

AN ACT concerning professional regulation.

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

Section 5. The Regulatory Sunset Act is amended by changing Section 4.20 and adding Section 4.30 as follows:

(5 ILCS 80/4.20)

Sec. 4.20. Acts repealed on January 1, 2010 and December 31, 2010.

(a) The following Acts are repealed on January 1, 2010:

The Auction License Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

The Land Sales Registration Act of 1999.

~~The Orthotics, Prosthetics, and Pedorthics Practice Act.~~

~~The Perfusionist Practice Act.~~

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(b) The following Act is repealed on December 31, 2010:

The Medical Practice Act of 1987.

(Source: P.A. 95-1018, eff. 12-18-08.)

(5 ILCS 80/4.30 new)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

Section 10. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by changing Sections 5, 10, 15, 20, 25, 40, 55, 57, 60, 70, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 150, and 160 and by adding Sections 77, 103, and 107 as follows:

(225 ILCS 84/5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5. Declaration of public policy. The practice of orthotics and prosthetics in the State of Illinois is an allied health profession ~~recognized by the American Medical Association,~~ with educational standards established by the Commission on Accreditation of Allied Health Education Programs. The practice of pedorthics in the State of Illinois is an allied health profession with educational standards established by the National Commission on Orthotic and Prosthetic Education ~~recognized by the American Academy of Orthopaedic Surgeons, with educational standards established by the Board for Certification in Pedorthics.~~ The increasing

population of elderly and physically challenged individuals who need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and pedorthic professions be regulated to ensure the provision of high-quality services and devices. The people of Illinois deserve the best care available, and will benefit from the assurance of initial and ongoing professional competence of the orthotists, prosthetists, and pedorthists practicing in this State. The practice of orthotics, prosthetics, and pedorthics serves to improve and enhance the lives of individuals with disabilities by enabling them to resume productive lives following serious illness, injury, or trauma. Unregulated dispensing of orthotic, prosthetic, and pedorthic care does not adequately meet the needs or serve the interests of the public. In keeping with State requirements imposed on similar health disciplines, licensure of the orthotic, prosthetic, and pedorthic professions will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Definitions. As used in this Act:

"Accredited facility" means a facility which has been

accredited by the Center for Medicare Medicaid Services to practice prosthetics, orthotics or pedorthics and which represents itself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", "orthotic", "orthotist", "brace", "pedorthic", "pedorthist" or a similar title or description of services.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department.

"Assistant" means a person who is educated and trained to participate in comprehensive orthotic or prosthetic care while under the supervision, as defined by rule, of a licensed orthotist or licensed prosthetist. Assistants may perform orthotic or prosthetic procedures and related tasks in the management of patient care. Assistants may also fabricate, repair, and maintain orthoses and prostheses ~~assists an orthotist, prosthetist, or prosthetist/orthotist with patient care services and fabrication of orthoses or prostheses under the supervision of a licensed orthotist or prosthetist.~~

"Board" means the Board of Orthotics, Prosthetics, and Pedorthics.

"Custom fabricated device" means an orthosis, prosthesis, or pedorthic device fabricated to comprehensive measurements or a mold or patient model for use by a patient in accordance with a prescription and which requires clinical and technical judgment in its design, fabrication, and fitting.

"Custom fitted device" means an orthosis, prosthesis, or pedorthic device made to patient measurements sized or modified for use by the patient in accordance with a prescription and which requires clinical and technical judgment and substantive alteration in its design. ~~"Custom" means that an orthosis, prosthesis, or pedorthic device is designed, fabricated, and aligned specifically for one person in accordance with sound biomechanical principles.~~

~~"Custom fitted" means that a prefabricated orthosis, prosthesis, or pedorthic device is modified and aligned specifically for one person in accordance with sound biomechanical principles.~~

"Department" means the Department of Financial and Professional Regulation.

~~"Director" means the Director of Professional Regulation.~~

"Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided and, in the case of an orthotic/prosthetic facility, has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care and, in the case of a pedorthic facility, has the appropriate clinical space and equipment to

provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or supervise the provision of care by unlicensed ~~registered~~ staff.

"Licensed orthotist" or "LO" means a person licensed under this Act to practice orthotics and who represents himself or herself to the public by title or description of services that includes the term "orthotic", "orthotist", "brace", or a similar title or description of services.

"Licensed pedorthist" or "LPed" means a person licensed under this Act to practice pedorthics and who represents himself or herself to the public by the title or description of services that include the term "pedorthic", "pedorthist", or a similar title or description of services.

"Licensed physician" means a person licensed under the Medical Practice Act of 1987.

"Licensed podiatrist" means a person licensed under the Podiatric Medical Practice Act of 1987.

"Licensed prosthetist" or "LP" means a person licensed under this Act to practice prosthetics and who represents himself or herself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", or a similar title or description of services.

"Off-the-shelf device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription and that does not

require substantial clinical judgment and substantive alteration for appropriate use.

"Orthosis" means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility.

"Orthotic and Prosthetic Education Program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of (i) a basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology and (ii) a specific curriculum in orthotic or prosthetic courses, including: (A) lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management; (B) subject matter related to pediatric and geriatric problems; (C) instruction in acute care techniques, such as immediate and early

post-surgical prosthetics and fracture bracing techniques; and (D) lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

"Orthotic and prosthetic scope of practice" means a list of tasks, with relative weight given to such factors as importance, criticality, and frequency, based on internationally accepted standards of orthotic and prosthetic care as outlined by the International Society of Prosthetics and Orthotics' professional profile for Category I and Category III orthotic and prosthetic personnel.

"Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Orthotist" means a health care professional, specifically educated and trained in orthotic patient care, who measures, designs, fabricates, fits, or services orthoses and may assist in the formulation of the order and treatment plan of orthoses for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.  
~~person who measures, designs, fabricates, fits, or services orthoses and assists in the formulation of the order of orthoses as ordered by a licensed physician for the support or~~

~~correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.~~

"Over-the-counter" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgement in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, elastic hoses.

"Pedorthic device" means therapeutic shoes (e.g. diabetic shoes and inserts), shoe modifications made for therapeutic purposes, below the ankle partial foot prostheses, and foot orthoses for use at the ankle or below. It also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. Pedorthic devices do not include non-therapeutic inlays or footwear regardless of method of manufacture; unmodified, non-therapeutic over-the-counter shoes; or prefabricated foot care products.

"Therapeutic" devices address a medical condition, diagnosed by a prescribing medical professional, while "non-therapeutic" devices do not address a medical condition. footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes. "Pedorthic device" does not include non-therapeutic accommodative inlays or non therapeutic accommodative footwear, regardless of method

~~of manufacture, shoe modifications made for non-therapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products.~~

"Pedorthic education program" means an educational program accredited by the National Commission on Orthotic and Prosthetic Education ~~a course of instruction accredited by the Board for Certification in Pedorthics~~ consisting of (i) a basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics and (ii) a specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, subject matter related to pediatric and geriatric problems, and lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices.

"Pedorthic scope of practice" means a list of tasks with relative weight given to such factors as importance, criticality, and frequency based on nationally accepted standards of pedorthic care as outlined by the National Commission on Orthotic and Prosthetic Education ~~Board for Certification in Pedorthics~~ comprehensive analysis with an empirical validation study of the profession performed by an

independent testing company.

"Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Pedorthist" means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities. ~~person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices as ordered by a licensed physician for the support or correction of disabilities caused by neuro musculoskeletal diseases, injuries, or deformities.~~

"Person" means a natural person.

"Prosthesis" means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand, or foot. "Prosthesis" does not include artificial eyes, ears, fingers, or toes, dental appliances, cosmetic devices such as artificial breasts,

eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body.

"Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician.

"Prosthetist" means a health care professional, specifically educated and trained in prosthetic patient care, who measures, designs, fabricates, fits, or services prostheses and may assist in the formulation of the order and treatment plan of prostheses for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences. ~~person who measures, designs, fabricates, fits, or services prostheses and assists in the formulation of the order of prostheses as ordered by a licensed physician for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.~~

"Prosthetist/orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by title or by description of services. A person who is currently licensed by the State as both a licensed prosthetist and a licensed orthotist may use the title "Licensed Prosthetist Orthotist" or "LPO".

"Resident" means a person who has completed an education

program in either orthotics or prosthetics and is continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education.

"Residency" means a minimum of a one-year approved supervised program to acquire practical clinical training in orthotics or prosthetics in a patient care setting.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Technician" means a person who assists an orthotist, prosthetist, prosthetist/orthotist, or pedorthist with fabrication of orthoses, prostheses, or pedorthic devices but does not provide direct patient care.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Exceptions. This Act shall not be construed to prohibit:

(1) a physician licensed in this State from engaging in the practice for which he or she is licensed;

(2) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

(3) the practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;

(4) the practice of orthotics, prosthetics, or pedorthics by (i) a student enrolled in a school of orthotics, prosthetics, or pedorthics, (ii) a resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education, or (iii) a student in a qualified work experience program or internship in pedorthics;

(5) the practice of orthotics, prosthetics, or pedorthics by one who is an orthotist, prosthetist, or pedorthist licensed under the laws of another state or territory of the United States or another country and has applied in writing to the Department, in a form and substance satisfactory to the Department, for a license as orthotist, prosthetist, or pedorthist and who is qualified to receive the license under Section 40 until (i) the expiration of 6 months after the filing of the written application, (ii) the withdrawal of the application, or (iii) the denial of the application by the Department;

(6) a person licensed by this State as a physical therapist, ~~or~~ occupational therapist, or advanced practice nurse from engaging in his or her profession; or

(7) a physician licensed under the Podiatric Medical Practice Act of 1997 from engaging in his or her profession.

(Source: P.A. 91-590, eff. 1-1-00.)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20. Powers and duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensure Acts and shall exercise other powers and duties necessary for effectuating the purposes of this Act.

(b) The Department shall ~~may~~ adopt rules to administer and enforce this Act including, but not limited to, fees for original licensure, ~~and~~ renewal and restoration of licenses and may prescribe forms to be issued to implement its rules. The Department shall exercise the powers and duties prescribed by this Act. At a minimum, the rules adopted by the Department shall include standards and criteria for licensure and for professional conduct and discipline. The Department shall consult with the Board in adopting rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and inform the Board of any deviations ~~any recommendations made in writing with proper explanation of deviations from the Board's recommendations and response.~~

(c) The Department at any time may seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

~~(d) Department may adopt rules as necessary to establish eligibility for facility registration and standards.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25. Board of Orthotics, Prosthetics, and Pedorthics.

(a) There is established a Board of Orthotics, Prosthetics, and Pedorthics, which shall consist of 6 voting members to be appointed by the Secretary ~~Director~~. Three members shall be practicing licensed orthotists, licensed prosthetists, or licensed pedorthists. These members may be licensed in more than one discipline and their appointments must equally represent all 3 disciplines. One member shall be a member of the public who is a consumer of orthotic, prosthetic, or pedorthic professional services. One member shall be a public member who is not licensed under this Act or a consumer of services licensed under this Act. One member shall be a licensed physician.

(b) Each member of the Board shall serve a term of 3 years, except that of the initial appointments to the Board, 2 members shall be appointed for one year, 2 members shall be appointed for 2 years, and 2 members shall be appointed for 3 years. Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than 8 consecutive years or 2 full terms, whichever is greater.

