

1-1 By: Nelson S.B. No. 403
1-2 (In the Senate - Filed February 9, 2005; February 15, 2005,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 17, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 March 17, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 403 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the continuation and functions of the Texas State Board
1-11 of Examiners of Perfusionists; providing an administrative
1-12 penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 603.002, Occupations Code, is amended to
1-15 read as follows:

1-16 Sec. 603.002. DEFINITIONS. In this chapter:

1-17 (1) ~~["Board" means the Texas State Board of Examiners~~
1-18 ~~of Perfusionists.~~

1-19 ~~[(2)]~~ "Commissioner" means the commissioner of state
1-20 health services ~~[public health]~~.

1-21 (2) "Committee" means the Texas State Perfusionist
1-22 Advisory Committee.

1-23 (3) "Department" means the ~~[Texas]~~ Department of State
1-24 Health Services.

1-25 (4) "Executive commissioner" means the executive
1-26 commissioner of the Health and Human Services Commission.

1-27 SECTION 2. Section 603.004, Occupations Code, is amended to
1-28 read as follows:

1-29 Sec. 603.004. APPLICATION OF CHAPTER. This chapter does
1-30 not apply to:

1-31 (1) a qualified perfusionist employed by the United
1-32 States government while discharging official duties;

1-33 (2) ~~[a person who is not a resident of this state if~~
1-34 ~~the person:~~

1-35 ~~[(A) is authorized to perform perfusion services~~
1-36 ~~under the laws of the state of the person's residence,~~

1-37 ~~[(B) possesses educational and training~~
1-38 ~~qualifications the board determines are substantially similar to~~
1-39 ~~those required for practice in this state,~~

1-40 ~~[(C) notifies the board of the person's intent to~~
1-41 ~~perform perfusion services in this state for not more than 10 days~~
1-42 ~~in a year, and~~

1-43 ~~[(D) is approved by the board or the board's~~
1-44 ~~designated agent to perform perfusion services in this state for~~
1-45 ~~not more than 10 days in that year,~~

1-46 ~~[(3)]~~ a person licensed by another health professional
1-47 licensing board if the person:

1-48 (A) does not directly or indirectly represent to
1-49 the public that the person is licensed under this chapter and does
1-50 not use a name, title, or other designation indicating that the
1-51 person is licensed under this chapter; and

1-52 (B) confines the scope of the person's practice
1-53 to that authorized by the law under which the person is licensed as
1-54 a health professional;

1-55 (3) ~~[(4)]~~ a student enrolled in an accredited
1-56 perfusion education program if the perfusion services performed by
1-57 the student:

1-58 (A) are an integral part of the student's course
1-59 of study; and

1-60 (B) are directly supervised by a licensed
1-61 perfusionist who:

1-62 (i) is assigned to supervise the student;

1-63 and

2-1 (ii) is on duty and immediately available
2-2 in the assigned patient care area;

2-3 (4) [~~5~~] a person who successfully completes an
2-4 approved perfusion education program but has not been issued a
2-5 provisional license under Section 603.259 if the person:

2-6 (A) complies with Section 603.259(c); and
2-7 (B) receives a provisional license not later than
2-8 the 180th day after the date the person successfully completes the
2-9 program; or

2-10 (5) [~~6~~] a person performing autotransfusion or
2-11 blood conservation techniques under the supervision of a licensed
2-12 physician.

2-13 SECTION 3. Section 603.005, Occupations Code, is amended to
2-14 read as follows:

2-15 Sec. 603.005. APPLICATION OF SUNSET ACT. The Texas State
2-16 Perfusionist Advisory Committee [~~Board of Examiners of~~
2-17 ~~Perfusionists~~] is subject to Chapter 325, Government Code (Texas
2-18 Sunset Act). Unless continued in existence as provided by that
2-19 chapter, the committee [~~board~~] is abolished September 1, 2017
2-20 [~~2005~~].

2-21 SECTION 4. Subchapter A, Chapter 603, Occupations Code, is
2-22 amended by adding Section 603.006 to read as follows:

2-23 Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110,
2-24 Government Code, does not apply to the committee.

2-25 SECTION 5. The heading to Subchapter B, Chapter 603,
2-26 Occupations Code, is amended to read as follows:

2-27 SUBCHAPTER B. TEXAS STATE PERFUSIONIST ADVISORY
2-28 COMMITTEE [~~BOARD OF EXAMINERS OF PERFUSIONISTS~~]

2-29 SECTION 6. Section 603.051, Occupations Code, is amended to
2-30 read as follows:

2-31 Sec. 603.051. COMMITTEE [~~BOARD~~] MEMBERSHIP. (a) The Texas
2-32 State Perfusionist Advisory Committee [~~Board of Examiners of~~
2-33 ~~Perfusionists~~] consists of five [~~nine~~] members appointed by the
2-34 commissioner [~~governor with the advice and consent of the senate~~]
2-35 as follows:

2-36 (1) two [~~five~~] licensed perfusionist members who have
2-37 been licensed under this chapter for at least three years before the
2-38 date of appointment;

2-39 (2) one physician member licensed by the Texas State
2-40 Board of Medical Examiners who is certified by that board in
2-41 cardiovascular surgery; and

2-42 (3) two [~~three~~] members who represent the public.

2-43 (b) Appointments to the committee [~~board~~] shall reflect the
2-44 historical and cultural diversity of the inhabitants of this state.

2-45 (c) Appointments to the committee [~~board~~] shall be made
2-46 without regard to the race, color, disability [~~creed~~], sex,
2-47 religion, age, or national origin [~~, or geographical distribution~~]
2-48 of the appointee [~~appointees~~].

2-49 SECTION 7. Subchapter B, Chapter 603, Occupations Code, is
2-50 amended by adding Section 603.0511 to read as follows:

2-51 Sec. 603.0511. ELIGIBILITY OF PUBLIC MEMBERS. A person may
2-52 not be a public member of the committee if the person or the
2-53 person's spouse:

2-54 (1) is registered, certified, or licensed by a
2-55 regulatory agency in the field of health care;

2-56 (2) is employed by or participates in the management
2-57 of a business entity or other organization regulated by or
2-58 receiving money from the department;

2-59 (3) owns or controls, directly or indirectly, more
2-60 than a 10 percent interest in a business entity or other
2-61 organization regulated by or receiving money from the department;
2-62 or

2-63 (4) uses or receives a substantial amount of tangible
2-64 goods, services, or money from the department other than
2-65 compensation or reimbursement authorized by law for committee
2-66 membership, attendance, or expenses.

2-67 SECTION 8. Section 603.052, Occupations Code, is amended to
2-68 read as follows:

2-69 Sec. 603.052. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

3-1 (a) In this section, "Texas trade association" means a
 3-2 [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide
 3-3 association of business or professional competitors in this state
 3-4 designed to assist its members and its industry or profession in
 3-5 dealing with mutual business or professional problems and in
 3-6 promoting their common interests.

