**South Carolina General Assembly**

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**H. 4611**

**STATUS INFORMATION**

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Introduced in the House on January 17, 2012

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Medical Laboratory Personnel Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/17/2012 House Introduced and read first time ([House Journal‑page 10](file:///h:\hj%20archive\2012\01-17-12.docx))

1/17/2012 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 10](file:///h:\hj%20archive\2012\01-17-12.docx))

**VERSIONS OF THIS BILL**

[1/17/2012](file:///p:\pprever\2011-12\4611_20120117.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 48 TO TITLE 40 SO AS TO ENACT THE “MEDICAL LABORATORY PERSONNEL ACT”, TO PROVIDE CERTAIN DEFINITIONS, TO IMPOSE REQUIREMENTS FOR LICENSURE OF MEDICAL LABORATORY PERSONNEL, TO CREATE THE SOUTH CAROLINA BOARD OF CLINICAL LABORATORY SCIENCE AND TO PROVIDE FOR ITS MEMBERSHIP, POWERS, AND DUTIES, AND TO PROVIDE REMEDIES FOR VIOLATIONS OF THIS CHAPTER, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 48

South Carolina Medical Laboratory Personnel Act

Section 40‑48‑10. This chapter may be cited as the ‘Medical Laboratory Personnel Act’.

Section 40‑48‑20. The purpose of this chapter is to protect the public health, safety, and welfare of the people of this State from the hazards of inappropriate collection of specimens and improper performance and reporting of test results by medical laboratory personnel. Medical laboratories provide essential services to practitioners of the healing arts by furnishing vital information that is necessary to the determination of the nature, cause and extent of the condition involved and the monitoring of therapy. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of medical laboratory personnel who meet minimum educational and training requirements for safe practice. Medical laboratory technology continues to advance rapidly. Therefore, adherence to practice standards and demonstration of continuing competence through documented continuing education is imperative for medical laboratory personnel.

Section 40‑48‑30. The following terms when used in the chapter mean the following, unless the context requires otherwise:

(1) ‘Board’ means the South Carolina Board of Clinical Laboratory Science.

(2) ‘Department’ means Department of Labor, Licensing and Regulation.

(3) ‘Clinical laboratory science’ or ‘medical laboratory technology’ means the science related to disease detection, diagnosis, and subsequent medical treatment.

(4) ‘CLIA’ refers to the final regulations promulgated by the United States Department of Health and Human Services implementing the Clinical Laboratory Improvement Amendments of 1988 and includes statue number P.L. 200‑578 and 42 C.F.R. 493 from the Code of Federal Regulations, as these regulations may be amended from time to time. CLIA regulations provide a minimum foundation for which personnel standards for entry level technical personnel are built. Qualifications and responsibilities for laboratory director, technical supervisor, and technical consultant are as specified in CLIA regulations. All medical laboratory personnel are under the supervision, control, and responsibility of the laboratory director.

(5) ‘Clinical laboratory test’ or ‘laboratory test’ means a microbiological, serological, molecular, chemical, biological, hematological, immunological, immunohematological, cytogenetics, stem cell processing, electron microscopy, histocompatibility, cellular immunology, flow cytometry, or any other test or procedure performed on material derived from or present within a human body which provides information for the diagnosis, prevention, or monitoring treatment of a clinical condition. Clinical laboratory testing encompasses the preanalytical, analytical, and postanalytical phases of testing.

(6) ‘Medical laboratory’ or ‘clinical laboratory’ means any site or location in which clinical laboratory tests or examinations are performed. These examinations include, but are not limited to, procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the human body. A facility which only collects or prepares specimens, or both, or only serves as a mailing service and does not perform on site testing is not a medical laboratory.

(7) ‘Laboratory director’ is an individual eligible under CLIA to direct a clinical laboratory.

(8) ‘Practice of clinical laboratory science’ means the performance by any individual, other than a board‑certified physician, of laboratory testing, analysis, or examination of human specimens.

(9) ‘Medical laboratory practitioner’ or ‘clinical laboratory personnel’ or ‘medical laboratory personnel’ means any and all individuals engaged in the practice of clinical laboratory science which includes a health care professional who withdraws blood from the human body by venipuncture or capillary puncture or who performs clinical laboratory tests or who is engaged in management, education, consulting or research in clinical laboratory science, and includes laboratory directors, supervisors, medical laboratory scientists (technologists) and technicians working in a clinical laboratory. This does not include persons employed by a clinical laboratory to perform supportive functions not related to direct performance of laboratory tests.

