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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 2109

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to health occupations; establishing licensure for medical laboratory
1.3 science professionals; creating the Board of Medical Laboratory Science;
1.4 proposing coding for new law as Minnesota Statutes, chapter 148E.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[148E.01] DEFINITIONS.**

1.7 Subdivision 1. **Applicability.** For purposes of this chapter, the following terms
1.8 have the meanings given them.

1.9 Subd. 2. **Accredited medical laboratory educational program.** "Accredited
1.10 medical laboratory educational program" means a program to provide instruction and
1.11 experience in medical laboratory science that has been accredited by an accrediting agency
1.12 recognized by the United States Department of Health and Human Services and by the
1.13 Board of Medical Laboratory Science.

1.14 Subd. 3. **Board.** "Board" means the Board of Medical Laboratory Science
1.15 established in section 148E.03.

1.16 Subd. 4. **Categorical medical laboratory scientist.** "Categorical medical
1.17 laboratory scientist" means an individual eligible for licensure under this chapter to
1.18 perform the functions of a medical laboratory scientist in one of the following areas of the
1.19 laboratory: chemistry, hematology, immunohematology, or microbiology.

1.20 Subd. 5. **CLIA.** "CLIA" means Clinical Laboratory Improvement Amendments of
1.21 1988 and includes Public Law 10-578 and Code of Federal Regulations, title 42, section
1.22 493.

1.23 Subd. 6. **Cytotechnologist.** "Cytotechnologist" means an individual eligible for
1.24 licensure under this chapter who specializes in the microscopic analysis of patient samples

2.1 from all body sites, for the purpose of evaluating, detecting, and providing prognostic
2.2 information regarding disease processes, including those that require the exercise of
2.3 independent judgment, and who:

2.4 (1) assists health care providers with the collection, detection, and interpretation
2.5 of normal and abnormal cells, infectious agents, and other noncellular material from
2.6 submitted specimens;

2.7 (2) performs a variety of ancillary tests to ascertain information to help
2.8 in classification, prognosis, or disease detection, including, but not limited to,
2.9 immunohistochemical and molecular techniques;

2.10 (3) establishes and implements protocols, quality control, method selection,
2.11 equipment selection and maintenance, and activities related to the preanalytic, analytic,
2.12 and postanalytic phases of testing; and

2.13 (4) directs, supervises, consults, and educates.

2.14 Subd. 7. **Histotechnician.** "Histotechnician" means an individual eligible for
2.15 licensure under this chapter who:

2.16 (1) prepares tissue specimens for microscopic examination;

2.17 (2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy
2.18 and validity of laboratory testing and procedures including, but not limited to, techniques
2.19 in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

2.20 (3) prepares gross specimens under the direction of a board-certified pathologist;

2.21 (4) establishes and implements protocols, quality assurance, and quality control
2.22 related to the following procedures: histochemical, immunohistochemical, electron
2.23 microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA
2.24 hydrolysis, laser capturing, molecular techniques, and research;

2.25 (5) participates in method selection, development, equipment selection and
2.26 maintenance, and activities related to the preanalytical and analytical phases of tissue
2.27 preparation; and

2.28 (6) directs, supervises, and educates.

2.29 Subd. 8. **Histotechnologist.** "Histotechnologist" means an individual eligible for
2.30 licensure under this chapter who:

2.31 (1) prepares tissue specimens for microscopic examination;

2.32 (2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy
2.33 and validity of laboratory testing and procedures including, but not limited to, techniques
2.34 in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

2.35 (3) prepares gross specimens under the direction of a board-certified pathologist;

3.1 (4) establishes and implements protocols, quality assurance, and quality control
3.2 related to the following procedures: histochemical, immunohistochemical, electron
3.3 microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA
3.4 hydrolysis, laser capturing, molecular techniques, and research;

3.5 (5) participates in method selection, development, equipment selection and
3.6 maintenance, and activities related to the preanalytical and analytical phases of tissue
3.7 preparation;

3.8 (6) establishes and implements new protocols and procedures dealing directly in
3.9 quality assessment, method development, and equipment selection and maintenance;

3.10 (7) educates personnel and performs research functions; and

3.11 (8) supervises, manages, and directs.

