

FIRST REGULAR SESSION

SENATE BILL NO. 314

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time January 18, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1082S.011

AN ACT

To amend chapter 324, RSMo, by adding thereto twelve new sections relating to licensure of clinical laboratory science personnel, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto twelve new sections, to be known as sections 324.1200, 324.1203, 324.1206, 324.1209, 324.1212, 324.1215, 324.1218, 324.1221, 324.1224, 324.1227, 324.1228, and 324.1230, to read as follows:

324.1200. Sections 324.1200 to 324.1230 shall be known and may be cited as the "Clinical Laboratory Science Practice Act".

324.1203. As used in sections 324.1200 to 324.1230, the following terms, unless otherwise indicated within the context, shall mean:

(1) "Approved national certification examination", a competency based certification examination that is administered by a national non-profit credentialing agency approved by the board;

(2) "Board", the Missouri clinical laboratory science board appointed by the governor;

(3) "CLIA", refers to the final regulations promulgated by the United States Department of Health and Human Services implementing the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578 and 42 CFR 493);

(4) "Categorical laboratory scientist", an individual eligible under sections 324.1200 to 324.1230 to perform the functions of a clinical laboratory scientist in one or more category of laboratory testing, such as microbiology, virology, clinical chemistry, immunology, hematology, immunohematology, molecular diagnostics, or other areas specified by the board;

18 (5) "Clinical laboratory" or "laboratory", any site or location in
19 which clinical laboratory tests or examinations are performed;

20 (6) "Clinical laboratory assistant/phlebotomist", an individual
21 responsible for obtaining a blood specimen by venipuncture or
22 capillary puncture according to established and approved protocols
23 and also qualified to perform waived or point-of-care testing under the
24 direction of a clinical laboratory scientist, clinical laboratory
25 technician, laboratory supervisor, or laboratory director;

26 (7) "Clinical laboratory scientist", also known as a "medical
27 technologist", an individual eligible under sections 324.1200 to 324.1230
28 to perform any clinical laboratory test including those that require the
29 exercise of independent judgment. In addition, this individual is
30 responsible for the establishment and implementation of protocols,
31 quality assessment, method development and section, equipment
32 section and maintenance, and all activities related to the pre-analytic,
33 analytic, and post analytic phases of testing. The clinical laboratory
34 scientist may also direct, supervise, consult, educate, and perform
35 research functions;

36 (8) "Clinical laboratory technician", also known as a "medical
37 laboratory technician", an individual eligible under sections 324.1200
38 to 324.1230 who is qualified to perform clinical laboratory tests under
39 established and approved protocols which require limited exercise of
40 independent judgment and which are performed with oversight from
41 a clinical laboratory scientist, laboratory supervisor, or laboratory
42 director;

43 (9) "Clinical laboratory test" or "laboratory test", a
44 microbiological, serological, molecular, chemical, biological,
45 hematological, immunological, immuno-hematological, biophysical, or
46 any other test or procedure performed on material derived from or
47 present within a human body which provides information for the
48 diagnosis, prevention, or monitoring treatment of a clinical
49 condition. Clinical laboratory testing encompasses the pre-analytical,
50 analytical, and post-analytical phases of testing;

51 (10) "Department", the Missouri department of insurance,
52 financial and professional regulation;

53 (11) "Director", the director of the Missouri division of
54 professional registration;

55 (12) "Point-of-care testing/bedside testing", clinical laboratory
56 testing that is critical to patient care and must be performed
57 immediately at the patient's location. Tests that meet this definition
58 provide clinically relevant information that determines the patient's
59 therapy, are limited to procedures that produce accurate data within
60 a short period of time, meet the current standards of quality in clinical
61 laboratory science and comply with all standards of accrediting
62 agencies. Point-of-care testing must be conducted under the direction,
63 authority, jurisdiction, and responsibility of a person licensed under
64 sections 324.1200 to 324.1230;

65 (13) "Temporary/provisional license", a license issued to an
66 applicant eligible to sit for and registered to take the next scheduled
67 certification examination or has taken the examination and is awaiting
68 the results, or an applicant who meets the educational requirements for
69 licensure and is seeking to qualify for the certification examination by
70 completing the supervised clinical laboratory experience required;

71 (14) "Trainee/student", an individual who has not fulfilled the
72 educational requirements to take an approved nationally recognized
73 certification examination or who needs to obtain full-time
74 comprehensive experience under supervision;

75 (15) "Waived", "provider performed microscopy", "moderate
76 complexity" and "high complexity", the categories of clinical laboratory
77 test complexity as defined by CLIA.

