

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1517 Session of
2009

INTRODUCED BY FREEMAN, GRUCELA, ROSS, GINGRICH, KESSLER AND
CALTAGIRONE, MAY 26, 2009

SENATOR EICHELBERGER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
FEBRUARY 2, 2010

AN ACT

1 Amending the act of June 23, 1931 (P.L.932, No.317), entitled
2 "An act relating to cities of the third class; and amending,
3 revising, and consolidating the law relating thereto," in
4 civil service, further providing for rules and regulations
5 and examinations and for selection of appointee from a
6 certified list of applicants.

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

9 Section 1. The act of June 23, 1931 (P.L.932, No.317), known
10 as The Third Class City Code, reenacted and amended June 28,
11 1951 (P.L.662, No.164), is amended by adding a section to read:

12 Section 4404.1. Physical and Psychological Medical
13 Examinations.--(a) A board may require that an applicant
14 conditionally appointed in accordance with section 4406 of this
15 act undergo a physical or psychological medical examination as a
16 condition of permanent appointment. Physical medical
17 examinations, if required, shall be under the direction of a
18 physician or other qualified medical professional. Psychological
19 medical examinations, if required, shall be under the direction

1 of a psychiatrist or psychologist.

2 (b) A physician, other qualified medical professional,
3 psychiatrist or psychologist shall be appointed by council and
4 shall render an opinion as to whether the conditional appointee
5 has a physical or mental condition which calls into question his
6 or her ability to perform all of the essential functions of the
7 position for which he or she was conditionally appointed.

8 (c) If the opinion rendered by the ~~medical examiner~~ ←
9 PHYSICIAN, OTHER QUALIFIED MEDICAL PROFESSIONAL, PSYCHIATRIST OR ←
10 PSYCHOLOGIST calls into question the conditional appointee's
11 ability to perform all essential functions of a position, the
12 director of the department within which the position is to be
13 filled shall meet with the conditional appointee for the purpose
14 of having one or more interactive discussions focused on the
15 issue of whether the conditional appointee can, with or without
16 reasonable accommodation, perform all the essential functions of
17 the position.

18 (d) If, at the conclusion of the interactive discussion
19 process, the department director determines that the conditional
20 appointee is not qualified, the department director shall give
21 written notice to the conditional appointee and the board.

22 (e) Nothing in this act shall be construed as authorizing
23 physical or psychological medical examinations prior to
24 conditional appointment in accordance with section 4406 of this
25 act.

26 (f) As used in this section, ~~the term "medical~~ THE FOLLOWING ←
27 DEFINITIONS SHALL APPLY:

28 "MEDICAL examination" shall mean any examination, procedure,
29 inquiry or test designed to obtain information about medical
30 history or a physical or mental condition which might disqualify

1 an applicant if it would prevent the applicant from performing,
2 with or without reasonable accommodation, all of the essential
3 functions of the position.

4 "PHYSICIAN" SHALL HAVE THE MEANING GIVEN TO IT IN 1 PA.C.S. § ←
5 1991 (RELATING TO DEFINITIONS).

6 "QUALIFIED MEDICAL PROFESSIONAL" SHALL MEAN AN INDIVIDUAL, IN
7 COLLABORATION WITH OR UNDER THE SUPERVISION OR DIRECTION OF A
8 PHYSICIAN, AS MAY BE REQUIRED BY LAW, WHO IS LICENSED:

9 (1) AS A PHYSICIAN ASSISTANT PURSUANT TO THE ACT OF DECEMBER
10 20, 1985 (P.L.457, NO.112), KNOWN AS THE "MEDICAL PRACTICE ACT
11 OF 1985," OR THE ACT OF OCTOBER 5, 1978 (P.L.1109, NO.261),
12 KNOWN AS THE "OSTEOPATHIC MEDICAL PRACTICE ACT"; OR

13 (2) AS A CERTIFIED REGISTERED NURSE PRACTITIONER PURSUANT TO
14 THE ACT OF MAY 22, 1951 (P.L.317, NO.69), KNOWN AS "THE
15 PROFESSIONAL NURSING LAW."

16 Section 2. Section 4406 of the act, amended October 13, 1965
17 (P.L.579, No.300), is amended to read:

18 Section 4406. Selection of Appointee from Certified List of
19 Applicants.--Said boards shall make and keep, in numerical
20 order, a list containing the names of all applicants for civil
21 service positions in said city who may pass the required [mental
22 and physical examinations.] examinations, including any required
23 physical fitness or agility examinations that are job-related
24 and consistent with business necessity. Where more than one
25 person takes examinations for any of said positions at the same
26 time, the names of all those successfully passing such
27 examination shall be entered upon the list of eligible names in
28 the order of their respective percentages, the highest coming
29 first. The board shall furnish to council a certified copy of
30 all lists so prepared and kept. Wherever any vacancy shall occur

1 in any civil service position in said city, the city council
2 shall make written application to the president of the proper
3 board, who shall forthwith certify to the city council, in
4 writing, the three names on the list of applicants for such
5 position having the highest percentage, but if there be less
6 than three eligible names on such list, the board shall certify
7 such name or names. Thereupon the director of the department in
8 which such appointment is to be made shall nominate to the city
9 council a person from the list submitted to fill such vacancy.
10 If the city council approves such nomination, the person
11 nominated shall be conditionally appointed by council to fill
12 such vacancy, and shall be assigned for service in the
13 department[.], subject to any physical or psychological medical
14 examinations that may be required by the appropriate examining
15 board as a condition of permanent appointment in accordance with
16 section 4404.1 of this act. If the council does not approve such
17 nomination, or if the appointee is determined by the medical
18 examination process to be unqualified, then the director of the
19 department in which such appointment is to be made shall submit
20 another nomination for such position from the remaining names,
21 if any, and if such nomination is not approved by the council,
22 or if the appointee is determined by the medical examination
23 process to be unqualified, he shall submit the third name, if
24 any. The person whose nomination by the director is approved by
25 the city council shall be appointed to fill such a position in
26 the department or as building inspector. In all cases the boards
27 may recommend those in the employ of a department for promotion
28 in case the person recommended is competent for the higher
29 position. The name of the person so appointed shall be
30 immediately stricken from the list of said board, and the names

1 of the rejected persons shall immediately be restored to their
2 proper place in said list: Provided, however, That if the name
3 of any applicant has been submitted to the said council and been
4 rejected three times or the appointee has been determined by the
5 medical examination process to be unqualified, then such name
6 shall be stricken from the eligible list. As used in this
7 section, the term "medical examination" shall have the meaning
8 given it in section 4404.1 of this act.

9 Section 3. Nothing contained in the addition of section
10 4404.1 of the act or the amendment of section 4406 of the act
11 shall affect the validity of any civil services appointments
12 made prior to the effective date of this section.

13 Section 4. This act shall take effect immediately.