

SENATE No. 1041

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 the recognition and registration of professional employer organizations operating in the Commonwealth of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/31/2017</i>

SENATE No. 1041

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1041) of Michael J. Rodrigues and Michael J. Barrett for legislation relative to the recognition and registration of professional employer organizations operating in the Commonwealth. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4563 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the recognition and registration of professional employer organizations operating in the Commonwealth of Massachusetts.

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 149 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 191 the following 13 sections:-

3 Section 192. The following words, as used in this section and in sections 193 through
4 204, inclusive, shall have the following meanings unless the context otherwise requires:

5 “Client”, a person who enters into a professional employer agreement with a professional
6 employer organization.

7 “Covered Employee”, an individual employed in a PEO relationship where the
8 individual’s PEO relationship is under a professional employer agreement . Individuals who are

9 officers, directors, shareholders, partners, and managers of the client will be covered employees,
10 except to the extent the professional employer organization and the client have expressly agreed
11 in the professional employer agreement that such individuals would not be covered employees,
12 provided such individuals meet the criteria of this paragraph and act as operational managers or
13 perform day-to-day operational services for the client.

14 “Department”, the department of labor standards.

15 “Director”, the director of the department of labor standards.

16 “Employment Agency”, shall have the same meaning as defined in section 46A of
17 chapter 140.

18 “PEO Group”, 2 or more professional employer organizations that are majority owned or
19 commonly controlled by the same entity, parent, or controlling person or persons.

20 “Person”, any individual, partnership, corporation, limited liability company, association,
21 or any other form of legally recognized entity.

22 “Professional Employer Agreement”, a written contract by and between a client and a
23 professional employer organization that: (a) provides for the PEO relationship of covered
24 employees; (b) allocates employer rights and obligations between the client and the professional
25 employer organization with respect to the covered employees; (c) allocates the responsibilities
26 between the professional employer organization and the client ; and (d) shall not affect, modify
27 or amend any employee rights under federal, state, local or municipal law and in no way
28 abrogate obligations of the client or the PEO to covered employees under such laws.

29 “Professional Employer Organization” or “PEO”, any person engaged in the business of
30 providing professional employer services who is subject to registration and regulation pursuant
31 to sections 192 through 204, inclusive regardless of its use of the term or conducting business as
32 a professional employer organization staff leasing company, registered staff leasing company,
33 employee leasing company, administrative employer or any other name provided that the
34 following shall not be deemed to be professional employer organizations or to be providing of
35 professional employment services: (a) arrangements wherein a person, whose principal business
36 activity is not entering into professional employer arrangements and which does not hold itself
37 out as a PEO, shares employees with a commonly owned company within the meaning of section
38 414(b) and section 414(c) of the Internal Revenue Code of 1986, as amended; (b) Independent
39 contractor arrangements as defined by Section 148 of this chapter; or (c) Services provided by an
40 Employment Agency or Staffing Agency

41 “PEO Relationship”, a co-employment relationship, where all the rights, duties, and
42 obligations of an employer which arise out of an employment relationship have been allocated
43 between the PEO and the client pursuant to a professional employer agreement, provided
44 however, that a staffing agency and an employment agency are not a PEO. In a PEO relationship:
45 (a) the professional employer organization is entitled to enforce only such employer rights and is
46 subject to only those obligations allocated in the professional employment agreement or as
47 specifically required pursuant to sections 192 through 204, inclusive; (b) the client is entitled to
48 enforce those rights, and obligated to provide and perform those employer obligations allocated
49 to the client by the written professional employer agreement ; and (c) the client is entitled to
50 enforce any right and obligated to perform any obligation of an employer not specifically
51 allocated to the PEO or sections 192 through 204, inclusive.

52 “Professional Employer Services”, the service of entering into PEO relationships in
53 which all or a majority of the employees providing services to a client or to a division or work
54 unit of the client are covered employees.

55 “Registrant”, a PEO registered pursuant to section 196 of this chapter.

56 “Staffing Agency”, as defined by section 159C of this chapter.

57 “Wages”, as defined by section 148 of this chapter.

58 Section 193. (a) Nothing contained in sections 192 through 204, inclusive or in any
59 professional employer agreement shall affect, modify or amend any collective bargaining
60 agreement, or the rights or obligations of any client, PEO, or covered employee under the federal
61 National Labor Relations Act, the Federal Railway Labor Act, chapter 150A or 150E of the
62 General Laws, or any other applicable federal or state law.

