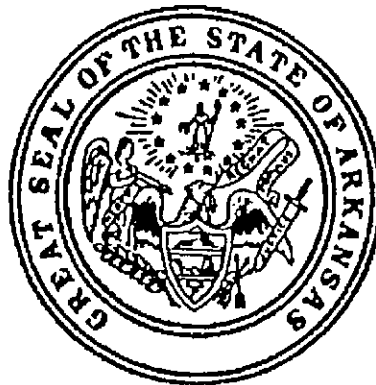


EXHIBIT F

Draft Rules and Regulations for Perfusionists in Arkansas 2013
01-26-12

Agency # 007.05

RULES AND REGULATIONS FOR PERFUSIONISTS IN ARKANSAS



ARKANSAS DEPARTMENT OF HEALTH
200012

Draft Rules and Regulations for Perfusionists in Arkansas 2012
01-26-12

TABLE OF CONTENTS

<u>FORMER SECTION 1</u>	<i>1 thru 8</i>
<u>SECTION 1: AUTHORITY</u>	1-1
<u>SECTION 2: PURPOSE</u>	2-1
<u>FORMER SECTION 3 & 4</u>	1,2
<u>SECTION 3: DEFINITIONS</u>	3-1
<u>SECTION 4: LICENSURE</u>	4-1
<u>SECTION 5: CODE OF ETHICS</u>	5-1
<u>SECTION 6: CERTIFICATION</u>	6-1

~~SECTION 1: Perfusionist Licensure Act.~~

~~State of Arkansas~~ ~~As Engrossed: S2/26/99~~
~~82nd General Assembly~~ ~~A Bill~~ ~~Act 888 of 1999~~
~~Regular Session, 1999~~ ~~SENATE BILL 499~~

~~By: Senator Bradford~~

~~For An Act To Be Entitled~~

~~"AN ACT TO CREATE THE PERFUSIONIST LICENSURE ACT; AND FOR OTHER PURPOSES."~~

~~Subtitle~~

~~"TO CREATE THE PERFUSIONIST LICENSURE ACT."~~

~~BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:~~

~~SECTION 1. This Act shall be known as the "Perfusionist Licensure Act."~~

~~SECTION 2. For purposes of this Act:~~

~~(1) "Board" means the State Board of Health;~~

~~(2) "Committee" means the Perfusionists Advisory Committee;~~

~~(3) "Department" means the Department of Health;~~

~~(4) "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, kidneys, liver, or other organs;~~

~~(5) "Licensed Perfusionist" means a person licensed under this Act;~~

~~(6) "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 supervision of a licensed physician, including:~~

~~(A) The use of extracorporeal circulation, long-term cardiopulmonary support techniques including, but not limited to, extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;~~

~~(B) Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;~~

~~(C) The use of techniques involving blood management, advanced life support, related functions;~~

~~(D) The administration of pharmacological and therapeutic agents or blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line for perfusion purposes as ordered by a physician;~~

~~(E) The performance and use of:~~

~~(i) Anticoagulation monitoring and analysis;~~

- ~~(ii) Physiologic monitoring and analysis;~~
- ~~(iii) Blood gas and chemistry monitoring and analysis;~~
- ~~(iv) Hematologic monitoring and analysis;~~
- ~~(v) Hypothermia;~~
- ~~(vi) Hyperthermia;~~
- ~~(vii) Hemoconcentration and hemodilution; and~~
- ~~(viii) Hemodialysis; and~~

~~(F) 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.~~

~~(7) "Perfusion protocols" means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals; and~~

~~(8) "Provisional licensed perfusionist" means a person provisionally licensed under this Act.~~

~~SECTION 3. (a) There is created effective July 1, 1999, the Perfusionists Advisory Committee which shall consist of five (5) members, with a demonstrated interest in perfusion, to be appointed by the Governor, one (1) of which is recommended by the Arkansas Hospital Association.~~

~~(b) The members shall either be trained in the profession of perfusion or shall be licensed medical doctors of good professional standing. A majority of the members shall be trained in the profession of perfusion.~~

~~(c) The members shall be appointed for three (3) year staggered terms, to be assigned by lot. The terms shall commence on July 15 of each year. In the event of a vacancy on the committee for any reason other than expiration of a regular term, the vacancy shall be filled for the unexpired portion of the term by appointment of the Governor.~~

~~(d) Members of the committee shall not be entitled to compensation for their services, but may receive expense reimbursement and a stipend not to exceed fifty dollars (\$50) per meeting in accordance with Arkansas Code 25-16-902, to be paid by the Department of Health.~~

~~SECTION 4. (a) The committee, within thirty (30) days after its appointment, shall organize as necessary to carry out its purposes as prescribed by this Act.~~

~~(b)(1) At the initial organizational meeting of the committee, the members shall elect from among their number a chairman, vice chairman and secretary to serve for one (1) year.~~

~~(2) Annually thereafter, an organizational meeting shall be held to elect the officers.~~

