

Chapter 598

(House Bill 401)

AN ACT concerning

Health Occupations – Chiropractors, Massage Therapists, Physical Therapists, and Physical Therapist Assistants – Criminal History Records Checks Required

FOR the purpose of requiring certain applicants to the State Board of Chiropractic and Massage Therapy Examiners and the State Board of Physical Therapy Examiners to submit to a certain criminal history records check; requiring certain applicants to submit certain fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward to certain boards and certain applicants certain criminal history record information; authorizing certain boards to accept certain alternate methods of criminal history records checks under certain circumstances; providing that certain information is confidential, may not be redisseminated, and may be used only for certain purposes; authorizing certain individuals to contest the contents of certain statements issued by the Central Repository under certain circumstances; requiring the submission of certain evidence to a certain board as part of a certain application for licensure; requiring certain boards to consider certain factors in determining whether to grant certain licenses or registrations on receipt of certain criminal history record information; prohibiting certain boards from issuing certain licenses or registrations under certain circumstances; authorizing certain boards to deny certain licenses or registrations, reprimand or place on probation certain licensees, or suspend or revoke certain licenses or registrations under certain circumstances; defining a certain term; and generally relating to requiring criminal history records checks for chiropractors, massage therapists, physical therapists, and physical therapist assistants.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 3–302(a), 3–303(a)(4) and (5), 3–306(a), 3–313(27) and (28), 3–5A–06(a)(4) and (5) and (b)(3) and (4), 3–5A–09, 3–5A–11(a)(20) and (21), 13–302(a), 13–305, 13–308(a), and 13–316(24) and (25)

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

BY adding to

Article – Health Occupations

Section 3-302.1, 3-303(a)(6), 3-306(c), 3-313(29), 3-5A-06(a)(6) and (b)(5),
3-5A-11(a)(22), 13-302.1, 13-308(d), and 13-316(26)

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

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

Article – Health Occupations

3-302.

(a) To qualify for a license, an applicant shall be an individual who [meets]:

(1) **SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS SUBTITLE;**

(2) **MEETS** the requirements of this section; and

(3) **MEETS** the examination requirements of this title.

3-302.1.

(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) **TWO COMPLETE SETS 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 TO 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 PERMITTED 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) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

(2) MAY BE USED ONLY FOR THE LICENSING OR REGISTRATION PURPOSE AUTHORIZED BY THIS TITLE.

(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.

3-303.

(a) To apply for a license, an applicant shall submit to the Board at least 45 days before an examination:

(4) Satisfactory evidence of good moral character; [and]

(5) An application fee set by the Board; AND

(6) SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS SUBTITLE.

3-306.

(a) [The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE Board shall issue a license to any applicant who:

(1) Pays a license fee set by the Board; and

(2) Otherwise meets the requirements of this title.

(c) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE OR REGISTRATION FORWARDED TO THE BOARD IN ACCORDANCE WITH § 3-302.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR REGISTRATION, 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) ANY 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 REGISTRATION IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 3-302.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

3-313.

Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (27) Is physically or mentally impaired to the extent that it impairs the applicant's or licensee's ability to practice chiropractic safely; [or]**
- (28) Violates any provision of this title; OR**
- (29) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS SUBTITLE.**

3-5A-06.

- (a) To qualify for a license, an applicant shall be an individual who:**

(4) Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

- (i) Anatomy and physiology;
- (ii) Massage theory, techniques, and practice;
- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; [and]

(5) Has passed an examination approved by the Board; **AND**

(6) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS TITLE.

(b) To qualify for registration, an applicant shall be an individual who:

(3) Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

- (i) Anatomy and physiology;
- (ii) Massage theory, techniques, and practice;
- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; [and]

(4) Has passed an examination approved by the Board; **AND**

(5) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS TITLE.

3-5A-09.

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

(1) Submit to the Board an application on the form that the Board requires;

(2) Submit to the Board evidence of compliance with the requirements of § 3-5A-05 of this subtitle; [and]

(3) SUBMIT TO THE BOARD SATISFACTORY EVIDENCE OF HAVING COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS TITLE; AND

[(3)] (4) Pay the application fee set by the Board.

3-5A-11.

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:

(20) Engages in conduct that violates the professional code of ethics;
[or]

(21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations; **OR**

(22) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 3-302.1 OF THIS TITLE.

13-302.

(a) (1) To qualify for a physical therapy license, an applicant shall be an individual who [meets]:

(I) MEETS the requirements of:

[(i)] 1. This section; and

[(ii)] 2. § 13-303 of this subtitle; **AND**

(II) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE.

(2) To qualify for a physical therapist assistant license, an applicant shall be an individual who [meets]:

(I) MEETS the requirements of:

[(i)] 1. This section; and

[(ii)] 2. § 13-304 of this subtitle; AND

(II) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE.

13-302.1.

(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) TWO COMPLETE SETS 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 TO 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 PERMITTED 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) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

(2) MAY BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.

(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.

13-305.

(a) To apply for a physical therapy license, an applicant shall:

(1) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Evidence of completion of:

1. A physical therapy curriculum; and

2. Any clinical training required under the physical therapy curriculum; and

(iii) Any other document that the Board requires; [and]

(2) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE; AND

[(2)] (3) Pay to the Board the application fee set by the Board.

(b) To apply for a physical therapist assistant license, an applicant shall:

(1) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Evidence of completion of:

1. A physical therapist assistant curriculum; and

2. Any clinical training required under the physical therapist assistant curriculum; and

(iii) Any other document that the Board requires; [and]

(2) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE; AND

[(2)] (3) Pay to the Board the application fee set by the Board.

13-308.

(a) **[The] SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE Board shall issue the appropriate license to an applicant who meets the requirements of this title for that license.**

(D) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE, 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) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

(2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 13-302.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

13-316.

Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license or restricted license to any applicant, reprimand any licensee or holder of a restricted license, place any licensee or holder of a restricted license on probation, or suspend or revoke a license or restricted license if the applicant, licensee, or holder:

(24) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board; **[or]**

(25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care; **OR**

(26) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, May 15, 2014.