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**COMMENTS ON 16-H 7007 –
RELATING TO LICENSING OF MASSAGE THERAPISTS
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Three years ago, the General Assembly passed an important piece of legislation known as the “ban the box” law. That law made it illegal, with a few narrow exceptions, for any employer to make any inquiries at the initial stage of the employment process about an applicant’s criminal record. Bills like H-7007 have the unfortunate impact of undermining the goals behind that law, by potentially disqualifying from employment individuals with minor criminal records and by making employers aware of those records.

The current statute governing massage therapists establishes a process for examining a person’s criminal record and whether it should potentially disqualify a person from employment. Under that process, BCI notifies the employer if a designated “disqualifying offense” has been found on the applicant’s record, and the applicant then has the opportunity to make his or her case for being hired notwithstanding the particular offense.

H-7007, however, would allow municipalities to adopt ordinances that ignore that carefully calibrated process. They could request that job applicants – whether somebody seeking to be an actual therapist or a secretary at the facility – provide their *entire* criminal record for review. They could consider any criminal offense as “disqualifying,” and automatically exclude them from employment consideration or otherwise burden their opportunity to obtain a job.

The General Assembly enacted the “ban the box” law in recognition of the fact that employment is a pivotal factor in preventing recidivism and that ex-offenders have faced widespread and unfair discrimination in seeking jobs. Well-qualified applicants – even those with long-past criminal records irrelevant to the job for which they were applying – were often excluded from consideration before even having a chance for an interview to demonstrate their qualifications. H-7007 would allow, and even encourage, that sort of counter-productive process to continue.

While it may be appropriate for municipalities to have authority over the location of these businesses and similar ancillary matters, the ACLU opposes giving them the right to establish harsher standards, beyond those established in the current statute, for examining and considering the criminal records of job applicants. We therefore oppose H-7007 as proposed.