
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **538** Session of
2015

INTRODUCED BY TOMLINSON, MENSCH, VANCE, SCHWANK, HUGHES,
RAFFERTY AND BOSCOLA, FEBRUARY 25, 2015

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 24, 2015

AN ACT

1 Amending the act of July 2, 1993 (P.L.345, No.48), entitled "An
2 act empowering the General Counsel or his designee to issue
3 subpoenas for certain licensing board activities; providing
4 for hearing examiners in the Bureau of Professional and
5 Occupational Affairs; providing additional powers to the
6 Commissioner of Professional and Occupational Affairs; and
7 further providing for civil penalties and license
8 suspension," FURTHER PROVIDING FOR DEFINITIONS; providing for <--
9 reporting of sanctions and criminal proceedings and for
10 temporary and automatic suspension; AND FURTHER PROVIDING FOR <--
11 CIVIL PENALTIES.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. ~~The~~ SECTION 1 OF THE act of July 2, 1993 <--
15 (P.L.345, No.48), entitled "An act empowering the General
16 Counsel or his designee to issue subpoenas for certain licensing
17 board activities; providing for hearing examiners in the Bureau
18 of Professional and Occupational Affairs; providing additional
19 powers to the Commissioner of Professional and Occupational
20 Affairs; and further providing for civil penalties and license
21 suspension," is amended by adding ~~sections~~ A DEFINITION to read: <--

1 ~~Section 2.1. Reporting of sanctions and criminal proceedings.~~ <--

2 ~~(a) Duty. An individual who holds a license, certificate or~~
3 ~~registration issued by the Bureau of Professional and~~
4 ~~Occupational Affairs Licensure shall, as a condition of~~
5 ~~licensure, certification or registration, do all of the~~
6 ~~following:~~

7 ~~(1) Report to the appropriate licensing board or~~
8 ~~licensing commission a disciplinary action taken against the~~
9 ~~licensee, certificate holder or registrant by a licensing~~
10 ~~agency of another jurisdiction.~~

11 ~~(2) Report to the appropriate licensing board or~~
12 ~~licensing commission any arrest, indictment or conviction of~~
13 ~~the licensee, certificate holder or registrant.~~

14 ~~(b) Time. A report under subsection (a) shall be made as~~
15 ~~follows:~~

16 ~~(1) Within 30 days of the imposition of the sanction~~
17 ~~under subsection (a) (1).~~

18 ~~(2) Except as set forth in paragraph (3), within 30 days~~
19 ~~of the earlier of:~~

20 ~~(i) an arrest under subsection (a) (2);~~

21 ~~(ii) an indictment under subsection (a) (2); or~~

22 ~~(iii) a conviction under subsection (a) (2).~~

23 ~~(3) In the case of a criminal action under subsection~~
24 ~~(a) (2) which is initiated prior to the effective date of this~~
25 ~~paragraph, within 30 days from the later of:~~

26 ~~(i) the date of conviction; or~~

27 ~~(ii) the effective date of this paragraph.~~

28 ~~(c) Sanctions. A licensing board or licensing commission~~
29 ~~shall take disciplinary action against a licensee, certificate~~
30 ~~holder or registrant who violates this section.~~

1 SECTION 1. DEFINITIONS. <--

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
3 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 * * *

6 "LICENSEE." ANY PERSON HOLDING A LICENSE, REGISTRATION,
7 CERTIFICATE OR PERMIT WITH A LICENSING BOARD OR COMMISSION UNDER
8 THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS IN THE
9 DEPARTMENT OF STATE.

10 * * *

11 SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
12 SECTION 2.1. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.

13 (A) DUTY.--A LICENSEE, AS A CONDITION OF LICENSURE,
14 CERTIFICATION, REGISTRATION OR HOLDING A PERMIT, SHALL PROVIDE
15 WRITTEN NOTICE OF THE FOLLOWING TO THE APPROPRIATE LICENSING
16 BOARD OR COMMISSION WITHIN 30 DAYS:

17 (1) A DISCIPLINARY ACTION TAKEN AGAINST THE LICENSEE BY
18 A LICENSING AGENCY OF ANOTHER JURISDICTION.

19 (2) A FINDING OR VERDICT OF GUILT, AN ADMISSION OF
20 GUILT, A PLEA OF NOLO CONTENDERE, PROBATION WITHOUT VERDICT,
21 A DISPOSITION IN LIEU OF TRIAL OR AN ACCELERATED
22 REHABILITATIVE DISPOSITION OF ANY FELONY OR MISDEMEANOR
23 OFFENSE AND ANY DRUG OR ALCOHOL RELATED SUMMARY OFFENSE.

24 (B) SANCTIONS.--A LICENSING BOARD OR LICENSING COMMISSION
25 MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE WHO VIOLATES
26 THIS SECTION.

