**South Carolina General Assembly**

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**H. 4826**

**STATUS INFORMATION**

General Bill

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Summary: Department of Labor, Licensing and Regulation Oversight Recommendation Implementation Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/14/2020 House Introduced and read first time ([House Journal‑page 119](file:///h:\hj\20200114.docx))

1/14/2020 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 119](file:///h:\hj\20200114.docx))

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**VERSIONS OF THIS BILL**

[1/14/2020](file:///p:\pprever\2019-20\4826_20200114.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION OVERSIGHT RECOMMENDATION IMPLEMENTATION ACT, TO AMEND SECTION 40‑1‑40, RELATING TO BOARD OF PROFESSIONS AND OCCUPATIONS ADMINISTERED BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO INCLUDE AND REMOVE VARIOUS BOARDS ADMINISTERED BY THE DEPARTMENT; TO AMEND SECTION 40‑1‑50, RELATING TO THE GENERAL AUTHORITY OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO CLARIFY THAT THE DEPARTMENT HAS SOLE AUTHORITY TO HIRE AGENCY EMPLOYEES, AND TO REMOVE CERTAIN REPORTING REQUIREMENTS; TO AMEND SECTION 40‑1‑70, AS AMENDED, RELATING TO THE POWERS AND DUTIES OF PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS, SO AS TO CLARIFY THAT THE BOARDS ARE AUTHORIZED TO ADVISE AND RECOMMEND ACTION TO THE DEPARTMENT CONCERNING THE DEVELOPMENT OF STATUTORY REVISIONS AND OTHER CERTAIN ADMINISTRATIVE MATTERS; TO AMEND SECTION 40‑1‑90, RELATING TO DISCIPLINARY PROCEEDINGS APPLICABLE TO THE BOARDS, SO AS TO INCLUDE PROVISIONS CONCERNING SERVICE OF NOTICE TO RESPONDENTS IN THESE PROCEEDINGS; TO AMEND SECTION 40‑1‑120, RELATING TO SANCTIONS FOR DISCIPLINARY VIOLATIONS, SO AS TO PROVIDE NONDISCIPLINARY LETTERS OF CAUTION ARE NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT; TO AMEND SECTION 40‑1‑150, RELATING TO VOLUNTARY SURRENDERS OF LICENSES ISSUED BY THE BOARDS, SO AS TO PROVIDE THESE VOLUNTARY SURRENDERS ARE PUBLIC INFORMATION, AND TO PROVIDE THE ALTERNATIVE OF THE VOLUNTARY PERMANENT RELINQUISHMENT OF THE AUTHORIZATION TO PRACTICE; TO AMEND SECTION 40‑8‑160, RELATING TO THE DISSEMINATION OF DISCIPLINARY ORDERS ISSUED BY THE PERPETUAL CARE CEMETERY BOARD, SO AS TO PROVIDE SUCH DISSEMINATION MAY BE EMAILED AS AN ALTERNATIVE TO DISSEMINATING THEM BY MEANS OF TRADITIONAL MAIL; TO AMEND SECTION 40‑9‑31, RELATING TO PROCEDURES FOR REVOKING OR SUSPENDING LICENSES ISSUED BY THE BOARD OF CHIROPRACTIC EXAMINERS, SO AS TO PROVIDE THE OFFICE OF GENERAL COUNSEL OF THE DEPARTMENT SHALL PERFORM CERTAIN RELATED FUNCTIONS ON BEHALF OF THE STATE, AND TO REMOVE AN AUTOMATIC STAY PROVISION; TO AMEND SECTION 40‑15‑180, RELATING TO FORMAL ACCUSATIONS ARISING FROM COMPLAINTS AGAINST LICENSEES OF THE BOARD OF DENTISTRY, SO AS TO PROVIDE ALL SUCH COMPLAINTS MUST BE SIGNED BY ATTORNEYS REPRESENTING THE STATE INSTEAD OF OFFICERS OF THE BOARD; TO AMEND SECTION 40‑29‑60, RELATING TO HEARINGS ON