AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for use of records by licensing agencies; and making related repeals.

AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 63 (PROFESSIONS AND OCCUPATIONS (STATE LICENSED)) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN CRIMINAL HISTORY RECORD INFORMATION, FURTHER PROVIDING FOR USE OF RECORDS BY LICENSING AGENCIES; PROVIDING FOR PRELIMINARY PROVISIONS AND FOR BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS; CONSOLIDATING THE PROVISIONS OF ACT 48 OF 1993; AND MAKING A RELATED REPEAL.

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

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

§ 9124. Use of records by licensing agencies.

(a) Permissible use of information.
(1) Except as provided in subsection (e), a board, commission or department of the Commonwealth, when determining eligibility for licensing, certification, registration or permission to engage in a trade, profession or occupation, may consider convictions of the applicant of crimes but the convictions shall not automatically preclude the issuance of a license, certificate, registration or permit.

(2) This subsection shall not apply to the Supreme Court, or an entity of the Supreme Court, in its capacity to govern the practice, procedure and conduct of all courts, the admission to the bar, the practice of law, the administration of all courts and supervision of all officers of the judicial branch.

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

(1) Records of arrest if there is no conviction of a crime based on the arrest.

(2) Convictions which have been annulled or 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).

(3) Convictions of a summary offense.

(4) Convictions for which the individual has received a pardon from the Governor.

(5) Convictions which do not relate to the applicant's suitability for the license, certificate, registration or permit.

(6) Adjudications of delinquency.
(e) State action authorized.--Except as provided in subsection (c), boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:

(1) Where the applicant has been convicted of a felony.

(2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.

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(e) Bureau of Professional and Occupational Affairs.--

(1) A board or commission under the Bureau of Professional and Occupational Affairs in the Department of State, when determining eligibility for licensure, certification, registration or permission to engage in a profession or occupation, may consider convictions of the applicant of crimes only in accordance with this section. Convictions shall not automatically preclude the issuance of a license, certificate, registration or permit.

(2) Notwithstanding any other provision of law concerning licensing, certification, registration or permitting in the various practice acts, in addition to the restrictions in subsection (b), a board or commission under the Bureau of Professional and Occupational Affairs shall not consider a conviction which does not directly relate to the duties, functions and responsibilities in the practice of the profession or occupation for which the license, certificate, registration or permit is sought, unless it is proven by the
prosecutor for the board or commission by a preponderance of
the evidence and based on the individualized assessment
required by paragraph (3) that the applicant poses an
unacceptable risk to the people with whom the applicant would
interact in the conduct of the profession or occupation.

(3) A board or commission under the Bureau of
Professional and Occupational Affairs may refuse to grant or
renew, or may suspend, revoke or otherwise discipline a
license, certificate, registration or permit of an individual
based in whole or in part on a conviction of a crime if all
of the following apply:

(i) The individual has been convicted of a felony or
misdemeanor which directly relates to the duties,
functions and responsibilities in the practice of the
profession or occupation or which, based on the facts and
circumstances of the particular crime, demonstrates that
the individual poses an unacceptable risk to the people
with whom the individual would interact in the practice
of the profession or occupation.

(ii) The board or commission has conducted an
individualized assessment of the relation of the
conviction to the individual's overall suitability to
engage in the profession or occupation. An individualized
assessment conducted under this subparagraph shall
include a consideration of the particular facts or
circumstances surrounding the crime, the length of time
since the crime occurred and the grade and seriousness of
the crime.

(4) A board or commission under the Bureau of
Professional and Occupational Affairs may not refuse to grant

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or renew and may not suspend, revoke or otherwise discipline a license, certificate, registration or permit under paragraph (3) if the individual can present evidence of the particular facts and circumstances surrounding the crime, and the individual's overall criminal history record, which demonstrates that the individual does not pose an unacceptable risk to people with whom the individual would interact in the conduct of the profession or occupation, and if the individual can show rehabilitation and fitness to perform the duties, functions and responsibilities in the practice of the profession or occupation. Where the crime is directly related to the duties, functions and responsibilities in the practice of the profession or occupation, the board or commission shall consider relevant proof of any factor that would show that the individual does not pose an unacceptable risk, demonstrate rehabilitation or establish fitness to perform the duties of the profession or occupation, including:

(i) Facts or circumstances regarding the crime.

(ii) Number of offenses for which the individual was convicted.

(iii) Increase in age and maturity of the individual since the date of the conviction for the crime or release from a correctional institution.

(iv) The individual's criminal history, or lack of criminal history, after the date of the crime while engaged in the same or similar profession or occupation.

(v) Length and consistency of employment history before and after the date of the crime.

(vi) Participation in education and training.
(vii) Employment or character references and any other information regarding fitness for practice in the profession or occupation.

(viii) Any other factor that would show the individual does not pose an unacceptable risk, is capable of being rehabilitated or is fit to perform the duties of the profession or occupation.

(5) An applicant with a criminal history who, based on a review of the regulations published by the board or commission under paragraph (9) is unable to determine whether the applicant's criminal record would preclude the issuance of a license, certificate, registration or permit, may file a petition for preliminary review with the board or commission under the Bureau of Professional and Occupational Affairs seeking a preliminary decision on whether the applicant's criminal history would disqualify the applicant from receiving a license, certificate, registration or permit, subject to the following:

(i) If the petition is filed separately from a formal application for a license, certificate, registration or permit, the board or commission shall issue a preliminary decision within 45 days. The preliminary decision shall be limited to a declaration of whether a conviction on the petitioner's criminal history record falls within the set of convictions that the board or commission has previously determined may be directly related to the profession or occupation over which the board or commission has authority.

(ii) In the event that the board or commission
determines a conviction on the petitioner's criminal history record is directly related to the duties, functions and responsibilities in the practice of the profession or occupation, the notice of the preliminary decision shall inform the petitioner that the determination is not final or binding as to whether the petitioner qualifies for a license, certificate, registration or permit, and that the petitioner has the opportunity to present evidence of the factors specified in paragraph (4) in connection with any subsequent formal application for a license, certificate, registration or permit.

(iii) The board or commission may charge a filing fee, which shall not exceed $45, to be paid for each petition for preliminary review filed. On or after January 1, 2022, the board or commission may establish by regulation reasonable fees which may not exceed an amount sufficient to reimburse the board or commission for the administrative costs associated with processing the petition for preliminary review. The board or commission shall make available forms for petitioners to request in forma pauperis status in connection with a petition. The board or commission may not unreasonably deny in forma pauperis status. A petitioner granted in forma pauperis status shall be permitted to file a petition and receive a preliminary decision without payment of the filing fee.

(iv) Except for the petitioner filing the petition, a preliminary decision issued by a board, commission or the department as a result of a petition for preliminary review shall have no precedential value and may not be
relied upon by individuals applying for a license,
certificate, registration or permit.

(6) Each board or commission under the Bureau of
Professional and Occupational Affairs shall provide, on their
publicly accessible Internet website, a standardized form for
an applicant to petition for a preliminary review and shall
issue preliminary decisions upon promulgating final
regulations in accordance with paragraph (9) or within 18
months, whichever is sooner.

(7) A board or commission under the Bureau of
Professional and Occupational Affairs may not consider moral
character to make determinations of whether to grant or
renew, deny, suspend, revoke or otherwise discipline a
license, certificate, registration or permit.

(8) A board or commission under the Bureau of
Professional and Occupational Affairs may only consider
criminal history records and make determinations of whether to grant or
renew, deny, suspend, revoke or otherwise discipline a license, certificate, registration or permit in
accordance with the limitations under this subsection. A
crime of moral turpitude may only be considered as grounds to
deny, revoke or otherwise discipline a license, certificate,
registration or permit if the board or commission has
determined that a conviction for such crime is directly
related to the duties, functions and responsibilities in the
practice of the profession or occupation or that the
individual poses an unacceptable risk to people with whom the
individual would interact in the conduct of the profession or
occupation. The provisions of this section shall supersede
any law or regulation to the contrary.
Each board or commission under the Bureau of Professional and Occupational Affairs shall, within 18 months from the effective date of this section, promulgate final regulations, following public notice and comments, regarding the consideration of criminal history records as part of the determination of whether to grant, deny, renew, suspend, revoke or otherwise discipline a license, certificate, registration or permit. The regulations shall include the prescribed petition fee, as well as an explanation of the convictions the board or commission has determined are directly related to the duties, functions and responsibilities in the practice of the profession or occupation regulated by the board or commission.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment or addition of 18 Pa.C.S. § 9124(a), (b), (c) and (e).

(2) The following acts and parts of acts are repealed:

(i) The penultimate and last sentence of section 3(c) of the act of May 1, 1933 (P.L.216, No.76), known as The Dental Law, which read as follows: "The board shall not issue a license to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as 'The Controlled Substance, Drug, Device and Cosmetic Act,' or of an offense under the laws of another jurisdiction which if committed in this Commonwealth would be a felony under 'The Controlled Substance, Drug, Device and Cosmetic Act,' unless: (1) at least ten (10) years have elapsed from the date of conviction, (2) the applicant satisfactorily demonstrates
to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations, and (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act. As used in this section the term 'convicted' shall include a judgment, an admission of guilt or a plea of nolo contendere."

(ii) Section 10.1(b) of the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law.

(iii) Section 6(c) of the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law.

(iv) The antepenultimate, penultimate and last sentence of section 5 of the act of March 2, 1956 (1955 P.L.1211, No.376), known as the Practical Nurse Law, which read as follows: "The board shall not issue a license or certificate to an applicant who has been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as 'The Controlled Substance, Drug, Device and Cosmetic Act,' or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country unless:

(1) at least ten (10) years have elapsed from the date of conviction;

(2) the applicant satisfactorily demonstrates to the board that he has made significant progress in—
personal rehabilitation since the conviction such
that licensure of the applicant should not be
expected to create a substantial risk of harm to the
health and safety of patients or the public or a
substantial risk of further criminal violations; and

(3) the applicant otherwise satisfies the
qualifications contained in or authorized by this
act.

As used in this section the term 'convicted' shall
include a judgment, an admission of guilt or a plea of
nolo contendere. An applicant's statement on the
application declaring the absence of a conviction shall
be deemed satisfactory evidence of the absence of a
conviction, unless the board has some evidence to the
contrary."

(v) Section 3(a)(6) of the act of September 27, 1961
(P.L.1700, No.699), known as the Pharmacy Act.

(vi) Section 6(a)(5) of the act of March 23, 1972
(P.L.136, No.52), known as the Professional Psychologists
Practice Act.

(vii) Section 9(b)(4) of the act of December 27,
1974 (P.L.995, No.326), known as the Veterinary Medicine
Practice Act.

(viii) The penultimate and last sentence of section
6(a) of the act of October 10, 1975 (P.L.383, No.110),
known as the Physical Therapy Practice Act, which read as
follows: "The board shall not issue a license to an
applicant who has been convicted of a felony under the
act of April 14, 1972 (P.L.233, No.64), known as 'The
Controlled Substance, Drug, Device and Cosmetic Act,' or
of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under 'The Controlled Substance, Drug, Device and Cosmetic Act,' unless:

(1) at least ten years have elapsed from the date of conviction;

(2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations; and

(3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this subsection the term 'convicted' includes a judgment, an admission of guilt or a plea of nolo contendere."

(ix) Section 6(c) of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act.

(x) Section 4(d) of the act of June 6, 1980 (P.L.197, No.57), known as the Optometric Practice and Licensure Act.

