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Martin
4/7/12

CS FOR SENATE BILL NO. 166()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR DAVIS

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

Chapter 30. Medical Laboratory Science Professionals.

Article 1. Board of Medical Laboratory Science Professionals.

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

Community, and Economic Development. The board consists of seven 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) five licensed medical laboratory science professionals, with not more than one member from each licensed category of medical laboratory science professional;

(2) one medical laboratory director; and

(3) 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); and

(4) adopt regulations necessary to carry out the board's duties under this chapter; the regulations must comply with federal regulations adopted under 42 U.S.C. 263a (Clinical Laboratory Improvement Amendments of 1988).

(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 board shall issue a license to an applicant for licensure as a medical laboratory scientist, medical laboratory technician, medical laboratory assistant, phlebotomy technician, or public health scientist if the applicant submits an application on the form approved by the board, pays the required fee, and provides evidence satisfactory to the board that the applicant is competent, as evidenced

(1) by the applicant's certification by a credentialing agency or organization approved by the board; or

(2) for a public health scientist license, by the applicant's certification by a credentialing agency or organization, or documented advanced education, training, and experience, as 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 technical 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;

1 (2) a medical laboratory technician may

2 (A) perform medical laboratory tests, following established
3 protocols that require limited exercise of independent judgment, under the
4 supervision of a licensed medical laboratory scientist;

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

6 (3) a medical laboratory assistant may

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

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

12 (4) a phlebotomy technician may

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

15 (B) under the supervision of a licensed medical laboratory
16 scientist, licensed physician, licensed osteopath, or medical laboratory director,
17 obtain blood samples for testing by means of venipuncture, capillary sticks, or
18 access by venous devices;

19 (5) a public health scientist may

20 (A) perform, interpret, and correlate esoteric or highly
21 specialized laboratory procedures requiring the broad exercise of independent
22 judgment and responsibility with minimal technical supervision;

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

26 (C) supervise public health scientists, medical laboratory
27 scientists, medical laboratory technicians, medical laboratory assistants, and
28 phlebotomy technicians;

29 (D) perform the duties of a medical laboratory scientist,
30 medical laboratory technician, medical laboratory assistant, or phlebotomy
31 technician;

- (E) provide technical training to other health care professionals;
- (F) provide consultation to other health care professionals;
- (G) perform research functions.

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

(b) The board may renew a license under this section if the applicant submits

- (1) a completed application on a form approved by the board;
- (2) the fee established by the board; and
- (3) satisfactory proof of

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

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

Article 3. General Provisions.

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

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

- (1) made a material misstatement of fact in information presented to the board;
- (2) violated a provision of this chapter or a regulation implementing this chapter;
- (3) was convicted of a crime that is a felony or that is a misdemeanor that involves dishonesty or the practice of medical laboratory science in this or another jurisdiction;
- (4) was issued a license based on a misrepresentation of fact;
- (5) engaged in unprofessional conduct described in regulations adopted by the board;
- (6) engaged in dishonorable or unethical conduct of a type likely to deceive, defraud, or harm the public;
- (7) provided professional services while mentally incompetent or

1 under the influence of alcohol or of a controlled substance that was used in excess of a
2 therapeutic amount or without valid medical indications; or

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

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

8 (1) person licensed in the state under a statute outside this chapter who
9 performs medical laboratory testing within the scope of the practice for which the
10 person's license was issued;

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

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

16 (4) student or trainee who is enrolled in a medical laboratory science
17 program approved by the board while performing duties under the program under the
18 direct supervision of a person licensed under this chapter who would be qualified
19 under AS 08.30.120 to supervise the type of testing the student or trainee is
20 performing;

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

26 (6) nonresident who enters the state on a temporary basis to perform
27 medical laboratory testing for not more than a combined 13 weeks in a consecutive
28 12-month period; the employer of a temporary nonresident medical laboratory testing
29 professional shall submit to the board the name and dates of employment for the
30 nonresident;

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

1 facility

2 (A) employs a licensed medical laboratory professional to
3 manage testing by

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

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

8 (iii) assisting in the selection of technology used for the
9 testing;

10 (iv) reviewing the results of proficiency testing and
11 recommending corrective action when necessary; or

12 (v) monitoring the continued competency of testing
13 personnel; and

14 (B) adopts and employs procedures approved by the board that
15 include adequate documentation by and monitoring of testing personnel;

16 (8) person who, under the supervision of a physician or osteopath
17 licensed under AS 08.64 with a specialty in pathology, assists in preparing for,
18 performing, and reporting postmortem examinations and surgical specimen dissection;

19 (9) person certified as a cytotechnologist under federal law and who
20 performs medical laboratory testing within the scope of that certificate;

21 (10) person who, under the supervision of a physician or osteopath
22 licensed under AS 08.64 with a specialty in pathology,

23 (A) processes cellular and tissue components through methods
24 of selected gross dissection and description fixation, dehydration, embedding,
25 microtomy, frozen sectioning, staining, and other related procedures and
26 techniques employed in the preparation of smears, slides, and tissues; or

27 (B) performs methods for antigen detection and other
28 molecular hybridization testing methods if the purpose of the testing is to
29 analyze or quantify cellular tissue components for interpretation by a person
30 licensed to practice medicine under AS 08.64.

31 **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 person who is responsible for the management and direction of laboratory personnel and the performance of laboratory tests and who meets all of the requirements of a laboratory director as specified by 42 CFR 493.1443 or its successor;

(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;

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

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

(49) Board of Medical Laboratory Science Professionals.

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

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

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

(2) does not apply until two years after the effective date of this Act to a

1 person who has been employed on at least a half-time basis in the state within at least three of
2 the five years immediately preceding the effective date of this Act to perform medical
3 laboratory testing if the person, on the effective date of this Act, is certified by a national
4 credentialing agency or organization, or has documented advanced education, training, and
5 experience approved by the Board of Medical Laboratory Science Professionals under
6 AS 08.30.030 and 08.30.110, added by sec. 3 of this Act, and is performing medical
7 laboratory testing within the scope of that certification or that approved education, training,
8 and experience.

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

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

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

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

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

25 (c) A license issued under (b) of this section is subject to the provisions of AS 08.30,
26 including renewal under AS 08.30.130, added by sec. 3 of this Act.

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

29 BOARD OF MEDICAL LABORATORY SCIENCE PROFESSIONALS;
30 TRANSITION; STAGGERED TERMS. (a) In making initial appointments to the Board of
31 Medical Laboratory Science Professionals, the governor shall consider a medical laboratory

1 professional to be licensed for the purpose of AS 08.30.010 if the medical laboratory
2 professional has practiced medical laboratory testing in this state on at least a half-time basis
3 for the 24-month period immediately preceding appointment.

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

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

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

8 (3) two members shall be appointed to serve one year.

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

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