

SUMMARY/INDEX
Perfusionist Rules
092619

Section, page, and change	Source of specific authority with page & line or reason for change
Eliminate word "Regulations" -throughout document	Act 315 of 2019
3(I) Add definition of "returning military veteran" P 3-2	Act 820 of 2019
4 (C) Added military licensing requirements P 4-2, 3	Act 820 of 2019
4(F) Reciprocity - add "in good standing" P 4-6, 4-7	Act 1011 of 2019
4(J)(6) Add criminal history background disqualifications P 4-9	Act 990 of 2019
6 Add severability clause p. 6-1	Adding to all ADH rules for continuity

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY _____
DIVISION _____
DIVISION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ FAX NO. _____ E-MAIL _____
NAME OF PRESENTER AT COMMITTEE MEETING _____
PRESENTER E-MAIL _____

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule?

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

7. What is the purpose of this proposed rule? Why is it necessary?

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
- Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

ARKANSAS
STATE BOARD OF HEALTH

**RULES ~~AND REGULATIONS~~ FOR
PERFUSIONISTS IN ARKANSAS**



Promulgated under the Authority of Ark. Code Ann. § 17-104-101 et seq.
Revision effective date: January 1, 2020

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

NATHANIEL SMITH, MD, MPH
~~DIRECTOR AND~~ SECRETARY OF STATE HEALTH
OFFICER

DRAFT ONLY

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06/19/19

SECTION 1: Authority.

The following Rules ~~and Regulations~~ for Perfusionists in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. 17-104-101 et seq.

DRAFT

06/19/19

SECTION 2: Purpose.

These rules ~~and regulations~~ establish minimum standards for licensure of Perfusionists in Arkansas. These standards are not static and are subject to periodic revisions in the future as new knowledge and changes in patient care trends become apparent. Perfusionists in Arkansas have a strong moral responsibility for providing optimum patient care and treatment.

DRAFT

SECTION 3: Definitions.

- A. **Board** means the State Board of Health.
- B. **Committee** means the Perfusionists Advisory Committee.
- C. **Department** means the Department of Health.
- D. **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, kidneys, liver, or other organs.
- E. **Licensed Perfusionist** means a person licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- F. **Perfusion** means 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 supervision of a licensed physician, including:
 - 1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including, but not limited to, extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
 - 2. Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;
 - 3. The use of techniques involving blood management, advanced life support, related functions;
 - 4. The administration of pharmacological and therapeutic agents or blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line for perfusion purposes as ordered by a physician;
 - 5. The performance and use of:
 - a. Anticoagulation monitoring and analysis;
 - b. Physiologic monitoring and analysis;
 - c. Blood gas and chemistry monitoring and analysis;
 - d. Hematologic monitoring and analysis;

- e. Hypothermia;
 - f. Hyperthermia;
 - g. Hemoconcentration and hemodilution; and
 - h. Hemodialysis.
6. 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.
- G. **Perfusion protocols** means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.
- H. **Provisional licensed perfusionist** means a person provisionally licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- H.I. **Returning military veteran** means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

SECTION 4: Licensure.

A. Requirements.

1. Any person is eligible to make application to the board and receive a license, subject to the provisions of Ark. Code Ann. 17-104-101 et seq. as amended
2. A licensed perfusionist shall conform to the Code of Ethics as adopted by the Perfusionists Advisory Committee and approved by the State Board of Health. See Section 5.
3. A licensed perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interested into conflict with the patient's interests. A licensed perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.
4. The applicant shall make application upon a form prepared by the Department .
5. A perfusionist shall practice perfusion only when duly licensed to do so pursuant to the provisions of the Perfusion Licensure Act, Ark. Code Ann. 17-104-101 et seq., as amended.
6. A licensed perfusionist shall notify the Department and the Committee of the suspension, probation, revocation or any final disciplinary action of any past or currently held permits, licenses, or certificates required to practice perfusion in this or any jurisdiction of the US, US territories, District of Columbia or the province of Canada within 30 days of final adjudication.
7. A licensed perfusionist shall report to the Department and the Committee any alleged violation of status, rules and regulations governing the practice of perfusion in the state of Arkansas within 30 days of the alleged violation.
8. A licensed perfusionist shall not procure or attempt to procure a license or renewal of a license to practice perfusion by fraud or deceit.
9. A licensed perfusionist shall not practice perfusion after a license has expired or has been suspended, revoked or not renewed.
10. A licensed perfusionist shall not practice perfusion under cover of any permit, license or certificate illegally or fraudulently obtained or issued.

11. A licensed perfusionist shall not obtain or attempt to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation or willfully over charge or over treat patients.
12. A licensed perfusionist shall not willfully perform inappropriate or unnecessary treatment, diagnostic tests or perfusion services.
13. A licensed perfusionist shall not delegate professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities.
14. A licensed perfusionist shall not violate or attempt, directly or indirectly, or assist or enable any person to violate, any provisions, document, section, lawful rule, or regulation or any Code of Ethics adopted pursuant to Ark. Code Ann. 17-104-101 et seq.

