

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 742 (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 Program Evaluation

This emergency bill extends the termination date of the State Board of Professional Counselors and Therapists by two years to July 1, 2021. The board must submit specified progress reports every six months, beginning October 1, 2018. By December 1, 2019, the Department of Legislative Services (DLS) must report to specified committees of the General Assembly as to whether, and for how long, the board's termination date should be extended. The bill also (1) repeals specific education requirements for licensees and certificate holders and instead authorizes the board to establish education requirements in regulations; (2) authorizes the board to waive education and experience requirements for alcohol and drug counselors under specified circumstances; (3) alters the qualifications for certain board members; (4) requires the board to make two specified determinations; (5) requires the board to establish an Alcohol and Drug Counselor Subcommittee; and (6) requires the board to submit regulations by specified dates.

Fiscal Summary

State Effect: Special fund revenues and expenditures for the board are maintained through fiscal 2021. The Governor's proposed FY 2019 budget includes \$955,592 for board operations. The Governor's proposed Supplemental Budget No. 3 includes an additional \$120,341 for two new board positions related to licensure and investigation efforts.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Qualifications for Licensure or Certification

The bill repeals specific education requirements to qualify for a license or certificate to practice (1) clinical alcohol and drug counseling; (2) clinical marriage and family therapy; (3) clinical professional counseling; (4) and clinical professional art therapy. Instead, an individual must complete any specific education requirements established by the board in regulations. Minimum levels of education under current law are retained such as the requirement to hold a master's or doctoral degree.

The bill authorizes the board to waive the educational and experience requirements for alcohol and drug counselors under specified circumstances.

Alcohol and Drug Counselor Subcommittee

The bill requires the board to establish an Alcohol and Drug Counselor Subcommittee to (1) evaluate and make recommendations to the board on methods to improve and expedite the licensure and certification processes for alcohol and drug counselors and trainees; (2) evaluate and make recommendations to the board on methods to improve and expedite the disciplinary process for alcohol and drug counselors and trainees; (3) assist the board in drafting regulations related to alcohol and drug counselors and drug trainees; and (4) otherwise assist the board.

Board Member Qualifications

The bill specifies that two of the four individuals appointed as a licensed clinical professional counselor board member may not hold another credential issued by the board.

Reporting Requirements for the Board

The board must submit progress reports every six months beginning October 1, 2018, until October 1, 2021. The progress reports must be developed in consultation with the Maryland Department of Health (MDH) and the Department of Budget and Management (DBM) and report board progress in implementing specified recommendations made by DLS in its 2017 full sunset review of the board.

Under current law, the board is required to submit an annual report to the Governor and Secretary of Health. The bill specifies that this annual report must also be submitted to the General Assembly and must be submitted by December 31 each year.

Required Regulations

Within 30 days of passage of the bill, the board must submit emergency regulations to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) on (1) licensed clinical professional and licensed graduate professional art therapists and (2) clarifying internship and supervised work experience requirements for an applicant to qualify as a specified alcohol and drug counselors. Additionally, the board must conduct outreach, and submit updated regulations related to education and experience requirements for all of the other board-regulated credentials to the AELR committee by January 1, 2019.

MDH must make employees available to the board to assist in drafting these required regulations.

Required Determinations

By June 1, 2019, the board must determine (1) the most appropriate board to regulate the practice of behavior analysis and (2) whether it is in the State's best interest to regulate additional creative or expressive counselors and therapists, and which board should do so.

By October 1, 2019, the board must determine a board composition that appropriately represents the professions credentialed by the board while providing the best public protection.

Background: The State Board of Professional Counselors and Therapists licenses and certifies professional counselors, alcohol and drug counselors, marriage and family therapists, professional art therapists, and behavior analysts; receives and resolves complaints; and sets standards for the practice of counseling and therapy. The board is among approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). The Act establishes a process better known as "sunset review" because most of the agencies subject to review are also subject to termination, including the board, which is scheduled to terminate July 1, 2019.

In 2017, DLS conducted a full sunset evaluation of the board, [Sunset Review: Evaluation of the State Board of Professional Counselors and Therapists](#). This bill implements several of DLS' recommendations from that report.

During its evaluation, DLS found that although the board's then interim executive director has initiated efforts to resolve longstanding issues, additional support is needed to address significant deficiencies related to the board's disciplinary, licensure/certification, and other regulatory processes; many of which have troubling implications for the board's ability to fulfill its primary purpose of protecting the public's health and welfare. Thus, DLS'

primary recommendation was that the board's termination date be extended by no more than two years. During that two-year period, DLS recommended that the board, in consultation with MDH and DBM, submit progress reports to DLS every six months on the progress made implementing the recommendations contained in the sunset report. DLS suggested that DLS provide a report to the General Assembly, by December 1, 2019, on the board's progress and any recommendation on whether and how long to extend the termination date of the board.

Regarding licensure and certification, DLS found that the board issues a large number of credentials across multiple areas of specialization, keeps inconsistent licensing data, uses an antiquated paper licensing system, and has struggled to meet its licensing performance goals; in part due to issues with application tracking, complex licensing requirements, and poor communication of such requirements to applicants. In light of the current opioid epidemic, licensure and certification delays for alcohol and drug counselors are particularly problematic and have hamstrung providers' ability to replace or add counselors to treat patients based on caseload limitations. Related to discipline and complaint resolution, DLS found that since the last sunset evaluation in 2007, the board continues to exhibit inadequate recordkeeping and struggles with a substantial complaint backlog, which pose both serious public safety concerns and due process issues for individuals regulated by the board.

In light of these concerns, DLS made a total of 32 recommendations, as well as a prioritization list to address the most serious concerns first. DLS suggested that the board's immediate priorities should be to resolve the complaint backlog and repair the licensing process for alcohol and drug counselors.

Additional Information

Prior Introductions: None.

Cross File: SB 552 (Chair, Education, Health, and Environmental Affairs Committee) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History:
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