

**SEPTEMBER** 17

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

*Tuesday, September 17, 1996, 9:00 a.m. to 12:00 p.m.*

*Senate Finance Committee Room - M-451*

1. Approval of Minutes - Meeting July 14, 1996
2. Review of Legislative Rules:
  - a. Dept. of Agriculture  
Animal Disease Control
  - b. Nursing Home Administrators Licensing Board  
Rules of the Nursing Home Administrators Licensing Board
  - c. Division of Health  
Clinical Laboratory Technician and Technologist  
Licensure and Certification
  - d. Board of Dental Examiners  
WV Administrative Rules of WV Board of Dental Examiners
  - e. Economic Development Authority, WV  
General Administration of the West Virginia Capital  
Company Act: Establishment of the Procedures to implement  
the Act
  - f. Board of Examiners for Licensed Practical Nurses  
Legal Standards of Nursing Practice for the Licensed  
Practical Nurse
  - g. WV Library Commission  
Administrative Regulations
  - h. State Fire Commission  
State Building Code
  - i. Secretary of State  
Agencies designated to provide registration services
  - j. Division of Natural Resources  
Prohibitions When Hunting and Trapping
  - k. Division of Natural Resources  
Fertility Control of Free Roaming Wildlife
  - l. Division of Natural Resources  
Falconry

- m. Governor's Committee on Crime, Delinquency and Correction  
Protocol for Law Enforcement Response to Domestic  
Violence
- n. Cable Television Advisory Board  
Implementing Rules
- o. Board of Chiropractic Examiners  
Regulations of Chiropractic Examiners
- p. Division of Labor  
Manufactured Housing Construction and Safety Standards
- q. Board of Respiratory Care  
Procedures for Licensure Application Process
- r. Respiratory Care Board  
Establishment of Fees
- s. Respiratory Care Board  
Continuing Educational Requirements

3. Other Business:

Tuesday, September 17, 1996

9:00 a.m.- Noon

Legislative Rule-Making Review Committee  
(Code S29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Chuck" Chambers,  
ex officio nonvoting member

Senate

Ross, Chairman  
Grubb, Vice Chairman  
Anderson  
Boley  
Buckalew  
Macnaughtan (Absent)

House

Douglas, Chairman  
Linch, Vice Chairman  
Compton  
Faircloth  
Gallagher  
Riggs

The meeting was called to order by Mr. Ross, Co-Chairman.

The minutes of the July 14, 1996, meeting were approved.

Debra Graham, Committee Counsel, explained that the rule proposed by the Department of Agriculture, Animal Disease Control had been laid over from the Committee's July meeting and briefly reviewed the proposed rule. She stated that the Department has agreed to technical modifications.

Ms. Boley moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained that the rule proposed by the Nursing Home Administrators Licensing Board, Rules of the Nursing Home Administrators Licensing Board, had been laid over from the Committee's July meeting and briefly reviewed the proposed rule. She stated that the Board has agreed to technical modifications. Daniel Farley, Chairman of Licensing Board, and Alberta Slack, of the Licensing Board, answered questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Joe Altizer, Associate Counsel, explained that the rule proposed by the Division of Health, Clinical Laboratory Technician and Technologist Licensure and Certification, had been laid over from the Committee's July meeting and briefly reviewed the proposed rule and responded to questions from the Committee. He stated that the Division has agreed to modify the proposed rule and explained the proposed modifications that he had distributed to the Committee. Kay Howard, Director of Regulatory Development of the Department of Health and Human Resources, Barbara Castleberry, of the American Society of Clinical Pathologists, Kimberly Klein, of the WV Society for Clinical Lab Science, and Irv Miller, of the WV Clinical Lab Management Association, each addressed the Committee and responded to questions from the Committee.

Mr. Buckalew moved that the proposed rule be moved to the bottom of the agenda. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Board of Dental Examiners, WV Administrative Rules of WV Board of Dental Examiners, and stated that the Board has agreed to all of her technical modifications, except for her request that redundant statutory language be deleted from the proposed rule. Jim Anderson, Executive Secretary of the Board of Dental Examiners, responded to questions from the Committee.

Mr. Buckalew moved that the proposed rule be approved as modified and that the modified rule not delete the redundant statutory language. The motion was adopted.

