

AMENDMENTS TO HOUSE BILL NO. 1477

Sponsor: REPRESENTATIVE KAUFFMAN

Printer's No. 1860

1 Amend Bill, page 1, lines 1 through 4, by striking out all of
2 said lines and inserting

3 Amending Titles 18 (Crimes and Offenses) and 63 (Professions and
4 Occupations (State Licensed)) of the Pennsylvania
5 Consolidated Statutes, in criminal history record
6 information, further providing for use of records by
7 licensing agencies; providing for preliminary provisions and
8 for Bureau of Professional and Occupational Affairs;
9 consolidating the provisions of Act 48 of 1993; and making a
10 related repeal.

11 Amend Bill, page 1, lines 7 through 17; pages 2 through 4,
12 lines 1 through 30; page 5, lines 1 through 17; by striking out
13 all of said lines on said pages and inserting

14 Section 1. Section 9124(a) and (b)(2) of Title 18 of the
15 Pennsylvania Consolidated Statutes are amended and the section
16 is amended by adding a subsection to read:

17 § 9124. Use of records by licensing agencies.

18 (a) State agencies.--Except as provided by this chapter and
19 specifically subsection (a.1), a board, commission or department
20 of the Commonwealth, when determining eligibility for licensing,
21 certification, registration or permission to engage in a trade,
22 profession or occupation, may consider convictions of the
23 applicant of crimes but the convictions shall not preclude the
24 issuance of a license, certificate, registration or permit.

25 (a.1) Application of other law.--The following provisions
26 shall apply to a licensing board or licensing commission under
27 the Bureau of Professional and Occupational Affairs in the
28 Department of State with respect to refusing to issue or renew,
29 suspending, revoking or limiting a license, certificate,
30 registration or permit:

31 (1) 63 Pa.C.S. § 3112 (relating to restricted licenses
32 for barbers and cosmetologists).

33 (2) 63 Pa.C.S. § 3112.1 (relating to restricted licenses
34 for other occupations).

35 (3) 63 Pa.C.S. § 3113 (relating to supplementary

provisions regarding criminal convictions).

(4) 63 Pa.C.S. § 3114 (relating to juvenile adjudications).

(5) 63 Pa.C.S. § 3115 (relating to preliminary determinations by licensing boards and licensing commissions).

(6) 63 Pa.C.S. § 3116 (relating to best practices guide).

(7) 63 Pa.C.S. § 3117 (relating to list of criminal offenses).

(b) Prohibited use of information.--The following information shall not be used in consideration of an application for a license, certificate, registration or permit:

* * *

(2) Convictions which have been annulled [or expunged], expunged or subject to limited access under sections 9122.1 (relating to petition for limited access) and 9122.2 (relating to clean slate limited access).

* * *

Section 2. Title 63 is amended by adding parts to read:

PART I

PRELIMINARY PROVISIONS

(Reserved)

PART II

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Chapter

31. Powers and Duties

CHAPTER 31

POWERS AND DUTIES

Sec.

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3117. List of criminal offenses.

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§ 3101. Scope of chapter.

1 This chapter relates to the powers and duties of the General
2 Counsel, the Bureau of Professional and Occupational Affairs and
3 licensing boards and licensing commissions.

4 § 3102. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Bureau." The Bureau of Professional and Occupational
9 Affairs in the Department of State.

10 "Commissioner." The commissioner of the bureau.

11 "Criminal conviction." Includes a finding of guilty, a plea
12 of guilty or a plea of nolo contendere with respect to a
13 criminal offense of this Commonwealth, or an equivalent crime
14 under the laws of this Commonwealth in effect at the time of the
15 commission of the criminal offense or an equivalent crime in
16 another jurisdiction.

17 "Directly relates." The nature of the criminal conduct for
18 which the person was convicted has a direct bearing on the
19 fitness or ability to perform one or more of the duties or
20 responsibilities necessarily related to the profession, trade or
21 occupation for which the individual seeks licensure.

22 "Disciplinary matter." A matter subject to a licensing
23 board's or licensing commission's jurisdiction in which the
24 licensing board or licensing commission has the authority to
25 refuse, suspend, revoke or limit a license, registration,
26 certificate or permit or to impose a civil penalty or other
27 discipline under an act.

28 "Expunge" or "expungement." Removal of a disciplinary
29 record, accomplished by:

30 (1) permanently sealing the affected record from public
31 access;

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

34 (3) except with respect to any subsequent application
35 for expungement, affording the affected party the right to
36 represent that no record exists regarding the subject matter
37 of the affected record.

38 "Licensee." A person holding a license, registration,
39 certificate or permit with a licensing board or licensing
40 commission under the bureau.

41 "Licensing board." A departmental or administrative board
42 under the bureau.

43 "Licensing commission." A departmental or administrative
44 commission under the bureau.

45 "Right-to-Know Law." The act of February 14, 2008 (P.L.6,
46 No.3), known as the Right-to-Know Law.

47 § 3103. Investigatory subpoena power.

48 The General Counsel or a designee of the General Counsel
49 shall have the power and duty to issue subpoenas upon
50 application of an attorney responsible for representing the
51 Commonwealth in disciplinary matters before a licensing board or

1 licensing commission for the purpose of investigating alleged
2 violations of the disciplinary provisions administered by a
3 licensing board or licensing commission. The following apply:

4 (1) If disclosure is subject to a privilege provided by
5 law, patient or client records may not be subpoenaed without
6 the consent of the patient or client or without order of a
7 court of competent jurisdiction showing that the records are
8 reasonably necessary for the conduct of the investigation.

9 (2) The court may impose such limitation on the scope of
10 the subpoena as may be necessary to prevent unnecessary
11 intrusion into patient or client confidential information.

12 (3) The attorney responsible for representing the
13 Commonwealth in disciplinary matters before a licensing board
14 or licensing commission is authorized to apply to
15 Commonwealth Court to enforce the subpoenas.

16 (4) Nothing in this section shall be construed to excuse
17 a person from producing documents and records as requested by
18 a licensing board or licensing commission under any other
19 provision of law.

20 § 3104. Reporting of sanctions and criminal proceedings.

21 (a) Duty.--A licensee, as a condition of licensure,
22 certification, registration or holding a permit, shall provide
23 written notice of the following to the appropriate licensing
24 board or licensing commission within 30 days:

25 (1) A disciplinary action taken against the licensee by
26 a licensing agency of another jurisdiction.

27 (2) A finding or verdict of guilt, an admission of
28 guilt, a plea of nolo contendere, probation without verdict,
29 a disposition in lieu of trial or an Accelerated
30 Rehabilitative Disposition of a felony or misdemeanor
31 offense.

32 (b) Sanctions.--A licensing board or licensing commission
33 may take disciplinary action against a licensee who violates
34 this section.

35 § 3105. Hearing examiners.

36 (a) Appointment.--

37 (1) Notwithstanding any other provision of law, the
38 commissioner, after consultation with the licensing boards
39 and licensing commissions, shall appoint hearing examiners as
40 may be necessary to conduct hearings in disciplinary matters
41 before a licensing board or licensing commission.

42 (2) Each licensing board and licensing commission shall
43 have the power to decide if a specific disciplinary matter or
44 type of disciplinary matter is to be heard by the licensing
45 board or licensing commission itself or by a hearing examiner
46 appointed under this subsection.

