

1 AN ACT concerning regulation of surgical assistants.

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

4 Section 1. Short title. This Act may be cited as the
5 Surgical Assistant Practice Act.

6 Section 5. Legislative purpose and intent. Practice as
7 a surgical assistant in the State of Illinois is declared to
8 affect the public health, safety, and welfare and to be
9 subject to regulation and control in the public
10 interest. The purpose and legislative intent of this Act
11 is to encourage and promote the more effective utilization of
12 the skills of physicians by enabling them to delegate
13 certain surgery related tasks to surgical assistants when the
14 delegation is consistent with the health and welfare of the
15 patient and is conducted at the direction of and under the
16 responsible supervision of the physician.

17 It is further declared to be a matter of public health
18 and concern that the practice as a surgical assistant merit
19 and receive the confidence of the public and, therefore, that
20 only qualified persons be authorized to practice as a
21 surgical assistant in the State of Illinois. This Act shall
22 be 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 and Surgical
26 Assisting.

27 "Department" means the Department of Professional
28 Regulation.

29 "Director" means the Director of Professional Regulation.

30 "Physician" or "operating physician" means a person

1 licensed to practice medicine in all of its branches under
2 the Medical Practice Act of 1987.

3 "Surgical assistant" means a person who (i) is not a
4 physician licensed to practice medicine in all of its
5 branches, (ii) is certified by the National Surgical
6 Assistant Association on the Certification of Surgical
7 Assistants or the Liaison Council on Certification for the
8 Surgical Technologist as a certified first assistant, and
9 (iii) is licensed under this Act. A surgical assistant may
10 provide aid to operating physicians in exposure, hemostasis,
11 and other technical functions as described in Section 50 of
12 this Act that will help an operating physician to perform a
13 safe operation with optimal results for the patient.

14 Section 15. Powers and duties of the Department.

15 (a) The Department shall exercise the powers and duties
16 prescribed by the Civil Administrative Code of Illinois for
17 the administration of licensing Acts and shall exercise any
18 other powers and duties necessary for effectuating the
19 purposes of this Act.

20 (b) The Department may adopt rules consistent with the
21 provisions of this Act for its administration and enforcement
22 and may prescribe forms that shall be issued in connection
23 with this Act. The rules may include but are not limited to
24 standards and criteria for licensure, professional conduct,
25 and discipline.

26 Section 20. Illinois Administrative Procedure Act; rules.

27 (a) The Illinois Administrative Procedure Act is
28 expressly adopted and incorporated in this Act as if all of
29 the provisions of the Illinois Administrative Procedure Act
30 were included in this Act, except that the provision of
31 subsection (d) of Section 10-65 of the Illinois
32 Administrative Procedure Act that provides that at hearings

1 the licensee has the right to show compliance with all lawful
2 requirements for retention, continuation, or renewal of the
3 license is specifically excluded. For purposes of this Act,
4 the notice required under Section 10-25 of the Illinois
5 Administrative Procedure Act is deemed sufficient when mailed
6 to the last known address of a party.

7 (b) The Director may promulgate rules for the
8 administration and enforcement of this Act and may prescribe
9 forms to be issued in connection with this Act.

10 Section 30. Application for license. An application for
11 an initial license shall be made to the Department in writing
12 on forms prescribed by the Department and shall be
13 accompanied by the required nonrefundable fee. An
14 application shall require information that, in the judgment
15 of the Department, will enable the Department to evaluate the
16 qualifications of an applicant for licensure.

17 If an applicant fails to obtain a license under this Act
18 within 3 years after filing his or her application, the
19 application shall be denied. The applicant may make a new
20 application, which shall be accompanied by the required
21 nonrefundable fee.

22 Section 35. Social Security Number on license
23 application. In addition to any other information required
24 to be contained in the application, every application for an
25 original, renewal, or restored license under this Act shall
26 include the applicant's Social Security Number.

27 Section 40. License requirement. No person shall engage
28 in the practice as a surgical assistant or hold himself or
29 herself out as a surgical assistant in this State without a
30 license issued by the Department under this Act.

1 Section 45. Application of Act. This Act shall not be
2 construed to prohibit the following:

3 (1) A person licensed in this State under any other
4 Act from engaging in the practice for which he or she is
5 licensed, including but not limited to a physician
6 assistant or nurse performing surgery-related tasks
7 within the scope of his or her license.