~~(3) A majority of the members of the committee shall constitute a quorum for the transaction of business and to perform such duties as the committee may prescribe.~~

~~(c) Quarterly meetings of the committee shall be held. Special meetings may be called by the chairperson or as provided by the rules of the committee.~~

~~(d)(1) The secretary of the committee shall keep full and true records of all committee proceedings and preserve all books, documents, and papers relating to the business of the committee.~~

~~(2) The records of the committee shall be open for inspection at all reasonable times.~~

~~(e) The committee shall report in writing to the board by July 31 of each year. The report shall contain a summary of the proceedings of the committee during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the committee, other information deemed necessary or useful, and any additional information which may be requested by the Governor.~~

~~SECTION 5. (a) The committee shall recommend for adoption by the board rules, regulations, and standards on matters relating to the licensure as a perfusionist and the standards of professional conduct for the licensees.~~

~~(b) The committee shall, under the authority of the board, assist the board in carrying out the provisions of this Act regarding the qualifications, examination, registration, regulation, and licensure of perfusionists.~~

~~(c) Under the authority of the board, the committee shall:~~

- ~~(1) Recommend to the board a code of ethics for perfusionists;~~
- ~~(2) Recommend to the board the qualifications and fitness of applicants for licensure, renewal of licenses and reciprocity with other states;~~
- ~~(3) Recommend to the board the procedure for the revocation, suspension, or denial of a license, probate a license suspension, or reprimand a licensee for a violation of this Act, the code of ethics, or the regulations promulgated by the board;~~
- ~~(4) Recommend to the board the categories of fees and the amount of fees that may be imposed to obtain a license;~~
- ~~(5) Recommend to the board continuing professional education requirements for licensed perfusionists and provisional licensed perfusionists under this Act, the standards of which shall be at least as strict as those of the American Board of Cardiovascular Perfusion, existing on July 1, 1999 and the standards shall:~~

~~(A) Establish the minimum amount of continuing education required to renew a license under this Act;~~

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

~~(C) Identify the factors for the competent performance by a licensee; and~~

~~(D) Develop a procedure to assess a licensee's participation in continuing education programs; and~~

~~(6) Under the authority of the board, assist in other matters dealing with perfusion as the board may direct.~~

~~SECTION 6. The board shall, in accordance with the Arkansas Administrative Procedure Act, promulgate and implement regulations which it deems necessary to carry out the provisions of this act.~~

~~SECTION 7. The department shall:~~

~~(1) Administer the provisions of this act;~~

~~(2) Enforce the regulations promulgated by the board for the administration and enforcement of this act;~~

~~(3) Employ and prescribe the duties of employees as may be necessary to administer the provisions of this act;~~

~~(4) Beginning July 1, 2000, issue initial and renewal licenses to qualified applicants who provide perfusion services; and~~

~~(5) Collect fees for licensure and accept public and private gifts, grants, and donations for the purpose of administering this Act.~~

~~SECTION 8. (a) An applicant for a perfusionist license shall submit a sworn application to the department for consideration.~~

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

~~(c) To qualify for a license, an applicant shall pass a competency examination. The examination shall be approved by the board and shall be administered to qualified applicants at least once per calendar year.~~

~~(d) No later than two (2) months after the date on which a licensing examination is administered, the board shall notify each examinee of the results of the examination.~~

~~(e) An applicant who has failed the licensing examination may request, in writing, that the board furnish the applicant with an analysis of the applicant's performance on the examination.~~

~~SECTION 9. (a) Any person who meets the licensing qualifications under this Act is entitled to receive a license as a licensed perfusionist.~~

~~(b) The licensed perfusionist shall:~~

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

~~(2) Maintain on file in the health care facility in which the licensed perfusionist is working, an accurate copy of the perfusionist's license; and~~

~~(3) Keep the department informed of any change of address.~~

~~(c) A license certificate issued by the department is the property of the department and shall be surrendered upon demand.~~

~~SECTION 10. (a) A perfusionist's license is valid for two (2) years from the date it is issued and may be renewed.~~

~~(b) A person may renew an unexpired license by submitting proof satisfactory to the department of compliance with the continuing professional education requirements prescribed by the board and by paying the required renewal fee to the board prior to the expiration date of the license.~~

~~(c) A person whose license has been expired for less than ninety (90) days may renew the license by submitting proof satisfactory to the department of compliance with the continuing professional education requirements prescribed by the board and by paying the required renewal fee and a penalty as established by the board.~~

~~(d) A person whose license has been expired for more than ninety (90) days but less than two (2) years may renew the license by submitting proof satisfactory to the department of compliance with the continuing professional education requirements prescribed by the board and by paying the required renewal fee and a penalty as established by the department.~~

~~(e) A person whose license has been expired for more than two (2) years may~~

~~not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining a license established under this Act.~~

