

SUMMARY OF PROPOSED LEGISLATION

The following summarizes the proposed licensing legislation. With the addition of the needed information, this summary can be used to briefly describe the purpose, structure, and duties of a separate licensing board for perfusion.

The legislation proposes to establish the [*Insert the title of the board that will govern the licensure process*] Board, a [*enter number*] -member board composed of [*enter number*] public members, [*enter number*] licensed perfusionists, and [*enter number of other types of members*]. The Board is administratively attached to [*enter appropriate agency, i.e. health department, licensure bureau, etc.*] and the functions of the board will be supported through licensee fees. The Board is charged with the duties of establishing the qualifications for perfusion applicants for licensing, approving and administering a competency examination, and disciplining licensees.

MODEL LANGUAGE FOR A SEPARATE LICENSING BOARD (A)

Section Titles are in bold type followed by a Narrative and Model Legislative Language.

(A)Sec. (1) Title

Every bill must have a Title. There is a difference between the Unofficial and Official Title for a bill.

The Official Title will include language which references the addition or amending of a current state statute, which is done by including the citation and title of that statute.

Model Legislative Language

This article may be cited as the Perfusionist Licensure Act.

(A)Sec. (2) Purpose

This section states the reason(s) for why the legislature needs to enact a new law, or revise an existing law, i.e. to amend an existing state statute. This section may also include a reference to a specific statutory citation to which the proposed legislation is being added. This can take the form of

*a new section or an amendment. [See **Public Policy Arguments for Licensing Perfusionists**]*

Model Legislative Language

(a) The legislature finds that:

- (1) the citizens of [*enter your state*] are entitled to the protection of their health, safety, and welfare from the unqualified or unprofessional practice of perfusion;
- (2) the practice of perfusion by unauthorized, unqualified, unprofessional, or incompetent persons is a threat to the public; and
- (3) the practice of perfusion is a dynamic and changing health care field which is continually evolving

to include more sophisticated and demanding patient care activities.

(b) The purpose of this article is to protect the public from the dangers described by Subsection (a) of this section by:

- (1) establishing minimum standards of education, training, and competency for persons engaged in the practice of perfusion and of the performance of perfusion services in a manner that provides for the continued evolution of the practice of perfusion; and
- (2) ensuring that the privilege of practicing in the field of perfusion is entrusted only to those licensed and regulated under this article.

(A) Sec. (3) Definitions

This section is the most important section of the legislation. It is important to carefully define any and all terms which are needed to describe the free-standing perfusion licensing Board which is being proposed. There are also State Commissioners and other Departments to which the proposed Board will report, which must be identified and accurately described. Most importantly, this section also defines what perfusion is and what the perfusionist's medical scope of practice will be. The definitions of "Extracorporeal circulation" and "Perfusion" are to match the AmSECT Scope of Practice language.

Model Legislative Language

In this article:

(a) "Board" means the **[Insert the title of the board that will govern the licensure process]**.

(b) "Department of **[Health/Licensure/etc.]**" means the **[Insert your state]** Department of **[Health/Licensure, etc. This could also be a separate State Board]**

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

(d) "Licensed Perfusionist" means a person licensed under this article.

(e) "Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of those activities, and

to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:

(1) the use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal

carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies:

(2) counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial

and organ preservation, extracorporeal life support, and isolated limb perfusion;

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

and

(4) in the performance of the acts described in this subsection:

(1) the administration of:

- (aa) pharmacological and therapeutic agents;
- (bb) blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;
- (II) the performance and use of:
 - (aa) coagulation monitoring and analysis;
 - (bb) physiologic monitoring and analysis;
 - (cc) blood gas and chemistry monitoring and analysis;
 - (dd) hematologic monitoring and analysis
 - (ee) hypothermia
 - (ff) hyperthermia
 - (gg) hemoconcentration and hemodilution
 - (hh) hemodialysis
- (III) the observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics, and the implementation of appropriate reporting, perfusion protocols, or changes in or the initiation of emergency procedures.
- (f) “Perfusion protocols” means perfusion related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.
- (g) “Provisional licensed perfusionist” means a person provisionally licensed under this article.