8 (2) A person from engaging in the practice as a
9 surgical assistant in the discharge of his or her
10 official duties as an employee of the United States
11 government.

12 (3) One or more licensed surgical assistants from
13 forming a professional service corporation in accordance
14 with the Professional Service Corporation Act and
15 applying for licensure as a corporation providing
16 surgical assistant services.

17 (4) A student engaging in the practice as a
18 surgical assistant under the direct supervision of a
19 physician licensed to practice medicine in all of its
20 branches as part of his or her program of study at a
21 school approved by the Department or in preparation to
22 qualify for the examination as prescribed under
23 subdivision (3) of Section 55 of this Act.

24 (5) A person from assisting in surgery at an
25 operating physician's discretion.

26 Section 50. Scope of practice.

27 (a) The practice of a surgical assistant includes the
28 following as long as the surgical assistant is working under
29 the direction of the operating physician as a first or
30 second assist:

31 (1) positioning of the patient;

32 (2) preparation and draping of the patient for the
33 operative procedure;

1 (3) visualization of the operative site during the
2 operative procedure;

3 (4) provision of the best possible exposure of the
4 anatomy incident to the procedure;

5 (5) assist in closure of incisions and wound
6 dressings; and

7 (6) performance of any task required by the surgeon
8 incident to the particular procedure being performed.

9 (b) Nothing in this Act shall be construed to allow
10 surgical assistants to administer any type of medication.

11 Section 55. Qualifications for licensure. A person
12 shall qualify for licensure under this Act if he or she meets
13 all of the following requirements:

14 (1) has applied in writing on the prescribed forms
15 and has paid the required fees;

16 (2) has not violated a provision of Section 105 of
17 this Act; in addition the Department may take into
18 consideration any felony conviction of the applicant, but
19 a conviction shall not operate as an absolute bar to
20 licensure; and

21 (3) has met one of the following requirements: (i)
22 has successfully completed the examination provided by
23 the National Surgical Assistant Association on the
24 Certification of Surgical Assistants or its successor
25 agency and has met the requirements for certification set
26 forth by the National Surgical Assistant Association on
27 the Certification of Surgical Assistants or its successor
28 agency; or (ii) has successfully completed the Certified
29 First Assistant examination provided by the Liaison
30 Council on Certification for the Surgical Technologist
31 (LCC-ST) or its successor agency and has met the
32 requirements for certification set forth by LCC-ST or its
33 successor agency.

1 Section 60. Licensure by endorsement. The Department
2 may, in its discretion, license as a surgical assistant an
3 applicant who is licensed as a surgical assistant under the
4 laws of another state, territory, or jurisdiction if (1) the
5 requirements for licensure in that jurisdiction in which the
6 applicant was licensed were, at the date of licensure,
7 substantially equivalent to the requirements then in force in
8 this State or (2) the applicant possesses individual
9 qualifications and skills that demonstrate equivalence to
10 current Illinois requirements.

11 Applicants have 3 years from the date of application to
12 complete the application process. If the process has not
13 been completed within 3 years, the application shall be
14 denied, the fee shall be forfeited, and the applicant must
15 reapply and meet the requirements in effect at the time of
16 reapplication.

17 Section 65. Supervision requirement. A person licensed
18 under this Act shall practice as a surgical assistant only
19 under the direct supervision of the operating physician, or,
20 in the absence of a physician, under the direct supervision
21 of a registered professional nurse.

22 Section 70. Identification. No person shall use the
23 title or perform the duties of a surgical assistant unless he
24 or she is a qualified holder of a license issued by the
25 Department as provided in this Act. A surgical assistant
26 shall wear on his or her person a visible identification
27 indicating that he or she is licensed as a surgical assistant
28 while acting in the course of his or her duties.

29 Section 75. Grandfathering provision. For a period of
30 12 months after the finalization of the administrative rules
31 for this Act, the Department may issue a license to any

1 individual who, in addition to meeting the requirements set
2 forth in paragraphs (1) and (2) of Section 55, has practiced
3 as a surgical assistant for the previous 3 years, first
4 assisting a minimum of 350 hours annually.

5 Section 80. Expiration; restoration; renewal. The
6 expiration date and renewal period for each license issued
7 under this Act shall be set by the Department by rule.
8 Renewal shall be conditioned on paying the required fee and
9 meeting other requirements as may be established by rule.

