

**By His Excellency  
CHARLES D. BAKER  
GOVERNOR**

**EXECUTIVE ORDER NO. 567**

**TO ENSURE PROPER REVIEW OF THE REGULATION OF  
PROFESSIONAL LICENSING BY INDEPENDENT BOARDS**

WHEREAS, the Commonwealth regulates a wide variety of specialized professions by vesting oversight authority in independent licensing boards consisting of persons engaged in active practice in those professions;

WHEREAS, these independent licensing boards are charged with protecting the health, safety, and welfare of the public by establishing requirements for qualification for licensure in the professions under their supervision and by establishing policies to ensure that practice within these fields will be safe and conducted in accordance with appropriate professional standards;

WHEREAS, in order to fulfill these responsibilities, independent licensing boards must establish rules, regulations, and policies to ensure that persons and entities practicing within each field have adequate training, education, and qualifications, and independent licensing boards must also monitor actual practice within these fields to ensure that persons licensed to practice do so in a manner consistent with appropriate professional standards;

WHEREAS, in order to ensure that these licensing boards, while independent, act in accord with policies of the Commonwealth established by the General Court and the executive department, the General Court has specified in General Laws Chapter 112, Section 1 and Chapter 13, Section 10A, that the work of certain independent licensing boards be supervised by either the director of professional licensure or the commissioner of public health, as appropriate to each field of practice;

WHEREAS, the General Court, by enacting General Laws Chapter 93, has recognized the value of free and open competition in ensuring economic growth and advancing the general welfare; and

WHEREAS, the Commonwealth's authority to regulate, limit, or restrict the practice of a profession in order to protect the health, safety, and welfare of the public should be exercised in consideration of the public's broad interest in maintaining meaningful competition in the relevant market for professional services;

NOW, THEREFORE, I, CHARLES D. BAKER, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, Section 1, Art. 1, do hereby order as follows:

Section 1. I instruct the director of professional licensure and the commissioner of public health to include as part of their active supervision of these boards a careful

review of any act, rule, regulation, or policy proposed by an independent licensing board that has the potential to reduce competition in a relevant market for professional services. Where an act, rule, regulation, or policy proposed by an independent licensing board may have an anti-competitive effect, I direct the director of professional licensure or the commissioner of public health to consider whether the proposed act, rule, regulation, or policy furthers an important policy goal of the Commonwealth as established by the General Court and the executive department notwithstanding the proposal's potential anti-competitive effect. Ensuring the health, safety, and welfare of the public is an important policy goal for both the General Court and the executive department.

I further instruct the director of professional licensure or the commissioner of public health to disapprove any act, rule, regulation, or policy proposed by an independent licensing board that may have an anti-competitive effect where the proposal does not further another important policy goal of the Commonwealth. In such a circumstance, the director of professional licensure or the commissioner of public health may advise the issuing licensing board to amend its proposed course of action, and the director or the commissioner may then approve a modified proposal from the independent licensing board. An act, rule, regulation, or policy that is disapproved by the director or the commissioner on these grounds shall not be published, implemented, facilitated, or advanced by any employee or agent of the Commonwealth.

Section 2. The director of professional licensure or the commissioner of public health shall give particular attention to the possibility of anti-competitive consequences when an act, rule, regulation, or policy proposed by an independent licensing board falls into one or more of the following categories:

- a. rules regulating or actions affecting scope of practice
- b. requirements for licensure
- c. price regulations
- d. restrictions on advertising or soliciting customers
- e. territorial allocations
- f. restrictions on market participation (dealings with non-licensees); or
- g. restrictions on competitive bidding

The director of professional licensure and the commissioner of public health may consult the Attorney General when there is a question whether an act, rule, regulation, or policy proposed by an independent licensing board may have an anti-competitive effect. The director and the commissioner may also seek guidance from the Attorney General in fulfilling any of their duties under this Executive Order.

Section 3. After reviewing any act, rule, regulation, or policy proposed by an independent licensing board under this Executive Order, the director of professional licensure or the commissioner of public health shall provide to the licensing board a written statement indicating whether the director or commissioner approves or disapproves the proposal. A written statement of approval shall identify the policy goals served by the proposal and explain why, in the determination of the director or the

commissioner, those goals justify adoption notwithstanding the potential for some anti-competitive effect. A written statement of disapproval shall explain the reasons relied on by the director or commissioner in disapproving the proposal.

The director of professional licensure and the commissioner of public health shall provide to the relevant licensing board a written statement of approval or disapproval for any act, rule, regulation, or policy reviewed under this order. Statements of approval and disapproval shall be available for public inspection.

