AN ACT concerning the regulation of perfusionists.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Perfusionist Practice Act.

Section 5. Objects and purposes. Practice as a perfusionist in the State of Illinois is declared to affect the public health, safety, and welfare and to be subject to regulation and control in the public interest. The purpose and legislative intent of this Act is to encourage and promote the more effective utilization of the skills of physicians by enabling them to delegate certain health related procedures to perfusionists when the delegation is consistent with the health and welfare of the patient and is conducted at the direction of and under the responsible supervision of the physician.

It is further declared to be a matter of
public health
18 and concern that the practice as a
perfusionist merit and
19 receive the confidence of the public and, therefore, that
20 only qualified persons be authorized to practice as
21 perfusionists in the State of Illinois. This Act shall be
22 liberally construed to best carry out these subjects and
23 purposes.

24 Section 10. Definitions. As used in this Act:
25 "Board" means the Board of Perfusion.
26 "Department" means the Department of Professional
27 Regulation.
28 "Director" means the Director of Professional Regulation.
29 "Extracorporeal circulation" means the diversion of a
30 patient's blood through a heart-lung machine or a similar

d device that assumes the functions of the patient's heart,
2 lungs, kidney, liver, or other organs.
3 "New graduate perfusionist" means a perfusionist
4 practicing within a period of one year since the date of
5 graduation from a Commission on Accreditation of Allied
6 Health Education Programs accredited perfusion education
7 program.
8 "Perfusion" means the functions necessary for the
9 support, treatment, measurement, or supplementation of the
10 cardiovascular systems or other organs, or a combination of
11 those functions, and to ensure the safe management of
12 physiologic functions by monitoring and analyzing the
13 parameters of the systems under an order and under the
14 supervision of a physician licensed to practice medicine in
15 all its branches.
16 "Perfusionist" means a person, qualified by academic and
17 clinical education, to operate the extracorporeal circulation
18 equipment during any medical situation where it is necessary
19 to support or replace a person's cardiopulmonary,
20 circulatory, or respiratory function. A perfusionist is
21 responsible for the selection of appropriate equipment and
22 techniques necessary for support, treatment, measurement, or
23 supplementation of the cardiopulmonary and circulatory system
24 of a patient, including the safe monitoring, analysis, and
treatment of physiologic conditions under an order and under
the supervision of a physician licensed to practice medicine
in all its branches and in coordination with a registered
professional nurse.
"Perfusion protocols" means perfusion related policies
and protocols developed or approved by a licensed health
facility or a physician through collaboration with
administrators, licensed perfusionists, and other health care
professionals.
"Physician" or "operating physician" means a person

Section 15. Powers and duties of the Department.
(a) The Department shall exercise the powers and duties
prescribed by the Civil Administrative Code of Illinois for
the administration of licensing Acts and shall exercise any
other powers and duties necessary for effectuating the
purposes of this Act.
(b) The Department may adopt rules consistent
with the
10 provisions of this Act for its administration
and enforcement
11 and may prescribe forms that shall be issued
in connection
12 with this Act. The rules may include but are
not limited to
13 standards and criteria for licensure,
professional conduct,
14 and discipline.

15 Section 20. Illinois Administrative Procedure
Act; rules.
16 (a) The Illinois Administrative Procedure Act
is
17 expressly adopted and incorporated in this
Act as if all of
18 the provisions of the Illinois Administrative
Procedure Act
19 were included in this Act, except that the
provision of
20 subsection (d) of Section 10-65 of the
Illinois
21 Administrative Procedure Act that provides
that at hearings
22 the licensee has the right to show compliance
with all lawful
23 requirements for retention, continuation, or
renewal of the
24 license is specifically excluded. For
purposes of this Act,
25 the notice required under Section 10-25 of
the Illinois
26 Administrative Procedure Act is deemed
sufficient when mailed
27 to the last known address of a party.
28 (b) The Director may promulgate rules for the administration and enforcement of this Act and may prescribe forms to be issued in connection with this Act.

