

SENATE BILL NO. 166

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 1/17/12

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the licensing of medical laboratory science professionals; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

5 (39) Board of Medical Laboratory Science Professionals
6 (AS 08.30.010).

7 * **Sec. 2.** AS 08.03.010(c) is amended by adding a new paragraph to read:

8 (22) Board of Medical Laboratory Science Professionals
9 (AS 08.30.010) - June 30, 2017.

10 * **Sec. 3.** AS 08 is amended by adding a new chapter to read:

11 **Chapter 30. Medical Laboratory Science Professionals.**

12 **Article 1. Board of Medical Laboratory Science Professionals.**

13 **Sec. 08.30.010. Board creation; membership.** (a) The Board of Medical
14 Laboratory Science Professionals is created in the Department of Commerce,

Community, and Economic Development. The board consists of five members appointed by the governor.

(b) Board members must be residents of the state, and the membership of the board must reflect the rural and urban demographics of the state. Not more than two members may be residents of the same house district.

(c) The membership of the board shall consist of

(1) four licensed medical laboratory science professionals, with not more than one member from each licensed category of medical laboratory science professional; and

(2) one public member.

Sec. 08.30.020. Board member terms; vacancies. Notwithstanding AS 08.01.035, each member of the board shall serve a term of three years and until a successor is appointed. Except as provided in AS 39.05.080(4), an appointment to fill a vacancy on a board is for the remainder of the unexpired term. A member who has served all or part of two successive terms on a board may not be reappointed to the board unless four years have elapsed since the person has last served on the board.

Sec. 08.30.030. Duties of the board. (a) In addition to the duties specified in AS 08.01, the board shall

(1) establish standards and procedures for the approval of credentialing agencies and organizations considered acceptable to the board for the purpose of proof of continuing certification under AS 08.30.130(b)(3)(A);

(2) establish measures of competency for the purpose of the proof that may be required under AS 08.30.130(b)(3)(B);

(3) establish standards and procedures for the approval of medical laboratory science programs to implement the licensing exemption available under AS 08.30.210(4);

(4) establish continuing education requirements for the renewal of a license under this chapter; and

(5) adopt regulations necessary to carry out the board's duties under this chapter; the regulations must comply with federal regulations promulgated under 42 U.S.C. 263a (Clinical Laboratory Improvement Act of 1967).

(b) The board may delegate to the department, and the department may perform, a duty for which the board has authority.

Article 2. Examination and Licensing.

Sec. 08.30.100. License required. Except as provided in AS 08.30.210, a person may not perform medical laboratory tests, use a title listed under AS 08.30.110, or offer or attempt to perform, or advertise or announce as being prepared or qualified to perform, medical laboratory tests without a license issued under this chapter.

Sec. 08.30.110. Licensing of medical laboratory science professionals. The department shall issue a license to an applicant for licensure as a medical laboratory scientist, medical laboratory technician, medical laboratory assistant, or phlebotomy technician if the applicant submits an application on the form approved by the department, pays the required fee, and provides evidence satisfactory to the department that the applicant is competent, as evidenced by the applicant's certification by a credentialing agency or organization approved by the board.

Sec. 08.30.120. Scope of practice. A person licensed under this chapter may perform medical laboratory testing as follows:

(1) a medical laboratory scientist may

(A) perform, interpret, and correlate laboratory procedures requiring the broad exercise of independent judgment and responsibility with minimal technical supervision;

(B) maintain equipment and records, establish and implement protocols, select or develop test methodology, and perform quality assurance activities related to test performance;

(C) supervise medical laboratory scientists, medical laboratory technicians, medical laboratory assistants, and phlebotomy technicians;

(D) perform the duties of a phlebotomy technician;

(E) provide technical training to other health care professionals;

(F) perform research functions;

(2) a medical laboratory technician may

(A) perform medical laboratory tests, following established protocols that require limited exercise of independent judgment, under the

1 supervision of a licensed medical laboratory scientist;

2 (B) perform the duties of a phlebotomy technician;

3 (3) a medical laboratory assistant may

4 (A) perform medical laboratory tests as determined by the
5 board in regulation, following established protocols that require limited
6 exercise of independent judgment, under the supervision of a licensed medical
7 laboratory scientist;

8 (B) perform the duties of a phlebotomy technician;

9 (4) a phlebotomy technician may

10 (A) perform specimen processing, preparation of specimens for
11 testing, and point-of-care testing;

12 (B) under the supervision of a licensed medical laboratory
13 scientist, licensed physician, licensed osteopath, or medical laboratory director,
14 obtain blood samples for testing by means of venipuncture, capillary sticks, or
15 access by venous devices.

