

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1477 Session of 2019

INTRODUCED BY DELOZIER, HARRIS, BOBACK, BOYLE, BULLOCK, BURGOS, CEPHAS, A. DAVIS, T. DAVIS, DELLOSO, DRISCOLL, EVERETT, FITZGERALD, FRANKEL, FREEMAN, GOODMAN, HANBIDGE, HELM, HILL-EVANS, KEEFER, KENYATTA, KINSEY, KOSIEROWSKI, MADDEN, McCLINTON, MULLINS, NEILSON, SANCHEZ, SCHLOSSBERG, SCHWEYER, SHUSTERMAN, WEBSTER, ZABEL, JONES, GAINNEY, MARKOSEK, ECKER AND ROAE, MAY 22, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 17, 2019

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 63 (Professions and
2 Occupations (State Licensed)) of the Pennsylvania
3 Consolidated Statutes, in criminal history record
4 information, further providing for use of records by
5 licensing agencies; providing for preliminary provisions and
6 for Bureau of Professional and Occupational Affairs;
7 consolidating the provisions of Act 48 of 1993; and making a
8 related repeal.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 ~~Section 1. Section 9124(a) and (b) (2) of Title 18 of the~~ <--
12 ~~Pennsylvania Consolidated Statutes are amended and the section~~
13 ~~is amended by adding a subsection to read:~~

14 SECTION 1. SECTION 9124(A), (B) (2) AND (C) INTRODUCTORY <--
15 PARAGRAPH OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES
16 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
17 READ:

18 § 9124. Use of records by licensing agencies.

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

8 (a.1) Application of other law.--The following provisions
9 shall apply to a licensing board or licensing commission under
10 the Bureau of Professional and Occupational Affairs in the
11 Department of State with respect to refusing to issue or renew,
12 suspending, revoking or limiting a license, certificate,
13 registration or permit:

14 (1) 63 Pa.C.S. § 3112 (relating to restricted licenses
15 for barbers and cosmetologists).

16 (2) 63 Pa.C.S. § 3112.1 (relating to restricted licenses
17 for other occupations).

18 (3) 63 Pa.C.S. § 3113 (relating to ~~supplementary~~ <--
19 ~~provisions regarding~~ CONSIDERATION OF criminal convictions). <--

20 (4) 63 Pa.C.S. § 3114 (relating to juvenile
21 adjudications).

22 (5) 63 Pa.C.S. § 3115 (relating to preliminary
23 determinations by licensing boards and licensing
24 commissions).

25 (6) 63 Pa.C.S. § 3116 (relating to best practices
26 guide).

27 (7) 63 Pa.C.S. § 3117 (relating to list of criminal
28 offenses).

29 (b) Prohibited use of information.--The following
30 information shall not be used in consideration of an application

1 for a license, certificate, registration or permit:

2 * * *

3 (2) Convictions which have been annulled [or expunged],
4 expunged or subject to limited access under sections 9122.1
5 (relating to petition for limited access) and 9122.2
6 (relating to clean slate limited access).

7 * * *

8 (C) STATE ACTION AUTHORIZED.--[BOARDS,] EXCEPT AS PROVIDED <--
9 IN 63 PA.C.S. § 3113 (RELATING TO CONSIDERATION OF CRIMINAL
10 CONVICTIONS), BOARDS, COMMISSIONS OR DEPARTMENTS OF THE
11 COMMONWEALTH AUTHORIZED TO LICENSE, CERTIFY, REGISTER OR PERMIT
12 THE PRACTICE OF TRADES, OCCUPATIONS OR PROFESSIONS MAY REFUSE TO
13 GRANT OR RENEW, OR MAY SUSPEND OR REVOKE ANY LICENSE,
14 CERTIFICATE, REGISTRATION OR PERMIT FOR THE FOLLOWING CAUSES:

15 * * *

16 Section 2. Title 63 is amended by adding parts to read:

17 PART I

18 PRELIMINARY PROVISIONS

19 (Reserved)

20 PART II

21 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

22 Chapter

23 31. Powers and Duties

24 CHAPTER 31

25 POWERS AND DUTIES

26 Sec.

27 3101. Scope of chapter.

28 3102. Definitions.

29 3103. Investigatory subpoena power.

30 3104. Reporting of sanctions and criminal proceedings.

1 3105. Hearing examiners.
2 3106. Suspension.
3 3107. Additional powers for commissioner.
4 3108. Civil penalties.
5 3109. Confidentiality of records of licensure boards.
6 3110. Reports.
7 3111. Licensure by endorsement.
8 3112. Restricted licenses for barbers and cosmetologists.
9 3112.1. Restricted licenses for other occupations.
10 ~~3113. Supplementary provisions regarding criminal convictions.~~ <--
11 CONSIDERATION OF CRIMINAL CONVICTIONS. <--
12 3114. Juvenile adjudications.
13 3115. Preliminary determinations by licensing boards and
14 licensing commissions.
15 3116. Best practices guide.
16 3117. List of criminal offenses.
17 3118. Report to General Assembly.
18 § 3101. Scope of chapter.
19 This chapter relates to the powers and duties of the General
20 Counsel, the Bureau of Professional and Occupational Affairs and
21 licensing boards and licensing commissions.
22 § 3102. Definitions.
23 The following words and phrases when used in this chapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:
26 "Bureau." The Bureau of Professional and Occupational
27 Affairs in the Department of State.
28 "Commissioner." The commissioner of the bureau.
29 "Criminal conviction." Includes a finding of guilty, a plea
30 of guilty or a plea of nolo contendere with respect to a

1 criminal offense of this Commonwealth, or an equivalent crime
2 under the laws of this Commonwealth in effect at the time of the
3 commission of the criminal offense or an equivalent crime in
4 another jurisdiction.

5 "Directly relates." The nature of the criminal conduct for
6 which the person was convicted has a direct bearing on the
7 fitness or ability to perform one or more of the duties or
8 responsibilities necessarily related to the profession, trade or
9 occupation for which the individual seeks licensure.

10 "Disciplinary matter." A matter subject to a licensing
11 board's or licensing commission's jurisdiction in which the
12 licensing board or licensing commission has the authority to
13 refuse, suspend, revoke or limit a license, registration,
14 certificate or permit or to impose a civil penalty or other
15 discipline under an act.

16 "Expunge" or "expungement." Removal of a disciplinary
17 record, accomplished by:

18 (1) permanently sealing the affected record from public
19 access;

20 (2) deeming the proceedings to which the affected record
21 refers as not having occurred; and

22 (3) except with respect to any subsequent application
23 for expungement, affording the affected party the right to
24 represent that no record exists regarding the subject matter
25 of the affected record.

26 "Licensee." A person holding a license, registration,
27 certificate or permit with a licensing board or licensing
28 commission under the bureau.

29 "Licensing board." A departmental or administrative board
30 under the bureau.

1 "Licensing commission." A departmental or administrative
2 commission under the bureau.

3 "Right-to-Know Law." The act of February 14, 2008 (P.L.6,
4 No.3), known as the Right-to-Know Law.

5 § 3103. Investigatory subpoena power.

