

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 788

By: Hendrick of the Senate

and

Boyd (Laura) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; creating the Oklahoma Licensed Perfusionists Act; providing short title; defining terms; creating State Board of Examiners of Perfusionists; providing for appointments, qualifications, terms of office, vacancies, grounds for removal and related validity of action; providing for officers, meetings, quorum and compliance with certain statutes; authorizing promulgation of rules and stating certain duties; authorizing employment of personnel and acquisition of facilities, equipment and supplies; requiring Board designate Executive Secretary and stating duties; providing for certain reimbursement and protections from personal liability; creating revolving fund and providing for expenditures for certain purposes; prohibiting practice of perfusion after certain date unless licensed under act; providing for application forms and related qualifications, approval of education programs, and procedures; providing for licensure by examination, endorsement without examination, and provisional license; stating requirements; providing for certain fees; grandfathering in certain persons; stating privileges and duties of license holder; requiring surrender of license on demand of Board; providing for annual renewal and related requirements, and procedures; making provisions of act inapplicable to certain persons; authorizing Board to take certain disciplinary actions under certain circumstances; stating procedures for filing complaints and for related investigation, notice and hearing; providing for issuance of subpoenas, appeal, payment of costs, and release of names of persons disciplined; making certain acts a misdemeanor and stating penalty; providing for administrative penalties; providing for amounts; providing for consideration; specifying maximum for certain fees; amending 18 O.S. 1991, Section 803, as last amended by Section 2, Chapter 339, O.S.L. 1995 (18 O.S. Supp. 1995, Section 803), which relates to definitions used in the Professional Entity Act; including services of licensed perfusionist in certain definition; amending Section 21, Chapter 148, O.S.L. 1992, as amended by Section 12, Chapter 366, O.S.L. 1993, Section 34, Chapter 148, O.S.L. 1992, as amended by Section 17, Chapter 366, O.S.L. 1993, Section 36, Chapter 148, O.S.L. 1992, as amended by Section 19, Chapter 366, O.S.L. 1993, Section 37, Chapter 148, O.S.L.

1992, as amended by Section 20, Chapter 366, O.S.L. 1993, and Section 38, Chapter 148, O.S.L. 1992, as amended by Section 21, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Sections 2020, 2033, 2035, 2036 and 2037), which relate to the Oklahoma Limited Liability Company Act; adding statutory reference; deleting provision for majority vote for approval of dissolution or winding up; deleting provisions relating to articles of organization; deleting condition upon which member ceases to be a member; clarifying conditions under which certain assignees may become members; clarifying language; correcting statutory citation; changing certain consent requirement for removal of certain member; limiting certain members ability to withdraw; changing time period for winding up of limited liability company after dissolution; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2051 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 21 of this act shall be known and may be cited as the "Oklahoma Licensed Perfusionists Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2052 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Licensed Perfusionists Act:

1. "Board" means the State Board of Examiners of Perfusionists;
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 or both;
3. "Licensed perfusionist" means a person licensed to practice perfusion pursuant to the Oklahoma Licensed Perfusionists Act;
4. "Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory and respiratory systems 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. ventricular assistance, 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 paragraph:
 - (1) the administration of:
 - (a) pharmacological and therapeutic agents, or
 - (b) blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician,
 - (2) the performance and use of:
 - (a) anticoagulation analysis,
 - (b) physiologic analysis,
 - (c) blood gas and chemistry analysis,
 - (d) hypothermia,
 - (e) hyperthermia,
 - (f) hemoconcentration, and
 - (g) hemodilution,
 - (3) the observation of signs and symptoms related to perfusion services, and the determination of whether the signs and symptoms exhibit abnormal characteristics, and
 - (4) the implementation of appropriate reporting and perfusion protocols, and changes in, or the initiation of, emergency procedures;

5. "Perfusion protocol" 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; and

6. "Provisional licensed perfusionist" means a person provisionally licensed by this state pursuant to the Oklahoma Licensed Perfusionists Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2053 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2002, in accordance with the provisions of the Oklahoma Sunset Law, the State Board of Examiners of Perfusionists. The Board shall administer the provisions of the Oklahoma Licensed Perfusionists Act. The Board shall consist of nine (9) members, appointed by the State Board of Medical Licensure and Supervision.

B. The initial appointments for each member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for five-year terms. Members of the Board shall serve at the pleasure of and may be removed from office by the appointing authority. No member shall serve more than three (3) consecutive terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

C. The Board shall be composed as follows:

1. Three members shall be members of the general public;
2. Four members shall be licensed perfusionists appointed from a list of not less than ten licensed perfusionists submitted by a statewide organization representing licensed perfusionists; and

3. Two members shall be physicians licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and who are also board certified in cardiovascular surgery.