(c) Members of the Board shall receive as compensation a

reasonable sum as determined by the Secretary ~~Director~~ for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.

(d) Four members of the Board shall constitute a quorum. A quorum is required for all Board decisions ~~A quorum of the Board shall consist of a majority of Board members currently appointed.~~

(e) The Secretary ~~Director~~ may terminate the appointment of any member for cause which, in the opinion of the Secretary ~~Director~~ reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend 2 consecutive meetings.

(f) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 40. Qualifications for licensure as orthotist, prosthetist, or pedorthist.

(a) To qualify for a license to practice orthotics or prosthetics, a person shall:

(1) possess a baccalaureate degree from a college or university;

(2) have completed the amount of formal training,

including, but not limited to, any hours of classroom education and clinical practice established and approved by the Department;

(3) complete a clinical residency in the professional area for which a license is sought in accordance with standards, guidelines, or procedures for residencies inside or outside this State established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of orthotics or prosthetics or a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) whose practice is located outside of the State ~~certification was obtained before the effective date of this Act;~~

(4) pass all written, practical, and oral examinations that are required and approved by the Department; and

(5) be qualified to practice in accordance with internationally accepted standards of orthotic and prosthetic care.

(b) To qualify for a license to practice pedorthics, a person shall:

(1) submit proof of ~~possess~~ a high school diploma or its equivalent;

(2) have completed the amount of formal training, including, but not limited to, any hours of classroom

education and clinical practice established and approved by the Department;

(3) complete a qualified work experience program or internship in pedorthics that has a minimum of 1,000 hours of pedorthic patient care experience in accordance with any standards, guidelines, or procedures established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of pedorthics or a person certified as a Certified Pedorthist (C.Ped) whose practice is located outside of the State;

(4) pass all examinations that are required and approved by the Department; and

(5) be qualified to practice in accordance with nationally accepted standards of pedorthic care.

(c) The standards and requirements for licensure established by the Department shall be substantially equal to or in excess of standards commonly accepted in the profession of orthotics, prosthetics, or pedorthics. The Department shall adopt rules as necessary to set the standards and requirements.

(d) A person may be licensed in more than one discipline.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 55. License required ~~Transition period.~~

~~(a) Until January 1, 2002, a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted orthotic or prosthetic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an orthotist or a prosthetist shall meet the requirements of subsection (a) of Section 40 of this Act.~~

~~(b) Until January 1, 2002, a person certified as a Certified Pedorthist (CPed) by the Board for Certification in Pedorthics, Incorporated, or a person certified as a Certified Orthotist (CO) or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted pedorthic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a pedorthist shall meet the requirements of subsection (b) of Section 40 of this Act.~~

No ~~(c) On and after January 1, 2002, no~~ person shall practice orthotics, prosthetics, or pedorthics in this State or hold himself or herself out as being able to practice either

profession, unless he or she is licensed in accordance with ~~Section 40 of this Act.~~

~~(d) Notwithstanding any other provision of this Section, a person who has practiced full-time for the past 7 years in a prosthetic/orthotic facility as an orthotist, prosthetist, prosthetist/orthotist, assistant, or technician or in a pedorthic facility as a pedorthist or pedorthic technician on the effective date of this Act may file an application with the Board within 60 days after the enforcement of this Section begins pursuant to Section 56 of this Act in order to continue to practice orthotics, prosthetics, or pedorthics at his or her identified level of practice. The applicant shall be issued a license or certificate of registration to practice orthotics, prosthetics, or pedorthics under the provisions of this Act without examination upon receipt by the Department of payment of the licensing or registration fee required under Section 70 of this Act and after the Board has completed an investigation of the applicant's work history. The Board shall complete its investigation for the purposes of this Section within 6 months of the date of the application. The investigation may include, but is not limited to, completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(Section scheduled to be repealed on January 1, 2010)

Sec. 57. Limitation on provision of care and services. A licensed orthotist, prosthetist, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from (i) a licensed physician, (ii) a ~~or~~ podiatrist, (iii) an advanced practice nurse who has a written collaborative agreement with a collaborating physician or podiatrist that specifically authorizes ordering the services of an orthotist, prosthetist or pedorthist, (iv) an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses clinical privileges to order services of an orthotist, prosthetist, or pedorthist, or (v) a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by his or her supervising physician. A licensed podiatrist or advanced practice nurse collaborating with a podiatrist may only order care or services concerning the foot from a licensed prosthetist. A licensed prosthetist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Renewal; restoration; military service; inactive status.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish continuing education requirements for the renewal of a license. These requirements shall be based on established standards of competence.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by (i) making application to the Department, (ii) filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, and (iii) paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was (i) in federal service on active duty within the armed forces of the United States or with the State militia called into service or training or (ii) in training or education under the supervision of the United States preliminary to induction into military service may have his or her license renewed or restored without paying a lapsed renewal fee if, within 2 years

after termination from the service, training, or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training, or education has been terminated.

(d) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(e) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 60 of this Act.

(f) An orthotist, prosthetist, or pedorthist whose license is on inactive status shall not practice orthotics, prosthetics, or pedorthics in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Endorsement. The Department may, at its discretion, license as either an orthotist, prosthetist, or pedorthist, without examination and on payment of the required fee, an applicant who is an orthotist, prosthetist, or

pedorthist who is (i) licensed under the laws of another state, territory, or country, if the requirements for licensure in that state, territory, or country in which the applicant was licensed were, at the date of his or her licensure, substantially equal to the requirements in force in this State on that date or (ii) certified by a national certification organization with educational and testing standards as set forth by rule ~~equal to or more stringent than the licensing requirements of this State.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/77 new)

Sec. 77. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the person that payment of fees and fines shall be made to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing.