COMPLAINTS AGAINST LICENSEES OF THE MANUFACTURED HOUSING BOARD, SO AS TO PROVIDE THAT THE FULL BOARD MAY CONDUCT HEARINGS UPON ISSUANCE OF FORMAL COMPLAINTS BY THE STATE, AND TO PROVIDE THE FULL BOARD MAY IMPOSE SANCTIONS ALLOWED UNDER STATE LAW; TO AMEND SECTION 40‑37‑20, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF OPTOMETRY, SO AS TO REMOVE OBSOLETE DEFINITIONS; TO AMEND SECTION 40‑37‑420, RELATING TO PROVISIONS CONCERNING THE TRANSITION FROM PREVIOUS LICENSING REQUIREMENTS, SO AS TO REMOVE OBSOLETE LANGUAGE; TO AMEND SECTION 40‑55‑130, RELATING TO FORMAL ACCUSATIONS ARISING FROM COMPLAINTS AGAINST LICENSEES OF THE BOARD OF EXAMINERS IN PSYCHOLOGY, SO AS TO PROVIDE ALL SUCH COMPLAINTS MUST BE SIGNED BY ATTORNEYS REPRESENTING THE STATE INSTEAD OF OFFICERS OF THE BOARD; TO AMEND SECTION 40‑75‑90, RELATING TO FORMAL ACCUSATIONS ARISING FROM COMPLAINTS AGAINST LICENSEES OF THE BOARD OF EXAMINERS FOR THE LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHOEDUCATIONAL SPECIALISTS, SO AS TO PROVIDE ALL SUCH COMPLAINTS MUST BE SIGNED BY ATTORNEYS REPRESENTING THE STATE INSTEAD OF OFFICERS OF THE BOARD; TO AMEND SECTION 41‑10‑30, RELATING TO THE REQUIREMENT THAT EMPLOYERS PROVIDE EMPLOYEES WITH ITEMIZED STATEMENTS SHOWING GROSS PAY AND DEDUCTIONS FOR EACH PAY PERIOD, SO AS TO PROVIDE EMPLOYERS ONLY ARE REQUIRED TO PROVIDE EMPLOYEES ACCESS TO SUCH INFORMATION; TO AMEND SECTION 41‑10‑40, RELATING TO THE VARIOUS ACCEPTABLE MEDIUMS OF PAYMENT OF WAGES, SO AS TO INSTEAD PROVIDE SUCH PAYMENTS MUST BE MADE IN LAWFUL CURRENCY OF THE UNITED STATES; TO AMEND SECTION 41‑13‑25, RELATING TO PENALTIES FOR VIOLATIONS OF CHILD LABOR REGULATIONS, SO AS TO PROVIDE SUCH PENALTIES FOR FIRST OFFENSES MUST BE THE ISSUANCE OF A WRITTEN WARNING OR A CERTAIN FINE; TO AMEND SECTION 41‑15‑220, RELATING TO CERTAIN HEARING NOTICE REQUIREMENTS FOR THE PROMULGATION OF REGULATIONS CONCERNING OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY THE DEPARTMENT, SO AS TO PROVIDE SUCH NOTICE MAY BE PUBLISHED IN LOCAL NEWSPAPERS OR BY ELECTRONIC MEANS; TO AMEND SECTION 41‑15‑260, RELATING TO WARRANTS FOR OCCUPATIONAL HEALTH AND SAFETY INSPECTIONS, SO AS TO MAKE CERTAIN REMEDIES FOR NONCOMPLIANCE WITH SUCH WARRANTS; TO AMEND SECTION 41‑15‑270, RELATING TO THE AUTHORITY OF THE DEPARTMENT TO CONDUCT CERTAIN DISCOVERY IN THE COURSE OF OCCUPATIONAL HEALTH AND SAFETY INSPECTIONS, SO AS TO PROVIDE REMEDIES FOR NONCOMPLIANCE; AND TO AMEND SECTION 41‑15‑280, RELATING TO CITATIONS ISSUED BY THE DEPARTMENT FOR VIOLATIONS OF OCCUPATIONAL HEALTH AND SAFETY RULES AND REGULATIONS, SO AS TO REQUIRE NOTICE OF PENALTIES TO EMPLOYERS, AND TO TOLL A STATUTE OF LIMITATIONS WHEN EMPLOYER ACTIONS OR OMISSIONS CONCEALED THE EXISTENCE OF VIOLATIONS; AND TO REPEAL SECTION 41‑15‑300 RELATING TO THE REQUIREMENT THAT THE DIRECTOR PROVIDE NOTICE OF PENALTIES TO EMPLOYERS BY MEANS OF CERTIFIED MAIL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Department of Labor, Licensing and Regulation Oversight Recommendation Implementation Act.”

