



Substitute Senate Bill No. 809

Public Act No. 09-99

AN ACT CONCERNING PRIVATE OCCUPATIONAL SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 10a-22b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) No person, board, association, partnership, corporation, limited liability company or other entity shall offer instruction in any form or manner in any trade or in any industrial, commercial, service, professional or other occupation unless such person, board, association, partnership, corporation, limited liability company or other entity first receives from the commissioner a certificate authorizing the occupational instruction to be offered.

(b) Except for initial authorizations, the commissioner shall accept institutional accreditation by an accrediting agency recognized by the United States Department of Education, in satisfaction of the requirements of this section and section 10a-22d, as amended by this act, including the evaluation and attendance requirement, unless the commissioner finds reasonable cause not to rely upon such accreditation.

(c) Each person, board, association, partnership, corporation, limited

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liability company or other entity which seeks to offer occupational instruction shall submit to the commissioner, or the commissioner's designee, in such manner as the commissioner, or the commissioner's designee, prescribes, an application for a certificate of authorization which includes, but need not be limited to, (1) the proposed name of the school; (2) ownership and organization of the school including the names and addresses of all principals, officers, members and directors; (3) names and addresses of all stockholders of the school, except for applicants which are listed on a national securities exchange; (4) addresses of any building or premises on which the school will be located; (5) description of the occupational instruction to be offered; (6) the proposed student enrollment agreement, which includes for each program of occupational instruction offered a description, in plain language, of any requirements for employment in such occupation or barriers to such employment pursuant to state law or regulations; (7) the proposed school catalog, which includes for each program of occupational instruction offered a description of any requirements for employment in such occupation or barriers to such employment pursuant to state law or regulations; (8) financial statements detailing the financial condition of the school pursuant to subsection (d) of this section and subsection (g) of section 10a-22d, as amended by this act, prepared by management and reviewed or audited by an independent licensed certified public accountant or independent licensed public accountant; and (9) an agent for service of process. [Submitted with an] Each application for initial authorization shall be accompanied by a nonrefundable application fee [in the amount of two thousand dollars] made payable to the private occupational school student protection account in the amount of two thousand dollars for the private occupational school and two hundred dollars for each branch of a private occupational school in this state.

(d) Each person, board, association, partnership, corporation, limited liability company or other entity seeking to offer occupational

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instruction shall have a net worth consisting of sufficient liquid assets or produce other evidence of fiscal soundness to demonstrate the ability of the proposed private occupational school to operate, achieve all of its objectives and meet all of its obligations, including those concerning staff and students, during the period of time for which the authorization is sought.

[(d)] (e) Upon receipt of a complete application pursuant to subsection (c) of this section, the commissioner shall cause to be conducted an evaluation of the applicant school. Thereafter, the commissioner shall advise the applicant of authorization or nonauthorization not later than one hundred twenty days following the completed appointment of an evaluation team pursuant to subsection (e) of this section. The commissioner may consult with the Labor Department and may request the advice of any other state agency which may be of assistance in making a determination. In the event of nonauthorization by the commissioner, he shall set forth the reasons therefor in writing and the applicant school may request in writing [of] a hearing before the [Board of Governors a hearing pursuant to] commissioner. Such hearing shall be held in accordance with the provisions of chapter 54.

[(e)] (f) For purposes of an evaluation of an applicant school, the commissioner, or the commissioner's designee, shall appoint an evaluation team which shall include (1) at least two members representing the Board of Governors, and (2) at least one member for each of the areas of occupational instruction for which authorization is sought who shall be experienced in such occupation. The applicant school shall have the right to challenge any proposed member of the evaluation team for good cause shown. A written challenge shall be filed with the commissioner within ten business days following the appointment of such evaluation team. In the event of a challenge, a decision shall be made thereon by the Commissioner of Higher

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Education within ten business days from the date such challenge is filed, and if the challenge is upheld the Commissioner of Higher Education shall appoint a replacement. Employees of the state or any political subdivision of the state may be members of evaluation teams. The commissioner, or the commissioner's designee, shall not appoint any person to an evaluation team unless the commissioner, or such designee, has received from such person a statement that the person has no interest which is in conflict with the proper discharge of the duties of evaluation team members as described in this section. The statement shall be on a form prescribed by the commissioner and shall be signed under penalty of false statement. Members of the evaluation team shall serve without compensation. Except for any member of the evaluation team who is a state employee, members shall be reimbursed for actual expenses, which expenses shall be charged to and paid by the applicant school.