47 (b) Regulations.--The commissioner, after consultation with
48 the licensing boards and commissions, shall have the power to
49 promulgate regulations specifying the procedural rules to be
50 followed by hearing examiners in the conduct of hearings in
51 disciplinary matters before a licensing board or licensing

1 commission. All proceedings shall be conducted in accordance
2 with the provisions of 2 Pa.C.S. (relating to administrative law
3 and procedure).

4 (c) Powers.--A hearing examiner shall have the power to:

5 (1) Conduct hearings in accordance with applicable
6 statutes, rules and regulations.

7 (2) Issue subpoenas requiring the attendance and
8 testimony of individuals or the production of pertinent
9 records or other papers by persons who, in the opinion of the
10 hearing examiner, have information relevant to any matters
11 pending before the hearing examiner and to issue decisions.

12 (d) Time periods.--

13 (1) In all disciplinary matters before a licensing board
14 or licensing commission, hearings shall commence within 90
15 days after the date on which an answer is filed.

16 (2) A continuance granted prior to the commencement of
17 the hearing shall toll the 90-day requirement by the period
18 of the continuance.

19 (3) A decision shall be rendered within 180 days after
20 the record is closed.

21 (4) The licensing board or licensing commission shall
22 render a final adjudication or decision on any exceptions to
23 the decision of a hearing examiner or any applications for
24 review within 90 days of the filing of the exceptions or
25 applications, provided that a board or commission may
26 delegate to a hearing examiner the authority to render a
27 final adjudication or decision in such cases as deemed
28 appropriate.

29 § 3106. Suspension.

30 (a) Temporary suspension.--A licensing board or licensing
31 commission may temporarily suspend a license, certificate,
32 registration or permit under circumstances as determined by the
33 licensing board or licensing commission to be an immediate and
34 clear danger to public health and safety. The following apply:

35 (1) The licensing board or commission shall issue an
36 order to that effect without a hearing, but upon due notice,
37 to the licensee concerned at the licensee's last known
38 address, which shall include a written statement of all
39 allegations against the licensee.

40 (2) After issuing the order under paragraph (1), the
41 licensing board or licensing commission shall commence formal
42 action to suspend, revoke or restrict the license,
43 certificate, registration or permit of the person concerned
44 as otherwise provided for by law.

45 (3) All actions shall be taken promptly and without
46 delay.

47 (b) Hearing.--Within 30 days following the issuance of an
48 order of temporary suspension, the licensing board or licensing
49 commission shall conduct or cause to be conducted a preliminary
50 hearing to determine whether there is a prima facie case
51 supporting the suspension. The following apply:

1 (1) The licensee whose license, certificate,
2 registration or permit has been temporarily suspended may:

- 3 (i) be present at the preliminary hearing;
4 (ii) be represented by counsel;
5 (iii) cross-examine witnesses;
6 (iv) inspect physical evidence;
7 (v) call witnesses;
8 (vi) offer evidence and testimony; and
9 (vii) make a record of the proceedings.

10 (2) If it is determined that there is not a prima facie
11 case, the suspended license, certificate, registration or
12 permit shall be immediately restored.

13 (3) The temporary suspension shall remain in effect
14 until vacated by the licensing board or licensing commission,
15 but in no event longer than 180 days.

16 (c) Restoration.--Restoration of a license, certificate,
17 registration or permit shall be made as provided by law in the
18 case of revocation or suspension of the license, certificate,
19 registration or permit.

20 § 3107. Additional powers for commissioner.

21 (a) Membership on boards and commissions.--In addition to
22 the powers and duties imposed under law, the commissioner or a
23 designee of the commissioner shall be a member of each of the
24 licensing boards and licensing commissions except the State
25 Board of Certified Real Estate Appraisers and the Navigation
26 Commission for the Delaware River and its Navigable Tributaries.

27 (b) Designee of Secretary of the Commonwealth.--The
28 commissioner or a designee of the commissioner may serve as the
29 designee of the Secretary of the Commonwealth on the Navigation
30 Commission for the Delaware River and its Navigable Tributaries.

31 § 3108. Civil penalties.

32 (a) Authorization.--

33 (1) The commissioner, after consultation with the
34 licensing boards and licensing commissions, shall have the
35 power to adopt a schedule of civil penalties for operating
36 without a current, registered, unsuspended and unrevoked
37 license, registration, certificate or permit and for
38 violating a provision of the licensing board's or licensing
39 commission's respective acts or regulations relating to the
40 conduct or operation of a business or facility licensed by
41 the licensing boards and licensing commissions. The following
42 apply:

43 (i) The schedule of penalties shall not be
44 applicable to disciplinary matters under the jurisdiction
45 of a licensing board or licensing commission unless that
46 licensing board or licensing commission has approved the
47 schedule.

48 (ii) The commission shall transmit notice of the
49 adoption of the schedule of penalties, guidelines for the
50 imposition of the schedule of penalties and procedures
51 for appeal to the Legislative Reference Bureau for

1 publication in the Pennsylvania Bulletin. The
2 commissioner shall, within two years of the publication
3 of the notice, promulgate a regulation specifying the
4 schedule of penalties, guidelines and procedures.

5 (iii) A penalty shall not exceed the sum of \$1,000
6 per violation.

7 (iv) Duly authorized agents of the bureau shall have
8 the power and authority to issue citations and impose
9 penalties for violations.

10 (v) A penalty imposed may be appealed to a hearing
11 examiner or the licensing board or licensing commission
12 pursuant to the regulations promulgated under section
13 3105(b) (relating to hearing examiners).

14 (vi) If the appeal is initially to a hearing
15 examiner, the relevant licensing board or licensing
16 commission shall render a decision on any exceptions to
17 the decision of the hearing examiner or on any
18 applications for review in accordance with section
19 3105(d).

20 (vii) All proceedings shall be conducted in
21 accordance with the provisions of 2 Pa.C.S. (relating to
22 administrative law and procedure).

23 (2) The commissioner shall expunge the disciplinary
24 record of a licensee, registrant, certificate holder or
25 permit holder if the imposition of discipline was for a
26 violation involving failure to complete continuing education
27 requirements or practicing for six months or less on a lapsed
28 license, registration, certificate or permit, subject to the
29 following:

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

34 (ii) The disciplinary record must be the only
35 disciplinary record that the licensee, registrant,
36 certificate holder or permit holder has with either the
37 commissioner or a licensing board or licensing commission
38 under the commissioner's jurisdiction.

39 (iii) The licensee, registrant, certificate holder
40 or permit holder must not be the subject of an active
41 investigation related to professional or occupational
42 conduct.

43 (iv) The licensee, registrant, certificate holder or
44 permit holder must not be in a current disciplinary
45 status, and any fees or fines assessed must be paid in
46 full.

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

50 (vi) Disciplinary records involving imposition of
51 discipline for violations other than those identified in

1 this paragraph shall not be eligible for expungement.

2 (vii) The licensee, registrant, certificate holder
3 or permit holder shall pay all costs associated with the
4 expungement as established by the commissioner by
5 regulation.

6 (3) Nothing in this subsection shall prohibit a
7 licensing board or licensing commission from using previous
8 discipline for any regulatory purpose or from releasing
9 records of previous discipline upon request from law
10 enforcement or other governmental body as permitted by law.

