

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1059
Health Care Committee Substitute Adopted 5/5/05
Finance Committee Substitute Adopted 6/1/05
House Committee Substitute Favorable 6/21/05

Short Title: Perfusionists Licensure.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LICENSURE OF PERFUSIONISTS.

The General Assembly of North Carolina enacts:

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

"Article 40.

"Perfusionist Licensure Act.

"§ 90-681. Legislative findings.

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

"§ 90-682. Definitions.

The following definitions apply in this Article:

- (1) Certified clinical perfusionist. – A person who has successfully completed the examination process and has been issued a certificate by the American Board of Cardiovascular Perfusion or its successor organization.
- (2) Committee. – The North Carolina Perfusion Advisory Committee.
- (3) Extracorporeal circulation. – 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.
- (4) Licensee. – A person who has been issued a license to practice perfusion under this Article.

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

35 **§ 90-683. License required; exemptions.**

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

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

- 42 (1) Any person registered, certified, credentialed, or licensed to engage in
43 another profession or occupation or any person working under the
44 supervision of a person registered, certified, credentialed, or licensed

1 to engage in another profession or occupation in this State if the person
2 is performing work incidental to the practice of that profession or
3 occupation and the person does not represent himself or herself as a
4 licensed perfusionist or a provisionally licensed perfusionist.

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

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

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

13 **"§ 90-684. Perfusion Advisory Committee.**

14 (a) Composition and Terms. – The North Carolina Perfusion Advisory
15 Committee is created. The Committee shall consist of seven members who shall serve
16 staggered terms. The initial Committee members shall be selected on or before October
17 1, 2005, as follows:

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

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

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

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

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

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

1 (c) Vacancies. – Any vacancy shall be filled by the authority originally filling
2 that position. Appointees to fill vacancies shall serve the remainder of the unexpired
3 term and until their successors have been duly appointed 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 (h) Administration. – The Committee shall be housed for administrative purposes
23 only under the North Carolina Medical Board.

24 **"§ 90-685. Powers of the Committee.**

25 The Committee shall have the power and duty to:

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

- 1 (11) Conduct investigations for the purpose of determining whether
2 violations of this Article or grounds for disciplining licensees exist.
3 (12) Maintain a record of all proceedings and make available to all
4 licensees and other concerned parties an annual report of all
5 Committee action.
6 (13) Adopt a seal containing the name of the Committee for use on all
7 official documents and reports issued by the Committee.

8 **"§ 90-686. Qualifications for licensure.**

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

- 11 (1) Is at least 18 years old.
12 (2) Completes an application on a form provided by the Committee.
13 (3) Successfully completes a perfusion education program approved by
14 the Committee.
15 (4) Pays the required fee under G.S. 90-689.
16 (5) Is a certified clinical perfusionist.

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

20 **"§ 90-687. Reciprocity.**

21 The Committee may grant, upon application and payment of proper fees, a license to
22 a person who has been licensed to practice perfusion in another state or territory of the
23 United States whose standards of competency are substantially equivalent to those
24 provided in this Article or holds a current certificate as a certified clinical perfusionist.

25 **"§ 90-688. Provisional license.**

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

35 **"§ 90-689. Expenses; fees.**

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

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

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

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

8 **"§ 90-690. Renewal of licenses.**

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

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

23 **"§ 90-691. Suspension, revocation, and refusal to renew.**

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

- 26 (1) Gives false information or withholds material information from the
27 Committee in procuring or attempting to procure a license.
- 28 (2) Gives false information or withholds material information from the
29 Committee during the course of an investigation conducted by the
30 Committee.
- 31 (3) Has been convicted of or pled guilty or no contest to a crime that
32 indicates the person is unfit or incompetent to practice perfusion as
33 defined in this Article or that indicates the person has deceived,
34 defrauded, or endangered the public.
- 35 (4) Has a habitual substance abuse or mental impairment that interferes
36 with his or her ability to provide appropriate care as established by this
37 Article or rules adopted by the Committee.
- 38 (5) Has demonstrated gross negligence, incompetency, or misconduct in
39 the practice of perfusion as defined in this Article.
- 40 (6) Has had an application for licensure or a license to practice perfusion
41 in another jurisdiction denied, suspended, or revoked for reasons that
42 would be grounds for similar action in this State.
- 43 (7) Has willfully violated any provision of this Article or rules adopted by
44 the Committee.

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

6 **"§ 90-692. Enjoining illegal practices.**

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

10 **"§ 90-693. Civil penalties; disciplinary costs.**

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

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

- 18 (1) The nature, gravity, and persistence of the particular violation.
- 19 (2) The appropriateness of the imposition of a civil penalty when
20 considered alone or in combination with other punishment.
- 21 (3) Whether the violation was willful and malicious.
- 22 (4) Any other factors that would tend to mitigate or aggravate the
23 violations found to exist.

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

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

28 **"§ 90-694. Third-party reimbursement.**

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

31 **SECTION 2.** Notwithstanding the requirements of this act, the North
32 Carolina Perfusion Advisory Committee shall issue a license to practice perfusion to
33 any person who has, as his or her primary job function, been operating cardiopulmonary
34 bypass systems during cardiac surgery cases in a licensed health care facility in the five
35 years immediately preceding application to the Committee or within five of the last
36 eight years preceding application to the Committee.

37 **SECTION 3.** A perfusionist member of the North Carolina Perfusion
38 Advisory Committee shall apply for and obtain a license from the Committee within 90
39 days after the Committee begins issuing licenses.

40 **SECTION 4.** This act is effective when it becomes law. Section 2 of this act
41 expires December 31, 2007.