

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 637 Session of  
2019

INTRODUCED BY DiSANTO, SCHWANK, BAKER, GORDNER, MENSCH, COLLETT,  
MARTIN, A. WILLIAMS, PHILLIPS-HILL, FARNESE, LEACH, BREWSTER,  
BARTOLOTTA, TARTAGLIONE, K. WARD, KILLION, BLAKE, HAYWOOD AND  
IOVINO, MAY 13, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 23, 2020

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <--  
2 ~~Consolidated Statutes, in criminal history record~~  
3 ~~information, further providing for use of records by~~  
4 ~~licensing agencies; and making related repeals.~~  
5 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 63 (PROFESSIONS AND <--  
6 OCCUPATIONS (STATE LICENSED)) OF THE PENNSYLVANIA  
7 CONSOLIDATED STATUTES, IN CRIMINAL HISTORY RECORD  
8 INFORMATION, FURTHER PROVIDING FOR USE OF RECORDS BY  
9 LICENSING AGENCIES; PROVIDING FOR PRELIMINARY PROVISIONS AND  
10 FOR BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS;  
11 CONSOLIDATING THE PROVISIONS OF ACT 48 OF 1993; AND MAKING A  
12 RELATED REPEAL.

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

15 ~~Section 1. Section 9124(a), (b) and (c) of Title 18 of the~~ <--  
16 ~~Pennsylvania Consolidated Statutes are amended and the section~~  
17 ~~is amended by adding a subsection to read:~~  
18 ~~§ 9124. Use of records by licensing agencies.~~  
19 ~~(a) [State agencies. Except as provided by this chapter]~~  
20 ~~Permissible use of information.~~

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

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

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

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

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

24               ~~(3) Convictions of a summary offense.~~

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

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

30               ~~(6) Adjudications of delinquency.~~

1 ~~(c) State action authorized. [Boards,] Except as provided~~  
2 ~~in subsection (e), boards, commissions or departments of the~~  
3 ~~Commonwealth authorized to license, certify, register or permit~~  
4 ~~the practice of trades, occupations or professions may refuse to~~  
5 ~~grant or renew, or may suspend or revoke any license,~~  
6 ~~certificate, registration or permit for the following causes:~~

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

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

12 ~~\*\*\*~~

13 ~~(c) Bureau of Professional and Occupational Affairs.~~

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

22 ~~(2) Notwithstanding any other provision of law~~  
23 ~~concerning licensing, certification, registration or~~  
24 ~~permitting in the various practice acts, in addition to the~~  
25 ~~restrictions in subsection (b), a board or commission under~~  
26 ~~the Bureau of Professional and Occupational Affairs shall not~~  
27 ~~consider a conviction which does not directly relate to the~~  
28 ~~duties, functions and responsibilities in the practice of the~~  
29 ~~profession or occupation for which the license, certificate,~~  
30 ~~registration or permit is sought, unless it is proven by the~~

1 ~~prosecutor for the board or commission by a preponderance of~~  
2 ~~the evidence and based on the individualized assessment~~  
3 ~~required by paragraph (3) that the applicant poses an~~  
4 ~~unacceptable risk to the people with whom the applicant would~~  
5 ~~interact in the conduct of the profession or occupation.~~

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

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

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

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

~~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~~

1 ~~activities.~~

2 ~~(vii) Employment or character references and any~~  
3 ~~other information regarding fitness for practice in the~~  
4 ~~profession or occupation.~~

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

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

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

30 ~~(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~~

1 ~~relied upon by individuals applying for a license,~~  
2 ~~certificate, registration or permit.~~

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

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

15 ~~(8) A board or commission under the Bureau of~~  
16 ~~Professional and Occupational Affairs may only consider~~  
17 ~~criminal history records and make determinations of whether~~  
18 ~~to grant or renew, deny, suspend, revoke or otherwise~~  
19 ~~discipline a license, certificate, registration or permit in~~  
20 ~~accordance with the limitations under this subsection. A~~  
21 ~~crime of moral turpitude may only be considered as grounds to~~  
22 ~~deny, revoke or otherwise discipline a license, certificate,~~  
23 ~~registration or permit if the board or commission has~~  
24 ~~determined that a conviction for such crime is directly~~  
25 ~~related to the duties, functions and responsibilities in the~~  
26 ~~practice of the profession or occupation or that the~~  
27 ~~individual poses an unacceptable risk to people with whom the~~  
28 ~~individual would interact in the conduct of the profession or~~  
29 ~~occupation. The provisions of this section shall supersede~~  
30 ~~any law or regulation to the contrary.~~

~~(9) 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~~

1 ~~to the board that he has made significant progress in~~  
2 ~~personal rehabilitation since the conviction such that~~  
3 ~~licensure of the applicant should not be expected to~~  
4 ~~create a substantial risk of harm to the health and~~  
5 ~~safety of his patients or the public or a substantial~~  
6 ~~risk of further criminal violations, and (3) the~~  
7 ~~applicant otherwise satisfies the qualifications~~  
8 ~~contained in or authorized by this act. As used in this~~  
9 ~~section the term 'convicted' shall include a judgment, an~~  
10 ~~admission of guilt or a plea of nolo contendere."~~

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

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

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

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

29 ~~(2) the applicant satisfactorily demonstrates to~~  
30 ~~the board that he has made significant progress in~~

1           ~~personal rehabilitation since the conviction such~~  
2           ~~that licensure of the applicant should not be~~  
3           ~~expected to create a substantial risk of harm to the~~  
4           ~~health and safety of patients or the public or a~~  
5           ~~substantial risk of further criminal violations; and~~

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

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

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

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

21          ~~(vii) Section 9(b)(4) of the act of December 27,~~  
22          ~~1974 (P.L.995, No.326), known as the Veterinary Medicine~~  
23          ~~Practice Act.~~

24          ~~(viii) The penultimate and last sentence of section~~  
25          ~~6(a) of the act of October 10, 1975 (P.L.383, No.110),~~  
26          ~~known as the Physical Therapy Practice Act, which read as~~  
27          ~~follows: "The board shall not issue a license to an~~  
28          ~~applicant who has been convicted of a felony under the~~  
29          ~~act of April 14, 1972 (P.L.233, No.64), known as 'The~~  
30          ~~Controlled Substance, Drug, Device and Cosmetic Act,' or~~

1 ~~of an offense under the laws of another jurisdiction~~  
2 ~~which, if committed in this Commonwealth, would be a~~  
3 ~~felony under 'The Controlled Substance, Drug, Device and~~  
4 ~~Cosmetic Act,' unless:~~

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

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

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

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

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

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

26 ~~(xi) The penultimate and last sentence of section~~  
27 ~~22(b) of the act of December 20, 1985 (P.L.457, No.112),~~  
28 ~~known as the Medical Practice Act of 1985, which read as~~  
29 ~~follows: "The board shall not issue a license or~~  
30 ~~certificate to an applicant who has been convicted of a~~

1 ~~felony under the act of April 14, 1972 (P.L.233, No.64),~~  
2 ~~known as The Controlled Substance, Drug, Device and~~  
3 ~~Cosmetic Act, or of an offense under the laws of another~~  
4 ~~jurisdiction which, if committed in this Commonwealth,~~  
5 ~~would be a felony under The Controlled Substance, Drug,~~  
6 ~~Device and Cosmetic Act, unless:~~

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

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

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

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

22 ~~(xii) Section 501(a)(7) of the act of December 16,~~  
23 ~~1986 (P.L.1646, No.188), known as the Chiropractic~~  
24 ~~Practice Act.~~

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

29 ~~(xiv) Section 502(c)(1) of the act of October 9,~~  
30 ~~2008 (P.L.1363, No.100), known as the Crane Operator~~

1           ~~Licensure Act.~~

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

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

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

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

10          § 9124. USE OF RECORDS BY LICENSING AGENCIES.