3.12 Subd. 9. **Medical laboratory or laboratory.** "Medical laboratory" or "laboratory"
3.13 means any facility or office in Minnesota in which medical laboratory tests are performed.

3.14 Subd. 10. **Medical laboratory scientist or generalist.** "Medical laboratory
3.15 scientist" or "generalist" means an individual eligible for licensure under this chapter who:

3.16 (1) performs medical laboratory tests, including tests that require the exercise of
3.17 independent judgment;

3.18 (2) establishes and implements protocols, quality assessment, method development
3.19 and selection, equipment selection and maintenance, and activities related to the
3.20 preanalytic, analytic, and postanalytic phases of laboratory testing; and

3.21 (3) directs, supervises, consults, educates, and performs research functions.

3.22 Subd. 11. **Medical laboratory specialist in cytogenetics.** "Medical laboratory
3.23 specialist in cytogenetics" means an individual eligible for licensure under this chapter to
3.24 perform standard cytogenetic testing procedures, and may direct, supervise, consult, and
3.25 educate in cytogenetics.

3.26 Subd. 12. **Medical laboratory specialist in molecular biology/pathology.**
3.27 "Medical laboratory specialist in molecular biology/pathology" means an individual
3.28 eligible for licensure under this chapter to perform all aspects of molecular analysis
3.29 including, but not limited to, recombinant DNA technology, polymerase chain
3.30 reaction, and hybridization techniques. A medical laboratory specialist in molecular
3.31 biology/pathology may direct, supervise, consult, educate, and perform research functions
3.32 in molecular biology/pathology.

3.33 Subd. 13. **Medical laboratory specialist in histocompatibility.** "Medical
3.34 laboratory specialist in histocompatibility" means an individual eligible for licensure
3.35 under this chapter to perform histocompatibility testing by molecular and serological

4.1 techniques, and may direct, supervise, consult, educate, and perform research functions in
4.2 histocompatibility.

4.3 Subd. 14. **Medical laboratory technician.** "Medical laboratory technician"
4.4 means an individual eligible for licensure under this chapter who performs medical
4.5 laboratory tests pursuant to established and approved protocols requiring limited exercise
4.6 of independent judgment and that are performed with oversight from a medical laboratory
4.7 scientist, laboratory supervisor, or laboratory director. The technician may supervise and
4.8 educate.

4.9 Subd. 15. **Medical laboratory test or laboratory test.** "Medical laboratory
4.10 test" or "laboratory test" means a microbiological, serological, chemical, biological,
4.11 hematological, immunological, immunohematological, radiobioassay, cytological,
4.12 histological preparation, biophysical, or any other test or procedure performed on material
4.13 derived from or existing in a human body, which provides information for the diagnosis,
4.14 prevention, or monitoring of a disease or impairment or assessment of a medical condition.
4.15 A medical laboratory test includes components of the preanalytic and postanalytic phases
4.16 of testing, as well as the analytic phase, which occurs in the laboratory.

4.17 Subd. 16. **Other medical laboratory specialists.** "Other medical laboratory
4.18 specialists" means an individual eligible for licensure under this chapter to perform the
4.19 functions of a medical laboratory scientist in a subspecialty or clinical laboratory that
4.20 is not one of the specific categorical areas of the laboratory. The specialist medical
4.21 laboratory scientist may direct, supervise, consult, educate, and perform research functions
4.22 in the areas where qualified.

4.23 Subd. 17. **Pathologist's assistant.** "Pathologist's assistant" means an individual
4.24 specializing in prediagnostic surgical pathology and autopsy pathology who assists
4.25 pathologists by:

4.26 (1) processing surgical samples, including dissection and description of pertinent
4.27 features, submission of tissue samples for microscopic examination, assistance in frozen
4.28 section preparation, and other ancillary duties to be performed under the supervision of
4.29 a pathologist; and

4.30 (2) performing functions in autopsy pathology, including prosection, selection of
4.31 tissues for microscopic examination, and other ancillary duties to be performed under
4.32 the supervision of a pathologist.

4.33 Pathologist's assistants may direct, supervise, and educate.

4.34 Subd. 18. **Phlebotomist.** "Phlebotomist" means an individual who is qualified to
4.35 obtain blood samples for testing by means of venipuncture, capillary puncture, or access

5.1 of venous access devices, to perform specimen processing and preparation of samples for
5.2 testing, and to perform waived and point-of-care testing.