(10) ‘Licensed clinical laboratory personnel’ means persons working in a clinical laboratory setting who have met the qualifications of this chapter.

(11) ‘Medical laboratory scientist’ or ‘MLS’ means an individual who performs medical laboratory tests and procedures in a clinical laboratory setting which require the exercise of independent technical judgment and responsibility, including, but not limited to, the performance of all laboratory tests as stated in the Clinical Laboratory Improvement Amendments of 1988 and the rules and regulations promulgated pursuant thereto. This is subject to the supervision, control, responsibility and direction of the laboratory director. A medical laboratory scientist may maintain equipment and records, establish and implement protocols, select or develop test methodology, and perform quality assurance activities related to test performance. In addition this individual is responsible for, with oversight by the laboratory director, the establishment and implementation of protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic phases of testing. The medical laboratory scientist also may direct, supervise, consult, educate, and perform research functions. The medical laboratory scientist may perform the functions of the phlebotomist without additional certification.

(12) ‘Independent technical judgment’ means the performance of clinical laboratory tests and assumption of responsibility for the determination of the validly of clinical laboratory test results without intervention by or the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests. This means procedures, duties, and tests are not subject to review, upon completion, by a supervisor. Pertaining to clinical laboratory personnel, the authorized exercise of independent judgment must not be considered to include or permit the exercise of independent medical judgment in the diagnosis of or treatment of patients except as authorized in accordance with CLIA.

(13) ‘Independent medical judgment’ means in the laboratory, the performance of only pathologists to make independent medical judgment in the diagnosis and treatment decisions related to clinical laboratory tests.

(14) ‘Categorical medical laboratory scientist’ means an individual who performs the functions of a medical laboratory scientist but limited under the individual’s national certification or national qualification to perform in one or more categories of laboratory testing, such as microbiology, clinical chemistry, hematology, blood banking, molecular biology, cytogenetics, cytometry, immunohistochemistry, laboratory informatics, or other areas specified by the board, under the supervision, control, responsibility and direction of the laboratory director. This individual has been certified in only one or more areas by a national certification agency and therefore can perform testing and procedures related to just that specialty. The categorical medical laboratory scientist may perform the functions of the phlebotomist without additional certification.

(15) ‘Medical laboratory technician’ or ‘MLT’ means an individual who performs medical laboratory tests and procedures of high and moderate complexity under supervision as defined under CLIA and the rules and regulations promulgated pursuant thereto. The medical laboratory technician may perform the functions of the phlebotomist without additional certification.

(16) ‘Clinical laboratory assistant’ also known as ‘phlebotomist’ or ‘phlebotomy technician’ or ‘donor phlebotomy technician’ means an individual who performs an invasive procedure to withdraw blood from the human body by venipuncture or capillary puncture according to established and approved protocols in order to collect samples including blood donations and to perform specimen processing and preparation of samples for testing. This individual is also qualified to perform waived and point‑of‑care testing under the direction of a medical laboratory scientist, medical laboratory technician, or laboratory director.

(17) ‘Point‑of‑care testing’ means clinical laboratory testing provided within a facility, which does not require permanent dedicated space including, but not limited to analytic instruments that are temporarily brought to a patient care location. Tests which meet this definition provide clinically relevant information which determines the patient’s therapy, are limited to procedures that produce accurate data within a short period of time, meet the current standards of quality in clinical laboratory science and comply with all standards of accrediting agencies. Point‑of‑care testing must be under the direction, authority, jurisdiction, and responsibility of a medical laboratory scientist, medical laboratory technician, laboratory supervisor, or laboratory director.

(18) ‘Waived’, ‘Provider‑performed microscopy’ or ‘PPM’, ‘moderate complexity’, and ‘high complexity’ are categories of the clinical laboratory test complexity as defined by CLIA.

(19) ‘Waived test’ means a laboratory examination or procedure as determined by the United States Food and Drug Administration (FDA) which has an insignificant risk of an erroneous result, including those which have been approved by the FDA for home use. These tests employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible or pose no reasonable risk of harm to the patient if performed incorrectly.

(20) ‘Medical assistant’ means an individual who performs routine administrative and clinical tasks in the offices and clinics of physicians, podiatrists, chiropractors and optometrists and whose duties vary from office to office but may include clerical duties and performance of routine office laboratory procedures in accordance with CLIA regulations.

(21) ‘National certification’ means a competency‑based certification awarded to those individuals who meet educational and training requirements and who pass the appropriate examination that is administered by a national nonprofit credentialing agency such as American Society of Clinical Pathologists (ASCP) Board of Certification (BOC) and American Medical Technologists (AMT).