324.1206. Sections 324.1200 to 324.1230 shall not apply to:

2 (1) Licensed health care professionals whose scope of practice
3 includes blood collection or the performance of waived or provider
4 performed microscopy testing as defined by CLIA;

5 (2) Clinical laboratory science practitioners employed by the
6 United States government or any bureau, division, or agency thereof,
7 while in the discharge of the employee's official duties;

8 (3) Clinical laboratory science practitioners engaged in teaching
9 or research, provided that the results of any examination performed
10 are not used in the health maintenance, or the diagnosis or treatment
11 of disease;

12 (4) Students or trainees enrolled in an accredited clinical
13 laboratory science education program provided that their activities
14 constitute a part of a planned course in the program, that the

15 individuals are designated by title as intern, trainee, or student, and
16 the individuals work under the direct supervision of a clinical
17 laboratory science practitioner licensed under sections 324.1200 to
18 324.1230 who is responsible for reporting test results.

324.1209. 1. There is hereby created within the division of
2 professional registration, the "Clinical Laboratory Science Board".

3 2. The board shall consist of seven members appointed by the
4 governor with the advice and consent of the senate and shall be
5 composed in the following manner:

6 (1) One physician certified by the American Board of Pathology
7 or American Board of Osteopathic Pathology;

8 (2) One non physician laboratory director;

9 (3) One medical physician who is not a laboratory director or
10 pathologist;

11 (4) Two clinical laboratory scientists/medical technologists;

12 (5) One clinical laboratory technician/medical laboratory
13 technician; and

14 (6) One public member.

15 Within ninety days after passage of sections 324.1200 to 324.1230, the
16 governor shall appoint two members for a term of two years, two
17 members for a term of three years, and three members for a term of
18 four years. As terms of the initial members expire, the governor shall
19 appoint successors for terms of four years. A member whose term has
20 expired shall continue to serve on the board until such time as a
21 replacement is appointed. Whenever a vacancy shall occur on the
22 board by reason other than the expiration of a term of office, the
23 governor shall appoint a successor of like qualifications for the
24 remainder of the unexpired term. No member shall serve more than the
25 remaining portion of a previous member's unexpired term, plus two
26 consecutive four-year terms of the member's own thereafter. Each
27 member of the board shall be a citizen of the United States and a
28 Missouri resident and, except for the initial appointees and others as
29 provided for in this section, shall be licensed under sections 324.1200
30 to 324.1230. The membership of the board shall reflect the differences
31 in levels of education and work experience with consideration being
32 given to race, gender, and ethnic origins. No more than four members
33 shall be from the same political party.

34 3. The public member shall be, at the time of the person's
35 appointment, a resident of this state for a minimum of one year and a
36 registered voter; a person who is not, and never has been, licensed
37 under sections 324.1200 to 324.1230, or the spouse of such a person; and
38 a person who does not have, and never has had, a material financial
39 interest in either the providing of the professional services regulated
40 under sections 324.1200 to 324.1230, or an activity or organization
41 directly related to any profession licensed or regulated under sections
42 324.1200 to 324.1230. The duties of the public member shall not include
43 the determination of the educational or technical requirements to be
44 met for licensure or whether any individual meets such technical
45 requirements or the technical competence or technical judgment of a
46 licensee or a candidate for licensure.

47 4. At least ninety days before the expiration of a term of a board
48 member, and as soon as feasible after the occurrence of a vacancy on
49 the board for reasons other than the expiration of a term, a list of three
50 licensed and qualified individuals shall be submitted to the director of
51 the division of professional registration. The governor may appoint a
52 board member to fill the vacancy from the list submitted, or may
53 appoint some other qualified, licensed clinical laboratorian.

54 5. Before commencing their duties, members of the board shall
55 make and file with the secretary of state the oath of office required by
56 the Missouri constitution, for all civil officers of this state.

57 6. Each member of the board shall receive as compensation an
58 amount set by the division and shall be reimbursed for necessary and
59 actual expenses incurred in the performance of the member's official
60 duties. The board may appoint, employ, and fix the compensation of a
61 legal counsel and board personnel. The division shall provide all staff
62 for the board.