If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license, designed to cover all expenses of processing the application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(225 ILCS 84/80)

(Section scheduled to be repealed on January 1, 2010)

Sec. 80. Roster of licensees and registrants. The Department shall maintain a current roster of the names and addresses of all licensees, registrants, and all persons whose licenses have been suspended, ~~or~~ revoked, or otherwise disciplined ~~within the previous year~~. This roster shall be available upon written request and payment of the required fee.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/85)

(Section scheduled to be repealed on January 1, 2010)

Sec. 85. Practice by corporations. Nothing in this Act shall restrict licensees from forming professional service corporations under and in accordance with the provisions of the Professional Service Corporation Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, or may revoke or suspend a license, or may suspend, place on probation, ~~censure,~~ or reprimand a licensee or take other disciplinary or non-disciplinary action as the Department may deem proper, including, but not limited to, the imposition of fines not to exceed \$10,000 for each violation for one or any combination of the following:

(1) Making a material misstatement in furnishing information to the Department or the Board.

(2) Violations of or negligent or intentional disregard of this Act or its rules.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession ~~Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of~~

~~the profession.~~

(4) Making a misrepresentation for the purpose of obtaining a license.

(5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(6) Gross negligence under this Act.

(7) Aiding or assisting another person in violating a provision of this Act or its rules.

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

(9) Engaging in dishonorable, unethical, or unprofessional conduct or conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug ~~Habitual intoxication or addiction to the use of drugs.~~

(11) Discipline by another state or territory of the United States, the federal government, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.

(12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a

fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

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

(14) Abandonment of a patient or client.

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

(16) Willfully ~~Wilfully~~ failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability ~~Physical illness including, but not limited to, deterioration through the aging process or loss of motor skill that results in the inability to practice the profession with reasonable judgement, skill, or safety.~~

(18) Solicitation of professional services using false or misleading advertising.

(b) In enforcing this Section, the Department or Board upon a showing of a possible violation, may compel a licensee or

applicant to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for the immediate suspension of his or her license until the individual submits to the examination if the Department finds that the refusal to submit to the examination was without reasonable cause as defined by rule.

In instances in which the Secretary immediately suspends a person's license for his or her failure to submit to a mental or physical examination, when directed, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

In instances in which the Secretary otherwise suspends a person's license pursuant to the results of a compelled mental or physical examination, a hearing on that person's license

must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license. ~~The determination by a circuit court that a licensee or registrant is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will end only upon (i) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient and (ii) the recommendation of the Board to the Director that the licensee or registrant be allowed to resume his or her practice.~~

(c) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental

~~agency of this State in accordance with subsection (a) (5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15). In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.~~

~~If the Department or Board finds an individual unable to~~

~~practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Director for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.~~

~~In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under~~

~~this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.~~

(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with subsection (a) (5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(e) The Department may refuse to issue or renew a license, or may revoke or suspend a license, for failure to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Injunction; cease and desist order.

(a) If any person, company, or corporation violates a provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois and through the Attorney General of the State of Illinois or the State's Attorney of the county in which the violation is alleged to have occurred, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person, company, or corporation has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If a person practices as an orthotist, prosthetist, or pedorthist or holds himself or herself out as an orthotist, prosthetist, or pedorthist without being licensed ~~or registered~~ under the provisions of this Act, then any other licensed ~~or registered~~ orthotist, prosthetist, or pedorthist, any interested party, or any person injured by the person may,

in addition to the Secretary ~~Director~~, petition for relief as provided in subsection (a) of this Section.

(c) If a company or corporation holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(d) Whenever in the opinion of the Department a person, company, or corporation violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him, ~~or her,~~ or it. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Investigations; notice and hearing.

(a) The Department may investigate the actions of an

applicant or of a person or persons holding or claiming to hold a license.

(b) The Department may also investigate the actions of a company or corporation that holds itself out to provide orthotic, prosthetic, or pedorthic services with or without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services.

(c) Before refusing to issue or renew a license or taking any other disciplinary action with respect to a license, the Department shall, at least 30 ~~10~~ days prior to the date set for the hearing, notify in writing the applicant for or holder of a license of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or by certified or registered mail to the respondent at the address of record with the Department ~~disclosed on his or her last notification to the Department~~. At the time and place fixed in the notice, the Board shall proceed to hear the charges. The parties or their counsel shall be afforded ample opportunity to present statements, testimony, evidence, and argument that may be pertinent to the charges or to the defense to the charges. The Board may continue the hearing from time to time.

(Source: P.A. 91-590, eff. 1-1-00.)

Sec. 103. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or any combination thereof, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

(b) The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

(225 ILCS 84/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. Record of proceedings ~~Transcript~~. The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of any ~~a~~ case ~~involving the refusal to issue or renew a license~~. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcripts ~~transcript~~ of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/107 new)

Sec. 107. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice orthotics, prosthetics, or pedorthics or performs the functions and duties of orthotist, prosthetist, or pedorthist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) Any company or corporation that offers to practice, attempts to practice, or holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

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

(d) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(225 ILCS 84/110)

(Section scheduled to be repealed on January 1, 2010)

Sec. 110. Compelling testimony. A circuit court may, upon application of the Secretary ~~Director~~ or his or her designee or the applicant or licensee against whom proceedings under Section 100 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony and requiring the production of documents, papers, files, books, and records in connection with a hearing or investigation. The court may compel obedience to its order through contempt proceedings.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. Board findings and recommendations. At the conclusion of a hearing, the Board shall present to the Secretary ~~Director~~ a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall

specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary ~~Director~~. The report of findings and recommendations of the Board shall be the basis for the Department's order for the refusal or for the granting of a license, unless the Secretary ~~Director~~ determines that the Board report is contrary to the manifest weight of the evidence, in which case the Secretary ~~Director~~ may issue an order in contravention to the Board report. A Board finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 120. Motion for rehearing. In any case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing

is denied, upon the denial, the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board, except as provided in Section 115 of this Act. If the respondent orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which the motion may be filed shall commence upon the delivery of the transcript to the respondent. (Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/125)

