

**SENATE BILL No. 5**

By Senator Kelsey

1-11

1 AN ACT concerning the Kansas board of healing arts; relating to  
2 licensure and education of perfusionists; establishing perfusion  
3 council.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Sections 1 through 18, and amendments thereto, shall be  
7 known and may be cited as the perfusion practice act.

8 Sec. 2. As used in sections 1 through 18, and amendments thereto:

9 (a) "Act" means the perfusion practice act.

10 (b) "Board" means the state board of healing arts.

11 (c) "Council" means the perfusion council.

12 (d) "Extracorporeal circulation" means the diversion of a patient's  
13 blood through a heart-lung machine or a similar device that assumes the  
14 functions of the patient's heart, lungs, kidney, liver, or other organs.

15 (e) "Perfusionist" means a person who practices perfusion as defined  
16 in this act.

17 (f) "Perfusion" means the functions necessary for the support,  
18 treatment, measurement, or supplementation of the cardiovascular,  
19 circulatory, respiratory systems or other organs, or a combination of those  
20 activities, and to ensure the safe management of physiologic functions by  
21 monitoring and analyzing the parameters of the systems under an order  
22 and under the supervision of a licensed physician, including:

23 (1) The use of extracorporeal circulation, long-term  
24 cardiopulmonary support techniques including extracorporeal carbon-  
25 dioxide removal and extracorporeal membrane oxygenation, and  
26 associated therapeutic and diagnostic technologies;

27 (2) counterpulsation, ventricular assistance, autotransfusion, blood  
28 conservation techniques, myocardial and organ preservation,  
29 extracorporeal life support, and therapeutic modalities including isolated  
30 limb perfusion and intra-peritoneal hyperthermic chemotherapy;

31 (3) the use of techniques involving blood management, advanced  
32 life support, and other related functions;

33 (4) the administration of pharmacological and therapeutic agents,  
34 blood products and anesthetic agents through the extracorporeal circuit as  
35 ordered by a physician or certified registered nurse anesthetist pursuant to  
36 K.S.A. 65-1158, and amendments thereto;

1 (5) the performance and use of coagulation monitoring and analysis,  
2 physiologic monitoring and analysis, blood gas and chemistry monitoring  
3 and analysis, hematologic monitoring and analysis, hypothermia,  
4 hyperthermia, hemoconcentration and hemodilution and hemodialysis;  
5 and

6 (6) the observation of signs and symptoms related to perfusion  
7 services, the determination of whether the signs and symptoms exhibit  
8 abnormal characteristics, and the implementation of appropriate  
9 reporting, perfusion protocols, or changes in or the initiation of  
10 emergency procedures.

11 (g) "Perfusion protocols" means perfusion related policies and  
12 protocols developed or approved by a licensed medical care facility or a  
13 physician through collaboration with administrators, licensed  
14 perfusionists, and other health care professionals.

15 (h) This section shall take effect on and after July 1, 2012.

16 Sec. 3. (a) On and after July 1, 2012, except as otherwise provided  
17 in this act, no person shall perform perfusion unless the person possesses  
18 a valid license issued under this act.

19 (b) No person shall depict one's self orally or in writing, expressly or  
20 by implication, as holder of a license who does not hold a current license  
21 under this act.

22 (c) Only persons licensed under this act as a perfusionist shall be  
23 entitled to use the title "perfusionist," "licensed perfusionist," or "licensed  
24 clinical perfusionist," abbreviations thereof, words similar to such title or  
25 the designated letters "LP" or "LCP."

26 Sec. 4. (a) Nothing in this act is intended to limit, preclude or  
27 otherwise interfere with the practices of other health care providers  
28 formally trained and licensed, registered, credentialed or certified by  
29 appropriate agencies of the state of Kansas from performing duties  
30 considered appropriate to their recognized scope of practice.

