

SENATE No. 02323

The Commonwealth of Massachusetts

SENATE, June 25, 2012

The committee on Health Care Financing, to whom was referred the Senate bill relative to disciplinary actions under the Board of Registration in Medicine (Senate, No. 2195); report recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2323).

For the committee,

RICHARD T. MOORE.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to disciplinary actions under the Board of Registration in Medicine.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5F of chapter 112 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting, in the first paragraph, after the word “eleven”
3 in the first sentence, the words, “and including a pharmacist registered and practicing under 24 to
4 36, inclusive; nurse practitioner, licensed and practicing under 74 to 80H, inclusive; physician
5 assistant, licensed and practicing under 9C to 9K, inclusive; and acupuncturist licensed and
6 practicing under 148 to 162, inclusive”.

7 SECTION 2. Section 5F of chapter 112 of the General Laws, as so appearing, is hereby
8 amended by inserting, in the second paragraph, after the words “requirements of a” in the fifth
9 sentence, the words, “mental health,”.

10 SECTION 3. Section 6 of chapter 112 of the General Laws, as so appearing, is hereby
11 amended by striking out in the first sentence the following words: “by a fine of not less than one
12 hundred nor more than one thousand dollars or by imprisonment for not less than one month nor
13 more than one year, or both”, and by inserting in place thereof the following:-

14 by imprisonment in the state prison for not less than two and one-half years nor more
15 than five years or by a fine of not more than five thousand dollars and imprisonment in a jail or
16 house of correction for not more than two and one-half years, or both such fine and
17 imprisonment.

18 SECTION 4. Section 159 of chapter 112 of the General Laws, as so appearing, is hereby
19 amended by striking out in the first sentence the following words: “by a fine of not less than one
20 hundred nor more than one thousand dollars, or by imprisonment for not less than three months,
21 or both such fine and imprisonment”, and by inserting in place thereof the following:-

22 by a fine of not more than five thousand dollars, or by imprisonment in the state prison
23 for not less than two and one-half years nor more than five years, or imprisonment in a jail or
24 house of correction for not more than two and one-half years, or both such fine and
25 imprisonment.

26 SECTION 5. Section 160 of chapter 112 of the General Laws, as so appearing, is hereby
27 amended by striking out in the second sentence the following words: “by a fine of not less than
28 one hundred nor more than one thousand dollars, or by imprisonment for not less than one month
29 nor more than one year, or both”, and by inserting in place thereof the following:-

30 by a fine of not more than five thousand dollars, or by imprisonment in the state prison
31 for not less than two and one-half years nor more than five years, or imprisonment in a jail or
32 house of correction for not more than two and one-half years, or both such fine and
33 imprisonment.

34 SECTION 6. Section 5 of Chapter 112 of the General Laws is hereby amended by
35 striking out paragraphs 6 through 8, inclusive, and inserting in place thereof the following four
36 paragraphs: -

37 The board shall collect the following information reported to it to create individual
38 profiles on licensees and former licensees, in a format created by the board that shall be available
39 for dissemination to the public:

40 (a) a description of any criminal convictions for felonies and serious misdemeanors as
41 determined by the board. For the purposes of this subsection, a person shall be deemed to be
42 convicted of a crime if he pleaded guilty or if he was found or adjudged guilty by a court of
43 competent jurisdiction;

44 (b) a description of any charges for felonies and serious misdemeanors as determined by
45 the board to which a physician pleads nolo contendere or where sufficient facts of guilt were
46 found and the matter was continued without a finding by a court of competent jurisdiction;

47 (c) a description of any final board disciplinary actions, and a copy of any original board
48 disciplinary orders;

49 (d) a description of any final disciplinary actions by licensing boards in other states;

50 (e) a description of revocation or involuntary restriction of privileges by a hospital, clinic
51 or nursing home under the provisions of chapter 111, or of any employer who employs
52 physicians licensed by the board for the purpose of engaging in the practice of medicine in the
53 commonwealth, for reasons related to competence or character that have been taken by the
54 hospital, clinic or nursing home or employer who employs physicians licensed by the board for

55 the purpose of engaging in the practice of medicine in the commonwealth governing body or any
56 other official of the hospital, clinic or nursing home or employer who employs physicians
57 licensed by the board for the purpose of engaging in the practice of medicine in the
58 commonwealth after procedural due process has been afforded, or the resignation from or
59 nonrenewal of medical staff membership or the restriction of privileges at a hospital, clinic or
60 nursing home or employer who employs physicians licensed by the board for the purpose of
61 engaging in the practice of medicine in the commonwealth taken in lieu of or in settlement of a
62 pending disciplinary case related to competence or character in that hospital, clinic or nursing
63 home or of any employer who employs physicians licensed by the board for the purpose of
64 engaging in the practice of medicine or employer who employs physicians licensed by the board
65 for the purpose of engaging in the practice of medicine in the commonwealth ;

66 (f) all medical malpractice court judgments and all medical malpractice arbitration
67 awards in which a payment is awarded to a complaining party and all settlements of medical
68 malpractice claims in which a payment is made to a complaining party. Dispositions of paid
69 claims shall be reported in a minimum of three graduated categories indicating the level of
70 significance of the award or settlement. Information concerning paid medical malpractice claims
71 shall be put in context by comparing an individual licensee's medical malpractice judgment
72 awards and settlements to the experience of other physicians within the same specialty.
73 Information concerning all settlements shall be accompanied by the following statement:
74 "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect
75 negatively on the professional competence or conduct of the physician. A payment in settlement
76 of a medical malpractice action or claim should not be construed as creating a presumption that
77 medical malpractice has occurred." Nothing herein shall be construed to limit or prevent the

78 board from providing further explanatory information regarding the significance of categories in
79 which settlements are reported.

80 Pending malpractice claims shall not be disclosed by the board to the public. Nothing
81 herein shall be construed to prevent the board from investigating and disciplining a licensee on
82 the basis of medical malpractice claims that are pending.

83 (g) names of medical schools and dates of graduation;

84 (h) graduate medical education;

85 (i) specialty board certification;

86 (j) number of years in practice;

87 (k) names of the hospitals where the licensee has privileges;

88 (l) appointments to medical school faculties and indication as to whether a licensee has a
89 responsibility for graduate medical education within the most recent ten years;

90 (m) information regarding publications in peer-reviewed medical literature within the
91 most recent ten years;

92 (n) information regarding professional or community service activities and awards;

93 (o) the location of the licensee's primary practice setting;

94 (p) the identification of any translating services that may be available at the licensee's
95 primary practice location;

96 (q) an indication of whether the licensee participates in the medicaid program.

97 The board shall provide individual licensees with a copy of their profiles prior to release
98 to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that
99 appear in such profile.

100 A physician may elect to have his profile omit certain information provided pursuant to
101 clauses (l) to (n), inclusive, concerning academic appointments and teaching responsibilities,
102 publication in peer-reviewed journals and professional and community service awards. In
103 collecting information for such profiles and in disseminating the same, the board shall inform
104 physicians that they may choose not to provide such information required pursuant to said clause
105 (l) to (n), inclusive.

106 For physicians who are no longer licensed by the board, the board shall continue to make
107 available the profiles of such physicians, except for those who are known by the board to be
108 deceased. The board shall maintain the information contained in the profiles of physicians no
109 longer licensed by the board as of the date the physician was last licensed, and include on the
110 profile a notice that the information is current only to that date.