HOUSE BILL NO. 339

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE CRAWFORD BY REQUEST

Introduced: 1/24/08
Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

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

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

*** Section 1.** AS 08 is amended by adding a new chapter to read:

Chapter 30. Clinical Laboratory Science Professionals.

Article 1. Volunteer Advisory Board of Clinical Laboratory Science Professionals.

Sec. 08.30.010. Board creation; membership. (a) There is created in the Department of Commerce, Community, and Economic Development the Volunteer Advisory Board of Clinical Laboratory Science Professionals consisting 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 clinical laboratory science professionals, with not more than one member from each licensed category of clinical laboratory science professional; and

(2) one public member who does not have a financial or personal association with clinical laboratory science.

(d) Members of the board do not receive compensation for service on the board, and are not eligible for transportation expenses or per diem under AS 39.20.180.

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 and qualifies. If a vacancy occurs, the governor shall appoint a successor of like qualification for the remainder of an unexpired term. A person may not be appointed to serve more than two successive terms.

Sec. 08.30.030. Duties of the board. The board shall advise the department on

(1) credentialing agencies or organizations; and

(2) what laboratory tests should be defined as waived tests.

Article 2. Examination and Licensing.

Sec. 08.30.050. License required. Except as provided in AS 08.30.100, a person may not perform clinical laboratory tests, use the title "clinical laboratory scientist," "medical technologist," "clinical laboratory technician," "medical laboratory technician," or a title listed under AS 08.30.060, or offer or attempt to practice, or advertise or announce as being prepared or qualified to perform, clinical laboratory tests without a license issued under this chapter.

Sec. 08.30.060. Licensing of clinical laboratory science professionals. The department shall issue a license to an applicant for licensure as a clinical laboratory scientist, clinical laboratory technician, clinical laboratory assistant, phlebotomy technician, cytotechnologist, histotechnologist, or histotechnician 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 certified by a nationally recognized credentialing agency or organization approved by the department.

Sec. 08.30.070. Scope of practice. A person licensed under this chapter may perform clinical laboratory testing as follows:

(1) a clinical laboratory scientist may perform any clinical laboratory test or research function and direct, supervise, consult, or educate other clinical laboratory professionals;

(2) a clinical laboratory technician shall follow established protocols that require a limited exercise of independent judgment and act under the supervision of a licensed clinical laboratory scientist; a clinical laboratory technician may perform waived and moderately complex tests;

(3) a clinical laboratory assistant shall follow established protocols that require a limited knowledge of general laboratory procedure and act under the supervision of a licensed clinical laboratory scientist; a clinical laboratory assistant may perform waived and moderately complex tests as determined by the department in regulation;

(4) a phlebotomy technician may, under the supervision of a licensed clinical laboratory scientist, licensed physician, or medical laboratory director, obtain blood samples for testing by means of venipuncture, capillary sticks, or access by venous devices and may perform waived and point of care testing;

(5) a cytotechnologist may

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

(B) review and interpret gynecological cytology preparations; and

(C) screen other cytology preparations if reviewed and interpreted by a person licensed to practice medicine under AS 08.64;

(6) a histotechnologist may

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

(B) perform methods for antigen detection and other molecular

hybridization testing methods if the purpose of the testing is to analyze or quantify cellular tissue components for interpretation by a person licensed to practice medicine under AS 08.64;

(7) a histotechnician may, under the supervision of a medical laboratory director, licensed histotechnologist, or licensed clinical laboratory scientist,

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

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

Sec. 08.30.080. Renewal of license. (a) A license, other than a temporary license, issued by the department is valid for three years or until the license is relinquished, suspended, or revoked.

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

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

(2) the fee established by the department; and

(3) satisfactory proof of

(A) continuing certification by a nationally recognized credentialing agency or organization approved by the department; and

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

Article 3. General Provisions.

Sec. 08.30.090. Grounds for denial of license or for disciplinary sanctions. The department 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 department finds that the person

(1) made a material misstatement of fact in information presented to

the department;

(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 clinical laboratory science in any state or federal jurisdiction;

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

(5) engaged in unprofessional conduct described in regulations adopted by the department;

(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 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 clinical 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. 08.30.100. Exemption from license requirement. The license requirements under this chapter do not apply to a

(1) person licensed in the state to perform activities for which the license was issued;

(2) clinical laboratory science professional employed or contracted by the United States government while performing official duties;

(3) clinical laboratory science professional 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 clinical laboratory science program while performing duties under the program and under the direct supervision of a licensee;

(5) person performing waived testing;

(6) person performing point of care testing in an acute care facility if

the facility

(A) employs a licensed clinical laboratory science 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;

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

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

Sec. 08.30.500. Definitions. In this chapter,

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

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

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

(4) "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;

(5) "moderately complex test" means a clinical laboratory procedure that is more technologically demanding than is a waived test and requires some degree of independent judgment and interpretation as further defined by the department;

(6) "point of care testing" means a procedure that involves analysis, is performed at the site of patient care, and does not require independent laboratory or technological support;

(7) "supervision" means the provision of direction and evaluation of the tasks assigned;

(8) "waived testing" or "waived test" means a simple laboratory procedure, as further defined by the department, that employs methodologies that are so simple and accurate as to render the likelihood of an erroneous result negligible and, even if performed incorrectly, that does not pose a significant risk of harm; "waived tests" include those approved by the United States Food and Drug Administration for home use.

*** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 08.30.050 - 08.30.500, added by sec. 1 of this Act, apply immediately to persons who have not been employed in the state in the field of clinical laboratory science, as described in this Act, before the effective date of this Act. For persons who have been employed in the state within the past five years in a specified field of clinical laboratory science and have been certified by any national certifying agency or organization approved by the department, the provisions of sec. 1 of this Act apply two years after the effective date of this Act.

*** Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

VOLUNTEER ADVISORY BOARD OF CLINICAL LABORATORY SCIENCE PROFESSIONALS; TRANSITION; STAGGERED TERMS. Notwithstanding AS 08.30.010, added by sec. 1 of this Act, the members appointed to the Voluntary Advisory Board of Clinical Laboratory Science Professionals

(1) may be unlicensed for the first year of the member's initial appointment or until 30 days after the department has begun issuing licenses, whichever first occurs; and

(2) shall be appointed to staggered terms in the first year as follows:

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

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

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

*** Sec. 4.** This Act takes effect October 1, 2008.