**South Carolina General Assembly**

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**H. 3489**

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Summary: Medical Laboratory Personnel Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[2/5/2013](file:///p:\pprever\2013-14\3489_20130205.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 48 TO TITLE 40 SO AS TO ENACT THE “MEDICAL LABORATORY PERSONNEL ACT”, TO PROVIDE FOR THE REGULATION OF CERTAIN MEDICAL LABORATORY PERSONNEL BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO CREATE A BOARD OF CLINICAL LABORATORY SCIENCE UNDER THE DEPARTMENT, AND TO PROVIDE FOR THE PURPOSE, COMPOSITION, FUNCTIONS, AND DUTIES OF THE BOARD, TO PROVIDE APPLICABLE DEFINITIONS, TO PROVIDE LICENSURE AND CONTINUING EDUCATION REQUIREMENTS, AND TO PROVIDE DISCIPLINARY PROCEDURES, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 48

Medical Laboratory Personnel Act

Section 40‑48‑110. This chapter may be cited as the ‘Medical Laboratory Personnel Act’.

Section 40‑48‑120. The purpose of this chapter is to protect the public health, safety, and welfare of the people of this State from the hazards of inappropriate collection of specimens and improper performance and reporting of test results by medical laboratory personnel. Medical laboratories provide essential services to practitioners of the healing arts by furnishing vital information that is necessary to the determination of the nature, cause and extent of the condition involved and the monitoring of therapy. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of medical laboratory personnel who meet minimum educational and training requirements for safe practice. Adherence to practice standards and demonstration of continuing competence through documented continuing education is imperative for medical laboratory personnel as medical laboratory technology advances.

Section 40‑48‑130. (A) There is created the Board of Clinical Laboratory Science under the Department of Labor, Licensing and Regulation. The purpose of the board is regulate professionals who perform clinical laboratory testing as provided in this chapter.

(B)(1) The board consists of seven members composed as follows:

(a) two board‑certified pathologists licensed in this State;

(b) one nonphysician laboratory director;

(c) two medical laboratory scientists/medical technologists qualified under the provisions of this chapter;

(d) one medical laboratory technician qualified under the provisions of this chapter; and

(e) one member of the general public.

(C) The Governor shall appoint members of the board from people recommended by the South Carolina chapters of the American Society of Clinical Laboratory Science and American Medical Technologists, or their successors.

(D) A board member must serve a term of two years and until his successor is appointed and qualified.

(E) A vacancy on the board must be filled in the manner of appointment and for the position vacated.

(F) A member may serve no more than two consecutive terms.

(G) A board member is not entitled to compensation but is entitled to per diem, mileage, and expenses allowed for boards and commissions.

Section 40‑48‑140. For the purposes of this chapter:

(1) ‘Board’ means the South Carolina Board of Clinical Laboratory Science.

(2) ‘Categorical medical laboratory scientist’ or ‘categorical medical technologist’ means a person who performs the functions of a medical laboratory scientist but is limited under the person’s national certification to perform any categories of laboratory testing including microbiology, clinical chemistry, hematology, blood banking, molecular biology, cytogenetics, or other areas specified by the board, under the supervision, control, responsibility and direction of the laboratory director. This person has been certified in only one or more areas by a national certification agency and therefore can perform testing and procedures related to just that specialty.

(3) ‘Clinical Laboratory Improvement Amendments of 1988’ or ‘CLIA’ is found in 42 C.F.R. 493 and P.L. 100‑578, and means federal regulatory standards that apply to all clinical laboratory testing performed on humans in the United States except for clinical trials and research. These standards concern the issuance of certificates for clinical laboratory testing and other standards to ensure the accuracy, reliability and timeliness of test results regardless of where the test was performed.

(4) ‘Clinical laboratory test’ or ‘laboratory test’ means a microbiological, serological, molecular, chemical, biological, hematological, immunological, immunohematological, cytogenics, stem cell processing, electron microscopy, histocompatibility, cellular immunology, flow cytometry, or any other test or procedure performed on material derived from or present within a human body that provides information for the diagnosis, prevention, or monitoring treatment of a clinical condition. Clinical laboratory testing encompasses the preanalytical, analytical, and postanalytical phases of testing.