(22) ‘Student’ or ‘Trainee’ means an individual having qualifying education and who is enrolled in a National Accrediting Agency for Clinical Laboratory Science (NAACLS) accredited clinical laboratory training program. Trainees may perform procedures under direct supervision of licensed medical laboratory practitioners.

(23) ‘Direct supervision’ means the medical laboratory scientist, medical laboratory technician, laboratory supervisor, or laboratory director personally authorizes the procedures, duties, and tests to be performed and remains in the laboratory while the procedures, duties, and tests are being performed and reviews the test results.

(24) ‘Temporary license’ means a license issued to:

(a) an applicant eligible to sit for a national certification examination; or

(b) an applicant who meets the educational requirements for the certification and is seeking to qualify for the certification examination by completing the supervised clinical laboratory experience requirements.

(25) ‘Continuing education’ means an organized educational program designed to expand an individual’s knowledge base beyond the basic entry‑level educational requirements for medical laboratory personnel. Course content must relate to health care whether the subject is research, treatment, documentation, education, or management.

(26) ‘Effective date’ means one hundred twenty days after passage of the chapter. During this time the board must be appointed and bylaws established.

(27) ‘Enactment of the chapter’ means twenty‑four months after the effective date.

Section 40‑48‑40. The provisions of this chapter do not apply to:

(1) medical laboratory practitioner employed by the United States government, or any bureaus, divisions, or agencies, while performing duties within the scope of the professional’s federal employment;

(2) a nonprofit laboratory operated and maintained exclusively for instruction and research involving no individual patient or public health care service, provided the results of any examination performed in such a clinical laboratory are not used directly in the diagnosis, evaluation, or treatment of human disease or disorder;

(3) any board‑certified physician licensed by the State of South Carolina; any doctorate in chemical, physical, or biological sciences or medicine, or laboratory director;

(4) other licensed or registered health care professionals performing functions within the professional’s scope of practice. This includes any clinical perfusionist acting within the scope of practice of perfusion in the support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of an individual patient. This includes any pulmonary function technician acting within the scope of performance of the practice of respiratory therapy. This includes registered nurse practitioners or physician assistants who perform provider‑performed microscopy procedures in a physician office setting;

(5) individuals exclusively performing only waived testing in an institution meeting current CLIA regulations;

(6) pathologist assistants, histotechnologists, histotechnicians, and cytotechnologists that are qualified or otherwise allowed to perform these functions in accordance with CLIA regulations;

(7) medical laboratory science professionals engaged in the education of medical laboratory science professionals or in research, provided that the results of any examination performed are not used in health maintenance, diagnosis or treatment of disease;

(8) any individual whose duties might include demonstrating or instructing, or both; the development of assays, or management‑related activities in the clinical laboratory; the use of any automated or digital instrument, device, machine, or similar mechanical equipment and related procedures utilized to assist in the practice of clinical laboratory science, provided the results furnished by such equipment during such a demonstration or instruction are not used in the diagnosis, evaluation, or treatment of human disease or disorder;

(9) students or trainees enrolled in a NAACLS accredited medical laboratory science education program provided that the activities performed by the student or trainee constitute a part of a planned course in the program; the student or trainee is clearly designated as intern, trainee, or student; and the student or trainee is directly supervised by an individual licensed under this chapter to practice clinical laboratory science;

(10) individuals performing forensic testing and examination of body fluids, tissues, cells, or blood solely for the purpose of law enforcement and the state’s criminal justice system;

(11) clinical laboratory assistants performing blood collection and waived testing;

(12) laboratory testing personnel employed in a physician office laboratory (POL) or other out‑patient facility to include public health facilities, specialty laboratories, and reference laboratories;

(13) laboratory testing personnel employed in a hospital‑based laboratory within a hospital facility with less than 200 beds.

Section 40‑48‑50. (A) Clinical laboratory professionals licensed under this chapter shall collect human blood specimens for clinical laboratory testing and perform clinical laboratory tests and provide test results to physicians and patients upon request or upon physician referral in accordance with CLIA.

(B) The practice of clinical laboratory science includes, but is not limited to:

(1) the production of test data;

(2) monitoring the accuracy, precision, and utility of laboratory testing;

(3) analytical correlation and interpretation of test data; and

(4) designing, evaluation, and implementing new laboratory test methods.

(C) The services provided by clinical laboratory professionals must be consistent with good practice and sound professional ethics.

