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By: **Delegate Dembrow**

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Examiners of Psychologists - Hearings**

3 FOR the purpose of requiring that factual findings of hearings before the State Board  
4 of Examiners of Psychologists be supported by clear and convincing evidence.

5 BY repealing and reenacting, with amendments,  
6 Article - Health Occupations  
7 Section 18-315  
8 Annotated Code of Maryland  
9 (1994 Replacement Volume and 1999 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Health Occupations**

13 18-315.

14 (a) Except as otherwise provided in the Administrative Procedure Act, before  
15 the Board takes any action under § 18-313 of this subtitle, it shall give the individual  
16 against whom the action is contemplated an opportunity for a hearing before the  
17 Board.

18 (b) The Board shall give notice and hold the hearing in accordance with the  
19 Administrative Procedure Act, EXCEPT THAT FACTUAL FINDINGS SHALL BE  
20 SUPPORTED BY CLEAR AND CONVINCING EVIDENCE.

21 (c) The hearing notice to be given to the individual shall be served personally  
22 or by certified mail, return receipt requested, bearing a postmark from the United  
23 States Postal Service, to the last known address of the individual at least 10 days  
24 before the hearing.

25 (d) The individual may be represented at the hearing by counsel.

1 (e) (1) Over the signature of an officer or the administrator of the Board, the  
2 Board may issue subpoenas and administer oaths in connection with any  
3 investigation under this title and any hearings or proceedings before the Board.

4 (2) The Board shall issue subpoenas on behalf of the individual if the  
5 individual:

6 (i) Requests that the Board do so; and

7 (ii) States under oath that the testimony or evidence sought is  
8 necessary to the individual's defense.

9 (3) If, without lawful excuse, an individual disobeys a subpoena from the  
10 Board or an order by the Board to take an oath, testify, or answer a question, on  
11 petition of the Board, a court of competent jurisdiction may compel compliance with  
12 the subpoena.

13 (f) If after due notice the individual against whom the action is contemplated  
14 fails or refuses to appear, nevertheless the Board may hear and determine the matter.

15 (g) The hearing of charges may not be stayed or challenged by any procedural  
16 defects alleged to have occurred before the filing of charges.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2000.