(5) ‘Continuing education’ means an organized educational program designed to expand a person’s knowledge base beyond the basic entry‑level educational requirements for medical laboratory personnel. Course content must relate to health care whether the subject is research, treatment, documentation, education, or management.

(6) ‘Department’ means the Department of Labor, Licensing and Regulation.

(7) ‘Direct supervision’ means the medical laboratory scientist, medical laboratory technician, laboratory supervisor, or laboratory director personally authorizes the procedure, duty, and tests to be performed and remains in the laboratory while the procedure, duty, and tests are being performed and reviews the test results.

(8) ‘Independent technical judgment’ means the performance of clinical laboratory tests and assumption of responsibility for the determination of the validity of clinical laboratory test results without intervention by or the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests. This means a procedure, duty or test is not subject to review, upon completion, by a supervisor. Pertaining to clinical laboratory personnel, the authorized exercise of independent judgment must not be considered to include or permit the exercise of independent medical judgment in the diagnosis of or treatment of patients except as authorized in accordance with CLIA.

(9) ‘Independent medical judgment’ means in the laboratory, the performance of only board­certified pathologists to make independent medical judgment in the diagnosis and treatment decisions related to clinical laboratory tests.

(10) ‘Laboratory Director’ is a person eligible under CLIA to direct a medical laboratory.

(11) ‘Medical laboratory’ or ‘clinical laboratory’ means any site or location in which clinical laboratory tests or examinations are performed. These examinations include, but are not limited to, procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the human body. A facility that only collects specimens, prepares specimens, or both, or only serves as a mailing service and does not perform on‑site testing is not a medical laboratory.

(12) ‘Medical laboratory practitioner’ or ‘clinical laboratory personnel’ or ‘medical laboratory personnel’ means a person engaged in the practice of clinical laboratory science which includes a health care professional who performs clinical laboratory tests or who is engaged in management or education in clinical laboratory science, and includes laboratory directors, supervisors, medical laboratory scientists/medical technologists, and medical laboratory technicians working in a clinical laboratory. This does not include board‑certified medical physicians and persons employed by a clinical laboratory to perform supportive functions not related to direct performance of laboratory tests.

(13) ‘Medical laboratory scientist’ or ‘MLS’ or ‘medical technologist’ or ‘MT’ or ‘clinical laboratory scientist’ or ‘CLS’ means a person who performs medical laboratory tests and procedures in a clinical laboratory setting which require the exercise of independent technical judgment and responsibility, including, but not limited to, the performance of all laboratory tests as stated in CLIA and the rules and regulations promulgated pursuant to CLIA, subject to the supervision, control, responsibility and direction of the laboratory director. A medical laboratory scientist may maintain equipment and records, establish and implement protocols, select or develop test methodology, and perform quality assurance activities related to test performance, and is responsible for, with oversight by the laboratory director, the establishment and implementation of protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic phases of testing. A medical laboratory scientist also may direct, supervise, consult, educate, and perform research functions.

(14) ‘Medical laboratory technician’ or ‘MLT’ means a person who performs medical laboratory tests pursuant to established and approved protocols:

(a) with oversight from a medical laboratory scientist;

(b) under the supervision, control, responsibility, and direction of the laboratory director; or

(c) both.

(15) ‘Moral turpitude’ means conduct contrary to acceptable behavior and to community standards of justice, honesty, or good morals.

(16) ‘National certification’ means a competency‑based certification awarded to a person who meets educational and training requirements and who passes the appropriate examination that is administered by a national nonprofit credentialing agency such as American Society for Clinical Pathology Board of Certification and American Medical Technologists (AMT).

(17) ‘Phlebotomy technician’ or ‘clinical laboratory assistant’ also known as ‘phlebotomist’ or ‘donor phlebotomy technician’ means a person who performs an invasive procedure to withdraw blood from the human body by venipuncture or capillary puncture according to established and approved protocols to collect samples including blood donations, and to perform specimen processing and preparation of samples for testing.

