Fact Sheet: “Model Legislation on Licensure of Dog Trainers” and Its Impact on the Dog Training Industry

Rachel Garner - Garner Research & Consulting - 11/26/2021

The newly formed Alliance for Professionalism in Dog Training (AFPIDT) announced their proposed “Model Legislation on Licensure of Dog Trainers" on November 15, 2021. The organization, which is a collaboration between the Certification Council for Professional Dog Trainers (CCDPT) and the Association of Professional Dog Trainers (APDT), indicated that it was proposed as a response to bills filed in two states in 2020 that were constructed without industry input. AFPIDT stated that “proactively seeking licensure will better protect dogs and their owners from receiving sub-standard service, as well as enhance the reputation of our profession.”

Regardless of AFPIDT’s intended goals, they have created a badly constructed piece of model legislation that will result in major unintended consequences if passed as written. It would not only create unfair financial and business advantages for a small number of select trade associations, but would also harm thousands of individual dog trainers by enabling discriminatory licensing practices. In addition, the suggested penalties are written in such a way that individuals caught operating without a license could be imprisoned without due process. Overall, the extensive issues with AFPDIT’s proposed model legislation would damage the public perception of professionalism in the dog training industry, rather than enhance it. If implemented as written, it would not create a fair, balanced, or even functional system of licensure that protects animals and their owners from improper practices.

A full analysis of the numerous problems within AFPDIT’s proposed model legislation can be found here. The text below highlights some of the most egregious issues.

- An unfair economic advantage would be conferred to a small number of dog training industry trade associations (including CCPDT) by making it mandatory for dog trainers to hold a certification through them in order to conduct business legally. The same organizations would gain financial benefit from increased annual dues, certification fees, and continuing education course costs; a secondary benefit would be conferred to their members as the proposed regulatory structure would eventually force non-certified trainers out of business.
- Each state licensing board would be authorized to determine an individual’s ability to earn or maintain a professional license in their jurisdiction based on a subjective assessment of their physical and mental health, behavior outside of work, and overall “moral character.”
- The licensure board would have a quorum based on a simple majority of the nine members. This would allow the board to make major changes without the presence of board members whose input is crucial to determining efficacy and impact, such as changing licensure requirements in the absence of all four dog trainers or making decisions on medical topics without the veterinarians.
- Mandatory certification and continuing education requirements will reduce equitable access to the field (e.g. tests are only conducted in English; course costs and fees add up over time).
- Each licensing board would not just oversee licensure within its state, but be able to find trainers operating outside licensure “guilty” and imprison trainers for doing so – in the absence of a defined criminal act, formal charges, or legal proceedings - in violation of the right to due process.

Deconstructing “Model Legislation on Licensure of Dog Trainers” and Its Impact on the Dog Training Industry

Rachel Garner - Garner Research & Consulting - 11/26/2021

As a longtime dog trainer, I was initially excited to see the Certification Council for Professional Dog Trainers (CCPDT) and the Association for Professional Dog Trainers (APDT) announce their newly formed Alliance for Professionalism in Dog Training (AFPIDT) on November 15, 2021. When I read their draft Model Legislation on Licensure of Dog Trainers, however, that initial positive reaction turned to dismay. Regardless of AFPIDT’s intention in writing the bill, it is a badly constructed piece of model legislation that will result in major unintended consequences if passed as written. It would not only create unfair financial and business advantages for a small number of select trade associations, but would also harm thousands of individual dog trainers by enabling discriminatory licensing practices. In addition, the suggested penalties are written such that individuals caught operating without a license could be imprisoned without due process. Overall, the extensive issues with AFPDIT’s proposed legislation would damage the public perception of professionalism in the dog training industry, rather than enhance it.

While I am both a professional member of one of the sponsoring organizations and a positive reinforcement-based dog trainer, I am also a professional fact-checker and a consultant who researches and analyzes the impacts of animal-related legislation. As someone with a uniquely relevant skill set, I’m in a position to help by pointing out unintended consequences of the legislation if it was implemented as written. My conclusion is that this proposed bill does not further professionalism in the dog training industry, nor would it create a fair, balanced, or even functional system of licensure that protects animals and their owners from improper practices.

My opposition to the AFPIDT’s proposed legislation stems from a belief that laws that impact animal welfare and the livelihoods of professionals must be meticulously written to ensure precise results. Legislators who are invested in promoting animal legislation very rarely understand the full extent of the impact of the bills they write and file. Legislative staffers rarely have the specific knowledge to identify and rectify problems with an industry-specific bill. They rely on the expertise of the professional organizations to guide them in crafting appropriate legislation. Therefore, anything put forward by an industry trade association must be thoroughly researched and carefully crafted. People often assume that issues with legislation can be fixed after it is passed by lobbying the agency tasked with implementing it. But this is frequently not successful, and is a risky gamble when badly written sections of a

bill could result in outsized and unintended impacts on large numbers of animals or entire swaths of an industry. What CCPDT and APDT propose for legislation through their new Alliance reflects on all of their members and certified trainers by association, and will reflect on the profession as a whole once covered in the mainstream media.

AFPIDT disseminated this proposed legislation because they wanted input from their members on what it would achieve before bringing it to state legislators. As dog training professionals, it is crucial that as many people as possible provide that feedback.

