

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2779

Session of
1980

INTRODUCED BY MR. POLITE, JUNE 24, 1980

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 15, 1980

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 ~~providing for hearing examiners.~~ FURTHER PROVIDING FOR <—
7 HEARINGS BY THE BOARD OR A HEARING EXAMINER AND PROVIDING FOR
8 LEGISLATIVE OVERSIGHT.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. ~~Section 5,~~ THE act of September 27, 1961 <—
12 (P.L.1700, No.699), known as the "Pharmacy Act," is amended by
13 adding a ~~subsection~~ SECTION to read: <—

14 ~~Section 5. Revocation and Suspension. * * *~~ <—

15 ~~(c) The board shall appoint, with the approval of the~~
16 ~~Governor, such hearing examiners as shall be necessary to~~
17 ~~conduct hearings as may be required under this section.~~

18 ~~The board shall have the power to adopt and promulgate rules~~
19 ~~and regulations setting forth the functions, powers, standards~~
20 ~~and duties to be followed by the hearing examiners.~~

~~The hearing examiners shall have the power to conduct hearings in accordance with the regulations of the board, and to issue subpoenas requiring the attendance and testimony of individuals or the production of, pertinent books, records, documents and papers by persons whom they believe to have information relevant to any matter pending before the examiner. Such examiner shall also have the power to administer oaths.~~

~~The hearing examiner shall hear evidence submitted and arguments of counsel, if any, with reasonable dispatch, and shall promptly record his decision, supported by findings of fact, and a copy thereof shall immediately be sent to the board and to counsel of record, or the parties, if not represented.~~

~~If application for review is made to the board within twenty days from the date of any decision made as a result of a hearing held by a hearing examiner, the board shall review the evidence, and if deemed advisable by the board, hear argument and additional evidence. As soon as practicable, the board shall make a decision and shall file the same with its finding of the facts on which it is based and send a copy thereof to each of the parties in dispute.~~

~~SECTION 5.1. LICENSING POWERS; HEARINGS; LEGISLATIVE OVERSIGHT.--(A) THE BOARD SHALL HAVE THE FOLLOWING POWERS:~~

~~(1) TO GRANT, REFUSE, REVOKE OR SUSPEND ANY LICENSE TO PRACTICE THE PROFESSION OF PHARMACY IN THIS COMMONWEALTH PURSUANT TO THE PROVISIONS OF THIS ACT.~~

~~(2) TO CONDUCT HEARINGS, INVESTIGATIONS AND DISCOVERY PROCEEDINGS; TO ADMINISTER OATHS OR AFFIRMATIONS TO WITNESSES, TAKE TESTIMONY, ISSUE SUBPOENAS TO COMPEL ATTENDANCE OF WITNESSES OR THE PRODUCTION OF RECORDS, DOCUMENTS OR OTHER MATTER: TO EXERCISE ALL POWER GRANTED BY LAW OR REGULATION IN~~

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1 ACCORDANCE WITH THE GENERAL RULES OF ADMINISTRATIVE PRACTICE AND
2 PROCEDURE. SAID HEARING MAY BE CONDUCTED BY THE BOARD, OR A
3 DESIGNATED REPRESENTATIVE THEREOF, OR BY SUCH HEARING EXAMINER
4 AS SHALL BE APPOINTED BY THE BOARD AND APPROVED BY THE GOVERNOR.
5 THE BOARD SHALL HAVE THE POWER TO ADOPT AND PROMULGATE RULES AND
6 REGULATIONS SETTING FORTH THE FUNCTIONS, POWERS, STANDARDS AND
7 DUTIES TO BE FOLLOWED BY ANY HEARING EXAMINERS APPOINTED BY IT.
8 THE HEARING EXAMINER SHALL HAVE ALL THOSE POWERS THAT ARE VESTED
9 IN THE BOARD TO CONDUCT HEARINGS. UPON CONCLUSION OF THE
10 PRESENTATION OF THE CASE BY ALL PARTIES INVOLVED, THE EXAMINER
11 SHALL REPORT HIS FINDINGS IN WRITING TO THE BOARD, WHICH
12 WRITINGS SHALL INCLUDE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
13 RECOMMENDED SANCTION, WHICH SHALL THEREUPON BE REVIEWED BY THE
14 BOARD AND AN ORDER ISSUED UPON A MAJORITY VOTE OF THOSE MEMBERS
15 OF THE BOARD.

16 (B) RULES AND REGULATIONS PROPOSED UNDER SUBSECTION (A)(2)
17 SHALL FIRST BE SUBMITTED TO THE SECRETARY OF THE SENATE AND THE
18 CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES WHO SHALL CAUSE THE
19 PROPOSED RULES AND REGULATIONS TO BE PRINTED AND DISTRIBUTED
20 AMONG ALL MEMBERS OF BOTH CHAMBERS IN THE SAME MANNER AS A
21 REORGANIZATION PLAN. IF BOTH BODIES FAIL TO ACT WITHIN SIXTY
22 DAYS OF RECEIPT OF SUCH RULES AND REGULATIONS, OR WITHIN TEN
23 LEGISLATIVE DAYS AFTER RECEIPT, WHICHEVER SHALL LAST OCCUR,
24 PROPOSED RULES AND REGULATIONS ADOPTED BY THE BOARD SHALL BE
25 PROMULGATED PURSUANT TO THE PROVISIONS OF THE ACT OF JULY 31,
26 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH
27 DOCUMENTS LAW AND 45 PA.C.S. PART II (RELATING TO PUBLICATION
28 AND EFFECTIVENESS OF COMMONWEALTH DOCUMENTS). IF EITHER CHAMBER
29 DISAPPROVES ANY SUCH RULE OR REGULATION, SUCH INFORMATION SHALL
30 BE CERTIFIED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR

1 PRESIDENT PRO TEMPORE OF THE SENATE TO THE BOARD AND THE
2 PROPOSED RULES OR REGULATIONS SHALL NOT BE PROMULGATED.
3 Section 2. This act shall take effect in 60 days.