31 (b) The following shall be exempt from the requirement of a license  
32 pursuant to this act:

33 (1) A person licensed by another health professional licensing board  
34 if:

35 (A) The person does not represent to the public, directly or  
36 indirectly, that the person is licensed under this act, and does not use any  
37 name, title, or designation indicating that the person is licensed under this  
38 act;

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

41 (C) the person is trained according to the extracorporeal membrane  
42 oxygenation specialist (ECMO) guidelines of the extracorporeal life  
43 support organization (ELSO) and operates an extracorporeal membrane

- 1 oxygenation circuit under the supervision of a licensed physician;
- 2 (2) a person performing autotransfusion or blood conservation  
3 techniques under the supervision of a licensed physician;
- 4 (3) a student enrolled in an accredited perfusion education program  
5 if perfusion services performed by the student:
- 6 (A) Are an integral part of the student's course of study; and  
7 (B) are performed under the direct supervision of a licensed  
8 perfusionist assigned to supervise the student and who is on duty and  
9 immediately available in the assigned patient care area;
- 10 (4) health care providers in the United States armed forces, public  
11 health services, federal facilities and other military service when acting in  
12 the line of duty in this state; or
- 13 (5) persons rendering assistance in the case of an emergency.
- 14 (c) This section shall take effect on and after July 1, 2012.
- 15 Sec. 5. (a) An applicant for licensure as a perfusionist shall file an  
16 application, on forms provided by the board, showing to the satisfaction  
17 of the board that the applicant meets the following requirements:
- 18 (1) At the time of the application is at least 18 years of age;  
19 (2) has successfully completed a perfusion education program set  
20 forth in rules and regulations adopted by the board and which contains a  
21 curriculum no less stringent than the standards of existing organizations  
22 which approve perfusion programs;
- 23 (3) except as otherwise provided in this act, has successfully passed  
24 a license examination approved by the board; and  
25 (4) has paid all fees required for licensure prescribed in this act,  
26 which shall not be refundable.
- 27 (b) The board may issue a temporary license to an applicant seeking  
28 licensure as a perfusionist when such applicant meets the requirements  
29 for licensure or meets all the requirements for licensure except  
30 examination and pays to the board the temporary license fee as required  
31 under section 8, and amendments thereto. Such temporary license is valid  
32 (1) for one year from the date of issuance or (2) until the board makes a  
33 final determination on the applicant's request for licensure. The board  
34 may extend a temporary license, upon a majority vote of the members of  
35 the board, for a period not to exceed one year.
- 36 (c) The board, without examination, may issue a license to a person  
37 who has been in the active practice of perfusion in some other state,  
38 territory, the District of Columbia or other country upon certificate of the  
39 proper licensing authority of that state, territory, District of Columbia or  
40 other country certifying that the applicant is duly licensed, that the  
41 applicant's license has never been limited, suspended or revoked, that the  
42 licensee has never been censured or had other disciplinary action taken  
43 and that, so far as the records of such authority are concerned, the

1 applicant is entitled to its endorsement. The applicant shall also present  
2 proof satisfactory to the board:

3 (1) (A) That the state, territory, District of Columbia or country in  
4 which the applicant last practiced maintains standards at least equal to  
5 those maintained by Kansas;

6 (B) that the applicant's original license was based upon an  
7 examination at least equal in quality to the examination required in this  
8 state and that the passing grade required to obtain such original license  
9 was comparable to that required in this state;

10 (C) of the date of the applicant's original and any and all endorsed  
11 licenses and the date and place from which any license was attained;

12 (D) that the applicant has been actively engaged in perfusion under  
13 such license or licenses since issued, and if not, fix the time when and  
14 reason why the applicant was out of practice; and

15 (E) that the applicant holds a current certificate as a certified  
16 clinical perfusionist initially issued by the American board of  
17 cardiovascular perfusion (ABCP), or its successor, prior to July 1, 2012;  
18 or

19 (2) that the applicant has been practicing perfusion as described in  
20 this act in a full-time capacity for a period of more than 24 months prior  
21 to July 1, 2012.

22 (d) The board, without examination, may issue a license to a person  
23 who holds a current certificate as a certified clinical perfusionist initially  
24 issued by the American board of cardiovascular perfusion who has been  
25 in the active practice of perfusion in Kansas in a full-time capacity for a  
26 period of more than two of the last ten years prior to July 1, 2012.

27 (e) An applicant for license by endorsement shall not be granted a  
28 license unless such applicant's individual qualifications meet the Kansas  
29 requirements.

30 (f) A person whose license has been revoked may make written  
31 application to the board requesting reinstatement of the license in a  
32 manner prescribed by the board, which application shall be accompanied  
33 by the fee provided for in section 8, and amendments thereto.