5.3 Subd. 19. **Point-of-care testing.** "Point-of-care testing" means analytical patient
5.4 testing activities provided within an institution, which do not require permanent dedicated
5.5 space including, but not limited to, analytic instruments that are temporarily brought to a
5.6 patient care location. Point-of-care testing must be under the direction of an individual
5.7 licensed under this chapter at the baccalaureate degree level or who qualifies as a
5.8 laboratory director under CLIA.

5.9 Subd. 20. **Trainee/student.** "Trainee/student" means an individual who has
5.10 not fulfilled the educational requirements to take an approved nationally recognized
5.11 certification examination or who needs to obtain full-time comprehensive experience
5.12 under supervision.

5.13 Subd. 21. **Waived test.** "Waived test" means a laboratory examination or procedure
5.14 as determined by the United States Food and Drug Administration which has an
5.15 insignificant risk of an erroneous result, including those which:

5.16 (1) have been approved by the United States Food and Drug Administration for
5.17 home use;

5.18 (2) employ methodologies that are so simple and accurate as to render the likelihood
5.19 of erroneous results negligible; or

5.20 (3) pose no reasonable risk of harm to the patient if performed incorrectly.

5.21 **Sec. 2. [148E.02] EXCEPTIONS.**

5.22 This chapter does not apply to:

5.23 (1) other licensed or registered professionals performing functions within their
5.24 scope of practice;

5.25 (2) medical laboratory science professionals employed by the United States
5.26 government, or any bureau, division, or agency, while performing duties within the scope
5.27 of this chapter;

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

5.31 (4) professionals engaged exclusively in the education of medical laboratory science
5.32 professionals;

5.33 (5) professionals engaged exclusively in providing phlebotomy services;

5.34 (6) pathologist's assistants or individuals performing pathology assistant activities
5.35 by virtue of their close association with and supervision by pathologists;

6.1 (7) students or trainees enrolled in a medical laboratory science education program
 6.2 provided that:

6.3 (i) the activities performed by the student or trainee constitute a part of a planned
 6.4 course in the program;

6.5 (ii) the student or trainee is clearly designated as intern, trainee, or student; and

6.6 (iii) the student or trainee is working directly under an individual licensed under
 6.7 this chapter to practice medical laboratory science or by a professional who is exempt
 6.8 under clause (3);

6.9 (8) any individual who only performs waived tests under CLIA; and

6.10 (9) testing personnel performing point-of-care or other testing provided that the
 6.11 laboratory complies with the following requirements:

6.12 (i) within the laboratory, a licensed medical laboratory scientist or individual who
 6.13 qualifies as a laboratory director under CLIA is responsible for:

6.14 (A) designing and providing or supervising the training programs for the testing
 6.15 personnel;

6.16 (B) supervising and monitoring the quality assurance and quality control activities
 6.17 of the testing site;

6.18 (C) assisting in the selection of technology;

6.19 (D) reviewing the results of proficiency testing and recommending corrective
 6.20 action, if necessary; and

6.21 (E) monitoring the continued laboratory testing competency of the testing personnel;
 6.22 and

6.23 (ii) processes are in place and are acceptable to the board, which ensure and
 6.24 document the continued competency of the testing personnel.

6.25 **Sec. 3. [148E.03] BOARD OF MEDICAL LABORATORY SCIENCE.**

6.26 **Subdivision 1. Creation.** The Board of Medical Laboratory Science consists of
 6.27 ten members appointed by the governor.

6.28 **Subd. 2. Qualifications of board members.** (a) All members must be actively
 6.29 employed for at least two years in their specific areas of practice.

6.30 (b) Six members must be medical laboratory science professionals who are licensed
 6.31 under this chapter and include: at least one must be a nonphysician laboratory director
 6.32 who is licensed under this chapter; one must be a medical laboratory scientist; one
 6.33 must be a medical laboratory technician; one must be a cytotechnologist; one must
 6.34 be a histotechnician or histotechnologist; and one must be a specialist in cytogenetics,
 6.35 histocompatibility, or molecular biology.

7.1 (c) Two of the members must be physicians certified by the American Board of
 7.2 Pathology or the American Board of Osteopathic Pathology. At least one must be certified
 7.3 in clinical pathology.

