Rep. Ron Stephens

Filed: 4/8/2005

AMENDMENT TO HOUSE BILL 3157

AMENDMENT NO. _____. Amend House Bill 3157 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Clinical Laboratory Science Practice Act.

Section 5. Declaration of policy; purpose. It is hereby declared to be a policy of this State that the practice of clinical laboratory science by health care professionals affects the public health, safety, and welfare and is subject to control and regulation in the public interest. It is further declared that clinical laboratories and clinical laboratory practitioners provide essential services to practitioners of the healing arts by furnishing vital information that may be used in the diagnosis, prevention, and treatment of disease or impairment and the assessment of the health of humans. The purpose of this Act is to assure better protection of public health by requiring minimum qualifications for clinical laboratory practitioners and by ensuring that clinical laboratory tests are performed with the highest degree of professional competency by those engaged in providing such services in this State.

Section 10. Definitions. The following words and terms when used in the Act shall have the following meaning unless

otherwise indicated within the context:

"Accredited clinical laboratory education program" means a program planned to provide a predetermined amount of instruction and experience in clinical laboratory science, medical technology, or cytology that has been accredited by one of the accrediting agencies approved by the U.S. Department of Health and Human Services.

"Board" means the Clinical Laboratory Science Board appointed by the Secretary of Financial and Professional Regulation.

"Categorical technologist" means an individual eligible under this Act who is qualified to perform clinical laboratory testing in one or more categories of laboratory testing, such as microbiology, clinical chemistry, immunology, hematology, immunohematology or other areas specified by the Board. The categorical technologist is responsible for the establishment and implementation of protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the pre-analytical, analytical, and post-analytical phases of testing. The categorical technologist may also direct, supervise, consult, educate, and perform research functions in their specialty area. "Categorical technologist" includes a categorical scientist.

"CLIA '88" means the Clinical Laboratory Improvement Amendments of 1988.

"Clinical laboratory" or "laboratory" means a site or location in which clinical laboratory tests or examinations are performed.

"Clinical laboratory practitioner" means an individual who has the authority to perform clinical laboratory tests.

"Clinical laboratory scientist" means an individual eligible under this Act that performs any clinical laboratory test including those that require the exercise of independent

judgment. In addition, this individual is responsible for the establishment and implementation of protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the pre-analytical, analytical, and post-analytical phases of testing. The clinical laboratory scientist may also direct, supervise, consult, educate, and perform research functions.

"Clinical laboratory technician" means an individual eligible under this Act who is qualified to perform clinical laboratory tests pursuant to established and approved protocols that require limited exercise of independent judgment and which are performed with oversight from a clinical laboratory scientist, medical technologist, technical consultant, supervisor, or laboratory director as defined by the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (P.L. 100-578).

"Clinical laboratory test" or "laboratory test" means a microbiological, serological, molecular, chemical, biological, hematological, immunological, immunohematological, cytological, biophysical, or any other test or procedure performed on material derived from or existing in a human body that provides information for the diagnosis, prevention, or monitoring of a disease or impairment or assessment of a clinical condition. Clinical laboratory testing encompasses the pre-analytical, analytical, and post-analytical phases of testing.

"Cytotechnologist" means an individual eligible under this Act who is qualified to process and interpret cellular material derived from the human body delineating data regarding human cytopathological disease. The cytotechnologist performs testing under the supervision of a technical supervisor pursuant to the CLIA '88. The cytotechnologist reviews and interprets gynecological cytology preparations and screens non-gynecological cytology preparations where final review and

interpretation is the responsibility of a qualified physician.

"Department" means the Department of Financial and Professional Regulation.

"Histotechnician" means an individual who is qualified to process cellular and tissue components through methods of selected gross dissection and description, fixation, dehydration, embedding, microtomy, frozen sectioning, staining, and other related procedures and techniques employed in the preparation of smears, slides, and tissues. This specialty also encompasses methods for antigen detection and other molecular hybridization testing methods where the purpose is analysis or quantification of cellular and tissue components for interpretation by a qualified physician. The histotechnician performs testing under the direct supervision of a histotechnologist, technical consultant, supervisor, or laboratory director as defined by CLIA '88.

