

1 AN ACT concerning professional regulation.

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

4 Section 1. Short title. This Act may be cited as the  
5 Registered Surgical Assistant and Registered Surgical  
6 Technologist Title Protection Act.

7 Section 5. Legislative purpose. Given the nature of the  
8 surgical assistant's and surgical technologist's roles in the  
9 operating room and the implications for patient safety and  
10 quality care, it is in the public interest to ensure that  
11 qualified personnel accomplish these roles. The purpose of  
12 this Act is to protect and benefit the public by setting  
13 standards of qualifications, education, training, and  
14 experience for those who seek to hold the title of registered  
15 surgical assistant and registered surgical technologist.

16 Section 10. Definitions. As used in this Act:

17 "Board" means the Board of Perfusion and Surgical  
18 Assisting.

19 "Department" means the Department of Professional  
20 Regulation.

21 "Direct supervision" means supervision by an operating  
22 physician who is physically present and who personally  
23 directs delegated acts and remains immediately available to  
24 personally respond to an emergency until the patient is  
25 released from the operating room or care and has been  
26 transferred to another physician.

27 "Director" means the Director of Professional Regulation.

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

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

13 "Registered surgical technologist" means a person who (i)  
14 is not a physician licensed to practice medicine in all of  
15 its branches, (ii) is certified by the Liaison Council on  
16 Certification for the Surgical Technologist, and (iii) is  
17 registered under this Act to facilitate the safe and  
18 effective conduct of invasive surgical procedures. A  
19 surgical technologist may ensure that the operating room or  
20 environment is safe, that equipment functions properly, and  
21 that the operative procedure is conducted under conditions  
22 that maximize patient safety. A surgical technologist shall  
23 possess expertise in the theory and application of sterile  
24 aseptic technique and combines the knowledge of human  
25 anatomy, surgical procedures, and implementation tools and  
26 technologies to facilitate the operating physician's  
27 performance of invasive therapeutic and diagnostic  
28 procedures.

29 Section 15. Powers and duties of the Department.

30 (a) The Department shall exercise the powers and duties  
31 prescribed by the Civil Administrative Code of Illinois and  
32 shall exercise any other powers and duties necessary for  
33 effectuating the purposes of this Act.

1           (b) The Department may adopt rules consistent with the  
2 provisions of this Act for its administration and enforcement  
3 and may prescribe forms that shall be issued in connection  
4 with this Act. The rules may include but are not limited to  
5 standards and criteria for registration, professional  
6 conduct, and discipline.

7           Section 20. Illinois Administrative Procedure Act; rules.

8           (a) The Illinois Administrative Procedure Act is  
9 expressly adopted and incorporated in this Act as if all of  
10 the provisions of the Illinois Administrative Procedure Act  
11 were included in this Act, except that the provision of  
12 subsection (d) of Section 10-65 of the Illinois  
13 Administrative Procedure Act that provides that at hearings  
14 the registrant has the right to show compliance with all  
15 lawful requirements for retention, continuation, or renewal  
16 of the registration is specifically excluded. For purposes of  
17 this Act, the notice required under Section 10-25 of the  
18 Illinois Administrative Procedure Act is deemed sufficient  
19 when mailed to the last known address of a party.

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

23           Section 25. Application for registration. An  
24 application for an initial registration shall be made to the  
25 Department in writing on forms prescribed by the Department  
26 and shall be accompanied by the required nonrefundable fee.  
27 An application shall require information that, in the  
28 judgment of the Department, will enable the Department to  
29 evaluate the qualifications of an applicant for registration.

30           If an applicant fails to obtain a certificate of  
31 registration under this Act within 3 years after filing his  
32 or her application, the application shall be denied. The

1 applicant may make a new application, which shall be  
2 accompanied by the required nonrefundable fee.

3 Section 30. Social Security Number on registration  
4 application. In addition to any other information required  
5 to be contained in the application, every application for an  
6 original, renewal, or restored certificate of registration  
7 under this Act shall include the applicant's Social Security  
8 Number.

9 Section 35. Title protection. No person shall hold  
10 himself or herself out as a surgical assistant or surgical  
11 technologist without being so registered by the Department.

12 Section 40. Application of Act. This Act shall not be  
13 construed to prohibit the following:

14 (1) A person licensed in this State under any other  
15 Act from engaging in the practice for which he or she is  
16 licensed, including but not limited to a physician  
17 assistant or nurse performing surgery-related tasks  
18 within the scope of his or her license, nor are these  
19 individuals required to be registered under this Act.