7.4 (d) One of the members must be a physician who is not a laboratory director and is
 7.5 not a pathologist. This member may be a clinic-based physician who directs a physician
 7.6 office laboratory.

7.7 (e) One of the members must be a public member as defined in section 214.02.

7.8 Subd. 3. **Terms.** Board members shall serve for a term of three years. Whenever
 7.9 a vacancy shall occur on the board by reason other than the expiration of a term of
 7.10 office, the governor shall appoint a successor of like qualifications for the remainder of
 7.11 the unexpired term. No individual shall be appointed to serve more than two consecutive
 7.12 three-year terms.

7.13 Subd. 4. **Officers.** The board must annually elect from its membership a chair,
 7.14 vice chair, and secretary-treasurer.

7.15 Subd. 5. **Bylaws.** The board must adopt bylaws to govern its proceedings.

7.16 Subd. 6. **Executive director.** The board must appoint and employ an executive
 7.17 director who is not a member of the board. The employment of the executive director shall
 7.18 be subject to the terms described in section 214.04, subdivision 2a.

7.19 **Sec. 4. [148E.04] DUTIES OF THE BOARD.**

7.20 The Board of Medical Laboratory Science shall:

7.21 (1) adopt rules necessary to administer and enforce the provisions of this chapter;

7.22 (2) establish the qualifications and procedures for individuals to be licensed under
 7.23 this chapter, including standards for education, examinations, and other methods for
 7.24 determining whether an applicant or licensee is qualified under this chapter;

7.25 (3) establish standards for professional conduct, including adoption of a Code of
 7.26 Professional Ethics and requirements for continuing education and supervision;

7.27 (4) issue licenses to qualified individuals;

7.28 (5) assess fees as established under section 148E.15;

7.29 (6) authorize or approve additional nationally recognized, validated,
 7.30 competency-based written, oral, or practical examinations for purposes of licensure of
 7.31 medical laboratory science professionals as provided for in this chapter; and

7.32 (7) maintain a roster of the names and addresses of individuals currently licensed
 7.33 under this chapter and of all individuals whose licenses have been suspended or revoked.

7.34 **Sec. 5. [148E.05] REQUIREMENTS FOR LICENSURE.**

8.1 Subdivision 1. **License required.** After the effective date of rules adopted by the
8.2 board, no individual may perform medical laboratory tests unless that individual holds a
8.3 valid license under this chapter or is exempt from licensure under section 148E.02.

8.4 Subd. 2. **Experienced medical laboratory science professionals transition.** (a)
8.5 Any individual performing medical laboratory testing, who is certified by or eligible
8.6 to be certified by an agency acceptable to the board, may continue to perform medical
8.7 laboratory tests without the appropriate license until:

8.8 (1) expiration of 12 months after filing an application with the board;

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

8.10 (3) the withdrawal of the application, whichever occurs first.

8.11 (b) This subdivision expires July 1, 2009.

8.12 Subd. 3. **Employed medical laboratory science professional transition.** (a) An
8.13 individual who does not meet the education, training, and experience qualifications for
8.14 any license described in this chapter on July 1, 2007, has until July 1, 2009, to apply for
8.15 a license under this subdivision.

8.16 (b) The board shall issue a license under this subdivision if the applicant:

8.17 (1) is practicing in the field on July 1, 2007, or has six months of acceptable
8.18 experience of at least half time (1040 hours per year) in the three years immediately
8.19 prior to July 1, 2007; and

8.20 (2) submits to the board the job description of the position, which the applicant has
8.21 most recently performed, attested to by the applicant's employer.

8.22 (c) The board shall determine which type of license the applicant is eligible for and
8.23 issue the license if the requirements of this subdivision are met.

8.24 (d) An initial license issued under this subdivision must be reviewed following the
8.25 procedures required under section 148E.09, provided the license is maintained without
8.26 interruption.

8.27 (e) This subdivision expires July 1, 2009.

