

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1183 (Delegate West)
 Health and Government Operations Education, Health, and Environmental Affairs

State Board of Social Work Examiners - Revisions

This bill makes multiple revisions to the Maryland Social Work Practice Act, including (1) amending and establishing definitions and making clarifying and stylistic changes; (2) establishing the licensed master social worker (LMSW) license, which replaces the licensed graduate social worker (LGSW) license; (3) defining and codifying a process under which a licensed bachelor social worker (LBSW) or an LMSW may apply for and engage in independent practice; (4) clarifying procedures related to reactivation, reinstatement, and reissuance of licenses and making each contingent on a State and national criminal history records check (CHRC); (5) increasing civil penalty provisions, including a fine of up to \$50,000 for a person that violates related law; and (6) amending the terms of specified board members. The board must adopt implementing regulations.

The bill generally takes effect July 1, 2018; however, the requirement to promulgate regulations and technical provisions related to the LGSW and LMSW license take effect October 1, 2017.

Fiscal Summary

State Effect: Special fund expenditures for the board increase by \$23,800 in FY 2021 to hire one contractual full-time employee to process CHRC information submitted at renewal of licensure. Future years reflect elimination of the contractual position in FY 2023. The board can likely promulgate regulations and make other procedural changes with existing budgeted resources. Civil penalty provisions are not expected to materially affect State revenues.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	0	0	0	23,800	39,600
Net Effect	\$0	\$0	\$0	(\$23,800)	(\$39,600)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Board Membership: Generally, under current law, a board member may serve no more than two consecutive full terms. The bill limits the one licensed social worker member who is nominated from a list of names submitted by the deans and directors of the Maryland Social Work Education Programs to no more than *one* full term.

Definitions: The term “licensed graduate social worker” is modified to reflect grandfathering of an individual licensed by the board to practice graduate social work on or before June 30, 2018. All references to “graduate social work” are replaced with “master social work.” A person who is an LGSW on June 30, 2018, must be considered, in all respects, licensed as an LMSW by the board and may apply for reactivation, reinstatement, or reissuance of a license to practice master social work, as established by the board.

“Practice social work” is amended to mean to apply the theories, knowledge, procedures, methods, or ethics derived from *receiving a baccalaureate or master’s degree from a program in social work that is accredited by or a candidate for accreditation by the Council on Social Work Education, or an equivalent organization approved by the Council on Social Work Education*, to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through a number of listed actions including (1) assessment; (2) planning; (3) intervention; (4) evaluation of intervention plans; (5) case management; (6) information and referral; (7) counseling that does not include diagnosis or treatment of mental disorders; (8) advocacy; (9) consultation; (10) education; (11) research; (12) community organization; (13) development, implementation, and administration of policies, programs, and activities; or (14) *supervision of other social workers as set forth in regulations.*

Independent and Private Practice: To engage in “independent practice” means to practice bachelor social work or master social work without the requirement of supervision by another social worker. “Private practice” means the provision of psychotherapy by a licensed certified social worker-clinical (LCSW-C) who assumes responsibility and accountability for the nature and quality of the services provided to a client in exchange for direct payment or third-party reimbursement or on a pro bono basis (as determined in regulations adopted by the board).

To be approved to engage in independent practice, an LBSW or an LMSW must submit (1) an application on a board-prescribed form; (2) any applicable fees; and (3) documentation of having completed at least three years as a licensee with at least 4,500 hours of supervised experience after receiving the baccalaureate or master's degree with a minimum of 150 hours of periodic face-to-face supervision under the terms and conditions established by regulation.

If the board determines that an LBSW or an LMSW who applies to engage in independent practice has not completed the required supervised experience, the board may reject the application and require the individual to continue supervised work, as required by the board, for an additional 1,500 hours before reapplying. The board must approve an individual to engage in independent practice if the individual (1) submits an application form and any applicable fees; (2) was licensed by the board as an LBSW or an LGSW on or before January 1, 2008; and (3) has actively practiced bachelor social work, graduate social work, or master social work for at least 10 years.

These provisions cannot be construed to prohibit an employer from requiring supervision of an LBSW or an LMSW who is approved to engage in independent practice.

An LBSW is prohibited from engaging in "private practice" as defined by the bill. Additionally, on or before December 31, 2019, an LMSW may not engage in "private practice" without the supervision of a LCSW-C; however, on or after January 1, 2020, an LMSW is prohibited from engaging in "private practice" altogether.

