

STATE OF NEW YORK

7020--A

2021-2022 Regular Sessions

IN SENATE

May 24, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommended to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requirements for certain clinical laboratory practitioners

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 8600 of the education law, as added by chapter 204
2 of the laws of 2008, is amended to read as follows:

3 § 8600. Introduction. This article defines the practice of clinical
4 laboratory technology and provides for the licensing of clinical labora-
5 tory technologists ~~and~~, cytotechnologists, and histotechnologists and
6 for the certification of clinical laboratory technicians and ~~[histologi-~~
7 ~~cal technicians]~~ histotechnicians. The general provisions for all
8 professions contained in article one hundred thirty of this title shall
9 apply to this article.

10 § 2. Subdivision 2 of section 8601 of the education law, as amended by
11 chapter 204 of the laws of 2008, is amended to read as follows:

12 2. A "clinical laboratory practitioner" means clinical laboratory
13 technologists, cytotechnologists, histotechnologists, clinical laborato-
14 ry technicians, and ~~[histological technicians]~~ histotechnicians as such
15 terms are defined in this subdivision, who practice clinical laboratory
16 technology in a licensed clinical laboratory. For the purposes of this
17 article, a licensed clinical laboratory does not include a laboratory
18 operated by any licensed physician, dentist, podiatrist, midwife or
19 certified nurse practitioner who performs laboratory tests or proce-
20 dures, personally or through his or her employees, solely as an adjunct
21 to the treatment of his or her own patients.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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(a) "Clinical laboratory technologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department of health, performs clinical laboratory procedures and examinations and any other tests or procedures conducted by a clinical laboratory, including maintaining equipment and records, and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

(b) "Cytotechnologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department of health, performs cytological procedures and examinations and any other such tests including maintaining equipment and records and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

(c) "Histotechnologist" means a clinical laboratory practitioner who pursuant to established and approved protocols of the department of health performs slide based histological assays, tests, and procedures and any other such tests conducted by a clinical histology laboratory, including maintaining equipment and records and performing quality assurance activities relating to procedure performance on histological testing of human tissues, and which requires the exercise of independent judgment and responsibility as determined by the department.

(d) "Clinical laboratory technician" means a clinical laboratory practitioner who performs clinical laboratory procedures and examinations pursuant to established and approved protocols of the department of health, which require limited exercise of independent judgment and which are performed under the supervision of a clinical laboratory technologist, laboratory supervisor, or director of a clinical laboratory.

~~[(d)]~~ (e) ~~["Histological technician"]~~ "Histotechnicians" means a clinical laboratory practitioner who pursuant to established and approved protocols of the department of health performs slide based histological assays, tests, and procedures and any other such tests conducted by a clinical histology laboratory, including maintaining equipment and records and performing quality assurance activities relating to procedure performance on histological testing of human tissues and which requires limited exercise of independent judgment and is performed under the supervision of a laboratory supervisor, designated by the director of a clinical laboratory or under the supervision of the director of the clinical laboratory.

~~[(e)]~~ (f) "Director of a clinical laboratory" means a director as that term is defined in section five hundred seventy-one of the public health law.

~~[(f)]~~ (g) "Laboratory supervisor" means an individual who, under the general direction of the laboratory director, supervises technical personnel and reporting of findings, performs tests requiring special scientific skills, and, in the absence of the director, is responsible for the proper performance of all laboratory procedures.

§ 3. Section 8602 of the education law, as added by chapter 755 of the laws of 2004, is amended to read as follows:

§ 8602. Practice of clinical laboratory technology ~~[and]~~ and histotechnology and use of the titles "licensed clinical laboratory technologist" ~~[and]~~ "licensed cytotechnologist" and "licensed histotechnologist". No person shall practice as a clinical laboratory ~~[technology] technologist, cytotechnologist or histotechnologist,~~ or hold himself or herself out as a clinical laboratory technologist, or a

1 cytotechnologist, or a histotechnologist in this state unless he or she
2 is licensed or exempt pursuant to this article, provided that an indi-
3 vidual licensed as a clinical laboratory technologist or cytotechnolo-
4 gist may practice the profession of histotechnologist.

5 § 4. Section 8603 of the education law, as added by chapter 204 of the
6 laws of 2008, is amended to read as follows:

7 § 8603. Practice as a clinical laboratory technician and [~~histological~~
8 ~~technician~~] histotechnician and the use of the titles "clinical labora-

9 tory technician" and [~~"histological technician"~~] "histotechnician". No
10 person shall practice as a clinical laboratory technician or as a
11 [~~histological technician~~] histotechnician or hold himself or herself out
12 as a clinical laboratory technician or a [~~histological technician~~]
13 histotechnician in this state unless he or she is certified or exempt
14 pursuant to this article, provided that an individual licensed as a
15 clinical laboratory technologist, cytotechnologist, histotechnologist,
16 or clinical laboratory technician may practice the profession of [~~histo-~~
17 ~~logical technician~~] histotechnician.