20 (2) A person from engaging in practice as a  
21 surgical assistant or surgical technologist in the  
22 discharge of his or her official duties as an employee of  
23 the United States government.

24 (3) One or more registered surgical assistants from  
25 forming a professional service corporation in accordance  
26 with the Professional Service Corporation Act and  
27 applying for licensure as a corporation providing  
28 surgical assistant services.

29 (4) A student engaging in practice as a surgical  
30 assistant or surgical technologist under the direct  
31 supervision of a physician licensed to practice medicine

1 in all of its branches as part of his or her program of  
2 study at a school approved by the Department or in  
3 preparation to qualify for the examination as prescribed  
4 under Sections 50 and 55 of this Act.

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

7 (6) A hospital, health system or network, or other  
8 organization that provides surgery-related services from  
9 employing individuals that the organization considers  
10 competent to assist in surgery. These entities are not  
11 required to utilize registered surgical assistants or  
12 registered surgical technologists when providing  
13 surgery-related services to their patients.

14 Section 45. Scope of practice of a surgical assistant.

15 (a) The practice of a surgical assistant includes the  
16 following as long as the surgical assistant is working under  
17 the direct supervision of an operating physician:

- 18 (1) positioning of the patient;
- 19 (2) preparation and draping of the patient for the  
20 operative procedure;
- 21 (3) visualization of the operative site during the  
22 operative procedure;
- 23 (4) provision of the best possible exposure of the  
24 anatomy incident to the procedure;
- 25 (5) assisting in closure of incisions and wound  
26 dressings; and
- 27 (6) performance of any task required by the surgeon  
28 incident to the particular procedure being performed.

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

31 Section 50. Registration requirements; surgical  
32 assistant. A person shall qualify for registration as a

1 surgical assistant if he or she has applied in writing on the  
2 prescribed form, has paid the required fees, and meets all of  
3 the following requirements:

4 (1) Is at least 21 years of age.

5 (2) Has not violated a provision of Section 95 of  
6 this Act. In addition the Department may take into  
7 consideration any felony conviction of the applicant, but  
8 a conviction shall not operate as an absolute bar to  
9 registration.

10 (3) Has completed a medical education program  
11 approved by the Department or has graduated from a United  
12 States Military Program that emphasized surgical  
13 assisting.

14 (4) Has successfully completed a national  
15 certifying examination approved by the Department.

16 (5) Has submitted a notarized letter from a  
17 sponsoring physician verifying the surgical assistant's  
18 expertise in each specialty in which the surgical  
19 assistant will be working.

20 (6) Is currently certified by the National Surgical  
21 Assistant Association on the Certification of Surgical  
22 Assistants, the Liaison Council on Certification for the  
23 Surgical Technologist as a certified first assistant, or  
24 the American Board of Surgical Assisting.

25 Section 55. Registration requirements; surgical  
26 technologist. A person shall qualify for registration as a  
27 surgical technologist if he or she has applied in writing on  
28 the prescribed form, has paid the required fees, and meets  
29 all of the following requirements:

30 (1) Is at least 18 years of age.

31 (2) Has not violated a provision of Section 95 of  
32 this Act. In addition the Department may take into  
33 consideration any felony conviction of the applicant, but

1 a conviction shall not operate as an absolute bar to  
2 registration.

3 (3) Has completed a surgical technologist program  
4 approved by the Department.

5 (4) Has successfully completed the surgical  
6 technologist national certification examination provided  
7 by the Liaison Council on Certification for the Surgical  
8 Technologist or its successor agency.

9 (6) Is currently certified by the Liaison Council  
10 on Certification for the Surgical Technologist or its  
11 successor agency and has met the requirements set forth  
12 for certification.

13 Section 60. Supervision requirement. A person  
14 registered under this Act shall practice as a surgical  
15 assistant only under the direct supervision of the operating  
16 physician.

17 Section 65. Expiration; restoration; renewal. The  
18 expiration date and renewal period for each certificate of  
19 registration issued under this Act shall be set by the  
20 Department by rule. Renewal shall be conditioned on paying  
21 the required fee and meeting other requirements as may be  
22 established by rule.

