

CHAPTER 44

CHAPTER IV OF THE STATE SANITARY CODE

Authority

N.J.S.A. 26:1A-33, 45:9-42.30, and 45:9-42.35;
and Reorganization Plan No. 003-2005.

Source and Effective Date

Effective: November 20, 2013.
See: 45 N.J.R. 2601(b).

Chapter Expiration Date

Chapter 44, Chapter IV of the State Sanitary Code, expires on November 20, 2020.

Chapter Historical Note

Chapter 44, Chapter IV of the State Sanitary Code, was adopted as R.1978 d.336, effective September 18, 1978. See: 10 N.J.R. 147(c), 10 N.J.R. 430(a).

Pursuant to Executive Order 66(1978), Chapter 44, Chapter IV of the State Sanitary Code, was readopted as R.1983 d.498, effective November 7, 1983. See: 15 N.J.R. 995(a), 15 N.J.R. 1862(a).

Pursuant to Executive Order 66(1978), Chapter 44, Chapter IV of the State Sanitary Code, was readopted as R.1988 d.561, effective November 2, 1988. See: 20 N.J.R. 2222(a), 20 N.J.R. 3017(a).

Subchapter 3, Limited Purpose Laboratories, was adopted as R.1990 d.512, effective October 15, 1990. See: 22 N.J.R. 1323(a), 22 N.J.R. 3232(a).

Subchapter 3, Limited Purpose Laboratories, was repealed by R.1993 d.200, effective May 17, 1993. See: 25 N.J.R. 668(a), 25 N.J.R. 1969(b).

Pursuant to Executive Order No. 66(1978), Chapter 44, Chapter IV of the State Sanitary Code, was readopted as R.1993 d.595, effective October 21, 1993. See: 25 N.J.R. 3904(a), 25 N.J.R. 5164(a).

Pursuant to Executive Order No. 66(1978), Chapter 44, Chapter IV of the State Sanitary Code, was readopted as R.1995 d.239, effective April 12, 1995. See: 27 N.J.R. 626(a), 27 N.J.R. 1985(a). Pursuant to Executive Order No. 66(1978), Chapter 44 expired on April 12, 2000.

Chapter 44, Chapter IV of the State Sanitary Code, was adopted as new rules by R.2000 d.377, effective September 18, 2000. See: 32 N.J.R. 1369(a), 32 N.J.R. 3462(a).

Subchapter 3, Limited Purpose Laboratory, was adopted as emergency new rules by R.2004 d.219, effective May 19, 2004 (to expire July 18, 2004). See: 36 N.J.R. 2926(a). Subchapter 3 was subsequently adopted as concurrent new rules by R.2004 d.311, effective July 15, 2004. See: 36 N.J.R. 3877(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 44, Chapter IV of the State Sanitary Code, was extended by gubernatorial directive from September 18, 2005 to September 18, 2006. See: 37 N.J.R. 4020(a).

Chapter 44, Chapter IV of the State Sanitary Code, was readopted as R.2007 d.48, effective January 9, 2007. See: 38 N.J.R. 2560(a), 39 N.J.R. 447(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44, Chapter IV of the State Sanitary Code, was scheduled to expire on January 9, 2014. See: 43 N.J.R. 1203(a).

Chapter 44, Chapter IV of the State Sanitary Code, was readopted, effective November 20, 2013. See: Source and Effective Date.

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SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. OPERATION OF CLINICAL LABORATORIES

8:44-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. All terms not defined herein shall have the meaning given them in the New Jersey Clinical Laboratory Improvement Act, N.J.S.A. 45:9-42.26 et seq.

"Accredited" means having the approval conferred upon schools, institutions, or programs where appropriate by a nationally recognized accrediting agency or association as determined by the U.S. Commissioner of Education and/or New Jersey State Board of Higher Education.

"Consultation" means a communication between two or more physicians concerning the diagnosis or treatment in a given case. Consultation would, when indicated, include history taking, examination of the patient, and rendering to the attending physician an opinion concerning diagnosis and/or treatment.

"Personal and direct supervision" means that a qualified general supervisor or supervisory cytotechnologist, where applicable, is present in the immediate bench area when laboratory procedures are being performed.

"Physician" means any person licensed to practice medicine and surgery by the New Jersey Board of Medical Examiners.

"Radioassay" means the analysis following the administration of a radioactive material to a patient and the subsequent analysis of the body fluid, or excreta in order to evaluate body function. This definition includes scanning and in vivo measurements.

"Subsequent to graduation" means laboratory training and experience acquired after receipt of the degree specified. However, experience as a technologist in a licensed clinical laboratory, which was gained prior to acquiring such degree, may be substituted on an equivalency basis of 1.5 years of such experience for every 1 year of postdegree training and experience; and experience as a general supervisor in a licensed clinical laboratory, which was gained prior to acquiring such degree, may be substituted on a 1 for 1 basis.

"Substitution of education for experience" means that a minimum of 30 semester hours of credit from an approved school of medical technology, or towards a bachelor's degree from an accredited institution with a chemical, physical, or biological science as the major subject is considered equivalent to 2 years of experience. Additional education is equated at the rate of 15 semester hours of credit for 1 year of experience.

"Trainee" means an individual who is gaining the required years of clinical laboratory on-the-job experience to qualify as a technician and/or technologist and is participating in a structured training program approved by the Department of Health, designed to provide the trainee with a broad range of laboratory procedures of progressive technical difficulty. A training program compatible with that of a nationally recognized accrediting society, board or organization is acceptable.

"True duplicate" means a carbon or other mechanical copy.

8:44-2.2 Applicability of regulations

(a) Except as otherwise provided herein, the regulations shall apply to clinical laboratories engaged in the performance of chemical, bacteriologic, virologic, parasitologic, serologic, mycologic, hematologic, immunohematologic, biophysical, cytologic, radiobioassay or other examinations of materials derived from the human body for the purpose of

yielding information for the diagnosis, prevention or treatment of disease or the assessment of medical condition.

(b) The rules do not apply to the following:

1. Anatomic pathology, which is defined as the gross or microscopic examination of tissues by a physician specifically trained to interpret and diagnose disease by such examination;

2. Clinical laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health services, whatsoever;

3. Clinical laboratories operated by the United States Government;

4. Blood banks licensed under P.L.1963, c.33 (N.J.S.A. 26:2A-2 et seq.);

5. Clinical laboratories possessing a Federal Certificate of Waiver as defined by Federal Clinical Laboratory Amendments of 1988 (CLIA '88) (P.L. 100-578) and regulations adopted thereunder (42 CFR Part 493, published in the Federal Register, February 28, 1992); and

6. Clinical laboratories which are operated by the Department of Corrections, any county jail, any county probation department, or any drug or alcohol treatment center providing services to persons under the jurisdiction of any of these agencies or in a program of supervisory treatment pursuant to the provisions of N.J.S. 2C:43-13 and which perform only urinalysis for screening purposes to detect the presence of alcohol or illegal substances. The Attorney General shall approve procedures, methods and devices used by these agencies or centers in screening for alcohol or illegal substances.

Amended by R.1993 d.200, effective May 17, 1993.

See: 25 N.J.R. 668(a), 25 N.J.R. 1969(b).

Added exception at (b)5.

Amended by R.1993 d.595, effective November 15, 1993.

See: 25 N.J.R. 3904(a), 25 N.J.R. 5164(a).

8:44-2.3 Laboratory director

(a) The clinical laboratory shall be under the direction of a qualified person.

(b) The director shall administer the technical and scientific operation of the laboratory including the reporting of findings of laboratory tests.

