

# SENATE BILL 958

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CF HB 1104

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By: **Senator Jennings**

Introduced and read first time: February 15, 2019

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 22, 2019

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Professional Counselors and Therapists – Licensure,**  
3 **Disciplinary Action, Criminal History Records Checks, and Trainee Status –**  
4 **Revisions**

5 FOR the purpose of authorizing the State Board of Professional Counselors and Therapists  
6 to take action against a clinical professional counselor only if the Board discusses  
7 certain proposed disciplinary action with a certain Board member and a certain  
8 Board member votes; authorizing a licensed professional counselor or therapist to  
9 engage in certain advanced assessment activities, rather than appraisal activities, if  
10 the licensed professional counselor or therapist has completed certain training;  
11 repealing the requirement that the credit hours or educational requirements  
12 completed by certain applicants to be licensed by the ~~State Board of Professional~~  
13 ~~Counselors and Therapists~~ be accredited by the American Art Therapy Association;  
14 requiring certain applicants to pass an examination approved by the Board, rather  
15 than the Art Therapy Credentials Board Exam; requiring an applicant for trainee  
16 status to submit certain information to the Board, pay a certain fee, and submit to a  
17 criminal history records check; repealing authorization for the Board to accept an  
18 alternate method of a criminal history records check under certain circumstances;  
19 requiring the Central Repository to forward to the Board and to certain individuals  
20 certain information under certain circumstances; altering the information that must  
21 be included by the Board on each license and certificate; requiring the Board to  
22 maintain a certain electronic roster for a certain purpose; authorizing certain  
23 individuals to contact the Board to verify a license or certificate; repealing the  
24 requirement for a licensee or certificate holder to display the license or certificate in

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 a certain manner; making certain provisions of law governing the denial, probation,  
 2 suspension, reprimand, or revocation of licenses and certificates applicable to certain  
 3 trainees; defining a certain term; making conforming changes; repealing certain  
 4 obsolete language; and generally relating to professional counselors and therapists.

5 BY repealing and reenacting, with amendments,  
 6 Article – Health Occupations  
 7 Section 17–205(c), 17–304.1, 17–310, 17–501, 17–503, and 17–509  
 8 Annotated Code of Maryland  
 9 (2014 Replacement Volume and 2018 Supplement)

10 BY repealing  
 11 Article – Health Occupations  
 12 Section 17–304.2, 17–501.1(d), and 17–506  
 13 Annotated Code of Maryland  
 14 (2014 Replacement Volume and 2018 Supplement)

15 BY adding to  
 16 Article – Health Occupations  
 17 Section 17–501.1(d)  
 18 Annotated Code of Maryland  
 19 (2014 Replacement Volume and 2018 Supplement)

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

### 22 Article – Health Occupations

23 17–205.

24 (c) (1) The Board may take action against a marriage and family therapist  
 25 only if:

26 (i) Before taking action against the marriage and family therapist,  
 27 the Board discusses the proposed action with a Board member who is a licensed clinical  
 28 marriage and family therapist; and

29 (ii) A Board member who is a licensed clinical marriage and family  
 30 therapist votes, either in the affirmative or in the negative, on the proposed action.

31 (2) The Board may take action against an alcohol and drug counselor only  
 32 if:

33 (i) Before taking action against the alcohol and drug counselor, the  
 34 Board discusses the proposed action with a Board member who is a licensed clinical alcohol  
 35 and drug counselor; and

1           (ii) A Board member who is a licensed clinical alcohol and drug  
2 counselor votes, either in the affirmative or in the negative, on the proposed action.

3           **(3) THE BOARD MAY TAKE ACTION AGAINST A CLINICAL**  
4 **PROFESSIONAL COUNSELOR ONLY IF:**

5           **(I) BEFORE TAKING ACTION AGAINST THE CLINICAL**  
6 **PROFESSIONAL COUNSELOR, THE BOARD DISCUSSES THE PROPOSED ACTION WITH**  
7 **A BOARD MEMBER WHO IS A LICENSED CLINICAL PROFESSIONAL COUNSELOR; AND**

8           **(II) A BOARD MEMBER WHO IS A LICENSED CLINICAL**  
9 **PROFESSIONAL COUNSELOR VOTES, EITHER IN THE AFFIRMATIVE OR IN THE**  
10 **NEGATIVE, ON THE PROPOSED ACTION.**

11           **[(3)] (4)**     The Board shall investigate all complaints filed against licensed  
12 counselors and therapists if, at the time of the violation, the licensed counselor or therapist  
13 has also registered and qualified for psychology associate status by virtue of holding a  
14 master's degree under Title 18 (Maryland Psychologists Act) of this article.

15           **[(4)] (5)**     The Board shall notify the Board of Examiners of Psychologists  
16 of the complaint in writing within 60 days of receipt of the complaint if an investigation of  
17 the supervising licensed psychologists is warranted.

18           **[(5)] (6)**     The Board shall initiate disciplinary action against any licensed  
19 counselor or therapist who also registers as a psychology associate and violates any portion  
20 of this statute.