6 The General Counsel or a designee of the General Counsel
7 shall have the power and duty to issue subpoenas upon
8 application of an attorney responsible for representing the
9 Commonwealth in disciplinary matters before a licensing board or
10 licensing commission for the purpose of investigating alleged
11 violations of the disciplinary provisions administered by a
12 licensing board or licensing commission. The following apply:

13 (1) If disclosure is subject to a privilege provided by
14 law, patient or client records may not be subpoenaed without
15 the consent of the patient or client or without order of a
16 court of competent jurisdiction showing that the records are
17 reasonably necessary for the conduct of the investigation.

18 (2) The court may impose such limitation on the scope of
19 the subpoena as may be necessary to prevent unnecessary
20 intrusion into patient or client confidential information.

21 (3) The attorney responsible for representing the
22 Commonwealth in disciplinary matters before a licensing board
23 or licensing commission is authorized to apply to
24 Commonwealth Court to enforce the subpoenas.

25 (4) Nothing in this section shall be construed to excuse
26 a person from producing documents and records as requested by
27 a licensing board or licensing commission under any other
28 provision of law.

29 § 3104. Reporting of sanctions and criminal proceedings.

30 (a) Duty.--A licensee, as a condition of licensure,

1 certification, registration or holding a permit, shall provide
2 written notice of the following to the appropriate licensing
3 board or licensing commission within 30 days:

4 (1) A disciplinary action taken against the licensee by
5 a licensing agency of another jurisdiction.

6 (2) A finding or verdict of guilt, an admission of
7 guilt, a plea of nolo contendere, probation without verdict,
8 a disposition in lieu of trial or an Accelerated
9 Rehabilitative Disposition of a felony or misdemeanor
10 offense.

11 (b) Sanctions.--A licensing board or licensing commission
12 may take disciplinary action against a licensee who violates
13 this section.

14 § 3105. Hearing examiners.

15 (a) Appointment.--

16 (1) Notwithstanding any other provision of law, the
17 commissioner, after consultation with the licensing boards
18 and licensing commissions, shall appoint hearing examiners as
19 may be necessary to conduct hearings in disciplinary matters
20 before a licensing board or licensing commission.

21 (2) Each licensing board and licensing commission shall
22 have the power to decide if a specific disciplinary matter or
23 type of disciplinary matter is to be heard by the licensing
24 board or licensing commission itself or by a hearing examiner
25 appointed under this subsection.

26 (b) Regulations.--The commissioner, after consultation with
27 the licensing boards and commissions, shall have the power to
28 promulgate regulations specifying the procedural rules to be
29 followed by hearing examiners in the conduct of hearings in
30 disciplinary matters before a licensing board or licensing

1 commission. All proceedings shall be conducted in accordance
2 with the provisions of 2 Pa.C.S. (relating to administrative law
3 and procedure).

4 (c) Powers.--A hearing examiner shall have the power to:

5 (1) Conduct hearings in accordance with applicable
6 statutes, rules and regulations.

7 (2) Issue subpoenas requiring the attendance and
8 testimony of individuals or the production of pertinent
9 records or other papers by persons who, in the opinion of the
10 hearing examiner, have information relevant to any matters
11 pending before the hearing examiner and to issue decisions.

12 (d) Time periods.--

13 (1) In all disciplinary matters before a licensing board
14 or licensing commission, hearings shall commence within 90
15 days after the date on which an answer is filed.

16 (2) A continuance granted prior to the commencement of
17 the hearing shall toll the 90-day requirement by the period
18 of the continuance.

19 (3) A decision shall be rendered within 180 days after
20 the record is closed.

21 (4) The licensing board or licensing commission shall
22 render a final adjudication or decision on any exceptions to
23 the decision of a hearing examiner or any applications for
24 review within 90 days of the filing of the exceptions or
25 applications, provided that a board or commission may
26 delegate to a hearing examiner the authority to render a
27 final adjudication or decision in such cases as deemed
28 appropriate.

29 § 3106. Suspension.

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

1 commission may temporarily suspend a license, certificate,
2 registration or permit under circumstances as determined by the
3 licensing board or licensing commission to be an immediate and
4 clear danger to public health and safety. The following apply:

5 (1) The licensing board or commission shall issue an
6 order to that effect without a hearing, but upon due notice,
7 to the licensee concerned at the licensee's last known
8 address, which shall include a written statement of all
9 allegations against the licensee.

10 (2) After issuing the order under paragraph (1), the
11 licensing board or licensing commission shall commence formal
12 action to suspend, revoke or restrict the license,
13 certificate, registration or permit of the person concerned
14 as otherwise provided for by law.

15 (3) All actions shall be taken promptly and without
16 delay.

17 (b) Hearing.--Within 30 days following the issuance of an
18 order of temporary suspension, the licensing board or licensing
19 commission shall conduct or cause to be conducted a preliminary
20 hearing to determine whether there is a prima facie case
21 supporting the suspension. The following apply:

22 (1) The licensee whose license, certificate,
23 registration or permit has been temporarily suspended may:

24 (i) be present at the preliminary hearing;

25 (ii) be represented by counsel;

26 (iii) cross-examine witnesses;

27 (iv) inspect physical evidence;

28 (v) call witnesses;

29 (vi) offer evidence and testimony; and

30 (vii) make a record of the proceedings.

1 (2) If it is determined that there is not a prima facie
2 case, the suspended license, certificate, registration or
3 permit shall be immediately restored.

4 (3) The temporary suspension shall remain in effect
5 until vacated by the licensing board or licensing commission,
6 but in no event longer than 180 days.

7 (c) Restoration.--Restoration of a license, certificate,
8 registration or permit shall be made as provided by law in the
9 case of revocation or suspension of the license, certificate,
10 registration or permit.

11 § 3107. Additional powers for commissioner.

12 (a) Membership on boards and commissions.--In addition to
13 the powers and duties imposed under law, the commissioner or a
14 designee of the commissioner shall be a member of each of the
15 licensing boards and licensing commissions except the State
16 Board of Certified Real Estate Appraisers and the Navigation
17 Commission for the Delaware River and its Navigable Tributaries.

18 (b) Designee of Secretary of the Commonwealth.--The
19 commissioner or a designee of the commissioner may serve as the
20 designee of the Secretary of the Commonwealth on the Navigation
21 Commission for the Delaware River and its Navigable Tributaries.

22 § 3108. Civil penalties.

23 (a) Authorization.--

24 (1) The commissioner, after consultation with the
25 licensing boards and licensing commissions, shall have the
26 power to adopt a schedule of civil penalties for operating
27 without a current, registered, unsuspended and unrevoked
28 license, registration, certificate or permit and for
29 violating a provision of the licensing board's or licensing
30 commission's respective acts or regulations relating to the

1 conduct or operation of a business or facility licensed by
2 the licensing boards and licensing commissions. The following
3 apply:

4 (i) The schedule of penalties shall not be
5 applicable to disciplinary matters under the jurisdiction
6 of a licensing board or licensing commission unless that
7 licensing board or licensing commission has approved the
8 schedule.