16 **Sec. 08.30.130. Duration of license; license renewal.** (a) Notwithstanding
17 AS 08.01.100, a license issued by the department under this chapter is valid for three
18 years or until the license is relinquished, suspended, or revoked.

19 (b) The department may renew a license under this section if the applicant
20 submits

21 (1) a completed application on a form approved by the department;

22 (2) the fee established by the department; and

23 (3) satisfactory proof of

24 (A) certification by a nationally recognized credentialing
25 agency or organization approved by the board; and

26 (B) other measures of competency as required by the board.

27 **Article 3. General Provisions.**

28 **Sec. 08.30.200. Grounds for denial of license or for disciplinary sanctions.**

29 The department may deny a license, refuse to renew a license, or impose a disciplinary
30 sanction under AS 08.01.075 on a person licensed under this chapter when the
31 department finds that the person

1 (1) made a material misstatement of fact in information presented to
2 the department;

3 (2) violated a provision of this chapter or a regulation implementing
4 this chapter;

5 (3) was convicted of a crime that is a felony or that is a misdemeanor
6 that involves dishonesty or the practice of medical laboratory science in this or another
7 jurisdiction;

8 (4) was issued a license based on a misrepresentation of fact;

9 (5) engaged in unprofessional conduct described in regulations adopted
10 by the board;

11 (6) engaged in dishonorable or unethical conduct of a type likely to
12 deceive, defraud, or harm the public;

13 (7) provided professional services while mentally incompetent or
14 under the influence of alcohol or of a controlled substance that was used in excess of a
15 therapeutic amount or without valid medical indications; or

16 (8) performed or agreed to perform medical tests directly or indirectly
17 in a manner that offers or implies a rebate, fee-splitting inducements or arrangements,
18 or other benefit other than the person's salary.

19 **Sec. 08.30.210. Exemption from license requirement.** The license
20 requirements under this chapter do not apply to a

21 (1) person licensed in the state performing medical laboratory testing
22 within the scope of the practice for which the person's license was issued;

23 (2) person who performs medical laboratory testing who is employed
24 or contracted by the United States government while performing official duties;

25 (3) person who performs medical laboratory testing while engaged
26 exclusively in research that does not involve health maintenance, diagnosis, or
27 treatment of a person;

28 (4) student or trainee who is enrolled in a medical laboratory science
29 program approved by the board while performing duties under the program under the
30 direct supervision of a person licensed under this chapter who would be qualified
31 under AS 08.30.120 to supervise the type of testing the student or trainee is

1 performing;

2 (5) newly hired person who is performing medical laboratory testing
3 who has applied for a license under this chapter for up to six months after the date of
4 submission of the license application to the department while the person is acting
5 within the scope of practice authorized under AS 08.30.120 for the type of license
6 applied for;

7 (6) nonresident who enters the state on a temporary basis to perform
8 medical laboratory testing for not more than a combined 13 weeks in a consecutive
9 12-month period; the employer of a temporary nonresident medical laboratory testing
10 professional shall submit to the department the name and dates of employment for the
11 nonresident;

12 (7) person performing point-of-care testing in a clinical facility if the
13 facility

14 (A) employs a licensed medical laboratory professional to
15 manage testing by

16 (i) designing and supervising a training program for
17 point-of-care testing personnel;

18 (ii) supervising and monitoring quality assurance and
19 control over activities occurring at the testing site;

20 (iii) assisting in the selection of technology used for the
21 testing;

22 (iv) reviewing the results of proficiency testing and
23 recommending corrective action when necessary;

24 (v) monitoring the continued competency of testing
25 personnel; and

26 (B) adopts and employs procedures approved by the
27 department that include adequate documentation by and monitoring of testing
28 personnel;

29 (8) person performing medical laboratory testing under the direct
30 supervision of a pathologist. In this paragraph, "pathologist" means a physician or
31 osteopath licensed under AS 08.64 with a specialty in pathology;

(9) person who meets the personnel standards of a cytotechnologist under federal law and who performs medical laboratory testing by

(A) processing and interpreting cellular material derived from the human body to delineate data regarding human cytopathological disease;

(B) reviewing and interpreting gynecological cytology preparations;

(C) using immunohistochemical and molecular techniques for classification, prognosis, or disease detection;

(D) screening other cytology preparations to be reviewed and interpreted by a physician or osteopath licensed under AS 08.64.

