

CHAPTER 545

H.B. No. 1835

AN ACT

relating to the regulation of the practice of perfusion; providing a penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Title 71, Revised Statutes, is amended by adding Chapter 7A and Article 4529e to read as follows:

CHAPTER 7A. PERFUSIONISTS

Art. 4529e. LICENSED PERFUSIONISTS

Sec. 1. SHORT TITLE. *This article may be cited as the Licensed Perfusionists Act.*

Sec. 2. LEGISLATIVE FINDINGS; PURPOSE. (a) *The legislature finds that:*

*(1) the citizens of this state are entitled to the protection of their health, safety, and welfare from the unqualified or unprofessional practice of perfusion;*

*(2) the practice of perfusion by unauthorized, unqualified, unprofessional, or incompetent persons is a threat to the public; and*

*(3) the practice of perfusion is a dynamic and changing health care field which is continually evolving to include more sophisticated and demanding patient care activities.*

*(b) The purpose of this article is to protect the public from the dangers described by Subsection (a) of this section by:*

*(1) establishing minimum standards of education, training, and competency for persons engaged in the practice of perfusion and of the performance of perfusion services in a manner that provides for the continued evolution of the practice of perfusion; and*

(2) *ensuring that the privilege of practicing in the field of perfusion is entrusted only to those licensed and regulated under this article.*

**Sec. 3. DEFINITIONS.** *In this article:*

(1) *"Board" means the Texas State Board of Examiners of Perfusionists.*

(2) *"Board of health" means the Texas Board of Health.*

(3) *"Department" means the Texas Department of Health.*

(4) *"Commissioner" means the commissioner of health.*

(5) *"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, or both.*

(6) *"Licensed perfusionist" means a person licensed under this article.*

(7) *"Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory system, or a combination of those activities, and to ensure the safe management of physiologic functions by monitoring the parameters of the systems under an order and under the supervision of a licensed physician, including:*

(A) *the use of extracorporeal circulation, cardiopulmonary support techniques, and other therapeutic and diagnostic technologies;*

(B) *counterpulsation, ventricular assistance, or autotransfusion (including blood conservation techniques), administration of cardioplegia, 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 this subsection:*

(i) *the administration of:*

(aa) *pharmacological and therapeutic agents; or*

(bb) *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:*

(aa) *anticoagulation analysis;*

(bb) *physiologic analysis;*

(cc) *blood gas and chemistry analysis;*

(dd) *hematocrit analysis;*

(ee) *hypothermia;*

(ff) *hyperthermia;*

(gg) *hemoconcentration; and*

(hh) *hemodilution; 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, perfusion protocols, or changes in or the initiation of emergency procedures.*

(8) *"Perfusion protocols" means perfusion-related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health professionals.*

(9) *"Provisional licensed perfusionist" means a person provisionally licensed under this article.*

**Sec. 4. BOARD; MEMBERSHIP.** (a) *The Texas State Board of Examiners of Perfusionists is created.*

(b) *The board is composed of nine members. Three members must be members of the general public. Five members must be perfusionists licensed under this article. One*

member must be a physician licensed by the Texas State Board of Medical Examiners who is also board certified in cardiovascular surgery.

(c) The governor with the advice and consent of the senate shall appoint the board members, who shall serve staggered terms of six years with three members' terms expiring February 1 of each odd-numbered year.

(d) A license holder eligible for appointment as a licensed perfusionist board member must have been licensed under this article for at least three years before appointment to the board.

(e) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member or employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(f) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a board member and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of this subsection and Subsection (e) of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(g) It is the intent of the legislature that the membership of the board reflect the historical and cultural diversity of the inhabitants of this state. Appointments to the board should be made without discrimination based on race, creed, sex, religion, national origin, or geographical distribution of the appointees.

(h) A person may not serve as a member of the board or act as general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 5. **GROUNDS FOR REMOVAL.** (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required for appointment to the board;

(2) does not maintain during service on the board the qualifications required for appointment to the board;

(3) violates a prohibition established by this article;

(4) cannot discharge the member's term for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a member of the board exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

Sec. 6. **OFFICERS; MEETINGS; QUORUM; EXPENSES.** (a) Not later than the 30th day after the day its new members are appointed by the governor, the board shall meet to elect a chairman and vice-chairman who shall hold office according to rules adopted by the board.

