

# PROPOSED REGS THREATEN TO UNDERMINE OCCUPATIONAL LICENSING REFORM LAW

During the height of the pandemic in 2020, the Pennsylvania General Assembly made a priority of approving Act 53, known as the occupational licensing reform bill. The bill was guided to passage by bipartisan lead sponsors and supported by both conservative and liberal advocates, including the PA Chamber. **The goal of all concerned was obvious: to open occupational licensure to people with old and unrelated criminal convictions, helping both Pennsylvania families and businesses.**

But the PA Department of State, which is tasked with drafting implementing regulations, has missed the boat. **The agency's regulatory package repeatedly says that the purpose of Act 53 was to provide "transparency and clarity" about what crimes can be disqualifying.** Given the agency's fundamental misconception of the point of the law, its proposed regulations undermine, rather than support, Act 53's goal of opening the licensed occupations to people with unrelated criminal records.

## Lists of "Directly Related" Crimes are Overbroad and Unreasonable

The agency and its boards and commissioners were required by Act 53 to identify "directly related" offenses, the conviction of which will result in a presumption that the applicant poses a "substantial risk" if licensed. They have proposed over-inclusive lists that will keep people out of the licensed professions. For example, the Board of Nursing lists **92 separate crimes**, in addition to violent, sexual and drug trafficking offenses. The Barber Board's list includes possession of a drug with intent to deliver and felony DUI. Although people can provide evidence that they have been rehabilitated when they apply for a license, how many people can put years and thousands of dollars into studying nursing, for instance, if they know they are presumed unfit and might not be licensed?

## Lifelong Barriers to Licensing Have Been Created

There are no time limits on any of the "directly related" offenses. The presumption against licensure lasts for people's entire lives, no matter how rehabilitated they are. Studies of desistance from crime show that the longer a person goes without reoffending, the less likely they will do it in the future. The lifetime barriers created by the agency and its boards and commissions are completely inconsistent with this evidence and contrary to the intent of the legislation.

## Process Led to Unreasonable Regulations

The agency emphasizes that its regulations were created based on consultation with the licensing boards and employers. Notably missing from that short list are experts with evidence-based knowledge on whether and how long criminal convictions are directly related to professions. The agency failed to consider expert reports addressing these issues earlier this year.

The proposed regulations were published in the Pennsylvania Bulletin on November 19, 2022 and are **open for public comment until December 19, 2022. Please write to [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov), copying [melliott@irrc.state.pa.us](mailto:melliott@irrc.state.pa.us), to object to the proposed regulations and to ask that they be reworked to bring Pennsylvanians with criminal records into the licensed occupations.**



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