

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

(B)Sec. (1) Title

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

The Title will include statutory references for amending of the state statute which created the existing board or agency, which could include the Board of Medical Examiners, the Board of Professional Licensing, the Nursing Board, or similarly named Boards.

Model Legislative Language

This article/chapter may be cited as the Perfusionist Licensure Act.

(B)Sec. (2) Purpose

This section states the reason(s) for why the legislature needs to revise an existing state statute. There will be numerous questions which legislators or their staff will ask concerning the need for a

licensing bill for perfusion. [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.

MODEL LANGUAGE FOR LICENSURE BOARD UNDER EXISTING STATE LICENSING BOARD (B)

(B) 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 Board, Advisory Board, or Committee which is

proposed and reference the Board to which it will report. 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 Board of Medical Examiners or another state Board name]**.
- (b) "Advisory Board or Committee" means the Perfusion **[insert Advisory Board or Committee]**.
- (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:
 - (I) 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.

(B) 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 Board or Committee]** of Perfusionists is created.

(b) The **[insert Board or Committee]** is composed of **[define the size and makeup of the board or committee]**.

(c) The **[insert the person or institutional entity responsible for appointment, i.e. the governor]** shall appoint

the board members who shall serve staggered terms of **[insert the number of years]** with **[insert a number**

equal to one third of the members of the board] members’ terms expiring **[insert a day and month 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 **[insert Board or Committee]**.

(e) It is the intent that the membership of the **[insert Board or Committee]** reflect the historical and cultural

diversity of the inhabitants of this state. Appointments to the **[insert Board or Committee]** 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 **[insert Board or Committee]**, represent the many varied

aspects of the profession. Appointment to the **[insert Board or Committee]** should be made without bias

towards perfusionists working in academia, the public sector, or the private sector.

(g) The Chairman of the **[insert Board or Committee]** shall be a perfusionist.

(h) **[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]

(B) Sec. (5) Grounds For Removal

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

Board or Committee. This section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law addressing removal

of members of subcommittees or advisory committees under the authority of the governing Board. There is specific information relating to the Board or State Agency under which the board or

committee is created which may 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;

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

(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 meetings that the member is eligible to

attend during a calendar year unless the absence is excused by majority vote of the **[insert Board or**

Committee].

(b) The validity of an action of the **[insert Board or Committee]** is not affected by the fact that it is taken when

grounds for removal of a member 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.

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

This section describes the administrative functions of the Board or Committee. This section may not

be needed, since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law. 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, the board shall meet

to elect a chairman who shall hold office according to rules adopted by the **[insert Board or Committee]**, or established elsewhere by law.

(b) The **[insert Board or Committee]** shall hold at least **[insert number]** regular meetings each year as provided by rules adopted by the **[insert Board or Committee]**, or established elsewhere by law. The rules may not be inconsistent with present rules of the **[insert Board of Medical Examiners or another state Board name]**.

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

(d) A member of the **[insert Board or Committee]** 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]**.

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

This section describes the reporting authority of the Board or Committee and lists specific duties and responsibilities for implementing and conducting the licensing process for perfusionists in the

state. In this section, (a) and (b) generally delegate specific tasks. Section (c) contains specific delegated authorities. Most importantly, this section includes the recognition of the minimal training

and continuing educational requirements for holding a state license, Sec. (c)(5). Some of the provisions in this section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law. The manner in which the duties and responsibilities for implementing and conducting the licensing process will be done will

most likely be determined by what other professional licensing boards have adopted.

Model Legislative Language

(a) The **[insert Board or Committee]** shall, under the authority of the **[Insert Board of Medical Examiners or another state Board or Agency name]** recommend to the Board for its promulgation as regulations the criteria for licensure as a perfusionist and the standards of professional conduct for holders of such licenses.

(b) The **[insert Board or Committee]** shall, under the authority of the **[Insert Board of Medical Examiners or another state Board or Agency name]** assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, registration and regulation, and licensure of perfusionists.

(c) Under the authority of the **[Insert Board of Medical Examiners or another state Board name]** the **[insert Board or Committee]** shall:

(1) establish a code of ethics;

- (2) establish the qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;
- (3) establish the revocation, suspension, or denial of 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) establish the categories of fees and the amount of fees that may be imposed in connection with a license.
- (5) 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.
- (6) under the authority of the **[Insert Board of Medical Examiners or another state Board name]** assist in such other matters dealing with perfusion as the **[Insert Board of Medical Examiners or another state Board name]** may in its discretion direct.

