

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Perfusionist

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Perfusionist

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Medicine and Surgery provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Perfusionists perform the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, and respiratory systems or other organs, and ensure the safe management of physiologic functions by monitoring and analyzing the parameters of those systems under the order and supervision of a licensed physician.

The license for this profession was created to protect the public health, safety, and welfare.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are 55 Perfusionists licensed in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are eight members of the Board of Medicine and Surgery.

II. Who Appoints Members of the Board / Is Legislative Approval Required?

- A) The Board of Health appoints the members of the Board of Medicine and Surgery. Legislative approval is not required.

III. Term Length

- A) The length of term for service on the Board of Medicine and Surgery is up to two consecutive five year terms, on a rotating basis.

IV. Qualifications for Membership of the Board

- A) The Board of Medicine and Surgery is made up of six professional members and two public members. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. Two of the six professional members of the board shall be officials or members of the instructional staff of an accredited medical school in this state. One of the six professional members of the board shall be a person who has a license to practice osteopathic medicine and surgery in this state.

V. The Number of Meetings Required Per Year / Meetings Actually Held

- A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 7.
- B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 6.
- C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 7.
- D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 7.
- E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 9.

VI. Annual Budget Information for the Previous Five Years

- A) The Board of Medicine and Surgery is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
- B) For FY 2014-2015: \$541,556
- C) For FY 2015-2016: \$511,670
- D) For FY 2016-2017: \$514,740
- E) For FY 2017-2018: \$43,069
- F) For FY 2018-2019: \$54,249

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Medicine and Surgery stated “It is extremely important for us to have the occupational oversight provided by the Board of medicine and surgery for clinicians in the state. The board has been effective at improving the safety of medical care and surgical care for patients and citizens of the state as a result of the oversight.”

AUTHORIZATION

I. Statutory Authorization

- A) Statutory authorization for the Perfusionist occupation may be found in the Nebraska Revised Statutes, sections [38-2701](#) to [38-2711](#), which may be cited as the Perfusion Practice Act. For text of the Nebraska statutes relating to the Perfusionist occupation, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding the licensure of Perfusionists may be found in the Nebraska Administrative Code [Title 172, Chapter 91](#).

CREDENTIALING

I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years

- A) There were 32 Perfusionist licenses issued in the past five years.

II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years

- A) There were no Perfusionist licenses denied in the past five years.

III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years

- A) There were no Perfusionist licenses revoked in the past five years.

IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years

- A) There were no Perfusionist licenses penalized in the past five years.

V. Comparison of How Other States Regulate This Occupation

- A) Twenty-two states require some kind of credential to be a Perfusionist. Eighteen of those states require licensure. The other 28 states and District of Columbia do not currently require a credential.

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) If the Perfusionist occupation was no longer licensed, certified, or regulated, it would be detrimental to public health, safety, and welfare.

Perfusionists help ensure the cardiovascular, circulatory, and respiratory system keep functioning by operating the machine heart-lung machine during surgery. Currently, Perfusionists are licensed in order to verify they have the appropriate training and experience to operate the necessary equipment and do the job correctly. If untrained individuals were allowed to operate the machine during surgery, it would be severely detrimental to the public health, safety, and welfare.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Medicine and Surgery and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Perfusionist occupation by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE PERFUSION PRACTICE ACT

38-2701. Act, how cited.

Sections 38-2701 to 38-2711 shall be known and may be cited as the Perfusion Practice Act.

Source: Laws 2007, LB236, § 8; R.S.Supp.,2007, § 71-1,390; Laws 2007, LB247, § 76; Laws 2017, LB644, § 4.

38-2702. Legislative findings and declarations.

The Legislature finds and declares that the public interest requires the regulation of the practice of perfusion and the establishment of clear licensure standards for perfusionists and that the health and welfare of the residents of the State of Nebraska will be protected by identifying to the public those individuals who are qualified and legally authorized to practice perfusion.

Source: Laws 2007, LB236, § 9; R.S.Supp.,2007, § 71-1,391.

38-2703. Terms, defined.

For purposes of the Perfusion Practice Act:

- (1) Board means the Board of Medicine and Surgery;
- (2) Extracorporeal circulation means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver, or other organs;
- (3) Perfusion means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, and respiratory systems or other organs, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:
 - (a) The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
 - (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, and other related functions; and
 - (d) In the performance of the acts described in subdivisions (a) through (c) of this subdivision:

(i) The administration of:

(A) Pharmacological and therapeutic agents; and

(B) Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;

(ii) The performance and use of:

(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 and hyperthermia;

(F) Hemoconcentration and hemodilution; and

(G) Hemodialysis; and

(iii) The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics, and the implementation of appropriate reporting, clinical perfusion protocols, or changes in, or the initiation of, emergency procedures; and

(4) Perfusionist means a person who is licensed to practice perfusion pursuant to the Perfusion Practice Act.