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

18          (A.1) APPLICATION OF OTHER LAW.--THE FOLLOWING PROVISIONS  
19          SHALL APPLY TO A LICENSING BOARD OR LICENSING COMMISSION UNDER  
20          THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS IN THE  
21          DEPARTMENT OF STATE WITH RESPECT TO REFUSING TO ISSUE OR RENEW,  
22          SUSPENDING, REVOKING OR LIMITING A LICENSE, CERTIFICATE,  
23          REGISTRATION OR PERMIT:

24                 (1) 63 PA.C.S. § 3112 (RELATING TO RESTRICTED LICENSES  
25                 FOR BARBERS AND COSMETOLOGISTS).

26                 (2) 63 PA.C.S. § 3112.1 (RELATING TO RESTRICTED LICENSES  
27                 FOR OTHER OCCUPATIONS).

28                 (3) 63 PA.C.S. § 3113 (RELATING TO CONSIDERATION OF  
29                 CRIMINAL CONVICTIONS).

30                 (4) 63 PA.C.S. § 3114 (RELATING TO JUVENILE

1 ADJUDICATIONS).

2 (5) 63 PA.C.S. § 3115 (RELATING TO PRELIMINARY  
3 DETERMINATIONS BY LICENSING BOARDS AND LICENSING  
4 COMMISSIONS).

5 (6) 63 PA.C.S. § 3116 (RELATING TO BEST PRACTICES  
6 GUIDE).

7 (7) 63 PA.C.S. § 3117 (RELATING TO LIST OF CRIMINAL  
8 OFFENSES).

9 (B) PROHIBITED USE OF INFORMATION.--THE FOLLOWING  
10 INFORMATION SHALL NOT BE USED IN CONSIDERATION OF AN APPLICATION  
11 FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT:

12 \* \* \*

13 (2) CONVICTIONS WHICH HAVE BEEN ANNULLED [OR EXPUNGED.],  
14 EXPUNGED OR SUBJECT TO LIMITED ACCESS UNDER SECTIONS 9122.1  
15 (RELATING TO PETITION FOR LIMITED ACCESS) AND 9122.2  
16 (RELATING TO CLEAN SLATE LIMITED ACCESS).

17 \* \* \*

18 SECTION 2. TITLE 63 IS AMENDED BY ADDING PARTS TO READ:

19 PART I

20 PRELIMINARY PROVISIONS

21 (RESERVED)

22 PART II

23 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

24 CHAPTER

25 31. POWERS AND DUTIES

26 CHAPTER 31

27 POWERS AND DUTIES

28 SEC.

29 3101. SCOPE OF CHAPTER.

30 3102. DEFINITIONS.

1 3103. INVESTIGATORY SUBPOENA POWER.  
2 3104. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.  
3 3105. HEARING EXAMINERS.  
4 3106. SUSPENSION.  
5 3107. ADDITIONAL POWERS FOR COMMISSIONER.  
6 3108. CIVIL PENALTIES.  
7 3109. CONFIDENTIALITY OF RECORDS OF LICENSURE BOARDS.  
8 3110. REPORTS.  
9 3111. LICENSURE BY ENDORSEMENT.  
10 3112. RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS.  
11 3112.1. RESTRICTED LICENSES FOR OTHER OCCUPATIONS.  
12 3113. CONSIDERATION OF CRIMINAL CONVICTIONS.  
13 3114. JUVENILE ADJUDICATIONS.  
14 3115. PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND  
15 LICENSING COMMISSIONS.  
16 3116. BEST PRACTICES GUIDE.  
17 3117. LIST OF CRIMINAL OFFENSES.  
18 3118. REPORT TO GENERAL ASSEMBLY.  
19 § 3101. SCOPE OF CHAPTER.  
20 THIS CHAPTER RELATES TO THE POWERS AND DUTIES OF THE GENERAL  
21 COUNSEL, THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND  
22 LICENSING BOARDS AND LICENSING COMMISSIONS.  
23 § 3102. DEFINITIONS.  
24 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
25 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
26 CONTEXT CLEARLY INDICATES OTHERWISE:  
27 "BUREAU." THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL  
28 AFFAIRS IN THE DEPARTMENT OF STATE.  
29 "COMMISSIONER." THE COMMISSIONER OF THE BUREAU.  
30 "CRIMINAL CONVICTION." INCLUDES A FINDING OF GUILTY, A PLEA

1 OF GUILTY OR A PLEA OF NOLO CONTENDERE WITH RESPECT TO A  
2 CRIMINAL OFFENSE OF THIS COMMONWEALTH, OR AN EQUIVALENT CRIME  
3 UNDER THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME OF THE  
4 COMMISSION OF THE CRIMINAL OFFENSE OR AN EQUIVALENT CRIME IN  
5 ANOTHER JURISDICTION.

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

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

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

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

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

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

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

30 "LICENSING BOARD." A DEPARTMENTAL OR ADMINISTRATIVE BOARD

1 UNDER THE BUREAU.

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

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

6 § 3103. INVESTIGATORY SUBPOENA POWER.

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

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

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

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

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

30 § 3104. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.

1 (A) DUTY.--A LICENSEE, AS A CONDITION OF LICENSURE,  
2 CERTIFICATION, REGISTRATION OR HOLDING A PERMIT, SHALL PROVIDE  
3 WRITTEN NOTICE OF THE FOLLOWING TO THE APPROPRIATE LICENSING  
4 BOARD OR LICENSING COMMISSION WITHIN 30 DAYS:

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

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

12 (B) SANCTIONS.--A LICENSING BOARD OR LICENSING COMMISSION  
13 MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE WHO VIOLATES  
14 THIS SECTION.

15 § 3105. HEARING EXAMINERS.

