



SPONSOR: Sen. S. McBride & Rep. Longhurst
Sens. Buckson, Hansen, Hoffner, Pinkney, Poore, Walsh;
Reps. Baumbach, Chukwuocha, Harris, Heffernan,
Morrison, Parker Selby

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE JOINT RESOLUTION NO. 6

DIRECTING CERTAIN PROFESSIONAL LICENSURE BOARDS TO REVIEW AND REVISE APPLICATIONS FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND DIRECTING THE LICENSURE BOARDS AND THE DEPARTMENT OF JUSTICE TO PROVIDE REPORTS.

1 WHEREAS, while there are significant public policy interests in protecting the safety of patients and the general
2 public, we must also ensure that members of our health care workforce are able to seek appropriate treatment for mental
3 health conditions without facing undue stigma and potentially putting their professional license in jeopardy; and

4 WHEREAS, the Delaware General Assembly, recognizing this concern with respect to physician licensure
5 application questions required under Delaware law, unanimously voted to approve Senate Bill 300, An Act to Amend Title
6 24 of the Delaware Code Relating to Medical Practice; and

7 WHEREAS, there is growing consensus that maintaining longstanding practices regarding state professional
8 licensure requirements that require applicants to answer intrusive and unnecessary questions regarding behavioral health
9 conditions, regardless of (i) an applicant's present state of functional impairment and (ii) assessment of an applicant's
10 ability to perform the requirements of the job with or without a reasonable accommodation granted by an employer, likely
11 do not meet the requirements of the Americans with Disabilities Act of 1990 (Pub. L. 101-336. 26 July 1990).

12 NOW, THEREFORE:

13 BE IT RESOLVED by the Senate and House of Representatives of the 152nd General Assembly of the State of
14 Delaware, with the approval of the Governor, that the following Title 24 health care professional licensure boards shall
15 review all existing licensure, certification, and registration applications to revise any existing questions pertaining to mental
16 health conditions that are not necessary to assess the current state of an applicant's functional impairment to ensure that
17 they are compliant with the requirements of the Americans with Disabilities Act no later than January 31, 2024:

- 18 (1) The Board of Podiatry (24 Del. C. Ch. 5)
19 (2) The Board of Chiropractic (24 Del C. Ch. 7)
20 (3) The Board of Dentistry and Dental Hygiene (24 Del. C. Ch. 11)
21 (4) The Board of Medical Licensure and Discipline (24 Del. C. Ch. 17)
22 (5) The Board of Nursing (24 Del. C. Ch. 19)

- 23 (6) The Board of Occupational Therapy Practice (24 Del. C. Ch. 20)
- 24 (7) The Board of Examiners in Optometry (24 Del. C. Ch. 21)
- 25 (8) The Board of Pharmacy (24 Del. C. Ch. 25)
- 26 (9) The Examining Board of Physical Therapists and Athletic Trainers (24 Del. C. Ch. 26)
- 27 (10) The Board of Mental Health and Chemical Dependency Professionals (24 Del. C. Ch. 30)
- 28 (11) The Board of Examiners of Psychologists (24 Del. C. Ch. 35)
- 29 (12) The Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers (24 Del. C. Ch. 37)
- 30 (13) The Board of Dietetics/Nutrition (24 Del C. Ch. 38).
- 31 BE IT FURTHER RESOLVED that each respective health care professional licensure board listed above and the
- 32 Division of Professional Regulation shall submit a report to the General Assembly on or before February 28, 2025,
- 33 regarding the review required under this act and certifying that the board has completed the process of making its
- 34 application compliant with the Americans with Disabilities Act.

SYNOPSIS

This resolution directs health care professional licensure boards to review their existing professional licensure application language to revise or remove all intrusive and stigmatizing language around mental health care and treatment and replace it with language that meets the threshold requirements of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 26 July 1990), by focusing on present functional impairment and the ability to perform the essential requirements of the applicant's profession with or without a reasonable accommodation. This resolution builds on the progress that the State of Delaware made in removing structural barriers to clinicians seeking mental health and wellbeing treatment through the enactment of Senate Bill 300 in 2022. The resolution also directs each licensure board and the Division of Professional Regulation to submit a report to the General Assembly by February 28, 2025 regarding the boards' review of their applications and certifying that the applications comply with the Americans with Disabilities Act.

Author: Senator S. McBride