

SENATE BILL No. 4

By Senator Kelsey

1-7

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

3
4 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

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

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

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

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

32 (4) the administration of pharmacological and therapeutic agents, blood
33 products and anesthetic agents through the extracorporeal circuit as ordered by
34 a physician or certified registered nurse anesthetist pursuant to K.S.A. 65-
35 1158, and amendments thereto;

36 (5) the performance and use of coagulation monitoring and analysis,

1 physiologic monitoring and analysis, blood gas and chemistry monitoring and
2 analysis, hematologic monitoring and analysis, hypothermia, hyperthermia,
3 hemoconcentration and hemodilution and hemodialysis; and

4 (6) the observation of signs and symptoms related to perfusion services,
5 the determination of whether the signs and symptoms exhibit abnormal
6 characteristics, and the implementation of appropriate reporting, perfusion
7 protocols, or changes in or the initiation of emergency procedures.

8 (g) "Perfusion protocols" means perfusion related policies and protocols
9 developed or approved by a licensed medical care facility or a physician
10 through collaboration with administrators, licensed perfusionists, and other
11 health care professionals.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) Are an integral part of the student's course of study; and
2 (B) are performed under the direct supervision of a licensed perfusionist
3 assigned to supervise the student and who is on duty and immediately
4 available in the assigned patient care area;
5 (4) health care providers in the United States armed forces, public health
6 services, federal facilities and other military service when acting in the line of
7 duty in this state; or
8 (5) persons rendering assistance in the case of an emergency.
9 (c) This section shall take effect on and after July 1, 2012.

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

- 13 (1) At the time of the application is at least 18 years of age;
14 (2) has successfully completed a perfusion education program set forth in
15 rules and regulations adopted by the board and which contains a curriculum no
16 less stringent than the standards of existing organizations which approve
17 perfusion programs;
18 (3) except as otherwise provided in this act, has successfully passed a
19 license examination approved by the board; and
20 (4) has paid all fees required for licensure prescribed in this act, which
21 shall not be refundable.

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

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

- 40 (1) (A) That the state, territory, District of Columbia or country in
41 which the applicant last practiced maintains standards at least equal to those
42 maintained by Kansas;
43 (B) that the applicant's original license was based upon an examination at

1 least equal in quality to the examination required in this state and that the
2 passing grade required to obtain such original license was comparable to that
3 required in this state;

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

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

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

12 (2) that the applicant has been practicing perfusion as described in this
13 act in a full-time capacity for a period of more than 24 months prior to July 1,
14 2011.

15 (d) The board, without examination, may issue a license to a person who
16 holds a current certificate as a certified clinical perfusionist initially issued by
17 the American board of cardiovascular perfusion who has been in the active
18 practice of perfusion in Kansas in a full-time capacity for a period of more
19 than two of the last ten years prior to July 1, 2011.

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

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

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

40 (b) There is hereby created a designation of federally active license. The
41 board is authorized to issue a federally active license to any licensee who
42 makes a written application for such license on a form provided by the board
43 and remits the same fee required for a license established under section 8, and

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

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

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

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

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

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

39 (e) The board, prior to renewal of a license, shall require the licensee, if in
40 the active practice of perfusion within the state, to submit to the board
41 evidence satisfactory to the board that the licensee is maintaining a policy of
42 professional liability insurance. The board may require any licensee to provide
43 to the board evidence of malpractice insurance as required by rules and

1 regulations of the board during an audit. The board shall fix by rules and
2 regulations the minimum level of coverage for such professional liability
3 insurance.