1. The director shall serve the laboratory full time, or on a regular part-time basis. The director shall not individually serve as director or Co-director of more than three laboratories.

2. Commensurate with the laboratory workload, the director shall spend an adequate amount of time in the laboratory to direct and supervise the technical performance of the staff and shall be readily available for personal or telephone consultation.

3. The director is responsible for the proper performance of all tests made in the laboratory.

4. The director is responsible for the employment of qualified laboratory personnel and their inservice training.

5. If the director is to be absent, the director must arrange for a qualified substitute director.

(c) The laboratory director shall hold a valid, current license as a bioanalytical laboratory director issued pursuant to L.1953, c.420 (N.J.S.A. 45:9-42.1 et seq.), and, in addition, shall meet one of the following requirements:

1. Is a physician certified in anatomical and/or clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possesses qualifications which are equivalent to those required for such certification (board eligible);

2. Is a physician who:

i. Is certified by the American Board of Pathology or the American Osteopathic Board of Pathology in at least one of the laboratory specialties; or

ii. Is certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, or other national accrediting board in one of the laboratory specialties; or

iii. Is certified by the American Society of Cytology to practice cytopathology or possesses qualifications which are equivalent to those required for such certification, (under this provision the individual may qualify as a director only in the specialty of Cytology); or

iv. Subsequent to graduation has had 4 or more years of full-time general laboratory training and experience of which at least 2 years were spent acquiring proficiency in one of the laboratory specialties in an approved clinical laboratory;

3. Holds an earned doctoral degree from an accredited institution with a chemical, physical, or biological science as a major subject and:

i. Is certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, or other national accrediting board acceptable to the Department of Health in one of the laboratory specialties; or

ii. Subsequent to graduation has had 4 or more years of full-time general clinical laboratory training and experience of which at least 2 years were spent acquiring proficiency in one of the laboratory specialties in an approved clinical laboratory; or

4. The requirements of (c)1, 2 and 3 above do not apply to individuals who qualified as a bioanalytical director and were licensed pursuant to L.1953, c.420 (N.J.S.A. 45:9-42.1 et seq.) as amended prior to adoption of these regulations.

As amended, R.1983 d.498, effective November 7, 1983.
Sec: 15 N.J.R. 846(a), 15 N.J.R. 1862(b).

8:44-2.4 Supervision

(a) The clinical laboratory shall be supervised by qualified personnel.

(b) The laboratory shall have one or more supervisors who, under the general discussion of the laboratory director, supervise technical personnel and report of findings, perform tests requiring special scientific skills, and, in the absence of the director, are held responsible for the proper performance of all laboratory procedures. A laboratory director who qualifies under subsection (c) of this section is also qualified as a general supervisor; therefore, depending upon the size and functions of the laboratory, the laboratory director may also serve as the laboratory supervisor.

1. Required supervisors: There are two categories of required supervisors. A general supervisor—one who meets the requirements of subsection (c) of this section—is

on the laboratory premises during all hours in which tests are being performed. With respect to the specialty of diagnostic cytology, cytotechnologists do not examine side preparations unless a supervisor who qualifies pursuant to the provisions of paragraph 4 of subsection (c) of this section or N.J.A.C. 8:44-1.5(c)8 is on the premises at all times. A technical supervisor—one who meets the pertinent requirements of N.J.A.C. 8:44-1.5(c)—spends an adequate amount of time in the laboratory to supervise the technical performance of the staff in the specialty and is readily available for personal or telephone consultation. A general supervisor may also be a technical supervisor in those specialties in which the requirements of N.J.A.C. 8:44-1.5(c) are met.

2. Supervision of emergency procedures: When emergencies arise outside regularly scheduled hours of duty, an individual who qualifies as a general supervisor is not required to be on the premises provided that the technologist performing tests is qualified to perform such tests, the supervisor who is responsible for the results of the work reviews them during the next duty period, and a record is maintained to reflect the actual review. Night time, week-end, or holiday duty hours shall be considered as Emergency Procedures.

(c) The laboratory supervisor shall meet one of the following requirements:

1. Is a physician, or has earned a doctoral degree from an accredited institution with a major in one of the chemical, physical, or biological sciences and subsequent to graduation has had at least 2 years of experience in one of the laboratory specialties in an approved clinical laboratory;

2. Holds a master's degree from an accredited institution with a major in one of the chemical, physical, or biological sciences and subsequent to graduation has had at least 4 years of pertinent full-time laboratory experience of which not less than 2 years has been spent working in the designated laboratory specialty in an approved clinical laboratory;

3. Is qualified as a clinical laboratory technologist pursuant to the provisions of section 6 of this subchapter and subsequent to the date of qualifying as a clinical laboratory technologist, has had at least 6 years of pertinent full-time laboratory experience of which not less than 2 years have been spent working in the designated laboratory specialty in an approved clinical laboratory;

4. With respect to the specialty of diagnostic cytology, qualifies as a supervisory cytotechnologist because he:

i. Is qualified as a cytotechnologist pursuant to the provisions of section 6 of this subchapter and

ii. Has within the preceding 10 years has 4 years of full-time experience as a cytotechnologist in a laboratory

directed or supervised by a pathologist or other physician certified as a specialist in diagnostic cytology or;

5. With respect to individual first qualifying prior to July 1, 1971, has had at least 15 years of pertinent full-time clinical laboratory experience prior to January 1, 1968; this required experience may be met by the substitution of education for experience.

8:44-2.5 Tests performed

(a) The clinical laboratory shall perform only those laboratory tests and procedures that are within the specialties or subspecialties for which the laboratory is licensed.

(b) All clinical laboratories shall enroll and successfully participate in a proficiency testing program provided by either the Department of Health and Senior Services, or by a proficiency testing provider that the Centers for Medicare and Medicaid Services (CMS) has approved to perform proficiency testing pursuant to the Clinical Laboratory Improvement Amendments of 1988, 42 U.S.C. §263a, and the regulations CMS promulgates pursuant thereto at 42 CFR Part 493.

1. A list of CMS-approved proficiency testing providers is available at <http://www.cms.hhs.gov/CLIA/downloads/ptlist.pdf>, as amended and supplemented, or upon request to the Department.

2. Enrollment in a proficiency testing program with a provider other than the Department pursuant to (b) above shall encompass all clinical laboratory specialties, analytes and/or subspecialties for which a given laboratory is approved to perform tests that the Department has designated as requiring proficiency testing.

3. Laboratories shall:

i. Enroll and participate in proficiency testing surveys appropriate to their level of service;

ii. Receive and examine and/or analyze specimens delivered by mail or messenger, at such times as designated by the proficiency testing provider; and

iii. Maintain records of all proficiency testing results in surveys in which they participate and make such records, including results, interpretations and cumulative performance data routinely available to the Department of Health and Senior Services.

4. The Department of Health and Senior Services shall reserve authority to regrade data from proficiency testing providers other than the Department (that is, survey scores and cumulative performance interpretations) through the Clinical Laboratory Improvement Service according to its own licensing standards.

5. Any report issued by proficiency testing providers other than the Department by itself shall not be construed

as determinative of compliance with the New Jersey licensing standards.

6. An exception to the enrollment requirements of this subsection may be made, provided the Department of Health and Senior Services determines that an appropriate proficiency testing survey is not readily available.

(c) The laboratory shall perform only those laboratory procedures and tests that are within the specialties or subspecialties in which the laboratory director or supervisors are qualified.