B. New Applicants

1. All new applicants for a perfusionist license shall submit a signed application to the Department for consideration; and
- ~~2.~~ Shall meet the requirements of the American Board of Cardiovascular Perfusion (ABCP) for Certification and be certified by the ABCP.

C. Military

- ~~D.~~ 1. The following individuals are eligible for licensing consideration based on military service or affiliation:

a. An active duty military service member stationed in the State of Arkansas;

b. A returning military veteran applying for licensure within one (1) year of his or discharge from active duty; or

c. The spouse of (a) or (b) above.

2. Such applicant shall submit:

a. Payment of the initial licensure fee;

b. Evidence that the individual holds ABCP certification; and

c. Evidence of the military service, qualification or affiliation.

E.D. Renewal. Each renewal period the licensee must be able to provide proof of:

1. current certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor; or
- 2(a). thirty (30) hours of perfusion-related continuing professional education which may include ACLS, PALS, and BLS, of which at least ten (10) hours shall be meetings, programs or activities accredited for continuing education hours by ABCP or its successor; and
- (b). forty (40) clinical activities annually.
 - I. Clinical activities are defined as:
 - aa. Bypass, Primary
 - bb. Instructor
 - cc. Veno-Venous Bypass
 - dd. Pump Assisted Coronary and /or Organ Perfusion (PADCAB/isolated limb perfusion)
 - ee. CPS

- ff. ECMO
 - gg. VAD
 - hh. Documented intraoperative pump standby
 - ii. Bypass first assistant.
- II. Of the 40 clinical activities above, a maximum of 15 activities may be documented intraoperative pump standbys and/or bypass first assistant. The standbys must be documentable in an audit. For each ECMO or VAD case, one case credit will be awarded for initiating and maintaining on shift (4 hours minimum), or managing one shift (8 hours minimum), or the duration of the case. Cases performed as the Clinical Instructor in an accredited program are considered primary perfusions and may be included in this category.
2. Regular licenses are renewable every two years. Provisional licenses are renewable for 12 months.
 3. The period of completion of the continuing professional education and clinical activities requirements shall be the 24 (twenty-four) month period beginning January 1 and ending December 31 of each renewal period. A licensee who has failed to obtain and report, in a timely fashion their continuing professional education and clinical activities shall not engage in the practice of perfusion unless an extension is obtained pursuant to number six (6) below of this rule.
 4. Each licensee shall certify by signature, under penalty of perjury, that he/she has completed the required units of continuing professional education and clinical activities on the renewal form.
 5. Each licensee shall retain records documenting completion of the continuing professional education and clinical activities requirements for a minimum of three years after the reporting period in which the continuing professional education and clinical activities was completed. The Board may conduct an audit of licensees to verify compliance with the continuing professional education and clinical activities requirements. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.
 6. A licensee who cannot complete the continuing professional education and clinical activities requirements because of personal illness, military service or other circumstances beyond the licensee's control which the board

deems to be sufficient to impose an insurmountable hardship may apply for an extension of time to complete the continuing professional education and clinical activities requirements. Any extension of time to complete the continuing professional education and clinical activities requirements will be granted solely at the discretion of the board. The licensee must make a written application for extension of time prior to the January 31 deadline or completion of the continuing professional education and clinical activities requirement. A processing fee of \$50.00 shall accompany the application for extension. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the continuing professional education and clinical activities requirements shall not engage in the active practice of perfusion unless the board grants the licensee's request for extension and the licensee received express written authorization to engage in the active practice of perfusion.

- a. The board, solely in its discretion, may grant an extension based on unforeseeable circumstances beyond the licensee's control which impose an insurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities. At a minimum, the licensee must provide written documentation explaining specifically and in detail the nature of the circumstances were unforeseeable and beyond the licensee's control, the period during which the circumstances were in existence, the number of continuing professional education units and clinical activities earned in the reporting period and the licensee's plan for completing the balance of the requirements. The board, in its discretion, shall determine if the situation described in the licensee's application constitutes unforeseeable circumstances beyond the licensee's control which impose an unsurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities.
- b. The licensee who is granted an extension of time shall complete the balance of his/her continuing professional education and clinical activities requirements no later than six months after return to work immediately following the end of the reporting period for which an extension was sought and shall provide the board with written documentation of his/her completion of the continuing education requirements no later than August 10 immediately following the end of the reporting period for which an extension was sought. Failure to complete the continuing professional education and clinical activities requirements by January 31st or to

file the documentation with the board by August 10
shall constitute a violation of Section D.3.

7. A licensee who has failed to complete and report in a timely fashion the required units of continuing professional education and clinical activities and engages in the active practice of perfusion without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of perfusion.

F.E. Provisional License.

1. A license as a provisional licensed perfusionist may be issued by the board to a person who has:
 - a. successfully completed an accredited perfusion education program recognized by ABCP or its successor;
 - b. filed an application;
 - c. paid an application fee; and
 - d. submitted such evidence of successful completion of the education and clinical activities as required by the board.
2. A provisional licensed perfusionist shall be under the supervision and direction of a licensed perfusionist at all times during which the provisional licensed perfusionist performs perfusion. Rules adopted by the board governing such supervision and direction may not require the immediate physical presence of the supervising licensed perfusionist.
3. A person qualified for a provisional license under these rules ~~and regulations~~ is entitled to receive a license as a provisional licensed perfusionist. A provisional licensed perfusionist shall comply with other pertinent sections of these rules ~~and regulations~~.
4. A provisional license is valid for 12 months from the date it is issued and may be renewed annually not more than two years by the same procedure established for renewal under Section 4 of these rules. The application for renewal shall be signed by a supervising licensed perfusionist.