(xi) The penultimate and last sentence of section 22(b) of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, which read as follows: "The board shall not issue a license or certificate to an applicant who has been convicted of a
felony under the act of April 14, 1972 (P.L.233, No.64),
known as The Controlled Substance, Drug, Device and
Cosmetic Act, or of an offense under the laws of another
jurisdiction which, if committed in this Commonwealth,
would be a felony under The Controlled Substance, Drug,
Device and Cosmetic Act, unless:

(1) at least ten years have elapsed from the
date of conviction;

(2) the applicant satisfactorily demonstrates to
the board that he has made significant progress in
personal rehabilitation since the conviction such
that licensure of the applicant should not be
expected to create a substantial risk of harm to the
health and safety of his patients or the public or a
substantial risk of further criminal violations; and

(3) the applicant otherwise satisfies the
qualifications contained in or authorized by this
act.

As used in this section the term 'convicted' shall
include a judgment, an admission of guilt or a plea of
nolo contendere."

(xii) Section 501(a)(7) of the act of December 16,
1986 (P.L.1646, No.188), known as the Chiropractic
Practice Act.

(xiii) Section 7(a)(5), (d)(6), (e)(6), (f)(6) and
(g)(5) of the act of July 9, 1987 (P.L.220, No.39), known
as the Social Workers, Marriage and Family Therapists and
Professional Counselors Act.

(xiv) Section 502(c)(1) of the act of October 9,
2008 (P.L.1363, No.100), known as the Crane Operator
Licenses Act.

(xv) Section 5(a)(6) of the act of October 9, 2008 (P.L.1438, No.118), known as the Massage Therapy Law.

(xvi) The provision of any act that is inconsistent with this act.

Section 3. This act shall take effect in 90 days.

SECTION 1. SECTION 9124(A) AND (B)(2) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

§ 9124. USE OF RECORDS BY LICENSING AGENCIES.

(A) STATE AGENCIES.--EXCEPT AS PROVIDED BY THIS CHAPTER AND SPECIFICALLY SUBSECTION (A.1), A BOARD, COMMISSION OR DEPARTMENT OF THE COMMONWEALTH, WHEN DETERMINING ELIGIBILITY FOR LICENSING, CERTIFICATION, REGISTRATION OR PERMISSION TO ENGAGE IN A TRADE, PROFESSION OR OCCUPATION, MAY CONSIDER CONVICTIONS OF THE APPLICANT OF CRIMES BUT THE CONVICTIONS SHALL NOT PRECLUDE THE ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT.

(A.1) APPLICATION OF OTHER LAW.--THE FOLLOWING PROVIDITIONS SHALL APPLY TO A LICENSING BOARD OR LICENSING COMMISSION UNDER THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS IN THE DEPARTMENT OF STATE WITH RESPECT TO REFUSING TO ISSUE OR RENEW, SUSpending, REVOKING OR LIMITING A LICENSE, CERTIFICATE,

REGISTRATION OR PERMIT:

(1) 63 PA.C.S. § 3112 (RELATING TO RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS).

(2) 63 PA.C.S. § 3112.1 (RELATING TO RESTRICTED LICENSES FOR OTHER OCCUPATIONS).

(3) 63 PA.C.S. § 3113 (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS).

(4) 63 PA.C.S. § 3114 (RELATING TO JUVENILE 20190SB0637PN1815

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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).

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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.

3101. SCOPE OF CHAPTER.

3102. DEFINITIONS.
§ 3101. Scope of Chapter.

This chapter relates to the powers and duties of the General Counsel, the Bureau of Professional and Occupational Affairs and Licensing Boards and Licensing Commissions.

§ 3102. Definitions.

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

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

"Commissioner." The Commissioner of the Bureau.

"Criminal conviction." Includes a finding of guilty, a plea
OF GUILTY OR A PLEA OF NOLO CONTENDERE WITH respect to a
CRIMINAL OFFENSE OF THIS COMMONWEALTH, OR AN EQUIVALENT CRIME
UNDER THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME OF THE
COMMISSION OF THE CRIMINAL OFFENSE OR AN EQUIVALENT CRIME IN
ANOTHER JURISDICTION.

"DIRECTLY RELATES." THE NATURE OF THE CRIMINAL CONDUCT FOR
WHICH THE PERSON WAS CONVICTED HAS A DIRECT BEARING ON THE
FITNESS OR ABILITY TO PERFORM ONE OR MORE OF THE DUTIES OR
RESPONSIBILITIES NECESSARILY RELATED TO THE PROFESSION, TRADE OR
OCCUPATION FOR WHICH THE INDIVIDUAL SEEKS LICENSURE.

"DISCIPLINARY MATTER." A MATTER SUBJECT TO A LICENSING
BOARD'S OR LICENSING COMMISSION'S JURISDICTION IN WHICH THE
LICENSING BOARD OR LICENSING COMMISSION HAS THE AUTHORITY TO
REFUSE, SUSPEND, REVOKE OR LIMIT A LICENSE, REGISTRATION,
CERTIFICATE OR PERMIT OR TO IMPOSE A CIVIL PENALTY OR OTHER
DISCIPLINE UNDER AN ACT.

"EXPUNGE" OR "EXPUNGEMENT." REMOVAL OF A DISCIPLINARY
RECORD, ACCOMPLISHED BY:

(1) PERMANENTLY SEALING THE AFFECTED RECORD FROM PUBLIC
ACCESS;

(2) DEEMING THE PROCEEDINGS TO WHICH THE AFFECTED RECORD
REFERS AS NOT HAVING OCCURRED; AND

(3) EXCEPT WITH RESPECT TO ANY SUBSEQUENT APPLICATION
FOR EXPUNGEMENT, AFFORDING THE AFFECTED PARTY THE RIGHT TO
REPRESENT THAT NO RECORD EXISTS REGARDING THE SUBJECT MATTER
OF THE AFFECTED RECORD.

"LICENSEE." A PERSON HOLDING A LICENSE, REGISTRATION,
CERTIFICATE OR PERMIT WITH A LICENSING BOARD OR LICENSING
COMMISSION UNDER THE BUREAU.

"LICENSING BOARD." A DEPARTMENTAL OR ADMINISTRATIVE BOARD
UNDER THE BUREAU.

"LICENSING COMMISSION." A DEPARTMENTAL OR ADMINISTRATIVE
COMMISSION UNDER THE BUREAU.

"RIGHT-TO-KNOW LAW." THE ACT OF FEBRUARY 14, 2008 (P.L.6,
NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

§ 3103. INVESTIGATORY SUBPOENA POWER.

THE GENERAL COUNSEL OR A DESIGNEE OF THE GENERAL COUNSEL
SHALL HAVE THE POWER AND DUTY TO ISSUE SUBPOENAS UPON
APPLICATION OF AN ATTORNEY RESPONSIBLE FOR REPRESENTING THE
COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR
LICENSING COMMISSION FOR THE PURPOSE OF INVESTIGATING ALLEGED
VIOLATIONS OF THE DISCIPLINARY PROVISIONS ADMINISTERED BY A
LICENSING BOARD OR LICENSING COMMISSION. THE FOLLOWING APPLY:

(1) IF DISCLOSURE IS SUBJECT TO A PRIVILEGE PROVIDED BY
LAW, PATIENT OR CLIENT RECORDS MAY NOT BE SUBPOENAEED WITHOUT
THE CONSENT OF THE PATIENT OR CLIENT OR WITHOUT ORDER OF A
COURT OF COMPETENT JURISDICTION SHOWING THAT THE RECORDS ARE
REASONABLY NECESSARY FOR THE CONDUCT OF THE INVESTIGATION.

(2) THE COURT MAY IMPOSE SUCH LIMITATION ON THE SCOPE OF
THE SUBPOENA AS MAY BE NECESSARY TO PREVENT UNNECESSARY
INFRINGEMENT INTO PATIENT OR CLIENT CONFIDENTIAL INFORMATION.

(3) THE ATTORNEY RESPONSIBLE FOR REPRESENTING THE
COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE A LICENSING BOARD
OR LICENSING COMMISSION IS AUTHORIZED TO APPLY TO
COMMONWEALTH COURT TO ENFORCE THE SUBPOENAS.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EXCUSE
A PERSON FROM PRODUCING DOCUMENTS AND RECORDS AS REQUESTED BY
A LICENSING BOARD OR LICENSING COMMISSION UNDER ANY OTHER
PROVISION OF LAW.

§ 3104. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.
DUTY.--A LICENSEE, AS A CONDITION OF LICENSURE, CERTIFICATION, REGISTRATION OR HOLDING A PERMIT, SHALL PROVIDE WRITTEN NOTICE OF THE FOLLOWING TO THE APPROPRIATE LICENSING BOARD OR LICENSING COMMISSION WITHIN 30 DAYS:

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

(2) A FINDING OR VERDICT OF GUILT, AN ADMISSION OF GUILT, A PLEA OF NOLO CONTENDERE, PROBATION WITHOUT VERDICT, A DISPOSITION IN LIEU OF TRIAL OR AN ACCELERATED REHABILITATIVE DISPOSITION OF A FELONY OR MISDEMEANOR OFFENSE.

SANCTIONS.--A LICENSING BOARD OR LICENSING COMMISSION MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE WHO VIOLATES THIS SECTION.

§ 3105. HEARING EXAMINERS.

(A) APPOINTMENT.--

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER, AFTER CONSULTATION WITH THE LICENSING BOARDS AND LICENSING COMMISSIONS, SHALL APPOINT HEARING EXAMINERS AS MAY BE NECESSARY TO CONDUCT HEARINGS IN DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR LICENSING COMMISSION.

(2) EACH LICENSING BOARD AND LICENSING COMMISSION SHALL HAVE THE POWER TO DECIDE IF A SPECIFIC DISCIPLINARY MATTER OR TYPE OF DISCIPLINARY MATTER IS TO BE HEARD BY THE LICENSING BOARD OR LICENSING COMMISSION ITSELF OR BY A HEARING EXAMINER APPOINTED UNDER THIS SUBSECTION.

(B) REGULATIONS.--THE COMMISSIONER, AFTER CONSULTATION WITH THE LICENSING BOARDS AND COMMISSIONS, SHALL HAVE THE POWER TO PROMULGATE REGULATIONS SPECIFYING THE PROCEDURAL RULES TO BE FOLLOWED BY HEARING EXAMINERS IN THE CONDUCT OF HEARINGS IN
DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR LICENSING COMMISSION. ALL PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).

(C) POWERS.--A HEARING EXAMINER SHALL HAVE THE POWER TO:

(1) CONDUCT HEARINGS IN ACCORDANCE WITH APPLICABLE STATUTES, RULES AND REGULATIONS.

(2) ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND TESTIMONY OF INDIVIDUALS OR THE PRODUCTION OF PERTINENT RECORDS OR OTHER PAPERS BY PERSONS WHO, IN THE OPINION OF THE HEARING EXAMINER, HAVE INFORMATION RELEVANT TO ANY MATTERS PENDING BEFORE THE HEARING EXAMINER AND TO ISSUE DECISIONS.

(D) TIME PERIODS.--

(1) IN ALL DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR LICENSING COMMISSION, HEARINGS SHALL COMMENCE WITHIN 90 DAYS AFTER THE DATE ON WHICH AN ANSWER IS FILED.

(2) A CONTINUANCE GRANTED PRIOR TO THE COMMENCEMENT OF THE HEARING SHALL TOLL THE 90-DAY REQUIREMENT BY THE PERIOD OF THE CONTINUANCE.

