

FIRST REGULAR SESSION

HOUSE BILL NO. 751

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KRATKY.

1566L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 334, RSMo, by adding thereto fourteen new sections relating to the clinical laboratory science practice act, with penalty provisions.

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

Section A. Chapter 334, RSMo, is amended by adding thereto fourteen new sections, to
2 be known as sections 334.1300, 334.1303, 334.1306, 334.1309, 334.1312, 334.1315, 334.1318,
3 334.1321, 334.1324, 334.1327, 334.1330, 334.1333, 334.1336, and 334.1339, to read as follows:

334.1300. 1. Sections 334.1300 to 334.1339 shall be known and may be cited as the
2 **"Clinical Laboratory Science Practice Act".**

3 **2. The purpose of sections 334.1300 to 334.1339 is to protect the public health,**
4 **safety, and welfare of the people of this state from the hazards of inappropriate collection**
5 **of specimens and improper performance and reporting of test results by clinical laboratory**
6 **personnel. Clinical laboratories provide essential services to practitioners of the healing**
7 **arts by furnishing vital information that is necessary to the determination of the nature,**
8 **cause, and extent of the condition involved and the monitoring of therapy. Unreliable and**
9 **inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and**
10 **may even contribute directly to death. The protection of public and individual health**
11 **requires the licensure of clinical laboratory personnel who meet minimum educational and**
12 **training requirements for safe practice. The general assembly finds that clinical laboratory**
13 **technology continues to advance rapidly. Therefore, adherence to practice standards and**
14 **demonstration of continuing competence through documented continuing education is**
15 **imperative for clinical laboratory personnel.**

334.1303. As used in sections 334.1300 to 334.1339, the following terms shall mean:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 2 (1) **"Approved national certification examination", a competency based**
3 **certification examination that is administered by a national credentialing agency and is**
4 **approved by the board;**
- 5 (2) **"Board", the Missouri clinical laboratory science board appointed by the**
6 **governor;**
- 7 (3) **"Categorical laboratory scientist", an individual eligible under sections**
8 **334.1300 to 334.1339 to perform the functions of a medical laboratory scientist limited**
9 **under the individual's license to perform one or more categories of laboratory testing, such**
10 **as microbiology, virology, clinical chemistry, immunology, hematology,**
11 **immunoematology, molecular diagnostics, cytogenetics, stem cell processing, electron**
12 **microscopy, histocompatibility, cellular immunology, flow cytometry, or other areas**
13 **specified by the board under the supervision, control, responsibility, and direction of the**
14 **laboratory director;**
- 15 (4) **"CLIA", the final regulations promulgated by the United States Department**
16 **of Health and Human Services implementing the Clinical Laboratory Amendments of 1988**
17 **and includes P.L. 100-578 and 42 CFR 493, as amended;**
- 18 (5) **"Clinical laboratory", any site or location in which clinical laboratory tests or**
19 **examinations are performed;**
- 20 (6) **"Clinical laboratory test" or "laboratory test", a microbiological, serological,**
21 **molecular, chemical, biological, hematological, immunological, immunoematological,**
22 **cytogenetics, stem cell processing, electron microscopy, histocompatibility, cellular**
23 **immunology, flow cytometry, or any other test or procedure performed on material derived**
24 **from or present within a human body which provides information for the diagnosis,**
25 **prevention, or monitoring treatment of a clinical condition. Clinical laboratory testing**
26 **encompasses the preanalytical, analytical, and post-analytical phases of testing;**
- 27 (7) **"Department", the Missouri department of insurance, financial institutions and**
28 **professional registration;**
- 29 (8) **"Director", the director of the division of professional registration within the**
30 **department of insurance, financial institutions and professional registration;**
- 31 (9) **"High complexity", a category of clinical laboratory test complexity as defined**
32 **by CLIA;**
- 33 (10) **"Independent technical judgment", the performance or conduct of clinical**
34 **laboratory tests and assumption of responsibility for determination of the validity of**
35 **clinical laboratory test results without intervention by or the supervision of another health**
36 **care provider authorized by law to assume responsibility for the conduct and validity of**
37 **clinical laboratory tests. Pertaining to clinical laboratory personnel, the authorized**

38 exercise of independent judgment shall not be deemed to include or permit the exercise of
39 independent medical judgment in the diagnosis or treatment of patients except as
40 authorized in accordance with CLIA;

41 (11) "Laboratory director", an individual eligible under CLIA to direct a clinical
42 laboratory;

