



Sub. H.B. 104

127th General Assembly
(As Reported by H. Judiciary)

Reps. Core, Setzer, Seitz, Hughes, Dodd, Flowers, Combs, Adams, White, Webster, R. McGregor, Bupp, Collier, J. McGregor, Stebelton, Strahorn, Blessing, Dyer, Batchelder

BILL SUMMARY

- Requires a criminal records check of an applicant for an initial license for a registered accounting firm, certified or registered public accountant, barber, barber shop operator, dentist, dental hygienist, dental hygienist teacher, funeral director, embalmer, operator of a funeral home, embalming facility, and crematory facility, optometrist, dispensing optician, ophthalmologist, pharmacist, physician assistant, physician, massage therapist, cosmetic therapist, telemedicine practitioner, podiatrist, wholesale distributor of dangerous drugs, animal shelter that uses drugs for euthanasia of animals, terminal distributor of dangerous drugs, psychologist, school psychologist, chiropractor, construction industry contractor, veterinarian, occupational therapist, occupational therapist assistant, physical therapist, physical therapist assistant, athletic trainer, counselor, professional clinical counselor, professional counselor, social worker, independent social worker, social worker assistant, marriage and family therapist, dietician, anesthesiologist assistant, respiratory care professional, acupuncturist, orthotist, prosthetist, and pedorthotist.
- Requires a criminal records check of an applicant for a restored license for a physician assistant, physician, massage therapist, cosmetic therapist, podiatrist, anesthesiologist assistant, and acupuncturist.
- Modifies the requirements for reinstatement of the license of a physician assistant, physician, massage therapist, cosmetic therapist, podiatrist, anesthesiologist assistant, or acupuncturist whose license has been suspended for failure to renew the license or to pay the biennial registration fee.

- Establishes a procedure for an applicant to request the Bureau of Criminal Identification and Investigation to conduct a criminal records check using existing forms and procedures.
- Requires the Superintendent of the Bureau of Criminal Identification and Investigation to conduct the requested criminal records checks and report the results to the applicable licensing agency.
- Requires agencies that grant licenses for the specified occupations to adopt rules establishing administrative and procedural requirements for criminal records checks.
- Provides that the results of criminal records checks of applicants for initial licenses in the specified occupations are not public records.

CONTENT AND OPERATION

Occupational licenses for which criminal records checks are required

The bill requires criminal records checks of applicants for initial licenses in certain occupations. As used in the bill, "license" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction. An "applicant for an initial license" includes persons seeking a license for the first time or who have a license from another state and are seeking a license in Ohio by reciprocity, endorsement, or similar manner. A "licensing agency" is the board authorized by any of the Revised Code chapters specified in the bill (see next paragraph) to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises. "Licensee" means a person to whom a licensing agency issues a license. (R.C. 4776.01(A), (B), (C), and (D).)

The licensing agencies and licensees affected by the bill are the following: Accountancy Board (registered accounting firms, certified and registered public accountants), Barber Board (barbers and barber shop operators), State Dental Board (dentists, dental hygienists, and dental hygienist teachers), Board of Embalmers and Funeral Directors (funeral directors, embalmers, and operators of funeral homes, embalming facilities, and crematory facilities), State Board of Optometry (optometrists), Ohio Optical Dispensers Board (dispensing opticians

and ocularists), State Board of Pharmacy (pharmacists, wholesale distributors of dangerous drugs, animal shelters that use drugs for euthanasia of animals, and terminal distributors of dangerous drugs), State Medical Board (physician assistants, physicians, massage therapists, cosmetic therapists, telemedicine practitioners, podiatrists, anesthesiologist assistants, and acupuncturists), State Board of Psychology (psychologists and school psychologists), State Chiropractic Board (chiropractors), Construction Industry Licensing Board (heating, ventilating, and air conditioning contractors, refrigeration contractors, electrical contractors, plumbing contractors, and hydronics contractors), State Veterinary Medical Licensing Board (veterinarians), Occupational Therapy Section, Physical Therapy Section, and Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (occupational therapists, occupational therapist assistants, physical therapists, physical therapist assistants, and athletic trainers), Counselor, Social Worker, and Marriage and Family Therapist Board (counselors, professional clinical counselors, professional counselors, social workers, independent social workers, social worker assistants, and marriage and family therapists), Ohio Board of Dietetics (dietitians), Ohio Respiratory Care Board (respiratory care professionals), and State Board of Orthotics, Prosthetics, and Pedorthics (orthotists, prosthetists, and pedorthotists). The specified licensing agencies may not grant an application for an initial license unless the applicant requests a criminal records check as required by the bill and the agency decides that the results of the check do not make the applicant ineligible for a license. (R.C. 4701.08, 4709.071, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4731.081, 4731.171, 4731.222, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4761.051, 4762.031, 4776.01(C), and 4779.091.)

The bill also requires criminal records checks for the restoration by the State Medical Board of licenses that have been suspended for failure to pay the biennial registration fee (see "*Reinstatement of licenses issued by the State Medical Board*," below). "Applicant for a restored license" includes persons seeking restoration of a certificate under R.C. 4730.14, 4731.281, 4760.06, or 4762.06. The affected professions are physician assistant, physician, massage therapist, cosmetic therapist, podiatrist, anesthesiologist assistant, and acupuncturist. (R.C. 4730.14(G)(2), 4730.28(B)(1), 4731.15(B), 4731.222, 4731.281(D), 4760.06(D), 4762.06(D), and 4776.01(E).)