(3) A DECISION SHALL BE RENDERED WITHIN 180 DAYS AFTER THE RECORD IS CLOSED.

(4) THE LICENSING BOARD OR LICENSING COMMISSION SHALL RENDER A FINAL ADJUDICATION OR DECISION ON ANY EXCEPTIONS TO THE DECISION OF A HEARING EXAMINER OR ANY APPLICATIONS FOR REVIEW WITHIN 90 DAYS OF THE FILING OF THE EXCEPTIONS OR APPLICATIONS, PROVIDED THAT A BOARD OR COMMISSION MAY DELEGATE TO A HEARING EXAMINER THE AUTHORITY TO RENDER A FINAL ADJUDICATION OR DECISION IN SUCH CASES AS DEEMED APPROPRIATE.

§ 3106. SUSPENSION.
(A) TEMPORARY SUSPENSION.--A LICENSING BOARD OR LICENSING COMMISSION MAY TEMPORARILY SUSPEND A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER CIRCUMSTANCES AS DETERMINED BY THE LICENSING BOARD OR LICENSING COMMISSION TO BE AN IMMEDIATE AND CLEAR DANGER TO PUBLIC HEALTH AND SAFETY. THE FOLLOWING APPLY:

(1) THE LICENSING BOARD OR COMMISSION SHALL ISSUE AN ORDER TO THAT EFFECT WITHOUT A HEARING, BUT UPON DUE NOTICE, TO THE LICENSEE CONCERNED AT THE LICENSEE'S LAST KNOWN ADDRESS, WHICH SHALL INCLUDE A WRITTEN STATEMENT OF ALL ALLEGATIONS AGAINST THE LICENSEE.

(2) AFTER ISSUING THE ORDER UNDER PARAGRAPH (1), THE LICENSING BOARD OR LICENSING COMMISSION SHALL COMMENCE FORMAL ACTION TO SUSPEND, REVOKE OR RESTRICT THE LICENSE, CERTIFICATE, REGISTRATION OR PERMIT OF THE PERSON CONCERNED AS OTHERWISE PROVIDED FOR BY LAW.

(3) ALL ACTIONS SHALL BE TAKEN PROMPTLY AND WITHOUT DELAY.

(B) HEARING.--WITHIN 30 DAYS FOLLOWING THE ISSUANCE OF AN ORDER OF TEMPORARY SUSPENSION, THE LICENSING BOARD OR LICENSING COMMISSION SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PRELIMINARY HEARING TO DETERMINE WHETHER THERE IS A PRIMA FACIE CASE SUPPORTING THE SUSPENSION. THE FOLLOWING APPLY:

(1) THE LICENSEE WHOSE LICENSE, CERTIFICATE, REGISTRATION OR PERMIT HAS BEEN TEMPORARILY SUSPENDED MAY:

(I) BE PRESENT AT THE PRELIMINARY HEARING;

(II) BE REPRESENTED BY COUNSEL;

(III) CROSS-EXAMINE WITNESSES;

(IV) INSPECT PHYSICAL EVIDENCE;

(V) CALL WITNESSES;

(VI) OFFER EVIDENCE AND TESTIMONY; AND
(VII) MAKE A RECORD OF THE PROCEEDINGS.

(2) IF IT IS DETERMINED THAT THERE IS NOT A PRIMA FACIE CASE, THE SUSPENDED LICENSE, CERTIFICATE, REGISTRATION OR PERMIT SHALL BE IMMEDIATELY RESTORED.

(3) THE TEMPORARY SUSPENSION SHALL REMAIN IN EFFECT UNTIL VACATED BY THE LICENSING BOARD OR LICENSING COMMISSION, BUT IN NO EVENT LONGER THAN 180 DAYS.

(C) RESTORATION.--RESTORATION OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT SHALL BE MADE AS PROVIDED BY LAW IN THE CASE OF REVOCATION OR SUSPENSION OF THE LICENSE, CERTIFICATE, REGISTRATION OR PERMIT.

§ 3107. ADDITIONAL POWERS FOR COMMISSIONER.


§ 3108. CIVIL PENALTIES.

(A) AUTHORIZATION.--

(1) THE COMMISSIONER, AFTER CONSULTATION WITH THE LICENSING BOARDS AND LICENSING COMMISSIONS, SHALL HAVE THE POWER TO ADOPT A SCHEDULE OF CIVIL PENALTIES FOR OPERATING WITHOUT A CURRENT, REGISTERED, UNSUSPENDED AND UNREVOKED LICENSE, REGISTRATION, CERTIFICATE OR PERMIT AND FOR VIOLATING A PROVISION OF THE LICENSING BOARD'S OR LICENSING
COMMISSION'S RESPECTIVE ACTS OR REGULATIONS RELATING TO THE
CONDUCT OR OPERATION OF A BUSINESS OR FACILITY LICENSED BY
THE LICENSING BOARDS AND LICENSING COMMISSIONS. THE FOLLOWING
APPLY:

(I) THE SCHEDULE OF PENALTIES SHALL NOT BE
APPLICABLE TO DISCIPLINARY MATTERS UNDER THE JURISDICTION
OF A LICENSING BOARD OR LICENSING COMMISSION UNLESS THAT
LICENSING BOARD OR LICENSING COMMISSION HAS APPROVED THE
SCHEDULE.

(II) THE COMMISSION COMMISSIONER SHALL TRANSMIT
NOTICE OF THE ADOPTION OF THE SCHEDULE OF PENALTIES,
GUIDELINES FOR THE IMPOSITION OF THE SCHEDULE OF
PENALTIES AND PROCEDURES FOR APPEAL TO THE LEGISLATIVE
REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA
BULLETIN. THE COMMISSIONER SHALL, WITHIN TWO YEARS OF THE
PUBLICATION OF THE NOTICE, PROMULGATE A REGULATION
SPECIFYING THE SCHEDULE OF PENALTIES, GUIDELINES AND
PROCEDURES.

(III) A PENALTY SHALL NOT EXCEED THE SUM OF $1,000
PER VIOLATION.

(IV) DULY AUTHORIZED AGENTS OF THE BUREAU SHALL HAVE
THE POWER AND AUTHORITY TO ISSUE CITATIONS AND IMPOSE
PENALTIES FOR VIOLATIONS.

(V) A PENALTY IMPOSED MAY BE APPEALED TO A HEARING
EXAMINER OR THE LICENSING BOARD OR LICENSING COMMISSION
PURSUANT TO THE REGULATIONS PROMULGATED UNDER SECTION
3105(B) (RELATING TO HEARING EXAMINERS).

(VI) IF THE APPEAL IS INITIALLY TO A HEARING
EXAMINER, THE RELEVANT LICENSING BOARD OR LICENSING
COMMISSION SHALL RENDER A DECISION ON ANY EXCEPTIONS TO
THE DECISION OF THE HEARING EXAMINER OR ON ANY
APPLICATIONS FOR REVIEW IN ACCORDANCE WITH SECTION
3105(D).

(VII) ALL PROCEEDINGS SHALL BE CONDUCTED IN
ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. (RELATING TO
ADMINISTRATIVE LAW AND PROCEDURE).

(2) THE COMMISSIONER SHALL EXPUNGE THE DISCIPLINARY
RECORD OF A LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
PERMIT HOLDER IF THE IMPOSITION OF DISCIPLINE WAS FOR A
VIOLATION INVOLVING FAILURE TO COMPLETE CONTINUING EDUCATION
REQUIREMENTS OR PRACTICING FOR SIX MONTHS OR LESS ON A LAPSED
LICENSE, REGISTRATION, CERTIFICATE OR PERMIT, SUBJECT TO THE
FOLLOWING:

(I) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
PERMIT HOLDER MUST MAKE WRITTEN APPLICATION TO THE
COMMISSIONER FOR EXPUNGEMENT NOT EARLIER THAN FOUR YEARS
FROM THE FINAL DISPOSITION OF THE DISCIPLINARY RECORD.

(II) THE DISCIPLINARY RECORD MUST BE THE ONLY
DISCIPLINARY RECORD THAT THE LICENSEE, REGISTRANT,
CERTIFICATE HOLDER OR PERMIT HOLDER HAS WITH EITHER THE
COMMISSIONER OR A LICENSING BOARD OR LICENSING COMMISSION
UNDER THE COMMISSIONER'S JURISDICTION.

(III) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER
OR PERMIT HOLDER MUST NOT BE THE SUBJECT OF AN ACTIVE
INVESTIGATION RELATED TO PROFESSIONAL OR OCCUPATIONAL
CONDUCT.

(IV) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
PERMIT HOLDER MUST NOT BE IN A CURRENT DISCIPLINARY
STATUS, AND ANY FEES OR FINES ASSESSED MUST BE PAID IN
FULL.
THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER MUST NOT HAVE HAD A DISCIPLINARY RECORD PREVIOUSLY EXPUNGED BY THE COMMISSIONER.

DISCIPLINARY RECORDS INVOLVING IMPOSITION OF DISCIPLINE FOR VIOLATIONS OTHER THAN THOSE IDENTIFIED IN THIS PARAGRAPH SHALL NOT BE ELIGIBLE FOR EXPUNGEMENT.

THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR PERMIT HOLDER SHALL PAY ALL COSTS ASSOCIATED WITH THE EXPUNGEMENT AS ESTABLISHED BY THE COMMISSIONER BY REGULATION.

NOTHING IN THIS SUBSECTION SHALL PROHIBIT A LICENSING BOARD OR LICENSING COMMISSION FROM USING PREVIOUS DISCIPLINE FOR ANY REGULATORY PURPOSE OR FROM RELEASING RECORDS OF PREVIOUS DISCIPLINE UPON REQUEST FROM LAW ENFORCEMENT OR OTHER GOVERNMENTAL BODY AS PERMITTED BY LAW.

ADDITIONAL POWERS.--IN ADDITION TO THE DISCIPLINARY POWERS AND DUTIES OF THE LICENSING BOARDS AND LICENSING COMMISSIONS WITHIN THE BUREAU UNDER THEIR RESPECTIVE PRACTICE ACTS, LICENSING BOARDS AND LICENSING COMMISSIONS SHALL HAVE THE POWER, RESPECTIVELY:

(1) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,
A CIVIL PENALTY OF UP TO $10,000 PER VIOLATION ON A LICENSEE OR UNLICENSED PERSON WHO VIOLATES A LAWFUL DISCIPLINARY ORDER OF THE LICENSING BOARD.

(2) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,
A CIVIL PENALTY OF UP TO $10,000 PER VIOLATION ON A LICENSEE OR UNLICENSED PERSON WHO AID AND ABET THE UNLICENSED PRACTICE OF A PROFESSION, OCCUPATION OR BUSINESS.

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

(4) TO LEVY A CIVIL PENALTY OF NOT MORE THAN $10,000 PER
VIOLATION ON A LICENSEE OR UNLICENSED PERSON WHO VIOLATES A
PROVISION OF THE APPLICABLE LICENSING ACT OR LICENSING BOARD
REGULATION.