43 (12) "Medical laboratory scientist" or "medical technologist" or "clinical
44 laboratory scientist", an individual eligible under sections 334.1300 to 334.1339 to perform
45 any clinical laboratory test, including those tests that require the exercise of independent
46 technical judgment, subject to the supervision, control, responsibility, and direction of the
47 laboratory director. In addition, such individual is responsible for, with oversight by the
48 laboratory director, the establishment and implementation of protocols, quality assessment,
49 method development and selection, equipment selection and maintenance, and all activities
50 related to the preanalytic, analytic, and post-analytic phases of testing. The medical
51 laboratory scientist may also direct, supervise, consult, educate, and perform research
52 functions;

53 (13) "Medical laboratory technician" or "clinical laboratory technician", an
54 individual eligible under sections 334.1300 to 334.1339 who is qualified to perform clinical
55 laboratory tests under established and approved protocols with oversight from a medical
56 laboratory scientist or under the supervision, control, responsibility, and direction of the
57 laboratory director;

58 (14) "Moderate complexity", a category of clinical laboratory test complexity as
59 defined by CLIA;

60 (15) "Phlebotomist", an individual responsible for obtaining a blood specimen by
61 venipuncture or capillary puncture according to established and approved protocols. A
62 phlebotomist is also qualified to perform waived testing under the direction of a medical
63 laboratory scientist, medical laboratory technician, laboratory supervisor, or laboratory
64 director;

65 (16) "Point of case testing" or "bedside testing", clinical laboratory testing that is
66 critical to patient care and is required to be performed immediately at the patient's
67 location. Tests which meet such definition provide clinically relevant information which
68 determines the patient's therapy, are limited to procedures that produce accurate data
69 within a short period of time, meet the current standards of quality in clinical laboratory
70 science, and comply with all standards of accrediting agencies. Point of care testing shall
71 be under the direction, authority, jurisdiction, and responsibility of a person licensed
72 under sections 334.1300 to 334.1339;

73 (17) "Provider performed microscopy" or "PPM", a category of clinical laboratory
74 test complexity as defined by CLIA;

75 (18) "Temporary license" or "provisional license", a license issued to an applicant:

76 (a) Eligible to sit for and registered to take an approved national certification
77 examination or has taken the examination and is awaiting the results; or

78 (b) Who meets the educational requirements for the license and is seeking to qualify
79 for the certification examination by completing the supervised clinical laboratory
80 experience requirement;

81 (19) "Trainee" or "student", an individual who is working toward but has not yet
82 fulfilled either the educational or training requirements under sections 334.1300 to
83 334.1339 or necessary to qualify to take an approved national examination if such
84 examination is required for the individual;

85 (20) "Waived", a category of clinical laboratory test complexity as defined by
86 CLIA.

334.1306. Sections 334.1300 to 334.1339 shall not apply to:

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

5 (2) Doctorates in chemical, physical, or biological sciences, or medicine and board
6 certification as defined by CLIA;

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

10 (4) Clinical laboratory science professionals engaged in teaching or research,
11 provided that the results of any laboratory test performed are not used in health
12 maintenance, diagnosis, or treatment of disease;

13 (5) Students or trainees enrolled in an accredited clinical laboratory science
14 education program, provided that their activities constitute a part of a planned course in
15 the program, the individuals are designated by title as trainee or student, and the
16 individuals work under the direct supervision of a licensed clinical laboratory practitioner
17 who is responsible for reporting laboratory test results. Any recent graduate of an
18 accredited clinical laboratory program who is seeking certification, individuals awaiting
19 certification results, and individuals meeting the educational requirements but seeking to
20 qualify for certification through on-the-job training under supervision in accordance with
21 sections 334.1300 to 334.1339 shall apply for a temporary license;

22 **(6) Individuals exclusively performing any waived testing in an institution meeting**
23 **current CLIA regulations;**

24 **(7) A licensed physician or laboratory director;**

25 **(8) Pathologist assistants, histotechnologists, histotechnicians, and cytotechnologists**
26 **who are qualified or otherwise allowed to perform such functions in accordance with**
27 **CLIA; provided, however, that nothing in sections 334.1300 to 334.1339 shall be construed**
28 **as a limitation on the scope of practice permitted under CLIA for qualified**
29 **cytotechnologists.**

