

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

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," providing for reporting of sanctions and
9 criminal proceedings and for temporary and automatic
10 suspension.

11 The General Assembly of the Commonwealth of Pennsylvania
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;
16 providing for hearing examiners in the Bureau of Professional
17 and Occupational Affairs; providing additional powers to the
18 Commissioner of Professional and Occupational Affairs; and
19 further providing for civil penalties and license suspension,"
20 is amended by adding sections to read:

21 Section 2.1. Reporting of sanctions and criminal proceedings.

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 certification or registration, do all of the following:

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

9 (2) Report to the appropriate licensing board or
10 licensing commission an arrest, indictment or conviction of
11 the licensee, certificate holder or registrant.

12 (b) Time.--A report under subsection (a) shall be made as
13 follows:

14 (1) Within 30 days of the imposition of the sanction
15 described under subsection (a)(1).

16 (2) Except as set forth in paragraph (3), within 30 days
17 of the earlier of:

18 (i) an arrest under subsection (a)(2); ~~or~~ <--

19 (ii) an indictment under subsection (a)(2); OR <--

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:

24 (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 Section 3.1. Temporary and automatic suspension.

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 commission to be an immediate and clear danger to the public
4 health and safety. The board or commission shall issue an order
5 to that effect without a hearing, but upon due notice, to the
6 licensee ~~or~~, certificate holder OR REGISTRANT concerned at his <--
7 last known address, which shall include a written statement of
8 all allegations against the licensee ~~or~~, certificate holder OR <--
9 REGISTRANT. After issuing the order, the board or commission
10 shall commence formal action to suspend, revoke or restrict the
11 license ~~or~~, certificate OR REGISTRATION of the person concerned <--
12 as otherwise provided for by law. All actions shall be taken
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
17 conduct or cause to be conducted a preliminary hearing to
18 determine whether there is a prima facie case supporting the
19 suspension. 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 shall automatically be suspended upon:

3 (1) the legal commitment to an institution of a licensee
4 ~~or~~, certificate holder OR REGISTRANT because of mental <--
5 incompetency for any cause upon filing with the board or
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 Drug, Device and Cosmetic Act, or conviction of an offense
10 under the laws of another jurisdiction which, if committed in
11 this Commonwealth, would be a felony under The Controlled
12 Substance, Drug, Device and Cosmetic Act.

13 (d) Stay.--Automatic suspension under subsection (c) shall
14 not be stayed pending an appeal of a conviction.

15 (e) Restoration.--Restoration of a license ~~or~~, certificate <--
16 OR REGISTRATION shall be made as provided by law in the case of <--
17 revocation or suspension of the license ~~or~~, certificate OR <--
18 REGISTRATION.

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

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