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119th Session, 2011-2012

**H. 4611**

**STATUS INFORMATION**

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Sponsors: Rep. Lowe

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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**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/17/2012	House	Introduced and read first time (House Journal-page 10)
1/17/2012	House	Referred to Committee on <b>Medical, Military, Public and Municipal Affairs</b>

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**VERSIONS OF THIS BILL**

[1/17/2012](#)

**See Bill Below**

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**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,

1 and financial burdens and may even contribute directly to death.  
2 The protection of public and individual health requires the  
3 licensure of medical laboratory personnel who meet minimum  
4 educational and training requirements for safe practice. Medical  
5 laboratory technology continues to advance rapidly. Therefore,  
6 adherence to practice standards and demonstration of continuing  
7 competence through documented continuing education is  
8 imperative for medical laboratory personnel.

9

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

12 (1) 'Board' means the South Carolina Board of Clinical  
13 Laboratory Science.

14 (2) 'Department' means Department of Labor, Licensing and  
15 Regulation.

16 (3) 'Clinical laboratory science' or 'medical laboratory  
17 technology' means the science related to disease detection,  
18 diagnosis, and subsequent medical treatment.

19 (4) 'CLIA' refers to the final regulations promulgated by the  
20 United States Department of Health and Human Services  
21 implementing the Clinical Laboratory Improvement Amendments  
22 of 1988 and includes statute number P.L. 200-578 and 42 C.F.R.  
23 493 from the Code of Federal Regulations, as these regulations  
24 may be amended from time to time. CLIA regulations provide a  
25 minimum foundation for which personnel standards for entry level  
26 technical personnel are built. Qualifications and responsibilities for  
27 laboratory director, technical supervisor, and technical consultant  
28 are as specified in CLIA regulations. All medical laboratory  
29 personnel are under the supervision, control, and responsibility of  
30 the laboratory director.

31 (5) 'Clinical laboratory test' or 'laboratory test' means a  
32 microbiological, serological, molecular, chemical, biological,  
33 hematological, immunological, immuno-hematological,  
34 cytogenetics, stem cell processing, electron microscopy,  
35 histocompatibility, cellular immunology, flow cytometry, or any  
36 other test or procedure performed on material derived from or  
37 present within a human body which provides information for the  
38 diagnosis, prevention, or monitoring treatment of a clinical  
39 condition. Clinical laboratory testing encompasses the  
40 preanalytical, analytical, and postanalytical phases of testing.

41 (6) 'Medical laboratory' or 'clinical laboratory' means any site  
42 or location in which clinical laboratory tests or examinations are  
43 performed. These examinations include, but are not limited to,

1 procedures to determine, measure, or otherwise describe the  
2 presence or absence of various substances or organisms in the  
3 human body. A facility which only collects or prepares specimens,  
4 or both, or only serves as a mailing service and does not perform  
5 on site testing is not a medical laboratory.

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

8 (8) 'Practice of clinical laboratory science' means the  
9 performance by any individual, other than a board-certified  
10 physician, of laboratory testing, analysis, or examination of human  
11 specimens.

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

24 (10) 'Licensed clinical laboratory personnel' means persons  
25 working in a clinical laboratory setting who have met the  
26 qualifications of this chapter.

27 (11) 'Medical laboratory scientist' or 'MLS' means an  
28 individual who performs medical laboratory tests and procedures  
29 in a clinical laboratory setting which require the exercise of  
30 independent technical judgment and responsibility, including, but  
31 not limited to, the performance of all laboratory tests as stated in  
32 the Clinical Laboratory Improvement Amendments of 1988 and  
33 the rules and regulations promulgated pursuant thereto. This is  
34 subject to the supervision, control, responsibility and direction of  
35 the laboratory director. A medical laboratory scientist may  
36 maintain equipment and records, establish and implement  
37 protocols, select or develop test methodology, and perform quality  
38 assurance activities related to test performance. In addition this  
39 individual is responsible for, with oversight by the laboratory  
40 director, the establishment and implementation of protocols,  
41 quality assessment, method development and selection, equipment  
42 selection and maintenance, and all activities related to the  
43 preanalytic, analytic, and postanalytic phases of testing. The

1 medical laboratory scientist also may direct, supervise, consult,  
2 educate, and perform research functions. The medical laboratory  
3 scientist may perform the functions of the phlebotomist without  
4 additional certification.

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

17 (13) 'Independent medical judgment' means in the laboratory,  
18 the performance of only pathologists to make independent medical  
19 judgment in the diagnosis and treatment decisions related to  
20 clinical laboratory tests.