SECTION 2. Section 40‑1‑40(B) of the 1976 Code is amended to read:

“(B) The following boards and the professions and occupations they license or otherwise regulate must be administered by the Department of Labor, Licensing and Regulation pursuant to this article:

(1) Board of Accountancy;

(2) Board of Architectural Examiners;

(3) Athletic Commission;

(4) Auctioneers Commission;

(5) Board of Barber Examiners;

~~Accessibility Committee of the Building Codes Council~~

(6) Building Code Council;

(7) Board of Chiropractic Examiners;

(8) Contractors’ Licensing Board;

(9) Board of Cosmetology;

(10) Board of Dentistry;

(11) Panel for Dietetics;

(12) Board of Registration for Professional Engineers and ~~Land~~ Surveyors ~~Board~~;

(13) Environmental Certification Board;

(14) Board of Registration for Foresters;

(15) Board of Funeral Service;

(16) Board of Registration for Geologists;

(17) Board of Landscape Architectural Examiners;

(18) Liquefied Petroleum Gas Board;

(19) Manufactured Housing Board;

(20) Panel for Massage/Bodywork;

(21) Board of Medical Examiners;

~~Modular Buildings Board of Appeals~~

(22) Board of Nursing;

(23) Board of Long Term Health Care Administrators ~~Board~~;

(24) Board of Occupational Therapy;

(25) Board of Examiners in Opticianry;

(26) Board of Examiners in Optometry;

(27) Perpetual Care Cemetery Board;

(28) Board of Pharmacy;

(29) Board of Physical Therapy Examiners;

~~Pilotage Commission~~

(30) Commissioners of Pilotage for the Lower Coastal Area;

(31) Commissioners of Pilotage for the Upper Coastal Area;

(32) Board of Podiatry Examiners;

(33) Board of Examiners for the Licensure of Professional Counselors, ~~and Marital~~ Marriage and Family Therapists, Addiction Counselors, and Psychoeducational Specialists;

(34) Board of Examiners in Psychology;

(35) Board of Pyrotechnic Safety;

(36) Real Estate Appraisers Board;

(37) Real Estate Commission;

(38) Residential Builders Commission;

(39) Board of Social Work Examiners;

(40) Soil Classifiers Advisory Council;

(41) Board of Examiners in Speech‑Language Pathology and Audiology; and

(42) Board of Veterinary Medical Examiners.”

SECTION 3. Section 40‑1‑50(A) of the 1976 Code is amended to read:

“(A)(1) The department is responsible for all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the boards and commissions enumerated in Section 40‑1‑40.

(2) The director shall employ and supervise personnel necessary to effectuate the provisions of this article for each board provided for in Section 40‑1‑40. ~~When hiring a person charged with evaluating or administering professional qualifications or licensing standards, the director must select from a list of three candidates submitted by the appropriate licensing board. However, a candidate whose name is submitted to the director must be chosen from a list of all candidates found to be qualified by the Human Management Office of the department.~~ The authority to remove an employee of the department is vested with the Director of the Department of Labor, Licensing and Regulation.

(3) The director shall establish compensation for personnel assigned to the boards as the director considers necessary and appropriate for the administration of this article. Compensation and necessary expenses incurred in the performance of duties by personnel assigned to the board must be paid as an expense of the board in the administration of this article.

(4) The director shall enter into contracts and agreements the director considers necessary or incidental to carry out the provisions of this article to provide for all services required by each board.

(5) Board members must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members of the board. The director, within the limits set by the Comptroller General, shall establish reimbursement standards for travel and other expenses incurred by a board member in the performance of the board member’s official duties. Compensation and reimbursements paid to board members under this subsection must be paid as an expense of the board in the administration of this article and the board’s chapter and must be paid from the fees received by the board pursuant to the provisions of this article or in a manner prescribed by the Department of Labor, Licensing and Regulation.

(6) The director shall maintain a separate account for funds collected on behalf of a board and shall indicate the expenses allotted to the board. The director shall adjust fees for revenue‑funded boards in accordance with Section 40‑1‑50(D).

(7) ~~The director annually shall prepare a report to the Governor and the General Assembly indicating those regulated trades, occupations, and professions that do not meet the spirit and intent of Section 40‑1‑10.~~

The director may perform any additional administrative functions requested by the boards.”