(A) Sec. (4) Board Membership

This section creates the Perfusion Licensing Board and defines which medical professionals and public representatives will be eligible to serve on the Board. The groups which should have representation

are perfusionists and physicians, preferably with knowledge and experience with perfusion technology. Some states will require members from the general public. In this regard, allied health professionals are not considered to be a public representative on the Board. It also stipulates

the appointment process and tenure of Board members. With regard to setting terms of Board members,

there should be staggered terms of service so that there are always members with previous experience. With regard to perfusion members of the Board, perfusionists should hold the majority

of the positions. It is recommended that the size of the whole Board be limited to five people, with perfusionists having at least three seats. An odd number for members is recommended and there must be a mechanism defined for breaking tie votes. With regard to the initial appointment of perfusionists

to the Board, the paragraph (d) standard appears to mean that perfusionists would not be eligible. However, perfusionists would be eligible because of their eligibility for licensing as covered

in Sec. 23, the Grandfather provision section.

Model Legislative Language

- (a) The **[insert your state]** State Board of Perfusionists is created.
- (b) The board is composed of **[define the size and makeup of your board]**.
- (c) The **[insert the person responsible for appointments in your state, i.e. the governor with the advice and consent of the Senate]** shall appoint the board members who shall serve staggered terms of **[insert the**

number of years of service (recommended “six years”)] with [insert a number equal to one third of the members of the board] members’ terms expiring [insert a day and month (recommended February 1 of each odd-numbered year)].

(d) A license holder eligible for appointment as a licensed perfusionist board member must have been licensed

under this article for at least **[number of years]** before appointment to the board.

(e) It is the intent that the membership of the board reflect the historical and cultural diversity of the inhabitants

of this state. Appointments to the board should be made without discrimination based on race, creed, sex,

religion, national origin, or geographical distribution of the appointees.

(f) It is the intent that the perfusionist members of the board, represent the many varied aspects of the profession.

Appointment to the board should be made without bias towards perfusionists working in academia, the

public sector, or the private sector.

(g) ***[If appropriate, describe those persons who aren’t eligible for membership on the board.***

These paragraphs

become important if the Board has non-perfusion members. You may want to exclude: officers, managers, or paid consultants of trade associations in the field of health care, or the spouse of a medical

professional]

(A) Sec. (5) Grounds For Removal

This section describes the reasons and the process for removing an appointed member of the Board.

There is specific information relating to the state agency under which the board is created which will be needed. This information will be cited in other state medical professional licensing legislation,

and will be provided when the State Legislative Counsel Office drafts a final version of the bill for introduction.

Model Legislative Language

(a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required for appointment to the board;

(2) does not maintain during service on the board the qualifications required for appointment to the board;

(3) violates a prohibition established by this article;

(4) cannot discharge the member’s term for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible

to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when grounds for removal of

a member of the board exists.

(c) If the ***[Title of Administrative Official who runs day to day operations of the board]*** has knowledge that a

potential grounds for removal exists, the [*Title of Administrative Official who runs day to day operations of the board*] shall notify the presiding officer of the board of the grounds. The presiding officer shall then notify the [*person who makes board appointments, i.e. governor*] that a potential for removal exists.

(A) Sec. (6) Officers; Meetings; Quorum; Expenses

This section describes the administrative functions of the Board. The specific administrative dates and board quorum figures will most likely be determined by what other professional licensing boards

have adopted. The important provision in this section is that the board will draft and adopt its own

rules for how business will be conducted.

Model Legislative Language

(a) Not later than the [*insert a number*]th day after the day its new members are appointed by [*the person who makes appointments i.e. governor*], the board shall meet to elect a chairman and vice-chairman who shall

hold office according to rules adopted by the board.

(b) The board shall hold at least [*insert number*] regular meetings each year as provided by rules adopted by the

board. The rules may not be inconsistent with present rules of the [*department overseeing meetings of boards*].

(c) [*Insert a percentage number or the words A majority or Two Thirds*] of the members constitutes a quorum.

(d) A member of the board is entitled to a per diem as set forth by [*describe the state mechanism*], for each day

that the member engages in the business of the board. A member is entitled to compensation for travel

expenses as provided for by [*describe the state mechanism*].