(b) The board shall hold at least two regular meetings each year as provided by rules adopted by the board. The rules may not be inconsistent with present rules of the department relating to meetings of boards.

(c) A majority of the members constitutes a quorum.

(d) A member of the board is entitled to a *per diem* as set by the General Appropriations Act for each day that the member engages in the business of the board. A member is entitled to compensation for travel expenses as provided by the General Appropriations Act.

Sec. 7. **POWERS AND DUTIES OF BOARD.** (a) The board may adopt rules not inconsistent with this article as are necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of perfusion in this state, and the enforcement of this article. In adopting rules, the board shall consider the rules and procedures of the board of health and the department and shall adopt procedural rules not inconsistent with existing rules and procedures of the board of health or the department.

(b) The board shall:

(1) adopt and publish a code of ethics and adopt an official seal;

(2) establish the qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;

(3) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this article, the code of ethics, or the rules of the board;

(4) spend funds necessary for the proper administration of its assigned duties;

(5) establish reasonable and necessary fees for the administration and implementation of this article;

(6) comply with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments, and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments;

(7) provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees;

(8) develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board;

(9) develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board;

(10) prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the board's programs and comply with federal and state laws for program and facility accessibility;

(11) comply with the board member training requirements established by any other state agency that is given authority to establish the requirements for the board; and

(12) establish continuing professional education programs for licensed perfusionists and provisional licensed perfusionists under this chapter, the standards of which shall be at least as stringent as those of the American Board of Cardiovascular Perfusion or its successor agency, and shall:

(A) establish a minimum number of hours of continuing education required to renew a license under this article;

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

(C) identify the key factors for the competent performance by a license holder of the license holder's professional duties; and

(D) adopt a procedure to assess a license holder's participation in continuing education programs.

(c) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices. The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;

(3) relates to the size or duration of any advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(d) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for directing complaints to the board. The board may provide for that notification:

(1) on each license form, application, or written contract for services of a person licensed under this article;

(2) on a sign prominently displayed in the place of business of each person licensed under this article; or

(3) in a bill for services provided by a person licensed under this article.

(e) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

**Sec. 8. ADMINISTRATIVE FUNCTION; PERSONNEL.** (a) The basic personnel and necessary facilities required to administer this article shall be the personnel and facilities of the department. The department personnel shall act as the agents of the board. If necessary to the administration or implementation of this article, the department by agreement may secure and provide for compensation for services that it considers necessary and may employ and compensate within available appropriations professional consultants, technical assistants, and employees on a full-time or part-time basis.

(b) The commissioner shall designate an employee to serve as executive secretary of the board. The executive secretary shall be an employee of the department. The executive secretary shall be the administrator of the licensing activities for the board.

(c) In addition to other duties prescribed by this article and by the department, the executive secretary shall:

(1) keep full and accurate minutes of the transactions and proceedings of the board;

(2) be the custodian of the files and records of the board;

(3) prepare and recommend to the board plans and procedures necessary to implement the purposes and objectives of this article, including rules and proposals on administrative procedures consistent with this article;

(4) exercise general supervision over persons employed by the department in the administration of this article;

(5) be responsible for the investigation of complaints and for the presentation of formal complaints;

(6) attend all meetings of the board as a nonvoting participant;

(7) handle the correspondence of the board and obtain, assemble, or prepare the reports and information that the board may direct or authorize;

(8) develop an intra-agency career ladder program which shall require intra-agency posting of all nonentry level positions concurrently with any public posting;

(9) develop a system of annual performance evaluations based on measurable job tasks, which shall be the basis for all merit pay for board employees; and

(10) prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or natural origin, which policy statement must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Paragraph (A) of this subdivision, and be filed with the governor's office and that must include:

(A) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(B) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(C) procedures by which a determination can be made of significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(D) reasonable methods to appropriately address those areas of underuse.