(D) The practice of clinical laboratory science does not include the exercise of independent medical judgment that is performed by pathologists who provide such judgment in the diagnosis and treatment decisions related to clinical laboratory tests.

Section 40‑48‑60. (A) Effective July 1, 2012, no individual shall perform nonwaived clinical laboratory tests typically performed by medical laboratory scientists or medical laboratory technicians or shall take, use, or exhibit the title of ‘medical laboratory scientist’, or ‘categorical medical laboratory scientist’, or ‘medical laboratory technician’ unless that person is South Carolina state licensed or exempt under this chapter.

(B) No person knowingly may employ or designate as a medical laboratory practitioner who does not hold a license issued by the State of South Carolina unless that employee is exempt under this chapter.

Section 40‑48‑70. (A) The following types of South Carolina licenses must be issued by the department:

(1) Medical Laboratory Scientist. The board shall issue a medical laboratory scientist’s license to an individual who possesses a baccalaureate degree from a regionally accredited college or university, has acceptable clinical laboratory experience and training, and passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification or American Medical Technologists or successor organizations at the medical laboratory science level.

(2) Categorical Medical Laboratory Scientist: The board shall issue a categorical medical laboratory scientist license to an individual who possesses a baccalaureate degree from a regionally accredited college or university, has acceptable clinical laboratory experience and training, and passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification or American Medical Technologists or successor organizations in a recognized discipline of laboratory science. The laboratory discipline will be specified on the state license and the individual’s practice must be limited to the category or categories listed.

(3) Medical Laboratory Technician: The board shall issue a medical laboratory technician license to an individual who possesses an associate degree in medical technology from a regionally accredited college or university, or has successfully completed sixty semester hours of academic credit at an accredited institution including chemistry, biology, and a structured curriculum in medical laboratory techniques, and has at least one year of pertinent full‑time experience or training, or both, or has equivalent training and experience in the United States Armed Forces and passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification or American Medical Technologists or successor organizations at the level of a medical laboratory technician.

(B) Any medical laboratory scientist or medical laboratory technician who obtains the required minimum education requirements and is nationally certified by the above specified national certification agencies is considered to have met the qualifications for licensure by the South Carolina Board of Clinical Laboratory Science, and upon application, must be issued an initial license at the appropriate level.

(C) Nothing is this chapter limits, enlarges, or affects the practice of a licensed clinical laboratory practitioner.

Section 40‑48‑80. (A) The board shall waive the above requirements for persons seeking licensure as medical laboratory scientist or medical laboratory technician if the person:

(1) makes application for licensure within twenty‑four months after effective date of this chapter;

(2) is currently working and is performing duties associated with an MLS or MLT; and

(3) otherwise complies with regulations of the board relating to moral turpitude. The board will determine the type of license for which the applicant is eligible.

(B) Effective twenty‑four months after the effective date of this chapter, no initial license for medical laboratory scientist or categorical medical laboratory scientist or medical laboratory technician must be issued until an applicant meets all of the requirements under this chapter.

(C) Except as otherwise exempt from the provisions of this chapter, all individuals who perform the duties of medical laboratory scientist or medical laboratory technician on the effective date of the chapter; all those who are either certified or eligible for certification by an agency approved according to this chapter and have complied with all necessary requirements for such application may continue to perform the duties until the first of the following occurs:

(1) the expiration of twelve months after the filing of such state license application;

(2) the denial of the application by the board; or

(3) the withdrawal of the application.

Section 40‑48‑90. After the effective date of this chapter, all new graduates of clinical laboratory educational programs related to the education and training of the personnel licensed in this chapter must be required to meet the stated requirements of this chapter and apply for initial South Carolina license or temporary license.

Section 40‑48‑100. (A) South Carolina state license applicants who are nationally certification eligible by meeting the education, experience, or training requirements but have not successfully passed an approved certification examination as listed in this chapter may be granted a temporary license upon conclusion of their education or training that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level. The term for the temporary license must be six months and may be renewed once.

(B) Persons seeking national qualification for such disciplines as cytometry, immunohistochemistry, or laboratory informatics or other laboratory related specialties who possess a baccalaureate degree or higher from a regionally accredited college or university and require experience to meet the acceptable criteria for application for the appropriate national certification examination, may apply for a special temporary license for a term as necessary for eligibility for national certification. Terms for the special temporary license must be set by the board.