11 (b) Additional powers.--In addition to the disciplinary
12 powers and duties of the licensing boards and licensing
13 commissions within the bureau under their respective practice
14 acts, licensing boards and licensing commissions shall have the
15 power, respectively:

16 (1) To impose discipline, including, but not limited to,
17 a civil penalty of up to \$10,000 per violation on a licensee
18 or unlicensed person who violates a lawful disciplinary order
19 of the licensing board.

20 (2) To impose discipline, including, but not limited to,
21 a civil penalty of up to \$10,000 per violation on a licensee
22 or unlicensed person who aids and abets the unlicensed
23 practice of a profession, occupation or business.

24 (3) To levy a civil penalty of not more than \$10,000 per
25 violation on a corporation, partnership, institution,
26 association or sole proprietorship which aids and abets an
27 individual in the unlicensed practice of a profession. This
28 penalty shall not, however, be levied against a person solely
29 as a consequence of that person being a patient or client of
30 the unlicensed individual.

31 (4) To levy a civil penalty of not more than \$10,000 per
32 violation on a licensee or unlicensed person who violates a
33 provision of the applicable licensing act or licensing board
34 regulation.

35 (5) To assess against the respondent determined to be in
36 violation of the disciplinary provisions administered by a
37 licensing board or licensing commission in a disciplinary
38 proceeding pending before the licensing board or licensing
39 commission for final determination, as part of the sanction,
40 the costs of investigation underlying that disciplinary
41 action. The cost of investigation shall not include those
42 costs incurred by the licensing board or licensing commission
43 after the filing of formal actions or disciplinary charges
44 against the respondent.

45 (6) To collect all fees, costs, fines and penalties
46 assessed as a result of a disciplinary proceeding before a
47 licensing board or licensing commission.

48 (7) To deny, suspend or revoke a license, registration,
49 certification or permit for failure to pay any penalty, fee,
50 interest or cost assessed as a result of a disciplinary
51 proceeding before a licensing board or licensing commission.

1 (c) Restrictions.--

2 (1) Decisions rendered by a licensing board or licensing
3 commission on any exceptions to the decision of a hearing
4 examiner or on an application for review in accordance with
5 section 3105(d) to impose a civil penalty under this section
6 shall require the same number of votes required for the
7 licensing board or licensing commission to impose a civil
8 penalty under any other act.

9 (2) Nothing in this section shall be construed to
10 restrict the powers and duties under any other act of a
11 licensing board or licensing commission in disciplinary
12 matters, except that a licensing board or licensing
13 commission may not impose a civil penalty under any other act
14 for the same violation for which a civil penalty has been
15 imposed under this section.

16 (d) Status of civil penalty.--A civil penalty, together with
17 any associated fee, interest or cost, imposed under this section
18 or imposed by a licensing board or licensing commission under
19 another act shall be a judgment in favor of the bureau upon the
20 person or the property of the person, whether real or personal,
21 and including any after-acquired property, upon whom the civil
22 penalty is imposed. The Attorney General shall be responsible
23 for enforcing the judgments in courts of competent jurisdiction
24 in accordance with 42 Pa.C.S. (relating to judiciary and
25 judicial procedure).

26 (e) Entry of judgment.--Within 60 months of the final
27 disposition of a disciplinary case, if an unpaid civil penalty,
28 fee, interest and cost of a licensee total \$1,000 or more, the
29 licensing board or licensing commission, or the respective agent
30 of the licensing board or licensing commission, may transmit a
31 copy of the final disposition to the prothonotary of the court
32 of common pleas in the county where the licensee or property of
33 the licensee upon whom the penalty, fee, interest and cost are
34 imposed is located. The following apply:

35 (1) The prothonotary shall enter and docket the copy of
36 the final disposition without requiring payment of costs as a
37 condition precedent to the entry of the copy of the final
38 disposition.

39 (2) The total of the penalty, fee, interest and cost
40 shall be entered as a judgment upon the licensee regardless
41 of whether the amount has been ordered to be paid in
42 installments.

43 (f) Priority of lien.--A lien obtained under this section
44 shall maintain its priority indefinitely, and no writ of revival
45 need be filed.

46 (g) Execution.--A writ of execution may directly issue upon
47 the lien without the issuance and prosecution to judgment of a
48 writ of scire facias, provided that a notice of the filing and
49 the effect of the lien be provided to the licensee not less than
50 10 days before the execution on the lien. Notice may be sent by
51 registered mail to the last known address of the licensee.

1 (h) Exception to execution.--The lien shall have no effect
2 upon any stock of goods, wares or merchandise regularly sold or
3 leased in the ordinary course of business by the licensee
4 against whom the lien has been entered, unless and until a writ
5 of execution has been issued and a levy made upon the stock of
6 goods, wares and merchandise.

7 (i) Satisfaction.--Once a judgment is paid in full to the
8 licensing board or licensing commission, or the respective agent
9 of the licensing board or licensing commission, the licensing
10 board or licensing commission, or the respective agent of the
11 licensing board or licensing commission, shall, within 90 days,
12 notify the prothonotary in writing of receipt of payment in full
13 and request the judgment be noted as satisfied in full.

14 (j) Applicability.--This section shall apply only to
15 disciplinary proceedings commenced on or after August 31, 1993.

16 (k) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection unless the context clearly indicates otherwise:

19 "Unlicensed practice." Any of the following:

20 (1) Practicing a profession or occupation or operating a
21 business for which a license, registration, certificate or
22 permit is required without holding a valid, unexpired,
23 unrevoked or unsuspended authority to do so.

24 (2) Representing to the public or a person, through
25 offerings, advertisements or the use of a title, that the
26 individual is qualified to practice a profession, occupation
27 or business for which a license, registration, certificate or
28 permit is required without holding a valid, unexpired,
29 unrevoked or unsuspended authority to do so.

30 § 3109. Confidentiality of records of licensure boards.

31 (a) General rule.--

32 (1) All records under section 708(b)(17) of the Right-
33 to-Know Law, relating to a noncriminal investigation,
34 including prosecutorial memos and transcripts of depositions,
35 undertaken by the Bureau of Enforcement and Investigation and
36 the Prosecution Division of the Department of State, Office
37 of Chief Counsel on behalf of the licensing boards within the
38 Department of State or concerning a licensure-related
39 complaint filed with the Department of State shall be
40 confidential and privileged.

41 (2) No person who has investigated or has access to or
42 custody of documents, materials or information that are
43 confidential and privileged under this subsection shall be
44 required to testify in a judicial or administrative
45 proceeding unless directed to do so by a court of competent
46 jurisdiction without the written consent of the licensing
47 board that regulates the profession involved.

48 (3) This subsection shall not preclude or limit
49 introduction of the contents of an investigative file or
50 related witness testimony in a hearing or proceeding held
51 before the licensing boards within the Department of State.

1 (4) This section shall not apply to letters to a
2 licensee or other documents that disclose the final outcome
3 of an investigation or to final adjudication or orders issued
4 by the licensure board.

5 (b) Certain disclosure permitted.--

6 (1) Except as provided under subsection (a), this
7 section shall not prevent disclosure of documents, materials
8 or information pertaining to the status of a license, permit
9 or certificate issued or prepared by the licensing boards or
10 the sharing of information with law enforcement authorities
11 or professional licensure regulatory boards in other
12 jurisdictions or information relating to a public
13 disciplinary proceeding or hearing.