**Sec. 9. FEES; FUNDS; ANNUAL REPORT; AUDIT.** (a) After consultation with the commissioner or the department, the board shall set the fees imposed by this article in amounts so that the fees in the aggregate produce sufficient revenue to cover the cost of administering this article without accumulating an unnecessary surplus in the licensed perfusionists fund created by this section.

(b) The amount of the fees that may be imposed in connection with a license under this article may not exceed the following:

- (1) application fee: \$75;
- (2) examination fee: \$100;
- (3) initial license fee: \$75;
- (4) initial provisional license fee: \$75;
- (5) license renewal fee: \$75;
- (6) delinquency fee: \$50; and
- (7) duplicate license fee: \$10.

(c) The fees set by the board may be adjusted so that the total fees collected are sufficient to meet the expenses of administering this article.

(d) The department shall receive and account for funds derived under this article. The funds shall be deposited in the state treasury to the credit of a special fund to be known as the licensed perfusionists fund to be used only for the administration of this article.

(e) The board shall make a complete and detailed written report to the governor, lieutenant governor, and speaker of the house of representatives accounting for all funds received and disbursed by the board or the department for the administration of this article during the preceding year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

(f) The financial transactions of the board or the department in relation to the administration of this article are subject to audit by the state auditor in accordance with Chapter 321, Government Code, and its subsequent amendments.

**Sec. 10. APPLICANT QUALIFICATIONS; APPLICATION REVIEW.** (a) An applicant for a perfusionist license must submit a sworn application accompanied by an application fee.

(b) The board shall prescribe the form of the application and by rule may establish dates by which applications and fees must be received. These rules must not be inconsistent with present rules of the department related to application dates of other licenses.

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

(d) In approving perfusion education programs necessary for qualification for licensing examination, the board shall approve only a program that has educational standards that are at least as stringent as those established by the Accreditation Committee for Perfusion Education and approved by the Committee on Allied Health Education and Accreditation of the American Medical Association or their successors.

(e) Not later than the 45th day after the date of receipt of a properly submitted and timely application and not later than the 30th day before the next examination date, the department shall notify an applicant in writing that the applicant's application and any other relevant evidence pertaining to applicant qualifications established by the board by rule have been received and investigated. The notice shall state whether the application and other evidence submitted have qualified the applicant for examination. If the applicant has not qualified for examination, the notice shall state the reasons for the lack of qualification.

Sec. 11. **EXAMINATION.** (a) To qualify for a license, an applicant must pass a competency examination. Examinations shall be prepared or approved by the board and administered to qualified applicants at least once each calendar year.

(b) An examination prescribed by the board may be or may include the written and oral examinations given by the American Board of Cardiovascular Perfusion or by a national or state testing service in lieu of an examination prepared by the board. The board shall have the written portion of the examination, if any, validated by an independent testing professional.

(c) Not later than the 30th day after the date on which a licensing examination is administered under this article, the department shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national or state testing service, the department shall notify examinees of the results of the examination within two weeks after the date the department receives the results from the testing service. If the notice of the examination results will be delayed for more than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before the 90th day.

(d) If requested in writing by a person who fails the licensing examination, the department shall furnish the person with an analysis of the person's performance on the examination.

(e) The board by rule shall establish:

(1) a limit on the number of times an applicant who fails an examination may retake the examination;

(2) requirements for retaking an examination; and

(3) alternative methods of examining competency.

Sec. 12. **LICENSE.** (a) A person who meets the licensing qualifications under this article is entitled to receive a license as a licensed perfusionist.

(b) The license holder must:

(1) display the license certificate in an appropriate and public manner; or

(2) maintain on file at all times during which the license holder provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility; and

(3) keep the department informed of any change of address.

(c) A license certificate issued by the board is the property of the board and shall be surrendered on demand.

Sec. 13. **LICENSE EXPIRATION; RENEWAL.** (a) A license is valid for one year from the date it is issued and may be renewed annually.

(b) The board of health by rule may adopt a system under which licenses expire on various dates during the year.

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

(d) If a person's license has been expired for not more than 90 days, the person may renew the license by submitting proof satisfactory to the board of compliance with the continuing professional education requirements prescribed by the board and paying to the department the required renewal fee and a penalty fee that is one-half of the renewal fee.

