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By: **Delegate Hubbard**  
Introduced and read first time: February 11, 1999  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 26, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Occupations - Professional Counselors - Licensing and Certification**

3 FOR the purpose of altering certain requirements for the licensing of clinical  
4 professional counselors, clinical marriage and family therapists, and clinical  
5 alcohol and drug counselors; altering the membership and authority of the State  
6 Board of Examiners of Professional Counselors (Board); altering certain  
7 requirements for when the Board may take action against certain individuals;  
8 altering certain definitions; establishing certain examination requirements;  
9 authorizing the Board to ~~deny, suspend, revoke,~~ deny a license to certain  
10 applicants, reprimand certain licensees, suspend or revoke the license of certain  
11 licensees, or place on probation certain ~~licenses~~ licensees and certificate holders;  
12 providing certain exemptions to certain licensing requirements; requiring  
13 certain licensees to display a license in a certain manner and place; requiring  
14 certain licensees to notify the Board of any change in address; requiring certain  
15 licensees to provide a certain professional disclosure statement to a client under  
16 certain circumstances; authorizing the Board to reduce the period of probation of  
17 certain certificate holders under certain circumstances; making certain stylistic  
18 and conforming changes; and generally relating to the licensing of clinical  
19 professional counselors, clinical marriage and family therapists, and clinical  
20 alcohol and drug counselors in the State.

21 BY repealing and reenacting, with amendments,  
22 Article - Health Occupations  
23 Section 17-202, 17-205, 17-206(b), ~~and~~ 17-311, 17-312, 17-313, 17-316,  
24 17-3A-01, and 17-3A-11(a)  
25 Annotated Code of Maryland  
26 (1994 Replacement Volume and 1998 Supplement)

1 BY repealing and reenacting, without amendments,  
2 Article - Health Occupations  
3 Section 17-206(a)  
4 Annotated Code of Maryland  
5 (1994 Replacement Volume and 1998 Supplement)

6 BY adding to  
7 Article - Health Occupations  
8 Section 17-3A-12 and 17-3A-13  
9 Annotated Code of Maryland  
10 (1994 Replacement Volume and 1998 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Courts and Judicial Proceedings  
13 Section 9-109.1(a)(3)  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume)

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

18 **Article - Health Occupations**

19 17-202.

20 (a) (1) The Board consists of nine members appointed by the Governor with  
21 the advice of the Secretary.

22 (2) Of the nine Board members:

23 (i) Five shall be [certified] LICENSED as professional counselors[,  
24 licensed] under Subtitle 3A of this section, including:

25 1. One who is primarily engaged in professional counselor  
26 education;

27 2. One who is employed in the private sector;

28 3. One who is employed in the public sector; and

29 4. Two professional counselors at large;

30 (ii) One shall be a licensed [professional counselor-marriage and  
31 family] CLINICAL MARRIAGE AND FAMILY therapist;

32 (iii) One shall be a certified [or licensed] professional  
33 counselor-alcohol and drug OR LICENSED CLINICAL ALCOHOL AND DRUG  
34 COUNSELOR; and

1 (iv) Two shall be consumer members.

2 (3) The composition of the Board as to the race and sex of its members  
3 shall reflect the composition of the population of the State.

4 (4) The Governor shall appoint the professional counselors from a list  
5 submitted to the Governor by the Secretary. Any association representing professional  
6 counselors may submit recommendations for Board members to the Secretary.

7 (b) The consumer members of the Board:

8 (1) Shall be members of the general public;

9 (2) May not be or ever have been a certified OR LICENSED professional  
10 counselor or in training to become a certified OR LICENSED professional counselor;

11 (3) May not have a household member who is a certified OR LICENSED  
12 professional counselor or in training to become a certified OR LICENSED professional  
13 counselor;

14 (4) May not participate or ever have participated in a commercial or  
15 professional field related to professional counseling;

16 (5) May not have a household member who participates in a commercial  
17 or professional field related to professional counseling;

18 (6) May not have had within 2 years before appointment a substantial  
19 financial interest in a person regulated by the Board; and

20 (7) While members of the Board, may not have a substantial financial  
21 interest in a person regulated by the Board.

