

FIRST REGULAR SESSION

# SENATE BILL NO. 382

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Read 1st time February 28, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1705S.011

## AN ACT

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

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

Section A. Chapter 324, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 324.1300, 324.1303, 324.1306, 324.1309, 324.1312, 324.1315, 324.1318, 324.1321, 324.1324, 324.1326, 324.1328, 324.1332, 324.1334, 324.1336, 324.1338, and 324.1340 to read as follows:

**324.1300. Sections 324.1300 to 324.1340 shall be known and may be cited as the "Clinical Laboratory Science Practice Act".**

**324.1303. As used in sections 324.1300 to 324.1340, the following terms, unless otherwise indicated within the context, shall mean:**

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

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

**(3) "Categorical laboratory scientist", an individual eligible under sections 324.1300 to 324.1340 to perform the functions of a medical laboratory scientist limited under the individual's license to one or more categories of laboratory testing, such as microbiology, virology, clinical chemistry, immunology, hematology, immunohematology, molecular diagnostics, cytogenetics, stem cell processing, electron microscopy, histocompatibility, cellular immunology, flow cytometry, or other areas specified by the board, under the supervision, control responsibility, and direction of the laboratory director;**

**(4) "CLIA", refers to the final regulations promulgated by the**

18 United States Department of Health and Human Services implementing  
19 the Clinical Laboratory Improvement Amendments of 1988, P.L. 100-578  
20 and 42 CFR 493;

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

23 (6) "Clinical laboratory test", a microbiological, serological,  
24 molecular, chemical, biological, hematological, immunological,  
25 immuno-hematological, cytogenetics, stem cell processing, electron  
26 microscopy, histocompatibility, cellular immunology, flow cytometry,  
27 or any other test or procedure performed on material derived from or  
28 present within a human body which provides information for  
29 diagnosing, preventing, or monitoring treatment of a clinical  
30 condition. Clinical laboratory testing encompasses the pre-analytical,  
31 analytical, and post-analytical phases of testing;

32 (7) "Department", the department of insurance, financial  
33 institutions and professional registration;

34 (8) "Director", the director of the division of professional  
35 registration;

36 (9) "Independent technical judgment", the performance or  
37 conduct of clinical laboratory tests and assumption of responsibility for  
38 determination of the validity of clinical laboratory test results without  
39 intervention by, or the supervision of, another health care provider  
40 authorized by law to assume responsibility for the conduct and validity  
41 of clinical laboratory tests. The authorized exercise of independent  
42 technical judgment, as it pertains to clinical laboratory personnel, shall  
43 not be deemed to include or permit the exercise of independent medical  
44 judgment in diagnosing or treating patients, except as authorized in  
45 accordance with CLIA;

46 (10) "Laboratory director", an individual eligible under CLIA to  
47 direct a clinical laboratory;

48 (11) "Medical laboratory scientist", an individual eligible under  
49 sections 324.1300 to 324.1340, to perform any clinical laboratory test,  
50 including those that require the exercise of independent technical  
51 judgment, subject to the supervision, control, responsibility, and  
52 direction of the laboratory director. In addition, this individual is  
53 responsible for, with oversight by the laboratory director, the  
54 establishment and implementation of protocols, quality assessment,

55 method development and selection, equipment selection and  
56 maintenance, and all activities related to the pre-analytic, analytic, and  
57 post-analytic phases of testing. The medical laboratory scientist may  
58 also direct, supervise, consult, educate, and perform research functions;

59 (12) "Medical laboratory technician", an individual eligible under  
60 sections 324.1300 to 324.1340, who is qualified to perform clinical  
61 laboratory tests in accordance with established and approved protocols  
62 with oversight from a medical laboratory scientist, and under the  
63 supervision, control, responsibility, and direction of the laboratory  
64 director;

65 (13) "Phlebotomist", an individual responsible for obtaining a  
66 blood specimen by venipuncture or capillary puncture according to  
67 established and approved protocols and also qualified to perform  
68 waived or point-of-care testing under the direction of a medical  
69 laboratory scientist, clinical laboratory technician, laboratory  
70 supervisor, or laboratory director;

