



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2398

Introduced 2/19/2009, by Rep. Angelo Saviano - Dan Reitz

SYNOPSIS AS INTRODUCED:

See Index

Amends the Perfusionist Practice Act. Replaces all references to "Director" with "Secretary". Exempts a new graduate who performs perfusion services for a period of 14 months after he or she graduates from an accredited perfusion education program so long as the graduate is under the direct supervision of a licensed perfusionist or a physician licensed to practice medicine in all its branches. Provides that the Department may adopt rules to require that licensees receive 30 hours of continuing education per 2 year license renewal cycle. Changes provisions concerning the refusal, suspension, and revocation of licenses by the Secretary. Provides that the Department shall automatically terminate a license or deny an application if a fee or fine remains unpaid by the licensee or applicant 30 days after giving notice to the licensee or applicant of a returned check. Provides that the Department or Board may order a licensee or applicant to submit to a mental or physical examination, or both, for certain violations of the Act. Provides that the Secretary may, through the Attorney General or the State's Attorney of the county in which a violation is alleged to have occurred, petition for an order enjoining a violation or for an order enforcing compliance with this Act. Provides that any circuit court, upon application of the Department or designated hearing officer, may enter an order requiring the attendance of witnesses and their testimony, and certain other documents in connection with any hearing or investigation under the Act. Provides that whenever the Secretary believes that substantial justice has not been done in the revocation or suspension of a license, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, the Secretary may order a rehearing by the same or another examiner. Provides that any person who violates any provision of the Act shall be guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense. Increases the limit for any fine or civil penalty imposed under the Act from \$5,000 to \$10,000. Defines "address of record". Makes other changes. Effective immediately.

LRB096 10736 ASK 20921 b

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Perfusionist Practice Act is amended by
5 changing Sections 10, 15, 25, 45, 70, 90, 95, 100, 105, 110,
6 115, 120, 140, 145, 150, 170, 180, 185, 200, 205, 220, and 230
7 and by adding Sections 75, 93, 135, 142, 155, 212, and 227 as
8 follows:

9 (225 ILCS 125/10)

10 (Section scheduled to be repealed on January 1, 2010)

11 Sec. 10. Definitions. As used in this Act:

12 "Address of Record" means the designated address recorded
13 by the Department in the applicant's or licensee's application
14 file or license file maintained by the Department. It is the
15 duty of the applicant or licensee to inform the Department of
16 any change of address, and such changes must be made either
17 through the Department's website or by directly contacting the
18 Department.

19 "Board" means the Board of Licensing for Perfusionists
20 Perfusion.

21 "Department" means the Department of Financial and
22 Professional Regulation.

23 ~~"Director" means the Director of Professional Regulation.~~

1 "Extracorporeal circulation" means the diversion of a
2 patient's blood through a heart-lung machine or a similar
3 device that assumes the functions of the patient's heart,
4 lungs, kidney, liver, or other organs.

5 "New graduate perfusionist" means a perfusionist
6 practicing within a period of one year since the date of
7 graduation from a Commission on Accreditation of Allied Health
8 Education Programs accredited perfusion education program.

9 "Perfusion" means the functions necessary for the support,
10 treatment, measurement, or supplementation of the
11 cardiovascular systems or other organs, or a combination of
12 those functions, and to ensure the safe management of
13 physiologic functions by monitoring and analyzing the
14 parameters of the systems under an order and under the
15 supervision of a physician licensed to practice medicine in all
16 its branches.

17 "Perfusionist" means a person, qualified by academic and
18 clinical education, to operate the extracorporeal circulation
19 equipment during any medical situation where it is necessary to
20 support or replace a person's cardiopulmonary, circulatory, or
21 respiratory function. A perfusionist is responsible for the
22 selection of appropriate equipment and techniques necessary
23 for support, treatment, measurement, or supplementation of the
24 cardiopulmonary and circulatory system of a patient, including
25 the safe monitoring, analysis, and treatment of physiologic
26 conditions under an order and under the supervision of a

1 physician licensed to practice medicine in all its branches and
2 in coordination with a registered professional nurse.

3 "Perfusion protocols" means perfusion related policies and
4 protocols developed or approved by a licensed health facility
5 or a physician through collaboration with administrators,
6 licensed perfusionists, and other health care professionals.

7 "Physician" or "operating physician" means a person
8 licensed to practice medicine in all of its branches under the
9 Medical Practice Act of 1987.

10 "Secretary" means the Secretary of the Department of
11 Financial and Professional Regulation.

12 (Source: P.A. 91-580, eff. 1-1-00.)

13 (225 ILCS 125/15)

14 (Section scheduled to be repealed on January 1, 2010)

15 Sec. 15. Powers and duties of the Department. Subject to
16 the provisions of this Act, the Department may:

17 (a) Authorize examinations to ascertain the qualifications
18 and fitness of applicants for licensing as a perfusionist, as
19 defined by the Board, and pass upon the qualifications of
20 applicants for licensure by endorsement. ~~The Department shall~~
21 ~~exercise the powers and duties prescribed by the Civil~~
22 ~~Administrative Code of Illinois for the administration of~~
23 ~~licensing Acts and shall exercise any other powers and duties~~
24 ~~necessary for effectuating the purposes of this Act.~~

25 (b) Conduct hearings on proceedings to refuse to issue or

1 renew a license, or to revoke or suspend a license, or to place
2 on probation, reprimand, or take any other disciplinary or
3 non-disciplinary action with regard to a person licensed under
4 this Act. ~~The Department may adopt rules consistent with the~~
5 ~~provisions of this Act for its administration and enforcement~~
6 ~~and may prescribe forms that shall be issued in connection with~~
7 ~~this Act. The rules may include but are not limited to~~
8 ~~standards and criteria for licensure, professional conduct,~~
9 ~~and discipline.~~

10 (c) Formulate rules required for the administration of this
11 Act.

12 (d) Obtain written recommendations from the Board
13 regarding (i) curriculum content, standards of professional
14 conduct, formal disciplinary actions, and the formulation of
15 rules, and (ii) when petitioned by the applicant, opinions
16 regarding the qualifications of applicants for licensing.

