

HOUSE No. 3775

The Commonwealth of Massachusetts



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To the Honorable House of Representatives,

I submit for your consideration “An Act relative to licensing accountability in the Commonwealth.”

The Division of Professional Licensure (“DPL”), an agency within the Office of Consumer Affairs and Business Regulation, is responsible for oversight of 28 boards of registration, as well as 10 boards, bureaus or other governing bodies within the Office of Public Safety, and Inspections and the Office of Private Occupational School Education. Collectively, DPL boards and offices license and regulate more than 580,000 individuals, businesses, and schools to engage in over 150 trades and professions in Massachusetts. The Department of Public Health (“DPH”), an agency within the Office of Health and Human Services, is currently responsible for oversight of 10 boards of registration. Collectively, DPH boards license and regulate more than 308,000 individuals and businesses to engage in 66 healthcare related professions in Massachusetts. The licensing process that both DPL and DPH oversee protects the public by enforcing standards that restrict practice to individuals who have met specific professional qualifications, as well as general suitability requirements.

The overwhelming majority of professional service providers in the Commonwealth comply with applicable licensing requirements. In cases where a person practices without a license, or does not practice in compliance with license standards, DPL can and does take steps to enforce its rules. But the relevant statutes need to be updated to give DPL better tools to ensure license accountability and protect public safety. This bill will strengthen DPL’s oversight

of its licensing boards, provide more robust enforcement authority and otherwise update and modernize the enabling statutes for several of the boards of registration under DPL's supervision.

This bill will increase civil penalties for conduct which places into question a licensee's suitability or competence to practice the profession; provide investigators and licensing boards with the authority to compel the production of documents that would be beneficial to an investigation; and make a licensee's failure to cooperate with a board or investigation an independent basis for taking disciplinary action.

Additionally, this bill will prohibit the licensing of all registered Level 3 sex offenders by the boards under the supervision of DPL or DPH. By definition, Level 3 offenders are individuals who are deemed to have a high risk of reoffending and who pose such a degree of dangerousness to the public that a substantial public safety interest is served by active community notification of the individual's status as a sex offender. The licensing process should provide the public with a high degree of confidence that the person providing services does not pose a public safety risk. That purpose is best served by ensuring consumers are not unknowingly seeking services from a sex offender deemed to have a high risk of committing another offense.

Another important purpose of this bill is to allow DPL to seek criminal prosecution for the unlicensed practice of massage therapy by individuals who never applied for or received a license. Currently, DPL may only seek prosecution of an individual who provides massage therapy services after the individual's license is suspended or revoked. Closing this loophole will better empower DPL to hold unlicensed operators accountable and intervene in situations that poses a grave threat to public safety, such as human trafficking.

Finally, the bill will update and make consistent certain of the licensing statutes applicable to DPL and DPH, and to the boards under their supervision. This legislation also reflects changes that are proposed in the bill I am filing today under Article LXXXVII of the Massachusetts Constitution, "An act reorganizing certain licensing agencies of the executive department."

Accordingly, I urge your favorable consideration of this legislation to increase both DPL's and DPH's oversight and enforcement authority to continue protecting the people of the Commonwealth.

Respectfully submitted,

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to licensing accountability in the Commonwealth.

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. Chapter 13, as so appearing, is hereby amended by striking out section 80
2 and inserting in place thereof the following section:-

3 Section 80. There shall be a board of registration of social workers hereinafter called the
4 board, which shall consist of 9 members: the commissioner of children and families, or a
5 designee; the commissioner of mental health, or a designee; 7 members to be appointed by the
6 Governor, 1 of whom is a representative from an accredited Massachusetts school of social work,
7 3 of whom are licensed under sections 130 to 137, inclusive, of chapter 112, 1 of whom is
8 licensed under sections 130 to 137, inclusive, of chapter 112 and is an active member of an
9 organized labor organization representing social workers , and 2 of whom are member of the
10 general public. Members of the board shall be residents of the commonwealth and citizens of the
11 United States. At least 1 licensed social work member and 1 member representing the general
12 public shall be from a minority group, as defined by the federal Department of Health and
13 Human Services. No more than 6 members of the board shall belong to any 1 political party.