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

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

41 (16) 'Clinical laboratory assistant' also known as 'phlebotomist'  
42 or 'phlebotomy technician' or 'donor phlebotomy technician'  
43 means an individual who performs an invasive procedure to

1 withdraw blood from the human body by venipuncture or capillary  
2 puncture according to established and approved protocols in order  
3 to collect samples including blood donations and to perform  
4 specimen processing and preparation of samples for testing. This  
5 individual is also qualified to perform waived and point-of-care  
6 testing under the direction of a medical laboratory scientist,  
7 medical laboratory technician, or laboratory director.

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

20 (18) 'Waived', 'Provider-performed microscopy' or 'PPM',  
21 'moderate complexity', and 'high complexity' are categories of the  
22 clinical laboratory test complexity as defined by CLIA.

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

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

37 (21) 'National certification' means a competency-based  
38 certification awarded to those individuals who meet educational  
39 and training requirements and who pass the appropriate  
40 examination that is administered by a national nonprofit  
41 credentialing agency such as American Society of Clinical  
42 Pathologists (ASCP) Board of Certification (BOC) and American  
43 Medical Technologists (AMT).

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

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

12 (24) 'Temporary license' means a license issued to:

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

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

19 (25) 'Continuing education' means an organized educational  
20 program designed to expand an individual's knowledge base  
21 beyond the basic entry-level educational requirements for medical  
22 laboratory personnel. Course content must relate to health care  
23 whether the subject is research, treatment, documentation,  
24 education, or management.

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

28 (27) 'Enactment of the chapter' means twenty-four months after  
29 the effective date.

30

31 Section 40-48-40. The provisions of this chapter do not apply  
32 to:

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

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

- 1 (3) any board-certified physician licensed by the State of South  
2 Carolina; any doctorate in chemical, physical, or biological  
3 sciences or medicine, or laboratory director;
- 4 (4) other licensed or registered health care professionals  
5 performing functions within the professional's scope of practice.  
6 This includes any clinical perfusionist acting within the scope of  
7 practice of perfusion in the support, treatment, measurement, or  
8 supplementation of the cardiopulmonary and circulatory system of  
9 an individual patient. This includes any pulmonary function  
10 technician acting within the scope of performance of the practice  
11 of respiratory therapy. This includes registered nurse practitioners  
12 or physician assistants who perform provider-performed  
13 microscopy procedures in a physician office setting;
- 14 (5) individuals exclusively performing only waived testing in  
15 an institution meeting current CLIA regulations;
- 16 (6) pathologist assistants, histotechnologists, histotechnicians,  
17 and cytotechnologists that are qualified or otherwise allowed to  
18 perform these functions in accordance with CLIA regulations;
- 19 (7) medical laboratory science professionals engaged in the  
20 education of medical laboratory science professionals or in  
21 research, provided that the results of any examination performed  
22 are not used in health maintenance, diagnosis or treatment of  
23 disease;
- 24 (8) any individual whose duties might include demonstrating  
25 or instructing, or both; the development of assays, or  
26 management-related activities in the clinical laboratory; the use of  
27 any automated or digital instrument, device, machine, or similar  
28 mechanical equipment and related procedures utilized to assist in  
29 the practice of clinical laboratory science, provided the results  
30 furnished by such equipment during such a demonstration or  
31 instruction are not used in the diagnosis, evaluation, or treatment  
32 of human disease or disorder;
- 33 (9) students or trainees enrolled in a NAACLS accredited  
34 medical laboratory science education program provided that the  
35 activities performed by the student or trainee constitute a part of a  
36 planned course in the program; the student or trainee is clearly  
37 designated as intern, trainee, or student; and the student or trainee  
38 is directly supervised by an individual licensed under this chapter  
39 to practice clinical laboratory science;
- 40 (10) individuals performing forensic testing and examination of  
41 body fluids, tissues, cells, or blood solely for the purpose of law  
42 enforcement and the state's criminal justice system;



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

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

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

8  
9 Section 40-48-50. (A) Clinical laboratory professionals  
10 licensed under this chapter shall collect human blood specimens  
11 for clinical laboratory testing and perform clinical laboratory tests  
12 and provide test results to physicians and patients upon request or  
13 upon physician referral in accordance with CLIA.

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

16 (1) the production of test data;

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

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

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

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

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

29  
30 Section 40-48-60. (A) Effective July 1, 2012, no individual  
31 shall perform nonwaived clinical laboratory tests typically  
32 performed by medical laboratory scientists or medical laboratory  
33 technicians or shall take, use, or exhibit the title of 'medical  
34 laboratory scientist', or 'categorical medical laboratory scientist',  
35 or 'medical laboratory technician' unless that person is South  
36 Carolina state licensed or exempt under this chapter.

