UNDERSTANDING THE CONUNDRUM OF LICENSURE AS A BEST PRACTICE INITIATIVE

Robert Longenecker, BS, CCP, LCP
Manager, Perfusion Services
St. John’s Mercy Medical Center
St. Louis, Missouri, USA
Chairman, AmSECT Government Relations Committee
HISTORICAL PERSPECTIVE

Roots of AmSECT G.R.C. program began in 1989 with a California Respiratory Therapy bill.

Perfusionists could have been enjoined from operating heart lung machines & ECMO.

Perfusion was not a legally credentialed profession.

CA law prohibited licensed practitioners from delegating responsibilities to non-licensed health care practitioners.
HISTORICAL PERSPECTIVE

- The outcome in CA was a titling act.
- Prior to 1991, AmSECT responded to legislative actions with the assistance of volunteer members.
- In 1991, AmSECT’s Government Relations Program was established to respond to public health, & legislative and regulatory issues affecting perfusionists.
GRC MISSION STATEMENT

The mission of the Government Relations Program is to inform, support, and prepare the membership to effectively engage medical practice public policy issues affecting the perfusion profession and the delivery of high quality patient care.
PROVIDING ASSISTANCE

- **Inform, support, & prepare** the membership to engage in public policy forums and the legislative process.
- **Educate** the membership on how to operate effectively in state and federal political arenas.
- **Encourage** grass-roots participation by perfusionists in order to shape legislative and regulatory outcomes.
- Serve as a **resource** for legislative strategy.
PROVIDING ASSISTANCE

- **Monitor and supply data** on state and federal legislation, regulations, & actions by other health care providers, that affect perfusion.
- **Build relationships** between state societies, state medical organizations, and the entire health care community.
- **Support** the development of state societies by targeting financial and programmatic assistance to states seeking to upgrade the status of the profession by legal credentialing.
TWO FACTS

- It is estimated that since 1995, virtually all perfusionists have experienced a state legislative scope of practice threat.
- The health care system is in a constant state of evolution; its future will be shaped by legislative decisions made by state and federal legislatures.
A SOLUTION

- Mandated legal standards (credentialing).
- The key to the issue of non-legal or legal credentialing is the difference between voluntary and mandatory standards.
- Both certification and licensure seek to have qualified personnel performing perfusion to protect the public.
- Licensure makes it mandatory.
FIVE MORE FACTS

- Legal credentialing is used to set minimum levels of medical provider qualifications.
- Perfusionists must have protection against others overriding their professional judgments.
- We must legally claim our scope of practice.
- Typically malpractice liability limits apply only for licensed health care providers.
- No statute means perfusionists are unlicensed assistive personnel who are violating state laws.
  (practicing medicine w/o license)
THE REALITY

- It takes well-defined & organized effective lobbying strategies to deal with issues in the current health care environment.
- Initiatives regarding reimbursement, public safety, professional recognition, and scope of practice are being debated and decided by lawmakers in nearly every legislative session.
- Perfusionists must be a part of that process.

SCOPE OF PRACTICE CANNOT BE ENFORCED UNLESS IT IS WRITTEN INTO STATUTE
GOVERNMENT RELATIONS 101

- Health care legislation exists to serve the greater public interest.
- A recognized voice in state government.
- Protection of scope of practice issues.
- Proactive versus reactive posture.
- Who referees scope of practice issues?
- Awareness of all state health care issues.
- Take charge of professional interests legislatively!
- Key point: knowledge = power!
STATE PERFUSION SOCIETY

- Represents perfusionists’ professional interests.
- Recognized vehicle to speak a unified professional voice “beyond the hospital”.
- Protects your scope of practice through advocacy.
- Advances positive professional legislation.
- Defends against adverse legislation.
- Recognized organization in state government.
LICENSURE

- Highest level of legal credentialing.
- Academic, examination, and continuing education standards are mandated by law.
- Must possess a license to perform the medical scope of practice.
- Contains the mechanism to revoke a license.
- Enables physicians to delegate tasks.
- Guarantees a process to hear complaints and adjudicate practice violations.
OBTAINING A LICENSE

By Traditional Pathway:

A. Graduate of an accredited educational program. (CAHEA or CAAHEP)
B. Passed a competency examination.

By Endorsement:

Acceptance of the CCP as an equivalent of the state’s licensure standards.
OBTAINING A LICENSE

By Reciprocity:
Possess a license in another state.

