

HOUSE No. 4123

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act for consumer protection and regulation in psychotherapy.

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 88 of chapter 13 of the General Laws, as appearing in the 2008
2 Official edition, is hereby amended by striking the entire section and inserting in place thereof
3 the following:

4 Section 88. There shall be within the division of professional licensure a board of
5 registration of allied mental health and human services professions, in this section and sections
6 eighty-nine and ninety, which shall consist of thirteen members, one of whom shall be elected as
7 chairperson, to be appointed in the manner provided by section eighty-nine. Members shall be
8 appointed for a term of three years. No member shall be appointed to more than two consecutive
9 full terms; provided, however, that a member appointed for less than a full term may serve two
10 full terms in addition to such part of a full term, and a former member shall again be eligible for
11 appointment after a lapse of one or more years.

12 Any member of the board may be removed by the governor for neglect of duty,
13 misconduct or malfeasance, or misfeasance in office after being given a written statement of the
14 charges against him and sufficient opportunity to be heard thereon. No member may be removed

15 without a public hearing with at least thirty days prior written notice of the charges and the date
16 fixed for such hearing. All board members shall be subject to chapter 268A. No board member
17 shall participate in any matter before the board in which a pecuniary interest, personal bias, or
18 other similar conflict of interest is established.

19 Members shall receive no compensation but shall be entitled to reasonable travel
20 expenses. The members of the board shall be public employees for the purposes of chapter 258
21 for all acts or omissions within the scope of their duties as board members.

22 SECTION 2. Section 89 of said chapter 13 of the General Laws, as appearing in the
23 2008 Official edition, is hereby amended by striking the entire section and inserting in place
24 thereof the following:

25 Section 89. The governor shall appoint members of the board only from among the
26 candidates who meet the following qualifications:

27 (A) Ten members shall be licensed practicing mental health and human services
28 professionals, two of whom shall be marriage and family therapists, two of whom shall be
29 rehabilitation counselors, two of whom shall be clinical mental health counselors, two of whom
30 shall be educational psychologists, two of whom shall be autonomous psychoanalytic
31 psychotherapists or autonomous psychoanalysts; and each shall have been, for at least five years
32 immediately preceding appointment, actively engaged as a practitioner rendering professional
33 services in that field, or in the education and training of graduate students or interns in the field,
34 or in appropriate human developmental research, or in other areas substantially equivalent
35 thereto, and shall have spent the majority of the professional time in such activity during the two
36 years preceding the appointment in the commonwealth, and

37 (B) Three members shall be representatives of the general public who have no direct
38 affiliation with the practice of any allied mental health or human services profession.

39 The appointment of any member of the board shall automatically terminate within thirty
40 days after the date such member is no longer a resident of the commonwealth.

41 Each appointee shall, upon accepting appointment to the board, take and subscribe to the
42 oath or affirmation prescribed by law, and file the same in the office of secretary of state.

43 SECTION 3. Section 90 of said chapter 13 of the General Laws, as appearing in the
44 2008 Official edition, is hereby amended by striking the entire section and inserting in place
45 thereof the following:

46 Section 90. The board shall hold at least two regular meetings each year, but additional
47 meetings may be held upon the call of the chairperson, or the secretary, or upon the written
48 request of any two board members. A majority of the members of the board then appointed shall
49 constitute a quorum; provided, however, that at least one of those present shall be a member who
50 was selected from and who represents the general public.

51 The board shall administer and enforce the provisions of sections one hundred and sixty-
52 three to one hundred and seventy-two, inclusive, of chapter one hundred and twelve. Said board
53 shall promulgate regulations which set forth education requirements necessary for a person to be
54 licensed under the provisions of sections one hundred sixty-five, one hundred sixty-five A, and
55 one hundred sixty-five B of said chapter one hundred and twelve; and the board may, from time
56 to time, adopt such rules and regulations as it deems necessary to carry out the performance of its
57 duties.

58 The director of the division of professional licensure shall have authority to review and
59 approve rules and regulations proposed by the board. Such regulations will be deemed approved
60 unless disapproved within fifteen days of submission to said director; provided, however, that
61 any such disapproval shall be in writing setting forth the reasons for such disapproval.

62 Said board, or its agent, shall examine and pass on the qualifications of all applicants for
63 licenses under sections one hundred and sixty-three to one hundred and seventy-two, inclusive,
64 of chapter one hundred and twelve, and shall issue a license to each successful applicant therefor,
65 attesting to their professional qualifications to be a licensed allied mental health and human
66 services professional. After a person has applied for licensure, no member of the board may
67 supervise such applicant for a fee nor shall any member vote on any applicant previously
68 supervised by such member.