1. If the laboratory director or supervisor is a physician certified in anatomical and/or clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possesses qualifications which are equivalent to those required for certification (board eligible), the laboratory may perform anatomical and clinical laboratory procedures and tests in all specialties.

2. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of microbiology, including the subspecialties of bacteriology, virology, mycology, and parasitology, the director or a supervisor:

i. Holds an earned doctorate or master's degree in microbiology from an accredited institution or is a physician; and

ii. Subsequent to graduation has had at least 4 years of experience in clinical microbiology.

3. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of serology, the director or a supervisor:

i. Holds an earned doctoral or master's degree in biology, chemistry, immunology, or microbiology from an accredited institution or is a physician; and

ii. Subsequent to graduation has had at least 4 years experience in serology.

4. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of hematology, including gross and microscopic examination of the blood, the director or a supervisor:

i. Holds a master's or a bachelor's degree in biology, immunology, microbiology, or chemistry, or medical technology from an accredited institution; and

ii. Subsequent to graduation has had at least 4 years of experience in hematology.

5. If the requirements of paragraph 1 of this subsection are not met and:

i. The laboratory performs tests in the specialty of immunohematology, the director or a supervisor is a physician with at least 2 years of experience in immunohematology subsequent to graduation; or

ii. Within the specialty of immunohematology, the laboratory performs tests in the subspecialties of ABO grouping and Rh typing, antibody detection, identification, and titering only, the director or a supervisor holds a master's or bachelor's degree in biology, immunology, microbiology, chemistry, or medical technology from an accredited institution and subsequent to graduation has had at least 4 years of experience in immunohematology.

6. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of clinical chemistry, the director or a supervisor:

i. Holds an earned doctoral or master's degree in chemistry from an accredited institution or is a physician; and

ii. Subsequent to graduation has had at least 4 years of experience in clinical chemistry.

7. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of radioassay, the director or a supervisor:

i. Holds an earned doctoral, master's or bachelor's degree in chemistry, physics, biology, or medical technology from an accredited institution or is a physician; and

ii. Subsequent to graduation has had at least 4 years of experience in radioassay.

8. If the requirements of paragraph 1 of this subsection are not met and the laboratory performs tests in the specialty of diagnostic cytology, the director or a supervisor:

i. Is a physician who is certified by the American Society of Cytology to practice cytopathology or possesses qualifications which are equivalent to those required for certification (under this provision the laboratory is qualified to perform such tests only on that anatomic site for which the director or supervisor is certified); or

ii. Is an individual who, pursuant to a request to establish his qualified filed prior to January 1, 1971, has demonstrated competency:

(1) Through at least 7 years of accumulative experience in a position of diagnostic responsibility in the field of clinical cytology, or through 5 years of full-time training in diagnostic clinical cytology with suitable endorsement by a physician who has been supervisor in such activity;

(2) By the publishing of treatises, texts, or other publications on the subject of diagnostic cytology which are generally acknowledged and recognized by the medical profession as authoritative in the field;

(3) By appointment to and service in pertinent teaching and research positions in recognized schools of medicine;

(4) By acceptance into or award of membership and office in professional societies in this field; and

(5) By receipt of other professional honors for excellence in the use of procedures in exfoliative cytology for the diagnosis of a pathological condition (under this provision the laboratory is qualified to perform such tests only on that anatomic site with respect to which such competency is so established). An individual who qualified under this paragraph is deemed also to meet the requirements of paragraph 1 of this subsection.

9. An exception to the requirements in paragraphs 2 through 7 of this subsection is made with respect to an individual who qualifies as a director under paragraph 3 of this subsection. The laboratory such individual directs may perform tests in the following:

i. Microbiology: If the director has a bachelor's degree in a biological science and subsequent to graduation has had at least 6 years of experience in microbiology;

ii. Hematology: If the director has a bachelor's degree in biology, immunology, or microbiology from an accredited institution and subsequent to graduation has had at least 6 years of clinical laboratory experience of which at least 4 years of experience are in hematology;

iii. Serology: If the director has a bachelor's degree in biology, chemistry, immunology, or microbiology and subsequent to graduation has had at least 6 years of experience in serology;

iv. In vitro Radioassay: If the director has a bachelor's degree in a chemical, physical, or biological science and subsequent to graduation has had at least 6 years of laboratory experience, at least 1 year of which is in radioassay;

v. Blood grouping and Rh typing, antibody detection, identification, and titering: If the director has a bachelor's degree in biology, immunology, or microbiology from an accredited institution and subsequent to graduation has had at least 6 years of clinical laboratory experience of which at least 4 years of experience are in immunohematology;

vi. Clinical chemistry: If the director has a bachelor's degree in a chemical science or its equivalent and subsequent to graduation has had at least 6 years of experience in clinical chemistry;

vii. Any of the above specialties: If the director has a bachelor's degree in medical technology and subsequent

to graduation has had at least the designated years of specialized experience.

Amended by R.1995 d. 239, effective May 15, 1995.

See: 27 N.J.R. 626(a), 27 N.J.R. 1985(a).

Amended by R.2007 d.322, effective October 15, 2007.

See: 39 N.J.R. 1978(a), 39 N.J.R. 4397(b).

Rewrote (b).

8:44-2.6 Technical personnel

(a) The clinical laboratory shall have a sufficient number of properly qualified technical personnel for the volume and diversity of tests performed.

(b) The laboratory shall employ a sufficient number of clinical laboratory technologists and/or cytotechnologists to proficiently perform under general supervision the clinical laboratory tests which require the exercise of independent judgment.

(c) Each clinical laboratory technologist shall:

1. Have earned a bachelor's degree in medical technology from an accredited college or university; or

2. Have successfully completed 3 years of academic study (a minimum of 90 semester hours or equivalent) in an accredited college or university, which met the specific requirements for entrance into a school of medical technology accredited by an accrediting agency approved by the Secretary of the United States Department of Health, Education and Welfare, and have successfully completed a course of training of at least 12 months in such a school; or

3. Have earned a bachelor's degree in one of the chemical, physical or biological sciences and, in addition, have at least 1 year of pertinent full-time laboratory experience and/or training in the specialty or subspecialty in which the individual performs tests; or

4. Have successfully completed 3 years (90 semester hours or equivalent) in an accredited college or university with the following distribution of courses:

i. For those whose training was completed prior to September 15, 1963. At least 24 semester hours in chemistry and biology courses of which:

(1) At least 6 semester hours were in inorganic chemistry and at least 3 semester hours were in other chemistry courses; and

(2) At least 12 semester hours in biology courses pertinent to the medical sciences; or

ii. For those whose training was completed after September 14, 1963:

(1) 16 semester hours in chemistry courses which included at least 6 semester hours in inorganic chemistry and which are acceptable toward a major in chemistry; and

(2) 16 semester hours in biology courses which are pertinent to the medical sciences and are acceptable toward a major in the biological sciences; and

(3) Three semester hours of mathematics; and

iii. Have experience and/or training covering several fields of medical laboratory work of at least 1 year and of such quality as to provide him with education and training in medical technology equivalent to that described in paragraphs 1 and 2 of this subsection; or

5. With respect to individuals first qualifying prior to July 1, 1971; the technologist:

i. Was performing the duties of a clinical laboratory technologist at any time between July 1, 1961, and January 1, 1968; and

ii. Has had at least 10 years of pertinent clinical laboratory experience prior to January 1, 1968. (This required experience may be met by the substitution of education for experience); or

6. Achieved a satisfactory grade in a proficiency examination approved by the Secretary of the United States, Department of Health, Education and Welfare.