The bill redefines "practice bachelor social work" to mean (1) practice social work under the supervision of a licensed certified social worker (LCSW), LCSW-C, LGSW, *or* LBSW who meets specified conditions *or* (2) *if approved by the board, engage in independent practice.*

Under current law, the board must maintain a roster of all licensees with specified information on each electronic license record. Under the bill, this information must include, if the licensee is an LBSW or an LMSW, whether the licensee is approved to engage in independent practice.

Renewal, Reactivation, and Reinstatement of Licenses: The bill clarifies license renewal, reactivation, and reinstatement provisions. Beginning in calendar year 2021, a licensee must attest to having submitted to a State and national CHRC on renewal of a license. The board may renew a license only if the licensee attests that he or she has submitted to a CHRC. However, a renewal applicant who has previously completed the required CHRC for the board's renewal process does not have to submit to a subsequent CHRC as a condition of renewal.

The bill clarifies inactive and nonrenewed status. The board must place a licensee on inactive status for a maximum of five years if the licensee submits a written application and the inactive status fee. The board must reactivate a license for an individual on inactive status who (1) applies for reactivation; (2) complies with reactivation requirements; (3) has completed required continuing education; (4) pays the reactivation fee; (5) submits satisfactory evidence of having completed a State and national CHRC; and (6) has been on inactive status for less than five years.

The board must place a licensee on nonrenewed status for a maximum of five years if the licensee does not renew the license or apply for inactive status. If a licensee does not renew the license or apply for inactive status, the board must provide the licensee with specified notice. The board must reinstate (called reactivate under current law) a license for an individual on nonrenewed status who (1) applies for reinstatement; (2) complies with reinstatement requirements; (3) has completed required continuing education; (4) pays the reinstatement fee; (5) submits satisfactory evidence of having completed a State and national CHRC; and (6) has been on nonrenewed status for less than five years.

An individual who has been on inactive status or nonrenewed status for more than five years or who otherwise fails to apply for reactivation or reinstatement must apply for reissuance of his or her license. The board must reissue a license to an individual who (1) applies for reissuance; (2) pays the reissuance fee; (3) provides any required documentation; (4) meets any related requirements; (5) submits satisfactory evidence of having completed a State and national CHRC; and (6) either passes the respective required examination *or* holds an active license in another state at an equivalent level and has passed an examination in that state as a condition of licensure.

The board may not reactivate, reinstate, or reissue a license if the required criminal history record information has not been received.

Criminal History Records Check: The bill repeals the current law requirement that, if an applicant has made two or more attempts at securing legible fingerprints, the board may accept an alternate method of CHRC as permitted by the director of the Central Repository and the director of the Federal Bureau of Investigation (FBI). The bill establishes that, if criminal history record information is reported to the Central Repository after the date of the initial CHRC, the Central Repository must provide the board with a revised printed statement of the individual's State criminal history record.

Under current law, in using information obtained from the Central Repository to determine whether to issue a license, the board must consider:

- the age at which the crime was committed;
- the circumstances surrounding the crime;

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

Under the bill, the board must consider the above factors as well as the nature of the crime when determining whether to issue a license as well as whether any disciplinary action should be taken, based on the criminal record information, against a licensee who renewed a license.

Miscellaneous Provisions: Under current law, the board is authorized to issue criminal and civil penalties, and a violator is subject to a fine of up to \$5,000 or imprisonment for up to two years. Additionally, under a separate current law provision, if after a hearing, the board finds there are grounds to reprimand a licensee, place a licensee on probation, or suspend or revoke a license, the board may impose a fine of up to \$10,000. However, under the bill, a violator can be subject to *both* the fine *and* imprisonment, each violation is a separate offense, and a person who violates the Maryland Social Work Practice Act is subject to a civil fine up to \$50,000. Finally, under the bill, the board may issue a cease and desist order or obtain injunctive relief for a violation of the Act.

Under current law, the board is required to maintain on its website a roster of all licensees who meet licensure requirements. The bill clarifies that, when providing specified disclosures to a client prior to providing social work services, a licensee's professional identity can be provided by directing a client to the license verification section on the board's website.

The bill generally replaces references to treatment of mental disorders with treatment of behavioral health disorders, including substance use disorders, addictive disorders, and mental disorders.