3-7 (b) A person [An officer, employee, or paid consultant of a
 3-8 Texas trade association in the field of health care] may not be a
 3-9 committee [board] member and may not be a department [an] employee
 3-10 employed in a "bona fide executive, administrative, or professional
 3-11 capacity," as that phrase is used for purposes of establishing an
 3-12 exemption to the overtime provisions of the federal Fair Labor
 3-13 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

3-14 (1) the person is an officer, employee, or paid
 3-15 consultant of a Texas trade association in the field of health care;
 3-16 or

3-17 (2) the person's spouse is an officer, manager, or paid
 3-18 consultant of a Texas trade association in the field of health care
 3-19 [of the board who is exempt from the state's position
 3-20 classification plan or is compensated at or above the amount
 3-21 prescribed by the General Appropriations Act for step 1, salary
 3-22 group A17, of the position classification salary schedule].

3-23 (c) [A person who is the spouse of an officer, manager, or
 3-24 paid consultant of a Texas trade association in the field of health
 3-25 care may not be a board member and may not be an employee of the
 3-26 board who is exempt from the state's position classification plan
 3-27 or is compensated at or above the amount prescribed by the General
 3-28 Appropriations Act for step 1, salary group A17, of the position
 3-29 classification salary schedule.

3-30 [~~(d)~~] A person may not be [serve as] a member of the
 3-31 committee [board] or act as the general counsel to the committee or
 3-32 the department [board] if the person is required to register as a
 3-33 lobbyist under Chapter 305, Government Code, because of the
 3-34 person's activities for compensation on behalf of a profession
 3-35 related to the operation of the department [board].

3-36 SECTION 9. Section 603.053, Occupations Code, is amended to
 3-37 read as follows:

3-38 Sec. 603.053. TERMS. Members of the committee [board]
 3-39 serve staggered six-year terms. The terms of one or two [three]
 3-40 members, as appropriate, expire on February 1 of each odd-numbered
 3-41 year.

3-42 SECTION 10. Section 603.054, Occupations Code, is amended
 3-43 to read as follows:

3-44 Sec. 603.054. GROUNDS FOR REMOVAL. (a) It is a ground for
 3-45 removal from the committee [board] that a member:

3-46 (1) does not have at the time of taking office
 3-47 [appointment] the qualifications required by Section 603.051 [for
 3-48 appointment to the board];

3-49 (2) does not maintain during service on the committee
 3-50 [board] the qualifications required by Section 603.051 [for
 3-51 appointment to the board];

3-52 (3) is ineligible for membership under Section
 3-53 603.0511 or 603.052 [violates a prohibition established by this
 3-54 chapter];

3-55 (4) cannot, because of illness or disability,
 3-56 discharge the member's duties for a substantial part of the member's
 3-57 term; or

3-58 (5) is absent from more than half of the regularly
 3-59 scheduled committee [board] meetings that the member is eligible to
 3-60 attend during a calendar year without an excuse approved by a
 3-61 [unless the absence is excused by] majority vote of the committee
 3-62 [board].

3-63 (b) The validity of an action of the committee [board] is
 3-64 not affected by the fact that it is taken when a ground for removal
 3-65 of a member of the committee [board] exists.

3-66 (c) If the executive secretary has knowledge that a
 3-67 potential ground for removal exists, the executive secretary shall
 3-68 notify the presiding officer of the committee [board] of the
 3-69 potential ground. The presiding officer shall then notify the

4-1 commissioner and the attorney general ~~[governor]~~ that a potential
 4-2 ground for removal exists. If the potential ground for removal
 4-3 involves the presiding officer, the executive secretary shall
 4-4 notify the next highest ranking officer of the committee, who shall
 4-5 then notify the commissioner and the attorney general that a
 4-6 potential ground for removal exists.

4-7 SECTION 11. Section 603.055, Occupations Code, is amended
 4-8 to read as follows:

4-9 Sec. 603.055. ~~[PER DIEM,] REIMBURSEMENT. [(a) Each board~~
 4-10 ~~member is entitled to receive a per diem set by the General~~
 4-11 ~~Appropriations Act for each day the member engages in the business~~
 4-12 ~~of the board.~~

4-13 ~~[(b)]~~ A member is entitled to reimbursement for ~~[travel]~~
 4-14 expenses as provided by the General Appropriations Act.

4-15 SECTION 12. Section 603.056, Occupations Code, is amended
 4-16 to read as follows:

4-17 Sec. 603.056. OFFICERS. (a) Not later than the 30th day
 4-18 after the date the commissioner ~~[governor]~~ appoints new committee
 4-19 ~~[board]~~ members, the commissioner ~~[board]~~ shall designate ~~[meet to~~
 4-20 ~~elect]~~ a presiding officer ~~[and an assistant presiding officer, who~~
 4-21 ~~hold office according to board rule]~~. The presiding officer serves
 4-22 at the pleasure of the commissioner.

4-23 (b) The committee may appoint additional officers as
 4-24 necessary.

4-25 SECTION 13. Section 603.057, Occupations Code, is amended
 4-26 to read as follows:

4-27 Sec. 603.057. MEETINGS. The committee ~~[board]~~ shall meet
 4-28 subject to the call of the commissioner ~~[hold at least two regular~~
 4-29 ~~meetings each year as provided by board rule]~~.

4-30 SECTION 14. Section 603.058, Occupations Code, is amended
 4-31 to read as follows:

4-32 Sec. 603.058. TRAINING. (a) A person who is appointed to
 4-33 and qualifies for office as a member of the committee may not vote,
 4-34 deliberate, or be counted as a member in attendance at a meeting of
 4-35 the committee until the person completes a training program that
 4-36 complies with this section.

4-37 (b) The training program must provide the person with
 4-38 information regarding:

4-39 (1) this chapter and the committee's programs,
 4-40 functions, rules, and budget;

4-41 (2) the results of the most recent formal audit of the
 4-42 department;

4-43 (3) the requirements of laws relating to open
 4-44 meetings, public information, administrative procedure, and
 4-45 conflicts-of-interest; and

4-46 (4) any applicable ethics policies adopted by the
 4-47 executive commissioner or the Texas Ethics Commission.

4-48 (c) A person appointed to the committee is entitled to
 4-49 reimbursement, as provided by the General Appropriations Act, for
 4-50 the travel expenses incurred in attending the training program
 4-51 regardless of whether the attendance at the program occurs before
 4-52 or after the person qualifies for office ~~[Each board member shall~~
 4-53 ~~comply with the training requirements established by any state~~
 4-54 ~~agency with authority to establish training requirements for the~~
 4-55 ~~board].~~

4-56 SECTION 15. Section 603.101, Occupations Code, is amended
 4-57 to read as follows:

4-58 Sec. 603.101. EXECUTIVE SECRETARY. The commissioner shall
 4-59 designate a department employee to serve as executive secretary of
 4-60 the committee ~~[board]~~.