71 (14) "Point-of-care testing", clinical laboratory testing that is  
72 critical to patient care and must be performed immediately at the  
73 patient's location. Tests which meet this definition provide clinically  
74 relevant information which determines the patient's therapy, are  
75 limited to procedures that produce accurate data within a short period  
76 of time, meet the current standards of quality in clinical laboratory  
77 science, and comply with all standards of accrediting agencies. Point-  
78 of-care testing shall be under the direction, authority, jurisdiction, and  
79 responsibility of a person licensed under sections 324.1300 to 324.1340;

80 (15) "Temporary license", a license issued to an applicant eligible  
81 to sit for, and registered to take, an approved national certification  
82 examination, or who has taken the examination and is awaiting the  
83 results, or an applicant who meets the educational requirements for the  
84 license and is seeking to qualify for the certification examination by  
85 completing the supervised clinical laboratory experience requirements;

86 (16) "Trainee", an individual who is working towards, but has not  
87 fulfilled the educational or training requirements under sections  
88 324.1300 to 324.1340, or necessary to qualify to take an approved  
89 nationally recognized certification examination, if such examination is  
90 required;

91 (17) "Waived", "provider performed microscopy", "moderate

92 **complexity", and "high complexity", the categories of clinical laboratory**  
93 **test complexity as defined by CLIA.**

**324.1306. Sections 324.1300 to 324.1340 do not apply to:**

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

5 **(2) Individuals holding a doctorate in chemical, physical, or**  
6 **biological sciences or medicine and board certified as defined by CLIA;**

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

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

13 **(5) Students or trainees enrolled in an accredited clinical**  
14 **laboratory science education program, provided that their activities**  
15 **constitute a part of a planned course in the program, that the**  
16 **individuals are designated by title as trainee or student, and that the**  
17 **individuals work under the direct supervision of a duly licensed**  
18 **clinical laboratory practitioner who is responsible for reporting test**  
19 **results;**

20 **(6) Individuals performing only waived testing in an institution**  
21 **meeting current CLIA regulations;**

22 **(7) A licensed physician or laboratory director; and**

23 **(8) Pathologist assistants, histotechnologists, histotechnicians,**  
24 **and cytotechnologists that are qualified or otherwise allowed to**  
25 **perform these functions in accordance with CLIA, provided that**  
26 **nothing in sections 324.1300 to 324.1340 shall be construed as a**  
27 **limitation on the scope of work permitted under CLIA for qualified**  
28 **cytotechnologists.**

**324.1309. 1. Any person who holds a license under sections**  
2 **324.1300 to 324.1340 may use the titles "medical laboratory scientist",**  
3 **"categorical laboratory scientist", "medical laboratory technician", or**  
4 **"phlebotomist". No other person may use such titles or shall assume any**  
5 **title or use any abbreviation or any other words, letters, signs, or**  
6 **devices to indicate that the person using the same is a medical**  
7 **laboratory scientist, categorical laboratory scientist, medical**

8 laboratory technician, or a phlebotomist.

9           2. No person shall practice or offer to practice within the scope  
10 of practice of licensees under sections 324.1300 to 324.1340 for  
11 compensation or use any title, sign, abbreviation, card, or device to  
12 indicate that such person is practicing unless he or she has been duly  
13 licensed under the provisions of sections 324.1300 to 324.1340.

          324.1312. 1. There is hereby created within the division of  
2 professional registration, the "Clinical Laboratory Science Board"  
3 which shall guide, advise, and make recommendations to the division  
4 and fulfill other responsibilities designated by sections 324.1300 to  
5 324.1340. The board shall approve the examinations required by, and  
6 shall assist the division in carrying out the provisions of, sections  
7 324.1300 to 324.1340.

8           2. The board shall consist of nine members, including one public  
9 member, appointed by the governor with the advice and consent of the  
10 senate. Each member of the board shall be a citizen of the United  
11 States, a resident of this state for at least one year and a registered  
12 voter. Except for the public member, board membership shall consist  
13 of two physicians who are laboratory directors, one non-physician  
14 laboratory director, three medical laboratory scientists, and two  
15 medical laboratory technicians. Members shall serve on the board until  
16 a successor is appointed by the governor. The membership of the board  
17 shall reflect the differences in work experience and levels of education  
18 with consideration being given to race, gender, and ethnic origins.