34 Sec. 6. (a) There is hereby created the designation of inactive  
35 license. The board is authorized to issue an inactive license to any  
36 licensee who makes written application for such license on a form  
37 provided by the board and remits the fee for an inactive license  
38 established pursuant to section 8, and amendments thereto. The board  
39 may issue an inactive license only to a person who meets all the  
40 requirements for a license to practice as a perfusionist and who does not  
41 engage in active practice as a perfusionist in the state of Kansas. An  
42 inactive license shall not entitle the holder to engage in active practice.  
43 The provisions of section 7, and amendments thereto, relating to

1 expiration, renewal and reinstatement of a license shall be applicable to  
2 an inactive license issued under this subsection. Each inactive licensee  
3 may apply to engage in active practice by presenting a request required  
4 by section 5, and amendments thereto. The request shall be accompanied  
5 by the fee established pursuant to section 8, and amendments thereto.

6 (b) There is hereby created a designation of federally active license.  
7 The board is authorized to issue a federally active license to any licensee  
8 who makes a written application for such license on a form provided by  
9 the board and remits the same fee required for a license established under  
10 section 8, and amendments thereto. The board may issue a federally  
11 active license only to a person who meets all the requirements for a  
12 license to practice as a perfusionist and who practices as a perfusionist  
13 solely in the course of employment or active duty in the United States  
14 government or any of its departments, bureaus or agencies. The  
15 provisions of section 7, and amendments thereto, relating to expiration,  
16 renewal and reinstatement of a license shall be applicable to a federally  
17 active license issued under this subsection. Each federally active licensee  
18 may apply to engage in active practice by presenting a request required  
19 by section 5, and amendments thereto.

20 (c) This section shall take effect on and after July 1, 2012.

21 Sec. 7. (a) Licenses issued under this act shall expire on the date of  
22 expiration established by rules and regulations of the board unless  
23 renewed in the manner prescribed by the board. The request for renewal  
24 shall be accompanied by the license renewal fee established pursuant to  
25 section 8, and amendments thereto.

26 (b) At least 30 days before the expiration of a licensee's license, the  
27 board shall notify the licensee of the expiration by mail addressed to the  
28 licensee's last mailing address as noted upon the office records. If the  
29 licensee fails to submit an application for renewal on a form provided by  
30 the board, or fails to pay the renewal fee by the date of expiration, the  
31 board shall give a second notice to the licensee that the license has  
32 expired and the license may be renewed only if the application for  
33 renewal, the renewal fee, and the late renewal fee are received by the  
34 board within the thirty-day period following the date of expiration and  
35 that, if both fees are not received within the thirty-day period, the license  
36 shall be deemed canceled by operation of law and without further  
37 proceedings.

38 (c) The board may require any licensee to submit to a continuing  
39 education audit and provide to the board evidence of satisfactory  
40 completion of a program of continuing education required by rules and  
41 regulations of the board.

42 (d) Any license canceled for failure to renew may be reinstated upon  
43 recommendation of the board. An application for reinstatement shall be

1 on a form provided by the board, and shall be accompanied by payment  
2 of the reinstatement fee and evidence of completion of any applicable  
3 continuing education requirements. The board may adopt rules and  
4 regulations establishing appropriate education requirements for  
5 reinstatement of a license that has been canceled for failure to renew.

6 (e) The board, prior to renewal of a license, shall require the  
7 licensee, if in the active practice of perfusion within the state, to submit to  
8 the board evidence satisfactory to the board that the licensee is  
9 maintaining a policy of professional liability insurance. The board may  
10 require any licensee to provide to the board evidence of malpractice  
11 insurance as required by rules and regulations of the board during an  
12 audit. The board shall fix by rules and regulations the minimum level of  
13 coverage for such professional liability insurance.

14 (f) This section shall take effect on and after July 1, 2012.

15 Sec. 8. (a) The board shall charge and collect in advance fees for  
16 perfusionists as established by the board by rules and regulations, not to  
17 exceed:

18	Application for licensure.....	\$300
19	Annual renewal of license:	
20	Paper renewal .....	\$150
21	On-line renewal.....	\$150
22	Late renewal of licensure:	
23	Late paper renewal .....	\$100
24	Late on-line renewal .....	\$100
25	Licensure reinstatement (due to late renewal) .....	\$250
26	Revoked licensure reinstatement.....	\$325
27	Application for inactive license .....	\$300
28	Renewal of inactive license .....	\$75
29	Conversion of inactive license to active .....	\$150
30	Certified copy of license.....	\$25
31	Written verification of license.....	\$25
32	Temporary license .....	\$75

33 (b) If the examination is not administered by the board, the board  
34 may require that fees paid for any examination under the perfusion  
35 practice act be paid directly to the examination service by the person  
36 taking the examination.