63 (b) Collective bargaining, should it commence after an agreement is entered into between
64 a PEO and a client, shall be conducted as required by federal and state law.

65 (c) Nothing in sections 192 through 204, inclusive or in any professional employer
66 agreement shall:

67 (1) Diminish, abolish or remove rights of covered employees to a client or obligations of
68 such client to a covered employee existing prior to the effective date of the professional
69 employer agreement under federal or state law;

70 (2) Affect, modify, or amend any contractual relationship or restrictive covenant between
71 a covered employee and any client in effect at the time a professional employer agreement
72 becomes effective. Nor shall it prohibit or amend any contractual relationship or restrictive

73 covenant that is entered into subsequently between a client and a covered employee. A PEO shall
74 have no responsibility or liability in connection with, or arising out of, any such existing or new
75 contractual relationship or restrictive covenant unless the PEO has specifically agreed otherwise
76 in writing; or

77 (3) Affect, modify or amend any employee rights under federal, state, local or municipal
78 law.

79 Section 194. (a) Nothing contained in sections 192 through 204, inclusive or any
80 professional employer agreement shall affect, modify or amend any federal, state, or local
81 licensing, registration, or certification requirement applicable to any client or covered employee.

82 (b) A covered employee who must be licensed, registered, or certified according to law or
83 regulation is deemed solely an employee of the client for purposes of any such license,
84 registration, or certification requirement.

85 (c) A PEO shall not be deemed to engage in any occupation, trade, profession, or other
86 activity that is subject to licensing, registration, or certification requirements, or is otherwise
87 regulated by a government agency solely by entering into and maintaining a PEO relationship
88 with a covered employee who is subject to such requirements or regulation.

89 (d) A client shall have the sole right of direction and control of the professional or
90 licensed activities of covered employees and of the client's business. Covered employees and
91 clients shall remain subject to regulation by the regulatory or governmental entity responsible for
92 licensing, registration, or certification of such covered employees or clients.

93 Section 195.(a) For purposes of the determination of tax credits and other economic
94 incentives provided by the commonwealth or other government entity and based on employment,
95 covered employees shall be deemed solely the client’s employees. A client shall be entitled to the
96 benefit of any tax credit, economic incentive, or other benefit arising as the result of the
97 employment of covered employees of such client. Notwithstanding that the PEO is the W-2
98 reporting employer; the client shall continue to qualify for the benefit, incentive or credit. If the
99 grant or amount of any benefit, incentive, or credit is based on number of employees, then each
100 client shall be treated as employing only those covered employees involved in a PEO
101 relationship by such client. Covered employees working for other clients of the PEO shall not be
102 counted. Each PEO will provide, upon request by a client or by agency employment information
103 reasonably required for administration of any tax credit or economic incentive and necessary to
104 support any request, claim, application, or other action by a client seeking any tax credit or
105 economic incentive.

106 (b) With respect to a bid, contract, purchase order, or agreement entered into with the
107 commonwealth or a political subdivision thereof, a client company's status or certification under
108 federal or state law as a small, minority-owned, disadvantaged, woman-owned business, or other
109 underutilized class of enterprise shall not be affected because the client company has entered into
110 a PEO relationship.

111 Section 196.(a) Except as otherwise provided in sections 192 through 204, inclusive, no
112 person shall provide, advertise, or otherwise hold itself out as providing Professional Employer
113 Services in the commonwealth, unless such person is registered pursuant to this section.

114 (b) Each applicant for registration shall provide the department with the following
115 information:

116 (1) The name or names under which the PEO conducts business or will conduct business;

117 (2) The address of the principal place of business of the PEO and the address of each
118 office it maintains it maintains in the commonwealth;

119 (3) The PEO's taxpayer or employer identification number;

120 (4) A list by jurisdiction of each name under which the PEO has operated in the
121 preceding 5 years, including any alternative names, names of predecessors and, if known,
122 successor business entities;

123 (5) A statement of ownership, which shall include the name and evidence of the business
124 experience of any person that, individually or acting in concert with one or more other persons,
125 owns or controls or will own or control if known or reasonably known at the time of registration,
126 directly or indirectly, twenty-five percent or more of the equity interests of the PEO;

127 (6) A statement of management, which shall include the name and evidence of the
128 business experience of any person who serves or will serve, if known or reasonably known at the
129 time of registration, as president, chief executive officer, or otherwise has the authority to act as
130 senior executive officer of the PEO; and