19           3. Beginning with the appointments made after August 28, 2011,  
20 three members shall be appointed for four years, three members shall  
21 be appointed for three years, and three members shall be appointed for  
22 two years. Thereafter, all members shall be appointed to serve four-  
23 year terms.

24           4. A vacancy in the office of a member shall be filled by  
25 appointment by the governor for the remainder of the unexpired term.

26           5. The board shall hold an annual meeting at which it shall elect  
27 from its membership a chairperson and vice chairperson. The board  
28 may hold such additional meetings as may be required in the  
29 performance of its duties. A quorum of the board shall consist of a  
30 majority of its members.

31           6. The governor may remove a board member for misconduct,

32 incompetence or neglect of official duties after giving the board  
33 member written notice of the charges and allowing the board member  
34 an opportunity to be heard. Members can also be terminated for the  
35 following reasons: change of legal residence by moving out of the state;  
36 missing three consecutive meetings; or having their professional license  
37 revoked or suspended.

38         7. The public member shall at the time of appointment, not have  
39 been a member of any profession licensed or regulated under sections  
40 324.1300 to 324.1340 or an immediate family member of such a person;  
41 and may not have had a material financial interest in either the  
42 providing of any service governed by sections 324.1300 to 324.1340 or  
43 in an activity or organization directly related to any profession  
44 licensed or regulated by sections 324.1300 to 324.1340. The duties of the  
45 public member shall not include any determination of the technical  
46 requirements to be met for licensure, whether a candidate for licensure  
47 meets such technical requirements, or of the technical competence or  
48 technical judgment of a licensee or a candidate for licensure.

49         8. Notwithstanding any other provision of law to the contrary,  
50 any appointed member of the board shall receive as compensation an  
51 amount established by the director of the division of professional  
52 registration not to exceed seventy dollars per day for commission  
53 business plus actual and necessary expenses.

54         9. The board shall keep records of its official acts, and certified  
55 copies of any such records attested by a designee of the board shall be  
56 received as evidence in all courts to the same extent as the board's  
57 original records would be received.

58         10. All funds received by the board under the provisions of  
59 sections 324.1300 to 324.1340 shall be collected by the director who shall  
60 transmit the funds to the department of revenue for deposit in the state  
61 treasury to the credit of the "Clinical Laboratory Science Fund" which  
62 is hereby created. The state treasurer shall be custodian of the fund  
63 and may approve disbursements from the fund in accordance with  
64 sections 30.170 and 30.180. Upon appropriation, money in the fund  
65 shall be used solely for the administration of sections 324.1300 to  
66 324.1340. Notwithstanding the provisions of section 33.080 to the  
67 contrary, money in this fund shall not be transferred and placed to the  
68 credit of general revenue until the amount in the fund at the end of the

69 biennium exceeds three times the amount of the appropriation from the  
70 fund for the preceding fiscal year. The state treasurer shall invest  
71 moneys in the fund in the same manner as other funds are  
72 invested. Any interest and moneys earned on such investments shall be  
73 credited to the fund.

324.1315. 1. The board is authorized to promulgate rules and  
2 regulations regarding:

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

5 (2) The content, conduct, and administration of the licensing  
6 examinations required by sections 324.1300 to 324.1340;

7 (3) Educational or experience requirements for licensure only to  
8 the extent that sections 324.1300 to 324.1340 expressly provides for  
9 board adoption of such requirements;

10 (4) The standards and methods to be used in assessing  
11 competency as a medical laboratory scientist, categorical laboratory  
12 scientist, medical laboratory technician, or a phlebotomist only to the  
13 extent that sections 324.1300 to 324.1340 expressly provides for board  
14 adoption of such standards and methods;

15 (5) All applicable fees, set at a level to produce revenue which  
16 shall not exceed the cost and expense of administering the provisions  
17 of sections 324.1300 to 324.1340;

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

20 2. Any rule or portion of a rule, as that term is defined in section  
21 536.010, that is created under the authority delegated in this section  
22 shall become effective only if it complies with and is subject to all of  
23 the provisions of chapter 536, and, if applicable, section 536.028. This  
24 section and chapter 536, are nonseverable and if any of the powers  
25 vested with the general assembly under chapter 536 to review, to delay  
26 the effective date, or to disapprove and annul a rule are subsequently  
27 held unconstitutional, then the grant of rulemaking authority and any  
28 rule proposed or adopted after August 28, 2011, shall be invalid and  
29 void.

