

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1295 Session of 2023

INTRODUCED BY MULLINS, HILL-EVANS, KINSEY, MADDEN, SANCHEZ, CEPEDA-FREYTIZ, NEILSON, CERRATO AND GUZMAN, JUNE 1, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 14, 2023

AN ACT

1 Amending Title 63 (Professions and Occupations (State Licensed))
2 of the Pennsylvania Consolidated Statutes, in powers and
3 duties, further providing for hearing examiners.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 3105(b) of Title 63 of the Pennsylvania
7 Consolidated Statutes is amended and the section is amended by
8 adding a subsection to read:

9 § 3105. Hearing examiners.

10 * * *

11 (b) Regulations.--The commissioner, after consultation with
12 the licensing boards and commissions, shall have the power to
13 promulgate regulations specifying the procedural rules to be
14 followed by hearing examiners in the conduct of hearings in
15 disciplinary matters before a licensing board or licensing
16 commission. [All proceedings shall be] A hearing in a
17 disciplinary matter under this title shall comply with the
18 following:

1 (1) Be conducted in accordance with the provisions of 2
2 Pa.C.S. (relating to administrative law and procedure).

3 (2) A respondent may appear in person or remotely via
4 the use of communication technology for a hearing before a
5 hearing examiner, licensing board or commission. If the
6 respondent fails to appear in person or remotely and the
7 hearing examiner, board or commission finds that the
8 respondent was given proper notice of the date, time,
9 location of the hearing and the allegations against the
10 respondent, a hearing may be held in absentia and a negative
11 inference may be drawn by the hearing examiner, board or
12 commission that the allegations against the respondent are
13 true. Multiple continuances may only be granted for good
14 cause.

15 (3) A person who has suffered an adverse effect stemming
16 from the conduct alleged in the Order to Show Cause or other
17 Department of State charging document may, before or at the
18 hearing, submit a written impact statement that may be
19 considered by the hearing examiner, board or commission
20 solely for purposes of determining a sanction imposed on the
21 respondent.

22 * * *

23 (e) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Communication technology." An electronic device or process
27 that:

28 (1) Allows a hearing examiner and a remotely located
29 individual to communicate with each other simultaneously by
30 sight and sound. A remotely located individual may

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1 ~~communicate only by sound by demonstrating good cause and by~~
2 ~~the agreement of the parties under subsection (b).~~

3 (2) IF AGREED TO BY THE PARTIES TO THE HEARING AND, IF <--
4 AS DETERMINED BY THE HEARING EXAMINER, GOOD CAUSE IS SHOWN
5 THAT THE INDIVIDUAL CANNOT MEET THE TERMS OF PARAGRAPH (1),
6 ALLOWS A HEARING EXAMINER AND A REMOTELY LOCATED INDIVIDUAL
7 TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY SOUND ONLY.

8 ~~(2)~~ (3) Makes reasonable accommodations for an <--
9 individual with a vision, hearing or other disability.

10 Section 2. This act shall take effect in 60 days.