23 A registrant who has permitted his or her  
24 registration to expire or who has had his or her  
25 registration on inactive status may have the registration  
26 restored by making application to the Department, by  
27 filing proof acceptable to the Department of his or her  
28 fitness to have the registration restored, and by  
29 paying the required fees. Proof of fitness may include  
30 sworn evidence certifying to active lawful practice in  
31 another jurisdiction.

32 If the registrant has not maintained an active practice

1 in another jurisdiction satisfactory to the Department,  
2 the Department shall determine, by an evaluation program  
3 established by rule, his or her fitness for  
4 restoration of the registration and shall establish  
5 procedures and requirements for restoration. However, a  
6 registrant whose registration expired while he or she was  
7 (1) in federal service on active duty with the Armed Forces  
8 of the United States or the State Militia called into  
9 service or training or (2) in training or education under  
10 the supervision of the United States before induction  
11 into the military service, may have the registration restored  
12 without paying any lapsed renewal fees if within 2 years  
13 after honorable termination of the service, training, or  
14 education he or she furnishes the Department with  
15 satisfactory evidence to the effect that he or she has  
16 been so engaged and that his or her service, training, or  
17 education has been so terminated.

18 Section 70. Inactive status. A registrant who notified  
19 the Department in writing on forms prescribed by the  
20 Department may elect to place his or her registration on  
21 inactive status and shall, subject to rules of the  
22 Department, be excused from payment of renewal fees until he  
23 or she notifies the Department in writing of his or her  
24 intention to restore the registration. A registrant  
25 requesting restoration from inactive status shall pay the  
26 current renewal fee and shall restore his or her registration  
27 in accordance with Section 65 of this Act. A registrant whose  
28 license is on inactive status shall not hold himself or  
29 herself out as a registered surgical assistant or registered  
30 surgical technologist. To do so shall be grounds for  
31 discipline under Section 80 of this Act.

32 Section 75. Fees; returned checks.



1           (a) The Department shall set by rule fees for the  
2 administration of this Act, including but not limited to fees  
3 for initial and renewal registration and restoration of a  
4 certificate of registration.

5           (b) A person who delivers a check or other payment  
6 to the Department that is returned to the Department  
7 unpaid by the financial institution upon which it  
8 is drawn shall pay to the Department, in addition to the  
9 amount already owed to the Department, a fine of \$50. The  
10 fines imposed by this Section are in addition to any  
11 other discipline provided under this Act. The Department  
12 shall notify the person that fees and fines shall be paid to  
13 the Department by certified check or money order  
14 within 30 calendar days of the notification. If, after the  
15 expiration of 30 days from the date of the notification, the  
16 person has failed to submit the necessary remittance, the  
17 Department shall automatically terminate the registration or  
18 deny the application without a hearing. If the person seeks  
19 a license after termination or denial, he or she shall apply  
20 to the Department for restoration or issuance of the license  
21 and pay all fees and fines due to the Department. The  
22 Department may establish a fee for the processing of an  
23 application for restoration of a license to defray the  
24 expenses of processing the application. The Director may  
25 waive the fines due under this Section in individual cases if  
26 the Director finds that the fines would be unreasonable or  
27 unnecessarily burdensome.

28           (c) All of the fees and fines collected under this Act  
29 shall be deposited into the General Professions Dedicated  
30 Fund. All moneys in the Fund shall be used by the Department,  
31 as appropriated, for the ordinary and contingent expenses of  
32 the Department.

33           Section 80. Grounds for disciplinary action.

1 (a) The Department may refuse to issue, renew, or  
2 restore a registration, may revoke or suspend a registration,  
3 or may place on probation, censure, reprimand, or take other  
4 disciplinary action with regard to a person registered under  
5 this Act, including but not limited to the imposition of  
6 fines not to exceed \$5,000 for each violation, for any one or  
7 combination of the following causes:

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

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

11 (3) Conviction under the laws of a United States  
12 jurisdiction of a crime that is a felony or a  
13 misdemeanor, an essential element of which is dishonesty,  
14 or of a crime that is directly related to the practice as  
15 a surgical assistant.

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

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

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

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

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

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

1           (10) A finding by the Department that the  
2 registrant, after having his or her registration placed  
3 on probationary status, has violated the terms of  
4 probation.

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

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

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

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

20          (15) Employment of fraud, deception, or any  
21 unlawful means in applying for or securing a license as a  
22 surgical assistant.

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

29          (17) Habitual intoxication or addiction to the use  
30 of drugs.