(18) ‘Student’ or ‘trainee’ means a person having qualifying education and who is enrolled in a National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) accredited clinical laboratory training program. Trainees may perform procedures under direct supervision of licensed medical laboratory practitioners.

(19) ‘Temporary license’ means a license issued to an applicant eligible to sit for a national certification examination.

(20) ‘Waived test’ means a laboratory examination or procedure as determined by the United States Food and Drug Administration to have an insignificant risk of an erroneous result, including those which have been approved by the administration for home use. These tests employ methodologies intended through simplicity and accuracy to render the likelihood of erroneous results negligible or pose no reasonable risk of harm to a patient if performed incorrectly.

Section 40‑48‑150. The provisions of this chapter do not apply to:

(1) a nonprofit laboratory operated and maintained exclusively for instruction and research involving no individual patient or public health care service, provided the results of any examination performed in such a clinical laboratory are not used directly in the diagnosis, evaluation, or treatment of human disease or disorder;

(2) a board‑certified physician licensed by the department;

(3) a person who holds a doctorate in chemical science, physical science, biological science, or medicine;

(4) a laboratory director;

(5) other licensed or registered health care professional performing functions within his scope of practice, including:

(a) a clinical perfusionist in the support, treatment, measurement, or supplementation of cardiopulmonary and circulatory system of a patient;

(b) a pulmonary function technician in the practice of respiratory therapy; and

(c) a person whose scope of practice includes:

(i) blood collection; or

(ii) the performance of waived or provider‑performed microscopy testing as defined by CLIA;

(6) a person who exclusively performs waived testing in an institution that complies with CLIA;

(7) a pathologist assistant, histotechnologist, histotechnician, cytogenetic technologist, molecular genetics technologist, cytotechnologist, or cytotechnician who is qualified or otherwise allowed to perform these functions pursuant to CLIA;

(8) a person engaged in the education of a medical laboratory science professional in a college or university setting or in research, provided that the results of an examination performed in the course of this education may not be used in health maintenance, diagnosis, or treatment of disease;

(9) a person whose duties include:

(a) demonstrating, instructing, or both, the development of assays or management‑related activities in the clinical laboratory; and

(b) using any automated or digital instrument, device, machine, or similar mechanical equipment and related procedures used to assist in the practice of clinical laboratory science, provided the results furnished by such equipment during such a demonstration or instruction are not used in the diagnosis, evaluation, or treatment of human disease or disorder;

(10) a student or trainee enrolled in a clinical laboratory science educational program accredited by the National Accrediting Agency for Clinical Laboratory Sciences, provided that the:

(a) activities performed by the student or trainee constitute a part of a planned course in the program;

(b) student or trainee is clearly designated as intern, trainee, or student; and

(c) student or trainee is directly supervised by a person licensed under this chapter to practice clinical laboratory science;

(11) a person who performs forensic testing and examination of body fluids, tissues, cells, or blood solely for the purpose of law enforcement in the criminal justice system of this State or a political subdivision of this State;

(12) a person who performs clinical laboratory testing within a physician’s office laboratory;

(13) a phlebotomy technician performing blood collection or waived testing; or

(14) a person who performs clinical laboratory testing for which the primary specimen for testing is from animal origin but is not human.

Section 40‑48‑160. (A) A medical laboratory practitioner licensed under this chapter may collect human blood specimens for clinical laboratory testing or perform clinical laboratory tests and provide test results to physicians and patients upon request or upon physician referral in accordance with CLIA.

(B) The practice of clinical laboratory science includes, but is not limited to:

(1) test data production;

(2) monitoring the accuracy, precision, and utility of laboratory testing;

(3) analytical correlation and interpretation of test data; and

(4) design, evaluation, and implementation of new laboratory test methods.

(C) The services provided by medical laboratory practitioners must be consistent with good practice and sound professional ethics.

(D) The practice of clinical laboratory science does not include the exercise of independent medical judgment performed by pathologists in diagnosis and treatment decisions related to clinical laboratory tests.