(C) The board as part of their official duties will establish the policy and procedures for the issuance of special temporary licenses for applicants who require experience to qualify for the national certification from organizations listed in this chapter. Such duties shall include expiration and renewal terms which will depend on the selected route and type of national certification that the individual is seeking to obtain. If the period of time of the renewed temporary certificate passes without passage of the certification exam, the temporary license is void and the applicant may no longer practice clinical laboratory science. Any exceptions must be approved by the board.

Section 40‑48‑110. (A) Internationally trained license applicants must have their college transcripts evaluated by a transcript evaluation agency acceptable to the board and submitted directly to a board‑approved national certification agency.

(B) The evaluation must indicate the applicant’s education is equivalent to that which is required for national certification at the level of license being sought.

(C) Upon submission of proof to the board of acceptance to sit for the national certification examination, the individual may apply for a temporary state license in the corresponding clinical laboratory science category.

(D) Verification of national certifying exam certification must come directly from the certifying entity.

(E) All funds collected must be in United States currency only.

(F) Applicants must have United States Social Security number.

Section 40‑48‑120. (A) The board shall recognize a valid license or equivalent issued by another state provided that the requirements under which that license was issued are equivalent to or exceed the standards required by this chapter.

(B) The applicant applying for South Carolina licensure by reciprocity must provide all necessary evidence to the board that the applicant holds a current and unrestricted license for the practice of medical laboratory science.

Section 40‑48‑130. (A) There is created the South Carolina Board of Clinical Laboratory Science under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to protect the public by assisting the division in administering and enforcing the provisions. The board shall adopt, publish, and enforce such rules and regulations within the scope and purview of the sections as may be considered necessary or proper for the effective administration and interpretation of the provisions of this chapter, and for the conduct of its business and management of its internal affairs.

(B) The board must be composed of seven members to be appointed by the Governor with the advice and consent of the Senate within ninety days after passage of this chapter. Board members shall include two pathologists, one non‑physician laboratory director, two medical laboratory scientists, and one medical laboratory technician. One additional member must be a lay member. Each member of the board must be a citizen of the United States and a South Carolina resident. All of the medical laboratory scientists and medical laboratory technicians must hold active and valid South Carolina licenses. Nominations for appointment to the board may be made to the Governor by an individual, group, or association. The governor may appoint a board member from the list of nominations or may appoint some other qualified person that meets the above position. Members shall serve terms of two or three years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The Governor may remove a member of the board as provided for in Section 1‑3‑240.

Section 40‑48‑140. (A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

(B) The board shall establish the appropriate required fees.

(C) All fees are nonrefundable and may be prorated to comply with established licensure renewal.

Section 40‑48‑150. The board may adopt rules governing its proceedings as provided for in Section 40‑1‑60 and may adopt an official seal bearing the words ‘South Carolina Board of Clinical Laboratory Science’. The board shall promulgate regulations necessary to carry out the provisions of this chapter including, but not limited to, promulgating in regulation a code of ethics.

Section 40‑48‑160. The board shall regulate the issuance of licenses and temporary licenses and shall discipline in any manner authorized by this chapter or Article 1, Chapter 1.

Section 40‑48‑170. (A) The department, on behalf of the board, shall investigate complaints and violations of this chapter as provided in Section 40‑1‑80.

(B) The results of an investigation must be presented to the board, and any subsequent hearing must be conducted in accordance with Section 40‑1‑90.

(C) In addition to other remedies provided for in this chapter, the board in accordance with Section 40‑1‑100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

(D) A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

(E) A person aggrieved by a final action of the board may seek review of the decision pursuant to Section 40‑1‑160.

(F) A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

(G) Investigations and proceedings conducted under this chapter are confidential, and all communications are privileged as provided for in Section 40‑1‑190.

Section 40‑48‑180. In addition to other grounds provided in Section 40‑1‑110, the board, after notice and a hearing conducted in accordance with the Administrative Procedures Act, may restrict or refuse to grant a license to an applicant or may refuse to renew the license of a licensed person or may suspend, revoke, or otherwise restrict the license of a licensed person who:

(1) violates a provision of this chapter or a regulation promulgated pursuant to this chapter or an order issued by the board;

(2) commits fraud, deception, misrepresentation, or bribery in securing a license pursuant to the provisions of this section;

(3) impersonates any individual holding a license or allows any individual to use his license or diploma from any school;

(4) has disciplinary action by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this State;

(5) has been issued a license based upon a material mistake of fact;

(6) has been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state, the United States, for any offense reasonably related to the qualification, functions, or duties of the individual who is regulated, for any offense an essential element of fraud, dishonesty or act of violence, or for any offense involving moral turpitude, elderly or child abuse, regardless of whether or not sentence is imposed;