"Histotechnologist" means an individual who is qualified to process cellular and tissue components through methods of selected gross dissection and description, fixation, dehydration, embedding, microtomy, frozen sectioning, staining, and other related procedures and techniques employed in the preparation of smears, slides, and tissues. This specialty also encompasses methods for antigen detection and other molecular hybridization testing methods where the purpose is analysis or quantification of cellular and tissue components for interpretation by a qualified physician. The histotechnologist performs testing under the supervision of a technical consultant, supervisor, or laboratory director as defined by CLIA '88.

"Medical technologist" means an individual eligible under this Act that performs any clinical laboratory test, including those that require the exercise of independent judgment. In addition, this individual is responsible for the establishment and implementation of protocols, quality assessment, method

development and selection, equipment selection and maintenance, and all activities related to the pre-analytical, analytical, or post-analytical phases of testing. The medical technologist may also direct, supervise, consult, educate, and perform research functions.

"Medical laboratory technician" means an individual eligible under this Act who is qualified to perform clinical laboratory tests pursuant to established and approved protocols that require limited exercise of independent judgment and which are performed with oversight from a clinical laboratory scientist, medical technologist, technical consultant, supervisor, or laboratory director as defined by the Clinical Laboratory Improvement Amendments of 1988.

"Pathologist's assistant" means an individual who is qualified to perform surgical pathology specimen examinations and post-mortem examinations. This specialty also encompasses related functions which are necessary to insure the successful completion or processing of the above. The pathologist's assistant performs testing under the supervision of a qualified pathologist. The functions of the pathologist's assistant shall be to assist a pathologist in arriving at a final diagnosis. Rendering the final diagnosis, however, is the responsibility of a pathologist.

"Point of care testing" means clinical testing that is so critical to patient care that it must be performed immediately at or near the patient. Tests meeting this definition provide clinically relevant information that direct therapy, are limited to procedures that produce accurate and precise data in a short period of time, meet the current standards of quality in laboratory science, and comply with all standards of accrediting agencies. The term does not include a clinical laboratory test performed in a physician's office laboratory.

"Scheduled drug" means a drug scheduled under the Illinois Controlled Substances Act.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Waived test" means a simple laboratory examination or procedure, as defined by the CLIA '88 and approved by the Board.

Section 15. Exemptions. This Act does not apply to any of the following:

(1) A person licensed in this State under any other Act who engages in the practice for which he or she is licensed, providing the Act specifically authorizes him or her to perform laboratory testing.

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

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

(4) Students or trainees enrolled in a clinical laboratory education program, provided that these activities constitute a part of a planned course in the program, that the persons are designated by title such as intern, trainee, or student, and the persons work directly under (i) an individual licensed by this State to practice clinical laboratory science, (ii) a person exempt from licensure under this Act by item (3) of this Section, or (iii) a licensed physician.

(5) A person solely performing waived tests under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578).

(6) Personnel performing point of care testing provided that, within the point of care testing laboratory,

a licensed Clinical laboratory scientist, medical technologist, categorical technologist, clinical laboratory technician, medical laboratory technician, or licensed physician is responsible for all of the following:

(A) Designing and providing or supervising the training programs for the point of care testing personnel.

(B) Supervising and monitoring the quality assurance and quality control activities of the testing site.

(C) Assisting in the selection of technology.

(D) Reviewing the results of proficiency testing and recommending corrective action, if necessary.

(E) Monitoring the continued competency of the testing personnel. Failure to comply with the above requirements subjects the point of care testing personnel to the loss of the exemption.

(7) Histotechnicians and histotechnologists who perform clinical laboratory testing under the supervision of a technical consultant, supervisor, or laboratory director as defined by the CLIA '88.

(8) Pathologist's assistants who perform clinical laboratory testing under the supervision of a qualified pathologist.

(9) A person employed by a federal, State, or local law enforcement agency who is acting within the scope of his or her employment.

Section 20. License required.

(a) Beginning January 1, 2006, no person shall perform or consult regarding clinical laboratory tests or hold himself or herself out as a clinical laboratory practitioner in the State unless he or she is licensed under this Act.

(b) All persons performing or consulting regarding

clinical laboratory tests on the effective date of this Act who are certified by or eligible for certification by an agency acceptable to the Department and who have applied to the Department on or before January 1, 2006 and have complied with all necessary requirements for application may continue to perform clinical laboratory tests until (1) the expiration of 12 months after filing the application, (2) the denial of the application by the Department, or (3) the withdrawal of the application, whichever occurs first.