SECTION 4. Section 40‑1‑70 of the 1976 Code, as last amended by Act 197 of 2018, is further amended to read:

“Section 40‑1‑70. The powers and duties of regulatory boards include, but are not limited to:

(1) determining the eligibility of applicants for examination and licensure;

(2) examining applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor for the preparation, administration, or grading of the examination;

(3) establishing criteria for issuing, renewing, and reactivating the authorizations to practice of qualified applicants, including the issuance of active or permanent, temporary, limited, and inactive licenses, or other categories as may be created;

(4) adopting a code of professional ethics appropriate to the profession or occupation which it licenses or regulates;

(5) evaluating and approving continuing education course hours and programs;

(6) conducting hearings on alleged violations of this article and regulations promulgated under this article;

(7) resolving consumer complaints, where appropriate and possible;

(8) disciplining persons licensed under this article in a manner provided for in this article;

(9) promulgating regulations which have been submitted to the director, at least thirty days in advance of filing with Legislative Council as required by Section 1‑23‑30;

(10) filing claims against any surety bond on a form approved by a board and in accordance with procedures established by the board in regulation~~.~~; and

(11) advising and recommending action to the department in the development of statutory revisions and other matters that the department requests regarding the administration of a practice act in order to protect the health, safety, and welfare of the public.”

SECTION 5. Section 40‑1‑90 of the 1976 Code is amended to read:

“Section 40‑1‑90. (A) The results of an investigation must be presented to the board. If from these results it appears that a violation has occurred or that a licensee has become unfit to practice the profession or occupation, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40‑1‑120. No disciplinary action may be taken unless the matter is presented to and voted upon by the board. The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section.

(B) For the purpose of a proceeding under this article, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to an administrative law judge for an order requiring the person to comply with the subpoena.

(C) Service of notice is conclusively presumed thirty days after mailing by first class or certified mail to the respondent to the last address provided to a board by the respondent.

(D) When a provision is made for the service of a notice, order, report, or other paper or copy of these, upon a person in connection with a proceeding, service may be made upon counsel of record for the person, either personally or by first class or certified mail.

(E) Service of notice upon a respondent who cannot be found at the last known address provided by the respondent or after due diligence cannot be found at his usual abode or place of business in this State or outside of the State, may be made by leaving with the director or his designee a copy of the notice and any accompanying documents along with proof of attempted service at the last known address. This provision does not remove the obligation of the licensee to inform a board of a proper address for communication by mail.”

SECTION 6. Section 40‑1‑120(D) of the 1976 Code is amended to read:

“(D) Upon a determination by a board that discipline is not appropriate, the board may issue a nondisciplinary letter of caution, and this letter of caution is not subject to disclosure under the Freedom of Information Act.”

SECTION 7. Section 40‑1‑150 of the 1976 Code is amended to read:

“Section 40‑1‑150. (A) A licensee who is under investigation for a violation provided for in Section 40‑1‑110 or the licensing act of the applicable board for which disciplinary action may be taken may voluntarily surrender authorization to practice to the board. The voluntary surrender invalidates the authorization to practice at the time of its ~~relinquishment~~ surrender, and no person whose authorization to practice is surrendered voluntarily may practice the profession or occupation unless the board, by a majority vote, reinstates the license. A person practicing a regulated profession or occupation during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this article. The surrender of an authorization to practice may not be considered an admission of guilt in a proceeding under this article and does not preclude the board from taking disciplinary action against the licensee as provided for in this article or the board’s licensing act including, but not limited to, imposing conditions that must be met before the board reinstates the license. A voluntary surrender of a license is public information.

(B) A licensee also may decide voluntarily to permanently relinquish the authorization to practice to the board. This relinquishment invalidates the authorization to practice at the time of its relinquishment, and no person whose authorization to practice is permanently relinquished may practice the profession or occupation at any time in the future. A person practicing a regulated profession or occupation after such a permanent relinquishment is considered an illegal practitioner and is subject to the penalties provided by this article. The permanent relinquishment of an authorization to practice stops disciplinary action before a board concerning the relinquished license, and is a public document that must be made available on the website of the department.”

SECTION 8. Section 40‑8‑160 of the 1976 Code is amended to read:

“Section 40‑8‑160. Upon a determination by the board that one or more of the grounds for disciplining a licensee exist, as provided for in Sections 40‑8‑150 and 40‑1‑110, the board may, in addition to the actions provided for in Section 40‑1‑120, impose a fine not to exceed ten thousand dollars. All final orders which are made public must be mailed or emailed to local and state professional associations, all firms and facilities with which the respondent is associated, states where the person has a license known to the board, and to any other source to which the board wishes to furnish this information.”