31          (18) Physical illness, including but not limited to  
32 deterioration through the aging process or loss of motor  
33 skills, which results in the inability to practice the  
34 profession for which he or she is registered with

1 reasonable judgment, skill, or safety.

2 (19) Gross malpractice resulting in permanent  
3 injury or death of a patient.

4 (20) Immoral conduct in the commission of an act  
5 related to the registrant's practice, including but not  
6 limited to sexual abuse, sexual misconduct, or sexual  
7 exploitation.

8 (21) Violation of the Health Care Worker  
9 Self-Referral Act.

10 (b) The Department may refuse to issue or may suspend  
11 the registration of a person who fails to file a return, to  
12 pay the tax, penalty, or interest shown in a filed return, or  
13 to pay a final assessment of the tax, penalty, or interest as  
14 required by a tax Act administered by the Department of  
15 Revenue, until the requirements of the tax Act are satisfied.

16 (c) The determination by a circuit court that a  
17 registrant is subject to involuntary admission or judicial  
18 admission as provided in the Mental Health and Developmental  
19 Disabilities Code operates as an automatic suspension. The  
20 suspension will end only upon (1) a finding by a court that  
21 the patient is no longer subject to involuntary admission or  
22 judicial admission, (2) issuance of an order so finding and  
23 discharging the patient, and (3) the recommendation of the  
24 Department to the Director that the registrant be allowed to  
25 resume his or her practice.

26 Section 85. Cease and desist order.

27 (a) If a person violates a provision of this Act, the  
28 Director, in the name of the People of the State of Illinois  
29 through the Attorney General of the State of Illinois, or the  
30 State's Attorney of a county in which the violation occurs,  
31 may petition for an order enjoining the violation or for an  
32 order enforcing compliance with this Act. Upon the filing of  
33 a verified petition in court, the court may issue a temporary

1     restraining order without notice or bond and may  
2     preliminarily and permanently enjoin the violation. If it is  
3     established that the registrant has violated or is violating  
4     the injunction, the court may punish the offender for  
5     contempt of court. Proceedings under this Section shall be  
6     in addition to, and not in lieu of, all other remedies and  
7     penalties provided by this Act.

8           (b) If a person holds himself or herself out as a  
9     surgical assistant or surgical technologist without being  
10    registered under this Act, then any registrant under this  
11    Act, interested party, or person injured thereby, in addition  
12    to the Director or State's Attorney, may petition for relief  
13    as provided in subsection (a) of this Section.

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

23           Section 90. Investigation; notice; hearing.  
24    Certificates of registration may be refused, revoked,  
25    suspended, or otherwise disciplined in the manner provided by  
26    this Act and not otherwise. The Department may upon its own  
27    motion and shall upon the verified complaint in writing of  
28    any person setting forth facts that if proven would  
29    constitute grounds for refusal to issue or for suspension or  
30    revocation under this Act, investigate the actions of a  
31    person applying for, holding, or claiming to hold a  
32    certificate of registration. The Department shall, before  
33    refusing to issue or renew, suspending, or revoking a

1 certificate of registration or taking other discipline  
2 pursuant to Section 80 of this Act, and at least 30 days  
3 prior to the date set for the hearing, notify in writing the  
4 applicant or licensee of any charges made, shall afford the  
5 applicant or registration an opportunity to be heard in  
6 person or by counsel in reference to the charges, and direct  
7 the applicant or registrant to file a written answer to the  
8 Department under oath within 20 days after the service of the  
9 notice and inform the applicant or registrant that failure to  
10 file an answer will result in default being taken against the  
11 applicant or registrant and that the certificate of  
12 registration may be suspended, revoked, placed on  
13 probationary status, or other disciplinary action may be  
14 taken, including limiting the scope, nature, or extent of  
15 practice, as the Director may deem proper. Written notice  
16 may be served by personal delivery to the applicant or  
17 registrant or by mailing the notice by certified mail to his  
18 or her last known place of residence or to the place of  
19 business last specified by the applicant or registrant in his  
20 or her last notification to the Department. If the person  
21 fails to file an answer after receiving notice, his or her  
22 certificate of registration may, in the discretion of the  
23 Department, be suspended, revoked, or placed on probationary  
24 status or the Department may take whatever disciplinary  
25 action deemed proper, including limiting the scope, nature,  
26 or extent of the person's practice or the imposition of a  
27 fine, without a hearing, if the act or acts charged  
28 constitute sufficient grounds for such action under this Act.  
29 At the time and place fixed in the notice, the Department  
30 shall proceed to hearing of the charges and both the  
31 applicant or registrant and the complainant shall be afforded  
32 ample opportunity to present, in person or by counsel, any  
33 statements, testimony, evidence, and arguments that may be  
34 pertinent to the charges or to their defense. The Department

1 may continue a hearing from time to time. The Department may  
2 continue a hearing for a period not to exceed 30 days.