324.1318. The division shall:

2 (1) Employ, within the funds appropriated, any such employees,  
3 as defined in section 620.010 that are necessary to carry out the

4 provisions of sections 324.1300 to 324.1340; and

5 (2) Exercise all budgeting, purchasing, reporting, and other  
6 related management functions.

324.1321. 1. Any applicant for a license under sections 324.1300  
2 to 324.1340 shall authorize the board to conduct a criminal background  
3 check.

4 2. The cost of such background check shall be paid by the  
5 applicant.

324.1324. 1. Applications for licensure as a medical laboratory  
2 scientist, categorical laboratory scientist, medical laboratory  
3 technician, and phlebotomist shall be in writing, submitted on forms  
4 prescribed by the board and furnished to the applicant. Each  
5 application shall contain a statement that it is made under oath or  
6 affirmation and that the information contained therein is true and  
7 correct to the best knowledge and belief of the applicant, subject to the  
8 penalties provided for the making of a false affidavit or  
9 declaration. Each application shall be accompanied by the fees  
10 required by the board.

11 2. An applicant for licensure under subsection 1 of this section  
12 shall be at least 18 years of age.

13 3. Each applicant shall furnish evidence to the board of the  
14 applicant's education, experience, and such other information as the  
15 board may require.

16 4. Licenses shall be awarded to applicants as follows:

17 (1) The board shall issue a medical laboratory scientist's license  
18 to an individual who possesses a baccalaureate degree from a  
19 regionally accredited college or university, has acceptable clinical  
20 laboratory experience or training, and passes a nationally recognized  
21 certification examination authorized by the board;

22 (2) The board shall issue a categorical laboratory scientist's  
23 license to an individual who possesses a baccalaureate degree from a  
24 regionally accredited college or university, has acceptable clinical  
25 laboratory experience or training, and passes a nationally recognized  
26 certification examination in a recognized discipline of laboratory  
27 science authorized by the board, if such a certification examination  
28 exists for that discipline. The laboratory discipline will be specified on  
29 the license;

30           **(3) The board shall issue a medical laboratory technician's**  
31 **license to an individual who possesses an associate degree from a**  
32 **regionally accredited college or university, has acceptable laboratory**  
33 **experience or training or equivalent training and experience in the**  
34 **United States armed forces, and passes a nationally recognized**  
35 **certification examination authorized by the board;**

36           **(4) The board shall issue a phlebotomist's license to an**  
37 **individual who possesses a high school diploma or equivalent, has**  
38 **acceptable experience or training, and passes a nationally recognized**  
39 **certification examination authorized by the board.**

40           **5. The board shall issue a temporary license to practice without**  
41 **examination to an applicant who has duly become licensed in any**  
42 **profession to practice within the scope of practice of licensees under**  
43 **sections 324.1300 to 324.1340 pursuant to the laws of another state,**  
44 **territory, or foreign country, if the applicant meets the qualifications**  
45 **required of such licensee in this state at the time the applicant was**  
46 **originally licensed in the other state, territory, or foreign**  
47 **country. Temporary licenses may be issued to an applicant who is**  
48 **eligible to sit for and registered to take the next scheduled certification**  
49 **examination, who has taken the examination and is awaiting the**  
50 **results, or who is seeking to qualify for the certification examination**  
51 **by completing the supervised clinical laboratory experience required**  
52 **if the applicant meets the education requirements for licensure.**

**324.1326. 1. All persons collecting blood specimens, processing**  
2 **laboratory specimens, performing, or reporting laboratory tests or**  
3 **consulting regarding clinical laboratory tests, or currently practicing**  
4 **as clinical laboratory practitioners on December 26, 2011, who are**  
5 **certified by or eligible for certification by an agency acceptable to the**  
6 **board, and who have applied to the board on or before December 26,**  
7 **2011, and have complied with all necessary requirements for such**  
8 **application may continue to perform the duties until the expiration of**  
9 **twelve months after the filing of such application, the denial of the**  
10 **application by the board, or the withdrawal of the application,**  
11 **whichever occurs first.**

12           **2. Persons not meeting the education, training, and experience**  
13 **qualifications for any license described in sections 324.1300 to 324.1332**  
14 **prior to August 28, 2013, shall be considered to have met the**

15 qualifications provided they have three years of acceptable experience  
16 at the professional level for which licensure is sought during the five-  
17 year period immediately prior to August 28, 2011, and submit to the  
18 board the job description of the position which the applicant has most  
19 recently performed, attested to by his or her employer. The board shall  
20 determine the type of license for which the applicant is eligible.