17 (e) Maintain rosters of the names and address of all
18 licensees, and all persons whose licenses have been suspended,
19 revoked, or denied renewal for cause within the previous
20 calendar year. These rosters shall be available upon written
21 request and payment of the required fee as established by rule.

22 (Source: P.A. 91-580, eff. 1-1-00.)

23 (225 ILCS 125/25)

24 (Section scheduled to be repealed on January 1, 2010)

25 Sec. 25. Board of Licensing for Perfusionists ~~Perfusion.~~

1 (a) The Secretary Director shall appoint a Board of
2 Licensing for Perfusionists which ~~Perfusion to consist of 5~~
3 ~~persons who shall be appointed by and~~ shall serve in an
4 advisory capacity to the Secretary Director. The Board shall be
5 comprised of 5 persons appointed by the Secretary, who shall
6 give due consideration to recommendations by members of the
7 profession of perfusion and perfusion organizations within the
8 State.

9 (b) Two members must hold an active license to engage in
10 the practice of perfusion in this State, one member must be a
11 physician licensed under the Medical Practice Act of 1987 who
12 is board certified in and actively engaged in the practice of
13 cardiothoracic surgery, one member must be a licensed
14 registered professional nurse certified by the Association of
15 Operating Room Nurses, and one member must be a member of the
16 public who is not licensed under this Act or a similar Act of
17 another jurisdiction and who has no connection with the
18 profession. ~~The initial appointees who would otherwise be~~
19 ~~required to be licensed perfusionists shall instead be~~
20 ~~individuals who have been practicing perfusion for at least 5~~
21 ~~years and who are eligible under this Act for licensure as~~
22 ~~perfusionists.~~

23 (c) Members shall serve 4-year terms and until their
24 successors are appointed and qualified, except that, of the
25 initial appointments, 2 members shall be appointed to serve for
26 2 years, 2 members shall be appointed to serve for 3 years, and

1 1 member shall be appointed to serve for 4 years, and until
2 their successors are appointed and qualified. No member shall
3 be reappointed to the Board for a term that would cause his or
4 her continuous service on the Board to be longer than 8
5 consecutive years.

6 (d) Appointments to fill vacancies shall be made in the
7 same manner as original appointments for the unexpired portion
8 of the vacated term. ~~Initial terms shall begin upon the~~
9 ~~effective date of this Act.~~

10 (e) The Board shall annually elect a chairperson and a
11 vice-chairperson who shall preside in the absence of the
12 chairperson.

13 (f) Insofar as possible, the licensed professionals
14 appointed to serve on the Board shall be generally
15 representative of the occupational and geographical
16 distribution of licensed professionals within ~~The membership~~
17 ~~of the Board should reasonably reflect representation from the~~
18 ~~various geographic areas in this State.~~

19 (g) The Secretary Director may remove or suspend ~~terminate~~
20 ~~the appointment of~~ any member for cause at any time before the
21 expiration of his or her term. The Secretary shall be the sole
22 arbiter of cause.

23 (h) The Secretary Director may give due consideration to
24 all recommendations of the Board.

25 (i) A majority of the Board members currently appointed
26 shall constitute a quorum. A vacancy in the membership of the

1 Board shall not impair the right of a quorum to exercise the
2 rights and perform all the duties of the Board.

3 (j) Members of the Board shall be immune from liability
4 ~~have no liability~~ in any action based upon any disciplinary
5 proceeding or other activity performed in good faith as a
6 member of the Board.

7 (Source: P.A. 91-580, eff. 1-1-00.)

8 (225 ILCS 125/45)

9 (Section scheduled to be repealed on January 1, 2010)

10 Sec. 45. Application of Act. This Act shall not be
11 construed to prohibit the following:

12 (1) a person licensed in this State under any other Act
13 from engaging in the practice for which he or she is licensed;

14 (2) a student enrolled in an accredited perfusion education
15 program from performing perfusion services if perfusion
16 services performed by the student:

17 (A) are an integral part of the student's course of
18 study; and

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

23 (3) a new graduate from performing perfusion services for a
24 period of 14 months after the date of his or her graduation
25 from a perfusion education program that is accredited by the

1 Commission on Accreditation of Allied Health Education
2 Programs, if perfusion services performed by the new graduate
3 perfusionist: ~~(A) are necessary to fulfill the eligibility~~
4 ~~requirements for the ABCP certification examination required~~
5 ~~under subsection (3) of Section 30;~~ and (B) are performed under
6 the direct supervision and responsibility of a licensed
7 perfusionist or a physician licensed to practice medicine in
8 all its branches who is assigned to supervise the graduate
9 perfusionist and who is ~~on duty and~~ immediately available in
10 the assigned patient care area;

11 (4) any legally qualified perfusionist employed by the
12 United States government from engaging in the practice of
13 perfusion while in the discharge of his or her official duties;
14 or

15 (5) one or more licensed perfusionists from forming a
16 professional service corporation in accordance with the
17 Professional Service Corporation Act.

18 (Source: P.A. 91-580, eff. 1-1-00.)

19 (225 ILCS 125/70)

20 (Section scheduled to be repealed on January 1, 2010)

21 Sec. 70. Renewal, reinstatement or restoration of license;
22 ~~continuing education;~~ military service. The expiration date
23 and renewal period for each license issued under this Act shall
24 be set by the Department by rule. A licensee may renew his or
25 her license during the month preceding the expiration date of

1 the license by paying the required fee. It is the
2 responsibility of the licensee to notify the Department in
3 writing of a change of address. As a condition of renewal, the
4 licensee must maintain proof of continued and current national
5 certification and shall be prepared to produce the records when
6 requested by the Department. ~~Renewal shall be conditioned on~~
7 ~~paying the required fee and meeting other requirements as may~~
8 ~~be established by rule.~~

9 A licensee who has permitted his or her license to expire
10 or who has had his or her license on inactive status may have
11 the license restored by making application to the Department,
12 by filing proof acceptable to the Department of his or her
13 fitness to have the license restored, and by paying the
14 required fees. Proof of fitness may include sworn evidence
15 certifying to active lawful practice in another jurisdiction.

