

Health Occupations

Title 17. Professional Counselors and Therapists

Subtitle 5. General Provisions; Disciplinary Actions.

§17–501. Application for license or certificate.

To apply for a license or certificate, an applicant shall:

- (1) Submit an application on the form that the Board requires;
- (2) Pay to the Board the application fee set by the Board; and
- (3) Submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

§17–501.1. Criminal history records check.

(a) In this section, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

- (1) A complete set of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
- (2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
- (3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and the applicant the criminal history record information of the applicant.

(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section:

- (1) Shall be confidential;
- (2) May not be disseminated; and
- (3) Shall be used only for the licensing or certification purpose authorized by this title.

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§17–501.1. Criminal history records check.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§17–502. Examinations.

(a) An applicant who otherwise qualifies for a license or certificate is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The Board may not limit the number of times an applicant may take an examination required under this title.

(2) The applicant shall pay to the Board a reexamination fee set by the Board for each reexamination.

(e) The examination shall include a portion that tests an applicant's knowledge of the Maryland Professional Counselors and Therapists Act.

§17–503. License or certificate.

(a) The Board shall issue a license or certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each license and certificate that the Board issues:

- (1) The kind of license or certificate;
- (2) The full name of the licensee or certificate holder;
- (3) A serial number;
- (4) The signatures of the chairman and the secretary of the Board; and
- (5) The seal of the Board.

(c) The Board may issue a license or certificate to replace a lost, destroyed, or mutilated license or certificate if the licensee or certificate holder pays the replacement fee set by the Board.

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§17–503. License or certificate.

(d) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to grant a license or certificate, the Board shall consider:

(i) The age at which the crime was committed;
(ii) The circumstances surrounding the crime;
(iii) The length of time that has passed since the crime;
(iv) Subsequent work history;
(v) Employment and character references; and
(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

§17–504. Expiration and Renewal.

(a) (1) A license or certificate expires on the date set by the Board, unless the license or certificate is renewed for an additional term as provided in this section.

(2) A license or certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license or certificate expires, the Board shall send to the licensee or certificate holder, by electronic means or first-class mail to the last known electronic or physical address of the licensee or certificate holder, a renewal notice that states:

(1) The date on which the current license or certificate expires;
(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or certificate expires;
and

(3) The amount of the renewal fee.

(c) Each licensee or certificate holder shall notify the Board of any change in the address of the licensee or certificate holder.

(d) Before the license or certificate expires, the licensee or certificate holder periodically may renew it for an additional 2-year term, if the licensee or certificate holder:

(1) Otherwise is entitled to be licensed or certified;
(2) Pays to the Board the renewal fee set by the Board;
(3) Submits to the Board a renewal application on the form that the Board requires; and

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§17–504. Expiration and Renewal.

(4) Submits satisfactory evidence of compliance with any continuing education requirements as required by the Board for license or certificate renewal.

(e) (1) The Board shall renew the license or certificate of and issue a renewal license or certificate to each licensee or certificate holder who meets the requirements of this section.

(2) The Board shall include the term of the renewal on each renewal license or certificate that the Board issues.

(f) (1) (i) Beginning with the renewal cycle in 2015, the Board shall begin a process of requiring criminal history records checks in accordance with § 17–501.1 of this subtitle on:

1. Selected renewal applicants as determined by regulations adopted by the Board; and

2. Each former licensee who files for reinstatement under § 17–505 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 6 years after the initial records check required under subparagraph (i) of this paragraph.

(2) (i) On receipt of the criminal history record information of an applicant for license or certificate renewal forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to renew a license or certificate, the Board shall consider:

1. The age at which the crime was committed;

2. The circumstances surrounding the crime;

3. The length of time that has passed since the crime;

4. Subsequent work history;

5. Employment and character references; and

6. Other evidence that demonstrates whether the applicant

poses a threat to the public health or safety.

(ii) The Board may not renew a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

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§17–505. Inactive status; reinstatement.

(a) (1) Except as provided in paragraph (3) of this subsection, the Board shall place a licensee or certificate holder on inactive status, if the licensee or certificate holder:

- (i) Submits to the Board an application for inactive status on the form required by the Board; and
- (ii) Pays the inactive status fee set by the Board.

(2) The Board shall issue a license or certificate to an individual who is on inactive status if the individual complies with the renewal requirements that are in effect when the individual requests the renewal of the license or certificate.

(3) The Board may not place a certified professional counselor–alcohol and drug, a certified professional counselor–marriage and family therapist, or a certified professional counselor on inactive status.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board, in accordance with its regulations, may reinstate the license of a licensee or the certificate of a certificate holder who has failed to renew the license or certificate for any reason.

