

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 401 (Delegate Cullison)  
Health and Government Operations Education, Health, and Environmental Affairs

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**Health Occupations - Chiropractors, Massage Therapists, Physical Therapists,  
and Physical Therapist Assistants - Criminal History Records Checks Required**

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This bill requires applicants for a chiropractic license, a massage therapy license, or a massage practitioner registration from the State Board of Chiropractic and Massage Therapy Examiners as well as applicants for a physical therapy license or a physical therapy assistant license from the State Board of Physical Therapy Examiners to submit to a criminal history records check (CHRC) as a qualification for licensure or registration. The bill also creates new grounds for disciplinary action for each respective health occupation if an applicant fails to submit to a CHRC as required under the bill.

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**Fiscal Summary**

**State Effect:** Processing of CHRC results for new applicants can be handled by the State Board of Chiropractic and Massage Therapy Examiners and the State Board of Physical Therapy Examiners with existing budgeted resources. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Both boards are prohibited from issuing or renewing a license or registration if the required CHRC information has not been received. On receipt of criminal history records information, the boards must consider the following factors in determining whether to grant a license or registration:

- the age at which the crime was committed;
- the circumstances surrounding the crime;
- the length of time that has passed since the crime;
- subsequent work history;
- employment and character references; and
- any other evidence that demonstrates whether the applicant poses a threat to public health or safety.

An applicant, who is required to have a CHRC, must apply to the Criminal Justice Information System (CJIS) for both a State and national CHRC. An applicant must submit two sets of fingerprints taken on the required forms, the State criminal history fee, and the processing fee required by the Federal Bureau of Investigation (FBI). CJIS must forward to the board and to the applicant the criminal history record information of the applicant. If an applicant has made three or more attempts at securing legible fingerprints, the board may accept an alternate method of a CHRC as permitted by the director of CJIS and the director of the FBI. Information obtained from CJIS must be confidential, may not be redisseminated, and may be used only for licensing purposes. The subject of a CHRC may contest the contents of the printed statement issued by CJIS.

**Current Law/Background:** Generally, applications for licensure, certification, or registration from health occupations boards include questions regarding past disciplinary actions, such as whether the individual has ever been denied an application, had any disciplinary action taken against him or her by any state licensing or disciplinary board, or had any investigation or charge brought against him or her. Applications also typically ask if the individual has ever pled guilty, pled *nolo contendere*, been convicted, or received probation before judgment for any criminal act. Based on an applicant's responses, a board may investigate an applicant. If a board determines that an individual made incomplete or false statements about disciplinary or criminal actions, the board may pursue disciplinary action for fraudulently or deceptively obtaining or attempting to obtain a license, certificate, or registration.

As shown in **Exhibit 1**, seven health occupations boards currently require CHRCs; all but two upon initial application only. The State Board of Professional Counselors and Therapists requires subsequent CHRCs every 6 years upon renewal, while the State Board of Nursing requires subsequent CHRCs at least once every 12 years upon renewal. With the exception of registered pharmacy technicians, both a State and federal check are required for all noted professions.

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**Exhibit 1**  
**Health Occupations Required to Obtain Criminal History Records Checks**

<b><u>Board</u></b>	<b><u>Occupation(s)</u></b>
Morticians and Funeral Directors	Mortuary Transport Service Providers <sup>1</sup>
Nursing	Registered Nurses <sup>2</sup> Licensed Practical Nurses <sup>2</sup> Certified Nursing Assistants <sup>2</sup> Electrologists <sup>2</sup>
Pharmacy	Registered Pharmacy Technicians <sup>3</sup> Wholesale Pharmaceutical Distributors
Professional Counselors and Therapists	All applicants for licensure or certification <sup>4</sup>
Examiners of Psychologists	Licensed Psychologists
Residential Child Care Professionals	Program Administrators Residential Child and Youth Care Practitioners <sup>5</sup>
Social Work Examiners	Licensed Bachelor Social Worker <sup>6</sup> Licensed Certified Social Worker <sup>6</sup> Licensed Certified Social Worker-Clinical <sup>6</sup>

<sup>1</sup> Certification began in 2013.

<sup>2</sup> Subsequent criminal history records checks are required upon renewal at least once every 12 years.

<sup>3</sup> State-only check required.

<sup>4</sup> Per Chapter 348 of 2013; subsequent criminal history records checks are required every six years.

<sup>5</sup> Certification is not required until October 1, 2015.

<sup>6</sup> Per Chapter 391 of 2013.

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In addition to licensure, certification, and registration by health occupations boards, some other individuals are required to obtain a CHRC. Under § 19-1902 of the Health-General Article, before an eligible employee may begin work for an adult dependent care program, the program must apply for a State CHRC or request a private agency to conduct a background check and request a reference from the potential employee's most recent employer. A nurse referral agency must develop and implement a procedure to screen licensed health care professionals and care providers, including a State CHRC or a private agency background check. The Department of Aging must adopt regulations that require a

CHRC for an individual providing continuing-care-at-home services if the individual will have routine, direct access to a continuing care subscriber.

**Additional Comments:** Each individual subject to a CHRC under the bill will be required to pay \$54.50 for a State and national CHRC including a \$20 fingerprinting fee, a \$16.50 FBI fee, an \$18 fee to CJIS. CJIS collects, manages, and disseminates Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 381 (Senator Conway) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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