Rita Pauley, Associate Counsel, explained the rule proposed by the Economic Development Authority, WV General Administration of the West Virginia Capital Company Act: Establishment of the Procedures to Implement the Act, and stated that the Authority has agreed to modify the proposed rule. She responded to questions from the Committee. Randy Eldridge, Executive Director of the Authority, addressed the Committee and answered questions from the Committee.

Mr. Buckalew moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Board of Examiners for Licensed Practical Nurses, Legal Standards of Nursing Practice for the Licensed Practical Nurse, and stated that the Board has agreed to technical modifications. Lynette Anderson, of the LPN Board and Joe Gollehan, West Virginia Nurses Association, responded to questions from the Committee.

Mr. Buckalew moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the WV Library Commission, Administrative Regulations, and stated that the Commission had not contacted him regarding his proposed technical modifications. David Childress, Acting Director of the Commission, addressed the Committee and responded to questions. He stated that he couldn't imagine not being able to agree to the suggested technical modifications.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the State Fire Commission, State Building Code, and stated that the Commission has agreed to technical modifications. She responded to questions from the Committee. Francis Guffy, State Fire Commission, answered questions from the Committee.

Mr. Faircloth moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham explained the rule proposed by the Secretary of State, Agencies Designated to Provide Registration Services. She informed the Committee that the Secretary of State is required by statute to review this rule every two years and to amend it if necessary. She stated that the proposed rule contains no amendments to the rule currently in effect.

Mr. Buckalew moved that the proposed rule be approved. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Natural Resources, Prohibitions When Hunting and Trapping, and stated the Division has agreed to technical modifications. Duane Zobrist, WV Falconees Association, addressed the Committee and responded to questions.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Division of Natural Resources, Fertility Control of Free Roaming Wildlife, and stated that the Division has agreed to technical modifications. She answered questions from the Committee. Bill Daniel, WV DNR Law Enforcement Division, and Paul Johannasen, WV DNR Wildlife Division, answered questions from the Committee.

Mr. Gallagher moved that the Division be asked to modify the proposed rule to remove mollusks from the statutory definition of "wildlife" for the purposes of the proposed rule. After further discussion, Mr. Gallagher requested unanimous consent that he be allowed to withdraw his motion. There being no objection, the motion was withdrawn.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Natural Resources, Falconry, and stated that the Division has agreed to technical modifications. She responded to questions from the Committee. Chief Daniel answered questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Ross stated that before the Committee adjourned, he wanted to mention that the Division of Labor would work on modifications proposed by counsel, prior to the Committee's next meeting.

Ms. Graham told the members of Committee that they have before them 77 proposed rules, which they are required to consider and take action on before the 1997 Legislative Session. She suggested that the Committee schedule a special meeting to consider the proposed rules. The Committee arrived at a tentative meeting time, subject to the approval of the President and the Speaker.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Sept. 17, 1996

TIME: 9:00 AM - 12:00 Noon

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Douglas, Vickie, Co-Chair

Linch, Larry, Vice-Chair

Compton, Mary Pearl

Faircloth, Larry V.

Gallagher, Brian

Riggs, Dale

Tomblin, Earl Ray, President

Ross, Michael, Co-Chair

Grubb, David, Vice-Chair

Anderson, Leonard

Boley, Donna

Buckalew, Jack

Macnaughtan, Don

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REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: September 17, 1996