131 (7) A financial statement setting forth the financial condition of the PEO or PEO Group.
132 At the time of application for a new license, as part of the financial statement, the applicant shall
133 submit an audit of the applicant, which shall be the most recent audit available and shall not be
134 older than 13 months. Nothing in this paragraph shall be construed as to require the department

135 to conduct the audit. Thereafter, a PEO or PEO Group shall file on an annual basis, at the time
136 of renewal, a succeeding audit. An applicant may apply for an extension with the department but
137 any such request must be accompanied by a letter from the auditors stating the reasons for the
138 delay and the anticipated audit completion date. The financial statement shall be prepared in
139 accordance with generally accepted accounting principles, and the audit shall be conducted by an
140 independent certified public accountant licensed to practice in the jurisdiction in which such
141 accountant is located, and shall be without qualification as to the going concern status of the
142 PEO. A PEO Group or a PEO that is part of an organizational structure where it is majority
143 owned or commonly controlled by an entity, parent or controlling person may submit combined
144 or consolidated audited financial statements to meet the requirements of this section. A PEO that
145 has not had sufficient operating history to have audited financials based upon at least 12 months
146 of operating history must meet the financial capacity requirements below and in subsections (l)
147 and (m) and must present financial statements reviewed by a certified public accountant; and

148 (8) A list of clients including client name, physical address, telephone number and federal
149 identification number.

150 (c) a PEO shall complete its initial registration prior to initiating operations within the
151 commonwealth. In the event a PEO that is not registered in the commonwealth becomes aware
152 that an existing client not based in the commonwealth has employees and operations in the
153 commonwealth, the PEO must either decline to provide PEO services for those employees or
154 notify the department within five business days of its knowledge of the fact and file a full
155 business registration if there are more than 15 covered employees. The department may issue an
156 interim operating permit for the period the registration applications are pending if (i) the PEO is

157 currently registered or licensed by another state and (ii) the department determines it to be in the
158 best interests of the potential covered employees.

159 (d) Upon expiration of its registration, the registrant shall renew its registration by
160 notifying the department of any changes in the information provided in the registrant's most
161 recent registration or renewal. A registrant's existing registration shall remain in effect during the
162 pendency of a renewal application.

163 (e) PEOs in a PEO Group may satisfy the reporting and financial requirements
164 established pursuant to this section on a combined or consolidated basis provided that each
165 member of the PEO Group guarantees the financial capacity obligations under paragraph (7) of
166 this section for each member of the PEO Group. In the case of a PEO Group that submits a
167 combined or consolidated audited financial statement, including entities that are not PEOs or that
168 are not in the PEO Group, the controlling entity of the PEO Group under the consolidated or
169 combined statement must guarantee the obligations of the PEOs in the PEO Group.

170 (f) A PEO that is part of an organizational structure where it is majority owned or
171 commonly controlled by an entity, parent or controlling person may submit a combined or
172 consolidated audited financial statement provided the controlling entity under the consolidated or
173 combined statement guarantees the obligations of the PEO.

174 (g) The department shall maintain a list of PEOs registered pursuant to this section that is
175 readily available to the public by electronic or other means.

176 (h) The department may prescribe forms necessary to promote the efficient
177 administration of this section.

178 (i) applications, documents, reports and other filings shall be submitted in a manner
179 determined by the director, which may also include the acceptance of electronic filings and other
180 assurance by an independent and qualified assurance organization approved by the director that
181 provides satisfactory assurance of compliance acceptable to the director consistent with or in lieu
182 of the requirements of subsections (b) through(g), inclusive, and subsection (k), and other
183 requirements of sections 192 through 204, inclusive or the regulations promulgated pursuant to
184 those sections. The director shall permit a PEO to authorize such an approved assurance
185 organization to act on the PEO's behalf in complying with the registration requirements pursuant
186 to section 196, including electronic filings of information and payment of registration fees. Use
187 of such an approved assurance organization shall be optional and not mandatory for a registrant.
188 Nothing in this subsection shall limit or change the department's authority to register or
189 terminate registration of a professional employer organization or to investigate or enforce any
190 provision of this chapter.

191 (j) All records, reports, and other information obtained from a PEO for the purposes of
192 section 197 t, except to the extent necessary for the department's proper administration of this
193 chapter, shall be confidential and shall not be published or open to public inspection other than to
194 public employees in the performance of their public duties or otherwise in accordance with
195 federal or state law.

196 (k) The department shall determine by rule any fee to be charged for initial registration,
197 renewal or group registration.