~~(f) The department may renew an expired license without reexamination, if the person was originally licensed in the State of Arkansas and at the time of the request for relicensure in Arkansas is licensed in another state and has been licensed to practice in that state for the preceding two (2) years prior to the request. The fee for this license shall be determined by the board.~~

~~(g) The department shall notify each licensee, in writing, of the expiration date of the license at the licensee's last known address according to the records of the department.~~

~~SECTION 11. (a) A license for a provisional licensed perfusionist may be issued to a person who has successfully completed an approved perfusion education program and the filing of an application, payment of the application fee, and the submission of evidence satisfactory to the department of the successful completion of the education requirements set forth in this Act.~~

~~(b) A provisional licensed perfusionist shall be under the supervision and direction of a licensed perfusionist at all times. Regulations governing the supervision and direction of the provisionally licensed perfusionist shall not require the immediate physical presence of the supervising licensed perfusionist.~~

~~(c) A provisional perfusionist license is valid for one (1) year from the date issued and may be renewed by the same procedures established for renewal for a licensed perfusionist.~~

~~(d) Upon notification by the department that a person has failed any portion of the licensure examination, the person shall surrender the provisional perfusionist license to the department.~~

~~SECTION 12. (a) The department, under the authority of the board may waive the examination requirement for an applicant who at the time of the application:~~

~~(1) Is licensed or certified by another state if the requirements of that state for the license or certificate are the substantial equivalent of the requirements of this Act as determined by the board; or~~

~~(2) Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion, or its successor, prior to January 1, 2000.~~

~~(b) The applicant shall pay to the department the application fee.~~

~~SECTION 13. (a) A person shall not engage or offer to engage in perfusion 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 shall 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 that license issued under this Act.~~

~~(b) A person shall not use the title or represent or imply that the person has the title of "certified clinical perfusionist" or use the letters "CCP", and shall 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 violation of the provisions of this Act is a Class C misdemeanor.~~

~~SECTION 14. This Act does not apply to:~~

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

~~(A) The person does not represent to the public, directly or indirectly, that the person is licensed under this Act; and~~

~~(B) The person confines the person's acts or practice to the scope of practice authorized by the other health professional licensing law;~~

~~(2) A student enrolled in an accredited perfusion education program if perfusion services performed by the student are:~~

~~(A) An integral part of the student's course of study; and~~
~~(B) 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; and~~

~~(3) The practice of any qualified perfusionist employed by the United States government while in the discharge of official duties.~~

~~SECTION 15. (a) The department shall keep an information file containing each complaint filed with the department. The 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 dismissed complaint; and~~

~~(4) Other relevant information.~~

~~(b) If a written complaint is filed with the department, the department shall notify the parties of the status of the complaint unless the notice would jeopardize an undercover investigation.~~

~~(c) The board shall adopt a form to standardize information concerning complaints made to the department, and shall prescribe the information to be provided to a person when a complaint has been filed.~~

~~SECTION 16. (a) The board shall adopt regulations concerning the investigation of a complaint filed with the department. The regulations adopted under this section shall:~~

~~(1) Ensure that complaints are not dismissed without appropriate consideration; and~~

~~(2) Ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint.~~

~~(b) The department shall dispose of all complaints in a timely manner.~~

~~SECTION 17. The board shall develop a system for monitoring licensee's compliance with this Act. Regulations adopted under this section shall include procedures for monitoring licensees to determine that the licensee performs the acts required by the department and to identify and monitor licensees who represent a risk to the public.~~

~~SECTION 18. (a) The department shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee upon a determination of:~~

~~(1) Any violation of this Act; or
(2) Any violation of a regulation or code of ethics adopted by the board.~~

~~(b) If a license suspension is probated, the department may require the licensee to:~~

~~(1) Report on a regular basis to the department on matters that are the basis of the probation;
(2) Limit practice to the areas prescribed by the department; or
(3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are the basis of the probation, satisfactory to the department.~~

~~(c) Upon a determination by the department to suspend or revoke a person's license, the licensee is entitled to a hearing before the board. The board shall prescribe procedures by which all decisions to suspend or revoke a license are appealable to the board.~~

~~(d) The board shall adopt a schedule of sanctions for violations under this Act.~~

~~(e) A member of the board or hearing examiner may not communicate with a party to a proceeding pending before the department or with a party's representative unless notice and an opportunity to participate are given to each party to the proceedings.~~

~~SECTION 19. The department shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee upon a determination of:~~

~~(1) Any violation of this Act;
(2) Any violation of a rule or code of ethics adopted by the board; or
(3) Unprofessional conduct, which includes, but is not limited to:
(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 manner which violates state law;
(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 the license or provisional license;
(F) A plea of guilty, nolo contendere, or a finding of guilt of a felony or any offense substantially related to the qualifications, functions, or duties of a~~

~~perfusionist, in which event the record shall be conclusive evidence; or
(G) Impersonating an applicant or acting as proxy for an applicant
in any examination required under this Act for the issuance of a license.~~