(A) Sec. (7) Powers And Duties Of The Board

This section describes the legal authority the Board has for implementing and conducting the licensing

process in the state. It also includes the specific tasks and actions the board can take and the administrative and reporting functions of the Board. Most importantly, this section includes the recognition of the minimal training and continuing educational requirements for holding a state license, Sec. (b)(12). The model language in Section 7(C) governs advertising by health care professionals.

States have different restrictions for advertising.

Model Legislative Language

(a) The board may adopt rules not inconsistent with this article as are necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of perfusion in this state, and the

enforcement of this article. In adopting rules, the board shall consider the rules and procedures of the [*enter*

the name of the agency or agencies that oversee the board], and shall adopt procedural rules not inconsistent

with existing rules and procedures of the [*enter the name of the agency or agencies that oversee the*

board].

(b) The board shall:

(1) adopt and publish a code of ethics;

(2) establish the qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;

(3) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a

violation of this article, the code of ethics, or the rules of the board;

(4) spend funds necessary for the proper administration of its assigned duties;

(5) establish reasonable and necessary fees for the administration and implementation of this article;

(6) comply with the **[list pertinent state laws that relate to boards i.e. open meetings laws]**;

(7) provide to its members and employees, as often as necessary, information regarding their qualifications

for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees;

(8) develop and implement policies that provide the public with a reasonable opportunity to appear

before the board and to speak on any issue under the jurisdiction of the board;

(9) develop and implement policies that clearly define the respective responsibilities of the board and

the staff of the board;

(10) prepare and maintain a written plan that complies with federal and state laws for program and facility

accessibility;

(11) comply with the board's member training requirements established by any other state agency that is

given authority to establish requirements for the board; and

(12) establish continuing professional education requirements for licensed perfusionists and provisional

licensed perfusionists under this chapter, the standards of which shall be at least as stringent as the

didactic requirements established by the American Board of Cardiovascular Perfusion or its successor

agency, and shall;

(A) establish the minimum amount of continuing education required to renew a license under this article;

(B) develop a process to evaluate and approve continuing education courses;

(C) identify the factors for the competent performance by a license holder of the license holder's professional duties; and

(D) develop a procedure to assess a license holder's participation in continuing education programs.

(c) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the

board except to prohibit false, misleading, or deceptive practices. The board may not include in its rules to

prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;

- (3) relates to the size or duration of any advertisement by the person; or
(4) restricts the person's advertisement under a trade name.
(d) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for directing complaints to the board. The board may provide for that notification:
(1) on each license form, application, or written contract for services of a person licensed under this article;
(2) on a sign prominently displayed in the place of business of each person licensed under this article;
or
(3) in a bill for services provided by a person licensed under this article.
(e) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

(A) Sec. (8) Administrative Function; Personnel

This section depicts the staff personnel for running the day-to-day affairs of the board and the administrative functions of the Executive Director for the board.

Model Legislative Language

- (a) The basic personnel and necessary facilities required to administer this article shall be the personnel and facilities of [*enter appropriate agency, i.e. health department, licensing bureau, etc.*] The [*enter appropriate agency*] personnel shall act as the agents of the board. If necessary to the administration or implementation of this article, the board by agreement may secure and provide for compensation for services that it considers necessary and may employ and compensate within available appropriations professional consultants, technical assistants, and employees on a full-time or part time basis.
(b) The [*enter appropriate agency/departmental head*] shall designate an employee to serve as Executive Director of the board. The Executive Director shall be an employee of [*enter appropriate agency, i.e. health department, licensing bureau, etc.*] The Executive Director shall be the administrator of the licensing activities for the board.
(c) In addition to other duties prescribed by this article and by the [*enter appropriate agency, i.e. health department, licensing bureau, etc. from Sec 8 (a)*] the Executive Director shall:
(1) keep full and accurate minutes of the transactions and proceedings of the board;
(2) be the custodian of the files and records of the board;
(3) prepare and recommend to the board plans and procedures necessary to implement the purposes and objectives of this article, including rules and proposals on administration of this article.
(4) exercise general supervision over persons employed by the department in the administration of this

article;

(5) be responsible for the investigation of complaints and for the presentation of formal complaints;

(6) attend all meetings of the board as a nonvoting participant;

(7) handle the correspondence of the board and obtain, assemble, or prepare the reports and information

that the board may direct or authorize;

(8) develop a system of annual performance evaluations based on measurable job tasks, which shall be

the basis for all merit pay for board employees; and

(9) prepare and maintain a written policy statement to ensure implementation of a program of equal

employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or natural origin, which policy statement must **[insert the requirements of state]**.