14 SECTION 2. Section 90 of said chapter 13 of the General Laws, as so appearing, is
15 hereby amended by striking out the third paragraph and inserting in place thereof the following
16 paragraph:- The commissioner of public health shall have authority to review and approve rules
17 and regulations proposed by the board.

18 SECTION 3. Section 10A of chapter 22 of the General Laws, as appearing in the 2018
19 Official Edition, is hereby amended by striking out the second paragraph.

20 SECTION 4. Section 11 of said chapter 22, as so appearing, is hereby amended by
21 striking out the fourth paragraph.

22 SECTION 5. Section 61 of chapter 112 of the General Laws, as so appearing, is hereby
23 amended by striking out, in line 1, the word “except” and inserting in place thereof the following
24 words:-

25 As used in this section, the following words shall have the following meanings:

26 “Department” shall mean the department of public health;

27 “Department commissioner” shall mean the commissioner of the department.

28 “Department regulatory board” shall mean each board of registration or examination that
29 serves in the department in the office of health and human services under the supervision of the
30 department commissioner.

31 “Division” shall mean the division of occupational licensure and shall include the office
32 of public safety and inspections in the division of occupational licensure;

33 “Division commissioner” shall mean the commissioner of the division.

34 “Division regulatory board” shall mean each board of registration or examination in the
35 division in the office of consumer affairs and business regulation, and shall include each board,
36 bureau or other governing body of a certificate, registration, license, or authority in the office of
37 public safety and inspections in the division.

38 Except.

39 SECTION 6. Said section 61 of said chapter 112, as so appearing, is hereby further
40 amended by striking out, in lines 2 through 6, the words “each board of registration or
41 examination in the department of public health in the executive office of health and human
42 services and, each board of registration or examination in the division of professional licensure
43 in the office of consumer affairs and business regulation” and inserting in place thereof the
44 following words:- each department regulatory board and each division regulatory board.

45 SECTION 7. Said section 61 of said chapter 112, as so appearing, is hereby further
46 amended by inserting after the first paragraph the following 2 paragraphs:-

47 No person who is currently listed with the sex offender registry board as a level 3 sex
48 offender pursuant to sections 178C to 178P of chapter 6 shall be issued or allowed to retain any
49 certificate, registration, license or authority by any division regulatory board or department
50 regulatory board.

51 The department and the division shall have the power to issue subpoenas requiring the
52 attendance and testimony of witnesses and the production of any evidence, including books,
53 records, correspondence or documents, in connection with any investigation, hearing, or
54 disciplinary proceeding. Said subpoenas shall be issued at the direction of the board chair, or

55 designee, or for those certificates, licenses, or registrations without a board, at the direction of
56 the department commissioner or division commissioner, or their designee.

57 SECTION 8. Said section 61 of said chapter 112, as so appearing, is hereby further
58 amended by striking out, in lines 18 and 19, the words “A board of registration under the
59 supervision of the division of professional licensure” and inserting in place thereof the following
60 words:- A department regulatory board under the supervision of the department or a division
61 regulatory board under the supervision of the division.

62 SECTION 9. The second paragraph of said section 61 of said chapter 112, as so
63 appearing, is hereby further amended by striking out clauses (6) and (7) and inserting in place
64 thereof the following 4 clauses:-

65 (6) registered with the sex offender registry board as a level 3 sex offender pursuant
66 to sections 178C to 178P of chapter 6, which shall result in the revocation of such license,
67 authority, registration, or authorization;

68 (7) failed to cooperate with a regulatory board for information related to any
69 investigation, adjudication, or enforcement of a violation of applicable law within 30 days of
70 such a request;

71 (8) knowingly permitted, aided or abetted an unauthorized person in performing activities
72 requiring a license, certificate, registration or authority; or

73 (9) had a license, certificate, registration or authority issued by another state or territory
74 of the United States, the District of Columbia, or a foreign state or nation with authority to issue
75 such a license, certificate, registration or authority revoked, cancelled, suspended, not renewed or

76 otherwise acted against, or if the holder has been disciplined, if the basis for the action would
77 constitute a basis for disciplinary action in the commonwealth.

