

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 15-089)**

Overview and Legal and Fiscal Impact

The proposed regulation alters fees charged by the State Board of Professional Counselors and Therapists.

The regulation presents no legal issue of concern.

Special fund revenues for the State Board of Professional Counselors and Therapists increase by an average of \$306,875 annually beginning in fiscal 2016 from increased fee revenues. Some of these additional revenues are already assumed in the fiscal 2016 budget. Actual revenues will be higher in odd-numbered fiscal years and lower in even-numbered fiscal years due to renewal patterns for licensees and certificate holders. The regulation has no impact on local governments.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Board of Professional Counselors and Therapists: Fees: COMAR 10.58.02.02

Legal Analysis

Background

The board reports that the fee increases included in the proposed regulation are necessary in order to combat a projected deficit in future fiscal years. The board attributes this deficit to not having increased fees in approximately 20 years, despite having added two new licensing groups to its scope of regulation – behavior analysts under Chapter 328 of 2014 and art therapists under Chapter 629 of 2012. With the addition of these new licensing groups, the board reports that it has not increased its staff although personnel costs, rent, and other costs have increased.

Summary of Regulation

The proposed regulation alters fees charged by the board. Specifically, the changes include:

- for processing an application, a \$75 increase for certificate and trainee status and a \$175 increase for licensure status (although the initial application review fee is repealed);
- a \$25 increase for a subsequent application review;

- a \$25 increase for evaluation of preapplication credentials;
- a \$100 increase for licensure;
- a \$50 increase in certificate renewal, and this fee is expanded to include trainee renewal;
- a \$75 increase in licensure renewal;
- a \$25 increase for inactive status;
- for reinstatement, a \$50 increase for certificates and a \$100 increase for licensure;
- the repeal of a \$15 fee for the maintenance of letters of intent;
- for the sponsorship of continuing education programs, a \$650 increase for an organization, a \$200 increase for an individual, and a \$50 increase for an individual workshop;
- a new copy and scanning fee of \$2 per page; and
- a new out-of-state application processing fee of \$250.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 17-205, 17-206, and 17-310 of the Health Occupations Article as statutory authority for the proposed regulation. Section 17-205 authorizes the board to adopt regulations to carry out provisions of law that govern the practice of counselors and therapists in the State. Section 17-206 authorizes the board to set reasonable fees for the issuance and renewal of licenses or certificates, as well as its other services. These fees must be set to produce funds that approximate the cost of maintaining the board. Section 17-310, which authorizes a licensed counselor or therapist to engage in specified appraisal activities if the licensed counselor or therapist has completed specified training, is not relevant.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

Special fund revenues for the State Board of Professional Counselors and Therapists increase by an average of \$306,875 annually beginning in fiscal 2016 from increased fee revenues. Some of these additional revenues are already assumed in the fiscal 2016 budget. Actual revenues will be higher in odd-numbered fiscal years and lower in even-numbered fiscal years due to renewal patterns for licensees and certificate holders. The regulation has no impact on local governments.

Agency Estimate of Projected Fiscal Impact

The regulation increases all major board fees related to licensing and certification and repeals an obsolete fee (maintenance of letters of intent). The department originally estimated that board special fund revenues increase by \$279,076 annually beginning in fiscal 2016;

however, after discussion with the Department of Legislative Services, the board agrees that special fund revenues increase by an average of \$306,875 annually beginning in fiscal 2016. This figure reflects the average annual revenue increase anticipated over each two-year renewal cycle. Based on historic renewal patterns, actual revenues will be higher in odd-numbered fiscal years (when approximately 57.5% of licensees and certificate holders renew) and lower in even-numbered fiscal years (when the remaining 42.5% of licensees and certificate holders renew). The Department of Legislative Services concurs with this revised estimate. **Exhibit 1** shows the current and proposed fees, the anticipated average annual number of instances each fee will be paid, and the estimated additional revenues generated for each fee.

Impact on Budget

Special fund revenues for the board increase by an average of \$306,875 annually beginning in fiscal 2016. The fiscal 2016 budget assumes \$923,226 in special fund revenues for the board, which reflects an unspecified increase in fees.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses. The Department of Legislative Services generally concurs, but notes to the extent that any small businesses pay licensing or certification fees for employees or sponsorship of continuing education programs, costs may increase minimally.

Exhibit 1
Additional Anticipated Revenues from Proposed Fee Changes

	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Anticipated Average Annual Instances Fee is Paid</u>	<u>Additional Revenues</u>
Application Processing				
Graduate Level License	\$75	\$250	464	\$81,200
Clinical Level License	75	250	198	34,650
Certificate	75	150	208	15,600
Alcohol and Drug Trainee	75	150	311	23,325
Subsequent Application Review	25	50	45	1,125
Pre-application Credentials Evaluation	25	50	120	3,000
Licensure	100	200	352	35,200
Renewal				
Certificate and Trainee	150	200	597	29,850
License	200	275	943	70,725
Inactive Status (Annual)	25	50	66	1,650
Reinstatement				
Certificate	100	150	56	2,800
Licensure	100	200		
Two-year Sponsorship of CE Programs				
Individual	100	300	10	2,000
Organization	100	750	5	3,250
Out-of-state Application Processing Fee	\$0	\$250	10	2,500
Total Additional Revenues				\$306,875

CE = continuing education
Source: Department of Legislative Services

Additional Comments

Board expenditures exceeded board revenues by \$214,000 over the two-year fiscal 2014-2015 renewal cycle and are projected to exceed revenues by \$26,000 in fiscal 2016. Furthermore, the board has spent down its fund balance from \$468,215 at the end of fiscal 2014 to a projected \$228,553 at the end of fiscal 2016. The department advises that board fees have not been increased since 1993 and the proposed fee increases are intended to address the board's budget shortfall.

Contact Information

Legal Analysis: Sara C. Fidler – (410) 946/(301) 970-5350

Fiscal Analysis: Kathleen P. Kennedy – (410) 946/(301) 970-5510