HOUSE . . . . . No. 5348

The Commonwealth of Massachusetts

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
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WILLIAM F. WELD
GOVERNOR

ARGEO PAUL CELLUCCI
LIEUTENANT-GOVERNOR

July 24, 1995

To the Honorable House of Representatives and the Senate:

Lieutenant Governor Cellucci and I are filing for your consideration the attached reorganization plan known as "An Act to Eliminate Unnecessary Government Regulation of Professionals." The purpose of this plan is to reorganize the Division of Registration within the Executive Office of Consumer Affairs by transferring or abolishing the functions of twelve boards of registration, regulating fourteen professions.

Specifically, the plan we are filing today eliminates the current system of government licensing and regulation, including the annual license fee, of the following professions: athletic trainers, physical therapists, occupational therapists, respiratory care workers, barbers, cosmetologists, dispensing opticians, sanitarians, electrologists, radio and television technicians, drinking water operators, health officers, landscape architects, and nursing home administrators.

After a review by the Executive Office of Consumer Affairs and the Division of Registration, we have concluded that the current system of licensing and regulation of these professions is unnecessary. Licensing and regulation should be limited to situations in which the public health and safety clearly require government oversight. Furthermore, where the only ongoing role of the board of registration is to collect an annual fee, and to investigate a relatively few consumer complaints, licensing and regulation are not warranted. While nearly 90,000 individuals were licensed in fiscal year 1994 in the fourteen professions affected by the bill, there were only 213 complaints, and many of those complaints were minor.

In five instances, the reorganization plan retains a limited role for government regulation of the professions. While the bill eliminates government licensing of physical therapists,

occupational therapists, and respiratory care workers, it sets minimum educational standards for those who practice in these three fields, and makes unqualified practice a criminal offense. Similarly, under the reorganization plan, licensing of nursing home administrators will be transferred to the Department of Public Health; and licensing of sanitarians will be transferred to the Department of Environmental Protection. Separate boards of registration are not necessary for these two professions.

Accordingly, acting pursuant to Article LXXXVII of the Amendments to the Constitution of the Commonwealth, we hereby submit this message accompanied by a reorganization plan which is to take effect after the expiration of 60 days unless disapproved by a majority of the members of either of the two branches of the General Court, and which shall be designated as Plan Number 1995-1.

Respectfully submitted,

William F. Weld

William F. Weld
Governor

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT TO ELIMINATE UNNECESSARY GOVERNMENT REGULATION OF PROFESSIONALS.

Be it approved by the Senate and House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws, as appearing in
2 the 1994 Official Edition, is hereby amended by inserting after
3 section 9B the following sections:—
4 Section 9C. Any person practicing in the profession of
5 respiratory care shall be a graduate of an accredited respiratory
6 therapy program recognized by the National Board for Respira-
7 tory Care. This requirement shall be waived if such person is
8 licensed as a respiratory care therapist by another state. Any
9 person practicing respiratory care without the qualifications set
10 out in this section may be punished by a fine of not more than one
11 thousand dollars or by imprisonment in a house of correction for
12 not more than one year or by both.
13 Section 9D. Any person practicing in the professions of
14 physical therapy or occupational therapy shall hold a bachelor's or
15 master's degree in physical or occupational therapy. This require-
16 ment shall be waived if such person is licensed by another state.
17 Any person practicing physical therapy or occupational therapy
18 without the qualifications set out in this section may be punished
19 by a fine of not more than one thousand dollars or by imprison-
20 ment in a house of correction for not more than one year or by
21 both.

1 SECTION 2. Section eleven A of Chapter thirteen of the
2 General Laws, as so appearing, is hereby repealed.

SECTION 3. Section eleven B of Chapter thirteen of the General Laws, as so appearing, is hereby repealed.

SECTION 4. Sections thirty-nine through forty-one, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 5. Sections forty-two through forty-four, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 6. Sections forty-eight through fifty, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 7. Sections fifty-one through fifty-three, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 8. Sections fifty-eight through sixty, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 9. Sections sixty-one through sixty-three, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby Repealed.

SECTION 10. Section sixty-six B of Chapter thirteen of the General Laws, as so appearing, is hereby repealed.

SECTION 11. Sections sixty-seven through sixty-nine, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

SECTION 12. Sections seventy through seventy-two, inclusive, of Chapter thirteen of the General Laws, as so appearing, are hereby repealed.

1 SECTION 13. Sections seventy-three through seventy-five,
2 inclusive, of Chapter thirteen of the General Laws, as so
3 appearing, are hereby repealed.

1 SECTION 14. Section 8 of Chapter 21A of the General Laws,
2 as so appearing, is hereby amended by inserting after the word
3 "services" in line 24 the following:—
4 The commissioner of the department of environmental
5 protection shall promulgate rules and regulations of sanitarians.

