
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 811 Session of
2019

INTRODUCED BY COX, BERNSTINE, CIRESI, FREEMAN, HILL-EVANS,
JONES, KEEFER, KINSEY, MASSER, MERSKI, D. MILLER, MULLINS,
NEILSON, RAPP, ROZZI, SCHLOSSBERG, STAATS AND ZIMMERMAN,
APRIL 9, 2019

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 9, 2019

AN ACT

1 Amending Title 63 (Professions and Occupations (State Licensed))
2 of the Pennsylvania Consolidated Statutes, providing for
3 licensing for individuals with a criminal conviction and for
4 occupational licensing for low-income individuals.

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

7 Section 1. Title 63 of the Pennsylvania Consolidated
8 Statutes is amended by adding parts to read:

9 PART I

10 PRELIMINARY PROVISIONS

11 (Reserved)

12 PART II

13 LICENSING

14 Chapter.

15 31. Licensing for Individuals with a Criminal Conviction

16 33. Occupational Licensing for Low-Income Individuals

17 CHAPTER 31

18 LICENSING FOR INDIVIDUALS WITH A CRIMINAL CONVICTION

1 Sec.

2 3101. Scope of chapter.

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15 § 3101. Scope of chapter.

16 This chapter relates to individuals with a criminal
17 conviction obtaining a professional or occupational license.

18 § 3102. Definitions.

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

22 "Certification." Nontransferable certification provided by a
23 licensing or certifying body to an applicant who is not
24 disqualified under section 3105 (relating to disqualifications).

25 "Lawful occupation." A course of conduct, pursuit or
26 profession that includes the sale of goods or services that are
27 not themselves illegal to sell regardless of whether the
28 individual selling the goods or services is subject to an
29 occupational regulation.

30 "Licensing or certifying body." The issuing body to whom an

1 individual has applied for a license or certification to conduct
2 or perform a lawful occupation or profession for which the
3 license or certification is required in this Commonwealth.

4 "Occupational license." A nontransferable license issued by
5 a licensing or certifying body authorizing an individual who is
6 not disqualified under section 3105 to undertake a lawful
7 occupation for compensation.

8 "Specialty occupational license for medical reimbursement."
9 A nontransferable license issued by a licensing or certifying
10 body authorizing an individual who is not disqualified under
11 section 3105 to qualify for payment or reimbursement from an
12 agency operating in this Commonwealth for the nonexclusive
13 provision of medical services.

14 § 3103. Fundamental right.

15 The right of an individual to pursue a lawful occupation is a
16 fundamental right, which shall include the following:

17 (1) The right of an individual with a criminal record to
18 petition the State to obtain a certification, occupational
19 license or specialty occupational license for medical
20 reimbursement.

21 (2) The right against the Commonwealth using an
22 individual's criminal record as an automatic bar to obtaining
23 a State license or certification.

24 § 3104. Petition.

25 (a) General rule.--An individual with a criminal record may
26 petition a licensing or certifying body at any time, including
27 prior to obtaining required education or training, for a
28 determination of whether the individual's criminal record will
29 disqualify the individual from obtaining State recognition.

30 (b) Required information.--The individual shall include in

1 the petition under subsection (a) the individual's criminal
2 record. The individual may include additional information about
3 the individual's current circumstances, including the amount of
4 time since the offense, evidence of rehabilitation, testimonials
5 and employment aspirations.

6 (c) Determination.--The following shall apply:

7 (1) Notwithstanding any other statute or rule, the
8 licensing or certifying body that received the individual's
9 petition under subsection (a) is authorized to determine
10 whether the individual's criminal record disqualifies the
11 individual from obtaining the requested license or
12 certification.

13 (2) The licensing or certifying body that received the
14 petition under paragraph (1) shall use the disqualifications
15 under section 3105 (relating to disqualifications) to
16 determine whether the individual is eligible for the license
17 or certification.

18 § 3105. Disqualifications.

19 The licensing or certifying body shall approve an individual
20 unless the licensing or certifying body finds all of the
21 following:

22 (1) The individual's criminal record includes a
23 conviction for a felony or violent misdemeanor.

24 (2) The type of felony or violent misdemeanor for which
25 the individual was convicted is expressly codified as a
26 disqualifying offense in the relevant licensing or
27 certification statute.

