



To: Economic Affairs Interim Committee

From: Board of Clinical Laboratory Science Practitioners

Date: June 10, 2013

Subject: HB525 – CLS response to the Economic Affairs Interim Committee questions

**1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?**

The board protects the public from incompetent, unprofessional and unethical health providers. They accomplish this mission through the performance of three key functions: licensure, regulation, and discipline.

**2. If your profession/occupation were not licensed, what public protection would be lost?**

The patient would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the patient.

**3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.**

Yes. The Board of Clinical Laboratory Science Practitioners was established in 1993. They protect the public from incompetent, unprofessional, and unethical providers of clinical laboratory science services through the licensure and regulation of qualified clinical laboratory scientists, clinical laboratory specialists and clinical laboratory technicians. In addition, clinical laboratory science practitioners provide essential services to other health care providers by furnishing vital information that may be used in the assessment of human health and in the diagnosis, prevention, and treatment of disease or impairment. Patients rely on laboratory testing as a first step in diagnosis of critical diseases, thus it is important that appropriately trained individuals perform those tests.

**4. Does your board deal with unlicensed practice issues? If yes, what types of issues?**

Yes. Practicing as a clinical laboratory scientist, clinical laboratory specialist and/or clinical laboratory technician without a license or with an expired license are the most common unlicensed practice issues to come before the board.

**5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?**

The Legislature finds and declares that the practice of clinical laboratory science in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The clinical laboratory science profession offers three levels of licensure. The requirements for licensure in Montana are very reasonable and are not felt to be a barrier for entry to the profession.

**6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?**

The Business Standards Division provides board member training for all members to attend, which includes information and instruction on how and when to recuse oneself when there is actual or the appearance of a conflict of interest or bias. Additionally, the board's composition serves to monitor bias. They consist of five members appointed by the Governor. Four of the members must be clinical laboratory science practitioners who hold active licenses as clinical laboratory science practitioners in Montana and one public member who is not associated with or financially interested in the practice of clinical laboratory science. Finally, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

**7. Does the profession or occupation have one or more Associations that could provide oversight without the need for a licensing board? Why not use the Association as the oversight body?**

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of clinical laboratory science practitioners. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

**8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

Yes, for Medicaid and Medicare and health insurance, licensure is required for billing along with facility certification by the state. There is no alternative.

**9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

Four board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other issues.

**10. Is there an optimum ratio between licensees, board size, or public representation?**

Yes, the board regulates 850 licensees. The board's current composition balances the number of licenses and public members while remaining small enough to function efficiently.

**11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?**

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting clinical laboratory scientists in various areas of the profession to address practice and conduct issues.

The board, through the complaint process, monitors fraud on a licensee level. They have the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary. Medicaid, Medicare, and health insurance fraud has to be monitored by those respective entities. Department of Public Health and Human Services have additional oversight over facilities.

**12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?**

Each profession has a specific scope of practice and educational requirements.

**13. Should any board have the ability to limit use of certain terminology to only a licensee?**

Yes. The person has the training, education and qualifications verified by examination to be licensed in the profession of clinical laboratory science. Exemptions are in statute for licensed physicians, or other licensed professions with the applicable scope of practice, US government employees, or those in a research or educational status. (Reference 37-34-302, MCA)