

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 5

As Amended by Senate Committee on
Public Health and Welfare

Brief*

SB 5, as amended, would create the Perfusion Practice Act and would establish a Perfusion Council under the State Board of Healing Arts. The Act would establish educational and licensure requirements for perfusionists. The Act also would define the activities performed by individuals in the practice of perfusion. The Perfusion Act would become effective upon publication in the statute book (July 1, 2011), unless otherwise noted.

For the purposes of this Act, “perfusion” is defined as “the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems, or other organs, or a combination of those activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a person licensed to practice medicine and surgery.”

**Licensure and Identification Requirements
(Sections 3, 5, 6, and 7)**

The Perfusion Practice Act would:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Require all persons who practice perfusion to be licensed on or after July 1, 2012 (effective on July 1, 2012);
- Allow only those persons licensed under this Act to use the title “perfusionist,” “licensed perfusionist,” or “licensed clinical perfusionist,” or the abbreviations “LP” or “LCP” (effective July 1, 2012);
- Establish filing requirements for the issuance of a license;
- Provide a procedure to issue a temporary license for a maximum of two years;
- Allow reciprocity for persons engaged in the full-time active practice of perfusion in Kansas or outside the state for a period of more than two of the last ten years who meet the requirements for licensure;
- Provide a reinstatement procedure in the case of license revocation;
- Authorize the Board to implement rules and regulations regarding requirements for continuing education and permit the Board to request that a licensee submit to a continuing education audit (effective July 1, 2012);
- Require an active licensee to provide the Board with satisfactory evidence of professional liability insurance prior to renewal of a license and allow the Board to require the same during an audit (effective July 1, 2012); and
- Create the designations and requirements of an inactive license and a federally active license (effective July 1, 2012).

Licensure Exemptions (Section 4 effective July 1, 2012)

The Act would establish exemptions to the licensure requirements for:

- Persons licensed by another health professional licensing board who meet specific requirements;
- Persons performing autotransfusion or blood conservation techniques under requisite supervision;
- Students enrolled in an accredited perfusion education program which meets specific requirements;
- Health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty; and
- Persons assisting in an emergency.

Fee Structure (Sections 8 and 9)

The Act would:

- Establish statutory limits for fees for perfusionists. Among the fees established, an application for licensure could not exceed \$300; and the fee for renewal of a license could not exceed \$200;
- Require the Board to charge and collect, in advance, fees as established by rules and regulations set by the Board; and
- Instruct the Board to remit money received from fees, charges, or penalties to the State Treasurer who would deposit it in the State Treasury with 20 percent credited to the State General Fund and the balance credited to the Healing Arts Fee Fund.

Perfusion Council (Sections 10 and 11)

The Act would:

- Establish the Perfusion Council (Council) which would meet at least once each year to assist the Board in carrying out the provisions of this Act;
- Provide for Council membership to include five members, with two members appointed by the Board of Healing Arts and three members appointed by the Governor. Members appointed by the Board would serve at the pleasure of the Board and members appointed by the Governor would serve for four years with initial appointees serving staggered terms;
- Provide for payment of mileage reimbursement from the Healing Arts Fee Fund for Council members attending Council meetings; and
- Set out the advisory duties of the Council.

Discipline of Licensees (Sections 13, 14 and 16)

The Act would authorize the Board of Healing Arts to take disciplinary action against any licensee by:

- Establishing grounds under which the Board may limit, suspend, or revoke licenses; censure, reprimand, place on probation, fine or sanction a licensee; assess costs incurred by the Board in conducting any proceeding in which the licensee is the unsuccessful party; or deny an application or reinstatement of a license (effective July 1, 2012);
- Providing for administrative proceedings in accordance with provisions of the Kansas Administrative Procedure Act and for a review process in accordance with the Kansas Judicial Review Act (effective July 1, 2012);

- Giving the Board jurisdiction in disciplinary action proceedings for any licensee practicing under this Act;
- Allowing the Board to enter into a binding stipulation with licensees in disciplinary actions;
- Allowing the Board to temporarily suspend or limit the license of any licensee in cases where continuation of practice would endanger public health and safety; and
- Permitting the Board to bring an action for injunction against violations of the Act in the name of the State in a court of competent jurisdiction without regard to whether administrative proceedings have begun before the Board, or whether criminal proceedings have been or may be instituted (effective July 1, 2012).

The Perfusion Practice Act also would prohibit any language of the Act to be construed to require an individual, group, or blanket insurance policy, contract, plan, or agreement for medical services issued after the effective date of the Act to reimburse or indemnify a licensee for services provided as a perfusionist (Section 15 effective July 1, 2012). After July 1, 2012, any violation of the Act would constitute a class B misdemeanor (Section 17).

Background

SB 5 was introduced by Senator Dick Kelsey. A proponent of the bill, a representative of the Kansas Practicing Perfusionists Society, stated the bill would establish minimum standards of education, training, and competency of persons engaged in the practice of perfusion and would serve to protect the public from unqualified practitioners, or from the unprofessional practice of perfusion. Written testimony in support of the bill was provided by a representative of Health Occupations Credentialing, Kansas Department of Health and Environment.

No opponents testified on the bill at the Senate Committee hearing.

The Senate Committee on Public Health and Welfare recommended adoption of the amended bill to incorporate amendments requested by the Board of Healing Arts and the Kansas Perfusionists Society. The amendments included substituting “a person licensed to practice medicine and surgery” for “physician” and “licensed physician”; adding continuing education to the list of requirements applicable to inactive and federally active license renewals; increasing fees for paper and on-line renewals, and eliminating fees for license reinstatement due to late renewal; adding the assessment of costs incurred by the Board in conducting any proceeding in which a licensee is unsuccessful to the disciplinary actions the Board may take; and adding the following to the list of conditions which could result in disciplinary action: conviction of a class A misdemeanor; and revocation, suspension, or limitation of a license to practice perfusion, prior censure or other disciplinary action, or denial of an application for a license, by a proper licensing authority of another state, territory, District of Columbia, or other country. Other technical amendments were made.

A similar bill, SB 501, was considered during the 2010 Legislative Session to address the licensing of perfusionists. Conference Committee action on Sub. for HB 2575 (a bill amended by the Senate Committee included Sub. for SB 501) did not include provisions to enact the Perfusion Practice Act, resulting in this Act dying in Conference Committee.

The fiscal note on the original bill prepared by the Division of the Budget states that implementation of the bill would cost approximately \$23,500 from the Healing Arts Fee Fund in FY 2012 in preparation of the new duties to begin in FY 2013. The State Board of Healing Arts estimated 50 new licenses would be issued in the first year at a fee of \$80 per application, for total revenue of \$4,000 to the Healing Arts Fee Fund in FY 2013, and similar renewal numbers are

anticipated in future fiscal years. Any fiscal effect resulting from the passage of the bill is not included in the *FY 2012 Governor's Budget Report*.

The bill, as amended by the Senate Public Health and Welfare Committee, would increase the renewal fees over those established in the original bill and remove the fee for licensure reinstatement due to late renewal. The original fiscal note does not reflect these changes.