**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4257**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Barfield, Sandifer and Hardwick

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Introduced in the House on May 24, 2011

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Board of Medical Examiners

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/24/2011 House Introduced and read first time ([House Journal‑page 45](file:///h:\hj%20archive\2011\05-24-11.docx))

5/24/2011 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 45](file:///h:\hj%20archive\2011\05-24-11.docx))

**VERSIONS OF THIS BILL**

[5/24/2011](file:///p:\pprever\2011-12\4257_20110524.docx)

**A** **BILL**

TO AMEND SECTION 40‑47‑114, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIRED REVIEWS OF PROFESSIONAL COMPETENCY, MENTAL, OR PHYSICAL EXAMINATIONS BY THE STATE BOARD OF MEDICAL EXAMINERS UPON A FINDING OF PROBABLE CAUSE BY THE BOARD THAT A LICENSEE OR APPLICANT MAY BE PROFESSIONALLY INCOMPETENT, ADDICTED TO ALCOHOL OR DRUGS, OR DISABLED PHYSICALLY OR MENTALLY IN A MANNER THAT RENDERS THE PERSON’S PRACTICE A DANGER TO THE PUBLIC, SO AS TO PROVIDE THAT THE FAILURE OF THE LICENSEE OR APPLICANT TO SUBMIT TO THE BOARD’S EXAMINATION MAY RESULT IN THE SUSPENSION OR DENIAL OF THE PERSON’S LICENSE RATHER THAN THE CURRENT AUTOMATIC SUSPENSION OR DENIAL AND TO PROVIDE THAT IF A LICENSE IS SUSPENDED OR DENIED ON THE BASIS OF THE EXAMINATION, THE LICENSEE OR APPLICANT MUST BE AFFORDED AN APPOINTMENT TO DEMONSTRATE TO THE BOARD, AT INTERVALS OF NO LONGER THAN SIX MONTHS, THE ABILITY TO RESUME OR BEGIN PRACTICE.

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

SECTION 1. Section 40‑47‑114(A) of the 1976 Code is amended to read:

“(A) If the board finds that probable cause exists that a licensee or applicant may be professionally incompetent, addicted to alcohol or drugs, or may have sustained a physical or mental disability that may render practice by the licensee or applicant dangerous to the public or is otherwise practicing in a manner dangerous to the public, the board, without a formal complaint or opportunity for hearing, may require a licensee or applicant to submit to a professional competency, mental, or physical examination by authorized practitioners designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege under a contrary rule of law. A person who accepts the privilege of engaging in licensed practice in this State pursuant to this chapter, or who files an application for a license to practice pursuant to this chapter, is considered to have consented to submit to a professional competency, mental, or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that this constitutes a privileged communication. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person’s control, the board ~~shall~~ may enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is required to submit to a professional competency, mental, or physical examination may request by the close of the next business day after receipt of the requirement a review by the administrative hearing officer. Filing a written request for a review by the administrative hearing officer does not stay the time directed in which to submit to a professional competency, mental, or physical examination, and no stay may be issued, except as provided in this section. Upon proper written request, a review hearing must be conducted within three business days of receipt of the request, unless otherwise agreed by the parties. Failure to provide a review hearing within the prescribed time stays the time required to submit to a professional competency, mental, or physical examination until a decision is issued by the administrative hearing officer. The review hearing for purposes of this section must be limited to the issues of whether the person is a licensee or applicant, whether reasonable grounds exist to require a professional competency, mental, or physical examination, and whether the licensee or applicant has been informed that failure to submit to an examination ~~will~~ may result in the entry of an order ~~automatically~~ suspending or denying the license pending compliance and further order of the board. The administrative hearing officer’s decision is not subject to appeal. A licensee or applicant who is prohibited from practicing pursuant to this subsection must be afforded at reasonable intervals, but not longer than six months, an opportunity to demonstrate to the board the ability to resume or begin the practice with reasonable skill and safety.”

SECTION 2. This act takes effect upon approval by the Governor.

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