198 (l) Except as provided by subsection (e) and (f), each PEO or collectively each PEO
199 Group shall maintain:

200 (1) positive working capital, as defined by generally accepted accounting principles,
201 proof of which will be submitted at registration as reflected in the financial statements submitted
202 to the department with the initial registration and each annual renewal; and

203 (2) Each PEO shall maintain a surety bond in the amount of \$250,000, proof of which
204 will be submitted at the time of registration. The surety bond required shall be in a form
205 acceptable to the director and maintained while the license remains in effect or any obligations or
206 liabilities of the registrant remain outstanding.

207 (m) A PEO or PEO Group that does not have positive working capital may provide a
208 bond, irrevocable letter of credit, or securities with a minimum market value equaling the
209 deficiency plus \$250,000. Such bond is to be held by a depository designated by the department,
210 securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with
211 respect to covered employees, if the PEO does not make such payments when due.

212 Section 197.(a) Except as specifically provided in sections 192 through 204, inclusive
213 and in the professional employer agreement pursuant to this section , or under any subsequent
214 written agreement or amendment, in each PEO relationship:

215 (1) The client shall be entitled to exercise all rights, and shall be obligated to perform all
216 duties and responsibilities, otherwise applicable to an employer in an employment relationship;
217 and;

218 (2) The PEO shall be entitled to exercise only those rights, and obligated to perform only
219 those duties and responsibilities, specifically required pursuant to sections 192 through 204,
220 inclusive t, or those set forth in the professional employer agreement. The rights, duties and
221 obligations of the PEO with respect to any covered employee shall be limited to those arising

222 pursuant to the professional employer agreement and those required pursuant to this chapter
223 during the term of the PEO relationship with such covered employee.

224 (3) Unless otherwise expressly agreed by the PEO and the client in a professional
225 employer agreement, the client retains the exclusive right to direct and control the covered
226 employees as is necessary to conduct the client's business, to discharge any of the client's
227 fiduciary responsibilities, or to comply with any licensure requirements applicable to the client or
228 to the covered employees.

229 (b) Except as specifically provided in sections 192 through 204, inclusive, the PEO
230 relationship between the client and the PEO and between the PEO and each covered employee,
231 and the client and each covered employee shall be governed by the professional employer
232 agreement.

233 Each professional employer agreement shall include the following:

234 (1) The allocation of rights, duties, and obligations as described in subsection (a).

235 (2) The extent that the PEO has assumed responsibility in the professional employer
236 agreement; (i) where the PEO shall have responsibility to pay such wages to covered
237 employees; (ii) to withhold, collect, report and remit payroll-related and unemployment taxes;
238 and (iii) to make payments for employee benefits for covered employees.

239 (3) That the PEO shall have a right to hire and terminate a covered employee as may be
240 necessary to fulfill the PEO's responsibilities pursuant to sections 192 through 204, inclusive, the
241 professional employer agreement, or as actually delegated by the client. The client shall have a
242 right to hire, discipline, and terminate a covered employee.

243 (c) Upon initiation of the PEO relationship, the PEO shall provide and the client is
244 required to post a notice in a conspicuous place at the client's worksite and depending on the
245 customary way that the client communicates with its employees; either provide a hard copy or an
246 electronic copy of this notice that shall contain the following information:

247 (1) Notice of the general nature of the co-employment relationship between and among
248 the professional employer organization, the client and such covered employees, including the
249 rights, responsibilities and duties that the PEO and the client have with respect to the covered
250 employees;

251 (2) The name and telephone number of the department;

252 (3) The name and telephone number for the PEO;

253 (4) Disclosure if the benefit plan is self-funded or is not fully insured;

254 (5) the name of the workers' compensation carrier and the policy number; whether the
255 PEO or the client maintains the workers' compensation policy and performs safety inspections at
256 the workplace; and a phone number or contact to report injuries and hazardous worksite
257 conditions; and

258 (6) include a multilingual tagline on the notice provided by the department in languages
259 required under clause (iii) of subsection (d) of section 62A of chapter 151A that includes the
260 name and telephone number of the department and states that the notice contains important
261 information that should be translated.

262 (d) Upon termination, and in accordance with applicable federal law and General Laws,
263 the PEO shall provide covered employees with written notice of the termination of the PEO
264 relationship. The notice can be provided electronically.

265 (e) Except to the extent otherwise expressly provided by the applicable professional
266 employer agreement:

267 (1) A client shall be solely responsible for the quality, adequacy, or safety of the goods or
268 service produced or sold in the client's business.

