

SENATE BILL 49

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By: **Senator Conway**

Introduced and read first time: January 21, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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)

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

26 **Article – Health Occupations**

27 **17–513.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

25 (C) A REPORT OR TESTIMONY REGARDING A REPORT OF A HEALTH CARE
26 PRACTITIONER DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO
27 CONTESTED CASE PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE
28 PROCEDURE ACT.

29 (D) THE FAILURE OR REFUSAL OF AN APPLICANT, A LICENSEE, A
30 CERTIFICATE HOLDER, OR A TRAINEE TO SUBMIT TO AN EXAMINATION REQUIRED
31 UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE APPLICANT'S, LICENSEE'S,
32 CERTIFICATE HOLDER'S, OR TRAINEE'S INABILITY TO PRACTICE COMPETENTLY,
33 UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE
34 CONTROL OF THE APPLICANT, LICENSEE, CERTIFICATE HOLDER, OR TRAINEE.

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

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

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