G.F. Reciprocity. License shall be granted to the licensee of another state if the applicant holds a current certification issued by the ABCP in good standing, or its successor and pays the appropriate application fee.

1. The applicant shall not have had a license revoked, suspend or put on probation for:

a. An act of bad faith; or

b. A violation of law, rule, or ethics;

2. The applicant shall be sufficiently competent in the field of perfusion; and

3. An applicant shall submit an application, the required fee, and required documentation. Required documentation shall include:

a. Copy of ABCP Certification;

b. Evidence of current and active licensure in that state; and

c. A list of the names of all states in which the applicant is currently licensed or has been previously licensed;

d. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked, suspended or probationary status as described above.

4. The applicant shall receive a temporary license immediately upon submission of the application, the required fee, and the required documentation.

~~H.~~

~~I.~~G. Displaying of License.

1. Perfusionists shall display their license in an appropriate and public manner; or

2. Maintain on file in the health care facility in which the licensed perfusionists is working, an accurate copy of the perfusionists license; and
3. Keep the Department informed of any change of address.

~~J.H.~~ J.H. Fees.

1. Initial application for consideration of licensure which requires a complete certification of stated qualifications and credentials in the application shall be \$150.00.
2. For renewal of license occurring every two years which checks the current credentials and clinical activities of the already licensed perfusionist shall be \$100.00.
3. Fee for a provisional license is \$150.00 annually.
4. Fee for reciprocity is \$100.00.
5. Fee for an extension is \$50.00.

~~K.I.~~ K.I. Continuing Education and Clinical Activities. Licensed perfusionists and provisional licensed perfusionists shall meet the continuing education and clinical activities requirements of American Board of Cardiovascular Perfusion or its successor.

~~L.J.~~ L.J. Procedure on Denial, Reprimand, Probation, Civil Penalties, Suspension, or Revocation.

1. Grounds for Discipline. The board shall have sole authority to deny or suspend any license to practice perfusion issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon determination of:
 - a. Any violation of Ark. Code Ann. 17-104-101 et seq.; or
 - b. Any violation of a regulation or code of ethics adopted by the board;
 - c. Any violation of a rule or code of ethics adopted by the board; or
 - d. Unprofessional conduct, which includes, but is not limited to:
 - 1) Incompetence or gross negligence in carrying out

usual perfusion functions;

- 2) A conviction of practicing perfusion without a license or a provisional license;
- 3) The use of advertising relating to perfusion in a manner which violates state law;
- 4) Procuring a license or provisional license by fraud, misrepresentation or mistake;
- 5) Making or giving any false statement or information in connection with the application for the license or provisional license.
- 6) A plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or
- 7) Impersonating an applicant or acting as proxy for an applicant in any examination required under Act 888 for the issuance of a license.

e. If a license suspension is probated, the department may require the licensee to:

- 1) Report on a regular basis to the department on matters that are the basis of the probation.
- 2) Limit the practice to the areas prescribed by the department; or
- 3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are the basis of the probation, satisfactory to the department.

2. Proceedings. Proceedings shall be as follows:

a. Opportunity for licensee or applicant to have a hearing. Except as provided in Subsection 2) below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the board. The board shall have authority to take any action the effect of which would be to:

- 1) Deny a license after examination for any cause other than

- failure to pass an examination;
- 2) Withhold the renewal or reinstatement of a license for any cause;
 - 3) Revoke a license;
 - 4) Suspend a license;
 - 5) Probate a license;
 - 6) Reprimand a license;
 - 7) Levy civil penalties.
- b. Suspension of license without prior notice or hearing. If the Department finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the board may suspend the license pending a hearing without prior notice of hearing.
- 1) When the Department contemplates taking any action, it shall give a written notice to the licensee at the last address of record, which contains a statement:
 - a) That the Department has sufficient evidence which, if not rebutted or explained, will justify the Department in taking the contemplated action;
 - b) Indicating the general nature of the evidence, and detailed allegations of violation the licensee is charged with; and
 - c) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record and at the hearing the board will receive the evidence.
 - 2) When the Department shall summarily suspend a license pending a hearing, it shall give written notice of the general nature of the evidence and detailed allegations of the violation the licensee is charged with:
 - a) The Department has sufficient evidence which,

if not rebutted or explained, will justify
revocation of the license by the board;

- b) Indicating the general nature of the evidence against the licensee;
 - c) That, based on the evidence indicated, the Department has determined the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as the date such notice is served;
 - d) The board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Department.
- 3) In any hearing before the board involving the suspension or revocation of the license, the burden shall be on the Department to present competent evidence to justify the action taken or proposed by the board.

