HOUSE BILL 112

J2 4lr0635

By: **Delegate Hubbard**
Introduced and read first time: January 9, 2014
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

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

FOR the purpose of authorizing the State Board of Professional Counselors and Therapists to issue cease and desist orders or obtain injunctive relief for violations of certain provisions of law; altering a certain penalty for practicing, attempting to practice, or offering to practice certain health occupations without a license issued by the State Board of Professional Counselors and Therapists; providing that a person who violates certain provisions of law is subject to a civil fine not exceeding a certain amount to be assessed by the Board in accordance with certain regulations; requiring the Board to pay certain penalties into the State Board of Professional Counselors and Therapists Fund; and generally relating to the State Board of Professional Counselors and Therapists and cease and desist orders and penalties for misrepresentation and practicing without a license.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 17–301 and 17–601 through 17–603
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–513 and 17–604
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

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

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

Article – Health Occupations

17–301.

(a) Except as otherwise provided in subsection (b) of this section, 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.

(b) Subject to the regulations of the Board, subsection (a) of this section does not apply to:

(1) A student working under the supervision of a licensed mental health care provider while pursuing a supervised course of study in counseling that the Board approves as qualifying training and experience under this title; or

(2) An individual who, in accordance with § 17–406 of this title, is working as a trainee under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed or certified under this article and approved by the Board while fulfilling the experiential or course of study requirements under § 17–302 of this subtitle or § 17–403 or § 17–404 of this title.

(c) This subtitle may not be construed to limit the scope of practice of any individual who is duly licensed under this article.

17–513.

(A) THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF FOR A VIOLATION OF ANY PROVISION OF § 17–301 OR §§ 17–601 THROUGH 17–603 OF THIS TITLE.

[(a)**] (B)** An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical professional art therapy; or

(2) Conduct that is a ground for disciplinary action under § 17–509 of this subtitle.

[(b)**] (C)** An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

[(c)**] (D)** An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

[(d)**] (E)** Proof of actual damages or that any person will sustain any damages if an injunction is not granted is not required for an action under this section.

[(e)**] (F)** An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical professional art therapy, under § 17–301, § 17–601, § 17–602, or § 17–603 of this title or disciplinary action under § 17–509 of this subtitle.

17–601.

Unless an individual is licensed to practice clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional counseling, or clinical professional art therapy, an individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to provide clinical alcohol and drug counseling services, clinical marriage and family therapy services, clinical professional counseling services, or clinical professional art therapy services in the State;

(2) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed clinical alcohol and drug counselor, licensed clinical marriage and family therapist, licensed clinical professional counselor, licensed clinical professional art therapist; or

(3) Use 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 clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional counseling, or clinical professional art therapy.

17–602.

Except as otherwise provided in this title, 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." after the name of the individual;

(3) Represent to the public that the individual is approved by the Board to practice alcohol and drug counseling, professional counseling, marriage and family therapy, or professional art therapy; or

(4) Use any title, abbreviation, sign, card, or other representation that the individual is 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.

17–603.

Except as otherwise provided in this title, 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, by description of services, methods, or procedures, or otherwise, that the individual is certified by the Board to provide counseling or therapy services in this State;

(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" or "certified professional counselor–marriage and family therapist", or the words "certified counselor" or "certified marriage and family therapist" with the intent to represent that the individual practices professional counseling or marriage and family therapy, or the words "certified professional counselor–alcohol and drug", "certified associate counselor–alcohol and drug", "certified supervised counselor–alcohol and drug" with the intent to represent that the individual practices alcohol and drug counseling.

17–604.

(a) **[**Any**] A** person who violates any provision of this subtitle or § 17–301 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding **[**$2,000**] $5,000** or imprisonment not exceeding 1 year or both.

(B) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR § 17–301 OF THIS TITLE IS SUBJECT TO A CIVIL FINE NOT EXCEEDING $50,000 TO BE ASSESSED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE STATE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS FUND.

[(b)**] (C)** Each violation of this subtitle is a separate offense.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.