HOUSE DOCKET, NO. 859 FILED ON: 1/14/2015

HOUSE . . . . . No. 212

The Commonwealth of Massachusetts

PRESENTED BY:

Jay R. Kaufman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to independent psychoanalysts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jay R. Kaufman	*15th Middlesex*
Sean Garballey	*23rd Middlesex*
Sal N. DiDomenico	*Middlesex and Suffolk*

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HOUSE . . . . . No. 212

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 212) of Jay R. Kaufman, Sean Garballey and Sal N. DiDomenico relative to consumer protection and regulation in psychotherapy. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *236* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to independent psychoanalysts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 88 of Chapter 13 of the General Laws is hereby amended by striking the first sentence and inserting in place thereof the following:

Section 88. There shall be within the division of professional licensure a board of registration of allied mental health and human services professions, in this section and sections eighty-nine and ninety, which shall consist of fifteen members, one of whom shall be elected as chairperson, to be appointed in the manner provided by section eighty-nine.

SECTION 2. Paragraph (A) of Section 89 of said Chapter 13 of the General Laws is hereby amended by striking the entire paragraph and inserting in place thereof the following:

10 (A) Twelve members shall be licensed practicing mental health and human
11 services professionals, two of whom shall be marriage and family therapists, two of whom shall
12 be rehabilitation counselors, two of whom shall be clinical mental health counselors, two of
13 whom shall be educational psychologists, two of whom shall be behavior analysts who meet the
14 qualifications in the last 2 paragraphs of section 165 of chapter 112, two of whom shall be
15 independent psychoanalytic therapists or independent psychoanalysts ; and each shall have been,
16 for at least five years immediately preceding appointment, actively engaged as a practitioner
17 rendering professional services in that field, or in the education and training of graduate students
18 or interns in the field, or in appropriate human developmental research, or in other areas
19 substantially equivalent thereto, and shall have spent the majority of the professional time in
20 such activity during the two years preceding the appointment in the commonwealth. One of the
21 12 shall also be a member of a union licensable under sections one hundred and sixty-three to
22 one hundred and seventy-two, inclusive, of chapter one hundred and twelve; and

23 SECTION 3. Said chapter 112 is hereby amended by replacing Section 163 with
24 the following:

25 Section 163. As used in sections one hundred and sixty-three to one hundred and
26 seventy-two, inclusive, the following words shall, unless the context clearly requires otherwise,
27 have the following meanings:—

28 "Advertise", includes, but is not limited to, distributing or causing to be
29 distributed any card, sign or device to any person; or the causing, permitting or allowing of any
30 sign or marking on or in any building or structure, or in any newspaper or magazine or in any

31 directory, or on radio, television or other electronic medium , or by the use of any other means
32 designed to secure public attention.

33 "Allied mental health and human services professional", a licensed educational
34 psychologist, a licensed marriage and family therapist, a licensed mental health counselor, a
35 licensed rehabilitation counselor, a licensed applied behavior analyst, a licensed assistant applied
36 behavior analyst, a licensed independent psychoanalytic therapist, or a licensed independent
37 psychoanalyst .

38 "Approved Continuing Education", continuing education such as research and training
39 programs, college and university courses, in-service training programs, seminars and conferences
40 designed to maintain and enhance the skills of allied mental health and human services
41 professionals and which are recognized by the board.

42 "Board", the Massachusetts board of registration of allied mental health and human
43 services professions.

44 "Licensed applied behavior analyst", an individual who, by training, experience
45 and examination, meets the requirements for licensing by the board and is duly licensed to
46 engage in the practice of applied behavior analysis in the commonwealth.

47 "Licensed assistant applied behavior analyst", an individual who, by training,
48 experience and examination, meets the requirements for licensing by the board and is duly
49 licensed to engage in the practice of applied behavior analysis under the supervision of a licensed
50 applied behavior analyst or a physician or psychologist qualified to practice applied behavior
51 analysis if it is consistent with the accepted standards of their respective professions.

52 “Licensed educational psychologist”, a person licensed or eligible for licensure
53 under section on hundred and sixty-five of this chapter and who has been certified as a school
54 psychologist by the Massachusetts department of education; provided, however, that an
55 educational psychologist shall not perform in private practice any of the services for which he is
56 licensed for any student in a school system by which such educational psychologist is employed
57 and provided, further, that an educational psychologist who violates this provision shall have his
58 license suspended for a period to be determined by the board pursuant to the provisions of
59 section one hundred and sixty-nine.