22 (c) The licensed [professional counselor-marriage] CLINICAL MARRIAGE and  
23 family therapy member of the Board shall:

24 (1) Have a master's or doctoral degree in a marriage and family therapy  
25 field; and

26 (2) Meet the educational and supervised experience requirements of §  
27 17-302 of this title.

28 (d) The certified [or licensed] professional counselor-alcohol and drug OR  
29 LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR member of the Board shall:

30 (1) Have a master's or doctoral degree in a health and human services  
31 counseling field; and

32 (2) Meet the educational and supervised experience requirements of §  
33 17-302.3 of this title.

1 (e) A certified associate counselor-alcohol and drug or a certified supervised  
2 counselor-alcohol and drug shall be appointed by the Governor to serve as an advisor  
3 to the Board.

4 (f) Before taking office, each appointee to the Board shall take the oath  
5 required by Article I, § 9 of the State Constitution.

6 (g) (1) The term of a member is 4 years.

7 (2) The terms of the members of the Board are staggered as required by  
8 the terms of the members of the Board serving on July 1, 1988.

9 (3) At the end of a term, a member continues to serve until a successor is  
10 appointed and qualifies.

11 (4) A member may not serve more than 2 consecutive full terms.

12 (5) To the extent practicable, the Governor shall fill any vacancy on the  
13 Board within 60 days of the date of the vacancy.

14 (h) (1) The Governor may remove a member for incompetency, misconduct,  
15 or neglect of duty.

16 (2) Upon the recommendation of the Secretary, the Governor may  
17 remove a member whom the Secretary finds to have been absent from 2 successive  
18 Board meetings without adequate reason.

19 17-205.

20 (a) In addition to the powers set forth elsewhere in this title, the Board may  
21 adopt rules and regulations to carry out the provisions of this title.

22 (b) In addition to the duties set forth elsewhere in this title, the Board shall:

23 (1) Maintain a registry of all COUNSELORS OR THERAPISTS currently[:

24 (i) Certified professional counselors;

25 (ii) Certified professional counselors-marriage and family  
26 therapists;

27 (iii) Certified professional counselors-alcohol and drug;

28 (iv) Certified associate counselors-alcohol and drug; and

29 (v) Certified supervised counselors-alcohol and drug;] LICENSED  
30 OR CERTIFIED BY THE BOARD;

31 (2) Submit an annual report to the Governor and the Secretary;

1 (3) Adopt a code of ethics that the Board considers to be appropriate and  
 2 applicable to [certified professional counselors, certified professional  
 3 counselors-marriage and family therapists, certified professional counselors-alcohol  
 4 and drug, certified associate counselors-alcohol and drug, and certified supervised  
 5 counselors-alcohol and drug;] THE COUNSELORS OR THERAPISTS CURRENTLY  
 6 CERTIFIED OR LICENSED BY THE BOARD;

7 (4) Establish continuing education requirements for [certified  
 8 professional counselors, certified professional counselors-marriage and family  
 9 therapists, certified professional counselors-alcohol and drug, certified associate  
 10 counselors-alcohol and drug, and certified supervised counselors-alcohol and drug;]  
 11 THE COUNSELORS OR THERAPISTS CURRENTLY CERTIFIED OR LICENSED BY THE  
 12 BOARD;

13 (5) Adopt an official seal; and

14 (6) Create committees as it deems appropriate to advise the Board on  
 15 special issues.

16 ~~(e) (1) The Board may not take action regarding certified professional  
 17 counselors marriage and family therapists OR LICENSED CLINICAL MARRIAGE AND  
 18 FAMILY THERAPISTS without the approval of the Board member who is a [certified  
 19 professional counselor marriage] LICENSED CLINICAL MARRIAGE and family  
 20 therapist.~~

21 ~~(2) The Board may not take action regarding alcohol and drug counselors  
 22 without the approval of the Board member who is a certified professional  
 23 counselor alcohol and drug OR LICENSED CLINICAL ALCOHOL AND DRUG  
 24 COUNSELOR.~~