69 Said board may recommend to the governor and the general court, after a public hearing
70 which shall be advertised by publication of notices to the appropriate mental health and human
71 service professional organizations and in major media outlets throughout the commonwealth,
72 modifications and amendments to sections eighty-eight, eighty-nine and this section and sections
73 one hundred and sixty-three to one hundred and seventy-two, inclusive, of chapter one hundred
74 and twelve.

75 Said board shall cause examinations to be held not less than twice annually and shall
76 evaluate examinations to keep them free from cultural bias.

77 Said board shall annually publish a list of names and addresses of persons who are
78 licensed under sections one hundred and sixty-three to one hundred and seventy-two inclusive, of
79 chapter one hundred and twelve.

80 Fees for initial and renewal applications shall be determined annually by the secretary of
81 administration and finance under the provisions of section three B of chapter seven.

82 Said board shall establish regulations for continuing educational requirements for
83 licensees. Said regulations shall not require more than thirty contact hours per year, on average
84 through the term of the license, of approved continuing education programs as a condition for
85 continuing registration.

86 Said board shall cause public hearings to be held prior to setting specifications for any
87 continuing educational requirements.

88 The board shall establish procedures to permit consumers to file written complaints
89 against licensed individuals and investigate and take appropriate action on such complaints.

90 SECTION 4. Section 65A of chapter 112 of the General Laws, as appearing in the 2008
91 Official Edition, is hereby amended by striking out the first sentence and inserting in place
92 thereof the following sentence:—

93 Notwithstanding any general or special law to the contrary, (i) each board of registration
94 under the supervision of the division of professional licensure, (ii) each board of registration
95 under the supervision of the department of public health and (iii), in the case of violations of
96 section 65F, the division of professional licensure may, after a consent agreement between the
97 parties or after an opportunity for an adjudicatory proceeding held pursuant to chapter 30A,
98 assess and collect a civil administrative penalty not to exceed \$1,000 for the first violation and a
99 civil administrative penalty not to exceed \$2,500 for a second or subsequent violation upon a
100 person who, without holding the required license, certificate, registration or authority, engages in

101 the practice of a trade or profession for which a license, certificate, registration or authority is
102 required.

103 SECTION 5. Said chapter 112 as appearing in the 2008 Official Edition is hereby
104 amended by inserting after section 65E the following section:—

105 Section 65F. Persons shall not hold themselves out to the public as psychotherapists or
106 represent that the service they are offering is psychotherapy, unless (a) they are currently
107 licensed by the board of registration in medicine and practicing within the scope of such license
108 and have completed training in psychiatry, or (b) they are currently licensed by the board of
109 registration in nursing and are practicing within the scope of such license and have completed
110 training in psychiatric nursing, or (c) they are currently licensed by the board of registration of
111 psychologists, the board of registration of social workers, or the board of registration of allied
112 mental health and human services professionals and they are practicing within the scope of
113 practice of such license, or (d) they are a student, intern, or person fulfilling supervised
114 experience for licensure in the above professions under the qualified supervision of a licensee, or
115 (e) they are independent psychotherapists as defined under Section 164.

116 Any person who violates this section shall be punished by a fine of not more than \$1,000
117 for the first offense and by a fine of not more than \$2,500 for a second or subsequent offense.

118 SECTION 6. Said chapter 112 as appearing in the 2008 Official Edition is hereby
119 amended by replacing Sections 163 and 164 with the following:

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

123 “Advertise”, includes, but is not limited to, distributing or causing to be distributed any
124 card, sign or device to any person; or the causing, permitting or allowing of any sign or marking
125 on or in any building or structure, or in any newspaper or magazine or in any directory, or on
126 radio, television or other electronic medium, or by the use of any other means designed to secure
127 public attention.

128 “Allied mental health and human services professional”, an educational psychologist, a
129 marriage and family therapist, a mental health counselor, an autonomous psychoanalytic
130 psychotherapist, an autonomous psychoanalyst, or a rehabilitation counselor.

131 “Approved Continuing Education”, continuing education such as research and training
132 programs, college and university courses, in-service training programs, seminars and conferences
133 designed to maintain and enhance the skills of allied mental health and human services
134 professionals and which are recognized by the board.

135 “Autonomous psychoanalyst”, a person so licensed under section one hundred and sixty-
136 five B.

137 “Autonomous psychoanalytic psychotherapist”, a person so licensed under section one
138 hundred and sixty-five A.

