STATE OF NEW YORK

10162--A

IN ASSEMBLY

May 4, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Glick) -- read once and referred to the Committee on Higher Education -- 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:

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

§ 8600. Introduction. This article defines the practice of clinical laboratory technology and provides for the licensing of clinical laboratory technologists [~~and~~], cytotechnologists**, and histotechnologists** and for the certification of clinical laboratory technicians and [~~histological technicians~~] **histotechnicians**. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

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

2. A "clinical laboratory practitioner" means clinical laboratory technologists, cytotechnologists, **histotechnologists,** clinical laboratory technicians, and [~~histological technicians~~] **histotechnicians** as such terms are defined in this subdivision, who practice clinical laboratory technology in a licensed clinical laboratory. For the purposes of this article, a licensed clinical laboratory does not include a laboratory operated by any licensed physician, dentist, podiatrist, midwife or certified nurse practitioner who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients.

(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.

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

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(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"~~] **"Histotechnician"** 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~~]**,** cytotechnology **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 cytotechnologist**, or a histotechnologist** in this state unless he or she is licensed or exempt pursuant to this article.

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

§ 8603. Practice as a clinical laboratory technician and [~~histological technician~~] **histotechnician** and the use of the titles "clinical laboratory technician" and [~~"histological technician"~~] **"histotechnician"**. No person shall practice as a clinical laboratory technician or as a

[~~histological technician~~] histotechnician or hold himself or herself out as a clinical laboratory technician or a [~~histological technician~~] histotechnician in this state unless he or she is certified or exempt pursuant to this article, provided that an individual licensed as a clinical laboratory technologist, cytotechnologist, histotechnologist, or clinical laboratory technician may practice the profession of [~~histological technician~~] histotechnician.

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

§ 8604. State board for clinical laboratory technology. A state board for clinical laboratory technology shall be appointed by the board of regents upon the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of twelve members, four of whom shall be licensed clinical laboratory technologists, two of whom shall be licensed cytotechnologists, one of whom shall be a certified clinical laboratory technician, one of whom shall be a licensed histotechnologist or certified [~~histological technician~~] histotechnician, two members of the public, one representative of the diagnostic/manufacturing industry, and one director of a clinical laboratory who shall be a physician. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner. The clinical laboratory practitioner members of the initial board need not be licensed prior to their appointment but shall have met all other requirements of licensing except the filing of an application, the passing of a satisfactory exam and paying a fee.

§ 6. Section 8605 of the education law, as added by chapter 755 of the laws of 2004, is amended to read as follows:

§ 8605. Requirements for a license as a clinical laboratory technologist or cytotechnologist. To qualify for a license as a clinical laboratory technology practitioner under one of the titles defined in subdivision two of section eighty-six hundred one of this article, an applicant shall fulfill the particular requirements of a subdivision of this section applicable to the license and title sought by the applicant:

1. Licensure as a clinical laboratory technologist.

(a) Application: file an application with the department;

(b) Education: have received an education, including a bachelor's degree in clinical laboratory technology from a program registered by the department or determined by the department to be the substantial equivalent or a clinical laboratory technology program accredited by a national accrediting organization acceptable to the department, 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 clinical laboratory technology program or a program to be determined by the department to be the substantial equivalent;

(b-1) Alternatives to education:

(i) In lieu of requirements specified in paragraph (b) of this subdivision the department may accept:

(1) current clinical laboratory technology certification by a national certification organization acceptable to the department; or

(2) clinical laboratory technology licensure in a jurisdiction acceptable to the department;

(ii) In lieu of requirements specified in paragraph (b) of this subdivision the department may accept, a bachelor's degree in a natural

science or a clinical laboratory science and coursework acceptable to the department and:

(1) two years' experience in a clinical laboratory while licensed as a clinical laboratory technician in New York or another jurisdiction acceptable to the department; or

(2) two years' experience in a clinical laboratory while certified as a clinical laboratory technician by a national certification organization acceptable to the department.

(c) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(d) Age: be at least eighteen years of age;

(e) Character: be of good moral character as determined by the department; and

(f) 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.

2. Licensure as a cytotechnologist.

(a) Application: file an application with the department;

(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;

(b-1) Alternatives to education: in lieu of requirements specified in paragraph (b) of this subdivision the department may accept:

(i) current cytotechnology certification by a national certification organization acceptable to the department; or

(ii) cytotechnology licensure in a jurisdiction acceptable to the department.

(c) Examination: pass an examination acceptable to the board and in accordance with the commissioner's regulations;

(d) Age: be at least eighteen years of age;

(e) Character: be of good moral character as determined by the department; and

(f) 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.