10 A licensee who has permitted his or her license to
11 expire or who has had his or her license on inactive
12 status may have the license restored by making
13 application to the Department, by filing proof acceptable to
14 the Department of his or her fitness to have the license
15 restored, and by paying the required fees. Proof of fitness
16 may include sworn evidence certifying to active lawful
17 practice in another jurisdiction.

18 If the licensee has not maintained an active practice
19 in another jurisdiction satisfactory to the Department,
20 the Department shall determine, by an evaluation program
21 established by rule, his or her fitness for
22 restoration of the license and shall establish procedures and
23 requirements for restoration. However, a licensee whose
24 license expired while he or she was (1) in federal
25 service on active duty with the Armed Forces of the United
26 States or the State Militia called into service or
27 training or (2) in training or education under the
28 supervision of the United States before induction into
29 the military service, may have the license restored without
30 paying any lapsed renewal fees if within 2 years after
31 honorable termination of the service, training, or
32 education he or she furnishes the Department with
33 satisfactory evidence to the effect that he or she has

1 been so engaged and that his or her service, training, or
2 education has been so terminated.

3 Section 85. Inactive status. A licensee who notified
4 the Department in writing on forms prescribed by the
5 Department may elect to place his or her license on an
6 inactive status and shall, subject to rules of the
7 Department, be excused from payment of renewal fees until he
8 or she notifies the Department in writing of his or her
9 intention to restore the license. A licensee requesting
10 restoration from inactive status shall pay the current
11 renewal fee and shall restore his or her license in
12 accordance with Section 80 of this Act. A licensee whose
13 license is on inactive status shall not practice as a
14 surgical assistant in this State. A licensee who engages in
15 practice as a surgical assistant while his or her license is
16 lapsed or on inactive status shall be considered to be
17 practicing without a license, which shall be grounds for
18 discipline under Section 95 of this Act.

19 Section 90. Fees; returned checks.

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

24 (b) A person who delivers a check or other payment
25 to the Department that is returned to the Department
26 unpaid by the financial institution upon which it
27 is drawn shall pay to the Department, in addition to the
28 amount already owed to the Department, a fine of \$50. If
29 the check or other payment was for a renewal or issuance
30 fee and that person practices without paying the renewal
31 fee or issuance fee and the fine due, an additional fine of
32 \$100 shall be imposed. The fines imposed by this

1 Section are in addition to any other discipline provided
2 under this Act for unlicensed practice or practice on a
3 nonrenewed license. The Department shall notify the person
4 that fees and fines shall be paid to the Department by
5 certified check or money order within 30 calendar days
6 of the notification. If, after the expiration of 30 days
7 from the date of the notification, the person has failed to
8 submit the necessary remittance, the Department shall
9 automatically terminate the license or deny the application
10 without a hearing. If the person seeks a license after
11 termination or denial, he or she shall apply to the
12 Department for restoration or issuance of the license and pay
13 all fees and fines due to the Department. The Department may
14 establish a fee for the processing of an application for
15 restoration of a license to defray the expenses of processing
16 the application. The Director may waive the fines due under
17 this Section in individual cases if the Director finds that
18 the fines would be unreasonable or unnecessarily burdensome.

19 (c) All of the fees and fines collected under this Act
20 shall be deposited into the General Professions Dedicated
21 Fund. All moneys in the Fund shall be used by the Department,
22 as appropriated, for the ordinary and contingent expenses of
23 the Department.

24 Section 95. Grounds for disciplinary action.

25 (a) The Department may refuse to issue, renew, or
26 restore a license, may revoke or suspend a license, or may
27 place on probation, censure, reprimand, or take other
28 disciplinary action with regard to a person licensed under
29 this Act, including but not limited to the imposition of
30 fines not to exceed \$5,000 for each violation, for any one or
31 combination of the following causes:

32 (1) Making a material misstatement in furnishing
33 information to the Department.

1 (2) Violating a provision of this Act or its rules.

2 (3) Conviction under the laws of a United States
3 jurisdiction of a crime that is a felony or a
4 misdemeanor, an essential element of which is dishonesty,
5 or of a crime that is directly related to the practice as
6 a surgical assistant.

7 (4) Making a misrepresentation for the purpose of
8 obtaining, renewing, or restoring a license.

9 (5) Wilfully aiding or assisting another person in
10 violating a provision of this Act or its rules.

11 (6) Failing to provide information within 60 days
12 in response to a written request made by the Department.