(d) Each laboratory cytotechnologist shall:

1. Have successfully completed 2 years in an accredited college or university with at least 12 semester hours in science, 8 hours of which are in biology, and

i. Have had 12 months of training in a school of cytotechnology accredited by an accrediting agency approved by the Secretary of the United States Department of Health, Education and Welfare; or

ii. Have received 6 months of formal training in a school of cytotechnology accredited by an accrediting agency approved by the Secretary and 6 months of full-time experience in cytotechnology in a laboratory acceptable to the pathologist who directed such formal 6 months of training; or

2. Prior to January 1, 1969, have:

i. Been graduated from high school;

ii. Completed 6 months of training in cytotechnology in a laboratory directed by a pathologist or other physician recognized as a specialist in cytology; and

iii. Completed 2 years of full-time supervised experience in cytotechnology; or

3. Achieved a satisfactory grade in a proficiency examination approved by the Secretary of the United States, Department of Health, Education and Welfare.

(e) Clinical laboratory technicians shall be employed in sufficient number to meet the workload demands of the

laboratory and shall function only under direct supervision of a clinical laboratory technologist.

1. Each technician shall perform only those clinical laboratory procedures which require a degree of skill commensurate with the education, training, and technical abilities and which involve limited exercise of independent judgment.

2. No clinical laboratory technician shall perform procedures in the absence of a qualified clinical laboratory technologist, supervisor, or director.

3. A technician trainee shall perform only those procedures under the personal and direct supervision of a

qualified supervisor or technologist for which the trainee has received formal instruction and has demonstrated competency.

(f) Each clinical laboratory technician shall meet one of the following requirements:

1. Have successfully completed 60 semester hours of academic credit including chemistry and biology as well as a structured curriculum in medical laboratory techniques at an accredited institution or have an associate degree based on a course of study including those subjects from an accredited institution;

2. Is a high school graduate or equivalent and has completed at least 1 year in a technician training program in a school accredited by an accrediting agency approved by the Secretary of the United States, Department of Health, Education and Welfare; and/or the N.J. State Board of Higher Education;

3. Is a high school graduate or equivalent and has 2 years of pertinent full-time laboratory experience as a technician trainee in an approved clinical laboratory;

4. Is a high school graduate or equivalent and has successfully completed an official military medical laboratory procedures course of at least 50 weeks duration and has held the military enlisted occupational specialty of Medical Laboratory specialist (Laboratory Technician).

(g) There shall be written personnel policies, practices, and procedures that adequately support sound laboratory practice.

1. Current employee records shall be maintained and include a resume of each employee's training, experience, duties, and date or dates of employment.

2. Files shall contain evidence of adequate health supervision of employees, such as results of preemployment physical examinations, including P.P.D. tuberculin test followed by chest X-rays when indicated, immunization records, and records of all illnesses and accidents occurring on duty.

3. Work assignments shall be consistent with qualifications.

8:44-2.7 Management

(a) The clinical laboratory shall maintain records and facilities which are adequate and appropriate for the services offered.

(b) Workrecords of quantitative tests must be maintained and these records must indicate final results together with all corresponding instrument readings and calculations. Where instrumentation produces tracings or print-outs of results, these tracings or print-outs must be retained and may serve as the workrecord.

(c) A compilation shall be kept of all automated and manual methods for tests which are performed in or offered by the laboratory. Each procedure shall be reviewed and dated by the technical supervisor at least annually. For those tests which are normally performed on automated test equipment, provision shall be made and documented for performing such tests by alternate methods, or for storing the test specimens, in the event this equipment becomes inoperable.

(d) Space and facilities shall be adequate to properly perform the services which are performed in or offered by the laboratory.

1. Workbench space shall be ample, well-lighted, and convenient to sink, water, gas, and suction and electrical outlets as necessary.

2. Work areas shall be arranged so as to minimize problems in transportation and communication.

3. The laboratory shall be properly ventilated.

4. Volatile chemicals and inflammable solvents shall be properly stored as specified by O.S.H.A.

5. Temperature and humidity shall be controlled within limits required for proper performance of tests and operation of instruments affected by these variations.

6. Voltage levels at electrical sources to which automated equipment is connected shall be monitored and recorded.

7. Adequate fire precautions and occupational safety and health laws shall be known, posted, and observed insuring that there is freedom from physical, chemical, and biological hazards.

(e) No persons other than a licensed physician, or one otherwise authorized by law, shall manipulate a patient for the collection of specimens except that qualified technical personnel of the laboratory may collect blood or remove stomach contents and collect material for smears and culture under the direction, or upon the written request of a licensed physician.

(f) Syringes, needles, lancets, or other blood-letting devices capable of transmitting infection from one person to another shall not be reused unless they are properly sterilized prior to each use and wrapped in a manner which will insure that they remain sterile until used. Appropriate sterilization and disinfection techniques shall be utilized, as required, for tests performed on potentially contaminated material and for the protection of laboratory personnel. Disposable syringes, needles, pipettes, Petri dishes, and other disposable items shall be destroyed immediately after use as stipulated in N.J.S.A. 2A:170-25.17. Each sterilizing cycle shall contain a device which indicates proper sterilization and a record kept of time, temperature, pressure and type of indicator. Proper operation of the autoclave shall be checked monthly with viable spores.

(g) The laboratory shall examine specimens only at the request of a licensed physician, dentist, or other person authorized by law to use the findings of laboratory examinations and shall report only to those authorized by law to receive such results.

1. If the patient is sent to the laboratory, a written request for the desired laboratory procedures must be obtained from a person authorized by law to use findings of laboratory examination.

2. If only a specimen is sent, it must be accompanied by a written request.

3. If the laboratory receives reference specimens from another laboratory, it shall report back to the laboratory submitting the specimens.

(h) The laboratory shall maintain a record indicating the daily accession of specimens, each of which is numbered or otherwise appropriately identified. Records shall contain the following information:

1. The laboratory number or other identification of the specimen.
2. The name and other identification of the person from which the specimen was taken.
3. The name of the licensed physician or other authorized person or clinical laboratory which submitted the specimen.
4. The date the specimen was collected by the physician or other authorized person.
5. The date the specimen was received in the laboratory.
6. The condition of unsatisfactory specimens when received (e.g., broken, leaked, hemolyzed, or turbid, etc.).
7. The type of test performed.
8. The date that test was performed.
9. The results of the laboratory test or cross-reference to results and the date of reporting.
10. The name and address of the laboratory to which forwarded if the procedure is not performed at this laboratory.

(i) The original or true duplicate of the laboratory report shall be sent promptly to the licensed physician or other authorized person who requested the test and all reports shall be preserved by the laboratory for a period of at least 2 years after the date of submittal of the report. Laboratory reports of fully automated, multicomponent testing must consist of, or have attached, instrument tracings or true duplicates of such tracings or computer printout of test results.

1. The laboratory director is responsible for the laboratory report.
2. True duplicate copies or a suitable record of laboratory reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.
3. The results of laboratory tests or procedures or transcripts thereof shall be sent to the licensed physician, dentist or other person authorized by law to use the findings of laboratory examinations. The patient may request a copy of such reports. The laboratory may charge a reasonable fee for copying.

4. Pertinent "normal" ranges as determined by the laboratory performing the tests shall be available to the physician requesting such tests.

5. A list of analytical methods employed by the laboratory and a basis for the listed "normal" range shall be maintained in the laboratory. The list shall be made available to any physician ordering an examination upon request.