8.28 **Sec. 6. [148E.06] STANDARDS FOR LICENSURE.**

8.29 Subdivision 1. **Medical laboratory scientist (MLS).** The board shall issue a
8.30 medical laboratory scientist's license to an individual who:

8.31 (1) possesses a baccalaureate degree from a regionally accredited college or
8.32 university;

8.33 (2) has board-approved medical laboratory experience and training; and

9.1 (3) passes a nationally recognized certification examination administered by the
9.2 American Society for Clinical Pathology - Board of Registry, the National Credentialing
9.3 Agency, American Medical Technologists, or the state of Minnesota.

9.4 Subd. 2. **Medical laboratory scientist, categorical.** The board shall issue a
9.5 categorical medical laboratory scientist's license to an individual who:

9.6 (1) possesses a baccalaureate degree from a regionally accredited college or
9.7 university;

9.8 (2) has board-approved medical laboratory experience and training; and

9.9 (3) passes a nationally recognized certification examination administered by the
9.10 American Society for Clinical Pathology - Board of Registry, the National Credentialing
9.11 Agency, or American Medical Technologists.

9.12 Subd. 3. **Medical laboratory technician (MLT).** The board shall issue a medical
9.13 laboratory technician's license to an individual who:

9.14 (1) possesses an associate degree from a regionally accredited college or university;

9.15 (2) has board-approved medical laboratory experience and training; and

9.16 (3) passes a nationally recognized certification examination administered by the
9.17 American Society for Clinical Pathology - Board of Registry, the National Credentialing
9.18 Agency, American Medical Technologists, or the state of Minnesota.

9.19 Subd. 4. **Medical laboratory specialist in molecular biology.** The board shall
9.20 issue a medical laboratory specialist in molecular biology license to an individual who:

9.21 (1) possesses a baccalaureate degree from a regionally accredited college or
9.22 university;

9.23 (2) has board-approved medical laboratory experience and training; and

9.24 (3) passes a nationally recognized certification examination administered by the
9.25 American Society for Clinical Pathology - Board of Registry, or the National Credentialing
9.26 Agency.

9.27 Subd. 5. **Medical laboratory specialist in cytogenetics.** The board shall issue a
9.28 medical laboratory specialist in cytogenetics license to an individual who:

9.29 (1) possesses a baccalaureate degree from a regionally accredited college or
9.30 university;

9.31 (2) has board-approved medical laboratory experience and training; and

9.32 (3) passes a nationally recognized certification examination administered by the
9.33 National Credentialing Agency.

9.34 Subd. 6. **Histocompatibility technologist.** The board shall issue a medical
9.35 laboratory specialist in histocompatibility license to an individual who:

10.1 (1) possesses a baccalaureate degree from a regionally accredited college or
 10.2 university;

10.3 (2) has board-approved medical laboratory experience and training; and

10.4 (3) passes a nationally recognized certification examination administered by the
 10.5 American Board of Histocompatibility and Immunogenetics.

10.6 Subd. 7. **Other specialists and categoricals.** The board may license individuals
 10.7 who have a baccalaureate degree in a science field and are employed in subspecialty
 10.8 or esoteric clinical laboratories. Individuals applying for an initial license under this
 10.9 subdivision are not required to take a certification examination. If a national examination
 10.10 becomes available in the specific specialty area, the board may require an applicant or a
 10.11 licensee upon renewal to pass the examination before a license is issued or renewed.

10.12 Subd. 8. **Cytotechnologist.** The board shall issue a cytotechnologist license to
 10.13 an individual who:

10.14 (1) possesses a baccalaureate degree from a regionally accredited college or
 10.15 university;

10.16 (2) has board-approved medical laboratory experience and training; and

10.17 (3) passes a nationally recognized certification examination administered by the
 10.18 American Society for Clinical Pathology - Board of Registry.

10.19 Subd. 9. **Histotechnologist.** The board shall issue a histotechnologist license to
 10.20 an individual who:

10.21 (1) possesses a baccalaureate degree from a regionally accredited college or
 10.22 university;

10.23 (2) has board-approved medical laboratory experience and training; and

10.24 (3) passes a nationally recognized certification examination administered by the
 10.25 American Society for Clinical Pathology - Board of Registry.

10.26 Subd. 10. **Histotechnician.** The board shall issue a histotechnician license to an
 10.27 individual who:

10.28 (1) possesses an associate degree from a regionally accredited college or university;

10.29 (2) has board-approved medical laboratory experience and training; and

10.30 (3) passes a nationally recognized certification examination administered by the
 10.31 American Society for Clinical Pathology - Board of Registry.