(Section scheduled to be repealed on January 1, 2010)

Sec. 125. Rehearing on order of Secretary ~~Director~~. Whenever the Secretary ~~Director~~ is not satisfied that substantial justice has been done in the revocation, suspension, or refusal to issue or renew a license the Secretary ~~Director~~ may order a rehearing by the same or other examiners.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/130)

(Section scheduled to be repealed on January 1, 2010)

Sec. 130. Appointment of hearing officer. The Secretary ~~Director~~ shall have the authority to appoint an attorney licensed to practice law in the State of Illinois to serve as a hearing officer in an action for refusal to issue or renew a license or to discipline a licensee. The hearing officer shall

have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Secretary ~~Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary ~~Director~~. If the Board fails to present its report within the 60-day period, the Secretary ~~Director~~ shall issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report. Nothing in this Section shall prohibit a Board member from attending an informal conference and such participation shall not be grounds for recusal from any other proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/135)

(Section scheduled to be repealed on January 1, 2010)

Sec. 135. Order or certified copy. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof:

(1) that the signature is the genuine signature of the Secretary ~~Director~~;

(2) that the Secretary ~~Director~~ is duly appointed and

qualified; and

(3) that the Board and its members are qualified to act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. Temporary suspension of a license. The Secretary ~~Director~~ may temporarily suspend the license of an orthotist, prosthetist, or pedorthist without a hearing simultaneously with the institution of proceedings for a hearing provided for in Section 95 of this Act if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Secretary ~~Director~~ temporarily suspends a license without a hearing, a hearing by the Board must be held within 30 days after the suspension and completed without appreciable delay.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/160)

(Section scheduled to be repealed on January 1, 2010)

Sec. 160. Certifications of record; costs. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court with the complaint a receipt from the Department acknowledging

payment of the costs of furnishing and certifying the record, which cost shall be determined by the Department ~~shall be computed at the rate of 20 cents per page of the record.~~ Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 91-590, eff. 1-1-00.)

Section 15. The Perfusionist Practice Act is amended by changing Sections 10, 15, 25, 45, 60, 70, 90, 95, 100, 105, 115, 120, 140, 145, 150, 170, 180, 185, 200, 220, and 230 and by adding Sections 75, 93, 135, 142, 155, 212, and 227 as follows:

(225 ILCS 125/10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Definitions. As used in this Act:

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department.

"Board" means the Board of Licensing for Perfusionists Perfusion.

"Department" means the Department of Financial and

Professional Regulation.

~~"Director" means the Director of Professional Regulation.~~

"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, kidney, liver, or other organs.

"New graduate perfusionist" means a perfusionist practicing within a period of one year since the date of graduation from a Commission on Accreditation of Allied Health Education Programs accredited perfusion education program.

"Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular systems or other organs, or a combination of those functions, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a physician licensed to practice medicine in all its branches.

"Perfusionist" means a person, qualified by academic and clinical education, to operate the extracorporeal circulation equipment during any medical situation where it is necessary to support or replace a person's cardiopulmonary, circulatory, or respiratory function. A perfusionist is responsible for the selection of appropriate equipment and techniques necessary for support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of a patient, including

the safe monitoring, analysis, and treatment of physiologic conditions under an order and under the supervision of a physician licensed to practice medicine in all its branches and in coordination with a registered professional nurse.

"Perfusion protocols" means perfusion related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.

"Physician" or "operating physician" means a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

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

(225 ILCS 125/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Powers and duties of the Department. Subject to the provisions of this Act, the Department may:

(a) Pass upon the qualifications of applicants for licensure by endorsement. ~~The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing Acts and shall exercise any other powers and duties necessary for effectuating the purposes of this Act.~~

(b) Conduct hearings on proceedings to refuse to issue or

~~renew a license, or to revoke or suspend a license, or to place on probation, reprimand, or take any other disciplinary or non-disciplinary action with regard to a person licensed under this Act. The Department may adopt rules consistent with the provisions of this Act for its administration and enforcement and may prescribe forms that shall be issued in connection with this Act. The rules may include but are not limited to standards and criteria for licensure, professional conduct, and discipline.~~

(c) Formulate rules required for the administration of this Act.

(d) Obtain written recommendations from the Board regarding (i) curriculum content, standards of professional conduct, formal disciplinary actions, and the formulation of rules, and (ii) when petitioned by the applicant, opinions regarding the qualifications of applicants for licensing.

(e) Maintain rosters of the names and address of all licensees, and all persons whose licenses have been suspended, revoked, or denied renewal for cause or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

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

(225 ILCS 125/25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25. Board of Licensing for Perfusionists ~~Perfusion~~.

(a) The Secretary ~~Director~~ shall appoint a Board of Licensing for Perfusionists which ~~Perfusion to consist of 5 persons who shall be appointed by and~~ shall serve in an advisory capacity to the Secretary ~~Director~~. The Board shall be comprised of 5 persons appointed by the Secretary, who shall give due consideration to recommendations by members of the profession of perfusion and perfusion organizations within the State.

(b) Two members must hold an active license to engage in the practice of perfusion in this State, one member must be a physician licensed under the Medical Practice Act of 1987 who is board certified in and actively engaged in the practice of cardiothoracic surgery, one member must be a licensed registered professional nurse certified by the Association of Operating Room Nurses, and one member must be a member of the public who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with the profession. ~~The initial appointees who would otherwise be required to be licensed perfusionists shall instead be individuals who have been practicing perfusion for at least 5 years and who are eligible under this Act for licensure as perfusionists.~~

(c) Members shall serve 4-year terms and until their successors are appointed and qualified, except that, of the initial appointments, 2 members shall be appointed to serve for

2 years, 2 members shall be appointed to serve for 3 years, and 1 member shall be appointed to serve for 4 years, and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 consecutive years.