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

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

| | | |
|----|---|-------|
| 8 | Application for licensure..... | \$300 |
| 9 | Annual renewal of license: | |
| 10 | Paper renewal | \$150 |
| 11 | On-line renewal..... | \$150 |
| 12 | Late renewal of licensure: | |
| 13 | Late paper renewal | \$100 |
| 14 | Late on-line renewal | \$100 |
| 15 | Licensure reinstatement (due to late renewal) | \$250 |
| 16 | Revoked licensure reinstatement..... | \$325 |
| 17 | Application for inactive license | \$300 |
| 18 | Renewal of inactive license | \$75 |
| 19 | Conversion of inactive license to active | \$150 |
| 20 | Certified copy of license..... | \$25 |
| 21 | Written verification of license..... | \$25 |
| 22 | Temporary license | \$75 |

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

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

36 Sec. 10. (a) There is established the perfusion council to assist the state
37 board of healing arts in carrying out the provisions of this act. The council
38 shall consist of five members, all citizens and residents of the state of Kansas
39 appointed as follows: The board shall appoint one member who is a physician
40 licensed to practice medicine and surgery and one member who is a member of
41 the state board of healing arts. Members appointed by the board shall serve at
42 the pleasure of the board. The governor shall appoint three perfusionists who
43 have at least three years experience in perfusion preceding the appointment

1 and are actively engaged, in this state, in the practice of perfusion or the
2 teaching of perfusion. At least two of the governor's appointments shall be
3 made from a list of four nominees submitted by the Kansas practicing
4 perfusionist society.

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

13 (c) Perfusionists initially appointed to the council must be eligible for
14 licensure under section 5, and amendments thereto. On and after October 1,
15 2012, new appointees shall be licensed under the provisions of this act.

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

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

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

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

26 (a) Examination, licensing and other fees;

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

29 (c) subject areas to be covered during the educational program and on the
30 licensure examination;

31 (d) the number of yearly continuing education hours required to maintain
32 active licensure;

33 (e) changes and new requirements taking place in the area of perfusion;
34 and

35 (f) such other duties and responsibilities as the board may assign.

36 Sec. 12. The board, with the advice and assistance of the perfusion
37 council, shall:

38 (a) Pass upon the qualifications of all applicants for examination and
39 licensing, contract for examinations, determine the applicants who
40 successfully pass the examination, duly license and regulate such applicants
41 and keep a roster of all individuals licensed;

42 (b) adopt rules and regulations as may be necessary to administer the
43 provisions of this act and prescribe forms which shall be issued in the

1 administration of this act;

2 (c) establish standards for approval of an educational course of study and
3 clinical experience, criteria for continuing education, procedures for the
4 examination of applicants; and

5 (d) establish standards of professional conduct; procedure for the
6 discipline of licensees and keep a record of all proceedings.

7 Sec. 13. (a) The license of a perfusionist may be limited, suspended or
8 revoked, or the licensee may be censured, reprimanded, placed on probation,
9 fined pursuant to K.S.A. 65-2863a, and amendments thereto, or otherwise
10 sanctioned by the board or an application for licensure or reinstatement of
11 licensure may be denied if it is found that the licensee or applicant:

12 (1) Has committed an act of fraud or deceit in the procurement or holding
13 of a license;

14 (2) has been convicted of a felony in a court of competent jurisdiction,
15 either within or outside of this state, unless the conviction has been reversed
16 and the holder of the license discharged or acquitted or if the holder has been
17 pardoned with full restoration of civil rights in which case the license shall be
18 restored;

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

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

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

26 (6) has violated any provision of this act or rules and regulations;

27 (7) has committed an act of unprofessional conduct under criteria which
28 the board may establish by rules and regulations; or

29 (8) is, or has been, found guilty of incompetence or negligence while
30 performing as a license holder.

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

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

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

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

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

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

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

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

22 Sec. 16. (a) When it appears that any person is violating any provision
23 of this act, the board may bring an action in the name of the state in a court of
24 competent jurisdiction for an injunction against such violation without regard
25 as to whether proceedings have been or may be instituted before the board or
26 whether criminal proceedings have 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 by any
31 court of competent jurisdiction to be invalid, such judgment shall not affect,
32 impair or invalidate the remainder or any other section or part thereof.

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