18 § 5. Section 8604 of the education law, as added by chapter 204 of the
19 laws of 2008, is amended to read as follows:

20 § 8604. State board for clinical laboratory technology. A state board
21 for clinical laboratory technology shall be appointed by the board of
22 regents upon the recommendation of the commissioner for the purpose of
23 assisting the board of regents and the department on matters of profes-
24 sional licensing and professional conduct in accordance with section
25 sixty-five hundred eight of this title. The board shall be composed of
26 twelve members, four of whom shall be licensed clinical laboratory tech-
27 nologists, two of whom shall be licensed cytotechnologists, one of whom
28 shall be a certified clinical laboratory technician, one of whom shall
29 be a licensed histotechnologist or certified [~~histological technician~~]
30 histotechnician, two members of the public, one representative of the
31 diagnostic/manufacturing industry, and one director of a clinical labo-
32 ratory who shall be a physician. An executive secretary to the board
33 shall be appointed by the board of regents upon the recommendation of
34 the commissioner. The clinical laboratory practitioner members of the
35 initial board need not be licensed prior to their appointment but shall
36 have met all other requirements of licensing except the filing of an
37 application, the passing of a satisfactory exam and paying a fee.

38 § 6. Paragraph (b) of subdivision 1 of section 8605 of the education
39 law, as added by chapter 755 of the laws of 2004, is amended to read as
40 follows:

41 (b) Education: have received an education, including a bachelor's
42 degree in clinical laboratory technology from a program registered by
43 the department or determined by the department to be the substantial
44 equivalent, or have received a bachelor's degree that includes a minimum
45 number of credit hours in the sciences and received appropriate clinical
46 education in an accredited clinical laboratory technology program or a
47 program to be determined by the department to be the substantial equiv-
48 alent or have received a bachelor's degree that includes a minimum
49 number of credit hours in a natural science and clinically relevant work
50 experience acceptable to the department, or be a licensed or nationally
51 certified clinical laboratory technologist from an accrediting agency
52 acceptable to the department or be a licensed or nationally certified
53 clinical laboratory technician from a jurisdiction or an accrediting
54 agency acceptable to the department and complete a bachelor's degree in
55 a natural science and two years of clinically relevant work experience
56 acceptable to the department;

§ 7. Paragraph (b) of subdivision 2 of section 8605 of the education law, as added by chapter 755 of the laws of 2004, is amended to read as follows:

(b) Education: have received an education, including a bachelor's degree in cytotechnology from a program registered by the department or determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in an accredited cytotechnology program or a program determined by the department to be the substantial equivalent or be a licensed cytotechnologist or nationally certified cytotechnologist from a jurisdiction or an accrediting agency acceptable to the department;

§ 8. Subdivision 2 of section 8606 of the education law, as added by chapter 755 of the laws of 2004, is amended to read as follows:

2. Education: have received an education, including an associate's degree from an approved clinical laboratory technician program registered by the department or determined by the department to be the substantial equivalent or have received an associate's degree that includes a minimum number of credit hours in a natural science and received appropriate clinical education in a clinical laboratory technician program approved by the department or a program to be determined by the department to be the substantial equivalent, or have received an associate's degree that includes a minimum number of credit hours in a natural science and clinically relevant work experience acceptable to the department, or be a licensed clinical laboratory technician or nationally certified clinical laboratory technician from a jurisdiction or an accrediting agency acceptable to the department;

§ 9. Section 8606-a of the education law, as added by chapter 204 of the laws of 2008, is amended to read as follows:

§ 8606-a. Requirements for certification as a ~~[histological technician]~~ histotechnician. For certification as a ~~[histological technician]~~ histotechnician under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including an associate's degree from an approved ~~[histological technician]~~ histotechnician program registered by the department or determined by the department to be the substantial equivalent, or have received an associate's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in a ~~[histological technician]~~ histotechnician program approved by the department or a program to be determined by the department to be the substantial equivalent, or have received an associate's degree that includes a minimum number of credit hours in a natural science and clinically relevant work experience acceptable to the department, or be a licensed histotechnician or nationally certified histotechnician from a jurisdiction or an accrediting agency acceptable to the department;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred twenty-five dollars for an initial certification and a fee of one hundred twenty dollars for each triennial registration period.

