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I N  S E N A T E

May 26, 2016

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the licensure of pathologists' assistants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new article 168 to read as follows:

ARTICLE 168

LICENSED PATHOLOGISTS' ASSISTANTS

SECTION 8850. DEFINITIONS.
8851. PRACTICE AS PATHOLOGISTS' ASSISTANT AND USE OF THE TITLE "PATHOLOGISTS' ASSISTANT".
8852. REQUIREMENTS FOR LICENSURE AS A PATHOLOGISTS' ASSISTANT.
8853. SPECIAL PROVISIONS; ELIGIBILITY.
8854. STATE COMMITTEE FOR PATHOLOGISTS' ASSISTANTS.
8855. LIMITED PERMITS.
8856. EXEMPTIONS AND EXEMPT PERSONS.

S 8850. DEFINITIONS. AS USED IN THIS ARTICLE: 1. THE TERM "PATHOLOGISTS' ASSISTANT" MEANS A PERSON LICENSED TO ASSIST PHYSICIANS WHO PRACTICE PATHOLOGY BY PROVIDING SERVICES WITHIN THE PERMITTED SCOPE OF PRACTICE FOR PATHOLOGISTS' ASSISTANTS AS DEFINED IN SUBDIVISION FOUR OF THIS SECTION. ALL SUCH SERVICES SHALL BE PERFORMED UNDER THE DIRECTION AND SUPERVISION OF A LICENSED PHYSICIAN WHO PRACTICES ANATOMIC PATHOLOGY.

2. THE TERM "DIRECTION AND SUPERVISION" MEANS CONTINUOUS DIRECTION AND SUPERVISION, BUT SHALL NOT BE CONSTRUED AS NECESSARILY REQUIRING THE PHYSICAL PRESENCE OF THE SUPERVISING PHYSICIAN AT THE TIME AND PLACE WHERE SUCH SERVICES ARE PERFORMED.

3. THE TERM "PHYSICIAN" MEANS A PRACTITIONER OF MEDICINE LICENSED TO PRACTICE MEDICINE PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THIS TITLE.

4. THE TERM "SCOPE OF PRACTICE FOR PATHOLOGISTS' ASSISTANTS" MEANS THE PROVISION OF THE FOLLOWING SERVICES UNDER THE DIRECTION AND SUPERVISION OF A LICENSED PHYSICIAN WHO PRACTICES ANATOMIC PATHOLOGY: (A) PREPARING

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

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GROSS TISSUE SECTIONS FOR PATHOLOGY ANALYSIS, INCLUDING BUT NOT LIMITED TO, CUTTING, STAINING AS REQUIRED, DESCRIBING GROSS ANATOMIC FEATURES, DISSECTING SURGICAL SPECIMENS, AND SUBMITTING TISSUES FOR BIO-BANKING, HISTOLOGIC PROCESSING, OR OTHER ANALYSES; (B) PERFORMING HUMAN POSTMORTEM EXAMINATIONS, INCLUDING BUT NOT LIMITED TO, SELECTION OF TISSUES AND FLUIDS FOR FURTHER EXAMINATION, EXTERNAL EXAMINATION, DISSECTION, AND GATHERING AND RECORDING INFORMATION FOR AUTOPSY REPORTS; AND (C) OTHER FUNCTIONS AND RESPONSIBILITIES IN FURTHERANCE OF AND CONSISTENT WITH THE FOREGOING AS DETERMINED BY THE DEPARTMENT. THE TERM DOES NOT INCLUDE THE AUTHORITY TO DIAGNOSE OR PROVIDE A MEDICAL OPINION. SERVICES OF A PATHOLOGISTS' ASSISTANT MUST BE PERFORMED IN A LABORATORY OR OTHER SITE AUTHORIZED UNDER LAW TO PERFORM SUCH SERVICES.

