

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 1425

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Delegate Bromwell” and substitute “Delegates Bromwell, Benson, Boteler, Boutin, Costa, Donoghue, Elliott, Goldwater, Hammen, Hubbard, Hurson, Kach, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, Smigiel, V. Turner, and Weldon”; strike beginning with “Department” in line 2 down through “Services” in line 3 and substitute “Health - General - Nursing Referral Service Agencies - Licensing”; strike in their entirety lines 4 through 18, inclusive, and substitute:

“FOR the purpose of exempting certain nursing referral service agencies and certain nurse registries from certain definitions; providing for the scope of this Act; providing for the expiration of certain licenses under certain circumstances; authorizing the Department of Health and Mental Hygiene to issue, deny, suspend, or revoke certain licenses; requiring a nursing referral service agency to obtain a license from the Department prior to operating certain agencies; requiring certain applicants to meet certain requirements; requiring certain agencies to institute a certain complaint investigation process; requiring a nursing referral service agency to apply for a certain criminal history records check or request a certain background check; establishing certain requirements for the criminal history records check and the background check; requiring the Department to adopt certain regulations; prohibiting the regulations from precluding a nursing referral service agency from operating in a certain manner; requiring the Department to issue a certain license under certain circumstances; authorizing the Department to suspend or revoke a certain license under certain circumstances; prohibiting certain individuals from operating certain agencies under certain circumstances; providing for certain penalties for certain violations; providing that the granting of a certain license does not constitute a finding of a certain fact and may not give rise to a certain presumption; defining certain terms; making this Act an emergency measure; and generally relating to nursing referral service agencies.”;

(Over)

and in line 31, strike “19-4B-04,” and substitute “19-4B-06, inclusive.”.

On page 2, in line 1, strike “Services” and substitute “Service Agencies”.

#### AMENDMENT NO. 2

On page 3 in line 17, on page 4 in line 7, on page 5 in lines 9 and 29, on page 6 in lines 1, 8, 11, 13, 15, 20, and 22, and on page 7 in lines 8, 11, 18, 26, and 31, in each instance, after “SERVICE” insert “AGENCY”.

On page 5, in line 15, strike “SERVICES” and substitute “SERVICE AGENCIES”; after line 18, insert:

“(B) “BACKGROUND CHECK” HAS THE MEANING STATED IN § 19-1901 OF THIS TITLE.”;

after line 26, insert:

“(D) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.”;

and in lines 19, 27, 29, and 30, strike “(B)”, “(C)”, “(D)”, and “(E)”, respectively, and substitute “(C)”, “(E)”, “(F)”, and “(G)”, respectively.

On page 6, in line 1, strike “(F)” and substitute “(H)”; in line 2, strike “OR” and substitute “AND”; in the same line, after “REFERRING” insert “, DIRECTLY OR IN ACCORDANCE WITH CONTRACTUAL ARRANGEMENTS THAT MAY INCLUDE”; in line 3, after “CONTRACTORS” insert a comma; in the same line, strike “WHO ARE”; in line 4, strike “SKILLED OR CERTIFIED”; in lines 5 and 6, strike “IN THE RESIDENCE” and substitute “AT THE REQUEST”; after line 6, insert:

“(I) “PRIVATE AGENCY” HAS THE MEANING STATED IN § 19-1901 OF THIS TITLE.”;

after line 7, insert:

“THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF ANY PERSON WHO HOLDS A LICENSE UNDER THIS ARTICLE TO ACT AS AUTHORIZED BY THAT LICENSE.”

19-4B-03.”;

in lines 9 and 10, strike “A SERVICE AS A REFERRAL SOURCE FOR CLIENTS AND INDEPENDENT CONTRACTORS” and substitute “ITS SERVICES”; in line 11, after “(2)” insert “A CONTRACTUAL ARRANGEMENT MAY PROVIDE THAT”; in line 14, strike “FOR SERVICES”; in line 16, strike “FOR CLIENTS”; strike in their entirety lines 17 through 19, inclusive; and in line 20, strike “(C)” and substitute “(B)”.

AMENDMENT NO. 3

On page 6, in line 25, after “(I)” insert “IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:

1.”;

in the same line, strike “BACKGROUND” and substitute “HISTORY RECORDS”; and in the same line, after “CHECK” insert “; OR

2. A PRIVATE AGENCY BACKGROUND CHECK”.

On page 7, after line 11, insert:

“(C) (1) FOR EACH LICENSED HEALTH PROFESSIONAL AND CARE PROVIDER, A NURSING REFERRAL SERVICE AGENCY SHALL:

(I) APPLY TO THE CENTRAL REPOSITORY FOR A STATE CRIMINAL HISTORY RECORDS CHECK; OR

(II) REQUEST A PRIVATE AGENCY TO CONDUCT A BACKGROUND CHECK.

(2) (I) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE NURSING REFERRAL SERVICE AGENCY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(Over)

1. TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS OF THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY; AND

2. THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

(II) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER AND THE NURSING REFERRAL SERVICE AGENCY A PRINTED STATEMENT LISTING THE CRIMINAL CONVICTIONS OF THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER.

(III) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

1. IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

2. MAY BE USED ONLY FOR THE SCREENING PURPOSE AUTHORIZED BY THIS SUBSECTION.

(IV) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(3) IF A NURSING REFERRAL SERVICE AGENCY REQUESTS A PRIVATE AGENCY TO CONDUCT A BACKGROUND CHECK:

(I) THE PRIVATE AGENCY SHALL:

1. CONDUCT A BACKGROUND CHECK IN EACH STATE

IN WHICH THE NURSING REFERRAL SERVICE AGENCY KNOWS OR HAS REASON TO KNOW THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER WORKED OR RESIDED DURING THE PAST 7 YEARS; AND

2. ISSUE A STATEMENT OF ITS FINDINGS TO:

A. ON REQUEST, THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER; AND

B. THE NURSING REFERRAL SERVICE AGENCY; AND

(II) THE LICENSED HEALTH PROFESSIONAL OR CARE PROVIDER SHALL HAVE AN OPPORTUNITY TO CONTEST THE FINDINGS.”.

AMENDMENT NO. 4

On page 7, in lines 12 and 28, strike “19-4B-03.” and “19-4B-04.”, respectively, and substitute “19-4B-04.” and “19-4B-05.”, respectively; in line 13, after “(A)” insert “(1)”; and strike beginning with “THAT” in line 13 down through the period in line 16 and substitute “TO IMPLEMENT THE REQUIREMENTS OF THIS SUBTITLE.”

(2) THE REGULATIONS MAY NOT PRECLUDE A NURSING REFERRAL SERVICE AGENCY FROM OPERATING WITH INDEPENDENT CONTRACTORS.”.

On page 8, after line 4, insert:

“19-4B-06.

FOR PURPOSES OF ANY OTHER PROVISION OF LAW, THE GRANTING OF A LICENSE UNDER THIS SUBTITLE DOES NOT CONSTITUTE A FINDING OF ANY FACT ON WHICH THE GRANTING OF THE LICENSE WAS BASED AND MAY NOT GIVE RISE TO ANY PRESUMPTION REGARDING THE EXISTENCE OF ANY FACT ON WHICH THE GRANTING OF THE LICENSE WAS BASED.”.