1 SECTION 15. Section 2 of Chapter 111 of the General Laws,
2 as appearing in the 1994 Official Edition, is hereby amended by
3 inserting after the word "aged." in line 7 the following:—
4 The commissioner shall promulgate rules and regulations
5 governing the licensure of nursing home administrators.

1 SECTION 16. Sections twenty-three A to twenty-three Q,
2 inclusive, of Chapter one hundred twelve of the General Laws, as
3 so appearing, are repealed.

1 SECTION 17. Sections twenty-three R through twenty-
2 three BB, inclusive, of Chapter one hundred twelve of the
3 General Laws, as so appearing, are hereby repealed.

1 SECTION 18. Sections seventy-three C through seventy-
2 three M, inclusive, of Chapter one hundred twelve of the General
3 Laws, as so appearing, are hereby repealed.

1 SECTION 19. Sections eighty-seven F through eighty-seven S,
2 inclusive, of Chapter one hundred twelve of the General Laws, as
3 so appearing, are hereby repealed.

1 SECTION 20. Sections eighty-seven T through eighty-
2 seven KK, inclusive, of Chapter one hundred twelve of the
3 General Laws, as so appearing, are hereby repealed.

1 SECTION 21. Sections eighty-seven LL through eighty-
2 seven OO, inclusive, of Chapter one hundred twelve of the
3 General Laws, as so appearing, are hereby repealed.

SECTION 22. Sections eighty-seven EEE through eighty-seven OOO, inclusive, of Chapter one hundred twelve of the General Laws, as so appearing, are hereby repealed.

SECTION 23. Sections eighty-seven PPP through eighty-seven VVV, inclusive, of Chapter one hundred twelve of the General Laws, as so appearing, are hereby repealed.

SECTION 24. Sections eighty-seven WWW through eighty-seven ZZZ, inclusive, of Chapter one hundred twelve of the General Laws, as so appearing, are hereby repealed.

SECTION 25. Sections eighty-seven CCCC through eighty-seven DDDD, inclusive, of Chapter one hundred seventeen of the General Laws, as so appearing, are hereby repealed.

SECTION 26. Sections ninety-eight through one hundred seven, inclusive, of Chapter one hundred twelve of the General Laws, as so appearing, are hereby repealed.

SECTION 27. Sections one hundred eight through one hundred seventeen, inclusive, of Chapter one hundred twelve of the General Laws, as so appearing, are hereby repealed.

SECTION 28. Section 51 of Chapter 140 of the General Laws, as so appearing, is hereby amended by striking out in line 6 through 12 the words "provided, that a person registered as a barber or apprentice under the provisions of section eighty-seven H or section eighty-seven I of chapter one hundred and twelve or as a hairdresser, operator, or a student under the provisions of section eighty-seven T to eighty-seven JJ, inclusive, of said chapter one hundred and twelve may practice facial and scalp massaging without taking out a license as provided in this section."

SECTION 29. Section 2 of Chapter 156A of the General Laws, as so appearing, is hereby amended by striking out in lines 9 and 10 the words "electrologists, physical therapists".

SECTION 30. Section 47C of Chapter 175 of the General Laws, as so appearing, is hereby amended by inserting in line 71 after the word "G" the following:— or persons otherwise qualified under section 9D of Chapter 13.

SECTION 31. Section 8B of Chapter 176A of the General Laws, as so appearing, is hereby amended by inserting in line 56 after the word "G" the following:— or persons otherwise qualified under section 9D of Chapter 13.

SECTION 32. Section 4C of Chapter 176B of the General Laws, as so appearing, is hereby amended by inserting in line 56 after the word "G" the following:— or persons otherwise qualified under section 9D of Chapter 13.

SECTION 33. Section 4 of Chapter 260 of the General Laws, as so appearing, is hereby amended by striking out in lines 8 through 10 the words "registered under sections eighty-seven T to eighty-seven JJ, inclusive, of chapter one hundred and twelve".

SECTION 34. (a) This reorganization plan shall take effect upon expiration of sixty calendar days following its presentation to the General Court pursuant to Article LXXXVII of the Amendments to the Massachusetts Constitution.

(b) The period of time between the effective date of this legislation and July 1, 1996 shall be known as the sunset period. During the sunset period each board shall retain all power and authority previously granted to it, provided that it shall only exercise such authority as necessary to resolve pending matters in anticipation of the abolition of the board. During the sunset period, any licensee who has paid a licensing fee for a period after the board is abolished may apply for a refund of such fee. The Commonwealth shall refund such fee on the following basis: one half of any full licensure fee will be refunded provided that the licensee applies for a refund no later than halfway through the term of the original license. No refund shall be issued to any licensee who applies for a refund after the date the board is abolished. To obtain a refund a licensee must return his license and certificate to the board.