

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 recom-
mitted 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 Assem-
bly, 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.

22 (a) "Clinical laboratory technologist" means a clinical laboratory
23 practitioner who, pursuant to established and approved protocols of the
24 department of health, performs clinical laboratory procedures and exam-
25 inations and any other tests or procedures conducted by a clinical labo-
26 ratory, including maintaining equipment and records, and performing
27 quality assurance activities related to examination performance, and
28 which require the exercise of independent judgment and responsibility,
29 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

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

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

10 § 8604. State board for clinical laboratory technology. A state board
11 for clinical laboratory technology shall be appointed by the board of
12 regents upon the recommendation of the commissioner for the purpose of
13 assisting the board of regents and the department on matters of profes-
14 sional licensing and professional conduct in accordance with section
15 sixty-five hundred eight of this title. The board shall be composed of
16 twelve members, four of whom shall be licensed clinical laboratory tech-
17 nologists, two of whom shall be licensed cytotechnologists, one of whom
18 shall be a certified clinical laboratory technician, one of whom shall
19 be a licensed histotechnologist or certified [~~histological technician~~]
20 histotechnician, two members of the public, one representative of the
21 diagnostic/manufacturing industry, and one director of a clinical labo-
22 ratory who shall be a physician. An executive secretary to the board
23 shall be appointed by the board of regents upon the recommendation of
24 the commissioner. The clinical laboratory practitioner members of the
25 initial board need not be licensed prior to their appointment but shall
26 have met all other requirements of licensing except the filing of an
27 application, the passing of a satisfactory exam and paying a fee.

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

30 § 8605. Requirements for a license as a clinical laboratory technolo-
31 gist or cytotechnologist. To qualify for a license as a clinical labora-
32 tory technology practitioner under one of the titles defined in subdivi-
33 sion two of section eighty-six hundred one of this article, an applicant
34 shall fulfill the particular requirements of a subdivision of this
35 section applicable to the license and title sought by the applicant:

36 1. Licensure as a clinical laboratory technologist.

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

38 (b) Education: have received an education, including a bachelor's
39 degree in clinical laboratory technology from a program registered by
40 the department or determined by the department to be the substantial
41 equivalent or a clinical laboratory technology program accredited by a
42 national accrediting organization acceptable to the department, or have
43 received a bachelor's degree that includes a minimum number of credit
44 hours in the sciences and received appropriate clinical education in an
45 accredited clinical laboratory technology program or a program to be
46 determined by the department to be the substantial equivalent;

47 (b-1) Alternatives to education:

48 (i) In lieu of requirements specified in paragraph (b) of this subdivi-
49 vision the department may accept:

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

52 (2) clinical laboratory technology licensure in a jurisdiction accept-
53 able to the department;

54 (ii) In lieu of requirements specified in paragraph (b) of this subdivi-
55 vision the department may accept, a bachelor's degree in a natural

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

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

6 (2) two years' experience in a clinical laboratory while certified as
7 a clinical laboratory technician by a national certification organiza-
8 tion acceptable to the department.

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

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

12 (e) Character: be of good moral character as determined by the depart-
13 ment; and

14 (f) Fees: pay a fee of one hundred seventy-five dollars for an initial
15 license and a fee of one hundred seventy dollars for each triennial
16 registration period.

17 2. Licensure as a cytotechnologist.

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

19 (b) Education: have received an education, including a bachelor's
20 degree in cytotechnology from a program registered by the department or
21 determined by the department to be the substantial equivalent, or have
22 received a bachelor's degree that includes a minimum number of credit
23 hours in the sciences and received appropriate clinical education in an
24 accredited cytotechnology program or a program determined by the depart-
25 ment to be the substantial equivalent;

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

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

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

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

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

35 (e) Character: be of good moral character as determined by the depart-
36 ment; and

37 (f) Fees: pay a fee of one hundred seventy-five dollars for an initial
38 license and a fee of one hundred seventy dollars for each triennial
39 registration period.

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

42 2. Education: have received an education, including an associate's
43 degree from an approved clinical laboratory technician program regis-
44 tered by the department or determined by the department to be the
45 substantial equivalent, or an associate's degree clinical laboratory
46 technician program accredited by a national accrediting organization
47 acceptable to the department, or an associate's degree program in a
48 natural science or a clinical laboratory science and coursework accepta-
49 ble to the department and a clinical laboratory technician program
50 accredited by a national accrediting organization acceptable to the
51 department;

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

54 2-a. Alternatives to education: in lieu of requirements specified in
55 subdivision two of this section the department may accept:

- 1 (a) current clinical laboratory technician certification by a national
2 certification organization acceptable to the department; or
3 (b) clinical laboratory technician licensure in a jurisdiction accept-
4 able to the department.

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

7 § 8606-a. Requirements for certification as a ~~[histological techni-~~
8 ~~cian]~~ histotechnician. For certification as a ~~[histological technician]~~
9 histotechnician under this article, an applicant shall fulfill the
10 following requirements:

- 11 1. Application: file an application with the department;
12 2. Education: have received an education, including an associate's
13 degree from an approved ~~[histological technician]~~ histotechnician
14 program registered by the department or determined by the department to
15 be the substantial equivalent, or have received an associate's degree
16 that includes a minimum number of credit hours in the sciences and
17 received appropriate clinical education in a ~~[histological technician]~~
18 histotechnician program approved by the department or a program to be
19 determined by the department to be the substantial equivalent or a
20 histotechnician program accredited by a national accrediting organiza-
21 tion acceptable to the department;

22 2-a. Alternatives to education: in lieu of requirements specified in
23 subdivision two of this section the department may accept:

- 24 (a) current histotechnician certification by a national certification
25 organization acceptable to the department; or
26 (b) histotechnician licensure in a jurisdiction acceptable to the
27 department.

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

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

31 5. Character: be of good moral character as determined by the depart-
32 ment; and

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

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

38 § 8606-b. Requirements for licensure as a histotechnologist. For
39 certification as a histotechnologist under this article, an applicant
40 shall fulfill the following requirements:

41 1. Application: file an application with the department;

42 2. Education: have completed one of following requirements:

43 (a) a bachelor's degree program in histotechnology registered by the
44 department or determined by the department to be the substantial equiv-
45 alent, or a histotechnology program accredited by a national accrediting
46 organization acceptable to the department; or

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

53 (c) current histotechnologist certification by a national certif-
54 ication organization acceptable to the department; or

55 (d) histotechnologist licensure in a jurisdiction acceptable to the
56 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-

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 clinical laboratory technologist, licensed cytotechnolo-
45 gist, licensed histotechnologist, [~~or~~] certified clinical laboratory
46 technician, or certified histotechnician, unless licensed or certified
47 under this article; or

48 § 13. This act shall take effect on the one hundred eightieth day
49 after it shall have become a law; provided however, that section ten of
50 this act shall take effect eighteen months after it shall have become a
51 law. Effective immediately, the state education department is author-
52 ized to promulgate regulations that may be required and to take other
53 measures necessary to implement this act prior to the aforementioned
54 effective dates, including acceptance and processing of applications for
55 licensing.