

DEC 10 2010

MEMO



Senate of Pennsylvania

December 9, 2010

TO: ALL SENATORS

FROM: Stewart J. Greenleaf

Stewart

SUBJECT: Cosponsorship -- **State Licensing Boards: Expungement of records**

I am reintroducing **Senate Bill 1273**, amending 1993 Act 48 to provide all state licensing boards under the Bureau of Professional and Occupational Affairs (BPOA) in the Department of State with the power to expunge disciplinary records of licensees for minor violations of their practice act and board regulations.

A constituent and licensee made an inquiry about having a “minor” disciplinary action, which occurred ten years ago, removed from his records. In researching this matter, I learned that disciplinary actions remain on a licensee’s record permanently because the various state licensing boards lack the authority to expunge records. Many practitioners with otherwise unblemished disciplinary histories have complained to state licensing boards that the existence of minor infractions as a permanent part of their publicly available licensure records has caused them needless embarrassment with clients and colleagues and exceeds the purposes of reasonable deterrence.

This legislation would provide all state licensing boards within the BPOA with expungement powers. “Expungement” is defined as the removal of a disciplinary record, accomplished by: (1) Permanently sealing the affected record from public access; (2) Deeming the proceedings to which the affected record refers as not having occurred; and (3) Except with respect to any subsequent application for expungement, affording the affected party the right to represent that no record exists regarding the subject matter of the affected record.

To expunge a disciplinary record, a licensee must make written application no earlier than four years from the effective date of the disciplinary record. The disciplinary record must be the only record that the person has with the board. In addition, the person must not have had a disciplinary record previously expunged. Finally, the disciplinary record shall have involved the imposition of a civil penalty under Act 48.

This legislation is modeled after a law in Kentucky which grants expungement powers to its medical, dental, nursing, pharmacy and optometry licensing boards.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.