16 (A) APPOINTMENT.--

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

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

27 (B) REGULATIONS.--THE COMMISSIONER, AFTER CONSULTATION WITH  
28 THE LICENSING BOARDS AND COMMISSIONS, SHALL HAVE THE POWER TO  
29 PROMULGATE REGULATIONS SPECIFYING THE PROCEDURAL RULES TO BE  
30 FOLLOWED BY HEARING EXAMINERS IN THE CONDUCT OF HEARINGS IN

1 DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR LICENSING  
2 COMMISSION. ALL PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE  
3 WITH THE PROVISIONS OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW  
4 AND PROCEDURE).

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

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

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

13 (D) TIME PERIODS.--

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

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

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

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

30 § 3106. SUSPENSION.

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

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

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

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

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

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

25 (I) BE PRESENT AT THE PRELIMINARY HEARING;

26 (II) BE REPRESENTED BY COUNSEL;

27 (III) CROSS-EXAMINE WITNESSES;

28 (IV) INSPECT PHYSICAL EVIDENCE;

29 (V) CALL WITNESSES;

30 (VI) OFFER EVIDENCE AND TESTIMONY; AND

1           (VII) MAKE A RECORD OF THE PROCEEDINGS.

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

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

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

12 § 3107. ADDITIONAL POWERS FOR COMMISSIONER.

13           (A) MEMBERSHIP ON BOARDS AND COMMISSIONS.--IN ADDITION TO  
14 THE POWERS AND DUTIES IMPOSED UNDER LAW, THE COMMISSIONER OR A  
15 DESIGNEE OF THE COMMISSIONER SHALL BE A MEMBER OF EACH OF THE  
16 LICENSING BOARDS AND LICENSING COMMISSIONS EXCEPT THE STATE  
17 BOARD OF CERTIFIED REAL ESTATE APPRAISERS AND THE NAVIGATION  
18 COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES.

19           (B) DESIGNEE OF SECRETARY OF THE COMMONWEALTH.--THE  
20 COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER MAY SERVE AS THE  
21 DESIGNEE OF THE SECRETARY OF THE COMMONWEALTH ON THE NAVIGATION  
22 COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES.

23 § 3108. CIVIL PENALTIES.

24           (A) AUTHORIZATION.--

25           (1) THE COMMISSIONER, AFTER CONSULTATION WITH THE  
26 LICENSING BOARDS AND LICENSING COMMISSIONS, SHALL HAVE THE  
27 POWER TO ADOPT A SCHEDULE OF CIVIL PENALTIES FOR OPERATING  
28 WITHOUT A CURRENT, REGISTERED, UNSUSPENDED AND UNREVOKED  
29 LICENSE, REGISTRATION, CERTIFICATE OR PERMIT AND FOR  
30 VIOLATING A PROVISION OF THE LICENSING BOARD'S OR LICENSING

1 COMMISSION'S RESPECTIVE ACTS OR REGULATIONS RELATING TO THE  
2 CONDUCT OR OPERATION OF A BUSINESS OR FACILITY LICENSED BY  
3 THE LICENSING BOARDS AND LICENSING COMMISSIONS. THE FOLLOWING  
4 APPLY:

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

10 (II) THE ~~COMMISSION~~ COMMISSIONER SHALL TRANSMIT <--  
11 NOTICE OF THE ADOPTION OF THE SCHEDULE OF PENALTIES,  
12 GUIDELINES FOR THE IMPOSITION OF THE SCHEDULE OF  
13 PENALTIES AND PROCEDURES FOR APPEAL TO THE LEGISLATIVE  
14 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA  
15 BULLETIN. THE COMMISSIONER SHALL, WITHIN TWO YEARS OF THE  
16 PUBLICATION OF THE NOTICE, PROMULGATE A REGULATION  
17 SPECIFYING THE SCHEDULE OF PENALTIES, GUIDELINES AND  
18 PROCEDURES.

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

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

24 (V) A PENALTY IMPOSED MAY BE APPEALED TO A HEARING  
25 EXAMINER OR THE LICENSING BOARD OR LICENSING COMMISSION  
26 PURSUANT TO THE REGULATIONS PROMULGATED UNDER SECTION  
27 3105(B) (RELATING TO HEARING EXAMINERS).

28 (VI) IF THE APPEAL IS INITIALLY TO A HEARING  
29 EXAMINER, THE RELEVANT LICENSING BOARD OR LICENSING  
30 COMMISSION SHALL RENDER A DECISION ON ANY EXCEPTIONS TO

1 THE DECISION OF THE HEARING EXAMINER OR ON ANY  
2 APPLICATIONS FOR REVIEW IN ACCORDANCE WITH SECTION  
3 3105(D).

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

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

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

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

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

27 (IV) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR  
28 PERMIT HOLDER MUST NOT BE IN A CURRENT DISCIPLINARY  
29 STATUS, AND ANY FEES OR FINES ASSESSED MUST BE PAID IN  
30 FULL.

1           (V) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR  
2           PERMIT HOLDER MUST NOT HAVE HAD A DISCIPLINARY RECORD  
3           PREVIOUSLY EXPUNGED BY THE COMMISSIONER.

4           (VI) DISCIPLINARY RECORDS INVOLVING IMPOSITION OF  
5           DISCIPLINE FOR VIOLATIONS OTHER THAN THOSE IDENTIFIED IN  
6           THIS PARAGRAPH SHALL NOT BE ELIGIBLE FOR EXPUNGEMENT.

7           (VII) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER  
8           OR PERMIT HOLDER SHALL PAY ALL COSTS ASSOCIATED WITH THE  
9           EXPUNGEMENT AS ESTABLISHED BY THE COMMISSIONER BY  
10           REGULATION.

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

16           (B) ADDITIONAL POWERS.--IN ADDITION TO THE DISCIPLINARY  
17           POWERS AND DUTIES OF THE LICENSING BOARDS AND LICENSING  
18           COMMISSIONS WITHIN THE BUREAU UNDER THEIR RESPECTIVE PRACTICE  
19           ACTS, LICENSING BOARDS AND LICENSING COMMISSIONS SHALL HAVE THE  
20           POWER, RESPECTIVELY:

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

25           (2) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,  
26           A CIVIL PENALTY OF UP TO \$10,000 PER VIOLATION ON A LICENSEE  
27           OR UNLICENSED PERSON WHO AIDS AND ABETS THE UNLICENSED  
28           PRACTICE OF A PROFESSION, OCCUPATION OR BUSINESS.

29           (3) TO LEVY A CIVIL PENALTY OF NOT MORE THAN \$10,000 PER  
30           VIOLATION ON A CORPORATION, PARTNERSHIP, INSTITUTION,

1 ASSOCIATION OR SOLE PROPRIETORSHIP WHICH AIDS AND ABETS AN  
2 INDIVIDUAL IN THE UNLICENSED PRACTICE OF A PROFESSION. THIS  
3 PENALTY SHALL NOT, HOWEVER, BE LEVIED AGAINST A PERSON SOLELY  
4 AS A CONSEQUENCE OF THAT PERSON BEING A PATIENT OR CLIENT OF  
5 THE UNLICENSED INDIVIDUAL.

