

Chapter 457

(House Bill 805)

AN ACT concerning

State Board of Professional Counselors and Therapists – Examination of Applicants, Licensees, Certificate Holders, and Trainees

FOR the purpose of requiring the State Board of Professional Counselors and Therapists to require certain applicants, licensees, certificate holders, and trainees to submit to a mental health or physical examination under certain circumstances; providing that certain applicants, licensees, certificate holders, or trainees are deemed to have consented to submit to an examination and to have waived a certain claim of privilege under certain circumstances; providing that a certain report or testimony of a certain health care practitioner is confidential, except under certain circumstances; providing that the failure or refusal of a certain applicant, licensee, certificate holder, or trainee to submit to a certain examination is prima facie evidence of the inability to practice competently, unless the Board makes a certain finding; requiring the Board to pay the reasonable cost of certain examinations for certain licensees, certificate holders, or trainees; requiring certain applicants to pay the reasonable cost of a certain examination; and generally relating to the State Board of Professional Counselors and Therapists and examinations of applicants, licensees, certificate holders, and trainees.

BY adding to

Article – Health Occupations
Section 17–513.1
Annotated Code of Maryland
(2014 Replacement Volume)

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

Article – Health Occupations

17–513.1.

(A) IF, WHILE REVIEWING AN APPLICATION FOR LICENSURE, CERTIFICATION, OR TRAINEE STATUS, OR INVESTIGATING AN ALLEGATION AGAINST A LICENSEE, CERTIFICATE HOLDER, OR TRAINEE UNDER THIS TITLE, THE BOARD FINDS REASONABLE EVIDENCE INDICATING THAT THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE MAY CAUSE HARM TO A PERSON, THE BOARD SHALL REQUIRE THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE TO SUBMIT TO A MENTAL HEALTH OR PHYSICAL EXAMINATION BY A HEALTH CARE

PRACTITIONER, AS DEFINED IN § 1-301 OF THIS ARTICLE, DESIGNATED BY THE BOARD.

(B) (1) IN RETURN FOR THE PRIVILEGE TO PRACTICE COUNSELING AND THERAPY IN THE STATE, AN APPLICANT, A LICENSEE, OR A CERTIFICATE HOLDER IS DEEMED TO HAVE:

(I) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

(II) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR REPORT OF A HEALTH CARE PRACTITIONER WHO EXAMINES THE APPLICANT, LICENSEE, OR CERTIFICATE HOLDER.

(2) IN RETURN FOR THE PRIVILEGE TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING IN THE STATE WITHOUT A LICENSE OR CERTIFICATION IN ACCORDANCE WITH § 17-406 OF THIS TITLE, A TRAINEE IS DEEMED TO HAVE:

(I) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

(II) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR REPORT OF A HEALTH CARE PRACTITIONER WHO EXAMINES THE TRAINEE.

(C) A REPORT OR TESTIMONY REGARDING A REPORT OF A HEALTH CARE PRACTITIONER DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO CONTESTED CASE PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE PROCEDURE ACT.

(D) THE FAILURE OR REFUSAL OF AN APPLICANT, A LICENSEE, A CERTIFICATE HOLDER, OR A TRAINEE TO SUBMIT TO AN EXAMINATION REQUIRED UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE APPLICANT'S, LICENSEE'S, CERTIFICATE HOLDER'S, OR TRAINEE'S INABILITY TO PRACTICE COMPETENTLY, UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE.

(E) THE BOARD SHALL PAY THE REASONABLE COST OF ANY EXAMINATION REQUIRED OF A LICENSEE, CERTIFICATE HOLDER, OR TRAINEE UNDER THIS SECTION.

(F) AN APPLICANT SHALL PAY THE REASONABLE COST OF ANY EXAMINATION REQUIRED OF THE APPLICANT UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

Approved by the Governor, May 12, 2015.