139 “Board”, the Massachusetts board of registration of allied mental health and human
140 services professions.

141 “Educational psychologist”, a person so licensed under section one hundred and sixty-
142 five.

143 “Marriage and family therapist”, a person so licensed under section one hundred and
144 sixty-five.

145 “Mental health counselor”, a person so licensed under section one hundred and sixty-five.

146 “Practice of educational psychology”, the rendering of professional services to
147 individuals, groups, organizations, or the public for compensation, monetary or otherwise. Such
148 professional services shall include, but not be limited to: applying psychological principles,
149 methods and procedures in the delivery of services to individuals, groups, families, educational
150 institutions and staff and community agencies for the purpose of promoting mental health and
151 facilitating learning. Such services may be preventative, developmental or remedial and include
152 psychological and psychoeducational assessment, therapeutic intervention, program planning and
153 evaluation, research, teaching in the field of educational psychology, consultation and referral to
154 other psychiatric, psychological, medical and educational resources when necessary.

155 “Practice of marriage and family therapy”, the rendering of professional services to
156 individuals, family groups, couples, or organizations, either public or private for compensation,
157 monetary or otherwise. Said professional services shall include, but not be limited to, applying
158 principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts,
159 modifying perceptions and behavior, enhancing communications and understanding among all
160 family members and the prevention of family and individual crisis. Individual marriage and
161 family therapists may also engage in psychotherapy of a nonmedical nature with appropriate
162 referrals to psychiatric resources and research and teaching in the overall field of human
163 development and interpersonal relationships.

164 “Practice of mental health counseling”, the rendering of professional services to
165 individuals, families, or groups for compensation, monetary or otherwise. These professional
166 services include: applying the principles, methods and theories of counseling, human
167 development, learning theory, group and family dynamics, the etiology of mental illness and
168 dysfunctional behavior and psychotherapeutic techniques to define goals and develop treatment
169 plans aimed toward the prevention, treatment and resolution of mental and emotional
170 dysfunction and intra or interpersonal disorders in all persons irrespective of diagnosis. The
171 practice of mental health counseling shall include, but not be limited to, diagnosis and treatment,
172 counseling and psychotherapy, of a nonmedical nature of mental and emotional disorders and the
173 psychoeducational techniques aimed at prevention of such disorders and consultations to
174 individuals, couples, families, groups, organizations and communities. Practice of mental health
175 counseling in independent practice with individuals diagnosed with psychosis may be undertaken
176 by a licensed mental health counselor: (a) who is licensed under section 165 on or after March 1,
177 1992; or (b) who was licensed prior to March 1, 1992 and who meets the certification criteria for
178 independent practice with individuals diagnosed with psychosis as established by the board of
179 registration of allied mental health and human services professions.

180 “Practice of psychoanalysis”, the rendering of professional services to individuals,
181 families, groups of individuals, organizations or members of the public, for compensation,
182 monetary or otherwise. These professional services shall include, but not be limited to, applying
183 the principles, methods, and theories of psychoanalysis to the prevention, observation,
184 identification, evaluation, interpretation, or resolution of mental, emotional, family, or social
185 dysfunction in all persons, irrespective of diagnosis. Psychoanalytic principles and methods
186 address dynamic conscious and unconscious mental processes to facilitate modifications in

187 character, behavior, and affect that lead to more constructive or satisfactory functioning through
188 the use of verbal and non-verbal, cognitive and emotional communication, including an in depth
189 exploration of the unconscious aspects of the client's relationship with the analyst, the
190 unconscious meaning of communications, and the way current problems relate to early conflicts
191 and feelings. The practice of psychoanalysis shall include, but not be limited to, the use of
192 psychotherapy and counseling to diagnose and treat dysfunctions and disorders.

193 “Practice of psychoanalytic psychotherapy”, the rendering of professional services to
194 individuals, families, groups of individuals, organizations or members of the public, for
195 compensation, monetary or otherwise. These professional services shall include, but not be
196 limited to, applying modified psychoanalytic principles and theories and psychotherapeutic
197 techniques to the prevention, observation, identification, evaluation, interpretation, or resolution
198 of mental, emotional, family, or social dysfunction in all persons, irrespective of diagnosis.
199 Psychoanalytic psychotherapy addresses conscious and unconscious mental processes to
200 facilitate modifications in behavior, work and life adaptation, and mental health through the use
201 of verbal and non-verbal communication, including an emphasis on the way current problems
202 relate to early experience. The practice of psychoanalytic psychotherapy shall include, but not be
203 limited to, the use of psychotherapy and counseling to diagnose and treat dysfunctions and
204 disorders.