~~SECTION 20. (a) Any person is eligible to make application to the board and receive a license, subject to the provisions of this Act, if the person is in the practice of perfusion consistent with applicable law, and if the person meets one of the following requirements:~~

~~(1) The person, as of January 1, 2000, 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 January 1, 1998; or~~

~~(2) The person has at least five (5) years' experience operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function since January 1, 1990.~~

~~(b) Subject to the provisions of this Act, a perfusionist member of the Perfusionist Advisory Committee is not required to be a licensed perfusionist if the member was appointed to the committee prior to January 1, 2000. Within ninety (90) days after the board has issued its first license, a perfusionist member of the committee shall apply for a license.~~

~~SECTION 21. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.~~

~~SECTION 22. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.~~

~~SECTION 23. All laws and parts of laws in conflict with this Act are hereby repealed.~~

~~SECTION 24. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that the development of the perfusionist licensure procedure is essential to the public health, safety, and welfare of the people of this state, and that the immediate implementation of the provisions of this Act is necessary to establish a licensure procedure without undue delay. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.~~

~~/s/ Bradfor~~

~~APPROVED: 3/29/1999d~~

SECTION 3: ~~Perfusionists Advisory Committee.~~ ~~There is created effective July 1, 1999, the Perfusionists Advisory Committee which shall consist of five (5) members, with a demonstrated interest in perfusion, to be appointed by the Governor, one (1) of which is recommended by the Arkansas Hospital Association. The members shall either be trained in the profession of perfusion or shall be licensed medical doctors of good professional standing. A majority of the members shall be trained in the profession of perfusion. The members shall be appointed for three (3) year staggered terms, to be assigned by lot. The terms shall commence on July 15 of each year. In the event of a vacancy on the committee for any reason other than expiration of a regular term, the vacancy shall be filled for the unexpired portion of the term by appointment of the Governor. Members of the committee shall not be entitled to compensation for their services, but may receive expense reimbursement and a stipend not to exceed fifty dollars (\$50) per meeting in accordance with Arkansas Code 25-16-902, to be paid by the Department of Health.~~

SECTION 4: Organization of Committee. ~~The committee, the members shall elect from among their number a chairman, vice chairman and secretary to serve for one (1) year. Annually thereafter, an organizational meeting shall be held to elect the officers. A majority of the members of the committee shall constitute a quorum for the transaction of business and to perform such duties as the committee may prescribe. Quarterly meetings of the committee shall be held. Special meetings may be called by the chairperson or as provided by the rules of the committee. The secretary of the committee shall keep full and true records of all committee proceedings and preserve all books, documents, and papers relating to the business of the committee. The records of the committee shall be open for inspection at all reasonable times. The committee shall report in writing to the board by July 31 of each year. The report shall contain a summary of the proceedings of the committee during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the committee, other information deemed necessary or useful, and any additional information which may be requested by the Governor.~~

SECTION 1: Authority.

The following Rules and Regulations for Perfusionist in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. 17-104-101 et. seq.

SECTION 2: Purpose.

These rules and regulations establish minimum standards for licensure of Perfusionists in Arkansas. These standards are not static and are subject to periodic revisions in the future as new knowledge and changes in patient care trends become apparent. Perfusionists in Arkansas have a strong moral responsibility for providing optimum patient care and treatment.

SECTION 23: Definitions.

- A. **Board** means the State Board of Health.
- B. **Committee** means the Perfusionists Advisory Committee.
- C. **Department** means the Department of Health.
- D. **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, kidneys, liver, or other organs.
- E. **Licensed Perfusionist** means a person licensed under ~~Act 888~~ Ark. Code Ann. 17-104-101 et. seq., as amended.
- F. **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 supervision of a licensed physician, including:
 - 1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including, but not limited to, 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, related functions;
 - 4. The administration of pharmacological and therapeutic agents or blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line for perfusion purposes as ordered by a physician;
 - 5. The performance and use of:
 - a. Anticoagulation monitoring and analysis;
 - b. Physiologic monitoring and analysis;
 - c. Blood gas and chemistry monitoring and analysis;
 - d. Hematologic monitoring and analysis;

- e. Hypothermia;
 - f. Hyperthermia;
 - g. Hemoconcentration and hemodilution; and
 - h. Hemodialysis, ~~and~~
6. 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.
- G. **Perfusion protocols** means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals, ~~and~~
- H. **Provisional licensed perfusionist** means a person provisionally licensed under Act 888 Ark. Code Ann. 17-104-101 et. seq., as amended.

SECTION 64: Licensure.