D. The licensed perfusionist members shall have been engaged in rendering perfusion services to the public, teaching perfusion care, or research in perfusion care, for at least five (5) years immediately preceding their appointments. These members shall at all times be holders of valid licenses for the practice of perfusion in this state, except for the members first appointed to

the Board. These initial members shall, at the time of appointment, be credentialed as a Certified Clinical Perfusionist (CCP) conferred by the American Board of Cardiovascular Perfusion (ABCP) or its successor organization, and all shall fulfill the requirements for licensure pursuant to the Oklahoma Licensed Perfusionists Act. All members of the Board shall be residents of this state.

E. Upon expiration or vacancy of the term of a member, the respective nominating authority may, as appropriate, submit to the appointing authority a list of not less than three persons qualified to serve on the Board to fill the expired term of their respective member. Appointments may be made from these lists by the appointing authority and additional lists may be provided by the respective organizations if requested by the appointing authority.

F. It shall be 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 pursuant to the Oklahoma Licensed Perfusionists Act;

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 a majority vote of the Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2054 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Within thirty (30) days after the members of the State Board of Examiners of Perfusionists are appointed, the Board shall

meet to elect a chair and vice-chair who shall hold office according to the rules adopted by the Board.

B. The Board shall hold at least two regular meetings each year as provided by the rules and procedures adopted by the Board.

C. A majority of the members of the Board, including the chair and vice-chair shall constitute a quorum at any meeting, and a majority of the required quorum shall be sufficient for the Board to take action by vote.

D. The Board shall comply with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, the Administrative Procedures Act, and any other general act, statutorily created duty or requirement applicable to state agencies.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2055 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Examiners of Perfusionists shall promulgate rules not inconsistent with the provisions of the Oklahoma Licensed Perfusionists Act as are necessary for the governing of the proceedings of the Board, the performance of the duties of the Board, the regulation of the practice of perfusion in this state, and the enforcement of the Oklahoma Licensed Perfusionists Act.

B. The Board shall:

1. Adopt and publish standards of professional conduct for perfusionists and adopt an official seal;

2. Establish the qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;

3. Examine, certify, and renew the licenses of duly qualified applicants and establish the requirements and procedures therefor;

4. Maintain an up-to-date list of every person licensed to practice perfusion pursuant to the Oklahoma Licensed Perfusionists Act. The list shall show the license holder's last-known place of employment, last-known place of residence and the date and number of the license;

5. Cause the prosecution of all persons violating the Oklahoma Licensed Perfusionists Act and incur necessary expenses therefor;

6. Keep a record of all proceedings of the Board and make the record available to the public for inspection during reasonable business hours;

7. Conduct hearings and issue subpoenas according to the Administrative Procedures Act, the Oklahoma Licensed Perfusionists Act, and rules promulgated by the Board.

8. Investigate or cause to be investigated alleged violations of the Oklahoma Licensed Perfusionists Act.

9. Determine and assess administrative penalties, take or request civil action, request criminal prosecution or take other administrative or civil action as specifically authorized by the Oklahoma Licensed Perfusionists Act or other law against any person or entity who has violated any of the provisions of the Oklahoma Licensed Perfusionists Act, rules promulgated thereunder, or any license or order issued pursuant thereto;

10. Enter into interagency agreements or other contracts necessary to implement the Oklahoma Licensed Perfusionists Act;

11. Share information on a case-by-case basis of any person whose license has been suspended, revoked or denied. This information shall include the name, social security number, type and cause of action, date and penalty incurred, and the length of the penalty and any other information determined necessary by the Board. This information shall be available for public inspection during reasonable business hours and shall be supplied to similar governing boards in other states upon request;

12. Establish reasonable and necessary fees for the administration and implementation of the Oklahoma Licensed Perfusionists Act;

13. Provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under the Oklahoma Licensed Perfusionists Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees;

14. Establish continuing professional education programs for licensed perfusionists and provisional licensed perfusionists pursuant to the Oklahoma Licensed Perfusionists Act, 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 the Oklahoma Licensed Perfusionists Act,
- 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;

15. By agreement, secure and provide for compensation for services that the Board considers necessary to the administration and implementation of the Oklahoma Licensed Perfusionists Act and may employ and compensate within available funds professional consultants, technical assistants, and employees on a full-time or part-time basis; and

16. Enter into agreements or contracts, consistent with state law, with outside organizations for the purpose of developing, administering, grading, or reporting the results of examinations. Such organizations must be capable of providing an examination which:

- a. meets the standards of the American Board of Cardiovascular Perfusion or its successor agency,
- b. is able to be validated by an independent testing professional, and
- c. is nationally recognized as testing cardiovascular perfusion competencies.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2056 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Examiners of Perfusionists may employ such personnel and acquire such facilities, equipment, and supplies as are necessary to assist the Board in the administration and implementation of the provisions of the Oklahoma Licensed Perfusionists Act.