31 Section 25. Board of Perfusion. The Director shall

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1 appoint a Board of Perfusion to consist of 5 persons who
2 shall be appointed by and shall serve in an advisory capacity
3 to the Director. Two members must hold an active license to
4 engage in the practice of perfusion in this State, one member
5 must be a physician licensed under the Medical Practice Act
6 of 1987 who is board certified in and actively engaged in the
7 practice of cardiothoracic surgery, one member must be a
8 licensed registered professional nurse certified by the
9 Association of Operating Room Nurses, and one member must be
10 a member of the public who is not licensed under this Act or
11 a similar Act of another jurisdiction and who has no
12 connection with the profession. The initial appointees who
13 would otherwise be required to be licensed perfusionists
14 shall instead be individuals who have been practicing
15 perfusion for at least 5 years and who are eligible under
16 this Act for licensure as perfusionists.
17 Members shall serve 4-year terms and until their
18 successors are appointed and qualified, except that, of the
19 initial appointments, 2 members shall be appointed to serve
20 for 2 years, 2 members shall be appointed to serve for 3
21 years, and 1 member shall be appointed to serve for 4 years,
22 and until their successors are appointed and qualified. No
23 member shall be reappointed to the Board for a term that
24 would cause his or her continuous service on the Board to be
25 longer than 8 consecutive years. Appointments to fill
26 vacancies shall be made in the same manner as original
27 appointments for the unexpired portion of the vacated term.
28 Initial terms shall begin upon the effective date of this
29 Act.
30 The Board shall annually elect a chairperson and a
31 vice-chairperson who shall preside in the absence of the
32 chairperson. The membership of the Board should reasonably
33 reflect representation from the various geographic areas in this State. The Director may terminate the appointment of any member for cause. The Director may give due consideration to all recommendations of the Board. A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all the duties of the Board. Members of the Board shall have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.

Section 30. Application for licensure. An application for an initial license shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required nonrefundable fee. An application shall require information that, in the judgment of the Department, will enable the Department to evaluate the
16 qualifications of an applicant for licensure. If an applicant fails to obtain a license under this Act within 3 years after filing his or her application, the application shall be denied. The applicant may make a new application, which shall be accompanied by the required nonrefundable fee. The applicant shall be required to meet the qualifications required for licensure at the time of reapplication.

A person shall be qualified for licensure as a perfusionist if that person:
1. has applied to the Department for licensure in accordance with this Section;
2. has not violated a provision of Section 110 of this Act; in addition the Department may take into consideration any felony conviction of the applicant, but a conviction shall not operate as an absolute bar to licensure; and
3. has successfully completed the examination provided by the American Board of Cardiovascular Perfusion (ABCP) or its successor agency or a
3 substantially equivalent examination approved by the
4 Department;
5 (4) has met the requirements for certification set
6 forth by the American Board of Cardiovascular Perfusion
7 or its successor agency; and
8 (5) has graduated from a school accredited by the
9 Commission on the Accreditation of Allied Health
10 Education Programs (CAAHEP) or a similar accrediting body
11 approved by the Department.

12 Section 40. Practice prohibited. No person may use the
13 title and designation of a "Licensed Perfusionist",
14 "Certified Perfusionist", "Certified Clinical Perfusionist",
15 "Perfusionist", or "CCP", either directly or indirectly, in
16 connection with his or her profession or business, unless he
17 or she has been issued a valid, existing license as a
18 perfusionist under this Act.
19 No person may practice, offer to practice, attempt to
20 practice, or hold himself or herself out to practice as a
21 licensed perfusionist without being licensed under this Act.
22 This does not mean that all of the aspects of
practice listed
23 in Sections 10 and 50 of this Act are
practices or skills
24 only a perfusionist can perform. Other
licensed or certified
25 persons may, if qualified, be allowed to
perform some or all
26 of these practices.

27 Section 42. Implementation period. The
licensure
28 requirements of Sections 30 and 40 shall not
be enforced
29 until 12 months after the adoption of final
administrative
30 rules.