I've written this post as a thorough breakdown of the issues I found in the proposed legislation in order to help other trainers provide feedback to the Alliance. I am not a lawyer, but because of my experience analyzing animal-related legislation, I believe I've identified a set of unintended consequences of the proposed text that the Alliance must address and that anyone who supports the intent of the bill will want to consider. It's absolutely valid to want a licensing program to exist that ensures trainers are practicing ethically and that animal welfare is protected and prioritized, but if so, it is crucial to be aware of the issues I've identified in this proposed legislation that would actually prevent those goals from being achieved.

Background Information

AFPIDT's announcement indicated that they drafted their own proposed state-level legislation proactively, as a response to bills filed in Massachusetts and New Jersey in 2020 that were crafted without input from CCPDT or APDT. Much of the first half of their text is drawn from those 2020 bills, although they have significantly altered the sections regarding the proposed licensing board's oversight capacities and penalties. It is important to note that, while not all of the language in the proposed bill was written by AFPIDT – and many of the implementation errors are caused by those sections of reproduced language – they still bear the responsibility for reviewing it and deciding whether it is appropriate for use in the field before promoting it further. (AFPIDT also removed a few key sections of the source texts that actually enhanced equity within the licensing process; more on that in Section 4).

AFPIDT is marketing their proposed legislation as the creation of state-level licensing boards that would oversee a program that licenses dog trainers. The text, however, appears to indicate they want to pass legislation regulating dog training as a profession instead. The difference is small, but important with regard to the amount of impact it would have on the final results. As written, the legislation would prescribe the type of detailed regulations dog trainers must follow, implemented and enforced by the licensing board. That's different from what was proposed in the original bills, which would create a licensing board that would then

independently determine the majority of the details for the regulations they would oversee implementing and enforcing.

Document Structure

The following breakdown provides section and line reference numbers in order to make it easy for readers to compare the information provided with the pieces of relevant text in the proposed bill. The format for those reference numbers is listed as [Section Number, Line Number]. A PDF of the model legislation text is available here.

The proposed legislation has five categories of problems, each of which will be discussed in turn:

1. Structural issues
2. Implementation Issues
3. Conflict of Interest Issues
4. Inequitable and Discriminatory Licensing Rules
5. Constitutional Issues

1. Structural issues

The first set of problems found within the proposed legislation is structural, and may be the most easily resolved of all five categories.

First, sections need to be labeled clearly; the intended prohibitions and penalties must be explicitly named, rather than embedded in the bulk of the body text.

Second, the explicit differentiation between the terms “dog behavior consultant” and “dog trainer” is redundant and confusing, as it barely pertains to the content of the rest of the bill.

Third, many key terms and phrases are not defined within the text, which means the Alliance is relying on the common-usage meaning of those words to accurately convey the impact they intend the proposed legislation to have. Many of these undefined terms and phrases, however, are ambiguous when examined in context; some actually have different meanings

when used in a legal context. Some of the terms in question may also have specific, and potentially conflicting, definitions within individual state law. This results in it being unclear what impacts the proposed legislation would actually have if passed and implemented as written, and how much consistency would exist across licensing programs in different states.

Fourth, the text contains instances of incorrectly used legal language and appears to be missing entire sections of important language regarding the logistics of implementing a licensing structure.

The following list discusses each type of structural problem in the order referenced above, and includes section and line numbers for where each issue appears in the text of the proposed legislation. This format will be followed in the subsequent sections.

Section labels needed

- Prohibited Conduct [Section 7]
- Penalties [Section 13]

Definitions (redundant)

- Dog Behavior Consultant [Section 2, Line 25-28]
    - As currently defined in the text, “Dog behavior consultant” means “a person who is engaged in the practice of evidence-based applied behavior analysis and behavior modification of dogs, in areas such as fear, phobias, compulsive behaviors, anxiety, or aggressive behavior, when performed for a fee, salary, or other form of compensation.”
- Dog Trainer [Section 2, Line 31-32]
    - As currently defined in the text “Dog trainer” means “a person who is engaged in the practice of dog training and, after [DATE] who is licensed or holds a provisional permit pursuant to the provisions of this act.”

  These definitions are based on the two different types of certifications that the CCPDT offers: Certified Professional Dog Trainer and Certified Behavior Consultant Canine. However, differentiating between the two types of certification is redundant in this context, as the proposed legislation does not indicate the creation of more than one type of dog training license type. Both a “dog trainer” certification and a “dog behavior consultant” certification would qualify a trainer for the same dog trainer license, as long as the certification program itself was approved by the licensing board. There is nothing in the text that indicates that the specific type of certification held by a licensed trainer would impact the type of training services they could legally provide.

The only reason the text appears to utilize separate definitions is with regard to the construction of the licensing board. As written, the legislation would require the involvement of four licensed dog trainers, at least one of whom qualifies as a “dog behavior consultant” according to the definition provided. However, the definition of “dog behavior consultant” does not actually require an individual to have a behavior consultant-specific certification, as it is based in practice, and not credentials. Any licensed trainer could self-identify as a dog behavior consultant.

<u>Definitions (missing)</u>

Section 2

- Compensation [28]

The text states that dog trainers are defined as conducting dog training services for a “fee, salary, or other forms of compensation.” It is unclear from the context whether compensation within the bill refers specifically to financial payment, or if it is intended to be an expansive term that includes any sort of benefit gained in return for services (e.g. being given food, offered a ride, earning college credit, accruing hours towards certification requirements, skill exchanges).