4-61 SECTION 16. Section 603.102, Occupations Code, is amended
 4-62 to read as follows:

4-63 Sec. 603.102. EXECUTIVE SECRETARY POWERS AND DUTIES. In
 4-64 addition to performing other duties prescribed by this chapter and
 4-65 by the department, the executive secretary shall:

4-66 (1) administer licensing activity for the department
 4-67 [board];

4-68 (2) keep full and accurate minutes of the committee's
 4-69 [board's] transactions and proceedings;

5-1 (3) serve as custodian of the committee's [~~board's~~]
5-2 files and other records;

5-3 (4) prepare and recommend to the department [~~board~~]
5-4 plans and procedures necessary to implement the objectives of this
5-5 chapter, including rules and proposals on administrative
5-6 procedure;

5-7 (5) exercise general supervision over persons
5-8 employed by the department in the administration of this chapter;

5-9 (6) investigate complaints and present formal
5-10 complaints;

5-11 (7) attend all committee [~~board~~] meetings as a
5-12 nonvoting participant;

5-13 (8) handle the committee's [~~board's~~] correspondence;
5-14 and

5-15 (9) obtain, assemble, or prepare reports and other
5-16 information as directed or authorized by the committee [~~board~~].

5-17 SECTION 17. Section 603.105, Occupations Code, is amended
5-18 to read as follows:

5-19 Sec. 603.105. QUALIFICATIONS AND STANDARDS OF CONDUCT
5-20 INFORMATION. The department [~~board~~] shall provide, as often as
5-21 necessary, to its [~~members and~~] employees information regarding
5-22 their:

5-23 (1) qualifications for office or employment under this
5-24 chapter; and

5-25 (2) responsibilities under applicable laws relating
5-26 to standards of conduct for state officers or employees.

5-27 SECTION 18. Section 603.106, Occupations Code, is amended
5-28 to read as follows:

5-29 Sec. 603.106. CAREER LADDER PROGRAM; PERFORMANCE
5-30 EVALUATIONS. (a) The commissioner [~~executive secretary~~] shall
5-31 develop an intra-agency career ladder program. The program must
5-32 require intra-agency posting of all nonentry level positions
5-33 concurrently with any public posting.

5-34 (b) The commissioner [~~executive secretary~~] shall develop a
5-35 system of annual performance evaluations based on measurable job
5-36 tasks. All merit pay for department [~~board~~] employees must be based
5-37 on the system established under this subsection.

5-38 SECTION 19. Subsection (a), Section 603.107, Occupations
5-39 Code, is amended to read as follows:

5-40 (a) The commissioner [~~executive secretary~~] shall prepare
5-41 and maintain a written policy statement to ensure implementation of
5-42 an equal employment opportunity program under which all personnel
5-43 transactions are made without regard to race, color, disability,
5-44 sex, religion, age, or national origin. The policy statement must
5-45 include:

5-46 (1) personnel policies, including policies relating
5-47 to recruitment, evaluation, selection, application, training, and
5-48 promotion, that are in compliance with Chapter 21, Labor Code;

5-49 (2) a comprehensive analysis of the committee [~~board~~]
5-50 workforce that meets federal and state guidelines;

5-51 (3) procedures by which a determination can be made of
5-52 significant underuse in the committee [~~board~~] workforce of all
5-53 persons for whom federal or state guidelines encourage a more
5-54 equitable balance; and

5-55 (4) reasonable methods to appropriately address those
5-56 areas of underuse.

5-57 SECTION 20. Section 603.151, Occupations Code, is amended
5-58 to read as follows:

5-59 Sec. 603.151. GENERAL POWERS AND DUTIES OF COMMISSIONER
5-60 [~~BOARD~~]. The commissioner [~~board~~] shall:

5-61 (1) establish the qualifications and fitness of
5-62 applicants for licenses, including renewed and reciprocal
5-63 licenses;

5-64 (2) revoke, suspend, or deny a license, probate a
5-65 license suspension, or reprimand a license holder for a violation
5-66 of this chapter, a [~~board~~] rule adopted by the executive
5-67 commissioner, or the code of ethics adopted by the executive
5-68 commissioner [~~board~~];

5-69 (3) spend money necessary to administer the

6-1 department's [board's] duties;

6-2 (4) request and receive necessary assistance from
6-3 another state agency, including a state educational institution;

6-4 (5) adopt an official seal; and

6-5 (6) adopt and publish a code of ethics.

6-6 SECTION 21. Section 603.152, Occupations Code, is amended
6-7 to read as follows:

6-8 Sec. 603.152. GENERAL RULEMAKING AUTHORITY. [~~(a)~~] The
6-9 executive commissioner [board] may adopt rules necessary to:

6-10 (1) regulate the practice of perfusion;

6-11 (2) enforce this chapter; and

6-12 (3) ~~[govern board proceedings; and~~

6-13 [~~(4)~~] perform department [board] duties.

6-14 [~~(b) In adopting rules, the board shall consider the rules~~
6-15 ~~and procedures of the Texas Board of Health and the department and~~
6-16 ~~shall adopt procedural rules consistent with rules and procedures~~
6-17 ~~of those entities.]~~

6-18 SECTION 22. Section 603.153, Occupations Code, is amended
6-19 to read as follows:

6-20 Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE
6-21 BIDDING. (a) The executive commissioner [board] may not adopt a
6-22 rule restricting advertising or competitive bidding by a person
6-23 regulated by the department [board] except to prohibit a false,
6-24 misleading, or deceptive practice.

6-25 (b) The executive commissioner [board] may not include in
6-26 rules to prohibit a false, misleading, or deceptive practice by a
6-27 person regulated by the department [board] a rule that:

6-28 (1) restricts the person's use of any medium for
6-29 advertising;

6-30 (2) restricts the person's personal appearance or use
6-31 of the person's voice in an advertisement;

6-32 (3) relates to the size or duration of any
6-33 advertisement by the person; or

6-34 (4) restricts the use by the person of a trade name in
6-35 advertising.

6-36 SECTION 23. Subchapter D, Chapter 603, Occupations Code, is
6-37 amended by adding Section 603.1535 to read as follows:

6-38 Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL
6-39 CONVICTION. (a) The executive commissioner shall adopt rules
6-40 necessary to comply with Chapter 53.

6-41 (b) In rules under this section, the executive commissioner
6-42 shall list the specific offenses for which a conviction would
6-43 constitute grounds for the commissioner to take action under
6-44 Section 53.021.