31 Section 45. Application of Act. This Act
shall not be

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1 construed to prohibit the following:
2 (1) a person licensed in this State under any
other Act
3 from engaging in the practice for which he or
she is
4 licensed;
5 (2) a student enrolled in an accredited
perfusion
6 education program from performing perfusion
services if
7 perfusion services performed by the student:
8 (A) are an integral part of the student's
course of
9 study; and
10 (B) are performed under the direct
supervision of a
11 licensed perfusionist who is assigned to
12 supervise the
13 student and who is on duty and immediately
available in
14 the assigned patient care area;
14 (3) a new graduate from performing perfusion
services,
15 if perfusion services performed by the new
graduate
16 perfusionist:
17 (A) are necessary to fulfill the eligibility
18 requirements for the ABCP certification
examination
19 required under subsection (3) of Section 30; and
20 (B) are performed under the direct
supervision and
21 responsibility of a licensed perfusionist who
is assigned
22 to supervise the graduate perfusionist and
who is on duty
23 and immediately available in the assigned
patient care
24 area;
25 (4) any legally qualified perfusionist
employed by the
26 United States government from engaging in the
practice of
27 perfusion while in the discharge of his or
her official
28 duties; or
29 (5) one or more licensed perfusionists from
forming a
30 professional service corporation in
accordance with the
31 Professional Service Corporation Act.

32 Section 50. Scope of practice. The scope of practice as
33 a clinical perfusionist includes the following functions:

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1 (1) the use of extracorporeal circulation,
2 long-term cardiopulmonary support techniques, including
3 extracorporeal carbon dioxide removal and extracorporeal
4 membrane oxygenation, and associated therapeutic and
5 diagnostic techniques;
6 (2) counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques,
7 myocardial and organ preservation, extracorporeal life
9 support, and isolated limb perfusion;
10 (3) blood management techniques, advanced life
11 support, and other related functions; and
12 (4) in the performance of the acts described in
13 items (1) through (3) of this Section:
14 (A) the administration of (i) pharmacological
15 and therapeutic agents and (ii) blood products or
16 anesthetic agents through the extracorporeal circuit
17 or through an intravenous line in conjunction with
extracorporeal support, as ordered by and under the direct supervision of a physician licensed to practice medicine in all its branches; (B) the performance and use of (i) anticoagulation monitoring and analysis, (ii) physiologic monitoring and analysis, (iii) blood gas and chemistry monitoring and analysis, (iv) hematologic monitoring and analysis, (v) hypothermia, (vi) hyperthermia, (vii) hemoconcentration and hemodilution, and (viii) cardiopulmonary hemodialysis; and (C) the observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics, and the implementation of appropriate reporting, perfusion protocols or changes in or the initiation of emergency procedures.

Section 60. Display of license; change of address.
(a) The Department shall issue a perfusionist license to a person meeting the application and qualification requirements of Section 30 of this Act. However, a person is eligible for one year from the effective date of this Act to
7 make application to the Board and receives a license
8 notwithstanding the requirements of Section 30 of this Act if
9 the person is actively engaged in the practice of perfusion
10 consistent with applicable law and if the person has at least
11 5 years experience operating cardiopulmonary bypass systems
12 during cardiac surgical cases in a licensed health care facility as the person's primary function between January 1, 1991 and the effective date of this Act.
15 (b) A licensee shall maintain on file at all times during which the licensee provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility.
19 Section 65. Licensure by endorsement. The Department may, in its discretion, license as a perfusionist, without examination and on payment of the required fee, an applicant who (1) is licensed as a perfusionist under the laws of another state, territory, or country, if the requirements for licensure in that state, territory, or country in which the applicant was licensed were, at the date of
his or her
26 licensure, substantially equal to the requirements in force
27 in this State on that date or (2) holds a current certificate
28 as a certified clinical perfusionist issued by the American
29 Board of Cardiovascular Perfusion (ABCP), or its successor
30 organization, prior to January 1, 1999.

31 Section 70. Renewal, reinstatement or restoration of

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1 license; continuing education; military service. The
2 expiration date and renewal period for each license issued
3 under this Act shall be set by the Department by rule.
4 Renewal shall be conditioned on paying the required fee and
5 meeting other requirements as may be established by rule.
6 A licensee who has permitted his or her license to
7 expire or who has had his or her license on inactive
8 status may have the license restored by making
9 application to the Department, by filing proof acceptable to
10 the Department of his or her fitness to have the license
11 restored, and by paying the required fees. Proof of fitness
may include sworn evidence certifying to active lawful
practice in another jurisdiction.
If the licensee has not maintained an active practice
in another jurisdiction satisfactory to the Department,
the Department shall determine, by an evaluation program
established by rule, his or her fitness for restoration of the license and shall establish procedures and requirements for restoration. However, a licensee whose license expired while he or she was (1) in federal service on active duty with the Armed Forces of the United States or the State Militia called into service or training or (2) in training or education under the supervision of the United States before induction into the military service, may have the license restored without paying any lapsed renewal fees if within 2 years after honorable termination of the service, training, or education he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service,
training, or
31 education has been so terminated.