5. THE TERM "COMMITTEE" MEANS THE STATE COMMITTEE FOR PATHOLOGISTS' ASSISTANTS CREATED BY THIS ARTICLE.

S 8851. PRACTICE AS PATHOLOGISTS' ASSISTANT AND USE OF THE TITLE "PATHOLOGISTS' ASSISTANT". ONLY PERSONS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE AS A PATHOLOGISTS' ASSISTANT UNDER THIS ARTICLE SHALL PRACTICE PATHOLOGIST ASSISTING OR USE THE TITLE "PATHOLOGISTS' ASSISTANT" OR THE TERM "PATHOLOGISTS' ASSISTANT" ALONE OR IN COMBINATION WITH OTHER TERMS AND PHRASES IN DESCRIBING THEIR SERVICES AND ACTIVITIES OR THE DESIGNATION "PATH A".

S 8852. REQUIREMENTS FOR LICENSURE AS A PATHOLOGISTS' ASSISTANT. TO QUALIFY FOR LICENSURE AS A "LICENSED PATHOLOGISTS' ASSISTANT", AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

1. APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

2. EDUCATION: RECEIVE AN EDUCATION, INCLUDING A BACHELOR'S OR HIGHER DEGREE IN PATHOLOGISTS' ASSISTANT, GRANTED ON THE BASIS OF COMPLETION OF A PROGRAM OF PATHOLOGISTS' ASSISTANT REGISTERED WITH THE DEPARTMENT OR THE SUBSTANTIAL EQUIVALENT THEREOF, IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

3. EXAMINATION: OBTAIN A PASSING SCORE ON AN EXAMINATION ACCEPTABLE TO THE DEPARTMENT;

4. AGE: AT THE TIME OF APPLICATION BE AT LEAST TWENTY-ONE YEARS OF AGE;

5. CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT; AND

6. FEE: PAY A FEE DETERMINED BY THE DEPARTMENT FOR AN INITIAL LICENSE AND FOR EACH TRIENNIAL REGISTRATION PERIOD.

S 8853. SPECIAL PROVISIONS; ELIGIBILITY. AN INDIVIDUAL WHO MEETS THE REQUIREMENTS FOR A LICENSE AS A LICENSED PATHOLOGISTS' ASSISTANT EXCEPT FOR EXAMINATION AND EDUCATION AND WHO HAS BEEN PERFORMING THE DUTIES OF A PATHOLOGISTS' ASSISTANT FOR TWO OF THE FIVE YEARS PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE MAY BE LICENSED WITHOUT MEETING ADDITIONAL REQUIREMENTS, PROVIDED THAT SUCH INDIVIDUAL SUBMITS AN APPLICATION TO THE DEPARTMENT WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ARTICLE. FOR THIS PURPOSE, THE APPLICANT'S SUPERVISING PHYSICIANS MUST ATTEST TO THE APPLICANT'S EXPERIENCE AND COMPETENCE.

S 8854. STATE COMMITTEE FOR PATHOLOGISTS' ASSISTANTS. 1. A STATE COMMITTEE FOR PATHOLOGISTS' ASSISTANTS SHALL BE APPOINTED BY THE BOARD OF REGENTS UPON THE RECOMMENDATION OF THE COMMISSIONER AS A COMMITTEE OF THE BOARD OF MEDICINE TO ADVISE SOLELY ON MATTERS RELATING TO PATHOLOGISTS' ASSISTANTS AND SHALL ASSIST ON MATTERS OF LICENSURE AND PROFESSIONAL CONDUCT. THE PATHOLOGISTS' ASSISTANT MEMBERS OF THE INITIAL COMMITTEE NEED NOT BE LICENSED PRIOR TO THEIR APPOINTMENT BUT SHALL HAVE MET ALL OTHER REQUIREMENTS OF LICENSING PURSUANT TO SECTION EIGHTY-EIGHT

HUNDRED FIFTY-THREE OF THIS ARTICLE EXCEPT THE FILING OF AN APPLICATION AND PAYING A FEE.