(A) Sec. (9) Fees: Funds: Annual Report: Audit

The costs of running a free-standing licensing board must be paid for from licensee application, state examination, and annual licensing fees. The types and number of fee categories will be dependent

upon the different levels of licensure designation, i.e. full or provisional licensing, and the treatment of license renewal or replacement of a license which has been applied for and approved.

The model language gives the board the authority to make these decisions. In cases where specific

categories are needed, there should be (1) an application category; (2) an examination category; (3) an initial license category; (4) an initial provisional license category; (5) a license renewal category; (6) a delinquency category; and, (7) a duplicate license category. If specific fee levels are

required, it is important to keep in mind that the amount set for an examination fee must be adequate

to cover all of the charges associated with the ABCP examination. If an amount for an examination

fee is specified, it must allow for future increases in ABCP examination fees. Ideally, the categories

and amounts of fees should be determined by the proposed Perfusion Licensing Board. The following

covers these subjects and the financial accounting process of the Board.

Model Legislative Language

(a) The board shall set the fees imposed by this article in amounts so that the fees in the aggregate, with any

other appropriations allocated, produce sufficient revenue to cover the cost of administering this article

without accumulating an unnecessary surplus in the licensed perfusionists fund created by this section.

(b) The fees set by the board may be adjusted so that the total fees collected are sufficient to meet the expenses

of administering this article.

(c) The **[enter agency name]** shall receive and account for funds derived under this article. The funds shall be

deposited in the state treasury to the credit of a special fund to be known as the licensed perfusionists fund to be used only for the administration of this article.

(d) The board shall make a complete and detailed written report to the **[enter appropriate agency/departmental head]** accounting for all funds received and disbursed by the board or the **[enter agency that oversees the board]** for the administration of this article during the preceding year.

(e) The financial transactions of the board in relation to the administration of this article are subject to **[enter the states process of overseeing of state board funds]**.

(A) Sec. (10) Applicant Qualifications; Application Review

This section specifies the minimum requirements for filing an application and taking a state examination

to be eligible for the granting of a license. It also specifies the responsibilities of the board in setting dates, for notification on applications, and the minimum requirements for the education programs which must be completed as part of the process to establish eligibility to take a state examination and make application for a license.

Model Legislative Language

(a) An applicant for a perfusionist license must submit a sworn application accompanied by an application fee.

(b) The board shall prescribe the form of the application and by rule may establish dates by which applications and fees must be received.

(c) To qualify for the licensing examination, the applicant must have successfully completed a perfusion education program approved by the board.

(d) In approving perfusion education programs necessary for qualification for licensing examination, the board shall approve only a program that was approved by the Committee on Allied Health Education and Accreditation (CAHEA) of the American Medical Association (AMA) prior to June of 1994, or that has educational standards that are at least as stringent as those established by the Accreditation Committee for Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor.

(e) Not later than **[enter number]**th day after the date of receipt of a properly submitted and timely application and not later than the **[enter number]**th day before the next examination date, the department shall notify an applicant in writing that the applicant's application and any other relevant evidence pertaining to applicant qualifications established by the board by rule have been received and investigated. The notice shall state whether the application and other evidence submitted have qualified the applicant for examination. If the applicant has not qualified for examination, the notice shall state the reasons for the lack of qualification.

(A) Sec. (11) Examination

This section states the powers given to the proposed perfusion licensing board to use the American Board of Cardiovascular Perfusion (ABCP) certification examination as the examination for making an application for a license, or to establish a separate state examination, to measure the professional competency of a perfusionist. Passage of an examination is required to establish eligibility for making an application for a license in the state.

Model Legislative Language

(a) To qualify for a license, an applicant must pass a competency examination. Examinations shall be prepared

or approved by the board and administered to qualified applicants at least once each calendar year.

(b) An examination prescribed by the board may be or may include the complete certification examinations

given by the American Board of Cardiovascular Perfusion (ABCP) or its successor or state testing service in

lieu of an examination prepared by the board. The board may have the examination validated by an independent testing professional.

