

Substitute for SENATE BILL No. 501

By Committee on Public Health and Welfare

2-25

11 AN ACT concerning the Kansas board of healing arts; relating to licen-
12 sure and education of perfusionists; establishing perfusion council.

13

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

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

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

18 (a) “Act” means the perfusion practice act.

19 (b) “Board” means the state board of healing arts.

20 (c) “Council” means the perfusion council.

21 (d) “Extracorporeal circulation” means the diversion of a patient’s
22 blood through a heart-lung machine or a similar device that assumes the
23 functions of the patient’s heart, lungs, kidney, liver, or other organs.

24 (e) “Perfusionist” means a person who practices perfusion as defined
25 in this act.

26 (f) “Perfusion” means the functions necessary for the support, treat-
27 ment, measurement, or supplementation of the cardiovascular, circula-
28 tory, respiratory systems or other organs, or a combination of those ac-
29 tivities, and to ensure the safe management of physiologic functions by
30 monitoring and analyzing the parameters of the systems under an order
31 and under the supervision of a licensed physician, including:

32 (1) The use of extracorporeal circulation, long-term cardiopulmonary
33 support techniques including extracorporeal carbon-dioxide removal and
34 extracorporeal membrane oxygenation, and associated therapeutic and
35 diagnostic technologies;

36 (2) counterpulsation, ventricular assistance, autotransfusion, blood
37 conservation techniques, myocardial and organ preservation, extracor-
38 poreal life support, and therapeutic modalities including isolated limb
39 perfusion and intra-peritoneal hyperthermic chemotherapy;

40 (3) the use of techniques involving blood management, advanced life
41 support, and other related functions;

42 (4) the administration of pharmacological and therapeutic agents,
43 blood products and anesthetic agents through the extracorporeal circuit

1 as ordered by a physician or certified registered nurse anesthetist pur-
2 suant to K.S.A. 65-1158, and amendments thereto;

3 (5) the performance and use of coagulation monitoring and analysis,
4 physiologic monitoring and analysis, blood gas and chemistry monitoring
5 and analysis, hematologic monitoring and analysis, hypothermia, hyper-
6 thermia, hemoconcentration and hemodilution and hemodialysis; and

7 (6) the observation of signs and symptoms related to perfusion serv-
8 ices, the determination of whether the signs and symptoms exhibit ab-
9 normal characteristics, and the implementation of appropriate reporting,
10 perfusion protocols, or changes in or the initiation of emergency
11 procedures.

12 (g) “Perfusion protocols” means perfusion related policies and pro-
13 tocols developed or approved by a licensed medical care facility or a
14 physician through collaboration with administrators, licensed perfusion-
15 ists, and other health care professionals.

16 (h) This section shall take effect on and after July 1, 2011.

17 Sec. 3. (a) On and after July 1, 2011, except as otherwise provided
18 in this act, no person shall perform perfusion unless the person possesses
19 a valid license issued under this act.

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

23 (c) Only persons licensed under this act as a perfusionist shall be
24 entitled to use the title “perfusionist”[, **“licensed perfusionist”**, **“li-**
25 **icensed clinical perfusionist”**] or “certified clinical perfusionist”, abbrev-
26 iations thereof, words similar to such title or the designated letters
27 ~~“LCP”~~ [**“LP”**, **“LCP”** or **“CCP”**].

28 Sec. 4. (a) Nothing in this act is intended to limit, preclude or oth-
29 erwise interfere with the practices of other health care providers formally
30 trained and licensed, registered, credentialed or certified by appropriate
31 agencies of the state of Kansas from performing duties considered ap-
32 propriate to their recognized scope of practice.

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

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

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

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

42 (C) the person is trained according to the extracorporeal membrane
43 oxygenation specialist (ECMO) guidelines of the extracorporeal life sup-

1 port organization (ELSO) and operates an extracorporeal membrane ox-
2 ygenation circuit under the supervision of a licensed physician;

3 (2) A person performing autotransfusion or blood conservation tech-
4 niques under the supervision of a licensed physician.

5 (3) A student enrolled in an accredited perfusion education program
6 if perfusion services performed by the student;[:]

7 (A) are an integral part of the student's course of study; and
8 (B) are performed under the direct supervision of a licensed perfu-
9 sionist assigned to supervise the student and who is on duty and imme-
10 diately available in the assigned patient care area;

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

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

15 (c) This section shall take effect on and after July 1, 2011.