2. THE COMMITTEE SHALL CONSIST OF NO FEWER THAN FIVE INDIVIDUALS, TO BE COMPOSED OF A MINIMUM OF THE FOLLOWING:

(A) ONE LICENSED PHYSICIAN WHO PRACTICES PATHOLOGY;

(B) THREE LICENSED PATHOLOGISTS' ASSISTANTS; AND

(C) ONE PUBLIC REPRESENTATIVE.

S 8855. LIMITED PERMITS. 1. ELIGIBILITY. A PERSON WHO FULFILLS ALL REQUIREMENTS FOR LICENSURE AS A PATHOLOGISTS' ASSISTANT EXCEPT THAT RELATING TO THE EXAMINATION SHALL BE ELIGIBLE FOR A LIMITED PERMIT.

2. LIMIT OF PRACTICE. A PERMITTEE SHALL BE AUTHORIZED TO PRACTICE AS A PATHOLOGISTS' ASSISTANT ONLY UNDER THE DIRECTION AND SUPERVISION OF A LICENSED PHYSICIAN WHO PRACTICES ANATOMIC PATHOLOGY AND PURSUANT TO THE ORDER AND DIRECTION OF THAT LICENSED PHYSICIAN.

3. DURATION. A LIMITED PERMIT SHALL EXPIRE ONE YEAR FROM THE DATE OF ISSUANCE. A LIMITED PERMIT MAY BE EXTENDED FOR ONE ADDITIONAL YEAR FOR GOOD CAUSE AS DETERMINED BY THE DEPARTMENT.

4. FEES. THE FEE FOR EACH LIMITED PERMIT SHALL BE DETERMINED BY THE DEPARTMENT.

S 8856. EXEMPTIONS AND EXEMPT PERSONS. THIS ARTICLE SHALL NOT PROHIBIT:

1. THE PERFORMANCE OF ANY TASKS OR RESPONSIBILITIES BY ANY STUDENT ENGAGED IN CLINICAL TRAINING IN A GENERAL HOSPITAL LICENSED PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, PROVIDED SUCH PRACTICE IS LIMITED TO CLINICAL TRAINING THAT SHALL BE CARRIED OUT UNDER THE DIRECT SUPERVISION OF A LICENSED PHYSICIAN WHO PRACTICES ANATOMIC PATHOLOGY; OR

2. THE PERFORMANCE OF ANY TASKS OR RESPONSIBILITIES BY ANY PERSON LICENSED UNDER THIS TITLE, PROVIDED SUCH TASKS OR RESPONSIBILITIES ARE PERMITTED BY THE ARTICLE GOVERNING THE PROFESSION PURSUANT TO WHICH SUCH PERSON IS LICENSED; OR

3. THE PERFORMANCE OF ANY TASKS OR RESPONSIBILITIES BY ANY LEGALLY QUALIFIED PATHOLOGISTS' ASSISTANTS OF ANY OTHER STATE OR TERRITORY WHO IS SERVING IN THE ARMED FORCES OR THE PUBLIC HEALTH SERVICE OF THE UNITED STATES OR WHO IS EMPLOYED BY THE VETERANS ADMINISTRATION, WHILE ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES; OR

4. THE PERFORMANCE OF ANY TASKS AND RESPONSIBILITIES BY ANY INDIVIDUAL LEGALLY CARRYING OUT THE EXAMINATIONS AND TESTS ENUMERATED IN SUBDIVISION TWO OF SECTION FIVE HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW.

S 2. This act shall take effect one year after it shall have become law, provided, however, that section 8852 of the education law as added by section one of this act shall take effect two years after this act shall have become law; provided, further, that the department of education is authorized to promulgate regulations that may be required and to take other measures necessary to implement this article prior to the effective date of this act, including appointment of the state committee for pathologists' assistants, and acceptance and processing of applications for licensure.