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

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

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

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

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

32 (12) Wilfully making or signing a false statement,
33 certificate, or affidavit to induce payment.

34 (13) Wilfully failing to report an instance of

1 suspected child abuse or neglect as required under the
2 Abused and Neglected Child Reporting Act.

3 (14) Being named as a perpetrator in an indicated
4 report by the Department of Children and Family Services
5 under the Abused and Neglected Child Reporting Act and
6 upon proof by clear and convincing evidence that the
7 licensee has caused a child to be an abused child or
8 neglected child as defined in the Abused and Neglected
9 Child Reporting Act.

10 (15) Employment of fraud, deception, or any
11 unlawful means in applying for or securing a license as a
12 surgical assistant.

13 (16) Allowing another person to use his or her
14 license to practice.

15 (17) Failure to report to the Department (A) any
16 adverse final action taken against the licensee by
17 another licensing jurisdiction, government agency, law
18 enforcement agency, or any court or (B) liability for
19 conduct that would constitute grounds for action as set
20 forth in this Section.

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

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

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

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

34 (22) Violation the Health Care Worker Self-Referral

1 Act.

2 (b) The Department may refuse to issue or may suspend
3 the license of a person who fails to file a return, to pay
4 the tax, penalty, or interest shown in a filed return, or to
5 pay a final assessment of the tax, penalty, or interest as
6 required by a tax Act administered by the Department of
7 Revenue, until the requirements of the tax Act are satisfied.

8 (c) The determination by a circuit court that a licensee
9 is subject to involuntary admission or judicial admission as
10 provided in the Mental Health and Developmental Disabilities
11 Code operates as an automatic suspension. The suspension will
12 end only upon (1) a finding by a court that the patient is no
13 longer subject to involuntary admission or judicial
14 admission, (2) issuance of an order so finding and
15 discharging the patient, and (3) the recommendation of the
16 Department to the Director that the licensee be allowed to
17 resume his or her practice.

18 Section 100. Cease and desist order.

19 (a) If a person violates a provision of this Act, the
20 Director, in the name of the People of the State of Illinois
21 through the Attorney General of the State of Illinois, or the
22 State's Attorney of a county in which the violation occurs,
23 may petition for an order enjoining the violation or for an
24 order enforcing compliance with this Act. Upon the filing of
25 a verified petition in court, the court may issue a temporary
26 restraining order without notice or bond and may
27 preliminarily and permanently enjoin the violation. If it is
28 established that the licensee has violated or is violating
29 the injunction, the court may punish the offender for
30 contempt of court. Proceedings under this Section shall be
31 in addition to, and not in lieu of, all other remedies and
32 penalties provided by this Act.

33 (b) If a person practices as a surgical assistant or

1 holds himself or herself out as a surgical assistant without
2 being licensed under this Act, then any licensee under this
3 Act, interested party, or person injured thereby, in addition
4 to the Director or State's Attorney, may petition for relief
5 as provided in subsection (a) of this Section.

6 (c) If the Department determines that a person violated
7 a provision of this Act, the Department may issue a rule to
8 show cause why an order to cease and desist should not be
9 entered against him or her. The rule shall clearly set forth
10 the grounds relied upon by the Department and shall provide a
11 period of 7 days from the date of the rule to file an answer
12 to the satisfaction of the Department. Failure to answer to
13 the satisfaction of the Department shall cause an order to
14 cease and desist to be issued immediately.

15 Section 105. Investigation; notice; hearing. Licenses
16 may be refused, revoked, suspended, or otherwise disciplined
17 in the manner provided by this Act and not otherwise. The
18 Department may upon its own motion and shall upon the
19 verified complaint in writing of any person setting forth
20 facts that if proven would constitute grounds for refusal to
21 issue or for suspension or revocation under this Act,
22 investigate the actions of a person applying for, holding, or
23 claiming to hold a license. The Department shall, before
24 refusing to issue or renew, suspending, or revoking a license
25 or taking other discipline pursuant to Section 95 of this
26 Act, and at least 30 days prior to the date set for the
27 hearing, notify in writing the applicant or licensee of any
28 charges made, shall afford the applicant or licensee an
29 opportunity to be heard in person or by counsel in reference
30 to the charges, and direct the applicant or licensee to file
31 a written answer to the Department under oath within 20 days
32 after the service of the notice and inform the applicant or
33 licensee that failure to file an answer will result in

