

SENATE No. 185

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 modernization of health-related licensing boards.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No. 185

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 185) of Julian Cyr for legislation to modernize health-related licensing boards. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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

An Act relative to the modernization of health-related licensing boards.

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 9 of chapter 13 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the word “workers”, in line 8, the
3 following words:- , the board of registration in naturopathy, the board of registration of social
4 workers, the board of registration of psychologists, the board of registration of allied mental
5 health and human services professions, the board of allied health professions, the board of
6 registration of dieticians and nutritionists, the board of registration in podiatry, the board of
7 registration in optometry, the board of registration of dispensing opticians, the board of
8 registration of chiropractors, the board of registration of speech-language pathology and
9 audiology, the board of registration of hearing instrument specialists.

10 SECTION 2. Section 11D of said chapter 13, as so appearing, is hereby amended by
11 striking out, in lines 1 and 2, the words “division of professional licensure” and inserting in place
12 thereof, the following words:- department of public health.

SECTION 3. Section 79 of said chapter 13, as so appearing, is hereby amended by striking out, in lines 17 and 18 and in line 27, the words “director of consumer affairs and business regulations” and inserting in place thereof, each time they appear, the following words:- commissioner of public health.

SECTION 4. Said chapter 13 is hereby further amended by striking out section 80, as so appearing, and inserting in place thereof the following section:-

Section 80. There shall be a board of registration of social workers that shall consist of: the commissioner of children and families or a designee who is licensed as either a certified social worker or an independent clinical social worker under sections 130 to 137, inclusive, of chapter 112; the commissioner of mental health or a designee who is licensed as either a certified social worker or an independent clinical social worker under said sections 130 to 137, inclusive, of said chapter 112; and 7 members to be appointed by the governor, 1 of whom shall be a representative of an accredited school of social work, 3 of whom shall be licensed as a certified social worker or an independent clinical social worker under said sections 130 to 137, inclusive, of said chapter 112, 1 of whom shall be licensed under said sections 130 to 137, inclusive, of said chapter 112 and an active member of an organized labor organization representing social workers and 2 of whom shall be members of the general public. At least 1 licensed social work member and at least 1 member from the general public shall represent an underserved population, as defined by the United States Department of Health and Human Services. Not more than 6 members of the board shall belong to any 1 political party.

SECTION 5. Section 84 of said chapter 13, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words “division of professional licensure” and inserting in place thereof the following words:- department of public health.

SECTION 6. Said section 84 of said chapter 13, as so appearing, is hereby further amended by striking out, in lines 44 and 45, inclusive, the words “Division of Professional Licensure Trust Fund established in section 35V” and inserting in place thereof the following words:- Quality in Health Professions Trust Fund established in section 35X.

SECTION 7. Section 88 of said chapter 13, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “division of professional licensure” and inserting in place thereof the following words:- department of public health.

SECTION 8. The first paragraph of section 90 of said chapter 13, as so appearing, is hereby amended by striking out the third sentence.

SECTION 9. Said section 90 of said chapter 13, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:- The commissioner of public health shall have authority to review and approve rules and regulations proposed by the board.

SECTION 10. Section 94 of said chapter 13, as so appearing, is hereby amended by striking out, in line 13, the words “director of registration” and inserting in place thereof, the following words:- commissioner of public health.

SECTION 11. Section 1 of chapter 112 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting after the word “dentistry”, in line 12, the

54 following words:- , the board of registration of genetic counselors, the board of registration of
55 community health workers, the board of registration in naturopathy, the board of registration of
56 social workers, the board of registration of psychologists, the board of registration of allied
57 mental health and human services professions, the board of allied health professions, the board of
58 registration of dietitians and nutritionists, the board of registration in podiatry, the board of
59 registration in optometry, the board of registration of dispensing opticians, the board of
60 registration of chiropractors, the board of registration of speech-language pathology and
61 audiology, the board of registration of hearing instrument specialists.

62 SECTION 12. Section 16 of said chapter 112, as appearing in the 2018 Official Edition,
63 is hereby amended by adding the following paragraph:- All application fees and civil
64 administrative penalties and fines collected by the board under sections 13 to 23, inclusive, and
65 section 61, shall be deposited into the Quality in Health Professions Trust Fund established in
66 section 35X of chapter 10.

67 SECTION 13. Section 23B of said chapter 112, as so appearing, is hereby amended by
68 adding the following paragraph:- All application fees and civil administrative penalties and fines
69 collected by the board under sections 23A to 23P½, inclusive, and section 61, shall be deposited
70 into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

71 SECTION 14. Section 23M½ of said chapter 112, as so appearing, is hereby amended by
72 striking out, in lines 78 to 79, the words “Division of Professional Licensure Trust Fund
73 established by section 35V” and inserting in place thereof the following words:- Quality in
74 Health Professions Trust Fund established in section 35X of chapter 10.

75 SECTION 15. Section 61 of said chapter 112, as appearing in the 2018 Official Edition,
76 is hereby amended by striking out the words “A board of registration”, in line 18, and inserting
77 in place thereof the following words:- each board of registration under the supervision of the
78 department of public health may discipline a holder of a license, certificate, registration or
79 authority issued pursuant to this chapter, and each board of registration.

80 SECTION 16. Said section 61 of said chapter 112, as so appearing, is hereby further
81 amended by striking out the words “a board of registration”, in lines 49 through 50, and inserting
82 in place thereof the following words:- Each board of registration under the supervision of the
83 department of public health and each board of registration.

84 SECTION 17. Section 65B of said chapter 112, as so appearing, is hereby amended by
85 striking out the words “a board of registration”, in line 1, and inserting in place thereof the
86 following words:- Each board of registration under the supervision of the department of public
87 health and each board of registration.

