

CHAPTER 277
FORMERLY
SENATE BILL NO. 98
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONS AND OCCUPATIONS ADDING CRIMINAL BACKGROUND CHECK REQUIREMENTS, REQUIRING FINGERPRINTING AND MAKING CONVICTION OF A FELONY SEXUAL OFFENSE GROUNDS FOR DENIAL AND REVOCATION OF LICENSURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 24 of the Delaware Code as follows:

§508. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a podiatrist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(8) Has not been convicted of a felony sexual offense.

(9) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Podiatry shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed to practice podiatric medicine until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section.

(10) Has submitted to the Board a sworn or affirmed statement that the applicant is, at the time of application, physically and mentally capable of engaging in the practice of podiatric medicine according to generally accepted standards, and submit to such examination as the Board may deem necessary to determine the applicant's capability.

(d) All individuals licensed to practice podiatric medicine in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§ 516. Disciplinary sanctions.

(7) The Board shall permanently revoke the certificate to practice podiatric medicine of a person who is convicted of a felony sexual offense.

Section 2. Amend Chapter 7, Title 24 of the Delaware Code as follows:

§ 707. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a doctor of chiropractic under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) Has not been convicted of a felony sexual offense.

(7) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Chiropractic shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed to practice chiropractic until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(5) of this section.

(e) All individuals licensed to practice chiropractic in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§ 711. Grounds for discipline; procedure; sanctions.

(7) The Board shall permanently revoke the license to practice chiropractic of a person who is convicted of a felony sexual offense.

Section 3. Amend Chapter 11, Title 24 of the Delaware Code as follows:

§ 1122. Qualifications of applicant; report to Attorney General; judicial review.

(e) All individuals licensed to practice dentistry and dental hygiene in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

Section 4. Amend Chapter 17, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1720. Certification requirements to practice medicine.

(e) The Board, by the affirmative vote of 12 of its members, may waive any of the requirements of this section if it finds all of the following by clear and convincing evidence:

(4) For waiver of a felony conviction other than a conviction of a felony sexual offense, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service, although waiver shall not be granted to any person who is convicted of a felony sexual offense;

(i) All individuals licensed to practice under this chapter shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees who received their initial license to practice on or before July 1, 2007, shall submit by January 1, 2012, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

Section 5. Amend Chapter 20, Title 24 of the Delaware Code as follows:

§ 2008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as an occupational therapist or occupational therapy assistant under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(7) Shall not have been convicted of a felony sexual offense.

(8) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Occupational Therapy Practice shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed to practice occupational therapy until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section.

(d) All individuals licensed to practice occupational therapy in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

Section 6. Amend §2017, Title 24 of the Delaware Code as follows:

(e) The Board shall permanently revoke the license to practice occupational therapy of a person who is convicted of a felony sexual offense

Section 7. Amend §2107, Title 24 of the Delaware Code as follows:

§ 2107. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as an optometrist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) Has not been convicted of a felony sexual offense.

(7) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement for the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. §534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Optometry shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed as an optometrist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to section 2113(a)(8).

(d) All individuals licensed to practice optometry in this State shall be required to be fingerprinted by the State Bureau of Investigation, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

Section 8. Amend Chapter 21, Title 24 of the Delaware Code as follows:

§2115. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in § 2113 of this title applies to a practitioner regulated by this chapter:

(7) The Board shall permanently revoke the license to practice optometry of a person who is convicted of a felony sexual offense.

Section 9. Amend Chapter 26, Title 24 of the Delaware Code as follows:

§2606. Qualifications of applicant; foreign-trained applicants; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(7) Shall not have been convicted of a felony sexual offense.

(8) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Physical Therapists and Athletic Trainers shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be certified to physical therapy or athletic training until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be certified by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section;

(e) All individuals licensed to practice physical therapy or athletic training in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§ 2616. Grounds for refusal; suspension or revocation of license or registration; penalties for violations of chapter.

(a) The Board, after due notice and hearing as provided in rules and regulations promulgated by the Board, may refuse to license or register any applicant or may refuse to renew the license or registration of any person or may suspend or revoke the license or registration of any licensed or registered person who:

(9) The Board shall permanently revoke the certificate to practice physical therapy or athletic training of a person who is convicted of a felony sexual offense.

Section 10. Amend Chapter 30, Title 24 of the Delaware Code as follows:

§3032. Qualifications of applicant.

(d) All individuals licensed as a licensed professional counselor of mental health in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§ 3044. Qualifications of applicant.

(d) All individuals licensed as a chemical dependency professional in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§ 3052. Qualifications of applicant.

(d) All individuals licensed as a marriage and family therapist in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check pursuant to paragraph (a)(10) of this section.

Section 11. Amend Chapter 35, Title 24 of the Delaware Code as follows:

§ 3513. Issuance and renewal of licenses; registration.

(d) All individuals licensed under this chapter shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check

Section 12. Amend Chapter 37, Title 24 of the Delaware Code as follows:

§ 3708. Qualifications of applicant; report to Attorney General; judicial review.

(b) All applicants shall meet the following conditions:

(4) Shall not have been convicted of a felony sexual offense;

(5) Shall submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed as a speech/language pathologist, audiologist or hearing aid dispenser until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (b)(3) of this section.

(e) All individuals licensed to practice speech/language pathology, audiology or hearing aid dispensing in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2016, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

§3716. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in § 3715 of this title applies to a practitioner regulated by this chapter:

(7) The Board shall permanently revoke the license to practice speech/language pathology, audiology or hearing aid dispensing of a person who is convicted of a felony sexual offense.

Section 13. Amend Chapter 39, Title 24 of the Delaware Code as follows:

§ 3907. Qualifications of applicant; report to Attorney General; judicial review.

(d) All individuals licensed as a clinical social worker in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit by January 1, 2013, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check.

Section 14. Amend Section 2541, Title 24 of the Delaware Code as follows:

(b) An applicant may not be licensed until its key personnel submit fingerprints and other necessary information in order to obtain a report of the individuals' entire criminal history record from the State Bureau of Identification and from the Federal Bureau of Investigation pursuant to Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C § 534). If the applicant's key personnel do not have a criminal history record, the applicant shall cause to be submitted a statement from each agency that the agency has no record of criminal history information relating to the individual. The State Bureau of Identification shall be the intermediary for the purpose of this subsection and the Board of Pharmacy, or its designee, shall be the screening

point for the receipt of the federal criminal history record. The applicant is responsible for the required fee, if any, for obtaining the records.

Approved June 30, 2014