63 7. The board shall hold an annual meeting at which it shall elect
64 for a one-year term from its membership a chairperson and a secretary
65 who shall also be treasurer. The board may hold such additional
66 meetings as may be required in the performance of its duties, provided
67 that notice of every meeting shall be given to each member at least
68 three days prior to the date of the meeting. A majority of the board,
69 including at least one officer, shall constitute a quorum for conducting
70 business.

71 8. The board shall adopt and revise such rules and regulations
72 as may be necessary to enable it to carry into effect the provisions of
73 sections 324.1200 to 324.1230. Any rule or portion of a rule, as that term
74 is defined in section 536.010, RSMo, that is created under the authority
75 delegated in this section shall become effective only if it complies with
76 and is subject to all of the provisions of chapter 536, RSMo, and, if
77 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
78 are nonseverable and if any of the powers vested with the general
79 assembly pursuant to chapter 536, RSMo, to review, to delay the
80 effective date, or to disapprove and annul a rule are subsequently held
81 unconstitutional, then the grant of rulemaking authority and any rule
82 proposed or adopted after August 28, 2007, shall be invalid and void.

83 9. The board shall approve by rule the types of certifications
84 required for each level of licensure and approve the credentialing
85 bodies that administer the certification exams.

86 10. The board shall prescribe minimum standards for programs
87 that provide continuing education for licensees and provide surveys of
88 such programs to the division every five years.

89 11. The board shall designate as "approved" such programs as
90 meet the requirements of the standards and the board shall annually
91 publish a list of such programs.

92 12. The board shall keep a record of all proceedings and make an
93 annual report to the governor and the director.

94 13. The governor may remove a board member for misconduct,
95 incompetence, neglect of the member's official duties, or for cause.

96 14. Members of the board shall not be personally liable, either
97 jointly or separately, for any act or acts committed in the performance
98 of their official duties as board members.

 324.1212. The board shall review the certification by the
2 approved credentialing agency and shall determine the type of license
3 to issue and shall recommend, if applicable, the issuance of such a
4 license to the department. The following types of licenses shall be
5 issued:

6 (1) Clinical laboratory scientist, also known as a medical
7 technologist: the board shall issue a clinical laboratory scientist's
8 license to an individual who possesses a baccalaureate degree from a
9 regionally accredited college or university, has acceptable clinical

10 laboratory experience or training, and passes a nationally recognized
11 certification examination authorized by the board;

12 (2) Categorical laboratory scientist: the board shall issue a
13 categorical clinical laboratory scientist's license to an individual who
14 possesses a baccalaureate degree from a regionally accredited college
15 or university, has acceptable clinical laboratory experience or training,
16 and passes a nationally recognized certification examination in a
17 recognized discipline of laboratory science authorized by the
18 board. The laboratory discipline will be specified on the license;

19 (3) Clinical laboratory technician, also known as a medical
20 laboratory technician: the board shall issue a clinical laboratory
21 technician's license to an individual who possesses an associate degree
22 from a regionally accredited college or university, has acceptable
23 laboratory experience or training, and passes a nationally recognized
24 certification examination authorized by the board;

25 (4) Clinical laboratory assistant/phlebotomist: the board shall
26 issue a clinical laboratory assistant/phlebotomist's license to an
27 individual who possesses a high school diploma or equivalent, has
28 acceptable experience or training, and passes a nationally recognized
29 certification examination authorized by the board, if applicable.

324.1215. 1. No person shall perform clinical laboratory tests or
2 hold himself or herself out as a clinical laboratory scientist, categorical
3 clinical laboratory scientist, clinical laboratory technician, or
4 laboratory assistant/phlebotomist unless licensed under sections
5 324.1200 to 324.1230.

6 2. All persons collecting blood specimens, processing laboratory
7 specimens, performing, or reporting laboratory tests or consulting
8 regarding clinical laboratory tests, or are currently practicing as
9 clinical laboratory practitioners on December 26, 2007, who are
10 certified by or eligible for certification by an agency acceptable to the
11 board, and who have applied to the board on or before December 26,
12 2007, and have complied with all necessary requirements for such
13 application may continue to perform the duties until the expiration of
14 twelve months after the filing of such application, the denial of the
15 application by the board, or the withdrawal of the application,
16 whichever occurs first.