14 (2) Any other disclosure of records under section 708(b)
15 (17) of the Right-to-Know Law relating to a noncriminal
16 investigation, including prosecutorial memos and transcripts
17 of depositions by employees or agents of the Department of
18 State, Office of Chief Counsel, Bureau of Professional and
19 Occupational Affairs and the Bureau of Enforcement and
20 Investigation may be made only in furtherance of an
21 investigation or prosecution of alleged violations of
22 applicable licensing statutes, codes or regulations.

23 (3) Violations of this subsection shall subject the
24 employee or agent to administrative discipline, including
25 discharge, suspension or other formal or appropriate
26 disciplinary action.

27 (c) Confidentiality affidavits.--All employees and agents of
28 the Department of State Office of Chief Counsel, Bureau of
29 Professional and Occupational Affairs and the Bureau of
30 Enforcement and Investigation shall execute a confidentiality
31 affidavit that provides that documents, materials or information
32 under subsection (a), obtained by employees and agents of the
33 Department of State, Office of Chief Counsel, Bureau of
34 Professional and Occupational Affairs and the Bureau of
35 Enforcement and Investigation shall be considered confidential
36 and may be disclosed only as permitted under subsections (a) and
37 (b).

38 (d) Waiver prohibited.--A licensing board or licensing
39 commission may not require an applicant to waive any
40 confidentiality provided for under this section as a condition
41 for the approval of a license or any other action of the board.
42 § 3110. Reports.

43 Licensing boards and licensing commissions shall submit
44 annually to the Consumer Protection and Professional Licensure
45 Committee of the Senate and to the Professional Licensure
46 Committee of the House of Representatives a report containing
47 the following:

48 (1) Description of the types of complaints received.

49 (2) Status of cases.

50 (3) Total number of cases and type of disciplinary
51 action taken.

1 (4) Percentage of disciplinary actions in relation to
2 the total number of licensees.

3 (5) Number of closed cases.

4 (6) Average number of days to close a case.

5 (7) Number of revocations and suspensions.

6 (8) Percentage of revocations and suspensions in
7 relation to the total number of licensees.

8 § 3111. Licensure by endorsement.

9 (a) General rule.--Notwithstanding any existing provisions
10 related to licensure by endorsement or licensure by reciprocity
11 in an applicable licensing statute, a licensing board or
12 licensing commission shall issue a license, certificate,
13 registration or permit to an applicant to allow practice in this
14 Commonwealth if, upon application to the licensing board or
15 licensing commission, the applicant satisfies all of the
16 following conditions:

17 (1) Holds a current license, certificate, registration
18 or permit from another state, territory or country and the
19 licensing board or licensing commission determines that
20 state's, territory's or country's requirements are
21 substantially equivalent to or exceed the requirements
22 established in this Commonwealth.

23 (2) Demonstrates competency in the profession or
24 occupation through methods determined by the licensing board
25 or licensing commission, including having completed
26 continuing education or having experience in the profession
27 or occupation for at least two of the five years preceding
28 the date of the application under this section.

29 (3) Has not committed any act that constitutes grounds
30 for refusal, suspension or revocation of a license,
31 certificate, registration or permit to practice that
32 profession or occupation in this Commonwealth unless the
33 licensing board or licensing commission determines, in its
34 discretion, that the act should not be an impediment to the
35 granting of a license, certificate, registration or permit to
36 practice in this Commonwealth.

37 (4) Is in good standing and has not been disciplined by
38 the jurisdiction that issued the license, certificate,
39 registration or permit unless the licensing board or
40 licensing commission determines, in its discretion, that the
41 discipline should not be an impediment to the granting of a
42 license, certificate, registration or permit to practice in
43 this Commonwealth.

44 (5) Pays any fees established by the licensing board or
45 licensing commission by regulation.

46 (b) Provisional endorsement license.--A licensing board or
47 licensing commission may issue a provisional license,
48 certificate, registration or permit to an applicant for
49 licensure by endorsement while the applicant is satisfying
50 remaining requirements for the licensure by endorsement as
51 determined by the licensing board or licensing commission. The

1 holder of a provisional endorsement license issued under this
2 subsection may practice until any of the following occurs:

3 (1) A license, certificate, registration or permit is
4 denied by the licensing board or licensing commission under
5 this section.

6 (2) The expiration of the provisional endorsement
7 license as established by the licensing board or licensing
8 commission by regulation.

9 (3) The holder of the provisional endorsement license
10 fails to comply with the terms of the provisional license.

11 (c) Construction.--Nothing in this section is intended to
12 supersede or replace existing statutory provisions relating to
13 licensure by endorsement or licensure by reciprocity applicable
14 to licensing boards and licensing commissions through their
15 respective enabling statutes.

16 § 3112. Restricted licenses for barbers and cosmetologists.

17 (a) Supplementary provisions.--Notwithstanding any provision
18 of law to the contrary, as an alternative to refusing to issue
19 or renew, suspending, revoking or limiting a license as a result
20 of a finding that an applicant for a barber's license lacks the
21 fitness to engage in the practice of barbering under section
22 3(a) of the act of June 19, 1931 (P.L.589, No. 202), referred to
23 as the Barbers' License Law, or that an applicant for a
24 cosmetology license is not of good moral character under section
25 4(a) of the act of May 3, 1933 (P.L.242, No.86), referred to as
26 the Cosmetology Law, due to a criminal conviction, or is
27 otherwise ineligible for a license as a barber or cosmetologist
28 as a result of a criminal conviction, the State Board of Barber
29 Examiners or the State Board of Cosmetology may issue a
30 restricted license for a term not less than one year and not
31 more than two years to an applicant for a license under the
32 Barbers' License Law or the Cosmetology Law. The following
33 apply:

34 (1) The State Board of Barber Examiners or the State
35 Board of Cosmetology shall determine the period of time
36 during which the respective applicant shall operate under a
37 restricted license.

38 (2) The State Board of Barber Examiners or the State
39 Board of Cosmetology shall notify the respective applicant of
40 that period of time and the conditions placed on the
41 restricted license under subsection (c).

42 (b) Demonstration of fitness.--Notwithstanding any other
43 provision of law to the contrary and the individual's criminal
44 convictions, an applicant for a restricted license may
45 demonstrate fitness for issuance of a restricted license to
46 practice barbering or cosmetology by introducing evidence of the
47 following, as applicable:

48 (1) While incarcerated, the individual maintained a
49 record of good behavior, including the successful completion
50 of any required rehabilitative programming offered by a
51 county correctional facility or the Department of

1 Corrections.

2 (2) If incarcerated by a county correctional facility or
3 the Department of Corrections and enrolled in a program
4 regarding barbering or cosmetology, the individual has
5 successfully completed the requisite education or training
6 requirements of the program.

7 (3) The individual has not been found to be in violation
8 of probation or parole.

9 (4) The individual has demonstrated a commitment to
10 living a law-abiding life, which may be established by a
11 letter of recommendation from the individual's probation
12 officer, parole officer or appropriate official within the
13 county correctional facility or the Department of
14 Corrections, or any other means, at the discretion of the
15 State Board of Barber Examiners or the State Board of
16 Cosmetology, as applicable.

17 (c) Conditions for restricted license.--The State Board of
18 Barber Examiners or the State Board of Cosmetology shall impose
19 conditions on a holder of a restricted license, including any of
20 the following:

21 (1) Limiting the scope or location of the restricted
22 license holder's practice.