[[f)] (g) The evaluation team appointed pursuant to subsection [(e)] (f) of this section shall: (1) Conduct an on-site inspection; (2) submit a written report outlining any evidence of noncompliance; (3) give the school sixty days from the date of the report to provide evidence of compliance; and (4) submit to the commissioner a written report recommending authorization or nonauthorization not later than one hundred twenty days after the on-site inspection. The evaluation team shall determine whether (A) the quality and content of each course or program of instruction, including, but not limited to, residential, on-line, home study and correspondence, training or study shall reasonably and adequately achieve the stated objective for which such course or program is offered; (B) the school has adequate space, equipment, instructional materials and personnel for the instruction offered; (C) the qualifications of directors, administrators, supervisors and instructors shall reasonably and adequately assure that students receive education consistent with the stated objectives for which a course or program is offered; (D) students and other interested persons

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shall be provided with a catalog or similar publication describing the courses and programs offered, course and program objectives, length of courses and programs, schedule of tuition, fees and all other charges and expenses necessary for completion of the course or program, and termination, withdrawal and refund policies; (E) upon satisfactory completion of the course or program, each student shall be provided appropriate educational credentials by the school; (F) adequate records shall be maintained by the school to show attendance and grades, or other indicators of student progress, and standards shall be enforced relating to attendance and student performance; (G) the applicant school shall be financially sound and capable of fulfilling its commitments to students; [and] (H) any student housing owned, leased, rented or otherwise maintained by the applicant school shall be safe and adequate; and (I) the school and any branch of the school in this state has a director located at the school or branch who is responsible for daily oversight of the school's or branch's operations. The evaluation team may also indicate in its report such recommendations as may improve the operation of the applicant school.

[[g]] (h) Any hospital offering instruction in any form or manner in any trade, industrial, commercial, service, professional or other occupation for any remuneration, consideration, reward or promise, except to hospital employees, members of the medical staff and training for contracted workers, shall obtain a certificate of authorization from the Commissioner of Higher Education for the occupational instruction offered. Each hospital-based occupational school submitting an application for initial authorization shall pay an application fee of two hundred dollars made payable to the private occupational school student protection account. The commissioner shall develop a process for prioritizing the authorization of hospital-based occupational schools based on size and scope of occupational instruction offered. Such schools shall be in compliance with this

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section when required pursuant to the commissioner's process, or by 2012, whichever is earlier.

Sec. 2. Section 10a-22c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) No certificate to operate a private occupational school shall be authorized by the commissioner, or the commissioner's designee, if (1) any principal, officer, member or director of the applicant school has acted in a similar capacity for a private occupational school which has had its authorization revoked pursuant to section 10a-22f, as amended by this act; (2) the applicant school does not have a net worth consisting of sufficient liquid assets or other evidence of fiscal soundness to operate for the period of time for which authorization is sought; (3) the applicant school or any of its agents engages in advertising, sales, collection, credit or other practices which are false, deceptive, misleading or unfair; (4) the applicant school has any policy which discourages or prohibits the filing of inquiries or complaints regarding the school's operation with the commissioner; (5) the applicant school fails to satisfactorily meet the criteria set forth in subsection [(f)] (g) of section 10a-22b, as amended by this act; [or] (6) a private occupational school that has previously closed fails to follow the procedures for school closure under section 10a-22m; or (7) the applicant school does not have a director located at the school and at each of its branches in this state.

(b) The commissioner may deny a certificate of authorization if the person who owns or intends to operate a private occupational school has been convicted in this state, or any other state, of larceny in violation of section 53a-122 or 53a-123; identity theft in violation of section 53a-129b or 53a-129c; forgery in violation of section 53a-138 or 53a-139; or has a criminal record in this state, or any other state, that the commissioner reasonably believes renders the person unsuitable to own and operate a private occupational school. A refusal of a

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certificate of authorization under this subsection shall be made in accordance with the provisions of sections 46a-79 to 46a-81, inclusive.

(c) No certificate to operate a private occupational school shall be issued by the commissioner pursuant to section 10a-22d, as amended by this act, until such private occupational school seeking authorization files with the commissioner certificates indicating that the buildings and premises for such school meet all applicable state and local fire and zoning requirements. Such certificates shall be attested to by the fire marshal and zoning enforcement officer within the municipality in which such school is located.

