

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1059
Health Care Committee Substitute Adopted 5/5/05

Short Title: Perfusionists Licensure.

(Public)

Sponsors:

Referred to:

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE LICENSURE OF PERFUSIONISTS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 90 of the General Statutes is amended by adding a
5 new Article to read:

6 "Article 40.

7 "Perfusionist Licensure Act.

8 "**§ 90-681. Legislative findings.**

9 The General Assembly finds that the practice of perfusion is an area of health care
10 that is continually evolving to include more sophisticated and demanding patient care
11 activities. The General Assembly further finds that the practice of perfusion by
12 unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public
13 health, safety, and welfare, and therefore it is necessary to establish minimum standards
14 of education, training, and competency for persons engaged in the practice of perfusion.

15 "**§ 90-682. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) Advisory committee. – The North Carolina Perfusion Advisory
18 Committee.
19 (2) Clinical certified perfusionist. – A person who has successfully
20 completed the examination process and has been issued a certificate by
21 the American Board of Cardiovascular Perfusion or its successor
22 organization.
23 (3) Extracorporeal circulation. – The diversion of a patient's blood through
24 a heart-lung machine or a similar device that assumes the functions of
25 the patient's heart, lungs, kidneys, liver, or other organs.
26 (4) Licensee. – A person who has been issued a license to practice
27 perfusion under this Article.
28 (5) Perfusion protocols. – Perfusion-related policies and protocols
29 developed or approved by a licensed health care facility or a physician

1 through collaboration with administrators, licensed perfusionists, and
2 other health care professionals.

3 (6) Practice of perfusion. – The performing of functions, under the
4 supervision of a licensed physician, necessary for the support,
5 treatment, measurement, or supplementation of the cardiovascular,
6 circulatory, and respiratory systems or other organs, or a combination
7 of those functions, and the ensuring of safe management of
8 physiological function by monitoring and analyzing the parameters of
9 the systems during any medical situation where it is necessary to
10 support or replace the patient's cardiopulmonary or circulatory
11 function. The term also includes the use of extracorporeal circulation,
12 long-term cardiopulmonary support techniques, including
13 extracorporeal carbon-dioxide removal and extracorporeal membrane
14 oxygenation, and associated therapeutic and diagnostic technologies;
15 counterpulsation, ventricular assistance, autotransfusion, blood
16 conservation techniques, myocardial and organ preservation,
17 extracorporeal life support, and isolated limb perfusion; the use of
18 techniques involving blood management, advanced life support, and
19 other related functions; and, in the performance of the acts described in
20 this subsection, (i) the administration of pharmacological and
21 therapeutic agents, blood products, or anesthetic agents through the
22 extracorporeal circuit or through an intravenous line as ordered by a
23 physician; (ii) the performance and use of anticoagulation monitoring
24 and analysis, physiologic monitoring and analysis, blood gas and
25 chemistry monitoring and analysis, hematological monitoring and
26 analysis, hypothermia, hyperthermia, hemoconcentration and
27 hemodilution, and hemodialysis in conjunction with perfusion service;
28 and (iii) the observation of signs and symptoms related to perfusion
29 services, the determination of whether the signs and symptoms exhibit
30 abnormal characteristics, and the implementation of appropriate
31 reporting, perfusion protocols, or changes in or the initiation of
32 emergency procedures.

33 **"§ 90-683. License required; exemptions.**

34 (a) On or after July 1, 2006, no person shall practice or offer to practice perfusion
35 as defined in this Article, use the title 'licensed perfusionist' or 'provisional licensed
36 perfusionist', use the letters 'LP' or 'PLP', or otherwise indicate or imply that the person
37 is a licensed perfusionist or a provisionally licensed perfusionist unless that person is
38 currently licensed as provided in this Article.

39 (b) The provisions of this Article shall not apply to:

40 (1) Any person registered, certified, credentialed, or licensed to engage in
41 another profession or occupation or any person working under the
42 supervision of a person registered, certified, credentialed, or licensed
43 to engage in another profession or occupation in this State if the person
44 is performing work incidental to the practice of that profession or

1 occupation and the person does not represent himself or herself as a
2 licensed perfusionist or a provisionally licensed perfusionist.

