

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S2/26/99

A Bill

Act 888 of 1999
SENATE BILL 499

5 By: Senator Bradford
6
7

For An Act To Be Entitled

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

Subtitle

11
12 "TO CREATE THE PERFUSIONIST LICENSURE
13 ACT."
14

15
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. This Act shall be known as the "Perfusionist Licensure Act."
19

20 SECTION 2. For purposes of this Act:

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

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

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

24 (4) "Extracorporeal circulation" means the diversion of a patient's
25 blood through a heart-lung machine or a similar device that assumes the
26 functions of the patient's heart, lungs, kidneys, liver, or other organs;

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

28 (6) "Perfusion" means the functions necessary for the support,
29 treatment, measurement, or supplementation of the cardiovascular, circulatory,
30 respiratory systems or other organs, or a combination of those activities, and
31 to ensure the safe management of physiologic functions by monitoring and
32 analyzing the parameters of the systems under an order and supervision of a
33 licensed physician, including:

34 (A) The use of extracorporeal circulation, long-term
35 cardiopulmonary support techniques including, but not limited to,
36 extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation,

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1 and associated therapeutic and diagnostic technologies;

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

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

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

10 (E) The performance and use of:

11 (i) Anticoagulation monitoring and analysis;

12 (ii) Physiologic monitoring and analysis;

13 (iii) Blood gas and chemistry monitoring and analysis;

14 (iv) Hematologic monitoring and analysis;

15 (v) Hypothermia;

16 (vi) Hyperthermia;

17 (vii) Hemoconcentration and hemodilution; and

18 (viii) Hemodialysis; and

19 (F) The observation of signs and symptoms related to perfusion
20 services, the determination of whether the signs and symptoms exhibit abnormal
21 characteristics, and the implementation of appropriate reporting, perfusion
22 protocols, or changes in or the initiation of emergency procedures.

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

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

29
30 SECTION 3. (a) There is created effective July 1, 1999, the
31 Perfusionists Advisory Committee which shall consist of five (5) members, with
32 a demonstrated interest in perfusion, to be appointed by the Governor, one (1)
33 of which is recommended by the Arkansas Hospital Association.

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

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

6 (d) Members of the committee shall not be entitled to compensation for
7 their services, but may receive expense reimbursement and a stipend not to
8 exceed fifty dollars (\$50) per meeting in accordance with Arkansas Code 25-16-
9 902, to be paid by the Department of Health.

10
11 SECTION 4. (a) The committee, within thirty (30) days after its
12 appointment, shall organize as necessary to carry out its purposes as
13 prescribed by this Act.

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

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

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

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

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

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

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

35
36 SECTION 5. (a) The committee shall recommend for adoption by the board

1 rules, regulations, and standards on matters relating to the licensure as a
2 perfusionist and the standards of professional conduct for the licensees.

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

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

7 (1) Recommend to the board a code of ethics for perfusionists;

8 (2) Recommend to the board the qualifications and fitness of
9 applicants for licensure, renewal of licenses and reciprocity with other
10 states;

11 (3) Recommend to the board the procedure for the revocation,
12 suspension, or denial of a license, probate a license suspension, or reprimand
13 a licensee for a violation of this Act, the code of ethics, or the regulations
14 promulgated by the board;

15 (4) Recommend to the board the categories of fees and the amount
16 of fees that may be imposed to obtain a license;

17 (5) Recommend to the board continuing professional education
18 requirements for licensed perfusionists and provisional licensed perfusionists
19 under this Act, the standards of which shall be at least as strict as those of
20 the American Board of Cardiovascular Perfusion, existing on July 1, 1999 and
21 the standards shall:

22 (A) Establish the minimum amount of continuing education
23 required to renew a license under this Act:

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

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

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

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

32
33 SECTION 6. The board shall, in accordance with the Arkansas
34 Administrative Procedure Act, promulgate and implement regulations which it
35 deems necessary to carry out the provisions of this act.

36

1 SECTION 7. The department shall:

2 (1) Administer the provisions of this act;

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

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

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

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

11
12 SECTION 8. (a) An applicant for a perfusionist license shall submit a
13 sworn application to the department for consideration.

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

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

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

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

25
26 SECTION 9. (a) Any person who meets the licensing qualifications under
27 this Act is entitled to receive a license as a licensed perfusionist.

28 (b) The licensed perfusionist shall:

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

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

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

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

36

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

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

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

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

17 (e) A person whose license has been expired for more than two (2) years
18 may not renew the license. The person may obtain a new license by submitting
19 to reexamination and complying with the requirements and procedures for
20 obtaining a license established under this Act.

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

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

30
31 SECTION 11. (a) A license for a provisional licensed perfusionist may
32 be issued to a person who has successfully completed an approved perfusion
33 education program and the filing of an application, payment of the application
34 fee, and the submission of evidence satisfactory to the department of the
35 successful completion of the education requirements set forth in this Act.

36 (b) A provisional licensed perfusionist shall be under the supervision

1 and direction of a licensed perfusionist at all times. Regulations governing
2 the supervision and direction of the provisionally licensed perfusionist shall
3 not require the immediate physical presence of the supervising licensed
4 perfusionist.