205 “Practice of rehabilitation counseling”, the rendering of professional services for
206 compensation, monetary or otherwise. These professional services include the application of
207 principles, methods and techniques of the rehabilitation counseling profession such as client
208 assessment, job analysis, vocational assessment, counseling and job development for the purpose
209 of maximizing or restoring the capacities of physically or mentally handicapped individuals for

210 self-sufficiency and independent living including vocational and social functioning and creating
211 those conditions favorable to this goal. The practice of rehabilitation counseling shall include,
212 but not be limited to: assisting individuals in the coordination of appropriate services; counseling
213 with individuals, families or groups; serving an advocacy role with communities or groups
214 toward the provision or implementation of rehabilitation services; research and teaching in the
215 field of rehabilitation counselor education.

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

219 “Psychoanalytic Psychotherapist”, an individual who is licensed as an autonomous
220 psychoanalytic psychotherapist or is a recognized mental health professional engaged in the
221 practice of psychoanalytic psychotherapy.

222 “Recognized educational institution”, any degree-granting educational institution which
223 is recognized by the board and by a nationally or regionally recognized educational or
224 professional accrediting organization; provided, however, that such organization is also approved
225 by the United States Department of Education. In its discretion, the board may recognize
226 additional educational institutions.

227 “Recognized psychoanalytic training institution”, any psychoanalytic training institution
228 which grants a post-master’s certificate or doctoral degree in psychoanalysis and is accredited by
229 an accrediting organization recognized by the board.

230 “Recognized mental health professional”, a licensed alcohol and drug counselor, a
231 licensed allied mental health and human services professional, a licensed physician who has

232 completed training in psychiatry, a licensed psychiatric nurse mental health clinical specialist, a
233 licensed psychologist, or a licensed social worker.

234 “Rehabilitation counselor”, a person so licensed under section one hundred and sixty-
235 five.

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

239 Section 164. Except as otherwise provided in sections one hundred and sixty-three to one
240 hundred and seventy-two, inclusive, no individual who is not licensed or exempted from
241 licensure under said sections shall practice, advertise the performance of, or use a title or
242 description of:

243 (1) psychoanalytic psychotherapist, psychoanalytic therapist;

244 (2) educational psychologist, specialist, advisor or consultant;

245 (3) mental health counselor, advisor or consultant;

246 (4) marital or marriage and family therapist, advisor or consultant;

247 (5) psychoanalyst, analyst (when used in conjunction with mental health services); or

248 (6) rehabilitation counselor, specialist, advisor or consultant.

249 (7) Independent psychotherapists as defined below.

250 Except as otherwise provided in section 65F, the following shall be exempt from this
251 section:

252 (1) recognized mental health professionals;

253 (2) students in the discipline of a recognized mental health professional so long as they
254 are following the statutes and regulations of that profession.

255 (3) students, interns, or other trainees in an allied mental health and human services
256 profession receiving qualified supervision approved by the board, and whose training status is
257 designated by titles such as “mental health counseling student” or “marriage and family therapy
258 intern”.

259 Except as otherwise provided in section 65F, nothing in this section shall be construed to
260 prevent qualified members of other professions including Christian Science practitioners,
261 registered nurses, physicians, attorneys, or members of the clergy from doing the work consistent
262 with the accepted standards of their respective professions; provided, however, that no such
263 person shall use a title stating or implying that they are an allied mental health and human
264 services professional.

265 Nothing in this section shall be construed to prevent members of peer groups or self-help
266 groups from performing peer counseling or self-help activities which may be, wholly or in part,
267 included as a defined professional service in section one hundred and sixty-three; provided,
268 however, that no members of peer groups or self-help groups shall use a title stating or implying
269 that they are an allied mental health or human services professional.

270 Independent psychotherapists are exempt under this act if they are members in good
271 standing of the Massachusetts Association of Independent Psychotherapists provided that they
272 are of good moral character and have not engaged in any practice or conduct which would be
273 grounds for refusing to issue a license under section one hundred and sixty-nine; provided,
274 further, that the board shall not apply said provisions or additional requirements in an unfair and
275 arbitrary manner in order to deny an exemption or rescind a granted exemption. Within thirty
276 days from the effective date of this act the Massachusetts Association of Independent
277 Psychotherapists shall furnish to the board a list of members that qualify for this exemption. No
278 non licensed independent psychotherapists shall be exempted subsequent to the filing of this list
279 to the board. The commissioner of administration pursuant to section three B of chapter seven
280 may establish a biennial fee for the registration of individuals exempted under this provision,
281 provided that said fee shall be consistent with the fee charged other mental health providers.

