

Accompanying the twenty-third recommendation of the Executive Office of Consumer Affairs and Business Regulation (House, No. 42).
Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO CLARIFY CERTAIN PROCEDURES AND TO ASSIST THE BOARDS OF REGISTRATION WITHIN THE DIVISION OF REGISTRATION IN THE DISCHARGE OF THEIR DUTIES.

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 65 of chapter 112 of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 striking it in its entirety and inserting in place thereof the following
4 section: --

5 Each board of registration may refer for criminal prosecution
6 any person who continues to practice any profession or trade after
7 his or her license, certificate, registration or authority authorizing
8 him or her so to do has been suspended, revoked or cancelled
9 under authority of section sixty-one of this chapter; any person
10 who knowingly continues to practice any profession or trade after
11 his or her license, certificate, registration or authority authorizing
12 him or her to so do has expired; and any person who engages in
13 the practice of any profession or trade for which a license,
14 certificate, registration or authority is required and who is not
15 authorized to so practice, except as otherwise permitted by law.

16 Such referral shall be made by the board to the district attorney
17 for the district in which the alleged unlicensed practice occurred.
18 Any person found guilty of violation of this section shall be
19 punished by a fine of not more than five thousand dollars,
20 imprisonment for not more than six months, or both.

1 SECTION 2. Chapter 112 of the General Laws, as appearing
2 in the 1990 Official Edition, is hereby amended by inserting after
3 section 65C the following section 65D: —

4 Each board of registration shall keep confidential any
5 complaint, report, record or other information received or kept
6 by any board in connection with an investigation conducted by
7 the board pursuant to section sixty-one of this chapter, provided,
8 however, that, except to the extent that disclosures of records or
9 other information may be restricted as otherwise provided by law,
10 investigative records or information of the board shall not be kept
11 confidential after the board has disposed of the matter under
12 investigation by issuing an order to show cause, by dismissing a
13 complaint or by taking other final action, nor shall the
14 requirement that investigative records or information be kept
15 confidential at any time apply to requests from the person under
16 investigation, the complainant or other state or federal agencies,
17 boards or institutions as the board shall determine by regulation.

1 SECTION 3. Chapter 13 of the General Laws, as appearing in
2 the 1990 Official Edition, is hereby amended by adding, after
3 section 9B, the following section 9C: —

4 Each board of registration shall have the power to sue and be
5 sued in its official name as an agency of the commonwealth; upon
6 request of a board prosecutor or board counsel, to issue subpoenas
7 to summon witnesses and compel production of documents at any
8 stage of an investigation; to issue subpoenas to compel attendance
9 of witnesses and the production of documents at hearings; to
10 administer oaths; and to take testimony and receive evidence
11 concerning all matters within its jurisdiction. In case of
12 disobedience of a subpoena, each board may invoke the aid of
13 any court of the commonwealth in requiring the appearance and
14 testimony of witnesses and the production of documentary
15 evidence. Each board, its members and its agents shall be immune
16 from personal liability for actions taken in good faith in the
17 discharge of their responsibilities, and the commonwealth shall
18 hold each board, its members and its agents harmless from all
19 costs, damages and attorneys' fees arising from claims and suits
20 against them with respect to matters to which such immunity
21 applies.

1 SECTION 4. Chapter 13 of the General Laws, as appearing in
2 the 1990 Official Edition, is hereby amended by adding, after
3 section 9C, the following section 9D: —

4 No person filing a complaint or reporting or providing
5 information pursuant to this chapter or assisting any board, at
6 its request, in any manner in discharging its duties and functions
7 shall be liable in any cause of action arising out of the receiving
8 of such information or assistance, provided the person making
9 the complaint or reporting or providing such information or
10 assistance does so in good faith and without malice.