(2) The Board may not reinstate the certificate of a certified professional counselor–alcohol and drug, a certified professional counselor–marriage and family therapist, or a certified professional counselor who has failed to renew the certificate for any reason.

§17–506. Display of license or certificate.

Each licensee or certificate holder shall display the license or certificate conspicuously in the licensee’s or certificate holder’s office or place of employment.

§17–507. Professional disclosure statement.

(a) Any individual who is licensed under Subtitle 3 of this title or certified under Subtitle 4 of this title may not charge a client or receive remuneration for counseling or therapy services unless:

(1) Before the performance of those services, the client is furnished a copy of a professional disclosure statement; or

- (2) (i) This professional disclosure statement is displayed in a conspicuous location at the place where the services are performed; and
- (ii) A copy of the statement is provided to the client on request.

(b) The professional disclosure statement shall contain:

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§17–507. Professional disclosure statement.

(1) The name, title, business address, and business telephone number of the licensee or certificate holder performing the services;

(2) The formal professional education of the licensee or certificate holder, including the institutions attended and the degrees received from them;

(3) The areas of specialization of the licensee or certificate holder and the services provided;

(4) In the case of an individual licensed under Subtitle 3 of this title or certified under Subtitle 4 of this title who is engaged in a private individual practice, partnership, or group practice, the individual's fee schedule listed by type of service or hourly rate;

(5) At the bottom of the first page of the disclosure statement, the words, "This information is required by the Board of Professional Counselors and Therapists, which regulates all licensed and certified counselors and therapists."; and

(6) Immediately beneath the statement required by item (5) of this subsection, the name, address, and telephone number of the Board.

§17–508. Surrender of license or certificate.

(a) In this section, "regulated counselor or therapist" means:

- (1) A licensed clinical alcohol and drug counselor;
- (2) A licensed clinical marriage and family therapist;
- (3) A licensed clinical professional art therapist;
- (4) A licensed clinical professional counselor;
- (5) A licensed graduate alcohol and drug counselor;
- (6) A licensed graduate marriage and family therapist;
- (7) A licensed graduate professional art therapist;
- (8) A licensed graduate professional counselor;
- (9) A certified professional counselor–alcohol and drug counselor;
- (10) A certified associate counselor–alcohol and drug counselor;
- (11) A certified supervised counselor–alcohol and drug counselor;
- (12) A certified professional counselor–marriage and family therapist; and
- (13) A certified professional counselor.

(b) Unless the Board agrees to accept the surrender of a license or certificate, while the licensee or certificate holder is under investigation or while charges are pending against the licensee or certificate holder, a regulated counselor or therapist may not:

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- (1) Surrender the license or certificate; or
- (2) Allow the license or certificate to lapse by operation of law.

(c) The Board may set conditions on its agreement with the regulated counselor or therapist under investigation or against whom charges are pending to accept surrender of the license or certificate.

§17–509. Grounds for denial, probation, suspension, or revocation certificate or license.

Subject to the hearing provisions of § 17–511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;

(2) Habitually is intoxicated;

(3) Provides professional services:

- (i) While under the influence of alcohol; or
- (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, professional counselor, or professional art therapist;

(5) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(6) Willfully makes or files a false report or record in the practice of counseling or therapy;

(7) Makes a willful misrepresentation while counseling or providing therapy;

(8) Violates the code of ethics adopted by the Board;

(9) Knowingly violates any provision of this title;

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§17–509. Grounds for denial, probation, suspension, or revocation certificate or license.

(10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(11) Is professionally, physically, or mentally incompetent;

(12) Submits a false statement to collect a fee;

(13) Violates any rule or regulation adopted by the Board;

(14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified or the certificate holder is certified and qualified to render because the individual is HIV positive;

(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;

(17) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(18) Fails to cooperate with a lawful investigation conducted by the Board;

or

(19) Fails to submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

§17–510. Penalty.

(a) If after a hearing under § 17–511 of this subtitle the Board finds that there are grounds under § 17–509 of this subtitle to place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license or certificate, the Board may impose a penalty not exceeding \$5,000:

(1) Instead of placing the licensee or certificate holder on probation, reprimanding the licensee or certificate holder, or suspending or revoking the license or certificate; or

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(2) In addition to placing the licensee or certificate holder on probation, reprimanding the licensee or certificate holder, or suspending or revoking the license or certificate.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

(c) The Board shall pay any money collected under this section into the General Fund of the State.

§17–511. Administrative Hearing.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board takes any action under § 17–509 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The hearing notice to be given to the individual shall be served personally or by registered mail to the last known address of the individual at least 30 days before the hearing.

