

HOUSE No. 4745

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 12, 2022.

The committee on Consumer Protection and Professional Licensure to whom was referred the message from His Excellency the Governor (accompanied by House, No. 3775) relative to licensing accountability in the Commonwealth, reports recommending that the accompanying bill (House, No. 4745) ought to pass.

For the committee,

TACKEY CHAN.

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

An Act relative to licensing accountability and modernization 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. Section 16 of chapter 13 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended, in the third sentence, by striking out the words “a member
3 of the faculty or on the board of trustees thereof”.

4 SECTION 2. Section 10A of chapter 22 of the General Laws, as amended by chapter 39
5 of the acts of 2021, is hereby further amended by striking out the second paragraph.

6 SECTION 3. Section 11 of said chapter 22 of the General Laws, as amended by chapter
7 39 of the acts of 2021, is hereby further amended by striking out the fourth paragraph.

8 SECTION 4. Section 13 of chapter 30A of the General Laws, as so appearing, is hereby
9 amended by striking out the last paragraph .

10 SECTION 5. Section 24 of chapter 93 of the General Laws, as so appearing, is hereby
11 amended by striking out the definition of “debt collector”, and inserting in place thereof the
12 following new definition:-

13 "Debt collector", any person who: (i) uses an instrumentality of interstate commerce or
14 the mails in any business the principal purpose of which is the collection of a debt, (ii) who
15 regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted to
16 be owed or due another, or (iii) engages in any business the principal purpose of which is the
17 purchase of charged-off debt for collection purposes in the commonwealth, whether it collects
18 the debt itself, hires a third party for collection, or retains an attorney in order to collect such
19 debt. Notwithstanding this definition, a person who purchases charged-off debt as an investment
20 and exclusively contracts with a licensed debt collector or attorney for the collection of the debt
21 who has filed an application with the commissioner for a license and whose application remains
22 pending with the commissioner thereafter may continue to operate without a license until the
23 commissioner approves or denies the application. Notwithstanding the exclusion provided by
24 clause (f), debt collector shall include a creditor who, in the process of collecting his own debt,
25 uses any name other than his own which would indicate that a third person is collecting or
26 attempting to collect the debt. Debt collector shall also include a person who uses an
27 instrumentality of interstate commerce or the mails in a business the principal purpose of which
28 is the enforcement of security interests. Debt collector shall not include:

29 (a) an officer or employee of a creditor while, in the name of the creditor, collecting debts
30 for the creditor;

31 (b) a person while acting as a debt collector for another person, both of whom are related
32 by common ownership or affiliated by corporate control, if the person acting as a debt collector
33 does so only for a person to whom it is so related or affiliated and if the principal business of the
34 person is not the collection of a debt;

35 (c) an officer or employee of the United States or a state of the United States to the extent
36 that collecting or attempting to collect a debt is in the performance of his official duty;

37 (d) a person while serving or attempting to serve legal process on another person in
38 connection with the judicial enforcement of a debt;

39 (e) a nonprofit organization which, at the request of a consumer, performs bona fide
40 consumer credit counseling and assists the consumer in the liquidation of debts by receiving
41 payments from the consumer and distributing the amounts to creditors;

42 (f) a person collecting or attempting to collect a debt owed or due or asserted to be owed
43 or due another to the extent the activity (i) is incidental to a bona fide fiduciary obligation or a
44 bona fide escrow arrangement; (ii) concerns a debt which was originated by the person; (iii)
45 concerns a debt which was not in default at the time it was obtained by the person; or (iv)
46 concerns a debt obtained by the person as a secured party in a commercial credit transaction
47 involving the creditor;

48 (g) attorneys-at-law collecting a debt on behalf of a client; and

49 (h) an agent or independent contractor employed for the purpose of collecting a charge or
50 bill owed by a tenant to a landlord or owed by a customer to a corporation subject to the
51 supervision of the department of public utilities or the department of telecommunications and
52 cable or the division of insurance insofar as the person collects charges or bills only for the
53 landlord or supervised corporations.

54 SECTION 6. Section 24A of said chapter 93 is hereby amended by striking out
55 subsection (a), and inserting in place thereof the following:-

56 (a) No person shall directly or indirectly engage in the commonwealth in the business of
57 a debt collector, or engage in the commonwealth in soliciting the right to collect or receive
58 payment for another of an account, bill or other indebtedness, or advertise for or solicit in print
59 the right to collect or receive payment for another of an account, bill or other indebtedness,
60 without first obtaining from the commissioner a license to carry on the business, nor unless the
61 person or the person for whom he or it may be acting as agent has on file with the state treasurer
62 a good and sufficient bond. Bonds shall not be required of any person who engages in any
63 business the principal purpose of which is the purchase of charged-off debt for collection
64 purposes and does not otherwise act as a third-party debt collector.