(d) No certificate to operate a new private occupational school shall be issued by the commissioner pursuant to section 10a-22d, as amended by this act, until such private occupational school seeking authorization files with the commissioner an irrevocable letter of credit issued by a bank with its main office or branch located within this state in the penal amount of [twenty] forty thousand dollars guaranteeing the payments required of the school to the private occupational school student protection account in accordance with the provisions of section 10a-22u, as amended by this act. The letter of credit shall be payable to the private occupational school student protection account in the event that such school fails to make payments to the account as provided in subsection (a) of section 10a-22u, as amended by this act, or in the event the state takes action to reimburse the account for a tuition refund paid to a student pursuant to the provisions of section 10a-22v, as amended by this act, provided the amount of the letter of credit to be paid into the private occupational school student protection account shall not exceed the amounts owed to the account. The letter of credit required by this subsection shall be released [eight] twelve years after the date of initial approval, provided evidence of fiscal soundness has been verified.

(e) The commissioner shall notify the applicant private occupational

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school, by certified mail, return receipt requested of the decision to grant or deny a certificate of authorization not later than sixty days after receiving the written report of the evaluation team appointed pursuant to subsection [(e)] (f) of section 10a-22b, as amended by this act.

Sec. 3. Section 10a-22d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) After the initial year of approval and for the next three years of operation as a private occupational school, renewal of the certificate of authorization shall be required annually.

(b) Following the fourth year of continuous authorization, a renewal of the certificate of authorization, if granted, shall be for a period not to exceed five years and may be subject to an evaluation pursuant to subsections [(e)] (f) and [(f)] (g) of section 10a-22b, as amended by this act, provided no private occupational school shall operate for more than five additional years from the date of any renewal without the completion of an evaluation pursuant to subsections [(e)] (f) and [(f)] (g) of section 10a-22b, as amended by this act.

(c) Renewal of the certificate of authorization shall be granted only upon (1) [the annual fee] payment of a nonrefundable renewal fee to the Board of Governors [of a nonrefundable fee] in the amount of two hundred dollars [,] for the private occupational school and [an additional fee of] two hundred dollars for each branch of a private occupational school, [under section 10a-22g,] (2) submission of any reports or audits, as prescribed by the commissioner or the commissioner's designee, concerning the fiscal condition of the school or its continuing eligibility to participate in federal student financial aid programs, (3) the filing with the commissioner of a complete application for a renewed certificate of authorization not less than one hundred twenty days prior to the termination date of the most recent

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certificate of authorization, [and] (4) a determination that the occupational school meets all the conditions of its recent authorization, and the filing of documentation with the commissioner that the occupational school has a passing financial ratio score as required by 34 CFR 668, as amended from time to time.

(d) If the commissioner, or the commissioner's designee, determines, at any time during a school's authorization period, that such school is out of compliance with the conditions of authorization under sections 10a-22a to 10a-22o, inclusive, as amended by this act, and any applicable regulations of Connecticut state agencies, the school may be placed on probation for a period not to exceed one year. If, after the period of one year of probationary status, the school remains out of compliance with the conditions of authorization, the commissioner may revoke such school's certificate of authorization to operate as a private occupational school pursuant to section 10a-22f, as amended by this act. During the school's period of probation, the school shall post its probationary certificate of authorization in public view. The Department of Higher Education may publish the school's probationary certificate of authorization status.

(e) Notwithstanding the provisions of sections 10a-22a to 10a-22o, inclusive, as amended by this act, the commissioner may authorize the extension of the most recent certificate of authorization for a period not to exceed sixty days for good cause shown, provided such extension shall not change the date of the original certificate's issuance or the date for each renewal.

(f) After the first year of authorization, each private occupational school shall pay a nonrefundable annual fee to the private occupational school student protection account in the amount of two hundred dollars for the private occupational school and two hundred dollars for each branch of a private occupational school. The annual fee shall be due and payable for each year after the first year of

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authorization that the private occupational school and any branch of a private occupational school is authorized by the commissioner to offer occupational instruction. Such annual fee shall be in addition to any renewal fee assessed under this section.