6. If the laboratory refers specimens to another laboratory, the physician ordering an examination shall receive the original reference laboratory report or a true duplicate of that report. The reference laboratory must report its findings on report forms of the reference laboratory. If the physician so requests, the referring laboratory may authorize the testing laboratory to report directly to the physician or other authorized person who requested the test, in which even the testing laboratory must send a duplicate of the report to the referring laboratory.

Case Notes

Serious and pervasive violations of standards governing operation of clinical laboratory warranted license revocation; monetary penalty also assessed. *Scientific Diagnostic Laboratories, Inc. v. Department of Health*. 92 N.J.A.R.2d (HLT) 21.

8:44-2.8 Quality control

(a) Quality controls imposed and practiced by the laboratory must provide for and include written records to assure the following:

1. Preventative maintenance, periodic inspection, and testing for proper operation of equipment and instruments as may be appropriate; validation of methods; evaluation of reagents and volumetric equipment; surveillance of results; and remedial action to be taken in response to detected defects.

2. Adequacy of facilities, equipment, instruments, and methods for performance of the procedures or categories of procedures for which licensure is approved; proper lighting for accuracy and precision; convenient location of essential utilities; monitoring of temperature-controlled spaces and equipment, including water baths, incubators, sterilizers, and refrigerators, to assure proper performance; evaluation of analytical measuring devices, such as photometers and radioactivity counting equipment, with respect to all critical operating characteristics. Records must reflect actual readings obtained both before and after any adjustments have been made.

3. Labeling of all reagents and solutions to indicate identity, and when significant, titer, strength, or concentration, recommended storage requirements, preparation or expiration date, and other pertinent information. Materials of substandard reactivity and deteriorated materials may not be used. All outdated material must be discarded immediately.

4. The availability at all times, in the immediate bench area of personnel engaged in examining specimens and performing related procedures within a category (e.g., clinical chemistry, hematology), of current laboratory manuals or other complete written descriptions and instructions relating to:

i. The analytical methods used by those personnel, properly designated and dated to reflect the most recent supervisory reviews;

ii. Reagents;

iii. Control and calibration procedures; and

iv. Pertinent current literature references. Textbooks may be used as supplements to such written descriptions but may not be used in lieu thereof.

5. Written approval by the director or supervisor of all changes in laboratory procedures.

6. Maintenance and availability to laboratory personnel and to the Department of Health records reflecting dates and, where appropriate, the nature of inspection, validation, remedial action, monitoring, evaluation, and changes and dates of changes in laboratory procedures.

7. A laboratory shall accept only specimens which have been properly collected, labeled, processed, stored and transported in such a manner as to assure identity and the stability of the specimen with respect to the requested tests or analyses; or if a specimen's stability has not been assured the laboratory report shall clearly state that the results may be invalid due to an unsatisfactory sample.

(b) Provision shall be made for an acceptable quality control program covering all types of analysis performed by the laboratory for verification and assessment of accuracy, measurement of precision, and detection of error.

1. Microbiology: Chemical and biological solutions, reagents, media, antibiotic discs and antisera shall be tested and inspected each day of use for reactivity and deterioration, and the results of such tests and inspections shall be recorded.

i. Bacteriology and mycology: Staining materials shall be tested for intended reactivity by concurrent application to smears of micro-organisms with predictable staining characteristics. Each batch of medium shall be tested and results recorded before or concurrently with use with selected organisms to confirm required growth characteristics, selectivity, enrichment, biochemical response, and sensitivity.

ii. Parasitology: A reference collection of slides, photographs, or gross specimens of identified parasites shall be available and used in the laboratory for appropriate comparison with diagnostic specimens. A calibrated ocular micrometer shall be used for determining the size of ova and parasites, if size is a critical factor.

iii. Virology: Systems for the isolation of viruses and reagents for the identification of viruses shall be available to cover the entire range of viruses which are etiologically related to clinical diseases for which services are offered. Records shall be maintained which reflect the systems used and the reactions observed. In tests for the identification of viruses, controls shall be employed which will identify erroneous results. If sero-diagnostic tests for virus diseases are performed, requirements for quality control as specified for serology shall apply.

2. Serology:

i. Serologic tests on unknown specimens shall be run concurrently with a positive control serum of known titer or controls of graded reactivity plus a negative control in order to detect variations in reactivity levels. Controls for all test components (antigens, complement, erythrocyte indicator systems, etc.), shall be employed to insure reactivity and uniform dosage. Test results shall not be reported unless the predetermined reactivity pattern of the controls is obtained.

ii. Each new lot of reagent shall be tested concurrently with one of known acceptable reactivity before the new reagent is placed in routine use.

3. Clinical chemistry:

i. Each instrument or other device shall be recalibrated or rechecked at least once on each day of use. Records which document the routine precision of each method, automated or manual, and its recalibration schedule shall be maintained and be available to laboratory personnel and the Department of Health. At least one standard and one reference sample (control) or two controls shall be included with each batch of twenty or a fraction thereof of unknown specimens where such standards and reference samples are available. Control limits for standards and reference samples shall be recorded and displayed and shall include the course of action to be instituted when the results are outside the acceptable limits.

ii. Screening or qualitative chemical urinalysis shall be checked daily by use of suitable reference samples.

4. Immuno-hematology:

i. ABO grouping shall be performed by testing unknown red cells with anti-A and anti-B grouping serums licensed under Part 73, Title 42, Code of Federal Regulations, or possessing equivalent potency, using the technique for which the serum is specifically designed to be effective. For confirmation of ABO grouping, the unknown serum shall be tested with known A1 and B red cells.

ii. The Rho (D) type shall be determined by testing unknown red cells with anti-Rho (anti-D) typing serum licensed under 42 CFR Part 73, or possessing equivalent potency, using the technique for which the serum is specifically designed to be effective. Anti-Rho' (CD), anti-Rho" (DE), and anti-Rho rh'rh" (CDE) serums licensed pursuant to 42 CFR Part 73, or possessing an equivalent potency may be used for typing blood. All Rho negative cells shall be tested for the Rho variant (Du). A control system of patient's cells suspended in his own serum or in albumin shall be employed when the test is performed in a protein medium.

iii. The potency and reliability of reagents (antisera, known test cells, and antiglobulin-Coombs serum) which are used for BO grouping, Rh typing, antibody detection and compatibility determinations must be tested for reactivity on each day of use and when a new lot of reagents is first used.

5. Hematology: Instruments and other devices used in hematological examinations of specimens shall be recalibrated, retested or reinspected, as may be appropriate, each day of use. Each procedure for which standards and controls are available shall be rechecked each day of use with standards or controls covering the entire range of expected values. Tests such as the one-stage prothrombin time test shall be run in duplicate concurrently with both normal and abnormal controls and results recorded. Reference materials, such as hemoglobin pools and stabilized cells shall be tested at least once for each 8-hour shift of each day of use to insure accuracy of results. Standard deviation, coefficient of variation, or other statistical estimates of precision shall be determined by random replicate testing of specimens. The accuracy and precision of blood cell counts, hematocrit and hemoglobin measurements shall be tested each day of use.

6. Exfoliative cytology: The laboratory director or supervisor qualified in cytology or cytotechnologist shall rescreen for proper staining and correct interpretation at least a 10-percent random sample of gynecological smears which have been interpreted to be in one of the benign categories by personnel not possessing director or supervisor qualifications. All gynecological smears interpreted to be in the "suspicious" or positive categories by screeners shall be confirmed by the laboratory director or qualified supervisor and the report shall be signed by a physician qualified in pathology or cytology. All nongynecological cytological preparations, positive and negative, shall be reviewed by a director or supervisor qualified in cytology. Nonmanual methods shall provide quality control similar to that provided in other nonmanual laboratory procedures. All benign smears shall be retained for not less than two years from the date of examination. All other smears shall be retained indefinitely.