65 SECTION 7. Section 24B of said chapter 93 is hereby amended by inserting at the end
66 thereof the following new subsection:-

67 (d) The commissioner shall permit affiliated companies, as determined by the
68 commissioner, to be under a single license and subject to a single examination so long as all of
69 the affiliated company names are listed on the license.

70 SECTION 8. Section 55 of chapter 112 of the General Laws, as so appearing, is hereby
71 amended by striking out the second paragraph and inserting in place thereof the following
72 paragraph:-

73 Every registered veterinarian shall biannually, before January first, pay to the board a
74 license fee to be determined annually by the commissioner of administration under the provision
75 of section three B of chapter seven, in default of which the board may revoke the veterinarian's
76 license and authority to practice veterinary medicine thereunder, after a hearing as provided by
77 section eleven; but the payment of said fee at or before the time of hearing, with an additional

78 sum to be determined under the aforementioned chapter seven provision, shall remove the
79 default. A veterinarian seeking license renewal shall present evidence satisfactory to the board of
80 the successful completion of such continuing education as the board shall require by regulation.
81 A veterinarian duly registered and licensed to practice in this commonwealth, whose license has
82 not been revoked, but who shall have temporarily retired from practice or removed from the
83 commonwealth for a period not exceeding five years, and shall have notified the board of such
84 retirement or removal, may register upon paying the lapsed annual license fee and filing with the
85 board an affidavit as to the facts aforesaid. Applications for renewals of licenses hereunder shall
86 be upon forms prescribed by the board, and shall, no less than thirty days prior to January first
87 every other year, be transmitted to each veterinarian registered with the board.

88 SECTION 9. Chapter 112 of the General Laws, as so appearing, is hereby amended by
89 striking out section 61 , and inserting in place thereof the following new section:-

90 Section 61. As used in this section, the following words shall have the following
91 meanings:

92 “Department”, shall mean the department of public health.

93 “Department commissioner”, shall mean the commissioner of the department.

94 “Department regulatory board”, shall mean each board of registration or examination that
95 serves in the department in the office of health and human services under the supervision of the
96 department commissioner.

97 “Division”, shall mean the division of occupational licensure, and shall include the office
98 of public safety and inspections in the division of occupational licensure.

99 “Division commissioner”, shall mean the commissioner of the division.

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

104 Except as otherwise provided by law the board of registration in medicine each
105 department regulatory board and each division regulatory board, after a hearing, may, by a
106 majority vote of the whole board, suspend, revoke or cancel any certificate, registration, license
107 or authority issued by it, if it appears to said board that the holder of such certificate, registration,
108 license or authority, is incapacitated by reason of mental illness, or is guilty of deceit,
109 malpractice, gross misconduct in the practice of his profession, or of any offense against the laws
110 of the commonwealth relating thereto. Any person whose certificate, registration, license or
111 authority is suspended or revoked hereunder shall also be liable to such other punishment as may
112 be provided by law. The said boards may make such rules and regulations as they deem proper
113 for the filing of charges and the conduct of hearings.

114 No person who is currently listed with the sex offender registry board as a level 3 sex
115 offender pursuant to sections 178C to 178P of chapter 6 shall be issued or allowed to retain any
116 certificate, registration, license, or authority by any division regulatory board or department
117 regulatory board subject to such regulatory board’s decision .

118 A department regulatory board under the supervision of the department or a division
119 regulatory board under the supervision of the division may discipline the holder of a license,
120 certificate, registration or authority issued pursuant to this chapter or chapters 141 and 142 if it is

121 determined, after a consent agreement between the parties or after an opportunity for an
122 adjudicatory proceeding conducted pursuant to chapter 30A, that such holder has:

123 (1) engaged in conduct which places into question the holder's competence to practice the
124 profession including, but not limited to, gross misconduct; practicing the profession fraudulently;
125 practicing his profession beyond the authorized scope of his license, certificate, registration or
126 authority; practicing the profession with gross incompetence; or practicing the profession with
127 negligence on 1 or more than 1 occasion;

128 (2) engaged in the practice of his profession while the ability to practice was impaired by
129 alcohol or drugs;

130 (3) violated any law, rule or regulation of the board of registration governing the practice
131 of the profession;

132 (4) been convicted of a criminal offense which is reasonably related to the practice of the
133 profession;

134 (5) engaged in dishonesty, fraud or deceit which is reasonably related to the practice of
135 the profession;

136 (6) registered with the sex offender registry board pursuant to sections 178C to 178P of
137 chapter 6;

138 (7) knowingly permitted, aided or abetted an unauthorized person in performing activities
139 requiring a license, certificate, registration or authority; or

140 (8) had a license, certificate, registration or authority issued by another state or territory
141 of the United States, the District of Columbia, or a foreign state or nation with authority to issue

142 such a license, certificate, registration or authority revoked, cancelled, suspended, not renewed or
143 otherwise acted against, or if the holder has been disciplined, if the basis for the action would
144 constitute a basis for disciplinary action in the commonwealth.