37 Sec. 9. The board shall remit all moneys received by or for the board  
38 from fees, charges or penalties to the state treasurer in accordance with  
39 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
40 of each such remittance, the state treasurer shall deposit the entire amount  
41 in the state treasury. Twenty percent of such amount shall be credited to  
42 the state general fund and the balance shall be credited to the healing arts  
43 fee fund. All expenditures from the healing arts fee fund shall be made in

1 accordance with appropriation acts upon warrants of the director of  
2 accounts and reports issued pursuant to vouchers approved by the  
3 president of the board or by a person or persons designated by the  
4 president.

5 Sec. 10. (a) There is established the perfusion council to assist the  
6 state board of healing arts in carrying out the provisions of this act. The  
7 council shall consist of five members, all citizens and residents of the  
8 state of Kansas appointed as follows: The board shall appoint one  
9 member who is a physician licensed to practice medicine and surgery and  
10 one member who is a member of the state board of healing arts. Members  
11 appointed by the board shall serve at the pleasure of the board. The  
12 governor shall appoint three perfusionists who have at least three years  
13 experience in perfusion preceding the appointment and are actively  
14 engaged, in this state, in the practice of perfusion or the teaching of  
15 perfusion. At least two of the governor's appointments shall be made from  
16 a list of four nominees submitted by the Kansas practicing perfusionist  
17 society.

18 (b) The members appointed by the governor shall be appointed for  
19 terms of four years except that of the members first appointed, one shall  
20 be appointed for a term of two years, one for a term of three years, and  
21 one for a term of four years, with successor members appointed for four  
22 years and to serve until a successor member is appointed. If a vacancy  
23 occurs on the council, the appointing authority of the position which has  
24 become vacant shall appoint a person of like qualifications to fill the  
25 vacant position for the unexpired term.

26 (c) Perfusionists initially appointed to the council must be eligible  
27 for licensure under section 5, and amendments thereto. On and after  
28 October 1, 2012, new appointees shall be licensed under the provisions of  
29 this act.

30 (d) The council shall meet at least once each year at a time and place  
31 of its choosing and at such other times as may be necessary on the  
32 chairperson's call or on the request of a majority of the council's  
33 members.

34 (e) A majority of the council constitutes a quorum. No action may be  
35 taken by the council except by affirmative vote of the majority of the  
36 members present and voting.

37 (f) Members of the council attending meetings of the council, or a  
38 subcommittee of the council, shall be paid mileage provided in subsection  
39 (c) of K.S.A. 75-3223, and amendments thereto, from the healing arts fee  
40 fund.

41 Sec. 11. The perfusion council shall advise the board regarding:

42 (a) Examination, licensing and other fees;

43 (b) rules and regulations to be adopted to carry out the provisions of

1 this act;

2 (c) subject areas to be covered during the educational program and  
3 on the licensure examination;

4 (d) the number of yearly continuing education hours required to  
5 maintain active licensure;

6 (e) changes and new requirements taking place in the area of  
7 perfusion; and

8 (f) such other duties and responsibilities as the board may assign.

9 Sec. 12. The board, with the advice and assistance of the perfusion  
10 council, shall:

11 (a) Pass upon the qualifications of all applicants for examination and  
12 licensing, contract for examinations, determine the applicants who  
13 successfully pass the examination, duly license and regulate such  
14 applicants and keep a roster of all individuals licensed;

15 (b) adopt rules and regulations as may be necessary to administer the  
16 provisions of this act and prescribe forms which shall be issued in the  
17 administration of this act;

18 (c) establish standards for approval of an educational course of study  
19 and clinical experience, criteria for continuing education, procedures for  
20 the examination of applicants; and

21 (d) establish standards of professional conduct; procedure for the  
22 discipline of licensees and keep a record of all proceedings.