(c) Beginning January 1, 2006, no person shall perform clinical laboratory tests for the purpose of detecting the presence of any scheduled drug unless he or she is licensed under this Act or employed by a person who is licensed under this Act.

(d) Before January 1, 2008, a person not meeting the education, training, and experience qualifications for a license under this Act may be granted licensure if they have 3 years of acceptable experience at the professional level for which licensure is sought immediately prior to the effective date of this Act and submit to the Board the job description of the position that the applicant has most recently performed, attested to by his or her employer.

(e) Beginning January 1, 2008, no initial license shall be issued until an applicant meets all of the requirements under this Act and successfully completes a national certification examination authorized by the Department.

Section 25. Administration.

(a) The Department shall adopt rules consistent with the provisions of this Act for the administration and enforcement thereof and may prescribe the forms that shall be issued in connection with this Act. The rules shall include standards and criteria for licensure and professional conduct and discipline. The Department shall consult with the Board in

adopting rules. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the Board's response and any recommendations the Board makes. The Department shall notify the Board in writing with an explanation of its deviations from the Board's recommendations and response.

(b) The Department may solicit the advice and expert knowledge of the Board on any matter relating to the administration and enforcement of this Act.

(c) The Department shall issue to the Board a quarterly report of the status of all complaints related to the profession received by the Department.

Section 30. Per-test fee; use of funds.

(a) If and only if, House Bill 3513 of the 94th General Assembly or House Bill 2446 of the 94th General Assembly becomes law, the Department shall impose and collect an $8 fee upon urine, hair, skin, cells, or bodily secretions or substances submitted within the State for testing conducted to detect any scheduled drug that is conducted. This fee shall be imposed upon samples that are physically tested outside of the State for the purpose of detecting any scheduled drug, if the sample was taken within the State.

(b) Each licensee under this Act shall report to the Department the number of samples submitted within the State, upon which the licensee has conducted a test for the purpose of detecting any scheduled drug, and shall submit the collected fee for each sample to the Department. If and only if, House Bill 3513 of the 94th General Assembly becomes law, the Department of Financial and Professional Regulation shall deposit 2/3 of the moneys collected from this fee into the Methamphetamine Treatment Fund and the Department of Human Services shall use these moneys to fund grants to providers of services for methamphetamine addicts and community outreach

and education programs established under the Alcoholism and Other Drug Abuse and Dependency Act. If and only if, House Bill 2446 of the 94th General Assembly becomes law, the Department of Financial and Professional Regulation shall deposit 1/3 of the moneys collected from this fee into the Autism Community-Based Residential Services Fund and the Department of Human Services shall use these moneys to fund the pilot program to provide community based residential services to individuals with severe autism who are 21 years of age or older established under the Developmental Disability and Mental Disability Services Act.

(c) The Department shall adopt rules necessary for the implementation and administration of the fee.

Section 35. Clinical Laboratory Science Board.

(a) There is hereby created a Clinical Laboratory Science Board within the Department of Financial and Professional Regulation which shall consist of 8 persons who have been residents of this State for at least 2 years prior to their appointment and who are actively engaged in their areas of practice. The Secretary may make appointments to the Board from lists submitted by organizations of clinical laboratory science practitioners and organizations of physician pathologists.

(b) The Board shall be composed of the following members: (i) one physician certified by the American Board of Pathology or the American Board of Osteopathic Pathology; (ii) 6 clinical laboratory practitioners who, except for initial appointments, hold active and valid licenses as clinical laboratory practitioners in this State, at least one of whom is a non-physician laboratory director, as defined by the CLIA '88, 2 of whom are clinical laboratory scientists or medical technologists, one of whom is a clinical laboratory technician or medical laboratory technician, and one of whom is a

cytotechnologist; and (iii) one public member who is not associated with or financially interested in the practice of clinical laboratory science.

(c) Board members shall serve for a term of 3 years and until their successors are appointed and qualified, except that the initial appointments, which shall be made within 60 days after the effective date of this Act, shall be as follows:

(1) A pathologist, a non-physician laboratory director, as defined by the CLIA '88, and 2 clinical laboratory practitioners shall be appointed to serve for 3 years.