3 Section 95. Record of proceedings. The Department, at its  
4 expense, shall preserve a record of all proceedings at a  
5 formal hearing conducted pursuant to Section 90 of this Act.  
6 The notice of hearing, complaint, and all other documents in  
7 the nature of pleadings and written motions filed in the  
8 proceedings, the transcript of testimony, the report of the  
9 Department or hearing officer, and orders of the Department  
10 shall be the record of the proceeding. The Department shall  
11 supply a transcript of the record to a person interested in  
12 the hearing on payment of the fee required under Section  
13 2105-115 of the Department of Professional Regulation Law of  
14 the Civil Administrative Code of Illinois.

15 Section 100. Order for production of documents. A circuit  
16 court may, upon application of the Department or its  
17 designee, or of the applicant or registration against whom  
18 proceedings pursuant to Section 90 of this Act are pending,  
19 enter an order requiring the attendance of witnesses and  
20 their testimony and the production of documents, papers,  
21 files, books, and records in connection with a hearing or  
22 investigation authorized by this Act. The court may compel  
23 obedience to its order through contempt proceedings.

24 Section 105. Subpoena power. The Department has the power  
25 to subpoena and bring before it any person in this State and  
26 to take testimony orally or by deposition, with the same fees  
27 and mileage and in the same manner as prescribed by law in  
28 judicial proceedings in civil cases in circuit courts of this  
29 State. The Director shall have the authority to administer,  
30 at any hearing that the Department is authorized to conduct  
31 under this Act, oaths to witnesses and any other oaths

1 authorized to be administered by the Department under this  
2 Act.

3 Section 110. Disciplinary report. At the conclusion of  
4 the hearing, the Department shall present to the Director a  
5 written report of its findings of fact, conclusions of law,  
6 and recommendations. In the report, the Department shall  
7 make a finding of whether or not the charged registrant or  
8 applicant violated a provision of this Act or its rules and  
9 shall specify the nature of the violation. In making its  
10 recommendations for discipline, the Department may take into  
11 consideration all facts and circumstances bearing upon the  
12 reasonableness of the conduct of the respondent and the  
13 potential for future harm to the public, including but not  
14 limited to previous discipline of that respondent by the  
15 Department, intent, degree of harm to the public and  
16 likelihood of harm in the future, any restitution made, and  
17 whether the incident or incidents complained of appear to be  
18 isolated or a pattern of conduct. In making its  
19 recommendations for discipline, the Department shall seek to  
20 ensure that the severity of the discipline recommended bears  
21 some reasonable relationship to the severity of the  
22 violation.

23 Section 115. Motion for rehearing. In a case involving  
24 the refusal to issue or renew a registration or the  
25 discipline of a registrant, a copy of the Department's report  
26 shall be served upon the respondent by the Department,  
27 either personally or as provided under Section 20 of this Act  
28 for the service of the notice of hearing. Within 20 days  
29 after the service, the respondent may present to the  
30 Department a motion in writing for a rehearing, which shall  
31 specify the particular grounds for a rehearing. If no motion  
32 for rehearing is filed, then upon the expiration of the



1 time specified for filing the motion, or if a motion for  
2 rehearing is denied, then upon the denial the Director may  
3 enter an order in accordance with recommendations of  
4 the Department, except as provided in Section 120 or 125 of  
5 this Act. If the respondent orders a transcript of the  
6 record from the reporting service and pays for the transcript  
7 within the time for filing a motion for rehearing, the 20-day  
8 period within which such a motion may be filed shall commence  
9 upon the delivery of the transcript to the respondent.

10 Section 120. Order of Director.

11 (a) The Director shall issue an order concerning the  
12 disposition of the charges (i) following the expiration of  
13 the filing period granted under Section 115 of this Act if no  
14 motion for rehearing is filed or (ii) following a denial of a  
15 timely motion for rehearing.