145 Notwithstanding any general or special law to the contrary, a department regulatory
146 board under the supervision of the department or a division regulatory board under the
147 supervision of the division, may by a majority vote and after a consent agreement between the
148 parties or after an opportunity for an adjudicatory proceeding conducted pursuant to chapter 30A,
149 upon determination made that the holder of a license, certificate, registration or authority issued
150 by any such board is subject to discipline based on any provision enumerated in this section,
151 undertake 1 or more of the following actions:—

152 (1) suspend, revoke, cancel, decline to renew, or place on probation such license,
153 certificate, registration or authority;

154 (2) reprimand or censure a holder;

155 (3) assess upon the holder a civil administrative penalty, as determined by the board, not
156 to exceed \$500 for a first violation; \$1,500 for a second violation; \$2,500 for a third violation; or
157 \$5,000 for a fourth or subsequent violation ;

158 (4) require the holder to complete additional education and training as a condition of
159 retention or future consideration of reinstatement of the license, certificate, registration or
160 authority;

161 (5) require the holder to practice under appropriate supervision for a period of time as
162 determined by the board as a condition of retention or future consideration of reinstatement of
163 the license, certificate, registration or authority;

164 (6) require the holder to participate in an alcohol or drug rehabilitation program as a
165 condition of retention or future consideration of reinstatement of the license, certificate,
166 registration or authority.

167 Nothing in this section shall be deemed a limitation on a board's authority to impose such
168 reasonable sanctions as it deems appropriate by the board after a hearing or by a consent
169 agreement. A person sanctioned under this section shall be subject to such other sanctions or
170 punishment provided by law. The boards shall promulgate such rules and regulations not
171 inconsistent with chapter 30A as necessary for the filing of charges and the conduct of
172 proceedings.

173 Each such department regulatory board and each such division regulatory board, if it
174 appears after a hearing that a statement in an application to it for certification, registration,
175 licensure or authority, which is required to be under oath or affirmation or to contain or be
176 verified by a written declaration that it is made under penalties of perjury, is false and known to
177 the applicant to be false, shall refuse to grant or issue or shall revoke or cancel such certificate,
178 registration, license or authority. The provisions of this paragraph shall not affect, but shall be in
179 addition to, any other penalty provided by law.

180 Except as otherwise provided in this chapter, no such board shall make any rule or
181 regulation prohibiting the advertising or dissemination of truthful information concerning the

182 price, nature and availability of goods and services to consumers, the effect of which would
183 restrain trade or lessen competition.

184 SECTION 10. Section 65B of chapter 112 of the General Laws, as amended by chapter
185 39 of the acts of 2021, is hereby further amended by striking out in line 1 the words “A board of
186 registration”, and inserting in place thereof the following:- Each board of registration under the
187 supervision of the department of public health and each board of registration .

188 SECTION 11. Said section 65B of said chapter 112, as so amended, is hereby further
189 amended by striking out in line 35 the word “division”, and inserting in place thereof the
190 following:- division and department, as applicable .

191 SECTION 12. Section 65F of chapter 112 of the General Laws, as amended by chapter
192 39 of the acts of 2021, is hereby further amended by inserting after the words “occupational
193 licensure” the following:- , or a board of registration under the supervision of the department of
194 public health .

195 SECTION 13. The first paragraph of section 87V of chapter 112 of the General Laws, as
196 so appearing, is hereby amended by inserting after the second sentence the following sentence:-
197 The board shall offer all practical and written examinations in the following languages: English,
198 Spanish, Vietnamese, Chinese and Haitian Creole.

199 SECTION 14. Section 71A of chapter 143 of the General Laws, as amended by chapter
200 39 of the acts of 2021, is hereby further amended by striking out the fourth sentence.

201 SECTION 15. Chapter 146 of the General Laws, as so appearing, is hereby amended by
202 striking out section 56A , and inserting in place thereof the following:-

203 Section 56A. The division of occupational licensure shall administer, as provided in
204 sections 57A, 58, 59, 60A, 61A, 62A, 63, 64, 65, 65A, 66A, and 67 an examination to applicants
205 for certificates of competency to operate hoisting machinery and to inspect amusement devices.
206 The commissioner of the division of occupational licensure may administer the oath to
207 applicants. The commissioner of the division of occupational licensure or a designee may
208 authorize a person or entity offering short term rental of compact hoisting equipment to examine
209 applicants and issue temporary permits according to regulation promulgated by the division of
210 occupational licensure.

211 SECTION 16. Sections 5, 6, and 7 shall not affect the validity of any collection actions
212 taken, civil actions or arbitrations commenced, or judgments entered into prior to the effective
213 date of this act.

214 SECTION 17. Sections 5, 6, 7, and 16 shall take effect 120 days after the effective date
215 of this act.

216 SECTION 18. Section 8 shall take effect on December 1, 2022.

217 SECTION 19. Section 13 shall take effect 180 days after the effective date of this act.

218 SECTION 20. Except as otherwise specified, this act shall take effect upon passage.