(2) A public representative shall be appointed to serve for 2 years.

(3) The remaining members shall be appointed to serve for one year.

(d) Whenever a vacancy shall occur on the Board by reason other than the expiration of a term of office, the Secretary shall appoint a successor of like qualifications for the remainder of the unexpired term. No person shall be appointed to serve more than 2 successive 3-year terms.

(e) The Secretary shall have the authority to remove any member of the Board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

(f) The Secretary shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of applicants or licensees under this Act.

Section 40. Standards for licensure.

(a) The Department shall issue a clinical laboratory scientist or medical technologist license to an individual who meets the qualifications promulgated by the Department, including successful performance on a national certification

examination at the clinical laboratory scientist or medical technologist level authorized by the Department and at least one of the following:

(1) Baccalaureate degree in clinical laboratory science or medical technology or the equivalent from an accredited college or university and successful completion of an accredited clinical laboratory science or medical technology education program.

(2) Baccalaureate degree from an accredited college or university and completion of 36 semester hours in the biological, chemical, or medical laboratory sciences in addition to or part of the baccalaureate degree and successful completion of an accredited clinical laboratory science or medical technology education program or successful completion of a 50-week or more military medical laboratory training program.

(3) Baccalaureate degree from an accredited college or university and completion of 36 semester hours in the biological, chemical, or medical laboratory sciences in addition to or part of the baccalaureate degree, certified as a clinical laboratory technician or medical laboratory technician, and completion of the equivalent of 2 years of full-time clinical laboratory work experience within the last 4 years. This experience must have included a minimum of 4 months in each of the 4 major clinical laboratory disciplines (chemistry or urinalysis, hematology, immunohematology, and microbiology).

(4) Baccalaureate degree from an accredited college or university and completion of 36 semester hours in the biological, chemical, or medical laboratory sciences in addition to or part of the baccalaureate degree and completion of the equivalent of 4 years of full-time clinical laboratory work experience within the last 8 years. This experience must have included a minimum of 4

months in each of the 4 major clinical laboratory disciplines (chemistry or urinalysis, hematology, immunohematology, and microbiology).

(b) The Department shall issue a categorical technologist license to an individual who meets such qualifications as promulgated by the Department, including successful performance on a categorical examination offered by a national certification organization authorized by the Department and at least one of the following:

(1) For the categories of microbiology and chemistry, (i) a baccalaureate degree from an accredited college or university, (ii) successful completion of 30 semester hours in the biological, chemical, or medical laboratory sciences, and (iii) one year of full-time experience within the last 10 years in the category for which licensure is sought or successful completion of a structured training program that is under the auspices of an accredited medical technology or clinical laboratory science education program in the category for which licensure is sought.

(2) For the categories of hematology, immunology, and immunohematology, (i) a baccalaureate degree from an accredited college or university, (ii) successful completion of 30 semester hours in the biological, chemical or medical laboratory sciences, and (iii) 2 years of full-time experience within the last 10 years in the category for which licensure is sought or successful completion of a structured training program that is under the auspices of an accredited medical technology or clinical laboratory science education program in the category for which licensure is sought.

(3) A masters or doctorate in a chemical, biological, or medical laboratory science from an accredited college or university and 6 months of full time acceptable clinical laboratory experience or clinical laboratory training

within the last 10 years in the category for which licensure is sought.

The Department may establish other categorical technologist licenses as necessary, provided that the licenses require a baccalaureate or graduate degree in an appropriate field, clinical training or work experience, and national certification.

(c) The Department shall issue a clinical laboratory technician or medical laboratory technician license to an individual who meets such qualifications as promulgated by the Department, which shall include successful performance on a national certification examination at the clinical laboratory technician or medical laboratory technician level authorized by the Department and at least one of the following:

(1) Associate's degree or 60 semester hours from an accredited post-secondary academic institution and successful completion of an accredited clinical laboratory technician or medical laboratory technician education program.

(2) Associate's degree or 60 semester hours from an accredited post-secondary academic institution with 24 semester hours of college course work in the biological, chemical, or medical laboratory sciences, including 6 semester hours of chemistry and 6 semester hours of biology and successful completion of a 50-week or more military medical laboratory training program.