282 SECTION 7. Said chapter 112 as appearing in the 2008 Official Edition is hereby
283 amended by adding Sections 165A and 165B following Sections 165, as follows:

284 Section 165A. The board may issue a license to an applicant as an autonomous
285 psychoanalytic psychotherapist provided that each such applicant shall provide satisfactory
286 evidence to the board that such applicant: (1) is of good moral character; (2) has not engaged or
287 is not engaging in any practice or conduct which would be grounds for refusing to issue a license
288 under section one hundred and sixty-nine; (3) has successfully completed a master's degree, or
289 higher, from a recognized educational institution; (4) has successfully completed a program in
290 psychoanalytic psychotherapy that includes a minimum of 1200 clock hours of training from a
291 recognized psychoanalytic training institution chartered by the Commonwealth to offer a
292 master's degree or higher. Such hours may also fulfill requirements for (3) of this Section.

293 Within the 1200 clock hours, the applicant shall have completed at least 600 clock hours of
294 academic work, in such courses as the board shall specify, and shall have completed at least 600
295 clock hours in an internship with such direct client contact and supervision as the board shall
296 specify, so long as 50% of such supervision is with a psychoanalyst; (5) additionally, the
297 applicant shall complete supervised clinical experience of not less than 1500 hours, which
298 includes such direct client contact, supervision, and personal analysis as the board shall specify,
299 so long as 50% of such supervision is with a psychoanalyst, and so long as the applicant
300 completes a minimum of 150 hours of personal analysis with a psychoanalyst; and (6) the
301 applicant shall successfully pass a written or oral examination overseen by the board to
302 determine the applicant's qualifications for licensure pursuant to this section.

303 Individuals formerly practicing legally as psychoanalytic psychotherapists in other
304 jurisdictions may be licensed in the Commonwealth without examination if, in the opinion of the
305 board, their academic and experiential training is substantially equivalent to that required by this
306 section and the regulations of the board.

307 For a period of one year following the enactment of regulations in support of this act,
308 individuals engaged in the practice of psychoanalytic psychotherapy shall be grandfathered and
309 exempted from the foregoing items (3) through (6) provided that they are of good moral
310 character and have not been engaging in practice or conduct that would otherwise disqualify
311 them from licensure.

312 Section 165B. The board may issue a license to an applicant as an autonomous
313 psychoanalyst provided that each such applicant shall provide satisfactory evidence to the board
314 that such applicant: (1) is of good moral character; (2) has not engaged or is not engaging in any

315 practice or conduct which would be grounds for refusing to issue a license under section one
316 hundred and sixty-nine; (3) has successfully completed a master's degree, or higher, from a
317 recognized educational institution; (4) has successfully completed a program in psychoanalysis
318 which includes a minimum of 2250 clock hours of training from a recognized psychoanalytic
319 training institution chartered by the Commonwealth to offer a master's degree or higher. Such
320 hours may also fulfill requirements for (3) of this Section. Within the 2250 clock hours, the
321 applicant shall have completed at least 1100 clock hours of academic work in such courses as the
322 board shall specify, shall have completed at least 600 clock hours in an internship with such
323 direct client contact and supervision as the board shall specify, so long as 50% of such
324 supervision is with a psychoanalyst, and shall have completed supervised psychoanalytic
325 practice totaling not less than 550 hours, with such direct client contact and supervision as the
326 board shall specify, so long as such supervision is with a psychoanalyst; (5) additionally, the
327 applicant shall complete supervised clinical experience totaling not less than 1700 hours, which
328 includes such direct client contact, supervision, and personal analysis as the board shall specify,
329 so long as 50% of such supervision is with a psychoanalyst, and so long as the applicant
330 completes a minimum of 350 hours of personal analysis with a psychoanalyst; and (6) the
331 applicant shall successfully pass a written or oral examination overseen by the board to
332 determine the applicant's qualifications for licensure pursuant to this section.

333 Individuals formerly practicing legally as psychoanalysts in other jurisdictions may be
334 licensed in the Commonwealth without examination if, in the opinion of the board, their
335 academic and experiential training is substantially equivalent to that required by this section and
336 the regulations of the board.

337 For a period of one year following the enactment of regulations in support of this act,
338 individuals engaged in the practice of psychoanalysis shall be grandfathered and exempted from
339 the foregoing items (3) through (6) provided that they are of good moral character and have not
340 been engaging in practice or conduct that would otherwise disqualify them from licensure.