16 If the licensee has not maintained an active practice in
17 another jurisdiction satisfactory to the Department, the
18 Department shall determine, by an evaluation program
19 established by rule, his or her fitness for restoration of the
20 license and shall establish procedures and requirements for
21 restoration. However, a licensee whose license expired while he
22 or she was (1) in federal service on active duty with the Armed
23 Forces of the United States or the State Militia called into
24 service or training or (2) in training or education under the
25 supervision of the United States before induction into the
26 military service, may have the license restored without paying

1 any lapsed renewal fees if within 2 years after honorable
2 termination of the service, training, or education he or she
3 furnishes the Department with satisfactory evidence to the
4 effect that he or she has been so engaged and that his or her
5 service, training, or education has been so terminated.

6 (Source: P.A. 91-580, eff. 1-1-00.)

7 (225 ILCS 125/75 new)

8 Sec. 75. Continuing education. The Department may adopt
9 rules of continuing education for licensees that require 30
10 hours of continuing education per 2 year license renewal cycle.
11 The rules shall address variances in part or in whole for good
12 cause, including without limitation temporary illness or
13 hardship. The Department may approve continuing education
14 programs offered, provided, and approved by the American Board
15 of Cardiovascular Perfusion, or its successor agency, to meet
16 the 30-hour continuing education requirement set forth in this
17 Section. The Department may approve additional continuing
18 education sponsors. Each licensee is responsible for
19 maintaining records of his or her completion of the continuing
20 education and shall be prepared to produce the records when
21 requested by the Department.

22 (225 ILCS 125/90)

23 (Section scheduled to be repealed on January 1, 2010)

24 Sec. 90. Fees; deposit of fees and fines. ~~returned checks.~~

1 (a) The Department shall set by rule fees for the
2 administration of this Act, including, but not limited to, fees
3 for initial and renewal licensure and restoration of a license.
4 The fees shall be nonrefundable.

5 (b) All of the fees and fines collected under this Act
6 shall be deposited into the General Professions Dedicated Fund.
7 The monies deposited into the Fund shall be appropriated to the
8 Department for expenses of the Department in the administration
9 of this Act.

10 ~~(c) A person who delivers a check or other payment to the~~
11 ~~Department that is returned to the Department unpaid by the~~
12 ~~financial institution upon which it is drawn shall pay to the~~
13 ~~Department, in addition to the amount already owed to the~~
14 ~~Department, a fine of \$50. The fines imposed by this Section~~
15 ~~are in addition to any other discipline provided under this Act~~
16 ~~for unlicensed practice or practice on a nonrenewed license.~~
17 ~~The Department shall notify the person that fees and fines~~
18 ~~shall be paid to the Department by certified check or money~~
19 ~~order within 30 calendar days of the notification. If, after~~
20 ~~the expiration of 30 days from the date of the notification,~~
21 ~~the person has failed to submit the necessary remittance, the~~
22 ~~Department shall automatically terminate the license or deny~~
23 ~~the application without a hearing. If the person seeks a~~
24 ~~license after termination or denial, he or she shall apply to~~
25 ~~the Department for restoration or issuance of the license and~~
26 ~~pay all fees and fines due to the Department. The Department~~

~~may establish a fee for the processing of an application for restoration of a license to defray the expenses of processing the application. The Director may waive the fines due under this Section in individual cases if the Director finds that the fines would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-580, eff. 1-1-00; 92-146, eff. 1-1-02.)

(225 ILCS 125/93 new)

Sec. 93. Returned checks; penalty for insufficient funds.

Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of the fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. After such termination of a license or denial of an application, the same individual may only apply to the Department for restoration or issuance of a license after he or

1 she has paid all fees and fines owed to the Department. The
2 Department may establish a fee for the processing of an
3 application for restoration of a license to pay all expenses of
4 processing this application. The Secretary may waive the fines
5 due under this Section in individual cases where the Secretary
6 finds that the fines would be unreasonable or unnecessarily
7 burdensome.

8 (225 ILCS 125/95)

9 (Section scheduled to be repealed on January 1, 2010)

10 Sec. 95. Roster. The Department shall maintain a roster of
11 the names and addresses of all licensees and of all persons
12 that ~~whose licenses~~ have been disciplined under this Act. This
13 roster shall be available upon written request and payment of
14 the required fee.

15 (Source: P.A. 91-580, eff. 1-1-00.)

16 (225 ILCS 125/100)

17 (Section scheduled to be repealed on January 1, 2010)

18 Sec. 100. Unlicensed practice; civil penalty. A person who
19 practices, offers to practice, attempts to practice, or holds
20 himself or herself out to practice as a licensed perfusionist
21 without being licensed under this Act shall, in addition to any
22 other penalty provided by law, pay a civil penalty to the
23 Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each
24 offense as determined by the Department. The civil penalty

1 shall be assessed by the Department after a hearing is held in
2 accordance with the provisions set forth in this Act regarding
3 the provision of a hearing for the discipline of a licensee.

4 (Source: P.A. 91-580, eff. 1-1-00.)

5 (225 ILCS 125/105)

6 (Section scheduled to be repealed on January 1, 2010)

7 Sec. 105. Disciplinary actions. ~~Grounds for disciplinary~~
8 ~~action.~~

9 (a) The Department may refuse to issue, renew, or restore a
10 license, or may revoke or suspend a license, or may place on
11 probation, ~~censure,~~ reprimand, or take other disciplinary or
12 non-disciplinary action with regard to a person licensed under
13 this Act, including but not limited to the imposition of fines
14 not to exceed \$10,000 ~~\$5,000~~ for each violation, for ~~any~~ one
15 or any combination of the following causes:

16 (1) Making a material misstatement in furnishing
17 information to the Department.

18 (2) ~~Violation~~ Violating a provision of this Act or any
19 rule ~~its rules~~ promulgated under this Act.