7. Radioassay: The counting equipment shall be checked for stability at least once on each day of use, with radioactive standards or reference sources similar in energy activity to those isotopes used for clinical assay to be processed daily. At least one standard and one reference sample (control) or two controls shall be included with each batch of twenty or fraction thereof unknown specimens where such standards and reference samples are available. For each method, records which document the routine precision and the recalibration schedule shall be maintained and be available to the staff and to the Department of Health.

Amended by R.1993 d.498, effective November 7, 1983.

See: 15 N.J.R. 995(a), 15 N.J.R. 1862(a).

In (b)2, deleted old iii. concerning tests for syphilis.

8:44-2.9 Amendments

The Public Health Council on the advice of the Commissioner may promulgate, enforce and may amend or repeal these regulations that at any given time shall be no less stringent than the complete interim or revised national laboratory regulations in effect at that time.

8:44-2.10 Public Health Council

The Public Health Council on the advice of the Commissioner may promulgate, enforce and may amend or repeal these regulations that at any given time shall be no less stringent than the complete interim or revised national laboratory regulations in effect at that time.

8:44-2.11 Reporting by laboratory supervisors

(a) Laboratory supervisors shall:

1. Immediately report results of laboratory examinations of specimens of humans, animals, or birds indicating or suggesting the existence of communicable diseases to the Department of Health, to the physician or veterinarian submitting the specimen and, excepting results pertaining to venereal diseases, simultaneously forward a copy thereof to the health officer having jurisdiction where the patient is located;

2. Immediately report results of laboratory examinations of specimens of persons being considered for release from isolation or quarantine from any disease listed, whether said report be positive or negative, to the physician submitting the specimen and simultaneously forward a copy thereof to the health officer having jurisdiction where the patient is located;

3. Promptly report to the Department of Health the results of comparative and evaluation examinations made of specimens which may be sent to the laboratory by the Department.

16. COMMENT: "The Department of Health and Senior Services proposes a new rule in regards to having laboratories in the doctor's office. The rules states that it might not be a good idea for doctors to have a lab in their offices. If you disagree with the statement above and think that being able to get your labs done at the time of your doctor's visit, please send your comment to: ... We really appreciate your support in this matter. Thank you, SMA Laboratory." (16)

RESPONSE: The commenter signed a prepared statement from SMA Laboratory, which apparently operates a collection station in the office of the commenter's physician. The proposed new rule does not prohibit the operation of a laboratory collection station in physicians' offices, and does not prohibit a physician or physician group from operating a physician office laboratory (POL). Therefore, the commenter's concern about not being able to have blood drawn for testing by either the laboratory operating the collection station or by the physician staff for testing by the POL because of the proposed new rule is unfounded.

17. COMMENT: Attached to the written comment submitted by commenter 4 were nine testimonial letters from its clients attesting to the quality of its laboratory services. None of these testimonials mention or refer in any way to the pending proposed new rule. The testimonials are from various clients of commenter 4, and all attest to the quality of the laboratory services provided by the commenter, with some of the testimonials mentioning dissatisfaction with certain other laboratories and insurers. (17)

RESPONSE: The Department appreciates the need for laboratories that provide quality services to their clients, and believes that the proposed rule will help to ensure the continued provision of quality services by laboratories to their clients.

Federal Standards Statement

The Department is not adopting the new rule prohibiting clinical laboratories from payment of rent or providing other goods or services to physicians in order to operate collection stations in physician offices at N.J.A.C. 8:44-2.14 under the authority of, or in order to implement, comply with or participate in any program established under Federal law. The Department is adopting the new rule under the authority of N.J.S.A. 45:9-42.26 et seq. and N.J.S.A. 26:1A-7. N.J.S.A. 45:9-42.34 requires that the rules for the operation of clinical laboratories shall equal or exceed minimum standards contained in Federal regulations promulgated pursuant to the "Clinical Laboratory Improvement Act of 1967" (CLIA), 42 USC §263a. As Federal CLIA regulations at 42 CFR Part 493 do not regulate collection stations operated by clinical laboratories, the adopted new rule does not exceed Federal standards and a Federal standards analysis is not required.

Full text of the adoption follows:

SUBCHAPTER 2. OPERATION OF CLINICAL LABORATORIES

8:44-2.14 Collection stations and patient service centers

(a) A clinical laboratory that operates a collection station in a physician's office, also known as in-office phlebotomy, shall be limited to collecting specimens from patients of the medical practice in which the collection station is located, and shall comply with the following provisions:

1. The collection station shall be licensed under this chapter and the license shall be prominently displayed in the collection station area;

2. No reimbursement, fees or any other type of direct or indirect payment shall be made to the physician including, but not limited to, payment of rent or other consideration for the space used for the collection station;

3. Laboratory staff in the collection station shall perform no services for the physician that are normally the responsibility of the physician's office staff, such as taking patient vital signs or other nursing functions, drawing specimens or performing testing for the physician office laboratory or performing clerical services;

4. Laboratory staff in the collection station shall not be shared with, jointly employed or retained as independent contractors by the physician or persons affiliated with the office where the collection station is located;

5. Except as necessary for the reporting of test results, the laboratory shall not provide office supplies, equipment, waste disposal services, test kits for the physician's own use, electronic medical records systems or other goods or services to the physician; and

6. A copy of the signed lease or agreement shall be made available to the Department upon request.

(b) A patient service center/collection station intended to serve the general public shall not be operated within a physician's office and shall be:

1. Open to, and serve the general public, and shall not be restricted to serving the patients of one or more of specific medical practices;

2. Located in a free standing building or occupy a space in a public access building;

3. Accessed directly through an exterior building entrance or from a public access foyer or hallway that clearly identifies the name of the laboratory and the days and hours of operation.

i. Access shall not be through a physician's office;

4. Identified to the public by clearly visible signage on the exterior of the building and listed in the building's on-site directory.

i. Advertisements and other public notices by the laboratory shall list the address and telephone number of the patient service center;

5. Self contained with regard to all aspects of the operations including the waiting room, reception area, phlebotomy rooms, restroom facilities and specimen and supply storage areas; except that the patient service center may share a common waiting area that is used by all the tenants of a building or a floor of the building, provided that two or more tenants renting separate office spaces are not referring physicians or healthcare providers; and

6. A copy of the signed written lease shall be made available to the Department upon request.

(c) The provisions of (a) and (b) above shall not be interpreted as prohibiting a laboratory from operating a patient service center in rented space in a professional building, which may be owned by a physician or group of physicians provided that the conditions of this section are met.

(a)

PUBLIC HEALTH SERVICES BRANCH DIVISION OF FAMILY HEALTH SERVICES MATERNAL, CHILD AND COMMUNITY HEALTH SERVICES

CHILD AND ADOLESCENT HEALTH PROGRAM Childhood Lead Poisoning: State Sanitary Code Chapter XIII

Readoption with Amendments: N.J.A.C. 8:51

Adopted New Rules: N.J.A.C. 8:51-1.3, 2.5, 9 and 10
and 8:51 Appendices A through K

Adopted Repeals: N.J.A.C. 8:51-4.4 and 8:51
Appendix

Adopted Repeals and New Rules: N.J.A.C. 8:51-5.4
and 6.4

Proposed: December 21, 2009 at 41 N.J.R. 4604(a).