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

19 (1) At the time of the application is at least 18 years of age;
20 (2) has successfully completed a perfusion education program set
21 forth in rules and regulations adopted by the board and which contains a
22 curriculum no less stringent than the standards of existing organizations
23 which approve perfusion programs;

24 (3) except as otherwise provided in this act, has successfully passed a
25 license examination approved by the board; and
26 (4) has paid all fees required for licensure prescribed in this act,
27 which shall not be refundable.

28 (b) The board may issue a temporary license to an applicant seeking
29 licensure as a perfusionist when such applicant meets the requirements
30 for licensure or meets all the requirements for licensure except exami-
31 nation and pays to the board the temporary license fee as required under
32 section 8, and amendments thereto. ~~Such temporary license shall expire~~
33 ~~one year from the date of issue or on the date that the board approves~~
34 ~~the application for licensure, whichever occurs first. No more than two~~
35 ~~renewals of such temporary license shall be permitted to any one person.~~
36 ***[Such temporary license is valid (1) for one year from the date of***
37 ***issuance or (2) until the board makes a final determination on the***
38 ***applicant's request for licensure. The board may extend a tempo-***
39 ***rary license, upon a majority vote of the members of the board, for***
40 ***a period not to exceed one year.]***

41 (c) The board, without examination, may issue a license to a person
42 who has been in the active practice of perfusion in some other state,
43 territory, the District of Columbia or other country upon certificate of

1 the proper licensing authority of that state, territory, District of Columbia
2 or other country certifying that the applicant is duly licensed, that the
3 applicant's license has never been limited, suspended or revoked, that the
4 licensee has never been censured or had other disciplinary action taken
5 and that, so far as the records of such authority are concerned, the ap-
6 plicant is entitled to its endorsement. The applicant shall also present
7 proof satisfactory to the board:

8 (1) ~~[(A)]~~ That the state, territory, District of Columbia or country in
9 which the applicant last practiced ~~and~~ maintains standards at least equal
10 to those maintained by Kansas.

11 ~~[(B)]~~ That the applicant's original license was based upon an ex-
12 amination at least equal in quality to the examination required in this
13 state and that the passing grade required to obtain such original license
14 was comparable to that required in this state.

15 ~~[(C)]~~ Of the date of the applicant's original and any and all en-
16 dorsed licenses and the date and place from which any license was
17 attained.

18 ~~[(D)]~~ That the applicant has been actively engaged in perfusion
19 under such license or licenses since issued, and if not, fix the time when
20 and reason why the applicant was out of practice-~~;~~ **and**

21 ~~[(E)]~~ That the applicant holds a current certificate as a certified
22 clinical perfusionist initially issued by the American board of cardiovas-
23 cular perfusion (ABCP), or its successor, prior to July 1, 2011-~~;~~ **or**

24 ~~[(2)]~~ That the applicant has been practicing perfusion as de-
25 scribed in this act in a full-time capacity for a period of more than 24
26 months prior to July 1, 2001.

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

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

34 Sec. 6. (a) There is hereby created the designation of inactive license.
35 The board is authorized to issue an inactive license to any licensee who
36 makes written application for such license on a form provided by the
37 board and remits the fee for an inactive license established pursuant to
38 section 8, and amendments thereto. The board may issue an inactive
39 license only to a person who meets all the requirements for a license to
40 practice as a perfusionist and who does not engage in active practice as a
41 perfusionist in the state of Kansas. An inactive license shall not entitle
42 the holder to engage in active practice. The provisions of section 7, and
43 amendments thereto, relating to expiration, renewal and reinstatement

1 of a license shall be applicable to an inactive license issued under this
2 subsection. Each inactive licensee may apply to engage in active practice
3 by presenting a request required by section 5, and amendments thereto.
4 The request shall be accompanied by the fee established pursuant to
5 section 8, and amendments thereto.

6 (b) There is hereby created a designation of federally active license.
7 The board is authorized to issue a federally active license to any licensee
8 who makes a written application for such license on a form provided by
9 the board and remits the same fee required for a license established under
10 section 8, and amendments thereto. The board may issue a federally ac-
11 tive license only to a person who meets all the requirements for a license
12 to practice as a perfusionist and who practices as a perfusionist solely in
13 the course of employment or active duty in the United States government
14 or any of its departments, bureaus or agencies. The provisions of section
15 7, and amendments thereto, relating to expiration, renewal and reinstatement
16 of a license shall be applicable to a federally active license issued
17 under this subsection. Each federally active licensee may apply to engage
18 in active practice by presenting a request required by section 5, and
19 amendments thereto.