§ 7. 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 an associate's degree clinical laboratory technician program accredited by a national accrediting organization acceptable to the department, or an associate's degree program in a natural science or a clinical laboratory science and coursework acceptable to the department and a clinical laboratory technician program accredited by a national accrediting organization acceptable to the department;

§ 8. Section 8606 of the education law is amending by adding a new subdivision 2-a to read as follows:

2-a. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept:

(a) current clinical laboratory technician certification by a national certification organization acceptable to the department; or

(b) clinical laboratory technician licensure in a jurisdiction 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 a histotechnician program accredited by a national accrediting organization acceptable to the department;

2-a. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept:

(a) current histotechnician certification by a national certification organization acceptable to the department; or

(b) histotechnician licensure in a jurisdiction 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 completed one of following requirements:

(a) a bachelor's degree program in histotechnology registered by the department or determined by the department to be the substantial equivalent, or a histotechnology program accredited by a national accrediting organization acceptable to the department; or

(b) a bachelor's degree program in a natural science or a laboratory science and a minimum number of credit hours acceptable to the department, and appropriate clinical education in a histotechnologist program accredited by a national accrediting organization acceptable to the department or a program registered by the department or determined by the department to be the substantial equivalent; or

(c) current histotechnologist certification by a national certification organization acceptable to the department; or

(d) histotechnologist licensure in a jurisdiction acceptable to the department;

3. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept, a bachelor's degree in a natural science or a clinical laboratory science and course-work acceptable to the department and:

(a) two years' experience in a clinical laboratory while licensed as a histotechnician in New York or another jurisdiction acceptable to the department; or

(b) two years' experience in a clinical laboratory while certified as a histotechnician by a national certification organization acceptable to the department.

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

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

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

7. 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. Subdivision 1 and paragraphs (a) and (b) of subdivision 2 of section 8608 of the education law, subdivision 1 as amended and paragraphs (a) and (b) of subdivision 2 as added by chapter 147 of the laws of 2018, are amended to read as follows:

1. Limited permit. On the recommendation of the board, the department may issue a limited permit to practice as a clinical laboratory practitioner to an applicant who has met all requirements for licensure as a clinical laboratory technologist or cytotechnologist, histotechnologist, or certification as a clinical laboratory technician or [~~histological technician~~] histotechnician, except those relating to the examination and provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department. This limited 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~~] two years and shall not be renewable.

(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~~] two years and shall not be renewable.

(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-

ical laboratory, provided that such education and training are accepta-
ble to the department; or
(C) have received a bachelor's degree in the biological, chemical, or physical sciences or in mathematics, and have served as a research assistant in a research laboratory, under the direction of the director or the principal researcher of such research laboratory, working on the research and development of any procedures and examinations to be conducted by a laboratory, as defined in title five of article five of the public health law, on material derived from the human body which provides information for the diagnosis, prevention or treatment of a disease or assessment of a human medical condition; or
(D) for those seeking a provisional permit as a [~~histological technician~~] histotechnician, have received an education, including an associate's degree that includes a minimum number of credit hours in the sciences, provided that such education is acceptable to the department;
(iii) be at least eighteen years of age;
(iv) be of good moral character as determined by the department; [~~and~~]
(v) pay a fee of [~~three hundred forty-five~~] fifty dollars for a provisional permit [~~provided that the fee for a provisional permit as a histological technician shall be two hundred forty-five dollars.~~];
(vi) file a licensure application with the department; and
(vii) pay the licensure fee as outlined in section eighty-six hundred six of this article.
§ 12. Subdivision 1 of section 8609 of the education law, as amended by chapter 204 of the laws of 2008, is amended to read as follows:
1. the practice, conduct, activities, or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one-B of this title, or by any person registered to perform services as a physician assistant or specialist assistant within the state pursuant to article one hundred thirty-one-B of this title, or by any person licensed to practice dentistry within the state pursuant to article one hundred thirty-three of this title, or by any person licensed to practice podiatry within the state pursuant to article one hundred forty-one of this title, or by any person certified as a nurse practitioner within the state pursuant to article one hundred thirty-nine of this title, or by any person licensed to perform services as a respiratory therapist or respiratory therapy technician under article one hundred sixty-four of this title, or any person licensed to practice midwifery within the state pursuant to article one hundred forty of this title, or a person licensed to practice nursing pursuant to article one hundred thirty-nine of this title, or a person licensed to practice pursuant to article thirty-five of the public health law; provided, however, that no such person shall use the titles licensed clinical laboratory technologist, licensed cytotechnologist, licensed histotechnologist, [~~or~~] certified clinical laboratory technician, or certified histotechnician, unless licensed or certified under this article; or
§ 13. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided however, that section ten of this act shall take effect eighteen months after it shall have become a law. Effective immediately, the state education department is authorized to promulgate regulations that may be required and to take other measures necessary to implement this act prior to the aforementioned effective dates, including acceptance and processing of applications for licensing.