25 (C) (1) THE BOARD MAY TAKE ACTION AGAINST A CERTIFIED  
 26 PROFESSIONAL COUNSELOR-MARRIAGE AND FAMILY THERAPIST OR A LICENSED  
 27 CLINICAL MARRIAGE AND FAMILY THERAPIST ONLY IF:

28 (I) BEFORE TAKING ACTION AGAINST THE CERTIFIED  
 29 PROFESSIONAL COUNSELOR-MARRIAGE AND FAMILY THERAPIST OR THE LICENSED  
 30 CLINICAL MARRIAGE AND FAMILY THERAPIST, THE BOARD DISCUSSES THE  
 31 PROPOSED ACTION WITH THE BOARD MEMBER WHO IS A LICENSED CLINICAL  
 32 MARRIAGE AND FAMILY THERAPIST; AND

33 (II) THE BOARD MEMBER WHO IS A LICENSED CLINICAL MARRIAGE  
 34 AND FAMILY THERAPIST VOTES, EITHER IN THE AFFIRMATIVE OR IN THE NEGATIVE,  
 35 ON THE PROPOSED ACTION.

36 (2) THE BOARD MAY TAKE ACTION AGAINST AN ALCOHOL AND DRUG  
 37 COUNSELOR ONLY IF:

38 (I) BEFORE TAKING ACTION AGAINST THE ALCOHOL AND DRUG  
 39 COUNSELOR, THE BOARD DISCUSSES THE PROPOSED ACTION WITH THE BOARD

1 MEMBER WHO IS A CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG OR  
2 LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR; AND

3 (II) THE BOARD MEMBER WHO IS A CERTIFIED PROFESSIONAL  
4 COUNSELOR-ALCOHOL AND DRUG OR LICENSED CLINICAL ALCOHOL AND DRUG  
5 COUNSELOR VOTES, EITHER IN THE AFFIRMATIVE OR IN THE NEGATIVE, ON THE  
6 PROPOSED ACTION.

7 (3) The Board shall investigate all complaints filed against licensed  
8 professional counselors if, at the time of the violation, the licensed professional  
9 counselor has also registered and qualified for psychology associate status by virtue of  
10 holding a master's degree under Title 18 (Maryland Psychologists Act) of this article.

11 (4) The Board shall notify the Board of Examiners of Psychologists of the  
12 complaint in writing within 60 days of receipt of the complaint if an investigation of  
13 the supervising licensed psychologists is warranted.

14 (5) The Board shall initiate disciplinary action against any licensed  
15 professional counselor who also registers as a psychology associate and violates any  
16 portion of this statute.

17 (d) The Board shall establish or select [on examination] EXAMINATIONS that  
18 the Board considers appropriate to determine the ability of an applicant to be [a  
19 certified professional counselor, a certified professional counselor-marriage and  
20 family therapist, certified professional counselor-alcohol and drug, certified associate  
21 counselor-alcohol and drug, or certified supervised counselor-alcohol and drug.]  
22 LICENSED OR CERTIFIED BY THE BOARD.

23 17-206.

24 (a) There is a State Board of Examiners of Professional Counselors Fund.

25 (b) (1) The Board may set reasonable fees for the issuance and renewal of  
26 LICENSES OR certificates and its other services.

27 (2) The fees charged shall be set to produce funds so as to approximate  
28 the cost of maintaining the Board.

29 (3) Funds to cover the expenses of the Board members shall be generated  
30 by fees set under this section.

31 17-311.

32 (a) Each certificate holder OR LICENSEE shall display the certificate OR  
33 LICENSE conspicuously in the certificate holder's OR LICENSEE'S office or place of  
34 employment.

35 (b) Each certificate holder OR LICENSEE shall notify the Board of any change  
36 in address.

1 17-312.

2 (a) Any individual who is certified under this subtitle OR LICENSED UNDER  
3 SUBTITLE 3A OF THIS TITLE may not charge a client or receive remuneration for  
4 professional counseling services unless:

5 (1) Before the performance of those services, the client is furnished a  
6 copy of a professional disclosure statement; or

7 (2) (i) This professional disclosure statement is displayed in a  
8 conspicuous location at the place where the services are performed; and

9 (ii) A copy of the statement is provided to the client on request.