(c) Not later than 45 days after the date on which a licensing examination is administered under this article, the

approved testing service shall notify each examinee of the results of the examination.

(d) If requested in writing by a person who fails the licensing examination, the approved testing service shall

furnish the person with an analysis of the person's performances on the examination.

(A) Sec. (12) License

This section states what license holders must do, other than paying an annual licensing fee, to comply with and be in good standing with the public notification and inspection requirements for holding a license in the state. A license which is granted is not the property of the holder, but is the

property of the state.

Model Legislative Language

(a) A person who meets the licensing qualifications under this article is entitled to receive a license as a licensed

perfusionist.

(b) The license holder must:

(1) display the license in an appropriate and public manner; or

(2) maintain on file at all times during which the license holder provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility;

and

(3) keep [*enter appropriate agency, i.e.; health department, licensing bureau, etc.*] informed of any

change of address.

(c) A license certificate issued by the board is the property of the board and shall be surrendered on demand.

(A) Sec. (13) License Expiration; Renewal

Medical licenses are not granted in perpetuity. They must be reissued or renewed periodically, and

the renewal does not necessarily have to correspond with the time period for the paying of the licensing fee. This section states what license holders must do to renew a license that has expired.

There is a thirty day grace period for renewal without a penalty. If a license has been expired for two years or more, the person cannot have the license renewed or reissued. There are also requirements for maintaining and being able to prove that the license holder has satisfied continuing education requirements.

Model Legislative Language

(a) A license is valid for [**number year or years**] from the date it is issued and may be renewed.

(b) The board may by rule adopt a system under which licenses expire on various dates.

(c) A person may renew an unexpired license by submitting proof satisfactory to the board of compliance with the continuing professional education requirements prescribed by the board and paying the required fee.

(d) If a person's license has been expired for not more than ninety days, the person may renew the license by submitting proof satisfactory to the board of compliance with the continuing professional education requirements

prescribed by the board and paying to the board the required fee.

(e) If a person's license has been expired for more than ninety days but less than two years, the person may renew the license by submitting proof satisfactory to the board of compliance with the continuing professional education requirements prescribed by the board and paying a fee to the board.

(f) If a person's license has been expired two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

(g) The board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state(s), and is currently appropriately licensed or certified and has been in practice in other states for the two years preceding application. The person must pay a fee to the board.

(h) The board shall notify each license holder in writing of the license expiration date before the [**enter a number**]th day before that date by notice to the license holder at the license holder's last known address according to the records of the board.

(A) Sec. (14) Provisional License

This section addresses the granting of a provisional license to a perfusionist who has completed an

accredited perfusion training program but has not completed the American Board of Cardiovascular

Perfusion (ABCP) certification examination process. It is important that this section be reviewed concerning changes in the ABCP certification examination process. The model language for this section would allow for the granting of a provisional license for at least one year. A perfusionist

could apply for a regular license to practice perfusion upon the successful passage of the ABCP examinations. Failure of any portion of the ABCP certification examination would result in the revocation of the provisional license. However, the Licensing Board is granted the authority to extend a provisional license based on criteria that it determines and adopts by rule. It is important

to know that few, if any, other perfusion related health professions allow practitioners to be provisionally licensed.

Model Legislative Language

(a) A license as a provisional licensed perfusionist may be issued by the board to a person who has successfully completed an approved perfusion education program and the filing of an application, payment of an application fee, and the submission of evidence satisfactory to the board of the successful completion of the education requirement set forth in Section 10 of this article.

(b) A provisional licensed perfusionist shall be under the supervision and direction of a licensed perfusionist at all times during which the provisional licensed perfusionist performs perfusion. Rules adopted by the board governing such supervision and direction may not require the immediate physical presence of the supervising licensed perfusionist.

(c) A person qualified for a provisional license under this article is entitled to receive a license as a provisional perfusionist. A provisional licensed perfusionist shall comply with sections 12(b) and (c) of this article.

(d) A provisional license is valid for one year from the date it is issued and may be extended, subject to rule by the Board. The application for extension must be signed by a supervising licensed perfusionist.