334.1309. 1. No individual in this state shall perform blood collection procedures
2 **or nonwaived clinical laboratory tests, or hold himself or herself out as a medical**
3 **laboratory scientist, categorical laboratory scientist, medical laboratory technician, or**
4 **phlebotomist unless such individual is licensed or exempt from licensure under sections**
5 **334.1300 to 334.1339.**

6 **2. All individuals, except those exempted by sections 334.1300 to 334.1339, who**
7 **collect blood specimens, perform laboratory testing, report laboratory test results or**
8 **consult regarding clinical laboratory tests, or defined as a clinical laboratory practitioner**
9 **on the effective date of sections 334.1300 to 334.1339 who are certified by or eligible for**
10 **certification by an agency acceptable to the board, and who have applied to the board on**
11 **or before the effective date of sections 334.1300 to 334.1339 and have complied with all**
12 **necessary requirements for such application may continue to perform the duties until the**
13 **expiration of twelve months after the filing of such application, the denial of the**
14 **application by the board, or the withdrawal of the application, whichever first occurs.**

15 **3. Individuals not meeting the education, training, and experience qualifications**
16 **for any license described herein, prior to twenty-four months after the effective date of**
17 **sections 334.1300 to 334.1339, shall be considered to have met the qualifications, providing**
18 **they have two years of acceptable experience at the professional level for which licensure**
19 **is sought during the five-year period immediately prior to the effective date of sections**
20 **334.1300 to 334.1339, plus the two-year grace period after such date, and submit to the**
21 **board the job description of the position which the applicant has most recently performed**
22 **attested to by his or her employer. The board shall determine the type of license for which**
23 **the applicant is eligible. For individuals who have less than two years of experience on the**
24 **effective date of sections 334.1300 to 334.1339, a temporary license may be issued for up**
25 **to two consecutive one-year cycles to allow such individuals time to meet the two-year**
26 **experiential requirements necessary to qualify for a license.**

27 **4. Beginning twenty-four months after the effective date of sections 334.1300 to**
28 **334.1339, no initial license shall be issued until an applicant meets all of the requirements**

29 of sections 334.1300 to 334.1339 and has successfully passed a board approved national
30 certification examination. Such provision shall not apply to the issuance of temporary
31 licenses.

334.1312. 1. The department of insurance, financial institutions and professional
2 registration shall promulgate rules consistent with the provisions of sections 334.1300 to
3 334.1339 for the administration and enforcement of sections 334.1300 to 334.1339, and may
4 prescribe forms which shall be issued in connection therewith. Such rules shall include
5 standards and criteria for licensure and professional conduct and discipline. The
6 department shall consult with the board in promulgating rules. Notice of proposed
7 rulemaking shall be transmitted to the board and the department shall review the board's
8 response and any recommendations made therein. The department shall notify the board
9 in writing with an explanation of its deviations from the board's recommendations and
10 response.

11 2. The department shall solicit the advice and expert knowledge of the board on any
12 matter relating to the administration and enforcement of sections 334.1300 to 334.1339.

13 3. The department shall issue to the board a quarterly report of the status of all
14 complaints related to the profession received by the department.

15 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
16 created under the authority delegated in sections 334.1300 to 334.1339 shall become
17 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
18 if applicable, section 536.028. Sections 334.1300 to 334.1339 and chapter 536 are
19 nonseverable and if any of the powers vested with the general assembly pursuant to
20 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
21 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
22 proposed or adopted after the effective date of this section shall be invalid and void.

334.1315. 1. There is hereby created within the division of professional registration
2 the "Clinical Laboratory Science Board", which shall assist the division in administering
3 and enforcing sections 334.1300 to 334.1339, and adopt, publish, and enforce any rules
4 promulgated under sections 334.1300 to 334.1339 considered necessary or proper for the
5 effective administration and interpretation of sections 334.1300 to 334.1339, and for the
6 conduct of its business and management of its internal affairs.

7 2. At least ninety days before the expiration of a term of a board member, and as
8 soon as feasible after a vacancy on the board for reasons other than the expiration of a
9 term occurs, a list of three licensed and qualified individuals shall be submitted to the
10 director by the remaining members of the board. The governor may appoint a board

11 member to fill the vacancy from the list submitted, or may appoint some other qualified
12 licensed laboratorian.