20 (3) Conviction of, or entry of a plea of guilty or nolo
21 contendere to, any crime that is a felony under the laws of
22 the a United States or any state or territory thereof, or
23 any crime ~~jurisdiction of a crime~~ that is ~~a felony or a~~
24 misdemeanor of which, an essential element ~~of which~~ is
25 dishonesty, or any ~~of a~~ crime that is directly related to

1 the practice as a perfusionist.

2 (4) Making a misrepresentation for the purpose of
3 obtaining, renewing, or restoring a license, or violating
4 any provision of this Act or the rules promulgated under
5 this Act pertaining to advertising.

6 (5) Aiding ~~Wilfully aiding~~ or assisting another person
7 in violating a provision of this Act or its rules.

8 (6) Failing to provide information within 60 days in
9 response to a written request made by the Department.

10 (7) Engaging in dishonorable, unethical, or
11 unprofessional conduct of a character likely to deceive,
12 defraud, or harm the public, as defined by rule of the
13 Department.

14 (8) Discipline by another state, the District of
15 Columbia, or territory, United States jurisdiction or a
16 foreign nation, if at least one of the grounds for
17 discipline is the same or substantially equivalent to those
18 set forth in this Section.

19 (9) Directly or indirectly giving to or receiving from
20 a person, firm, corporation, partnership, or association a
21 fee, commission, rebate, or other form of compensation for
22 professional services not actually or personally rendered.

23 (10) A finding by the Board that the licensee, after
24 having his or her license placed on probationary status,
25 has violated the terms of probation.

26 (11) Wilfully making or filing false records or reports

1 in his or her practice, including but not limited to false
2 records or reports filed with State agencies or
3 departments.

4 (12) Wilfully making or signing a false statement,
5 certificate, or affidavit to induce payment.

6 (13) Wilfully failing to report an instance of
7 suspected child abuse or neglect as required under the
8 Abused and Neglected Child Reporting Act.

9 (14) Being named as a perpetrator in an indicated
10 report by the Department of Children and Family Services
11 under the Abused and Neglected Child Reporting Act and upon
12 proof by clear and convincing evidence that the licensee
13 has caused a child to be an abused child or neglected child
14 as defined in the Abused and Neglected Child Reporting Act.

15 (15) Employment of fraud, deception, or any unlawful
16 means in applying for or securing a license as a
17 perfusionist.

18 (16) Allowing another person to use his or her license
19 to practice.

20 (17) Failure to report to the Department (A) any
21 adverse final action taken against the licensee by another
22 licensing jurisdiction, government agency, law enforcement
23 agency, or any court or (B) liability for conduct that
24 would constitute grounds for action as set forth in this
25 Section.

26 (18) Inability to practice the profession with

1 reasonable judgment, skill or safety as a result of a
2 physical illness, including but not limited to
3 deterioration through the aging process or loss of motor
4 skill, or a mental illness or disability. ~~Habitual~~
5 ~~intoxication or addiction to the use of drugs.~~

6 (19) Inability ~~Physical illness, including but not~~
7 ~~limited to deterioration through the aging process or loss~~
8 ~~of motor skills, which results in the inability~~ to practice
9 the profession for which he or she is licensed with
10 reasonable judgment, skill, or safety as a result of
11 habitual or excessive use or addiction to alcohol,
12 narcotics, stimulants or any other chemical agent or drug.

13 (20) Gross malpractice ~~resulting in permanent injury~~
14 ~~or death of a patient.~~

15 (21) Immoral conduct in the commission of an act
16 related to the licensee's practice, including but not
17 limited to sexual abuse, sexual misconduct, or sexual
18 exploitation.

19 (22) Violation of the Health Care Worker Self-Referral
20 Act.

21 (23) Solicitation of business or professional
22 services, other than permitted advertising.

23 (24) Conviction of or cash compromise of a charge or
24 violation of the Illinois Controlled Substances Act.

25 (25) Gross, willful, or continued overcharging for
26 professional services, including filing false statements

1 for collection of fees for which services are not rendered.

2 (26) Practicing under a false name or, except as
3 allowed by law, an assumed name.

4 (b) A licensee or applicant who, because of a physical or
5 mental illness or disability, including, but not limited to,
6 deterioration through the aging process or loss of motor skill,
7 is unable to practice the profession with reasonable judgment,
8 skill, or safety, may be required by the Department to submit
9 to care, counseling or treatment by physicians approved or
10 designated by the Department, as a condition, term, or
11 restriction for continued, reinstated, or renewed licensure to
12 practice. Submission to care, counseling or treatment as
13 required by the Department shall not be considered discipline
14 of the licensee. If the licensee refuses to enter into a care,
15 counseling or treatment agreement or fails to abide by the
16 terms of the agreement the Department may file a complaint to
17 suspend or revoke the license or otherwise discipline the
18 licensee. The Secretary may order the license suspended
19 immediately, pending a hearing by the Department. Fines shall
20 not be assessed in the disciplinary actions involving physical
21 or mental illness or impairment. The Department may refuse to
22 ~~issue or may suspend the license of a person who fails to file~~
23 ~~a return, to pay the tax, penalty, or interest shown in a filed~~
24 ~~return, or to pay a final assessment of the tax, penalty, or~~
25 ~~interest as required by a tax Act administered by the~~
26 ~~Department of Revenue, until the requirements of the tax Act~~

1 ~~are satisfied.~~

2 (b-5) The Department may refuse to issue or may suspend,
3 without a hearing as provided for in the Civil Administrative
4 Code of Illinois, the license of a person who fails to file a
5 return, to pay the tax, penalty, or interest shown in a filed
6 return, or to pay any final assessment of tax, penalty, or
7 interest as required by any tax Act administered by the
8 Department of Revenue, until such time as the requirements of
9 the tax Act are satisfied in accordance with subsection (g) of
10 Section 15 of the Department of Professional Regulation Law of
11 the Civil Administrative Code of Illinois (20 ILCS
12 2105/2105-15).

