

CHAPTER 416

AN ACT concerning the licensure and duties of health officers and specialists and revising parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.24:2-3 is amended to read as follows:

Appointment of analysts, chemists, specialists, chief inspectors, etc.

24:2-3. The State board may appoint such analysts, chemists, specialists, chief inspectors and other inspectors and employees as may be authorized by law, and the persons thus appointed shall perform such duties as may be assigned to them by the State department. The state board shall fix the salaries of all such officers and employees subject to the provisions of Title 11A of the New Jersey Statutes, Civil Service, except when otherwise provided by statute.

2. R.S.24:2-4 is amended to read as follows:

Designation of registered environmental health specialists to perform certain duties.

24:2-4. The local board of health may designate from among its registered environmental health specialists one or more registered environmental health specialists who shall perform the duties relating to food and drug inspection required under R.S.24:2-1 et seq. The local board may also appoint one or more food and drug analysts.

3. R.S.24:2-5 is amended to read as follows:

Powers, duties of registered environmental health specialist.

24:2-5. The registered environmental health specialist designated under R.S.24:2-4 shall have, within the jurisdiction of the local board appointing him, all the power and authority given a specialist appointed by the State board under the authority of R.S.24:2-3. He shall, in addition to the usual duties of a registered environmental health specialist, aid in the enforcement of the provisions of this subtitle.

4. Section 38 of P.L.1947, c.177 (C.26:1A-38) is amended to read as follows:

C.26:1A-38 Qualifications for licensing of health officers, registered environmental health specialists.

38. The Public Health Council shall prescribe the qualifications necessary for the licensing of health officers and registered environmental health specialists and shall prescribe the qualifications necessary for the renewal of any license permitted to remain in effect under section 41 of P.L.1947, c.177 (C.26:1A-41).

5. Section 39 of P.L.1947, c.177 (C.26:1A-39) is amended to read as follows:

C.26:1A-39 Examination for applicants for licensure.

39. The commissioner in consultation with the Public Health Council shall cause examinations to be conducted in such manner and at such times and places as may be necessary for the purpose of determining the qualifications of applicants for licenses set forth in section 41 of P.L.1947, c.177 (C.26:1A-41). Applications for examination for any of the licenses enumerated in section 41 of P.L.1947, c.177 (C.26:1A-41), must be made in writing upon forms supplied by the department.

6. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to read as follows:

C.26:1A-41 Issuance of licenses for health officer, registered environmental health specialist.

41. The commissioner shall, in the name of the department, issue the following licenses:

- a. Health officer's license;
- b. (Deleted by amendment, P.L.1997, c.416).
- c. (Deleted by amendment, P.L.1997, c.416).

- d. (Deleted by amendment, P.L.1997, c.416).
- e. (Deleted by amendment, P.L.1997, c.416).
- f. (Deleted by amendment, P.L.1997, c.416).
- g. (Deleted by amendment, P.L.1997, c.416).
- h. (Deleted by amendment, P.L.1997, c.416).
- i. (Deleted by amendment, P.L.1997, c.416).
- j. (Deleted by amendment, P.L.1997, c.416).
- k. Registered environmental health specialist's license.

However, any health officer's license, sanitary inspector's license, and plumbing inspector's license issued before the effective date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the State Department of Health and Senior Services shall, unless suspended or revoked in accordance with the provisions of sections 43 and 44 of that act, remain in effect during the employment as such of the holder thereof. Upon enactment of P.L.1997, c.416 (C.26:1A-42.1 et al.) any existing Sanitary Inspector, First Grade license shall become a Registered Environmental Health Specialist license without any further action required of the licensee.

Any license eliminated by P.L.1997, c.416 (C.26:1A-42.1 et al.) shall, unless suspended or revoked in accordance with the provisions of sections 43 and 44 of P.L.1947, c.177 (C.26:1A-43 and C.26:1A-44), remain in effect until the holder thereof does not renew the license within two years from the date of its expiration, or the commissioner does not renew the license in accordance with section 42 of that act, whichever comes first.

7. Section 42 of P.L.1947, c.177 (C.26:1A-42) is amended to read as follows:

C.26:1A-42 Issuance of initial license.

