

HOUSE No. 02004

The Commonwealth of Massachusetts

PRESENTED BY:

Jay Kaufman

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

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

An Act for consumer protection and regulation in psychotherapy..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Carol Nemet Curran</i>	<i>8 Highland Drive</i> <input type="checkbox"/> <i>Kingston, MA</i>

HOUSE No. 02004

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 2004) of Jay R. Kaufman and others for legislation to further regulate the practice of psychotherapy. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 266 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 Official
- 2 edition, is hereby amended by striking the entire section and inserting in place thereof the
- 3 following:
- 4 Section 88. There shall be within the division of professional licensure a board of registration of
- 5 allied mental health and human services professions, in this section and sections eighty-nine and
- 6 ninety, which shall consist of thirteen members, one of whom shall be elected as chairperson, to
- 7 be appointed in the manner provided by section eighty-nine. Members shall be appointed for a
- 8 term of three years. No member shall be appointed to more than two consecutive full terms;
- 9 provided, however, that a member appointed for less than a full term may serve two full terms in

10 addition to such part of a full term, and a former member shall again be eligible for appointment
11 after a lapse of one or more years.

12 Any member of the board may be removed by the governor for neglect of duty, misconduct or
13 malfeasance, or misfeasance in office after being given a written statement of the charges against
14 him and sufficient opportunity to be heard thereon. No member may be removed without a
15 public hearing with at least thirty days prior written notice of the charges and the date fixed for
16 such hearing. All board members shall be subject to chapter 268A. No board member shall
17 participate in any matter before the board in which a pecuniary interest, personal bias, or other
18 similar conflict of interest is established.

19 Members shall receive no compensation but shall be entitled to reasonable travel expenses. The
20 members of the board shall be public employees for the purposes of chapter 258 for all acts or
21 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 2008
23 Official edition, is hereby amended by striking the entire section and inserting in place thereof
24 the following:

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

27 (A) Ten members shall be licensed practicing mental health and human services professionals,
28 two of whom shall be marriage and family therapists, two of whom shall be rehabilitation
29 counselors, two of whom shall be clinical mental health counselors, two of whom shall be
30 educational psychologists, two of whom shall be autonomous psychoanalytic psychotherapists or
31 autonomous psychoanalysts; and each shall have been, for at least five years immediately

32 preceding appointment, actively engaged as a practitioner rendering professional services in that
33 field, or in the education and training of graduate students or interns in the field, or in appropriate
34 human developmental research, or in other areas substantially equivalent thereto, and shall have
35 spent the majority of the professional time in such activity during the two years preceding the
36 appointment in the commonwealth, and

37 (B) Three members shall be representatives of the general public who have no direct affiliation
38 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 days
40 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 oath or
42 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 2008
44 Official edition, is hereby amended by striking the entire section and inserting in place thereof
45 the following:

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

51 The board shall administer and enforce the provisions of sections one hundred and sixty-three to
52 one hundred and seventy-two, inclusive, of chapter one hundred and twelve. Said board shall

53 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 approve
59 rules and regulations proposed by the board. Such regulations will be deemed approved unless
60 disapproved within fifteen days of submission to said director; provided, however, that any such
61 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 licenses
63 under sections one hundred and sixty-three to one hundred and seventy-two, inclusive, of chapter
64 one hundred and twelve, and shall issue a license to each successful applicant therefor, attesting
65 to their professional qualifications to be a licensed allied mental health and human services
66 professional. After a person has applied for licensure, no member of the board may supervise
67 such applicant for a fee nor shall any member vote on any applicant previously supervised by
68 such member.

69 Said board may recommend to the governor and the general court, after a public hearing which
70 shall be advertised by publication of notices to the appropriate mental health and human service
71 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 evaluate
76 examinations to keep them free from cultural bias.