60 “Licensed independent psychoanalyst”, a person so licensed under section one
61 hundred and sixty-five B.

62 “Licensed independent psychoanalytic therapist”, a person so licensed under
63 section one hundred and sixty-five A.

64 “Licensed marriage and family therapist”, a person licensed or eligible for
65 licensure under section one hundred and sixty-five.

66 “Licensed mental health counselor”, a person licensed or eligible for licensure
67 under section one hundred and sixty-five.

68 “Licensed rehabilitation counselor”, a person licensed or eligible for licensure
69 under section one hundred and sixty-five.

70 “Practice of applied behavior analysis”, the design, implementation and
71 evaluation of systematic instructional and environmental modifications, using behavioral stimuli
72 and consequences, to produce socially significant improvements in human behavior, including

73 the direct observation and measurement of behavior and the environment, the empirical
74 identification of functional relations between behavior and environmental factors, known as
75 functional assessment and analysis, and the introduction of interventions based on scientific
76 research and which utilize contextual factors, antecedent stimuli, positive reinforcement and
77 other consequences to develop new behaviors, increase or decrease existing behaviors and elicit
78 behaviors under specific environmental conditions that are delivered to individuals and groups of
79 individuals; provided, however, that the "practice of applied behavior analysis" shall not include
80 psychological testing, neuropsychology, diagnosis of mental health or developmental conditions,
81 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, psychopharmacological
82 recommendations, hypnotherapy or academic teaching by college or university faculty.

83 "Practice of educational psychology", the rendering of professional services to
84 individuals, groups, organizations, or the public for compensation, monetary or otherwise. Such
85 professional services include: applying psychological principles, methods and procedures in the
86 delivery of services to individuals, groups, families, educational institutions and staff and
87 community agencies for the purpose of promoting mental health and facilitating learning. Such
88 services may be preventative, developmental or remedial and include psychological and
89 psychoeducational assessment, therapeutic intervention, program planning and evaluation,
90 research, teaching in the field of educational psychology, consultation and referral to other
91 psychiatric, psychological, medical and educational resources when necessary.

92 "Practice of marriage and family therapy", the rendering of professional services
93 to individuals, family groups, couples, or organizations, either public or private for
94 compensation, monetary or otherwise. Said professional services shall include, but not be limited
95 to, applying principles, methods and therapeutic techniques for the purpose of resolving

96 emotional conflicts, modifying perceptions and behavior, enhancing communications and
97 understanding among all family members and the prevention of family and individual crisis.
98 Individual marriage and family therapists may also engage in psychotherapy of a nonmedical
99 nature with appropriate referrals to psychiatric resources and research and teaching in the overall
100 field of human development and interpersonal relationships.

101 "Practice of mental health counseling", the rendering of professional services to
102 individuals, families, or groups for compensation, monetary or otherwise. These professional
103 services include: applying the principles, methods and theories of counseling, human
104 development, learning theory, group and family dynamics, the etiology of mental illness and
105 dysfunctional behavior and psychotherapeutic techniques to define goals and develop treatment
106 plans aimed toward the prevention, treatment and resolution of mental and emotional
107 dysfunction and intra or interpersonal disorders in all persons irrespective of diagnosis. The
108 practice of mental health counseling shall include, but not be limited to, diagnosis and treatment,
109 counseling and psychotherapy, of a nonmedical nature of mental and emotional disorders and the
110 psychoeducational techniques aimed at prevention of such disorders and consultations to
111 individuals, couples, families, groups, organizations and communities. Practice of mental health
112 counseling in independent practice with individuals diagnosed with psychosis may be undertaken
113 by a licensed mental health counselor: (a) who is licensed under section 165 on or after March 1,
114 1992; or (b) who was licensed prior to March 1, 1992 and who meets the certification criteria for
115 independent practice with individuals diagnosed with psychosis as established by the board of
116 registration of allied mental health and human services professions.

117 "Practice of psychoanalysis", the rendering of professional services to
118 individuals, families, groups of individuals, organizations or members of the public, for

119 compensation, monetary or otherwise. These professional services shall include, but not be
120 limited to, applying the principles, methods, and theories of psychoanalysis to the prevention,
121 observation, identification, evaluation, interpretation, or resolution of mental, emotional, family,
122 or social dysfunction in all persons, irrespective of diagnosis. Psychoanalytic principles and
123 methods address dynamic conscious and unconscious mental processes to facilitate modifications
124 in character, behavior, and affect that lead to more constructive or satisfactory functioning
125 through the use of verbal and non-verbal, cognitive and emotional communication, including an
126 in depth exploration of the unconscious aspects of the client's relationship with the analyst, the
127 unconscious meaning of communications, and the way current problems relate to early conflicts
128 and feelings. The practice of psychoanalysis shall include, but not be limited to, the use of
129 psychotherapy and counseling to diagnose and treat dysfunctions and disorders.