Procedure for obtaining criminal records checks and reporting results

The bill requires an "applicant for an initial license" or an "applicant for a restored license" in the specified occupations to submit a request to the Bureau of Criminal Identification and Investigation (BCII) for a criminal records check of the applicant. The request must be accompanied by the form prescribed by the

Superintendent of BCII under existing law for conducting a records check, fingerprint impressions obtained on a standard impression sheet prescribed by the Superintendent under existing law, and fee prescribed by the Superintendent for criminal records checks under existing law. The applicant must provide the BCII with the applicant's name and address and the licensing agency's name and address and request that the Superintendent of the BCII obtain from the FBI any information it has pertaining to the applicant. Upon receiving the applicant's request, fingerprints, and fee, the Superintendent must conduct a criminal records check of the applicant in accordance with the existing procedure for employment-related record checks to determine whether any information exists that indicates that the applicant has been convicted of or pleaded guilty to any criminal offense in Ohio or any other state. The Superintendent must report the results of the criminal records check and any information received from the FBI to the licensing agency. (R.C. 109.572(A)(13), (B), and (C) and 4776.02.)

The bill requires each "licensing agency" to adopt rules under R.C. Chapter 119. establishing administrative and procedural requirements for criminal records checks conducted under the bill (R.C. 4776.03, 4709.05(J)(6), 4717.04(A)(12), 4725.09(D), 4725.44(B), 4740.04(G)(3), 4755.06(K), 4755.61(A)(1), 4757.10(D), 4759.05(A)(12), 4761.03(A)(11), and 4779.08(A)(13)).

The results of criminal records checks made pursuant to the bill and reports containing those results, including any information provided by the FBI, are not public records for purposes of R.C. 149.43 (Public Records Law). The Superintendent of the BCII must make the results available to the licensing agency for use in determining whether the applicant should be granted a license, and the licensing agency must make the results available to the applicant or the applicant's representative. Otherwise, the results and report may not be made available to any other person or for any other purpose. (R.C. 4776.04.)

Reinstatement of licenses issued by the State Medical Board

Physician assistants

Under existing law, the license of a physician assistant that is not renewed on or before its expiration date is automatically suspended on its expiration date. If the license has been suspended for two years or less, it may be reinstated upon the applicant's submission of the biennial renewal fee, any applicable monetary penalty, and certification that the applicant has completed the number of hours of continuing education necessary to have a certificate reinstated, as specified in the rules of the State Medical Board. If the license has been suspended for more than two years, it may be restored upon submission of a restoration application, the biennial renewal fee, and any applicable monetary penalty and a determination by the Board that the applicant is fit to resume practice. The bill eliminates the

certification requirement for renewal and requires the submission of a renewal application in addition to the renewal fee and applicable monetary penalty. For restoration, the bill adds the requirement of a criminal records check. (R.C. 4730.14(G)(2) and 4730.28(B)(1).)

Massage therapists and cosmetic therapists

Under existing law, a license to practice a limited branch of medicine (massage therapy, cosmetic therapy, naprapathy, and mechotherapy)¹ is automatically suspended if the biennial registration fee is not paid by September 1 of the year it is due. The State Medical Board must reinstate the license on an applicant's payment of the biennial registration fee and the applicable monetary penalty and, if the license has been suspended for more than two years, on the Board's determination of the applicant's fitness to resume practice. An applicant for reinstatement of a license to practice cosmetic therapy must also submit certification of completion of the requisite continuing education. For reinstatement of a license that has been suspended for two years or less, the bill adds the requirement of a renewal application. For reinstatement of a license that has been suspended for two years or more, the bill requires submission of a restoration application, the biennial registration fee, the applicable monetary penalty, a criminal records check, and a determination by the Board that the results of the criminal records check do not make the applicant ineligible to hold a license. (R.C. 4731.15(B) and 4731.222.)

Physicians and podiatrists

Under existing law, failure of a physician or podiatrist to register for renewal of a license automatically results in suspension of the license. If the license has been suspended for two years or less, it may be reinstated upon the applicant's submission of the biennial renewal fee, any applicable monetary penalty, and certification that the applicant has completed the requisite continuing medical education. If the license has been suspended for more than two years, it may be restored upon submission of a restoration application, the biennial registration fee, and the applicable monetary penalty and a determination by the Board that the applicant is fit to resume practice. For reinstatement of a license that has been suspended for two years or less, the bill adds the requirement of a renewal application. For restoration of a license that has been suspended for more

¹ Before March 2, 1992, the State Medical Board licensed naprapaths and mechanotherapists. Naprapathy involves manipulation of the tissues. Mechanotherapy involves manipulation and other treatment of the musculoskeletal system. Naprapaths and mechanotherapists may continue to practice if they keep their licenses current. (R.C. 4731.15 and 4731.151.)

than two years, the bill adds the requirements of a criminal records check and a determination by the Board that the results of the criminal records check do not make the applicant ineligible to hold a license. (R.C. 4731.222 and 4731.281(D).)

Anesthesiologist assistants and acupuncturists

Under existing law, the license of an anesthesiologist assistant or acupuncturist that is not renewed on or before its expiration date is automatically suspended on its expiration date. The State Medical Board must reinstate a license on an applicant's submission of the biennial renewal fee and the applicable monetary penalty. For reinstatement of a license that has been suspended for two years or less, the bill adds the requirement of a renewal application. For restoration of a license that has been suspended for more than two years, the bill requires submission of a restoration application, the biennial registration fee, the applicable monetary penalty, a criminal records check, and a determination by the Board that the results of the criminal records check do not make the applicant ineligible to hold a license. (R.C. 4760.06(D) and 4762.06(D).)

HISTORY

ACTION	DATE
Introduced	03-13-07
Reported, H. Judiciary	05-29-07

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