269 (2) A client shall be solely responsible for directing, supervising, training, and controlling
270 the work of the covered employees with respect to the business activities of the client and solely
271 responsible for the acts, errors, or omissions of the covered employees with regard to such
272 activities

273 (3) A client shall be solely responsible for the payment of any wages to covered
274 employees and to make payments for employee benefits for covered employees.

275 (4) A client shall be solely responsible for safety, risk and hazard control at the worksite
276 and compliance with related state and federal laws.

277 (5) Upon termination of the PEO relationship, the client shall be solely responsible for
278 providing employees with information regarding the handling of claims and benefits.

279 (6) A client shall not be liable for the acts, errors, or omissions of a PEO, or of any
280 covered employee of the client and a PEO, when such covered employee is acting under the
281 express direction and control of the PEO.

282 (7) A PEO shall not be liable for the acts, errors, or omissions of a client or of any
283 covered employee of the client when such covered employee is acting under the express
284 direction and control of the client.

285 (8) Nothing in this subsection shall serve to limit any contractual liability or obligation
286 specifically provided in the written professional employer agreement.

287 (9) A covered employee is not, solely as the result of being a covered employee of a
288 PEO, an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety
289 bonds, employer's liability which is not covered by workers' compensation, or liquor liability
290 insurance carried by the PEO unless the covered employees are included by specific reference in
291 the professional employer agreement and applicable prearranged employment contract, insurance
292 contract or bond.

293 (10) Nothing in this section shall in any way limit the liabilities and obligations of any
294 PEO or client to covered employees as required by this chapter.

295 (11) The client shall be solely responsible for notifying the PEO of all covered
296 employees. Where the client has failed to notify the PEO, the client will be deemed to be the sole
297 employer of the employee.

298 (12) The client shall retain all records in compliance with state and federal law, including,
299 but not limited to section 52C of this chapter and section 15 of chapter 151.

300 Section 198.

301 (a) Any tax assessed or assessment or mandated expenditure on a per capita or per
302 employee basis shall be assessed against the client for covered employees and against the PEO

303 for its employees who are not covered employees involved in a PEO relationship with a client.
304 Benefits or monetary consideration that meet the requirements of mandates imposed on a client
305 and that are received by covered employees through the PEO either through payroll or through
306 benefit plans sponsored by the PEO shall be credited against the client's obligation to fulfill such
307 mandates

308 (b) In the case of a tax or an assessment imposed or calculated upon the basis of total
309 payroll, the PEO shall be eligible to apply any small business allowance or exemption available
310 to the client for the covered employees for purpose of computing the tax.

311 Section 199. (a) a client or a registered PEO shall each be deemed an employer under the
312 laws of this state for purposes of sponsoring welfare benefit plans for its covered employees.

313 (b) A fully-insured welfare benefit plan as defined in 29 U.S. Code § 1002 offered to the
314 covered employees of a single PEO shall be treated for purposes of state law as a single
315 employer welfare benefit plan.

316 (c) For purposes of chapter 176J of the General Laws a PEO shall be considered the
317 employer of all of its covered employees and all covered employees of one or more clients
318 participating in a health benefit plan sponsored by a single PEO shall be considered employees
319 of that PEO.

320 (d) If a PEO offers to its covered employees any health benefit plan which is not fully-
321 insured by an authorized insurer, the plan shall:

322 (1) Utilize a third-party administrator licensed to do business in this commonwealth;

323 (2) Hold all plan assets, including participant contributions, in a trust account consistent
324 with the requirements of section 403 of the Employee Retirement Income Security Act of 1974
325 or ERISA;

326 (3) Provide sound reserves for such plan as determined using generally accepted actuarial
327 standards of practice and consistent with the prudence and loyalty standards of care for ERISA
328 fiduciaries; and

329 (e) A PEO is not engaged in the sale of insurance or in acting as a third party
330 administrator by offering, marketing, selling, administering or providing professional employer
331 services which include services and employee benefit plans for covered employees.

332 Section 200. (a) Workers' compensation coverage shall be provided pursuant to section
333 14A of chapter 152 of the General Laws and regulations promulgated pursuant to said chapter
334 152.

335 (b) PEOs and clients shall comply with employer posting notices pursuant to sections 21,
336 22 and 30 of said chapter 152

337 (c) To the extent the PEO has assumed responsibility in the professional employer
338 agreement; the PEO shall maintain responsibility for the management of workers' compensation
339 claims.