(e) If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by submitting proof satisfactory to the board of compliance with the continuing professional education requirements prescribed by the board and paying to the department all unpaid renewal fees and a penalty fee that is equal to the renewal fee.

(f) If a person's license has been expired two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

(g) *The board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently appropriately licensed or certified and has been in practice in the other state for the two years preceding application. The person must pay to the board a fee that is equal to the examination fee for the license.*

(h) *The department shall notify each license holder in writing of the license expiration date before the 90th day before that date by notice to the license holder at the license holder's last known address according to the records of the board.*

**Sec. 14. PROVISIONAL LICENSE.** (a) *A license as a provisional licensed perfusionist may be issued by the board to a person who has successfully completed an approved perfusion education program on the filing of an application, payment of an application fee, and the submission of evidence satisfactory to the board of the successful completion of the education requirement set forth in Section 10 of this article.*

(b) *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.*

(c) *A person qualified for a provisional license under this article is entitled to receive a license as a provisional licensed perfusionist. A provisional licensed perfusionist shall comply with Sections 12(b) and (c) of this article.*

(d) *A provisional license is valid for one year from the date it is issued and may be renewed annually not more than five times by the same procedures established for renewal under Section 13 of this article if the application for renewal is signed by a supervising licensed perfusionist.*

**Sec. 15. ENDORSEMENT.** *On receipt of an application and application fee, the board shall waive the examination requirement for an applicant who at the time of application:*

(1) *is appropriately licensed or certified by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the license or certificate are the substantial equivalent of the requirements of this article as determined by the board; or*

(2) *holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion prior to January 1, 1994, and who may practice perfusion in another state, territory, or possession of the United States which does not credential perfusionists.*

**Sec. 16. PROHIBITED ACTS; PENALTY.** (a) *A person may not engage or offer to engage in perfusion, as defined in this article, 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 may not use any facsimile of those titles in any manner to indicate or imply that the person is a licensed perfusionist or provisional licensed perfusionist unless the person holds an appropriate license issued under this article.*

(b) *A person may not use the title or represent or imply that the person has the title of "certified clinical perfusionist" or use the letters "CCP" and may 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 person commits an offense if the person knowingly or intentionally violates Subsection (a) or (b) of this section. An offense under this section is a Class B misdemeanor.*

**Sec. 17. EXEMPTIONS.** *This article 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 article, and does not use any name, title, or designation indicating that the person is licensed under this article; and*



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

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

(A) are an integral part of the student's course of study; and

(B) are 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;

(3) a person who has successfully completed an approved perfusion education program but who has not been issued a license as a provisional licensed perfusionist in accordance with the provisions of Section 14 of this article and:

(A) is at all times in compliance with the provisions of Section 14(b) of this article; and

(B) receives a license as a provisional licensed perfusionist within 180 days of the date upon which the person successfully completed an approved perfusion education program;

(4) the practice of any legally qualified perfusionist employed by the United States government while in the discharge of official duties; or

(5) a person who is not a resident of this state if:

(A) the person is authorized to perform the activities and services of perfusion under the laws of the state of the person's residence; and

(B) such activities and services are performed for not more than 30 days in any one year; or

(6) a person performing autotransfusion or blood conservation techniques under the supervision of a licensed physician.

**Sec. 18. COMPLAINT PROCEDURE IN GENERAL.** (a) The board shall keep an information file about each complaint filed with the board. The board's 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 complaint that is dismissed; and

(4) other relevant information.

(b) If written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

**Sec. 19. COMPLAINT INVESTIGATION AND DISPOSITION.** (a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection shall:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) *prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.*

(b) *The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.*

(c) *The executive director of the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.*

**Sec. 20. INFORMAL PROCEEDINGS.** (a) *The board by rule shall adopt procedures governing:*

(1) *informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); and*

(2) *informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).*

(b) *Rules adopted under this section must provide the complainant and the license holder an opportunity to be heard and must require the presence of a representative of the office of the attorney general to advise the board or the board's employees.*

**Sec. 21. MONITORING OF LICENSE HOLDER.** *The board by rule shall develop a system for monitoring license holders' compliance with the requirements of this article. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.*