27 Section 3.1. Temporary and automatic suspension.

28 (a) Temporary suspension.--A licensing board or licensing <--
29 commission may temporarily suspend a license, certificate or, <--
30 registration OR PERMIT under circumstances as determined by the <--

1 board or commission to be an immediate and clear danger to the
2 public health and, safety OR WELFARE. The LICENSING board or <--
3 commission shall issue an order to that effect without a
4 hearing, but upon due notice, to the licensee, ~~certificate~~ <--
5 holder or registrant concerned at his last known address, which
6 shall include a written statement of all allegations against the
7 licensee, ~~certificate holder or registrant~~. The LICENSING board <--
8 or commission shall thereupon commence formal action to suspend,
9 revoke or restrict the license, certificate ~~or~~, registration OR <--
10 PERMIT of the person concerned as otherwise provided for by law.
11 All actions shall be taken promptly and without delay.

12 (b) Hearing.--Within 30 days following the issuance of an
13 order temporarily suspending a license, ~~certificate or~~ <--
14 registration OF TEMPORARY SUSPENSION, the licensing board or <--
15 licensing commission shall conduct or cause to be conducted a <--
16 preliminary hearing to determine that there is a prima facie
17 case supporting the suspension. The licensee, ~~certificate holder~~ <--
18 or registrant whose license, certificate ~~or~~, registration OR <--
19 PERMIT has been temporarily suspended may be present at the
20 preliminary hearing and may be represented by counsel, cross-
21 examine witnesses, inspect physical evidence, call witnesses,
22 offer evidence and testimony and make a record of the
23 proceedings. If it is determined that there is not a prima facie
24 case, the suspended license, certificate ~~or~~, registration OR <--
25 PERMIT shall be immediately restored. The temporary suspension
26 shall remain in effect until vacated by the LICENSING board or <--
27 commission, but in no event longer than 180 days.

28 (c) Automatic suspension.--A license, certificate ~~or~~, <--
29 registration OR PERMIT issued by a licensing board or ~~licensing~~ <--
30 commission shall automatically be suspended upon:

1 (1) the legal commitment to an institution of a
2 licensee, certificate holder or registrant because of mental <--
3 incompetency from any cause upon filing with the board or
4 commission a certified copy of the commitment; or

5 (2) conviction of a felony under the act of April 14,
6 1972 (P.L.233, No.64), known as The Controlled Substance,
7 Drug, Device and Cosmetic Act, or conviction of an offense
8 under the laws of another jurisdiction, which, if committed
9 in this Commonwealth, would be a felony under The Controlled
10 Substance, Drug, Device and Cosmetic Act.

11 (d) Stay.--Automatic suspension under subsection (c) shall
12 not be stayed pending any appeal of a conviction.

13 (e) Restoration.--Restoration of a license, certificate or, <--
14 registration OR PERMIT shall be made as provided by law in the <--
15 case of revocation or suspension of the license, certificate or, <--
16 registration OR PERMIT. <--

17 (f) Definition. As used in this section, the term <--
18 "conviction" shall include a judgment, an admission of guilt or
19 a plea of nolo contendere.

20 SECTION 3. SECTION 5(B), (D.1), (D.3) AND (D.4) OF THE ACT, <--
21 AMENDED OR ADDED FEBRUARY 4, 2014 (P.L.16, NO.6), ARE AMENDED TO
22 READ:

23 SECTION 5. CIVIL PENALTIES.

24 * * *

25 (B) ADDITIONAL POWERS.--IN ADDITION TO THE DISCIPLINARY
26 POWERS AND DUTIES OF THE BOARDS AND COMMISSIONS WITHIN THE
27 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS UNDER THEIR
28 RESPECTIVE PRACTICE ACTS, BOARDS AND COMMISSIONS SHALL HAVE THE
29 POWER, RESPECTIVELY:

30 (1) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,

1 A CIVIL PENALTY OF UP TO \$10,000 PER VIOLATION ON ANY
2 LICENSEE[, REGISTRANT, CERTIFICATE HOLDER, PERMIT HOLDER] OR
3 UNLICENSED PERSON WHO VIOLATES A LAWFUL DISCIPLINARY ORDER OF
4 THE BOARD.

5 (2) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,
6 A CIVIL PENALTY OF UP TO \$10,000 PER VIOLATION ON ANY
7 LICENSEE[, REGISTRANT, CERTIFICATE HOLDER, PERMIT HOLDER] OR
8 UNLICENSED PERSON WHO AIDS AND ABETS THE UNLICENSED PRACTICE
9 OF A PROFESSION, OCCUPATION OR BUSINESS.

10 (3) TO LEVY A CIVIL PENALTY OF NOT MORE THAN \$10,000 PER
11 VIOLATION ON ANY CORPORATION, PARTNERSHIP, INSTITUTION,
12 ASSOCIATION OR SOLE PROPRIETORSHIP WHICH AIDS AND ABETS ANY
13 INDIVIDUAL IN THE UNLICENSED PRACTICE OF A PROFESSION. THIS
14 PENALTY SHALL NOT, HOWEVER, BE LEVIED AGAINST ANY PERSON
15 SOLELY AS A CONSEQUENCE OF THAT PERSON BEING A PATIENT OR
16 CLIENT OF THE UNLICENSED INDIVIDUAL.

