

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
**500 CHARLOTTE AVENUE**  
**NASHVILLE, TENNESSEE 37243**

October 17, 2006

Opinion No. 06-164

Medical Laboratory Personnel Rule

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**QUESTION**

Under part (1)(a)5 of the Tennessee Medical Laboratory Board's Rule 1200-6-1-.22, what must an individual do to qualify for and obtain a license as a medical laboratory technologist?

**OPINION**

Part (1)(a)5 sets out a "grandfathering" exception for certain individuals who do not have the baccalaureate degree that is required for licensure as a medical laboratory technologist. To qualify under the part, an individual must: 1) possess national certification by examination at the technologist level; 2) have been certified or eligible for such national certification before September 1, 1997; and 3) either have passed a Health and Human Services proficiency examination in clinical laboratory science and have completed five years of qualified full time clinical laboratory work experience or have completed at least 90 semester hours of qualified science course work and an approved medical laboratory technologist training program.

**ANALYSIS**

Rule 1200-6-1-.22 of the Tennessee Medical Laboratory Board ("Board") is entitled "Qualifications, Responsibilities and Duties of Testing Personnel." It was promulgated by the Board pursuant to its broad statutory authority to adopt rules and regulations to determine and prescribe the minimum qualifications for medical laboratory personnel, including medical laboratory technologists. *See* Tenn. Code Ann. §§ 68-29-105(2), 68-29-118. A medical laboratory technologist is a "person who performs tests which require the exercise of independent judgment and responsibility with minimal supervision by the director or supervisor, in only those specialties or subspecialties in which the technologist is qualified by education, training, and experience." Tenn. Code Ann. § 68-29-103(15).

Pertinent to your question, Rule 1200-6-1-.22(1)(a) provides as follows with respect to the required qualifications for obtaining a medical laboratory technologist license:

- (a) A medical laboratory technologist shall meet one of the following requirements, in addition to possessing national certification by examination at the technologist level:

1. A baccalaureate degree in medical technology or in one of the biological, chemical or physical sciences, and completion of a medical laboratory technologist training program . . .; or
2. A baccalaureate degree . . ., completion of an accredited MLT/CLT training program and three (3) years of full time clinical laboratory work experience . . .; or
3. A baccalaureate degree . . ., completion of an official military laboratory procedures course . . . and have held the military enlisted occupational specialty of Medical Laboratory Specialist, and three (3) years of full time clinical laboratory work experience . . .; or
4. A baccalaureate degree . . . and five (5) years of full time clinical laboratory work experience. . .; or
5. For those individuals who were eligible [see (i) and (ii)] for national certification by examination at the technologists level prior to September 1, 1997 and for those individuals who obtained national certification by examination at the technologists level prior to September 1, 1997:
  - (i) additionally have received a passing grade on a Health and Human Services [HHS] proficiency examination in clinical laboratory science and completion of five (5) years of full time clinical laboratory work experience as defined in subparagraph (1)(g); or
  - (ii) have completed a minimum of ninety (90) semester hours including science coursework equivalent to that required in a laboratory science education program as defined by (1)(f) of this rule; and have completed a medical laboratory technologist training program that was approved at the time of graduation by the National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) or a national accrediting agency acceptable to the Board.

You question what, under part (1)(a)5 of the above rule, an individual must do to qualify for

and obtain licensure as a medical laboratory technologist. Because we believe that the introductory language of the part is not entirely clear, we have consulted the regulatory history of Rule 1200-6-1-.22.

Rule 1200-6-1-.22 was promulgated by the Medical Laboratory Board in 1994, and became effective on July 17, 1995. At that time, it did not require that a person seeking licensure as a medical laboratory technologist hold a baccalaureate degree. *See* Tenn. Adm. R. & Regs. 1200-6-1-.22(1)(a) (July 17, 1995). Rather, it required that the individual pass a Board-conducted/sponsored examination and successfully complete one of the following four options: (1) an approved medical technologist general program; (2) three years of college study and a 12-months training course in an accredited medical technology program; (3) passage of an HHS proficiency examination and two years full-time general medical laboratory experience; or (4) if already licensed by the Board as a medical laboratory technician, a “career ladder” path. *Id.*

Effective November 25, 1996, the Board rewrote most of the rule. As rewritten, it no longer required that a person seeking licensure as a medical laboratory technologist pass a Board-conducted/sponsored examination; instead, it required that he possess national certification by examination at the technologist level. It also required that the individual have received a baccalaureate degree.<sup>1</sup> Tenn. Adm. R. & Regs. 1200-6-1-.22(1)(a)1-4 (November 25, 1996). However, parts (1)(a)5 and 6 of the rewritten rule set out exceptions to the baccalaureate degree requirement:

5. For those individuals obtaining national certification by examination at the technologist level prior to September 1, 1997:
  - (i) a minimum of ninety (90) semester hours including science coursework equivalent to that required in a laboratory science education program . . . ; and
  - (ii) with the completion of a medical laboratory technologist training program that was approved at the time of graduation by National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) or a national

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<sup>1</sup>The Board’s decision to upgrade its requirements for obtaining medical laboratory technologist licensure was consistent with similar federal efforts. In 1988, Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (“CLIA”). Codified at 42 U.S.C. § 273a, this statute requires all laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings to meet certain requirements to perform such examinations. In the 1990s, amendments to CLIA implementing regulations were enacted requiring, *inter alia*, that, effective September 1, 1997, all persons performing high complexity testing in medical laboratories must have earned at least an associate degree in laboratory science/medical laboratory technology or its equivalent. *See* 42 CFR § 493.1489.

accrediting agency acceptable to the Board.

6. Having received a passing grade on a Health and Human Services proficiency examination in clinical laboratory science and completion of five (5) years of full time clinical laboratory work experience . . . For initial licensure applicants may not qualify under this requirement after September 1, 1997.

Tenn. Adm. R. & Regs. 1200-6-1-.22(1)(a)5-6 (November 25, 1996).

Effective November 6, 2001, the Board amended the rule to allow additional individuals without baccalaureate degrees to become licensed as medical laboratory technologists. Before this 2001 amendment, such persons were required to have actually obtained national certification by examination at the technologist level prior to September 1, 1997. The 2001 amendment permitted individuals to apply for licensure who were eligible for national certification at the technologist level prior to September 1, 1997, but had not necessarily obtained such certification at that time. As amended, the introductory language of part (1)(a)5 of Rule 1200-6-1-.22 read, and still reads today:<sup>2</sup>

5. For those individuals who were eligible [see (i) and (ii)] for national certification by examination at the technologists level prior to September 1, 1997 and for those individuals who obtained national certification by examination at the technologists level prior to September 1, 1997:

Tenn. Adm. R. & Regs. 1200-6-1-.22(1)(a)5 (November 6, 2001).

The above-described regulatory history makes clear that part (1)(a)5 of Rule 1200-6-1-.22 sets out a “grandfathering” exception to the requirement that persons seeking medical laboratory technologist licensure hold a baccalaureate degree. To qualify under the part, an individual must: 1) possess national certification by examination at the technologist level; 2) have been certified or eligible for such national certification before September 1, 1997; and 3) either have passed a Health and Human Services proficiency examination in clinical laboratory science and have completed five years of qualified full time clinical laboratory work experience or have completed at least 90 semester hours of qualified science course work and an approved medical laboratory technologist training program.

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<sup>2</sup>We understand that the Board intends to amend subparagraph (1)(a) in order to clarify its requirements for obtaining a medical laboratory technologist license.

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