340 (d) The PEO agreement shall specify the allocation of responsibilities between the PEO
341 and the client for workplace safety, risk and hazard control including the responsibility for
342 performing workplace safety inspections of all premises where covered employees are employed.

343 (e) Where the PEO has workers compensation coverage and has executed an alternate
344 employer endorsement naming the client as an additional insured, both the client and the PEO
345 shall be considered the employer for purpose of coverage under said chapter 152

346 (f) Where the client has workers compensation coverage and has executed an alternate
347 employer endorsement naming the PEO as an additional insured, both the client and the PEO
348 shall be considered the employer for the purpose of coverage under said chapter 152.

349 Section 201.(a) For purposes of chapter 151A of the General Laws, covered employees of
350 a registered PEO are considered the employees of the client, and the PEO shall be responsible for
351 the payment of contributions, penalties, and interest on wages paid by the PEO to its covered
352 employees during the term of the applicable professional employer agreement.

353 (b) The PEO shall report and pay all required contributions to the unemployment
354 compensation fund using the state employer account number and the experience rate of the client
355 company pursuant to chapter 151A and the regulations promulgated pursuant to said chapter.

356 Section 202. Except as otherwise provided in this chapter, for the purposes of federal,
357 state, or local laws relating to employee count, such as paid and unpaid leave, health and
358 transportation benefits, and protection under fair employment laws, the employee count shall
359 include all of the client company's employees, including the client's employees who are covered
360 employees under the PEO relationship between the client and the PEO.

361 Section 203. (a) A person may not knowingly and intentionally:

362 (1) Offer or provide professional employer services or use the names PEO, professional
363 employer organization, staff leasing, employee leasing, administrative employer, or other title

364 representing professional employer services without registering with the department pursuant to
365 section 197;

366 (2) Provide false or fraudulent information to the department in conjunction with any
367 registration, renewal, or in any report required pursuant to sections 192 through 204, inclusive;

368 (3) Enter into a PEO relationship and split a client workforce for the sole purpose of
369 avoiding compliance with federal, state or municipal laws; or

370 (4) Make a material misrepresentation to the department, to other governmental agencies
371 or to covered employees.

372 (b) Disciplinary action may be taken by the department for violation of the provisions of
373 this chapter including for:

374 (1) The conviction of a PEO or a controlling person of a PEO of a crime that relates to
375 the operation of a PEO or the ability of the licensee or a controlling person of a licensee to
376 operate a PEO;

377 (2) Knowingly making a material misrepresentation to the department, or other
378 governmental agency; or

379 (3) A willful violation of this chapter or any order or regulation.

380 (c) Any individual may file a complaint with the department against a PEO, PEO group
381 or client. The complaint shall be filed in writing, with the department, in a form prescribed by
382 the director.

383 (1) Upon receipt of a complaint, the department will proceed to review and investigate
384 the complaint to determine if further action is warranted.

385 (2) If the director, after investigation, has cause to believe that there have been violations
386 of this chapter, the director may refer the complaint to the Office of the Attorney General. (d)
387 Upon finding, after notice and opportunity for hearing, that a PEO, or a controlling person of a
388 PEO, or a person offering PEO services has violated one or more provisions of this chapter
389 including the failure to furnish records and requested information to the department and its
390 inspectors, or if a PEO, PEO group or client hinders or interferes with any authorized inspector
391 while in the performance of their duties.

392 (e) Subject to any appeal, the director may:

393 (1) Deny an application for a license;

394 (2) Revoke, suspend, restrict, or refuse to renew a license;

395 (3) Impose an administrative penalty in an amount not to exceed \$1,000 for each material
396 violation;

397 (4) Place the licensee on probation for the period and subject to conditions that the
398 department specifies; or

399 (5) Issue a cease and desist order.

400 Section 204. Wages shall be paid in accordance with section 148 of this chapter and any
401 minimum wage and overtime requirements as provided for in chapter 151 of the General Laws.

402 A PEO, who fails to pay wages, to the extent the PEO has assumed responsibility in the

403 professional employer agreement or subsequent written agreement and as required under this
404 chapter, shall be subject to penalties under this chapter.

405 SECTION 2. Each Professional Employment Organization as defined by section 192 of
406 chapter 149 of the General Laws operating within the commonwealth as of the effective date of
407 this act shall complete its initial registration not later than 180 days after the effective date of this
408 act. Initial registration shall be valid for 1 year after the date of issuance.

409 SECTION 3. The Department of Labor Standards shall promulgate regulations to
410 effectuate the purposes of this act.