

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 138

An Act to amend and reenact §§ 54.1-2409 and 54.1-3434.3 of the Code of Virginia, relating to health professions and facilities; adverse action in another jurisdiction; suspension and reinstatement.

[H 1971]

Approved February 22, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2409 and 54.1-3434.3 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2409. Mandatory suspension or revocation; reinstatement; hearing for reinstatement.

A. Upon receipt of documentation by any court or government agency that a person licensed, certified, or registered by a board within the Department of Health Professions has (i) had his license, certificate, or registration to practice the same profession or occupation revoked or suspended for reasons other than nonrenewal or accepted for surrender in lieu of disciplinary action in another jurisdiction and has not had his license, certificate, or registration to so practice reinstated within that jurisdiction, *unless such revocation, suspension, or surrender was based solely on the disciplinary action of a board within the Department or mandatory suspension by the Director of the Department* or has (ii) been convicted of a felony or has been adjudged incapacitated, the Director of the Department shall immediately suspend, without a hearing, the license, certificate, or registration of any person so disciplined, convicted, or adjudged. The Director shall notify such person or his legal guardian, conservator, trustee, committee, or other representative of the suspension in writing to his address on record with the Department. Such notice shall include a copy of the documentation from such court or agency, certified by the Director as the documentation received from such court or agency. Such person shall not have the right to practice within this Commonwealth until his license, certificate, or registration has been reinstated by the Board.

B. The clerk of any court in which a conviction of a felony or an adjudication of incapacity is made, who has knowledge that a person licensed, certified, or registered by a board within the Department has been convicted or found incapacitated, shall have a duty to report these findings promptly to the Director.

C. When a conviction has not become final, the Director may decline to suspend the license, certificate, or registration until the conviction becomes final if there is a likelihood of injury or damage to the public if the person's services are not available.

D. Any person whose license, certificate, or registration has been suspended as provided in this section may apply to the board for reinstatement of his license, certificate, or registration. Such person shall be entitled to a hearing not later than the next regular meeting of the board after the expiration of 60 days from the receipt of such application, and shall have the right to be represented by counsel and to summon witnesses to testify in his behalf. The Board may consider other information concerning possible violations of Virginia law at such hearing, if reasonable notice is given to such person of the information.

The reinstatement of the applicant's license, certificate, or registration shall require the affirmative vote of three-fourths of the members of the board at the hearing. The board may order such reinstatement without further examination of the applicant, or reinstate the license, certificate, or registration upon such terms and conditions as it deems appropriate.

E. Pursuant to the authority of the Board of Nursing provided in Chapter 30 (§ 54.1-3000 et seq.) of this title, the provisions of this section shall apply, mutatis mutandis, to persons holding a multistate licensure privilege to practice nursing.

§ 54.1-3434.3. Denial, revocation, suspension of registration, summary proceedings.

The Board may deny, revoke, suspend, or take other disciplinary actions against a nonresident pharmacy registration as provided for in § 54.1-3316.

The Board shall immediately suspend, without a hearing, the registration of any nonresident pharmacy upon receipt of documentation by the licensing agency in the jurisdiction where a nonresident pharmacy registered with the Board is located, that the nonresident pharmacy has had its license, certificate, permit, or registration as a pharmacy revoked or suspended by that agency and has not been reinstated, or if the Board has received notification from the licensing agency that the pharmacy in the resident state no longer holds a valid unexpired license, permit, certificate, or registration as a pharmacy. The Board shall provide written notice of the suspension to the nonresident pharmacy at the address of record on file with the Board and to the resident-state licensing agency. The nonresident pharmacy may apply for reinstatement of the registration only after it has been reinstated by and holds a current and unrestricted license, certificate, permit, or registration as a pharmacy from the licensing agency in the jurisdiction where it is located. Such nonresident pharmacy shall be entitled to a hearing not later than

the next regular meeting of the Board after the expiration of ~~30~~ 60 days from the receipt of such application, and shall have the right to be represented by counsel and to summon witnesses to testify on its behalf.

The Board may summarily suspend the registration of any nonresident pharmacy without a hearing, simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety that warrants such action. The Board may meet by telephone conference call when summarily suspending the registration if a good faith effort to assemble a quorum of the Board has failed and, in the judgment of a majority of the members of the Board, the continued dispensing by the nonresident pharmacy constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension. The Board may consider other information concerning possible violations of Virginia law at a hearing, if reasonable notice is given to such nonresident pharmacy of the information.

A nonresident pharmacy with a suspended registration shall not ship, mail, or deliver any Schedule II through VI drugs into the Commonwealth unless reinstated by the Board.

The Board may refer complaints concerning nonresident pharmacies to the regulatory or licensing agency in the jurisdiction where the pharmacy is located. The Board may take other disciplinary action against a nonresident pharmacy in accordance with §§ 54.1-2400 and 54.1-3316 following notice and the opportunity for a hearing.