130 "Practice of psychoanalytic therapy", the rendering of professional services to
131 individuals, families, groups of individuals, organizations or members of the public, for
132 compensation, monetary or otherwise. These professional services shall include, but not be
133 limited to, applying psychoanalytic and psychotherapeutic principles, theories and techniques to
134 the prevention, observation, identification, evaluation, interpretation, or resolution of mental,
135 emotional, family, or social dysfunction in all persons, irrespective of diagnosis. Psychoanalytic
136 therapy addresses conscious and unconscious mental processes to facilitate modifications in
137 behavior, work and life adaptation, and mental health through the use of verbal and non-verbal
138 communication, including an emphasis on the way current problems relate to early experience.
139 The practice of psychoanalytic therapy shall include, but not be limited to, the use of
140 psychotherapy and counseling to diagnose and treat dysfunctions and disorders.

141 “Practice of rehabilitation counseling”, the rendering of professional services for
142 compensation, monetary or otherwise. These professional services include the application of
143 principles, methods and techniques of the rehabilitation counseling profession such as client
144 assessment, job analysis, vocational assessment, counseling and job development for the purpose
145 of maximizing or restoring the capacities of physically or mentally handicapped individuals for
146 self-sufficiency and independent living including vocational and social functioning and creating
147 those conditions favorable to this goal. The practice of rehabilitation counseling shall include,
148 but not be limited to: assisting individuals in the coordination of appropriate services; counseling
149 with individuals, families or groups; serving an advocacy role with communities or groups
150 toward the provision or implementation of rehabilitation services; research and teaching in the
151 field of rehabilitation counselor education.

152 “Psychoanalyst”, an individual who is licensed as an independent psychoanalyst
153 or is a recognized mental health professional who has received a post-master’s certificate or
154 doctoral degree in psychoanalysis from a recognized psychoanalytic training institution.

155 “Psychoanalytic therapist”, an individual who is licensed as an independent
156 psychoanalytic therapist or is a recognized mental health professional engaged in the practice of
157 psychoanalytic therapy.

158 “Recognized educational institution”, any educational institution which grants a
159 bachelor’s, master’s or doctor’s degree and which is recognized by the board, or by a nationally
160 or regionally recognized educational or professional accrediting organization; provided,
161 however, that such organization is also approved by the United States Department of Education.

162 “Recognized mental health professional”, a licensed alcohol and drug counselor, a
163 licensed allied mental health and human services professional, a licensed physician who has
164 completed training in psychiatry, a licensed psychiatric nurse mental health clinical specialist, a
165 licensed psychologist, or a licensed social worker.

166 “Recognized psychoanalytic training institution”, any psychoanalytic training institution
167 which grants a post-master’s certificate or doctoral degree in psychoanalysis and is accredited by
168 a nationally recognized psychoanalytic accrediting organization.

169 “Use a title or description of”, means to hold oneself out to the public as having
170 a particular status by means of statements on signs, mailboxes, address plates, stationery,
171 announcement, calling cards, web pages, or other instruments of professional identification.

172

173 SECTION 4. Said chapter 112 is hereby amended by replacing the first paragraph of
174 Section 164 with the following:

175 Section 164. Except as otherwise provided in sections one hundred and sixty-three to one
176 hundred and seventy-two, inclusive, commencing March first, nineteen hundred and eighty-nine,
177 no individual who is not licensed or exempted from licensure under said sections shall advertise
178 the performance of or use a title or description of:

179 (1) licensed mental health counselor, advisor or consultant;

180 (2) licensed marital or marriage and family therapist, advisor or consultant;

181 (3) licensed rehabilitation counselor, specialist, advisor or consultant;

182 (4) licensed educational psychologist, specialist, advisor or consultant;

183 (5) licensed independent psychoanalyst; or

184 (6) licensed independent psychoanalytic therapist.