M.K. Civil Penalties. The board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed \$500.00 for each violation against those individuals or entities found to be in violation of this Chapter or ~~regulations-rules~~ promulgated thereunder.

- 1. Each day of violation shall be a separate offense.
- 2. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this Chapter.
- 3. Unless the penalty assessed under this subsection is paid within 30 calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

N.L. Method of Serving Notice of Hearing. Any notice required may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date

borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept this notice. An attempt to serve notice at the last address of record shall constitute official notice.

~~O.M.~~ Venue of Hearing. Board hearings held under provisions of this rule shall be conducted at the board office or elsewhere in Pulaski County.

~~P.N.~~ Hearings Public. Use of Hearing Office all hearings under this section shall be open to the public. At all such hearings at least a quorum of the board shall be present to hear and determine the matter.

~~Q.O.~~ Rights of Persons Entitled to Hearing. A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses, books, papers and documents;
3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefore to the board; and
5. Have a transcript of the hearing made at his or her own expense

~~R.P.~~ Powers of the board in Connection with Hearing. In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;
4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the board; and
6. Direct a continuance of any case.

~~S.Q.~~ Rules of Evidence. In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct of serious

affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

~~T.R.~~ Manner and Time of Rendering Decision. After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where quorums of the members of the Board are present and participating in the decision. In any case the decision must be rendered within 90 days after the hearing.

~~U.S.~~ Service of Written Decision. Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last known address. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

~~V.T.~~ Procedure Where Persons Fails to Request or Appear for Hearing. If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required.

~~W.U.~~ Contents of Decision. The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

SECTION 5: Code of Ethics

PREAMBLE: The purpose of a code of ethics is to acknowledge a profession's acceptance of the responsibility and trust conferred upon it by society and to recognize the internal obligations inherent in that trust. The following paragraphs delineate the standards governing the conduct of perfusionists in their professional interactions with patients, colleagues, other health professionals and the general public. Realizing that no code can encompass all ethical responsibilities of the perfusionists, this enumeration of obligations in the code of ethics is not comprehensive and does not constitute a denial of the existence of other obligations, equally imperative, and not specifically mentioned herein. This code of ethics shall be binding on all perfusionists in Arkansas.

A. CANON 1

Perfusionists must uphold the dignity and honor of the profession, accept its disciplines and expose without hesitation illegal, unethical and incompetent conduct.

INTERPRETIVE STATEMENTS

- Perfusionists are part of a collaborative effort to deliver proper health care to the patient under the perfusionist care.
- The perfusionist has a personal, as well as a professional, obligation to protect and safeguard the patients from illegal and/or unethical actions or the incompetence of any person.
- The perfusionist must maintain personal integrity and establish the appropriate means to fully protect his freedom of conscience for the delivery of services to the patient.
- A perfusionist who demonstrates incompetence or illegal conduct as it pertains to the Code of Ethics shall be exposed to the proper authorities.

B. CANON 2

Perfusionists shall respect the patients' rights and dignity and shall uphold the doctrine of confidentiality regarding privileged patient information.

INTERPRETIVE STATEMENTS

- Information about the patient's clinical situation will be kept confidential, unless otherwise required by law, in order to protect the welfare of an individual or community. Written guidelines or protocols of an institution or department may be instrumental in deciding the manner in which confidential information is handled for release.

C. CANON 3

Perfusionists shall provide only those services for which they are qualified. Perfusionists shall not misrepresent in any manner, either directly or indirectly, their skills, training, professional credentials, identity or services.

INTERPRETIVE STATEMENTS

- Perfusionists will accept responsibility for the exercise of sound judgement in the delivery of services to the patient and shall be accountable for the quality of the service provided.
- Perfusionists will provide accurate information about the profession, and services they provide, as well as the perfusionists' own qualifications.
- The perfusionists shall not engage in practices beyond their competence or training.
- Perfusionists shall not delegate to a less qualified person any activity which requires the unique skill, knowledge and judgement of a formally educated perfusionist. Services rendered by supportive personnel will be under the supervision of a formally educated perfusionist.

D. CANON 4

Perfusionists shall strive to improve their medical knowledge and skills on a continuing basis.

INTERPRETIVE STATEMENTS

- Perfusionists shall support quality didactic and clinical education.
- Professional conduct will be maintained toward perfusionists peers, students, medical staff and patients.
- Perfusionists shall participate in educational activities, either by individual study or through continuing education, which will enhance their basic knowledge in order to continue to provide quality health care to the patient.

E. CANON 5

Perfusionists shall maintain and promote high standards for perfusion practice which may include education, research and scientific presentations and/or publications.

F. CANON 6

A perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interests into conflict with the patient's interests. A perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.

INTERPRETIVE STATEMENTS

- A perfusionist professional practice and adherence to ethical principles shall take preference over business practices. Perfusionists shall place service before material gain.
- A perfusionist shall fully disclose to clientele other business practices that may appear as conflict of interest to clientele and/or public. These may include but are not limited to:
 - 1) Consultant for fee.
 - 2) Clinical instructor (support staff for industry).
 - 3) Sales representative.
 - 4) Technical advisor.
 - 5) Lecture for fee.
 - 6) Acceptance of fees, gratuities, funding from industry.