(d) Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. ~~Initial terms shall begin upon the effective date of this Act.~~

(e) The Board shall annually elect a chairperson and a vice-chairperson who shall preside in the absence of the chairperson.

(f) Insofar as possible, the licensed professionals appointed to serve on the Board shall be generally representative of the occupational and geographical distribution of licensed professionals within ~~The membership of the Board should reasonably reflect representation from the various geographic areas in this State.~~

(g) The Secretary ~~Director~~ may remove or suspend ~~terminate the appointment of~~ any member for cause at any time before the expiration of his or her term. The Secretary shall be the sole arbiter of cause.

(h) The Secretary ~~Director~~ may give due consideration to all recommendations of the Board.

(i) Three ~~A majority of the~~ Board members ~~currently~~

~~appointed shall constitute a quorum. A quorum is required for all Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all the duties of the Board.~~

(j) Except for willful or wanton misconduct, members  
~~Members~~ of the Board shall be immune from liability ~~have no liability~~ in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.

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

(225 ILCS 125/45)

(Section scheduled to be repealed on January 1, 2010)

Sec. 45. Application of Act. This Act shall not be construed to prohibit the following:

(1) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

(2) a student enrolled in an accredited perfusion education program from performing perfusion services if perfusion services performed by the student:

(A) are an integral part of the student's course of study; and

(B) are performed under the direct supervision of a licensed perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area;

(3) a new graduate from performing perfusion services for a period of 14 months after the date of his or her graduation from a perfusion education program that is accredited by the Commission on Accreditation of Allied Health Education Programs, if perfusion services performed by the new graduate perfusionist: ~~(A) are necessary to fulfill the eligibility requirements for the ABCP certification examination required under subsection (3) of Section 30;~~ and ~~(B)~~ are performed under the direct supervision and responsibility of a licensed perfusionist or a physician licensed to practice medicine in all its branches who is assigned to supervise the graduate perfusionist and who is ~~on duty and~~ immediately available in the assigned patient care area;

(4) any legally qualified perfusionist employed by the United States government from engaging in the practice of perfusion while in the discharge of his or her official duties;  
or

(5) one or more licensed perfusionists from forming a professional service corporation in accordance with the Professional Service Corporation Act.

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

(225 ILCS 125/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Display of license; change of address. ~~(a) The Department shall issue a perfusionist license to a person~~

~~meeting the application and qualification requirements of Section 30 of this Act. However, a person is eligible for one year from the effective date of this Act to make application to the Board and receives a license notwithstanding the requirements of Section 30 of this Act if the person is actively engaged in the practice of perfusion consistent with applicable law and if the person has at least 5 years experience operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function between January 1, 1991 and the effective date of this Act.~~

~~(b)~~ A licensee shall maintain on file at all times during which the licensee provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility.

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

(225 ILCS 125/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Renewal, reinstatement or restoration of license; ~~continuing education;~~ military service. The expiration date and renewal period for each license issued under this Act shall be set by the Department by rule. A licensee may renew his or her license during the month preceding the expiration date of the license by paying the required fee. It is the responsibility of the licensee to notify the Department in

~~writing of a change of address. Renewal shall be conditioned on paying the required fee and meeting other requirements as may be established by rule.~~

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

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

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

(225 ILCS 125/75 new)

Sec. 75. Continuing education. The Department may adopt rules of continuing education for licensees that require 30 hours of continuing education per 2 year license renewal cycle. The rules shall address variances in part or in whole for good cause, including without limitation temporary illness or hardship. The Department may approve continuing education programs offered, provided, and approved by the American Board of Cardiovascular Perfusion, or its successor agency. The Department may approve additional continuing education sponsors. Each licensee is responsible for maintaining records of his or her completion of the continuing education and shall be prepared to produce the records when requested by the Department.

(225 ILCS 125/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Fees; deposit of fees and fines. ~~returned checks.~~

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

(b) All of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

The monies deposited into the Fund shall be appropriated to the Department for expenses of the Department in the administration of this Act.

~~(c) A person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application without a hearing. If the person seeks a license after termination or denial, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to defray the expenses of processing the application. The Director may waive the fines due under this Section in individual cases if the Director finds that the fines would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-580, eff. 1-1-00; 92-146, eff. 1-1-02.)

(225 ILCS 125/93 new)

Sec. 93. Returned checks; penalty for insufficient funds.  
Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of the fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. After such termination of a license or denial of an application, the same individual may only apply to the Department for restoration or issuance of a license after he or she has paid all fees and fines owed to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily

burdensome.

(225 ILCS 125/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Roster. The Department shall maintain a roster of the names and addresses of all licensees and of all persons that ~~whose licenses~~ have been disciplined under this Act. This roster shall be available upon ~~written~~ request and payment of the required fee.

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

(225 ILCS 125/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Unlicensed practice; civil penalty. A person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a licensed perfusionist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

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

(225 ILCS 125/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. Disciplinary actions. ~~Grounds for disciplinary action.~~

(a) The Department may refuse to issue, renew, or restore a license, or may revoke or suspend a license, or may place on probation, ~~censure,~~ reprimand, or take other disciplinary or non-disciplinary action with regard to a person licensed under this Act, including but not limited to the imposition of fines not to exceed \$10,000 ~~\$5,000~~ for each violation, for ~~any~~ any one or any combination of the following causes:

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

(2) ~~Violation~~ Violating a provision of this Act or any rule ~~its rules~~ promulgated under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the a United States or any state or territory thereof, or any crime ~~jurisdiction of a crime that is a felony or a misdemeanor of which,~~ an essential element ~~of which~~ is dishonesty, or any ~~of a~~ crime that is directly related to the practice as a perfusionist.