This term must be specifically defined in order to prevent unintended limitations on the activities of professionals in dog-related fields.

Section 3

- “Animal protection group” [43]

Section 7

- “Good moral character” [98]

This term is completely subjective and the meaning it holds is entirely dependent on the personal opinion of whomever is interpreting it. In the context of this bill, the usage of the term pertains to who qualifies for a dog training license.

If left undefined, this term could be used to justify discriminatory licensing choices regarding trainers who belong to protected classes.

Section 11

- Reprimand [144]

Black's Law Dictionary defines a reprimand as "a public and formal censure or severe reproof, administered to a person in fault by his superior officer or by a body to which he belongs." This term is used in the context of the actions the licensing board may take if a trainer is found to have practiced inappropriately.

A clear definition is necessary in order to understand it is within the scope of the licensing board to publicly rebuke a licensed trainer for punitive purposes.

- Censure [144]

  To be censured is often defined in general usage as being formally and publicly rebuked. This term is used in the context of the actions the licensing board may take if a trainer is found to have practiced inappropriately.

  It is unclear whether this term is being used synonymously with "reprimand" in context, or if it is intended to describe a different action the board can take.

- "Otherwise discipline" [144]

  This term is undefined in the text and is too imprecise to have a standard legal definition. This term is used in the context of the actions the licensing board may take if a trainer is found to have practiced inappropriately. It appears that this term is meant to be a catch-all for any action the board chooses to take that is not explicitly listed.

  If left undefined, this term could give the licensing board free rein to respond to misconduct in any conceivable way, with no oversight.

- Gross misconduct [150], Gross incompetence [151], and Gross negligence [151]

  These three terms have varying levels of extant definition, and appear to overlap somewhat in the behavior they describe. The terms are used in the context of a trainer's license being suspended or revoked if they are found to have acted in ways that qualify as any of the three.

  - Black's Law Dictionary defines "gross misconduct" as an "employee's serious wrongdoing justifying instant dismissal." This term appears to generally be used to discuss intentionally, deliberately, or willfully problematic behavior.
  - No legal definition appears to exist for the term "gross incompetence," although it appears to frequently be interchangeable or synonymous with "gross negligence" in common usage. In a human resources context the term appears

to generally be used to discuss unintentional but still egregious behavioral conduct.

- Black's Law Dictionary defines "gross negligence" as "a severe degree of negligence taken as reckless disregard. Blatant indifference to one's legal duty, other's safety, or their rights are examples."

Precise definitions of the behaviors and actions comprising these terms are necessary: a complaint alleging any of them is a serious accusation with potentially irrevocable consequences for a licensed trainer.

- "Materially" [154, 166]

Black's Law Dictionary defines the term "material" as "important; more or less necessary; having influence or effect; going to the merits; having to do with matter, as distinguished from form. An allegation is said to be material when it forms a substantive part of the case presented by the pleading. Evidence offered in a cause, or a question propounded, is material when it is relevant and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing on the decision of the case."

As used in the text, this term appears to be used to mean "substantially" or "in any way." These interpretations have been substituted for the word "materially" in the relevant sections of the bill, below, in order to provide context for the reason a precise definition of this term is necessary.

> "Materially impaired:" "practicing as a dog trainer while the ability to practice in a safe and competent manner is ***"in any way"*** impaired by alcohol, drugs, (...)"
>
> OR
>
> "practicing as a dog trainer while the ability to practice in a safe and competent manner is ***"in any way"*** impaired by (...) physical impairment or mental instability"
>
> "Material violation:" "engaged in conduct in ***"substantial"*** violation of the Joint Standards of Practice"

Given that the way this term is defined can have a major impact on a trainer's ability to maintain their licensure, it is crucial to define it precisely as it is intended to be interpreted by the licensing board. Without a more specific definition, the potential meaning of the term is too broad and enables potentially discriminatory licensing practices (see Section 4).

- “Physical impairment” [154]

  This term is highly subjective: it is not a diagnostic term and does not have an extant legal definition. In the context of this bill, the term appears to be used as a broad way of referring to a range of physical conditions (such as restriction, injury, and disability) that might impact a licensed trainer's work.

  If left undefined, this term could be used to justify discriminatory choices by the licensing board regarding the fitness of disabled or otherwise mobility-limited trainers to conduct business. A more specific definition is necessary regarding the types of physical limitations considered relevant to safe dog training practices.

- “Mental instability” [155]

  This term is highly subjective: it is not a diagnostic term and does not have an extant legal definition. In the context of this bill, this term appears to be used as a broad way of referring to a range of mental conditions (such as injury, distress, and disability) that might impact a licensed trainer's work.

  If left undefined, this term could be used to justify discriminatory choices by the licensing board regarding the fitness of disabled trainers, neurodivergent trainers, or trainers currently experiencing hardship or trauma to conduct business. A more specific definition is necessary regarding the types of mental health issues considered relevant to safe dog training practices.

- “Habitually intoxicated” [156]
- “Dependent on” [157]
- “Habitual user” [157]
- “Other drugs having similar effects [to the classes listed] [158]

  The list of drugs referred to by this phrase contains a diverse set of drug types with a wide range of effects when taken (narcotics, barbiturates, amphetamines, and hallucinogens). In the context of this bill, this term appears to be used as a catch-all to refer to any chemical substances that might impact a licensed trainer's ability to conduct business safely.