9 (ii) The commission shall transmit notice of the
10 adoption of the schedule of penalties, guidelines for the
11 imposition of the schedule of penalties and procedures
12 for appeal to the Legislative Reference Bureau for
13 publication in the Pennsylvania Bulletin. The
14 commissioner shall, within two years of the publication
15 of the notice, promulgate a regulation specifying the
16 schedule of penalties, guidelines and procedures.

17 (iii) A penalty shall not exceed the sum of \$1,000
18 per violation.

19 (iv) Duly authorized agents of the bureau shall have
20 the power and authority to issue citations and impose
21 penalties for violations.

22 (v) A penalty imposed may be appealed to a hearing
23 examiner or the licensing board or licensing commission
24 pursuant to the regulations promulgated under section
25 3105(b) (relating to hearing examiners).

26 (vi) If the appeal is initially to a hearing
27 examiner, the relevant licensing board or licensing
28 commission shall render a decision on any exceptions to
29 the decision of the hearing examiner or on any
30 applications for review in accordance with section

1 3105(d).

2 (vii) All proceedings shall be conducted in
3 accordance with the provisions of 2 Pa.C.S. (relating to
4 administrative law and procedure).

5 (2) The commissioner shall expunge the disciplinary
6 record of a licensee, registrant, certificate holder or
7 permit holder if the imposition of discipline was for a
8 violation involving failure to complete continuing education
9 requirements or practicing for six months or less on a lapsed
10 license, registration, certificate or permit, subject to the
11 following:

12 (i) The licensee, registrant, certificate holder or
13 permit holder must make written application to the
14 commissioner for expungement not earlier than four years
15 from the final disposition of the disciplinary record.

16 (ii) The disciplinary record must be the only
17 disciplinary record that the licensee, registrant,
18 certificate holder or permit holder has with either the
19 commissioner or a licensing board or licensing commission
20 under the commissioner's jurisdiction.

21 (iii) The licensee, registrant, certificate holder
22 or permit holder must not be the subject of an active
23 investigation related to professional or occupational
24 conduct.

25 (iv) The licensee, registrant, certificate holder or
26 permit holder must not be in a current disciplinary
27 status, and any fees or fines assessed must be paid in
28 full.

29 (v) The licensee, registrant, certificate holder or
30 permit holder must not have had a disciplinary record

1 previously expunged by the commissioner.

2 (vi) Disciplinary records involving imposition of
3 discipline for violations other than those identified in
4 this paragraph shall not be eligible for expungement.

5 (vii) The licensee, registrant, certificate holder
6 or permit holder shall pay all costs associated with the
7 expungement as established by the commissioner by
8 regulation.

9 (3) Nothing in this subsection shall prohibit a
10 licensing board or licensing commission from using previous
11 discipline for any regulatory purpose or from releasing
12 records of previous discipline upon request from law
13 enforcement or other governmental body as permitted by law.

14 (b) Additional powers.--In addition to the disciplinary
15 powers and duties of the licensing boards and licensing
16 commissions within the bureau under their respective practice
17 acts, licensing boards and licensing commissions shall have the
18 power, respectively:

19 (1) To impose discipline, including, but not limited to,
20 a civil penalty of up to \$10,000 per violation on a licensee
21 or unlicensed person who violates a lawful disciplinary order
22 of the licensing board.

23 (2) To impose discipline, including, but not limited to,
24 a civil penalty of up to \$10,000 per violation on a licensee
25 or unlicensed person who aids and abets the unlicensed
26 practice of a profession, occupation or business.

27 (3) To levy a civil penalty of not more than \$10,000 per
28 violation on a corporation, partnership, institution,
29 association or sole proprietorship which aids and abets an
30 individual in the unlicensed practice of a profession. This

1 penalty shall not, however, be levied against a person solely
2 as a consequence of that person being a patient or client of
3 the unlicensed individual.

4 (4) To levy a civil penalty of not more than \$10,000 per
5 violation on a licensee or unlicensed person who violates a
6 provision of the applicable licensing act or licensing board
7 regulation.

8 (5) To assess against the respondent determined to be in
9 violation of the disciplinary provisions administered by a
10 licensing board or licensing commission in a disciplinary
11 proceeding pending before the licensing board or licensing
12 commission for final determination, as part of the sanction,
13 the costs of investigation underlying that disciplinary
14 action. The cost of investigation shall not include those
15 costs incurred by the licensing board or licensing commission
16 after the filing of formal actions or disciplinary charges
17 against the respondent.

18 (6) To collect all fees, costs, fines and penalties
19 assessed as a result of a disciplinary proceeding before a
20 licensing board or licensing commission.

21 (7) To deny, suspend or revoke a license, registration,
22 certification or permit for failure to pay any penalty, fee,
23 interest or cost assessed as a result of a disciplinary
24 proceeding before a licensing board or licensing commission.

25 (c) Restrictions.--

26 (1) Decisions rendered by a licensing board or licensing
27 commission on any exceptions to the decision of a hearing
28 examiner or on an application for review in accordance with
29 section 3105(d) to impose a civil penalty under this section
30 shall require the same number of votes required for the

1 licensing board or licensing commission to impose a civil
2 penalty under any other act.

3 (2) Nothing in this section shall be construed to
4 restrict the powers and duties under any other act of a
5 licensing board or licensing commission in disciplinary
6 matters, except that a licensing board or licensing
7 commission may not impose a civil penalty under any other act
8 for the same violation for which a civil penalty has been
9 imposed under this section.

10 (d) Status of civil penalty.--A civil penalty, together with
11 any associated fee, interest or cost, imposed under this section
12 or imposed by a licensing board or licensing commission under
13 another act shall be a judgment in favor of the bureau upon the
14 person or the property of the person, whether real or personal,
15 and including any after-acquired property, upon whom the civil
16 penalty is imposed. The Attorney General shall be responsible
17 for enforcing the judgments in courts of competent jurisdiction
18 in accordance with 42 Pa.C.S. (relating to judiciary and
19 judicial procedure).

20 (e) Entry of judgment.--Within 60 months of the final
21 disposition of a disciplinary case, if an unpaid civil penalty,
22 fee, interest and cost of a licensee total \$1,000 or more, the
23 licensing board or licensing commission, or the respective agent
24 of the licensing board or licensing commission, may transmit a
25 copy of the final disposition to the prothonotary of the court
26 of common pleas in the county where the licensee or property of
27 the licensee upon whom the penalty, fee, interest and cost are
28 imposed is located. The following apply:

29 (1) The prothonotary shall enter and docket the copy of
30 the final disposition without requiring payment of costs as a

1 condition precedent to the entry of the copy of the final
2 disposition.

3 (2) The total of the penalty, fee, interest and cost
4 shall be entered as a judgment upon the licensee regardless
5 of whether the amount has been ordered to be paid in
6 installments.

7 (f) Priority of lien.--A lien obtained under this section
8 shall maintain its priority indefinitely, and no writ of revival
9 need be filed.

10 (g) Execution.--A writ of execution may directly issue upon
11 the lien without the issuance and prosecution to judgment of a
12 writ of scire facias, provided that a notice of the filing and
13 the effect of the lien be provided to the licensee not less than
14 10 days before the execution on the lien. Notice may be sent by
15 registered mail to the last known address of the licensee.