23 (2) Requiring the restricted license holder to be
24 reasonably supervised during business hours by a licensed
25 manager-barber or a licensee designated in charge of the
26 barber shop or a licensed cosmetology teacher or salon owner
27 or designated person in charge of the salon, as applicable.

28 (3) Requiring the restricted license holder to notify
29 the State Board of Barber Examiners or the State Board of
30 Cosmetology, as applicable, in writing as soon as is
31 practicable of a change in the supervisor specified under
32 paragraph (2).

33 (4) Requiring the restricted license holder to abide by
34 any other condition that the State Board of Barber Examiners
35 or the State Board of Cosmetology, as applicable, deems
36 appropriate.

37 (d) Revocation.--A restricted license shall be immediately
38 revoked if any of the following occurs:

39 (1) The restricted license holder is convicted of an
40 offense graded as a misdemeanor or felony in this
41 Commonwealth or a similar or equivalent offense in another
42 jurisdiction following the receipt of the restricted license.

43 (2) The restricted license holder fails to comply with
44 any condition imposed by the State Board of Barber Examiners
45 or the State Board of Cosmetology and specified under
46 subsection (c).

47 (e) Compliance.--Within 30 days of the conclusion of the
48 term of the restricted license, the supervising licensed
49 manager-barber or a licensee designated in charge of the barber
50 shop or a licensed cosmetology teacher or salon owner or
51 designated person in charge of the salon, as appropriate, shall

1 provide written notice to the State Board of Barber Examiners or
2 the State Board of Cosmetology, as to whether the restricted
3 license holder complied with all conditions imposed under
4 subsection (c). If the restricted license holder meets all of
5 the other qualifications for licensure under the Barbers'
6 License Law or the Cosmetology Law, the State Board of Barber
7 Examiners or the State Board of Cosmetology shall issue a
8 license to practice under the Barbers' License Law or the
9 Cosmetology Law, as appropriate.

10 (f) Construction.--Nothing in this section shall be
11 construed to restrict any of the other powers and duties of the
12 State Board of Cosmetology or the State Board of Barber
13 Examiners.

14 Section 3112.1. Restricted licenses for other occupations.

15 (a) Occupations other than barbering and cosmetology.--
16 Notwithstanding any provision of law to the contrary, if a
17 county correctional facility or the Department of Corrections
18 offers training in the occupation, other than barbering and
19 cosmetology, which requires the issuance of a license,
20 certificate, registration or permit by the bureau in order to
21 engage in that occupation, the applicable licensing board or
22 licensing commission may issue a restricted license to an
23 applicant as specified in this section as an alternative to
24 refusing to issue or renew, suspending, revoking or limiting a
25 license as a result of a finding that the applicant for a
26 license, certificate, registration or permit lacks the fitness
27 to engage in the occupation due to a criminal conviction or is
28 otherwise ineligible for licensure due to a criminal conviction.
29 The following shall apply:

30 (1) The applicable licensing board or commission shall
31 determine the period of time during which the applicant shall
32 operate under a restricted license. The minimum period of
33 time shall be one year. The maximum period of time shall be
34 two years.

35 (2) The applicable licensing board or licensing
36 commission shall notify the applicant of the time period
37 under paragraph (1) and the conditions placed on the
38 restricted license under subsection (c).

39 (b) Demonstration of fitness.--Notwithstanding any other
40 provision of law to the contrary and the criminal conviction, an
41 applicant for a restricted license may demonstrate fitness for
42 issuance of a restricted license to practice by introducing
43 evidence of the following:

44 (1) While incarcerated, the individual maintained a
45 record of good behavior, including the successful completion
46 of any required rehabilitative programming offered by a
47 county correctional facility or the Department of
48 Corrections.

49 (2) If incarcerated by a county correctional facility or
50 the Department of Corrections and enrolled in a program
51 regarding the occupation for which a restricted license is

1 sought, the applicant successfully completed the requisite
2 education or training requirements of the program.

3 (3) The applicant has not been found to be in violation
4 of probation or parole.

5 (4) The applicant has demonstrated a commitment to
6 living a law-abiding life, which may be established by a
7 letter of recommendation from the applicant's probation
8 officer, parole officer or appropriate official within the
9 county correctional facility or the Department of
10 Corrections, or by any other means, at the discretion of the
11 licensing board or licensing commission, as applicable.

12 (c) Conditions.--The licensing board or licensing commission
13 shall impose conditions on a holder of a restricted license,
14 including:

15 (1) Limiting the scope or location of the restricted
16 license holder's practice.

17 (2) Requiring the restricted license holder to be
18 reasonably supervised during business hours by an individual
19 licensed by the licensing board or licensing commission, as
20 applicable.

21 (3) Requiring the restricted license holder to notify
22 the licensing board or licensing commission, as applicable,
23 in writing as soon as is practicable of a change in the
24 supervisor under paragraph (2).

25 (4) Requiring the restricted license holder to abide by
26 any other condition the licensing board or licensing
27 commission, as applicable, deems appropriate.

28 (d) Revocation.--The restricted license shall be immediately
29 revoked if any of the following occurs:

30 (1) The restricted license holder is convicted of an
31 offense graded as a misdemeanor or felony in this
32 Commonwealth or a similar or equivalent offense in another
33 jurisdiction following the receipt of the restricted license.

34 (2) The restricted license holder fails to comply with
35 any of the conditions imposed by the licensing board or
36 licensing commission, as applicable, under subsection (c).

37 (e) Notice.--Within 30 days of the conclusion of the term of
38 the restricted license, the licensee supervising the holder of
39 the restricted license shall provide written notice to the
40 licensing board or licensing commission, as appropriate, as to
41 whether the restricted license holder complied with all
42 conditions imposed by the licensing board or licensing
43 commission under subsection (c). If the restricted license
44 holder meets all of the other qualifications for licensure under
45 the applicable practice act, the licensing board or licensing
46 commission, as appropriate, shall issue a license to practice
47 that occupation.

48 (f) Construction.--Nothing in this section shall be
49 construed to restrict any of the other powers and duties of the
50 licensing board or licensing commission, as applicable.
51 § 3113. Supplementary provisions regarding criminal

1 convictions.

2 (a) Supplementary provisions.--Except as provided in
3 sections 3112 (relating to restricted licenses for barbers and
4 cosmetologists) and 3112.1 (relating to restricted licenses for
5 other occupations), notwithstanding any provision of law to the
6 contrary, as an alternative to a licensing board or licensing
7 commission refusing to issue or renew, suspending, revoking or
8 limiting a license, certificate, registration or permit under 18
9 Pa.C.S. § 9124 (relating to use of records by licensing
10 agencies) or under the practice acts of the licensing board or
11 licensing commission due to a criminal conviction, the licensing
12 board or licensing commission may determine that an individual
13 with a criminal conviction meets the qualifications for a
14 license, certificate, registration or permit if the individual
15 meets the requirements of this section.