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly Barbara Castleberry	1001 Pennsylvania Ave. Wash DC. 20004	American Soc. of Clinical Pathologists	X
BANDY L. ELDREDGE	1018 KANAWHA BLVD, STE 501 CHARLESTON, WV 25301	WV ECONOMIC DEV AUTHORITY	-
DUANE ZORIST	104 SPRING ST White Sulphur, WV, 24986	WV Falconers Assoc.	X-
Kimberly S. Kline	PO Box 765, Franklin, WV 26807	WV Society for Clinical Lab Science	X -
ERV Miller	P.O. Box 1112 Fairmont 26554	WV Chemical Lab Management Assoc	X
WALTER SMITHE	1207 Quarrier St., Charl.	STATE JURY Marshal	if needed
FRANCIS GUFFY AIA.	"	STATE JURY Commission	" "
Bill DANIEL	CHAS.	WV DNR LAW	" "
Paul Johansen	Charleston	WV DNR - Wildlife	" "
Daniel W. Faly	Rt. 1 - Box 964, Pinetops, WV	WV Nursing Home Adm. Lic. Board	if needed
Thomas Ryan	2158 Sissonville, W.V.	D.O.L. Mfg. Housing Board	if needed
KAY HOWARD	CHAS	DHHR	IF NEEDED
DR. FRANK LAMBERT	CHAS	DIV OF HEALTH; DHHR DIR. OFF. OF LABORATORY SERVICES	IF NEEDED
CHRIS QUASEBARTH	CHAS	DIVISION OF LABOR AND WV MANUFACTURING HOUSING BOARD	IF NEEDED
Alberta Slack	Chas	WV Nursing Home Adm. Lic. Board	if needed
Lynn Moore	205-68th Ave Niles	WV Mfg	in for hearing
MARK POLEN	Charleston	WV CABLE TELEVISION ASS'N.	YES - "N" AND RELATED MATTERS
David Childers	Charleston	Library Commission	Yes - if needed to answer questions

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: \_\_\_\_\_

DATE: \_\_\_\_\_

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
<i>Saville Anderson</i>	<i>191 One Dr.</i>	<i>LPN Board</i>	
<i>Nancy Wilson</i>	<i>" " "</i>	<i>" "</i>	
<i>Joe D. Gardner</i>	<i>P.O. Box 1459 Martinsburg WV 25802-1959</i>	<i>Dental Board</i>	

**PROPOSED MODIFIED RULE - TITLE 64  
WEST VIRGINIA LEGISLATIVE RULE  
DIVISION OF HEALTH  
SERIES 57  
CLINICAL LABORATORY TECHNICIAN AND TECHNOLOGIST  
LICENSURE AND CERTIFICATION**

**§64-57-1. General.**

1.1. Scope. -- This legislative rule sets forth standards and procedures for the certification and licensing of laboratory technicians and laboratory technologists as clinical laboratory practitioners and establishes penalties for the use of unlicensed persons to perform the work of clinical laboratory practitioners by health care facilities.

1.2. Authority - W. Va. Code §§ ~~16-1-7, 16-1-10(6), 16-2E-3, 16-5B-8, 16-5C-5, 16-5H-2, 16-5I-5, 16-5J-3, 16-5J-10, 27-9-1, and 27-17-3~~ § 16-5J-10.

1.3. Filing Date -

1.4. Effective Date -

**§64-57-2. Application and Enforcement**

2.1. Application - Except as otherwise provided in this rule, this legislative rule applies to:

~~2.1.1. Clinical laboratory practitioners employed as such in West Virginia, including individuals employed as clinical laboratory practitioners in agencies or organizations exempted from licensure as a laboratory under the provisions of W. Va. Code § 16-5J-7, i.e., county health departments organized under W. Va. Code § 16-2-1 et seq. or § 16-2A-1 et seq.; primary health care centers having tax exempt status and receiving contributions which are deductible to the contributor under provisions of federal law; or any laboratory operated purely for research or teaching purposes; and~~

~~2.1.2. Health care facilities performing laboratory tests in West Virginia; and~~

2.1.2. Clinical laboratory consultants, directors, and supervisors in West Virginia.

2.2. This rule does not apply to:

~~2.2.1. County health departments organized under W. Va. Code § 16-2-1 et seq. or § 16-2A-1 et seq.: Provided, That it does apply to clinical laboratory practitioners employed as such by county health departments;~~

~~2.2.2. Primary health care centers having tax exempt status and receiving contributions which are deductible to the contributor under provisions of federal law: Provided, That it does apply to clinical laboratory practitioners employed as such in the clinical laboratories of such~~

centers;

~~2.2.3. Any laboratory operated by the federal government;~~

~~2.2.4. Any laboratory operated purely for research or teaching purposes; or~~

2.2.1. Any individual who performs only laboratory tests published in the Federal Register as waived under CLIA by the Centers for Disease Control under the provisions of § 42 CFR 493.15; or

2.2.5. 2.2.2. Any individual who performs laboratory tests only on himself or herself or members of his or her family.