10.32 **Sec. 7. [148E.07] RECIPROCITY.**

10.33 The board shall adopt rules providing procedures to waive the licensure requirements
 10.34 for an applicant who holds a valid license or its equivalent issued by another state
 10.35 provided that the requirements under which that license or its equivalent was issued are

11.1 equivalent to or exceed the standards required by this chapter. Once the license is up
 11.2 for renewal, the applicant shall be issued a Minnesota license upon meeting the license
 11.3 renewal requirements in section 148E.09.

11.4 **Sec. 8. [148E.08] LICENSURE APPLICATION PROCEDURES.**

11.5 Subdivision 1. **Application.** (a) Applicants must submit an application for licensure
 11.6 to the board upon the forms prescribed and furnished by the board, and shall submit with
 11.7 the application the designated application fee as specified in section 148E.15.

11.8 (b) Upon receipt of the application and the application fee, the board shall issue a
 11.9 license for a medical laboratory scientist, a medical laboratory technician, or an appropriate
 11.10 specialty license to an individual who meets the qualifications specified in this chapter.

11.11 Subd. 2. **Temporary license.** (a) The board may issue a temporary license to an
 11.12 applicant who:

11.13 (1) is eligible to sit for and registered to take a certification examination or has taken
 11.14 the examination and is awaiting results; or

11.15 (2) meets the educational requirements for licensure and is seeking to qualify for
 11.16 the certification examination by completing the required supervised medical laboratory
 11.17 experience.

11.18 (b) A temporary license shall be issued for a 12-month period and may be renewed
 11.19 for two additional 12-month periods at the discretion of the board. A temporary license
 11.20 expires 12 months after it is issued or on the date the board issues or denies a permanent
 11.21 license to the holder.

11.22 (c) A temporary license authorizes the holder to perform medical laboratory tests
 11.23 only in the area of practice for which the individual seeks to be permanently licensed.

11.24 **Sec. 9. [148E.09] LICENSURE RENEWAL.**

11.25 Subdivision 1. **Renewal term.** Licenses issued under this chapter must be renewed
 11.26 every three years. The renewal term is the effective date of the initial license or renewed
 11.27 license to the date of expiration of the license.

11.28 Subd. 2. **Renewal applications.** In order to renew a license, a licensee must submit:

11.29 (1) a completed and signed application for renewal on a form prescribed by the board;

11.30 (2) the applicable renewal fee as specified in section 148E.15; and

11.31 (3) documentation that the licensee has completed continuing education requirements
 11.32 as prescribed by the board.

11.33 **Sec. 10. [148E.10] GROUNDS FOR DISCIPLINARY ACTION.**

12.1 (a) The board may impose disciplinary action as described in paragraph (b) against
12.2 an applicant or licensee whom the board, by a preponderance of the evidence, determines:

12.3 (1) has violated a statute, rule, or order that the board issued or is empowered to
12.4 enforce;

12.5 (2) has been convicted of or pled guilty to a felony or misdemeanor, an essential
12.6 element of which is dishonesty, or of any crime which is directly related to the practice of
12.7 the profession;

12.8 (3) has made a misrepresentation for the purpose of obtaining licensure;

12.9 (4) violated any standard of professional conduct adopted by the board;

12.10 (5) engaged in dishonorable, unethical, or unprofessional conduct of a character
12.11 likely to deceive, defraud, or harm the public;

12.12 (6) performed professional services while mentally incompetent or under the
12.13 influence of alcohol, narcotics or controlled dangerous substances that is in excess of
12.14 therapeutic amounts or without valid medical indication;

12.15 (7) aided or assisted another person in violating any provision of this chapter or
12.16 any rule adopted hereunder; or

12.17 (8) made any misrepresentation with regard to the existence or category of license or
12.18 other certification or professional qualification held in connection with any employment
12.19 application.