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

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

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

(C) RESTRICTIONS.--

(1) DECISIONS RENDERED BY A LICENSED BOARD OR LICENSING
COMMISSION ON ANY EXCEPTIONS TO THE DECISION OF A HEARING
EXAMINER OR ON AN APPLICATION FOR REVIEW IN ACCORDANCE WITH
SECTION 3105(D) TO IMPOSE A CIVIL PENALTY UNDER THIS SECTION SHALL REQUIRE THE SAME NUMBER OF VOTES REQUIRED FOR THE LICENSING BOARD OR LICENSING COMMISSION TO IMPOSE A CIVIL PENALTY UNDER ANY OTHER ACT.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT THE POWERS AND DUTIES UNDER ANY OTHER ACT OF A LICENSING BOARD OR LICENSING COMMISSION IN DISCIPLINARY MATTERS, EXCEPT THAT A LICENSING BOARD OR LICENSING COMMISSION MAY NOT IMPOSE A CIVIL PENALTY UNDER ANY OTHER ACT FOR THE SAME VIOLATION FOR WHICH A CIVIL PENALTY HAS BEEN IMPOSED UNDER THIS SECTION.

(D) STATUS OF CIVIL PENALTY.--A CIVIL PENALTY, TOGETHER WITH ANY ASSOCIATED FEE, INTEREST OR COST, IMPOSED UNDER THIS SECTION OR IMPOSED BY A LICENSING BOARD OR LICENSING COMMISSION UNDER ANOTHER ACT SHALL BE A JUDGMENT IN FAVOR OF THE BUREAU UPON THE PERSON OR THE PROPERTY OF THE PERSON, WHETHER REAL OR PERSONAL, AND INCLUDING ANY AFTER-ACQUIRED PROPERTY, UPON WHOM THE CIVIL PENALTY IS IMPOSED. THE ATTORNEY GENERAL SHALL BE RESPONSIBLE FOR ENFORCING THE JUDGMENTS IN COURTS OF COMPETENT JURISDICTION IN ACCORDANCE WITH 42 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL PROCEDURE).

(E) ENTRY OF JUDGMENT.--WITHIN 60 MONTHS OF THE FINAL DISPOSITION OF A DISCIPLINARY CASE, IF AN UNPAID CIVIL PENALTY, FEE, INTEREST AND COST OF A LICENSEE TOTAL $1,000 OR MORE, THE LICENSING BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT OF THE LICENSING BOARD OR LICENSING COMMISSION, MAY TRANSMIT A COPY OF THE FINAL DISPOSITION TO THE PROTHONOTARY OF THE COURT OF COMMON PLEAS IN THE COUNTY WHERE THE LICENSEE OR PROPERTY OF THE LICENSEE UPON WHOM THE PENALTY, FEE, INTEREST AND COST ARE IMPOSED IS LOCATED. THE FOLLOWING APPLY:
(1) The prothonotary shall enter and docket the copy of the final disposition without requiring payment of costs as a condition precedent to the entry of the copy of the final disposition.

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

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

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

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

(I) Satisfaction.--Once a judgment is paid in full to the licensing board or licensing commission, or the respective agent of the licensing board or licensing commission, the licensing board or licensing commission, or the respective agent of the licensing board or licensing commission, shall, within 90 days, notify the prothonotary in writing of receipt of payment in full and request the judgment be noted as satisfied in full.
(J) APPLICABILITY.--THIS SECTION SHALL APPLY ONLY TO DISCIPLINARY PROCEEDINGS COMMENCED ON OR AFTER AUGUST 31, 1993.

(K) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"UNLICENSED PRACTICE." ANY OF THE FOLLOWING:

(1) PRACTICING A PROFESSION OR OCCUPATION OR OPERATING A BUSINESS FOR WHICH A LICENSE, REGISTRATION, CERTIFICATE OR PERMIT IS REQUIRED WITHOUT HOLDING A VALID, UNEXPIRED, UNREVOKED OR UNSUSPENDED AUTHORITY TO DO SO.

(2) REPRESENTING TO THE PUBLIC OR A PERSON, THROUGH OFFERINGS, ADVERTISEMENTS OR THE USE OF A TITLE, THAT THE INDIVIDUAL IS QUALIFIED TO PRACTICE A PROFESSION, OCCUPATION OR BUSINESS FOR WHICH A LICENSE, REGISTRATION, CERTIFICATE OR PERMIT IS REQUIRED WITHOUT HOLDING A VALID, UNEXPIRED, UNREVOKED OR UNSUSPENDED AUTHORITY TO DO SO.

§ 3109. CONFIDENTIALITY OF RECORDS OF LICENSURE BOARDS.

(A) GENERAL RULE.--

(1) ALL RECORDS UNDER SECTION 708(B)(17) OF THE RIGHT-TO-KNOW LAW, RELATING TO A NONCRIMINAL INVESTIGATION, INCLUDING PROSECUTORIAL MEMOS AND TRANSCRIPTS OF DEPOSITIONS, UNDERTAKEN BY THE BUREAU OF ENFORCEMENT AND INVESTIGATION AND THE PROSECUTION DIVISION OF THE DEPARTMENT OF STATE, OFFICE OF CHIEF COUNSEL ON BEHALF OF THE LICENSURE BOARDS WITHIN THE DEPARTMENT OF STATE OR CONCERNING A LICENSURE-RELATED COMPLAINT FILED WITH THE DEPARTMENT OF STATE SHALL BE CONFIDENTIAL AND PRIVILEGED.

(2) NO PERSON WHO HAS INVESTIGATED OR HAS ACCESS TO OR CUSTODY OF DOCUMENTS, MATERIALS OR INFORMATION THAT ARE CONFIDENTIAL AND PRIVILEGED UNDER THIS SUBSECTION SHALL BE
REQUIRED TO TESTIFY IN A JUDICIAL OR ADMINISTRATIVE
PROCEEDING UNLESS DIRECTED TO DO SO BY A COURT OF COMPETENT
JURISDICTION WITHOUT THE WRITTEN CONSENT OF THE LICENSING
BOARD THAT REGULATES THE PROFESSION INVOLVED.

(3) THIS SUBSECTION SHALL NOT PRECLUDE OR LIMIT
INTRODUCTION OF THE CONTENTS OF AN INVESTIGATIVE FILE OR
RELATED WITNESS TESTIMONY IN A HEARING OR PROCEEDING HELD
BEFORE THE LICENSING BOARDS WITHIN THE DEPARTMENT OF STATE.

(4) THIS SECTION SHALL NOT APPLY TO LETTERS TO A
LICENSEE OR OTHER DOCUMENTS THAT DISCLOSE THE FINAL OUTCOME
OF AN INVESTIGATION OR TO FINAL ADJUDICATION OR ORDERS ISSUED
BY THE LICENSURE BOARD.

(B) CERTAIN DISCLOSURE PERMITTED.--

(1) EXCEPT AS PROVIDED UNDER SUBSECTION (A), THIS
SECTION SHALL NOT PREVENT DISCLOSURE OF DOCUMENTS, MATERIALS
OR INFORMATION PERTAINING TO THE STATUS OF A LICENSE, PERMIT
OR CERTIFICATE ISSUED OR PREPARED BY THE LICENSING BOARDS OR
THE SHARING OF INFORMATION WITH LAW ENFORCEMENT AUTHORITIES
OR PROFESSIONAL LICENSURE REGULATORY BOARDS IN OTHER
JURISDICTIONS OR INFORMATION RELATING TO A PUBLIC
DISCIPLINARY PROCEEDING OR HEARING.

(2) ANY OTHER DISCLOSURE OF RECORDS UNDER SECTION 708(B)
(17) OF THE RIGHT-TO-KNOW LAW RELATING TO A NONCRIMINAL
INVESTIGATION, INCLUDING PROSECUTORIAL MEMOS AND TRANSCRIPTS
OF DEPOSITIONS BY EMPLOYEES OR AGENTS OF THE DEPARTMENT OF
STATE, OFFICE OF CHIEF COUNSEL, BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS AND THE BUREAU OF ENFORCEMENT AND
INVESTIGATION MAY BE MADE ONLY IN FURTHERANCE OF AN
INVESTIGATION OR PROSECUTION OF ALLEGED VIOLATIONS OF
APPLICABLE LICENSING STATUTES, CODES OR REGULATIONS.
VIOLATIONS OF THIS SUBSECTION SHALL SUBJECT THE
EMPLOYEE OR AGENT TO ADMINISTRATIVE DISCIPLINE, INCLUDING
DISCHARGE, SUSPENSION OR OTHER FORMAL OR APPROPRIATE
DISCIPLINARY ACTION.

(C) CONFIDENTIALITY AFFIDAVITS.--ALL EMPLOYEES AND AGENTS OF
THE DEPARTMENT OF STATE OFFICE OF CHIEF COUNSEL, BUREAU OF
PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND THE BUREAU OF
ENFORCEMENT AND INVESTIGATION SHALL EXECUTE A CONFIDENTIALITY
AFFIDAVIT THAT PROVIDES THAT DOCUMENTS, MATERIALS OR INFORMATION
UNDER SUBSECTION (A), OBTAINED BY EMPLOYEES AND AGENTS OF THE
DEPARTMENT OF STATE, OFFICE OF CHIEF COUNSEL, BUREAU OF
PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND THE BUREAU OF
ENFORCEMENT AND INVESTIGATION SHALL BE CONSIDERED CONFIDENTIAL
AND MAY BE DISCLOSED ONLY AS PERMITTED UNDER SUBSECTIONS (A) AND
(B).

(D) WAIVER PROHIBITED.--A LICENSING BOARD OR LICENSING
COMMISSION MAY NOT REQUIRE AN APPLICANT TO WAIVE ANY
CONFIDENTIALITY PROVIDED FOR UNDER THIS SECTION AS A CONDITION
FOR THE APPROVAL OF A LICENSE OR ANY OTHER ACTION OF THE BOARD.

§ 3110. REPORTS.

LICENSING BOARDS AND LICENSING COMMISSIONS SHALL SUBMIT
ANNUALLY TO THE CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
COMMITTEE OF THE SENATE AND TO THE PROFESSIONAL LICENSURE
COMMITTEE OF THE HOUSE OF REPRESENTATIVES A REPORT CONTAINING
THE FOLLOWING:

(1) DESCRIPTION OF THE TYPES OF COMPLAINTS RECEIVED.

(2) STATUS OF CASES.

(3) TOTAL NUMBER OF CASES AND TYPE OF DISCIPLINARY
ACTION TAKEN.

(4) PERCENTAGE OF DISCIPLINARY ACTIONS IN RELATION TO
THE TOTAL NUMBER OF LICENSEES.

(5) NUMBER OF CLOSED CASES.

(6) AVERAGE NUMBER OF DAYS TO CLOSE A CASE.

(7) NUMBER OF REVOCATIONS AND SUSPENSIONS.

(8) PERCENTAGE OF REVOCATIONS AND SUSPENSIONS IN

RELATION TO THE TOTAL NUMBER OF LICENSEES.

§ 3111. LICENSURE BY ENDORSEMENT.

(A) GENERAL RULE.--NOTWITHSTANDING ANY EXISTING PROVISIONS

RELATED TO LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY

IN AN APPLICABLE LICENSING STATUTE, A LICENSING BOARD OR

LICENSING COMMISSION SHALL ISSUE A LICENSE, CERTIFICATE,

REGISTRATION OR PERMIT TO AN APPLICANT TO ALLOW PRACTICE IN THIS

COMMONWEALTH IF, UPON APPLICATION TO THE LICENSING BOARD OR

LICENSING COMMISSION, THE APPLICANT SATISFIES ALL OF THE

FOLLOWING CONDITIONS:

(1) HOLDS A CURRENT LICENSE, CERTIFICATE, REGISTRATION

OR PERMIT FROM ANOTHER STATE, TERRITORY OR COUNTRY AND THE

LICENSING BOARD OR LICENSING COMMISSION DETERMINES THAT

STATE’S, TERRITORY’S OR COUNTRY’S REQUIREMENTS ARE

SUBSTANTIALLY EQUIVALENT TO OR EXCEED THE REQUIREMENTS

ESTABLISHED IN THIS COMMONWEALTH.