(3) Associate's degree or 60 semester hours from an accredited post-secondary academic institution with 24 semester hours of college course work in the biological, chemical, or medical laboratory sciences, including 6 semester hours of chemistry and 6 semester hours of biology and successful completion of an approved laboratory or clinical assistant education program, and completion of the equivalent of one year of full-time clinical laboratory

work experience within the last 2 years. This experience must have included a minimum of 3 months in each of the 4 major clinical laboratory disciplines (chemistry or urinalysis, hematology, immunohematology, and microbiology). Laboratory work experience must be under the supervision of a certified clinical laboratory scientist or medical technologist, certified clinical laboratory technician, or medical laboratory technician.

(4) Associate's degree or 60 semester hours from an accredited post-secondary academic institution with 24 semester hours of college course work in the biological, chemical, or medical laboratory sciences, including 6 semester hours of chemistry and 6 semester hours of biology and completion of the equivalent of 2 years of full-time clinical laboratory work experience within the last 4 years. This experience must have included a minimum of 3 months in each of the 4 major clinical laboratory disciplines (chemistry or urinalysis, hematology, immunohematology, and microbiology). Completion of one year of the laboratory work experience must be under the supervision of a certified clinical laboratory scientist or medical technologist, certified clinical laboratory technician, or medical laboratory technician.

(d) The Department shall issue a cytotechnologist license to an individual who meets such qualifications as promulgated by the Department, which shall include successful performance on a national certification examination at the cytotechnologist level authorized by the Department and a baccalaureate degree from an accredited college or university with 20 semester hours of biological science and 8 semester hours of chemical science, and successful completion of an accredited cytology laboratory education program.

(e) The Department shall issue a license to perform clinical laboratory testing for the purpose of detecting the

presence of any scheduled drug to an individual who meets the qualifications promulgated by the Department, by rule.

Section 45. Temporary license.

(a) Licensure applicants who qualify by education, experience, or training, but who have not taken or passed an approved nationally recognized certification examination may be granted a temporary license that will allow the individual to engage in the practice of clinical laboratory science at the appropriate level. The temporary license will be valid for 6 months and can be renewed twice upon failure to pass an approved nationally recognized certification examination.

(b) Internationally trained licensure applicants must have their transcripts evaluated by a transcript evaluation agency acceptable to the Department and submitted directly to the national certifying agency. The evaluation must indicate that the applicant's education is equivalent to that which is required for licensure of U.S. graduates in the level of licensure being sought. Upon submission of proof to the Department of acceptance to sit for the certification examination, the individual may apply for a temporary license in the corresponding category.

Section 50. Waiver of requirements. The Department of Financial and Professional Regulation shall adopt rules providing procedures for waiver of the requirements under Section 40 of this Act for all applicants who hold a valid license or equivalent issued by another state if the requirements under which that license or the equivalent was issued are equivalent to or exceed the standards required by this Act.

Section 55. Licensure application procedures.

(a) Licensure applicants shall submit their application

for licensure to the Department upon the forms prescribed and furnished by the Department and shall pay the designated application fee.

(b) Upon receipt of an application and payment of a fee, the Department shall issue a license for a clinical laboratory scientist or medical technologist, categorical technologist, clinical laboratory technician or medical laboratory technician, or cytotechnologist, to any person who meets the qualifications specified in this Act and the rules adopted pursuant to this Act.

Section 60. Licensure renewal.

(a) A license issued under this Act shall expire 2 years after receipt.

(b) Every person licensed under this Act shall be issued a renewal license upon (i) submission of an application for renewal on a form prescribed by the Department and payment of an appropriate fee determined by the Department and (ii) proof of completion, in the period since the license was first issued or last renewed, of at least 24 hours of continuing education courses, clinics, lectures, training programs, seminars, or other programs related to clinical laboratory practice that are approved or accepted by the Board or proof of recertification by a national accrediting organization that mandates an annual minimum of 12 hours of continuing education.

(c) The Department may require other such evidence of competency as it shall deem reasonably appropriate as a prerequisite to the renewal of any license provided for in this Act, so long as the requirements are uniform as to application, are reasonably related to the measurement of qualification, performance, or competence, and are desirable and necessary for the protection of the public health.

Section 65. Disciplinary grounds.