B. The Board shall designate a member of the Board to serve as the Executive Secretary of the Board. The Executive Secretary shall be the administrator of the licensure activities of the Board.

C. In addition to other duties prescribed by the Oklahoma Licensed Perfusionists Act and by the Board, 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 the Oklahoma Licensed Perfusionists Act, including rules and proposals on administrative procedures consistent with the Oklahoma Licensed Perfusionists Act;

4. Exercise general supervision over persons employed by the Board in the administration of the Oklahoma Licensed Perfusionists Act;

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; and

7. Handle the correspondence of the Board and obtain, assemble or prepare the reports and information that the Board may direct or authorize.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2057 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Members of the State Board of Examiners of Perfusionists shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred while engaged in the

discharge of official duties pursuant to the Oklahoma Licensed Perfusionists Act in accordance with the State Travel Reimbursement Act.

B. Members of the Board shall enjoy the same rights of protection from personal liability as those enjoyed by other employees of the state for actions taken while acting under the provisions of the Oklahoma Licensed Perfusionists Act and in the course of their duties.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2058 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Board of Examiners of Perfusionists to be designated the "Perfusionists Licensure Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees received by the Board and any other monies collected pursuant to the Oklahoma Licensed Perfusionists Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board for any purpose which is reasonably necessary to carry out the provisions of the Oklahoma Licensed Perfusionists Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2059 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Oklahoma Licensed Perfusionists Act, on and after January 1, 1997, no person shall practice perfusion in this state unless licensed pursuant to the provisions of the Oklahoma Licensed Perfusionists Act.

B. An applicant for a perfusionist license must submit a sworn application accompanied by an application fee specified in Section 21 of this act in an amount set by rule of the Board.

C. The State Board of Examiners of Perfusionists 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 State Board of Medical Licensure and Supervision related to application dates of other licenses.

D. To qualify for the examination for licensure, the applicant must have successfully completed a perfusion education program approved by the Board.

E. In approving perfusion education programs necessary for qualification for 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.

F. Not later than the forty-fifth day after the date of receipt of a properly submitted and timely application and not later than the thirtieth day before the next examination date, the Board 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 lack of qualification.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2060 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The applicant, except where otherwise provided in the Oklahoma Licensed Perfusionists Act, shall be required to pass an examination, whereupon the State Board of Examiners of Perfusionists may issue to the applicant a license to practice perfusion. 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.

C. Not later than thirty (30) days after the date on which an examination is administered under the provisions of the Oklahoma Licensed Perfusionists Act, the Board 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 Board shall notify examinees of the results of the examination within two (2) weeks after the date the Board receives the results from the testing service. If the notice of examination results will be delayed for more than ninety (90) days after the examination date, the Board shall notify the examinee of the reason for the delay before the ninetieth day.

D. If requested in writing by a person who fails the examination, the Board shall furnish the person with an analysis of the person's performance on the examination.

E. The Board by rule may establish a limit on the number of times an applicant who fails an examination may retake the examination and the requirements for retaking the examination.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2061 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the receipt of an application and application fee, the State Board of Examiners of Perfusionists shall waive the examination requirement and issue a license to practice perfusion by endorsement to an applicant who:

1. Is currently permitted, licensed or certified by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the permit, license or certificate are deemed by the Board to be equivalent to those required in this state by the Oklahoma Licensed Perfusionists Act; or

2. Holds a license as a Certified Clinical Perfusionist (CCP) by the American Board of Cardiovascular Perfusion prior to January 1, 1997, provided such license has not been not renewed, suspended or revoked; or

3. Has been practicing perfusion in a full-time capacity for a period of more than twenty-four (24) months prior to January 1, 1997; and

4. Meets and complies with all other requirements specified by the Oklahoma Licensed Perfusionists Act or rules promulgated thereto.

B. An applicant applying for a license pursuant to the provisions of this section shall certify under oath that the applicant's credentials have not been suspended, revoked, or not renewed or the applicant has not been placed on probation, or reprimanded.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2062 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Upon the receipt of an application and application fee, the State Board of Examiners of Perfusionists may issue a provisional license to practice perfusion for a period of one (1) year to a person permitted, licensed or certified in another state, territory, or possession of the United States who does not qualify for a licensure by endorsement pursuant to Section 11 of this act but has applied to take the examination and otherwise meets the qualifications of the Board. Provided, the applicant must show written evidence, verified by oath, that the applicant is currently practicing or has within the last six (6) months practiced perfusion in another state, territory, or possession of the United States.