Source: Laws 2007, LB236, § 10; R.S.Supp.,2007, § 71-1,392; Laws 2017, LB644, § 5.

38-2704. License required; exceptions.

After September 1, 2007, no person shall practice perfusion, whether or not compensation is received or expected, unless the person holds a license to practice perfusion under the Perfusion Practice Act, except that nothing in the act shall be construed to:

(1) Prohibit any person credentialed to practice under any other law from engaging in the practice for which he or she is credentialed;

(2) Prohibit any student enrolled in a bona fide perfusion training program recognized by the board from performing those duties which are necessary for the student's course of study, if the duties are performed under the supervision and direction of a perfusionist who is on duty and immediately available in the assigned patient care area; or

(3) Prohibit any person from practicing perfusion within the scope of his or her official duties when employed by an agency, bureau, or division of the federal government,

serving in the armed forces or the Public Health Service of the United States, or employed by the Veterans Administration.

Source: Laws 2007, LB236, § 11; R.S.Supp.,2007, § 71-1,393.

38-2705. License requirements.

To be eligible to be licensed as a perfusionist, an applicant shall fulfill the following requirements:

- (1) Submit evidence of successful completion of a perfusion education program with standards established by the Accreditation Committee for Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs or a program with substantially equivalent education standards approved by the board; and
- (2) Submit evidence of successful completion of the certification examinations offered by the American Board of Cardiovascular Perfusion, or its successor, or a substantially equivalent examination approved by the board.

Source: Laws 2007, LB236, § 12; R.S.Supp.,2007, § 71-1,394; Laws 2007, LB247, § 77.

38-2706. Education and examination requirements; waiver.

The board may waive the education and examination requirements under section 38-2705 for an applicant who:

- (1) Within one hundred eighty days after September 1, 2007, submits evidence satisfactory to the board that he or she has been operating cardiopulmonary bypass systems for cardiac surgical patients as his or her primary function in a licensed health care facility for at least two of the last ten years prior to September 1, 2007;
- (2) Submits evidence of holding a current certificate as a Certified Clinical Perfusionist issued by the American Board of Cardiovascular Perfusion, or its successor; or
- (3) Submits evidence of holding a credential as a perfusionist issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this state.

Source: Laws 2007, LB236, § 13; R.S.Supp.,2007, § 71-1,395.

38-2707. Temporary license.

- (1) The department shall issue a temporary license to a person who has applied for licensure pursuant to the Perfusion Practice Act and who, in the judgment of the department, with the recommendation of the board, is eligible for examination. An applicant with a temporary license issued under this subsection may practice only under the direct supervision of a perfusionist. The board may adopt and promulgate rules and regulations governing such direct supervision which do not require the immediate physical presence of the supervising perfusionist. A temporary license

issued under this subsection shall expire one year after the date of issuance and may be renewed for a subsequent one-year period, subject to the rules and regulations adopted under the act. A temporary license issued under this subsection shall be surrendered to the department upon its expiration.

(2) An applicant for licensure pursuant to the act who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 2007, LB236, § 14; R.S.Supp.,2007, § 71-1,396; Laws 2017, LB88, § 85.

38-2708. Fees.

The department shall establish and collect fees for initial licensure and renewal under the Perfusion Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB247, § 78.

38-2709. Title and abbreviation; use.

No person shall use the title Perfusionist, the abbreviation LP, or any other title, designation, words, letters, abbreviations, or insignia indicating the practice of perfusion unless licensed to practice perfusion.

Source: Laws 2007, LB236, § 16; R.S.Supp.,2007, § 71-1,398.

38-2710. Rules and regulations.

The department, with the recommendation of the board, shall adopt and promulgate rules and regulations to carry out the Perfusion Practice Act.

Source: Laws 2007, LB236, § 17; R.S.Supp.,2007, § 71-1,399.

38-2711. Code of ethics; record of licensees.

The board shall adopt and publish a code of ethics for perfusionists and maintain a record of every perfusionist licensed in this state which includes his or her place of business, place of residence, and license date and number.

Source: Laws 2007, LB236, § 18; R.S.Supp.,2007, § 71-1,400.