

# HOUSE . . . . . No. 04123

The committee on Consumer Protection and Professional Licensure, reports, on House, No. 2004, a Bill for consumer protection and regulation in psychotherapy (House, No. 4123). May 29, 2012. Theodore C. Speliotis, for the committee.

## 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 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, or  
114 (e) they are independent psychotherapists as defined under Section 164.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

160 “Practice of mental health counseling”, the rendering of professional services to individuals,  
161 families, or groups for compensation, monetary or otherwise. These professional services



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

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

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

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

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

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

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

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

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

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

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

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

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

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

237 (1) psychoanalytic psychotherapist, psychoanalytic therapist;

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

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

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

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

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

243 (7) Independent psychotherapists as defined below.

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

245 (1) recognized mental health professionals;

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

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

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

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

262 Independent psychotherapists are exempt under this act if they are members in good standing of  
263 the Massachusetts Association of Independent Psychotherapists provided that they are of good  
264 moral character and have not engaged in any practice or conduct which would be grounds for  
265 refusing to issue a license under section one hundred and sixty-nine; provided, further, that the  
266 board shall not apply said provisions or additional requirements in an unfair and arbitrary manner  
267 in order to deny an exemption or rescind a granted exemption. Within thirty days from the  
268 effective date of this act the Massachusetts Association of Independent Psychotherapists shall  
269 furnish to the board a list of members that qualify for this exemption. No non licensed

270 independent psychotherapists shall be exempted subsequent to the filing of this list to the board.  
271 The commissioner of administration pursuant to section three B of chapter seven may establish a  
272 biennial fee for the registration of individuals exempted under this provision, provided that said  
273 fee shall be consistent with the fee charged other mental health providers.

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

276 Section 165A. The board may issue a license to an applicant as an autonomous psychoanalytic  
277 psychotherapist provided that each such applicant shall provide satisfactory evidence to the  
278 board that such applicant: (1) is of good moral character; (2) has not engaged or is not engaging  
279 in any practice or conduct which would be grounds for refusing to issue a license under section  
280 one hundred and sixty-nine; (3) has successfully completed a master's degree, or higher, from a  
281 recognized educational institution; (4) has successfully completed a program in psychoanalytic  
282 psychotherapy that includes a minimum of 1200 clock hours of training from a recognized  
283 psychoanalytic training institution chartered by the Commonwealth to offer a master's degree or  
284 higher. Such hours may also fulfill requirements for (3) of this Section. Within the 1200 clock  
285 hours, the applicant shall have completed at least 600 clock hours of academic work, in such  
286 courses as the board shall specify, and shall have completed at least 600 clock hours in an  
287 internship with such direct client contact and supervision as the board shall specify, so long as  
288 50% of such supervision is with a psychoanalyst; (5) additionally, the applicant shall complete  
289 supervised clinical experience of not less than 1500 hours, which includes such direct client  
290 contact, supervision, and personal analysis as the board shall specify, so long as 50% of such  
291 supervision is with a psychoanalyst, and so long as the applicant completes a minimum of 150  
292 hours of personal analysis with a psychoanalyst; and (6) the applicant shall successfully pass a

293 written or oral examination overseen by the board to determine the applicant's qualifications for  
294 licensure pursuant to this section.

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

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

303 Section 165B. The board may issue a license to an applicant as an autonomous psychoanalyst  
304 provided that each such applicant shall provide satisfactory evidence to the board that such  
305 applicant: (1) is of good moral character; (2) has not engaged or is not engaging in any practice  
306 or conduct which would be grounds for refusing to issue a license under section one hundred and  
307 sixty-nine; (3) has successfully completed a master's degree, or higher, from a recognized  
308 educational institution; (4) has successfully completed a program in psychoanalysis which  
309 includes a minimum of 2250 clock hours of training from a recognized psychoanalytic training  
310 institution chartered by the Commonwealth to offer a master's degree or higher. Such hours may  
311 also fulfill requirements for (3) of this Section. Within the 2250 clock hours, the applicant shall  
312 have completed at least 1100 clock hours of academic work in such courses as the board shall  
313 specify, shall have completed at least 600 clock hours in an internship with such direct client  
314 contact and supervision as the board shall specify, so long as 50% of such supervision is with a

315 psychoanalyst, and shall have completed supervised psychoanalytic practice totaling not less  
316 than 550 hours, with such direct client contact and supervision as the board shall specify, so long  
317 as such supervision is with a psychoanalyst; (5) additionally, the applicant shall complete  
318 supervised clinical experience totaling not less than 1700 hours, which includes such direct client  
319 contact, supervision, and personal analysis as the board shall specify, so long as 50% of such  
320 supervision is with a psychoanalyst, and so long as the applicant completes a minimum of 350  
321 hours of personal analysis with a psychoanalyst; and (6) the applicant shall successfully pass a  
322 written or oral examination overseen by the board to determine the applicant's qualifications for  
323 licensure pursuant to this section.

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

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