(2) DEMONSTRATES COMPETENCY IN THE PROFESSION OR

OCCUPATION THROUGH METHODS DETERMINED BY THE LICENSING BOARD

OR LICENSING COMMISSION, INCLUDING HAVING COMPLETED

CONTINUING EDUCATION OR HAVING EXPERIENCE IN THE PROFESSION

OR OCCUPATION FOR AT LEAST TWO OF THE FIVE YEARS PRECEDING

THE DATE OF THE APPLICATION UNDER THIS SECTION.

(3) HAS NOT COMMITTED ANY ACT THAT CONSTITUTES GROUNDS

FOR REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE,

CERTIFICATE, REGISTRATION OR PERMIT TO PRACTICE THAT
PROFESSION OR OCCUPATION IN THIS COMMONWEALTH UNLESS THE
LICENSING BOARD OR LICENSING COMMISSION DETERMINES, IN ITS
DISCRETION, THAT THE ACT SHOULD NOT BE AN IMPEDIMENT TO THE
GRANTING OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT TO
PRACTICE IN THIS COMMONWEALTH.

(4) IS IN GOOD STANDING AND HAS NOT BEEN DISCIPLINED BY
THE JURISDICTION THAT ISSUED THE LICENSE, CERTIFICATE,
REGISTRATION OR PERMIT UNLESS THE LICENSING BOARD OR
LICENSING COMMISSION DETERMINES, IN ITS DISCRETION, THAT THE
DISCIPLINE SHOULD NOT BE AN IMPEDIMENT TO THE GRANTING OF A
LICENSE, CERTIFICATE, REGISTRATION OR PERMIT TO PRACTICE IN
THIS COMMONWEALTH.

(5) PAYS ANY FEES ESTABLISHED BY THE LICENSING BOARD OR
LICENSING COMMISSION BY REGULATION.

(B) PROVISIONAL ENDORSEMENT LICENSE.--A LICENSING BOARD OR
LICENSING COMMISSION MAY ISSUE A PROVISIONAL LICENSE,
CERTIFICATE, REGISTRATION OR PERMIT TO AN APPLICANT FOR
LICENSURE BY ENDORSEMENT WHILE THE APPLICANT IS SATISFYING
REMAINING REQUIREMENTS FOR THE LICENSURE BY ENDORSEMENT AS
DETERMINED BY THE LICENSING BOARD OR LICENSING COMMISSION. THE
HOLDER OF A PROVISIONAL ENDORSEMENT LICENSE ISSUED UNDER THIS
SUBSECTION MAY PRACTICE UNTIL ANY OF THE FOLLOWING OCCURS:

(1) A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT IS
denied by the licensing board or licensing commission under
this section.

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

(3) The holder of the provisional endorsement license
fails to comply with the terms of the provisional license.
(C) CONSTRUCTION.--NOTHING IN THIS SECTION IS INTENDED TO
SUPERSEDE OR REPLACE EXISTING STATUTORY PROVISIONS RELATING TO
LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY APPLICABLE
TO LICENSING BOARDS AND LICENSING COMMISSIONS THROUGH THEIR
RESPECTIVE ENABLING STATUTES.

§ 3112. RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS.

(A) SUPPLEMENTARY PROVISIONS.--NOTWITHSTANDING ANY PROVISION
OF LAW TO THE CONTRARY, AS AN ALTERNATIVE TO REFUSING TO ISSUE
OR RENEW, SUSPENDING, REVOKING OR LIMITING A LICENSE AS A RESULT
OF A FINDING THAT AN APPLICANT FOR A BARBER'S LICENSE OR A
COSMETOLOGY LICENSE LACKS THE FITNESS TO ENGAGE IN THE PRACTICE
OF BARBERING UNDER THE ACT OF JUNE 19, 1931 (P.L.589, NO. 202),
REFERRED TO AS THE BARBERS' LICENSE LAW, OR IN THE PRACTICE OF
COSMETOLOGY UNDER THE ACT OF MAY 3, 1933 (P.L.242, NO.86),
REFERRED TO AS THE COSMETOLOGY LAW, DUE TO A CRIMINAL
CONVICTION, OR IS OTHERWISE INELIGIBLE FOR A LICENSE AS A BARBER
OR COSMETOLOGIST AS A RESULT OF A CRIMINAL CONVICTION, THE STATE
BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY MAY
ISSUE A RESTRICTED LICENSE FOR A TERM NOT LESS THAN ONE YEAR AND
NOT MORE THAN TWO YEARS TO AN APPLICANT FOR A LICENSE UNDER THE
BARBERS' LICENSE LAW OR THE COSMETOLOGY LAW. THE FOLLOWING
APPLY:

(1) THE STATE BOARD OF BARBER EXAMINERS OR THE STATE
BOARD OF COSMETOLOGY SHALL DETERMINE THE PERIOD OF TIME
DURING WHICH THE RESPECTIVE APPLICANT SHALL OPERATE UNDER A
RESTRICTED LICENSE.

(2) THE STATE BOARD OF BARBER EXAMINERS OR THE STATE
BOARD OF COSMETOLOGY SHALL NOTIFY THE RESPECTIVE APPLICANT OF
THAT PERIOD OF TIME AND THE CONDITIONS PLACED ON THE
RESTRICTED LICENSE UNDER SUBSECTION (C).
(B) DEMONSTRATION OF FITNESS.—NOTWITHSTANDING ANY OTHER
PROVISION OF LAW TO THE CONTRARY AND THE INDIVIDUAL’S CRIMINAL
CONVICTIONS, AN APPLICANT FOR A RESTRICTED LICENSE MAY
DEMONSTRATE FITNESS FOR ISSUANCE OF A RESTRICTED LICENSE TO
PRACTICE BARBERING OR COSMETOLOGY BY INTRODUCING EVIDENCE OF THE
FOLLOWING, AS APPLICABLE:

(1) WHILE INCARCERATED, THE INDIVIDUAL MAINTAINED A
RECORD OF GOOD BEHAVIOR, INCLUDING THE SUCCESSFUL COMPLETION
OF ANY REQUIRED REHABILITATIVE PROGRAMMING OFFERED BY A
COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
CORRECTIONS.

(2) IF INCARCERATED BY A COUNTY CORRECTIONAL FACILITY OR
THE DEPARTMENT OF CORRECTIONS AND ENROLLED IN A PROGRAM
REGARDING BARBERING OR COSMETOLOGY, THE INDIVIDUAL HAS
SUCCESSFULLY COMPLETED THE REQUISITE EDUCATION OR TRAINING
REQUIREMENTS OF THE PROGRAM.

(3) THE INDIVIDUAL HAS NOT BEEN FOUND TO BE IN VIOLATION
OF PROBATION OR PAROLE.

(4) THE INDIVIDUAL HAS DEMONSTRATED A COMMITMENT TO
LIVING A LAW-ABIDING LIFE, WHICH MAY BE ESTABLISHED BY A
LETTER OF RECOMMENDATION FROM THE INDIVIDUAL’S PROBATION
OFFICER, PAROLE OFFICER OR APPROPRIATE OFFICIAL WITHIN THE
COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
CORRECTIONS, OR ANY OTHER MEANS, AT THE DISCRETION OF THE
STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF
COSMETOLOGY, AS APPLICABLE.

(C) CONDITIONS FOR RESTRICTED LICENSE.—THE STATE BOARD OF
BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY SHALL IMPOSE
CONDITIONS ON A HOLDER OF A RESTRICTED LICENSE, INCLUDING ANY OF
THE FOLLOWING:
(1) LIMITING THE SCOPE OR LOCATION OF THE RESTRICTED LICENSE HOLDER'S PRACTICE.

(2) REQUIRING THE RESTRICTED LICENSE HOLDER TO BE REASONABLY SUPERVISED DURING BUSINESS HOURS BY A LICENSED MANAGER-BARBER OR A LICENSEE DESIGNATED IN CHARGE OF THE BARBER SHOP OR A LICENSED COSMETOLOGY TEACHER OR SALON OWNER OR DESIGNATED PERSON IN CHARGE OF THE SALON, AS APPLICABLE.

(3) REQUIRING THE RESTRICTED LICENSE HOLDER TO NOTIFY THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY, AS APPLICABLE, IN WRITING AS SOON AS IS PRACTICABLE OF A CHANGE IN THE SUPERVISOR SPECIFIED UNDER PARAGRAPH (2).

(4) REQUIRING THE RESTRICTED LICENSE HOLDER TO ABIDE BY ANY OTHER CONDITION THAT THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY, AS APPLICABLE, DEEMS APPROPRIATE.

(D) REVOCATION.—A RESTRICTED LICENSE SHALL BE IMMEDIATELY REVOKED IF ANY OF THE FOLLOWING OCCURS:

(1) THE RESTRICTED LICENSE HOLDER IS CONVICTED OF AN OFFENSE GRADED AS A MISDEMEANOR OR FELONY IN THIS COMMONWEALTH OR A SIMILAR OR EQUIVALENT OFFENSE IN ANOTHER JURISDICTION FOLLOWING THE RECEIPT OF THE RESTRICTED LICENSE.

(2) THE RESTRICTED LICENSE HOLDER FAILS TO COMPLY WITH ANY CONDITION IMPOSED BY THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY AND SPECIFIED UNDER SUBSECTION (C).

(E) COMPLIANCE.—WITHIN 30 DAYS OF THE CONCLUSION OF THE TERM OF THE RESTRICTED LICENSE, THE SUPERVISING LICENSED MANAGER-BARBER OR A LICENSEE DESIGNATED IN CHARGE OF THE BARBER SHOP OR A LICENSED COSMETOLOGY TEACHER OR SALON OWNER OR

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DESIGNATED PERSON IN CHARGE OF THE SALON, AS APPROPRIATE, SHALL PROVIDE WRITTEN NOTICE TO THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY, AS TO WHETHER THE RESTRICTED LICENSE HOLDER COMPLIED WITH ALL CONDITIONS IMPOSED UNDER SUBSECTION (C). IF THE RESTRICTED LICENSE HOLDER MEETS ALL OF THE OTHER QUALIFICATIONS FOR LICENSURE UNDER THE BARBERS' LICENSE LAW OR THE COSMETOLOGY LAW, THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY SHALL ISSUE A LICENSE TO PRACTICE UNDER THE BARBERS' LICENSE LAW OR THE COSMETOLOGY LAW, AS APPROPRIATE.

(F) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF THE STATE BOARD OF COSMETOLOGY OR THE STATE BOARD OF BARBER EXAMINERS.

§ 3112.1. RESTRICTED LICENSES FOR OTHER OCCUPATIONS.