(d) The individual may be represented at the hearing by counsel.

(e) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(2) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

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§17–512. Review.

(a) Except as provided in this section for an action under § 17–409 of this title, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10–201 of the State Government Article, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 17–509 of this subtitle may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending judicial review.

(d) The Board may petition for judicial review of any decision that reverses or modifies its order.

§17–513. Remedies.

(a) The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 17–301 or §§ 17–601 through 17–603 of this title.

(b) An action may be maintained in the name of the State or the Board to enjoin:

- (1) The unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical professional art therapy; or
- (2) Conduct that is a ground for disciplinary action under § 17–509 of this subtitle.

(c) An action under this section may be brought by:

- (1) The Board, in its own name;
- (2) The Attorney General, in the name of the State; or
- (3) A State's Attorney, in the name of the State.

(d) An action under this section shall be brought in the county where the defendant:

- (1) Resides; or
- (2) Engages in the acts sought to be enjoined.

(e) Proof of actual damages or that any person will sustain any damages if an injunction is not granted is not required for an action under this section.

(f) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical

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professional art therapy, under § 17–301, § 17–601, § 17–602, or § 17–603 of this title or disciplinary action under § 17–509 of this subtitle.

§17–513.1. Examination of applicants, licensees, certificate holders, and trainees.

(a) If, while reviewing an application for licensure, certification, or trainee status, or investigating an allegation against a licensee, certificate holder, or trainee under this title, the Board finds reasonable evidence indicating that the applicant, licensee, certificate holder, or trainee may cause harm to a person, the Board shall require the applicant, licensee, certificate holder, or trainee to submit to a mental health or physical examination by a health care practitioner, as defined in § 1–301 of this article, designated by the Board.

(b) (1) In return for the privilege to practice counseling and therapy in the State, an applicant, a licensee, or a certificate holder is deemed to have:

(i) Consented to submit to an examination under this section, if requested by the Board in writing; and

(ii) Waived any claim of privilege as to the testimony or report of a health care practitioner who examines the applicant, licensee, or certificate holder.

(2) In return for the privilege to practice clinical alcohol and drug counseling in the State without a license or certification in accordance with § 17–406 of this title, a trainee is deemed to have:

(i) Consented to submit to an examination under this section, if requested by the Board in writing; and

(ii) Waived any claim of privilege as to the testimony or report of a health care practitioner who examines the trainee.

(c) A report or testimony regarding a report of a health care practitioner designated by the Board is confidential except as to contested case proceedings as defined by the Administrative Procedure Act.

(d) The failure or refusal of an applicant, a licensee, a certificate holder, or a trainee to submit to an examination required under this section is prima facie evidence of the applicant's, licensee's, certificate holder's, or trainee's inability to practice competently, unless the Board finds that the failure or refusal was beyond the control of the applicant, licensee, certificate holder, or trainee.

(e) The Board shall pay the reasonable cost of any examination required of a licensee, certificate holder, or trainee under this section.

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§17–513.1. Examination of applicants, licensees, certificate holders, and trainees.

(f) An applicant shall pay the reasonable cost of any examination required of the applicant under this section.

§17–514. Reinstatement of revoked license or certificate, reduction of suspension or probation period or withdrawal of reprimand.

For reasons the Board considers sufficient, and on the affirmative vote of a majority of its members then serving, the Board may:

- (1) Reinstate a license or certificate that has been revoked;
- (2) Reduce the period of a suspension or probation; or
- (3) Withdraw a reprimand.

§17–515. Counselor and therapist rehabilitation committee.

(a) In this section, “counselor and therapist rehabilitation committee” means a committee that:

- (1) Is described in subsection (b) of this section; and
- (2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a counselor and therapist rehabilitation committee is a committee of the Board or a committee of any association or associations representing alcohol and drug counselors, marriage and family therapists, professional counselors, or professional art therapists that:

- (1) Is recognized by the Board; and
- (2) Includes but is not limited to alcohol and drug counselors, marriage and family therapists, professional counselors, and professional art therapists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

- (1) Solely for the Board; or
- (2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a counselor and therapist rehabilitation committee evaluates and provides assistance to any alcohol and drug counselor, marriage and family therapist, professional counselor, professional art therapist, and any other individual regulated by the Board, in need of treatment and rehabilitation for

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alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the counselor and therapist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of the matters that are being or have been reviewed and evaluated by the counselor and therapist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the counselor and therapist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a counselor and therapist rehabilitation committee is not civilly liable for any action as a member of the counselor and therapist rehabilitation committee or for giving information to, participating in, or contributing to the function of the counselor and therapist rehabilitation committee.