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

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

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

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

27 (C) RESTRICTIONS.--

28 (1) DECISIONS RENDERED BY A LICENSING BOARD OR LICENSING  
29 COMMISSION ON ANY EXCEPTIONS TO THE DECISION OF A HEARING  
30 EXAMINER OR ON AN APPLICATION FOR REVIEW IN ACCORDANCE WITH

1 SECTION 3105(D) TO IMPOSE A CIVIL PENALTY UNDER THIS SECTION  
2 SHALL REQUIRE THE SAME NUMBER OF VOTES REQUIRED FOR THE  
3 LICENSING BOARD OR LICENSING COMMISSION TO IMPOSE A CIVIL  
4 PENALTY UNDER ANY OTHER ACT.

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

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

22 (E) ENTRY OF JUDGMENT.--WITHIN 60 MONTHS OF THE FINAL  
23 DISPOSITION OF A DISCIPLINARY CASE, IF AN UNPAID CIVIL PENALTY,  
24 FEE, INTEREST AND COST OF A LICENSEE TOTAL \$1,000 OR MORE, THE  
25 LICENSING BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT  
26 OF THE LICENSING BOARD OR LICENSING COMMISSION, MAY TRANSMIT A  
27 COPY OF THE FINAL DISPOSITION TO THE PROTHONOTARY OF THE COURT  
28 OF COMMON PLEAS IN THE COUNTY WHERE THE LICENSEE OR PROPERTY OF  
29 THE LICENSEE UPON WHOM THE PENALTY, FEE, INTEREST AND COST ARE  
30 IMPOSED IS LOCATED. THE FOLLOWING APPLY:

1           (1) THE PROTHONOTARY SHALL ENTER AND DOCKET THE COPY OF  
2           THE FINAL DISPOSITION WITHOUT REQUIRING PAYMENT OF COSTS AS A  
3           CONDITION PRECEDENT TO THE ENTRY OF THE COPY OF THE FINAL  
4           DISPOSITION.

5           (2) THE TOTAL OF THE PENALTY, FEE, INTEREST AND COST  
6           SHALL BE ENTERED AS A JUDGMENT UPON THE LICENSEE REGARDLESS  
7           OF WHETHER THE AMOUNT HAS BEEN ORDERED TO BE PAID IN  
8           INSTALLMENTS.

9           (F) PRIORITY OF LIEN.--A LIEN OBTAINED UNDER THIS SECTION  
10          SHALL MAINTAIN ITS PRIORITY INDEFINITELY, AND NO WRIT OF REVIVAL  
11          NEED BE FILED.

12          (G) EXECUTION.--A WRIT OF EXECUTION MAY DIRECTLY ISSUE UPON  
13          THE LIEN WITHOUT THE ISSUANCE AND PROSECUTION TO JUDGMENT OF A  
14          WRIT OF SCIRE FACIAS, PROVIDED THAT A NOTICE OF THE FILING AND  
15          THE EFFECT OF THE LIEN BE PROVIDED TO THE LICENSEE NOT LESS THAN  
16          10 DAYS BEFORE THE EXECUTION ON THE LIEN. NOTICE MAY BE SENT BY  
17          REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE.

18          (H) EXCEPTION TO EXECUTION.--THE LIEN SHALL HAVE NO EFFECT  
19          UPON ANY STOCK OF GOODS, WARES OR MERCHANDISE REGULARLY SOLD OR  
20          LEASED IN THE ORDINARY COURSE OF BUSINESS BY THE LICENSEE  
21          AGAINST WHOM THE LIEN HAS BEEN ENTERED, UNLESS AND UNTIL A WRIT  
22          OF EXECUTION HAS BEEN ISSUED AND A LEVY MADE UPON THE STOCK OF  
23          GOODS, WARES AND MERCHANDISE.

24          (I) SATISFACTION.--ONCE A JUDGMENT IS PAID IN FULL TO THE  
25          LICENSING BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT  
26          OF THE LICENSING BOARD OR LICENSING COMMISSION, THE LICENSING  
27          BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT OF THE  
28          LICENSING BOARD OR LICENSING COMMISSION, SHALL, WITHIN 90 DAYS,  
29          NOTIFY THE PROTHONOTARY IN WRITING OF RECEIPT OF PAYMENT IN FULL  
30          AND REQUEST THE JUDGMENT BE NOTED AS SATISFIED IN FULL.

1 (J) APPLICABILITY.--THIS SECTION SHALL APPLY ONLY TO  
2 DISCIPLINARY PROCEEDINGS COMMENCED ON OR AFTER AUGUST 31, 1993.

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

6 "UNLICENSED PRACTICE." ANY OF THE FOLLOWING:

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

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

17 § 3109. CONFIDENTIALITY OF RECORDS OF LICENSURE BOARDS.

18 (A) GENERAL RULE.--

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

28 (2) NO PERSON WHO HAS INVESTIGATED OR HAS ACCESS TO OR  
29 CUSTODY OF DOCUMENTS, MATERIALS OR INFORMATION THAT ARE  
30 CONFIDENTIAL AND PRIVILEGED UNDER THIS SUBSECTION SHALL BE

1 REQUIRED TO TESTIFY IN A JUDICIAL OR ADMINISTRATIVE  
2 PROCEEDING UNLESS DIRECTED TO DO SO BY A COURT OF COMPETENT  
3 JURISDICTION WITHOUT THE WRITTEN CONSENT OF THE LICENSING  
4 BOARD THAT REGULATES THE PROFESSION INVOLVED.

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

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

13 (B) CERTAIN DISCLOSURE PERMITTED.--

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

22 (2) ANY OTHER DISCLOSURE OF RECORDS UNDER SECTION 708(B)  
23 (17) OF THE RIGHT-TO-KNOW LAW RELATING TO A NONCRIMINAL  
24 INVESTIGATION, INCLUDING PROSECUTORIAL MEMOS AND TRANSCRIPTS  
25 OF DEPOSITIONS BY EMPLOYEES OR AGENTS OF THE DEPARTMENT OF  
26 STATE, OFFICE OF CHIEF COUNSEL, BUREAU OF PROFESSIONAL AND  
27 OCCUPATIONAL AFFAIRS AND THE BUREAU OF ENFORCEMENT AND  
28 INVESTIGATION MAY BE MADE ONLY IN FURTHERANCE OF AN  
29 INVESTIGATION OR PROSECUTION OF ALLEGED VIOLATIONS OF  
30 APPLICABLE LICENSING STATUTES, CODES OR REGULATIONS.

1           (3) VIOLATIONS OF THIS SUBSECTION SHALL SUBJECT THE  
2           EMPLOYEE OR AGENT TO ADMINISTRATIVE DISCIPLINE, INCLUDING  
3           DISCHARGE, SUSPENSION OR OTHER FORMAL OR APPROPRIATE  
4           DISCIPLINARY ACTION.