§ 10. The education law is amended by adding a new section 8606-b to read as follows:

§ 8606-b. Requirements for licensure as a histotechnologist. For certification as a histotechnologist under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a bachelor's degree from an approved histotechnologist program registered by the department, or determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in a natural science and received appropriate clinical education in a histotechnologist program approved by the department, or a program to be determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in a natural science and clinically relevant work experience acceptable to the department, or be a licensed or nationally licensed histotechnologist from a jurisdiction or an accrediting agency acceptable to the department or be a licensed or nationally certified histotechnician from a jurisdiction or an accrediting agency acceptable to the department and complete a bachelor's degree in a natural science and two years of clinically relevant work experience acceptable to the department;

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 11. Paragraphs (a) and (b) of subdivision 2 of section 8608 of the education law, as added by chapter 147 of the laws of 2018, are amended to read as follows:

(a) On the recommendation of the board, the department may issue a provisional permit to practice as a clinical laboratory practitioner to an applicant who is employed in a clinical laboratory for the purpose of enabling the applicant to complete the education requirements and/or to pass the exam required for licensure as a clinical laboratory technologist or ~~histological technician~~ histotechnician and provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department, and provided further that the applicant meets the requirements outlined in paragraph (b) of this subdivision. This provisional permit shall be valid for a period of not more than one year, and may be renewed, at the discretion of the department, for one additional year.

(b) To qualify for a provisional permit, the applicant shall:

(i) file ~~an~~ a provisional permit application with the department;

(ii) have at least one of the following enumerated qualifications:

(A) be licensed as a clinical laboratory technologist, or the equivalent as determined by the department, in another jurisdiction or possess a current certification in ~~a~~ clinical laboratory technology from a national certification organization acceptable to the department; or

(B) have received both an education, including a bachelor's degree in the biological, chemical, or physical sciences, and training in a clin-

1 ical laboratory, provided that such education and training are accepta-
2 ble to the department; or

3 (C) have received a bachelor's degree in the biological, chemical, or
4 physical sciences or in mathematics, and have served as a research
5 assistant in a research laboratory, under the direction of the director
6 or the principal researcher of such research laboratory, working on the
7 research and development of any procedures and examinations to be
8 conducted by a laboratory, as defined in title five of article five of
9 the public health law, on material derived from the human body which
10 provides information for the diagnosis, prevention or treatment of a
11 disease or assessment of a human medical condition; or

12 (D) for those seeking a provisional permit as a [~~histological techni-~~
13 ~~cian~~] histotechnician, have received an education, including an associ-
14 ate's degree that includes a minimum number of credit hours in the
15 sciences, provided that such education is acceptable to the department;

16 (iii) be at least eighteen years of age;

17 (iv) be of good moral character as determined by the department; [~~and~~]

18 (v) pay a fee of [~~three hundred forty five~~] fifty dollars for a provi-
19 sional permit [~~provided that the fee for a provisional permit as a~~
20 ~~histological technician shall be two hundred forty-five dollars.~~];

21 (vi) file a licensure application with the department; and

22 (vii) pay the licensure fee as outlined in section eighty-six hundred
23 six of this article.

24 § 12. Subdivision 1 of section 8609 of the education law, as amended
25 by chapter 204 of the laws of 2008, is amended to read as follows:

26 1. the practice, conduct, activities, or services by any person
27 licensed or otherwise authorized to practice medicine within the state
28 pursuant to article one hundred thirty-one-B of this title, or by any
29 person registered to perform services as a physician assistant or
30 specialist assistant within the state pursuant to article one hundred
31 thirty-one-B of this title, or by any person licensed to practice
32 dentistry within the state pursuant to article one hundred thirty-three
33 of this title, or by any person licensed to practice podiatry within the
34 state pursuant to article one hundred forty-one of this title, or by any
35 person certified as a nurse practitioner within the state pursuant to
36 article one hundred thirty-nine of this title, or by any person licensed
37 to perform services as a respiratory therapist or respiratory therapy
38 technician under article one hundred sixty-four of this title, or any
39 person licensed to practice midwifery within the state pursuant to arti-
40 cle one hundred forty of this title, or a person licensed to practice
41 nursing pursuant to article one hundred thirty-nine of this title, or a
42 person licensed to practice pursuant to article thirty-five of the
43 public health law; provided, however, that no such person shall use the
44 titles licensed laboratory technologist, cytotechnologist, licensed
45 histotechnologist, [~~or~~] certified laboratory technician, or certified
46 histotechnician, unless licensed or certified under this article; or

47 § 13. This act shall take effect on the sixtieth day after it shall
48 have become a law.