16 (h) Exception to execution.--The lien shall have no effect
17 upon any stock of goods, wares or merchandise regularly sold or
18 leased in the ordinary course of business by the licensee
19 against whom the lien has been entered, unless and until a writ
20 of execution has been issued and a levy made upon the stock of
21 goods, wares and merchandise.

22 (i) Satisfaction.--Once a judgment is paid in full to the
23 licensing board or licensing commission, or the respective agent
24 of the licensing board or licensing commission, the licensing
25 board or licensing commission, or the respective agent of the
26 licensing board or licensing commission, shall, within 90 days,
27 notify the prothonotary in writing of receipt of payment in full
28 and request the judgment be noted as satisfied in full.

29 (j) Applicability.--This section shall apply only to
30 disciplinary proceedings commenced on or after August 31, 1993.

1 (k) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection unless the context clearly indicates otherwise:

4 "Unlicensed practice." Any of the following:

5 (1) Practicing a profession or occupation or operating a
6 business for which a license, registration, certificate or
7 permit is required without holding a valid, unexpired,
8 unrevoked or unsuspended authority to do so.

9 (2) Representing to the public or a person, through
10 offerings, advertisements or the use of a title, that the
11 individual is qualified to practice a profession, occupation
12 or business for which a license, registration, certificate or
13 permit is required without holding a valid, unexpired,
14 unrevoked or unsuspended authority to do so.

15 § 3109. Confidentiality of records of licensure boards.

16 (a) General rule.--

17 (1) All records under section 708(b)(17) of the Right-
18 to-Know Law, relating to a noncriminal investigation,
19 including prosecutorial memos and transcripts of depositions,
20 undertaken by the Bureau of Enforcement and Investigation and
21 the Prosecution Division of the Department of State, Office
22 of Chief Counsel on behalf of the licensing boards within the
23 Department of State or concerning a licensure-related
24 complaint filed with the Department of State shall be
25 confidential and privileged.

26 (2) No person who has investigated or has access to or
27 custody of documents, materials or information that are
28 confidential and privileged under this subsection shall be
29 required to testify in a judicial or administrative
30 proceeding unless directed to do so by a court of competent

1 jurisdiction without the written consent of the licensing
2 board that regulates the profession involved.

3 (3) This subsection shall not preclude or limit
4 introduction of the contents of an investigative file or
5 related witness testimony in a hearing or proceeding held
6 before the licensing boards within the Department of State.

7 (4) This section shall not apply to letters to a
8 licensee or other documents that disclose the final outcome
9 of an investigation or to final adjudication or orders issued
10 by the licensure board.

11 (b) Certain disclosure permitted.--

12 (1) Except as provided under subsection (a), this
13 section shall not prevent disclosure of documents, materials
14 or information pertaining to the status of a license, permit
15 or certificate issued or prepared by the licensing boards or
16 the sharing of information with law enforcement authorities
17 or professional licensure regulatory boards in other
18 jurisdictions or information relating to a public
19 disciplinary proceeding or hearing.

20 (2) Any other disclosure of records under section 708(b)
21 (17) of the Right-to-Know Law relating to a noncriminal
22 investigation, including prosecutorial memos and transcripts
23 of depositions by employees or agents of the Department of
24 State, Office of Chief Counsel, Bureau of Professional and
25 Occupational Affairs and the Bureau of Enforcement and
26 Investigation may be made only in furtherance of an
27 investigation or prosecution of alleged violations of
28 applicable licensing statutes, codes or regulations.

29 (3) Violations of this subsection shall subject the
30 employee or agent to administrative discipline, including

1 discharge, suspension or other formal or appropriate
2 disciplinary action.

3 (c) Confidentiality affidavits.--All employees and agents of
4 the Department of State Office of Chief Counsel, Bureau of
5 Professional and Occupational Affairs and the Bureau of
6 Enforcement and Investigation shall execute a confidentiality
7 affidavit that provides that documents, materials or information
8 under subsection (a), obtained by employees and agents of the
9 Department of State, Office of Chief Counsel, Bureau of
10 Professional and Occupational Affairs and the Bureau of
11 Enforcement and Investigation shall be considered confidential
12 and may be disclosed only as permitted under subsections (a) and
13 (b).

14 (d) Waiver prohibited.--A licensing board or licensing
15 commission may not require an applicant to waive any
16 confidentiality provided for under this section as a condition
17 for the approval of a license or any other action of the board.
18 § 3110. Reports.

19 Licensing boards and licensing commissions shall submit
20 annually to the Consumer Protection and Professional Licensure
21 Committee of the Senate and to the Professional Licensure
22 Committee of the House of Representatives a report containing
23 the following:

24 (1) Description of the types of complaints received.

25 (2) Status of cases.

26 (3) Total number of cases and type of disciplinary
27 action taken.

28 (4) Percentage of disciplinary actions in relation to
29 the total number of licensees.

30 (5) Number of closed cases.

1 (6) Average number of days to close a case.

2 (7) Number of revocations and suspensions.

3 (8) Percentage of revocations and suspensions in
4 relation to the total number of licensees.

5 § 3111. Licensure by endorsement.

6 (a) General rule.--Notwithstanding any existing provisions
7 related to licensure by endorsement or licensure by reciprocity
8 in an applicable licensing statute, a licensing board or
9 licensing commission shall issue a license, certificate,
10 registration or permit to an applicant to allow practice in this
11 Commonwealth if, upon application to the licensing board or
12 licensing commission, the applicant satisfies all of the
13 following conditions:

14 (1) Holds a current license, certificate, registration
15 or permit from another state, territory or country and the
16 licensing board or licensing commission determines that
17 state's, territory's or country's requirements are
18 substantially equivalent to or exceed the requirements
19 established in this Commonwealth.

20 (2) Demonstrates competency in the profession or
21 occupation through methods determined by the licensing board
22 or licensing commission, including having completed
23 continuing education or having experience in the profession
24 or occupation for at least two of the five years preceding
25 the date of the application under this section.

26 (3) Has not committed any act that constitutes grounds
27 for refusal, suspension or revocation of a license,
28 certificate, registration or permit to practice that
29 profession or occupation in this Commonwealth unless the
30 licensing board or licensing commission determines, in its

1 discretion, that the act should not be an impediment to the
2 granting of a license, certificate, registration or permit to
3 practice in this Commonwealth.

4 (4) Is in good standing and has not been disciplined by
5 the jurisdiction that issued the license, certificate,
6 registration or permit unless the licensing board or
7 licensing commission determines, in its discretion, that the
8 discipline should not be an impediment to the granting of a
9 license, certificate, registration or permit to practice in
10 this Commonwealth.

11 (5) Pays any fees established by the licensing board or
12 licensing commission by regulation.

13 (b) Provisional endorsement license.--A licensing board or
14 licensing commission may issue a provisional license,
15 certificate, registration or permit to an applicant for
16 licensure by endorsement while the applicant is satisfying
17 remaining requirements for the licensure by endorsement as
18 determined by the licensing board or licensing commission. The
19 holder of a provisional endorsement license issued under this
20 subsection may practice until any of the following occurs:

21 (1) A license, certificate, registration or permit is
22 denied by the licensing board or licensing commission under
23 this section.