Adopted: May 13, 2010 by Poonam Alaigh, MD, MSHCPM, FACP, Commissioner, Department of Health and Senior Services, in consultation with the Public Health Council, Herbert Yardley, MA, Chair and with the Department of Community Affairs, Lori Grifa, Acting Commissioner.

Filed: May 14, 2010 as R.2010 d.146, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 24:14A-1 et seq., particularly 24:14A-11; 26:1A-7; 26:2-137 et seq., particularly 26:2-137.7; 26:2Q-1 et seq., particularly 26:2Q-12 and Executive Order No. 100 (Corzine, April 29, 2008).

(b) Laboratory supervisors shall report to the State Department of Health and Senior Services, within 48 hours of the completion of the analysis, the results of laboratory examinations for hazardous substances in blood and urine, as follows:

1. Lead:
 - i. All blood lead test results;
 - ii. Urine lead levels equal to or greater than 80 µg/dL in individuals greater than 16 years of age.
2. Mercury:
 - i. Blood mercury levels equal to or greater than 2.8 µg/dL;
 - ii. Urine mercury levels equal to or greater than 20 µg/L.
3. Arsenic:
 - i. Blood arsenic levels equal to or greater than .07 µg/ml;
 - ii. Urine arsenic levels equal to or greater than 100 µg/L.
4. Cadmium:
 - i. Blood cadmium levels equal to or greater than five µg/L of whole blood;
 - ii. Urine cadmium levels equal to or greater than three µg/gram creatinine.

(c) The reports required by (b) above shall contain the result of the laboratory examination, including units; the type of specimen tested; the sample number and date the sample was collected and analyzed; the name, address, telephone number, sex, and date of birth or age of the patient; if the patient is over 16 years old, the name, address, and telephone number of the employer; the patient's occupation; the name, address, telephone number, and name of the medical facility of the requesting physician; and the name, address, telephone number of testing laboratory.

Amended by R.1985 d.518, effective October 21, 1985.

See: 17 N.J.R. 1831(a), 17 N.J.R. 2554(b).

(d) added.

Amended by R.1994 d.36, effective January 18, 1994.

See: 25 N.J.R. 3751(a), 26 N.J.R. 362(a).

Amended by R.1994 d.275, effective June 6, 1994.

See: 26 N.J.R. 294(b), 26 N.J.R. 1190(a), 26 N.J.R. 2270(a).

Amended by R.1998 d.175, effective April 6, 1998.

See: 29 N.J.R. 4227(a), 30 N.J.R. 1310(c).

In (b), rewrote the introductory paragraph and 1.

8:44-2.12 Inspection and registration concerning handling of live microorganisms or viruses pathogenic for humans, or birds

(a) Laboratories or other places where live microorganisms or viruses pathogenic for humans, animals, or birds are handled, cultivated or kept shall be subject to inspection and reinspection at any time by authorized representatives of the Department of Health.

(b) The director of a laboratory or person in charge of any other place where live microorganisms or viruses pathogenic for humans, animals, or birds are handled, cultivated or kept shall, on forms provided by the Department of Health, register such laboratory or place with the Department between the dates of March 1, 1954 and April 1, 1954. Such laboratories or other places established on or after April 1, 1954 shall register with the Department prior to handling, cultivating, keeping, selling, transporting or otherwise disposing of live microorganisms or viruses covered by this Section.

1. Laboratories or other places required to be registered under the provisions of this Chapter shall promptly forward all information requested by the Department.

(c) Registration requirements do not apply to laboratories maintained by official governmental agencies, voluntary general hospitals, those physicians licensed to practice medicine and surgery in this State, those veterinarians licensed to practice veterinary medicine in this State, manufacturers of biologics licensed by the United States government.

8:44-2.13 Sale, transportation or other disposal of live microorganisms or viruses pathogenic for humans, animals, or birds

Live microorganisms or viruses pathogenic for humans or birds shall not be sold, knowingly transported or otherwise disposed of in viable form without written permission of the Department of Health, excepting:

(a) Such products manufactured and clearly identified, as required by law, by manufacturers of biologics licensed by the United States government and in compliance with Federal postal and other regulations; or

(b) Diseased tissue, exudate, or other specimens which are enroute to laboratories for the sole purpose of laboratory examination as an aid in diagnosis or control of disease and which are transported in compliance with Federal postal regulations or under conditions as may be prescribed by the Department and sent by physicians licensed to practice medicine and surgery in this State, by veterinarians licensed to practice veterinary medicine in this State or by licensed health officers of this State in the performance of their official duties.

SUBCHAPTER 3. LIMITED PURPOSE LABORATORY

8:44-3.1 Limited purpose laboratory; definition and minimum protocols

(a) "Limited purpose laboratory" means a facility operated by a not-for-profit organization receiving grant funds from the Department of Health and Senior Services, hereinafter known as the Department, to operate a counseling and testing site to conduct rapid FDA licensed point-of-care tests for Human Immunodeficiency Virus (HIV).

(b) A limited purpose laboratory shall establish the following protocols at a minimum:

1. Follow-up protocols to ensure that Food and Drug Administration (FDA) approved confirmatory testing is performed;
2. A protocol for the review of test results by the laboratory director and general supervisor;
3. Protocols to ensure that individuals with abnormal results are referred to an appropriate source of medical care and prevention services; and
4. Personnel policies, practices and procedures that adequately support sound rapid FDA licensed point-of-care testing practices.

8:44-3.2 Applicability of subchapter

(a) The subchapter applies to limited purpose laboratories as defined in N.J.A.C. 8:44-3.1(a).

(b) If a limited purpose laboratory is operated at more than one site, each site shall require a separate license.

8:44-3.3 Director

(a) A limited purpose laboratory shall be under the direction of a laboratory director as specified in N.J.A.C. 8:44-2.3(b)2, 3, 4, and 5, and 2.3(c).

(b) The laboratory director can direct multiple limited purpose laboratories which share a quality assurance program and laboratory policies and these shall count as one clinical laboratory for the purpose of N.J.A.C. 8:44-2.3(b) 1. The laboratory director can direct no more than five limited purpose laboratories whose quality assurance program and laboratory policies are not identical and these shall count as one clinical laboratory for the purpose of N.J.A.C. 8:44-2.3(b)1.

(c) The laboratory director shall, at a minimum, serve the limited purpose laboratory on a regular part-time basis to ensure that the provisions of this subchapter are met.

(d) The laboratory director shall be readily available for personal or telephone consultation with staff.

(e) The laboratory director shall be responsible for the proper performance of all testing procedures and for ensuring

the competency of all persons performing point of care testing.

(f) The laboratory director shall arrange for a qualified substitute director, prior to the director's absence.

8:44-3.4 Supervision

(a) A limited purpose laboratory shall be supervised by a person, designated as the general supervisor, who can be, but is not limited to being, a physician, professional registered nurse, counseling and testing site coordinator, or health educator, approved by the laboratory director, who, under the general direction of the laboratory director, supervises testing personnel and the report of findings, and in the absence of the laboratory director, is responsible for the proper performance of all laboratory procedures.

1. Limited purpose laboratory records including, but not limited to, patient accession, testing, test results, quality control and temperature monitoring, shall be reviewed at least monthly by the laboratory director, general supervisor, or qualified designee of the laboratory director.

(b) The rapid FDA licensed point-of-care test for Human Immunodeficiency Virus (HIV) shall be performed by personnel, such as professional registered nurses, technicians or non-professionals, who have been trained in accordance with the provisions of the Centers for Disease Control and Prevention (CDC) Quality Assurance Guidelines for Testing using the OraQuick Rapid HIV-1 Antibody Test, hereinafter known as the CDC Quality Assurance Guidelines, which are incorporated herein by reference, as amended and supplemented, and available at http://www.cdc.gov/hiv/rapid_testing/materials/QA-Guide.htm. The laboratory director shall develop testing and operational protocols, which meet or exceed those issued by the CDC.