SECTION 9. Section 40‑9‑31(A) of the 1976 Code is amended to read:

“(A) An action of the board relating to the revocation or suspension of a license or other action restricting a license or disciplining a licensee must be taken only after a written complaint of misconduct has been filed with the board in accordance with regulations promulgated by the board. After receiving a complaint a closed hearing must be held by an examiner selected by the board after thirty days’ notice to the complainant and the licensee or their counsel. The ~~Attorney General’s office, upon request of the board,~~ Office of General Counsel shall present the case ~~for the complainant~~ on behalf of the State before the examiner. Upon receipt of the examiner’s report, the board shall notify the complainant and the licensee and the licensee’s counsel of the time and place at which the board will consider the report for the purpose of determining its action on the report; the notice must be given not less than ten days before the meeting. The ~~complainant and the~~ licensee and the licensee’s counsel have the right to appear before the board at the meeting, submit briefs, and be heard in oral argument in opposition to or in support of the recommendations of the board. The ~~Attorney General’s office~~ State also has the right to appear before the board and submit briefs and be heard in oral argument. Upon its final review the board may either dismiss the complaint or find that the licensee is guilty of misconduct meriting sanction. The board shall file a final certified report of the proceedings before it with the secretary of the board who shall notify the complainant and the licensee and the licensee’s counsel of this action. A decision of the board to revoke, suspend, or restrict a license or to limit or discipline a person engaging in the practice of chiropractic requires a majority vote of the membership of the board. The board’s decision may be appealed to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, which shall hear the matter upon petition filed by the licensee with an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, and served upon the secretary of the board within ten days from the date of delivery of the board’s decision to the licensee. A decision by the board to revoke, suspend, or restrict a license or to limit or discipline a licensee or one who is found to be practicing chiropractic without complying with this chapter is not effective until the tenth day following the date of delivery of a written copy of the decision to the licensee. Service of a petition for a review of the decision ~~stays~~ does not stay the board’s decision pending completion of the appellate process, unless and until an administrative law judge grants a petition for stay or the parties agree to a stay.”

SECTION 10. Section 40‑15‑180 of the 1976 Code is amended to read:

“Section 40‑15‑180. (1) The board shall receive complaints by ~~any~~ a person against a licensed dentist or dental hygienist, or against a registered dental technician, and shall require the same to be submitted to it in the form of an affidavit. Upon receipt of a complaint, the director, ~~or such other person as the president may designate~~, or his designee, shall investigate the allegations of the complaint and make a report to the board concerning ~~his~~ the investigation. If the board ~~shall~~ then ~~desire~~ desires to proceed further it may~~, in its discretion,~~ file a formal accusation charging the dentist, dental hygienist, or dental technician with a violation of a provision of this chapter. The accusation ~~shall~~ must be signed by the ~~president or vice‑president on behalf of the board~~ attorney representing the State who has reviewed the charges against the licensee. When the accusation is filed, and the board ~~shall set~~ sets a date for a hearing ~~thereon~~, the ~~director of the board~~ State shall notify the accused in writing, not less than thirty days prior to the hearing date, of the date fixed for the hearing and a true copy of the accusation ~~shall~~ must be attached to the notice. The accused may appear and show cause why his license should not be suspended or revoked. The accused ~~shall have~~ has the right to ~~be confronted with~~ confront and ~~to~~ cross‑examine the witnesses against him and ~~shall have~~ has the right to counsel. In instances where a board member has made the initial investigation of a complaint, he ~~shall~~ may not sit with the board at the hearing of ~~such~~ the complaint.

(2) ~~Such~~ The notice ~~shall~~ must be sent to the accused by registered mail, return receipt requested, directed to his last mailing address furnished the board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authorities’ stamp thereon showing the same ‘Refused’, ~~shall be~~ is prima facie evidence of service of ~~such~~ notice.

(3) All investigations and proceedings undertaken under the provisions of this chapter ~~shall be~~ are confidential.

(4) Every communication, whether oral or written, made by or on behalf of ~~any~~ a complainant to the board or its agents, or ~~any~~ a hearing panel or member ~~thereon~~ of the hearing panel, pursuant to this ~~act~~ section whether by way of complaint or testimony, ~~shall be~~ is privileged, and no action or proceeding, civil or criminal, ~~shall~~ may lie against any such person, firm, or corporation by or on whose behalf such communication ~~shall have been~~ is made~~, by reason thereof~~.”

