

No. 2014-6

AN ACT

HB 261

Amending the act of July 2, 1993 (P.L.345, No.48), entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," further providing for civil penalties.

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

Section 1. Section 5(b) and (d) of the act of July 2, 1993 (P.L.345, No.48), entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," amended July 17, 2009 (P.L.95, No.25), are amended and the section is amended by adding subsections to read:

Section 5. Civil penalties.

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(b) Additional powers.—In addition to the disciplinary powers and duties of the boards and commissions within the Bureau of Professional and Occupational Affairs under their respective practice acts, boards and commissions shall have the power, respectively:

(1) To impose discipline, including, but not limited to, a civil penalty of up to \$10,000 per violation on any licensee, registrant, certificate holder, permit holder or unlicensed person who violates a lawful disciplinary order of the board.

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

(3) To levy a civil penalty of not more than \$10,000 per violation on any corporation, partnership, institution, association or sole proprietorship which aids and abets any individual in the unlicensed practice of a profession. This penalty shall not, however, be levied against any person solely as a consequence of that person being a patient or client of the unlicensed individual.

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

(5) To assess against the respondent determined to be in violation of the disciplinary provisions administered by a licensing board or commission in a disciplinary proceeding pending before the board or

commission for final determination, as part of the sanction, the costs of investigation underlying that disciplinary action. The cost of investigation shall not include those costs incurred by the board or commission after the filing of formal actions or disciplinary charges against the respondent.

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

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

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(d) Status of civil penalty.—Any civil penalty, *together with any associated fee, interest or cost*, imposed pursuant to this section or imposed by any licensing board or commission under any other act shall be a judgment in favor of the Bureau of Professional and Occupational Affairs upon the person or the property of the person, *whether real or personal, and including any after-acquired property*, upon whom the civil penalty is imposed. The Attorney General shall be responsible for enforcing such judgments in courts of competent jurisdiction in accordance with the provisions of 42 Pa.C.S. (relating to judiciary and judicial procedure).

(d.1) Entry of judgment.—Within 60 months of the final disposition of a disciplinary case, if an unpaid civil penalty, fee, interest and cost of a licensee, registrant, certificate holder or permit holder total \$1,000 or more, the licensing board or commission, or its respective agent, may transmit a copy of the final disposition to the prothonotary of the court of common pleas in the county where the licensee, registrant, certificate holder or permit holder, or property of the licensee, registrant, certificate holder or permit holder, upon whom the penalty, fee, interest and cost are imposed is located. The prothonotary shall enter and docket the same without requiring payment of costs as a condition precedent to the entry thereof. The total of the penalty, fee, interest and cost shall be entered as a judgment upon the licensee, registrant, certificate holder or permit holder regardless of whether the amount has been ordered to be paid in installments.

(d.2) Priority of lien.—Any lien obtained under this section shall maintain its priority indefinitely, and no writ of revival need be filed.

(d.3) Execution.—A writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias, provided that a notice of the filing and the effect of the lien be provided to the licensee, registrant, certificate holder or permit holder not less than ten days before the execution on the lien. Notice may be sent by registered mail to the last known address of the licensee, registrant, certificate holder or permit holder.

(d.4) Exception to execution.—The lien shall have no effect upon any stock of goods, wares or merchandise regularly sold or leased in the ordinary course of business by the licensee, registrant, certificate holder or permit holder against whom the lien has been entered, unless and until a writ of execution has been issued and a levy made upon the stock of goods, wares and merchandise.

(d.5) Satisfaction.—Once a judgment is paid in full to the licensing board or commission, or its respective agent, the licensing board or commission, or its respective agent, shall, within 90 days, notify the prothonotary in writing of receipt of payment in full and request the judgment be noted as satisfied in full.

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

APPROVED—The 4th day of February, A.D. 2014

TOM CORBETT