In that the ultimate concern is to improve patient care, it is our position that clinicians engaged in the practice of cardiopulmonary bypass are required to and must be allowed to periodically evaluate the equipment which is utilized in cardiopulmonary bypass in the effort of continuously improving patient care which should include not only patient outcomes but safety as well.

To this end, the State Board of Health holds that each perfusionist has the following ethical and professional responsibilities:

- A. The perfusionist being the most qualified individual, by training, education, experience, and job description has the responsibility to evaluate, recommend, select, and implement the components of the extra-corporeal circuit so that patient safety and care are optimized.

- B. The perfusionist will always attempt to fairly evaluate all competing products and services, with the principal selection criteria being that of regard for patient safety and well-being.
- C. The perfusionist shall always base any decision on product and service selection on clinical evaluations and documented clinical and scientific data.

In conclusion, it is the responsibility of the perfusionist to make decisions regarding the selection of clinical products with the patient as the primary concern.

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SECTION 6: Severability

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such provisions or applications of these Rules that can give effect without the invalid provisions or applications will be enforced, and to this end the provisions hereto are declared to be severable.

DRAFT

CERTIFICATION

This will certify that the foregoing revisions to the Rules and Regulations for Perfusionists in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the _____ day of _____, ~~2016~~2019.

Nathaniel Smith, M.D., MPH
Secretary of ~~Arkansas State Board of Health~~
~~Director, Arkansas Department of Health and~~
~~State Health Officer~~

date

ARKANSAS
STATE BOARD OF HEALTH

**RULES FOR PERFUSIONISTS IN
ARKANSAS**



Promulgated under the Authority of Ark. Code Ann. § 17-104-101 et seq.

Revision effective date: January 1, 2020

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

NATHANIEL SMITH, MD, MPH
SECRETARY OF HEALTH OFFICER

DRAFT ONLY

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06/19/19

SECTION 1: Authority.

The following Rules for Perfusionists in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. 17-104-101 et seq.

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SECTION 2: Purpose.

These rules establish minimum standards for licensure of Perfusionists in Arkansas. These standards are not static and are subject to periodic revisions in the future as new knowledge and changes in patient care trends become apparent.

Perfusionists in Arkansas have a strong moral responsibility for providing optimum patient care and treatment.

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SECTION 3: Definitions.

- A. **Board** means the State Board of Health.
- B. **Committee** means the Perfusionists Advisory Committee.
- C. **Department** means the Department of Health.
- D. **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, kidneys, liver, or other organs.
- E. **Licensed Perfusionist** means a person licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- F. **Perfusion** means 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 supervision of a licensed physician, including:
 - 1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including, but not limited to, extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
 - 2. Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;
 - 3. The use of techniques involving blood management, advanced life support, related functions;
 - 4. The administration of pharmacological and therapeutic agents or blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line for perfusion purposes as ordered by a physician;
 - 5. The performance and use of:
 - a. Anticoagulation monitoring and analysis;
 - b. Physiologic monitoring and analysis;
 - c. Blood gas and chemistry monitoring and analysis;
 - d. Hematologic monitoring and analysis;

- e. Hypothermia;
 - f. Hyperthermia;
 - g. Hemoconcentration and hemodilution; and
 - h. Hemodialysis.
6. 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.
- G. **Perfusion protocols** means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.
- H. **Provisional licensed perfusionist** means a person provisionally licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- I. **Returning military veteran** means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

SECTION 4: Licensure.

A. Requirements.

1. Any person is eligible to make application to the board and receive a license, subject to the provisions of Ark. Code Ann. 17-104-101 et seq. as amended
2. A licensed perfusionist shall conform to the Code of Ethics as adopted by the Perfusionists Advisory Committee and approved by the State Board of Health. See Section 5.
3. A licensed perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interested into conflict with the patient's interests. A licensed perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.
4. The applicant shall make application upon a form prepared by the Department .
5. A perfusionist shall practice perfusion only when duly licensed to do so pursuant to the provisions of the Perfusion Licensure Act, Ark. Code Ann. 17-104-101 et seq., as amended.
6. A licensed perfusionist shall notify the Department and the Committee of the suspension, probation, revocation or any final disciplinary action of any past or currently held permits, licenses, or certificates required to practice perfusion in this or any jurisdiction of the US, US territories, District of Columbia or the province of Canada within 30 days of final adjudication.
7. A licensed perfusionist shall report to the Department and the Committee any alleged violation of status, rules and regulations governing the practice of perfusion in the state of Arkansas within 30 days of the alleged violation.
8. A licensed perfusionist shall not procure or attempt to procure a license or renewal of a license to practice perfusion by fraud or deceit.
9. A licensed perfusionist shall not practice perfusion after a license has expired or has been suspended, revoked or not renewed.
10. A licensed perfusionist shall not practice perfusion under cover of any permit, license or certificate illegally or fraudulently obtained or issued.