(7) has demonstrated professional incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of specimen collection, processing or performance of clinical laboratory testing or erroneous reporting;

(8) has wilfully made or filed false records or reports in his practice including, but not limited to, false records filed with state agencies or departments;

(9) has directly or indirectly given to or received from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional services not actually rendered;

(10) has, after having his license placed on probationary status, violated the terms of probation;

(11) engages in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or violates any standard of professional conduct adopted by the board;

(12) has jeopardized patient safety by providing professional services while mentally incompetent or under the influence of alcohol, a narcotic, or a controlled substance that is in excess of therapeutic amounts or without valid medical indication;

(13) has directly or indirectly contracted to perform clinical laboratory tests in a manner which offers or implies an offer of rebate, fee‑splitting inducements, or arrangements, or other remuneration;

(14) aided or assisted another individual in violating any provision of this chapter or any rule adopted hereunder.

Section 40‑48‑190. (A) At any time after the suspension or revocation of any license, the department may restore the license to the accused person, upon the written recommendation of the board, unless after an investigation and a hearing the board determines that restoration is not in the public interest.

(B) Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license to the department, and if the licensee fails to do so, the department shall have the right to seize the license.

(C) Any person who is found to have violated any provision of this chapter is guilty of a misdemeanor for a first offense and, upon conviction, must be imprisoned for not more than three years, and is guilty of a felony for second and subsequent offense and, upon conviction, must be imprisoned for not more than five years.

Section 40‑48‑200. (A) The board has jurisdiction over the actions of licensees as provided for in Section 40‑1‑115. The board does not have the authority to modify or expand criteria already established in this chapter.

(B) The board has following duties that will include the following, but are not limited to:

(1) constructing all forms necessary to administer this chapter;

(2) setting all applicable fees; fees must be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of this chapter;

(3) selecting the standards for continuing education to include policy for inactive status;

(4) establishing the policies and procedures for temporary certifications and their renewal for personnel who require on‑the‑job experience or training for national certification eligibility; and

(5) establishing and adopting a clinical laboratory personnel code of ethics.

Section 40‑48‑210. (A) An applicant for initial licensure must submit:

(1) a completed notarized application form;

(2) the required fee; and

(3) proof of passage of national certification examination appropriate for applied license and administered by an approved organization listed in this chapter.

(B) Upon receipt of application and payment of a fee, the board shall issue a license at the appropriate practitioner level to any person who meets the qualifications specified in this chapter.

(C) The board shall set the fees for original and renewal licenses so that the total fees collected will be sufficient to meet the expenses of administering this chapter.

Section 40‑48‑220. All licenses for clinical laboratory personnel are valid for three years from the date on which it is issued, and it is the responsibility of the licensee to renew the license whether or not a notice is received.

Section 40‑48‑230. (A) The licensee shall complete the appropriate renewal form and provide documentation of required continuing education within sixty days of renewal date and submit the appropriate fee.

(B) The license of any individual, who fails to pay the required fee, fails to provide documentation of required continuing education, or fails to provide the board with any information required for renewal within sixty days after the expiration of such license must be automatically canceled without notice or further proceedings to invalidate the license unless the individual has applied for inactive status.

Section 40‑48‑240. (A) As a condition of license renewal, a licensee must be in good standing with the board and satisfactorily complete education requirements as follows as evidence of continued competency:

(1) medical laboratory scientists and medical laboratory technicians must be required to complete thirty‑six hours of continuing education within three years and must submit a completed form with renewal applications; and

(2) criteria for acceptable continuing education units shall mimic the current ASCP’s board of Certification, Certification Maintenance Program (CMP). Any exceptions or deviations would be approved by the board. Any changes made to the CMP by ASCP would be approved by the board.

(B) The board may at random request validation of the submitted continuing education.

(C) If the requirements of this section have not been completed within one year, the application and credentials must be brought up to date and resubmitted with payment of the required fee. A person must comply with this section before renewal of license may be granted.

Section 40‑48‑250. (A) A licensed medical laboratory practitioner may ask to be placed on inactive status, provided such individual does not practice clinical laboratory science during such a period that the individual is on inactive status. Individuals requesting such status shall submit the appropriate form.

(B) The board may reactivate an inactive license with application and the required fee. Continuing education requirements must be determined by the board.

(C) A new license to replace any license lost, destroyed or mutilated may be issued upon payment of a fee.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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