13 (c) The determination by a circuit court that a licensee is
14 subject to involuntary admission or judicial admission as
15 provided in the Mental Health and Developmental Disabilities
16 Code, as amended, operates as an automatic suspension. The
17 suspension will end only upon a finding by a court that the
18 licensee is no longer subject to the involuntary admission or
19 judicial admission and issues an order so finding and
20 discharging the licensee; and upon the recommendation of the
21 Board to the Secretary that the licensee be allowed to resume
22 his or her practice. ~~The determination by a circuit court that~~
23 ~~a licensee is subject to involuntary admission or judicial~~
24 ~~admission as provided in the Mental Health and Developmental~~
25 ~~Disabilities Code operates as an automatic suspension. The~~
26 ~~suspension will end only upon (1) a finding by a court that the~~

1 ~~patient is no longer subject to involuntary admission or~~
2 ~~judicial admission, (2) issuance of an order so finding and~~
3 ~~discharging the patient, and (3) the recommendation of the~~
4 ~~Disciplinary Board to the Director that the licensee be allowed~~
5 ~~to resume his or her practice.~~

6 (d) In enforcing this Section, the Department or Board,
7 upon a showing of a possible violation, may order a licensee or
8 applicant to submit to a mental or physical examination, or
9 both, at the expense of the Department. The Department or Board
10 may order the examining physician to present testimony
11 concerning his or her examination of the licensee or applicant.
12 No information shall be excluded by reason of any common law or
13 statutory privilege relating to communications between the
14 licensee or applicant and the examining physician. The
15 examining physicians shall be specifically designated by the
16 Board or Department. The licensee or applicant may have, at his
17 or her own expense, another physician of his or her choice
18 present during all aspects of the examination. Failure of a
19 licensee or applicant to submit to any such examination when
20 directed, without reasonable cause as defined by rule, shall be
21 grounds for either the immediate suspension of his or her
22 license or immediate denial of his or her application.

23 If the Secretary immediately suspends the license of a
24 licensee for his or her failure to submit to a mental or
25 physical examination when directed, a hearing must be convened
26 by the Department within 15 days after the suspension and

1 completed without appreciable delay.

2 If the Secretary otherwise suspends a license pursuant to
3 the results of the licensee's mental or physical examination, a
4 hearing must be convened by the Department within 15 days after
5 the suspension and completed without appreciable delay. The
6 Department and Board shall have the authority to review the
7 licensee's record of treatment and counseling regarding the
8 relevant impairment or impairments to the extent permitted by
9 applicable federal statutes and regulations safeguarding the
10 confidentiality of medical records.

11 Any licensee suspended or otherwise affected under this
12 subsection (d) shall be afforded an opportunity to demonstrate
13 to the Department or Board that he or she can resume practice
14 in compliance with the acceptable and prevailing standards
15 under the provisions of his or her license.

16 (Source: P.A. 91-580, eff. 1-1-00.)

17 (225 ILCS 125/110)

18 (Section scheduled to be repealed on January 1, 2010)

19 Sec. 110. Injunctions; criminal offenses; cease and desist
20 order.

21 (a) If any person violates the provisions of this Act, the
22 Secretary ~~Director~~ may, in the name of the People of the State
23 of Illinois, through the Attorney General of the State of
24 Illinois or the State's Attorney for any county in which the
25 action is brought, petition for an order enjoining the

1 violation or for an order enforcing compliance with this Act.
2 Upon the filing of a verified petition in court, the court may
3 issue a temporary restraining order, without notice or
4 condition, and may preliminarily and permanently enjoin the
5 violation. If it is established that the person has violated or
6 is violating the injunction, the Court may punish the offender
7 for contempt of court. Proceedings under this Section shall be
8 in addition to, and not in lieu of, all other remedies and
9 penalties provided by this Act.

10 (b) Whenever in the opinion of the Department a person
11 violates a provision of this Act, the Department may issue a
12 rule to show cause why an order to cease and desist should not
13 be entered against that person. The rule shall clearly set
14 forth the grounds relied upon by the Department and shall allow
15 at least 7 days from the date of the rule to file an answer to
16 the satisfaction of the Department. Failure to answer to the
17 satisfaction of the Department shall cause an order to cease
18 and desist to be issued immediately.

19 (c) Other than as provided in Section 45 of this Act, if
20 any person practices as a perfusionist or holds himself or
21 herself out as a licensed perfusionist under this Act without
22 being issued a valid existing license by the Department, then
23 any licensed perfusionist, any interested party, or any person
24 injured thereby may, in addition to the Secretary ~~Director~~,
25 petition for relief as provided in subsection (a) of this
26 Section.

1 (Source: P.A. 91-580, eff. 1-1-00.)

2 (225 ILCS 125/115)

3 (Section scheduled to be repealed on January 1, 2010)

4 Sec. 115. Injunctive action; cease ~~Cease~~ and desist order.

5 (a) If any person violates the provisions of this Act, the
6 Secretary, in the name of the People of the State of Illinois,
7 through the Attorney General or the State's Attorney of the
8 county in which the violation is alleged to have occurred, may
9 petition for an order enjoining the violation or for an order
10 enforcing compliance with this Act. Upon the filing of a
11 verified petition, the court with appropriate jurisdiction may
12 issue a temporary restraining order, without notice or bond,
13 and may preliminarily and permanently enjoin the violation. If
14 it is established that the person has violated or is violating
15 the injunction, the court may punish the offender for contempt
16 of court. Proceedings under this Section are in addition to,
17 and not in lieu of, all other remedies and penalties provided
18 by this Act.

19 (b) Whenever, in the opinion of the Department, a person
20 violates any provision of this Act, the Department may issue a
21 rule to show cause why an order to cease and desist should not
22 be entered against that person. The rule shall clearly set
23 forth the grounds relied upon the Department and shall allow at
24 least 7 days from the date of the rule to file an answer
25 satisfactory to the Department. Failure to answer to the

1 satisfaction of the Department shall cause an order to cease
2 and desist to be issued.