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

16           (D) WAIVER PROHIBITED.--A LICENSING BOARD OR LICENSING  
17           COMMISSION MAY NOT REQUIRE AN APPLICANT TO WAIVE ANY  
18           CONFIDENTIALITY PROVIDED FOR UNDER THIS SECTION AS A CONDITION  
19           FOR THE APPROVAL OF A LICENSE OR ANY OTHER ACTION OF THE BOARD.  
20           § 3110. REPORTS.

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

26           (1) DESCRIPTION OF THE TYPES OF COMPLAINTS RECEIVED.

27           (2) STATUS OF CASES.

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

30           (4) PERCENTAGE OF DISCIPLINARY ACTIONS IN RELATION TO

1 THE TOTAL NUMBER OF LICENSEES.

2 (5) NUMBER OF CLOSED CASES.

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

4 (7) NUMBER OF REVOCATIONS AND SUSPENSIONS.

5 (8) PERCENTAGE OF REVOCATIONS AND SUSPENSIONS IN  
6 RELATION TO THE TOTAL NUMBER OF LICENSEES.

7 § 3111. LICENSURE BY ENDORSEMENT.

8 (A) GENERAL RULE.--NOTWITHSTANDING ANY EXISTING PROVISIONS  
9 RELATED TO LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY  
10 IN AN APPLICABLE LICENSING STATUTE, A LICENSING BOARD OR  
11 LICENSING COMMISSION SHALL ISSUE A LICENSE, CERTIFICATE,  
12 REGISTRATION OR PERMIT TO AN APPLICANT TO ALLOW PRACTICE IN THIS  
13 COMMONWEALTH IF, UPON APPLICATION TO THE LICENSING BOARD OR  
14 LICENSING COMMISSION, THE APPLICANT SATISFIES ALL OF THE  
15 FOLLOWING CONDITIONS:

16 (1) HOLDS A CURRENT LICENSE, CERTIFICATE, REGISTRATION  
17 OR PERMIT FROM ANOTHER STATE, TERRITORY OR COUNTRY AND THE  
18 LICENSING BOARD OR LICENSING COMMISSION DETERMINES THAT  
19 STATE'S, TERRITORY'S OR COUNTRY'S REQUIREMENTS ARE  
20 SUBSTANTIALLY EQUIVALENT TO OR EXCEED THE REQUIREMENTS  
21 ESTABLISHED IN THIS COMMONWEALTH.

22 (2) DEMONSTRATES COMPETENCY IN THE PROFESSION OR  
23 OCCUPATION THROUGH METHODS DETERMINED BY THE LICENSING BOARD  
24 OR LICENSING COMMISSION, INCLUDING HAVING COMPLETED  
25 CONTINUING EDUCATION OR HAVING EXPERIENCE IN THE PROFESSION  
26 OR OCCUPATION FOR AT LEAST TWO OF THE FIVE YEARS PRECEDING  
27 THE DATE OF THE APPLICATION UNDER THIS SECTION.

28 (3) HAS NOT COMMITTED ANY ACT THAT CONSTITUTES GROUNDS  
29 FOR REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE,  
30 CERTIFICATE, REGISTRATION OR PERMIT TO PRACTICE THAT

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

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

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

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

23 (1) A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT IS  
24 DENIED BY THE LICENSING BOARD OR LICENSING COMMISSION UNDER  
25 THIS SECTION.

26 (2) THE EXPIRATION OF THE PROVISIONAL ENDORSEMENT  
27 LICENSE AS ESTABLISHED BY THE LICENSING BOARD OR LICENSING  
28 COMMISSION BY REGULATION.

29 (3) THE HOLDER OF THE PROVISIONAL ENDORSEMENT LICENSE  
30 FAILS TO COMPLY WITH THE TERMS OF THE PROVISIONAL LICENSE.

1 (C) CONSTRUCTION.--NOTHING IN THIS SECTION IS INTENDED TO  
2 SUPERSEDE OR REPLACE EXISTING STATUTORY PROVISIONS RELATING TO  
3 LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY APPLICABLE  
4 TO LICENSING BOARDS AND LICENSING COMMISSIONS THROUGH THEIR  
5 RESPECTIVE ENABLING STATUTES.

6 § 3112. RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS.

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

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

27 (2) THE STATE BOARD OF BARBER EXAMINERS OR THE STATE  
28 BOARD OF COSMETOLOGY SHALL NOTIFY THE RESPECTIVE APPLICANT OF  
29 THAT PERIOD OF TIME AND THE CONDITIONS PLACED ON THE  
30 RESTRICTED LICENSE UNDER SUBSECTION (C).

1 (B) DEMONSTRATION OF FITNESS.--NOTWITHSTANDING ANY OTHER  
2 PROVISION OF LAW TO THE CONTRARY AND THE INDIVIDUAL'S CRIMINAL  
3 CONVICTIONS, AN APPLICANT FOR A RESTRICTED LICENSE MAY  
4 DEMONSTRATE FITNESS FOR ISSUANCE OF A RESTRICTED LICENSE TO  
5 PRACTICE BARBERING OR COSMETOLOGY BY INTRODUCING EVIDENCE OF THE  
6 FOLLOWING, AS APPLICABLE:

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

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

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

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

27 (C) CONDITIONS FOR RESTRICTED LICENSE.--THE STATE BOARD OF  
28 BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY SHALL IMPOSE  
29 CONDITIONS ON A HOLDER OF A RESTRICTED LICENSE, INCLUDING ANY OF  
30 THE FOLLOWING:

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

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

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

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

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

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

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

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

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

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

15 § 3112.1. RESTRICTED LICENSES FOR OTHER OCCUPATIONS.

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

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

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

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

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

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

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

27           (4) THE APPLICANT HAS DEMONSTRATED A COMMITMENT TO  
28 LIVING A LAW-ABIDING LIFE, WHICH MAY BE ESTABLISHED BY A  
29 LETTER OF RECOMMENDATION FROM THE APPLICANT'S PROBATION  
30 OFFICER, PAROLE OFFICER OR APPROPRIATE OFFICIAL WITHIN THE

1 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF  
2 CORRECTIONS, OR BY ANY OTHER MEANS, AT THE DISCRETION OF THE  
3 LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

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

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

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

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

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

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

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

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

29 (E) NOTICE.--WITHIN 30 DAYS OF THE CONCLUSION OF THE TERM OF  
30 THE RESTRICTED LICENSE, THE LICENSEE SUPERVISING THE HOLDER OF

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

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

13 § 3113. CONSIDERATION OF CRIMINAL CONVICTIONS.

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

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

20 (2) 18 PA.C.S. § 9124(C) (RELATING TO USE OF RECORDS BY  
21 LICENSING AGENCIES).

