



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

Memorandum

To: The Honorable Raymond E. Gallison, Jr.
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 22, 2015

Subject: Technical Amendments to Article 20 of the FY 2016 Appropriations Act (15-H-5900)

The Governor requests that several technical amendments be made to Article 20 entitled "Relating to Professional Licenses" in order to remove additional references to the repealed Apprentice Barber and Fur Buyer licenses, and to address public health concerns by restoring requirements for national certifications for Physical Therapist Assistants, Occupational Therapy Assistants and Clinical Laboratory Science Practitioners. Changes from the original version submitted on March 12, 2015 are described below:

Item 1

In Section 2, which amends Chapter 5-10 entitled "Barbers, Hairdressers, Cosmeticians, Manicurists, and Estheticians", two additional amendments related to the Apprentice Barber license are made to remove all relevant references to the Apprentice Barber license. Subsequent subsections are renumbered accordingly.

Item 2

After current Section 10 (amending Chapter 5-40 entitled "Physical Therapists") and in current Sections 12 (amending Chapter 5-40.1 entitled "Occupational Therapy") and 17 (amending Chapter 5-68.1 entitled "Radiologic Technologists"), the requirement for successful completion of a national certification examination for Physical Therapist Assistants, Occupational Therapy Assistants, and Radiologist Assistants is added to the General Laws to address concerns regarding the protection of public health. (The change for Physical Therapist Assistant requires that a new section 11 be added and all subsequent sections renumbered.)

Item 3

After current Section 19 (now Section 20), which amends Chapter 20-2 entitled "Licensing" regarding the Fur Buyer license, two new article Sections are added. The first new article section (now Section 21) repeals sections 20-16-14 and 20-16-15 of Chapter 20-16 entitled "Fur-bearing Animals" to remove all

relevant references to the Fur Buyer license. The second new article section (now Section 22) amends Chapter 23-16.2 entitled "Laboratories" to require national certifications of clinical laboratory practitioners as part of the existing laboratory facility license to address concerns regarding the protection of public health.

The previous Sections 11 through 25 are then renumbered as Sections 11 through 28.

Item 4

Section 28 (previously Section 25), which specifies the effective date of the article, is amended to provide that the new Section 22 shall take effect as of January 1, 2016.

If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM:15-Amend-19
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst
Erik Godwin, Office of Regulatory Reform

Amendments to Article 20

Amendments to Section 2

Page 390, line 24: Strike the words “as an apprentice barber” and replace with underlined words “under the supervision of a licensed barber”

Page 390, line 25: Strike the words “A combination of barber school training and apprenticeship” and replace with underlined word “Any”

Insert new Section 11 after Section 10

Page 400, line 18 Insert new, underlined Section 11 after Section 10:

SECTION 11. Chapter 5-40 of the General Laws entitled “Physical Therapists” is hereby amended by adding thereto the following section:

§ 5-40.1-22 Other personnel. – The director may promulgate rules and regulations concerning other personnel in the physical therapy field, including, but not limited to, a role such as “physical therapist assistant.” The qualifications for “physical therapist assistant” shall require successful completion of the National Physical Therapy Examination (NPTE) of the Federation of State Boards of Physical Therapy (FSBPT) or other physical therapy assistant certification examination as approved by the department in consultation with the board to determine the applicant’s fitness to engage in the practice of physical therapy.

Renumber previous Sections 11 through 12 (now Sections 12 through 13)

Page 400, line 19: Strike the number “11” and replace with underlined number “12”

Page 408, line 26: Strike the number “12” and replace with underlined number “13”

Amendment to previous Section 12 (now Section 13)

Page 408, line 30: Insert the following new, underlined sentence after the word “aide.”: “The qualifications for “occupational therapist assistant” shall require successful completion of the National Board for Certification in Occupational Therapy (NBCOT)’s examination for the Certified Occupational Therapy Assistant certification or other occupational therapy certification examination as approved by the board.”

Renumber previous Sections 13 through 17 (now Sections 14 through 18)

Page 408, line 31: Strike the number “13” and replace with underlined number “14”

Page 412, line 21: Strike the number “14” and replace with underlined number “15”

Page 415, line 1: Strike the number “15” and replace with underlined number “16”

Page 420, line 8: Strike the number “16” and replace with underlined number “17”

Page 424, line 9: Strike the number “17” and replace with underlined number “18”

Amendments to previous Section 17 (now Section 18)

Page 424, line 9 Between the numbers “5-68.1-2,” and “5-68.1-5,” insert underlined number “5-68.1-4,”

Page 425, lines 21-24 Do not strike through the text “(15) “Radiologist assistant” means an individual, other than a licensed practitioner, who performs as an advanced level radiologic technologist and works under the general supervision of a radiologist to enhance patient care by assisting the radiologist in the medical imaging environment, and who”

Page 425, line 21 Insert the underlined word “unlicensed” between the words “an” and “individual”

Page 425, line 24 Insert after the word “who” the underlined text “is certified by the American Registry of Radiologic Technologists, or by a comparable national certifying board as approved by the director.”