  This term should be more specifically defined to explicitly indicate which drugs the authors intend to prohibit, or explicitly state that this applies to all chemical substances which alter a user’s mental state in a way that would impact the safety of a trainer’s work.

- “Reasonably calls into question [a trainer’s] ability to practice” [164, 165]

  This phrase is completely subjective, as calling something into question inherently requires the entity responsible to make a judgement call. In the context of this bill, the usage of the term pertains to a trainer’s license being suspended or revoked if they are found to have been convicted of a criminal offense which “calls into question” their work as dog trainer.

  If left undefined, this term could be used to justify discriminatory choices by the licensing board regarding the fitness of trainers with misdemeanor convictions unrelated to their work (e.g. vagrancy, excessive traffic citations, exceeding municipality pet quotas) or trainers facing wrongful conviction.

Incorrect language

- “Issuing an order to show cause” [Section 12, 181]

  Cornell’s Legal Information Institute defines this phrase as “a demand of a judge for a party to justify, explain or prove why the court should or should not grant a motion.” In the context of this bill, the phrase is used “[dispose] of a matter under investigation.”

  An order to show cause continues the course of a legal proceeding, rather than resolving it.

Missing content

- Grandfather clause[1] license duration [Section 8, Lines 105-109]

  Online statements from AFPIDT indicate that their intention is for the bill to contain a one-year grandfather clause: this would grant currently active trainers a license to operate without the requisite certification for a year after the legislation’s implementation. However, there is no language specifically addressing the duration of this temporary licensure within the text.

  As written, it currently says: “To be issued an initial license prior to [TARGET DATE FOR GRANDFATHERING FOR INITIAL LICENSURE], submit proof satisfactory to the Board no later than 180 days after the date procedures are established by the Board for applying for licensure under this act that the applicant has engaged in the practice

[1] It is important to note here that the term “grandfather clause” has a racist history in the United States. However, when dealing with legislation, it is a term with a discrete meaning that is used for a specific purpose within bill texts. I chose to use the term in this breakdown because it is the exact language included in APFIDT’s proposed bill. (For more information on the history of this term, please see this NPR article).

of dog training in this State continuously for at least one year prior to the effective date of this act."

As written, this section says that trainers who meet all of the requirements for licensure except for an approved certification can apply for a license if they submit proof that they've been working as dog trainers in the state for at least one year. The paperwork must be submitted within 180 days of the date the board establishes formal procedures for licensing trainers, and prior to a cutoff date that is not specified. Nowhere in this section is the duration of the license these trainers would be granted addressed – without more information, this section could reasonably be interpreted to mean the period of licensure would be the same as for certified applicants (i.e., three years).

2. Implementation Issues

The second set of problems relates to the actual mechanics and implementation of the proposed legislation. These comprise the most extensive set of identified issues with the text, and can be found throughout the entirety of the bill. Much of the text proposes actions or board functions that are impractical, unrealistic, and overreach the scope appropriate for a licensing board. These issues are discussed below.

- A licensure board appointed solely by the Governor of each state would result in the opinion and ethics of the board skewing based on the policy positions and political relationship of that individual. The choice of appointees for each position may be influenced by donors and lobbyists rather than identified for their expertise. [Section 3, Line 35]
- The mandatory inclusion of a member of an "animal protection group" on the licensing board would be a sticking point for legislative success in many states with large agricultural industries. Legislators whose constituents frequently deal with animal rights and animal liberation groups would likely be very opposed to supporting any legislation that appears to give members of those groups a foothold in the regulation of animal-related businesses. [Section 3, Line 43]
- The licensure board would have a quorum based on a simple majority: the presence of five of the nine board members would be sufficient to make decisions. This would allow the board to make major changes without the presence of colleagues whose input is crucial to determining efficacy and impact (e.g. all four dog trainers and the civilian member could make decisions about relevant medical issues in absence of the

board veterinarians; all non-industry members could change licensure requirements in absence of all board dog trainers). [Section 4, Lines 56-57]

- The operations of the licensure board appear to be entirely funded by licensure and renewal fees, including the salary of the Executive Director and any additional assistants hired; however the board is also responsible for setting the fee scales, with no upper limits imposed within the text. This creates a situation in which the board could arbitrarily set high annual fees, resulting in hardship for licensed trainers and/or the exclusion of lower-income dog trainers. [Section 5, Lines 77-78; Section 6, Lines 80-82; Section 10, Lines 130-132]

- A loophole in the term limits for licensure board positions creates a revolving door policy, since being appointed to replace a different board member for a partial term does not count towards the limitation that prohibits any member from serving more than two successive terms. [Section 3, 49-51]

- The inclusion of a non-expert civilian (a pet dog owner with no current involvement in the dog training industry) on the licensure board does not enhance the board's ability to conduct their work appropriately. People who do not work professionally in dog-related fields are frequently misinformed regarding the current scientific research on dog physiology, behavior, cognition, as well as not knowledgeable about the relevant ethical, legal, and regulatory requirements involved with operating animal businesses in the United States. As such, they would likely not contribute productively to the board's oversight of the licensure program. [Section 3, Lines 41-43]