1 default being taken against the applicant or licensee and
2 that the license may be suspended, revoked, placed on
3 probationary status, or other disciplinary action may be
4 taken, including limiting the scope, nature, or extent of
5 practice, as the Director may deem proper. Written notice
6 may be served by personal delivery to the applicant or
7 licensee or by mailing the notice by certified mail to his or
8 her last known place of residence or to the place of business
9 last specified by the applicant or licensee in his or her
10 last notification to the Department. If the person fails to
11 file an answer after receiving notice, his or her license
12 may, in the discretion of the Department, be suspended,
13 revoked, or placed on probationary status or the Department
14 may take whatever disciplinary action deemed proper,
15 including limiting the scope, nature, or extent of the
16 person's practice or the imposition of a fine, without a
17 hearing, if the act or acts charged constitute sufficient
18 grounds for such action under this Act. At the time and
19 place fixed in the notice, the Department shall proceed to
20 hearing of the charges and both the applicant or licensee and
21 the complainant shall be afforded ample opportunity to
22 present, in person or by counsel, any statements, testimony,
23 evidence, and arguments that may be pertinent to the charges
24 or to their defense. The Department may continue a hearing
25 from time to time. The Department may continue a hearing for
26 a period not to exceed 30 days.

27 Section 110. Record of proceedings. The Department, at
28 its expense, shall preserve a record of all proceedings at a
29 formal hearing conducted pursuant to Section 105 of this Act.
30 The notice of hearing, complaint, and all other documents in
31 the nature of pleadings and written motions filed in the
32 proceedings, the transcript of testimony, the report of the
33 Department or hearing officer, and orders of the Department

1 shall be the record of the proceeding. The Department shall
2 supply a transcript of the record to a person interested in
3 the hearing on payment of the fee required under Section 60f
4 of the Civil Administrative Code of Illinois.

5 Section 115. Order for production of documents. A circuit
6 court may, upon application of the Department or its
7 designee, or of the applicant or licensee against whom
8 proceedings pursuant to Section 105 of this Act are pending,
9 enter an order requiring the attendance of witnesses and
10 their testimony and the production of documents, papers,
11 files, books, and records in connection with a hearing or
12 investigation authorized by this Act. The court may compel
13 obedience to its order through contempt proceedings.

14 Section 120. Subpoena power. The Department has the power
15 to subpoena and bring before it any person in this State and
16 to take testimony orally or by deposition, with the same fees
17 and mileage and in the same manner as prescribed by law in
18 judicial proceedings in civil cases in circuit courts of this
19 State. The Director shall have the authority to administer,
20 at any hearing that the Department is authorized to conduct
21 under this Act, oaths to witnesses and any other oaths
22 authorized to be administered by the Department under this
23 Act.

24 Section 125. Disciplinary report. At the conclusion of
25 the hearing, the Department shall present to the Director a
26 written report of its findings of fact, conclusions of law,
27 and recommendations. In the report, the Department shall
28 make a finding of whether or not the charged licensee or
29 applicant violated a provision of this Act or its rules and
30 shall specify the nature of the violation. In making its
31 recommendations for discipline, the Department may take into

1 consideration all facts and circumstances bearing upon the
2 reasonableness of the conduct of the respondent and the
3 potential for future harm to the public, including but not
4 limited to previous discipline of that respondent by the
5 Department, intent, degree of harm to the public and
6 likelihood of harm in the future, any restitution made, and
7 whether the incident or incidents complained of appear to be
8 isolated or a pattern of conduct. In making its
9 recommendations for discipline, the Department shall seek to
10 ensure that the severity of the discipline recommended bears
11 some reasonable relationship to the severity of the
12 violation.

13 Section 130. Motion for rehearing. In a case involving
14 the refusal to issue or renew a license or the discipline
15 of a licensee, a copy of the Department's report shall be
16 served upon the respondent by the Department, either
17 personally or as provided under Section 20 of this Act for
18 the service of the notice of hearing. Within 20 days after
19 the service, the respondent may present to the Department a
20 motion in writing for a rehearing, which shall specify the
21 particular grounds for a rehearing. If no motion for
22 rehearing is filed, then upon the expiration of the time
23 specified for filing the motion, or if a motion for rehearing
24 is denied, then upon the denial the Director may enter an
25 order in accordance with recommendations of the
26 Department, except as provided in Section 135 or 140 of this
27 Act. If the respondent orders a transcript of the record
28 from the reporting service and pays for the transcript within
29 the time for filing a motion for rehearing, the 20-day period
30 within which such a motion may be filed shall commence upon
31 the delivery of the transcript to the respondent.