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

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

1 PROCEDURES SPECIFIED UNDER THIS SECTION.

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

6 (1) THE FIRST STAGE OF THE ANALYSIS SHALL DETERMINE  
7 WHETHER THE CRIMINAL CONVICTION DIRECTLY RELATES TO THE  
8 OCCUPATION, TRADE OR PROFESSION FOR WHICH THE INDIVIDUAL  
9 SEEKS LICENSURE BY REVIEWING THE SCHEDULE OF OFFENSES IN  
10 SECTION 3117 (RELATING TO LIST OF CRIMINAL OFFENSES). IF THE  
11 OFFENSE IS FOUND ON THE LIST OF OFFENSES THAT ARE DIRECTLY  
12 RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE LICENSING  
13 BOARD OR LICENSING COMMISSION SHALL THEN DETERMINE WHETHER  
14 LICENSURE OF THE INDIVIDUAL WOULD POSE A SUBSTANTIAL RISK TO  
15 THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS  
16 OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL  
17 CONVICTIONS BY CONDUCTING THE INDIVIDUALIZED ASSESSMENT  
18 SPECIFIED IN SUBSECTION (C). THERE SHALL BE A REBUTTABLE  
19 PRESUMPTION THAT LICENSURE OF THE INDIVIDUAL WITH A CRIMINAL  
20 CONVICTION THAT DIRECTLY RELATES TO THE OCCUPATION, TRADE OR  
21 PROFESSION WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND  
22 SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC  
23 OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS. THE  
24 INDIVIDUAL MAY REBUT THE PRESUMPTION BY SHOWING EVIDENCE OF  
25 REHABILITATION, AS SPECIFIED IN THE FACTORS IN SUBSECTION  
26 (C).

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

1 SECOND STAGE OF THE ANALYSIS OF THE CRIMINAL CONVICTION.  
2 DURING THE SECOND STAGE OF THE ANALYSIS, THE LICENSING BOARD  
3 OR LICENSING COMMISSION SHALL DETERMINE WHETHER, DUE TO THE  
4 NATURE OF THE CRIMINAL CONVICTION, LICENSURE OF THE  
5 INDIVIDUAL WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND  
6 SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC  
7 OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL ~~CONVICTIONS BY~~ <--  
8 ~~CONDUCTING~~ CONVICTIONS. IF SO, THE LICENSING BOARD OR <--  
9 LICENSING COMMISSION SHALL CONDUCT THE INDIVIDUALIZED  
10 ASSESSMENT SPECIFIED IN SUBSECTION (C). THE INDIVIDUAL MAY  
11 REBUT THE DETERMINATION BY SHOWING EVIDENCE OF  
12 REHABILITATION, AS SPECIFIED IN THE FACTORS IN SUBSECTION  
13 (C).  
14 (C) INDIVIDUALIZED ASSESSMENT.--A LICENSING BOARD OR  
15 LICENSING COMMISSION SHALL CONDUCT AN INDIVIDUALIZED ASSESSMENT  
16 OF THE INDIVIDUAL WITH RESPECT TO CRIMINAL CONVICTIONS AND  
17 REHABILITATION. THE LICENSING BOARD OR LICENSING COMMISSION  
18 SHALL ONLY CONSIDER THE FOLLOWING FACTORS IN ORDER TO DETERMINE  
19 WHETHER THE INDIVIDUAL MEETS THE REQUIREMENTS FOR ISSUANCE OF A  
20 LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER SUBSECTION  
21 (B) (1) OR (B) (2):  
22 (1) WHETHER THE CRIMINAL CONDUCT FOR WHICH THE  
23 INDIVIDUAL WAS CONVICTED INVOLVED AN ACT OR THREAT OF HARM  
24 AGAINST THE INDIVIDUAL. FOR PURPOSES OF THIS PARAGRAPH, THE  
25 TERM "HARM" INCLUDES HARM TO THE VICTIM, THE PERSONAL  
26 PROPERTY OF THE VICTIM OR REPUTATION OF THE VICTIM.  
27 (2) THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIMINAL  
28 CONVICTION.  
29 (3) THE NUMBER OF CRIMINAL CONVICTIONS.  
30 (4) INCREASE IN AGE OR MATURITY OF THE INDIVIDUAL SINCE

1 THE DATE OF THE CRIMINAL CONVICTION.

2 (5) THE INDIVIDUAL'S CRIMINAL HISTORY OR LACK OF  
3 CRIMINAL HISTORY AFTER THE DATE OF CONVICTION.

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

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

10 (8) PROGRESS IN PERSONAL REHABILITATION SINCE THE  
11 CONVICTION.

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

15 (10) THE INDIVIDUAL'S CRIMINAL HISTORY, OR LACK OF  
16 CRIMINAL HISTORY, AFTER THE DATE OF THE CRIMINAL CONVICTION  
17 WHILE ENGAGED IN THE SAME OR SIMILAR PROFESSION OR  
18 OCCUPATION.

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

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

<--

1 TRAFFICKING OFFENSE.

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

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

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

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

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

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

25 (F) DRUG TRAFFICKING.--NOTWITHSTANDING ANY PROVISION OF LAW  
26 TO THE CONTRARY, THE PROVISIONS OF THE RESPECTIVE PRACTICE ACTS  
27 RELATING TO FELONY DRUG CONVICTIONS UNDER THE ACT OF APRIL 14,  
28 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,  
29 DEVICE AND COSMETIC ACT, OR A CONVICTION FOR AN OFFENSE UNDER  
30 THE LAWS OF ANOTHER JURISDICTION WHICH, IF COMMITTED IN THIS

1 COMMONWEALTH, WOULD BE A FELONY UNDER THE CONTROLLED SUBSTANCE,  
2 DRUG, DEVICE AND COSMETIC ACT, SHALL ONLY APPLY TO AN INDIVIDUAL  
3 WHO HAS BEEN CONVICTED OF A DRUG TRAFFICKING OFFENSE. THE  
4 LICENSING BOARD OR LICENSING COMMISSION MAY SHOW, BY A  
5 PREPONDERANCE OF THE EVIDENCE, THAT THE AMOUNT OR WEIGHT OF THE  
6 CONTROLLED SUBSTANCE INVOLVED IN A CONVICTION MEETS THE  
7 REQUIREMENTS FOR A DRUG TRAFFICKING OFFENSE.

8 (G) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE  
9 CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF A  
10 LICENSING BOARD OR LICENSING COMMISSION IN DISCIPLINARY OR  
11 LICENSURE MATTERS.

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

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

18 "DRUG TRAFFICKING OFFENSE." A VIOLATION OF SECTION 13(A)  
19 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
20 COSMETIC ACT, IF THE CONTROLLED SUBSTANCE OR A MIXTURE  
21 CONTAINING IT IS:

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

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

29 (3) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE  
30 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100

1 GRAMS:

2 (I) COCA LEAVES.

3 (II) A SALT, COMPOUND, DERIVATIVE OR PREPARATION OF  
4 COCA LEAVES.

5 (III) A SALT, COMPOUND, DERIVATIVE OR PREPARATION  
6 WHICH IS CHEMICALLY EQUIVALENT OR IDENTICAL WITH ANY OF  
7 THE SUBSTANCES UNDER SUBPARAGRAPHS (I) AND (II).