6-45 SECTION 24. Section 603.154, Occupations Code, is amended
6-46 to read as follows:

6-47 Sec. 603.154. FEES. After consulting the commissioner or
6-48 the department, the executive commissioner [board] shall set fees
6-49 in amounts reasonable and necessary to cover the costs of
6-50 administering this chapter.

6-51 SECTION 25. Section 603.155, Occupations Code, is amended
6-52 to read as follows:

6-53 Sec. 603.155. EXECUTIVE COMMISSIONER AND DEPARTMENT
6-54 [BOARD] DUTIES REGARDING COMPLAINTS. (a) The executive
6-55 commissioner [board] by rule shall:

6-56 (1) adopt a form to standardize information concerning
6-57 complaints made to the department [board]; and

6-58 (2) prescribe information to be provided to a person
6-59 when the person files a complaint with the department [board].

6-60 (b) The department [board] shall provide reasonable
6-61 assistance to a person who wishes to file a complaint with the
6-62 department [board].

6-63 SECTION 26. Section 603.156, Occupations Code, is amended
6-64 to read as follows:

6-65 Sec. 603.156. REGISTRY. The department [board] shall
6-66 prepare a registry of licensed perfusionists and provisionally
6-67 licensed perfusionists that is available to the public, license
6-68 holders, and appropriate state agencies.

6-69 SECTION 27. Subsection (a), Section 603.157, Occupations

7-1 Code, is amended to read as follows:

7-2 (a) The department [board] shall file annually with the
7-3 governor and the presiding officer of each house of the legislature
7-4 a complete and detailed written report accounting for all money
7-5 received and disbursed by the ~~[board or the]~~ department for the
7-6 administration of this chapter during the preceding year.

7-7 SECTION 28. Subchapter D, Chapter 603, Occupations Code, is
7-8 amended by adding Sections 603.158 and 603.159 to read as follows:

7-9 Sec. 603.158. USE OF TECHNOLOGY. The executive
7-10 commissioner shall implement a policy requiring the department to
7-11 use appropriate technological solutions to improve the
7-12 department's ability to perform its functions. The policy must
7-13 ensure that the public is able to interact with the department on
7-14 the Internet.

7-15 Sec. 603.159. NEGOTIATED RULEMAKING AND ALTERNATIVE
7-16 DISPUTE RESOLUTION POLICY. (a) The executive commissioner shall
7-17 develop and implement a policy to encourage the use of:

7-18 (1) negotiated rulemaking procedures under Chapter
7-19 2008, Government Code, for the adoption of rules; and

7-20 (2) appropriate alternative dispute resolution
7-21 procedures under Chapter 2009, Government Code, to assist in the
7-22 resolution of internal and external disputes under the department's
7-23 jurisdiction.

7-24 (b) The department's procedures relating to alternative
7-25 dispute resolution must conform, to the extent possible, to any
7-26 model guidelines issued by the State Office of Administrative
7-27 Hearings for the use of alternative dispute resolution by state
7-28 agencies.

7-29 (c) The commissioner shall designate a trained person to:

7-30 (1) coordinate the implementation of the policy
7-31 adopted under Subsection (a);

7-32 (2) serve as a resource for any training needed to
7-33 implement the procedures for negotiated rulemaking or alternative
7-34 dispute resolution; and

7-35 (3) collect data concerning the effectiveness of those
7-36 procedures, as implemented by the department.

7-37 SECTION 29. Section 603.201, Occupations Code, is amended
7-38 to read as follows:

7-39 Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The
7-40 department [board] shall prepare information of consumer interest
7-41 describing the profession of perfusion, the regulatory functions of
7-42 the department [board], and the procedures by which consumer
7-43 complaints are filed with and resolved by the department [board].

7-44 (b) The department [board] shall make the information
7-45 available to the public and appropriate state agencies.

7-46 SECTION 30. Section 603.202, Occupations Code, is amended
7-47 to read as follows:

7-48 Sec. 603.202. COMPLAINTS. (a) The executive commissioner
7-49 [board] by rule shall establish methods by which consumers and
7-50 service recipients are notified of the name, mailing address, and
7-51 telephone number of the department [board] for the purpose of
7-52 directing complaints to the department [board]. The department
7-53 [board] may provide for that notice:

7-54 (1) on each license form, application, or written
7-55 contract for services of a person licensed under this chapter;

7-56 (2) on a sign prominently displayed in the place of
7-57 business of each person licensed under this chapter; or

7-58 (3) in a bill for services provided by a person
7-59 licensed under this chapter.

7-60 (b) The department [board] shall list with its regular
7-61 telephone number any toll-free telephone number established under
7-62 other state law that may be called to present a complaint about a
7-63 health professional.

7-64 SECTION 31. Section 603.203, Occupations Code, is amended
7-65 to read as follows:

7-66 Sec. 603.203. RECORDS OF COMPLAINTS. (a) The department
7-67 [board] shall maintain a system to promptly and efficiently act on
7-68 complaints filed with the department. The department shall
7-69 maintain:

8-1 (1) information about the parties to the complaint and
8-2 the subject matter of the complaint;
8-3 (2) a summary of the results of the review or
8-4 investigation of the complaint; and
8-5 (3) information about the disposition of the complaint
8-6 [keep an information file about each complaint filed with the
8-7 board. The information file must be kept current and contain a
8-8 record for each complaint of:
8-9 [~~(1) each person contacted in relation to the~~
8-10 ~~complaint;~~
8-11 [~~(2) a summary of findings made at each step of the~~
8-12 ~~complaint process;~~
8-13 [~~(3) an explanation of the legal basis and reason for a~~
8-14 ~~complaint that is dismissed;~~
8-15 [~~(4) the schedule established for the complaint under~~
8-16 ~~Section 603.204(b) and a notation of any change in the schedule; and~~
8-17 [~~(5) other relevant information].~~
8-18 (b) The department shall make information available
8-19 describing its procedures for complaint investigation and
8-20 resolution.
8-21 (c) The department shall periodically notify the parties of
8-22 the status of the complaint until final disposition of the
8-23 complaint [~~If a written complaint is filed with the board that the~~
8-24 ~~board has authority to resolve, the board, at least quarterly and~~
8-25 ~~until final disposition of the complaint, shall notify the parties~~
8-26 ~~to the complaint of the status of the complaint unless notice would~~
8-27 ~~jeopardize an undercover investigation].
8-28 SECTION 32. Subsections (a), (b), and (d), Section 603.204,
8-29 Occupations Code, are amended to read as follows:
8-30 (a) The executive commissioner [~~board~~] shall adopt rules
8-31 concerning the investigation of a complaint filed with the
8-32 department [~~board~~]. The rules shall:
8-33 (1) distinguish among categories of complaints;
8-34 (2) ensure that a complaint is not dismissed without
8-35 appropriate consideration;
8-36 (3) require that the commissioner [~~board~~] be advised
8-37 of a complaint that is dismissed and that a letter be sent to the
8-38 person who filed the complaint explaining the action taken on the
8-39 dismissed complaint;
8-40 (4) ensure that the person who filed the complaint has
8-41 an opportunity to explain the allegations made in the complaint;
8-42 and
8-43 (5) prescribe guidelines concerning the categories of
8-44 complaints that require the use of a private investigator and the
8-45 procedures for the department [~~board~~] to obtain the services of a
8-46 private investigator.
8-47 (b) The department [~~board~~] shall:
8-48 (1) dispose of each complaint in a timely manner; and
8-49 (2) establish, not later than the 30th day after the
8-50 date the department [~~board~~] receives a complaint, a schedule for
8-51 conducting each phase of the complaint resolution process that is
8-52 under the control of the department [~~board~~].
8-53 (d) The executive secretary shall notify the commissioner
8-54 [~~board~~] of a complaint that is not resolved within the time
8-55 prescribed by the commissioner [~~board~~] for resolving the complaint
8-56 so that the commissioner [~~board~~] may take necessary action on the
8-57 complaint.
8-58 SECTION 33. Subsections (a), (c), (e), (f), (h), and (i),
8-59 Section 603.2041, Occupations Code, are amended to read as follows:
8-60 (a) In an investigation of a complaint filed with the
8-61 department [~~board~~], the department [~~board~~] may request that the
8-62 commissioner or the commissioner's designee approve the issuance of
8-63 a subpoena. If the request is approved, the department [~~board~~] may
8-64 issue a subpoena to compel the attendance of a relevant witness or
8-65 the production, for inspection or copying, of relevant evidence
8-66 that is in this state.
8-67 (c) If a person fails to comply with a subpoena, the
8-68 department [~~board~~], acting through the attorney general, may file
8-69 suit to enforce the subpoena in a district court in Travis County or~~

9-1 in the county in which a hearing conducted by the department [~~board~~]
9-2 may be held.

9-3 (e) The commissioner [~~board~~] may delegate the authority
9-4 granted under Subsection (a) to the executive secretary of the
9-5 committee [~~board~~].

9-6 (f) The department [~~board~~] shall pay a reasonable fee for
9-7 photocopies subpoenaed under this section in an amount not to
9-8 exceed the amount the department [~~board~~] may charge for copies of
9-9 its records.

9-10 (h) All information and materials subpoenaed or compiled by
9-11 the department [~~board~~] in connection with a complaint and
9-12 investigation are confidential and not subject to disclosure under
9-13 Chapter 552, Government Code, and not subject to disclosure,
9-14 discovery, subpoena, or other means of legal compulsion for their
9-15 release to anyone other than the department [~~board~~] or its agents or
9-16 employees involved in discipline of the holder of a license, except
9-17 that this information may be disclosed to:

9-18 (1) persons involved with the department [~~board~~] in a
9-19 disciplinary action against the holder of a license;

9-20 (2) professional perfusionist licensing or
9-21 disciplinary boards in other jurisdictions;

9-22 (3) peer assistance programs approved by the
9-23 department [~~board~~] under Chapter 467, Health and Safety Code;

9-24 (4) law enforcement agencies; and

9-25 (5) persons engaged in bona fide research, if all
9-26 individual-identifying information has been deleted.

9-27 (i) The filing of formal charges by the department [~~board~~]
9-28 against a holder of a license, the nature of those charges,
9-29 disciplinary proceedings of the department [~~board~~], and final
9-30 disciplinary actions, including warnings and reprimands, by the
9-31 department [~~board~~] are not confidential and are subject to
9-32 disclosure in accordance with Chapter 552, Government Code.

9-33 SECTION 34. Section 603.205, Occupations Code, is amended
9-34 to read as follows:

9-35 Sec. 603.205. PUBLIC PARTICIPATION. (a) The State Health
9-36 Services Council [~~board~~] shall develop and implement policies that
9-37 provide the public with a reasonable opportunity to appear before
9-38 the State Health Services Council [~~board~~] and to speak on any issue
9-39 related to the practice of perfusion [~~under the board's~~
9-40 ~~jurisdiction~~].

9-41 (b) The commissioner [~~board~~] shall prepare and maintain a
9-42 written plan that describes how a person who does not speak English
9-43 or who has a physical, mental, or developmental disability may be
9-44 provided reasonable access to the department's [~~board's~~] programs.

9-45 SECTION 35. Subsection (b), Section 603.252, Occupations
9-46 Code, is amended to read as follows:

9-47 (b) The executive commissioner [~~board~~] shall prescribe the
9-48 application form and by rule may establish dates by which
9-49 applications and fees must be received.

9-50 SECTION 36. Section 603.253, Occupations Code, is amended
9-51 to read as follows:

9-52 Sec. 603.253. COMPETENCY EXAMINATION. (a) An applicant
9-53 must pass a competency examination to qualify for a license under
9-54 this chapter.

9-55 (b) The department [~~board~~] shall prepare or approve an
9-56 examination. The department [~~board~~] may prescribe an examination
9-57 that consists of or includes a written [~~or oral~~] examination given
9-58 by the American Board of Cardiovascular Perfusion or by a national
9-59 or state testing service.

9-60 (c) The department [~~board~~] shall have any written portion of
9-61 the examination validated by an independent testing professional.

9-62 (d) The department [~~board~~] shall administer an examination
9-63 to qualified applicants at least once each calendar year.

9-64 (e) On receipt of an application and application fee, the
9-65 department [~~board~~] shall waive the examination requirement for an
9-66 applicant who, at the time of application:

9-67 (1) is licensed or certified by another state that has
9-68 licensing or certification requirements the department [~~board~~]
9-69 determines to be substantially equivalent to the requirements of

10-1 this chapter; or

10-2 (2) holds a certificate as a certified clinical
10-3 perfusionist issued by the American Board of Cardiovascular
10-4 Perfusion before January 1, 1994, authorizing the holder to
10-5 practice perfusion in a state that does not license or certify
10-6 perfusionists.

10-7 SECTION 37. Subchapter F, Chapter 603, Occupations Code, is
10-8 amended by adding Section 603.2535 to read as follows:

10-9 Sec. 603.2535. JURISPRUDENCE EXAMINATION. (a) An
10-10 applicant must pass a jurisprudence examination to qualify for a
10-11 license under this chapter.

10-12 (b) The department shall develop and administer at least
10-13 twice each calendar year a jurisprudence examination to determine
10-14 an applicant's knowledge of this chapter, rules adopted by the
10-15 executive commissioner, and any other applicable laws of this state
10-16 affecting the applicant's practice of perfusion.