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

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

11
12 SECTION 12. (a) The department, under the authority of the board may
13 waive the examination requirement for an applicant who at the time of the
14 application:

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

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

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

22
23 SECTION 13. (a) A person shall not engage or offer to engage in
24 perfusion for compensation or use the title or represent or imply that the
25 person has the title of "licensed perfusionist" or "provisional licensed
26 perfusionist" or use the letters "LP" or "PLP" and shall not use any facsimile
27 of these titles in any manner to indicate or imply that the person is a
28 licensed perfusionist or provisional licensed perfusionist unless the person
29 holds that license issued under this Act.

30 (b) A person shall not use the title or represent or imply that the
31 person has the title of "certified clinical perfusionist" or use the letters
32 "CCP", and shall not use any facsimile of those titles in any manner to
33 indicate or imply that the person is a certified clinical perfusionist by the
34 American Board of Cardiovascular Perfusion unless the person holds a
35 certificate as a certified clinical perfusionist issued by the American Board
36 of Cardiovascular Perfusion.

1 (c) A violation of the provisions of this Act is a Class C misdemeanor.

2
3 SECTION 14. This Act does not apply to:

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

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

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

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

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

13 (B) Performed under the direct supervision of a licensed
14 perfusionist assigned to supervise the student and who is on duty and
15 immediately available in the assigned patient care area; and

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

18
19 SECTION 15. (a) The department shall keep an information file
20 containing each complaint filed with the department. The information file
21 shall be kept current and contain a record for each complaint of:

22 (1) All persons contacted in relation to the complaint;

23 (2) A summary of findings made at each step of the complaint
24 process;

25 (3) An explanation of the legal basis and reason for a dismissed
26 complaint; and

27 (4) Other relevant information.

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

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

34
35 SECTION 16. (a) The board shall adopt regulations concerning the
36 investigation of a complaint filed with the department. The regulations

1 adopted under this section shall:

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

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

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

7
8 SECTION 17. The board shall develop a system for monitoring licensee's
9 compliance with this Act. Regulations adopted under this section shall
10 include procedures for monitoring licensees to determine that the licensee
11 performs the acts required by the department and to identify and monitor
12 licensees who represent a risk to the public.

13
14 SECTION 18. (a) The department shall revoke or suspend a license,
15 place on probation a person whose license has been suspended, or reprimand a
16 licensee upon a determination of:

17 (1) Any violation of this Act; or

18 (2) Any violation of a regulation or code of ethics adopted by
19 the board.

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

22 (1) Report on a regular basis to the department on matters that
23 are the basis of the probation;

24 (2) Limit practice to the areas prescribed by the department; or

25 (3) Continue the person's professional education until the
26 licensee reaches a degree of skill, in those areas that are the basis of the
27 probation, satisfactory to the department.

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

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

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

1 each party to the proceedings.

2
3 SECTION 19. The department shall revoke or suspend a license, place on
4 probation a person whose license has been suspended, or reprimand a licensee
5 upon a determination of:

6 (1) Any violation of this Act;

7 (2) Any violation of a rule or code of ethics adopted by the board; or

8 (3) Unprofessional conduct, which includes, but is not limited to:

9 (A) Incompetence or gross negligence in carrying out usual
10 perfusion functions;

11 (B) A conviction of practicing perfusion without a license or a
12 provisional license;

13 (C) The use of advertising relating to perfusion in a manner
14 which violates state law;

15 (D) Procuring a license or provisional license by fraud,
16 misrepresentation or mistake;

17 (E) Making or giving any false statement or information in
18 connection with the application for the license or provisional license;

19 (F) A plea of guilty, nolo contendere, or a finding of guilt of a
20 felony or any offense substantially related to the qualifications, functions,
21 or duties of a perfusionist, in which event the record shall be conclusive
22 evidence; or

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

26
27 SECTION 20. (a) Any person is eligible to make application to the
28 board and receive a license, subject to the provisions of this Act, if the
29 person is in the practice of perfusion consistent with applicable law, and if
30 the person meets one of the following requirements:

31 (1) The person, as of January 1, 2000, was operating
32 cardiopulmonary bypass systems during cardiac surgical cases in a licensed
33 health care facility as the person's primary function and had been operating
34 the system since January 1, 1998; or

35 (2) The person has at least five (5) years' experience operating
36 cardiopulmonary bypass systems during cardiac surgical cases in a licensed

1 health care facility as the person's primary function since January 1, 1990.

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

7
8 SECTION 21. All provisions of this Act of a general and permanent
9 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
10 Code Revision Commission shall incorporate the same in the Code.

11
12 SECTION 22. If any provision of this Act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the Act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 Act are declared to be severable.

17
18 SECTION 23. All laws and parts of laws in conflict with this Act are
19 hereby repealed.

20
21 SECTION 24. EMERGENCY CLAUSE. It is hereby found and determined by the
22 General Assembly that the development of the perfusionist licensure procedure
23 is essential to the public health, safety, and welfare of the people of this
24 state, and that the immediate implementation of the provisions of this Act is
25 necessary to establish a licensure procedure without undue delay. Therefore,
26 an emergency is hereby declared to exist, and this Act being necessary for the
27 immediate preservation of the public peace, health, and safety, shall become
28 effective on the date of its approval by the Governor. If the bill is neither
29 approved nor vetoed by the Governor, it shall become effective on the
30 expiration of the period of time during which the Governor may veto the bill.
31 If the bill is vetoed by the Governor and the veto is overridden, it shall
32 become effective on the date the last house overrides the veto.

33 /s/ Bradfor

APPROVED: 3/29/1999d