Section 40‑48‑170. (A) A person who is not licensed under the provisions of this chapter may not perform nonwaived clinical laboratory tests or hold himself out as a medical laboratory scientist/medical technologist, categorical medical laboratory scientist/medical technologist, medical laboratory technician, or use the designations ‘MLS’, ‘MT’, ‘MLT’, or any other letters, words, or insignia to indicate that they are a medical laboratory scientist/medical technologist, categorical medical laboratory scientist/medical technologist, or medical laboratory technician.

(B) A person may not knowingly employ a medical laboratory practitioner or designate as a medical laboratory practitioner one who is not licensed under the provisions of this chapter unless the employee is exempt.

Section 40‑48‑180. (A) A person is eligible for licensure as a medical laboratory scientist if he applies to the board for this licensure and demonstrates that he:

(1) possesses a baccalaureate degree from a regionally accredited college or university, or an equivalent international degree as certified by a foreign transcript evaluation agency approved by the board;

(2) has acceptable clinical laboratory experience or training to be eligible for certification as a medical laboratory scientist or medical technologist;

(3) has passed a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, American Medical Technologists, or their respective successor organizations at the medical laboratory science level; and

(4) satisfies continuing education requirements and other continued competency requirements of the certifying organization.

(B) A person is eligible for licensure as a categorical medical laboratory scientist if he applies to the board for this licensure and demonstrates that he:

(1) possesses a baccalaureate degree from a regionally accredited college or university, or an equivalent international degree as certified by a foreign transcript evaluation agency approved by the board;

(2) has acceptable clinical laboratory experience or training to be certification eligible as a categorical medical laboratory scientist;

(3) has passed a nationally recognized certification examination in a recognized discipline of laboratory science administered by the American Society for Clinical Pathology Board of Certification, the American Medical Technologists, or a successor of them; and

(4) satisfies continuing education requirements and other continued competency requirements of the certifying organization.

(C) In addition to the provisions of subsections (A) and (B), a person who obtains the required minimum education requirements and is nationally certified by one of the appropriate national certification agencies described in this section and is considered to have otherwise met qualifications for licensure established by the board in this chapter may be licensed at the appropriate level for a medical laboratory scientist or medical laboratory technician.

Section 40‑48‑190. (A) The board shall waive the national certification requirement of this chapter and grant licensure to an applicant who does not meet the national certification requirement if he:

(1) applies for licensure within twenty‑four months after the effective date of this chapter;

(2) is employed on the effective date of this chapter by a health care facility in this State in a position for which he is seeking licensure; and

(3) otherwise complies with regulations of the board relating to moral turpitude.

(B) Effective twenty‑four months after the effective date of this chapter, the board may not issue an initial license to an applicant who is not otherwise exempt from the provisions of this chapter until he meets all requirements of this chapter.

(C) An applicant who performs the duties of a licensee without having been licensed by the board and who is not exempt from licensure requirements of this chapter may continue to perform those duties if he has applied for licensure before the effective date of this chapter and has complied with all necessary requirements for licensure under this chapter, provided he only may continue to perform the duties until:

(1) twelve months have lapsed from the filing of his application;

(2) the board denies his application; or

(3) he withdraws his application.

Section 40‑48‑200. (A) The board may grant a temporary license to an applicant who is eligible for national certification by having met appropriate education and training requirements but who has not successfully passed an approved certification examination upon conclusion of education or training that will allow him to engage in the practice of clinical laboratory science at the appropriate level. A temporary license granted under this subsection is valid for six months and may be renewed once for an additional three months. The board must approve an exception to this subsection.

(B) The board may grant a temporary license to an applicant who must complete clinical experience to qualify if the applicant submits documentation that the applicant has met all other criteria for certification prior to requesting the temporary license. A temporary license granted under this subsection is valid for the duration of the required experience.