185

186 SECTION 5. Said chapter 112 is hereby amended by adding Sections 165A and 165B
187 following Sections 165, as follows:

188 Section 165A. The board may issue a license to an applicant as an independent
189 psychoanalytic therapist provided that each such applicant shall provide satisfactory evidence to
190 the board that such applicant:

191 (1) is of good moral character;

192 (2) has not engaged or is not engaging in any practice or conduct which would be
193 grounds for refusing to issue a license under section one hundred and sixty-nine;

194 (3) has successfully completed a master’s degree or higher, from a recognized
195 educational institution;

196 (4) has successfully completed a master's degree or higher in psychoanalysis or a relevant
197 field from a recognized psychoanalytic training institution authorized by the state in which it is
198 located to offer such master's degree or higher. Such degree may also fulfill requirements for (3)
199 of this Section. The master's degree shall include 60 credits of academic courses as the board
200 shall specify. The master’s degree shall include 600 hours of an internship with such direct

201 client contact and supervision as the board shall specify, so long as 50% of such supervision is
202 with a psychoanalyst;

203 (5) has completed an additional 1500 hours of supervised clinical experience. Such
204 supervised clinical experience shall be composed of direct client contact, supervision, and
205 personal analysis as specified by the board, so long as 50% of such supervision is with a
206 psychoanalyst, and so long as the applicant completes a minimum of 150 hours of personal
207 analysis with a psychoanalyst. Clinical work shall be conducted in a clinic or hospital licensed or
208 authorized by the state in which it is located or accredited by the Joint Commission or an
209 equivalent center or institute or under the direction of an approved supervisor. Private practice
210 settings are not considered acceptable settings for this supervised clinical experience. These
211 supervised clinical experience hours may be obtained before or after completing the program in
212 psychoanalytic therapy; and

213 (6) the applicant shall successfully pass a written or oral examination approved by the
214 board to determine the applicant's qualifications for licensure pursuant to this section.

215 The board shall issue a license without examination to any applicant who applies
216 within one year following the enactment of regulations in support of this act, if the individual
217 meets qualifications set forth in section one hundred and sixty five A of chapter one hundred and
218 twelve of the General Laws, and meets the education experience qualifications determined by the
219 board.

220 The board may issue a license without examination to any applicant who applies within
221 one year following the enactment of regulations in support of this act, who has been practicing

222 psychoanalytic therapy for a reasonable period of time under supervision as specified and
223 determined by the board; and who satisfies the professional standards established by the board.

224 Section 165B. The board may issue a license to an applicant as an independent
225 psychoanalyst provided that each such applicant shall provide satisfactory evidence to the board
226 that such applicant:

227 (1) is of good moral character;

228 (2) has not engaged or is not engaging in any practice or conduct which would be
229 grounds for refusing to issue a license under section one hundred and sixty-nine;

230 (3) has successfully completed a master's degree or higher, from a recognized
231 educational institution;

232 (4) has successfully completed the education and experience requirements for licensure in
233 psychoanalytic therapy in Sections 165A.4. and 165A.5. Such education and experience may
234 also fulfill requirements for (3) of this Section;

235 (5) has completed a post-master's certificate program or doctoral program in
236 psychoanalysis from a recognized psychoanalytic training institution that is authorized by the
237 state in which it is located to grant a master's degree or higher in psychoanalytic therapy or a
238 relevant field. In addition to requirements completed as part of (4) of this Section, within the
239 program, the applicant shall have completed a minimum of 350 clock hours of academic work in
240 such courses as the board shall specify, shall have completed supervised psychoanalytic practice
241 totaling not less than 550 hours of direct client contact and supervision as the board shall specify,
242 so long as such supervision is with a psychoanalyst, and shall have completed 200 hours of

243 additional personal analysis with a psychoanalyst. Private practice is not considered an
244 acceptable setting for supervised psychoanalytic practice unless the applicant has obtained a
245 license as a recognized mental health professional; and

246 (6) the applicant shall successfully pass a written or oral examination approved by the
247 board to determine the applicant's qualifications for licensure pursuant to this section.

248 The board shall issue a license without examination to any applicant who applies
249 within one year following the enactment of regulations in support of this act, if the individual
250 meets qualifications set forth in section one hundred and sixty five B of chapter one hundred and
251 twelve of the General Laws, and meets the education experience qualifications determined by the
252 board.

253 The board may issue a license without examination to any applicant who applies within
254 one year following the enactment of regulations in support of this act, who has been practicing
255 psychoanalysis for a reasonable period of time under supervision as specified and determined by
256 the board; and who satisfies the professional standards established by the board.