

CS FOR SENATE BILL NO. 166()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY **SENATOR DAVIS**

Introduced Offered:

Referred:

Sponsor(s): SENATOR DAVIS

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~~six 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~~five 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); **and**

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

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

1 ~~1967~~1988).

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

4 **Article 2. Examination and Licensing.**

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

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

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

19 (2) for a public health scientist license, by the applicant's certification
20 by a credentialing agency or organization, or documented advanced education,
21 training, and experience, as approved by the board.

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

24 (1) a medical laboratory scientist may

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

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

31 (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 supervision of a licensed medical laboratory scientist;

(B) perform the duties of a phlebotomy technician;

(3) a medical laboratory assistant may

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

(B) perform the duties of a phlebotomy technician;

(4) a phlebotomy technician may

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

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

(5) a public health scientist may

(A) perform, interpret, and correlate esoteric or highly specialized 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 public health scientists, medical laboratory scientists, medical laboratory technicians, medical laboratory assistants, and

1 phlebotomy technicians;

2 (D) perform the duties of a medical laboratory scientist,
3 medical laboratory technician, medical laboratory assistant, or phlebotomy
4 technician;

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

6 (F) provide consultation to other health care professionals;

7 (G) perform research functions.

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

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

13 (1) a completed application on a form approved by the
14 ~~department~~board;

15 (2) the fee established by the ~~department~~board; and

16 (3) satisfactory proof of

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

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

20 **Article 3. General Provisions.**

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

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

25 (1) made a material misstatement of fact in information presented to
26 the ~~department~~board;

27 (2) violated a provision of this chapter or a regulation implementing
28 this chapter;

29 (3) was convicted of a crime that is a felony or that is a misdemeanor
30 that involves dishonesty or the practice of medical laboratory science in this or another
31 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
endanger, or harm the public;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) person ~~performing medical laboratory testing~~who, under the ~~direct~~ supervision of a ~~pathologist. In this paragraph, "pathologist" means a~~ physician or osteopath licensed under AS 08.64 with a specialty in pathology, assists in preparing for, performing, and reporting postmortem examinations and surgical specimen dissection:

(9) person ~~who meets the personnel standards of certified as~~ a cytotechnologist under federal law and who performs medical laboratory testing ~~by~~within the scope of that certificate:

(A) processing and interpreting cellular material derived from

1 (10) person who, under the ~~human body to delineate data regarding human~~
2 ~~cytopathological disease;~~

3 (B) ~~reviewing and interpreting gynecological cytology~~
4 ~~preparations;~~

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

7 (D) ~~screening other cytology preparations to be reviewed and~~
8 ~~interpreted by a supervision of a~~ physician or osteopath licensed under AS 08.64, with
9 a specialty in pathology,

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

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

18 **Sec. 08.30.299. Definitions.** In this chapter,

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

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

23 (3) "medical laboratory director" means a ~~licensed physician~~person
24 who is responsible for the administrative, scientific, and technical operation of a
25 medical laboratory and who ~~provides evidence satisfactory to the department that the~~
26 ~~person is certified in clinical pathology by a nationally recognized credentialing~~
27 ~~agency, organization, or school approved by the department~~meets all of the
28 requirements of a laboratory director as specified by 42 CFR 493.1443 or its
29 successor;

30 (4) "medical laboratory testing" or "medical laboratory test" means a
31 microbiological, serological, chemical, biological, hematological, immunological,

1 immunohematological, genetic, radiobiassay, cytological, or any other procedure
2 performed on material derived from the human body that provides information for the
3 diagnosis, prevention, or monitoring of a disease, impairment, or clinical condition;
4 medical laboratory tests encompass the pre-analytic, analytic, and post-analytic phases
5 of testing;

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

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

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

13 (49) Board of Medical Laboratory Science Professionals.

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

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

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

21 (2) does not apply until two years after the effective date of this Act to a
22 person who has been employed on at least a half-time basis in the state within at least three of
23 the five years immediately preceding the effective date of this Act to perform medical
24 laboratory testing if the person, on the effective date of this Act, is certified by a national
25 credentialing agency or organization, or has documented advanced education, training, and
26 experience approved by the Board of Medical Laboratory Science Professionals under
27 AS 08.30.030 and 08.30.110, added by sec. 3 of this Act, and is performing medical
28 laboratory testing within the scope of that certification or that approved education, training,
29 and experience.

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

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

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

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

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

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

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

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

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

27 (1) two members shall be appointed to serve three years;
28 (2) two members shall be appointed to serve two years; and
29 (3) ~~one member~~two members shall be appointed to serve one year.

30 (c) Notwithstanding AS 08.30.010, added by sec. 3 of this Act, a member appointed
31 to the Board of Medical Laboratory Science Professionals who is not a public member may be

1 unlicensed under AS 08.30, added by sec. 3 of this Act, for the first year of each member's
2 initial appointment or until 30 days after the Department of Commerce, Community, and
3 Economic Development has begun issuing licenses, whichever first occurs for each member.

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