By Grand-fathering:
A. X out of Y years of practice.
B. Cannot meet educational criteria.
C. Non-ABCP certified.
THE PROFESSIONAL LICENSE

- Mandated by law.
- Defines scope of practice.
- Defines minimum standards to practice.
- Defines yearly requirements to renew.
- If requirements cannot be met: no license and practice is forbidden.
- Likely has other state stipulations.
PROFESSIONAL CERTIFICATION

- Voluntary examination of knowledge base.
- Might not be required by law to work in state.
- May or may not be given by the state.
- Requires periodic examination or other requirements to keep.
- Time frame to obtain it can vary if exist at all.
- Valuable credential, but alone is not enough to satisfy a state’s requirements with respect to public safety.
- This is a higher form of credentialing.
LICENSURE SUMMARY

- Highest level of state legal credentialing.
- State recognized standards of practice.
- Legal rights and privileges.
- Legal delegation of tasks.
- Legal process to address unsafe practice.
- Control over how the profession is practiced.
- Stronger role in hospital management decisions.
- Perfusion will be done by perfusionists.
- Enhanced medical malpractice protection.
- Recognized role in state health care system.
KEYS TO SUCCESS

- Support from perfusionists.
- Interaction with the state legislature.
- Organization, agenda, & time.
- AmSECT Informational resources
- Financial Resources

SINCE 1995 AmSECT HAS PROVIDED
>$134,000 IN DIRECT STATE AID
THROUGH GRANTS
**AmSECT GRC RESOURCES**

- Various organizational tools for forming a state society.
- State Legal Credentialing of Perfusionists: Preparing for a Legislative Campaign.
- Individual state legislative sourcebooks.
AmSECT GRC RESOURCES

- Various legislative and credentialing guides.
- Model licensure bill.
- Model Rules & Regulations.
- AmSECT G.R.C. Web Site.
GRC ASSISTANCE

- Shepherding a state society through the legislative gauntlet.
- Information regarding pending legislation.
- Analysis & interpretation of legislation.
- Assistance with developing response to negative legislation.
- Assistance with rules promulgation.
- Assistance with the amendment process.
Can a licensed physician delegate tasks to unlicensed health care personnel?

Is the task of a routine nature that doesn’t involve the special skill of a licensed person.

Does the task pose significant risk to the patient if improperly done?

**ANSWER:** Delegatory authority in a state is very unlikely for perfusionists who are unlicensed.
MD DELEGATORY AUTHORITY

- Statutes are protective for perfusionists in licensed states.
- Nurses and physician assistants are always addressed.
- Huge gray area in non-credentialed states.
- Some perfusionists are clearly at risk.
- Are you exempt from breaking the law?
POINTS OF REFERENCE

Use of the AmSECT model legislation is highly recommended.

Approved by AmSECT BOD, Attorneys, & ABCP.

Note that all states will insert their unique “boiler-plate” language where needed.

Line up support from everyone, or seek neutrality.

Maintain the best possible liaison to the legislature.

Special interest groups will “appear” and seek exemptions, clarification, or will oppose.
INTRODUCTION

The general assembly of “State”.
House Bill No. 123, Senate Bill No. 456.
Introduced by Smith, Jones, & Dumbledore.
Referred to the Committee on Professional Licensure, “date”.
Amending an act of “date”, relating to:
Providing for the licensure of perfusionists.
The General Assembly of “State” hereby enacts as follows:
DEFINITIONS (In This Article:)

“Board” means:

“Advisory Committee” means:

“Extracorporeal circulation” means:

“Licensed Perfusionist” means:

“Perfusion” means: (insert concise definition plus entire scope of practice).
COMMITTEE MEMBERSHIP

- The “Advisory Committee” of perfusionists is created. *(It carries out the statute)*
- The committee is composed of: *(details)*
- The governor shall appoint members.
- Includes criteria for appointment.
- Defines public members of committee.
- Defines terms of service & chairman.
- Includes grounds for removal.
COMMITTEE POWERS & DUTIES

- Defines how the Committee operates under the structure and authority of the Board.
- Defines officers, meetings, quorums, & expenses.
- Defines powers and duties of the Committee to promulgate the rules and regulations. (to carry out the statute)
- Gives responsibilities to the Committee to define qualifications, registration process, and licensure.
- Establishes a Code of Ethics.
Committee defines the qualification and review process for licensure.