(e) Upon notification by the approved testing service, or the board, that any portion of the licensing examination has been failed, the provisional license will be surrendered to the board or **[enter appropriate agency, i.e. health department, licensing bureau, etc.]**

(A) Sec. (15) Endorsement

The purpose of this section is to allow the board to ratify a professional certification or license granted in another state as being recognized for licensure status in the state. This would apply to perfusionists who enter the state, from another state in which they have already received a professional certification or license, the qualifications of which are deemed to be equal to the requirements in the state, to practice perfusion and receive a license.

Model Legislative Language

On receipt of an application and application fee, the board shall waive the examination and educational requirements for an applicant who at the time of application:

(a) is appropriately licensed or certified by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the license or certificate are the substantial equivalent of the requirements of this article as determined by the board; or

(b) holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion (ABCP), or its successor prior to **[insert date that the proposed law is to take effect]**.

(A) Sec.(16) Prohibited Acts And Penalties

This section stipulates that unless a person has a license as a perfusionist they cannot hold themselves out as being a perfusionist, nor can they practice perfusion in the state.

Model Legislative Language

(a) A person may not engage or offer to engage in perfusion, as defined in this article, for compensation or use the title or represent or imply that the person has the title of “licensed perfusionist” or “provisional licensed perfusionist” or use the letters “LP” or “PLP” and may not use any facsimile of these titles in any manner to indicate or imply that the person is a licensed perfusionist or provisional licensed perfusionist unless the person holds an appropriate license issued under this article.

(b) A person may not use the title or represent or imply that the person has the title of “certified clinical perfusionist” or use the letters “CCP” and may not use any facsimile of those titles in any manner to indicate or imply that the person is a certified clinical perfusionist by the American Board of Cardiovascular Perfusion unless the person holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion.

(c) A person commits an offense if the person knowingly or intentionally violates Subsection (a) or (b) of this section. An offense under this section is a *[enter appropriate term i.e. Class B misdemeanor]*.

(A) Sec. (17) Exemptions

This section describes which individuals are not covered by licensure. In all states, any other licensed health care professional will be exempted. The model legislative language includes an exemption for perfusion students enrolled in an accredited training program, and for persons practicing perfusion who are employed by federal government agencies, i.e. the Veterans Administration or working in hospitals located on military bases.

Model Legislative Language

This article does not apply to:

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

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

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

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

(1) are an integral part of the student’s course of study; and

(2) are performed under the direct supervision of a licensed perfusionist assigned to supervise the student

and who is on duty and immediately available in the assigned patient care area;

(c) the practice of any legally qualified perfusionist employed by the United States government while in the discharge of official duties.

(A) Sec. (18) Complaint Procedure In General

Sections 18 and 19 describe the specific requirements and the process the board must follow in

reviewing cases in which the professional competency of a licensed perfusionist has been brought into question. This is instituted through the filing of a complaint and entails an investigation by the board, with a final decision being made.

Model Legislative Language

(a) The board shall keep an information file about each complaint filed with the board. The board's information

file shall be kept current and contain a record for each complaint of:

- (1) all persons contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed; and
- (4) other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as

frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of

the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form to standardize information concerning complaints made to the board.

The board by rule shall prescribe information to be provided to a person when the person files a complaint

with the board.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(A) Sec. (19) Complaint Investigation And Disposition

Model Legislative Language

(a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules

adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the

person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in

the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator

and the procedures for the board to obtain the services of a private investigator.

(b) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for

conducting each phase of a complaint that is under the control of the board not later than the **[number]** th

day after the date the complaint is received by the board. The schedule shall be kept in the information file

for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint.

A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than **[insert number of days]** day after the date the change is made.

(c) The executive director of the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

(A) Sec. (20) Monitoring Of A License Holder

Model Legislative Language

The board by rule shall develop a system for monitoring license holder's compliance with the requirements of this article. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

(A) Sec. (21a) Revocation And Suspension

These two sections cover the same topics, but at different levels of administrative law specification.

The model legislative language in Sec. (21A) does not specify specific violations as such, but grants to the proposed board the authority to specify specific violations. The model legislative language in

Sec. (21B) lists seven specific violations requiring proof of evidence for a finding of a violation which could result in the revocation and/or suspension of a license to practice perfusion in the state.

When using this model legislative language, a decision must be made to use either (21A) or (21B).

