

DOUGLAS E. GANSLER
ATTORNEY GENERAL

KATHERINE WINFREED
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General



DAN FRIEDMAN
Counsel to the General Assembly

SANDHA BENSON BRANTLEY
BONNIE A. KIRCLAND
KATHRYN M. ROWE
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 23, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

RE: House Bills 459 and 494 and Senate Bills 502 and 882

Dear Governor O'Malley:

We have reviewed and hereby approve Senate Bill 502 and House Bill 459, identical bills entitled "State Board of Professional Counselors and Therapists - Sunset Extension and Revisions," Senate Bill 882, "Certified Professional, Associate, and Supervised Counselors - Alcohol and Drug - Qualifications," and House Bill 494, "Licensed Counselors and Therapists - Appraisal Activities - Training Requirements." We write to discuss the interaction between the bills and to recommend signing order. Specifically, we recommend that Senate Bill 882 and House Bill 494 be signed after Senate Bill 502 and House Bill 459 in order to preserve their provisions.

Senate Bill 502 and House Bill 459 reorganize and rewrite large portions of the Professional Counselors Title of the Health Occupations Article. The bills reflect recommendations in the Sunset Review of the State Board of Professional Counselors and Therapists that the statute be redrafted "to make requirements clearer to the board, the public, and those professionals regulated by the board," eliminate certification of marriage and family therapists, and change the make up of the board, among other changes. In doing so, the bill repeals many of the current provisions of the Title, including sections 17-301 through 17-317 and 17-3A-01 through 17-3A-13. Most of the repealed provisions appear, somewhat amended, as new sections enacted by the bills.

Senate Bill 882 amends existing §§ 17-302.3, 17-302.4 and 17-302.5 to provide that certain experience requirements in the law are to be met with clinically supervised experience, and adds a new § 17-302.6 to permit waiver of the requirement of clinically supervised experience in certain circumstances. The Sunset bills, Senate Bill 502 and House Bill 459, repeals §§ 17-302.3, 17-302.4 and 17-302.5, and will repeal the new § 17-302.6 if it is signed prior to the Sunset bills. If the bill is signed after the Sunset bills, however, it is our view that the amendments to §§ 17-302.3, 17-302.4 and 17-302.5 can be placed on the equivalent sections in the Sunset bills, specifically §§ 17-402(e), 17-403(2) and 17-404(2) and that this placement can be confirmed in next year's corrective bill. It is also our view that new § 17-302.6 can be moved to a more appropriate place by the corrective bill.

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House Bill 494 provides that a licensed counselor or therapist may engage in appraisal activities if they meet certain training requirements set out in the bill. In doing so, the bill amends § 17-101(c)(2) and adds a new § 17-3A-03.1. Section 17-101(c)(2) is not amended or repealed by the Sunset bills and the amendments in Senate Bill 494 can be given effect. However, the new section, 17-3A-03.1, would be repealed by the Sunset bills unless it is signed after them. Thus, we recommend that this bill also be signed after the Sunset bills. This section also can be moved to a more logical place, and the cross-reference to it in § 17-101(c)(2) corrected, in next year's corrective bill.

Very truly yours,


Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable Joan Carter Conway
The Honorable Thomas M. Middleton
The Honorable Peter A. Hammen
The Honorable James W. Hubbard
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Aro