16 (b) Analysis of criminal convictions.--Except as provided in
17 subsections (d), (e) and (f), a licensing board or a licensing
18 commission shall engage in a two-stage analysis of the criminal
19 convictions of the applicant. The following shall apply:

20 (1) The first stage of the analysis shall determine
21 whether the criminal conviction directly relates to the
22 occupation, trade or profession for which the individual
23 seeks licensure by reviewing the schedule of offenses in
24 section 3117 (relating to list of criminal offenses). If the
25 offense is found on the list of offenses that are directly
26 related to the occupation, trade or profession, the licensing
27 board or licensing commission shall then determine whether
28 licensure of the individual would pose a substantial risk to
29 the health and safety of the individual's patients or clients
30 or the public or a substantial risk of further criminal
31 convictions by conducting the individualized assessment
32 specified in subsection (c). There shall be a rebuttable
33 presumption that licensure of the individual with a criminal
34 conviction that directly relates to the occupation, trade or
35 profession would pose a substantial risk to the health and
36 safety of the individual's patients or clients or the public
37 or a substantial risk of further criminal convictions. The
38 individual may rebut the presumption by showing evidence of
39 rehabilitation, as specified in the factors in subsection
40 (c).

41 (2) If, after reviewing the schedule of offenses in
42 section 3117, the criminal conviction is determined not to be
43 directly related to the occupation, trade or profession, the
44 licensing board or licensing commission shall proceed to the
45 second stage of the analysis of the criminal conviction.
46 During the second stage of the analysis, the licensing board
47 or licensing commission shall determine whether, due to the
48 nature of the criminal conviction, licensure of the
49 individual would pose a substantial risk to the health and
50 safety of the individual's patients or clients or the public
51 or a substantial risk of further criminal convictions by

1 conducting the individualized assessment specified in
2 subsection (c). The individual may rebut the determination by
3 showing evidence of rehabilitation, as specified in the
4 factors in subsection (c).

5 (c) Individualized assessment.--A licensing board or
6 licensing commission shall conduct an individualized assessment
7 of the individual with respect to criminal convictions and
8 rehabilitation. The licensing board or licensing commission
9 shall consider the following factors in order to determine
10 whether the individual meets the requirements for issuance of a
11 license, certificate, registration or permit under subsection
12 (b)(1) or (b)(2):

13 (1) Whether the criminal conduct for which the
14 individual was convicted involved an act or threat of harm
15 against the individual. For purposes of this paragraph, the
16 term "harm" includes harm to the victim, the personal
17 property of the victim or reputation of the victim.

18 (2) The facts and circumstances surrounding the criminal
19 conviction.

20 (3) The number of criminal convictions.

21 (4) Increase in age or maturity of the individual since
22 the date of the criminal conviction.

23 (5) The individual's criminal history or lack of
24 criminal history after the date of conviction.

25 (6) Successful completion of education and training
26 activities, including those in a county correctional facility
27 or the Department of Corrections.

28 (7) References from employers or others, including
29 personnel of the county correctional facility or the
30 Department of Corrections.

31 (8) Progress in personal rehabilitation since the
32 conviction.

33 (9) Whether the individual meets all other licensing
34 qualifications of the applicable practice act, including any
35 examination requirements.

36 (10) The individual's criminal history, or lack of
37 criminal history, after the date of the criminal conviction
38 while engaged in the same or similar profession or
39 occupation.

40 (11) Any other factor deemed relevant to the licensing
41 board or licensing commission regarding the fitness of the
42 individual for licensure.

43 (d) Sexual offenses.--When determining eligibility for
44 licensure as a health care practitioner, a licensing board or
45 licensing commission may not issue a license, registration,
46 certificate or permit or otherwise allow an individual to
47 practice as a health care practitioner if the individual has
48 been convicted of a sexual offense.

49 (e) Crimes of violence.--An individual convicted of a crime
50 of violence as defined in 42 Pa.C.S. § 9714 (relating to
51 sentences for second and subsequent offenses) may be granted a

1 license, registration, certificate or permit by a licensing
2 board or licensing commission if all of the following apply:

3 (1) If the individual was incarcerated, at least three
4 years have elapsed since release from incarceration. The
5 period of three years shall be tolled for a violation of
6 parole.

7 (2) If the individual is serving a sentence other than a
8 period of confinement in a State or county correctional
9 facility, at least three years have elapsed since imposition
10 of sentence.

11 (3) The individual has remained conviction-free during
12 the periods specified in paragraph (1) or (2).

13 (4) The individual demonstrates significant
14 rehabilitation since the criminal conviction.

15 (5) The licensing board or licensing commission
16 determines, by using the factors in subsection (c), except
17 for subsection (c)(8), that licensure of the individual does
18 not pose a substantial risk to the health and safety of the
19 individual's patients or clients or the public or a
20 substantial risk of further criminal convictions.

21 (f) Drug trafficking.--Notwithstanding any provision of law
22 to the contrary, the provisions of the respective practice acts
23 relating to felony drug convictions under the act of April 14,
24 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
25 Device and Cosmetic Act, or a conviction for an offense under
26 the laws of another jurisdiction which, if committed in this
27 Commonwealth, would be a felony under the Controlled Substance,
28 Drug, Device and Cosmetic Act, shall apply to an individual who
29 has been convicted of a drug trafficking offense.

30 (g) Construction.--Nothing in this section shall be
31 construed to restrict any of the other powers and duties of a
32 licensing board or licensing commission in disciplinary or
33 licensure matters.

34 (h) Public information.--Except for name, address and other
35 identifying information, a determination under this section
36 shall be public information.

37 (i) Definitions.--As used in this section, the following
38 words and phrases shall have the meanings given to them in this
39 subsection unless the context clearly indicates otherwise:

40 "Drug trafficking offense." A violation of section 13(a)
41 (14), (30) or (37) of The Controlled Substance, Drug, Device and
42 Cosmetic Act, if the controlled substance or a mixture
43 containing it is:

44 (1) Marijuana, if the amount of marijuana involved is at
45 least 10 pounds or at least 21 live plants.

46 (2) A narcotic drug classified in Schedule I or Schedule
47 II under section 4 of The Controlled Substance, Drug, Device
48 and Cosmetic Act, if the aggregate weight of the compound or
49 mixture containing the substance involved is at least 10
50 grams.

51 (3) Any of the following, if the aggregate weight of the

compound or mixture of the substance involved is at least 10 grams:

(i) Coca leaves.

(ii) A salt, compound, derivative or preparation of coca leaves.

(iii) A salt, compound, derivative or preparation which is chemically equivalent or identical with any of the substances under subparagraphs (i) and (ii).

(iv) A mixture containing any of the substances under subparagraphs (i) and (ii), except decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(4) Any of the following, if the aggregate weight of the compound or mixture of the substance involved is at least 10 grams:

(i) Methamphetamine.

(ii) Phencyclidine.

(iii) A salt, isomer or salt of an isomer of methamphetamine or phencyclidine.

(iv) A mixture containing:

(A) Methamphetamine or phencyclidine.

(B) A salt of methamphetamine or phencyclidine.

(C) An isomer of methamphetamine or phencyclidine.

(D) A salt of an isomer of methamphetamine or phencyclidine.

(5) Heroin or a mixture containing heroin, if the aggregate weight of the compound or mixture containing the heroin is five grams or greater.

(6) A mixture containing 3,4-methylenedioxyamphetamine (MDA); 3,4-methylenedioxymethamphetamine (MDMA); 5-methoxy-3,4-methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine. when the aggregate weight of the compound or mixture containing the substance involved is at least 100 tablets, capsules, caplets or other dosage units or 30 grams.

(7) Fentanyl or a mixture containing fentanyl, if the aggregate weight of the compound or mixture containing the fentanyl is five grams or more.

"Healing arts." The science and skill of diagnosis or treatment in any manner whatsoever of disease or any ailment of the human body.

"Health care practitioner." An individual who is authorized to practice some component of the healing arts by a license, certificate, registration or permit issued by a licensing board or licensing commission.