3 ~~(a) If a person violates a provision of this Act, the~~
4 ~~Director, in the name of the People of the State of Illinois~~
5 ~~through the Attorney General of the State of Illinois, or the~~
6 ~~State's Attorney of a county in which the violation occurs, may~~
7 ~~petition for an order enjoining the violation or for an order~~
8 ~~enforcing compliance with this Act. Upon the filing of a~~
9 ~~verified petition in court, the court may issue a temporary~~
10 ~~restraining order without notice or bond and may preliminarily~~
11 ~~and permanently enjoin the violation. If it is established that~~
12 ~~the licensee has violated or is violating the injunction, the~~
13 ~~court may punish the offender for contempt of court.~~
14 ~~Proceedings under this Section shall be in addition to, and not~~
15 ~~in lieu of, all other remedies and penalties provided by this~~
16 ~~Act.~~

17 ~~(b) If a person practices as a perfusionist or holds~~
18 ~~himself or herself out as a perfusionist without being licensed~~
19 ~~under this Act, then any licensee under this Act, interested~~
20 ~~party, or person injured thereby, in addition to the Director~~
21 ~~or State's Attorney, may petition for relief as provided in~~
22 ~~subsection (a) of this Section.~~

23 ~~(c) If the Department determines that a person violated a~~
24 ~~provision of this Act, the Department may issue a rule to show~~
25 ~~cause why an order to cease and desist should not be entered~~
26 ~~against him or her. The rule shall clearly set forth the~~

1 ~~grounds relied upon by the Department and shall provide a~~
2 ~~period of 7 days from the date of the rule to file an answer to~~
3 ~~the satisfaction of the Department. Failure to answer to the~~
4 ~~satisfaction of the Department shall cause an order to cease~~
5 ~~and desist to be issued immediately.~~

6 (Source: P.A. 91-580, eff. 1-1-00.)

7 (225 ILCS 125/120)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 120. Investigation; notice; hearing. The Department
10 may Licenses may be refused, revoked, suspended, or otherwise
11 ~~disciplined in the manner provided by this Act and not~~
12 ~~otherwise. The Department may upon its own motion and shall~~
13 ~~upon the verified complaint in writing of any person setting~~
14 ~~forth facts that if proven would constitute grounds for refusal~~
15 ~~to issue or for suspension or revocation under this Act,~~
16 investigate the actions of any applicant or any a person
17 ~~applying for,~~ holding, or claiming to hold a perfusionist
18 license. The Department shall, before refusing to issue or
19 renew, suspending, or revoking a license or taking other
20 discipline pursuant to Section 105 of this Act, and at least 30
21 days prior to the date set for the hearing, (i) notify in
22 writing the applicant or licensee of any charges made and the
23 time and the place for the hearing on the charges, (ii) direct
24 him or her to file a written answer to the charges with the
25 Board under oath within 20 days after the service on him or her

1 of the notice, and, shall direct ~~afford~~ the applicant or
2 licensee ~~an opportunity to be heard in person or by counsel in~~
3 ~~reference to the charges, and direct the applicant or licensee~~
4 to file a written answer to the Department under oath within 20
5 days after the service on him or her of the notice and (iii)
6 inform the accused ~~applicant or licensee~~ that, if he or she
7 fails to ~~failure to file an answer,~~ will result in default will
8 be ~~being~~ taken against him or her or ~~the applicant or licensee~~
9 ~~and~~ that his or her ~~the~~ license may be suspended, revoked, or
10 placed on probationary status, or other disciplinary action may
11 be taken with regard to the licensee, including limiting the
12 scope, nature, or extent of practice, as the Department
13 ~~Director~~ may consider ~~deem~~ proper. At the time and place fixed
14 in the notice, the Board shall proceed to hear the charges, and
15 the parties or their counsel shall be accorded ample
16 opportunity to present any pertinent statements, testimony,
17 evidence, and arguments. The Board may continue the hearing
18 from time to time. In case ~~Written notice may be served by~~
19 ~~personal delivery to the applicant or licensee or by mailing~~
20 ~~the notice by certified mail to his or her last known place of~~
21 ~~residence or to the place of business last specified by the~~
22 ~~applicant or licensee in his or her last notification to the~~
23 ~~Department. If the person,~~ after receiving the notice, fails to
24 file an answer ~~after receiving notice,~~ his or her license may,
25 in the discretion of the Department, be suspended, revoked, or
26 placed on probationary status or the Department may take

1 whatever disciplinary action it considers ~~deemed~~ proper,
2 including limiting the scope, nature, or extent of the person's
3 practice or the imposition of a fine, without a hearing, if the
4 act or acts charged constitute sufficient grounds for such
5 action under this Act. The written notice may be served by
6 personal delivery or by certified mail to the address of record
7 or the address specified by the accused in his or her last
8 communication with the Department. ~~At the time and place fixed~~
9 ~~in the notice, the Department shall proceed to a hearing of the~~
10 ~~charges and both the applicant or licensee and the complainant~~
11 ~~shall be afforded ample opportunity to present, in person or by~~
12 ~~counsel, any statements, testimony, evidence, and arguments~~
13 ~~that may be pertinent to the charges or to their defense. The~~
14 ~~Department may continue a hearing from time to time. If the~~
15 ~~Board is not sitting at the time and place fixed in the notice~~
16 ~~or at the time and place to which the hearing shall have been~~
17 ~~continued, the Department may continue the hearing for a period~~
18 ~~not to exceed 30 days.~~

19 (Source: P.A. 91-580, eff. 1-1-00.)

20 (225 ILCS 125/135 new)

21 Sec. 135. Certification of record; costs. The Department
22 shall not be required to certify any record to the court, to
23 file an answer in court, or to otherwise appear in any court in
24 a judicial review proceeding unless there is filed in the
25 court, with the complaint, a receipt from the Department

1 acknowledging payment of the costs of furnishing and certifying
2 the record, which costs shall be determined by the Department.
3 The court may dismiss the action if the plaintiff fails to file
4 such receipt.