(a) The Department may refuse to issue or renew or revoke a license, may suspend, place on probation, censure, or reprimand a licensee, or may take such other disciplinary action as the Department may deem appropriate, including the imposition of a civil penalty not to exceed $5,000 for conduct that may result from but not necessarily be limited to any of the following:

(1) A material misstatement in furnishing information to the Department.

(2) A violation or negligent or intentional disregard of this Act or the rules adopted pursuant to this Act.

(3) A conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or a misdemeanor, an essential element of which is dishonesty or of any crime which is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining registration or violating any provision of this Act.

(5) Professional incompetence.

(6) Malpractice.

(7) Failing to provide information in response to a written request made by the Department within 60 days after receipt of the request.

(8) Discipline by another state, territory, or country if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(9) 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.

(10) A finding by the Department that the licensee, after having his license placed on probationary status, has violated the terms of probation.

(11) Wilfully 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.

(12) Violation of any standard of professional conduct adopted by the Department.

(13) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(14) Providing professional services while mentally incompetent or under the influence of alcohol or narcotic or controlled dangerous substance that is in excess of therapeutic amounts or without valid medical indication.

(15) Directly or indirectly contracting to perform clinical laboratory tests in a manner that offers or implies an offer of rebate, fee-splitting inducements or arrangements, or other remuneration.

(16) Aiding or assisting another person in violating any provision of this Act or any rule adopted pursuant to this Act.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. Such suspension will terminate only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the registrant be allowed to resume practice.

(c) The Department may refuse to issue or may suspend the registration of any person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of such tax Act are

satisfied.

Section 70. Injunction; cease and desist order.

(a) If any person violates a provision of the Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining such violation or for an order enforcing compliance with the Act. Upon the filing of a verified petition in such court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating this injunction, the Court may punish the offender for contempt of court. Proceeding under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by the Act.

(b) If any person shall practice as a clinical laboratory practitioner or hold himself out as such without having a valid license required under this Act, then any licensee, any interested party, or any person injured thereby may, in addition to the Secretary, petition for relief as provided in subsection (a) of the Section.

(c) Whenever in the opinion of the Department any person violates any provision of the Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

Section 75. Investigations. The Department may investigate the actions of any applicant or of any person or

persons holding or claiming to hold a license to engage in the practice of clinical laboratory science. Before refusing to issue or renew a license, the Department shall notify in writing the applicant or holder of the nature of the charges and that a hearing will be held on the date designated. Such notice shall be sent at least 10 calendar days prior to the date set for the hearing. Such written notice may be served by personal delivery or certified or registered mail to the respondent at the address of his last notification to the Department. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to the defense thereto. The Board may continue such hearing.

Section 80. Record of proceedings. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or renew a license. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and orders of the Department shall be the record of such proceedings.

Section 85. Compel witnesses. Any circuit court may, upon application of the Department or its designee, or of the applicant or licensee against whom proceedings under Section 70 of the Act are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 90. Findings of fact, conclusions of law, and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary a written report of its findings and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary.

The report of findings of fact, conclusions of law, and recommendations of the Board shall be the basis for the Department's order for refusal or for the granting of a license or for other disciplinary action. If the Secretary disagrees in any regard with the report of the Board, the Secretary may issue an order in contravention thereof. The Secretary shall provide a written report to the Board on any deviation and shall specify with particularity the reasons for such action in the final order. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

Section 95. Motion for rehearing. In any case involving the refusal to issue or renew a license or to discipline a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial the Secretary may enter an order in accordance with recommendations of the Board,

except as provided for in Section 85. If the respondent shall order from the reporting service, and pay for a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

Section 100. Rehearing. Whenever the Secretary is not satisfied that substantial justice has been done in the revocation, suspension or refusal to issue or renew a license, the Secretary may order a rehearing by the same or other examiners.

Section 105. Hearing officer. The Secretary shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action or refusal to issue or renew a license or discipline a licensee. The Secretary shall notify the Board of any such appointment. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his finding of fact, conclusions of law, and recommendations to the Board and the Secretary. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its own findings of fact, conclusions of law and recommendations to the Secretary. If the Board fails to present its report within the 60 day period, the Secretary shall issue an order based on the report of the hearing officer. If the Secretary disagrees in any regard with the report of the Board or hearing officer, he may issue an order in contravention thereof. The Secretary shall provide a written explanation to the Board of any such deviation and shall specify with particularity the reasons for such action in the final order. At least 2 licensed clinical laboratory practitioner members of the Board shall be present at all

formal hearings on the merits of complaints brought under the provisions of this Act.

