S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 25, 2016

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

AN ACT to amend the public health law, in relation to convictions of crimes or administrative violations in professional misconduct proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

(p) Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision nine of section sixty-five hundred thirty of the education law, the director may direct that charges be prepared and served and may refer the matter to a committee on professional conduct for its review and report of findings, conclusions as to guilt, and determination, EXCEPT IN CASES IN WHICH THE MISCONDUCT IS BASED UPON THE CONVICTION OF A CRIME COMMITTED IN THE COURSE OF THE LICENSEE'S PRACTICE OF MEDICINE, THE DIRECTOR SHALL DIRECT THE CHARGES BE PREPARED AND SERVED AND REFERRED TO A COMMITTEE ON PROFESSIONAL CONDUCT OR ITS REVIEW AND REPORT OF FINDINGS, CONCLUSIONS AS TO GUILT, AND DETERMINATION. In such cases, the notice of hearing shall state that the licensee shall file a written answer to each of the charges and allegations in the statement of charges no later than ten days prior to the hearing, and that any charge or allegation not so answered shall be deemed admitted, that the licensee may wish to seek the advice of counsel prior to filing such answer that the licensee may file a brief and affidavits with the committee on professional conduct, that the licensee may appear personally before the committee on professional conduct, may be represented by counsel and may present evidence or sworn testimony in his or her behalf, and the notice may contain such other information as may be considered appropriate by the director. The department may also present evidence or sworn testimony and file a brief at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered to the committee

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

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on professional conduct shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered to the committee which would show that the conviction would not be a crime in New York state. WHERE THE CHARGES ARE BASED ON THE CONVICTION OF A FELONY AS DEFINED UNDER THE NEW YORK STATE PENAL LAW, OR AS DEFINED BY THE LAWS OF ANOTHER JURISDICTION AND WHICH IF COMMITTED WITHIN THIS STATE WOULD HAVE CONSTITUTED A FELONY, AND SAID CRIMES HAVING BEEN COMMITTED IN THE COURSE OF THE LICENSEE'S PRACTICE OF MEDICINE, THEN A DETERMINATION BY THE COMMITTEE SUSTAINING SAID CHARGES SHALL RESULT IN A REVOCATION OF SUCH LICENSE, UNLESS THE COMMITTEE, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND HISTORY OF THE LICENSEE IS OF THE OPINION THAT REVOCATION WOULD BE MANIFESTLY UNJUST, WHEREUPON THE COMMITTEE MAY IMPOSE SUCH OTHER PENALTIES AS SET FORTH IN SECTION TWO HUNDRED THIRTY-A OF THIS TITLE, AND IN SUCH CASE THE REASONS FOR THE COMMITTEE'S DETERMINATION SHALL BE SET FORTH IN ITS ORDER. The committee on professional conduct may reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify. The determination of the committee shall be served upon the licensee and the department in accordance with the provisions of paragraph (h) of this subdivision. A determination pursuant to this subdivision may be reviewed by the administrative review board for professional medical conduct.

S 2. This act shall take effect immediately.