21 17-304.1.

22           (a)     Except as provided in [§§ 17-304.2 and] § 17-307.1 of this subtitle, to qualify  
23 for a license to practice clinical professional art therapy, an applicant shall be an individual  
24 who meets the requirements of this section.

25           (b)     The applicant shall be of good moral character.

26           (c)     The applicant shall be at least 18 years old.

27           (d)     (1)     The applicant shall hold a master's or doctoral degree in art therapy  
28 from an accredited educational institution that is approved by the Board.

29                   (2)     In the case of an applicant holding a doctoral degree, the applicant shall  
30 have completed:

31                           (i)     A minimum of 90 graduate credit hours in an art therapy  
32 program [accredited by the American Art Therapy Association and] approved by the Board;  
33 and

1 (ii) Not less than 2 years of supervised experience in art therapy  
2 approved by the Board, 1 year of which shall have been completed after the award of the  
3 doctoral degree.

4 (3) In the case of an applicant holding only a master's degree, the applicant  
5 shall have completed:

6 (i) A minimum of 60 graduate credit hours in an art therapy  
7 program [accredited by the American Art Therapy Association and] approved by the Board;  
8 and

9 (ii) Not less than 3 years, with a minimum of 3,000 hours, of  
10 supervised experience in art therapy approved by the Board, 2 years of which shall have  
11 been completed after the award of the master's degree.

12 (e) The applicant shall provide documentation to the Board evidencing the  
13 completion of any educational requirements established by the Board in regulation, from  
14 an accredited college or university program that is [accredited by the American Art  
15 Therapy Association,] approved by the Board.

16 (f) The applicant shall provide documentation evidencing the completion of 2  
17 years of postgraduate supervised experience as required by the Board.

18 (g) Except as otherwise provided in this title, the applicant shall pass [the Art  
19 Therapy Credentials Board Exam] **AN EXAMINATION APPROVED BY THE BOARD.**

20 [17-304.2.

21 The Board shall waive the requirements for the practice of licensed clinical  
22 professional art therapy under § 17-304.1(d) through (g) of this subtitle if, on or before  
23 October 1, 2014, the applicant provides the Board with documentation showing:

24 (1) Current certification by the Art Therapy Credentials Board, Inc.; and

25 (2) Completion of 3 years of full-time experience providing art therapy.]

26 17-310.

27 **(A) IN THIS SECTION "ADVANCED ASSESSMENT ACTIVITIES" MEANS THE**  
28 **USE OF APPRAISAL INSTRUMENTS THAT REQUIRE SPECIALIZED PSYCHOLOGICAL**  
29 **TRAINING FOR ADMINISTRATION AND INTERPRETATION.**

30 **(B) A licensed counselor or therapist may engage in [appraisal activities that**  
31 **include instruments that require specialized psychological training for administration and**

1 interpretation] ADVANCED ASSESSMENT ACTIVITIES if the licensed counselor or  
2 therapist has completed training that includes:

3 (1) Possession of a doctoral or master's degree in counseling or a related  
4 field that includes a minimum of nine graduate courses of at least 3 semester hours in each  
5 of the following courses:

6 (i) Psychopathology;

7 (ii) Biological bases of behavior;

8 (iii) Research methods;

9 (iv) Advanced statistics;

10 (v) Tests and measures;

11 (vi) Intellectual assessment;

12 (vii) Personality assessment;

13 (viii) Ethics; and

14 (ix) Practicum in advanced assessment;

15 (2) Completion of 500 hours of supervised, direct, client-related, advanced  
16 assessment testing that is completed not less than 2 years following the completion of the  
17 master's degree, of which a minimum of 100 hours shall include face-to-face supervision  
18 by a supervisor who is:

19 (i) A licensed mental health professional;

20 (ii) Proficient in the use of advanced assessment tests; and

21 (iii) Approved by the Board; and

22 (3) Passage of a national examination that includes items on advanced  
23 assessment that evaluate knowledge of advanced assessment procedures.

24 17-501.

25 To apply for **TRAINEE STATUS**, a license, or **A** certificate, an applicant shall:

26 (1) Submit an application on the form that the Board requires;

27 (2) Pay to the Board the application fee set by the Board; and

1           (3) Submit to a criminal history records check in accordance with §  
2 17-501.1 of this subtitle.

3 17-501.1.

4           [(d) If an applicant has made three or more unsuccessful attempts at securing  
5 legible fingerprints, the Board may accept an alternate method of a criminal history records  
6 check as allowed by the Director of the Central Repository and the Director of the Federal  
7 Bureau of Investigation.]

8           **(D) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE**  
9 **CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY**  
10 **RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD AND**  
11 **THE INDIVIDUAL A REVISED PRINTED STATEMENT OF THE INDIVIDUAL'S STATE**  
12 **CRIMINAL HISTORY RECORD.**

13 17-503.

14           (a) **[The] SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Board shall  
15 issue a license or certificate to any applicant who meets the requirements of this title.