17 3. Persons not meeting the education, training, and experience

18 qualifications for any license described in sections 324.1200 to 324.1230
19 prior to December 26, 2009, shall be considered to have met the
20 qualifications provided they have three years of acceptable experience
21 at the professional level for which licensure is sought during the five-
22 year period immediately prior to December 26, 2007, and submit to the
23 board the job description of the position which the applicant has most
24 recently performed attested to by his or her employer. The board shall
25 determine the type of license for which the applicant is eligible.

26 4. Effective December 26, 2009, no initial license shall be issued
27 until an applicant meets all of the requirements under section 324.1200
28 to 324.1230 and successfully passes a board approved certification
29 examination. This provision does not apply to temporary licenses.

324.1218. 1. Applicants for licensure who qualify by education,
2 experience, or training but have not taken or passed an approved
3 credentialing agency's certification examination may be granted a
4 temporary license by the board that will allow that person to engage in
5 the practice of clinical laboratory science at the appropriate level. The
6 temporary license shall be valid for twelve months and can be renewed
7 once upon failure to pass a board-approved certification examination.

8 2. Internationally trained applicants must have their transcripts
9 evaluated by a transcript evaluation agency acceptable to the board
10 and submitted directly to a board-approved certification agency. The
11 evaluation must indicate that the applicant's education is equivalent to
12 that which is required for licensure of United States graduates at the
13 level of licensure sought. Upon submission of proof to the board of
14 acceptance to sit for the certification examination, the person may
15 apply for a temporary license in the appropriate category.

324.1221. The board shall recognize a valid license issued by
2 another state, provided that the requirements under which that license
3 was issued are equivalent to, or exceed the standards required under
4 sections 324.1200 to 324.1230.

324.1224. 1. Applications for licensure in clinical laboratory
2 science shall be in writing, submitted to the board on forms provided
3 by the division, and furnished to the applicant. The application shall
4 contain the applicant's statements showing the applicant's education,
5 experience, copy of applicant's certification, and such other
6 information as the board may require. Each application shall contain

7 a statement that it is made under oath or affirmation and that the
8 information contained therein is true and correct to the best knowledge
9 and belief of the applicant, subject to the penalties provided for the
10 making of a false affidavit or declaration. Appropriate fees shall
11 accompany each application.

12 2. The board by rule shall establish fees to be paid for
13 application, licensing and renewal, reinstatement, and record making
14 and record keeping by the division. The board may also establish by
15 rule a delinquency fee. The board shall establish fees that are adequate
16 to ensure the continued operation of the board and to fund the
17 proportionate expenses incurred by the division in carrying out its
18 licensure and other related responsibilities under sections 324.1200 to
19 324.1230. Fees shall be based on departmental estimates of the revenue
20 required to implement sections 324.1200 to 324.1230 and the provisions
21 of law with respect to the regulation of clinical laboratory personnel.

22 3. Upon receipt of a nonrefundable, initial application fee and
23 payment of any license fees, the board shall issue a license for the
24 appropriate category as a clinical laboratory scientist, categorical
25 laboratory scientist, clinical laboratory technician, or a clinical
26 laboratory assistant/phlebotomist to a person who meets the
27 qualifications specified under sections 324.1200 to 324.1230 and the
28 rules and regulations promulgated thereunder.

29 4. A license issued under sections 324.1200 to 324.1230 shall
30 expire in two years. The board by rule may permit renewal less
31 frequently than every two years and may set license fees
32 accordingly. The division shall mail a renewal notice to the last known
33 address of each licensee prior to the renewal date. The license of any
34 person who fails to pay the required fee, fails to provide documentation
35 of required certification or documentation of required continuing
36 education, or fails to provide the board with any information required
37 for renewal within sixty days after the expiration of such license shall
38 be automatically cancelled without notice or further proceedings unless
39 the person has made application for inactive status, or to pay the
40 renewal fee shall result in a non-valid license. The license shall be
41 reinstated if, within two years of the renewal date, the applicant
42 submits the required documentation and pays the applicable fees as
43 approved by the board.

44 5. The board shall prescribe by rule the continuing education
45 requirements for renewal of license, and appropriate amount of fees
46 authorized herein. The fees shall be set at a level to produce revenue
47 which shall not substantially exceed the cost and expenses of
48 administering sections 324.1200 to 324.1230.