10-17 (c) The executive commissioner shall adopt rules to
10-18 implement this section, including rules related to the development
10-19 and administration of the examination, examination fees,
10-20 guidelines for reexamination, grading the examination, and
10-21 providing notice of examination results.

10-22 SECTION 38. Section 603.254, Occupations Code, is amended
10-23 to read as follows:

10-24 Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To
10-25 qualify for the licensing examinations [~~examination~~] under this
10-26 chapter, an applicant must have successfully completed a perfusion
10-27 education program approved by the department [~~board~~].

10-28 (b) The department [~~board~~] may approve a perfusion
10-29 education program only if the program has educational standards
10-30 that are:

10-31 (1) at least as stringent as those established by the
10-32 Accreditation Committee for Perfusion Education of the American
10-33 Medical Association or its successor; and

10-34 (2) approved by the Commission on Accreditation of the
10-35 Allied Health Education Program of the American Medical Association
10-36 or its successor.

10-37 SECTION 39. Subsection (a), Section 603.255, Occupations
10-38 Code, is amended to read as follows:

10-39 (a) The department shall notify an applicant in writing of
10-40 the receipt and investigation of the applicant's application and
10-41 any other relevant evidence relating to qualifications established
10-42 by an executive commissioner [~~board~~] rule not later than:

10-43 (1) the 45th day after the date a properly submitted
10-44 and timely application is received; and

10-45 (2) the 30th day before the next examination date.

10-46 SECTION 40. Section 603.257, Occupations Code, is amended
10-47 to read as follows:

10-48 Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO
10-49 EXAMINATION. The executive commissioner [~~board~~] by rule shall
10-50 establish:

10-51 (1) a limit on the number of times an applicant who
10-52 fails an examination may retake the examination;

10-53 (2) requirements for retaking an examination; and

10-54 (3) alternative methods of examining competency.

10-55 SECTION 41. Subsections (a), (c), and (d), Section 603.259,
10-56 Occupations Code, are amended to read as follows:

10-57 (a) The department [~~board~~] may issue a provisional license
10-58 to an applicant who files an application, pays an application fee,
10-59 and submits evidence satisfactory to the department [~~board~~] of
10-60 successful completion of the education requirement under Section
10-61 603.254.

10-62 (c) A provisionally licensed perfusionist must practice
10-63 under the supervision and direction of a licensed perfusionist
10-64 while performing perfusion. If the department [~~board~~] finds that a
10-65 licensed perfusionist is not reasonably available to provide
10-66 supervision and direction and if the department [~~board~~] approves an
10-67 application submitted to the department [~~board~~] by the
10-68 provisionally licensed perfusionist, supervision and direction may
10-69 be provided by a physician who is licensed by the Texas State Board

11-1 of Medical Examiners and certified by the American Board of
 11-2 Thoracic Surgeons, Inc., or certified in cardiovascular surgery by
 11-3 the American Osteopathic Board of Surgery.

11-4 (d) The executive commissioner [~~board~~] may not adopt a rule
 11-5 governing supervision and direction that requires the immediate
 11-6 physical presence of the supervising person.

11-7 SECTION 42. Section 603.301, Occupations Code, is amended
 11-8 to read as follows:

11-9 Sec. 603.301. LICENSE RENEWAL. (a) A license is valid for
 11-10 two years [~~one year~~] from the date of issuance and may be renewed
 11-11 biennially [~~annually~~].

11-12 (b) The executive commissioner [~~Texas Board of Health~~] by
 11-13 rule may adopt a system under which licenses expire on various dates
 11-14 during the year.

11-15 (c) A person may renew an unexpired license by paying the
 11-16 required renewal fee to the department before the license
 11-17 expiration date.

11-18 (d) A person whose license has been expired for 90 days or
 11-19 less may renew the license by paying to the department [~~the required~~
 11-20 ~~renewal fee and~~] a fee that is equal to 1-1/4 times [~~half~~] the
 11-21 amount of the renewal fee [~~for the license~~]. If a license has been
 11-22 expired for more than 90 days but less than one year [~~two years~~],
 11-23 the person may renew the license by paying to the department [~~all~~
 11-24 ~~unpaid renewal fees and~~] a fee that is equal to 1-1/2 times
 11-25 the amount of the renewal fee [~~for the license~~].

11-26 (e) Except as provided by Section 603.303, a person whose
 11-27 license has been expired for one year [~~two years~~] or more may not
 11-28 renew the license. The person may obtain a new license by
 11-29 submitting to reexamination and complying with the requirements and
 11-30 procedures for obtaining an original license.

11-31 (f) Before the 30th day before a person's license expiration
 11-32 date, the department shall send written notice of the impending
 11-33 license expiration to the person at the person's last known address
 11-34 according to department [~~board~~] records.

11-35 SECTION 43. Section 603.303, Occupations Code, is amended
 11-36 to read as follows:

11-37 Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
 11-38 PRACTITIONER. (a) The department [~~board~~] may renew without
 11-39 reexamination an expired license of a person who was licensed as a
 11-40 perfusionist in this state, moved to another state, and is licensed
 11-41 or certified and has been in practice in the other state for the two
 11-42 years preceding the date the person applies for renewal.

11-43 (b) The person must pay to the department [~~board~~] a fee that
 11-44 is equal to the amount of the renewal [~~examination~~] fee for the
 11-45 license.

11-46 SECTION 44. Section 603.304, Occupations Code, is amended
 11-47 to read as follows:

11-48 Sec. 603.304. CONTINUING EDUCATION. (a) To renew a
 11-49 license under this chapter, a person must submit proof satisfactory
 11-50 to the department [~~board~~] that the person has complied with the
 11-51 continuing education requirements prescribed by the department
 11-52 [~~board~~].

11-53 (b) The executive commissioner [~~board~~] shall establish
 11-54 continuing education programs for licensed perfusionists and
 11-55 provisionally licensed perfusionists under this chapter. The
 11-56 standards of the programs must be at least as stringent as the
 11-57 standards of the American Board of Cardiovascular Perfusion or its
 11-58 successor.

11-59 (c) The executive commissioner [~~board~~] shall:

11-60 (1) establish a minimum number of hours of continuing
 11-61 education required for license renewal under this chapter; and

11-62 (2) develop a process to evaluate and approve
 11-63 continuing education courses.

11-64 (d) The executive commissioner [~~board~~] shall identify key
 11-65 factors for a license holder's competent performance of
 11-66 professional duties. The executive commissioner [~~board~~] shall
 11-67 adopt a procedure to assess a license holder's participation in
 11-68 continuing education programs.