21 3. Effective August 28, 2013, no initial license shall be issued  
22 until an applicant meets all of the requirements under sections 324.1300  
23 to 324.1340 and successfully passes a board approved certification  
24 examination. This section does not apply to temporary licenses.

324.1328. 1. The division shall mail a renewal notice to the last  
2 known address of each licensee prior to the renewal date. Failure to  
3 receive this notice does not relieve the licensee of the obligation to  
4 renew the license to practice.

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

324.1332. 1. A licensee may ask to be put on inactive status,  
2 provided such person does not practice during such period that the  
3 practitioner is on inactive status. If the person desires to maintain  
4 such license on an inactive status and in order to avoid lapsing of such  
5 license, the person shall pay the required fee as established by the  
6 board for maintaining an inactive license. An inactive license shall be  
7 renewed biennially. An inactive license may be reactivated by the  
8 board as provided by rule.

9 2. Any person who practices as a medical laboratory scientist,  
10 categorical laboratory scientist, medical laboratory technician, or a  
11 phlebotomist during the time his or her license is inactive or lapsed  
12 shall be considered an illegal practitioner and shall be subject to the  
13 penalties for violation of sections 324.1300 to 324.1340.

324.1334. 1. The board may refuse to issue any license or renew  
2 any license required by the provisions of sections 324.1300 to 324.1340  
3 for one or any combination of reasons stated in subsection 2 of this  
4 section. The board shall notify the applicant in writing of the reasons  
5 for the refusal and shall advise the applicant of the right to file a  
6 complaint with the administrative hearing commission as provided in  
7 chapter 621.

8           **2. The board may cause a complaint to be filed with the**  
9 **administrative hearing commission as provided in chapter 621 against**  
10 **the holder of any license required by sections 324.1300 to 324.1340 or**  
11 **any person who has failed to renew or has surrendered the person's**  
12 **license for anyone or any combination of the following causes:**

13           **(1) Use of fraud, deception, misrepresentation, or bribery in**  
14 **securing a license issued pursuant to the provisions of sections**  
15 **324.1300 to 324.1340;**

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

18           **(3) Disciplinary action against the holder of a license or other**  
19 **right to practice any profession within the scope of practice of**  
20 **licensees under sections 324.1300 to 324.1340 by another state, territory,**  
21 **federal agency or country upon grounds for which revocation or**  
22 **suspension is authorized in this state;**

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

24           **(5) The person has committed any criminal offense, whether or**  
25 **not a criminal charge has been filed:**

26           **(a) For any offense committed during the course of the practice**  
27 **of the profession;**

28           **(b) For any offense reasonably related to the qualifications,**  
29 **functions, or duties of the profession;**

30           **(c) For any offense an essential element of which is fraud,**  
31 **dishonesty, or act of violence; or**

32           **(d) For any offense involving moral turpitude;**

33           **(6) Incompetence, misconduct, fraud, misrepresentation, or**  
34 **dishonesty in the performance of the functions or duties of the**  
35 **profession that is regulated by sections 324.1300 to 324.1340;**

36           **(7) Violation of, or assisting or enabling any person to violate,**  
37 **any provision of sections 324.1300 to 324.1340, or any lawful rule or**  
38 **regulation adopted under such sections;**

39           **(8) A person is finally adjudged insane or incompetent by a court**  
40 **of competent jurisdiction;**

41           **(9) Use of any advertisement or solicitation that is false,**  
42 **misleading, or deceptive to the general public or persons to whom the**  
43 **advertisement or solicitation is primarily directed;**

44           **(10) Obtaining or attempting to obtain any fee, charge, tuition,**

45 or other compensation by fraud, deception, or misrepresentation;

46 (11) Unlawful use or unlawful possession of any controlled  
47 substance, as defined in chapter 195, or use of alcoholic beverages to  
48 an extent that such use impairs a person's ability to perform the work  
49 of any profession that is licensed or regulated by sections 324.1300 to  
50 324.1340;

51 (12) Violation of any professional trust or confidence;

52 (13) Failing, within sixty days, to provide information in  
53 response to a written request made by the board;

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

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

61 (16) Engaging in dishonorable, unethical, or unprofessional  
62 conduct of a character likely to deceive, defraud, or harm the public;

63 (17) Directly or indirectly contracting to perform clinical  
64 laboratory tests in a manner which offers or implies an offer of rebate  
65 or fee-splitting inducements or arrangements.