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

41  
42 Section 40-48-70. (A) The following types of South Carolina  
43 licenses must be issued by the department:

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

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

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

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

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

1

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

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

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

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

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

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

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

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

28 (3) the withdrawal of the application.

29

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

36

37 Section 40-48-100. (A) South Carolina state license applicants  
38 who are nationally certification eligible by meeting the education,  
39 experience, or training requirements but have not successfully  
40 passed an approved certification examination as listed in this  
41 chapter may be granted a temporary license upon conclusion of  
42 their education or training that will allow that individual to engage  
43 in the practice of clinical laboratory science at the appropriate

1 level. The term for the temporary license must be six months and  
2 may be renewed once.

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

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

23  
24 Section 40-48-110. (A) Internationally trained license  
25 applicants must have their college transcripts evaluated by a  
26 transcript evaluation agency acceptable to the board and submitted  
27 directly to a board-approved national certification agency.

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

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

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

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

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

40  
41 Section 40-48-120. (A) The board shall recognize a valid  
42 license or equivalent issued by another state provided that the

1 requirements under which that license was issued are equivalent to  
2 or exceed the standards required by this chapter.

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

7  
8 Section 40-48-130. (A) There is created the South Carolina  
9 Board of Clinical Laboratory Science under the administration of  
10 the Department of Labor, Licensing and Regulation. The purpose  
11 of this board is to protect the public by assisting the division in  
12 administering and enforcing the provisions. The board shall adopt,  
13 publish, and enforce such rules and regulations within the scope  
14 and purview of the sections as may be considered necessary or  
15 proper for the effective administration and interpretation of the  
16 provisions of this chapter, and for the conduct of its business and  
17 management of its internal affairs.

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

37  
38 Section 40-48-140. (A) The Department of Labor, Licensing  
39 and Regulation shall provide all administrative, fiscal,  
40 investigative, inspectional, clerical, secretarial, and license renewal  
41 operations and activities of the board in accordance with Section  
42 40-1-50.

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

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

3  
4 Section 40-48-150. The board may adopt rules governing its  
5 proceedings as provided for in Section 40-1-60 and may adopt an  
6 official seal bearing the words 'South Carolina Board of Clinical  
7 Laboratory Science'. The board shall promulgate regulations  
8 necessary to carry out the provisions of this chapter including, but  
9 not limited to, promulgating in regulation a code of ethics.

10  
11 Section 40-48-160. The board shall regulate the issuance of  
12 licenses and temporary licenses and shall discipline in any manner  
13 authorized by this chapter or Article 1, Chapter 1.

14  
15 Section 40-48-170. (A) The department, on behalf of the board,  
16 shall investigate complaints and violations of this chapter as  
17 provided in Section 40-1-80.

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

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

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

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

31 (F) A person found in violation of this chapter or regulations  
32 promulgated under this chapter may be required to pay costs  
33 associated with the investigation and prosecution of the case in  
34 accordance with Section 40-1-170. All costs and fines imposed  
35 pursuant to this chapter must be paid in accordance with and are  
36 subject to the collection and enforcement provisions of Section  
37 40-1-180.

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

41  
42 Section 40-48-180. In addition to other grounds provided in  
43 Section 40-1-110, the board, after notice and a hearing conducted

1 in accordance with the Administrative Procedures Act, may restrict  
2 or refuse to grant a license to an applicant or may refuse to renew  
3 the license of a licensed person or may suspend, revoke, or  
4 otherwise restrict the license of a licensed person who:

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

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

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

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

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

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

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

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

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

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

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

42 (12) has jeopardized patient safety by providing professional  
43 services while mentally incompetent or under the influence of

1 alcohol, a narcotic, or a controlled substance that is in excess of  
2 therapeutic amounts or without valid medical indication;

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

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

9

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

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

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

24

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

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

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

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

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

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

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



1

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

4 (1) a completed notarized application form;

5 (2) the required fee; and

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

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

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

15

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

20

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

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

32

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

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

41 (2) criteria for acceptable continuing education units shall  
42 mimic the current ASCP's board of Certification, Certification  
43 Maintenance Program (CMP). Any exceptions or deviations would

1 be approved by the board. Any changes made to the CMP by  
2 ASCP would be approved by the board.

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

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

10

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

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

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

21

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

33

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

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