77 Said board shall annually publish a list of names and addresses of persons who are licensed
78 under sections one hundred and sixty-three to one hundred and seventy-two inclusive, of chapter
79 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 licensees. Said
83 regulations shall not require more than thirty contact hours per year, on average through the term
84 of the license, of approved continuing education programs as a condition for continuing
85 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 against
89 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 Official
91 Edition, is hereby amended by striking out the first sentence and inserting in place thereof the
92 following sentence:—

93 Notwithstanding any general or special law to the contrary, (i) each board of registration under
94 the supervision of the division of professional licensure, (ii) each board of registration under the
95 supervision of the department of public health and (iii), in the case of violations of section 65F,

96 the division of professional licensure may, after a consent agreement between the parties or after
97 an opportunity for an adjudicatory proceeding held pursuant to chapter 30A, assess and collect a
98 civil administrative penalty not to exceed \$1,000 for the first violation and a civil administrative
99 penalty not to exceed \$2,500 for a second or subsequent violation upon a person who, without
100 holding the required license, certificate, registration or authority, engages in the practice of a
101 trade or profession for which a license, certificate, registration or authority is required.

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

104 Section 65F. Persons shall not hold themselves out to the public as psychotherapists or represent
105 that the service they are offering is psychotherapy, unless (a) they are currently licensed by the
106 board of registration in medicine and practicing within the scope of such license and have
107 completed training in psychiatry, or (b) they are currently licensed by the board of registration in
108 nursing and are practicing within the scope of such license and have completed training in
109 psychiatric nursing, or (c) they are currently licensed by the board of registration of
110 psychologists, the board of registration of social workers, or the board of registration of allied
111 mental health and human services professionals and they are practicing within the scope of
112 practice of such license, or (d) they are a student, intern, or person fulfilling supervised
113 experience for licensure in the above professions under the qualified supervision of a licensee.
114 Any person who violates this section shall be punished by a fine of not more than \$1,000 for the
115 first offense and by a fine of not more than \$2,500 for a second or subsequent offense.

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

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

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

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

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

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

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

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

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

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

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

141 “Practice of educational psychology”, the rendering of professional services to individuals,

142 groups, organizations, or the public for compensation, monetary or otherwise. Such

143 professional services shall include, but not be limited to: applying psychological principles,

144 methods and procedures in the delivery of services to individuals, groups, families, educational

145 institutions and staff and community agencies for the purpose of promoting mental health and

146 facilitating learning. Such services may be preventative, developmental or remedial and include

147 psychological and psychoeducational assessment, therapeutic intervention, program planning and

148 evaluation, research, teaching in the field of educational psychology, consultation and referral to

149 other psychiatric, psychological, medical and educational resources when necessary.

150 “Practice of marriage and family therapy”, the rendering of professional services to individuals,

151 family groups, couples, or organizations, either public or private for compensation, monetary or

152 otherwise. Said professional services shall include, but not be limited to, applying principles,

153 methods and therapeutic techniques for the purpose of resolving emotional conflicts, modifying

154 perceptions and behavior, enhancing communications and understanding among all family

155 members and the prevention of family and individual crisis. Individual marriage and family

156 therapists may also engage in psychotherapy of a nonmedical nature with appropriate referrals to

157 psychiatric resources and research and teaching in the overall field of human development and

158 interpersonal relationships.

159 “Practice of mental health counseling”, the rendering of professional services to individuals,

160 families, or groups for compensation, monetary or otherwise. These professional services

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

175 “Practice of psychoanalysis”, the rendering of professional services to individuals, families,
176 groups of individuals, organizations or members of the public, for compensation, monetary or
177 otherwise. These professional services shall include, but not be limited to, applying the
178 principles, methods, and theories of psychoanalysis to the prevention, observation, identification,
179 evaluation, interpretation, or resolution of mental, emotional, family, or social dysfunction in all
180 persons, irrespective of diagnosis. Psychoanalytic principles and methods address dynamic
181 conscious and unconscious mental processes to facilitate modifications in character, behavior,
182 and affect that lead to more constructive or satisfactory functioning through the use of verbal and
183 non-verbal, cognitive and emotional communication, including an in depth exploration of the

184 unconscious aspects of the client's relationship with the analyst, the unconscious meaning of
185 communications, and the way current problems relate to early conflicts and feelings. The
186 practice of psychoanalysis shall include, but not be limited to, the use of psychotherapy and
187 counseling to diagnose and treat dysfunctions and disorders.

