

STATE OF NEW YORK

4896

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to professional misconduct based upon convictions of crimes and administrative violations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (p) of subdivision 10 of section 230 of the
2 public health law, as amended by chapter 599 of the laws of 1996, is
3 amended to read as follows:

4 (p) Convictions of crimes or administrative violations. In cases of
5 professional misconduct based solely upon a violation of subdivision
6 nine of section sixty-five hundred thirty of the education law, the
7 director may direct that charges be prepared and served and may refer
8 the matter to a committee on professional conduct for its review and
9 report of findings, conclusions as to guilt, and determination, except
10 that in cases in which the misconduct is based upon the conviction of a
11 crime committed in the course of the licensee's practice of medicine,
12 the director shall direct that charges be prepared and served and
13 referred to a committee on professional conduct for its review and
14 report of findings, conclusions as to guilt, and determination. In such
15 cases, the notice of hearing shall state that the licensee shall file a
16 written answer to each of the charges and allegations in the statement
17 of charges no later than ten days prior to the hearing, and that any
18 charge or allegation not so answered shall be deemed admitted, that the
19 licensee may wish to seek the advice of counsel prior to filing such
20 answer that the licensee may file a brief and affidavits with the
21 committee on professional conduct, that the licensee may appear
22 personally before the committee on professional conduct, may be repres-
23 ented by counsel and may present evidence or sworn testimony in his or
24 her behalf, and the notice may contain such other information as may be

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 considered appropriate by the director. The department may also present
2 evidence or sworn testimony and file a brief at the hearing. A steno-
3 graphic record of the hearing shall be made. Such evidence or sworn
4 testimony offered to the committee on professional conduct shall be
5 strictly limited to evidence and testimony relating to the nature and
6 severity of the penalty to be imposed upon the licensee. Where the
7 charges are based on the conviction of state law crimes in other juris-
8 dictions, evidence may be offered to the committee which would show that
9 the conviction would not be a crime in New York state. Where the charg-
10 es are based on the conviction of a felony as defined in the penal law,
11 or as defined by the laws of another jurisdiction and which if committed
12 within this state would have constituted a felony in this state, and
13 said crimes having been committed in the course of the licensee's prac-
14 tice of medicine, then a determination by the committee sustaining said
15 charge shall result in the revocation of a license, unless the commit-
16 tee, having regard to the nature and circumstances of the crime and
17 history of the licensee is of the opinion that revocation would be mani-
18 festly unjust, whereupon the committee may impose such other penalties
19 as set forth in section two hundred thirty-a of this title, and in such
20 case the reasons for the committee's determination shall be set forth in
21 its order. The committee on professional conduct may reasonably limit
22 the number of witnesses whose testimony will be received and the length
23 of time any witness will be permitted to testify. The determination of
24 the committee shall be served upon the licensee and the department in
25 accordance with the provisions of paragraph (h) of this subdivision. A
26 determination pursuant to this subdivision may be reviewed by the admin-
27 istrative review board for professional medical conduct.

28 § 2. This act shall take effect immediately and shall apply to profes-
29 sional misconduct proceedings occurring on and after such date.