5 (225 ILCS 125/140)

6 (Section scheduled to be repealed on January 1, 2010)

7 Sec. 140. Subpoena; oaths. The Department has the power to
8 subpoena documents, books, records or other materials and to
9 bring before it any person ~~in this State~~ and to take testimony
10 either orally or by deposition, with the same fees and mileage
11 and in the same manner as is prescribed ~~by law in judicial~~
12 ~~proceedings~~ in civil cases in circuit courts of this State. The
13 Secretary, the designated hearing officer, and any Board member
14 has the power to administer oaths to witnesses at any hearing
15 that the Department is authorized to conduct, and any other
16 oaths authorized in any Act administered by the Department. ~~The~~
17 ~~Director and any Disciplinary Board member designated by the~~
18 ~~Director shall each have the authority to administer, at any~~
19 ~~hearing that the Department is authorized to conduct under this~~
20 ~~Act, oaths to witnesses and any other oaths authorized to be~~
21 ~~administered by the Department under this Act.~~

22 (Source: P.A. 91-580, eff. 1-1-00.)

23 (225 ILCS 125/142 new)

24 Sec. 142. Compelling testimony. Any circuit court, upon

1 application of the Department or designated hearing officer may
2 enter an order requiring the attendance of witnesses and their
3 testimony, and the production of documents, papers, files,
4 books, and records in connection with any hearing or
5 investigation. The court may compel obedience to its order by
6 proceedings for contempt.

7 (225 ILCS 125/145)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 145. Findings of fact and recommendations. At the
10 conclusion of the hearing, the Board shall present to the
11 Secretary ~~Director~~ a written report of its findings of fact,
12 conclusions of law, and recommendations. The ~~In the~~ report, ~~the~~
13 ~~Board~~ shall contain ~~make~~ a finding of whether or not the
14 accused person ~~charged licensee or applicant~~ violated a
15 ~~provision of~~ this Act or its rules. The Board ~~and~~ shall specify
16 the ~~the~~ nature of any violations ~~the violation~~ or failure to
17 comply and shall make its recommendations to the Secretary. In
18 making its recommendations for disciplinary action ~~discipline~~,
19 the Board may take into consideration all facts and
20 circumstances bearing upon the reasonableness of the conduct of
21 the accused ~~respondent~~ and the potential for future harm to the
22 public, including but not limited to previous discipline of
23 that respondent by the Department, intent, degree of harm to
24 the public and likelihood of harm in the future, any
25 restitution made, and whether the incident or incidents

1 complained of appear to be isolated or a pattern of conduct. In
2 making its recommendations for discipline, the Board shall seek
3 to ensure that the severity of the discipline recommended bears
4 some reasonable relationship to the severity of the violation.

5 The report of findings of fact, conclusions of law, and
6 recommendation of the Board shall be the basis for the
7 Department's order refusing to issue, restore, or renew a
8 license, or otherwise disciplining a licensee. If the Secretary
9 disagrees with the recommendations of the Board, the Secretary
10 may issue an order in contravention of the Board
11 recommendations. The finding is not admissible in evidence
12 against the person in a criminal prosecution brought for a
13 violation of this Act, but the hearing and finding are not a
14 bar to a criminal prosecution brought for a violation of this
15 Act.

16 (Source: P.A. 91-580, eff. 1-1-00.)

17 (225 ILCS 125/150)

18 (Section scheduled to be repealed on January 1, 2010)

19 Sec. 150. Board ~~Service of report~~; rehearing. At the
20 conclusion of the hearing, a copy of the Board's report shall
21 be served upon the applicant or licensee by the Department,
22 either personally or as provided in this act for the service of
23 a notice of hearing. In a case involving the refusal to issue
24 or renew a license or the discipline of a licensee, a copy of
25 the Board's report shall be served upon the respondent by the

1 ~~Department, either personally or as provided under Section 120~~
2 ~~of this Act for the service of the notice of hearing.~~ Within 20
3 days after the service, the applicant or licensee ~~respondent~~
4 may present to the Department a motion in writing for a
5 rehearing, which shall specify the particular grounds for a
6 rehearing. The Department may respond to the motion for
7 rehearing within 20 days after its service on the Department.

8 If no motion for rehearing is filed, then upon the expiration
9 of the specified time ~~time specified~~ for filing such a ~~the~~
10 motion, or if a motion for rehearing is denied, then upon the
11 denial the Secretary ~~Director~~ may enter an order in accordance
12 with recommendations of the Board, except as provided in
13 Section 160 or 165 of this Act. If the applicant or licensee
14 ~~respondent~~ orders a transcript of the record from the reporting
15 service and pays for the transcript of the record within the
16 time for filing a motion for rehearing, the 20-day period
17 within which such a motion may be filed shall commence upon the
18 delivery of the transcript to the applicant or licensee
19 ~~respondent~~.

20 (Source: P.A. 91-580, eff. 1-1-00.)

21 (225 ILCS 125/155 new)

22 Sec. 155. Secretary; rehearing. Whenever the Secretary
23 believes that substantial justice has not been done in the
24 revocation or suspension of a license, or refusal to issue,
25 restore, or renew a license, or other discipline of an

1 applicant or licensee, the Secretary may order a rehearing by
2 the same or another examiner.

3 (225 ILCS 125/170)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 170. Hearing officer. The Secretary ~~Notwithstanding~~
6 ~~the provisions of Section 120 of this Act, the Director~~ shall
7 have the authority to appoint an attorney licensed to practice
8 law in this State to serve as the hearing officer in any action
9 for refusal to issue, restore, or renew a license or to
10 discipline a licensee ~~a hearing authorized under Section 120 of~~
11 ~~this Act. The Director shall notify the Board of an~~
12 ~~appointment.~~ The hearing officer shall have full authority to
13 conduct the hearing. ~~The Board has the right to have at least~~
14 ~~one member present at a hearing conducted by a hearing officer~~
15 ~~appointed under this Section.~~ The hearing officer shall report
16 his or her findings of fact, conclusions of law, and
17 recommendations to the Board ~~and the Director.~~ The Board shall
18 ~~have 60 days from receipt of the report to review the report of~~
19 ~~the hearing officer and to present its findings of fact,~~
20 ~~conclusions of law, and recommendations to the~~ Secretary and to
21 all parties to the proceeding ~~Director.~~ ~~If the Board fails to~~
22 ~~present its report within the 60 day period, the Director shall~~
23 ~~issue an order based on the report of the hearing officer.~~ If
24 the Secretary ~~Director~~ disagrees ~~in any regard~~ with the
25 recommendation ~~report~~ of the Board or hearing officer, he or

1 she may issue an order in contravention of the recommendation
2 ~~report. The Director shall provide a written explanation to the~~
3 ~~Board on a deviation from the Board's report and shall specify~~
4 ~~with particularity the reasons for his or her deviation in the~~
5 ~~final order.~~

6 (Source: P.A. 91-580, eff. 1-1-00.)

