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# Congress of the United States

## House of Representatives

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March 16, 2009

Mr. Charles E. Johnson  
Acting Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave., S.W.  
Washington, D.C. 20201

Dear Acting Secretary Johnson:

We are contacting you to express our concern regarding a recent guidance memorandum issued by the Centers for Medicare and Medicaid Services (CMS) on September 5, 2008, for Clinical Laboratory Improvement Amendments of 1988 (CLIA).

For 20 years, CLIA rules have exempted laboratories that perform testing for forensic purposes. This exemption has allowed labs to perform on-site drug testing for offenders within States as part of the Department of Corrections probation and parole requirements and for drug courts. The recent CMS memorandum requiring CLIA certification for laboratories has potentially costly and harmful consequences for the public safety of our communities. We fail to see why, after 20 years of an effective policy, CMS would want to institute a change that would result in less accountability for substance abuse offenders in our already overburdened criminal justice system.

By eliminating the ability of States to continue operating under the forensic exemption, this ruling would clog traditional courts and force more drug offenders back into the prison system or onto the streets. We urge you to reconsider the new interpretation of CLIA regulations and we encourage you to take into consideration the potential problems this will cause for the States.

Letter to Mr. Charles E. Johnson  
March 16, 2009  
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Thank you for taking into account our concerns as you consider CLIA certification requirements. We look forward to hearing from you about how you intend to proceed on this issue.

Sincerely,



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Gene Green  
Member of Congress



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Joe Barton  
Member of Congress

cc: Ms. Charlene Frizzera, Acting Administrator  
Centers for Medicare and Medicaid Services

Mr. Mark Childress, Chief of Staff  
Department of Health and Human Services