SECTION 11. Section 40‑29‑60 of the 1976 Code is amended to read:

“(A) A licensee who violates a provision of this chapter or regulation pertaining to warranty requirements, deposits, or recision of contracts shall appear upon citation by the board before the full board or an agent of the board appointed to act as administrative hearing officer for a hearing. Upon the finding of a violation~~,~~:

(1) if the hearing is heard by a hearing officer, the hearing officer:

(~~1~~a) may for a first offense, impose a fine of not more than five hundred dollars or suspend the license for not more than thirty days, or both;

(~~2~~b) may for a second offense, impose a fine of not more than one thousand dollars or suspend the license for not more than sixty days, or both;

(~~3~~c) may for a third offense, impose a fine of not more than two thousand dollars or suspend the license for not more than ninety days, or both;

(~~4~~d) shall for a fourth or subsequent offense, present the violation to the board for disciplinary action pursuant to this chapter; and

(2) if the hearing is held by the full board, the board may impose sanctions allowed by law.

(B)(1) The licensee must be given at least thirty days’ notice of the time and place of the hearing and of the charges. A person aggrieved by a ruling of the administrative hearing officer may appeal to the board within fifteen days after the ruling. The request for appeal must be in writing. The board shall state in writing its findings and determinations in its decision in the matter on appeal.

(2) Appeals from ~~the~~ a decision of the board may be made to an administrative law judge pursuant to the Administrative Procedures Act.

(C) A licensee who violates any provision of this chapter or regulations promulgated by its authority or accumulates three or more warranty or contract violations which have not been corrected within the prescribed time upon citation of the board shall appear before the board for a hearing. The licensee must be given at least thirty days’ notice of the time and place of the hearing and of the charges. A person aggrieved by a ruling of the board may appeal to an administrative law judge pursuant to the Administrative Procedures Act. Upon the finding of such a violation, the board may:

(1) impose a fine of not more than two thousand five hundred dollars or suspend or revoke the license or any combination thereof; and

(2) order an increase in surety bonding or other approved security requirements.

(D) The board may conduct hearings and presentations of views consistent with regulations adopted by the United States Department of Housing and Urban Development and adopt regulations necessary to carry out this function.”

SECTION 12. Section 40‑37‑20 of the 1976 Code is amended to read:

“Section 40‑37‑20. As used in this chapter:

(1) ‘Board’ means the South Carolina Board of Examiners in Optometry~~;~~.

(2) ‘Contact lens’ means any device placed in contact with the eye for the purpose of correcting vision, therapy, or cosmetic alteration~~;~~.

(3) ‘Direct supervision’ means supervision provided by a licensed optometrist who must:

(a) be present in the department or facility where the supervisee is performing services;

(b) be immediately available to assist the supervisee in the services being performed; and

(c) maintain continued involvement in appropriate aspects of each treatment~~;~~.

(4) ‘Optical supplies’ include, but are not limited to, contact lenses, ophthalmic lenses, ophthalmic frames~~;~~.

(5) ~~‘Basic certified optometrist’ means an optometrist without education or training in the use of pharmaceutical agents and licensed to practice optometry without the use of pharmaceutical agents;~~

~~(6)~~ ~~‘Diagnostic certified optometrist’ means an optometrist educated and trained in the use of pharmaceutical agents for diagnostic purposes only and licensed to practice optometry in conjunction with the use of pharmaceutical agents for diagnostic purposes only;~~

~~(7)~~ ‘Therapeutic certified optometrist’ means an optometrist educated and trained in the use of pharmacological agents for diagnostic and therapeutic purposes and licensed to practice optometry with the use of pharmacological agents for diagnostic and therapeutic purposes.”