42. Each applicant whose examination shall be approved by the commissioner shall receive the initial license to which his examination may entitle him. All licenses issued by the commissioner shall expire on December 31 of each year and may be renewed upon the payment of a renewal fee adopted by the commissioner under section 19 of P.L.1997, c.416 (C.26:1A-42.1) and upon the satisfactory completion by the applicant of any further requirements which may be adopted by the commissioner under that section.

8. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to read as follows:

C.26:1A-43 Suspension, revocation of license.

43. Any license issued in accordance with the provisions of this article, and any health officer's license or sanitary inspector's license heretofore issued by the State Department of Health and Senior Services, may be suspended or revoked, after notice and hearing conducted by an administrative law judge pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for any of the following causes:

- a. Violation of any of the provisions of this act or of any law relating to public health;
- b. Violation of any provision of the State Sanitary Code;
- c. Violation of any applicable local health regulation or ordinance;
- d. Any act or happening occurring after the making of application for such license which, if the same had occurred prior to said time, would have prevented the issuance of such license; or
- e. A conviction in a court of competent jurisdiction, either within or outside this State, of a crime involving moral turpitude, except that if the conviction is reversed and the holder of the license is discharged or acquitted, or if the holder is pardoned or the civil rights of the holder are restored, the holder may obtain a license.

Notwithstanding any provision of section 10 of P.L.1968, c.410 (C.52:14B-10) to the contrary, the commissioner, before adopting, rejecting or modifying the recommended report and decision of an administrative law judge, shall consult with the Public Health Council.

The suspension or revocation of a license shall be effected by a notice in writing of the suspension or revocation, designating the effective date thereof, and in the case of a suspension, the term of the suspension, which notice may be served upon the licensee personally or by

mailing the same by registered mail addressed to the licensee at the licensee's home address.

The commissioner shall file a copy of the notice of suspension or revocation of license with the local board of health.

9. R.S.26:3-19 is amended to read as follows:

Employees of local board.

26:3-19. The local board may employ such personnel as it may deem necessary, to carry into effect the powers vested in it. It shall fix the duties and compensation of every appointee and, as to local boards which shall not be operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, fix the term of every appointee.

The appointees, agents and officers of a local board, which shall not be operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes shall hold their offices during the term for which they are severally appointed, and shall not be removed except for cause and after an opportunity has been given them for a hearing.

Any duly appointed health officer shall, subject to the superior authority of the local board appointing him, be its general agent for the enforcement of its ordinances and the sanitary laws of the State. The health officer shall provide leadership in the field of public health in the community served by the local board as required under the "Recognized Public Health Activities and Minimum Standards of Performance." In addition to being the chief executive officer of the local board, the health officer is responsible for evaluating the health problems of the community served by the local board, planning appropriate activities to meet the health problems of the citizens thereof, developing necessary budget procedures to cover these activities and directing the staff of the local board to carry out these activities efficiently and economically.

Any other duly appointed person shall be the agent of the local board appointing him for the performance of such services not inconsistent with the license held as such local board, or any officer under the authority of such board, shall assign to him. A registered environmental health specialist is authorized to make all types of inspections for a local board except plumbing inspections. A registered environmental health specialist is required to compile proper records of these inspections, inform persons of their violations, the bases thereof, and the methods of abating these violations and obtain any evidence necessary for legal action.

The licensure requirements of this section shall not apply to a person engaged in the administration and enforcement of environmental protection laws and regulations governed by the State Department of Environmental Protection.

10. Section 1 of P.L.1951, c.333 (C.26:3-19.1) is amended to read as follows:

C.26:3-19.1 Civil service status of employees of local board of health.

1. All health officers, registered environmental health specialists and other persons selected to fill available positions in a local board of health in any municipality, which has adopted, or shall hereafter adopt, the provisions of Title 11A, Civil Service of the New Jersey Statutes, shall be appointed in accordance with the provisions of Title 11A of the New Jersey Statutes and all such health officers, sanitary inspectors and employees of any such local board of health now holding office, position or employment and who were holding such office, position or employment on July 1, 1950, shall be placed in the career service of the civil service, without examination, and shall be entitled to all the rights, privileges and benefits of such classified service and their successors shall be appointed in accordance with the provisions of Title 11A of the New Jersey Statutes.