16 (b) The Director's order shall be based on the  
17 recommendations contained in the Department report unless,  
18 after giving due consideration to the Department's report,  
19 the Director disagrees in any regard with the report of the  
20 Department, in which case he or she may issue an order in  
21 contravention of the report. The Director shall provide a  
22 written report to the Department on any deviation from the  
23 Department's report and shall specify with particularity the  
24 reasons for his or her deviation in the final order. The  
25 Department's report and Director's order are not admissible  
26 in evidence against the person in a criminal prosecution  
27 brought for a violation of this Act, but the hearing, report,  
28 and order are not a bar to a criminal prosecution brought for  
29 the violation of this Act.

30 Section 125. Hearing officer. The Director shall have the  
31 authority to appoint an attorney licensed to practice law in  
32 this State to serve as the hearing officer in a hearing

1 authorized under Section 90 of this Act. The hearing officer  
2 shall have full authority to conduct the hearing. The  
3 hearing officer shall report his or her findings of fact,  
4 conclusions of law, and recommendations to the Department. If  
5 the Director disagrees in any regard with the report of the  
6 Department, he or she may issue an order in contravention of  
7 the report. The Director shall provide a written explanation  
8 to the Department on a deviation from the Department's report  
9 and shall specify with particularity the reasons for his or  
10 her deviation in the final order.

11 Section 130. Rehearing on order of Director. Whenever the  
12 Director is not satisfied that substantial justice has been  
13 achieved in the discipline of a registration, the Director  
14 may order a rehearing by the same or another hearing officer.

15 Section 135. Order; prima facie proof. An order or a  
16 certified copy of an order, over the seal of the Department  
17 and purporting to be signed by the Director, shall be prima  
18 facie proof that:

19 (1) the signature is the genuine signature of the  
20 Director; and

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

22 Section 140. Restoration of registration. At any time  
23 after the suspension or revocation of a certificate of  
24 registration, the Department may restore it to the registrant  
25 unless, after an investigation and a hearing, the Department  
26 determines that restoration is not in the public interest.  
27 Where circumstances of suspension or revocation so indicate,  
28 the Department may require an examination of the registrant  
29 before restoring his or her certificate of registration.

30 Section 145. Surrender of certificate of registration.

1 Upon the revocation or suspension of a certificate of  
2 registration, the registrant shall immediately surrender the  
3 certificate of registration to the Department. If the  
4 registrant fails to do so, the Department shall have the  
5 right to seize the certificate of registration.

6 Section 150. Temporary suspension. The Director may  
7 temporarily suspend the registration of a surgical assistant  
8 without a hearing, simultaneously with the institution of  
9 proceedings for a hearing provided for in Section 90 of this  
10 Act, if the Director finds that evidence in his or her  
11 possession indicates that continuation in practice would  
12 constitute an imminent danger to the public. If the Director  
13 temporarily suspends a license without a hearing, a hearing  
14 by the Department shall be held within 30 days after the  
15 suspension has occurred and shall be concluded without  
16 appreciable delay.

17 Section 155. Certificate of record. The Department shall  
18 not be required to certify any record to a court or file an  
19 answer in court or otherwise appear in a court in a judicial  
20 review proceeding unless there is filed in the court, with  
21 the complaint, a receipt from the Department acknowledging  
22 payment of the costs of furnishing and certifying the record.  
23 Failure on the part of the plaintiff to file a receipt in  
24 court shall be grounds for dismissal of the action.

25 Section 160. Administrative Review Law. All final  
26 administrative decisions of the Department are subject to  
27 judicial review under the Administrative Review Law and its  
28 rules. The term "administrative decision" is defined as in  
29 Section 3-101 of the Code of Civil Procedure. Proceedings for  
30 judicial review shall be commenced in the circuit court of  
31 the county in which the party seeking review resides. If the

1 party seeking review is not a resident of this State, venue  
2 shall be in Sangamon County.

3 Section 165. Criminal penalties. A person who is found  
4 to have knowingly violated Section 35 of this Act is guilty  
5 of a Class A misdemeanor for a first offense and is guilty of  
6 a Class 4 felony for a second or subsequent offense.

7 Section 170. Civil penalties.

8 (a) In addition to any other penalty provided by law, a  
9 person who violates Section 35 of this Act shall pay a civil  
10 penalty to the Department in an amount not to exceed \$5,000  
11 for each offense as determined by the Department. The civil  
12 penalty shall be assessed by the Department after a  
13 hearing is held in accordance with the provisions set forth  
14 in this Act regarding a hearing for the discipline of a  
15 licensee.