32 Section 80. Inactive status. A licensee who notifies
33 the Department in writing on forms prescribed by the

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1 Department may elect to place his or her
2 inactive status and shall, subject to rules of the
3 Department, be excused from payment of renewal
fees until he
4 or she notifies the Department in writing of
his or her
5 intention to restore the license. A licensee
requesting
6 restoration from inactive status shall pay the
7 current
8 renewal fee and shall restore his or her
license in
9 accordance with Section 70 of this Act. A
licensee whose
9 license is on inactive status shall not
practice as a
10 perfusionist in this State. A licensee who
engages in
11 practice as a perfusionist while his or her
license is lapsed
12 or on inactive status shall be considered to
be practicing
13 without a license, which shall be grounds for
discipline
14 under Section 105 of this Act.
Section 90. Fees; returned checks.

(a) The Department shall set by rule fees for the administration of this Act, including but not limited to fees for initial and renewal licensure and restoration of a license.

(b) All of the fees collected under this Act shall be deposited into the General Professions Dedicated Fund. The monies deposited into the Fund shall be appropriated to the Department for expenses of the Department in the administration of this Act.

(c) A person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fine due, an additional fine of $100 shall be imposed. The fines imposed by this Section are in addition to any other
1 discipline provided under this Act for
2 unlicensed practice or
3 practice on a nonrenewed license. The
4 Department shall
5 notify the person that fees and fines shall be
6 paid to the
7 Department by certified check or money order
8 within 30
9 calendar days of the notification. If, after
10 the expiration
11 of 30 days from the date of the notification,
12 the person has
13 failed to submit the necessary remittance, the
14 Department
15 shall automatically terminate the license or
16 deny the
17 application without a hearing. If the person
18 seeks a license
19 after termination or denial, he or she shall
20 apply to the
21 Department for restoration or issuance of the
22 license and
23 pay all fees and fines due to the Department. The Department
24 may establish a fee for the processing of an
25 application for
26 restoration of a license to defray the
27 expenses of processing
28 the application. The Director may waive the
29 fines due under
30 this Section in individual cases if the
31 Director finds that
32 the fines would be unreasonable or
33 unnecessarily burdensome.
Section 95. Roster. The Department shall maintain a roster of the names and addresses of all licensees and of all persons whose licenses have been disciplined. This roster shall be available upon written request and payment of the required fee.

Section 100. Unlicensed practice; civil penalty. A person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a licensed perfusionist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $5,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

Section 105. Grounds for disciplinary action. (a) The Department may refuse to issue, renew,
or
4 restore a license, may revoke or suspend a license, or may
5 place on probation, censure, reprimand, or take other
6 disciplinary action with regard to a person licensed under
7 this Act, including but not limited to the imposition of
8 fines not to exceed $5,000 for each violation, for any one or
9 combination of the following causes:
10 (1) Making a material misstatement in furnishing
11 information to the Department.
12 (2) Violating a provision of this Act or its rules.
13 (3) Conviction under the laws of a United States
14 jurisdiction of a crime that is a felony or a misdemeanor, an essential element of which is dishonesty,
15 or of a crime that is directly related to the practice as
16 a perfusionist.
17 (4) Making a misrepresentation for the purpose of
18 obtaining, renewing, or restoring a license.
19 (5) Wilfully aiding or assisting another person in
20 violating a provision of this Act or its rules.
21 (6) Failing to provide information within 60 days
22 in response to a written request made by the Department.

24 (7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public, as defined by rule of the Department.

28 (8) Discipline by another United States jurisdiction or foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

32 (9) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

3 (10) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

7 (11) Wilfully making or filing false records or reports in his or her practice, including but not limited to false records or reports filed with State agencies.