(A) OCCUPATIONS OTHER THAN BARBERING AND COSMETOLOGY.-- NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, IF A COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS OFFERS TRAINING IN THE OCCUPATION, OTHER THAN BARBERING AND COSMETOLOGY, WHICH REQUIRES THE ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT BY THE BUREAU IN ORDER TO ENGAGE IN THAT OCCUPATION, THE APPLICABLE LICENSING BOARD OR LICENSING COMMISSION MAY ISSUE A RESTRICTED LICENSE TO AN APPLICANT AS SPECIFIED IN THIS SECTION AS AN ALTERNATIVE TO REFUSING TO ISSUE OR RENEW, SUSPENDING, REVOKING OR LIMITING A LICENSE AS A RESULT OF A FINDING THAT THE APPLICANT FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT LACKS THE FITNESS TO ENGAGE IN THE OCCUPATION DUE TO A CRIMINAL CONVICTION OR IS OTHERWISE INELIGIBLE FOR LICENSURE DUE TO A CRIMINAL CONVICTION. THE FOLLOWING SHALL APPLY:

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(1) THE APPLICABLE LICENSING BOARD OR COMMISSION SHALL DETERMINE THE PERIOD OF TIME DURING WHICH THE APPLICANT SHALL OPERATE UNDER A RESTRICTED LICENSE. THE MINIMUM PERIOD OF TIME SHALL BE ONE YEAR. THE MAXIMUM PERIOD OF TIME SHALL BE TWO YEARS.

(2) THE APPLICABLE LICENSING BOARD OR LICENSING COMMISSION SHALL NOTIFY THE APPLICANT OF THE TIME PERIOD UNDER PARAGRAPH (1) AND THE CONDITIONS PLACED ON THE RESTRICTED LICENSE UNDER SUBSECTION (C).

(B) DEMONSTRATION OF FITNESS.—NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY AND THE CRIMINAL CONVICTION, AN APPLICANT FOR A RESTRICTED LICENSE MAY DEMONSTRATE FITNESS FOR ISSUANCE OF A RESTRICTED LICENSE TO PRACTICE BY INTRODUCING EVIDENCE OF THE FOLLOWING:

(1) WHILE INCARCERATED, THE INDIVIDUAL MAINTAINED A RECORD OF GOOD BEHAVIOR, INCLUDING THE SUCCESSFUL COMPLETION OF ANY REQUIRED REHABILITATIVE PROGRAMMING OFFERED BY A COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS.

(2) IF INCARCERATED BY A COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS AND ENROLLED IN A PROGRAM REGARDING THE OCCUPATION FOR WHICH A RESTRICTED LICENSE IS SOUGHT, THE APPLICANT SUCCESSFULLY COMPLETED THE REQUISITE EDUCATION OR TRAINING REQUIREMENTS OF THE PROGRAM.

(3) THE APPLICANT HAS NOT BEEN FOUND TO BE IN VIOLATION OF PROBATION OR PAROLE.

(4) THE APPLICANT HAS DEMONSTRATED A COMMITMENT TO LIVING A LAW-ABIDING LIFE, WHICH MAY BE ESTABLISHED BY A LETTER OF RECOMMENDATION FROM THE APPLICANT'S PROBATION OFFICER, PAROLE OFFICER OR APPROPRIATE OFFICIAL WITHIN THE
COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS, OR BY ANY OTHER MEANS, AT THE DISCRETION OF THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

(C) CONDITIONS.--THE LICENSING BOARD OR LICENSING COMMISSION SHALL IMPOSE CONDITIONS ON A HOLDER OF A RESTRICTED LICENSE, INCLUDING:

(1) LIMITING THE SCOPE OR LOCATION OF THE RESTRICTED LICENSE HOLDER'S PRACTICE.

(2) REQUIRING THE RESTRICTED LICENSE HOLDER TO BE REASONABLY SUPERVISED DURING BUSINESS HOURS BY AN INDIVIDUAL LICENSED BY THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

(3) REQUIRING THE RESTRICTED LICENSE HOLDER TO NOTIFY THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE, IN WRITING AS SOON AS IS PRACTICABLE OF A CHANGE IN THE SUPERVISOR UNDER PARAGRAPH (2).

(4) REQUIRING THE RESTRICTED LICENSE HOLDER TO ABIDE BY ANY OTHER CONDITION THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE, DEEMS APPROPRIATE.

(D) REVOCATION.--THE RESTRICTED LICENSE SHALL BE IMMEDIATELY REVOKED IF ANY OF THE FOLLOWING OCCURS:

(1) THE RESTRICTED LICENSE HOLDER IS CONVICTED OF AN OFFENSE GRADED AS A MISDEMEANOR OR FELONY IN THIS COMMONWEALTH OR A SIMILAR OR EQUIVALENT OFFENSE IN ANOTHER JURISDICTION FOLLOWING THE RECEIPT OF THE RESTRICTED LICENSE.

(2) THE RESTRICTED LICENSE HOLDER FAILS TO COMPLY WITH ANY OF THE CONDITIONS IMPOSED BY THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE, UNDER SUBSECTION (C).

THE RESTRICTED LICENSE SHALL PROVIDE WRITTEN NOTICE TO THE
LICENSELING BOARD OR LICENSING COMMISSION, AS APPROPRIATE, AS TO
WHETHER THE RESTRICTED LICENSE HOLDER COMPLIED WITH ALL
CONDITIONS IMPOSED BY THE LICENSELING BOARD OR LICENSING
COMMISSION UNDER SUBSECTION (C). IF THE RESTRICTED LICENSE
HOLDER MEETS ALL OF THE OTHER QUALIFICATIONS FOR LICENSURE UNDER
THE APPLICABLE PRACTICE ACT, THE LICENSELING BOARD OR LICENSING
COMMISSION, AS APPROPRIATE, SHALL ISSUE A LICENSE TO PRACTICE
THAT OCCUPATION.

(F) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF THE
LICENSELING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

§ 3113. CONSIDERATION OF CRIMINAL CONVICTIONS.

(A) APPLICABILITY.--THIS SECTION SHALL APPLY TO LICENSELING
BOARDS AND LICENSING COMMISSIONS NOTWITHSTANDING THE FOLLOWING:

(1) ANY OTHER STATUTORY PROVISION TO THE CONTRARY
REGARDING THE CONSIDERATION OF GOOD MORAL CHARACTER, CRIMES
OF MORAL TURPITUDE OR ETHICAL OR HONEST PRACTICE WITH RESPECT
TO DISQUALIFICATION OF LICENSURE DUE TO CRIMINAL CONVICTION.

(2) 18 PA.C.S. § 9124(C) (RELATING TO USE OF RECORDS BY
LICENSELING AGENCIES).

(3) ANY OTHER STATUTORY PROVISION THAT DISQUALIFIES AN
INDIVIDUAL FROM HOLDING A LICENSE, CERTIFICATE, REGISTRATION
OR PERMIT DUE TO THE INDIVIDUAL'S CRIMINAL CONVICTION.

(A.1) CONSIDERATION.--A LICENSELING BOARD OR LICENSING
COMMISSION MAY NOT CONSIDER THE PROVISIONS SPECIFIED UNDER
SUBSECTION (A) IN DETERMINING WHETHER AN INDIVIDUAL QUALIFIES
FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT BUT INSTEAD
SHALL DETERMINE THE INDIVIDUAL'S QUALIFICATION FOR A LICENSE,
CERTIFICATE, REGISTRATION OR PERMIT IN ACCORDANCE WITH THE
PROCEDURES SPECIFIED UNDER THIS SECTION.

(B) ANALYSIS OF CRIMINAL CONVICTIONS.--EXCEPT AS PROVIDED IN SUBSECTIONS (D), (E) AND (F), A LICENSING BOARD OR A LICENSING COMMISSION SHALL ENGAGE IN A TWO-STAGE ANALYSIS OF THE CRIMINAL CONVICTIONS OF THE APPLICANT. THE FOLLOWING SHALL APPLY:

(1) THE FIRST STAGE OF THE ANALYSIS SHALL DETERMINE WHETHER THE CRIMINAL CONVICTION DIRECTLY RELATES TO THE OCCUPATION, TRADE OR PROFESSION FOR WHICH THE INDIVIDUAL SEEKS LICENSURE BY REVIEWING THE SCHEDULE OF OFFENSES IN SECTION 3117 (RELATING TO LIST OF CRIMINAL OFFENSES). IF THE OFFENSE IS FOUND ON THE LIST OF OFFENSES THAT ARE DIRECTLY RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE LICENSING BOARD OR LICENSING COMMISSION SHALL THEN DETERMINE WHETHER LICENSURE OF THE INDIVIDUAL WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS BY CONDUCTING THE INDIVIDUALIZED ASSESSMENT SPECIFIED IN SUBSECTION (C). THERE SHALL BE A REBUTTABLE PRESUMPTION THAT LICENSURE OF THE INDIVIDUAL WITH A CRIMINAL CONVICTION THAT DIRECTLY RELATES TO THE OCCUPATION, TRADE OR PROFESSION WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS. THE INDIVIDUAL MAY REBUT THE PRESUMPTION BY SHOWING EVIDENCE OF REHABILITATION, AS SPECIFIED IN THE FACTORS IN SUBSECTION (C).

(2) IF, AFTER REVIEWING THE SCHEDULE OF OFFENSES IN SECTION 3117, THE CRIMINAL CONVICTION IS DETERMINED NOT TO BE DIRECTLY RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE LICENSING BOARD OR LICENSING COMMISSION SHALL PROCEED TO THE
SECOND STAGE OF THE ANALYSIS OF THE CRIMINAL CONVICTION.


(C) INDIVIDUALIZED ASSESSMENT.—A LICENSING BOARD OR LICENSING COMMISSION SHALL CONDUCT AN INDIVIDUALIZED ASSESSMENT OF THE INDIVIDUAL WITH RESPECT TO CRIMINAL CONVICTIONS AND REHABILITATION. THE LICENSING BOARD OR LICENSING COMMISSION SHALL ONLY CONSIDER THE FOLLOWING FACTORS IN ORDER TO DETERMINE WHETHER THE INDIVIDUAL MEETS THE REQUIREMENTS FOR ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER SUBSECTION (B)(1) OR (B)(2):

(1) WHETHER THE CRIMINAL CONDUCT FOR WHICH THE INDIVIDUAL WAS CONVICTED INVOLVED AN ACT OR THREAT OF HARM AGAINST THE INDIVIDUAL. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "HARM" INCLUDES HARM TO THE VICTIM, THE PERSONAL PROPERTY OF THE VICTIM OR REPUTATION OF THE VICTIM.

(2) THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIMINAL CONVICTION.

(3) THE NUMBER OF CRIMINAL CONVICTIONS.

(4) INCREASE IN AGE OR MATURITY OF THE INDIVIDUAL SINCE
THE DATE OF THE CRIMINAL CONVICTION.

(5) THE INDIVIDUAL’S CRIMINAL HISTORY OR LACK OF CRIMINAL HISTORY AFTER THE DATE OF CONVICTION.

(6) SUCCESSFUL COMPLETION OF EDUCATION AND TRAINING ACTIVITIES, INCLUDING THOSE IN A COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS.

(7) REFERENCES FROM EMPLOYERS OR OTHERS, INCLUDING PERSONNEL OF THE COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS.

(8) PROGRESS IN PERSONAL REHABILITATION SINCE THE CONVICTION.

(9) WHETHER THE INDIVIDUAL MEETS ALL OTHER LICENSING QUALIFICATIONS OF THE APPLICABLE PRACTICE ACT, INCLUDING ANY EXAMINATION REQUIREMENTS.

(10) THE INDIVIDUAL’S CRIMINAL HISTORY, OR LACK OF CRIMINAL HISTORY, AFTER THE DATE OF THE CRIMINAL CONVICTION WHILE ENGAGED IN THE SAME OR SIMILAR PROFESSION OR OCCUPATION.