(B) Sec. (8) 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 or committee 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. This section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

The **[insert Board or Committee]** shall, under the authority of the **[Insert Board of Medical Examiners or another state Board name]**, establish the qualifications necessary to make application for a perfusion license, and the process the **[insert Board or Committee]** shall follow for reviewing applications.

- (a) An applicant for a perfusionist license must submit a sworn application accompanied by an application fee.
- (b) The **[insert Board or Committee]** 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 **[insert Board or Committee]** and the **[insert Board of Medical Examiners or another state Board name]**.

(d) In approving perfusion education programs necessary for qualification for licensing examination, the **[insert Board or Committee]** 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.

(B) Sec. (9) 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. Some of the provisions in this section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

The **[insert Board or Committee]** shall, under the authority of the **[Insert Board of Medical Examiners or another state Board name]**, establish the examination and process to be used to judge the qualifications for the granting of a perfusion license.

(a) To qualify for a license, an applicant must pass a competency examination. Examinations shall be prepared or approved by the **[insert Board or Committee]** and administered to qualified applicants at least once each calendar year.

(b) An examination prescribed by the **[insert Board or Committee]** may be or may include the complete certification examinations given by the American Board of Cardiovascular Perfusion (ABCP) or its successor agency, or by a state testing service in lieu of an examination prepared by the board. The **[insert Board or Committee]** 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 or **[Insert Board of Medical Examiners or another state Board name]** 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 or

[Insert Board of Medical Examiners or another state Board name] shall furnish the person with an analysis of the person's performances on the examination.

(B) Sec. (10) 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. It is very likely that the provisions in this section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

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 **[Insert Board of Medical Examiners or another state Board name]** informed of any change of address.

(c) A license certificate issued by the **[Insert Board of Medical Examiners or another state Board name]** is the property of the board and shall be surrendered on demand.

(B) Sec. (11) 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. It is very likely that the provisions in this section may not be needed since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

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 **[Insert Board or Committee]** 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 **[Insert Board or Committee]** of compliance with the continuing professional education requirements prescribed by the **[Insert Board]**

or Committee] and paying the required renewal fee to the board before the expiration date of the license.

(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 **[Insert Board or Committee]** of compliance with the continuing professional education requirements prescribed by the **[Insert Board or Committee]** and paying to the board the required renewal 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 **[Insert Board or Committee]** of compliance with the continuing professional education requirements prescribed by the **[Insert Board or Committee]** and paying to the board the required renewal fee.

(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 **[Insert Board or Committee]** 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.

(B) Sec. (12) 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 Perfusion (ABCP) certification examination process. It is important that this section be re-

51 GUIDE TO STATE LICENSURE LEGISLATION FOR PERFUSIONISTS

viewed 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 reapply for a regular license upon the successful passage of the ABCP certification examinations. Failure of any portion of the ABCP certification examination would result in the revocation of the provisional license. However, the Licensing Board/Committee 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 **[Insert Board or Committee]** of the successful completion of the education requirement set forth in Section 8 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 **[Insert Board or Committee]** governing such supervision and direction may not require the immediate physical presence of the supervising licensed perfusionist.

(c) A provisional license is valid for one year from the date it is issued and may be extended subject to rule by the **[Insert Board or Committee]**. The application for extension must be signed by a supervising licensed perfusionist.

(d) 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 **[Insert Board or Committee]** or **[enter appropriate agency, i.e.; health department, licensing bureau, etc.]**

(B) Sec. (13) Endorsement

The purpose of this section is to allow the Board or Committee 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. Some of the provisions in this section may not be needed, since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

The **[insert Board or Committee]** shall, under the authority of the **[insert Board of Medical Examiners or another state Board name]**, on receipt of an application and application fee, waive the examination requirement 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 **[insert Board or Committee]**; 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]*.

(B) Sec.(14) 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. It is very likely that the provisions in this section may not be needed, since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

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]*.

(B) Sec. (15) Exemptions

This section describes which individuals are not covered by the proposed legislation; those individuals who are exempt from its stated requirements and the application of any proposed penalties. Almost without exception in any other state licensure laws, 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

53 GUIDE TO STATE LICENSURE LEGISLATION FOR PERFUSIONISTS

(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.