(g) Each private occupational school shall keep financial records in conformity with generally accepted accounting principles. An annual financial statement detailing the financial status of the school shall be prepared by school management and reviewed or audited by a licensed certified public accountant or licensed public accountant in accordance with standards established by the American Institute of Certified Public Accountants. A copy of such financial statement shall be filed with the commissioner on or before the last day of the fourth month following the end of the school's fiscal year, except in the case of a nationally accredited school recognized by the United States Department of Education, in which case such financial statement shall be due on or before the last day of the sixth month following the end of the school's fiscal year. Only audited financial statements shall be accepted from a nationally accredited school. Upon a nonaccredited school's written request, the commissioner may authorize, for good cause shown, a filing extension for a period not to exceed sixty days. No filing extensions shall be granted to a nationally accredited school.

Sec. 4. Subsection (a) of section 10a-22e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) During any period of authorization by the commissioner to operate as a private occupational school pursuant to sections 10a-22a to 10a-22o, inclusive, as amended by this act, and sections 10a-22u to 10a-22w, inclusive, as amended by this act, such private occupational school may request revision of the conditions of its authorization. Such school shall make such request to the commissioner, in the manner and on such forms prescribed by the commissioner sixty days prior to the

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proposed implementation date of any intended revision. Such revision shall include, but not be limited to, changes in (1) courses or programs; (2) ownership of the school; (3) name of the school; (4) location of the school's main campus; or (5) location of any of the school's additional classroom sites or branch campuses. A private occupational school requesting revision of the conditions of its authorization based on a change in ownership of the school shall submit an application and letter of credit pursuant to sections 10a-22b, as amended by this act, and 10a-22c, as amended by this act, accompanied by a nonrefundable change of ownership fee made payable to the private occupational school student protection account under section 10a-22u, as amended by this act, in the amount of two thousand dollars for the private occupational school and two hundred dollars for each branch of a private occupational school in this state.

Sec. 5. Subsection (d) of section 10a-22f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(d) A private occupational school aggrieved by the order of the commissioner revoking its certificate of authorization pursuant to subsection (c) of this section shall, not later than fifteen days after such order is mailed, request in writing a hearing before the [Board of Governors] commissioner. Such hearing shall be held in accordance with the provisions of chapter 54.

Sec. 6. Subsection (b) of section 10a-22g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(b) The buildings and premises for such additional classroom site or branch school shall meet all applicable state and local fire and zoning requirements, and certificates attesting the same signed by the local fire marshal and zoning enforcement officer shall be filed with the

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commissioner prior to offering such occupational instruction. The additional classroom site or branch school shall be in compliance with the relevant requirements set forth in subsection [(f)] (g) of section 10a-22b, as amended by this act. [A nonrefundable fee in the amount of two hundred dollars for each branch school shall be paid annually into the private occupational school student protection account.]

Sec. 7. Subsection (d) of section 10a-22i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(d) A private occupational school aggrieved by the order of the commissioner imposing an administrative penalty pursuant to subsection (c) of this section shall, not later than fifteen days after such order is mailed, request in writing a hearing before the [Board of Governors] commissioner. Such hearing shall be held in accordance with the provisions of chapter 54.

Sec. 8. Subsection (a) of section 10a-22o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The [Board of Governors or the] commissioner, through the Attorney General, may petition the superior court for the judicial district of Hartford for the enforcement of any order issued by [the Board of Governors or] the commissioner, and for other appropriate relief. The court may issue such orders as are appropriate to aid in enforcement.

Sec. 9. Subsection (a) of section 10a-22u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) There shall be an account to be known as the private occupational school student protection account within the General

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Fund. Each private occupational school authorized in accordance with the provisions of sections 10a-22a to 10a-22o, inclusive, as amended by this act, shall pay to the State Treasurer an amount equal to one-half of one per cent of the tuition received by such school per calendar quarter exclusive of any refunds paid, except that correspondence and home study schools authorized in accordance with the provisions of sections 10a-22a to 10a-22o, inclusive, as amended by this act, shall contribute to said account only for Connecticut residents enrolled in such schools. Payments shall be made by January thirtieth, April thirtieth, July thirtieth and October thirtieth in each year for tuition received during the three months next preceding the month of payment. In addition to amounts received based on tuition, the account shall also contain any amount required to be deposited into the account pursuant to sections 10a-22a to 10a-22o, inclusive, as amended by this act. Said account shall be used for the purposes of section 10a-22v, as amended by this act. Any interest, income and dividends derived from the investment of the account shall be credited to the account. All direct expenses for the maintenance of the account may be charged to the account upon the order of the State Comptroller. The Commissioner of Higher Education may assess the account (1) for all direct expenses incurred in the implementation of the purposes of this section which are in excess of the normal expenditures of the Department of Higher Education for accounting, auditing and clerical services, and (2) for the fiscal years ending June 30, 2000, and June 30, 2001, in an amount not to exceed one hundred seventy thousand dollars in each of such fiscal years for personnel and administrative expenses for the purposes of sections 10a-22a to 10a-22o, inclusive, as amended by this act, provided such amount does not exceed the annual interest accrual, which shall be transferred to the appropriation of the Department of Higher Education for personal services and other expenses for positions and responsibilities relating to said sections, provided the department has expended all federal funds that may be available for personnel and administrative expenses for the purposes of said sections. After

