

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

House Bill 459 (Chair, Health and Government Operations Committee)
 Health and Government Operations Education, Health, and Environmental Affairs

State Board of Professional Counselors and Therapists - Sunset Extension and Revisions

This bill extends the termination date of the State Board of Professional Counselors and Therapists by 10 years to July 1, 2019, and requires the board to submit an interim report by October 1, 2010. The bill reorganizes statute to reflect the focus of licensure over certification and repeals prospective certification for professional counselors and marriage and family therapists. In addition, the bill expands board membership.

Fiscal Summary

State Effect: Special fund revenues and expenditures for the board would be maintained in FY 2010 and future years. Special fund expenditures related to the costs of four additional board members could increase by \$3,800 in FY 2009. Future years reflect annualization and inflation. The Governor’s proposed FY 2009 budget includes \$595,443 for board operations.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	3,800	5,100	5,200	5,300	5,400
Net Effect	(\$3,800)	(\$5,100)	(\$5,200)	(\$5,300)	(\$5,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Board membership is increased from 9 to 13 members. Two clinical marriage and family therapist and two clinical alcohol and drug counselors are added. All alcohol and drug counselor board members have to be licensed clinical, rather than certified professional. At the same time, the alcohol and drug advisor position is eliminated.

The bill requires the vote of just *one* member of the board members representing the same profession as the individual before the board when considering disciplinary actions.

The bill adds the following grounds for the denial or suspension of a license or certificate to an applicant or holder: • promoting the sale of drugs, devices, appliances, or goods to a patient for financial gain; • willfully making or filing a false report or record in the practice of counseling or therapy; • making a willful misrepresentation while counseling or providing therapy; and • knowingly failing to report suspected child abuse.

The bill repeals obsolete language and standardizes other practices. In particular, the bill conforms the penalty for practicing without a license to the penalty for misrepresentation as being certified.

The bill also prohibits the board from limiting the number of times an applicant can take the licensure or certification exam if the applicant pays the reexamination fee set by the board. In addition, the bill increases the number of credit hours required for alcohol and drug counseling training from 25 to 26 for licensees and those certified at the professional level.

The board's interim report has to include • the results of the board's review of the certification structure for alcohol and drug counselors to determine whether the current three-tiered structure is still beneficial to the profession and public, including any proposed alternatives to the current structure; • the results of the board's evaluation of the current revenue structure to determine levels necessary to reach a reasonable fund balance by the end of fiscal 2011; and • the implementation of any other recommendations made by the Department of Legislative Services report titled, *Sunset Review: Evaluation of the State Board of Professional Counselors and Therapists* (October 2007).

Current Law: Nine members of the board include five professional counselors; one clinical marriage and family therapist; one drug and alcohol abuse counselor; and two consumers.

Certification of alcohol and drug counselors is tiered, with the level of certification determined by an applicant's level of education and amount of supervised experience.

Chapters 131 and 132 of 1998 established licensing of clinical professional counselors, clinical marriage and family therapists, and clinical alcohol and drug counselors. Those meeting professional requirements are authorized to diagnose and treat mental and emotional disorders and to engage in psychotherapy. Unlike certification, licensure provisions prohibit the practice of clinical counseling by individuals who are not licensed by the board. However, a licensed graduate counselor or therapist may practice clinical counseling without a license for a limited time while under the supervision of a licensed professional counselor or therapist approved by the board.

Licensure authorizes professionals to provide clinical counseling and protects against unauthorized practice, whereas certification only protects against unauthorized use of the title. In addition, licensure entitles a professional counselor or therapist to reimbursement from health care providers.

Practicing without a license and misrepresenting oneself as being licensed are misdemeanors and carry a maximum penalty of \$500 and/or six months imprisonment. Misrepresenting oneself as being certified is also a misdemeanor but carries a maximum penalty of \$2,000 or imprisonment for one year or both.

Background: The Board of Professional Counselors and Therapists, established in 1985, last underwent a full sunset review in 1992. A preliminary evaluation of the board conducted in 2001 recommended that the board be waived from review at that time, with another preliminary evaluation in five years. The preliminary evaluation in 2006 recommended a full evaluation to assess the need for the board to continue issuing certificates, to evaluate board membership and use of resources, and to provide an opportunity to redraft portions of the authorized statute. In 2007, the board regulated 4,528 counselors and therapists in Maryland. The board is scheduled to terminate July 1, 2009.

Currently, alcohol and drug counselors comprise 14% of board practitioner membership, although they represent 44% of all practitioners regulated by the board. Likewise, marriage and family therapists comprise 14% of board practitioner membership; however, they represent only 4% of all practitioners regulated by the board. Conversely, professional counselors comprise 71% of board practitioner membership and represent 52% of all practitioners regulated by the board.

Certification for marriage and family therapists and professional counselors has become almost obsolete, with the vast majority preferring licensure over just 100 certificate

holders. This is not the case for alcohol and drug counselors, however, the majority of whom continue to hold certificates rather than licenses.

The bill generally implements recommendations made in *Sunset Review: Evaluation of the State Board of Professional Counselors and Therapists* (October 2007) conducted by DLS and additional changes requested by the board.

State Fiscal Effect: Board members are paid a per diem rate of up to \$100. Each of the four additional board members would be paid \$100 for each of the 10 board meetings attended annually. In addition, board members would be reimbursed the State mileage reimbursement rate of 50.5 cents per mile for each meeting attended. Thus, special fund expenditures could increase by \$3,758 in fiscal 2009 which reflects the bill's October 1, 2008 effective date. Future years reflect annualization and inflation.

Additional Information

Prior Introductions: None.

Cross File: SB 502 (Chair, Education, Health, and Environmental Affairs Committee) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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