A. Requirements.

1. Any person is eligible to make application to the board and receive a license, subject to the provisions of ~~Act 888~~ Ark. Code Ann. 17-104-101 et. seq. as amended if the person is in the practice of perfusion consistent with applicable law, and if the person meets one of the following requirements:

a. ~~The person, as of January 1, 2000, 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 January 1, 1998; or~~

b. ~~The person has at least five (5) years experience operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function since January 1, 1990.~~

~~Subject to the provisions of Act 888, a perfusionist member of the Perfusionists Advisory Committee is not required to be a licensed perfusionist if the member was appointed to the committee prior to January 1, 2000. Within ninety (90) days after the board has issued its first license, a perfusionist member of the committee shall apply for a license.~~

2.14. A licensed clinical perfusionist shall conform to the Code of Ethics as adopted by the Perfusionists Advisory Committee and approved by the State Board of Health. See Section 5.

3.13. A licensed clinical perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interested into conflict with the patient's interests. A licensed clinical perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.

4.15. ~~The applicant is required to~~ shall make application upon a form prepared by the Arkansas Department of Health, ~~Perfusionists Advisory Committee, State Board of Health.~~

52. A ~~clinical~~ perfusionist shall practice perfusion only when duly licensed to do so pursuant to the provision of the Perfusion Licensure Act- Ark. Code Ann. 17-104-101 et. seq. as amended.
65. A licensed ~~clinical~~ perfusionist shall notify the ~~Director of the Arkansas Department of Health, Perfusionists Advisory and the Committee~~ of the suspension, probation, revocation or any final disciplinary action of any past or currently held permits, licenses, or certificates required to practice perfusion in this or any jurisdiction of the US, US territories, District of Columbia or the province of Canada within ~~thirty~~ (30) days of final adjudication.
744. A licensed ~~clinical~~ perfusionist shall report to the ~~Director of the Arkansas Department of Health, Perfusionists Advisory and the Committee~~ any alleged violation of status, rules and regulations governing the practice of perfusion in the state of Arkansas within 30 days of the alleged violation.
83. A licensed ~~clinical~~ perfusionist shall not procure or attempt to procure a license or renewal of a license to practice perfusion by fraud or deceit.
9. A licensed ~~clinical~~ perfusionist shall not practice perfusion after a license has expired or has been suspended, revoked or not renewed.
106. A licensed ~~clinical~~ perfusionist shall not practice perfusion under cover of any permit, license or certificate illegally or fraudulently obtained or issued.
117. A licensed ~~clinical~~ perfusionist shall not obtain or attempt to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation or willfully over charge or over treat patients.
128. A licensed ~~clinical~~ perfusionist shall not willfully perform inappropriate or unnecessary treatment, diagnostic tests or perfusion services.
139. A licensed ~~clinical~~ perfusionist shall not delegate professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities.
1440. A licensed ~~clinical~~ perfusionist shall not violate or attempt, directly or indirectly, or assist or enable any person to violate, any provisions, ~~of Act 888, document, or section, or of any lawful rule, or regulation adopted pursuant to Act 888, document or section~~ or any Code of Ethics adopted pursuant to Ark. Code Ann. 17-104-101 et. seq.

12. ~~A licensed perfusionist shall not be the subject of final disciplinary action by the professional perfusionists association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including but not limited to, any removed suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of Act 888, document or section.~~

B. New Applicants

1. All new applicants for a perfusionist license shall submit a signed application to the Department for consideration; and
2. Shall meet the requirements of the American Board of Cardiovascular Perfusion (ABCP) for Certification and be certified by the ABCP.

CD. Renewal. Each renewal period the licensee must be able to provide proof of:

1. current certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor; or

2(a). thirty (30) hours of perfusion-related continuing professional education which may include ACLS, PALS, and BLS, of which at least ten (10) hours shall be meetings, programs or activities accredited for continuing education hours by ABCP or its successor; and

(b). forty (40) clinical activities annually.

I. Clinical activities are defined as:

aa. Bypass, Primary

bb. Instructor

cc. Venovenous Bypass

dd. Pump Assisted Coronary and /or Organ Perfusion (PADCAB/isolated limb perfusion)

ee. CPS

ff. ECMO

gg. VAD

hh. Documented intraoperative pump
standby

ii. Bypass first assistant.

II. Of the 40 clinical activities above, a maximum of 15 activities may be documented intraoperative pump standbys and/or bypass first assistant. The standbys must be documentable in an audit. For each ECMO or VAD case, one case credit will be awarded for initiating and maintaining on shift (4 hours minimum), or managing one shift (8 hours minimum), or the duration of the case. Cases performed as the Clinical Instructor in an accredited program are considered primary perfusions and may be included in this category.

2. Regular licenses are renewable every two years. Provisional licenses are renewable for 12 months.

23. The period of completion of the continuing professional education and clinical activities requirements shall be the ~~twelve (12)~~ 24 (twenty-four) month period beginning January 1 and ending December 31 of each renewal period. A licensee who has failed to obtain and report, in a timely fashion their continuing professional education and clinical activities shall not engage in the practice of perfusion unless an extension is obtained pursuant to number ~~five~~ six (6) below of this rule.

43. Each licensee shall certify by signature, under penalty of perjury, that he/she has completed the required units of continuing professional education and clinical activities on the renewal form.