- The scope of the final regulations that would be created is unclear. It appears that the board can create and implement additional rules and regulations regarding licensure and enforcement, in addition to what's prescribed in the text, with no external supervision. [Section 5, Line 60; Section 7, Line 86]

- The dog trainers appointed to the licensure board would be required to oversee the licensure process and enforcement on top of their normal full-time workload. This is highly likely to slow down the time frame in which paperwork is processed, including application approval and complaint investigations, both of which would impact the business operations of all licensed and prospective trainers. (It is also a conflict of interest for the appointed trainers, which is further discussed in Section 3.) [Section 3, Lines 36-40]

- The licensure board would be responsible for determining which other dog trainer certification programs have standards equivalent to those of the CCPDT with regard to qualifying for a dog training license in each state. This would likely create an inconsistent regulatory system across the entire country, where different states recognize a different set of certification programs. [Section 2, Lines 10-18]

- The proposed reciprocal structure for trainers licensed in other states would be confounded by the qualifications for licensure in various states being inconsistent (see previous bullet point). As written, licensing boards may only choose to allow reciprocal status with licensed trainers whose certification is on the list of approved programs for the state considering reciprocity. This means that the board would be required to deny reciprocity to licensed trainers from other states based on lack of appropriate certification, even though their certification program is an approved qualification for licensure in their home state. [Section 5, Lines 71-74]

- It is unclear what purpose the reciprocal licensing structure would serve, as there appears to be a redundant statute allowing for temporary permits for out-of-state trainers. The latter would include rules pertaining to “temporary limited dog training or dog behavior consultant services" (for five days/year) or “temporary limited permits” (60 days/year) for out-of-state practitioners who are certified by a state-approved certification program but are not licensed in the state. [Section 5, Lines 71-74; Section 7, Lines 90-94]

- Ambiguity regarding the function and implementation of reciprocal licensing and out-of-state temporary permits makes it unclear how trainers who regularly operate in more than one state throughout the year (e.g. due to geographical proximity, remote sessions) would be licensed. [Section 5, Lines 71-74; Section 7, Lines 90-94]

- The requirement that licenses would not be renewed until the licensee submits evidence proving continued/current certification with an approved program may leave previously licensed trainers in a bureaucratic limbo during which it is unclear whether they are allowed to operate legally. [Section 10, Lines 133-134]

    - Certification programs may have different renewal cycles. However, as an example, CCPDT’s dog trainer certification renewal cycle is the same as the proposed board licensure cycle: every three years. This, in theory, makes it possible for a trainer to renew their license immediately after renewal of their certification. However, this does not take into account that receiving documentation from certifying organizations takes time: CCPDT tells applicants testing for their original dog training certification that it will take 4–6 weeks after the testing period closes to receive their results. It is plausible that a trainer would not receive confirmation of new or continued certification status before their state licensure expires, and would therefore be forced to cease conducting business until a new license application could be submitted and processed.

    - It is highly unlikely that the licensure board would be able to address license applications and renewals immediately after documentation is submitted: the board consists primarily of unpaid members, including six professionals who

work day jobs in addition to their commitment to the board (dog trainers and the veterinarians). [Section 3, Lines 33-43] Therefore it can be anticipated that there would also be a delay between the submission of licensing renewal paperwork and the granting of a new license – one which would be exacerbated by any delays in acquiring proof of current certification. This would potentially also force trainers to cease conducting business for any duration of time that elapses after the submission of their renewal application and before the board has time to assess and approve it.

    - Most certification programs allow for some period of extension on recertification applications due to extraordinary circumstances – it is unclear whether a trainer in that situation would be considered to be certified appropriately for the purposes of renewing their licensure.

- The complaint process detailed in the bill removes liability from anyone submitting a complaint or assisting with the investigation of a complaint, as long as they are operating “in good faith and without malice.” The intention with which a complaint is brought cannot be easily proved or disproved in a regulatory investigation. This statute would mean that trainers subject to potentially false or prejudicial complaints cannot seek damages, regardless of the proceeding’s outcome or the impact on a trainer’s business operations and reputation. [Section 12, Lines 172-176]

- The legislation proposes that findings and any relevant internal documents utilized in an investigation into the conduct of a licensed trainer should not be kept confidential after the investigation’s resolution, unless required by other state law or additional regulations voluntarily implemented by the board. This would be the case even if the concern triggering the investigation proved to be erroneous or falsified, as the text states no such exceptions. This means that regardless of the results of an investigation, a state records request would allow the general public access to not just the official findings, but any private communications, training records, or other documentation (which may include sensitive information such as bank details, medical information, or addresses and phone numbers) examined by the board during their investigation. [Section 12, Lines 176-187]

- The board also has the prerogative to designate additional “boards or institutions" that would be able to request access to any confidential information resulting from an investigation. There would be no oversight of the types of entities the licensing board could designate for this purpose, even though they would be authorizing external actors to have access to sensitive information that would normally be held to be confidential in other circumstances. [Section 12, Lines 184-187]

- It is unclear whether the prohibition against operating as a dog trainer under “false or assumed names” (e.g. any name other than what’s on a trainer’s license) pertains to nicknames, deadnames, or marital name changes. While it is reasonable to expect that implementation would allow trainers to update the name on their license if it is legally changed, this may still impact people who operate under alternate names but have not or cannot legally change their name. (The requirements for this section may vary in accordance with individual state laws.) [Section 13, Lines 192-194]