49 6. A person licensed under sections 324.1200 to 324.1230 asks to
50 be placed on inactive status, provided such person does not practice
51 clinical laboratory science during such a period that the person is on
52 inactive status. If the person desires to maintain such license on an
53 inactive status and in order to avoid lapsing of such license, the person
54 shall pay the required fee as established by the board for maintaining
55 an inactive license. An inactive license shall be renewed
56 biennially. The board, as provided by rule, may reactivate an inactive
57 license. The board shall prescribe by rule the continuing education
58 requirements necessary as a condition of license reactivation and
59 demonstrated competence.

60 7. There is hereby created in the state treasury the "Clinical
61 Laboratory Science Fund", which shall consist of money collected under
62 sections 324.1200 to 324.1230. The state treasurer shall be custodian of
63 the fund and shall approve disbursements from the fund in accordance
64 with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
65 the fund shall be used solely for the administration of sections 324.1200
66 to 324.1230. Notwithstanding the provisions of section 33.080, RSMo, to
67 the contrary, any moneys remaining in the fund at the end of the
68 biennium shall not revert to the credit of the general revenue
69 fund. The state treasurer shall invest moneys in the fund in the same
70 manner as other funds are invested. Any interest and moneys earned
71 on such investments shall be credited to the fund.

324.1227. 1. The board may refuse to issue or renew any license
2 for one or any combination of reasons stated in this section. The board
3 shall notify the applicant in writing of the reasons for the refusal and
4 shall advise the applicant of the right to file a complaint with the
5 administrative hearing commission.

6 2. The board may cause a complaint to be filed with the
7 administrative hearing commission against the holder of any license or
8 any person who has failed to renew or has surrendered the person's
9 license that may include, but not be limited to, any one or any

10 combination of the following causes:

11 (1) Use of fraud, deception, misrepresentation, or bribery in
12 securing a license under sections 324.1200 to 324.1230;

13 (2) Impersonation of any person holding a license or allowing
14 any person to use his or her license or diploma from any school;

15 (3) Disciplinary action against the holder of a license by another
16 state, territory, federal agency, or country upon grounds for which
17 revocation or suspension is authorized in this state;

18 (4) Issuance of a license based upon a material mistake of fact;

19 (5) The person has been adjudicated and found guilty, or entered
20 a plea of guilty or nolo contendere, in a criminal prosecution pursuant
21 to the laws of any state, or the United States, for any offense reasonably
22 related to the qualifications, functions, or duties of the person who is
23 regulated, for any offense involving an essential element of fraud,
24 dishonesty, or act of violence, or for any offense involving moral
25 turpitude, elderly abuse, or child abuse, regardless of whether or not
26 a sentence is imposed;

27 (6) Demonstrating professional incompetence, misconduct, gross
28 negligence, fraud, misrepresentation, or dishonesty in the performance
29 of specimen collection, processing or performance of clinical laboratory
30 testing, or erroneous reporting;

31 (7) Failing, within sixty days, to provide information in response
32 to a written request made by the board;

33 (8) Directly or indirectly giving to or receiving from any person,
34 firm, corporation, partnership, or association any fee, commission,
35 rebate, or other form of compensation for any professional services not
36 actually rendered;

37 (9) Finding by the board that the licensee, after having his or her
38 license placed on probationary status, has violated the terms of
39 probation;

40 (10) Willfully making or filing false records or reports in his
41 practice, including but not limited to, false records filed with state
42 agencies or departments;

43 (11) Violating any standard of professional conduct adopted by
44 the board;

45 (12) Engaging in dishonorable, unethical, or unprofessional
46 conduct of a character likely to deceive, defraud, or harm the public;

47 (13) Jeopardizing patient safety by providing professional
48 services while mentally incompetent or under the influence of alcohol,
49 a narcotic, or a controlled substance that is in excess of therapeutic
50 amounts or without valid medical authorization;

51 (14) Directly or indirectly contracting to perform clinical
52 laboratory tests in a manner which offers or implies an offer of rebate,
53 fee-splitting inducements or arrangements, or other remuneration;

54 (15) Aiding or assisting another individual in violating any
55 provision of sections 324.1200 to 324.1230, or any rule adopted
56 thereunder;

57 (16) Violation of the drug laws or rules and regulations of this
58 state, any other state or the federal government.