11-69 SECTION 45. Subchapter G, Chapter 603, Occupations Code, is

12-1 amended by adding Section 603.305 to read as follows:

12-2 Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The department
 12-3 may refuse to renew the license of a person who fails to pay an
 12-4 administrative penalty imposed under Subchapter K unless
 12-5 enforcement of the penalty is stayed or a court has ordered that the
 12-6 administrative penalty is not owed.

12-7 SECTION 46. Section 603.353, Occupations Code, is amended
 12-8 to read as follows:

12-9 Sec. 603.353. SURRENDER OF LICENSE. A license certificate
 12-10 issued by the department [~~board~~] is the property of the department
 12-11 [~~board~~] and shall be surrendered on demand.

12-12 SECTION 47. Section 603.401, Occupations Code, is amended
 12-13 to read as follows:

12-14 Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a
 12-15 license holder violates this chapter or a rule or code of ethics
 12-16 adopted by the executive commissioner [~~board~~], the department
 12-17 [~~board~~] shall:

- 12-18 (1) revoke or suspend the license;
- 12-19 (2) place on probation the person if the person's
 12-20 license has been suspended; [~~or~~]
- 12-21 (3) reprimand the license holder; or
- 12-22 (4) refuse to renew the license.

12-23 SECTION 48. Section 603.402, Occupations Code, is amended
 12-24 to read as follows:

12-25 Sec. 603.402. HEARING. (a) If the department [~~board~~]
 12-26 proposes to revoke, [~~or~~] suspend, or refuse to renew a person's
 12-27 license, the person is entitled to a hearing before a hearings
 12-28 officer appointed by the State Office of Administrative Hearings.

12-29 (b) The executive commissioner [~~board~~] shall prescribe
 12-30 procedures for appealing to the commissioner [~~board~~] a decision to
 12-31 revoke, [~~or~~] suspend, or refuse to renew a license.

12-32 SECTION 49. Section 603.403, Occupations Code, is amended
 12-33 to read as follows:

12-34 Sec. 603.403. ADMINISTRATIVE PROCEDURE. A proceeding under
 12-35 this subchapter to suspend, [~~or~~] revoke, or refuse to renew a
 12-36 license is governed by Chapter 2001, Government Code.

12-37 SECTION 50. Subsection (a), Section 603.404, Occupations
 12-38 Code, is amended to read as follows:

12-39 (a) The executive commissioner [~~board~~] by rule shall adopt a
 12-40 broad schedule of sanctions for a violation of this chapter.

12-41 SECTION 51. Section 603.405, Occupations Code, is amended
 12-42 to read as follows:

12-43 Sec. 603.405. PROBATION. The department [~~board~~] may
 12-44 require a person whose license suspension is probated to:

12-45 (1) report regularly to the department [~~board~~] on
 12-46 matters that are the basis of the probation;

12-47 (2) limit practice to areas prescribed by the
 12-48 department [~~board~~]; or

12-49 (3) continue the person's professional education until
 12-50 the license holder attains a degree of skill satisfactory to the
 12-51 department [~~board~~] in those areas that are the basis of the
 12-52 probation.

12-53 SECTION 52. Section 603.406, Occupations Code, is amended
 12-54 to read as follows:

12-55 Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The
 12-56 executive commissioner [~~board~~] by rule shall develop a system for
 12-57 monitoring a license holder's compliance with the requirements of
 12-58 this chapter.

12-59 (b) Rules adopted under this section must include
 12-60 procedures to:

12-61 (1) monitor for compliance a license holder who is
 12-62 ordered by the department [~~board~~] to perform certain acts; and

12-63 (2) identify and monitor license holders who represent
 12-64 a risk to the public.

12-65 SECTION 53. Section 603.407, Occupations Code, is amended
 12-66 to read as follows:

12-67 Sec. 603.407. INFORMAL PROCEDURES. (a) The executive
 12-68 commissioner [~~board~~] by rule shall adopt procedures governing:

12-69 (1) informal disposition of a contested case under

13-1 Section 2001.056, Government Code; and

13-2 (2) an informal proceeding held in compliance with
13-3 Section 2001.054, Government Code.

13-4 (b) Rules adopted under Subsection (a) must:

13-5 (1) provide the complainant and the license holder an
13-6 opportunity to be heard; and

13-7 (2) require the presence of a representative of the
13-8 attorney general or the department's ~~[board's]~~ legal counsel to
13-9 advise the department ~~[board]~~ or the department's ~~[board's]~~
13-10 employees.

13-11 SECTION 54. Subsection (a), Section 603.408, Occupations
13-12 Code, is amended to read as follows:

13-13 (a) The department ~~[board or a three-member committee of~~
13-14 ~~board members designated by the board]~~ shall temporarily suspend
13-15 the license of a license holder if the department ~~[board or~~
13-16 ~~committee]~~ determines from the evidence or information presented to
13-17 it that continued practice by the license holder would constitute a
13-18 continuing and imminent threat to the public welfare.

13-19 SECTION 55. Subchapter I, Chapter 603, Occupations Code, is
13-20 amended by adding Section 603.409 to read as follows:

13-21 Sec. 603.409. REFUND. (a) Subject to Subsection (b), the
13-22 department may order a license holder to pay a refund to a consumer
13-23 as provided in an agreement resulting from an informal settlement
13-24 conference instead of or in addition to imposing an administrative
13-25 penalty under this chapter.

13-26 (b) The amount of a refund ordered as provided in an
13-27 agreement resulting from an informal settlement conference may not
13-28 exceed the amount the consumer paid to the license holder for a
13-29 service regulated by this chapter. The department may not require
13-30 payment of other damages or estimate harm in a refund order.

13-31 SECTION 56. Subsection (a), Section 603.451, Occupations
13-32 Code, is amended to read as follows:

13-33 (a) The department ~~[board]~~ may request the attorney general
13-34 or the appropriate county or district attorney to commence an
13-35 action to enjoin a violation of this chapter.

13-36 SECTION 57. Section 603.4515, Occupations Code, is amended
13-37 to read as follows:

13-38 Sec. 603.4515. CIVIL PENALTY. (a) A person who violates
13-39 this chapter, ~~or~~ a rule ~~[or order]~~ adopted by the executive
13-40 commissioner, or an order adopted by the commissioner ~~[board]~~ under
13-41 this chapter is liable for a civil penalty not to exceed \$5,000 a
13-42 day.

13-43 (b) At the request of the department ~~[board]~~, the attorney
13-44 general shall bring an action to recover a civil penalty authorized
13-45 under this section.

13-46 SECTION 58. Subchapter J, Chapter 603, Occupations Code, is
13-47 amended by adding Section 603.453 to read as follows:

13-48 Sec. 603.453. CEASE AND DESIST ORDER. (a) If it appears to
13-49 the commissioner that a person who is not licensed under this
13-50 chapter is violating this chapter, a rule adopted under this
13-51 chapter, or another state statute or rule relating to the practice
13-52 of perfusion, the commissioner after notice and an opportunity for
13-53 a hearing may issue a cease and desist order prohibiting the person
13-54 from engaging in the activity.