"Sexual offense." An act, conspiracy or solicitation to commit any of the following offenses or an equivalent crime in another jurisdiction:

(1) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

1 (2) Any of the offenses enumerated in 18 Pa.C.S. Ch. 30
2 (relating to human trafficking) if the offense involved
3 sexual servitude.

4 (3) Any of the offenses enumerated in 18 Pa.C.S. Ch. 31
5 (relating to sexual offenses).

6 (4) 18 Pa.C.S. § 4302 (relating to incest).

7 (5) 18 Pa.C.S. § 4304(a)(1) (relating to endangering
8 welfare of children) if the offense involved sexual contact
9 with the victim.

10 (6) 18 Pa.C.S. § 5901 (relating to open lewdness) if the
11 offense involved a minor under 18 years of age.

12 (7) 18 Pa.C.S. § 5902(b) or (b.1) (relating to
13 prostitution and related offenses).

14 (8) 18 Pa.C.S. § 5903 (relating to obscene and other
15 sexual materials and performances) if the offense involved a
16 minor under 18 years of age.

17 (9) 18 Pa.C.S. § 6301(a)(1)(i) (relating to corruption
18 of minors) if the offense involved sexual contact with the
19 victim.

20 (10) 18 Pa.C.S. § 6301(a)(1)(ii).

21 (11) 18 Pa.C.S. § 6312 (relating to sexual abuse of
22 children).

23 (12) 18 Pa.C.S. § 6318 (relating to unlawful contact
24 with minor).

25 (13) 18 Pa.C.S. § 6320 (relating to sexual exploitation
26 of children).

27 (14) 18 Pa.C.S. § 7507.1 (relating to invasion of
28 privacy).

29 § 3114. Juvenile adjudications.

30 Notwithstanding any provision of law to the contrary, when
31 determining whether an applicant is qualified to be issued a
32 license, registration, certificate or permit, a licensing board
33 or licensing commission may not consider the applicant's
34 juvenile adjudications.

35 § 3115. Preliminary determinations by licensing boards and
36 licensing commissions.

37 (a) Request for preliminary determination.--An individual
38 with a criminal conviction may request in writing that a
39 licensing board or licensing commission provide a preliminary
40 determination regarding whether the individual's criminal
41 conviction will likely disqualify the individual from receiving
42 a license, certificate, registration or permit. The following
43 apply:

44 (1) The individual may make the written request at any
45 time, including prior to obtaining any mandatory education or
46 training relating to a trade, profession or occupation,
47 either as part of the application for licensure or separately
48 from an application for licensure.

49 (2) The written request shall be submitted on a form
50 prescribed by the licensing board or licensing commission and
51 shall include the following information:

1 (i) Identification of the license, certificate,
2 registration or permit for which the individual may
3 apply.

4 (ii) A detailed description of any criminal
5 proceedings that resulted in a judgment against the
6 individual.

7 (iii) Any other information that the individual
8 believes would assist the licensing board or licensing
9 commission with the determination.

10 (b) Determination.--

11 (1) If the written request under subsection (a) is
12 submitted separately from an application for licensure, the
13 licensing board or licensing commission shall issue the
14 determination within 45 business days.

15 (2) If the determination is part of the application, the
16 determination shall be issued as soon as is practicable.

17 (3) The form developed by the licensing board or
18 licensing commission for the determination shall provide
19 notice that the determination is neither final nor binding.

20 (4) A licensing board or licensing commission shall not
21 be bound by the determination under this section if the
22 individual applies for a license, certificate, registration
23 or permit.

24 (5) The determination shall have no precedential value
25 and may not be relied upon by another individual applying for
26 a license, certificate, registration or permit.

27 (c) Public record.--A written request for a determination
28 and a determination issued by a licensing board or licensing
29 commission under this section shall be, with the exception of
30 name, address and other identifying information, a public
31 record.

32 (d) Fees.--

33 (1) A licensing board or licensing commission may charge
34 a fee for the determination, however, the fee may not exceed
35 an amount sufficient to reimburse the licensing board or
36 licensing commission for the administrative costs associated
37 with processing the preliminary determination.

38 (2) The fee for the determination may not exceed \$45 for
39 each written request filed before January 1, 2022.

40 (3) The commissioner, after consultation with the
41 licensing boards and licensing commissions, shall adopt a
42 schedule of fees to apply on January 1, 2022, and each year
43 thereafter relating to the cost for a determination under
44 this section. The following apply:

45 (i) Within 180 days of the effective date of this
46 subsection, the commissioner shall transmit notice of the
47 adoption of the schedule of fees to the Legislative
48 Reference Bureau for publication in the Pennsylvania
49 Bulletin within 10 days after receipt of the notice. The
50 schedule of fees must include a procedure for the
51 licensing boards and licensing commissions to issue

1 determinations and waive the fee if payment of the fee
2 would constitute an economic hardship for the applicant.

3 (ii) Within two years of the publication of the
4 schedule of fees and procedure under subparagraph (i),
5 the commissioner shall promulgate a regulation specifying
6 the schedule of fees and establishing a procedure for
7 waiving the fee if payment of the fee would constitute an
8 economic hardship for the applicant.

9 § 3116. Best practices guide.

10 (a) Development of guide.--Within 180 days of the effective
11 date of this subsection, the Department of State shall, in
12 collaboration with the licensing boards and licensing
13 commissions, develop a guide of best practices for an applicant
14 with a criminal conviction to use when seeking a license,
15 certificate, registration or permit. The following apply:

16 (1) The guide shall be published in both English and
17 Spanish.

18 (2) The guide shall include, at a minimum, a summary of
19 the provisions of the following:

20 (i) Section 3112 (relating to restricted licenses
21 for barbers and cosmetologists).

22 (ii) Section 3112.1 (relating to restricted licenses
23 for other occupations).

24 (iii) Section 3113 (relating to supplementary
25 provisions regarding criminal convictions).

26 (iv) Section 3114 (relating to juvenile
27 adjudications).

28 (v) Section 3115 (relating to preliminary
29 determinations by licensing boards and licensing
30 commissions).

31 (vi) Section 3117 (relating to list of criminal
32 offenses).

33 (b) Publication and distribution.--Within 180 days of the
34 effective date of this subsection, the Department of State shall
35 publish the guide under subsection (a) on its publicly
36 accessible Internet website and shall provide a written copy
37 upon request. The written copy of the guide shall be provided
38 without cost to the person requesting the guide.

39 § 3117. List of criminal offenses.

40 (a) Duty of commissioner.--After consultation with the
41 licensing boards and licensing commissions, the commissioner
42 shall have the power and duty to publish a schedule of criminal
43 convictions that may constitute grounds to refuse to issue,
44 suspend or revoke a license, certificate, registration or permit
45 for each occupation or profession under the respective practice
46 acts. The following shall apply:

47 (1) The schedule shall indicate which offenses are those
48 that the licensing board or licensing commission deems as
49 directly relating to the occupation, trade or profession.

50 (2) The schedule shall indicate the licensing board and
51 licensing commission responsible for licensure of each

1 occupation or profession.

2 (3) Within 180 days of the effective date of this
3 subsection, the commissioner shall transmit notice of the
4 completion of the schedule to the Legislative Reference
5 Bureau for publication in the Pennsylvania Bulletin.