59 3. After the filing of such a complaint, the proceedings shall be
60 conducted in accordance with the provisions of chapter 621,
61 RSMo. Upon a finding of the administrative hearing commission that
62 the grounds provided in subsection 2 of this section for disciplinary
63 action are met, the board may, singly or in combination, censure or
64 place the person named in the complaint on probation on such terms
65 and conditions as the board deems appropriate for a period not to
66 exceed five years, or may suspend, for a period not to exceed three
67 years, or revoke the license.

68 4. The board may refuse to issue or may suspend the license of
69 any individual who fails to file a return, or to pay the tax, penalty, or
70 interest shown in a filed return, or to pay any final assessment of tax,
71 penalty, or interest, as required by any tax act administered by the
72 Missouri department of revenue, until such time as the requirements
73 of such tax act are satisfied.

 324.1228. 1. If any person violates a provision of sections
2 324.1200 to 324.1230, the board may petition the attorney general to
3 seek an injunction or an order to enforce compliance with sections
4 324.1200 to 324.1230. Upon the filing of a verified petition in such
5 court, the court may issue a temporary restraining order, without
6 notice or bond, and may preliminarily and permanently enjoin such
7 violation, and if it is established that such person has violated or is
8 violating this injunction, the court may hold the offender in contempt
9 of court. Proceeding under this section shall be in addition to, and not
10 in lieu of, all other remedies and penalties provided by sections

11 324.1200 to 324.1230.

12 2. If any individual shall function as clinical laboratory science
13 personnel or hold himself or herself out as such without having a valid
14 license required under the provisions of sections 324.1200 to 324.1230,
15 then any licensee, any interested party, or any individual injured
16 thereby may, in addition to the board, petition for relief as provided in
17 this section.

18 3. Whenever in the opinion of the board, any individual violates
19 any provision of sections 324.1200 to 324.1230, the board may issue a
20 rule to show cause why an order to cease and desist should not be
21 entered against the individual. The rule shall clearly set forth the
22 grounds relied upon by the board and shall provide a period of seven
23 days from the date of the rule to file an answer to the satisfaction of
24 the board. Failure to answer to the satisfaction of the board shall
25 cause an order to cease and desist to be issued forthwith.

26 4. The department may investigate the actions of any applicant
27 or of any individuals holding or claiming to hold a license to engage in
28 the practice of clinical laboratory science. Before refusing to issue or
29 renew a license, the board shall notify in writing the applicant or
30 holder of the nature of the charges and that a hearing will be held on
31 the date designated. Such notice shall be sent at least ten calendar
32 days prior to the date set for the hearing. Such written notice may be
33 served by personal delivery or certified or registered mail to the
34 respondent at the address of his or her last notification to the board.
35 At the time and place fixed in the notice, the board shall proceed to
36 hear the charges and the parties or their counsel shall be accorded
37 ample opportunity to present such statements, testimony, evidence, and
38 argument as may be pertinent to the charges or to the defense
39 thereto. The board may continue such hearing.

40 5. The department, at its expense, shall preserve a record of all
41 proceedings at the formal hearing of any case involving the refusal to
42 issue or renew a license. The notice of hearing, complaint, and all
43 other documents in the nature of pleadings and written motions filed
44 in the proceedings, the transcript of testimony, the report of the board,
45 and orders of the department shall be the record of such proceedings.

46 6. Any circuit court may, upon application of the department or
47 its designee, or of the applicant or licensee against whom proceedings

48 under sections 324.1200 to 324.1230 are pending, enter an order
49 requiring the attendance of witnesses and their testimony, and the
50 production of documents, papers, files, books, and records in
51 connection with any hearing or investigation. The court may compel
52 obedience to its order by proceedings for contempt.

53 7. At the conclusion of the hearing, the board shall present to the
54 director a written report of its findings and recommendations. The
55 report shall contain a finding whether or not the accused person
56 violated sections 324.1200 to 324.1230 or failed to comply with the
57 conditions required by sections 324.1200 to 324.1230. The board shall
58 specify the nature of the violation or failure to comply, and shall make
59 its recommendations to the director. The report of finding of fact,
60 conclusions of law, and recommendations of the board shall be the
61 basis for the department's order for refusal or for the granting of a
62 license or for other disciplinary action. If the director disagrees in any
63 regard with the report of the board, the director may issue an order in
64 contravention thereof. The director shall provide a written report to
65 the board on any deviation and shall specify with particularity the
66 reasons for such action in the final order. The finding is not admissible
67 in evidence against the person in a criminal prosecution brought for
68 the violation of sections 324.1200 to 324.1230, but the hearing and
69 finding is not a bar to a criminal prosecution brought for such
70 violations.