13 **3. Before entering upon their duties, members of the board shall make and file with**
14 **the secretary of state the oath of office required by the Constitution of Missouri for all civil**
15 **officers of this state.**

16 **4. The board shall approve the types of certifications and approve the credentialing**
17 **bodies that administer the certification examinations by a majority vote of the quorum**
18 **present.**

19 **5. The board shall consist of the following nine members:**

20 **(1) Two physician directors of clinical laboratories;**

21 **(2) One nonphysician director;**

22 **(3) Three medical laboratory scientists;**

23 **(4) Two medical laboratory technicians; and**

24 **(5) One public member who is not associated with or financially interested in the**
25 **practice.**

26

27 **All members shall be appointed by the governor with the advice and consent of the senate.**
28 **Within ninety days of the effective date of sections 334.1300 to 334.1339, the governor shall**
29 **appoint three members for a term of two years, three members for a term of three years,**
30 **and three members for a term of four years. As terms of the initial members expire, the**
31 **governor shall appoint successors for terms of four years. A member whose term has**
32 **expired shall continue to serve until such time as a replacement is appointed. Whenever**
33 **a vacancy shall occur on the board by reason other than the expiration of a term of office,**
34 **the governor shall appoint a successor of like qualifications for the remainder of the**
35 **unexpired term. No member shall serve more than the remaining portion of a previous**
36 **member's unexpired term, plus two consecutive four-year terms of the member's own**
37 **thereafter. Each member of the board shall be a citizen of the United States and a**
38 **Missouri resident and, except as provided in this section and for the first members**
39 **appointed, shall be licensed under sections 334.1300 to 334.1339. The membership of the**
40 **board shall reflect the differences in levels of education and work experience with**
41 **consideration being given to race, gender, and ethnic origins. No more than four members**
42 **shall be from the same political party. The membership shall be representative of the**
43 **various geographic regions of the state.**

44 **6. Each member of the board shall receive as compensation an amount set by the**
45 **division and shall be reimbursed for necessary and actual expenses incurred in the**
46 **performance of the member's official duties. The board may appoint, employ, and fix the**

47 compensation of a legal counsel and board personnel. The division shall provide all staff
48 for the board.

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

55 8. The board shall adopt and revise such rules as may be necessary to enable it to
56 carry out the provisions of sections 334.1300 to 334.1339. Revisions and adoptions of rules
57 shall require a majority vote of the quorum present.

58 9. The board shall prescribe minimum standards for programs which provide
59 continuing education for the licensees. Adoption of such standards requires a majority
60 vote of the quorum present.

61 10. The board shall keep a record of all proceedings and make an annual report to
62 the governor and the director.

63 11. The governor may remove a board member for misconduct, incompetence,
64 neglect of the member's official duties, or for cause.

65 12. The public member shall be at the time of appointment:

66 (1) A resident of this state for a minimum of one year and a registered voter;

67 (2) An individual who is not and has never been licensed under sections 334.1300
68 to 334.1339, or the spouse of such an individual; and

69 (3) An individual who does not have and never has had a material financial interest
70 in either the providing of the professional services regulated by sections 334.1300 to
71 334.1339, or an activity or organization directly related to any profession licensed or
72 regulated by sections 334.1300 to 334.1339.

73

74 The duties of the public member shall not include the determination of the educational or
75 technical requirements to be met for licensure or whether any individual meets such
76 technical requirements or of the technical competence or technical judgment of a licensee
77 or an applicant for licensure.

78 13. Members of the board shall not be personally liable either jointly or separately
79 for any act or acts committed in the performance of their official duties as board members.

334.1318. 1. The board is authorized to promulgate rules regarding:

2 (1) The content of license applications and the procedures for filing an application
3 for an initial, temporary, or renewal license in this state;

4 (2) Educational or on the job training requirements for certification that are
5 necessary for licensure only to the extent that the act expressly provides for board adoption
6 of such requirements;

7 (3) The criteria for approval of certification examinations administered by national,
8 credentialing organizations;

9 (4) The standards and methods to be used in assessing competency as a medical
10 laboratory scientist, categorical laboratory scientist, medical laboratory technician, or a
11 phlebotomist, only to the extent that sections 334.1300 to 334.1339 expressly provides for
12 board adoption of such standards and methods;

13 (5) All applicable fees, set at a level to produce revenue which shall not exceed the
14 cost and expense of administering the provisions of sections 334.1300 to 334.1339; and

15 (6) Establishment of procedures for granting reciprocity with other states.

16 2. Nothing contained in this section shall be construed to confer on the board an
17 authority to establish by rule any academic, educational, or testing requirement unless
18 such requirement is expressly provided in sections 334.1300 to 334.1339 or otherwise
19 expressly delegated to the board for adoption.