Section 110. Prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, shall be prima facie proof that:

(1) the signature is the genuine signature of the Secretary;

(2) the Secretary is duly appointed and qualified; and

(3) the Board and its members are qualified to act.

Section 115. Restoration. At any time after the suspension or revocation of any license, the Department may restore the license to the accused person, upon the written recommendation of the Board, unless after an investigation and a hearing, the Board determines that restoration is not in the public interest.

Section 120. Surrender of license. Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license to the Department, and if the licensee fails to do so, the Department shall have the right to seize the license.

Section 125. Temporary suspension. The Secretary may temporarily suspend the license of a clinical laboratory practitioner without a hearing, simultaneously with the institution of proceedings for a hearing as provided in Section 70 of this Act, if the Secretary finds that evidence in his or her possession indicates that a clinical laboratory practitioner's continuation in practice would constitute an imminent danger to the public. In the event that the Secretary suspends temporarily the license of a clinical laboratory practitioner without a hearing, a hearing by the Board must be

held within 30 calendar days after such suspension has occurred.

Section 130. Judicial review. All final administrative decisions of the Department are subject to judicial review pursuant to the provisions of the Administrative Review Law and all rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Administrative Review Law. Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides. If the party is not a resident of this State, the venue shall be in Sangamon County.

Section 135. Certification of record. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be computed at the actual cost per page of such record. Failure on the part of the plaintiff to file such receipt in court shall be grounds for dismissal of the action.

Section 140. Criminal penalties. Any person who is found to have violated any provision of the Act is guilty of a Class A misdemeanor for the first offense, and a Class 4 felony for second and subsequent offenses.

Section 145. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of such Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of The Illinois Administrative Procedure Act, which provides that at hearings

the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of The Illinois Administrative Procedure Act is deemed sufficient when mailed to the last know address of a party.

Section 150. Home rule. The regulation and licensing of clinical laboratory practitioners are exclusive powers and functions of the State. A unit of local government, including home rule units, may not regulate or license clinical laboratory practitioners. This Section is a denial and limitation under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 900. The State Finance Act is amended by adding Sections 5.640 and 5.641 and by changing Section 8h as follows:

(30 ILCS 105/5.640 new)

Sec. 5.640. The Methamphetamine Treatment Fund.

(30 ILCS 105/5.641 new)

Sec. 5.641. The Autism Community-Based Residential Services Fund.

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund.

(a) Except as provided in subsection (b), notwithstanding any other State law to the contrary, the Governor may, through June 30, 2007, from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any

fiscal year shall not exceed the lesser of (i) 8% of the revenues to be deposited into the fund during that fiscal year or (ii) an amount that leaves a remaining fund balance of 25% of the July 1 fund balance of that fiscal year. In fiscal year 2005 only, prior to calculating the July 1, 2004 final balances, the Governor may calculate and direct the State Treasurer with the Comptroller to transfer additional amounts determined by applying the formula authorized in Public Act 93-839 to the funds balances on July 1, 2003. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use, to any funds in the Motor Fuel Tax Fund, the Hospital Provider Fund, the Medicaid Provider Relief Fund, the Methamphetamine Treatment Fund, the Autism Community-Based Residential Services Fund, or the Reviewing Court Alternative Dispute Resolution Fund, or to any funds to which subsection (f) of Section 20-40 of the Nursing and Advanced Practice Nursing Act applies. Notwithstanding any other provision of this Section, for fiscal year 2004, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed the lesser of (i) 5% of the revenues to be deposited into the fund during that fiscal year or (ii) 25% of the beginning balance in the fund. For fiscal year 2005 through fiscal year 2007, no amounts may be transferred under this Section from the Road Fund, the State Construction Account Fund, the Criminal Justice Information Systems Trust Fund, the Wireless Service Emergency Fund, or the Mandatory Arbitration Fund.

In determining the available balance in a fund, the Governor may include receipts, transfers into the fund, and

other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(b) This Section does not apply to any fund established under the Community Senior Services and Resources Act.

(Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674, eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04; 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff. 1-15-05.)

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 999. Effective date. This Act takes effect upon becoming law.".