54. Each licensee shall retain records documenting completion of the continuing professional education and clinical activities requirements for a minimum of three ~~(3)~~ years after the reporting period in which the continuing professional education and clinical activities was completed. The Board may conduct an audit of licensees to verify compliance with the continuing professional education and clinical activities requirements. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.

5 6. A licensee who cannot complete the continuing professional education and clinical activities requirements because of personal illness, military service or other circumstances beyond the licensee's control which the

board deems to be sufficient to impose an insurmountable hardship may apply for an extension of time to complete the continuing professional education and clinical activities requirements. Any extension of time to complete the continuing professional education and clinical activities requirements will be granted solely ~~in~~ at the discretion of the board. The licensee must make a written application for extension of time prior to the ~~December~~January 31 deadline or completion of the continuing professional education and clinical activities requirement. A processing fee of \$50.00 shall accompany the application for extension. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the continuing professional education and clinical activities requirements shall not engage in the active practice of perfusion unless the board grants the licensee's request for extension and the licensee received express written authorization to engage in the active practice of perfusion.

- a. The board, solely in its discretion, may grant an extension based on unforeseeable circumstances beyond the licensee's control which impose an insurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities. At a minimum, the licensee must provide written documentation explaining specifically and in detail the nature of the circumstances were unforeseeable and beyond the licensee's control, the period during which the circumstances were in existence, the number of continuing professional education units and clinical activities earned in the reporting period and the licensee's plan for completing the balance of the requirements. The board, in its discretion, shall determine if the situation described in the licensee's application constitutes unforeseeable circumstances beyond the licensee's control which impose an unsurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities.
- b. The licensee who is granted an extension of time shall complete the balance of his/her continuing professional education and clinical activities requirements no later than six months after return to work immediately following the end of the reporting period for which an extension was sought and shall provide the board with written documentation of his/her completion of the continuing education requirements no later than ~~July~~August 10 immediately following the end of the reporting period for which an extension was sought. Failure to complete the continuing professional education and clinical activities requirements by ~~December~~January 31st or to file the documentation with the board by ~~July~~August 10 shall constitute a violation of Section D.3.

7. A licensee who has failed to complete and report in a timely fashion the required units of continuing professional education and clinical activities and engages in the active practice of perfusion without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of perfusion.

CD. Provisional License.

14. A license as a provisional licensed perfusionist may be issued by the board to a person who has:
 - a. ~~successfully completed an approved~~ successfully completed an approved ~~accredited~~ accredited perfusion education program recognized by ABCP or its successor;
 - b. ~~on the filing of~~ filed an application;
 - c. ~~payment of~~ paid an application fee; and
 - d. ~~and the submission of~~ submitted such evidence ~~satisfactory to the board of the successful completion of the education and clinical activities requirements as required by the board, set forth in Section 5(c)(2) of this article.~~
2. 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.
3. A person qualified for a provisional license under ~~this article~~ these rules and regulations is entitled to receive a license as a provisional licensed perfusionist. A provisional licensed perfusionist shall comply with other pertinent sections of ~~this article~~ these rules and regulations.
4. A provisional license is valid for ~~one year~~ 12 months from the date it is issued and may be ~~rendered~~ renewed annually not more than ~~three two~~ two years by the same procedure established for renewal under Section ~~404~~ 404 of ~~these rules, is article if t~~ these rules, is article if t. The application for renewal ~~is~~ shall be signed by a supervising licensed perfusionist.
5. ~~Fee for a provisional license is \$150.00 annually.~~

E. Reciprocity. License shall be granted to the licensee of another state if ~~the~~ an applicant if:

The applicant is licensed or certified by another state if the requirements of that

~~state for license or certificate are as substantial equivalent of the requirements of Ark. Code Ann. 17-104-101 et. seq.~~

- ~~2. Holds a current certification issued by the ABCP, or its successor and pays the appropriate application fee.~~

F. Displaying of License.

1. Perfusionists shall display their license in an appropriate and public manner; or
2. Maintain on file in the health care facility in which the licensed perfusionists is working, an accurate copy of the perfusionists license; and
3. Keep the Department informed of any change of address.

BG. Fees.

1. Initial application for consideration of licensure which requires a complete certification of stated qualifications and credentials in the application shall be \$150.00.
2. For ~~relicensure~~renewal of license occurring every two years which only checks the current credentials and clinical activities of the already licensed perfusionist shall be \$100.00.
3. Fee for a provisional license is \$150.00 annually.
4. Fee for reciprocity is \$100.00.
5. Fee for an extension is \$50.00.

~~E.H. Continuing Education and Clinical Activities. The board recommends licensed Pperfusionists and provisional licensed Pperfusionists shall meet the continuing education and clinical activities requirements of ABCP American Board of Cardiovascular Perfusion and/or their~~ its successor.