10 (b) The professional disclosure statement shall contain:

11 (1) The name, title, business address, and business telephone number of  
12 the professional counselor OR THERAPIST performing the services;

13 (2) The formal professional education of the professional counselor OR  
14 THERAPIST, including the institutions attended and the degrees received from them;

15 (3) The areas of specialization of the professional counselor OR  
16 THERAPIST and the services provided;

17 (4) In the case of a person certified under this subtitle OR LICENSED  
18 UNDER SUBTITLE 3A OF THIS TITLE who is engaged in a private individual practice,  
19 partnership, or group practice, the person's fee schedule listed by type of service or  
20 hourly rate;

21 (5) At the bottom of the first page of the disclosure statement, the words,  
22 "This information is required by the Board of Examiners of Professional Counselors  
23 which regulates all [certified professional counselors and certified professional  
24 counselor-marriage and family therapists"] CERTIFIED AND LICENSED COUNSELORS  
25 AND THERAPISTS"; and

26 (6) Immediately beneath the statement required by item (5) of this  
27 subsection, the name, address, and telephone number of the Board.

28 17-313.

29 Subject to the hearing provisions of § 17-314 of this subtitle, the Board, on the  
30 affirmative vote of a majority of its members then serving, may deny a certificate to  
31 any applicant, PLACE ANY CERTIFICATE HOLDER ON PROBATION, reprimand any  
32 certificate holder, or suspend or revoke a certificate of any certificate holder if the  
33 applicant or certificate holder:

34 (1) Fraudulently or deceptively obtains or attempts to obtain a  
35 certificate for the applicant or certificate holder or for another;

36 (2) Is addicted to any narcotic or is habitually intoxicated;

- 1           (3)     Aids or abets an unauthorized person in practicing professional  
2 counseling or representing to be a certified professional counselor;
- 3           (4)     Violates the code of ethics adopted by the Board;
- 4           (5)     Knowingly violates any provision of this title;
- 5           (6)     Is convicted of or pleads guilty or nolo contendere to a felony or a  
6 crime involving moral turpitude, whether or not any appeal or other proceeding is  
7 pending to have the conviction or plea set aside;
- 8           (7)     Is professionally, physically, or mentally incompetent;
- 9           (8)     Submits a false statement to collect a fee;
- 10          (9)     Violates any rule or regulation adopted by the Board;
- 11          (10)    Is disciplined by a licensing or disciplinary authority of any other  
12 state or country or convicted or disciplined by a court of any state or country for an act  
13 that would be grounds for disciplinary action under the Board's disciplinary statutes;  
14 or
- 15          (11)    Refuses, withholds from, denies, or discriminates against an  
16 individual with regard to the provision of professional services for which the  
17 certificate holder is certified and qualified to render because the individual is HIV  
18 positive.
- 19 17-316.

20        For reasons the Board considers sufficient, and on the affirmative vote of a  
21 majority of its members then serving, the Board may:

- 22           (1)     Reinstate a certificate that has been revoked;
- 23           (2)     Reduce the period of a suspension OR PROBATION; or
- 24           (3)     Withdraw a reprimand.

25 17-3A-01.

26    (a)     In this subtitle the following words have the meanings indicated.

27    (b)     "License" means a license issued by the Board to practice clinical  
28 professional counseling, clinical marriage and family therapy, or clinical alcohol and  
29 drug counseling.

30    (c)     "Practice clinical alcohol and drug counseling" means to engage  
31 professionally and for compensation in alcohol and drug counseling and appraisal  
32 activities [while representing oneself to be a licensed clinical alcohol and drug  
33 counselor] BY PROVIDING SERVICES INVOLVING THE APPLICATION OF COUNSELING  
34 PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND



1 AMELIORATION OF PSYCHOLOGICAL PROBLEMS, EMOTIONAL OR MENTAL  
2 CONDITIONS OF INDIVIDUALS OR GROUPS.

3 (d) "Practice clinical marriage and family therapy" means to engage  
4 professionally and for compensation in marriage and family therapy and appraisal  
5 activities [while representing oneself to be a licensed clinical marriage and family  
6 therapist] BY PROVIDING SERVICES INVOLVING THE APPLICATION OF THERAPY  
7 PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND  
8 AMELIORATION OF PSYCHOLOGICAL PROBLEMS, EMOTIONAL OR MENTAL  
9 CONDITIONS OF INDIVIDUALS OR GROUPS.