12.20 (b) If grounds for disciplinary action exist under paragraph (a), the board may take
12.21 one or more of the following actions:

12.22 (1) refuse to grant or renew a license;

12.23 (2) revoke a license;

12.24 (3) suspend a license;

12.25 (4) impose limitations or conditions on a license, including requiring the licensee to
12.26 practice under supervision, or conditioning continued practice on the demonstration of
12.27 knowledge or skill by appropriate examination or other review of skill and competence;

12.28 (5) censure or reprimand the licensee; or

12.29 (6) impose a civil penalty not exceeding \$10,000 for each separate violation,
12.30 the amount of the civil penalty to be fixed so as to deprive the applicant or licensee
12.31 of any economic advantage gained by reason of the violation charged, to discourage
12.32 similar violations, or to reimburse the board for the cost of the investigation and
12.33 proceeding including, but not limited to, fees paid for services provided by the Office of
12.34 Administrative Hearings, legal and investigative services provided by the Office of the
12.35 Attorney General, court reporters, witnesses, reproduction of records, board members'

13.1 per diem compensation, board staff time, and travel costs and expenses incurred by board
 13.2 staff and board members.

13.3 (c) In lieu of or in addition to paragraph (b), the board may require, as a condition
 13.4 of continued licensure, termination of suspension or reinstatement of license that the
 13.5 applicant or licensee:

13.6 (1) submit to a quality review, as specified by the board, of the applicant's or
 13.7 licensee's ability, skills, or quality of work; and

13.8 (2) complete to the satisfaction of the board educational courses or training specified
 13.9 by the board.

13.10 The board may also refer a licensee, if appropriate, to the health professionals services
 13.11 program described in sections 214.31 to 214.37.

13.12 **Sec. 11. [148E.11] TEMPORARY SUSPENSION OF LICENSE.**

13.13 (a) In addition to any other remedy provided by law, the board may issue an order to
 13.14 temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to
 13.15 determine if the board reasonably believes that the licensee has violated a statute or rule
 13.16 that the board is empowered to enforce and whether continued practice by the licensee
 13.17 would create an imminent risk of harm to others.

13.18 (b) The order may prohibit the licensee from performing medical laboratory tests in
 13.19 whole or in part and may condition the end of a suspension on the licensee's compliance
 13.20 with a statute, rule, or order that the board has issued or is empowered to enforce.

13.21 (c) The order shall give notice of the right to a hearing according to this section and
 13.22 shall state the reasons for the entry of the order.

13.23 (d) Service of the order is effective when the order is served on the licensee
 13.24 personally or by certified mail, which is complete upon receipt, refusal, or return for
 13.25 nondelivery to the most recent address provided to the board for the licensee.

13.26 (e) At the time the board issues a temporary suspension order, the board shall
 13.27 schedule a hearing to be held before its own members. The hearing shall begin no later
 13.28 than 60 days after issuance of the temporary suspension order or within 15 working
 13.29 days of the date of the board's receipt of a request for hearing by a licensee, on the sole
 13.30 issue of whether there is a reasonable basis to continue, modify, or lift the temporary
 13.31 suspension. The hearing is not subject to chapter 14. Evidence presented by the board
 13.32 or the licensee shall be in affidavit form only. The licensee or counsel of record may
 13.33 appear for oral argument.

13.34 (f) Within five working days of the hearing, the board shall issue its order and, if the
 13.35 suspension is continued, schedule a contested case hearing within 30 days of the issuance

14.1 of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report
14.2 within 30 days after closing the contested case hearing record. The board shall issue a
14.3 final order within 30 days of receipt of the administrative law judge's report.

14.4 **Sec. 12. [148E.12] MENTAL, PHYSICAL, OR CHEMICAL DEPENDENCY**
14.5 **EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.**

14.6 (a) If the board has probable cause to believe section 148E.10, paragraph (a),
14.7 clause (6), applies to a licensee or applicant, the board may direct the individual to
14.8 submit to a mental, physical, or chemical dependency examination or evaluation. For the
14.9 purpose of this section, every licensee and applicant is deemed to have consented to
14.10 submit to a mental, physical, or chemical dependency examination or evaluation when
14.11 directed in writing by the board and to have waived all objections to the admissibility of
14.12 the examining professionals' testimony or examination reports on the grounds that the
14.13 testimony or examination reports constitute a privileged communication. Failure of a
14.14 licensee or applicant to submit to an examination when directed by the board constitutes
14.15 an admission of the allegations against the individual, unless the failure was due to
14.16 circumstances beyond the individual's control, in which case a default and final order
14.17 may be entered without the taking of testimony or presentation of evidence. A licensee
14.18 or applicant affected under this paragraph shall at reasonable intervals be given an
14.19 opportunity to demonstrate that the individual can resume performing medical laboratory
14.20 testing with reasonable skill and safety to the public. In any proceeding under this
14.21 paragraph, neither the record of proceedings nor the orders entered by the board shall be
14.22 used against a licensee or applicant in any other proceeding.