10 (12) Wilfully making or signing a false
statement,
11 certificate, or affidavit to induce payment.
12 (13) Wilfully failing to report an instance of
13 suspected child abuse or neglect as required under the
14 Abused and Neglected Child Reporting Act.
15 (14) Being named as a perpetrator in an indicated
16 report by the Department of Children and Family Services
17 under the Abused and Neglected Child Reporting Act and
18 upon proof by clear and convincing evidence that the
19 licensee has caused a child to be an abused child or
20 neglected child as defined in the Abused and Neglected
21 Child Reporting Act.
22 (15) Employment of fraud, deception, or any unlawful means in applying for or securing a license as a
23 perfusionist.
25 (16) Allowing another person to use his or her
26 license to practice.
27 (17) Failure to report to the Department (A) any
28 adverse final action taken against the licensee by
29 another licensing jurisdiction, government agency, law
30 enforcement agency, or any court or (B) liability for
31 conduct that would constitute grounds for
action as set forth in this Section.

(18) Habitual intoxication or addiction to the use of drugs.

(19) Physical illness, including but not limited to deterioration through the aging process or loss of motor skills, which results in the inability to practice the profession for which he or she is licensed with reasonable judgment, skill, or safety.

(20) Gross malpractice resulting in permanent injury or death of a patient.

(21) Immoral conduct in the commission of an act related to the licensee's practice, including but not limited to sexual abuse, sexual misconduct, or sexual exploitation.

(22) Violation of the Health Care Worker Self-Referral Act.

(b) The Department may refuse to issue or may suspend the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay a final assessment of the tax, penalty, or interest as required by a tax Act administered by the
Department of
19 Revenue, until the requirements of the tax
Act are satisfied.
20 (c) The determination by a circuit court that a licensee
21 is subject to involuntary admission or judicial admission as
22 provided in the Mental Health and Developmental Disabilities
23 Code operates as an automatic suspension. The suspension will
24 end only upon (1) a finding by a court that the patient is no
25 longer subject to involuntary admission or judicial
26 admission, (2) issuance of an order so finding and
27 discharging the patient, and (3) the recommendation of the
28 Disciplinary Board to the Director that the licensee be
29 allowed to resume his or her practice.

30 Section 110. Injunctions; criminal offenses; cease and
31 desist order.
32 (a) If any person violates the provisions of this Act,
33 the Director may, in the name of the People of the State of

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1 Illinois, through the Attorney General of the State of
2 Illinois or the State's Attorney for any county in which the
3 action is brought, petition for an order enjoining the violation or for an order enforcing compliance with this Act.
5 Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or condition, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.
(b) Whenever in the opinion of the Department a person violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an
21 order to cease and desist to be issued immediately.
22 (c) Other than as provided in Section 45 of this Act, if
23 any person practices as a perfusionist or holds himself or
24 herself out as a licensed perfusionist under this Act without
25 being issued a valid existing license by the Department,
26 then any licensed perfusionist, any interested party, or any
27 person injured thereby may, in addition to the Director,
28 petition for relief as provided in subsection (a) of this
29 Section.

30 Section 115. Cease and desist order.
31 (a) If a person violates a provision of this Act, the
32 Director, in the name of the People of the State of Illinois
33 through the Attorney General of the State of Illinois, or the

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1 State's Attorney of a county in which the violation occurs,
2 may petition for an order enjoining the violation or for an
3 order enforcing compliance with this Act. Upon the filing of
4 a verified petition in court, the court may issue a temporary
5 restraining order without notice or bond and
may
6 preliminarily and permanently enjoin the
violation. If it is
7 established that the licensee has violated or
is violating
8 the injunction, the court may punish the
offender for
9 contempt of court. Proceedings under this
Section shall be
10 in addition to, and not in lieu of, all other
remedies and
11 penalties provided by this Act.
12 (b) If a person practices as a perfusionist
or holds
13 himself or herself out as a perfusionist
without being
14 licensed under this Act, then any licensee
under this Act,
15 interested party, or person injured thereby,
in addition to
16 the Director or State's Attorney, may
petition for relief as
17 provided in subsection (a) of this Section.
18 (c) If the Department determines that a
person violated
19 a provision of this Act, the Department may
issue a rule to
20 show cause why an order to cease and desist
should not be
21 entered against him or her. The rule shall
22 clearly set forth
23 the grounds relied upon by the Department and
shall provide a
24 period of 7 days from the date of the rule to
file an answer
24 to the satisfaction of the Department.
Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

Section 120. Investigation; notice; hearing. Licenses may be refused, revoked, suspended, or otherwise disciplined in the manner provided by this Act and not otherwise. The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts that if proven would constitute grounds for refusal to issue or for suspension or revocation under this Act,