8 (IV) A MIXTURE CONTAINING ANY OF THE SUBSTANCES  
9 UNDER SUBPARAGRAPHS (I) AND (II), EXCEPT DECOCAINIZED  
10 COCA LEAVES OR EXTRACTS OF COCA LEAVES WHICH DO NOT  
11 CONTAIN COCAINE OR ECGONINE.

12 (4) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE  
13 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100

14 GRAMS:

15 (I) METHAMPHETAMINE.

16 (II) PHENCYCLIDINE.

17 (III) A SALT, ISOMER OR SALT OF AN ISOMER OF  
18 METHAMPHETAMINE OR PHENCYCLIDINE.

19 (IV) A MIXTURE CONTAINING:

20 (A) METHAMPHETAMINE OR PHENCYCLIDINE.

21 (B) A SALT OF METHAMPHETAMINE OR PHENCYCLIDINE.

22 (C) AN ISOMER OF METHAMPHETAMINE OR  
23 PHENCYCLIDINE.

24 (D) A SALT OF AN ISOMER OF METHAMPHETAMINE OR  
25 PHENCYCLIDINE.

26 (5) HEROIN OR A MIXTURE CONTAINING HEROIN, IF THE  
27 AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE  
28 HEROIN IS 50 GRAMS OR GREATER.

29 (6) A MIXTURE CONTAINING 3,4-METHYLENEDIOXYAMPHETAMINE  
30 (MDA); 3,4-METHYLENEDIOXYMETHAMPHETAMINE (MDMA); 5-METHOXY-

1 3,4-METHYLENEDIOXYAMPHETAMINE (MDA); 3,4-METHYLENEDIOXY-N-  
2 ETHYLAMPHETAMINE; N-HYDROXY-3,4-METHYLENEDIOXYAMPHETAMINE.  
3 WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE  
4 CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 1,000 TABLETS,  
5 CAPSULES, CAPLETS OR OTHER DOSAGE UNITS OR 300 GRAMS.

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

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

12 "HEALING ARTS." THE SCIENCE AND SKILL OF DIAGNOSIS OR  
13 TREATMENT IN ANY MANNER WHATSOEVER OF DISEASE OR ANY AILMENT OF  
14 THE HUMAN BODY.

15 "HEALTH CARE PRACTITIONER." AN INDIVIDUAL WHO IS AUTHORIZED  
16 TO PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,  
17 CERTIFICATE, REGISTRATION OR PERMIT ISSUED BY A LICENSING BOARD  
18 OR LICENSING COMMISSION.

19 "SEXUAL OFFENSE." AN ACT, CONSPIRACY OR SOLICITATION TO  
20 COMMIT ANY OF THE FOLLOWING OFFENSES OR AN EQUIVALENT CRIME IN  
21 ANOTHER JURISDICTION:

22 (1) 18 PA.C.S. § 2910 (RELATING TO LURING A CHILD INTO A  
23 MOTOR VEHICLE OR STRUCTURE).

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

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

29 (4) 18 PA.C.S. § 4302 (RELATING TO INCEST).

30 (5) 18 PA.C.S. § 4304(A)(1) (RELATING TO ENDANGERING

1 WELFARE OF CHILDREN) IF THE OFFENSE INVOLVED SEXUAL CONTACT  
2 WITH THE VICTIM.

3 (6) 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS) IF THE  
4 OFFENSE INVOLVED A MINOR UNDER 18 YEARS OF AGE.

5 (7) 18 PA.C.S. § 5902(B) OR (B.1) (RELATING TO  
6 PROSTITUTION AND RELATED OFFENSES).

7 (8) 18 PA.C.S. § 5903 (RELATING TO OBSCENE AND OTHER  
8 SEXUAL MATERIALS AND PERFORMANCES) IF THE OFFENSE INVOLVED A  
9 MINOR UNDER 18 YEARS OF AGE.

10 (9) 18 PA.C.S. § 6301(A)(1)(I) (RELATING TO CORRUPTION  
11 OF MINORS) IF THE OFFENSE INVOLVED SEXUAL CONTACT WITH THE  
12 VICTIM.

13 (10) 18 PA.C.S. § 6301(A)(1)(II).

14 (11) 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF  
15 CHILDREN).

16 (12) 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT  
17 WITH MINOR).

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

20 (14) 18 PA.C.S. § 7507.1 (RELATING TO INVASION OF  
21 PRIVACY).

22 § 3114. JUVENILE ADJUDICATIONS.

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

28 § 3115. PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND  
29 LICENSING COMMISSIONS.

30 AN APPLICANT WITH A CRIMINAL HISTORY WHO, BASED ON A REVIEW

1 OF THE BEST PRACTICES GUIDE PUBLISHED UNDER SECTION 3116  
2 (RELATING TO BEST PRACTICES GUIDE), IS UNABLE TO DETERMINE  
3 WHETHER THE APPLICANT'S CRIMINAL RECORD WOULD PRECLUDE THE  
4 ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT, MAY  
5 FILE A PETITION FOR PRELIMINARY REVIEW WITH THE LICENSING BOARD  
6 OR LICENSING COMMISSION UNDER THE BUREAU SEEKING A PRELIMINARY  
7 DECISION ON WHETHER THE APPLICANT'S CRIMINAL HISTORY WOULD  
8 DISQUALIFY THE APPLICANT FROM RECEIVING A LICENSE, CERTIFICATE,  
9 REGISTRATION OR PERMIT, SUBJECT TO THE FOLLOWING:

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

20 (2) IF THE LICENSING BOARD OR LICENSING COMMISSION  
21 DETERMINES THAT A CONVICTION ON THE PETITIONER'S CRIMINAL  
22 HISTORY RECORD IS DIRECTLY RELATED TO THE OCCUPATION, TRADE  
23 OR PROFESSION, THE NOTICE OF THE PRELIMINARY DECISION SHALL  
24 INFORM THE PETITIONER THAT THE DETERMINATION IS NOT FINAL OR  
25 BINDING AS TO WHETHER THE PETITIONER QUALIFIES FOR A LICENSE,  
26 CERTIFICATE, REGISTRATION OR PERMIT, AND THAT THE PETITIONER  
27 HAS THE OPPORTUNITY TO PRESENT EVIDENCE OF THE FACTORS  
28 SPECIFIED IN SECTION 3113(C) (RELATING TO CONSIDERATION OF  
29 CRIMINAL CONVICTIONS) IN CONNECTION WITH ANY SUBSEQUENT  
30 FORMAL APPLICATION FOR A LICENSE, CERTIFICATE, REGISTRATION

1 OR PERMIT. WHERE APPROPRIATE, THE NOTICE MAY ALSO INFORM THE  
2 PETITIONER THAT A SEXUAL OFFENSE, CRIME OF VIOLENCE OR DRUG  
3 TRAFFICKING OFFENSE MAY PREVENT LICENSURE IN ACCORDANCE WITH  
4 SECTION 3113(D), (E) AND (F).

