



December 19, 2022

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Regulation No. 16A-66: Consideration of Criminal Convictions

To the Honorable Members of the Independent Regulatory Review Commission:

I write on behalf of the Pennsylvania Chamber of Business and Industry (PA Chamber) in response to the Pennsylvania Department of State's (the Department) Nov. 4, 2022 Proposed Regulation to implement Act 53 of 2020, known as the Occupational Licensing Reform law. Thank you for the opportunity to submit these comments.

The PA Chamber is Pennsylvania's largest broad-based employer advocacy association. Our membership comprises around 10,000 employers of all sizes and industries throughout the Commonwealth – from sole proprietors to Fortune 100 companies – representing nearly 50 percent of the state's private workforce.

The PA Chamber advocates for policies to improve Pennsylvania's business climate, attract investment, and strengthen our communities. We strive to address myriad challenges that impede the ability of employers to succeed and hold back Pennsylvania's economy. One such challenge that incumbers employers of all sizes from seemingly every sector of the economy is the inability to recruit or hire individuals to fill open positions.

Employers' struggles with a tight labor market and misalignment between their needs and applicants' qualifications existed prior to the pandemic, but have been exacerbated over the last few years and slowed recovery. Other strains on the business community, from inflation to supply chain disruptions, either added to or were made worse by workforce shortages.

Addressing the workforce crisis will require activism from and coordination among all stakeholders, and a multi-pronged public policy strategy, including a

focus on encouraging employment for Pennsylvanians who are too often marginalized.

The PA Chamber's commitment to improving the Commonwealth's workforce, particularly by supporting Pennsylvanians stuck on the economic sideline, has led us to support multiple criminal justice reform measures to help facilitate employment for reentrants and individuals with a criminal record. This advocacy included working on and supporting Senate bill 637, the Occupational Licensing Reform legislation, during the 2019-2020 legislative session.

The Commonwealth oversees 29 boards and commissions that administer over 250 types of professional licenses; and their rules varied in terms of when a criminal record could factor into decisions for granting licenses. S.B. 637 was a workforce bill and included a number of provisions we believed would not only help address the workforce crisis, but would also benefit individuals, families and communities.

The legislation sought to establish a more uniform standard and process for agencies considering criminal history in the context of an occupational license application, including providing that a license may only be denied if the record is related to the occupation. Employers follow a similar standard if a job applicant has a criminal record and we believed it made sense to be applied in this context as well.

The bill required agencies to determine and publicize the types of criminal records that directly relate to particular licenses and specifically provided a process for the employer community's perspective to be considered when agencies develop these policies. Importantly, S.B. 637 allowed potential applicants to receive a ruling ahead of time on whether their criminal record is disqualifying for a particular license, giving individuals the ability to make more informed decisions related to education and training opportunities.

We were proud to support S.B. 637 and pleased it was passed unanimously by both the House and Senate and signed by Gov. Wolf as Act 53 of 2020. The reforms in this law were intended to both add much needed transparency and predictability to this process, and to help encourage employment for the individuals impacted.

We appreciate the work of the Department and Bureau of Professional and Occupational Affairs to develop regulations to implement Act 53. These

regulations are critical to achieving the complementary goals of the law focused on both transparency and clarity, *and* encouraging employment.

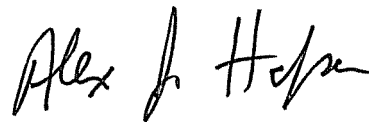
We understand that concerns have been raised by a number of stakeholders that the proposed regulations do not yet strike the right balance in pursuit of these two goals. According to advocates, the regulations are too broad in its approach to determining what criminal history is directly related to the particular occupational license, and further concerns have been raised that offenses may be considered for the entirety of someone's life, creating long-term barriers to employment.

Licensing agencies should not screen out potential applicants if their criminal records are not related to the profession and do not create a risk. This would be contrary to our understanding of the intent of the law and does not help employers or the public. Our members take seriously their responsibility to screen job applicants to protect their workforce, customers and the public. Employers diligently consider the risks and safeguards that apply to a particular job, and carefully consider what criminal is related and may create risk.

We appreciate that the Department has multiple interests and considerations to factor when developing these important regulations. We urge the Department to work closely with the stakeholders to ensure that reasonable concerns are addressed and that the final regulations truly achieve the goals of Act 53 of 2020.

Thank you for considering our views on this important matter.

Sincerely,

A handwritten signature in black ink that reads "Alex J. Halper". The signature is written in a cursive, slightly slanted style.

Alex Halper
Vice President, Government Affairs

cc: Cynthia Montgomery, Counsel, PA Department of State
Michelle Elliott, Regulatory Analyst, Independent Regulatory Review
Commission