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disbursements are made pursuant to subdivisions (1) and (2) of this subsection, if the resources of the private occupational school student protection account exceed two million five hundred thousand dollars, no additional school assessments shall be made.

Sec. 10. Section 10a-22v of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

Any student enrolled in a private occupational school authorized in accordance with the provisions of sections 10a-22a to 10a-22o, inclusive, as amended by this act, who is unable to complete a course or unit of instruction at such school because of the insolvency or cessation of operation of the school and who has paid tuition for such course or unit of instruction, may make application to the Commissioner of Higher Education for a refund of tuition from the account established pursuant to section [10-22u] 10a-22u, as amended by this act, to the extent that such account exists or has reached the level necessary to pay outstanding approved claims, except that in the case of correspondence and home study schools authorized in accordance with the provisions of sections 10a-22a to 10a-22o, inclusive, as amended by this act, only Connecticut residents enrolled in such schools may be eligible for such refund. Upon such application, the commissioner shall determine whether the applicant is unable to complete a course or unit of instruction because of the insolvency or cessation of operation of the school to which tuition has been paid. The commissioner may summon by subpoena any person, records or documents pertinent to the making of a determination regarding insolvency or cessation of operation. For the purpose of making any tuition refund pursuant to this section, a school shall be deemed to have ceased operation whenever it has failed to complete a course or unit of instruction for which the student has paid a tuition fee and, as a result, the school's authorization has been revoked pursuant to section 10a-22f, as amended by this act. If the commissioner finds that the

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applicant is entitled to a refund of tuition because of the insolvency or cessation of operation of the school, the commissioner shall determine the amount of an appropriate refund which shall be equal to or a portion of the tuition paid for the uncompleted course or unit of instruction. Thereafter the Commissioner of Higher Education shall direct the State Treasurer to pay, per order of the Comptroller, the refund to the applicant or persons, agencies or organizations indicated by the applicant who have paid tuition on the student's behalf. If the student is a minor, payment shall be made to the student's parent, parents or legal guardian. In no event shall a refund be made from the student protection account for any financial aid provided to or on behalf of any student in accordance with the provisions of Title IV, Part B of the Higher Education Act of 1965, as amended from time to time. Each recipient of a tuition refund made in accordance with the provisions of this section shall assign all rights to the state of any action against the school or its owner or owners for tuition amounts reimbursed pursuant to this section. Upon such assignment, the state may take appropriate action against the school or its owner or owners in order to reimburse the student protection account for any expenses or claims that are paid from the account and to reimburse the state for the reasonable and necessary expenses in undertaking such action. Any student who falsifies information on an application for tuition reimbursement shall lose his or her right to any refund from the account.

Sec. 11. Section 10a-22y of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

Notwithstanding the provisions of section 10a-22d, as amended by this act, the authorization period for each hospital-based occupational school described in subsection [(g)] (h) of section 10a-22b, as amended by this act, shall be three years. Each hospital-based occupational school shall pay a fee of two hundred dollars for renewal of its

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certificate of authorization. [Such] Each hospital-based occupational school shall pay an annual fee of two hundred dollars for each year after the first year of authorization that the hospital-based occupational school is authorized by the commissioner to offer occupational instruction. The renewal fee and the annual fee shall be payable to the private occupational school student protection account. Each hospital-based occupational school shall pay one-half of one per cent of its net tuition revenue received by such school per calendar quarter into the private occupational school student protection account, in accordance with section 10a-22u, as amended by this act.

Approved June 2, 2009