24 (2) The expiration of the provisional endorsement
25 license as established by the licensing board or licensing
26 commission by regulation.

27 (3) The holder of the provisional endorsement license
28 fails to comply with the terms of the provisional license.

29 (c) Construction.--Nothing in this section is intended to
30 supersede or replace existing statutory provisions relating to

1 licensure by endorsement or licensure by reciprocity applicable
2 to licensing boards and licensing commissions through their
3 respective enabling statutes.

4 § 3112. Restricted licenses for barbers and cosmetologists.

5 (a) Supplementary provisions.--Notwithstanding any provision
6 of law to the contrary, as an alternative to refusing to issue
7 or renew, suspending, revoking or limiting a license as a result
8 of a finding that an applicant for a barber's license OR A <--
9 COSMETOLOGY LICENSE lacks the fitness to engage in the practice
10 of barbering under section 3(a) of the act of June 19, 1931 <--
11 (P.L.589, No. 202), referred to as the Barbers' License Law, or
12 that an applicant for a cosmetology license is not of good moral <--
13 character under section 4(a) of IN THE PRACTICE OF COSMETOLOGY <--
14 UNDER the act of May 3, 1933 (P.L.242, No.86), referred to as
15 the Cosmetology Law, due to a criminal conviction, or is
16 otherwise ineligible for a license as a barber or cosmetologist
17 as a result of a criminal conviction, the State Board of Barber
18 Examiners or the State Board of Cosmetology may issue a
19 restricted license for a term not less than one year and not
20 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 Section § 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. Supplementary provisions regarding criminal~~ <--
14 ~~convictions.~~

15 ~~(a) Supplementary provisions. Except as provided in~~
16 ~~sections 3112 (relating to restricted licenses for barbers and~~
17 ~~cosmetologists) and 3112.1 (relating to restricted licenses for~~
18 ~~other occupations), notwithstanding any provision of law to the~~
19 ~~contrary, as an alternative to a licensing board or licensing~~
20 ~~commission refusing to issue or renew, suspending, revoking or~~
21 ~~limiting a license, certificate, registration or permit under 18~~
22 ~~Pa.C.S. § 9124 (relating to use of records by licensing~~
23 ~~agencies) or under the practice acts of the licensing board or~~
24 ~~licensing commission due to a criminal conviction, the licensing~~
25 ~~board or licensing commission may determine that an individual~~
26 ~~with a criminal conviction meets the qualifications for a~~
27 ~~license, certificate, registration or permit if the individual~~
28 ~~meets the requirements of this section.~~

29 ~~§ 3113. CONSIDERATION OF CRIMINAL CONVICTIONS.~~ <--

30 ~~(A) APPLICABILITY.--THIS SECTION SHALL APPLY TO LICENSING~~

1 BOARDS AND LICENSING COMMISSIONS NOTWITHSTANDING THE FOLLOWING:

2 (1) ANY OTHER STATUTORY PROVISION TO THE CONTRARY
3 REGARDING THE CONSIDERATION OF GOOD MORAL CHARACTER, CRIMES
4 OF MORAL TURPITUDE OR ETHICAL OR HONEST PRACTICE WITH RESPECT
5 TO DISQUALIFICATION OF LICENSURE DUE TO CRIMINAL CONVICTION.

6 (2) 18 PA.C.S. § 9124(C) (RELATING TO USE OF RECORDS BY
7 LICENSING AGENCIES).

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

11 (A.1) CONSIDERATION.--A LICENSING BOARD OR LICENSING
12 COMMISSION MAY NOT CONSIDER THE PROVISIONS SPECIFIED UNDER
13 SUBSECTION (A) IN DETERMINING WHETHER AN INDIVIDUAL QUALIFIES
14 FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT BUT INSTEAD
15 SHALL DETERMINE THE INDIVIDUAL'S QUALIFICATION FOR A LICENSE,
16 CERTIFICATE, REGISTRATION OR PERMIT IN ACCORDANCE WITH THE
17 PROCEDURES SPECIFIED UNDER THIS SECTION.

18 (b) Analysis of criminal convictions.--Except as provided in
19 subsections (d), (e) and (f), a licensing board or a licensing
20 commission shall engage in a two-stage analysis of the criminal
21 convictions of the applicant. The following shall apply:

22 (1) The first stage of the analysis shall determine
23 whether the criminal conviction directly relates to the
24 occupation, trade or profession for which the individual
25 seeks licensure by reviewing the schedule of offenses in
26 section 3117 (relating to list of criminal offenses). If the
27 offense is found on the list of offenses that are directly
28 related to the occupation, trade or profession, the licensing
29 board or licensing commission shall then determine whether
30 licensure of the individual would pose a substantial risk to

1 the health and safety of the individual's patients or clients
2 or the public or a substantial risk of further criminal
3 convictions by conducting the individualized assessment
4 specified in subsection (c). There shall be a rebuttable
5 presumption that licensure of the individual with a criminal
6 conviction that directly relates to the occupation, trade or
7 profession would pose a substantial risk to the health and
8 safety of the individual's patients or clients or the public
9 or a substantial risk of further criminal convictions. The
10 individual may rebut the presumption by showing evidence of
11 rehabilitation, as specified in the factors in subsection
12 (c).

13 (2) If, after reviewing the schedule of offenses in
14 section 3117, the criminal conviction is determined not to be
15 directly related to the occupation, trade or profession, the
16 licensing board or licensing commission shall proceed to the
17 second stage of the analysis of the criminal conviction.
18 During the second stage of the analysis, the licensing board
19 or licensing commission shall determine whether, due to the
20 nature of the criminal conviction, licensure of the
21 individual 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 by
24 conducting the individualized assessment specified in
25 subsection (c). The individual may rebut the determination by
26 showing evidence of rehabilitation, as specified in the
27 factors in subsection (c).

28 (c) Individualized assessment.--A licensing board or
29 licensing commission shall conduct an individualized assessment
30 of the individual with respect to criminal convictions and

1 rehabilitation. The licensing board or licensing commission
2 shall consider the following factors in order to determine
3 whether the individual meets the requirements for issuance of a
4 license, certificate, registration or permit under subsection
5 (b) (1) or (b) (2):

6 (1) Whether the criminal conduct for which the
7 individual was convicted involved an act or threat of harm
8 against the individual. For purposes of this paragraph, the
9 term "harm" includes harm to the victim, the personal
10 property of the victim or reputation of the victim.

11 (2) The facts and circumstances surrounding the criminal
12 conviction.

13 (3) The number of criminal convictions.

14 (4) Increase in age or maturity of the individual since
15 the date of the criminal conviction.

16 (5) The individual's criminal history or lack of
17 criminal history after the date of conviction.

18 (6) Successful completion of education and training
19 activities, including those in a county correctional facility
20 or the Department of Corrections.

21 (7) References from employers or others, including
22 personnel of the county correctional facility or the
23 Department of Corrections.