SECTION 13. Section 40‑37‑420 of the 1976 Code is amended to read:

“Section 40‑37‑420. ~~(A) An optometrist licensed for basic practice of optometry as of July 1, 2005, may continue to practice under the conditions provided for in this section, and regulations promulgated under this chapter, as of July 1, 2005, until September 30, 2008. A basic certified optometrist may:~~

~~(1) employ any means, other than the use of drugs, for the measurement of the powers of vision or the adaptation of lenses for the aid of vision;~~

~~(2) in the sale of spectacles, eyeglasses, or lenses, use lenses in the testing of the eye therefor other than lenses actually sold;~~

~~(3) examine the human eye by the employment of any subjective or objective physical means, without the use of drugs, to ascertain the presence of defects or abnormal conditions for the purpose of relieving them by the use of lenses, prisms, or other physical or mechanical means;~~

~~(4) practice orthoptics or prescribe or fit contact lenses;~~

~~(B)(1) An optometrist licensed for diagnostic practice of optometry as of July 1, 2005, may continue to practice under the conditions provided for in this section, and regulations promulgated under this chapter, as of July 1, 2005, until September 30, 2008, if the optometrist has:~~

~~(a) complied with the educational requirements promulgated by the board; and~~

~~(b) passed a pharmaceutical agent examination which must be approved by the board.~~

~~(2) Notwithstanding any other provision of law, a diagnostically certified optometrist may purchase, possess, and administer pharmaceutical agents including pharmaceutical agents for topical application, other than controlled substances as defined in Section 44‑53‑110, for diagnostic purposes in the practice of optometry. For the purposes of this subsection, “pharmaceutical agent” means: anesthetics, mydriatics, cycloplegics, miotics, dyes, and over‑the‑counter drugs. Miotics may be used only pursuant to the following restrictions:~~

~~(a) miotics may not be used for treatment purposes;~~

~~(b) miotics may be used only for emergency purposes involving the buildup of pressure within the eyeball and immediately upon this emergency use, the optometrist shall refer the patient to an ophthalmologist and file with the South Carolina Board of Examiners in Optometry a written report of the incident in the manner prescribed by the board by regulation; and the South Carolina Board of Examiners in Optometry shall ensure that the quality and quantity of miotics possessed by a diagnostically certified optometrist is consistent with the use of miotics only for emergency purposes involving the buildup of pressure within the eyeball.~~

~~(C)~~ After September 30, 2008, no person may practice as an optometrist in this State if the person has not met all requirements of this chapter in effect at that time and as may be amended in the future. ~~A basic and diagnostically licensed optometrist who wishes to be recertified after September 30, 2008, shall conform to the licensing requirements for a therapeutically‑certified optometrist as provided for in regulation.~~

~~(D) A licensee under this chapter must indicate his or her category of licensure following his or her name or signature on all professional documents.~~”

SECTION 14. Section 40‑55‑130(A) of the 1976 Code is amended to read:

“(A) The board shall receive complaints by any person against a licensed psychologist. Upon receipt of a complaint the chairman or ~~the chairman’s~~ his designee shall investigate the allegations of the complaint and make a report to the board concerning the investigation. If the board proceeds further, it may file a formal accusation charging the psychologist with a violation of a provision of this chapter. The accusation must be signed by the ~~chairman or other officer on behalf of the board~~ attorney representing the State who has reviewed the charges against the licensee. When the accusation is filed, and the board sets a date for a hearing, the ~~chairman~~ State shall notify the accused in writing, not less than thirty days before the hearing date, of the date fixed for the hearing and a true copy of the accusation must be attached to the notice. The accused may appear and show cause why his license should not be suspended, revoked, or restricted. The accused has the right to be confronted with and to cross‑examine the witnesses against him and has the right to counsel. In instances where a board member has made the initial investigation of a complaint, the board member shall not sit with the board at the hearing of that complaint.”

SECTION 15. Section 40‑75‑90(A) of the 1976 Code is amended to read:

“(A) The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing specifying the exact charge or charges and to be signed by the complainant. Upon receipt of a complaint, the board administrator shall refer the complaint to a designated investigator of the ~~South Carolina Department of Labor, Licensing and Regulation~~ department, who shall investigate the allegations in the complaint and make a report to the board concerning the investigation. If the board desires to proceed ~~further~~, it may file a formal accusation charging the licensee with a violation of this chapter or a regulation promulgated pursuant to this chapter. The accusation must be signed by the ~~president or vice president on behalf of the board~~ attorney representing the State who has reviewed the charges against the licensee. When the accusation is filed and the board has set a date and a place for a hearing on the accusation, the ~~administrator~~ State shall notify the accused in writing not less than thirty days prior to the hearing and a copy of the accusation must be attached to the notice. The notice must be served personally or sent to the accused by registered mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.”