11. R.S.26:3-20 is amended to read as follows:

License necessary for appointment.

26:3-20. No local board shall appoint any person to a position for which a license is required under section 41 of P.L.1947, c.177 (C.26:1A-41) nor employ a person to do work ordinarily performed by a person required to hold a license under that section, who is not the holder of a

proper license as such.

12. R.S.26:3-21 is amended to read as follows:

Licensee eligible for appointment.

26:3-21. Any holder of a license required under section 41 of P.L.1947, c.177 (C.26:1A-41) shall be eligible to appointment to the position for which the license is required by any local board.

13. R.S.26:3-22 is amended to read as follows:

Joint health officer, registered environmental health specialists.

26:3-22. Local boards of health of two or more adjacent municipalities may join in employing a health officer and one or more registered environmental health specialists and other personnel. In such case, the local boards of such municipalities or a regional health commission formed by them, as the case may be, shall fix the salary to be paid to these persons, arrange the duties of such persons and in the case of regional health commissions apportion the sums to be paid by each of the municipalities, which sums shall be paid from moneys appropriated to the local boards of such municipalities.

14. R.S.26:3-23 is amended to read as follows:

Registered environmental health specialist for township.

26:3-23. If in any township sufficient environmental inspection is not secured, the State department may, on notice to the local board, require the appointment by the local board of a registered environmental health specialist for the township who shall be paid by the local board of the township at an equitable rate of reimbursement for his services.

15. R.S.26:3-24 is amended to read as follows:

Registered environmental health specialist in municipality of over 2,000.

26:3-24. In every municipality containing a population of 2,000 inhabitants or more, there shall be at least one registered environmental health specialist appointed by the local board.

16. Section 5 of P.L.1947, c.181 (C.26:3-25.1) is amended to read as follows:

C.26:3-25.1 Receipt of maximum salary.

5. Every person holding a license issued under section 41 of P.L.1947, c.177 (C.26:1A-41), who is employed in a position for which this license is required by any board of health, municipality or group of municipalities shall receive the maximum salary in the person's range, within five years from the date of appointment to this position if the majority of the person's job performance evaluations are satisfactory.

17. R.S.26:3-27 is amended to read as follows:

Removal of health officer.

26:3-27. The local board or regional health commission, not operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, employing a health officer or any other person whom it is sought to remove, shall formulate or receive charges in writing, against such person and shall fix a time and place for a hearing thereon.

A written copy of the charges and a written notice of the time and place of the hearing shall be served upon the person sought to be removed at least 20 days prior to the hearing.

At the hearing the local board or regional health commission shall hear all witnesses and receive all evidence produced, and if the charges are found to be true in fact, and just cause be

shown, the local board or regional health commission may remove or reduce the pay, or position of the person against whom the charges are made.

18. R.S.26:3-53 is amended to read as follows:

Notice to remove, abate nuisance.

26:3-53. A notice by any health officer or registered environmental health specialist to remove and abate any nuisance shall be taken as a notice from the board. If the owner or persons notified fails to remove and abate the nuisance complained of, the board may cause it to be removed and abated in a summary manner, giving written directions to its representative in relation thereto, and he shall proceed according to the directions so given.

C.26:1A-42.1 Preparation, adoption of fee schedule.

19. The commissioner shall prepare a fee schedule to cover the reasonable administrative costs associated with examination and licensing procedures and submit the fee schedule to the Legislature for review. The commissioner shall subsequently adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the fee schedule. These fees shall be maintained in a separate account and used only for the purposes set forth in this section.

Repealer.

20. R.S.26:3-28, section 1 of P.L.1971, c.454 (C.26:1A-40.1), section 44 of P.L.1947, c.177 (C.26:1A-44) and section 9 of P.L.1968, c.105 (C.24:16B-9) are repealed.

21. This act shall take effect on the 180th day following enactment.

Approved January 19, 1998.