- The penalties section indicates that trainers caught operating without a license should receive no compensation for their services, but it is unclear how it is expected that the licensure board would track or enforce the statute. It is also unclear whether the trainers would be required to refund their clients for the cost of services rendered, or if the compensation received in these cases would be seized. No information is provided within the text to indicate whether such actions are within the scope of the licensure board, or what external oversight would be in place to prevent abuse. [Section 13, 198-199]

- Currently active but noncertified trainers who receive a license through the intended grandfather clause after the implementation date of the bill are not required to follow the same “least intrusive, minimally aversive” protocols and ethics code for the duration of their initial licensing period. Every other licensed entity (including prospective licensees) must agree to abide by these protocols and ethics. It is unclear whether this was written in as a temporary exemption in order to prevent actively practicing trainers who do not follow those protocols from suddenly being unable to operate legally, or if it is simply an oversight. [Section 8, Lines 105-109]

- It is unclear when other paid jobs involving dogs would require licensure in accordance with this legislation. Many other animal-related professionals (e.g. professional show dog handlers, scientific researchers, dog walkers, dog groomers, and experts leading educational clinics) must conduct some behavior modification and/or training as a portion of their regular job duties. It is unclear whether these professionals would be required to invest time and money into a certification program and state licensure due to the fact that they are compensated for the time spent on activities defined in the text as “dog training.” [Section 2, Lines 25-39]

- The lack of specificity regarding the prohibitions against “aiding or abetting an unlicensed and unauthorized person to perform activities requiring a license or provisional permit” means it is unclear when or if it is legal for a licensed trainer to mentor minors and individuals who do not have a probationary license. In order to qualify for a probationary license, individuals must be 18 and have education equivalent to finishing high school; this prevents any minor or any adults without a GED from becoming involved in the field in a professional capacity, which limits

relationship building and skill building that would facilitate the supervision necessary for acquisition of a provisional license in the future. As currently written, the text appears to indicate that licensed trainers could risk their own ability to operate legally if accused of providing mentorship or education to these individuals. [Section 9, Lines 110-117; Section 11, Lines 160-162]

3. Conflict of Interest Issues

When industry trade associations are involved in creating legislation that regulates the businesses and operation of their members, it may lead to major conflicts of interest for the agency involved. In these situations, single trade associations are often given preferential treatment and exempted from oversight, and the agency in charge of regulation frequently ends up acting in ways that prioritize protecting the interests of the industry.

As written, AFPIDT's legislation would confer an unfair economic advantage to a small number of dog training industry trade associations. While CCPDT is the only association which is guaranteed an economic advantage (due to their explicit inclusion), any trade association whose certification is chosen as a qualification for licensure would derive an economic benefit.

The legislation would make participation within a specific list of approved trade organizations mandatory in order for dog trainers to conduct business legally. Dog trainers who previously have not maintained a certification would be forced to join one of the approved certification groups, which would confer a financial advantage to the organization through annual dues, certification fees, and continuing education unit (CEU) costs. There are also secondary advantages for the approved organizations: the proposed regulatory structure would create a functional monopoly that would eventually put all trainers certified by non-approved organizations out of business, therefore drastically reducing the number of competing businesses in each state.

By basing all operational standards on CCPDT, the independence of all of the other dog training trade associations would be damaged, as their standards would have to be considered comparable to CCPDT in order to be approved as qualifying for licensure. [Section 2, Lines 10-21] If the proposed legislation succeeds on a national level, it would force trade associations who chose not to align their certification programs with CCPDT's practices to shut down – permanently reducing the number of competitors that would ever operate in the field.

There are a number of other places where conflict of interest problems are created by the text, as discussed below.

- The original Massachusetts and New Jersey bills provided an option where trainers who met the minimum education and experience requirements could take a test proctored by the licensing board to qualify for a license, rather than joining a certifying organization. [MA S118, Section 8e; NJ A2832, Section 8e] AFPIDT removed this option from their proposed legislation, choosing to mandate certification through (and therefore, financial support of) trade associations instead.
- The licensure board appears to be responsible for determining which continuing education programs are accepted as options for trainers when maintaining their certification and licensure. As the majority of opportunities to earn CEUs that count towards recertification are proctored by industry groups, this creates another opportunity for trade associations favored by licensure boards to gain a financial advantage from the legislation. [Section 2, Lines 17-18]
- The licensure board is also expected to determine which "approved dog trainer programs" meet the "minimum educational requirements" for approved certification programs. The meaning of this statement is unclear, but it appears to indicate that the board would have the prerogative of policing and/or limiting where dog trainers get the hours that qualify them for certification. [Section 2, Lines 18-21]
- Mandatory certification through approved trade associations would force trainers to financially support organizations whose actions and political choices do not represent their interests (see Section 4 for more details).

4. Inequitable and Discriminatory Licensing Rules

The fourth set of problems stems from the fact that AFPIDT finds it appropriate for a state licensing board to determine an individual's ability to maintain a professional license based on an assessment of their health, behavior outside of work, and overall character. Regulatory decisions should be based on an objective set of criteria, not the subjective and potentially biased interpretation of a set of imprecise terms.