16 (b) The Department has the authority and power to  
17 investigate any and all unregistered activity.

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

23 Section 175. Home rule powers. The regulation of  
24 surgical assistants and surgical technologists is an  
25 exclusive power and function of the State. A home rule unit  
26 shall not regulate surgical assistants or surgical  
27 technologists. This Section is a limitation under subsection  
28 (h) of Section 6 of Article VII of the Illinois Constitution.

29 Section 900. The Regulatory Sunset Act is amended by  
30 changing Section 4.24 as follows:

1 (5 ILCS 80/4.24)

2 Sec. 4.24. Acts repealed on January 1, 2014. The  
3 following Acts are repealed on January 1, 2014:

4 The Electrologist Licensing Act.

5 The Illinois Public Accounting Act.

6 The Registered Surgical Assistant and Registered Surgical  
7 Technologist Title Protection Act.

8 (Source: P.A. 92-457, eff. 8-21-01; 92-750, eff. 1-1-03.)

9 Section 960. The Perfusionist Licensing Act is amended by  
10 changing Sections 10 and 25 as follows:

11 (225 ILCS 125/10)

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

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

14 "Board" means the Board of Perfusion and Surgical  
15 Assisting.

16 "Department" means the Department of Professional  
17 Regulation.

18 "Director" means the Director of Professional Regulation.

19 "Extracorporeal circulation" means the diversion of a  
20 patient's blood through a heart-lung machine or a similar  
21 device that assumes the functions of the patient's heart,  
22 lungs, kidney, liver, or other organs.

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

28 "Perfusion" means the functions necessary for the  
29 support, treatment, measurement, or supplementation of the  
30 cardiovascular systems or other organs, or a combination of  
31 those functions, and to ensure the safe management of  
32 physiologic functions by monitoring and analyzing the

1 parameters of the systems under an order and under the  
2 supervision of a physician licensed to practice medicine in  
3 all its branches.

4 "Perfusionist" means a person, qualified by academic and  
5 clinical education, to operate the extracorporeal circulation  
6 equipment during any medical situation where it is necessary  
7 to support or replace a person's cardiopulmonary,  
8 circulatory, or respiratory function. A perfusionist is  
9 responsible for the selection of appropriate equipment and  
10 techniques necessary for support, treatment, measurement, or  
11 supplementation of the cardiopulmonary and circulatory system  
12 of a patient, including the safe monitoring, analysis, and  
13 treatment of physiologic conditions under an order and under  
14 the supervision of a physician licensed to practice medicine  
15 in all its branches and in coordination with a registered  
16 professional nurse.

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

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

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

26 (225 ILCS 125/25)

27 Sec. 25. Board of Perfusion and Surgical Assisting. The  
28 Director shall appoint a Board of Perfusion and Surgical  
29 Assisting to consist of 7 5 persons who shall be appointed by  
30 and shall serve in an advisory capacity to the Director. Two  
31 members must hold an active license to engage in the practice  
32 of perfusion in this State, one member must be a physician  
33 licensed under the Medical Practice Act of 1987 who is board

1 certified in and actively engaged in the practice of  
2 cardiothoracic surgery, one member must be a licensed  
3 registered professional nurse certified by the Association of  
4 Operating Room Nurses, one member must be actively registered  
5 as a surgical assistant under the Registered Surgical  
6 Assistant and Registered Surgical Technologist Title  
7 Protection Act, one member must be actively registered as a  
8 surgical technologist under the Registered Surgical Assistant  
9 and Registered Surgical Technologist Title Protection Act,  
10 and one member must be a member of the public who is not  
11 licensed under this Act, the Registered Surgical Assistant  
12 and Registered Surgical Technologist Title Protection Act, or  
13 a similar Act of another jurisdiction and who has no  
14 connection with the profession. The initial appointees who  
15 would otherwise be required to be licensed perfusionists  
16 shall instead be individuals who have been practicing  
17 perfusion for at least 5 years and who are eligible under  
18 this Act for licensure as perfusionists.

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

32 The Board shall annually elect a chairperson and a  
33 vice-chairperson who shall preside in the absence of the  
34 chairperson. The membership of the Board should reasonably

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

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

13 Section 999. Effective date. This Act takes effect  
14 January 1, 2004.