Section 40‑48‑210. An official copy of all postsecondary academic transcripts of an internationally trained applicant must be evaluated by a transcript evaluation agency approved by the board, with the results of this evaluation and the transcripts subsequently submitted directly to a national certification agency approved by the board. The evaluation must indicate the applicant’s education is equal to that required for national certification at the level of licensure sought. Upon submission of proof to the board of acceptance to sit for the national certification examination, the applicant may apply to the board for temporary licensure in the corresponding clinical laboratory science category.

Section 40‑48‑220. The board shall recognize a valid license or equivalent issued by another state, provided that the requirements under which that license was issued are equivalent to or exceeds the standards required by this chapter. An applicant for licensure by the board under reciprocity must provide to the board evidence that the board considers necessary to demonstrate that he holds a current and unrestricted license for the practice of clinical laboratory science.

Section 40‑48‑230. (A) An applicant for initial licensure shall submit a completed and notarized application on forms provided by the board. This application must indicate that the applicant has:

(1) successfully completed the required education and training; and

(2) passed a national certification examination appropriate for the license he seeks and approved as provided in this chapter.

(B) Upon receipt of an application and payment of an application fee set by the board by regulation, the board shall issue a license at the appropriate practitioner level to any person who meets the requirements of this chapter.

Section 40‑48‑240. (A) A license issued pursuant to this chapter is valid for three years from the date of issue, except for temporary licenses or as otherwise provided in this section.

(B) A licensee is responsible for timely application for renewal of his license, regardless of whether a notice of renewal is provided by the board or received by the licensee. A licensee seeking renewal of his license shall complete a renewal application on forms provided by the department, and submit this form with any appropriate documentation to the board, along with any applicable fee as the board sets by regulation, within sixty days before the renewal date.

(C) The license of a licensee who fails to pay the required fee, provide documentation of required continuing education, or provide the board with any information required for renewal within sixty days after the expiration of the license is canceled, without notice or further proceedings, and becomes a nonvalid license unless the licensee applies for inactive status.

Section 40‑48‑250. (A) As a condition of license renewal, a licensee must be in good standing with the board and satisfactorily complete continuing education requirements as evidence of continued competency. Continuing education requirements must comply with applicable requirements of the ASCP Certification Maintenance Program, AMT Certification Continuation Program, or their successors.

(B) A licensee who received licensure in this State during the transitional phase of this chapter and who does not hold certification from a national certification agency as permitted in this chapter shall complete the required continuing education as instructed for the ASCP Certification Maintenance Program.

(C) A renewal application must be accompanied by proof of:

(1) completion of continuing education related to clinical laboratory practice using ASCP Certification Maintenance Program guidelines and requirements;

(2) recertification by a national certification organization listed in this chapter that mandates continuing education necessary to maintain certification; or

(3) successful completion of a continuing competency recognition program by a national certification organization as provided in this chapter.

(D) The board shall develop and provide application forms for licensure renewal.

(E) The board may randomly audit the validation of proof of continuing education submitted to satisfy the requirements of this chapter.

(F) The board shall not grant renewal of a license to a person who fails to satisfy all requirements of this section.

Section 40‑48‑260. (A) The board may place a licensee on inactive status at his request.

(B) A licensee on inactive status:

(1) may not practice clinical laboratory science; and

(2) may apply to the board for reactivation of his license, and the board may reactivate his license upon receipt of:

(a) the application for reactivation;

(b) a reactivation fee as set by the board through regulation; and

(c) satisfaction of continuing education requirements as the board considers appropriate.

Section 40‑48‑270. The board shall grant a replacement license for a lost, destroyed or mutilated license upon request and payment of a replacement license fee as the board sets by regulation.

Section 40‑48‑280. The department shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board pursuant to Section 40‑1‑50. The department shall solicit the advice and expert knowledge of the board on any matter relating to the administration and enforcement of the act as the director considers necessary and appropriate.

Section 40‑48‑290. The board shall establish the appropriate required fees at levels sufficient to produce revenue not exceed the cost and expense of administering the provisions of this chapter. All fees are nonrefundable and may be prorated to comply with established license renewal.

Section 40‑48‑300. The board may adopt rules governing its proceedings as provided for in Section 40‑1‑60 and may adopt an official seal bearing the words ‘South Carolina Board of Clinical Laboratory Science’.