24 (8) Progress in personal rehabilitation since the
25 conviction.

26 (9) Whether the individual meets all other licensing
27 qualifications of the applicable practice act, including any
28 examination requirements.

29 (10) The individual's criminal history, or lack of
30 criminal history, after the date of the criminal conviction

1 while engaged in the same or similar profession or
2 occupation.

3 (11) Any other factor deemed relevant to the licensing
4 board or licensing commission regarding the fitness of the
5 individual for licensure.

6 (d) Sexual offenses.--When determining eligibility for
7 licensure as a health care practitioner, a licensing board or
8 licensing commission may not issue a license, registration,
9 certificate or permit or otherwise allow an individual to
10 practice as a health care practitioner if the individual has
11 been convicted of a sexual offense.

12 (e) Crimes of violence.--An individual convicted of a crime
13 of violence as defined in 42 Pa.C.S. § 9714 (relating to
14 sentences for second and subsequent offenses) may be granted a
15 license, registration, certificate or permit by a licensing
16 board or licensing commission if all of the following apply:

17 (1) If the individual was incarcerated, at least three
18 years have elapsed since release from incarceration. The
19 period of three years shall be tolled for a violation of
20 parole.

21 (2) If the individual is serving a sentence other than a
22 period of confinement in a State or county correctional
23 facility, at least three years have elapsed since imposition
24 of sentence.

25 (3) The individual has remained conviction-free during
26 the periods specified in paragraph (1) or (2).

27 (4) The individual demonstrates significant
28 rehabilitation since the criminal conviction.

29 (5) The licensing board or licensing commission
30 determines, by using the factors in subsection (c), except

1 for subsection (c) (8), that licensure of the individual does
2 not pose a substantial risk to the health and safety of the
3 individual's patients or clients or the public or a
4 substantial risk of further criminal convictions.

5 (f) Drug trafficking.--Notwithstanding any provision of law
6 to the contrary, the provisions of the respective practice acts
7 relating to felony drug convictions under the act of April 14,
8 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
9 Device and Cosmetic Act, or a conviction for an offense under
10 the laws of another jurisdiction which, if committed in this
11 Commonwealth, would be a felony under the Controlled Substance,
12 Drug, Device and Cosmetic Act, shall apply to an individual who
13 has been convicted of a drug trafficking offense.

14 (g) Construction.--Nothing in this section shall be
15 construed to restrict any of the other powers and duties of a
16 licensing board or licensing commission in disciplinary or
17 licensure matters.

18 (h) Public information.--Except for name, address and other
19 identifying information, a determination under this section
20 shall be public information.

21 (i) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection unless the context clearly indicates otherwise:

24 "Drug trafficking offense." A violation of section 13(a)
25 (14), (30) or (37) of The Controlled Substance, Drug, Device and
26 Cosmetic Act, if the controlled substance or a mixture
27 containing it is:

28 (1) Marijuana, if the amount of marijuana involved is at
29 least ~~10~~ 50 pounds or at least ~~21~~ 51 live plants. <--

30 (2) A narcotic drug classified in Schedule I or Schedule

1 II under section 3 OR 4 of The Controlled Substance, Drug, <--
2 Device and Cosmetic Act, if the aggregate weight of the
3 compound or mixture containing the substance involved is at
4 least ~~10~~ 100 grams. <--

5 (3) Any of the following, if the aggregate weight of the
6 compound or mixture of the substance involved is at least ~~10~~ <--
7 100 grams: <--

8 (i) Coca leaves.

9 (ii) A salt, compound, derivative or preparation of
10 coca leaves.

11 (iii) A salt, compound, derivative or preparation
12 which is chemically equivalent or identical with any of
13 the substances under subparagraphs (i) and (ii).

14 (iv) A mixture containing any of the substances
15 under subparagraphs (i) and (ii), except decocainized
16 coca leaves or extracts of coca leaves which do not
17 contain cocaine or ecgonine.

18 (4) Any of the following, if the aggregate weight of the
19 compound or mixture of the substance involved is at least ~~10~~ <--
20 100 grams: <--

21 (i) Methamphetamine.

22 (ii) Phencyclidine.

23 (iii) A salt, isomer or salt of an isomer of
24 methamphetamine or phencyclidine.

25 (iv) A mixture containing:

26 (A) Methamphetamine or phencyclidine.

27 (B) A salt of methamphetamine or phencyclidine.

28 (C) An isomer of methamphetamine or
29 phencyclidine.

30 (D) A salt of an isomer of methamphetamine or

1 phencyclidine.

2 (5) Heroin or a mixture containing heroin, if the
3 aggregate weight of the compound or mixture containing the
4 heroin is ~~five~~ 50 grams or greater. <--

5 (6) A mixture containing 3,4-methylenedioxyamphetamine
6 (MDA); 3,4-methylenedioxymethamphetamine (MDMA); 5-methoxy-
7 3,4-methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-
8 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine.
9 when the aggregate weight of the compound or mixture
10 containing the substance involved is at least ~~100~~ 1,000 <--
11 tablets, capsules, caplets or other dosage units or ~~30~~ 300 <--
12 grams.

13 (7) Fentanyl or a mixture containing fentanyl, if the
14 aggregate weight of the compound or mixture containing the
15 fentanyl is ~~five~~ 10 grams or more. <--

16 (8) CARFENTANIL OR A MIXTURE CONTAINING CARFENTANIL, IF <--
17 THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING
18 THE CARFENTANIL IS ONE GRAM OR MORE.

19 "Healing arts." The science and skill of diagnosis or
20 treatment in any manner whatsoever of disease or any ailment of
21 the human body.

22 "Health care practitioner." An individual who is authorized
23 to practice some component of the healing arts by a license,
24 certificate, registration or permit issued by a licensing board
25 or licensing commission.

26 "Sexual offense." An act, conspiracy or solicitation to
27 commit any of the following offenses or an equivalent crime in
28 another jurisdiction:

29 (1) 18 Pa.C.S. § 2910 (relating to luring a child into a
30 motor vehicle or structure).

1 (2) Any of the offenses enumerated in 18 Pa.C.S. Ch. 30
2 (relating to human trafficking) if the offense involved
3 sexual servitude.

4 (3) Any of the offenses enumerated in 18 Pa.C.S. Ch. 31
5 (relating to sexual offenses).

6 (4) 18 Pa.C.S. § 4302 (relating to incest).

7 (5) 18 Pa.C.S. § 4304(a)(1) (relating to endangering
8 welfare of children) if the offense involved sexual contact
9 with the victim.

10 (6) 18 Pa.C.S. § 5901 (relating to open lewdness) if the
11 offense involved a minor under 18 years of age.

12 (7) 18 Pa.C.S. § 5902(b) or (b.1) (relating to
13 prostitution and related offenses).

14 (8) 18 Pa.C.S. § 5903 (relating to obscene and other
15 sexual materials and performances) if the offense involved a
16 minor under 18 years of age.

17 (9) 18 Pa.C.S. § 6301(a)(1)(i) (relating to corruption
18 of minors) if the offense involved sexual contact with the
19 victim.