2. A graduate of a perfusion education program approved 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, who has

applied to take the examination and otherwise meets the qualifications of the Board.

3. A student currently enrolled in a perfusion education program approved 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 may receive a provisional license as set out by the rules of the Board.

B. A person to whom a provisional license is issued pursuant to this section shall be under the supervision and direction of a licensed perfusionist at all times during which the provisional licensed perfusionist performs perfusion. Rules promulgated by the Board governing such supervision and direction shall require the immediate physical presence of the supervising licensed perfusionist.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2063 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board may issue a license to practice perfusion upon payment of a licensure fee specified by Section 21 of this act to any person who has:

1. Qualified pursuant to Section 10 or Section 11 of this act; or

2. Been practicing perfusion in a full-time capacity for a period of more than twenty-four (24) months prior to January 1, 1997; provided, such applicant must demonstrate through written evidence verified under oath and certified to by the employing health care facility that the applicant has in fact been employed in such capacity for more than twenty-four (24) months preceding January 1, 1997.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2064 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person holding a license to practice perfusion in this state may use the title "licensed perfusionist" and the abbreviation "L.P."

B. A license holder must:

1. Display the license in an appropriate and public manner;
or

2. Maintain on file at all times during which the license provides services in a health care facility a true and correct copy of the license in the appropriate records of the facility;
and

3. Keep the State Board of Examiners of Perfusionists informed of any change of address.

C. A licensure issued by the Board is the property of the Board and shall be surrendered on demand.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2065 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Oklahoma Licensed Perfusionists Act, a license shall be renewed annually. The State Board of Examiners of Perfusionists shall mail notices at least thirty (30) calendar days prior to the expiration for renewal of licenses to every person to whom a license was issued or renewed during the preceding renewal period. 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 a renewal fee as specified by Section 21 of this act to the Board before the expiration date of the license.

B. If a person's license has been expired for not more than ninety (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 Board a renewal fee as specified by Section 21 of this act.

C. If a person's license has been expired for more than ninety (90) days but less than two (2) 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 Board all unpaid renewal fees and a reinstatement fee as specified by Section 21 of this act.

D. If a person's license has been expired two (2) years or more, the person may not be permitted to renew the license, but such person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

E. No penalty for late renewal shall be charged to any license holder whose license expires while the holder is in military service if an application for renewal is made within one (1) year following such holder's service discharge.

F. The Board is authorized to establish by rule fees for replacement and duplicate licenses.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2066 of Title 59, unless there is created a duplication in numbering, reads as follows:

The provisions of the Oklahoma Licensed Perfusionists Act shall 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 pursuant to the provisions of the Oklahoma Licensed Perfusionists Act, and does not use any name, title, or designation indicating that the person is licensed pursuant to the Oklahoma Licensed Perfusionists Act, 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. The practice of any legally qualified perfusionist employed by the United States government which is in the discharge of official duties; or

4. A person performing autotransfusion or blood conservation techniques under the supervision of a licensed physician.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2067 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Examiners of Perfusionists may assess administrative penalties, revoke, suspend, or refuse to renew any license, place on probation, or otherwise reprimand a license holder or deny a license to an applicant if it finds that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of a license to practice perfusion;
2. Is unfit or incompetent by reason of negligence, habits, or other causes of incompetence;
3. Is habitually intemperate in the use of alcoholic beverages;
4. Is addicted to, or has improperly obtained, possessed, used, or distributed habit-forming drugs or narcotics;
5. Is guilty of dishonest or unethical conduct;
6. Has practiced perfusion after the license has expired or has been suspended, revoked or not renewed;
7. Has practiced perfusion under cover of any permit, license, or certificate illegally or fraudulently obtained or issued;

8. Has violated or aided or abetted others in violation of any provision of the Oklahoma Licensed Perfusionists Act;

9. Has been guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board;

10. Is guilty of the unauthorized practice of medicine; or

11. Has been found to be in violation of any provision of the Oklahoma Licensed Perfusionists Act or rules promulgated thereto.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2068 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of a written complaint with the State Board of Examiners of Perfusionists charging a person with any of the acts described in Section 17 of this act, an authorized employee of the Board may make an investigation. If the Board finds reasonable grounds for the complaint, a time and place for a hearing shall be set, notice of which shall be served on the license holder, or applicant at least fifteen (15) calendar days prior thereto. The notice shall be by personal service or by certified or registered mail sent to the last-known address of the person.

B. Hearing procedures shall be conducted in accordance with, and a person who feels aggrieved by a decision of the Board may make an appeal pursuant to, Article II of the Administrative Procedures Act.