23 Sec. 13. (a) The license of a perfusionist may be limited,  
24 suspended or revoked, or the licensee may be censured, reprimanded,  
25 placed on probation, fined pursuant to K.S.A. 65-2863a, and amendments  
26 thereto, or otherwise sanctioned by the board or an application for  
27 licensure or reinstatement of licensure may be denied if it is found that  
28 the licensee or applicant:

29 (1) Has committed an act of fraud or deceit in the procurement or  
30 holding of a license;

31 (2) has been convicted of a felony in a court of competent  
32 jurisdiction, either within or outside of this state, unless the conviction  
33 has been reversed and the holder of the license discharged or acquitted or  
34 if the holder has been pardoned with full restoration of civil rights in  
35 which case the license shall be restored;

36 (3) is addicted to or has distributed intoxicating liquors or drugs for  
37 other than lawful purposes;

38 (4) is found to be mentally or physically incapacitated to such a  
39 degree that in the opinion of the board continued practice by the licensee  
40 would constitute a danger to the public's health and safety;

41 (5) has aided and abetted a person who is not a licensee under this  
42 act or is not otherwise authorized to perform the duties of a license  
43 holder;



1 (6) has violated any provision of this act or rules and regulations;  
2 (7) has committed an act of unprofessional conduct under criteria  
3 which the board may establish by rules and regulations; or

4 (8) is, or has been, found guilty of incompetence or negligence while  
5 performing as a license holder.

6 (b) The denial, refusal to renew, suspension, limitation, probation or  
7 revocation of a license or other sanction may be ordered by the board  
8 upon a finding of a violation of this act. All administrative proceedings  
9 conducted pursuant to this act shall be in accordance with the provisions  
10 of the Kansas administrative procedure act and shall be reviewable in  
11 accordance with the Kansas judicial review act.

12 (c) A person whose license is suspended shall not engage in any  
13 conduct or activity in violation of the order by which the license was  
14 suspended.

15 (d) This section shall take effect on and after July 1, 2012.

16 Sec. 14. (a) The board shall have jurisdiction of proceedings to  
17 take disciplinary action against any licensee practicing under this act. Any  
18 such action shall be taken in accordance with the provisions of the  
19 Kansas administrative procedure act.

20 (b) Either before or after formal charges have been filed, the board  
21 and the licensee may enter into a stipulation which shall be binding upon  
22 the board and the licensee entering into such stipulation, and the board  
23 may enter its findings of fact and enforcement order based upon such  
24 stipulation without the necessity of filing any formal charges or holding  
25 hearings in the case. An enforcement order based upon a stipulation may  
26 order any disciplinary action against the licensee entering into such  
27 stipulation.

28 (c) The board may temporarily suspend or temporarily limit the  
29 license of any licensee in accordance with the emergency adjudicative  
30 proceedings under the Kansas administrative procedure act if the board  
31 determines that there is cause to believe that grounds exist for  
32 disciplinary action against the licensee and that the licensee's continuation  
33 in practice would constitute an imminent danger to the public health and  
34 safety.

35 Sec. 15. (a) Nothing in the perfusion practice act or in the  
36 provisions of chapter 40 of the Kansas Statutes Annotated, and  
37 amendments thereto, shall be construed to require that any individual,  
38 group or blanket policy of accident and sickness, medical or surgical  
39 expense insurance coverage or any provision of a policy, contract, plan or  
40 agreement for medical service issued on or after the effective date of this  
41 act, reimburse or indemnify a person licensed under the perfusion  
42 practice act for services provided as a perfusionist.

43 (b) This section shall take effect on and after July 1, 2012.

1       Sec. 16. (a) When it appears that any person is violating any  
2 provision of this act, the board may bring an action in the name of the  
3 state in a court of competent jurisdiction for an injunction against such  
4 violation without regard as to whether proceedings have been or may be  
5 instituted before the board or whether criminal proceedings have been or  
6 may be instituted.

7       (b) This section shall take effect on and after July 1, 2012.

8       Sec. 17. On and after July 1, 2012, any violation of this act shall  
9 constitute a class B misdemeanor.

10       Sec. 18. If any section of this act, or any part thereof, is adjudged by  
11 any court of competent jurisdiction to be invalid, such judgment shall not  
12 affect, impair or invalidate the remainder or any other section or part  
13 thereof.

14       Sec. 19. This act shall take effect and be in force from and after its  
15 publication in the statute book.