Sec. 08.30.299. Definitions. In this chapter,

(1) "board" means the Board of Medical Laboratory Science Professionals established under AS 08.30.010;

(2) "department" means the Department of Commerce, Community, and Economic Development;

(3) "medical laboratory director" means a licensed physician who is responsible for the administrative, scientific, and technical operation of a medical laboratory and who provides evidence satisfactory to the department that the person is certified in clinical pathology by a nationally recognized credentialing agency, organization, or school approved by the department;

(4) "medical laboratory testing" or "medical laboratory test" means a microbiological, serological, chemical, biological, hematological, immunological, immunohematological, genetic, radiobiassay, cytological, or any other procedure performed on material derived from the human body that provides information for the diagnosis, prevention, or monitoring of a disease, impairment, or clinical condition; medical laboratory tests encompass the pre-analytic, analytic, and post-analytic phases of testing;

(5) "point-of-care testing" means analytical patient testing activities provided within an institution that do not require permanent dedicated space including testing with analytic instruments that are temporarily brought to a patient care location;

1 (6) "supervision" means the provision of direction and evaluation of
2 the tasks assigned.

3 * **Sec. 4.** AS 44.62.330(a) is amended by adding a new paragraph to read:

4 (49) Board of Medical Laboratory Science Professionals.

5 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** The license requirement of AS 08.30.100, added by sec. 3 of this
8 Act,

9 (1) applies immediately to persons who have not been employed in the state to
10 perform medical laboratory testing, as defined in AS 08.30.299, enacted by sec. 3 of this Act,
11 before the effective date of this Act; and

12 (2) does not apply until two years after the effective date of this Act to a
13 person who has been employed on at least a half-time basis in the state within at least three of
14 the five years immediately preceding the effective date of this Act to perform medical
15 laboratory testing if the person, on the effective date of this Act, is certified by a national
16 credentialing agency or organization approved by the Board of Medical Laboratory Science
17 Professionals under AS 08.30.030 and 08.30.110, added by sec. 3 of this Act, and is
18 performing medical laboratory testing within the scope of that certification.

19 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 **TRANSITION.** (a) For up to one year following the effective date of this Act or the
22 date the Department of Commerce, Community, and Economic Development begins issuing
23 licenses, whichever is later, the licensing requirement of AS 08.30.100, added by sec. 3 of this
24 Act, does not apply to a person who

25 (1) has acquired at least 1,040 hours of acceptable medical laboratory testing
26 experience during two of the three calendar years immediately preceding the effective date of
27 this Act; and

28 (2) submits to the Board of Medical Laboratory Science Professionals,
29 established under this Act, the job descriptions for the positions in which the applicant
30 acquired the experience required under (1) of this subsection, attested to by the applicant's
31 employers.

(b) After reviewing the job descriptions submitted under (a) of this section, the Board of Medical Laboratory Science Professionals shall determine the type of medical laboratory testing license for which the applicant is eligible, and the department shall issue the license.

(c) A license issued under (b) of this section is subject to the provisions of AS 08.30, including renewal under AS 08.30.130.

*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

BOARD OF MEDICAL LABORATORY SCIENCE PROFESSIONALS; TRANSITION; STAGGERED TERMS. (a) In making initial appointments to the Board of Medical Laboratory Science Professionals, the governor shall consider a medical laboratory testing professional to be licensed for the purpose of AS 08.30.010 if the medical laboratory testing professional has practiced medical laboratory testing in this state on at least a half-time basis for the 24-month period immediately preceding appointment.

(b) Notwithstanding AS 39.05.055, the governor shall appoint the initial members of the board to staggered terms as follows:

(1) two members shall be appointed to serve three years;

(2) two members shall be appointed to serve two years; and

(3) one member shall be appointed to serve one year.

(c) Notwithstanding AS 08.30.010, added by sec. 3 of this Act, a member appointed to the Board of Medical Laboratory Science Professionals who is not a public member may be unlicensed under AS 08.30, added by sec. 3 of this Act, for the first year of each member's initial appointment or until 30 days after the Department of Commerce, Community, and Economic Development has begun issuing licenses, whichever first occurs for each member.

*** Sec. 8.** This Act takes effect October 1, 2012.