11. A licensed perfusionist shall not obtain or attempt to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation or willfully over charge or over treat patients.
12. A licensed perfusionist shall not willfully perform inappropriate or unnecessary treatment, diagnostic tests or perfusion services.
13. A licensed perfusionist shall not delegate professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities.
14. A licensed perfusionist shall not violate or attempt, directly or indirectly, or assist or enable any person to violate, any provisions, document, section, lawful rule, or regulation or any Code of Ethics adopted pursuant to Ark. Code Ann. 17-104-101 et seq.

B. New Applicants

1. All new applicants for a perfusionist license shall submit a signed application to the Department for consideration; and

Shall meet the requirements of the American Board of Cardiovascular Perfusion (ABCP) for Certification and be certified by the ABCP.

C. Military

1. The following individuals are eligible for licensing consideration based on military service or affiliation:
 - a. An active duty military service member stationed in the State of Arkansas;
 - b. A returning military veteran applying for licensure within one (1)

year of his or discharge from active duty; or

- c. The spouse of (a) or (b) above.

2. Such applicant shall submit:

- a. Payment of the initial licensure fee;
- b. Evidence that the individual holds ABCP certification; and
- c. Evidence of the military service, qualification or affiliation.

D. Renewal. Each renewal period the licensee must be able to provide proof of:

- 1. current certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor; or
- 2(a). thirty (30) hours of perfusion-related continuing professional education which may include ACLS, PALS, and BLS, of which at least ten (10) hours shall be meetings, programs or activities accredited for continuing education hours by ABCP or its successor; and
- (b). forty (40) clinical activities annually.
 - I. Clinical activities are defined as:
 - aa. Bypass, Primary
 - bb. Instructor
 - cc. Veno-Venous Bypass
 - dd. Pump Assisted Coronary and /or Organ Perfusion (PADCAB/isolated limb perfusion)
 - ee. CPS
 - ff. ECMO

- gg. VAD
 - hh. Documented intraoperative pump standby
 - ii. Bypass first assistant.
- II. Of the 40 clinical activities above, a maximum of 15 activities may be documented intraoperative pump standbys and/or bypass first assistant. The standbys must be documentable in an audit. For each ECMO or VAD case, one case credit will be awarded for initiating and maintaining on shift (4 hours minimum), or managing one shift (8 hours minimum), or the duration of the case. Cases performed as the Clinical Instructor in an accredited program are considered primary perfusions and may be included in this category.
- 2. Regular licenses are renewable every two years. Provisional licenses are renewable for 12 months.
 - 3. The period of completion of the continuing professional education and clinical activities requirements shall be the 24 (twenty-four) month period beginning January 1 and ending December 31 of each renewal period. A licensee who has failed to obtain and report, in a timely fashion their continuing professional education and clinical activities shall not engage in the practice of perfusion unless an extension is obtained pursuant to number six (6) below of this rule.
 - 4. Each licensee shall certify by signature, under penalty of perjury, that he/she has completed the required units of continuing professional education and clinical activities on the renewal form.
 - 5. Each licensee shall retain records documenting completion of the continuing professional education and clinical activities requirements for a minimum of three years after the reporting period in which the continuing professional education and clinical activities was completed. The Board may conduct an audit of licensees to verify compliance with the continuing professional education and clinical activities requirements. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.
 - 6. A licensee who cannot complete the continuing professional education and clinical activities requirements because of personal illness, military service or other circumstances beyond the licensee's control which the board deems to be sufficient to impose an insurmountable hardship may apply for

an extension of time to complete the continuing professional education and clinical activities requirements. Any extension of time to complete the continuing professional education and clinical activities requirements will be granted solely at the discretion of the board. The licensee must make a written application for extension of time prior to the January 31 deadline or completion of the continuing professional education and clinical activities requirement. A processing fee of \$50.00 shall accompany the application for extension. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the continuing professional education and clinical activities requirements shall not engage in the active practice of perfusion unless the board grants the licensee's request for extension and the licensee received express written authorization to engage in the active practice of perfusion.

- a. The board, solely in its discretion, may grant an extension based on unforeseeable circumstances beyond the licensee's control which impose an insurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities. At a minimum, the licensee must provide written documentation explaining specifically and in detail the nature of the circumstances were unforeseeable and beyond the licensee's control, the period during which the circumstances were in existence, the number of continuing professional education units and clinical activities earned in the reporting period and the licensee's plan for completing the balance of the requirements. The board, in its discretion, shall determine if the situation described in the licensee's application constitutes unforeseeable circumstances beyond the licensee's control which impose an unsurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities.
- b. The licensee who is granted an extension of time shall complete the balance of his/her continuing professional education and clinical activities requirements no later than six months after return to work immediately following the end of the reporting period for which an extension was sought and shall provide the board with written documentation of his/her completion of the continuing education requirements no later than August 10 immediately following the end of the reporting period for which an extension was sought. Failure to complete the continuing professional education and clinical activities requirements by January 31st or to

file the documentation with the board by August 10
shall constitute a violation of Section D.3.

7. A licensee who has failed to complete and report in a timely fashion the

required units of continuing professional education and clinical activities and engages in the active practice of perfusion without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of perfusion.