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

199 “Practice of rehabilitation counseling”, the rendering of professional services for compensation,
200 monetary or otherwise. These professional services include the application of principles,
201 methods and techniques of the rehabilitation counseling profession such as client assessment, job
202 analysis, vocational assessment, counseling and job development for the purpose of maximizing
203 or restoring the capacities of physically or mentally handicapped individuals for self-sufficiency
204 and independent living including vocational and social functioning and creating those conditions
205 favorable to this goal. The practice of rehabilitation counseling shall include, but not be limited
206 to: assisting individuals in the coordination of appropriate services; counseling with individuals,

207 families or groups; serving an advocacy role with communities or groups toward the provision or
208 implementation of rehabilitation services; research and teaching in the field of rehabilitation
209 counselor education.

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

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

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

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

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

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

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

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

236 (1) psychoanalytic psychotherapist, psychoanalytic therapist;

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

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

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

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

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

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

243 (1) recognized mental health professionals;

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

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

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

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

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

262 Section 165A. The board may issue a license to an applicant as an autonomous psychoanalytic
263 psychotherapist provided that each such applicant shall provide satisfactory evidence to the
264 board that such applicant: (1) is of good moral character; (2) has not engaged or is not engaging
265 in any practice or conduct which would be grounds for refusing to issue a license under section
266 one hundred and sixty-nine; (3) has successfully completed a master’s degree, or higher, from a
267 recognized educational institution; (4) has successfully completed a program in psychoanalytic

268 psychotherapy that includes a minimum of 1200 clock hours of training from a recognized
269 psychoanalytic training institution chartered by the Commonwealth to offer a master's degree or
270 higher. Such hours may also fulfill requirements for (3) of this Section. Within the 1200 clock
271 hours, the applicant shall have completed at least 600 clock hours of academic work, in such
272 courses as the board shall specify, and shall have completed at least 600 clock hours in an
273 internship with such direct client contact and supervision as the board shall specify, so long as
274 50% of such supervision is with a psychoanalyst; (5) additionally, the applicant shall complete
275 supervised clinical experience of not less than 1500 hours, which includes such direct client
276 contact, supervision, and personal analysis as the board shall specify, so long as 50% of such
277 supervision is with a psychoanalyst, and so long as the applicant completes a minimum of 150
278 hours of personal analysis with a psychoanalyst; and (6) the applicant shall successfully pass a
279 written or oral examination overseen by the board to determine the applicant's qualifications for
280 licensure pursuant to this section.

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

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

289 Section 165B. The board may issue a license to an applicant as an autonomous psychoanalyst
290 provided that each such applicant shall provide satisfactory evidence to the board that such
291 applicant: (1) is of good moral character; (2) has not engaged or is not engaging in any practice
292 or conduct which would be grounds for refusing to issue a license under section one hundred and
293 sixty-nine; (3) has successfully completed a master's degree, or higher, from a recognized
294 educational institution; (4) has successfully completed a program in psychoanalysis which
295 includes a minimum of 2250 clock hours of training from a recognized psychoanalytic training
296 institution chartered by the Commonwealth to offer a master's degree or higher. Such hours may
297 also fulfill requirements for (3) of this Section. Within the 2250 clock hours, the applicant shall
298 have completed at least 1100 clock hours of academic work in such courses as the board shall
299 specify, shall have completed at least 600 clock hours in an internship with such direct client
300 contact and supervision as the board shall specify, so long as 50% of such supervision is with a
301 psychoanalyst, and shall have completed supervised psychoanalytic practice totaling not less
302 than 550 hours, with such direct client contact and supervision as the board shall specify, so long
303 as such supervision is with a psychoanalyst; (5) additionally, the applicant shall complete
304 supervised clinical experience totaling not less than 1700 hours, which includes such direct client
305 contact, supervision, and personal analysis as the board shall specify, so long as 50% of such
306 supervision is with a psychoanalyst, and so long as the applicant completes a minimum of 350
307 hours of personal analysis with a psychoanalyst; and (6) the applicant shall successfully pass a
308 written or oral examination overseen by the board to determine the applicant's qualifications for
309 licensure pursuant to this section.

310 Individuals formerly practicing legally as psychoanalysts in other jurisdictions may be licensed
311 in the Commonwealth without examination if, in the opinion of the board, their academic and

312 experiential training is substantially equivalent to that required by this section and the regulations
313 of the board.

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