Section 40‑48‑310. The board shall promulgate regulations necessary to carry out the provisions of this chapter including, but not limited to, promulgating in regulation a code of ethics.

Section 40‑48‑320. The board shall regulate the issuance of licenses and temporary licenses, shall create the necessary forms, and shall discipline persons licensed by this chapter in any manner authorized by this chapter or Article 1, Chapter 1. In addition, the board has those powers and duties provided for in this chapter and pursuant to Section 40‑1‑70.

Section 40‑48‑330. (A) The board shall investigate any alleged actions warranting discipline and any complaints or violations of the chapter.

(B) The results of an investigation must be presented to the board, and any subsequent hearing must be conducted in accordance with Section 40‑1‑90.

(C) In addition to other remedies provided for in this chapter or Article 1, Chapter 1, the board, pursuant to Section 40‑1‑100, may issue a cease and desist order or may petition an administrative law judge for a temporary restraining or other equitable relief to enjoin a violation of this chapter.

(D) In addition to other grounds provided in Section 40‑1‑110, the board, after notice and a hearing conducted pursuant to the Administrative Procedures Act, may restrict or refuse to grant a license to an applicant or may refuse to renew the license of a licensed person or may suspend, revoke, or otherwise restrict the license of a licensee who:

(1) violates a provision of this chapter, a regulation promulgated by the board, or an order of the board;

(2) commits fraud, deception, misrepresentation or bribery in securing a license pursuant to the provisions of this section;

(3) impersonates a person holding a license or uses a person’s license or any academic diploma or certification;

(4) is the subject of disciplinary action by another jurisdiction upon grounds that would serve as a basis for revocation in this State;

(5) has been issued a license based upon a material mistake of fact;

(6) has been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or the United States for any offense:

(a) reasonably related to the qualification, functions, or duties of the licensee for any offense involving an essential element of fraud, dishonesty or act of violence; or

(b) involving moral turpitude, regardless of whether or not sentence is imposed;

(7) has demonstrated 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;

(8) has wilfully made or filed false records or reports in his practice, including but not limited to, false records filed with state agencies or departments;

(9) has directly or indirectly given to or received 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) has, after having his license placed on probationary status, violated the terms of probation;

(11) engages in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or place patient safety in jeopardy; or violates any standard of professional conduct adopted by the board;

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

(13) has directly or indirectly contracted to perform clinical laboratory tests in a manner which offers or implies an offer of rebate, fee‑splitting inducements or arrangements, or other remuneration; or

(14) aids or assists another person with a violation of this chapter.

(E) In addition to the sanctions the board may impose pursuant to this chapter, the board may impose a fine up to two thousand dollars for each violation of a provision of this chapter, not to exceed ten thousand dollars.

Section 40‑48‑340. The board may deny licensure to an applicant based on:

(1) the same grounds for which the board may take disciplinary action against a licensee;

(2) the prior criminal record of an applicant; and

(3) as otherwise provided in this chapter.

Section 40‑48‑350. A person aggrieved by a final action of the board may seek review of the decision pursuant to Section 40‑1‑160.

Section 40‑48‑360. The board may require a person found to have violated this chapter or regulations promulgated under this chapter to pay costs associated with the investigation and prosecution of the case pursuant to Section 40‑1‑170.

Section 40‑48‑370. A person licensed by this chapter who is in violation of this chapter or who knowingly submits false information to the board for the purpose of obtaining a license or who knowingly violates another provision of this chapter is guilty of a misdemeanor.

Section 40‑48‑380. The department, on behalf of the board and pursuant to Section 40‑1‑120, may petition the administrative law court for injunctive relief against a person who has allegedly violated a provision of this chapter.

Section 40‑48‑390. (A) Upon the revocation or suspension of a license, the licensee shall surrender his license to the department, and if the licensee fails to do so, the department shall seize the license.

(B) The department may restore a suspended or revoked license upon the written recommendation of the board absent a finding by the board that restoration is not in the public interest.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor, except as otherwise provided.

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