3 (2) A student enrolled in an accredited perfusion education program if
4 perfusion services performed by the student are an integral part of the
5 student's course of study and are performed under the direct
6 supervision of a licensed perfusionist.

7 (3) A perfusionist employed by the United States government when
8 performing duties associated with that employment.

9 (4) A person performing autotransfusion or blood conservation techniques
10 under the direct supervision of a licensed physician.

11 **"§ 90-684. Perfusion Advisory Committee.**

12 (a) Composition and Terms. – The North Carolina Perfusion Advisory
13 Committee is created. The Committee shall consist of seven members who shall serve
14 staggered terms. The initial Committee members shall be selected on or before October
15 1, 2005, as follows:

16 (1) The North Carolina Medical Board shall appoint three licensed
17 perfusionists, two of whom shall serve a term of three years and one of
18 whom shall serve a term of two years.

19 (2) The North Carolina Medical Board shall appoint one physician who is
20 licensed under Article 1 of Chapter 90 of the General Statutes and is a
21 cardiothoracic surgeon or a cardiovascular anesthesiologist, who shall
22 serve a term of two years.

23 (3) The North Carolina Hospital Association shall appoint two hospital
24 administrators, one of whom shall serve a term of two years and one of
25 whom shall serve a one-year term.

26 (4) The Governor shall appoint one public member who shall serve a
27 one-year term.

28 Upon the expiration of the terms of the initial Committee members, members shall
29 be appointed by the appointing authorities designated in subdivisions (1) through (4) of
30 this subsection for a term of three years and shall serve until a successor is appointed.
31 No member may serve more than two consecutive full terms.

32 (b) Qualifications. – Members of the Committee shall be citizens of the United
33 States and residents of this State. The perfusionist members shall hold current licenses
34 from the Committee and shall remain in good standing with the Committee during their
35 terms. Public members of the Committee shall not be: (i) trained or experienced in the
36 practice of perfusion, (ii) an agent or employee of a person engaged in the practice of
37 perfusion, (iii) a health care professional licensed under this Chapter or a person
38 enrolled in a program to become a licensed health care professional, (iv) an agent or
39 employee of a health care institution, a health care insurer, or a health care professional
40 school, (v) a member of an allied health profession or a person enrolled in a program to
41 become a member of an allied health profession, or (vi) a spouse of an individual who
42 may not serve as a public member of the Committee.

43 (c) Vacancies. – Any vacancy shall be filled by the authority originally filling
44 that position, except that any vacancy in appointments by the General Assembly shall be

1 filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the
2 remainder of the unexpired term and until their successors have been duly appointed
3 and qualified.

4 (d) Removal. – The Committee may remove any of its members for neglect of
5 duty, incompetence, or unprofessional conduct. A member subject to disciplinary
6 proceedings in his or her capacity as a licensed perfusionist shall be disqualified from
7 participating in the official business of the Committee until the charges have been
8 resolved.

9 (e) Compensation. – Each member of the Committee shall receive per diem and
10 reimbursement for travel and subsistence as provided in G.S. 93B-5.

11 (f) Officers. – The officers of the Committee shall be a chair, a vice-chair, and
12 other officers deemed necessary by the Committee to carry out the purposes of this
13 Article. All officers shall be elected annually by the Committee for two-year terms and
14 shall serve until their successors are elected and qualified. The chair of the Committee
15 shall be a licensed perfusionist.

16 (g) Meetings. – The Committee shall hold its first meeting within 30 days after
17 the appointment of its members and shall hold at least two meetings each year to
18 conduct business and to review the standards and rules previously adopted by the
19 Committee. The Committee shall establish the procedures for calling, holding, and
20 conducting regular and special meetings. A majority of Committee members constitutes
21 a quorum.

