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COMMENTS ON 12-S-2705,
AN ACT RELATING TO BUSINESSES AND PROFESSIONS

The RI ACLU supports this bill, which would remove the term "moral turpitude" from state licensing statutes as the basis for denying or revoking a person's professional license. It is a welcome first step in bringing some level of rationality to a mish-mash of state licensing statutes that can have a devastating impact on individuals seeking to enter a profession for which they may have trained years.

The use of the term "moral turpitude" in the law goes back over 100 years, but it received its judicial sanction in 1951 with a U.S. Supreme Court decision called *Jordan v. DeGeorge*. By a 6-3 vote, the Court held that the term was not unconstitutionally vague. The continued history of judicial interpretation of that phrase belies that determination. To this day, courts routinely disagree on what the term means and what crimes fit into the category.

The dissenters in the *Jordan* case summed it up well by noting: "If we go to the dictionaries, the last resort of the baffled judge, we learn little except that the expression is redundant, for turpitude alone means moral wickedness or depravity and moral turpitude seems to mean little more than morally immoral. The Government confesses that it is 'a term that is not clearly defined.'" At the time of the decision, Black's Law Dictionary defined the phrase as "inherent baseness or vileness of principle or action; shameful wickedness or depravity." I'm not sure what that covers, but at least it seems like it would cover only pretty nasty crimes. So it's worth noting what the "depraved" crime was that the majority of the judges in *Jordan* concluded constituted a crime of "moral turpitude": it was conspiracy to defraud the government of taxes on distilled spirits.

Time has not been any kinder to the term. The first definition of the phrase in the current edition of Black's Law Dictionary is "conduct that is contrary to justice, honesty or morality." Not terribly helpful, and certainly not very limiting. Just a few years ago, a federal appeals court had to address the question whether the crime of being an accessory after the fact was a conviction of a crime for moral turpitude. The decision, before a 15 judge panel, led to four written opinions, ultimately with nine of the fifteen judges concluding it did not constitute "moral turpitude" and six believing it did.

The state's licensing statutes cry out for better uniformity. We also believe that, in many instances, the list of offenses that can disqualify a person from their livelihood is way too broad. But regardless of one's views on those issues, we urge the committee to at least eliminate this one particular, hopelessly vague standard from the books. No person should fear being denied entry into their profession based on a standard that no reasonable person can truly explain with anything coming close to precision.