

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 538** Session of
2015INTRODUCED BY TOMLINSON, MENSCH, VANCE, SCHWANK, HUGHES,
RAFFERTY AND BOSCOLA, FEBRUARY 25, 2015

AS AMENDED ON SECOND CONSIDERATION, JUNE 1, 2015

AN ACT

1 Amending the act of July 2, 1993 (P.L.345, No.48), entitled "An
2 act empowering the General Counsel or his designee to issue
3 subpoenas for certain licensing board activities; providing
4 for hearing examiners in the Bureau of Professional and
5 Occupational Affairs; providing additional powers to the
6 Commissioner of Professional and Occupational Affairs; and
7 further providing for civil penalties and license
8 suspension," providing for reporting of sanctions and
9 criminal proceedings and for temporary and automatic
10 suspension.

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

13 Section 1. The act of July 2, 1993 (P.L.345, No.48),
14 entitled "An act empowering the General Counsel or his designee
15 to issue subpoenas for certain licensing board activities;
16 providing for hearing examiners in the Bureau of Professional
17 and Occupational Affairs; providing additional powers to the
18 Commissioner of Professional and Occupational Affairs; and
19 further providing for civil penalties and license suspension,"
20 is amended by adding sections to read:

21 Section 2.1. Reporting of sanctions and criminal proceedings.

22 (a) Duty.--An individual who holds a license, certificate or

1 registration issued by the Bureau of Professional and
2 Occupational Affairs Licensure shall, as a condition of
3 licensure, certification or registration, do all of the
4 following:

5 (1) Report to the appropriate licensing board or
6 licensing commission a disciplinary action taken against the
7 licensee, certificate holder or registrant by a licensing
8 agency of another jurisdiction.

9 (2) Report to the appropriate licensing board or
10 licensing commission any arrest, indictment or conviction of
11 the licensee, certificate holder or registrant.

12 (b) Time.--A report under subsection (a) shall be made as
13 follows:

14 (1) Within 30 days of the imposition of the sanction
15 under subsection (a)(1).

16 (2) Except as set forth in paragraph (3), within 30 days
17 of the earlier of:

18 (i) an arrest under subsection (a)(2); ~~or~~ <--

19 (ii) an indictment under subsection (a)(2); ~~OR~~ <--

20 (III) A CONVICTION UNDER SUBSECTION (A)(2).

21 (3) In the case of a criminal action under subsection
22 (a)(2) which is initiated prior to the effective date of this
23 paragraph, within 30 days from the later of:

24 (i) the date of conviction; or

25 (ii) the effective date of this paragraph.

26 (c) Sanctions.--A licensing board or licensing commission
27 shall take disciplinary action against a licensee, certificate
28 holder or registrant who violates this section.

29 Section 3.1. Temporary and automatic suspension.

30 (a) Temporary suspension.--A licensing board or licensing

1 commission may temporarily suspend a license, certificate or
2 registration under circumstances as determined by the board or
3 commission to be an immediate and clear danger to the public
4 health and safety. The board or commission shall issue an order
5 to that effect without a hearing, but upon due notice, to the
6 licensee ~~or~~, certificate holder OR REGISTRANT concerned at his <--
7 last known address, which shall include a written statement of
8 all allegations against the licensee ~~or~~, certificate holder OR <--
9 REGISTRANT. The board or commission shall thereupon commence
10 formal action to suspend, revoke or restrict the license ~~or~~, <--
11 certificate OR REGISTRATION of the person concerned as otherwise <--
12 provided for by law. All actions shall be taken promptly and
13 without delay.

14 (b) Hearing.--Within 30 days following the issuance of an
15 order temporarily suspending a license, CERTIFICATE OR <--
16 REGISTRATION, the licensing board or licensing commission shall
17 conduct or cause to be conducted a preliminary hearing to
18 determine that there is a prima facie case supporting the
19 suspension. The licensee ~~or~~, certificate holder OR REGISTRANT <--
20 whose license ~~or~~, certificate OR REGISTRATION has been <--
21 temporarily suspended may be present at the preliminary hearing
22 and may be represented by counsel, cross-examine witnesses,
23 inspect physical evidence, call witnesses, offer evidence and
24 testimony and make a record of the proceedings. If it is
25 determined that there is not a prima facie case, the suspended
26 license, CERTIFICATE OR REGISTRATION shall be immediately <--
27 restored. The temporary suspension shall remain in effect until
28 vacated by the board or commission, but in no event longer than
29 180 days.

30 (c) Automatic suspension.--A license ~~or~~, certificate OR <--

1 REGISTRATION issued by a licensing board or licensing commission
2 shall automatically be suspended upon:

3 (1) the legal commitment to an institution of a licensee
4 ~~or~~, certificate holder OR REGISTRANT because of mental <--
5 incompetency from any cause upon filing with the board or
6 commission a certified copy of the commitment; or

7 (2) conviction of a felony under the act of April 14,
8 1972 (P.L.233, No.64), known as The Controlled Substance,
9 Drug, Device and Cosmetic Act, or conviction of an offense
10 under the laws of another jurisdiction, which, if committed
11 in this Commonwealth, would be a felony under The Controlled
12 Substance, Drug, Device and Cosmetic Act.

13 (d) Stay.--Automatic suspension under subsection (c) shall
14 not be stayed pending any appeal of a conviction.

15 (e) Restoration.--Restoration of a license ~~or~~, certificate <--
16 OR REGISTRATION shall be made as provided by law in the case of <--
17 revocation or suspension of the license ~~or~~, certificate OR <--
18 REGISTRATION.

19 (f) Definition.--As used in this section, the term
20 "conviction" shall include a judgment, an admission of guilt or
21 a plea of nolo contendere.

22 Section 2. This act shall take effect in 60 days.