

NY Revises Personnel Licensure Law

Has New York fixed its laboratory personnel licensure law? That is indeed the question. On July 7th, New York Governor David A. Paterson signed into law a modification of the state's laboratory personnel licensure law. The modification includes some appropriate fixes to the old law, but significant problems remain.

When New York established licensure for laboratory personnel, it caused a slew of problems for potential licensees, clinical laboratories, laboratory training programs, and, yes, patients too. The New York personnel licensure law was not well thought out, and was shepherded through the legislature largely by New York SEIU Local 1199, one of the states' most powerful unions.

Among the problems with the revised law is that, like the previous law, it fails to provide for appropriate licensing of most categorical laboratory personnel, such as pathologists' assistants, histotechnologists, and most categorical technologists. It does not accept on-the-job training or work experience as a means to satisfy the state clinical training requirements for licensure, or recognize accredited clinical laboratory training programs, a particular problem for programs outside New York. The result is that the New York law continues to prevent many laboratory practitioners from securing a license.

In advocating changes to the old law, ASCP urged New York state legislative leaders to create licensure categories for all categorical laboratory personnel, recognize national accreditation of laboratory training programs, and recognize work experience among other requests. ASCP also issued several advocacy alerts, which resulted in hundreds of letters being written to New York state legislators.

Though the revised law addresses some of the problems identified by ASCP, we remain, as we wrote to numerous New York legislators earlier this year:

“concerned that the stringency of [the New York Clinical Laboratory Technology Practice Act] ultimately will adversely affect patient care by compounding existing staffing shortages, increasing workload and job-related stress on New York's laboratory professionals, and undermining the ability of New York's clinical laboratories to attract well-qualified laboratory professionals.”

On the upside, the recently enacted legislation establishes licensure for histotechnicians and revamps and extends the state's grandfathering provisions, allowing laboratory practitioners who either did not previously apply or qualify for licensure another opportunity for licensure. Grandfathering provisions provide, for a limited time, the opportunity to apply for licensure under more lenient requirements, such as several years of acceptable work experience.

In revising its grandfathering provisions, it appears the New York legislature fixed a serious flaw in the grandfathering provisions for cytotechnologists. When New York first started licensing laboratory personnel, the grandfathering provisions for cytotechnologists did not allow for the licensure of individuals who did not have a baccalaureate degree requirement.

Thus, a cytotechnologist who had an associate's degree and many years of work experience were unable to get licensed under the old statute.

To address this problem, New York established a new grandparenting provision that allows for cytotechnologists to be licensed on the basis of five years or more of acceptable laboratory experience. Similar provisions exist for the other licensure categories licensed by the state, i.e., clinical laboratory technologists, histological technicians and clinical laboratory technicians.

Importantly, the new law creates licensure for histotechnicians, or, as they will be called in New York, "histological technicians." The state previously required that histotechnologists, histotechnicians and pathologists' assistants be licensed as "clinical laboratory technologists," which was problematic at best. The creation of the new histological technician category raises questions about how histotechnologists and pathologists' assistants will qualify for licensure. ASCP has spoken with representatives of the New York State Education Department, which oversees the licensure of laboratory personnel; however, this issue may not be resolved until the Department finalizes the regulations that are needed to implement the new law.

In addition, the legislature established a new "restricted clinical laboratory license." This new category is not what ASCP had hoped for. ASCP had urged legislators to license all categorical laboratory practitioners, such as pathologists' assistants, histotechnologists, and microbiologists. Unfortunately, the new law would allow such licenses for individuals working in only a few areas of laboratory testing, such as histocompatibility, cytogenetics, stem cell process, flow cytometry/cellular immunology and molecular diagnostics. With the vast majority of these laboratory practitioners gaining their clinical training via on-the-job training, it is questionable whether the new "restricted license" category will help laboratory personnel or laboratories.

The new law goes into effect on August 7, 2008. Individuals interested in working in New York, particularly those who did not complete an accredited training program, may want to consider applying for licensure prior to the January 1, 2009, expiration of the grandfathering provisions. Under current New York law, licensure is considered a permanent right (with triennial re-registration), so if an individual were to obtain licensure in New York and let it lapse that individual would be able to renew, or re-register, their license at a future date without having to meet any new licensure requirements.

For a copy of the new law, click [here](#).