28 (3) The licensing or certifying body concludes the State
29 has an important interest in protecting public safety that is
30 superior to the individual's right. The licensing or

1 certifying body may make this conclusion only if it
2 determines, by clear and convincing evidence at the time of
3 the petition, that:

4 (i) the specific offense for which the individual
5 was convicted is substantially related to the State's
6 interest;

7 (ii) the individual, based on the nature of the
8 specific offense for which the individual was convicted
9 and the individual's current circumstances, is more
10 likely to reoffend by virtue of having the license than
11 if the individual did not have the license or
12 certification; and

13 (iii) a subsequent offense will cause greater harm
14 than the reoffense would if the individual did not have
15 the license or certification.

16 § 3106. Issuance of determination.

17 The licensing or certifying body shall issue its
18 determination under this chapter within 90 days of receiving the
19 petition under section 3104 (relating to petition). The
20 determination shall be in writing and include a finding of facts
21 and a conclusion of law.

22 § 3107. Adverse determination.

23 (a) Remedy.--If the licensing or certifying body determines
24 the government's interest is superior to the individual's right,
25 the licensing or certifying body may advise the individual of
26 actions the individual may take to remedy the disqualification.

27 (b) Revised petition.--The individual may submit a revised
28 petition reflecting the completion of the remedies under
29 subsection (a) at any time after 90 days following the licensing
30 or certifying body's judgment.

1 (c) Appeal.--An individual may appeal a licensing or
2 certifying body's adverse determination under section 3106
3 (relating to issuance of determination) as provided by the
4 licensing or certifying body's rules and regulations regarding
5 appeals of determinations.

6 (d) Time limitation.--The individual may submit a new
7 petition to the licensing or certifying body at any time after
8 two years following a final judgment of the initial petition.
9 § 3108. Individual certification.

10 (a) General rule.--An individual who has received
11 certification may use the term certified as a designated title.

12 (b) Noncertified.--An individual who did not receive
13 certification may also perform the lawful occupation for
14 compensation but may not use the title certified.

15 § 3109. Rescind determination.

16 The licensing or certifying body may rescind a determination
17 at any time if the individual is convicted of an additional
18 offense that the licensing or certifying body determines meets
19 the elements under section 3105 (relating to disqualifications).

20 § 3110. Prohibition.

21 In an occupation for which a license is required, it is
22 illegal for an individual who does not possess a valid
23 occupational license to perform the occupation for compensation.

24 § 3111. Specialty occupational license for medical
25 reimbursement.

26 (a) Recognition of credential.--A private company may
27 recognize the specialty occupational license for medical
28 reimbursement.

29 (b) Provision of services.--Notwithstanding the specialty
30 occupational license for medical reimbursement, it shall be

1 legal for an individual who does not possess a license:

2 (1) that is regulated under a separate occupational
3 regulation to provide similar services as defined in that
4 statute for compensation and reimbursement; or

5 (2) to provide the identified medical services for
6 compensation but the nonlicensed individual shall not qualify
7 for payment or reimbursement from a government agency.

8 § 3112. Fee.

9 The licensing or certifying body may charge a fee to recoup
10 costs, not to exceed \$100 for each petition.

11 § 3113. Report.

12 (a) General rule.--The Department of State shall compile an
13 annual report containing the following information:

14 (1) The number of applicants petitioning each licensing
15 or certifying body.

16 (2) The number of each licensing or certifying body's
17 approvals and denials.

18 (3) The type of offenses for which each licensing or
19 certifying body approved or denied a petition.

20 (4) Other data the Department of State determines is
21 necessary.

22 (b) Required information.--Each licensing or certifying body
23 shall provide the information described under subsection (a) to
24 the Department of State at the department's request.

25 (c) Disclosure of report.--The Department of State shall
26 publish each report on the department's publicly accessible
27 Internet website.

28 CHAPTER 33

29 OCCUPATIONAL LICENSING FOR LOW-INCOME INDIVIDUALS

30 Sec.

1 3301. Definitions.

2 3302. Fee waived.

3 § 3301. Definitions.

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

7 "Licensing or certifying body." The issuing body to whom an
8 individual has applied for a license or certification to conduct
9 or perform a lawful occupation or profession for which the
10 license or certification is required in this Commonwealth.

11 "Occupational license." A nontransferable license issued by
12 a licensing or certifying body authorizing an individual who is
13 not disqualified under section 3105 (relating to
14 disqualifications) to undertake a lawful occupation for
15 compensation.

16 § 3302. Fee waived.

17 An individual who obtains an occupational license from a
18 licensing or certifying body shall not be required to pay the
19 associated fee if the individual's household income is less than
20 200% of the Federal poverty line, as defined under section
21 673(2) of Subtitle B of the Community Services Block Grant Act
22 (Public Law 97-35, 95 Stat. 511), as adjusted from time to time.

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