

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 49

(Senator Conway)

Education, Health, and Environmental Affairs

Health and Government Operations

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State Board of Professional Counselors and Therapists - Examination of  
Applicants, Licensees, Certificate Holders, and Trainees

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This bill requires the State Board of Professional Counselors and Therapists, in specified situations, to require an applicant, licensee, certificate holder, or trainee to submit to a competency examination. The board must pay the reasonable cost of any required competency examination for a licensee, certificate holder, or trainee. However, an applicant must pay the reasonable cost of any examination required of the applicant.

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Fiscal Summary

**State Effect:** Minimal increase in special fund expenditures for the State Board of Professional Counselors and Therapists for the cost of specified examinations. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** Minimal effect.

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Analysis

**Bill Summary:** The board *must* require a mental health or physical examination by a health care practitioner if, while reviewing an application for licensure, certification, or trainee status or investigating an allegation against a licensee, certificate holder, or trainee, the board finds reasonable evidence that the individual may cause harm to a person.

In return for the privilege to practice counseling and therapy in the State, an applicant, licensee, or certificate holder is deemed to have consented to an examination and waived any claim to the examination report or testimony (which is confidential except for contested

case proceedings) of the health care practitioner who examines the individual. The same applies to trainees who practice clinical alcohol and drug counseling in the State without a license or certification.

The failure or refusal of an applicant, a licensee, a certificate holder, or a trainee to submit to a competency examination is sufficient evidence of the individual's inability to practice competently unless the board finds the failure or refusal was beyond the individual's control.

**Current Law:** A number of health occupations boards have the authority to require a licensee to submit to a competency examination (including Acupuncture, Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists, Optometry, Pharmacy, Physical Therapy, Podiatric, Psychologists, and Social Work). However, these boards are *authorized* to require the examinations only while investigating an allegation against a licensee and typically only if the board has reason to believe that the licensee may cause harm to a person. Three health occupation boards (Morticians and Funeral Directors, the Nursing, and Physicians) as well as the State Board of Veterinary Medical Examiners are additionally authorized to require an *applicant* for licensure to submit to an examination. (In the case of the State Board of Nursing, a competency examination for licensees and applicants *must* be undertaken, rather than *may* be required.)

In most instances, the respective board rather than the licensee (or applicant) is required to pay the cost of the examination. However, the State Board of Morticians and Funeral Directors requires an applicant to pay for the examination but must reimburse an applicant who is deemed competent after examination.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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