2.3. Enforcement - This rule is enforced by the secretary of the West Virginia department of health and human resources.

### §64-57-3. Definitions.

3.1. CLIA - Clinical Laboratory Improvement Amendments of 1988 (Public Law 100-578) to Section 353 of the Public Health Service Act (Title 42 United States Code Section 263a).

3.2. Clinical Laboratory - Any facility or place, however named, for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease, or the impairment of, or the assessment of the health of human beings.

3.3. Clinical Laboratory Consultant - A person who:

3.3.1. Meets the qualifications for:

3.3.1.a. Moderate complexity testing technical consultant found at 42 CFR § 493.1411;

3.3.1.b. Moderate complexity testing clinical consultant found at 42 CFR § 493.1417; or

3.3.1.c. High complexity testing clinical consultant found at 42 CFR § 493.1455.

3.4. Clinical Laboratory Director - A person who:

3.4.1. Provides overall management and direction of a clinical laboratory; and

3.4.2. Meets the qualifications for directors of:

3.4.2.a. Moderate complexity testing laboratories found at 42 CFR § 493.1405;

3.4.2.b. High complexity testing laboratories found at 42 CFR § 493.1443; ~~or~~

3.4.2.c. Waived clinical laboratories found at 42 CFR § 493.35; or

3.4.2.d. Laboratories performing provider-performed microscopy (PPM) found at § 42 CFR 493.1357.

3.5. Clinical Laboratory Practitioner - ~~A person whose job tasks include specimen processing, laboratory test performance, or laboratory test reporting in a clinical laboratory.~~ A laboratory technician or a clinical laboratory technologist. The term "clinical laboratory practitioner" includes laboratory technicians and laboratory technologists, but does not include: clinical laboratory practitioner trainees; clinical laboratory directors, consultants, or supervisors whose job tasks do not include processing specimens, or performing or reporting laboratory tests; or physicians licensed under W. Va. Code § 30-3-1 et seq. or § 30-14-1 et seq. who perform laboratory tests only on their own patients.

3.6. Clinical Laboratory Practitioner Trainee - A person who is in a training program designed for his or her qualification as a clinical laboratory practitioner or who has successfully completed such a training program and has applied for, but not yet received a clinical laboratory practitioner license.

3.7. Clinical Laboratory Supervisor - A person who meets the qualifications for:

3.7.1. A high complexity testing technical supervisor found at 42 CFR § 493.1449;

3.7.2. A high complexity testing general supervisor found at 42 CFR § 493.1461; or

3.7.3. A high complexity testing cytology general supervisor found at 42 CFR § 493.1469.

3.8. Contact Hours - The actual number of hours an individual participates in continuing education. Ten (10) contact hours equal one (1) continuing education unit.

3.9. Department - The West Virginia Department of Health and Human Resources.

3.10. Health Care Facility - An entity subject to licensure as a:

3.10.1. Birthing center under W. Va. Code § 16-2E-1 et seq.;

3.10.2. Hospital or extended care facility operated in connection with a hospital, or an ambulatory surgical facility, or an ambulatory health care facility, including a medical adult day care center under W. Va. Code § 16-5B-1 et seq.;

3.10.3. Nursing home or personal care home under W. Va. Code § 16-5C-1 et seq.;

3.10.4. Residential board and care home under W. Va. Code § 16-5C-1 et seq. and § 16-5H-1 et seq.;

3.10.5. Hospice under W. Va. Code § 16-5I-1 et seq.;

3.10.6. Clinical laboratory under W. Va. Code § 16-5J-1 et seq.;

3.10.7. Hospital, center or institution for the care and treatment of the mentally ill or mentally retarded, or for the prevention of such disorders under W. Va. Code § 27-9-1 et seq.;  
or

3.10.8. Group residential facility for the developmentally disabled or behaviorally disabled under W. Va. Code § 27-17-1 et seq.

3.11. Laboratory Technician - ~~A clinical laboratory practitioner.~~ A person whose job tasks include specimen processing, laboratory test performance, or laboratory test reporting in a clinical laboratory.

3.12. Laboratory Technologist - ~~A clinical laboratory practitioner.~~ A person whose job tasks include specimen processing, laboratory test performance, or laboratory test reporting in a clinical laboratory.