Section 4. General Laws Chapter 112, Section 1 directs the director of professional licensure and the commissioner of public health to report to the Governor on the work of the independent licensing boards under their supervision as the Governor may require. I hereby instruct the director and the commissioner to report to me any instance in which an independent licensing board under their supervision persists in pursuing a course of action that the director or the commissioner has disapproved in acting under this Order.

Section 5. Consistent with the provisions of Chapter 112, Section 1, under this Executive Order the director of professional licensure shall be responsible for approving or disapproving any act, rule, regulation, or policy that is proposed by any of the boards of registration and examination listed on Schedule A and that falls within the categories outlined in section 2 of this Order.

Consistent with the provisions of Chapter 112, Section 1 and Chapter 13, Section 10A, the commissioner of public health shall be responsible for approving or disapproving any such act, rule, regulation, or policy proposed by any of the boards listed on Schedule B.

I urge other independent licensing boards not addressed in Chapter 112, Section 1 or subject to a similar form of State supervision to comply with the intent of this Order by seeking review from an appropriate State official prior to taking any act or issuing any rule, regulation, or policy that may fall into one or more of the categories listed in Section 2 of this Order. The attached Schedule C identifies State officials qualified to provide review for certain of these other independent licensing boards.

Schedules A and B shall be updated as necessary to include any additional independent licensing boards that the General Court may in the future place under the supervision of the director of professional licensure or the commissioner of public health. Schedule C shall be updated as necessary to identify a State official qualified to review acts, rules, regulations, or policies proposed by other independent licensing boards.

The director of professional licensure and the commissioner of public health may delegate some or all of their responsibilities under this Order to appropriate representatives. The director may request that the Secretary of Housing and Economic Development or his designee assume his responsibilities and the commissioner may

request that the Secretary of Health and Human Services or her designee assume her responsibilities under this Order when the circumstances could reasonably create the appearance of a conflict of interest because the director or the commissioner is a member of the same profession that is subject to the act, rule, regulation, or policy that is presented for review.

Given at the Executive Chamber in Boston this 28 day of March in the year of our Lord two thousand sixteen and of the Independence of the United States of America two hundred and forty.

CHARLES D. BAKER

GOVERNOR

Commonwealth of Massachusetts

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**

**Schedule A**

Boards Under the Supervision of the Director of Professional Licensure

1. Board of Allied Health Professions
2. Board of Registration of Allied Mental Health and Human Services Professions
3. Board of Registration of Architects
4. Board of Registration of Chiropractors
5. Board of Registration of Cosmetology and Barbering
6. Board of Registration of Dietitians and Nutritionists

7. Board of Registration of Dispensing Opticians
8. Board of Certification of Operators of Drinking Water Supply Facilities
9. Board of State Examiners of Electricians
10. Board of Registration of Professional Engineers and of Land Surveyors
11. Board of Registration in Embalming and Funeral Directing
12. Board of Certification of Health Officers
13. Board of Registration of Hearing Instrument Specialists
14. Board of Registration of Home Inspectors
15. Board of Registration of Landscape Architects
16. Board of Registration of Massage Therapy
17. Board of Registration in Optometry
18. Board of State Examiners of Plumbers and Gas Fitters
19. Board of Registration in Podiatry
20. Board of Registration of Psychologists
21. Board of Public Accountancy
22. Board of Registration of Real Estate Appraisers
23. Board of Registration of Real Estate Brokers and Salespersons
24. Board of Registration of Sanitarians
25. Board of Examiners of Sheet Metal Workers
26. Board of Registration of Social Workers
27. Board of Registration for Speech-Language Pathology and Audiology
28. Board of Registration in Veterinary Medicine

**Schedule B**

## Boards Under the Supervision of the Commissioner of Public Health

1. Board of Registration in Nursing
2. Board of Registration in Pharmacy
3. Board of Registration of Physician Assistants
4. Board of Registration of Perfusionists
5. Board of Registration of Nursing Home Administrators
6. Board of Registration in Dentistry
7. Board of Registration of Respiratory Therapists
8. Board of Registration in Medicine

### **Schedule C**

#### State Officials Qualified to Review Actions by Other

#### Independent Licensing Boards

##### Director of Professional Licensure

1. Automobile Damage Appraiser Licensing Board
2. Commissioners of Pilots

##### Commissioner of Public Health

1. Board of Genetic Counselors
2. Board of Certification of Community Health Workers

##### Commissioner of the Department of Public Safety

1. Board of Elevator Regulations
2. Board of Elevator Appeals
3. Board of Elevator Examiners
4. Bureau of Pipefitters, Sprinkler Fitters, and Refrigeration Technicians
5. Board of Building Regulations and Standards
6. Recreational Tramway Board