(B) Sec. (16) Complaint Procedure In General

Sections 16 and 17 describe the specific requirements and the process for 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 and a final decision. It is very likely that the provisions in these two sections may not be needed, since a perfusion board or committee

will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

(a) The **[insert Board or Committee]** shall keep an information file about each complaint filed with the **[insert**

Board or Committee]. 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 **[insert Board or Committee]** that the **[insert Board or Committee]**

has authority to resolve, the **[insert Board or Committee]**, 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 **[insert Board or Committee]** by rule shall adopt a form to standardize information concerning complaints

made to the **[insert Board or Committee]** and shall prescribe information to be provided to a person

when the person files a complaint with the board.

(d) The **[insert Board or Committee]** shall provide reasonable assistance to a person who wishes to file a

complaint.

(B) Sec. (17) Complaint Investigation And Disposition

Model Legislative Language

(a) The **[insert Board or Committee]** shall adopt rules concerning the investigation of a complaint filed with the

[insert Board or Committee]. The rules adopted under this subsection shall:

(1) require that complaints filed with the **[insert Board or Committee]** be reported to the **[insert Board**

of Medical Examiners or another state Board or Agency name];

(2) distinguish between categories of complaints;

(3) ensure that complaints are not dismissed without appropriate consideration;

(4) require that the **[insert Board of Medical Examiners or another state Board or Agency name]** 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;

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

the complaint; and

(6) 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 **[insert Board or Committee]** shall dispose of all complaints in a timely manner. The **[insert Board or**

Committee] shall establish a schedule for conducting each phase of a complaint that is under the control of

the **[insert Board or Committee]** 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 **[insert Board or Committee]** shall notify the **[insert Board of Medical Examiners or another state**

Board or Agency name] of a complaint that extends beyond the time prescribed for resolving the complaint

so that the **[insert Board of Medical Examiners or another state Board or Agency name]** may take necessary

action on the complaint.

(B) Sec. (18) Monitoring Of A License Holder

It is very likely that the provisions in these two sections may not be needed, since a perfusion board

or committee will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

The **[insert Board or Committee]** 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.

(B) Sec. (19a) Revocation And Suspension

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

The model legislative language in Sec. (19a) does not specify specific violations but grants the authority to specify specific violations. The model legislative language in Sec. (19b) 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 (19a) or (19b). 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. However, it is very likely that the provisions in these

two sections may not be needed, since a perfusion board or committee will report to a governing Board, which may already have stipulations written into law.

Model Legislative Language

(a) The **[insert Board or Committee]** 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 **[insert Board or Committee]**.

(b) If a license suspension is probated, the **[insert Board or Committee]** may require the license holder;

(1) to report regularly to the **[insert Board or Committee]** on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the **[insert Board or Committee]**; or

(3) to continue the person's professional education until the license holder attains a degree of skill satisfactory to the **[insert Board or Committee]** in those areas that are the basis of the probation.

(c) If the **[insert Board or Committee]** proposes to suspend or revoke a person's license, the person is entitled to

a hearing before a hearing officer appointed by the **[insert Board of Medical Examiners or another state**

Board or Agency name]. The **[insert Board or Committee]** shall prescribe procedures by which all decisions

to suspend or revoke a license are appealable to the **[insert Board of Medical Examiners or another**

state Board or Agency name].

(d) The **[insert Board or Committee]** by rule shall adopt a broad schedule of sanctions for violations under this

article which are consistent with those already stipulated by the **[insert Board of Medical Examiners or**

another state Board or Agency name].

(e) A member of the **[insert Board or Committee]** or hearings examiner may not communicate with a party to a

proceeding pending before the **[insert Board of Medical Examiners or another state Board or Agency**

name] 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.

(B) Sec. (19b) Revocation And Suspension

Model Legislative Language

(a) The *[insert Board or Committee]* 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 *[insert Board or Committee]*.
- (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.

(B) Sec. (20) Duties Of The *[insert Board or Committee]*

This section describes the general duties of the board. It is very likely that the provisions in this section may not be needed, since a perfusion board or committee will report to a governing Board,

which may already have stipulations written into law.

Model Legislative Language

For the purposes of this article, the *[insert Board or Committee]*:

- (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.

(B) Sec. (21) 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.

(B) Sec. (22) 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]**.

(B)Sec. (23) Effective Date

Model Legislative Language

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