7 (225 ILCS 125/180)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 180. Order or certified copy; prima facie proof. An
10 order or a certified copy of an order, over the seal of the
11 Department and purporting to be signed by the Secretary
12 ~~Director~~, shall be prima facie proof that:

13 (1) the signature is the genuine signature of the
14 Secretary Director;

15 (2) the Secretary Director is duly appointed and
16 qualified; and

17 (3) the Board and its members are qualified to act.

18 (Source: P.A. 91-580, eff. 1-1-00.)

19 (225 ILCS 125/185)

20 (Section scheduled to be repealed on January 1, 2010)

21 Sec. 185. Restoration of a suspended or revoked license. At
22 any time after the successful completion of a term of
23 suspension or revocation of a license, the Department may
24 restore it to the licensee upon written recommendation of the

1 Board unless, after an investigation and a hearing, the Board
2 ~~Department~~ determines that restoration is not in the public
3 interest. Where circumstances of suspension or revocation so
4 indicate, or on the recommendation of the Board, the Department
5 may require an examination of the licensee before restoring his
6 or her license.

7 (Source: P.A. 91-580, eff. 1-1-00.)

8 (225 ILCS 125/200)

9 (Section scheduled to be repealed on January 1, 2010)

10 Sec. 200. Summary Temporary suspension of a license. The
11 Secretary Director may summarily temporarily suspend the
12 license of a perfusionist without a hearing, simultaneously
13 with the institution of proceedings for a hearing provided for
14 in Section 120 of this Act, if the Secretary Director finds
15 that evidence in the Secretary's his-or-her possession
16 indicates that continuation in practice would constitute an
17 imminent danger to the public. In the event If the Secretary
18 Director temporarily suspends a license of a licensed
19 perfusionist without a hearing, a hearing must be commenced by
20 the Department shall be held within 30 days after the
21 suspension has occurred and shall be concluded as expeditiously
22 as may be practical without appreciable delay.

23 (Source: P.A. 91-580, eff. 1-1-00.)

24 (225 ILCS 125/205)

1 (Section scheduled to be repealed on January 1, 2010)

2 Sec. 205. Certificate of record. The Department shall not
3 be required to certify any record to the ~~a~~ court ~~or file an~~
4 ~~answer in court~~ or to otherwise appear in a court ~~in a judicial~~
5 ~~review proceeding~~ unless there is filed in the court, with the
6 complaint, a receipt from the Department acknowledging payment
7 of the costs of furnishing and certifying the record, which
8 costs shall be determined by the Department. Failure on the
9 part of the plaintiff to file a receipt in court shall be
10 grounds for dismissal of the action.

11 (Source: P.A. 91-580, eff. 1-1-00.)

12 (225 ILCS 125/212 new)

13 Sec. 212. Violations. Any person who violates any provision
14 of this Act shall be guilty of a Class A misdemeanor for a
15 first offense and a Class 4 felony for each subsequent offense.

16 (225 ILCS 125/220)

17 (Section scheduled to be repealed on January 1, 2010)

18 Sec. 220. Unlicensed practice; civil penalties.

19 (a) No person shall practice, offer to practice, attempt to
20 practice, or hold himself or herself out to practice as a
21 perfusionist without a license issued by the Department to that
22 person under this Act.

23 (b) In addition to any other penalty provided by law, a
24 person who violates subsection (a) of this Section shall pay a

1 civil penalty to the Department in an amount not to exceed
2 ~~\$5,000~~ for each offense as determined by the Department. The
3 civil penalty shall be assessed by the Department after a
4 hearing is held in accordance with the provisions of set forth
5 ~~in this Act regarding a hearing for the discipline of a~~
6 ~~licensee.~~

7 (c) The Department has the authority and power to
8 investigate any and all unlicensed activity.

9 (d) The civil penalty assessed under this Act shall be paid
10 within 60 days after the effective date of the order imposing
11 the civil penalty. The order shall constitute a judgment and
12 may be filed and execution had thereon ~~on the judgment~~ in the
13 same manner as a judgment from a court of record.

14 (e) All moneys collected under this Section shall be
15 deposited into the General Professions Dedicated Fund.

16 (Source: P.A. 91-580, eff. 1-1-00.)

17 (225 ILCS 125/227 new)

18 Sec. 227. Consent Order. At any point in the proceedings as
19 provided in Sections 85 through 130 and Section 150, both
20 parties may agree to a negotiated consent order. The consent
21 order shall be final upon signature of the Secretary.

22 (225 ILCS 125/230)

23 (Section scheduled to be repealed on January 1, 2010)

24 Sec. 230. Home rule powers. The regulation and licensing of

1 perfusionists are exclusive powers and functions of the State.
2 A home rule unit shall not regulate or license perfusionists.
3 This Section is a denial and limitation under subsection (h) of
4 Section 6 of Article VII of the Illinois Constitution.
5 (Source: P.A. 91-580, eff. 1-1-00.)

6 (225 ILCS 125/20 rep.)

7 (225 ILCS 125/42 rep.)

8 (225 ILCS 125/130 rep.)

9 (225 ILCS 125/160 rep.)

10 (225 ILCS 125/175 rep.)

11 Section 10. The Perfusionist Practice Act is amended by
12 repealing Sections 20, 42, 130, 160, and 175.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.

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