**Sec. 22. REVOCATION AND SUSPENSION; EX PARTE COMMUNICATION.** (a) *The board shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder on proof of:*

(1) *any violation of this article; or*

(2) *any violation of a rule or code of ethics adopted by the board.*

(b) *If a license suspension is probated, the board may require the license holder:*

(1) *to report regularly to the board on matters that are the basis of the probation;*

(2) *to limit practice to the areas prescribed by the board; or*

(3) *to continue the person's professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.*

(c) *If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing before a hearings officer appointed by the State Office of Administrative Hearings. The board shall prescribe procedures by which all decisions to suspend or revoke a license are appealable to the board.*

(d) *Proceedings for the suspension or revocation of a license are governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments.*

(e) *The board by rule shall adopt a broad schedule of sanctions for violations under this article. The State Office of Administrative Hearings shall use the schedule for any sanction imposed as the result of a hearing conducted by that office.*

(f) *A member of the board or hearings examiner may not communicate with a party to a proceeding pending before the board or the hearings examiner or with a party's representative unless notice and an opportunity to participate are given to each party to the proceeding if the member or hearings examiner proposes to make a decision, a finding of fact, or a conclusion of law in the proceeding.*

*Sec. 23. DUTIES OF THE BOARD. For the purposes of this article, the board:*

*(1) shall request and receive necessary assistance from state educational institutions or other state agencies;*

*(2) shall prepare information of consumer interest describing the regulatory functions of the board, the procedures by which consumer complaints are filed and resolved, and the profession of perfusion and shall make the information available to the public and appropriate state agencies;*

*(3) shall prepare a registry of licensed perfusionists and provisional licensed perfusionists and make this information available to the general public, license holders, and appropriate state agencies; and*

*(4) may request the attorney general or the appropriate county or district attorney to institute a suit to enjoin a violation of this article in addition to any other action, proceeding, or remedy authorized by law.*

*Sec. 24. SUNSET PROVISION. The Texas State Board of Examiners of Perfusionists is subject to Chapter 325, Government Code (Texas Sunset Act), and its subsequent amendments: Unless continued in existence as provided by that chapter, the board is abolished September 1, 2005.*

**SECTION 2.** (a) Notwithstanding Section 4, Article 4529e, Revised Statutes, as added by this Act, not later than December 31, 1993, the governor shall make the initial appointments to the Texas State Board of Examiners of Perfusionists as follows:

(1) one member engaged in the practice of perfusion, the physician member, and one public member, who shall serve until February 1, 1995;

(2) two members engaged in the practice of perfusion and one public member, who shall serve until February 1, 1997; and

(3) two members engaged in the practice of perfusion and one public member, who shall serve until February 1, 1999.

(b) A person actively engaged in the practice of perfusion consistent with applicable law on or prior to January 1, 1993, shall receive a license as a licensed perfusionist without examination if application is made before September 1, 1995, so long as the person submits proof satisfactory to the board that the person meets one of the following requirements:

(1) the person, as of the effective date of this Act, was operating cardiopulmonary bypass systems during cardiopulmonary surgery in a health care facility licensed in the United States as the person's primary function and had been operating the systems since January 1, 1989;

(2) the person has had at least five years' experience operating cardiopulmonary bypass systems during cardiopulmonary surgery in a health care facility licensed in the United States since January 1, 1986; or

(3) the person has successfully completed a perfusion education program approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or their successors, after January 1, 1989, and holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion.

(c) Notwithstanding Section 4, Article 4529e, Revised Statutes, as added by this Act, a perfusionist member of the Texas State Board of Examiners of Perfusionists:

(1) is not required to be licensed if the member was appointed to the board before January 1, 1995; and

(2) is not required to be licensed under Article 4529e, Revised Statutes, as added by this Act, for three years or more if the member was appointed to the board within four years following the effective date of this Act.

**SECTION 3.** This Act takes effect January 1, 1994.

**SECTION 4.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 4, 1993, by a non-record vote; passed by the Senate on May 25, 1993: Yeas 30, Nays 0.

Approved June 8, 1993.

Effective Jan. 1, 1994.