E. Provisional License.

1. A license as a provisional licensed perfusionist may be issued by the board to a person who has:
 - a. successfully completed an accredited perfusion education program recognized by ABCP or its successor;
 - b. filed an application;
 - c. paid an application fee; and
 - d. submitted such evidence of successful completion of the education and clinical activities as required by the board.
2. A provisional licensed perfusionist shall be under the supervision and direction of a licensed perfusionist at all times during which the provisional licensed perfusionist performs perfusion. Rules adopted by the board governing such supervision and direction may not require the immediate physical presence of the supervising licensed perfusionist.
3. A person qualified for a provisional license under these rules is entitled to receive a license as a provisional licensed perfusionist. A provisional licensed perfusionist shall comply with other pertinent sections of these rules.
4. A provisional license is valid for 12 months from the date it is issued and may be renewed annually not more than two years by the same procedure established for renewal under Section 4 of these rules. The application for renewal shall be signed by a supervising licensed perfusionist.

F. Reciprocity. License shall be granted to the licensee of another state if the applicant holds a current certification issued by the ABCP in good standing, or its successor and pays the appropriate application fee.

1. The applicant shall not have had a license revoked, suspend or put on

probation for:

- a. An act of bad faith; or
 - b. A violation of law, rule, or ethics;
2. The applicant shall be sufficiently competent in the field of perfusion; and
3. An applicant shall submit an application, the required fee, and required documentation. Required documentation shall include:
 - a. Copy of ABCP Certification;
 - b. Evidence of current and active licensure in that state; and
 - c. A list of the names of all states in which the applicant is currently licensed or has been previously licensed;
 - d. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked, suspended or probationary status as described above.
4. The applicant shall receive a temporary license immediately upon submission of the application, the required fee, and the required documentation.

G. Displaying of License.

1. Perfusionists shall display their license in an appropriate and public manner; or

2. Maintain on file in the health care facility in which the licensed perfusionists is working, an accurate copy of the perfusionists license; and
3. Keep the Department informed of any change of address.

H. Fees.

1. Initial application for consideration of licensure which requires a complete certification of stated qualifications and credentials in the application shall be \$150.00.
2. For renewal of license occurring every two years which checks the current credentials and clinical activities of the already licensed perfusionist shall be \$100.00.
3. Fee for a provisional license is \$150.00 annually.
4. Fee for reciprocity is \$100.00.
5. Fee for an extension is \$50.00.

I. Continuing Education and Clinical Activities. Licensed perfusionists and provisional licensed perfusionists shall meet the continuing education and clinical activities requirements of American Board of Cardiovascular Perfusion or its successor.

J. Procedure on Denial, Reprimand, Probation, Civil Penalties, Suspension, or Revocation.

1. Grounds for Discipline. The board shall have sole authority to deny or suspend any license to practice perfusion issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon determination of:
 - a. Any violation of Ark. Code Ann. 17-104-101 et seq.; or
 - b. Any violation of a regulation or code of ethics adopted by the board;
 - c. Any violation of a rule or code of ethics adopted by the board; or
 - d. Unprofessional conduct, which includes, but is not limited to:
 - 1) Incompetence or gross negligence in carrying out usual perfusion functions;

- 2) A conviction of practicing perfusion without a license or a provisional license;
 - 3) The use of advertising relating to perfusion in a manner which violates state law;
 - 4) Procuring a license or provisional license by fraud, misrepresentation or mistake;
 - 5) Making or giving any false statement or information in connection with the application for the license or provisional license.
 - 6) A plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or
 - 7) Impersonating an applicant or acting as proxy for an applicant in any examination required under Act 888 for the issuance of a license.
- e. If a license suspension is probated, the department may require the licensee to:
- 1) Report on a regular basis to the department on matters that are the basis of the probation.
 - 2) Limit the practice to the areas prescribed by the department; or
 - 3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are the basis of the probation, satisfactory to the department.
2. Proceedings. Proceedings shall be as follows:
- a. Opportunity for licensee or applicant to have a hearing. Except as provided in Subsection 2) below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the board. The board shall have authority to take any action the effect of which would be to:
- 1) Deny a license after examination for any cause other than failure to pass an examination;

- 2) Withhold the renewal or reinstatement of a license for any cause;
 - 3) Revoke a license;
 - 4) Suspend a license;
 - 5) Probate a license;
 - 6) Reprimand a license;
 - 7) Levy civil penalties.
- b. Suspension of license without prior notice or hearing. If the Department finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the board may suspend the license pending a hearing without prior notice of hearing.
- 1) When the Department contemplates taking any action, it shall give a written notice to the licensee at the last address of record, which contains a statement:
 - a) That the Department has sufficient evidence which, if not rebutted or explained, will justify the Department in taking the contemplated action;
 - b) Indicating the general nature of the evidence, and detailed allegations of violation the licensee is charged with; and
 - c) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record and at the hearing the board will receive the evidence.
 - 2) When the Department shall summarily suspend a license pending a hearing, it shall give written notice of the general nature of the evidence and detailed allegations of the violation the licensee is charged with:
 - a) The Department has sufficient evidence which, if not rebutted or explained, will justify

revocation of the license by the board;

- b) Indicating the general nature of the evidence against the licensee;
 - c) That, based on the evidence indicated, the Department has determined the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as the date such notice is served;
 - d) The board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Department.
- 3) In any hearing before the board involving the suspension or revocation of the license, the burden shall be on the Department to present competent evidence to justify the action taken or proposed by the board.