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

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

(6) Failing to provide information within 60 days in

response to a written request made by the Department.

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

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

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

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

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

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

(13) Wilfully failing to report an instance of suspected child abuse or neglect as required under the Abused and Neglected Child Reporting Act.

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

(15) Employment of fraud, deception, or any unlawful means in applying for or securing a license as a perfusionist.

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

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

(18) Inability to practice the profession with reasonable judgment, skill or safety as a result of a physical illness, including but not limited to deterioration through the aging process or loss of motor skill, or a mental illness or disability. ~~Habitual intoxication or addiction to the use of drugs.~~

(19) Inability ~~Physical illness, including but not limited to deterioration through the aging process or loss of motor skills, which results in the inability to practice~~

the profession for which he or she is licensed with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

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

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

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

(23) Solicitation of business or professional services, other than permitted advertising.

(24) Conviction of or cash compromise of a charge or violation of the Illinois Controlled Substances Act.

(25) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(26) Practicing under a false name or, except as allowed by law, an assumed name.

(27) Violating any provision of this Act or the rules promulgated under this Act, including, but not limited to, advertising.

(b) A licensee or applicant who, because of a physical or mental illness or disability, including, but not limited to,

deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling or treatment as required by the Department shall not be considered discipline of the licensee. If the licensee refuses to enter into a care, counseling or treatment agreement or fails to abide by the terms of the agreement the Department may file a complaint to suspend or revoke the license or otherwise discipline the licensee. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in the disciplinary actions involving physical or mental illness or impairment. The Department may refuse to issue or may suspend the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay a final assessment of the tax, penalty, or interest as required by a tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied.

(b-5) The Department may refuse to issue or may suspend, without a hearing as provided for in the Civil Administrative Code of Illinois, the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed

return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. The suspension will end only upon a finding by a court that the licensee is no longer subject to the involuntary admission or judicial admission and issues an order so finding and discharging the licensee; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice. ~~The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon (1) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, (2) issuance of an order so finding and discharging the patient, and (3) the recommendation of the Disciplinary Board to the Director that the licensee be allowed to resume his or her practice.~~

(d) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning his or her examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause as defined by rule, shall be grounds for either the immediate suspension of his or her license or immediate denial of his or her application.

If the Secretary immediately suspends the license of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The

Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Any licensee suspended or otherwise affected under this subsection (d) shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with the acceptable and prevailing standards under the provisions of his or her license.

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

(225 ILCS 125/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. Injunctive action; cease ~~Cease~~ and desist order.

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt

of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(c) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in addition to the Secretary or State's Attorney, may petition for relief as provided in subsection (a) of this Section.

~~(a) If a person violates a provision of this Act, the Director, in the name of the People of the State of Illinois through the Attorney General of the State of Illinois, or the State's Attorney of a county in which the violation occurs, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order without notice or bond and may preliminarily~~

~~and permanently enjoin the violation. If it is established that the licensee has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.~~

~~(b) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in addition to the Director or State's Attorney, may petition for relief as provided in subsection (a) of this Section.~~

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

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

(225 ILCS 125/120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 120. Investigation; notice; hearing. The Department

~~may~~ Licenses may be refused, revoked, suspended, or otherwise disciplined in the manner provided by this Act and not otherwise. The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts that if proven would constitute grounds for refusal to issue or for suspension or revocation under this Act, investigate the actions of any applicant or any ~~a~~ person ~~applying for,~~ holding, or claiming to hold a perfusionist license. The Department shall, before refusing to issue or renew, suspending, or revoking a license or taking other discipline pursuant to Section 105 of this Act, and at least 30 days prior to the date set for the hearing, (i) notify in writing the applicant or licensee of any charges made and the time and the place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of the notice, and shall direct ~~afford~~ the applicant or licensee ~~an opportunity to be heard in person or by counsel in reference to the charges,~~ and direct the applicant or licensee to file a written answer to the Department under oath within 20 days after the service on him or her of the notice and (iii) inform the accused applicant or licensee that, if he or she fails to failure to file an answer, will result in default will be being taken against him or her or the applicant or licensee and that his or her the license may be suspended, revoked, or placed on probationary status, or other disciplinary action may

be taken with regard to the licensee, including limiting the scope, nature, or extent of practice, as the Department Director may consider ~~deem~~ proper. At the time and place fixed in the notice, the Board shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Board may continue the hearing from time to time. In case ~~Written notice may be served by personal delivery to the applicant or licensee or by mailing the notice by certified mail to his or her last known place of residence or to the place of business last specified by the applicant or licensee in his or her last notification to the Department. If the person, after receiving the notice, fails to file an answer after receiving notice, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status or the Department may take whatever disciplinary action it considers~~ it considers ~~deemed~~ proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The written notice may be served by personal delivery or by certified mail to the address of record or the address specified by the accused in his or her last communication with the Department. At the time and place fixed in the notice, the Department shall proceed to a hearing of the charges and both the applicant or licensee and the complainant

~~shall be afforded ample opportunity to present, in person or by counsel, any statements, testimony, evidence, and arguments that may be pertinent to the charges or to their defense. The Department may continue a hearing from time to time. If the Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing shall have been continued, the Department may continue the hearing for a period not to exceed 30 days.~~

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

(225 ILCS 125/135 new)

Sec. 135. Certification of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. The court may dismiss the action if the plaintiff fails to file such receipt.