16           (b) The Board shall include on each license and certificate that the Board issues:

17                   (1) The **[kind] TYPE** of license or certificate;

18                   (2) The full name of the licensee or certificate holder;

19                   (3) A serial number; **AND**

20                   (4) **[The signatures of the chairman and the secretary of the Board; and**

21                   (5) The seal of the Board] **THE EXPIRATION DATE OF THE LICENSE OR**  
22 **CERTIFICATE.**

23           (c) The Board may issue a license or certificate to replace a lost, destroyed, or  
24 mutilated license or certificate if the licensee or certificate holder pays the replacement fee  
25 set by the Board.

26           (d) (1) On receipt of the criminal history record information of an applicant for  
27 licensure or certification forwarded to the Board in accordance with § 17-501.1 of this  
28 subtitle, in determining whether to grant a license or certificate, the Board shall consider:

29                   (i) The age at which the crime was committed;

30                   (ii) The circumstances surrounding the crime;

- 1 (iii) The length of time that has passed since the crime;
- 2 (iv) Subsequent work history;
- 3 (v) Employment and character references; and
- 4 (vi) Other evidence that demonstrates whether the applicant poses a  
5 threat to the public health or safety.

6 (2) The Board may not issue a license or certificate if the criminal history  
7 record information required under § 17-501.1 of this subtitle has not been received.

8 **(E) (1) THE BOARD SHALL MAINTAIN AN ELECTRONIC ROSTER OF ALL**  
9 **INDIVIDUALS LICENSED OR CERTIFIED BY THE BOARD.**

10 **(2) THE ROSTER SHALL BE AVAILABLE FOR THE PURPOSE OF**  
11 **ELECTRONICALLY VERIFYING LICENSURE OR CERTIFICATION ON THE BOARD'S**  
12 **WEBSITE.**

13 **(3) INDIVIDUALS WITHOUT ACCESS TO THE BOARD'S WEBSITE MAY**  
14 **CONTACT THE BOARD TO VERIFY A LICENSE OR CERTIFICATE.**

15 [17-506.

16 Each licensee or certificate holder shall display the license or certificate  
17 conspicuously in the licensee's or certificate holder's office or place of employment.]

18 17-509.

19 Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the  
20 affirmative vote of a majority of its members then serving, may deny **TRAINEE STATUS**, a  
21 license, or A certificate to any applicant, place any **TRAINEE**, licensee, or certificate holder  
22 on probation, reprimand any **TRAINEE**, licensee, or certificate holder, or suspend,  
23 **RESCIND**, or revoke **THE STATUS OF ANY TRAINEE**, a license of any licensee, or a  
24 certificate of any certificate holder if the applicant, **TRAINEE**, licensee, or certificate holder:

25 (1) Fraudulently or deceptively obtains or attempts to obtain **TRAINEE**  
26 **STATUS**, a license, or A certificate for the applicant, **TRAINEE**, licensee, or certificate holder  
27 or for another;

28 (2) Habitually is intoxicated;

29 (3) Provides professional services:

30 (i) While under the influence of alcohol; or

1 (ii) While using any narcotic or controlled dangerous substance, as  
2 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic  
3 amounts or without valid medical indication;

4 (4) Aids or abets an unauthorized individual in practicing clinical or  
5 nonclinical counseling or therapy or representing to be an alcohol and drug counselor,  
6 marriage and family therapist, professional counselor, or professional art therapist;

7 (5) Promotes the sale of drugs, devices, appliances, or goods to a patient so  
8 as to exploit the patient for financial gain;

9 (6) Willfully makes or files a false report or record in the practice of  
10 counseling or therapy;

11 (7) Makes a willful misrepresentation while counseling or providing  
12 therapy;

13 (8) Violates the code of ethics adopted by the Board;

14 (9) Knowingly violates any provision of this title;

15 (10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime  
16 involving moral turpitude, whether or not any appeal or other proceeding is pending to  
17 have the conviction or plea set aside;

18 (11) Is professionally, physically, or mentally incompetent;

19 (12) Submits a false statement to collect a fee;

20 (13) Violates any rule or regulation adopted by the Board;

21 (14) Is disciplined by a licensing or disciplinary authority of any other state  
22 or country or convicted or disciplined by a court of any state or country for an act that would  
23 be grounds for disciplinary action under the Board's disciplinary statutes;

24 (15) Refuses, withholds from, denies, or discriminates against an individual  
25 with regard to the provision of professional services for which the licensee is licensed and  
26 qualified or the certificate holder is certified and qualified to render because the individual  
27 is HIV positive;

28 (16) Commits an act of immoral or unprofessional conduct in the practice of  
29 clinical or nonclinical counseling or therapy;

30 (17) Knowingly fails to report suspected child abuse in violation of § 5–704  
31 of the Family Law Article;

1 (18) Fails to cooperate with a lawful investigation conducted by the Board;  
2 or

3 (19) Fails to submit to a criminal history records check in accordance with §  
4 17-501.1 of this subtitle.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
6 1, 2019.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.