(11) ANY OTHER FACTOR DEEMED RELEVANT TO THE LICENSING BOARD OR LICENSING COMMISSION REGARDING THE FITNESS OF THE INDIVIDUAL FOR LICENSURE.

(D) SEXUAL OFFENSES.—WHEN DETERMINING ELIGIBILITY FOR LICENSURE AS A HEALTH CARE PRACTITIONER, A LICENSING BOARD OR LICENSING COMMISSION MAY NOT ISSUE A LICENSE, REGISTRATION, CERTIFICATE OR PERMIT OR OTHERWISE ALLOW AN INDIVIDUAL TO PRACTICE AS A HEALTH CARE PRACTITIONER IF THE INDIVIDUAL HAS BEEN CONVICTED OF A SEXUAL OFFENSE. THE LICENSING BOARD OR LICENSING COMMISSION MAY SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE AMOUNT OR WEIGHT OF THE CONTROLLED SUBSTANCE INVOLVED IN A CONVICTION MEETS THE REQUIREMENTS FOR A DRUG OFFENSE.
TRAFFICKING OFFENSE.

(E) CRIMES OF VIOLENCE.--AN INDIVIDUAL CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714 (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES) MAY BE GRANTED A LICENSE, REGISTRATION, CERTIFICATE OR PERMIT BY A LICENSING BOARD OR LICENSING COMMISSION IF ALL OF THE FOLLOWING APPLY:

(1) IF THE INDIVIDUAL WAS INCARCERATED, AT LEAST THREE YEARS HAVE ELAPSED SINCE RELEASE FROM INCARCERATION. THE PERIOD OF THREE YEARS SHALL BE TOLLED FOR A VIOLATION OF PAROLE.

(2) IF THE INDIVIDUAL IS SERVING A SENTENCE OTHER THAN A PERIOD OF CONFINEMENT IN A STATE OR COUNTY CORRECTIONAL FACILITY, AT LEAST THREE YEARS HAVE ELAPSED SINCE IMPOSITION OF SENTENCE.

(3) THE INDIVIDUAL HAS REMAINED CONVICTION-FREE DURING THE PERIODS SPECIFIED IN PARAGRAPH (1) OR (2).

(4) THE INDIVIDUAL DEMONSTRATES SIGNIFICANT REHABILITATION SINCE THE CRIMINAL CONVICTION.

(5) THE LICENSING BOARD OR LICENSING COMMISSION DETERMINES, BY USING THE FACTORS IN SUBSECTION (C), EXCEPT FOR SUBSECTION (C)(8), THAT LICENSURE OF THE INDIVIDUAL DOES NOT POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVictions.

(F) DRUG TRAFFICKING.--NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE PROVISIONS OF THE RESPECTIVE PRACTICE ACTS RELATING TO FELONY DRUG CONVICTIONS UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR A CONVICTION FOR AN OFFENSE UNDER THE LAWS OF ANOTHER JURISDICTION WHICH, IF COMMITTED IN THIS
COMMONWEALTH, WOULD BE A FELONY UNDER THE CONTROLLED SUBSTANCE,
DRUG, DEVICE AND COSMETIC ACT, SHALL ONLY APPLY TO AN INDIVIDUAL
WHO HAS BEEN CONVICTED OF A DRUG TRAFFICKING OFFENSE. THE
LICENSING BOARD OR LICENSING COMMISSION MAY SHOW, BY A
PREPONDERANCE OF THE EVIDENCE, THAT THE AMOUNT OR WEIGHT OF THE
CONTROLLED SUBSTANCE INVOLVED IN A CONVICTION MEETS THE
REQUIREMENTS FOR A DRUG TRAFFICKING OFFENSE.

(G) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF A
LICENSING BOARD OR LICENSING COMMISSION IN DISCIPLINARY OR
Licensure matters.

(H) PUBLIC INFORMATION.--EXCEPT FOR NAME, ADDRESS AND OTHER
IDENTIFYING INFORMATION, A DETERMINATION UNDER THIS SECTION
SHALL BE PUBLIC INFORMATION.

(I) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"DRUG TRAFFICKING OFFENSE." A VIOLATION OF SECTION 13(A)
(14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT, IF THE CONTROLLED SUBSTANCE OR A MIXTURE
CONTAINING IT IS:

(1) MARIJUANA, IF THE AMOUNT OF MARIJUANA INVOLVED IS AT
LEAST 50 POUNDS OR AT LEAST 51 LIVE PLANTS.

(2) A NARCOTIC DRUG CLASSIFIED IN SCHEDULE I OR SCHEDULE
II UNDER SECTION 4 OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
AND COSMETIC ACT, IF THE AGGREGATE WEIGHT OF THE COMPOUND OR
MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100
GRAMS.

(3) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE
COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100
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 100 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 50 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 1,000 TABLETS, CAPSULES, CAPLETS OR OTHER DOSAGE UNITS OR 300 GRAMS.

(7) FENTANYL OR A MIXTURE CONTAINING FENTANYL, IF THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE FENTANYL IS 10 GRAMS OR MORE.

(8) CARFENTANIL OR A MIXTURE CONTAINING CARFENTANIL, IF THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE CARFENTANIL IS ONE GRAM 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).

(2) ANY OF THE OFFENSES ENUMERATED IN 18 PA.C.S. CH. 30 (RELATING TO HUMAN TRAFFICKING) IF THE OFFENSE INVOLVED SEXUAL SERVITUDE.

(3) ANY OF THE OFFENSES ENUMERATED IN 18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES).

(4) 18 PA.C.S. § 4302 (RELATING TO INCEST).

(5) 18 PA.C.S. § 4304(A)(1) (RELATING TO ENDANGERING
WELFARE OF CHILDREN) IF THE OFFENSE INVOLVED SEXUAL CONTACT
WITH THE VICTIM.

(6) 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS) IF THE
OFFENSE INVOLVED A MINOR UNDER 18 YEARS OF AGE.

(7) 18 PA.C.S. § 5902(B) OR (B.1) (RELATING TO
PROSTITUTION AND RELATED OFFENSES).

(8) 18 PA.C.S. § 5903 (RELATING TO OBSCENE AND OTHER
SEXUAL MATERIALS AND PERFORMANCES) IF THE OFFENSE INVOLVED A
MINOR UNDER 18 YEARS OF AGE.

(9) 18 PA.C.S. § 6301(A)(1)(I) (RELATING TO CORRUPTION
OF MINORS) IF THE OFFENSE INVOLVED SEXUAL CONTACT WITH THE
VICTIM.

(10) 18 PA.C.S. § 6301(A)(1)(II).

(11) 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
CHILDREN).

(12) 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT
WITH MINOR).

(13) 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION
OF CHILDREN).

(14) 18 PA.C.S. § 7507.1 (RELATING TO INVASION OF
PRIVACY).

§ 3114. JUVENILE ADJUDICATIONS.

NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WHEN
DETERMINING WHETHER AN APPLICANT IS QUALIFIED TO BE ISSUED A
LICENSE, REGISTRATION, CERTIFICATE OR PERMIT, A LICENSING BOARD
OR LICENSING COMMISSION MAY NOT CONSIDER THE APPLICANT'S
JUVENILE ADJUDICATIONS.

§ 3115. PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND
LICENSING COMMISSIONS.
AN APPLICANT WITH A CRIMINAL HISTORY WHO, BASED ON A REVIEW
OF THE BEST PRACTICES GUIDE PUBLISHED UNDER SECTION 3116 (RELATING TO BEST PRACTICES GUIDE), IS UNABLE TO DETERMINE WHETHER THE APPLICANT'S CRIMINAL RECORD WOULD PRECLUDE THE ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT, MAY FILE A PETITION FOR PRELIMINARY REVIEW WITH THE LICENSING BOARD OR LICENSING COMMISSION UNDER THE BUREAU SEEKING A PRELIMINARY DECISION ON WHETHER THE APPLICANT'S CRIMINAL HISTORY WOULD DISQUALIFY THE APPLICANT FROM RECEIVING A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT, SUBJECT TO THE FOLLOWING:

(1) IF THE PETITION IS FILED SEPARATELY FROM A FORMAL APPLICATION FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT, THE LICENSING BOARD OR LICENSING COMMISSION SHALL ISSUE A PRELIMINARY DECISION WITHIN 45 DAYS. THE PRELIMINARY DECISION SHALL BE LIMITED TO A DECLARATION OF WHETHER A CONVICTION ON THE PETITIONER'S CRIMINAL HISTORY RECORD FALLS WITHIN THE SET OF CONVICTIONS THAT THE LICENSING BOARD OR LICENSING COMMISSION HAS PREVIOUSLY DETERMINED MAY BE DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION OVER WHICH THE LICENSING BOARD OR LICENSING COMMISSION HAS AUTHORITY.

(2) IF THE LICENSING BOARD OR LICENSING COMMISSION DETERMINES THAT A CONVICTION ON THE PETITIONER'S CRIMINAL HISTORY RECORD IS DIRECTLY RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE NOTICE OF THE PRELIMINARY DECISION SHALL INFORM THE PETITIONER THAT THE DETERMINATION IS NOT FINAL OR BINDING AS TO WHETHER THE PETITIONER QUALIFIES FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT, AND THAT THE PETITIONER HAS THE OPPORTUNITY TO PRESENT EVIDENCE OF THE FACTORS SPECIFIED IN SECTION 3113(C) (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS) IN CONNECTION WITH ANY SUBSEQUENT FORMAL APPLICATION FOR A LICENSE, CERTIFICATE, REGISTRATION
OR PERMIT. WHERE APPROPRIATE, THE NOTICE MAY ALSO INFORM THE
PETITIONER THAT A SEXUAL OFFENSE, CRIME OF VIOLENCE OR DRUG
TRAFFICKING OFFENSE MAY PREVENT LICENSURE IN ACCORDANCE WITH
SECTION 3113(D), (E) AND (F).

(3) THE LICENSING BOARD OR LICENSING COMMISSION MAY
CHARGE A FILING FEE, WHICH SHALL NOT EXCEED $45, TO BE PAID
FOR EACH PETITION FOR PRELIMINARY REVIEW FILED ON OR AFTER
JANUARY 1, 2022. THE LICENSING BOARD OR LICENSING COMMISSION
MAY ESTABLISH BY REGULATION REASONABLE FEES WHICH MAY NOT
EXCEED AN AMOUNT SUFFICIENT TO REIMBURSE THE LICENSING BOARD
OR LICENSING COMMISSION FOR THE ADMINISTRATIVE COSTS
ASSOCIATED WITH PROCESSING THE PETITION FOR PRELIMINARY
REVIEW. THE LICENSING BOARD OR LICENSING COMMISSION SHALL
MAKE AVAILABLE FORMS FOR PETITIONERS TO REQUEST IN FORMA
PAUPERIS STATUS IN CONNECTION WITH A PETITION. THE LICENSING
BOARD OR LICENSING COMMISSION MAY NOT UNREASONABLY DENY IN
FORMA PAUPERIS STATUS. A PETITIONER GRANTED IN FORMA PAUPERIS
STATUS SHALL BE PERMITTED TO FILE A PETITION AND RECEIVE A
PRELIMINARY DECISION WITHOUT PAYMENT OF THE FILING FEE.

(4) THE DETERMINATION BY THE LICENSING BOARD OR
LICENSING COMMISSION SHALL BE BINDING, SUBJECT TO:

(I) A REVIEW OF CRIMINAL HISTORY RECORD INFORMATION
SUBMITTED DURING THE APPLICATION PROCESS.