F.I. Procedure on Denial, Reprimand, Probation, Civil Penalties, Suspension, or Revocation.

1. Grounds for Discipline. The board shall have sole authority to deny or suspend any license to practice perfusion issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise

discipline a licensee upon determination of:

- a. Any violation of ~~Act 888~~ Ark. Code Ann. 17-104-101 et. seq.; or
- b. Any violation of a regulation or code of ethics adopted by the board;
- c. Any violation of a rule or code of ethics adopted by the board; or
- d. Unprofessional conduct, which includes, but is not limited to:
 - 1) Incompetence or gross negligence in carrying out usual perfusion functions;
 - 2) A conviction of practicing perfusion without a license or a provisional license;
 - 3) The use of advertising relating to perfusion in a manner which violates state law;
 - 4) Procuring a license or provisional license by fraud, misrepresentation or mistake;
 - 5) Making or giving any false statement or information in connection with the application for the license or provisional license.
 - 6) A plea of guilty, nolo contendere, or a finding of guilt of a felony or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or
 - 7) Impersonating an applicant or acting as proxy for an applicant in any examination required under Act 888 for the issuance of a license.
- e. If a license suspension is probated, the department may require the licensee to:
 - 1) Report on a regular basis to the department on matters that are the basis of the probation.
 - 2) Limit the practice to the areas prescribed by the department;
or
 - 3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are

the basis of the probation, satisfactory to the department.

2. Proceedings. Proceedings shall be as follows:
 - a. Opportunity for licensee or applicant to have a hearing. Except as provided in Subsection 2) below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the board. The board shall have authority to take any action the effect of which would be to:
 - 1) Deny a license after examination for any cause other than failure to pass an examination;
 - 2) Withhold the renewal or reinstatement of a license for any cause;
 - 3) Revoke a license;
 - 4) Suspend a license;
 - 5) Probate a license;
 - 6) Reprimand a license;
 - 7) Levy civil penalties.
 - b. Suspension of license without prior notice or hearing. If the Department of Health finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the board may suspend the license pending a hearing without prior notice of hearing.
 - 1) When the Department of Health contemplates taking any action, it shall give a written notice to the licensee at the last address of record, which contains a statement:
 - a) That the Department of Health has sufficient evidence which, if not rebutted or explained, will justify the Department of Health in taking the contemplated action;
 - b) Indicating the general nature of the evidence, and detailed allegations of violation the licensee is charged with; and
 - c) That a hearing will be held on a date certain, no

sooner than 20 days after the mailing of the notice to the last address of record ~~in the board office~~ and at the hearing the board will receive the evidence.

- 2) When the Department of Health shall summarily suspend a license pending a hearing, it shall give written notice of the general nature of the evidence and detailed allegations of the violation the licensee is charged with:
 - a) The Department of Health has sufficient evidence which, if not rebutted or explained, will justify revocation of the license by the board;
 - b) Indicating the general nature of the evidence against the licensee;
 - c) That, based on the evidence indicated, the Department of Health has determined the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as the date such notice is served;
 - d) The board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Department of Health.
- 3) In any hearing before the board involving the suspension or revocation of the license, the burden shall be on the Department of Health to present competent evidence to justify the action taken or proposed by the board.

GJ. Civil Penalties. The board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed \$500.00 for each violation against those individuals or entities found to be in violation of this Chapter or regulations promulgated thereunder.

1. Each day of violation shall be a separate offense.
2. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this Chapter.
3. Unless the penalty assessed under this subsection is paid within ~~thirty~~ (30) calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

HK. Method of Serving Notice of Hearing. Any notice required by ~~Subsection B.3., above,~~ may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at this or her last known address ~~as shown by the records of the board.~~ If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept this notice. An attempt to serve notice at the last address of record shall constitute official notice.

HL. Venue of Hearing. Board hearings held under provisions of this rule shall be conducted at the board office or elsewhere in Pulaski County.

JM. Hearings Public. Use of Hearing Office all hearings under this section shall be open to the public. At all such hearings at least a quorum of the board shall be present to hear and determine the matter.

KN. Rights of Persons Entitled to Hearing. A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses, books, papers and documents;
3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefore to the board; and
5. Have a transcript of the hearing made at his or her own expense ~~as provided in Section VIII.D. hereof.~~

LO. Powers of the board in Connection with Hearing. In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;

4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the board; and
6. Direct a continuance of any case.

MP. Rules of Evidence. In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct of serious affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

NQ. Manner and Time of Rendering Decision. After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where a quorum of the members of the Board are present and participating in the decision. In any case the decision must be rendered within ~~ninety (90)~~ days after the hearing.

OR. Service of Written Decision. Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last known address of record in the Board office. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

PS. Procedure Where Persons Fails to Request or Appear for Hearing. If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required.