3.13. Laboratory Test - The biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of human beings.

#### **§64-57-4. Incorporation by Reference.**

The following provisions of the October 1, 1994, edition of 42 CFR Part 493, Laboratory Requirements, as amended in the April 24, 1995, edition of the Federal Register (60 FR 20035), are hereby incorporated by reference:

4.1. 42 CFR § 493.15;

4.2. 42 CFR § 493.1411;

4.3. 42 CFR § 493.1405;

4.4. 42 CFR § 493.1417;

4.5. 42 CFR § 493.1423;

4.6. 42 CFR § 493.1443;

4.7. 42 CFR § 493.1449;

4.8. 42 CFR § 493.1455;

4.9. 42 CFR § 493.1461;

4.10. 42 CFR § 493.1469;

4.11. 42 CFR § 493.1483;

4.12. 42 CFR § 493.1489;

4.13. 42 CFR § 493.1357;

4.14. 42 CFR § 493.1363; or

4.15. 42 CFR § 493.35.

**§64-57-5. Prohibition; Persons Subject to Licensure; Clinical Laboratory Practitioner Trainees.**

5.1. No person shall perform any clinical laboratory practitioner tasks in West Virginia, except as specified in this rule, unless the person is licensed by the secretary as a clinical laboratory practitioner.

5.2. A clinical laboratory practitioner trainee may perform tasks related to laboratory tests only under the personal and direct supervision of: a licensed clinical laboratory practitioner; or a clinical laboratory director, consultant or supervisor.

**§64-57-6. Licensure Requirements, Duration, Renewal.**

6.1. Applicants for a clinical laboratory practitioner license shall submit to the secretary:

6.1.1. A completed application form supplied by the secretary with the documentation of qualifications required by this rule;

6.1.2. If employed in a clinical laboratory, a current job description and a statement identifying the specialty or specialties of laboratory tests for which the applicant has been trained and is currently competent to perform, except as specified in this rule. The required job description and statement of competency shall be signed and provided to the applicant by the applicant's clinical laboratory director. The attestation shall be partially based on the applicant's performance, if any, in proficiency testing programs; and

6.1.3. The licensure fee shown on the application as ~~may be set~~ authorized by W. Va. Code ~~or rule~~.

6.2. The secretary shall grant a clinical laboratory practitioner license to applicants who:

6.2.1. Are certified as a clinical laboratory practitioner under section 7 of this rule or are exempt from certification under section 8 of this rule; and

6.2.2. Comply with the requirements of section 6.1 of this rule.

6.3. An applicant for renewal of either a current or an expired license shall submit the application, information and licensure fee required by subsection 6.1 of this rule and evidence that the applicant has completed at least ten (10) contact hours (one (1) continuing education unit) of educational activities commensurate with the level of complexity of testing the individual performs from a program or programs approved by the secretary, since the issuance of his or her current or expired license, as applicable. Acceptable continuing educational activities include, but are not limited to, activities such as: lectures, seminars, workshops, formal classes, in-service programs or correspondence courses.

6.4. The secretary shall renew a license if the applicant complies with the requirements of subsection 6.3 of this rule.

6.5. A clinical laboratory practitioner license expires the earlier of:

6.5.1. One (1) year after issuance; or

6.5.2. The expiration of the individual's certification or exemption from certification as a clinical laboratory practitioner.

#### **§64-57-7. Certification Requirements.**

~~7.1.~~ A person seeking certification as a clinical laboratory practitioner shall, at the time of application for initial licensure as a clinical laboratory practitioner, also apply for certification on the form provided by the secretary and submit documentation sufficient to establish that he or she meets one (1) of the following qualifications for certification: ~~established by this rule.~~

~~7.2.~~ ~~An individual qualifies for certification as a clinical laboratory practitioner if the individual:~~

~~7.2.1.~~ 7.1. He or she is certified as a medical laboratory technician or technologist by the American Medical Technologists or the American Society of Clinical Pathologists;

~~7.2.2.~~ 7.2. He or she is certified as a clinical laboratory technician or scientist by the National Certification Agency for Medical Laboratory Personnel;

~~7.2.3.~~ 7.3. He or she was performing clinical laboratory practitioner tasks in a clinical laboratory in West Virginia on July 7, 1989; or

~~7.2.4.~~ 7.4. He or she meets the qualifications, except for State licensure, for:

~~7.2.4.a.~~ 7.4.1. Testing personnel found at: 42 CFR § 493.1423, or § 493.1489; or

~~7.2.4.b.~~ 7.4.2. Cytotechnologists found at 42 CFR § 493.1483; or

~~7.2.5.~~ 7.5. He or she is certified under any other applicable federal program.