20 (10) 18 Pa.C.S. § 6301(a)(1)(ii).

21 (11) 18 Pa.C.S. § 6312 (relating to sexual abuse of
22 children).

23 (12) 18 Pa.C.S. § 6318 (relating to unlawful contact
24 with minor).

25 (13) 18 Pa.C.S. § 6320 (relating to sexual exploitation
26 of children).

27 (14) 18 Pa.C.S. § 7507.1 (relating to invasion of
28 privacy).

29 § 3114. Juvenile adjudications.

30 Notwithstanding any provision of law to the contrary, when

1 determining whether an applicant is qualified to be issued a
2 license, registration, certificate or permit, a licensing board
3 or licensing commission may not consider the applicant's
4 juvenile adjudications.

5 § 3115. Preliminary determinations by licensing boards and
6 licensing commissions.

7 (a) Request for preliminary determination.--An individual
8 with a criminal conviction may request in writing that a
9 licensing board or licensing commission provide a preliminary
10 determination regarding whether the individual's criminal
11 conviction will likely disqualify the individual from receiving
12 a license, certificate, registration or permit. The following
13 apply:

14 (1) The individual may make the written request at any
15 time, including prior to obtaining any mandatory education or
16 training relating to a trade, profession or occupation,
17 either as part of the application for licensure or separately
18 from an application for licensure.

19 (2) The written request shall be submitted on a form
20 prescribed by the licensing board or licensing commission and
21 shall include the following information:

22 (i) Identification of the license, certificate,
23 registration or permit for which the individual may
24 apply.

25 (ii) A detailed description of any criminal
26 ~~proceedings~~ PROCEEDING that resulted in a judgment <--
27 CRIMINAL CONVICTION against the individual. <--

28 (iii) Any other information that the individual
29 believes would assist the licensing board or licensing
30 commission with the determination.

1 (b) Determination.--

2 (1) If the written request under subsection (a) is
3 submitted separately from an application for licensure, the
4 licensing board or licensing commission shall issue the
5 determination within 45 business days.

6 (2) If the determination is part of the application, the
7 determination shall be issued as soon as is practicable.

8 (3) The form developed by the licensing board or
9 licensing commission for the determination shall provide
10 notice that, EXCEPT WITH REGARD TO THE DETAILED DESCRIPTION <--
11 UNDER SUBSECTION (A) (2) (II) AND AS SPECIFIED UNDER PARAGRAPH
12 (4), the determination is neither final nor binding.

13 ~~(4) A licensing board or licensing commission shall not <--~~
14 ~~be bound by the determination under this section if the~~
15 ~~individual applies for a license, certificate, registration~~
16 ~~or permit.~~

17 (4) THE DETERMINATION BY THE LICENSING BOARD OR <--
18 LICENSING COMMISSION SHALL BE BINDING, SUBJECT TO:

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

21 (II) SECTION 3113 (RELATING TO CONSIDERATION OF
22 CRIMINAL CONVICTIONS).

23 (5) The determination shall have no precedential value
24 and may not be relied upon by another individual applying for
25 a license, certificate, registration or permit.

26 (c) Public record.--A written request for a determination
27 and a determination issued by a licensing board or licensing
28 commission under this section shall be, with the exception of
29 name, address and other identifying information, a public
30 record.

1 (d) Fees.--

2 (1) A licensing board or licensing commission may charge
3 a fee for the determination, however, the fee may not exceed
4 an amount sufficient to reimburse the licensing board or
5 licensing commission for the administrative costs associated
6 with processing the preliminary determination.

7 (2) The fee for the determination may not exceed \$45 for
8 each written request filed before January 1, 2022.

9 (3) The commissioner, after consultation with the
10 licensing boards and licensing commissions, shall adopt a
11 schedule of fees to apply on January 1, 2022, and each year
12 thereafter relating to the cost for a determination under
13 this section. The following apply:

14 (i) Within 180 days of the effective date of this
15 subsection, the commissioner shall transmit notice of the
16 adoption of the schedule of fees to the Legislative
17 Reference Bureau for publication in the Pennsylvania
18 Bulletin within 10 days after receipt of the notice. The
19 schedule of fees must include a procedure for the
20 licensing boards and licensing commissions to issue
21 determinations and waive the fee if payment of the fee
22 would constitute an economic hardship for the applicant.

23 (ii) Within two years of the publication of the
24 schedule of fees and procedure under subparagraph (i),
25 the commissioner shall promulgate a regulation specifying
26 the schedule of fees and establishing a procedure for
27 waiving the fee if payment of the fee would constitute an
28 economic hardship for the applicant.

29 § 3116. Best practices guide.

30 (a) Development of guide.--Within 180 days of the effective

1 date of this subsection, the Department of State shall, in
2 collaboration with the licensing boards and licensing
3 commissions, develop a guide of best practices for an applicant
4 with a criminal conviction to use when seeking a license,
5 certificate, registration or permit. The following apply:

6 (1) The guide shall be published in both English and
7 Spanish.

8 (2) The guide shall include, at a minimum, a summary of
9 the provisions of the following:

10 (i) Section 3112 (relating to restricted licenses
11 for barbers and cosmetologists).

12 (ii) Section 3112.1 (relating to restricted licenses
13 for other occupations).

14 (iii) Section 3113 (relating to ~~supplementary~~ <--
15 ~~provisions regarding~~ CONSIDERATION OF criminal <--
16 convictions).

17 (iv) Section 3114 (relating to juvenile
18 adjudications).

19 (v) Section 3115 (relating to preliminary
20 determinations by licensing boards and licensing
21 commissions).

22 (vi) Section 3117 (relating to list of criminal
23 offenses).

24 (b) Publication and distribution.--Within 180 days of the
25 effective date of this subsection, the Department of State shall
26 publish the guide under subsection (a) on its publicly
27 accessible Internet website and shall provide a written copy
28 upon request. The written copy of the guide shall be provided
29 without cost to the person requesting the guide.

30 § 3117. List of criminal offenses.

1 (a) Duty of commissioner.--After consultation with the
2 licensing boards and licensing commissions, the commissioner
3 shall have the power and duty to publish a schedule of criminal
4 convictions that may constitute grounds to refuse to issue OR <--
5 RENEW, suspend or revoke a license, certificate, registration or
6 permit for each occupation or profession under the respective
7 practice acts. The following shall apply:

8 (1) The schedule shall indicate which offenses are those
9 that the licensing board or licensing commission deems as
10 directly relating to the occupation, trade or profession.

11 (2) The schedule shall indicate the licensing board and
12 licensing commission responsible for licensure of each
13 occupation or profession.

14 (3) Within 180 days of the effective date of this
15 subsection, the commissioner shall transmit notice of the
16 completion of the schedule to the Legislative Reference
17 Bureau for publication in the Pennsylvania Bulletin.

18 (4) Within two years of the publication under paragraph
19 (3), the commissioner shall transmit notice of a regulation
20 to the Legislative Reference Bureau for publication in the
21 Pennsylvania Bulletin. The regulation shall be subject to the
22 act of June 25, 1982 (P.L.633, No.181), known as the
23 Regulatory Review Act.

