

**SENATE . . . . . No. 2323**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Twelve**  
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An Act relative to disciplinary actions under the Board of Registration in Medicine.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 5F of chapter 112 of the General Laws, as appearing in the 2010  
2 Official Edition, is hereby amended by inserting, in the first paragraph, after the word “eleven”  
3 in the first sentence, the words, “and including a pharmacist registered and practicing under 24 to  
4 36, inclusive; nurse practitioner, licensed and practicing under 74 to 80H, inclusive; physician  
5 assistant, licensed and practicing under 9C to 9K, inclusive; and acupuncturist licensed and  
6 practicing under 148 to 162, inclusive”.

7           SECTION 2. Section 5F of chapter 112 of the General Laws, as so appearing, is hereby  
8 amended by inserting, in the second paragraph, after the words “requirements of a” in the fifth  
9 sentence, the words, “mental health,”.

10           SECTION 3. Section 6 of chapter 112 of the General Laws, as so appearing, is hereby  
11 amended by striking out in the first sentence the following words: “by a fine of not less than one  
12 hundred nor more than one thousand dollars or by imprisonment for not less than one month nor  
13 more than one year, or both”, and by inserting in place thereof the following:-

14 by imprisonment in the state prison for not less than two and one-half years nor more  
15 than five years or by a fine of not more than five thousand dollars and imprisonment in a jail or  
16 house of correction for not more than two and one-half years, or both such fine and  
17 imprisonment.

18 SECTION 4. Section 159 of chapter 112 of the General Laws, as so appearing, is hereby  
19 amended by striking out in the first sentence the following words: “by a fine of not less than one  
20 hundred nor more than one thousand dollars, or by imprisonment for not less than three months,  
21 or both such fine and imprisonment”, and by inserting in place thereof the following:-

22 by a fine of not more than five thousand dollars, or by imprisonment in the state prison  
23 for not less than two and one-half years nor more than five years, or imprisonment in a jail or  
24 house of correction for not more than two and one-half years, or both such fine and  
25 imprisonment.

26 SECTION 5. Section 160 of chapter 112 of the General Laws, as so appearing, is hereby  
27 amended by striking out in the second sentence the following words: “by a fine of not less than  
28 one hundred nor more than one thousand dollars, or by imprisonment for not less than one month  
29 nor more than one year, or both”, and by inserting in place thereof the following:-

30 by a fine of not more than five thousand dollars, or by imprisonment in the state prison  
31 for not less than two and one-half years nor more than five years, or imprisonment in a jail or  
32 house of correction for not more than two and one-half years, or both such fine and  
33 imprisonment.

34 SECTION 6. Section 5 of Chapter 112 of the General Laws is hereby amended by  
35 striking out paragraphs 6 through 8, inclusive, and inserting in place thereof the following four  
36 paragraphs: -

37 The board shall collect the following information reported to it to create individual  
38 profiles on licensees and former licensees, in a format created by the board that shall be available  
39 for dissemination to the public:

40 (a) a description of any criminal convictions for felonies and serious misdemeanors as  
41 determined by the board. For the purposes of this subsection, a person shall be deemed to be  
42 convicted of a crime if he pleaded guilty or if he was found or adjudged guilty by a court of  
43 competent jurisdiction;

44 (b) a description of any charges for felonies and serious misdemeanors as determined by  
45 the board to which a physician pleads nolo contendere or where sufficient facts of guilt were  
46 found and the matter was continued without a finding by a court of competent jurisdiction;

47 (c) a description of any final board disciplinary actions, and a copy of any original board  
48 disciplinary orders;

49 (d) a description of any final disciplinary actions by licensing boards in other states;

50 (e) a description of revocation or involuntary restriction of privileges by a hospital, clinic  
51 or nursing home under the provisions of chapter 111, or of any employer who employs  
52 physicians licensed by the board for the purpose of engaging in the practice of medicine in the  
53 commonwealth, for reasons related to competence or character that have been taken by the  
54 hospital, clinic or nursing home or employer who employs physicians licensed by the board for

55 the purpose of engaging in the practice of medicine in the commonwealth governing body or any  
56 other official of the hospital, clinic or nursing home or employer who employs physicians  
57 licensed by the board for the purpose of engaging in the practice of medicine in the  
58 commonwealth after procedural due process has been afforded, or the resignation from or  
59 nonrenewal of medical staff membership or the restriction of privileges at a hospital, clinic or  
60 nursing home or employer who employs physicians licensed by the board for the purpose of  
61 engaging in the practice of medicine in the commonwealth taken in lieu of or in settlement of a  
62 pending disciplinary case related to competence or character in that hospital, clinic or nursing  
63 home or of any employer who employs physicians licensed by the board for the purpose of  
64 engaging in the practice of medicine or employer who employs physicians licensed by the board  
65 for the purpose of engaging in the practice of medicine in the commonwealth ;

66 (f) all medical malpractice court judgments and all medical malpractice arbitration  
67 awards in which a payment is awarded to a complaining party and all settlements of medical  
68 malpractice claims in which a payment is made to a complaining party. Dispositions of paid  
69 claims shall be reported in a minimum of three graduated categories indicating the level of  
70 significance of the award or settlement. Information concerning paid medical malpractice claims  
71 shall be put in context by comparing an individual licensee's medical malpractice judgment  
72 awards and settlements to the experience of other physicians within the same specialty.  
73 Information concerning all settlements shall be accompanied by the following statement:  
74 "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect  
75 negatively on the professional competence or conduct of the physician. A payment in settlement  
76 of a medical malpractice action or claim should not be construed as creating a presumption that  
77 medical malpractice has occurred." Nothing herein shall be construed to limit or prevent the

78 board from providing further explanatory information regarding the significance of categories in  
79 which settlements are reported.

80 Pending malpractice claims shall not be disclosed by the board to the public. Nothing  
81 herein shall be construed to prevent the board from investigating and disciplining a licensee on  
82 the basis of medical malpractice claims that are pending.

83 (g) names of medical schools and dates of graduation;

84 (h) graduate medical education;

85 (i) specialty board certification;

86 (j) number of years in practice;

87 (k) names of the hospitals where the licensee has privileges;

88 (l) appointments to medical school faculties and indication as to whether a licensee has a  
89 responsibility for graduate medical education within the most recent ten years;

90 (m) information regarding publications in peer-reviewed medical literature within the  
91 most recent ten years;

92 (n) information regarding professional or community service activities and awards;

93 (o) the location of the licensee's primary practice setting;

94 (p) the identification of any translating services that may be available at the licensee's  
95 primary practice location;

96 (q) an indication of whether the licensee participates in the medicaid program.

97           The board shall provide individual licensees with a copy of their profiles prior to release  
98 to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that  
99 appear in such profile.

100           A physician may elect to have his profile omit certain information provided pursuant to  
101 clauses (l) to (n), inclusive, concerning academic appointments and teaching responsibilities,  
102 publication in peer-reviewed journals and professional and community service awards. In  
103 collecting information for such profiles and in disseminating the same, the board shall inform  
104 physicians that they may choose not to provide such information required pursuant to said clause  
105 (l) to (n), inclusive.

106           For physicians who are no longer licensed by the board, the board shall continue to make  
107 available the profiles of such physicians, except for those who are known by the board to be  
108 deceased. The board shall maintain the information contained in the profiles of physicians no  
109 longer licensed by the board as of the date the physician was last licensed, and include on the  
110 profile a notice that the information is current only to that date.