32 Section 135. Order of Director.

1 (a) The Director shall issue an order concerning the
2 disposition of the charges (i) following the expiration of
3 the filing period granted under Section 130 of this Act if no
4 motion for rehearing is filed or (ii) following a denial of a
5 timely motion for rehearing.

6 (b) The Director's order shall be based on the
7 recommendations contained in the Department report unless,
8 after giving due consideration to the Department's report,
9 the Director disagrees in any regard with the report of the
10 Department, in which case he or she may issue an order in
11 contravention of the report. The Director shall provide a
12 written report to the Department on any deviation from the
13 Department's report and shall specify with particularity the
14 reasons for his or her deviation in the final order. The
15 Department's report and Director's order are not admissible
16 in evidence against the person in a criminal prosecution
17 brought for a violation of this Act, but the hearing, report,
18 and order are not a bar to a criminal prosecution brought for
19 the violation of this Act.

20 Section 140. Hearing officer. The Director shall have the
21 authority to appoint an attorney licensed to practice law in
22 this State to serve as the hearing officer in a hearing
23 authorized under Section 105 of this Act. The hearing officer
24 shall have full authority to conduct the hearing. The
25 hearing officer shall report his or her findings of fact,
26 conclusions of law, and recommendations to the Department. If
27 the Director disagrees in any regard with the report of the
28 Department, he or she may issue an order in contravention of
29 the report. The Director shall provide a written explanation
30 to the Department on a deviation from the Department's report
31 and shall specify with particularity the reasons for his or
32 her deviation in the final order.

1 Section 145. Rehearing on order of Director. Whenever the
2 Director is not satisfied that substantial justice has been
3 achieved in the discipline of a licensee, the Director may
4 order a rehearing by the same or another hearing officer.

5 Section 150. Order; prima facie proof. An order or a
6 certified copy of an order, over the seal of the Department
7 and purporting to be signed by the Director, shall be prima
8 facie proof that:

9 (1) the signature is the genuine signature of the
10 Director; and

11 (2) the Director is duly appointed and qualified.

12 Section 155. Restoration of license. At any time after
13 the suspension or revocation of a license, the Department may
14 restore it to the licensee unless, after an investigation and
15 a hearing, the Department determines that restoration is not
16 in the public interest. Where circumstances of suspension or
17 revocation so indicate, the Department may require an
18 examination of the licensee before restoring his or her
19 license.

20 Section 160. Surrender of license. Upon the revocation or
21 suspension of a license, the licensee shall immediately
22 surrender the license to the Department. If the licensee
23 fails to do so, the Department shall have the right to seize
24 the license.

25 Section 165. Temporary suspension. The Director may
26 temporarily suspend the license of a surgical assistant
27 without a hearing, simultaneously with the institution of
28 proceedings for a hearing provided for in Section 105 of this
29 Act, if the Director finds that evidence in his or her
30 possession indicates that continuation in practice would

1 constitute an imminent danger to the public. If the Director
2 temporarily suspends a license without a hearing, a hearing
3 by the Department shall be held within 30 days after the
4 suspension has occurred and shall be concluded without
5 appreciable delay.

6 Section 170. Certificate of record. The Department shall
7 not be required to certify any record to a Court or file an
8 answer in court or otherwise appear in a court in a judicial
9 review proceeding unless there is filed in the court, with
10 the complaint, a receipt from the Department acknowledging
11 payment of the costs of furnishing and certifying the record.
12 Failure on the part of the plaintiff to file a receipt in
13 court shall be grounds for dismissal of the action.

14 Section 175. Administrative Review Law. All final
15 administrative decisions of the Department are subject to
16 judicial review under the Administrative Review Law and its
17 rules. The term "administrative decision" is defined as in
18 Section 3-101 of the Code of Civil Procedure. Proceedings for
19 judicial review shall be commenced in the circuit court of
20 the county in which the party seeking review resides. If the
21 party seeking review is not a resident of this State, venue
22 shall be in Sangamon County.