17 (4) TO LEVY A CIVIL PENALTY OF NOT MORE THAN \$10,000 PER
18 VIOLATION ON ANY LICENSEE[, REGISTRANT, CERTIFICATE HOLDER,
19 PERMIT HOLDER] OR UNLICENSED PERSON WHO VIOLATES ANY
20 PROVISION OF THE APPLICABLE LICENSING ACT OR BOARD
21 REGULATION.

22 (5) TO ASSESS AGAINST THE RESPONDENT DETERMINED TO BE IN
23 VIOLATION OF THE DISCIPLINARY PROVISIONS ADMINISTERED BY A
24 LICENSING BOARD OR COMMISSION IN A DISCIPLINARY PROCEEDING
25 PENDING BEFORE THE BOARD OR COMMISSION FOR FINAL
26 DETERMINATION, AS PART OF THE SANCTION, THE COSTS OF
27 INVESTIGATION UNDERLYING THAT DISCIPLINARY ACTION. THE COST
28 OF INVESTIGATION SHALL NOT INCLUDE THOSE COSTS INCURRED BY
29 THE BOARD OR COMMISSION AFTER THE FILING OF FORMAL ACTIONS OR
30 DISCIPLINARY CHARGES AGAINST THE RESPONDENT.

1 (6) TO COLLECT ALL FEES, COSTS, FINES AND PENALTIES
2 ASSESSED AS A RESULT OF A DISCIPLINARY PROCEEDING BEFORE A
3 LICENSING BOARD OR COMMISSION.

4 (7) TO DENY, SUSPEND OR REVOKE A LICENSE, REGISTRATION,
5 CERTIFICATION OR PERMIT FOR FAILURE TO PAY ANY PENALTY, FEE,
6 INTEREST OR COST ASSESSED AS A RESULT OF A DISCIPLINARY
7 PROCEEDING BEFORE A LICENSING BOARD OR COMMISSION.

8 * * *

9 (D.1) ENTRY OF JUDGMENT.--WITHIN 60 MONTHS OF THE FINAL
10 DISPOSITION OF A DISCIPLINARY CASE, IF AN UNPAID CIVIL PENALTY,
11 FEE, INTEREST AND COST OF A LICENSEE[, REGISTRANT, CERTIFICATE
12 HOLDER OR PERMIT HOLDER] TOTAL \$1,000 OR MORE, THE LICENSING
13 BOARD OR COMMISSION, OR ITS RESPECTIVE AGENT, MAY TRANSMIT A
14 COPY OF THE FINAL DISPOSITION TO THE PROTHONOTARY OF THE COURT
15 OF COMMON PLEAS IN THE COUNTY WHERE THE LICENSEE[, REGISTRANT,
16 CERTIFICATE HOLDER OR PERMIT HOLDER,] OR PROPERTY OF THE
17 LICENSEE[, REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER,]
18 UPON WHOM THE PENALTY, FEE, INTEREST AND COST ARE IMPOSED IS
19 LOCATED. THE PROTHONOTARY SHALL ENTER AND DOCKET THE SAME
20 WITHOUT REQUIRING PAYMENT OF COSTS AS A CONDITION PRECEDENT TO
21 THE ENTRY THEREOF. THE TOTAL OF THE PENALTY, FEE, INTEREST AND
22 COST SHALL BE ENTERED AS A JUDGMENT UPON THE LICENSEE[,
23 REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER] REGARDLESS OF
24 WHETHER THE AMOUNT HAS BEEN ORDERED TO BE PAID IN INSTALLMENTS.

25 * * *

26 (D.3) EXECUTION.--A WRIT OF EXECUTION MAY DIRECTLY ISSUE
27 UPON THE LIEN WITHOUT THE ISSUANCE AND PROSECUTION TO JUDGMENT
28 OF A WRIT OF SCIRE FACIAS, PROVIDED THAT A NOTICE OF THE FILING
29 AND THE EFFECT OF THE LIEN BE PROVIDED TO THE LICENSEE[,
30 REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER] NOT LESS THAN

1 TEN DAYS BEFORE THE EXECUTION ON THE LIEN. NOTICE MAY BE SENT BY
2 REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE[,
3 REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER].

4 (D.4) EXCEPTION TO EXECUTION.--THE LIEN SHALL HAVE NO EFFECT
5 UPON ANY STOCK OF GOODS, WARES OR MERCHANDISE REGULARLY SOLD OR
6 LEASED IN THE ORDINARY COURSE OF BUSINESS BY THE LICENSEE[,
7 REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER] AGAINST WHOM
8 THE LIEN HAS BEEN ENTERED, UNLESS AND UNTIL A WRIT OF EXECUTION
9 HAS BEEN ISSUED AND A LEVY MADE UPON THE STOCK OF GOODS, WARES
10 AND MERCHANDISE.

11 * * *

12 Section 2 4. This act shall take effect in 60 days.

<--