

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1104

(Delegate Sample-Hughes, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Professional Counselors and Therapists – Licensure, Disciplinary Action, Criminal History Records Checks, and Trainee Status – Revisions

This bill (1) requires the State Board of Professional Counselors and Therapists to consult a specified board member before taking disciplinary action against a clinical professional counselor; (2) alters coursework and examination requirements for a license to practice clinical professional art therapy; (3) repeals an obsolete provision waiving specified requirements to practice clinical professional art therapy for specified applicants; (4) defines “advanced assessment activities”; (5) extends specified application requirements to applicants for trainee status; (6) extends specified provisions governing the denial, suspension, probation, or revocation of a license or certificate to specified trainees; (7) specifies that the Criminal Justice Information System Central Repository (CJIS-CR) must provide the State “rap back” service for the board; (8) alters requirements pertaining to licenses and certificates issued by the board; (9) requires the board to maintain an electronic roster; and (10) makes conforming changes. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: None. The bill’s changes generally codify existing practice, are procedural in nature, or do not otherwise directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Disciplinary Action against Clinical Professional Counselors: The bill extends requirements applicable to disciplinary action against marriage and family therapists and alcohol and drug counselors to disciplinary action against clinical professional counselors. Accordingly, before the board may take disciplinary action against a clinical professional counselor, (1) the board must discuss the proposed action with a board member who is a licensed clinical professional counselor (LCPC) and (2) a board member who is an LCPC must vote in the affirmative or negative on the proposed action.

Clinical Professional Art Therapy Licensing: The bill repeals a requirement that an applicant for a license to practice clinical professional art therapy complete an art therapy program that is *accredited by the American Art Therapy Association*. Instead, an art therapy program must only be approved by the board.

The bill also repeals a requirement that an applicant pass the *Art Therapy Credentials Board Exam* in order to qualify for licensure and instead specifies that an applicant must pass an examination *approved by the board*.

Advanced Assessment Activities: The bill defines “advanced assessment activities” as the use of appraisal instruments that require specialized psychological training for administration and interpretation. The bill clarifies that a licensed counselor or therapist may engage in advanced assessment activities only if the licensed counselor or therapist has completed specified training.

Criminal History Records Check: The bill repeals the authorization that, if an applicant for a license or certificate issued by the board has made three or more unsuccessful attempts at securing legible fingerprints, the board may accept an alternative method of a criminal history records check (CHRC) as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation. In addition, the bill specifies that if additional criminal history record information (CHRI) is reported to CJIS-CR after the initial CHRC, CJIS-CR must provide a revised printed statement of the individual’s State criminal history record to the board.

Electronic Licenses: The board must maintain an electronic roster of all individuals licensed or certified by the board. The roster must be available for the purpose of electronically verifying licensure or certification on the board’s website. An individual without access to the board’s website may contact the board to verify a license or certificate.

The bill repeals the requirement that a license or certificate issued by the board must include the signatures of the chairman and secretary of the board and the seal of the board. A license or certificate issued by the board must include the expiration date of the license or certificate. The bill also repeals the requirement that each licensee or certificate holder display the license or certificate in the licensee's or certificate holder's office or place of employment.

Trainees: The bill extends specified requirements pertaining to an applicant for a license or certificate to an applicant for trainee status. Accordingly, an applicant for trainee status must (1) submit an application on the form that the board requires; (2) pay the application fee set by the board; and (3) submit to a CHRC, as specified.

In addition, the bill extends specified provisions governing disciplinary action by the board to trainees. Accordingly, the board may deny, suspend, rescind, or revoke trainee status; reprimand a trainee; or place a trainee on probation under specified circumstances and in accordance with specified notice and hearing requirements.

Current Law/Background:

Disciplinary Action against Specified Counselors and Therapists: Before the board may take disciplinary action against a marriage and family therapist or an alcohol and drug counselor, (1) the board must discuss the proposed action with a board member who is a licensed clinical marriage and family therapist or a licensed alcohol and drug counselor, as specified, and (2) the specified board member must vote in the affirmative or negative on the proposed action.

Licensure of Clinical Professional Art Therapists: To qualify for a license to practice clinical professional art therapy, an applicant must hold a master's or doctoral degree in art therapy from an accredited educational institution approved by the board and have completed a minimum of 60 or 90 graduate credit hours, depending on the degree held by the applicant, in an art therapy program that is accredited by the American Art Therapy Association and approved by the board. In addition, an applicant must (1) be of good moral character; (2) be at least 18 years old; (3) have completed a minimum of two or three years of supervised experience, as specified; and (4) pass the Art Therapy Credentials Board Exam. The board reports that, in fiscal 2018, there were 136 clinical professional art therapists licensed in the State.

Appraisal Activities: A licensed counselor or therapist may engage in appraisal activities that include instruments that require specialized psychological training for administration and interpretation only if the licensed counselor or therapist has completed specified training. Training requirements include completion of specified coursework; completion of supervised, advanced assessment testing; and passage of a specified examination.

Criminal History Records Check: Under State law, an applicant for a license or certificate issued by the board must submit to a CHRC. The board also requires applicants for trainee status to submit to a CHRC. Applicants must submit two complete sets of legible fingerprints to CJIS. The board may accept an alternative method of CHRC if the applicant has made three or more unsuccessful attempts at securing legible fingerprints and the method is approved by the directors of the Central Repository and the Director of the Federal Bureau of Investigation.

Generally, if CHRI is reported to CJIS-CR after the initial CHRC, CJIS-CR must provide a revised statement of the individual's criminal history record to the appropriate entity. The cost of this State "rap back" program is included in the cost of the initial CJIS-CR fee.

Licenses and Certificates: Each license or certificate issued by the board must include (1) the kind of license or certificate; (2) the full name of the license holder; (3) a serial number; (4) the signatures of the chairman and the secretary of the board; and (5) the seal of the board. Each licensee or certificate holder must display the license or certificate conspicuously in the licensee's or certificate holder's office or place of employment.

Health occupation boards are increasingly moving away from a paper licensing process. The board's website currently allows an individual to verify a license, supervisor status, or alcohol and drug trainee status by searching an individual's last name, license number, or trainee number.

Alcohol and Drug Trainees: An individual may practice clinical alcohol and drug counseling without a license or certification for a limited period of time specified by the board if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling specified experiential or course of study requirements. Under regulations adopted by the board, a trainee must hold approved trainee status with the board, subject to specified renewal requirements, and an applicant for trainee status must complete and submit a specified application to the board and pay an application fee. In addition, the board requires an applicant for trainee status to submit to a CHRC, as discussed above. The board reports that, in fiscal 2018, there were 719 alcohol and drug trainees in the State.

Denial, Suspension, Probation, or Revocation of a License: The board may, in accordance with specified notice and hearing requirements, deny, suspend, or revoke a license or certificate; reprimand a licensee or certificate holder; or place a licensee or certificate holder on probation under specified circumstances and upon an affirmative vote of a majority of the members of the board. Grounds for disciplinary action or denial of a license or certificate include specified unlawful, unethical, and unprofessional conduct by a licensee, certificate holder, or applicant for a license or certificate.

Additional Information

Prior Introductions: None.

Cross File: SB 958 (Senator Jennings) - Education, Health, and Environmental Affairs.

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

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510