The factor which will have the most influence on which language to use will be how license revocation and suspension has been used in existing state licensing laws.

Model Legislative Language

(a) The board shall revoke or suspend a license, place on probation a person whose license has been suspended,

or reprimand a license holder on proof of:

(1) any violation of this article; or

(2) any violation of a rule or code of ethics adopted by the board.

(b) If a license suspension is probated, the board may require the license holder;

(1) to report regularly to the board on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the board; or

(3) to continue the person's professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(c) If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing before a

hearing's officer appointed by the *[insert the appropriate agency]*. The board shall prescribe procedures by

which all decisions to suspend or revoke a license are appealable to the board.

(d) The board by rule shall adopt a broad schedule of sanctions for violations under this article.

(e) A member of the board or hearings examiner may not communicate with a party to a proceeding pending

before the board or the hearings examiner or with a party's representative unless notice and an opportunity

to participate are given to each party to the proceeding if the member or hearings examiner proposes to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(A) Sec. (21b) Revocation And Suspension

Model Legislative Language

(a) The board shall revoke or suspend a license, place on probation a person whose license has been suspended,

or reprimand a license holder on proof of:

(1) any violation of this article; or

(2) any violation of a rule or code of ethics adopted by the board.

(3) unprofessional conduct, which includes, but is not limited to, the following:

(A) Incompetence, or gross negligence in carrying out usual perfusion functions.

(B) A conviction of practicing perfusion without a license or a provisional license.

(C) The use of advertising relating to perfusion in a way that violates state statutes.

(D) Procuring a License or Provisional License by fraud, misrepresentation, or mistake.

(E) Making or giving any false statement or information in connection with the application for a License or Provisional License.

(F) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a perfusionist, in which event the record of the conviction shall be conclusive evidence thereof.

(G) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(A) Sec. (22) Duties Of The Board

This section describes the general duties of the board.

Model Legislative Language

For the purposes of this article, the board:

(a) shall request and receive necessary assistance from state educational institutions or other state agencies;

(b) shall prepare a registry of licensed perfusionists and provisional licensed perfusionists and make this information

available to the general public, license holders, and appropriate state agencies;

(c) may request the attorney general or the appropriate county or district attorney to institute a suit to enjoin a

violation of this article in addition to any other action, proceeding, or remedy authorized by law.

(A) Sec. (23) Grandfather

A practicing professional may be automatically designated as being licensed to perform the designated

services, regardless of previous educational training background, or whether they have been certified by a voluntary professional certifying board. "Grandfathering" allows those persons who

are currently practicing a profession a pathway to obtain a license to practice. The mandated academic

and/or the examination standards apply to new persons entering the profession after a specified date. Along with the Definitions Section, this is the most important provision in licensing

legislation.

Model Legislative Language

(a) Prior to but not beyond [*enter specified date*] a person is eligible to make application to the board and

receive a license notwithstanding the requirements of Sections 10 and 11 if the person was actively engaged

in the practice of perfusion consistent with applicable law, and if the person meets one of the following requirements:

(1) the person was operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed

health care facility as the person's primary function and had been operating the system since **[enter specified date]**.

(2) the person has at least five years' experience operating cardiopulmonary bypass systems during

cardiac surgical cases in a licensed health care facility as the person's primary function since **[enter**

a specified date]. **[This means five years out of the last number of years specified] .**

(b) Notwithstanding Section 4, a perfusionist member of the **[insert the state name State Board of Perfusionists]**

is not required to be licensed if the member was appointed to the board before the effective date of this

Act. Within 90 days after the board has issued its first license, a perfusionist member of the board must apply

and receive a license.

(A) Sec. (24) Sunset

The purpose of the sunset provision is to establish an automatic termination date for the proposed licensing board. If possible, no sunset provision should be included. If required, the sunset period should be set at the most future date possible.

Model Legislative Language

The **[insert the state name State Board of Perfusionists]** is subject to **[insert Chapter #, Government Code (State**

Sunset Act)], and its subsequent amendment. Unless continued in existence as provided by that chapter, the board is

abolished **[insert a future date]**.

(A)Sec. (25) Effective Date

Model Legislative Language

This Act takes effect on **[enter a specified date]**.