C. Any person who has been determined to be in violation of the Oklahoma Licensed Perfusionists Act or any rule promulgated thereto, in addition to any administrative penalty assessed by the Board pursuant to Section 20 of this act, shall pay for all costs incurred by the Board.

D. The Board shall make public on a case-by-case basis the names and addresses of persons whose licenses have been denied, surrendered, revoked, suspended, or who have been denied renewal of their licenses, placed on probation or otherwise reprimanded,

and persons who have been practicing perfusion in violation of the Oklahoma Licensed Perfusionists Act.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2069 of Title 59, unless there is created a duplication in numbering, reads as follows:

It is a misdemeanor for any person to:

1. Sell, fraudulently obtain or furnish any perfusion license or record, or aid or abet therein;
2. Practice perfusion under cover of any perfusion diploma, license, or record illegally or fraudulently obtained or issued;
3. Practice perfusion unless duly licensed to do so pursuant to the provisions of the Oklahoma Licensed Perfusionists Act;
4. Impersonate in any manner or pretend to be a perfusionist or use the title "licensed perfusionist", the letters "L.P." or other words, letters, signs, symbols, or devices to indicate the person using them is a licensed perfusionist unless duly authorized by a license to perform under the provisions of the Oklahoma Licensed Perfusionists Act;
5. Practice perfusion during the time a license is suspended, revoked, or expired or not renewed;
6. Fail to notify the Board of the suspension, probation, or revocation of any past or currently held permits, licenses, or certificates required to practice perfusion in this or any other jurisdiction;
7. Knowingly employ unlicensed persons in the practice of perfusion in the capacity of a perfusionist;
8. Make false representations or impersonate or act as a proxy for another person or allow or aid any person or impersonate the person in connection with any examination or application for licensure or request to be examined or licensed; or
9. Otherwise violate any provision of the Oklahoma Licensed Perfusionists Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2070 of Title 59,

unless there is created a duplication in numbering, reads as follows:

A. 1. Any person who has been determined by the State Board of Examiners of Perfusionists to have violated any provision of the Oklahoma Licensed Perfusionists Act or any rule or order issued pursuant thereto may be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that said violation continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations that do not constitute immediate jeopardy to patients. Penalties of not more than One Thousand Dollars (\$1,000.00) per day may be imposed for violations constituting immediate jeopardy to residents.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of paragraph 1 of this subsection, after notice and hearing. In determining the amount of the penalty, the Board shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation, the repetitive nature of the violation of the person, the previous degree of difficulty in obtaining compliance with the Oklahoma Licensed Perfusionists Act or the rules promulgated pursuant thereto and, with respect to the person found to have committed the violation, the degree of culpability, and substantial show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Licensed Perfusionists Act.

3. Any license holder may elect to surrender the license of such holder in lieu of said penalty but shall be forever barred from obtaining a reissuance of the license pursuant to the Oklahoma Licensed Perfusionists Act.

B. Any person determined to be in violation of any provision of the Oklahoma Licensed Perfusionists Act, upon conviction thereof, shall be guilty of a misdemeanor and shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment for each offense.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2071 of Title 59, unless there is created a duplication in numbering, reads as follows:

The maximum fees to be charged pursuant to the Oklahoma Licensed Perfusionists Act are as follows:

Application fee for licensure	\$100.00
License to practice perfusion	\$300.00
Provisional license to practice perfusion	\$300.00
Renewal for unexpired license to practice perfusion	\$300.00
Renewal for expired license to practice perfusion if made prior to ninety (90) days after expiration of license	\$400.00
Renewal for expired license to practice perfusion if made between ninety (90) days and two (2) years after expiration of license	\$500.00

SECTION 22. AMENDATORY 18 O.S. 1991, Section 803, as last amended by Section 2, Chapter 339, O.S.L. 1995 (18 O.S. Supp. 1995, Section 803), is amended to read as follows:

Section 803. A. As used herein, unless the context clearly indicates that a different meaning is intended:

1. "Associated act" means the Oklahoma General Corporation Act, Section 1001 et seq. of this title, in the case of a corporation; the Oklahoma Revised Uniform Limited Partnership Act, Section 301 et seq. of Title 54 of the Oklahoma Statutes, in the case of a limited partnership; or the Oklahoma Limited Liability Company Act, Section 2000 et seq. of this title, in the case of a limited liability company;

2. "Interest" means a share of stock in a corporation, a partnership interest in a limited partnership or a membership interest in a limited liability company;

3. "Owner" means a shareholder in the case of a corporation, a general or limited partner in the case of a limited partnership or a member in the case of a limited liability company;

4. "Manager" means a director or officer in the case of a corporation, a general partner in the case of a limited partnership or a manager in the case of a limited liability company;