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

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

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

24 (II) SECTION 3113.  
25 § 3116. BEST PRACTICES GUIDE.

26 (A) DEVELOPMENT OF GUIDE.--WITHIN 180 DAYS OF THE EFFECTIVE  
27 DATE OF THIS SUBSECTION, THE DEPARTMENT OF STATE SHALL, IN  
28 COLLABORATION WITH THE LICENSING BOARDS AND LICENSING  
29 COMMISSIONS, DEVELOP A GUIDE OF BEST PRACTICES FOR AN APPLICANT  
30 WITH A CRIMINAL CONVICTION TO USE WHEN SEEKING A LICENSE,

1 CERTIFICATE, REGISTRATION OR PERMIT. THE FOLLOWING APPLY:

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

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

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

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

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

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

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

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

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

25 § 3117. LIST OF CRIMINAL OFFENSES.

26 (A) DUTY OF COMMISSIONER.--AFTER CONSULTATION WITH THE  
27 LICENSING BOARDS ~~AND~~, LICENSING COMMISSIONS, ~~AND~~ REPRESENTATIVES <--  
28 OF THE BUSINESS COMMUNITY WITH KNOWLEDGE OF THE RESPECTIVE  
29 PROFESSIONS, THE COMMISSIONER SHALL HAVE THE POWER AND DUTY TO  
30 PUBLISH A SCHEDULE OF CRIMINAL CONVICTIONS THAT MAY CONSTITUTE

1 GROUNDS TO REFUSE TO ISSUE, SUSPEND OR REVOKE A LICENSE,  
2 CERTIFICATE, REGISTRATION OR PERMIT FOR EACH OCCUPATION OR  
3 PROFESSION UNDER THE RESPECTIVE PRACTICE ACTS. THE FOLLOWING  
4 SHALL APPLY:

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) PREPARING PRELIMINARY DETERMINATIONS UNDER SECTION  
20 ~~3116~~ 3115; <--

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

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

27 § 3118. REPORT TO GENERAL ASSEMBLY.

28 (A) REPORT REQUIRED.--WITHIN TWO YEARS AFTER THE EFFECTIVE  
29 DATE OF THIS SECTION AND EVERY FOUR YEARS THEREAFTER, THE  
30 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 CONSIDERATION OF  
7 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.

1 (C) CONTENTS OF REPORT.--THE REPORT UNDER SUBSECTION (A)  
2 SHALL INCLUDE THE FOLLOWING:

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

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

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

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

15 (III) THE NUMBER OF RESTRICTED LICENSE HOLDERS THAT  
16 ARE ISSUED A LICENSE TO PRACTICE UNDER THE ACT OF JUNE  
17 19, 1931 (P.L.589, NO.202), REFERRED TO AS THE BARBERS'  
18 LICENSE LAW, OR THE ACT OF MAY 3, 1933 (P.L.242, NO.86),  
19 REFERRED TO AS THE COSMETOLOGY LAW, FOLLOWING THE  
20 RESTRICTED LICENSE TERM.

21 (IV) THE NUMBER OF RESTRICTED LICENSES THAT ARE  
22 REVOKED DURING THE RESTRICTED LICENSE TERM UNDER SECTION  
23 3112(D) AND THE REASONS FOR THE REVOCATIONS.

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

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

29 (D) PUBLIC RECORD.--THE REPORT UNDER SUBSECTION (A) SHALL BE  
30 A PUBLIC RECORD UNDER THE RIGHT-TO-KNOW LAW.

1 SECTION 3. REPEALS ARE AS FOLLOWS:

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

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

7 SECTION 4. THE ADDITION OF 63 PA.C.S. CH. 31 IS A  
8 CONTINUATION OF THE ACT OF JULY 2, 1993 (P.L.345, NO.48). THE  
9 FOLLOWING APPLY:

10 (1) EXCEPT AS OTHERWISE PROVIDED IN 63 PA.C.S. CH. 31,  
11 ALL ACTIVITIES INITIATED UNDER THE ACT OF JULY 2, 1993  
12 (P.L.345, NO.48), SHALL CONTINUE AND REMAIN IN FULL FORCE AND  
13 EFFECT AND MAY BE COMPLETED UNDER 63 PA.C.S. CH. 31. ORDERS,  
14 REGULATIONS, RULES AND DECISIONS WHICH WERE MADE UNDER THE  
15 ACT OF JULY 2, 1993 (P.L.345, NO.48), AND WHICH ARE IN EFFECT  
16 ON THE EFFECTIVE DATE OF SECTION 3 OF THIS ACT SHALL REMAIN  
17 IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR MODIFIED  
18 UNDER 63 PA.C.S. CH. 31. CONTRACTS, OBLIGATIONS AND  
19 COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO UNDER THE ACT  
20 OF JULY 2, 1993 (P.L.345, NO.48), ARE NOT AFFECTED NOR  
21 IMPAIRED BY THE REPEAL OF THE ACT OF JULY 2, 1993 (P.L.345,  
22 NO.48).

23 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), ANY DIFFERENCE  
24 IN LANGUAGE BETWEEN 63 PA.C.S. CH. 31 AND THE ACT OF JULY 2,  
25 1993 (P.L.345, NO.48), IS INTENDED ONLY TO CONFORM TO THE  
26 STYLE OF THE PENNSYLVANIA CONSOLIDATED STATUTES AND IS NOT  
27 INTENDED TO CHANGE OR AFFECT THE LEGISLATIVE INTENT, JUDICIAL  
28 CONSTRUCTION OR ADMINISTRATION AND IMPLEMENTATION OF THE ACT  
29 OF JULY 2, 1993 (P.L.345, NO.48).

30 (3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF THE

1 FOLLOWING PROVISIONS:

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

4 (II) 63 PA.C.S. § 3112.

5 (III) 63 PA.C.S. § 3112.1.

6 (IV) 63 PA.C.S. § 3113.

7 (V) 63 PA.C.S. § 3114.

8 (VI) 63 PA.C.S. § 3115.

9 (VII) 63 PA.C.S. § 3116.

10 (VIII) 63 PA.C.S. § 3117.

11 (IX) 63 PA.C.S. § 3118.

12 SECTION 5. THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113,  
13 3114, 3115, 3116, 3117 AND 3118 SHALL APPLY TO OFFICIAL ACTS AND  
14 MATTERS, INCLUDING DISCIPLINARY MATTERS, RELATED TO THE ISSUANCE  
15 OF LICENSES, CERTIFICATES, REGISTRATIONS OR PERMITS BY LICENSING  
16 BOARDS OR LICENSING COMMISSIONS BEGINNING ON OR AFTER 180 DAYS  
17 AFTER THE EFFECTIVE DATE OF THIS SECTION.

18 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

19 (1) THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113,  
20 3114 AND 3115 SHALL TAKE EFFECT IN 180 DAYS.

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