20 3. Any rule or portion of a rule, as that term is defined in this section 536.010, that
21 is created under the authority delegated in this section shall become effective only if it
22 complies with and is subject to all of the provisions of chapter 536 and, if applicable section
23 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
24 with the general assembly under chapter 536 to review, to delay the effective date, or to
25 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
26 rulemaking authority and any rule proposed or adopted after effective date of sections
27 334.1300 to 334.1339, shall be invalid and void.

 334.1321. The following types of licenses shall be issued:

2 (1) Medical laboratory scientist. The board shall issue a medical laboratory
3 scientist's license to any individual who possesses a baccalaureate degree from a regionally
4 accredited college or university, has acceptable clinical laboratory experience or training,
5 passes an approved national certification examination at the medical laboratory scientist
6 level or its equivalent, completes the continuing education requirements, and any other
7 continued competency requirements mandated by the certifying organization necessary to
8 maintain certification;

9 (2) Categorical laboratory scientist. The board shall issue a categorical laboratory
10 scientist's license to any individual who possesses a baccalaureate degree from a regionally
11 accredited college or university, has acceptable clinical laboratory experience or training,
12 passes a national certification examination in a recognized discipline of laboratory science

13 authorized by the board, completes the continuing education requirements, and any other
14 continued competency requirements mandated by the certifying organization necessary to
15 maintain certification. For disciplines in which no certification examination is available,
16 acceptable clinical laboratory experience or training followed by successfully passing an
17 exit examination administered by the laboratory director, providing the training program
18 qualifies the applicant for a license. When certification examinations become available in
19 disciplines that did not have examinations available on the effective date of sections
20 334.1300 to 334.1339, certification shall become a requirement for licensure in those
21 disciplines from that point forward. Categorical laboratory scientists holding a license
22 without certification shall not be required to obtain certification once the appropriate
23 examination becomes available. The laboratory discipline shall be specified on the license
24 and the individual's practice shall be limited to the category or categories listed;

25 (3) Medical laboratory technician. The board shall issue a medical laboratory
26 technician's license to any individual who possesses an associate degree from a regionally
27 accredited college or university, has acceptable clinical laboratory experience or training,
28 or has equivalent training and experience in the United States armed forces, passes a
29 national certification examination authorized by the board at the level of a medical
30 laboratory technician or its equivalent, completes the continuing education requirements,
31 and any other continued competency requirements mandated by the certifying
32 organization, necessary to maintain certification;

33 (4) Phlebotomist. The board shall issue a phlebotomist's license to any individual
34 who possesses a high school diploma or equivalent, has sufficient experience or training to
35 be certification eligible as a phlebotomist, passes a national certification examination
36 authorized by the board in the fields of phlebotomy, medical assisting, or clinical
37 laboratory assisting, and completes the continuing education requirements, and any other
38 continued competency requirements mandated by the certifying organization necessary to
39 maintain certification.

334.1324. 1. Licensure applicants who are certification eligible by meeting the
2 education, experience, or training requirements but have not taken or passed an approved
3 national certification examination may be granted a temporary license that will allow that
4 individual to engage in the practice of clinical laboratory science at the appropriate level.
5 The temporary license shall be valid for twelve months and may be renewed one additional
6 time should the applicant fail to pass a board approved national certification examination
7 on the first attempt.

8 2. Internationally trained licensure applicants shall have their college transcripts
9 evaluated by a transcript evaluation agency acceptable to the board and submitted directly

10 to a board approved certification agency. The evaluation shall indicate the applicant's
11 education is equivalent to that which is required for licensure of United States graduates
12 at the level of license being sought. Upon submission of proof to the board of acceptance
13 to sit for the national certification examination the individual may apply for a temporary
14 license in the corresponding license category.

15 **3. Licensure applicants who have met the educational requirements of a particular**
16 **license but who are completing the experience requirement to be certification eligible may**
17 **apply to renew a temporary license annually up to five years from the date of issuance of**
18 **the initial temporary license.**

334.1327. The board shall recognize a valid license or equivalent issued by another
2 **state, provided that the requirements under which that license or equivalent was issued are**
3 **equivalent to or exceed the standards required by sections 334.1300 to 334.1339.**