5. "Professional entity" means a domestic corporation, limited partnership or limited liability company formed for the purpose of rendering professional service;

6. "Professional service" means the personal service rendered by:

- a. a physician, surgeon or doctor of medicine pursuant to a license under Sections 481 through 524 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of medicine,
- b. an osteopathic physician or surgeon pursuant to a license under Sections 620 through 645 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of osteopathy,
- c. a chiropractic physician pursuant to a license under Sections 161.1 through 161.20 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of chiropractic,
- d. a podiatric physician pursuant to a license under Sections 135.1 through 160.2 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of podiatric medicine,
- e. an optometrist pursuant to a license under Sections 581 through 606 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of optometry,
- f. a veterinarian pursuant to a license under Sections 698.1 through 698.18 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of veterinary medicine,

- g. an architect pursuant to a license under Sections 46.1 through 46.37 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of architecture,
- h. an attorney pursuant to his authority to practice law granted by the Supreme Court of the State of Oklahoma,
- i. a dentist pursuant to a license under Sections 328.1 through 328.50 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of dentistry,
- j. a certified public accountant or a public accountant pursuant to his authority to practice accounting under Sections 15.1 through 15.35 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of public accountancy,
- k. a psychologist pursuant to a license under Sections 1351 through 1376 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of psychology,
- l. a physical therapist pursuant to a license under Sections 887.1 through 887.18 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of physical therapy,
- m. a registered nurse pursuant to a license under Sections 567.1 through 567.16a of Title 59 of the Oklahoma Statutes, and any other subsequent laws regulating the practice of nursing,
- n. a professional engineer pursuant to a license under Sections 475.1 through 475.22b of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of engineering,
- o. a land surveyor pursuant to a license under Sections 475.1 through 475.22b of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of land surveying,

- p. an occupational therapist pursuant to Sections 888.1 through 888.15 of Title 59 of the Oklahoma Statutes and any subsequent law regulating the practice of occupational therapy,
- q. a speech pathologist or speech therapist pursuant to Sections 1601 through 1622 of Title 59 of the Oklahoma Statutes, and any subsequent law regulating the practice of speech pathology,
- r. an audiologist pursuant to Sections 1601 through 1622 of Title 59 of the Oklahoma Statutes, and any subsequent law regulating the practice of audiology,
~~or~~
- s. a registered pharmacist pursuant to Title 59 of the Oklahoma Statutes, and any subsequent law regulating the practice of pharmacy~~+~~, or
- t. a licensed perfusionist pursuant to Section 1 through 21 of this act, and any subsequent laws regulating the practice of perfusionists;

7. "Related professional services" means those services which are combined for professional entity purposes as follows:

- a. any combination of the following professionals:
 - (1) a physician, surgeon or doctor of medicine pursuant to a license under Sections 481 through 524 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of medicine,
 - (2) an osteopathic physician or surgeon pursuant to a license under Sections 620 through 645 of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of osteopathy,
 - (3) a dentist pursuant to a license under Sections 328.1 through 328.50 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of dentistry,

- (4) a chiropractic physician pursuant to a license under Sections 161.1 through 161.20 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of chiropractic,
- (5) a psychologist pursuant to a license under Sections 1351 through 1376 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of psychology,
- (6) an optometrist pursuant to a license under Sections 581 through 606 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of optometry, or
- (7) a podiatric physician pursuant to a license under Sections 135.1 through 160.2 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of podiatric medicine, or

b. any combination of the following professions:

- (1) an architect pursuant to a license under Sections 46.1 through 46.37 of Title 59 of the Oklahoma Statutes, and any subsequent laws regulating the practice of architecture,
- (2) a professional engineer pursuant to a license under Sections 475.1 through 475.22b of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of engineering, or
- (3) a land surveyor pursuant to a license under Sections 475.1 through 475.22b of Title 59 of the Oklahoma Statutes, and any subsequent laws relating to the practice of land surveying;

8. "Regulating board" means the board which is charged with the licensing and regulation of the practice of the profession which the professional entity is organized to render;

9. "Individual", "incorporator" and "shareholder" each include the trustee of an express trust created by a person duly licensed to render a professional service who has the right to

revoke said trust and who is serving as the trustee of said trust. Any certificate required by the Professional Entity Act to be issued to an individual incorporator or shareholder may be issued to the grantor on behalf of a trust. All references in the Professional Entity Act to death and incapacity of a shareholder shall include the death and incapacity of the grantor of a trust which own stock in a professional corporation;

10. "Incapacity" of a shareholder means a determination by a court of competent jurisdiction, or otherwise by two independent licensed physicians, that the share holder is fully incapacitated or is partially incapacitated to the extent that the shareholder is not capable of rendering the professional service for which the professional corporation was organized; and

11. "Other personal representative" include the successor trustee of an express trust owning stock in a professional corporation, which trust was created by a person duly licensed to render the professional service for which the professional corporation was organized who has the right to revoke the trust and who is the original trustee of the trust.

