ECMO) guidelines of the extracorporeal life support organization (ELSO) and operates an extracorporeal membrane oxygenation circuit under the supervision of a licensed physician;

(2) a person performing autotransfusion or blood conservation techniques under the supervision of a licensed physician;

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

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

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

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

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

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

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

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

(3) except as otherwise provided in this act, has successfully
passed a license examination approved by the board; and

(4) has paid all fees required for licensure prescribed in this act, which shall not be refundable.

(b) The board may issue a temporary license to an applicant seeking licensure as a perfusionist when such applicant meets the requirements for licensure or meets all the requirements for licensure except examination and pays to the board the temporary license fee as required under section 8, and amendments thereto. Such temporary license is valid (1) for one year from the date of issuance or (2) until the board makes a final determination on the applicant's request for licensure. The board may extend a temporary license, upon a majority vote of the members of the board, for a period not to exceed one year.

(c) The board, without examination, may issue a license to a person who has been in the active practice of perfusion in some other state, territory, the District of Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

(1) (A) That the state, territory, District of Columbia or country in which the applicant last practiced maintains standards at least equal to those maintained by Kansas;

(B) that the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state;

(C) of the date of the applicant's original and any and all endorsed licenses and the date and place from which any license was attained;

(D) that the applicant has been actively engaged in perfusion under such license or licenses since issued, and if not, fix the time when and reason why the applicant was out of practice; and

(E) that the applicant holds a current certificate as a certified clinical perfusionist initially issued by the American board of cardiovascular perfusion (ABCP), or its successor, prior to July 1, 2012; or

(2) that the applicant has been practicing perfusion as described in
this act in a full-time capacity for a period of more than 24 months of the last 10 years prior to July 1, 2012.

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

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

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

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

(b) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes a written application for such license on a form provided by the board and remits the same fee required for a license established under section 8, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice as a perfusionist and who...
practices as a perfusionist solely in the course of employment or active
duty in the United States government or any of its departments, bureaus
or agencies. The provisions of section 7, and amendments thereto,
relating to expiration, renewal, continuing education and reinstatement
of a license shall be applicable to a federally active license issued under
this subsection. Each federally active licensee may apply to engage in
active practice by presenting a request required by section 5, and
amendments thereto.
(c) This section shall take effect on and after July 1, 2012.
Sec. 7. (a) Licenses issued under this act shall expire on the date
of expiration established by rules and regulations of the board unless
renewed in the manner prescribed by the board. The request for
renewal shall be accompanied by the license renewal fee established
pursuant to section 8, and amendments thereto.
(b) At least 30 days before the expiration of a licensee's license,
the board shall notify the licensee of the expiration by mail addressed
to the licensee's last mailing address as noted upon the office records. If
the licensee fails to submit an application for renewal on a form
provided by the board, or fails to pay the renewal fee by the date of
expiration, the board shall give a second notice to the licensee that the
license has expired and the license may be renewed only if the
application for renewal, the renewal fee, and the late renewal fee are
received by the board within the thirty-day period following the date of
expiration and that, if both fees are not received within the thirty-day
period, the license shall be deemed canceled by operation of law and
without further proceedings.
(c) The board may require any licensee to submit to a continuing
education audit and provide to the board evidence of satisfactory
completion of a program of continuing education required by rules and
regulations of the board.
(d) Any license canceled for failure to renew may be reinstated
upon recommendation of the board. An application for reinstatement
shall be on a form provided by the board, and shall be accompanied by
payment of the reinstatement fee and evidence of completion of any
applicable continuing education requirements. The board may adopt
rules and regulations establishing appropriate education requirements
for reinstatement of a license that has been canceled for failure to
renew.
(e) The board, prior to renewal of a license, shall require the
licensee, if in the active practice of perfusion within the state, to submit
to the board evidence satisfactory to the board that the licensee is
maintaining a policy of professional liability insurance. The board may
require any licensee to provide to the board evidence of malpractice
insurance as required by rules and regulations of the board during an
audit. The board shall fix by rules and regulations the minimum level of
coverage for such professional liability insurance.