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1 investigate the actions of a person applying for, holding, or claiming to hold a license. The Department shall, before refusing to issue or renew, suspending, or revoking a license or taking other discipline pursuant to Section 105 of this Act, and at least 30 days prior to the date set for the hearing, notify in writing the applicant or licensee of any charges made, shall afford the applicant or licensee an opportunity to be heard in person or by
counsel in reference
to the charges, and direct the applicant or
licensee to file
a written answer to the Department under oath
within 20 days
after the service of the notice and inform
the applicant or
licensee that failure to file an answer will
result in
default being taken against the applicant or
licensee and
that the license may be suspended, revoked,
placed on
probationary status, or other disciplinary
action may be
taken, including limiting the scope, nature,
or extent of
practice, as the Director may deem proper.
Written notice
may be served by personal delivery to the
applicant or
licensee or by mailing the notice by
certified mail to his or
her last known place of residence or to the
place of business
last specified by the applicant or licensee
in his or her
last notification to the Department. If the
person fails to
file an answer after receiving notice, his or
her license
may, in the discretion of the Department, be
suspended,
revoked, or placed on probationary status or
the Department
may take whatever disciplinary action deemed
proper,
27 including limiting the scope, nature, or extent of the
28 person's practice or the imposition of a fine, without a
29 hearing, if the act or acts charged constitute sufficient
30 grounds for such action under this Act. At the time and
31 place fixed in the notice, the Department shall proceed to a
32 hearing of the charges and both the applicant or licensee and
33 the complainant shall be afforded ample opportunity to
34 present, in person or by counsel, any statements, testimony,

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1 evidence, and arguments that may be pertinent to the charges
2 or to their defense. The Department may continue a hearing
3 from time to time. If the Board is not sitting at the time
4 and place fixed in the notice or at the time and place to
5 which the hearing shall have been continued, the Department
6 may continue the hearing for a period not to exceed 30 days.

7 Section 125. Record of proceedings. The Department, at
8 its expense, shall preserve a record of all proceedings at a
Section 130. Order for production of documents. A circuit court may, upon application of the Department or its designee, or of the applicant or licensee against whom proceedings pursuant to Section 120 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony and the production of documents, papers, files, books, and records in connection with a hearing or investigation authorized by this Act. The court may compel obedience to its order through contempt proceedings.
Section 140. Subpoena; oaths. The Department has the power to subpoena and bring before it any person in this State and to take testimony orally or by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts.

Section 145. Findings of fact. At the conclusion of the hearing, the Board shall present to the Director a written report of its findings of fact, conclusions of law, and recommendations. In the report, the Board shall make a finding of whether or not the charged licensee or applicant violated a provision of this Act or its rules and shall
specify the nature of the violation. In making its recommendations for discipline, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the respondent and the potential for future harm to the public, including but not limited to previous discipline of that respondent by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made, and whether the incident or incidents complained of appear to be isolated or a pattern of conduct. In making its recommendations for discipline, the Board shall seek to ensure that the severity of the discipline recommended bears some reasonable relationship to the severity of the violation.

Section 150. Service of report; rehearing. In a case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either
31 personally or as provided under Section 120 of this Act for
32 the service of the notice of hearing. Within 20 days after

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1 the service, the respondent may present to the Department a
2 motion in writing for a rehearing, which shall specify the
3 particular grounds for a rehearing. If no motion for
4 rehearing is filed, then upon the expiration of the time
5 specified for filing the motion, or if a motion for rehearing
6 is denied, then upon the denial the Director may enter an
7 order in accordance with recommendations of the Board, except
8 as provided in Section 160 or 165 of this Act. If the
9 respondent orders a transcript of the record from the
10 reporting service and pays for the transcript within the time
11 for filing a motion for rehearing, the 20-day period within
12 which such a motion may be filed shall commence upon the
13 delivery of the transcript to the respondent.