B. The definitions of the applicable associated act shall apply to this act, unless the context clearly indicates that a different meaning is intended.

SECTION 23. AMENDATORY Section 21, Chapter 148, O.S.L. 1992, as amended by Section 12, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Section 2020), is amended to read as follows:

Section 2020. A. Unless otherwise provided in the articles of organization or operating agreement, the members of a limited liability company shall vote in proportion to their respective capital interests. Unless the context otherwise requires, references in this act, Section 2000 et seq. of this title, to a vote or the consent of the members shall mean a vote or consent of the members holding a majority of the capital interests. The vote or consent may be evidenced in the minutes of a meeting of the members or by a written consent in lieu of a meeting.

B. Except as required in this act, and unless otherwise provided in the articles of organization or operating agreement, a

Req. No. 2857Page 26

majority vote of the members shall be required to approve the following matters:

~~1. The dissolution and winding up of the limited liability company;~~

~~2.~~ The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited liability company;

~~3.~~ 2. Merger of the limited liability company with another domestic limited liability company or other business entity; and

~~4.~~ 3. An amendment to the articles of organization or operating agreement.

C. The articles of organization or operating agreement may alter the above voting rights and provide for any other voting rights of members.

SECTION 24. AMENDATORY Section 34, Chapter 148, O.S.L. 1992, as amended by Section 17, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Section 2033), is amended to read as follows:

Section 2033. A. Unless otherwise provided in ~~the articles of organization or~~ an operating agreement:

1. A membership interest is assignable in whole or in part;

2. An assignment of a membership interest does not of itself dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights or powers of a member;

3. An assignment entitles the assignee to receive ~~such~~ any distribution or distributions to which the assignor was entitled to the extent assigned;

4. ~~Until~~ Unless the assignee of an interest in a limited liability company ~~interest~~ becomes a member by virtue of that interest, the assignor continues to be a member and to have the power to exercise any rights of a member, subject to the ~~members'~~ right of other members to remove the assignor pursuant to Section 2036 of this title, ~~the~~. The removal of an assignor shall not, by itself, cause the assignee to become a member;

5. Until an assignee of a membership interest becomes a member, the assignee has no liability as a member solely as a result of the assignment; and

6. The assignor of a membership interest is not released from ~~his~~ liability as a member solely as a result of the assignment.

B. ~~The articles of organization or an~~ operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of membership interest issued by the limited liability company and also may provide for the assignment or transfer of any membership interest represented by such a certificate and may make other provisions with respect to such certificates.

C. ~~A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his membership interest.~~ Unless otherwise provided in the operating agreement, the pledge of, or granting of a security interest, lien, or other encumbrance in or against any or all of the membership interest of a member is not an assignment and shall not cause the member to cease to be a member or cease to have the power to exercise any rights or powers of a member.

SECTION 25. AMENDATORY Section 36, Chapter 148, O.S.L. 1992, as amended by Section 19, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Section 2035), is amended to read as follows:

Section 2035. A. An assignee of an interest in a limited liability company may become a member if and to the extent that:

1. ~~The articles of organization or an~~ operating agreement provides; or

2. The members representing a majority of the capital interests which are not the subject of the assignment consent in writing.

B. An assignee who becomes a member, to the extent assigned, has the rights and powers, and is subject to the restrictions and liabilities, of a member under the ~~articles of organization, any~~ operating agreement and this act. ~~However,~~ Section 2000 et seq. of this title; however, unless otherwise provided in writing in the ~~articles of organization, an~~ operating agreement or other

written agreement, an assignee who becomes a member also is liable for any obligations of ~~his~~ the assignor to make contributions as provided in Section 2024 of this title, but shall not be liable for the obligations of ~~his~~ the assignor under Section 2031 of this title. ~~However;~~ however, the assignee is not obligated for liabilities of which the assignee had no knowledge at the time ~~he~~ the assignee became a member and which could not be ascertained from a written operating agreement.

C. Regardless of whether an assignee of an interest becomes a member, the assignor is not released from ~~his~~ liability to the limited liability company under Sections 2024 ~~and~~, 2031, and 2033 of this title.

D. Except as otherwise provided in writing in the operating agreement, a member who assigns ~~his~~ the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any rights of a member when any assignee of ~~his~~ the interest becomes a member with respect to the assigned interest.

E. Subject to subsection F of this section, a person acquiring a limited liability company interest directly from the limited liability company may become a member in a limited liability company upon compliance with the operating agreement or, if the operating agreement does not so provide in writing, upon the written consent of the members.