71 8. In any case involving the refusal to issue or renew a license,
72 or to discipline a licensee, a copy of the board's report shall be served
73 upon the respondent by the department, either personally or as
74 provided in sections 324.1200 to 324.1230 for the service of the notice
75 of hearing. Within twenty calendar days after such service, the
76 respondent may present to the department a motion in writing for a
77 rehearing, which motion shall specify the particular grounds therefore.
78 If no motion for rehearing is filed, then upon the expiration of the time
79 specified for filing such a motion, or if a motion for rehearing is
80 denied, then upon such denial the director may enter an order in
81 accordance with recommendations of the reporting service, and pay for
82 a transcript of the record within the time for filing a motion for
83 rehearing, the twenty calendar day period within which such a motion
84 may be filed shall commence upon the delivery of the transcript to the

85 respondent.

86 **9. Whenever the director is not satisfied that substantial justice**
87 **has been done in the revocation, suspension, or refusal to issue or**
88 **renew a license, the director may order a rehearing by the same or**
89 **other examiners. The director shall have the authority to appoint any**
90 **attorney duly licensed to practice law in the state of Missouri to serve**
91 **as the hearing officer in any action or refusal to issue or renew a**
92 **license or discipline a licensee. The director shall notify the board of**
93 **any such appointment. The hearing officer shall have full authority to**
94 **conduct the hearing. The hearing officer shall report the finding of**
95 **fact, conclusions of law, and recommendations to the board and the**
96 **director. The board shall have sixty days from receipt of the report to**
97 **review the report of the hearing officer and present its own findings of**
98 **fact, conclusions of law and recommendations to the director. If the**
99 **board fails to present its report within the sixty-day period, the**
100 **director shall issue and order based on the report of the hearing**
101 **officer. If the director disagrees in any regard with the report of the**
102 **board or hearing officer, he may issue an order in contravention**
103 **thereof. The director shall provide a written explanation to the board**
104 **of any such deviation and shall specify with particularity the reasons**
105 **for such action in the final order. At least two license clinical**
106 **laboratory practitioner members of the board shall be present at all**
107 **formal hearings on the merits of the complaints brought under the**
108 **provisions of sections 324.1200 to 324.1230. An order or a certified copy**
109 **thereof, over the seal of the department and purporting to be signed by**
110 **the director, shall be prima facie proof that:**

- 111 **(1) Such signature is the genuine signature of the director;**
112 **(2) Such director is duly appointed and qualified;**
113 **(3) The board and the members thereof are qualified to act.**

114 **10. At any time after the suspension or revocation of any license,**
115 **the department may restore the license to the accused person, upon the**
116 **written recommendation of the board, unless after an investigation and**
117 **a hearing the board determines that restoration is not in the public**
118 **interest. Upon the revocation or suspension of any license, the licensee**
119 **shall forthwith surrender the license to the department, and if the**
120 **licensee fails to do so, the department shall have the right to seize the**
121 **license. The director may temporarily suspend the license of a clinical**

122 laboratory practitioner without a hearing, simultaneously with the
123 institution of proceedings for a hearing of sections 324.1200 to 324.1230,
124 if the director finds that evidence in his or her possession indicates
125 that a clinical laboratory practitioner's continuation in practice would
126 constitute an imminent danger to the public. In the event that the
127 director suspends temporarily the license of a clinical laboratory
128 practitioner without a hearing, a hearing by the board must be held
129 within thirty calendar days after such suspension.

130 11. Judicial review for all final administration decisions shall be
131 commenced in the circuit court of the county in which the party
132 applying for review resides. If the party is not a resident of the state,
133 the venue shall be in Cole County. The department shall not be
134 required to certify any record to the court or file any answer in court
135 or otherwise appear in any court in a judicial review proceeding,
136 unless there is filed in the court, with the complaint, a receipt from the
137 department acknowledging payment of the costs of furnishing and
138 certifying the record, which costs shall be computed at the actual cost
139 per page of such record. Failure on the part of the plaintiff to file such
140 receipt in court shall be grounds for dismissal of the action.

 324.1230. Any person who violates the provisions of sections
2 324.1200 to 324.1230 is guilty of a class A misdemeanor for the first
3 offense, and a class D felony for second and subsequent offenses.

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