

Chapter 152

(House Bill 407)

AN ACT concerning

State Board of Public Accountancy – Disciplinary Authority

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

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

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

Article – Business Occupations and Professions

2–315.

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

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

(ii) fraudulently or deceptively uses a license;

(iii) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice certified public accountancy;

(iv) is guilty of fraud or other dishonesty in the practice of accountancy;

(v) is guilty of gross negligence in the practice of accountancy;

(vi) violates any provision of Subtitle 6 of this title;

(vii) has had the right to practice as a certified public accountant in another state denied, revoked, or suspended;

(viii) has been sanctioned in another state in a matter relating to the practice of public accountancy;

(ix) has had the renewal of the right to practice as a certified public accountant in another state denied for any cause other than failure to pay a renewal fee;

(x) has had the right to practice as a certified public accountant before any unit of the State or federal government revoked or suspended;

(xi) has been sanctioned by any unit of State or federal government, **OR ANY REGULATORY ENTITY ESTABLISHED BY LAW**, for an act or omission that directly relates to the fitness of the applicant or licensee to practice public accountancy; or

(xii) violates a rule of professional conduct adopted by the Board.

(2) (i) Instead of or in addition to reprimanding the licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding \$5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;
2. the harm caused by the violation;
3. the good faith of the licensee; and
4. any history of previous violations by the licensee.

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

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

- (1) the nature of the crime;
- (2) the relationship of the crime to the activities authorized by the license;
- (3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice certified public accountancy;
- (4) the length of time since the conviction; and
- (5) the behavior and activities of the applicant or licensee before and after the conviction.

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

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

2-410.

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

- (1) for any applicable ground under § 2-315 of this title;
- (2) if the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit;
- (3) if the applicant or permit holder fraudulently or deceptively uses a permit;
- (4) if the applicant or permit holder fails to meet or continue to meet the qualifications or requirements set forth under § 2-402 or § 2-403 of this subtitle; or
- (5) if the applicant or permit holder has a partner, member, or corporate officer whose license has been suspended or revoked by the Board.

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

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

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

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

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

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

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

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

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

Approved by the Governor, April 13, 2010.