**§64-57-8. Exemption from Certification.**

8.1. A person seeking an exemption from certification as a clinical laboratory practitioner shall submit a request for exemption from certification on a form provided by the secretary. The request shall include a statement signed by the director of the clinical laboratory in which the applicant is employed of: the type and number of the laboratory's CLIA certificate, and which of the qualifications for exemption established by this rule the applicant meets.

The request shall include a document which identifies the type and number of CLIA certificate of the laboratory in which the person is employed and states the exemption qualification found in section 8.2 of this rule which applies to the person seeking the exemption. The document shall be signed by the clinical director of the laboratory.

8.2. The secretary shall exempt a person from certification as a clinical laboratory practitioner if:

8.2.1. He or she is employed in a clinical laboratory which holds a CLIA certificate other than a certificate of waiver; and

8.2.2. His or her laboratory director states that the person applying for exemption from certification meets the qualifications, except for State licensure, for:

8.2.2.a. Testing personnel found at: 42 CFR § 493.1423, or § 493.1489; ~~or~~

8.2.2.b. Cytotechnologists found at 42 CFR § 493.1483; or

8.2.2.c. Persons performing provider-provided microscopy as found at 42 CFR § 493.1363.

**§64-57-9. Expiration of Certification and Exemption.**

An individual's certification or exemption from certification as a clinical laboratory practitioner expires when the person holding the certification or the exemption no longer meets the qualifications stated in this rule for certification or for exemption from certification.

**§64-57-10. Reciprocity.**

The secretary may issue a clinical laboratory practitioner license or certification to a person who holds a license or certification from another jurisdiction which has licensure or certification requirements ~~at least comparable to~~ as stringent as the requirements of this rule. Applicants for reciprocity shall submit the license application fee and a statement from their licensing or certifying jurisdiction that they are in good standing with their application.

**§64-57-11. Limitations on Certification, License and Use of Titles by Health Care Facilities.**

11.1. Licensure or certification as a clinical laboratory practitioner does not authorize the person to perform laboratory tests unless his or her clinical laboratory director has determined

that the person is qualified by education, training or experience to perform such tests.

11.2. Health care facilities shall not use the terms clinical laboratory practitioner, laboratory or medical technician or laboratory or medical technologist, or abbreviations thereof, to refer to a person who is not licensed as a clinical laboratory practitioner.

**~~§64-57-12. Revocation and Non-issuance of Clinical Laboratory Practitioner Certifications and Licenses and Health Care Facility Licenses.~~**

12.1. A clinical laboratory practitioner license, certification, or exemption from certification, shall not be issued or shall be revoked if the applicant for or holder thereof:

12.1.1. Has misrepresented material facts in an application or has assisted another person in doing so;

12.1.2. Does not meet requirements for licensure, certification, or exemption from certification; or

12.1.3. Has been convicted of a felony involving laboratory practices.

~~12.2. No license shall be issued to a health care facility as long as it uses in West Virginia an unlicensed clinical laboratory practitioner.~~

**~~§64-57-13. Criminal Penalties.~~**

~~—A violator of the provisions of this rule is subject to fine or imprisonment as found at W. Va. Code §§ 16-1-18 and 16-5J-8.~~

**§64-57-13. Hearings.**

13.1. A request for a hearing may be made to the secretary by an applicant for a clinical laboratory practitioner certification or license, by a holder thereof or by a health care facility. The request shall specify the grounds relied upon as a basis for the relief requested.

13.2. Hearings shall be conducted in accordance with the provisions of W. Va. Code § 29A-5-1 et seq., and Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Administrative Rules, 64 CSR 1.

**§64-57-14. Severability.**

The provisions of this rule are severable. If any provision of this rule is held invalid, the remaining provisions remain in effect.