

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1492 Session of
2021INTRODUCED BY COX, CIRESI, FREEMAN, HILL-EVANS, KEEFER, KINSEY,
NEILSON, RAPP, ROWE AND RYAN, JUNE 11, 2021

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 11, 2021

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 a part to read:

9 PART III

10 LICENSING

11 Chapter.

12 41. Licensing for Individuals with a Criminal Conviction
13 43. Occupational Licensing for Low-Income Individuals

14 CHAPTER 41

15 LICENSING FOR INDIVIDUALS WITH A CRIMINAL CONVICTION

16 Sec.

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11 § 4101. Scope of chapter.

12 This chapter relates to individuals with a criminal

13 conviction obtaining a professional or occupational license.

14 § 4102. Definitions.

15 The following words and phrases when used in this chapter

16 shall have the meanings given to them in this section unless the

17 context clearly indicates otherwise:

18 "Certification." Nontransferable certification provided by a

19 licensing or certifying body to an applicant who is not

20 disqualified under section 4105 (relating to disqualifications).

21 "Lawful occupation." A course of conduct, pursuit or

22 profession that includes the sale of goods or services that are

23 not themselves illegal to sell regardless of whether the

24 individual selling the goods or services is subject to an

25 occupational regulation.

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

27 individual has applied for a license or certification to conduct

28 or perform a lawful occupation or profession for which the

29 license or certification is required in this Commonwealth.

30 "Occupational license." A nontransferable license issued by

1 a licensing or certifying body authorizing an individual who is
2 not disqualified under section 4105 to undertake a lawful
3 occupation for compensation.

4 "Specialty occupational license for medical reimbursement."
5 A nontransferable license issued by a licensing or certifying
6 body authorizing an individual who is not disqualified under
7 section 4105 to qualify for payment or reimbursement from an
8 agency operating in this Commonwealth for the nonexclusive
9 provision of medical services.

10 § 4103. Fundamental right.

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

13 (1) The right of an individual with a criminal record to
14 petition the State to obtain a certification, occupational
15 license or specialty occupational license for medical
16 reimbursement.

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

20 § 4104. Petition.

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

26 (b) Required information.--The individual shall include in
27 the petition under subsection (a) the individual's criminal
28 record. The individual may include additional information about
29 the individual's current circumstances, including the amount of
30 time since the offense, evidence of rehabilitation, testimonials

1 and employment aspirations.

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

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

9 (2) The licensing or certifying body that received the
10 petition under paragraph (1) shall use the disqualifications
11 under section 4105 (relating to disqualifications) to
12 determine whether the individual is eligible for the license
13 or certification.

14 § 4105. Disqualifications.

15 The licensing or certifying body shall approve an individual
16 unless the licensing or certifying body finds all of the
17 following:

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

20 (2) The type of felony or violent misdemeanor for which
21 the individual was convicted is expressly codified as a
22 disqualifying offense in the relevant licensing or
23 certification statute.

24 (3) The licensing or certifying body concludes the State
25 has an important interest in protecting public safety that is
26 superior to the individual's right. The licensing or
27 certifying body may make this conclusion only if it
28 determines, by clear and convincing evidence at the time of
29 the petition, that:

30 (i) the specific offense for which the individual

1 was convicted is substantially related to the State's
2 interest;

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

9 (iii) a subsequent offense will cause greater harm
10 than the reoffense would if the individual did not have
11 the license or certification.

12 § 4106. Issuance of determination.

13 The licensing or certifying body shall issue its
14 determination under this chapter within 90 days of receiving the
15 petition under section 4104 (relating to petition). The
16 determination shall be in writing and include a finding of facts
17 and a conclusion of law.

18 § 4107. Adverse determination.

19 (a) Remedy.--If the licensing or certifying body determines
20 the government's interest is superior to the individual's right,
21 the licensing or certifying body may advise the individual of
22 actions the individual may take to remedy the disqualification.

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

27 (c) Appeal.--An individual may appeal a licensing or
28 certifying body's adverse determination under section 4106
29 (relating to issuance of determination) as provided by the
30 licensing or certifying body's rules and regulations regarding

1 appeals of determinations.

2 (d) Time limitation.--The individual may submit a new
3 petition to the licensing or certifying body at any time after
4 two years following a final judgment of the initial petition.

5 § 4108. Individual certification.

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

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

11 § 4109. Rescind determination.

12 The licensing or certifying body may rescind a determination
13 at any time if the individual is convicted of an additional
14 offense that the licensing or certifying body determines meets
15 the elements under section 4105 (relating to disqualifications).

16 § 4110. Prohibition.

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

20 § 4111. Specialty occupational license for medical
21 reimbursement.

22 (a) Recognition of credential.--A private company may
23 recognize the specialty occupational license for medical
24 reimbursement.

25 (b) Provision of services.--Notwithstanding the specialty
26 occupational license for medical reimbursement, it shall be
27 legal for an individual who does not possess a license:

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

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

§ 4112. Fee.

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

§ 4113. Report.

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

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

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

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

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

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

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

CHAPTER 43

OCCUPATIONAL LICENSING FOR LOW-INCOME INDIVIDUALS

Sec.

4301. Definitions.

4302. Fee waived.

§ 4301. Definitions.

The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Licensing or certifying body." The issuing body to whom an
4 individual has applied for a license or certification to conduct
5 or perform a lawful occupation or profession for which the
6 license or certification is required in this Commonwealth.

7 "Occupational license." A nontransferable license issued by
8 a licensing or certifying body authorizing an individual who is
9 not disqualified under section 4105 (relating to
10 disqualifications) to undertake a lawful occupation for
11 compensation.

12 § 4302. Fee waived.

13 An individual who obtains an occupational license from a
14 licensing or certifying body shall not be required to pay the
15 associated fee if the individual's household income is less than
16 200% of the Federal poverty line, as defined under section
17 673(2) of Subtitle B of the Community Services Block Grant Act
18 (Public Law 97-35, 95 Stat. 511), as adjusted from time to time.

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