Page 425, line 25 Remove previous new number “15” and remove strikethrough from “16”

Page 425, line 28 Remove previous new number “16” and remove strikethrough from “17”

Page 425, line 30 Remove previous new number “17” and remove strikethrough from “18”

Page 426, line 5 Insert after line 5 new text amending Section 5-68.1-4 (full text provided below), with all strikethrough and underline formatting as indicated. Specifically, add underlined Section 5-68.1-4(7) as follows: “(7) A radiologist assistant who is certified by the American Registry of Radiologic Technologists, or by a comparable national certifying board as approved by the director.”

Renumber previous Sections 18 through 19 (now Sections 19 through 20)

Page 427, line 27: Strike the number “18” and replace with underlined number “19”

Page 428, line 8: Strike the number “19” and replace with underlined number “20”

Insert new Sections 21 and 22 after previous Section 19 (now Section 20)

Page 428, line 15: Insert after line 15 new Sections 21 and 22, with all strikethrough and underline formatting as attached below

Renumber previous Sections 20 through 25 (now Sections 23 through 28)

Page 428, line 16: Strike the number “20” and replace with underlined number “23”

Page 437, line 14: Strike the number “21” and replace with underlined number “24”

Page 438, line 30: Strike the number “22” and replace with underlined number “25”

Page 442, line 8: Strike the number “23” and replace with underlined number “26”

Page 442, line 25: Strike the number “24” and replace with underlined number “27”

Page 443, line 15: Strike the number “25” and replace with underlined number “28”

Amendment to previous Section 25 (new Section 28)

Page 443, line 15: After the word “passage”, insert underlined words “, except for Section 22, which shall take effect on January 1, 2016”

Amended Section 18 (was Section 17), Section 5-68.1-2 entitled ‘Definitions’ by restoring item (15) and adding underline and strikeout as shown below:

(15) "Radiologist assistant" means an unlicensed individual, other than a licensed practitioner, who performs as an advanced level radiologic technologist and works under the general supervision of a radiologist to enhance patient care by assisting the radiologist in the medical imaging environment, and who ~~has met and continues to meet the licensure standards of this chapter~~ is certified by the American Registry of Radiologic Technologists, or by a comparable national certifying board as approved by the director.

Amended Section 18 (was Section 17), by adding 5-68.1-4 and adding a new subsection (7) thereto

5-68.1-4 ~~§ 5-68.1-4~~ **License required.** – (a) No individual shall practice radiologic technology or shall represent themselves as practicing radiologic technology, unless they are licensed under this chapter. The provisions of this section do not apply to:

(1) A licensed practitioner when practicing within his or her field of expertise.

(2) A student of medicine, when under the general supervision of an instructor who is a radiologist and when acting within the scope of practice.

(3) A dentist, licensed dental hygienist or certified dental assistant when practicing within his or her field of expertise.

(4) A podiatry assistant who has received a "certificate of completion" from the Community College of Rhode Island or other equivalent training approved by the board, after having taken and passed the course on "radiography for podiatry assistance" and when acting within the practice of podiatry.

(5) A medical physicist when practicing within his or her field of expertise.

(6) A licensed healthcare provider at a licensed ambulatory care facility on Block Island and where the director of health determines a waiver of the licensure requirements to be in the interest of public health.

(7) A radiologist assistant who is certified by the American Registry of Radiologic Technologists, or by a comparable national certifying board as approved by the director.

(b) Nothing in this chapter is intended to limit, preclude or interfere with the practice of persons and health care providers licensed by appropriate agencies of Rhode Island.

(c) This chapter does not prohibit an individual enrolled in an approved school of radiologic technology, under the direct supervision of a radiologist or a licensed radiologic technologist, from performing those duties essential for completion of a student's clinical service.

(d) This chapter is not intended to supersede the mammography rules and regulations promulgated pursuant to § 23-17-32.

Amendment by adding new Sections 21 and 22

SECTION 21. Sections 20-16-14 and 20-16-15 of the General Laws in Chapters 20-16 entitled "Fur-bearing Animals" are hereby repealed.

~~§ 20-16-14 Fur buyer's license.~~— No person, firm, or corporation shall purchase raw furs within this state unless the person, firm or corporation has a valid fur buyer's license. Raw fur buyer's licenses shall be issued by the department upon application and payment of license fees as provided in chapter 2 of this title.