14 Section 160. Order of Director.
15 (a) The Director shall issue an order concerning the
16 disposition of the charges (i) following the
expiration of
17 the filing period granted under Section 155
of this Act if no
18 motion for rehearing is filed or (ii)
following a denial of a
19 timely motion for rehearing.
20 (b) The Director's order shall be based on
the
21 recommendations contained in the Board's
report unless, after
22 giving due consideration to the Board's
report, the Director
23 disagrees in any regard with the report of
the Board, in
24 which case he or she may issue an order in
contravention of
25 the report. The Director shall provide a
written report to
26 the Board on any deviation from the Board's
report and shall
27 specify with particularity the reasons for
his or her
28 deviation in the final order. The Board's
report and
29 Director's order are not admissible in
evidence against the
30 person in a criminal prosecution brought for
a violation of
31 this Act, but the hearing, report, and order
are not a bar to
32 a criminal prosecution brought for the
violation of this Act.
provisions of Section 120 of this Act, the Director shall have the authority to appoint an attorney licensed to practice law in this State to serve as the hearing officer in a hearing authorized under Section 120 of this Act. The Director shall notify the Board of an appointment. The hearing officer shall have full authority to conduct the hearing. The Board has the right to have at least one member present at a hearing conducted by a hearing officer appointed under this Section. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board and the Director. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and to present its findings of fact, conclusions of law, and recommendations to the Director. If the Board fails to present its report within the 60-day period, the Director shall issue an order based on the report of the hearing officer. If the Director disagrees in any regard with the report of the Board or hearing officer, he or
20 she may issue an order in contravention of the report. The Director shall provide a written explanation to the Board on a deviation from the Board's report and shall specify with particularity the reasons for his or her deviation in the final order.

25 Section 175. Rehearing on order of Director. Whenever the Director is not satisfied that substantial justice has been achieved in the discipline of a licensee, the Director may order a rehearing by the same or another hearing officer or by the Board.

30 Section 180. Order; prima facie proof. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Director, shall be prima
6 (3) the Board and its members are qualified to act.

7 Section 185. Restoration of license. At any time after the suspension or revocation of a license, the Department may restore it to the licensee unless, after an investigation and a hearing, the Department determines that restoration is not in the public interest. Where circumstances of suspension or revocation so indicate, or on the recommendation of the Board, the Department may require an examination of the licensee before restoring his or her license.

15 Section 190. Surrender of license. Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Department. If the licensee fails to do so, the Department shall have the right to seize the license.

20 Section 200. Temporary suspension. The Director may temporarily suspend the license of a perfusionist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 120 of
this Act, if the
24 Director finds that evidence in his or her possession
25 indicates that continuation in practice would constitute an
26 imminent danger to the public. If the Director temporarily
27 suspends a license without a hearing, a hearing by the
28 Department shall be held within 30 days after the suspension
29 has occurred and shall be concluded without appreciable
30 delay.

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1 Section 205. Certificate of record. The Department shall
2 not be required to certify any record to a court or file an
3 answer in court or otherwise appear in a court in a judicial
4 review proceeding unless there is filed in the court, with
5 the complaint, a receipt from the Department acknowledging
6 payment of the costs of furnishing and certifying the record.
7 Failure on the part of the plaintiff to file a receipt in
8 court shall be grounds for dismissal of the action.

9 Section 210. Administrative Review Law. All final
10 administrative decisions of the Department
are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of the county in which the party seeking review resides. If the party seeking review is not a resident of this State, venue shall be in Sangamon County.

Section 215. Criminal penalties. A person who is found to have knowingly violated Section 10-5 or subsection (a) of Section 220 of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense.

Section 220. Unlicensed practice; civil penalties. (a) No person shall practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a perfusionist without a license issued by the Department to that person under this Act. (b) In addition to any other penalty provided by law, a
person who violates subsection (a) of this Section shall pay a civil penalty to the Department in an amount not to exceed $5,000 for each offense as determined by the Department.

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1 The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding a hearing for the discipline of a licensee.
2 (c) The Department has the authority and power to investigate any and all unlicensed activity.
3 (d) The civil penalty assessed under this Act shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had on the judgment in the same manner as a judgment from a court of record.

Section 225. Deposit of moneys. All moneys collected by the Department under this Act shall be deposited into the General Professions Dedicated Fund in the State Treasury and shall be used for administration of this Act.
Section 230. Home rule powers. The regulation and licensing of perfusionists are exclusive powers and functions of the State. A home rule unit shall not regulate or license perfusionists. This Section is a limitation under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 950. The Regulatory Sunset Act is amended by adding Section 4.20 as follows:


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Section 999. Effective date. This Act takes effect January 1, 2000.