(c) The laboratory director shall revise quality assurance, testing, and operational protocols and provide training of testing personnel and supervisors, for any new additional point of care rapid HIV test authorized by the Department for use in limited purpose laboratories subsequent to the adoption of these regulations.

8:44-3.5 Screening tests performed

(a) A limited purpose laboratory shall perform only those tests and procedures that are expressly approved by the Department pursuant to N.J.A.C. 8:44-3.1(a).

(b) A limited purpose laboratory shall perform proficiency testing in accordance with N.J.A.C. 8:44-2.5(b) for each location where testing is performed except where multiple limited purpose laboratories are operated by the same non-profit organization and share the same laboratory director, quality assurance program, policies and procedures and testing personnel, proficiency testing can be performed at one limited purpose laboratory location.

(c) A limited purpose laboratory or sponsoring organization may promote the testing services offered by the limited purpose laboratory by advertising, community outreach program and any other means of public notice.

8:44-3.6 Management of a limited purpose laboratory

A limited purpose laboratory shall maintain records and facilities that are adequate and appropriate for the services offered. There shall be documentation of appropriate training for staff involved in the implementation of these procedures and methods. The training shall address all areas included in the CDC Quality Assurance Guidelines and shall include protocols for the management of occupational exposures to bloodborne pathogens following Appendix A Practice Recommendations for Health-Care Facilities Implementing the U.S. Public Health Service Guidelines for Management of Occupational Exposures to Bloodborne Pathogens, published in Volume 50/No. RR-11 of Morbidity and Mortality Weekly Report issued by the CDC and available at <http://www.cdc.gov/mmwr/indrr 2001.html>, incorporated herein by reference, as amended and supplemented.

8:44-3.7 Procedure manual

A procedure manual shall be kept for all protocols and all procedures used for the rapid FDA licensed point-of-care test for Human Immunodeficiency Virus (HIV) performed or offered by the limited purpose laboratory. Each protocol or procedure shall be reviewed and dated by the laboratory director at least annually.

8:44-3.8 Facilities

Space and facilities shall be adequate to properly perform the services which are offered by the limited purpose laboratory.

8:44-3.9 Collection of specimens

Properly trained personnel designated by the laboratory director of the limited purpose laboratory may collect blood or material for screening and/or confirmatory procedures from an individual patient, under the direction of the laboratory director.

8:44-3.10 Disposable equipment

(a) Syringes, needles, lancets, or other bloodletting devices capable of transmitting infection from one person to another shall not be reused and shall be in conformance with N.J.S.A. 26:2H-5.12 et seq., New Jersey Safety Needle

Act, and with the Federal regulations at 29 C.F.R. 1910.1030.

(b) Management and disposal of all regulated medical waste shall be in conformance with the New Jersey Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq., and N.J.A.C. 7:26-3, Regulation Medical Waste.

8:44-3.11 Records of specimens

(a) A limited purpose laboratory shall maintain a record indicating the daily accession of specimens, each of which is numbered or otherwise appropriately identified. Records shall contain the following information:

1. The number or other identification of the specimen;
2. The name or other identification that can be linked to a person or anonymous client from whom the specimen was taken;
3. The date the specimen was collected and tested;
4. The time the test is started and when the test is read, for time dependent tests;
5. The results of the test including all duplicate or invalid test results;
6. The identity of the person performing the test;
7. The name and address of the laboratory where confirmatory testing is performed; and
8. Date confirmatory test specimen sent and date test results received by the referring limited purpose laboratory.

8:44-3.12 Examinations and reports

(a) A limited purpose laboratory shall perform tests at the request of a licensed physician or other person qualified by law to order tests. The request need not be patient specific and can be a standing order.

(b) The results of the rapid FDA licensed point-of-care test for Human Immunodeficiency Virus (HIV) performed by a limited purpose laboratory shall be conveyed to the patient by a New Jersey Department of Health and Senior Services trained HIV counselor.

(c) When requested, the original or true duplicate of the results shall be sent promptly to the physician who is designated by the individual patient to receive a report.

8:44-3.13 Report records

True duplicate copies or a suitable record of test reports shall be filed in the limited purpose laboratory in a manner which permits ready identification and accessibility. All reports shall be preserved for a period of at least two years after the date of the test.

8:44-3.14 Quality control and quality assurance

(a) Quality controls imposed on and practiced by the limited purpose laboratory shall provide for and include written records to assure the following:

1. Preventive maintenance, periodic inspection, and testing for proper operation of equipment as may be appropriate based on the frequency of the testing sessions and on the number of tests performed; evaluation of reagents; surveillance of results; and remedial action to be taken in response to detected defects;

2. Adequacy of facilities, equipment, and methods for performance of the procedures for which licensure is approved; proper lighting for accuracy and precision; convenient location of essential utilities; monitoring of temperature-controlled spaces and equipment to assure proper performance; and evaluation of analytical measuring devices with respect to all critical operating characteristics;

3. Labeling of all reagents and solutions to indicate identity, recommended storage requirements, expiration date, and other pertinent information. Materials of substandard reactivity and deteriorated materials shall not be used. All outdated material shall be discarded immediately;

4. The availability at all times, in the immediate bench area of personnel engaged in examining specimens and performing related procedures, of current laboratory manuals or other complete written descriptions and instructions relating to:
 - i. The methods used by those personnel, properly designated and dated to reflect the most recent supervisory reviews;
 - ii. Reagents; and
 - iii. Control procedures;

5. Written approval by the laboratory director of all changes in laboratory procedures;

6. Maintenance and availability of records to laboratory personnel and to the Department, reflecting dates and, where appropriate, the nature of inspection, validation, remedial action, monitoring, evaluation and changes and dates of changes in laboratory procedures; and

7. Acceptance by the limited purpose laboratory of only specimens that have been properly collected, labeled, processed, in such a manner as to assure identity of the specimen with respect to the requested tests.

(b) Provision shall be made for an acceptable quality assurance program that follows the CDC Quality Assurance Guidelines for rapid FDA licensed point-of-care tests for HIV or, if developed by the laboratory director, is equal to or more stringent than the CDC Quality Assurance Guidelines which are available at <http://www.cdc.gov/hiv/rapid-testing/materials/QA-Guide.htm>. The quality assurance program shall verify and evaluate the accuracy and precision of the testing process and be able to detect errors in the testing process.

8:44-3.15 Initial and renewal licensure fees

(a) Licensure fees for the limited purpose laboratory are not specified in N.J.A.C. 8:45-1.3.

(b) Initial and annual renewal licensure fees for the limited purpose laboratory shall be prescribed as \$100.00 per location.

(c) Limited purpose laboratories shall remit an additional fee of \$50.00 for renewal applications when the renewal application does not meet the November 1 deadline specified in N.J.A.C. 8:45-1.2(b) and it is submitted after December 31.

(d) Limited purpose laboratories shall pay a fee of \$50.00 for replacement of a license due to change of address.

8:44-3.16 Compliance

(a) The limited purpose laboratory shall comply with the provisions set forth in this subchapter and the following:

1. Licensure requirements as specified in N.J.A.C. 8:45-1.1 and N.J.A.C. 8:45-1.2; and

2. Inspections of the limited purpose laboratory by any authorized representative of the Department of Health and Senior Services.