THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 354

Session of 2017

INTRODUCED BY TOMLINSON, BOSCOLA, MENSCH, SCHWANK, HUGHES, RAFFERTY, BROWNE AND SABATINA, FEBRUARY 15, 2017

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, APRIL 18, 2017

AN ACT

Amending the act of July 2, 1993 (P.L.345, No.48), entitled "An 1 act empowering the General Counsel or his designee to issue 2 subpoenas for certain licensing board activities; providing 3 for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the 5 Commissioner of Professional and Occupational Affairs; and 6 further providing for civil penalties and license 7 suspension," providing for reporting of sanctions and 8 criminal proceedings and for temporary and automatic suspension. 10 The General Assembly of the Commonwealth of Pennsylvania 11 12 hereby enacts as follows: 13 Section 1. The act of July 2, 1993 (P.L.345, No.48), 14 entitled "An act empowering the General Counsel or his designee 15 to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional 16 17 and Occupational Affairs; providing additional powers to the 18 Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," 19 20 is amended by adding sections to read: Section 2.1. Reporting of sanctions and criminal proceedings. 21

- 1 (a) Duty. -- An individual who holds a license, certificate or
- 2 registration issued by the Bureau of Professional and
- 3 Occupational Affairs shall, as a condition of licensure,
- 4 <u>certification or registration, do all of the following:</u>
- 5 (1) Report to the appropriate licensing board or
- 6 <u>licensing commission a disciplinary action taken against the</u>
- 7 <u>licensee, certificate holder or registrant by a licensing</u>
- 8 <u>agency of another jurisdiction.</u>
- 9 (2) Report to the appropriate licensing board or
- 10 licensing commission an arrest, indictment or conviction of
- the licensee, certificate holder or registrant.
- 12 (b) Time. -- A report under subsection (a) shall be made as
- 13 <u>follows:</u>
- 14 (1) Within 30 days of the imposition of the sanction
- described under subsection (a) (1).
- 16 (2) Except as set forth in paragraph (3), within 30 days
- of the earlier of:
- (i) an arrest under subsection (a)(2);—or <--
- 19 <u>(ii) an indictment under subsection (a) (2) -; OR</u> <--
- 20 (III) A CONVICTION UNDER SUBSECTION (A)(2).
- 21 (3) In the case of a criminal action under subsection
- 22 (a) (2) that is initiated prior to the effective date of this
- 23 paragraph, within 30 days from the later of:
- (i) the date of conviction; or
- 25 (ii) the effective date of this paragraph.
- 26 (c) Sanctions.--A licensing board or licensing commission
- 27 shall take disciplinary action against a licensee, certificate
- 28 holder or registrant who violates this section.
- 29 <u>Section 3.1. Temporary and automatic suspension.</u>
- 30 (a) Temporary suspension. -- A licensing board or licensing

- 1 commission may temporarily suspend a license, certificate or
- 2 registration under circumstances as determined by the board or
- 3 <u>commission to be an immediate and clear danger to the public</u>
- 4 <u>health and safety. The board or commission shall issue an order</u>
- 5 to that effect without a hearing, but upon due notice, to the
- 6 <u>licensee or</u>, certificate holder OR REGISTRANT concerned at his <--
- 7 <u>last known address, which shall include a written statement of</u>
- 8 <u>all allegations against the licensee or, certificate holder OR</u> <--
- 9 REGISTRANT. After issuing the order, the board or commission
- 10 shall commence formal action to suspend, revoke or restrict the
- 11 <u>license or, certificate OR REGISTRATION of the person concerned</u> <--
- 12 <u>as otherwise provided for by law. All actions shall be taken</u>
- 13 promptly and without delay.
- 14 (b) Hearing.--Within 30 days following the issuance of an
- 15 order temporarily suspending a license, CERTIFICATE OR
- 16 REGISTRATION, the licensing board or licensing commission shall

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- 17 conduct or cause to be conducted a preliminary hearing to
- 18 determine whether there is a prima facie case supporting the
- 19 <u>suspension</u>. The licensee or, certificate holder OR REGISTRANT
- 20 whose license or, certificate OR REGISTRATION has been
- 21 temporarily suspended may be present at the preliminary hearing
- 22 and may be represented by counsel, cross-examine witnesses,
- 23 inspect physical evidence, call witnesses, offer evidence and
- 24 testimony and make a record of the proceedings. If it is
- 25 determined that there is not a prima facie case, the suspended
- 26 license, CERTIFICATE OR REGISTRATION shall be immediately
- 27 restored. The temporary suspension shall remain in effect until
- 28 vacated by the board or commission, but in no event longer than
- 29 180 days.
- 30 (c) Automatic suspension.--A license or, certificate OR <--

- 1 REGISTRATION issued by a licensing board or licensing commission
- 2 <u>shall automatically be suspended upon:</u>
- 3 (1) the legal commitment to an institution of a licensee
- 4 <u>or</u>, certificate holder OR REGISTRANT because of mental <--
- 5 <u>incompetency for any cause upon filing with the board or</u>
- 6 commission a certified copy of the commitment; or
- 7 (2) conviction of a felony under the act of April 14,
- 8 1972 (P.L.233, No.64), known as The Controlled Substance,
- 9 <u>Drug, Device and Cosmetic Act, or conviction of an offense</u>
- 10 under the laws of another jurisdiction which, if committed in
- this Commonwealth, would be a felony under The Controlled
- 12 <u>Substance, Drug, Device and Cosmetic Act.</u>
- 13 (d) Stay. -- Automatic suspension under subsection (c) shall
- 14 not be stayed pending an appeal of a conviction.
- 15 <u>(e) Restoration.--Restoration of a license or, certificate <--</u>
- 16 OR REGISTRATION shall be made as provided by law in the case of <--
- 17 <u>revocation or suspension of the license or, certificate OR</u> <--
- 18 REGISTRATION.
- 19 (f) Definition.--As used in this section, the term
- 20 "conviction" shall include a judgment, an admission of quilt or
- 21 a plea of nolo contendere.
- 22 Section 2. This act shall take effect in 60 days.