13-55 (b) A violation of an order under this section constitutes
13-56 grounds for imposing an administrative penalty under this chapter.

13-57 SECTION 59. Section 603.501, Occupations Code, is amended
13-58 to read as follows:

13-59 Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The
13-60 department ~~[board]~~ may impose an administrative penalty on a person
13-61 licensed under this chapter who violates this chapter or a rule or
13-62 order adopted under this chapter.

13-63 SECTION 60. Section 603.502, Occupations Code, is amended
13-64 by adding Subsection (c) to read as follows:

13-65 (c) The executive commissioner by rule shall adopt an
13-66 administrative penalty schedule based on the criteria listed in
13-67 Subsection (b) for violations of this chapter or applicable rules
13-68 to ensure that the amounts of penalties imposed are appropriate to
13-69 the violation. The executive commissioner shall provide the

14-1 administrative penalty schedule to the public on request.

14-2 SECTION 61. Subsection (a), Section 603.503, Occupations
14-3 Code, is amended to read as follows:

14-4 (a) If the commissioner or the commissioner's designee
14-5 determines that a violation occurred, the commissioner or the
14-6 designee may issue to the department [~~board~~] a report stating:

- 14-7 (1) the facts on which the determination is based; and
- 14-8 (2) the commissioner's or the designee's
- 14-9 recommendation on the imposition of an administrative penalty,
- 14-10 including a recommendation on the amount of the penalty.

14-11 SECTION 62. Subsection (b), Section 603.504, Occupations
14-12 Code, is amended to read as follows:

14-13 (b) If the person accepts the determination and recommended
14-14 penalty of the commissioner or the commissioner's designee, the
14-15 commissioner [~~board~~] by order shall approve the determination and
14-16 impose the recommended penalty.

14-17 SECTION 63. Subsection (c), Section 603.505, Occupations
14-18 Code, is amended to read as follows:

14-19 (c) The administrative law judge shall make findings of fact
14-20 and conclusions of law and promptly issue to the commissioner
14-21 [~~board~~] a proposal for a decision about the occurrence of the
14-22 violation and the amount of a proposed administrative penalty.

14-23 SECTION 64. Section 603.506, Occupations Code, is amended
14-24 to read as follows:

14-25 Sec. 603.506. DECISION BY COMMISSIONER [~~BOARD~~]. (a) Based
14-26 on the findings of fact, conclusions of law, and proposal for
14-27 decision, the commissioner [~~board~~] by order may determine that:

- 14-28 (1) a violation occurred and impose an administrative
- 14-29 penalty; or
- 14-30 (2) a violation did not occur.

14-31 (b) The notice of the commissioner's [~~board's~~] order given
14-32 to the person must include a statement of the right of the person to
14-33 judicial review of the order.

14-34 SECTION 65. Subsections (a) and (b), Section 603.507,
14-35 Occupations Code, are amended to read as follows:

14-36 (a) Within 30 days after the date the commissioner's
14-37 [~~board's~~] order becomes final, the person shall:

- 14-38 (1) pay the administrative penalty; or
- 14-39 (2) file a petition for judicial review contesting the
- 14-40 occurrence of the violation, the amount of the penalty, or both.

14-41 (b) Within the 30-day period prescribed by Subsection (a), a
14-42 person who files a petition for judicial review may:

- 14-43 (1) stay enforcement of the penalty by:
 - 14-44 (A) paying the penalty to the court for placement
 - 14-45 in an escrow account; or
 - 14-46 (B) giving the court a supersedeas bond approved
 - 14-47 by the court that:
 - 14-48 (i) is for the amount of the penalty; and
 - 14-49 (ii) is effective until all judicial review

14-50 of the commissioner's [~~board's~~] order is final; or

- 14-51 (2) request the court to stay enforcement of the
- 14-52 penalty by:

14-53 (A) filing with the court a sworn affidavit of
14-54 the person stating that the person is financially unable to pay the
14-55 penalty and is financially unable to give the supersedeas bond; and

14-56 (B) giving a copy of the affidavit to the
14-57 commissioner or the commissioner's designee by certified mail.

14-58 SECTION 66. Subsection (b), Section 603.103 and Section
14-59 603.104, Occupations Code, are repealed.

14-60 SECTION 67. (a) The Texas State Board of Examiners of
14-61 Perfusionists is abolished on the effective date of this Act.

14-62 (b) As soon as possible after the effective date of this
14-63 Act, the commissioner of state health services shall appoint the
14-64 members of the Texas State Perfusionist Advisory Committee as
14-65 provided by Section 603.051, Occupations Code, as amended by this
14-66 Act. In making initial appointments to the committee, the
14-67 commissioner of state health services shall designate one member
14-68 for a term expiring February 1, 2007, two members for terms expiring
14-69 February 1, 2009, and two members for terms expiring February 1,

2011.

SECTION 68. (a) Not later than January 1, 2006, the executive commissioner of the Health and Human Services Commission shall:

- (1) adopt the policies required by Sections 603.158 and 603.159, Occupations Code, as added by this Act; and
- (2) adopt the rules required by Chapter 603, Occupations Code, as amended by this Act.

(b) Not later than March 1, 2006, the Department of State Health Services shall develop the jurisprudence examination required by Section 603.2535, Occupations Code, as added by this Act.

SECTION 69. (a) The changes in law made by this Act related to the filing or investigation of a complaint under Chapter 603, Occupations Code, as amended by this Act, apply only to a complaint filed with the Department of State Health Services on or after the effective date of this Act. A complaint filed before the effective date of this Act is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act governing the eligibility of a person for a license under Chapter 603, Occupations Code, apply only to an application for a license filed with the Department of State Health Services under Chapter 603, Occupations Code, as amended by this Act, on or after the effective date of this Act. A license application filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act with respect to conduct that is grounds for imposition of a disciplinary sanction, including a refund or a cease and desist order, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

(d) The change in law made by Section 603.2535, Occupations Code, as added by this Act, regarding the jurisprudence examination, applies only to an application for a license filed with the Department of State Health Services under Chapter 603, Occupations Code, as amended by this Act, on or after September 1, 2006.

SECTION 70. Notwithstanding Section 603.301, Occupations Code, as amended by this Act, the fees for an applicant renewing an expired license under Chapter 603, Occupations Code, before September 1, 2007, are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. An applicant who renews an expired license under Chapter 603, Occupations Code, on or after September 1, 2007, is subject to the fees provided by Section 603.301, Occupations Code, as amended by this Act.

SECTION 71. This Act takes effect September 1, 2005.

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