66 3. Any person, organization, association, or corporation who  
67 reports or provides information to the board in compliance with the  
68 provisions of sections 324.1300 to 324.1340 and who does so in good  
69 faith shall not be subject to an action for civil damages as a result  
70 thereof.

71 4. After the filing of a complaint under subsection 2 of this  
72 section, the proceedings shall be conducted in accordance with the  
73 provisions of chapter 621. Upon a finding by the administrative  
74 hearing commission that the grounds, provided in subsection 2 of this  
75 section, for disciplinary action are met, the board may, singly or in  
76 combination, censure or place the person named in the complaint on  
77 probation on such terms and conditions as the board deems  
78 appropriate for a period not to exceed five years, or may suspend, for  
79 a period not to exceed three years, or revoke the license of the person.  
80 An individual whose license has been revoked shall wait three years  
81 from the date of revocation to apply for relicensure. Relicensure shall

82 be at the discretion of the board after compliance with all requirements  
83 of sections 324.1300 to 324.1340 relative to the licensing of an applicant  
84 for the first time.

85 5. The board shall maintain an information file containing each  
86 complaint filed with the board relating to a holder of a license.

87 6. The board shall recommend for prosecution violations of  
88 sections 324.1300 to 324.1340 to an appropriate prosecuting or circuit  
89 attorney.

324.1336. 1. Upon proper application by the board, a court of  
2 competent jurisdiction may grant an injunction, restraining order, or  
3 other order as may be appropriate to enjoin a person from:

4 (1) Offering to engage or engaging in the performance of any acts  
5 or practices for which a certificate of registration or authority, permit  
6 or license is required by sections 324.1300 to 324.1340 upon a showing  
7 that such acts or practices were performed or offered to be performed  
8 without a certificate of registration or authority, permit, or license; or

9 (2) Engaging in any practice or business authorized by a  
10 certificate of registration or authority, permit, or license issued under  
11 sections 324.1300 to 324.1340 upon a showing that the holder presents  
12 a probability of serious danger to the health, safety, or welfare of any  
13 resident of the state or client or patient.

14 2. Any such actions shall be commenced either in the county in  
15 which such conduct occurred or in the county in which defendant  
16 resides.

17 3. Any action brought under this section shall be in addition and  
18 not in lieu of any penalty provided by law and may be brought  
19 concurrently with other actions to enforce sections 324.1300 to 324.1340.

324.1338. Any person who violates any provision of sections  
2 324.1300 to 324.1340 shall be guilty of a class A misdemeanor.

324.1340. 1. The chairperson of the board may administer oaths,  
2 issue subpoenas duces tecum, and require production of documents and  
3 records. Subpoenas duces tecum shall be served by a person  
4 authorized to serve subpoenas of courts of record. In lieu of requiring  
5 attendance of a person to produce original documents in response to a  
6 subpoena duces tecum, the board may require sworn copies of such  
7 documents to be filed with it or delivered to its designated  
8 representative.

9           2. The board may enforce its subpoenas duces tecum by applying  
10 to a circuit court of Cole County, the county of the investigation,  
11 hearing or proceeding, or any county where the person resides or may  
12 be found, for an order upon any person who shall fail to comply with  
13 a subpoena duces tecum to show cause why such subpoena should not  
14 be enforced, which such order and a copy of the application therefore  
15 shall be served upon the person in the same manner as a summons in  
16 a civil action, and if the circuit court shall, after a hearing, determine  
17 that the subpoena duces tecum should be sustained and enforced, such  
18 court shall proceed to enforce the subpoena duces tecum in the same  
19 manner as though the subpoena duces tecum had been issued in a civil  
20 case in the circuit court.

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