20 Sec. 7. (a) Licenses issued under this act shall expire on the date of
21 expiration established by rules and regulations of the board unless re-
22 newed in the manner prescribed by the board. The request for renewal
23 shall be accompanied by the license renewal fee established pursuant to
24 section 8, and amendments thereto.

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

36 (c) The board may require any licensee to submit to a continuing
37 education audit and provide to the board evidence of satisfactory com-
38 pletion of a program of continuing education required by rules and reg-
39 ulations of the board.

40 (d) Any license canceled for failure to renew may be reinstated upon
41 recommendation of the board. An application for reinstatement shall be
42 on a form provided by the board, and shall be accompanied by payment
43 of the reinstatement fee and evidence of completion of any applicable

1 continuing education requirements. The board may adopt rules and reg-
2 ulations establishing appropriate education requirements for reinstatement
3 of a license that has been canceled for failure to renew.

4 (e) The board, prior to renewal of a license, shall require the licensee,
5 if in the active practice of perfusion within the state, to submit to the
6 board evidence satisfactory to the board that the licensee is maintaining
7 a policy of professional liability insurance. The board may require any
8 licensee to provide to the board evidence of malpractice insurance as
9 required by rules and regulations of the board during an audit. The board
10 shall fix by rules and regulations the minimum level of coverage for such
11 professional liability insurance.

12 (f) This section shall take effect on and after July 1, 2011.

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

16	(a) Application for licensure	\$300
17	(b) Annual renewal of license:	
18	(1) Paper renewal	\$150
19	(2) on-line [On-line] renewal	\$150
20	(c) Late renewal of licensure:	
21	(1) Late paper renewal	\$100
22	(2) late [Late] on-line renewal	\$100
23	(d) Licensure reinstatement (due to late renewal)	\$250
24	(e) Revoked licensure reinstatement	\$325
25	(f) Application for inactive license	\$50 [\$300]
26	(1) Renewal of inactive license	\$75
27	(2) Conversion of inactive license to active	\$150
28	(g) Certified copy of license	\$25
29	(h) Written verification of license	\$25
30	(i) Temporary license	\$75

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

35 (c) This section shall take effect on and after July 1, 2011.

36 Sec. 9. (a) The board shall remit all moneys received by or for the
37 board from fees, charges or penalties to the state treasurer in accordance
38 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
39 receipt of each such remittance, the state treasurer shall deposit the entire
40 amount in the state treasury. Twenty percent of such amount shall be
41 credited to the state general fund and the balance shall be credited to the
42 healing arts fee fund. All expenditures from the healing arts fee fund shall
43 be made in accordance with appropriation acts upon warrants of the di-

1 rector of accounts and reports issued pursuant to vouchers approved by
2 the president of the board or by a person or persons designated by the
3 president.

4 (b) This section shall take effect on and after July 1, 2011.

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

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

25 (c) Perfusionists initially appointed to the council must be eligible for
26 licensure under section 5, and amendments thereto. On and after Octo-
27 ber 1, 2011, new appointees shall be licensed under the provisions of this
28 act.

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

32 (e) A majority of the council constitutes a quorum. No action may be
33 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 subsection
37 (c) of K.S.A. 75-3223, and amendments thereto, from the healing arts fee
38 fund.

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

40 (a) Examination, licensing and other fees;

41 (b) rules and regulations to be adopted to carry out the provisions of
42 this act;

