

HOUSE BILL 407

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor,
Licensing and Regulation)**

Introduced and read first time: January 29, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Public Accountancy – Disciplinary Authority**

3 FOR the purpose of clarifying the authority of the State Board of Public Accountancy
4 to impose disciplinary action against an applicant or licensee as a result of a
5 sanction by a regulatory entity established by law; authorizing the Board to
6 impose a certain civil penalty against permit holders under certain
7 circumstances; and generally relating to the disciplinary authority of the State
8 Board of Public Accountancy.

9 BY repealing and reenacting, with amendments,
10 Article – Business Occupations and Professions
11 Section 2–315 and 2–410
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2009 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Business Occupations and Professions**

17 2–315.

18 (a) (1) Subject to the hearing provisions of § 2–317 of this subtitle, the
19 Board, on the affirmative vote of a majority of its members, may deny a license to any
20 applicant, reprimand any licensee, or suspend or revoke a license if the applicant or
21 licensee:

22 (i) fraudulently or deceptively obtains or attempts to obtain a
23 license for the applicant or licensee or for another;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (ii) fraudulently or deceptively uses a license;
- 2 (iii) under the laws of the United States or of any state, is
3 convicted of:
- 4 1. a felony; or
- 5 2. a misdemeanor that is directly related to the fitness
6 and qualification of the applicant or licensee to practice certified public accountancy;
- 7 (iv) is guilty of fraud or other dishonesty in the practice of
8 accountancy;
- 9 (v) is guilty of gross negligence in the practice of accountancy;
- 10 (vi) violates any provision of Subtitle 6 of this title;
- 11 (vii) has had the right to practice as a certified public accountant
12 in another state denied, revoked, or suspended;
- 13 (viii) has been sanctioned in another state in a matter relating to
14 the practice of public accountancy;
- 15 (ix) has had the renewal of the right to practice as a certified
16 public accountant in another state denied for any cause other than failure to pay a
17 renewal fee;
- 18 (x) has had the right to practice as a certified public accountant
19 before any unit of the State or federal government revoked or suspended;
- 20 (xi) has been sanctioned by any unit of State or federal
21 government, **OR ANY REGULATORY ENTITY ESTABLISHED BY LAW**, for an act or
22 omission that directly relates to the fitness of the applicant or licensee to practice
23 public accountancy; or
- 24 (xii) violates a rule of professional conduct adopted by the Board.
- 25 (2) (i) Instead of or in addition to reprimanding the licensee or
26 suspending or revoking a license under this subsection, the Board may impose a
27 penalty not exceeding \$5,000 for each violation.
- 28 (ii) To determine the amount of the penalty imposed under this
29 subsection, the Board shall consider:
- 30 1. the seriousness of the violation;
- 31 2. the harm caused by the violation;

1 3. the good faith of the licensee; and

2 4. any history of previous violations by the licensee.

3 (3) The Board shall pay any penalty collected under this subsection
4 into the General Fund of the State.

5 (b) The Board shall consider the following facts in the granting, denial,
6 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
7 applicant or licensee is convicted of a felony or misdemeanor described in subsection
8 (a)(1)(iii) of this section:

9 (1) the nature of the crime;

10 (2) the relationship of the crime to the activities authorized by the
11 license;

12 (3) with respect to a felony, the relevance of the conviction to the
13 fitness and qualification of the applicant or licensee to practice certified public
14 accountancy;

15 (4) the length of time since the conviction; and

16 (5) the behavior and activities of the applicant or licensee before and
17 after the conviction.

18 (c) On suspension or revocation of a license, the holder shall surrender to the
19 Board the license certificate of the holder.

20 (d) At the end of a suspension period, the Board shall return to the licensee
21 the license certificate surrendered under this section.

22 2-410.

23 (a) Subject to the hearing provisions of § 2-412 of this subtitle, the Board, on
24 the affirmative vote of a majority of its members, may deny a permit to any applicant,
25 reprimand a permit holder, or suspend or revoke a permit:

26 (1) for any applicable ground under § 2-315 of this title;

27 (2) if the applicant or permit holder fraudulently or deceptively
28 obtains or attempts to obtain a permit;

29 (3) if the applicant or permit holder fraudulently or deceptively uses a
30 permit;

1 (4) if the applicant or permit holder fails to meet or continue to meet
2 the qualifications or requirements set forth under § 2-402 or § 2-403 of this subtitle;
3 or

4 (5) if the applicant or permit holder has a partner, member, or
5 corporate officer whose license has been suspended or revoked by the Board.

6 (b) On suspension or revocation of a permit, the holder shall surrender to the
7 Board the permit certificate of the holder.

8 (c) At the end of a suspension period, the Board shall return to the permit
9 holder the permit certificate surrendered under this section.

10 **(D) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT**
11 **HOLDER OR SUSPENDING OR REVOKING A PERMIT UNDER THIS SUBSECTION,**
12 **THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH**
13 **VIOLATION.**

14 **(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED**
15 **UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:**

16 **(I) THE SERIOUSNESS OF THE VIOLATION;**

17 **(II) THE HARM CAUSED BY THE VIOLATION;**

18 **(III) THE GOOD FAITH OF THE PERMIT HOLDER; AND**

19 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT**
20 **HOLDER.**

21 **(E) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS**
22 **SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2010.