F. The effective time of admission of a member to a limited liability company shall be the later of:

1. The date the limited liability company is formed; or
2. The time provided in the operating agreement, or if no such time is provided therein, then when the person's admission is reflected in the records of the limited liability company.

SECTION 26. AMENDATORY Section 37, Chapter 148, O.S.L. 1992, as amended by Section 20, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Section 2036), is amended to read as follows:

Section 2036. A. A person ceases to be a member of a limited liability company upon the occurrence of one or more of the following events:

1. The member voluntarily withdraws ~~by voluntary act~~ from the limited liability company as provided in subsection C of this section;

2. The member ceases to be a member of the limited liability company as provided in Section ~~2034~~ 2035 of this title;

3. The member is removed as a member either:

- a. in accordance with the operating agreement, or
- b. except as provided in writing in the operating agreement, when the member assigns all of ~~his~~ the member's interest in the limited liability company, and removal is consented to by an affirmative vote of a majority in number of the members who have not assigned their interests representing a majority of the capital interests which are not the subject of the assignment;

4. Subject to a contrary written provision in the operating agreement, or with written consent of all other members:

a. when the member:

- (1) makes an assignment for the benefit of creditors,
- (2) files a voluntary petition in bankruptcy,
- (3) is adjudicated as bankrupt or insolvent,
- (4) files a petition or answer seeking ~~for himself or herself~~ any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation,
- (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against ~~him~~ the member in any proceeding of this nature, or
- (6) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of ~~his~~ the member's properties,

- b. after one hundred twenty (120) days from the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment without ~~his~~ the member's consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of ~~his~~ the member's properties, the appointment is not vacated or stayed or within ninety (90) days after the expiration of any stay, the appointment is not vacated,
- c. when, in the case of a member who is an individual:
 - (1) ~~his~~ the member's death, or
 - (2) the entry of an order by a court of competent jurisdiction adjudicating ~~him~~ the member incompetent to manage ~~his~~ the member's person or ~~his~~ estate,
- d. when, in the case of a member who is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee,
- e. when, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company,
- f. when, in the case of a member that is a corporation, the filing of a certificate of its dissolution or the equivalent for the corporation or the revocation of its charter and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its charter, or
- g. when, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

B. The members may provide in writing in the operating agreement for other events the occurrence of which result in a person ceasing to be a member of the limited liability company.

C. Unless the operating agreement specifically ~~denies~~ permits in writing the power to withdraw voluntarily, a member may not withdraw at any time ~~by giving ninety (90) days' written notice to the other members or the notice required by the operating agreement.~~ Unless. If the operating agreement specifically provides in writing ~~a right~~ the power to withdraw voluntarily, ~~or~~ and if the withdrawal occurs as a result of otherwise wrongful conduct of the member, a member's voluntary withdrawal shall constitute a breach of the operating agreement and the limited liability company may recover from the withdrawing member damages, including the reasonable cost of replacing the services that the withdrawn member was obligated to perform. The limited liability company may offset its damages against the amount otherwise distributable to the member, in addition to pursuing any remedies provided for in the operating agreement or otherwise available under applicable law. The limited liability company shall not, however, be entitled to any equitable remedy that would prevent a member from exercising ~~his~~ the power to withdraw ~~unless~~ if such power ~~was denied~~ is permitted in the operating agreement.

D. If a member who is an individual dies or a court of competent jurisdiction adjudges ~~him~~ the member to be incompetent to manage ~~his~~ the member's person or ~~his~~ property, the member's executor, administrator, guardian, conservator, or other legal representative ~~has~~ shall have all of the rights of an assignee of the member's interest.

SECTION 27. AMENDATORY Section 38, Chapter 148, O.S.L. 1992, as amended by Section 21, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 1995, Section 2037), is amended to read as follows:

Section 2037. ~~A.~~ A limited liability company is dissolved and its affairs shall be wound up upon the earlier of:

1. The occurrence of the latest date on which the limited liability company is to dissolve set forth in the articles of organization;

~~2.~~ ~~The time or the~~ occurrence of events specified in writing in the ~~articles of organization or~~ operating agreement;

~~2.~~ ~~3.~~ The written consent of all of the members;

~~3.~~ ~~An~~ 4. The occurrence of an event of dissociation of a member, unless the limited liability company is continued either by the ~~unanimous~~ consent of the remaining members within ninety (90) days following the occurrence of any such event or as otherwise provided in writing in the operating agreement; or

~~4.~~ 5. Entry of a decree of judicial dissolution under Section 2038 of this title.

SECTION 28. This act shall become effective July 1, 1996.

SECTION 29. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-2857

JY