SECTION 16. Section 41‑10‑30(C) of the 1976 Code is amended to read:

“(C) Every employer shall furnish each employee with access to an itemized statement showing his gross pay and the deductions made from his wages for each pay period.”

SECTION 17. Section 41‑10‑40(A) of the 1976 Code is amended to read:

“(A) Every employer in the State shall pay all wages due in lawful United States ~~money or by negotiable warrant or check bearing even date with the payday~~ currency.”

SECTION 18. Section 41‑13‑25(A) of the 1976 Code is amended to read:

“(A) As determined by the Director of the Department of Labor, Licensing and Regulation or the director’s designee, an employer who violates a child labor regulation promulgated pursuant to this chapter must be given a written warning of the violation for a first offense or ~~may be~~ fined not more than one thousand dollars. For second or subsequent offenses, an employer may be fined not more than five thousand dollars for each offense. The director shall determine the amount of the penalty pursuant to procedures promulgated by the department in regulation for assessing penalties under this chapter. These regulations shall include the method for determining penalties based on the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations of the employer.”

SECTION 19. Section 41‑15‑220(A) of the 1976 Code is amended to read:

“(A) Before the promulgation, modification, or revocation of a regulation issued pursuant to this article, the ~~commissioner~~ director shall conduct a public hearing at which all interested persons, including employer and employee representatives, must be provided an opportunity to appear and present their comments orally or written, or both. Notice of the hearing must be published in the State Register and may be published in at least three newspapers, at least one of which has circulation in upper, lower, and middle South Carolina, or through electronic means, once a week for three weeks. The notice must contain the date, time, and place of the hearing and a brief description of the proposed regulation.”

SECTION 20. Section 41‑15‑260(B)(3) of the 1976 Code is amended to read:

“(3) A warrant issued pursuant to this section shall be served within ten days and returned within thirty days of its date of issue. A person authorized by the Director of the Department of Labor, Licensing and Regulation or his designee may seek contempt, sanctions, or both, in the event of noncompliance with a warrant. Assistance also may be sought by law enforcement during the service of the warrant. The circuit judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.”

SECTION 21. Section 41‑15‑270 of the 1976 Code is amended to read:

“(A) The Director of the Department of Labor, Licensing, and Regulation or his designee may subpoena witnesses, documents, take and preserve testimony, examine witnesses, administer oaths ~~and, upon proper presentation of credentials to the owner, manager or agent of the employer, enter any place, site or area where employment comes under the jurisdiction of the Commissioner and interrogate any person employed therein or connected therewith or the proper officers of a corporation or employer~~, or he may file a written or printed list of interrogatories and require full and complete answers to them to be returned under oath within fifteen days of the receipt of such list. In the event of noncompliance, the director or his designee may seek contempt, sanctions, or both by the circuit judge having jurisdiction where the inspection and investigation is being conducted.

(B) Upon proper presentation of credentials to the owner, manager, or agent of the employer, the director or his designee may enter any place, site, or area where employment comes under the jurisdiction of the director and interrogate any person employed there or connected with it, or the proper officers of a corporation or employer. In the event of noncompliance, the director or his designee may seek a warrant pursuant to the provisions in Section 41‑15‑260.”

SECTION 22. Section 41‑15‑280 of the 1976 Code is amended to read:

“Section 41-15-280. (A) If, upon inspection or investigation, the ~~Commissioner~~ director or his authorized representative ascertains that an employer has violated a requirement of any rule or regulation promulgated pursuant to this article, he shall with reasonable promptness issue a citation and notification of penalty to the employer. Each citation ~~shall~~ and notification of penalty must be in writing and ~~shall~~ must describe with particularity the nature of the violation or violations, including a reference to any statute or rule or regulation alleged to have been violated. The citation ~~shall~~ and notification of penalty must fix a reasonable time for the abatement of the violation. The ~~Commissioner~~ director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health. Such notice ~~shall have~~ has the effect of a recommendation to the employer; compliance will not be required.

(B) Each citation and notification of penalty issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the ~~Commissioner~~ director, at or near each place a violation referred to in the citation occurred.

(C) No citation may be issued under this section after the expiration of six months following the occurrence of any violation. When the actions or omissions of the employer or its designee conceal the existence of the violation or conditions leading to the violation, this limitation is tolled until such time as the agency learns or could have learned of the violation or conditions.”

SECTION 23. Section 41‑15‑300 of the 1976 Code is repealed.

SECTION 24. This act takes effect upon approval by the Governor.

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