

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 448

(Senator Conway)

Education, Health, and Environmental Affairs

Health and Government Operations

**State Board of Professional Counselors and Therapists - Cease and Desist Orders
and Penalties for Misrepresentation and Practicing Without a License**

This bill authorizes the State Board of Professional Counselors and Therapists to issue a cease and desist order or obtain injunctive relief for a violation of the prohibitions against practicing without a license or approval from the board or misrepresentation to the public. The current criminal fine for these violations is increased to a maximum of \$5,000. The board is authorized to assess a new civil fine of up to \$50,000 for practicing without a license or approval from the board or misrepresentation to the public; this civil fine must be assessed in accordance with board regulations and is paid to the general fund.

Fiscal Summary

State Effect: Potential increase in general fund revenues due to the bill's increased criminal penalty provisions and the board's authority to issue civil fines. Any additional workload can be handled with existing resources.

Local Effect: Potential minimal increase in revenues due to the bill's criminal penalty provisions. Any additional workload can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law:

Clinical Licenses: With the exception of specified students and trainees working under supervision, an individual may not practice, attempt to practice, or offer to practice clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional art therapy, or clinical professional counseling in the State unless licensed by the board. If unlicensed, an individual is also prohibited from (1) representing to the public by title, description of services, methods, or procedures that the individual is licensed; (2) using any title, abbreviation, sign, card, or other representation that the individual is licensed; or (3) using the title “L.C.A.D.C.,” “L.C.M.F.T.,” “L.C.P.C.,” or “L.C.P.A.T.” or the words “licensed clinical alcohol and drug counselor,” “licensed clinical marriage and family therapist,” “licensed clinical professional counselor,” or “licensed clinical professional art therapist” with the intent to represent that the individual practices such a profession.

Graduate Licenses: Unless an individual has been approved by the board to practice as a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, a licensed graduate marriage and family therapist, or a licensed graduate professional art therapist, the individual may not (1) use the title “licensed graduate alcohol and drug counselor,” “licensed graduate professional counselor,” “licensed graduate marriage and family therapist,” or “licensed graduate professional art therapist”; (2) use the initials “L.G.A.D.C.,” “L.G.P.C.,” “L.G.M.F.T.,” or “L.G.P.A.T.”; (3) represent to the public that the individual is approved by the board to practice; or (4) use any title, abbreviation, sign, card, or other representation that the individual is licensed to practice such a profession.

Certified Counselors and Therapists: Unless an individual is certified to practice alcohol and drug counseling, marriage and family therapy, or professional counseling, the individual may not (1) represent to the public by title, description of services, methods, or procedures, or otherwise, that the individual is certified by the board; (2) use any title, abbreviation, sign, card, or other representation that the individual is a certified professional counselor, certified professional counselor-marriage and family therapist, certified professional counselor-alcohol and drug, certified associate counselor-alcohol and drug, or certified supervised counselor-alcohol and drug; or (3) use the title “C.P.C.,” “C.P.C.–M.F.T.,” “C.P.C.–A.D.,” “C.A.C.–A.D.,” or “C.S.C.–A.D.,” the words “certified professional counselor,” “certified professional counselor-marriage and family therapist,” “certified counselor,” “certified marriage and family therapist,” “certified professional counselor-alcohol and drug,” “certified associate counselor-alcohol and drug,” or “certified supervised counselor-alcohol and drug” with the intent to represent that the individual practices such a profession.

Penalties: A person who violates any of these prohibitions against practicing without a license or board approval, or any prohibition against misrepresentation, is guilty of a misdemeanor and subject to a fine of up to \$2,000 or imprisonment for up to one year, or both. The board is also authorized to impose penalties of up to \$5,000 instead of or in addition to disciplinary action.

Background: Five health occupations boards (pharmacy, physical therapy, physicians, podiatry, and psychologists) are authorized to assess a civil fine of up to \$50,000 for practicing without a license. In all instances other than podiatry, such fines are payable to each board's respective special fund.

Two health occupations boards (nursing home administrators and physicians) are authorized to issue cease and desist orders.

State Revenues: General fund revenues may increase minimally as a result of the increased fine authorized under the bill for cases heard in the District Court. Actual revenues depend on the fines imposed. General fund revenues may also increase as a result of the authority to assess a civil fine of up to \$50,000. Actual revenues depend on the number of violations and the actual civil fines imposed.

Local Revenues: Revenues may increase minimally as a result of the increased fine authorized under the bill from cases heard in the circuit courts.

Additional Information: In response to ongoing challenges among the health occupations boards in addressing unlicensed practitioners, several bills have been introduced in the 2014 legislative session that authorize various boards to issue cease and desist orders, seek injunctive relief, and/or impose fines or penalties:

- **SB 379/HB 304** – State Acupuncture Board and State Board of Dietetic Practice – Action and Penalties for Violations of Practice Acts;
- **SB 380/HB 302** – State Board of Podiatric Medical Examiners – Cease and Desist Orders and Fines;
- **SB 453/HB 403** – State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists – Cease and Desist Orders and Injunctive Relief; and
- **SB 587/HB 791** – State Board of Examiners in Optometry – Cease and Desist Orders, Injunctive Relief, and Penalties.

Additional Information

Prior Introductions: None.

Cross File: HB 112 (Delegate Hubbard) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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