

# HOUSE BILL 805

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5lr2866  
CF SB 49

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By: **Delegate Cullison**

Introduced and read first time: February 13, 2015

Assigned to: Health and Government Operations

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Committee Report: Favorable

House action: Adopted

Read second time: April 1, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Professional Counselors and Therapists – Examination of**  
3 **Applicants, Licensees, Certificate Holders, and Trainees**

4 FOR the purpose of requiring the State Board of Professional Counselors and Therapists  
5 to require certain applicants, licensees, certificate holders, and trainees to submit to  
6 a mental health or physical examination under certain circumstances; providing that  
7 certain applicants, licensees, certificate holders, or trainees are deemed to have  
8 consented to submit to an examination and to have waived a certain claim of  
9 privilege under certain circumstances; providing that a certain report or testimony  
10 of a certain health care practitioner is confidential, except under certain  
11 circumstances; providing that the failure or refusal of a certain applicant, licensee,  
12 certificate holder, or trainee to submit to a certain examination is prima facie  
13 evidence of the inability to practice competently, unless the Board makes a certain  
14 finding; requiring the Board to pay the reasonable cost of certain examinations for  
15 certain licensees, certificate holders, or trainees; requiring certain applicants to pay  
16 the reasonable cost of a certain examination; and generally relating to the State  
17 Board of Professional Counselors and Therapists and examinations of applicants,  
18 licensees, certificate holders, and trainees.

19 BY adding to  
20 Article – Health Occupations  
21 Section 17–513.1  
22 Annotated Code of Maryland  
23 (2014 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Health Occupations**

4 **17-513.1.**

5 (A) IF, WHILE REVIEWING AN APPLICATION FOR LICENSURE,  
6 CERTIFICATION, OR TRAINEE STATUS, OR INVESTIGATING AN ALLEGATION AGAINST  
7 A LICENSEE, CERTIFICATE HOLDER, OR TRAINEE UNDER THIS TITLE, THE BOARD  
8 FINDS REASONABLE EVIDENCE INDICATING THAT THE APPLICANT, LICENSEE,  
9 CERTIFICATE HOLDER, OR TRAINEE MAY CAUSE HARM TO A PERSON, THE BOARD  
10 SHALL REQUIRE THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE TO  
11 SUBMIT TO A MENTAL HEALTH OR PHYSICAL EXAMINATION BY A HEALTH CARE  
12 PRACTITIONER, AS DEFINED IN § 1-301 OF THIS ARTICLE, DESIGNATED BY THE  
13 BOARD.

14 (B) (1) IN RETURN FOR THE PRIVILEGE TO PRACTICE COUNSELING AND  
15 THERAPY IN THE STATE, AN APPLICANT, A LICENSEE, OR A CERTIFICATE HOLDER IS  
16 DEEMED TO HAVE:

17 (I) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS  
18 SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

19 (II) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY  
20 OR REPORT OF A HEALTH CARE PRACTITIONER WHO EXAMINES THE APPLICANT,  
21 LICENSEE, OR CERTIFICATE HOLDER.

22 (2) IN RETURN FOR THE PRIVILEGE TO PRACTICE CLINICAL ALCOHOL  
23 AND DRUG COUNSELING IN THE STATE WITHOUT A LICENSE OR CERTIFICATION IN  
24 ACCORDANCE WITH § 17-406 OF THIS TITLE, A TRAINEE IS DEEMED TO HAVE:

25 (I) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS  
26 SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

27 (II) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY  
28 OR REPORT OF A HEALTH CARE PRACTITIONER WHO EXAMINES THE TRAINEE.

29 (C) A REPORT OR TESTIMONY REGARDING A REPORT OF A HEALTH CARE  
30 PRACTITIONER DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO  
31 CONTESTED CASE PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE  
32 PROCEDURE ACT.

1           **(D) THE FAILURE OR REFUSAL OF AN APPLICANT, A LICENSEE, A**  
2 **CERTIFICATE HOLDER, OR A TRAINEE TO SUBMIT TO AN EXAMINATION REQUIRED**  
3 **UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE APPLICANT’S, LICENSEE’S,**  
4 **CERTIFICATE HOLDER’S, OR TRAINEE’S INABILITY TO PRACTICE COMPETENTLY,**  
5 **UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE**  
6 **CONTROL OF THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE.**

7           **(E) THE BOARD SHALL PAY THE REASONABLE COST OF ANY EXAMINATION**  
8 **REQUIRED OF A LICENSEE, CERTIFICATE HOLDER, OR TRAINEE UNDER THIS**  
9 **SECTION.**

10           **(F) AN APPLICANT SHALL PAY THE REASONABLE COST OF ANY**  
11 **EXAMINATION REQUIRED OF THE APPLICANT UNDER THIS SECTION.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2015.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.