(II) SECTION 3113.

§ 3116. BEST PRACTICES GUIDE.

(A) DEVELOPMENT OF GUIDE.—WITHIN 180 DAYS OF THE EFFECTIVE
DATE OF THIS SUBSECTION, THE DEPARTMENT OF STATE SHALL, IN
COLLABORATION WITH THE LICENSING BOARDS AND LICENSING
COMMISSIONS, DEVELOP A GUIDE OF BEST PRACTICES FOR AN APPLICANT
WITH A CRIMINAL CONVICTION TO USE WHEN SEEKING A LICENSE,
CERTIFICATE, REGISTRATION OR PERMIT. THE FOLLOWING APPLY:

(1) THE GUIDE SHALL BE PUBLISHED IN BOTH ENGLISH AND SPANISH.

(2) THE GUIDE SHALL INCLUDE, AT A MINIMUM, A SUMMARY OF THE PROVISIONS OF THE FOLLOWING:

(I) SECTION 3112 (RELATING TO RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS).

(II) SECTION 3112.1 (RELATING TO RESTRICTED LICENSES FOR OTHER OCCUPATIONS).

(III) SECTION 3113 (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS).

(IV) SECTION 3114 (RELATING TO JUVENILE ADJUDICATIONS).

(V) SECTION 3115 (RELATING TO PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND LICENSING COMMISSIONS).

(VI) SECTION 3117 (RELATING TO LIST OF CRIMINAL OFFENSES).

(B) PUBLICATION AND DISTRIBUTION.--WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION, THE DEPARTMENT OF STATE SHALL PUBLISH THE GUIDE UNDER SUBSECTION (A) ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE AND SHALL PROVIDE A WRITTEN COPY UPON REQUEST. THE WRITTEN COPY OF THE GUIDE SHALL BE PROVIDED WITHOUT COST TO THE PERSON REQUESTING THE GUIDE.

§ 3117. LIST OF CRIMINAL OFFENSES.

(A) DUTY OF COMMISSIONER.--AFTER CONSULTATION WITH THE LICENSING BOARDS AND LICENSING COMMISSIONS, AND REPRESENTATIVES OF THE BUSINESS COMMUNITY WITH KNOWLEDGE OF THE RESPECTIVE PROFESSIONS, THE COMMISSIONER SHALL HAVE THE POWER AND DUTY TO PUBLISH A SCHEDULE OF CRIMINAL CONVICTIONS THAT MAY CONSTITUTE CRIME.
GROUND TO REFUSE TO ISSUE, SUSPEND OR REVOKE A LICENSE,
CERTIFICATE, REGISTRATION OR PERMIT FOR EACH OCCUPATION OR
PROFESSION UNDER THE RESPECTIVE PRACTICE ACTS, THE FOLLOWING
SHALL APPLY:

(1) THE SCHEDULE SHALL INDICATE WHICH OFFENSES ARE THOSE
THAT THE LICENSING BOARD OR LICENSING COMMISSION DEEMS AS
DIRECTLY RELATING TO THE OCCUPATION, TRADE OR PROFESSION.

(2) THE SCHEDULE SHALL INDICATE THE LICENSING BOARD AND
LICENSING COMMISSION RESPONSIBLE FOR LICENSURE OF EACH
OCCUPATION OR PROFESSION.

(3) WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS
SUBSECTION, THE COMMISSIONER SHALL TRANSMIT NOTICE OF THE
COMPLETION OF THE SCHEDULE TO THE LEGISLATIVE REFERENCE
BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN.

(4) WITHIN TWO YEARS OF THE PUBLICATION UNDER PARAGRAPH
(3), THE COMMISSIONER SHALL TRANSMIT NOTICE OF A REGULATION
TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE
PENNSYLVANIA BULLETIN. THE REGULATION SHALL BE SUBJECT TO THE
ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE
REGULATORY REVIEW ACT.

(5) THE COMMISSIONER SHALL SUBMIT A REGULATION TO UPDATE
THE SCHEDULE OF CRIMINAL CONVICTIONS AS OFTEN AS THE
COMMISSIONER DEEMS APPROPRIATE TO REFLECT NEW STATUTORY
ENACTMENTS OF THE GENERAL ASSEMBLY AFFECTING THE SCHEDULE.

(B) PUBLIC COMMENT PERIOD.--WITHIN 120 DAYS OF THE
PUBLICATION OF THE SCHEDULE IN THE PENNSYLVANIA BULLETIN UNDER
SUBSECTION (A), THE COMMISSIONER SHALL SUBMIT INITIAL PROPOSED
REGULATIONS TO THE INDEPENDENT REGULATORY REVIEW COMMISSION
UNDER SECTION 5 OF THE REGULATORY REVIEW ACT.

(C) DISSEMINATION.--WITHIN 180 DAYS OF THE EFFECTIVE DATE OF

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THIS SUBSECTION, THE SCHEDULE OF OFFENSES IN SUBSECTION (A) SHALL BE PROVIDED IN WRITING TO EACH APPLICANT FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT ISSUED BY A LICENSING BOARD OR LICENSING COMMISSION AS PART OF THE APPLICATION AND SHALL BE MADE PART OF THE BEST PRACTICES GUIDE UNDER SECTION 3116 (RELATING TO BEST PRACTICES GUIDE). THE FOLLOWING SHALL APPLY:

(1) WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION, THE SCHEDULE SHALL BE PUBLISHED ON THE PUBLICLY ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT OF STATE.

(2) THE SCHEDULE OF CRIMINAL CONVICTIONS SHALL BE PUBLISHED IN BOTH ENGLISH AND SPANISH.

(3) NOTICE THAT THE LIST OF CRIMINAL OFFENSES WILL CHANGE BASED UPON NEW ENACTMENTS BY THE GENERAL ASSEMBLY SHALL BE PROVIDED ON THE PUBLICLY ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT OF STATE IN WRITING AS PART OF THE APPLICATION AND IN THE BEST PRACTICES GUIDE.

(D) APPLICATION.--THE SCHEDULE SHALL BE USED BY THE LICENSING BOARDS AND LICENSING COMMISSIONS WHEN:

(1) PREPARING PRELIMINARY DETERMINATIONS UNDER SECTION 3116 3115;

(2) DETERMINING WHICH CRIMINAL CONVICTIONS MAY RESULT IN DISCIPLINE OF A LICENSEE; AND

(3) DETERMINING WHETHER A CRIMINAL CONVICTION MAY RESULT IN REFUSING TO ISSUE A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER SECTION 3113 (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS).

§ 3118. REPORT TO GENERAL ASSEMBLY.

(A) REPORT REQUIRED.--WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY FOUR YEARS THEREAFTER, THE SECRETARY OF THE COMMONWEALTH SHALL ISSUE A WRITTEN REPORT
REGARDING THE IMPLEMENTATION AND EFFECTIVENESS OF THE FOLLOWING:

(I) SECTION 3112 (RELATING TO RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS).

(II) SECTION 3112.1 (RELATING TO RESTRICTED LICENSES FOR OTHER OCCUPATIONS).

(III) SECTION 3113 (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS).

(IV) SECTION 3114 (RELATING TO JUVENILE ADJUDICATIONS).

(V) SECTION 3115 (RELATING TO PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND LICENSING COMMISSIONS).

(VI) SECTION 3116 (RELATING TO BEST PRACTICES GUIDE).

(VII) SECTION 3117 (RELATING TO LIST OF CRIMINAL OFFENSES).

(B) SUBMITTAL OF REPORT.—THE REPORT UNDER SUBSECTION (A) SHALL BE SUBMITTED TO THE FOLLOWING:

(1) THE PRESIDENT PRO TEMPORE OF THE SENATE.

(2) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE CONSUMER PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE.

(3) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE JUDICIARY COMMITTEE OF THE SENATE.

(4) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

(5) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

(6) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF REPRESENTATIVES.
(C) CONTENTS OF REPORT.--THE REPORT UNDER SUBSECTION (A) SHALL INCLUDE THE FOLLOWING:

(1) THE NUMBER OF APPLICATIONS FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT THAT EACH LICENSING BOARD AND LICENSING COMMISSION RECEIVES EACH YEAR.

(2) THE NUMBER OF APPLICANTS WITH CRIMINAL CONVICTIONS THAT SUBMIT APPLICATIONS TO THE STATE BOARD OF BARBER EXAMINERS AND THE STATE BOARD OF COSMETOLOGY, INCLUDING THE FOLLOWING:

(I) THE NUMBER OF APPLICANTS THAT ARE ISSUED A RESTRICTED LICENSE UNDER SECTION 3112.

(II) THE NUMBER OF APPLICANTS THAT ARE DENIED A RESTRICTED LICENSE UNDER SECTION 3112 AND THE REASONS FOR THE DENIALS.

(III) THE NUMBER OF RESTRICTED LICENSE HOLDERS THAT ARE ISSUED A LICENSE TO PRACTICE UNDER THE ACT OF JUNE 19, 1931 (P.L.589, NO.202), REFERRED TO AS THE BARBERS' LICENSE LAW, OR THE ACT OF MAY 3, 1933 (P.L.242, NO.86), REFERRED TO AS THE COSMETOLOGY LAW, FOLLOWING THE RESTRICTED LICENSE TERM.

(IV) THE NUMBER OF RESTRICTED LICENSES THAT ARE REVOKED DURING THE RESTRICTED LICENSE TERM UNDER SECTION 3112(D) AND THE REASONS FOR THE REVOCATIONS.

(3) THE NUMBER OF APPLICANTS THAT ARE DENIED LICENSES, CERTIFICATES, REGISTRATIONS AND PERMITS EACH YEAR BY THE LICENSING BOARDS AND LICENSING COMMISSIONS AS A RESULT OF CRIMINAL CONVICTIONS.

(4) WHETHER TO AMEND ANY PROVISION OF THIS CHAPTER.

(D) PUBLIC RECORD.--THE REPORT UNDER SUBSECTION (A) SHALL BE A PUBLIC RECORD UNDER THE RIGHT-TO-KNOW LAW.
SECTION 3. REPEALS ARE AS FOLLOWS:

(1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 63 PA.C.S. CH. 31.

(2) THE ACT OF JULY 2, 1993 (P.L.345, NO.48), IS REPEALED.


(3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF THE
FOLLOWING PROVISIONS:

(I) THE DEFINITION OF "CRIMINAL CONVICTION" IN 63 PA.C.S. § 3102.

(II) 63 PA.C.S. § 3112.

(III) 63 PA.C.S. § 3112.1.

(IV) 63 PA.C.S. § 3113.

(V) 63 PA.C.S. § 3114.

(VI) 63 PA.C.S. § 3115.

(VII) 63 PA.C.S. § 3116.

(VIII) 63 PA.C.S. § 3117.

(IX) 63 PA.C.S. § 3118.

SECTION 5. THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113, 3114, 3115, 3116, 3117 AND 3118 SHALL APPLY TO OFFICIAL ACTS AND MATTERS, INCLUDING DISCIPLINARY MATTERS, RELATED TO THE ISSUANCE OF LICENSES, CERTIFICATES, REGISTRATIONS OR PERMITS BY LICENSING BOARDS OR LICENSING COMMISSIONS BEGINNING ON OR AFTER 180 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113, 3114 AND 3115 SHALL TAKE EFFECT IN 180 DAYS.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.