The text of the legislation is set up in a way that inherently allows for discrimination by the licensing board. By requiring anyone eligible for a license to be of "good moral character" without further definition, the text sets up a situation in which each state's board can arbitrarily determine what constitutes immorality for the purpose of disqualifying applicants. Current societal trends indicate that this is likely to result in discrimination in many states against

LGBTQIA+ individuals, people of color and other non-white racial groups, unwed mothers, people practicing non-Christian religions and the non-religious, immigrants, the formerly incarcerated, and the neurodivergent.

The further requirement that all applicants have a high school education or GED equivalent only deepens the inequity the text would create, as dog training is a technical skill that can be taught and is one of increasingly few career options available to people who did not finish a formal education. This would serve to additionally reduce opportunities in the field for already disenfranchised populations such as single mothers, caregivers, immigrants, and the formerly incarcerated.

The reasons for which a licensed trainer may lose their license also create systemic inequity in the profession that would have further-reaching impacts than what AFPIDT appears to intend. The text states that dog trainers may have their license suspended, revoked, or permanently barred if they are found “guilty of practicing as a dog trainer” when “materially impaired by alcohol, drugs, physical impairment or mental instability” if it impacts their ability to do so in a “safe and competent manner.” No further definitions of any of these terms are contained within the text, which leaves the crucial question of the impact of this section ambiguous and open to interpretation by each board.

Interpreting this clause would require the board to litigate what type of impairment (chemical, physical, or mental) qualifies as causing unsafe conditions for each trainer against whom a complaint is brought – effectively putting a government body in the position of adjudicating the relevance of each individual’s medical history, disability, and even legally prescribed medication to their ability to conduct professional activities. This process would be humiliating, infantilizing, and potentially illegal under the ADA. It definitively opens the door for potential discrimination – intentional or unintentional – by members of the board, none of whom would be medical doctors.

CCPDT has indicated in a public statement since the release of the draft legislation that they believe that their proposed text is not inherently discriminatory, and would not prevent the licensing of people with physical or mental disabilities or neurodivergence, yet that is exactly the unintended impact this section of the proposed legislation would have. There are two reasons for this.

One, while the proposed text does not expressly prohibit people from gaining licensure based on medical conditions, it does make it clear that individuals can lose a license for being found “guilty” of conducting business while simply existing as a disabled person. What’s more, it indicates that the impact of an individual’s disability on their work – if ever called into question – would be assessed in a dehumanizing manner by a group of laymen. Disabled and

neurodivergent individuals already face constant medical scrutiny and must tolerate regular invasions of privacy in order to function in American society; knowing they may be subject to such treatment any time a concern is raised about their “fitness” to work would discourage many trainers from continuing in the profession.

Two, it is highly probable that the licensing board would choose to avoid licensing disabled or medicated individuals, whether done through explicit additional policy (which the text allows them to design and implement) or through a quiet “shadow ban” approach. If an individual’s medical condition can be considered an “impairment” sufficient enough to result in loss of licensure when called into question, why wouldn’t that individual’s impairment be considered sufficient to disallow licensure in the first place? The only way for the board to be consistent in such an assessment of “impairment,” and to avoid liability, would be through the creation of additional regulations restricting the granting of dog training licenses only to those whose physical and mental health “guarantee” they are safe to conduct business in the first place. This would inherently disenfranchise many disabled and neurodivergent trainers.

The choice to create, promote, and defend regulations that would result in an exodus of skilled trainers from the profession is ableist and ill-advised on the part of the CCPDT. Their insistence that it is also necessary for the board to also have oversight of the conduct of licensed trainers during their personal time is inappropriate and dogmatic.

The proposed legislation indicates that licensure could be suspended or revoked if an individual is “guilty of being habitually intoxicated or being or having been within the past year addicted to, dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects, other than with respect to lawful use of medication in accordance with a prescription issued to that dog trainer.” CCPDT has stated this is because they believe that it is “appropriate and essential for state regulatory boards to investigate and respond to ethical complaints against a dog trainer who cannot provide services to consumers safely or competently.” This requires an assumption that the use of substances on personal time – legally or illegally – always negatively affects a trainer's ability to conduct their job appropriately. It also does not take into account that many substances that the bill prohibits, including marijuana and some hallucinogens, are recreationally legal in many states. Licensing boards for other professions, such as nursing, can initiate disciplinary action on licensees if their substance use interferes with their work performance – but they cannot do so simply because they dislike that an individual uses legal substances on their personal time. As terms like “habitual user” and “dependent on” are not defined within the bill, the language creates opportunity for the board to selectively target individual trainers or subsets of the community based on personal beliefs about substance use. This is highly likely to disenfranchise BIPOC trainers and trainers who use legal substances to medicate for chronic pain and illness.

In addition to those details above, there are still more equality and access issues with the proposed text. These are discussed below.

- The original Massachusetts and New Jersey bills provided an option where the board could waive the CEU requirements for relicensure due to hardship and emergency. [MA S118, Section 10c; NJ A2832, Section 9c] AFPIDT removed this option from their proposed legislation, along with removing the option for trainers to take a state test for their license instead of maintaining certification through a trade association. As currently written, the decision to allow for extensions on the requirements for continued licensure – certification or CEUs – due to extenuating circumstances would be entirely controlled by industry trade associations, rather than the licensing board.