Current Law: The board issues four levels of licenses: LBSW, LGSW, LCSW, and LCSW-C. Each level of licensure requires different educational, experience, and supervision requirements, and each level has a different scope of practice. However, generally, licensure requires a minimum educational attainment of a master's degree, with the exception of an LBSW, which requires only a bachelor's degree. Neither an LBSW nor an LGSW may practice unsupervised, and an LBSW may not engage in private practice. Both an LCSW and an LCSW-C must obtain 3,000 hours (conducted over at least two years and 104 weeks) of supervised experience with specified hours of periodic face-to-face supervision depending on which license an individual is obtaining. An LCSW-C must also pass the advanced practice examinations. An LCSW may perform unsupervised nonclinical social work or, if the licensee obtained supervised postgraduate

experience under the supervision of an LCSW-C, may perform supervised clinical social work. An LCSW-C is the only category of licensed social worker who can perform unsupervised social work (both clinical and nonclinical).

License Renewal, Inactive Status, Nonrenewed Status, and Reactivation: The board may only place a licensee on inactive status or nonrenewed status for five years. Statute creates parallel processes for placing a licensee on inactive or nonrenewed status and for reactivating a license for a licensee who has been on inactive or nonrenewed status for less than five years. The board must place a licensee on inactive status if the licensee submits a written application for inactive status and pays the inactive status fee. The board must place a licensee on nonrenewed status for a maximum of five years if the licensee does not renew, submits a written application for nonrenewed status, and pays the nonrenewed status fee.

The board must reactivate the license for an individual on inactive status or nonrenewed status if the individual (1) applies to the board for reactivation; (2) complies with the renewal requirements in effect when the individual requests reactivation; (3) has completed the number of credit hours of continuing education in social work set by the board in the two years preceding the licensee's application for an active license; (4) pays the reactivation fee; and (5) has been on inactive status for less than five years.

If an individual has been on inactive or nonrenewed status for five years or more, to reactivate a license, the individual must (1) apply to the board for reactivation; (2) pay the board the reactivation processing fee and any other required fees; (3) provide any required documentation; and (4) pass the respective examination required for initial licensure.

Board Membership: Board membership currently must include one LBSW, one LGSW, one LCSW, and four LCSWs-C. If a specific licensee of the required license level is not appointed to a vacancy on the board within three months, a licensee of any license level must be appointed immediately. The board is required to elect a chair, vice chair, and secretary-treasurer from among its members every two years.

State Expenditures: Special fund expenditures for the board increase by \$23,818 in fiscal 2021 for the board to hire one full-time contractual employee to assist with the review of criminal history record information submitted at renewal, beginning in calendar 2021, as required by the bill. This estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the board licenses approximately 14,000 social workers and half of all social workers renew annually so the board must process CHRC results for approximately 7,000 licensees during each of the 2021 and 2022 renewal cycles;

- based on the experience of similar health occupations boards in Maryland, approximately 3% of CHRCs accompanying renewal license applications return pertinent information;
- the board cannot absorb the work related to receiving and processing CHRC results with existing budgeted resources and staff; and
- after the calendar 2022 renewal cycle when the majority of licensees will have completed a CHRC on renewal, the board can process criminal history record information submitted with applications for license renewal, reactivation, reinstatement, or reissuance with existing budgeted staff and resources.

	<u>FY 2021</u>	<u>FY 2022</u>
Contractual Position	1	
Salary and Fringe Benefits	\$18,865	\$39,012
Operating Expenses	<u>4,953</u>	<u>625</u>
Total State Expenditures	\$23,818	\$39,637

Future year expenditures reflect elimination of the contractual position in fiscal 2023 once the board has processed the bulk of the CHRC submissions related to license renewals.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

It is unclear whether the new “independent practice” option for an LMSW and an LBSW has any material impact on board operations beyond promulgating implementing regulations and the procedural changes. However, it is assumed that the procedures established under the bill are similar enough to current practice that they can be handled with existing budgeted resources and staff. It is also assumed that the board can make the switch from the LGSW credential to the LMSW credential at the time of renewal with existing budgeted staff and resources.

Small Business Effect: Meaningful impact for an LGSW (LMSW under the bill) and an LBSW who are able to independently practice under the bill. Under current law, an LGSW and an LBSW are not authorized to practice independently. The bill’s option for independent practice may expand employment opportunities and increase business for some small businesses.

Each licensee is subject to a CHRC at renewal, reactivation, reinstatement, or reissuance of a license at a cost of \$50 for a State and national CHRC including a \$20 fingerprinting fee, a \$12 FBI fee, and an \$18 fee to the Criminal Justice Information System (CJIS) Central Repository in the Department of Public Safety and Correctional Services. CJIS

collects, manages, and disseminates Maryland criminal history record information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 986 (Senator Nathan-Pulliam - Education, Health, and Environmental Affairs) is not identical.

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

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