K. Civil Penalties. The board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed \$500.00 for each violation against those individuals or entities found to be in violation of this Chapter or rules promulgated thereunder.

- 1. Each day of violation shall be a separate offense.
- 2. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this Chapter.
- 3. Unless the penalty assessed under this subsection is paid within 30 calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

L. Method of Serving Notice of Hearing. Any notice required may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the addressee or

refusal of the addressee to accept this notice. An attempt to serve notice at the last address of record shall constitute official notice.

- M. Venue of Hearing. Board hearings held under provisions of this rule shall be conducted at the board office or elsewhere in Pulaski County.
- N. Hearings Public. Use of Hearing Office all hearings under this section shall be open to the public. At all such hearings at least a quorum of the board shall be present to hear and determine the matter.
- O. Rights of Persons Entitled to Hearing. A person entitled to be heard pursuant to this section shall have the right to:
1. Be represented by counsel;
 2. Present all relevant evidence by means of witnesses, books, papers and documents;
 3. Examine all opposing witnesses on any matter relevant to the issues;
 4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefore to the board; and
 5. Have a transcript of the hearing made at his or her own expense
- P. Powers of the board in Connection with Hearing. In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:
1. Have counsel to develop the case;
 2. Administer oaths or affirmations to witnesses called to testify;
 3. Take testimony;
 4. Examine witnesses;
 5. Have a transcript of the hearing made at the expense of the board; and
 6. Direct a continuance of any case.
- Q. Rules of Evidence. In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct of serious affairs. The Board may in their discretion exclude incompetent, irrelevant,

immaterial and unduly repetitious evidence.

- R. Manner and Time of Rendering Decision. After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where quorums of the members of the Board are present and participating in the decision. In any case the decision must be rendered within 90 days after the hearing.
- S. Service of Written Decision. Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last known address. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.
- T. Procedure Where Persons Fails to Request or Appear for Hearing. If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required.
- U. Contents of Decision. The decision of the Board shall contain:
 - 1. Findings of fact made by the Board;
 - 2. Conclusions of law reached by the Board;
 - 3. The order of the Board based upon these findings of fact and conclusions of law; and
 - 4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

SECTION 5: Code of Ethics

PREAMBLE: The purpose of a code of ethics is to acknowledge a profession's acceptance of the responsibility and trust conferred upon it by society and to recognize the internal obligations inherent in that trust. The following paragraphs delineate the standards governing the conduct of perfusionists in their professional interactions with patients, colleagues, other health professionals and the general public. Realizing that no code can encompass all ethical responsibilities of the perfusionists, this enumeration of obligations in the code of ethics is not comprehensive and does not constitute a denial of the existence of other obligations, equally imperative, and not specifically mentioned herein. This code of ethics shall be binding on all perfusionists in Arkansas.

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Perfusionists must uphold the dignity and honor of the profession, accept its disciplines and expose without hesitation illegal, unethical and incompetent conduct.

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- Perfusionists are part of a collaborative effort to deliver proper health care to the patient under the perfusionist care.
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- A perfusionist professional practice and adherence to ethical principles shall take preference over business practices. Perfusionists shall place service before material gain.
- A perfusionist shall fully disclose to clientele other business practices that may appear as conflict of interest to clientele and/or public. These may include but are not limited to:
 - 1) Consultant for fee.
 - 2) Clinical instructor (support staff for industry).
 - 3) Sales representative.
 - 4) Technical advisor.
 - 5) Lecture for fee.
 - 6) Acceptance of fees, gratuities, funding from industry.

In that the ultimate concern is to improve patient care, it is our position that clinicians engaged in the practice of cardiopulmonary bypass are required to and must be allowed to periodically evaluate the equipment which is utilized in cardiopulmonary bypass in the effort of continuously improving patient care which should include not only patient outcomes but safety as well.

To this end, the State Board of Health holds that each perfusionist has the following ethical and professional responsibilities:

- A. The perfusionist being the most qualified individual, by training, education, experience, and job description has the responsibility to evaluate, recommend, select, and implement the components of the extra-corporeal circuit so that patient safety and care are optimized.

- B. The perfusionist will always attempt to fairly evaluate all competing products and services, with the principal selection criteria being that of regard for patient safety and well-being.
- C. The perfusionist shall always base any decision on product and service selection on clinical evaluations and documented clinical and scientific data.

In conclusion, it is the responsibility of the perfusionist to make decisions regarding the selection of clinical products with the patient as the primary concern.

DRAFT

SECTION 6: Severability

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such provisions or applications of these Rules that can give effect without the invalid provisions or applications will be enforced, and to this end the provisions hereto are declared to be severable.

DRAFT

CERTIFICATION

This will certify that the foregoing revisions to the Rules and Regulations for Perfusionists in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the _____ day of _____, 2019.

Nathaniel Smith, M.D., MPH
Secretary of Health

date