

## AMENDMENTS TO SENATE BILL NO. 354

Sponsor: REPRESENTATIVE MUSTIO

Printer's No. 710

1 Amend Bill, page 1, line 8, by inserting after "suspension,"

2 "

3 further providing for definitions;

4 Amend Bill, page 1, line 10, by inserting after "suspension"

5 ; and further providing for civil penalties

6 Amend Bill, page 1, lines 13 through 20, by striking out all

7 of said lines and inserting

8 Section 1. Section 1 of the act of July 2, 1993 (P.L.345,  
9 No.48), entitled "An act empowering the General Counsel or his  
10 designee to issue subpoenas for certain licensing board  
11 activities; providing for hearing examiners in the Bureau of  
12 Professional and Occupational Affairs; providing additional  
13 powers to the Commissioner of Professional and Occupational  
14 Affairs; and further providing for civil penalties and license  
15 suspension," is amended by adding a definition to read:  
16 Section 1. Definitions.

17 The following words and phrases when used in this act shall  
18 have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 \* \* \*

21 "Expunge" or "expungement." Removal of a disciplinary  
22 record, accomplished by:

23 (1) permanently sealing the affected record from public  
24 access;

25 (2) deeming the proceedings to which the affected record  
26 refers as not having occurred; and

27 (3) except with respect to any subsequent application  
28 for expungement, affording the affected party the right to  
29 represent that no record exists regarding the subject matter  
30 of the affected record.

31 \* \* \*

32 Section 2. The act is amended by adding sections to read:

33 Amend Bill, page 4, by inserting between lines 21 and 22

1 Section 3. Section 5(a) of the act is amended to read:  
2 Section 5. Civil penalties.

3 (a) Authorization.--

4 (1) The Commissioner of Professional and Occupational  
5 Affairs, after consultation with the licensing boards and  
6 commissions, shall have the power to adopt a schedule of  
7 civil penalties for operating without a current, registered,  
8 unsuspended and unrevoked license, registration, certificate  
9 or permit and for violating any provision of their respective  
10 acts or regulations relating to the conduct or operation of a  
11 business or facility licensed by such licensing boards and  
12 commissions. The schedule of penalties shall not be  
13 applicable to disciplinary matters under the jurisdiction of  
14 a licensing board or commission unless that licensing board  
15 or commission has approved the schedule. The schedule of  
16 penalties, guidelines for their imposition and procedures for  
17 appeal shall be published in the Pennsylvania Bulletin,  
18 provided that the commissioner shall, within two years of  
19 such publication, promulgate a regulation setting forth the  
20 schedule of penalties, guidelines and procedures. Any such  
21 penalty shall not exceed the sum of \$1,000 per violation.  
22 Duly authorized agents of the bureau shall have the power and  
23 authority to issue citations and impose penalties for any  
24 such violations. Any such penalty imposed may be appealed to  
25 a hearing examiner or the licensing board or commission  
26 pursuant to the regulations promulgated under section 3(b).  
27 If the appeal is initially to a hearing examiner, the  
28 relevant licensing board or commission shall render a  
29 decision on any exceptions to the decision of the hearing  
30 examiner or on any applications for review in accordance with  
31 section 3(d). All proceedings shall be conducted in  
32 accordance with the provisions of 2 Pa.C.S. (relating to  
33 administrative law and procedure).

34 (2) The Commissioner of Professional and Occupational  
35 Affairs shall expunge the disciplinary record of a licensee,  
36 registrant, certificate holder or permit holder, if the  
37 imposition of discipline was for a violation involving  
38 failure to complete continuing education requirements or  
39 practicing for six months or less on a lapsed license,  
40 registration, certificate or permit, subject to the  
41 following:

42 (i) The licensee, registrant, certificate holder or  
43 permit holder must make written application to the  
44 commissioner for expungement not earlier than four years  
45 from the final disposition of the disciplinary record.

46 (ii) The disciplinary record must be the only  
47 disciplinary record that the licensee, registrant,  
48 certificate holder or permit holder has with either the  
49 commissioner or a licensing board or commission under the  
50 commissioner's jurisdiction.

51 (iii) The licensee, registrant, certificate holder

1 or permit holder must not be the subject of an active  
2 investigation related to professional or occupational  
3 conduct.

4 (iv) The licensee, registrant, certificate holder or  
5 permit holder must not be in a current disciplinary  
6 status, and any fees or fines assessed must be paid in  
7 full.

8 (v) The licensee, registrant, certificate holder or  
9 permit holder must not have had a disciplinary record  
10 previously expunged by the commissioner.

11 (vi) Disciplinary records involving imposition of  
12 discipline for violations other than those identified in  
13 this paragraph shall not be eligible for expungement.

14 (vii) The licensee, registrant, certificate holder  
15 or permit holder shall pay all costs associated with the  
16 expungement as established by the commissioner by  
17 regulation.

18 (3) Nothing in this subsection shall prohibit a licensing  
19 board or commission from using a previous discipline for any  
20 regulatory purpose or from releasing records of a previous  
21 discipline upon request from law enforcement or other  
22 governmental body as permitted by law.

23 \* \* \*

24 Amend Bill, page 4, line 22, by striking out "2" and  
25 inserting

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