22 **"§ 90-685. Powers of the Committee.**

23 The Committee shall have the power and duty to:

- 24 (1) Administer this Article.
- 25 (2) Issue interpretations of this Article.
- 26 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
27 provisions of this Article.
- 28 (4) Employ and fix the compensation of personnel that the Committee
29 determines is necessary to carry into effect the provisions of this
30 Article and incur other expenses necessary to effectuate this Article.
- 31 (5) Determine the qualifications and fitness of applicants for licensure,
32 provisional licensure, licensure renewal, and reciprocal licensure.
- 33 (6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue
34 reprimands, and carry out any other disciplinary actions authorized by
35 this Article.
- 36 (7) Set fees for licensure, provisional licensure, reciprocal licensure,
37 licensure renewal, and other services deemed necessary to carry out
38 the purposes of this Article.
- 39 (8) Establish continuing education requirements for licensees.
- 40 (9) Establish a code of ethics for licensees.
- 41 (10) Maintain a current list of all persons who have been licensed under this
42 Article.
- 43 (11) Conduct investigations for the purpose of determining whether
44 violations of this Article or grounds for disciplining licensees exist.

1 (12) Maintain a record of all proceedings and make available to all
2 licensees and other concerned parties an annual report of all
3 Committee action.

4 (13) Adopt a seal containing the name of the Committee for use on all
5 official documents and reports issued by the Committee.

6 **"§ 90-686. Qualifications for licensure.**

7 (a) An applicant shall be licensed to practice perfusion if the applicant meets all
8 of the following qualifications:

9 (1) Is at least 18 years old.

10 (2) Completes an application on a form provided by the Committee.

11 (3) Successfully completes a perfusion education program approved by
12 the Committee.

13 (4) Pays the required fee under G.S. 90-689.

14 (5) Is certified as a certified clinical perfusionist. An applicant shall be
15 certified as a certified clinical perfusionist if the applicant submits
16 proof satisfactory to the Committee that the applicant has been
17 certified as a certified clinical perfusionist by the American Board of
18 Cardiovascular Perfusion or its successor organization and pays the
19 required fee under G.S. 90-689.

20 (b) All persons licensed under this section shall practice perfusion under the
21 supervision of a physician licensed under Article 1 of Chapter 90 of the General
22 Statutes.

23 **"§ 90-687. Reciprocity.**

24 The Committee may grant, upon application and payment of proper fees, a license to
25 a person who has been licensed to practice perfusion in another state or territory of the
26 United States whose standards of competency are substantially equivalent to those
27 provided in this Article or holds a current certificate as a certified clinical perfusionist
28 issued by the American Board of Cardiovascular Perfusion or its successor organization.

29 **"§ 90-688. Provisional license.**

30 The Committee may grant a provisional license for a period not exceeding 12
31 months to any applicant who has successfully completed an approved perfusion
32 education program and pays the required fee under G.S. 90-689. A provisional license
33 shall allow the individual to practice perfusion under the supervision and direction of a
34 licensed perfusionist and in accordance with rules adopted pursuant to this Article. A
35 license granted under this section shall contain an endorsement indicating that the
36 license is provisional and stating the terms and conditions of its use by the licensee and
37 shall state the date the license was granted and the date it expires. Provisional licenses
38 shall be renewed in accordance with the provisions of G.S. 90-690.

39 **"§ 90-689. Expenses; fees.**

40 (a) All fees payable to the Committee shall be deposited in the name of the
41 Committee in financial institutions designated by the Committee as official depositories
42 and shall be used to pay all expenses incurred in carrying out the purposes of this
43 Article.

1 (b) All salaries, compensation, and expenses incurred or allowed to carry out the
2 purposes of this Article shall be paid by the Committee exclusively out of the fees
3 received by the Committee as authorized by this Article or funds received from other
4 sources. In no case shall any salary, expense, or other obligation of the Committee be
5 charged against the State treasury.

6 (c) The Committee shall establish fees not exceeding the following amounts:

7	(1) <u>Initial application</u>	<u>\$ 25.00</u>
8	(2) <u>Issuance of license</u>	<u>\$350.00</u>
9	(3) <u>Biennial renewal of license</u>	<u>\$350.00</u>
10	(4) <u>Late renewal of license</u>	<u>\$100.00</u>
11	(5) <u>Provisional license</u>	<u>\$ 35.00</u>
12	(6) <u>Copies of rules</u>	<u>Cost</u>

13 **"§ 90-690. Renewal of licenses.**

14 (a) All licenses to practice perfusion shall expire two years after the date they
15 were issued. The Committee shall send a notice of expiration to each licensee at his or
16 her last known address at least 30 days prior to the expiration of his or her license. All
17 applications for renewal of unexpired licenses shall be filed with the Committee and
18 accompanied by proof satisfactory to the Committee that the applicant has completed
19 the continuing education requirements established by the Committee and the renewal
20 fee as required by G.S. 90-689.