10 (e) "Practice clinical professional counseling" means to engage professionally  
11 and for compensation in counseling and appraisal activities [while representing  
12 oneself to be a licensed clinical professional counselor] BY PROVIDING SERVICES  
13 INVOLVING THE APPLICATION OF COUNSELING PRINCIPLES AND METHODS IN THE  
14 DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL  
15 PROBLEMS, EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

16 17-3A-11.

17 (a) (1) [An] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS  
18 SUBSECTION, AN individual may not practice, attempt to practice, or offer to practice  
19 clinical alcohol and drug counseling, clinical marriage and family therapy, or clinical  
20 professional counseling in the State unless licensed by the Board.

21 (2) SUBJECT TO THE RULES AND REGULATIONS OF THE BOARD,  
22 PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO:

23 (I) A STUDENT WORKING UNDER THE SUPERVISION OF A  
24 LICENSED MENTAL HEALTH CARE PROVIDER WHILE PURSUING A SUPERVISED  
25 COURSE OF STUDY IN COUNSELING THAT THE BOARD APPROVES AS QUALIFYING  
26 TRAINING AND EXPERIENCE UNDER THIS TITLE; OR

27 (II) AN INDIVIDUAL WITH A GRADUATE DEGREE IN COUNSELING  
28 OR A RELATED FIELD WHO IS WORKING UNDER THE SUPERVISION OF A MENTAL  
29 HEALTH CARE PROVIDER DULY LICENSED UNDER THIS ARTICLE FOR THE PURPOSE  
30 OF QUALIFYING FOR A LICENSE UNDER THIS TITLE.

31 17-3A-12.

32 (A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A LICENSE IS ENTITLED  
33 TO BE EXAMINED AS PROVIDED IN THIS SECTION.

34 (B) THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS AT LEAST TWICE  
35 A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

36 (C) THE BOARD SHALL NOTIFY EACH QUALIFIED APPLICANT OF THE TIME  
37 AND PLACE OF EXAMINATION.

1 (D) THE EXAMINATION SHALL INCLUDE A PORTION THAT TESTS AN  
2 APPLICANT'S KNOWLEDGE OF THE MARYLAND PROFESSIONAL COUNSELORS ACT.

3 17-3A-13.

4 (A) THE BOARD, ON AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS  
5 THEN SERVING, MAY ~~DENY, SUSPEND, REVOKE, OR DENY A LICENSE TO AN~~  
6 ~~APPLICANT, SUSPEND OR REVOKE A LICENSE OF A LICENSEE, REPRIMAND AN~~  
7 ~~APPLICANT OR A LICENSEE, OR PLACE A LICENSE LICENSEE ON PROBATION, IF THE~~  
8 APPLICANT OR LICENSEE HAS COMMITTED ANY OF THE ACTS PROSCRIBED IN §  
9 17-313 OF THIS TITLE, SUBJECT TO THE PROVISIONS IN §§ 17-314 AND 17-315 OF THIS  
10 TITLE.

11 (B) THE BOARD, ON AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS  
12 THEN SERVING, AND FOR REASONS THE BOARD MAY CONSIDER SUFFICIENT, MAY:

- 13 (1) REINSTATE A REVOKED LICENSE;
- 14 (2) REDUCE THE PERIOD OF A SUSPENSION OR PROBATION; OR
- 15 (3) WITHDRAW A REPRIMAND.

16 **Article - Courts and Judicial Proceedings**

17 9-109.1.

18 (a) (3) "Professional counselor" means an individual who is certified [or],  
19 licensed, OR EXEMPTED FROM LICENSURE as a counselor under Title 17 of the Health  
20 Occupations Article.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1999.