QT. Contents of Decision. The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

SECTION 5: ~~Rules and Regulations~~ Code of Ethics

~~A. Code of Ethics.~~

4. PREAMBLE. The purpose of a code of ethics is to acknowledge a profession's acceptance of the responsibility and trust conferred upon it by society and to recognize the internal obligations inherent in that trust. The following paragraphs delineate the standards governing the conduct of perfusionists in their professional interactions with patients, colleagues, other health professionals and the general public. Realizing that no code can encompass all ethical responsibilities of the perfusionists, this enumeration of obligations in the code of ethics is not comprehensive and does not constitute a denial of the existence of other obligations, equally imperative, and not specifically mentioned herein. This code of ethics shall be binding on all perfusionists in Arkansas.

A. CANON 1

Perfusionists must uphold the dignity and honor of the profession, accept its disciplines and expose without hesitation illegal, unethical and incompetent conduct.

INTERPRETIVE STATEMENTS

- Perfusionists are part of a collaborative effort to deliver proper health care to the patient under the perfusionist care.
- The perfusionist has a personal, as well as a professional, obligation to protect and safeguard the patients from illegal and/or unethical actions or the incompetence of any person.
- The perfusionist must maintain personal integrity and establish the appropriate means to fully protect his freedom of conscience for the delivery of services to the patient.
- A perfusionist who demonstrates incompetence or illegal conduct as it pertains to the Code of Ethics shall be exposed to the proper authorities.

B. CANON 2

Perfusionists shall respect the patients' rights and dignity and shall uphold the doctrine of confidentiality regarding privileged patient information.

INTERPRETIVE STATEMENTS

- Information about the patient's clinical situation will be kept confidential, unless otherwise required by law, in order to protect the welfare of an individual or community. Written guidelines or protocols of an institution or

department may be instrumental in deciding the manner in which confidential information is handled for release.

C. CANON 3

Perfusionists shall provide only those services for which they are qualified. Perfusionists shall not misrepresent in any manner, either directly or indirectly, their skills, training, professional credentials, identity or services.

INTERPRETIVE STATEMENTS

- Perfusionists will accept responsibility for the exercise of sound judgement in the delivery of services to the patient and shall be accountable for the quality of the service provided.
- Perfusionists will provide accurate information about the profession, and services they provide, as well as the perfusionists' own qualifications.
- The perfusionists shall not engage in practices beyond their competence or training.
- Perfusionists shall not delegate to a less qualified person any activity which requires the unique skill, knowledge and judgement of a formally educated perfusionist. Services rendered by supportive personnel will be under the supervision of a formally educated perfusionist.

D. CANON 4

Perfusionists shall strive to improve their medical knowledge and skills on a continuing basis.

INTERPRETIVE STATEMENTS

- Perfusionists shall support quality didactic and clinical education.
- Professional conduct will be maintained toward perfusionists peers, students, medical staff and patients.
- Perfusionists shall participate in educational activities, either by individual study or through continuing education, which will enhance their basic knowledge in order to continue to provide quality health care to the patient.

E. CANON 5

Perfusionists shall maintain and promote high standards for perfusion practice

which may include education, research and scientific presentations and/or publications.

F. CANON 6

A perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interests into conflict with the patient's interests. A perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.

INTERPRETIVE STATEMENTS

- A perfusionist professional practice and adherence to ethical principles shall take preference over business practices. Perfusionists shall place service before material gain.
- A perfusionist shall fully disclose to clientele other business practices that may appear as conflict of interest to clientele and/or public. These may include but are not limited to:
 - 1) Consultant for fee.
 - 2) Clinical instructor (support staff for industry).
 - 3) Sales representative.
 - 4) Technical advisor.
 - 5) Lecture for fee.
 - 6) Acceptance of fees, gratuities, funding from industry.

In that the ultimate concern of the Society is to improve patient care, it is our position that clinicians engaged in the practice of cardiopulmonary bypass are required to and must be allowed to periodically evaluate the equipment which is utilized in cardiopulmonary bypass in the effort of continuously improving patient care which should include not only patient outcomes but safety as well.

To this end, the State Board of Health holds that each perfusionist has the following ethical and professional responsibilities:

- A. The perfusionist being the most qualified individual, by training, education, experience, and job description has the responsibility to evaluate, recommend, select, and implement the components of the extra-corporeal circuit so that patient safety and care are optimized.

- B. The perfusionist will always attempt to fairly evaluate all competing products and services, with the principal selection criteria being that of regard for patient safety and well-being.
- C. The perfusionist shall always base any decision on product and service selection on clinical evaluations and documented clinical and scientific data.

In conclusion, it is the responsibility of the perfusionist to make decisions regarding the selection of clinical products with the patient as the primary concern.

Draft Rules and Regulations for Perfusionists in Arkansas 2012
01-26-12

SECTION 6: CERTIFICATION

This will certify that the foregoing revisions to the Rules and Regulations for Perfusionists in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the _____ day of _____.

Paul Halverson, DrPH, FACHE
Secretary of Arkansas State Board of Health
Director, Arkansas Department of Health

Date

