

Chapter 647

(Senate Bill 1041)

AN ACT concerning

State Board of Examiners of Psychologists – Criminal History Records Check

FOR the purpose of requiring applicants for a license to practice psychology to submit to a certain criminal history records check; requiring applicants to submit fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the State Board of Examiners of Psychologists and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing certain subjects to contest the contents of certain statements; requiring applicants for licensure to submit certain evidence to the Board; requiring the Board to consider certain facts and circumstances in determining whether to grant a license; prohibiting the Board from issuing certain licenses if certain criminal history record information has not been received; authorizing the Board to deny certain applicants a license for failure to submit to a certain criminal history records check; and generally relating to criminal history records checks and the State Board of Examiners of Psychologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–302, 18–303, 18–306, and 18–313
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health Occupations
Section 18–302.1
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

18–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have a doctoral degree in psychology as defined in § 18–101(c) of this title.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant shall have at least 2 years of professional supervised experience in psychology that is approved by the Board in accordance with regulations adopted by the Board.

(g) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license would be in the interest of the citizens or government of this State.

(H) THE APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.

18–302.1.

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) SHALL BE CONFIDENTIAL;

(2) MAY NOT BE REDISSEMINATED; AND

(3) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.

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

18-303.

To apply for a license **TO PRACTICE PSYCHOLOGY**, an applicant shall:

(1) Submit a verified application to the Board on the form that the Board requires; [and]

(2) Pay to the Board the application fee set by the Board; **AND**

(3) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE.

18-306.

(a) The Board shall issue a license to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that the Board issues:

- (1) The full name of the licensed psychologist;
- (2) The dates of issuance and expiration;
- (3) A serial number;
- (4) The signatures of the chairman and the vice chairman of the Board; and
- (5) The seal of the Board.

(C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR CERTIFICATE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**
- (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**
- (IV) SUBSEQUENT WORK HISTORY;**
- (V) EMPLOYMENT AND CHARACTER REFERENCES; AND**
- (VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

(2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 18-302.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

18-313.

Subject to the hearing provisions of § 18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any

applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (4) Is or has been addicted to any narcotic or habitually intoxicated;
- (5) Aids or abets an unauthorized person in practicing psychology or representing oneself to be a psychologist;
- (6) Practices psychology fraudulently or deceitfully;
- (7) Violates the code of ethics adopted by the Board under § 18–311 of this subtitle;
- (8) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (9) Submits a false statement to collect a fee;
- (10) Willfully makes or files a false report or record in the practice of psychology;
- (11) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the United States Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (12) Violates any provision of this title or any regulation adopted by the Board;
- (13) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;
- (14) Is professionally, physically, or mentally incompetent;

(15) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(16) Behaves immorally in the practice of psychology;

(17) Commits an act of unprofessional conduct in the practice of psychology;

(18) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(19) Fails to cooperate with a lawful investigation conducted by the Board; [or]

(20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology; **OR**

(21) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.