- Prohibiting trainers under 18 from having provisional licenses decreases access to the field for interested teenagers. The current lack of clarity regarding how much mentorship a licensed trainer can legally provide – as well as the lack of specificity around the types of compensation prohibited in those situations – would encourage exploitative labor practices targeting interested minors such as unpaid internship or overuse of volunteer labor.

- Certification may be inaccessible to some trainers due to language or other access barriers. CCPDT offers some of their certification tests only in English. Other trade associations whose certification programs are approved by the board may or may not provide testing in other languages. This would disenfranchise trainers who do not speak English at the fluency needed for success in a testing situation.

- This legislation increased the up-front cost of operating as a dog trainer, due to the fee structure involved with certification programs and license applications. The more expensive it becomes to get started as a professional in a field, the less equitable it is: low-income trainers would inherently be disadvantaged by the increased cost. Some certification programs have a fairly low fee structure; others that provide specialized coursework and mentorship, rather than just testing skill levels, can cost thousands of dollars per person. It would be up to the licensing board to determine which certifications are approved in each state, and therefore, the price of entry to the field.

  The price of continuing to operate in the field over time must also be taken into account. Expenses resulting from recertification and CEU acquisition build up, and any errors in bureaucratic processes may result in significant financial penalties. Costs would differ by approved certification organization, but an example of how much it costs to maintain CCPDT certification in a hardship situation is detailed below.

    - The fee for gaining CCPDT certification is $240–$400.

- It costs $200 to file a certification renewal application every 3 years.
- If the recertification deadline is missed by less than a month, a late fee of $100 is assessed when the application is received, for a total cost of $300.
- If the recertification deadline is missed by more than a month, the trainer must go through the whole certification process again at the original cost ($400).
- The proposed legislation requires trainers to be certified by programs that require earning at least 36 CEU credit hours in every three-year licensure period. [Section 2, Lines 10-18] Programs qualifying for CEUs can cost anywhere between tens to thousands of dollars, depending on the organization providing them and the number of credit hours earned.
- CEUs that count towards recertification must be completed within three years of the attempted recertification. CCPDT can choose to grant a year-long extension on recertification in extreme circumstances – however, CEUs acquired during the first year of the original certification period are then forfeited. This means the time and money invested towards those CEUS has been lost, as they no longer contribute to the number of credit hours needed for recertification.

5. Constitutional Issues

The fifth and most problematic aspect of the proposed legislation is that AFPIDT appears to intend the licensing board to serve in both a civil and a criminal capacity. As currently written, the text indicates the licensing board would not just oversee licensure within the state, but be able to find those operating outside licensure "guilty" and imprison trainers for doing so – in the absence of a defined criminal act, formal charges, or legal proceedings. [Section 13, Lines 196-198] As written, this would be a violation of a trainer's constitutionally-protected right to due process.

If AFPIDT's intention is for the proposed legislation to make operating without a dog training license a criminal violation, that language must be explicitly written into the text. Civil entities, such as licensure boards, utilize the criminal justice system to enforce criminal penalties – they cannot demand an individual be imprisoned as a punishment for a civil infraction without involving the courts.

Conclusion

The impact of the bill, if passed as written at a state level, would include a large-scale loss of jobs, increased prices for training services, high attrition rates from the profession, loss of diversity in the field, and decreased numbers of new trainers entering the industry. If adopted nationally, the independence of the industry would be irrevocably controlled by a small number of trade associations, therefore undermining the trustworthiness of the dog training industry as a whole.

It is unclear why AFPIDT has chosen to suggest a regulatory model in which each state's licensing board independently determines the requisite qualifications for dog trainers; inconsistent state-level regulations have proved to be a huge problem for other animal-related industries in the country. Other animal business sectors attempt to avoid this problem by explicitly naming all of the trade associations they believe have credentials that qualify them special treatment (e.g. exemption from prohibitions, inclusion in approved entities), rather than just identifying one for use as a comparative standard. However, that route makes any bill – and therefore a legislator's choice to support it – exponentially more partisan and therefore more likely to fail. It is unclear why AFPIDT chose to exclude the most egalitarian and politically neutral option: allowing trainers the choice to test for a license through a state board.

Despite all the favoritism towards select trade associations this legislation would engender, CCPDT and APDT nonetheless seem to be proposing it in good faith. Licensure is itself an appropriate goal for the industry, but creating a licensing system must be done with precision and care. In the case of this model legislation, AFPIDT should have meticulously assessed the impact of every aspect of the bill – especially the introduction of any financial conflicts of interest – before disseminating it publicly.

Dog training is currently an unregulated industry in the United States, and it's one that actively impacts the long-term welfare of many animals. Increasing oversight of trainers and training practices would enhance the credibility of the field if done correctly. Unfortunately, this proposed legislation does not enhance the professionalism of the dog training industry – in fact, by virtue of the sheer number of severe issues the bill contains, it actively harms the reputation of the trade organizations involved and all of their members. What the AFPIDT has proposed is so incorrect, blatantly inappropriate, and discriminatory that it makes the dog training industry look out of touch and dogmatic rather than invested in creating a fair, equitable licensure system that actually protects animals and clients. Just the fact that such a badly written and unconstitutional bill is being proposed at all damages the reputation of the Alliance, the trainers certified by any involved organizations, and the industry as a whole.