24 (5) The commissioner shall submit a regulation to update
25 the schedule of criminal convictions as often as the
26 commissioner deems appropriate to reflect new statutory
27 enactments of the General Assembly affecting the schedule.

28 (b) Public comment period.--Within 120 days of the
29 publication of the schedule in the Pennsylvania Bulletin under
30 subsection (a), the commissioner shall submit initial proposed

1 regulations to the Independent Regulatory Review Commission
2 under section 5 of the Regulatory Review Act.

3 (c) Dissemination.--Within 180 days of the effective date of
4 this subsection, the schedule of offenses in subsection (a)
5 shall be provided in writing to each applicant for a license,
6 certificate, registration or permit issued by a licensing board
7 or licensing commission as part of the application and shall be
8 made part of the best practices guide under section 3116
9 (relating to best practices guide). The following shall apply:

10 (1) Within 180 days of the effective date of this
11 subsection, the schedule shall be published on the publicly
12 accessible Internet website of the Department of State.

13 (2) The schedule of criminal convictions shall be
14 published in both English and Spanish.

15 (3) Notice that the list of criminal offenses will
16 change based upon new enactments by the General Assembly
17 shall be provided on the publicly accessible Internet website
18 of the Department of State in writing as part of the
19 application and in the best practices guide.

20 (d) Application.--The schedule shall be used by the
21 licensing boards and licensing commissions when:

22 (1) preparing preliminary determinations under section
23 3116;

24 (2) determining which criminal convictions may result in
25 discipline of a licensee; and

26 (3) determining whether a criminal conviction may result
27 in refusing to issue a license, certificate, registration or
28 permit under section 3113 (relating to ~~supplementary~~ <--
29 ~~provisions regarding~~ CONSIDERATION OF criminal convictions). <--

30 § 3118. Report to General Assembly.

1 (a) Report required.--Within two years after the effective
2 date of this section and every four years thereafter, the
3 Secretary of the Commonwealth shall issue a written report
4 regarding the implementation and effectiveness of the following:

5 (i) Section 3112 (relating to restricted licenses
6 for barbers and cosmetologists).

7 (ii) Section 3112.1 (relating to restricted licenses
8 for other occupations).

9 (iii) Section 3113 (relating to ~~supplementary~~ <--
10 ~~provisions regarding~~ CONSIDERATION OF criminal <--
11 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 3116 (relating to best practices
18 guide).

19 (vii) Section 3117 (relating to list of criminal
20 offenses).

21 (b) Submittal of report.--The report under subsection (a)
22 shall be submitted to the following:

23 (1) The President pro tempore of the Senate.

24 (2) The chairperson and minority chairperson of the
25 Consumer Protection and Professional Licensure Committee of
26 the Senate.

27 (3) The chairperson and minority chairperson of the
28 Judiciary Committee of the Senate.

29 (4) The Speaker of the House of Representatives.

30 (5) The chairperson and minority chairperson of the

1 Judiciary Committee of the House of Representatives.

2 (6) The chairperson and minority chairperson of the
3 Professional Licensure Committee of the House of
4 Representatives.

5 (c) Contents of report.--The report under subsection (a)
6 shall include the following:

7 (1) The number of applications for a license,
8 certificate, registration or permit that each licensing board
9 and licensing commission receives each year.

10 (2) The number of applicants with criminal convictions
11 that submit applications to the State Board of Barber
12 Examiners and the State Board of Cosmetology, including the
13 following:

14 (i) The number of applicants that are issued a
15 restricted license under section 3112.

16 (ii) The number of applicants that are denied a
17 restricted license under section 3112 and the reasons for
18 the denials.

19 (iii) The number of restricted license holders that
20 are issued a license to practice under the act of June
21 19, 1931 (P.L.589, No.202), referred to as the Barbers'
22 License Law, or the act of May 3, 1933 (P.L.242, No.86),
23 referred to as the Cosmetology Law, following the
24 restricted license term.

25 (iv) The number of restricted licenses that are
26 revoked during the restricted license term under section
27 3112(d) and the reasons for the revocations.

28 (3) The number of applicants that are denied licenses,
29 certificates, registrations and permits each year by the
30 licensing boards and licensing commissions as a result of

1 criminal convictions.

2 (4) Whether to amend any provision of this chapter.

3 (d) Public record.--The report under subsection (a) shall be
4 a public record under the Right-to-Know Law.

5 Section 3. Repeals are as follows:

6 (1) The General Assembly declares that the repeal under
7 paragraph (2) is necessary to effectuate the addition of 63
8 Pa.C.S. Ch. 31.

9 (2) The act of July 2, 1993 (P.L.345, No.48), is
10 repealed.

11 Section 4. The addition of 63 Pa.C.S. Ch. 31 is a
12 continuation of the act of July 2, 1993 (P.L.345, No.48). The
13 following apply:

14 (1) Except as otherwise provided in 63 Pa.C.S. Ch. 31,
15 all activities initiated under the act of July 2, 1993
16 (P.L.345, No.48), shall continue and remain in full force and
17 effect and may be completed under 63 Pa.C.S. Ch. 31. Orders,
18 regulations, rules and decisions which were made under the
19 act of July 2, 1993 (P.L.345, No.48), and which are in effect
20 on the effective date of section 3 of this act shall remain
21 in full force and effect until revoked, vacated or modified
22 under 63 Pa.C.S. Ch. 31. Contracts, obligations and
23 collective bargaining agreements entered into under the act
24 of July 2, 1993 (P.L.345, No.48), are not affected nor
25 impaired by the repeal of the act of July 2, 1993 (P.L.345,
26 No.48).

27 (2) Except as set forth in paragraph (3), any difference
28 in language between 63 Pa.C.S. Ch. 31 and the act of July 2,
29 1993 (P.L.345, No.48), is intended only to conform to the
30 style of the Pennsylvania Consolidated Statutes and is not

1 intended to change or affect the legislative intent, judicial
2 construction or administration and implementation of the act
3 of July 2, 1993 (P.L.345, No.48).

4 (3) Paragraph (2) does not apply to the addition of the
5 following provisions:

6 (i) The definition of "criminal conviction" in 63
7 Pa.C.S. § 3102.

8 (ii) 63 Pa.C.S. § 3112.

9 (iii) 63 Pa.C.S. § 3112.1.

10 (iv) 63 Pa.C.S. § 3113.

11 (v) 63 Pa.C.S. § 3114.

12 (vi) 63 Pa.C.S. § 3115.

13 (vii) 63 Pa.C.S. § 3116.

14 (viii) 63 Pa.C.S. § 3117.

15 (ix) 63 Pa.C.S. § 3118.

16 Section 5. The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,
17 3114, 3115, 3116, 3117 and 3118 shall apply to official acts and
18 matters, including disciplinary matters, related to the issuance
19 of licenses, certificates, registrations or permits by licensing
20 boards or licensing commissions beginning on or after 180 days
21 after the effective date of this section.

22 Section 6. This act shall take effect as follows:

23 (1) The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,
24 3114 and 3115 shall take effect in 180 days.

25 (2) The remainder of this act shall take effect
26 immediately.