334.1330. 1. Applications for licensure in clinical laboratory science shall be in
2 **writing, and submitted to the board on forms provided by the division and furnished to the**
3 **applicant. The application shall contain the applicant's statements showing the applicant's**
4 **education, experience, copy of applicant's certification and such other information as the**
5 **board may require. Each application shall contain a statement that it is made under oath**
6 **or affirmation and that the information contained therein is true and correct to the best**
7 **knowledge and belief of the applicant, subject to the penalties provided for the making of**
8 **a false affidavit or declaration. Appropriate fees shall accompany each application.**

9 **2. The board shall, by rule, establish fees to be paid for application, licensing and**
10 **renewal, reinstatement, and record making and recordkeeping. The board may also**
11 **establish by rule a delinquency fee. The board shall establish fees that are adequate to**
12 **ensure the continued operation of the board and to fund the proportionate expenses**
13 **incurred by the department in carrying out its licensure and other related responsibilities**
14 **under sections 334.1300 to 334.1339. Fees shall be based on departmental estimates of the**
15 **revenue required to implement this part and the provisions of law with respect to the**
16 **regulation of clinical laboratory personnel.**

17 **3. Upon receipt of a nonrefundable initial application fee and payment of a license**
18 **fee, the board shall issue a license for the appropriate license category as a medical**
19 **laboratory scientist, categorical laboratory scientist, medical laboratory technician, or**
20 **phlebotomist to an individual who meets the qualifications specified in sections 334.1300**
21 **to 334.1339 and the rules promulgated hereunder.**

22 **4. A license issued under sections 334.1300 to 334.1339 shall expire in two years.**
23 **The board may, by rule, permit renewal less frequently than every two years and may set**
24 **license fees accordingly. The division shall mail a renewal notice to the last known address**

25 of each licensee prior to the renewal date. The license of any individual who fails to pay
26 the required fee, fails to provide documentation of required continuing education, or fails
27 to provide the board with any information required for renewal within sixty days after the
28 expiration of such license shall be automatically cancelled without notice or further
29 proceedings unless the individual has made application for inactive status, or to pay the
30 renewal fee shall result in a nonvalid license. The license shall be reinstated if, within two
31 years of the renewal date, the applicant submits the required documentation and pays the
32 applicable fees as approved by the board.

33 5. The board shall prescribe by rule the continuing education requirements for
34 renewal of licenses.

35 6. A licensed laboratory professional individual may ask to be put on inactive
36 status, provided such individual does not practice clinical laboratory science during such
37 a period that the individual is on inactive status. If the individual desires to maintain such
38 license on an inactive status and in order to avoid lapsing of such license, the individual
39 shall pay the required fee as established by the board for maintaining an inactive license.
40 An inactive license shall be renewed biennially. The board may, as provided by rule,
41 reactivate an inactive license. The board shall prescribe by rule the continuing education
42 requirements as a condition of license reactivation and demonstrated competence.

43 7. A new license to replace any license lost, destroyed, or mutilated may be issued
44 subject to the rules of the board upon payment of a fee.

45 8. The board shall set by rule the appropriate amount of fees authorized herein.
46 The fees shall be set at a level to produce revenue which shall not substantially exceed the
47 cost and expense of administering the provisions of sections 334.1300 to 334.1339. All fees
48 provided by sections 334.1300 to 334.1339 shall be collected by the director who shall
49 transmit the funds to the director of revenue to be deposited in the state treasury to the
50 credit of the "Clinical Laboratory Science Fund" which is hereby created. All
51 administrative costs and expenses of the board shall be paid from appropriations made for
52 those purposes.

53 9. Notwithstanding the provisions of sections 334.1300 to 334.1339 to the contrary,
54 money in the fund shall not be transferred and placed to the credit of general revenue until
55 the amount in the fund at the end of the biennium exceeds three times the amount of the
56 appropriation from the clinical laboratory science fund for the preceding fiscal year. The
57 amount, if any, in the fund which shall lapse is the amount in the fund which exceeds the
58 appropriate multiple of the appropriations from the clinical laboratory science fund for
59 the preceding fiscal year.

334.1333. 1. The board may refuse to issue or renew any license for one or any combination of reasons stated in this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission.

2. The board may cause a complaint to be filed with the administrative hearing commission against the holder of any license or any individual who has failed to renew or has surrendered the individual's license that may include, but not be limited to, any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation, or bribery in securing a license under sections 334.1300 to 334.1339;

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

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

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

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

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

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

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

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

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

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

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

38 (13) Jeopardizing patient safety by providing professional services while mentally
39 incompetent or under the influence of alcohol, a narcotic, or a controlled substance that
40 is in excess of therapeutic amounts or without valid medical indication;

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

44 (15) Aiding or assisting another individual in violating any provision of sections
45 334.1300 to 334.1339 or any rule adopted hereunder.