23 Section 180. Criminal penalties. A person who is found
24 to have knowingly violated Section 40, 65, or subsection (a)
25 of Section 185 of this Act is guilty of a Class A misdemeanor
26 for a first offense and is guilty of a Class 4 felony for a
27 second or subsequent offense.

28 Section 185. Unlicensed practice; civil penalties.
29 (a) No person shall practice, offer to practice, attempt
30 to practice, or hold himself or herself out to practice as a

1 surgical assistant without a license issued by the Department
2 to that person under this Act.

3 (b) In addition to any other penalty provided by law, a
4 person who violates subsection (a) of this Section shall pay
5 a civil penalty to the Department in an amount not to exceed
6 \$5,000 for each offense as determined by the Department.
7 The civil penalty shall be assessed by the Department
8 after a hearing is held in accordance with the provisions
9 set forth in this Act regarding a hearing for the
10 discipline of a licensee.

11 (c) The Department has the authority and power to
12 investigate any and all unlicensed activity.

13 (d) The civil penalty assessed under this Act shall be
14 paid within 60 days after the effective date of the order
15 imposing the civil penalty. The order shall constitute a
16 judgment and may be filed and execution had on the judgment
17 in the same manner as a judgment from a court of record.

18 Section 190. Home rule powers. The regulation and
19 licensing of surgical assistants are exclusive powers and
20 functions of the State. A home rule unit shall not regulate
21 or license surgical assistants. This Section is a limitation
22 under subsection (h) of Section 6 of Article VII of the
23 Illinois Constitution.

24 Section 950. The Regulatory Sunset Act is amended by
25 adding Section 4.22 as follows:

26 (5 ILCS 80/4.22 new)

27 Sec. 4.22. Act repealed on January 1, 2012. The
28 following Act is repealed on January 1, 2012:
29 The Surgical Assistant Practice Act.

30 Section 960. The Perfusionist Licensing Act is amended by

1 changing Section 25 as follows:

2 (225 ILCS 125/25)

3 Sec. 25. Board of Perfusion and Surgical Assisting. The
4 Director shall appoint a Board of Perfusion and Surgical
5 Assisting to consist of 6 5 persons who shall be appointed by
6 and shall serve in an advisory capacity to the Director. Two
7 members must hold an active license to engage in the practice
8 of perfusion in this State, one member must be a physician
9 licensed under the Medical Practice Act of 1987 who is board
10 certified in and actively engaged in the practice of
11 cardiothoracic surgery, one member must be a licensed
12 registered professional nurse certified by the Association of
13 Operating Room Nurses, one member must be actively licensed
14 as a surgical assistant under the Surgical Assistant Practice
15 Act, and one member must be a member of the public who is not
16 licensed under this Act, the Surgical Assistant Practice Act,
17 or a similar Act of another jurisdiction and who has no
18 connection with the profession. The initial appointees who
19 would otherwise be required to be licensed perfusionists
20 shall instead be individuals who have been practicing
21 perfusion for at least 5 years and who are eligible under
22 this Act for licensure as perfusionists.

23 Members shall serve 4-year terms and until their
24 successors are appointed and qualified, except that, of the
25 initial appointments, 2 members shall be appointed to serve
26 for 2 years, 2 members shall be appointed to serve for 3
27 years, and 2 ~~1~~ member shall be appointed to serve for 4
28 years, and until their successors are appointed and
29 qualified. No member shall be reappointed to the Board for a
30 term that would cause his or her continuous service on the
31 Board to be longer than 8 consecutive years. Appointments to
32 fill vacancies shall be made in the same manner as original
33 appointments for the unexpired portion of the vacated term.

1 Initial terms shall begin upon the effective date of this
2 Act.

3 The Board shall annually elect a chairperson and a
4 vice-chairperson who shall preside in the absence of the
5 chairperson. The membership of the Board should reasonably
6 reflect representation from the various geographic areas in
7 this State. The Director may terminate the appointment of
8 any member for cause. The Director may give due
9 consideration to all recommendations of the Board. A
10 majority of the Board members currently appointed shall
11 constitute a quorum. A vacancy in the membership of the
12 Board shall not impair the right of a quorum to exercise the
13 rights and perform all the duties of the Board. Members of
14 the Board shall have no liability in any action based upon
15 any disciplinary proceeding or other activity performed in
16 good faith as a member of the Board.

17 (Source: P.A. 91-580, eff. 1-1-00.)

18 Section 999. Effective date. This Act takes effect
19 January 1, 2002.