78 SECTION 10. Said section 61 of said chapter 112, as so appearing, is hereby further
79 amended by striking out, in lines 49 through 51, the words “a board of registration under the
80 supervision of the division of professional licensure” and inserting in place thereof the following
81 words:- a department regulatory board under the supervision of the department or a division
82 regulatory board under the supervision of the division.

83 SECTION 11. Said section 61 of said chapter 112, as so appearing, is hereby further
84 amended by striking out, in line 55, the words “of registration”.

85 SECTION 12. Said section 61 of said chapter 112, as so appearing, is hereby further
86 amended by striking out, in line 62, the figure “\$100” and inserting in place thereof the following
87 figure:- \$500.

88 SECTION 13. Said section 61 of said chapter 112, as so appearing, is hereby further
89 amended by striking out, in line 62, the figure “\$500” and inserting in place thereof the following
90 figure:- \$1,500.

91 SECTION 14. Said section 61 of said chapter 112, as so appearing, is hereby further
92 amended by striking out, in line 63, the figure “\$1,500” and inserting in place thereof the
93 following figure:- \$2,500.

94 SECTION 15. Said section 61 of said chapter 112, as so appearing, is hereby further
95 amended by striking out, in line 63, the figure “\$2,500” and inserting in place thereof the
96 following figure:- \$5,000.

97 SECTION 16. Said section 61 of said chapter 112, as so appearing, is hereby further
98 amended by striking out, in line 82, the words “board of registration or examination,” and
99 inserting in place thereof the following words:- department regulatory board and each such
100 division regulatory board,.

101 SECTION 17. Said section 61 of said chapter 112, as so appearing, is hereby further
102 amended by striking out, in line 124, the word “board,” and inserting in place thereof the following
103 words:- department regulatory board and each such division regulatory board,.

104 SECTION 18. Section 65B of said chapter 112, as so appearing, is hereby amended by
105 striking out the words “a board of registration”, in line 1, and inserting in place thereof the
106 following words:- Each board of registration under the supervision of the department of public
107 health and each board of registration.

108 SECTION 19. Section 65F of said chapter 112, as so appearing, is hereby amended by
109 inserting, after the word "licensure" in line 4, the following words:- , or a board of registration
110 under the supervision of the department of public health,.

111 SECTION 20. Subsection (a) of section 228 of said chapter 112, as so appearing, is
112 hereby amended by inserting after the first sentence the following sentence:- Whoever practices,
113 offers to practice, or attempts to practice massage or acts as a massage therapist or massage
114 practitioner without being duly licensed by the board, and whoever operates, offers to operate, or
115 attempts to operate a massage therapy salon without a license or authorization by the board shall
116 be punished by a fine of not more than \$2,500 or by imprisonment in a jail or house of correction
117 for not more than 6 months, or both.

118 SECTION 21. Said section 228 of said chapter 112, as so appearing, is hereby amended
119 by striking out, in line 3, the word “No” and inserting in place thereof the following words:- (b)
120 No

121 SECTION 22. Said section 228 of said chapter 112, as so appearing, is hereby amended
122 by striking out, in line 35, the figure “(b)” and inserting in place thereof the following figure:- (c)

123 SECTION 23. Section 71A of chapter 143 of the General Laws, as so appearing, is
124 hereby amended by striking out the fourth sentence.

125 SECTION 24. Section 56A of chapter 146 of the General Laws, as so appearing, is
126 hereby amended by striking out, in lines 1 to 2, the words “inspectors of the office of public
127 safety and inspection of the”.

128 SECTION 25. Said section 56A of said chapter 146, as so appearing, is hereby further
129 amended by striking out, in line 2, the word “act” and inserting in place thereof the following
130 word:- administer.

131 SECTION 26. Said section 56A of said chapter 146, as so appearing, is hereby further
132 amended by striking out, in line 4, the words “as examiners of” and inserting in place thereof the
133 following words:- an examination to.

134 SECTION 27. Said section 56A of said chapter 146, as so appearing, is hereby further
135 amended by striking out, in lines 5 to 6, the words “Any such inspector or the” and inserting in
136 place thereof the following word:- The.

137 SECTION 28. Said section 56A of said chapter 146, as so appearing, is hereby further
138 amended by inserting after the word “licensure” in line 8, the following words:- or a designee.