

**TESTIMONY ON PROPOSED AMENDMENTS TO  
“PRACTICES AND PROCEDURES BEFORE THE RHODE ISLAND  
DEPARTMENT OF HEALTH”**

**[216-RICR-10-05-4]**

**August 5, 2021**

The six undersigned organizations – the ACLU of Rhode Island, Center for Health and Justice Transformation, Formerly Incarcerated Union of R.I., OpenDoors, R.I. Center for Justice, and Substance Use Policy, Education and Recovery PAC – appreciate the opportunity to provide testimony on the Department’s proposed revision to its “practices and procedures” in order to come into compliance with, and implement, R.I.G.L. § 28-5.1-14, the “fair chance licensing” law.

That law is designed to overturn decades of discrimination against individuals denied employment or professional licenses due to a past criminal record. In order to best promote that goal in comporting with this new law’s mandates, we urge an amendment to the Department’s proposal as follows:

4.21 Licensure Review for Individuals Convicted of a Crime  
Applications by a person who has been convicted of a crime or crime(s) for an occupational license, permit, certificate, or registration issued by the Department shall be reviewed in accordance with R.I. Gen. Laws § 28-5.1-14. To the extent that any Department regulation conflicts with § 4.21 of this Part, the provisions of § 4.21 of this Part control. Provided, however, to the extent the regulation or the statute under which the regulation is authorized contains a defined list of criminal offenses that are deemed potentially disqualifying for a license, permit, certificate, or registration, the Department, in implementing the provisions of § 28-5.1-14, shall not request or consider information about any other offenses.

The purpose of this amendment is simple. Many of the Department’s occupational licensing regulations and/or the statutes under which they have been adopted contain a defined list of so-called “disqualifying offenses” that, prior to the passage of the “fair chance licensing” law, could have served as a potential basis for denying or revoking a license. Under R.I. Gen. Laws § 28-5.1-14, some of those offenses will no longer be subject to consideration because they are not, as that law prescribes, “substantially related” to the license being sought. At the same time, it would undermine the “fair

chance” statute for the Department to subsequently begin examining and giving consideration to *other* offenses that had not been previously considered “disqualifying.” Thus, our suggested amendment would clarify that the Department’s implementation of fair chance licensing does not *expand* the statutory or regulatory list of offenses it has previously been limited to examining in making licensing decisions.

We assume this is consistent with the Department’s plans, but we believe clarifying the regulation with our proposed language would avoid any ambiguity or confusion among the Department’s many different licensing bodies in applying the fair chance licensing law and this new revised regulation.

We thank you for your consideration of our proposed amendment, and trust that you will give it your careful consideration. If the suggestions we have made are not adopted, we request, pursuant to R.I.G.L. §42-35-2.6, a statement of the reasons for not accepting these arguments.

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