Develops application process and fee structure.

Defines education process. (CAHEA/CAAHEP)

Defines examination process. (ABCP)

Defines timeline to abide by.
EDUCATIONAL DEFINITION

The Committee shall approve only a program that was approved by the Committee on Allied Health Education and Accreditation (CAHEA) of the American Medical Association (AMA) prior to June of 1994, or that has educational standards that are at least as stringent as those established by the Accreditation Committee for Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor.
EXAMINATION DEFINITION

To qualify for a license, an applicant must pass a competency examination. Examinations shall be prepared or approved by the Committee and administered to qualified applicants at least once each calendar year.

An examination prescribed by the Committee may be or may include the complete certification examinations given by the American Board of Cardiovascular Perfusion (ABCP) or its successor agency, or by a state testing service in lieu of an examination prepared by the board.

The Committee may have the examination validated by an independent testing professional.
THE LICENSE & LICENSEE

- Defines how the person is to receive a license.
- Requirements for display of license and record keeping.
- Must keep the State informed of address.
- States that the license is the property of the State Board and must be surrendered on demand.
LICENSE EXPIRATION & RENEWAL

- States period of license validity.
- States that the license may be renewed.
- Defines process for renewal.
- Defines continuing professional education requirements.
- Defines process to deal with expired license and how to renew it based on length of expiration. (possible new exam)
PROVISIONAL LICENSE

- Defines criteria for a provisional license.
- Defines exactly who can apply under this provision.
- Defines supervision component for person holding a provisional license.
- Includes length of the provisional license as well as how it can be extended. (if allowed)
- Defines the process necessitating surrender.
ENDORSEMENT PROCESS

- Defines process whereby the Committee can allow a professional certification standard as criteria for licensure. (holds ABCP certification)
- Defines process whereby the Committee can allow a license from another state as criteria for licensure. (other license deemed substantially equivalent)
PROHIBITED ACTS & PENALTIES

A person cannot use the title or represent or imply that the person is a perfusionist or use the letters “LP” or “LCP” unless they are licensed under the Act.

A person cannot use the title or represent or imply that the person is a certified clinical perfusionist or use the letters “CCP” unless they hold a certificate from the ABCP.

Defines that if a person commits an offense they are guilty of a “Class B misdemeanor”.
EXEMPTIONS

Defines who the Act does not apply to.
Almost always this refers to other licensed professionals.
Does not apply to a person licensed under another health professional board if they do not represent themselves to the public as licensed under your Act.
The person confines their practice to the scope of practice authorized by the other licensing laws.
Stipulations for student clinical practice that are an integral part of the student’s course of study.
The practice of any legally qualified perfusionist employed by the United States government while is discharge of official duties.
MISCELLANEOUS SECTIONS

- Complaint procedure in general.
- Complaint investigation and disposition.
- Monitoring of a license holder. (compliance)
- Revocation and Suspension of a license.
- Miscellaneous duties of the Committee.
- Grandfather Clause. (and its sunset)
- Sunset of the Act (only in some states)
- Effective date of the Act.
AFTER THE LEGISLATIVE SUCCESS

Once legislation is passed, it cannot be implemented immediately if there is a cost associated with it.

If there is a cost, the state agency must go back to the legislature the next year and make a request for appropriation of funds.

Advisory Commission members required by legislation are nominated by the Governor, and must go through Senate hearing and confirmation.
AFTER THE LEGISLATIVE SUCCESS

- Once funds are received, and rules and regulations are necessary for implementation, they must be drafted, reviewed by the Attorney General’s Office, the Department Director, and filed with the Secretary of State.
- The proposed rules are published in the State Register for a 30 day comment period; all perfusionists receive copy of proposed rules.
- Comments reviewed, rules re-filed, becomes effective in 90 days, or if substantive changes are made, then process is repeated. (6-9 months)
- Once legislation passes, it can be up to 2 years before implementation.
CREDENTIALED STATES IN 2007

TITLING ACT
California

LICENSURE
Texas
Oklahoma
Missouri
Arkansas
New Jersey
Tennessee

LICENSURE
Illinois
Massachusetts
Wisconsin
Georgia
Louisiana
Connecticut
North Carolina
Nebraska