14.23 (b) In addition to ordering a physical or mental examination, the board may,
14.24 notwithstanding section 13.384, 144.651, or any other law limiting access to medical or
14.25 other health data, obtain medical data and health records relating to a licensee or applicant
14.26 without the licensee's or applicant's consent if the board has probable cause to believe
14.27 that section 148E.10, paragraph (a), clause (6), applies to the licensee or applicant. The
14.28 medical data may be requested from a provider, as defined in section 144.335, subdivision
14.29 1, paragraph (b), an insurance company, or a government agency. A provider, insurance
14.30 company, or government agency shall comply with any written request of the board under
14.31 this subdivision and is not liable in any action for damages for releasing the data requested
14.32 by the board if the data are released pursuant to a written request under this subdivision,
14.33 unless the information is false and the provider giving the information knew, or had reason
14.34 to believe, the information was false. Information obtained under this subdivision is
14.35 classified as private under chapter 13.

15.1 Sec. 13. **[148E.13] PROFESSIONAL COOPERATION; APPLICANT OR**
 15.2 **LICENSEE.**

15.3 An applicant or a licensee who is the subject of an investigation or who is questioned
 15.4 in connection with an investigation by or on behalf of the board shall cooperate fully with
 15.5 the investigation. Cooperation includes responding fully and promptly to any question
 15.6 raised by or on behalf of the board relating to the subject of the investigation, executing
 15.7 all releases requested by the board, providing copies of client and other records in the
 15.8 applicant's or licensee's possession relating to the matter under investigation and executing
 15.9 releases for records, as reasonably requested by the board, and appearing at conferences or
 15.10 hearings scheduled by the board. The board shall pay for copies requested. The board
 15.11 shall be allowed access to any records of a client provided services by the applicant or
 15.12 licensee under review. If the client has not signed a consent permitting access to the
 15.13 client's records, the applicant or licensee shall delete any data in the record that identifies
 15.14 the client before providing them to the board. The board shall maintain any records
 15.15 obtained under this section as investigative data under chapter 13.

15.16 Sec. 14. **[148E.14] IMMUNITY.**

15.17 Subdivision 1. **Reporting.** A person, health care facility, business, or organization is
 15.18 immune from civil liability or criminal prosecution for reporting to the board violations or
 15.19 alleged violations of this chapter. All such reports are classified under section 13.41.

15.20 Subd. 2. **Investigation.** Members of the board, persons employed by the board,
 15.21 and consultants retained by the board for the purpose of investigation of violations or the
 15.22 preparation and management of charges of violations of this chapter on behalf of the board
 15.23 are immune from civil liability and criminal prosecution for any actions, transactions, or
 15.24 publications in the execution of, or relating to, their duties under this chapter.

15.25 Sec. 15. **[148E.15] FEES.**

15.26 (a) The fees specified in paragraph (b) are not refundable and must be deposited in
 15.27 the state government special revenue fund.

15.28 (b) The fees are as follows:

15.29 (1) initial application licensure fee is \$.....;

15.30 (2) renewal fee for licensure is \$.....; and

15.31 (3) late fees are \$.....

15.32 Sec. 16. **INITIAL BOARD OF MEDICAL LABORATORY SCIENCE.**

16.1 (a) Notwithstanding Minnesota Statutes, section 148E.03, members of the first board
16.2 appointed under Minnesota Statutes, section 148E.03, need not be licensed, but must meet
16.3 all qualifications for licensure under Minnesota Statutes, chapter 148E.

16.4 (b) The initial board shall be appointed by October 1, 2007, and shall include:

16.5 (1) a pathologist, a nonphysician laboratory director, and a medical laboratory
16.6 scientist to be appointed to serve for three years;

16.7 (2) a public representative and a nonpathologist physician to be appointed to serve
16.8 for two years; and

16.9 (3) the remaining members to be appointed to serve for one year.