46 3. The determination by a circuit court that a licensee is subject to involuntary
47 admission or judicial admission as provided in the Mental Health and Developmental
48 Disabilities Code operates as an automatic suspension. Only upon a finding by a court that
49 the licensee is no longer subject to involuntary admission or judicial admission and the
50 issuance of an order so finding and discharging the licensee shall the suspension be
51 terminated and the licensee be allowed to resume practice.

52 4. The board may refuse to issue or may suspend the license of any individual who
53 fails to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay
54 any final assessment of tax, penalty, or interest as required by any tax law administered
55 by the Missouri department of revenue, until such time as the requirements of such tax law
56 are satisfied.

 334.1336. 1. If any person violates a provision of sections 334.1300 to 334.1339, the
2 board may, in the name of the people of the state of Missouri and through the attorney
3 general of the state of Missouri, petition for an order enjoining such violation or for an
4 order enforcing compliance with sections 334.1300 to 334.1339. Upon the filing of a
5 verified petition in such court, the court may issue a temporary restraining order, without
6 notice or bond, and may preliminarily and permanently enjoin such violation, and if it is
7 established that such person has violated or is violating this injunction, the court may
8 punish the offender for contempt of court. Proceeding under this section shall be in
9 addition to, and not in lieu of, all other remedies and penalties provided by sections
10 334.1300 to 334.1339.

11 2. If any individual shall function as clinical laboratory science personnel or hold
12 himself or herself out as such without having a valid license required under the provision
13 of sections 334.1300 to 334.1339, then any licensee, any interested party or any individual
14 injured thereby may, in addition to the board, petition for relief as provided in this section.

15 **3. Whenever in the opinion of the board any individual violates any provision of**
16 **sections 334.1300 to 334.1339, the board may issue a rule to show cause why an order to**
17 **cease and desist should not be entered against him or her. The rule shall clearly set forth**
18 **the grounds relied upon by the board and shall provide a period of seven days from the**
19 **date of the rule to file an answer to the satisfaction of the board. Failure to answer to the**
20 **satisfaction of the board shall cause an order to cease and desist to be issued forthwith.**

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

32 **5. The department, at its expense, shall preserve a record of all proceedings at the**
33 **formal hearing of any case involving the refusal to issue or renew a license. The notice of**
34 **hearing, complaint, and all other documents in the nature of pleadings and written motions**
35 **filed in the proceedings, the transcript of testimony, the report of the board, and orders of**
36 **the department shall be the record of such proceedings.**

37 **6. Any circuit court may, upon application of the department or its designee, or of**
38 **the applicant or licensee against whom proceedings under section 334.1339 are pending,**
39 **enter an order requiring the attendance of witnesses and their testimony, and the**
40 **production of documents, papers, files, books, and records in connection with any hearing**
41 **or investigation. The court may compel obedience to its order by proceedings for**
42 **contempt.**

43 **7. (1) At the conclusion of the hearing, the board shall present to the director a**
44 **written report of its findings and recommendations. The report shall contain a finding**
45 **whether the accused person violated sections 334.1300 to 334.1339 or failed to comply with**
46 **the conditions required in sections 334.1300 to 334.1339. The board shall specify the**
47 **nature of the violation or failure to comply, and shall make its recommendations to the**
48 **director.**

49 **(2) The report of finding of fact, conclusions of law, and recommendations of the**
50 **board shall be the basis for the departments order for refusal or for the granting of a**

51 license or for other disciplinary action. If the director disagrees in any regard with the
52 report of the board, the director may issue an order in contravention thereof. The director
53 shall provide a written report to the board on any deviation and shall specify with
54 particularity the reasons for such action in the final order. The finding is not admissible
55 in evidence against the person in a criminal prosecution brought for the violation of
56 sections 334.1300 to 334.1339, but the hearing and finding is not a bar to a criminal
57 prosecution brought for the violation of sections 334.1300 to 334.1339.

58 8. In any case involving the refusal to issue or renew a license or to discipline a
59 licensee, a copy of the board's report shall be served upon the respondent by the
60 department, either personally or as provided in sections 334.1300 to 334.1339 for the
61 service of the notice of hearing. Within twenty calendar days after such service, the
62 respondent may present to the department a motion in writing for a rehearing, which
63 motion shall specify the particular grounds therefore. If no motion for rehearing is filed,
64 upon the expiration of the time specified for filing such a motion or, if a motion for
65 rehearing is denied, upon such denial, the director may enter an order in accordance with
66 recommendations of the reporting service and pay for a transcript of the record within the
67 time for filing a motion for rehearing, the twenty calendar day period within which such
68 a motion may be filed shall commence upon the delivery of the transcript to the
69 respondent.