88 SECTION 18. Section 65F of said chapter 112, as so appearing, is hereby amended by
89 inserting, after the word "licensure" in line 4, the following words:- , or a board of registration
90 under the supervision of the department of public health,.

91 SECTION 19. Section 68 of said chapter 112, as appearing in the 2018 Official Edition,
92 is hereby amended by adding the following paragraph:- All application fees and civil
93 administrative penalties and fines collected by the board under sections 61, 66 to 73B, inclusive,
94 shall be deposited into the Quality in Health Professions Trust Fund established in section 35X
95 of chapter 10.

SECTION 20. Section 73E of said chapter 112, as appearing in the 2018 Official Edition, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61, and 73C to 73M, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 21. Section 91 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61 and 89 to 97, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 22: Section 96 of said chapter 112, as so appearing, is hereby amended by striking out, the words “as conducted by the Massachusetts Chiropractic Society or received instruction equivalent thereof”, in lines 11 and 12.

SECTION 23. Section 126 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61 and 118 to 129B, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 24. Section 136 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61 and 130 to 137, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 25. Section 140 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines

collected by the board under sections 61 and 138 to 147, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 26. Section 168 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61 and 163 to 172, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 27. Section 197 of said chapter 112, as so appearing, is hereby amended by adding the following subsection:-

(h) All application fees and civil administrative penalties and fines collected by the board under sections 61 and this section to 200, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 28. Section 203 of said chapter 112, as so appearing, is hereby amended by adding the following paragraph:- All application fees and civil administrative penalties and fines collected by the board under sections 61 and 201 to 210, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 29. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Department”, the department of public health.

“Division”, the division of professional licensure.

“Transferring Boards”, the board of registration of social workers, the board of registration of psychologists, the board of registration of allied mental health and human services

professions, the board of allied health professions, the board of registration of dieticians and nutritionists, the board of registration in podiatry, the board of registration in optometry, the board of registration of dispensing opticians, the board of registration of chiropractors, the board of registration of speech-language pathology and audiology, and the board of registration of hearing instrument specialists.

(b) Notwithstanding any general or special law to the contrary, the division and the department shall develop and implement a transfer agreement providing for the orderly transfer of personnel, proceeds, rules and regulations, property and legal obligations and functions of the transferring boards from the division to the department.

(c) All petitions, requests, investigations, filings and other proceedings appropriately and duly brought before, or pending before, the transferring boards, before the transfer, shall continue unabated and remain in force, and shall be assumed and completed by the transferring boards after transfer to the department.

(d) All orders, advisories, findings, rules and regulations duly made and all approvals duly granted by the transferring boards, which are in force immediately before the transfer, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferring boards after transfer to the department.

(e) All books, papers, records, documents, equipment, cash and other property, both personal and real, including all such property held in trust, which immediately before the transfer are in the custody of the transferring board or the division on behalf of the transferring board, shall be transferred to the department.

(f) All duly existing contracts, leases and obligations of the transferring boards, shall continue in effect after transfer to the department. No such existing right or remedy of any character shall be lost, impaired or affected by this act.

(g) In consultation with the secretary of administration and finance, the department and the division, in developing the transfer agreement required under subsection (b), shall identify the portion of unexpended balances of the Division of Professional Licensure Trust Fund established in section 35V of chapter 10 that are allocated to the operations of the transferring boards, including but not limited to payment of salaries, wages, fringe and indirect costs, and all compensation for those employees identified in subsection (i); administrative expenses; information technology expenses; and indirect expenses. Notwithstanding any general or special law to the contrary, upon transfer of the transferring boards, the comptroller shall transfer such portion of the unexpended balances of the Division of Professional Licensure Trust Fund established in section 35V of chapter 10 of the General Laws to the Quality in Health Professions Trust Fund established in section 35X of chapter 10 of the General Laws.

(h) The comptroller shall take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds provided for in subsection (g). The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the chairs of the house and senate committees on ways and means.

(i) The transfer agreement required under subsection (b) shall identify the number of allocated employees of the division, rounded to the nearest full time employee equivalent, who are engaged in the work of the transferring boards, in whole or in part, including but not limited to licensing functions, investigation, prosecution and adjudication. Notwithstanding any general

or special law to the contrary, an equivalent number of division employees shall become employees of the department upon the execution of the transfer agreement required under subsection (b) or 18 months from the effective date of this act, whichever occurs first. The employees selected to transfer from the division to the department shall have been engaged in the work of the transferring boards, in whole or in part, prior to the transfer.

All officers and employees of the division transferred to the department as required under subsection (i) shall be transferred without impairment of seniority, retirement or other statutory rights of employees, without loss of accrued rights to holidays, sick leave, vacation and other benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation, except as otherwise provided in this act. Terms of service of employees of the program shall not be deemed to be interrupted by virtue of transfer to the department.

Nothing in this section shall be construed to confer upon any employee of the division transferred to the department as required under subsection (i) any right not held immediately before the date of said transfer or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

(j) Notwithstanding any general or special law to the contrary, the terms and conditions of any collective bargaining agreement that is in effect upon the transfer with respect to employees of the division transferred to the department as required under subsection (i) shall continue in effect until the stated expiration date of such agreement, at which point the agreement shall expire; provided, however, that all such employees shall continue to retain their

204 right to collectively bargain under chapter 150E of the General Laws and shall be considered
205 employees of the department.

206 SECTION 30. Sections 1 through 29, inclusive, shall take effect upon the execution of a
207 transfer agreement between the department of public health and the division of professional
208 licensure or 18 months after the effective date of this act, whichever occurs first.