43 (c) subject areas to be covered during the educational program and

- 1 on the licensure examination;
 - 2 (d) the number of yearly continuing education hours required to
 - 3 maintain active licensure;
 - 4 (e) changes and new requirements taking place in the area of per-
 - 5 fusion; and
 - 6 (f) such other duties and responsibilities as the board may assign.
- 7 Sec. 12. The board, with the advice and assistance of the perfusion
- 8 council, shall:
- 9 (a) Pass upon the qualifications of all applicants for examination and
 - 10 licensing, contract for examinations, determine the applicants who suc-
 - 11 cessfully pass the examination, duly license and regulate such applicants
 - 12 and keep a roster of all individuals licensed;
 - 13 (b) adopt rules and regulations as may be necessary to administer the
 - 14 provisions of this act and prescribe forms which shall be issued in the
 - 15 administration of this act;
 - 16 (c) establish standards for approval of an educational course of study
 - 17 and clinical experience, criteria for continuing education, procedures for
 - 18 the examination of applicants; and
 - 19 (d) establish standards of professional conduct; procedure for the dis-
 - 20 cipline of licensees and keep a record of all proceedings.
- 21 Sec. 13. (a) The license of a perfusionist may be limited, suspended
- 22 or revoked, or the licensee may be censured, reprimanded, placed on
- 23 probation, fined pursuant to K.S.A. 65-2863a, and amendments thereto,
- 24 or otherwise sanctioned by the board or an application for licensure or
- 25 reinstatement of licensure may be denied if it is found that the licensee
- 26 or applicant:
- 27 (1) Has committed an act of fraud or deceit in the procurement or
 - 28 holding of a license;
 - 29 (2) has been convicted of a felony in a court of competent jurisdiction,
 - 30 either within or outside of this state, unless the conviction has been re-
 - 31 versed and the holder of the license discharged or acquitted or if the
 - 32 holder has been pardoned with full restoration of civil rights in which
 - 33 case the license shall be restored;
 - 34 (3) is addicted to or has distributed intoxicating liquors or drugs for
 - 35 other than lawful purposes;
 - 36 (4) is found to be mentally or physically incapacitated to such a degree
 - 37 that in the opinion of the board continued practice by the licensee would
 - 38 constitute a danger to the public's health and safety;
 - 39 (5) has aided and abetted a person who is not a licensee under this
 - 40 act or is not otherwise authorized to perform the duties of a license
 - 41 holder;
 - 42 (6) has violated any provision of this act or rules and regulations;
 - 43 (7) has committed an act of unprofessional conduct under criteria

1 which the board may establish by rules and regulations; or
2 (8) is, or has been, found guilty of incompetence or negligence while
3 performing as a license holder.
4 (b) The denial, refusal to renew, suspension, limitation, probation or
5 revocation of a license or other sanction may be ordered by the board
6 upon a finding of a violation of this act. All administrative proceedings
7 conducted pursuant to this act shall be in accordance with the provisions
8 of the Kansas administrative procedure act and shall be reviewable in
9 accordance with the Kansas judicial review act.
10 (c) A person whose license is suspended shall not engage in any con-
11 duct or activity in violation of the order by which the license was sus-
12 pended.
13 (d) This section shall take effect on and after July 1, 2011.
14 Sec. 14. (a) The board shall have jurisdiction of proceedings to take
15 disciplinary action against any licensee practicing under this act. Any such
16 action shall be taken in accordance with the provisions of the Kansas
17 administrative procedure act.
18 (b) Either before or after formal charges have been filed, the board
19 and the licensee may enter into a stipulation which shall be binding upon
20 the board and the licensee entering into such stipulation, and the board
21 may enter its findings of fact and enforcement order based upon such
22 stipulation without the necessity of filing any formal charges or holding
23 hearings in the case. An enforcement order based upon a stipulation may
24 order any disciplinary action against the licensee entering into such stip-
25 ulation.
26 (c) The board may temporarily suspend or temporarily limit the li-
27 cense of any licensee in accordance with the emergency adjudicative pro-
28 ceedings under the Kansas administrative procedure act if the board de-
29 termines that there is cause to believe that grounds exist for disciplinary
30 action against the licensee and that the licensee's continuation in practice
31 would constitute an imminent danger to the public health and safety.
32 Sec. 15. Nothing in the perfusion practice act or in the provisions of
33 K.S.A. 40-2,100 through 40-2,105, and amendments thereto, or K.S.A.
34 2009 Supp. 40-2,105a through 40-2,105d, and amendments thereto, shall
35 be construed to require that any individual, group or blanket policy of
36 accident and sickness, medical or surgical expense insurance coverage or
37 any provision of a policy, contract, plan or agreement for medical service
38 issued on or after the effective date of this act, reimburse or indemnify a
39 person licensed under the perfusion practice act for services provided as
40 a perfusionist.
41 Sec. 16. (a) When it appears that any person is violating any provision
42 of this act, the board may bring an action in the name of the state in a
43 court of competent jurisdiction for an injunction against such violation

1 without regard as to whether proceedings have been or may be instituted
2 before the board or whether criminal proceedings have been or may be
3 instituted.

4 (b) This section shall take effect on and after July 1, 2011.

5 Sec. 17. On and after July 1, 2011, any violation of this act shall con-
6 stitute a class B misdemeanor.

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

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