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

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

<table>
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<th>Service</th>
<th>Fee</th>
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<tr>
<td>Application for licensure</td>
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<td>Paper renewal</td>
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<td>On-line renewal</td>
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<td>Application for inactive license</td>
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<tr>
<td>Written verification of license</td>
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<tr>
<td>Temporary license</td>
<td>$75</td>
</tr>
</tbody>
</table>

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

Sec. 9. The board shall remit all moneys received by or for the
board from fees, charges or penalties to the state treasurer in
accordance with the provisions of K.S.A. 75-4215, and amendments
thereto. Upon receipt of each such remittance, the state treasurer shall
deposit the entire amount in the state treasury. Twenty percent of such
amount shall be credited to the state general fund and the balance shall
be credited to the healing arts fee fund. All expenditures from the
healing arts fee fund shall be made in accordance with appropriation
acts upon warrants of the director of accounts and reports issued
Sec. 10. (a) There is established the perfusion council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: The board shall appoint one member who is a physician licensed to practice medicine and surgery and one member who is a member of the state board of healing arts. Members appointed by the board shall serve at the pleasure of the board. The governor shall appoint three perfusionists who have at least three years experience in perfusion preceding the appointment and are actively engaged, in this state, in the practice of perfusion or the teaching of perfusion. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas practicing perfusionist society.

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

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

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

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

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

Sec. 11. The perfusion council shall advise the board regarding:
(a) Examination, licensing and other fees;
(b) rules and regulations to be adopted to carry out the provisions of this act;
(c) subject areas to be covered during the educational program and on the licensure examination;
(d) the number of yearly continuing education hours required to maintain active licensure;
(e) changes and new requirements taking place in the area of perfusion; and
(f) such other duties and responsibilities as the board may assign.

Sec. 12. The board, with the advice and assistance of the perfusion council, shall:
(a) Pass upon the qualifications of all applicants for examination and licensing, contract for examinations, determine the applicants who successfully pass the examination, duly license and regulate such applicants and keep a roster of all individuals licensed;
(b) adopt rules and regulations as may be necessary to administer the provisions of this act and prescribe forms which shall be issued in the administration of this act;
(c) establish standards for approval of an educational course of study and clinical experience, criteria for continuing education, procedures for the examination of applicants; and
(d) establish standards of professional conduct; procedure for the discipline of licensees and keep a record of all proceedings.

Sec. 13. (a) The license of a perfusionist may be limited, suspended or revoked, or the licensee may be censured, reprimanded, placed on probation, fined pursuant to K.S.A. 65-2863a, and amendments thereto, assessed costs incurred by the board in conducting any proceeding in which such licensee is the unsuccessful party or otherwise sanctioned by the board or an application for licensure or reinstatement of licensure may be denied if it is found that the licensee or applicant:
(1) Has committed an act of fraud or deceit in the procurement or holding of a license;
(2) has been convicted of a felony or class A misdemeanor in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged or acquitted or if the holder has been pardoned with full restoration of civil rights in which case the license shall be restored;
(3) is addicted to or has distributed intoxicating liquors or drugs for other than lawful purposes;
(4) is found to be mentally or physically incapacitated to such a degree that in the opinion of the board continued practice by the licensee would constitute a danger to the public's health and safety;
(5) has aided and abetted a person who is not a licensee under this act or is not otherwise authorized to perform the duties of a licensee;
(6) has had a license to practice perfusion revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of an action of the other jurisdiction being conclusive evidence thereof;
(7) has violated any provision of this act, or rules and regulations promulgated by the board or any lawful order or directive of the board previously entered by the board;
(8) has committed an act of unprofessional conduct under criteria which the board may establish by rules and regulations; or
(9) is, or has been, found guilty of incompetence or negligence while performing as a license holder.

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

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

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

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

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon
such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the licensee entering into such stipulation.

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

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

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

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

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

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

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

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