(225 ILCS 125/140)

(Section scheduled to be repealed on January 1, 2010)

Sec. 140. Subpoena; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person ~~in this State~~ and to take testimony

either orally or by deposition, with the same fees and mileage and in the same manner as is prescribed ~~by law in judicial proceedings~~ in civil cases in circuit courts of this State. The Secretary, the designated hearing officer, and any Board member has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department. ~~The Director and any Disciplinary Board member designated by the Director shall each have the authority to administer, at any hearing that the Department is authorized to conduct under this Act, oaths to witnesses and any other oaths authorized to be administered by the Department under this Act.~~

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

(225 ILCS 125/142 new)

Sec. 142. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(225 ILCS 125/145)

(Section scheduled to be repealed on January 1, 2010)

Sec. 145. Findings of fact and recommendations. At the

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

The report of findings of fact, conclusions of law, and recommendation of the Board shall be the basis for the Department's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the Board, the Secretary may issue an order in contravention of the Board

recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

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

(225 ILCS 125/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. Board ~~Service of report;~~ rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of a notice of hearing. ~~In a case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided under Section 120 of this Act for the service of the notice of hearing.~~ Within 20 days after the service, the applicant or licensee ~~respondent~~ may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for a rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the specified time ~~time specified~~ for filing such a ~~the~~ motion, or if a motion for rehearing is denied, then upon the

denial the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board, except as provided in Section 160 ~~or 165~~ of this Act. If the applicant or licensee respondent orders a transcript of the record from the reporting service and pays for the transcript of the record within the time for filing a motion for rehearing, the 20-day period within which such a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee respondent.

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

(225 ILCS 125/155 new)

Sec. 155. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation or suspension of a license, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, the Secretary may order a rehearing by the same or another examiner.

(225 ILCS 125/170)

(Section scheduled to be repealed on January 1, 2010)

Sec. 170. Hearing officer. The Secretary ~~Notwithstanding the provisions of Section 120 of this Act, the Director~~ shall have the authority to appoint an attorney licensed to practice law in this State to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to

~~discipline a licensee a hearing authorized under Section 120 of this Act. The Director shall notify the Board of an appointment.~~ The hearing officer shall have full authority to conduct the hearing. A Board member or members may attend the hearing ~~The Board has the right to have at least one member present at a hearing conducted by a hearing officer appointed under this Section.~~ The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board ~~and the Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and to present its findings of fact, conclusions of law, and recommendations to the Secretary and to all parties to the proceeding ~~Director~~. If the Board fails to present its report within the 60-day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after such request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days of such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings in accordance with such order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact,

conclusions of law, and recommendations within its 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding the foregoing, should the Secretary, upon review, determine that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license, or other disciplinary action taken per the result of the entry of such hearing officer's report, the Secretary may order a rehearing by the same or another examiner. ~~the Director shall issue an order based on the report of the hearing officer.~~ If the Secretary ~~Director~~ disagrees ~~in any regard~~ with the recommendation report of the Board or hearing officer, he or she may issue an order in contravention of the recommendation report. ~~The Director shall provide a written explanation to the Board on a deviation from the Board's report and shall specify with particularity the reasons for his or her deviation in the final order.~~

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

(225 ILCS 125/180)

(Section scheduled to be repealed on January 1, 2010)

Sec. 180. Order or certified copy; prima facie proof. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary

~~Director~~, shall be prima facie proof that:

- (1) the signature is the genuine signature of the Secretary Director;
- (2) the Secretary Director is duly appointed and qualified; and
- (3) the Board and its members are qualified to act.

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

(225 ILCS 125/185)

(Section scheduled to be repealed on January 1, 2010)

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

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

(225 ILCS 125/200)

(Section scheduled to be repealed on January 1, 2010)

Sec. 200. Summary Temporary suspension of a license. The Secretary Director may summarily temporarily suspend the

license of a perfusionist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 120 of this Act, if the Secretary ~~Director~~ finds that evidence in the Secretary's ~~his or her~~ possession indicates that continuation in practice would constitute an imminent danger to the public. In the event ~~If~~ the Secretary ~~Director temporarily~~ suspends a license of a licensed perfusionist without a hearing, a hearing must be commenced by ~~the Department shall be held~~ within 30 days after the suspension has occurred and shall be concluded as expeditiously as may be practical ~~without appreciable delay.~~

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

(225 ILCS 125/212 new)

Sec. 212. Violations. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense.

(225 ILCS 125/220)

(Section scheduled to be repealed on January 1, 2010)

Sec. 220. Unlicensed practice; civil penalties.

(a) No person shall practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a perfusionist without a license issued by the Department to that person under this Act.

(b) In addition to any other penalty provided by law, a

person who violates subsection (a) of this Section shall pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions ~~of set forth in this Act regarding a hearing for the discipline of a licensee.~~

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

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

(e) All moneys collected under this Section shall be deposited into the General Professions Dedicated Fund.

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

(225 ILCS 125/227 new)

Sec. 227. Consent Order. At any point in the proceedings as provided in Sections 85 through 130 and Section 150, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(225 ILCS 125/230)

(Section scheduled to be repealed on January 1, 2010)

Sec. 230. Home rule powers. The regulation and licensing of perfusionists are exclusive powers and functions of the State. A home rule unit shall not regulate or license perfusionists. This Section is a denial and limitation under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

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

(225 ILCS 84/56 rep.)

(225 ILCS 84/65 rep.)

Section 20. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by repealing Sections 56 and 65.

(225 ILCS 125/20 rep.)

(225 ILCS 125/42 rep.)

(225 ILCS 125/110 rep.)

(225 ILCS 125/130 rep.)

(225 ILCS 125/160 rep.)

(225 ILCS 125/175 rep.)

(225 ILCS 125/205 rep.)

Section 25. The Perfusionist Practice Act is amended by repealing Sections 20, 42, 110, 130, 160, 175, and 205.

Section 99. Effective date. This Act takes effect upon becoming law.