21 (b) An application for renewal of a license that has been expired for less than
22 three years shall be accompanied by proof satisfactory to the Committee that the
23 applicant has satisfied the continuing education requirements established by the
24 Committee and the renewal and late fees required by G.S. 90-689. A license that has
25 been expired for more than three years shall not be renewed, but the applicant may
26 apply for a new license by complying with the current requirements for licensure under
27 this Article.

28 **"§ 90-691. Suspension, revocation, and refusal to renew.**

29 (a) The Committee may deny, refuse to renew, suspend, or revoke an application
30 or license or order probation or issue a reprimand if the applicant or licensee:

- 31 (1) Gives false information or withholds material information from the
32 Committee in procuring or attempting to procure a license.
- 33 (2) Gives false information or withholds material information from the
34 Committee during the course of an investigation conducted by the
35 Committee.
- 36 (3) Has been convicted of or pled guilty or no contest to a crime that
37 indicates the person is unfit or incompetent to practice perfusion as
38 defined in this Article or that indicates the person has deceived,
39 defrauded, or endangered the public.
- 40 (4) Has a habitual substance abuse or mental impairment that interferes
41 with his or her ability to provide appropriate care as established by this
42 Article or rules adopted by the Committee.
- 43 (5) Has demonstrated gross negligence, incompetency, or misconduct in
44 the practice of perfusion as defined in this Article.

1 (6) Has had an application for licensure or a license to practice perfusion
2 in another jurisdiction denied, suspended, or revoked for reasons that
3 would be grounds for similar action in this State.

4 (7) Has willfully violated any provision of this Article or rules adopted by
5 the Committee.

6 (b) The taking of any action authorized under subsection (a) of this section may
7 be ordered by the Committee after a hearing is held in accordance with Article 3A of
8 Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if
9 it finds that the reasons for revocation no longer exist and that the person can reasonably
10 be expected to perform the services authorized under this Article in a safe manner.

11 **"§ 90-692. Enjoining illegal practices.**

12 The Committee may apply to the superior court for an order enjoining violations of
13 this Article. Upon a showing by the Committee that any person has violated this Article,
14 the court may grant injunctive relief.

15 **"§ 90-693. Civil penalties; disciplinary costs.**

16 (a) Authority to Assess Civil Penalties. – The Committee may assess a civil
17 penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of
18 this Article or the violation of any rules adopted by the Committee. The clear proceeds
19 of any civil penalty assessed under this section shall be remitted to the Civil Penalty and
20 Forfeiture Fund in accordance with G.S. 115C-457.2.

21 (b) Consideration Factors. – Before imposing and assessing a civil penalty, the
22 Committee shall consider the following factors:

23 (1) The nature, gravity, and persistence of the particular violation.

24 (2) The appropriateness of the imposition of a civil penalty when
25 considered alone or in combination with other punishment.

26 (3) Whether the violation was willful and malicious.

27 (4) Any other factors that would tend to mitigate or aggravate the
28 violations found to exist.

29 (c) Schedule of Civil Penalties. – The Committee shall establish a schedule of
30 civil penalties for violations of this Article and rules adopted by the Committee.

31 (d) Costs. – The Committee may assess the costs of disciplinary actions against a
32 person found to be in violation of this Article or rules adopted by the Committee.

33 **"§ 90-694. Third-party reimbursement.**

34 Nothing in this Article shall be construed to require direct third-party
35 reimbursements to persons licensed under this Article."

36 **SECTION 2.** Notwithstanding the requirements of this act, the North
37 Carolina Perfusion Advisory Committee shall issue a license to practice perfusion to
38 any person who has, as his or her primary job function, been operating cardiopulmonary
39 bypass systems during cardiac surgery cases in a licensed health care facility in the five
40 years immediately preceding application to the Committee or within five of the last
41 eight years preceding application to the Committee. A perfusionist member of the
42 Committee shall apply for and obtain a license from the Committee within 90 days after
43 the Board begins issuing licenses.

1 **SECTION 3.** G.S. 90-684, as enacted in Section 1 of this act, becomes
2 effective October 1, 2005. The remainder of this act is effective when it becomes law.