6 (4) Within two years of the publication under paragraph
7 (3), the commissioner shall transmit notice of a regulation
8 to the Legislative Reference Bureau for publication in the
9 Pennsylvania Bulletin. The regulation shall be subject to the
10 act of June 25, 1982 (P.L.633, No.181), known as the
11 Regulatory Review Act.

12 (5) The commissioner shall submit a regulation to update
13 the schedule of criminal convictions as often as the
14 commissioner deems appropriate to reflect new statutory
15 enactments of the General Assembly affecting the schedule.

16 (b) Public comment period.--Within 120 days of the
17 publication of the schedule in the Pennsylvania Bulletin under
18 subsection (a), the commissioner shall submit initial proposed
19 regulations to the Independent Regulatory Review Commission
20 under section 5 of the Regulatory Review Act.

21 (c) Dissemination.--Within 180 days of the effective date of
22 this subsection, the schedule of offenses in subsection (a)
23 shall be provided in writing to each applicant for a license,
24 certificate, registration or permit issued by a licensing board
25 or licensing commission as part of the application and shall be
26 made part of the best practices guide under section 3116
27 (relating to best practices guide). The following shall apply:

28 (1) Within 180 days of the effective date of this
29 subsection, the schedule shall be published on the publicly
30 accessible Internet website of the Department of State.

31 (2) The schedule of criminal convictions shall be
32 published in both English and Spanish.

33 (3) Notice that the list of criminal offenses will
34 change based upon new enactments by the General Assembly
35 shall be provided on the publicly accessible Internet website
36 of the Department of State in writing as part of the
37 application and in the best practices guide.

38 (d) Application.--The schedule shall be used by the
39 licensing boards and licensing commissions when:

40 (1) preparing preliminary determinations under section
41 3116;

42 (2) determining which criminal convictions may result in
43 discipline of a licensee; and

44 (3) determining whether a criminal conviction may result
45 in refusing to issue a license, certificate, registration or
46 permit under section 3113 (relating to supplementary
47 provisions regarding criminal convictions).

48 § 3118. Report to General Assembly.

49 (a) Report required.--Within two years after the effective
50 date of this section and every four years thereafter, the
51 Secretary of the Commonwealth shall issue a written report

1 regarding the implementation and effectiveness of the following:

2 (i) Section 3112 (relating to restricted licenses
3 for barbers and cosmetologists).

4 (ii) Section 3112.1 (relating to restricted licenses
5 for other occupations).

6 (iii) Section 3113 (relating to supplementary
7 provisions regarding criminal convictions).

8 (iv) Section 3114 (relating to juvenile
9 adjudications).

10 (v) Section 3115 (relating to preliminary
11 determinations by licensing boards and licensing
12 commissions).

13 (vi) Section 3116 (relating to best practices
14 guide).

15 (vii) Section 3117 (relating to list of criminal
16 offenses).

17 (b) Submittal of report.--The report under subsection (a)
18 shall be submitted to the following:

19 (1) The President pro tempore of the Senate.

20 (2) The chairperson and minority chairperson of the
21 Consumer Protection and Professional Licensure Committee of
22 the Senate.

23 (3) The chairperson and minority chairperson of the
24 Judiciary Committee of the Senate.

25 (4) The Speaker of the House of Representatives.

26 (5) The chairperson and minority chairperson of the
27 Judiciary Committee of the House of Representatives.

28 (6) The chairperson and minority chairperson of the
29 Professional Licensure Committee of the House of
30 Representatives.

31 (c) Contents of report.--The report under subsection (a)
32 shall include the following:

33 (1) The number of applications for a license,
34 certificate, registration or permit that each licensing board
35 and licensing commission receives each year.

36 (2) The number of applicants with criminal convictions
37 that submit applications to the State Board of Barber
38 Examiners and the State Board of Cosmetology, including the
39 following:

40 (i) The number of applicants that are issued a
41 restricted license under section 3112.

42 (ii) The number of applicants that are denied a
43 restricted license under section 3112 and the reasons for
44 the denials.

45 (iii) The number of restricted license holders that
46 are issued a license to practice under the act of June
47 19, 1931 (P.L.589, No.202), referred to as the Barbers'
48 License Law, or the act of May 3, 1933 (P.L.242, No.86),
49 referred to as the Cosmetology Law, following the
50 restricted license term.

51 (iv) The number of restricted licenses that are

1 revoked during the restricted license term under section
2 3112(d) and the reasons for the revocations.

3 (3) The number of applicants that are denied licenses,
4 certificates, registrations and permits each year by the
5 licensing boards and licensing commissions as a result of
6 criminal convictions.

7 (4) Whether to amend any provision of this chapter.

8 (d) Public record.--The report under subsection (a) shall be
9 a public record under the Right-to-Know Law.

10 Section 3. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under
12 paragraph (2) is necessary to effectuate the addition of 63
13 Pa.C.S. Ch. 31.

14 (2) The act of July 2, 1993 (P.L.345, No.48), is
15 repealed.

16 Section 4. The addition of 63 Pa.C.S. Ch. 31 is a
17 continuation of the act of July 2, 1993 (P.L.345, No.48). The
18 following apply:

19 (1) Except as otherwise provided in 63 Pa.C.S. Ch. 31,
20 all activities initiated under the act of July 2, 1993
21 (P.L.345, No.48), shall continue and remain in full force and
22 effect and may be completed under 63 Pa.C.S. Ch. 31. Orders,
23 regulations, rules and decisions which were made under the
24 act of July 2, 1993 (P.L.345, No.48), and which are in effect
25 on the effective date of section 3 of this act shall remain
26 in full force and effect until revoked, vacated or modified
27 under 63 Pa.C.S. Ch. 31. Contracts, obligations and
28 collective bargaining agreements entered into under the act
29 of July 2, 1993 (P.L.345, No.48), are not affected nor
30 impaired by the repeal of the act of July 2, 1993 (P.L.345,
31 No.48).

32 (2) Except as set forth in paragraph (3), any difference
33 in language between 63 Pa.C.S. Ch. 31 and the act of July 2,
34 1993 (P.L.345, No.48), is intended only to conform to the
35 style of the Pennsylvania Consolidated Statutes and is not
36 intended to change or affect the legislative intent, judicial
37 construction or administration and implementation of the act
38 of July 2, 1993 (P.L.345, No.48).

39 (3) Paragraph (2) does not apply to the addition of the
40 following provisions:

41 (i) The definition of "criminal conviction" in 63
42 Pa.C.S. § 3102.

43 (ii) 63 Pa.C.S. § 3112.

44 (iii) 63 Pa.C.S. § 3112.1.

45 (iv) 63 Pa.C.S. § 3113.

46 (v) 63 Pa.C.S. § 3114.

47 (vi) 63 Pa.C.S. § 3115.

48 (vii) 63 Pa.C.S. § 3116.

49 (viii) 63 Pa.C.S. § 3117.

50 (ix) 63 Pa.C.S. § 3118.

51 Section 5. The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,

1 3114, 3115, 3116, 3117 and 3118 shall apply to official acts and
2 matters, including disciplinary matters, related to the issuance
3 of licenses, certificates, registrations or permits by licensing
4 boards or licensing commissions beginning on or after 180 days
5 after the effective date of this section.

6 Section 6. This act shall take effect as follows:

7 (1) The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,
8 3114 and 3115 shall take effect in 180 days.

9 (2) The remainder of this act shall take effect
10 immediately.