70 9. (1) Whenever the director is not satisfied that substantial justice has been done
71 in the revocation, suspension, or refusal to issue or renew a license, the director may order
72 a rehearing by the same or other examiners.

73 (2) The director shall have the authority to appoint any attorney duly licensed to
74 practice law in the State of Missouri to serve as the hearing officer in any action or refusal
75 to issue or renew a license or discipline a licensee. The director shall notify the board of
76 any such appointment. The hearing officer shall have full authority to conduct the
77 hearing. The hearing officer shall report the finding of fact, conclusions of law, and
78 recommendations to the board and the director. The board shall have sixty days from
79 receipt of the report to review the report of the hearing officer and present its own findings
80 of fact, conclusions of law, and recommendations to the director. If the board fails to
81 present its report within the sixty-day period, the director shall issue an order based on the
82 report of the hearing officer. If the director disagrees in any regard with the report of the
83 board or hearing officer, he or she may issue an order in contravention thereof. The
84 director shall provide a written explanation to the board of any such deviation and shall
85 specify with particularity the reasons for such action in the final order. At least two
86 licensed clinical laboratory practitioner members of the board shall be present at all formal

87 hearings on the merits of complaints brought under the provisions of sections 334.1300 to
88 334.1339.

89 (3) An order or a certified copy thereof, over the seal of the department and
90 purporting to be signed by the director, shall be prima facie proof:

91 (a) That such signature is the genuine signature of the director;

92 (b) That such director is duly appointed and qualified;

93 (c) The board and the members thereof are qualified to act.

94 10. (1) At any time after the suspension or revocation of any license, the
95 department may restore the license to the accused person, upon the written
96 recommendation of the board, unless after an investigation and a hearing the board
97 determines that restoration is not in the public interest.

98 (2) Upon the revocation or suspension of any license, the licensee shall forthwith
99 surrender the license to the department, and if the licensee fails to do so, the department
100 shall have the right to seize the license.

101 (3) The director may temporarily suspend the license of a clinical laboratory
102 practitioner without a hearing, simultaneously with the institution of proceedings for a
103 hearing of sections 334.1300 to 334.1339, if the director finds that evidence in his or her
104 possession indicates that a clinical laboratory practitioner's continuation in practice would
105 constitute an imminent danger to the public. In the event that the director suspends
106 temporarily the license of a clinical laboratory practitioner without a hearing, a hearing
107 by the board shall be held within thirty calendar days after such suspension has occurred.

108 11. (1) All final administrative decisions of the department are subject to judicial
109 review under chapter 536. Proceedings for judicial review shall be commenced in the
110 circuit court of the county in which the party applying for review resides, but if the party
111 is not a resident of this state, the venue shall be in Cole County.

112 (2) The department shall not be required to certify any record to the court or file
113 any answer in court or otherwise appear in any court in a judicial review proceeding,
114 unless there is filed in the court, with the complaint, a receipt from the department
115 acknowledging payment of the costs of furnishing and certifying the record, which costs
116 shall be computed at the actual cost per page of such record. Failure on the part of the
117 plaintiff to file such receipt in court shall be grounds for dismissal of the action.

118 (3) The Missouri administrative procedure law is hereby expressly adopted and
119 incorporated herein as if all of the provisions of such law were included in sections
120 334.1300 to 334.1339; except that, the provision of which provides that at hearings the
121 licensee has the right to show compliance with all lawful requirements for retention,
122 continuation or renewal of the license is specifically excluded, and for the purpose of the

123 law the notice required under chapter 536 is deemed sufficient when mailed to the last
124 known address.

125 **12. Any person who is found to have violated any provision of sections 334.1300 to**
126 **334.1339 is guilty of a class A misdemeanor for the first offense, and a class D felony for**
127 **second and subsequent offences.**

334.1339. It is declared to be the public policy of this state that any power or
2 **function set forth in sections 334.1300 to 334.1339 shall not be exercised concurrently,**
3 **either directly or indirectly, by any unit of local government, including home rule units,**
4 **except as otherwise provided in sections 334.1300 to 334.1339.**

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