~~§ 20-16-15 Fur buyers — Records and reports.~~— All licensed fur buyers shall keep records of purchase of furs within the state, which shall be open to the inspection by personnel of the department of

environmental management at all times. A complete and accurate record of purchases within the state shall be furnished to the department upon request. Failure to do so within fourteen (14) days may be punishable by forfeiture of license and no future license shall be granted if, in the opinion of the director, information is being deliberately withheld.

SECTION 22. Sections 23-16.2-2, 23-16.2-6 and 23-16.2-7 of the General Laws in Chapter 23-16.2 entitled "Laboratories" are hereby amended to read as follows:

§ 23-16.2-2 Definitions. –When used in this chapter:

(1) "Analytical laboratory" means a facility for the biological, microbiological, chemical, physical, and radiochemical examination of potable water, nonpotable water or other environmental matrices.

(2) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, radiobioassay, cytological, pathological, or other examination of materials derived from the human body for the purposes of providing information for the diagnosis, prevention, or treatment of any disease or impairment of or the assessment of the health of human beings.

(3) "Director" means the director of the department of health.

(4) "Persons" means any individual, firm, partnership, corporation, company, association, or joint stock association.

(5) "Station" means a facility for the collection, processing, and transmission of the materials described in subdivisions (1) and (2) for the purposes described in subdivisions (1) and (2).

(6) "Certification" means the determination by the department of health that an analytical laboratory is capable of performing specific tests or analyses of environmental samples in accordance with the requirements of the regulations promulgated pursuant to this chapter.

(7) "Clinical laboratory test" or "laboratory test" means a microbiological, serological, chemical, hematological, radiobioassay, cytological, immunological, or other pathological examination which is performed on material derived from the human body, the test or procedure conducted by a clinical

laboratory which provides information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(8) "Nationally recognized certification examination" means an appropriate examination, as determined by the director, covering both academic and practical knowledge, including, but not limited to, those offered by the American Society of Clinical Pathologists (ASCP), American Medical Technologists (AMT), National Credentialing Agency (NCA), or the American Association of Bioanalysts Board of Registry (AAB), and including any appropriate categorical or specialty examinations.

§ 23-16.2-6 Issuance or denial of license. – Not less than thirty (30) days from the time any application for the license is received, the director shall grant the application and issue a license to maintain a laboratory or station if the director shall be satisfied that the applicant complies with the rules and regulations promulgated in accordance with this chapter, establishing standards for the qualifications of personnel and adequacy of equipment and facilities. The standards for qualification of personnel who perform clinical laboratory tests shall require, as a minimum, successful completion of a nationally recognized certification examination. Notwithstanding this requirement, the director may establish, by regulation, alternative criteria for individuals who previously qualified under federal regulatory requirements, such as 42 CFR § 493.1433 of the March 14, 1990 federal register, or other criteria which may be established to have met the requirements of this chapter. ~~shall include provision for minimum standards of professional education or experience. The director may provide for the examination of applicants to determine their qualifications.~~ Notwithstanding the preceding statements in this section, upon payment of any applicable license fees, the director may grant immediate licensure to any clinical laboratory licensed as a clinical laboratory in another state and certified under the Clinical Laboratory Improvement Act of 1988, when the clinical laboratory has been asked to perform a clinical laboratory service which is not offered by any other clinical laboratory then licensed in this state.

§ 23-16.2-7 Suspension and revocation of license. – (a) The department of health may revoke or suspend the license or specific certification of any laboratory or station for conduct by or chargeable to the laboratory or stations as follows:

(1) Failure to observe any term of the license or specific certification issued under authority of this chapter by the department of health;

(2) Failure to observe any order made under authority of this chapter or under the statutory authority vested in the department of health;

(3) Engaging in, aiding, abetting, causing, or permitting any action prohibited under this chapter;

(4) Failing to observe any regulations promulgated by the department of health.

(b) Whenever the director shall have reason to believe that any laboratory or station, for the maintenance of which the director has issued a license or specific certification as provided for in § 23-16.2-4, is being maintained in violation of the rules and regulations provided in § 23-16.2-5, the director may, pending an investigation and hearing, suspend for a period not exceeding thirty (30) days, any license or specific certification issued under authority of this chapter and may, after due notice and hearing, revoke the license or specific certification if the director finds that the laboratory or station is being maintained in violation of the rules and regulations. The holder of a license shall upon its revocation promptly surrender the license or specific certification to the director.

(c) The director may revoke or suspend the license, or may impose appropriate fines as promulgated in regulation, of any laboratory or station that does not ensure that all personnel meet the requirements of this chapter.