

SENATE BILL 381

J2

4lr2368
CF HB 401

By: **Senator Conway**

Introduced and read first time: January 23, 2014

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2014

CHAPTER _____

1 AN ACT concerning

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

5 FOR the purpose of requiring certain applicants to the State Board of Chiropractic and
6 Massage Therapy Examiners and the State Board of Physical Therapy
7 Examiners to submit to a certain criminal history records check; requiring
8 certain applicants to submit certain fingerprints and certain fees to the
9 Criminal Justice Information System Central Repository of the Department of
10 Public Safety and Correctional Services under certain circumstances; requiring
11 the Central Repository to forward to certain boards and certain applicants
12 certain criminal history record information; authorizing certain boards to accept
13 certain alternate methods of criminal history records checks under certain
14 circumstances; providing that certain information is confidential, may not be
15 redisseminated, and may be used only for certain purposes; authorizing certain
16 individuals to contest the contents of certain statements issued by the Central
17 Repository under certain circumstances; requiring the submission of certain
18 evidence to a certain board as part of a certain application for licensure;
19 requiring certain boards to consider certain factors in determining whether to
20 grant certain licenses or registrations on receipt of certain criminal history
21 record information; prohibiting certain boards from issuing certain licenses or
22 registrations under certain circumstances; authorizing certain boards to deny
23 certain licenses or registrations, reprimand or place on probation certain
24 licensees, or suspend or revoke certain licenses or registrations under certain
25 circumstances; defining a certain term; and generally relating to requiring

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 criminal history records checks for chiropractors, massage therapists, physical
2 therapists, and physical therapist assistants.

3 BY repealing and reenacting, with amendments,

4 Article – Health Occupations

5 Section 3–302(a), 3–303(a)(4) and (5), 3–306(a), 3–313(27) and (28),
6 3–5A–06(a)(4) and (5) and (b)(3) and (4), 3–5A–09, 3–5A–11(a)(20) and
7 (21), 13–302(a), 13–305, 13–308(a), and 13–316(24) and (25)

8 Annotated Code of Maryland

9 (2009 Replacement Volume and 2013 Supplement)

10 BY adding to

11 Article – Health Occupations

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

14 Annotated Code of Maryland

15 (2009 Replacement Volume and 2013 Supplement)

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

18 **Article – Health Occupations**

19 3–302.

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

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

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

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

25 **3–302.1.**

26 (A) **IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL**
27 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**
28 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

29 (B) **AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A**
30 **STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT**
31 **SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

1 **(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON**
2 **FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE**
3 **DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

4 **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
5 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**
6 **RECORDS; AND**

7 **(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU**
8 **OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

9 **(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**
10 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**
11 **TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD**
12 **INFORMATION OF THE APPLICANT.**

13 **(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL**
14 **ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN**
15 **ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS PERMITTED**
16 **BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE**
17 **FEDERAL BUREAU OF INVESTIGATION.**

18 **(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER**
19 **THIS SECTION:**

20 **(1) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND**

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

23 **(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**
24 **THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT**
25 **ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE**
26 **CRIMINAL PROCEDURE ARTICLE.**

27 3-303.

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

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

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

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

4 3-306.

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

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

8 (2) Otherwise meets the requirements of this title.

9 **(c) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD**
10 **INFORMATION OF AN APPLICANT FOR LICENSURE OR REGISTRATION**
11 **FORWARDED TO THE BOARD IN ACCORDANCE WITH § 3-302.1 OF THIS**
12 **SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR REGISTRATION,**
13 **THE BOARD SHALL CONSIDER:**

14 **(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**

15 **(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**

16 **(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE**
17 **CRIME;**

18 **(IV) SUBSEQUENT WORK HISTORY;**

19 **(V) EMPLOYMENT AND CHARACTER REFERENCES; AND**

20 **(VI) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER**
21 **THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

22 **(2) THE BOARD MAY NOT ISSUE A LICENSE OR REGISTRATION IF**
23 **THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 3-302.1 OF**
24 **THIS SUBTITLE HAS NOT BEEN RECEIVED.**

25 3-313.

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

1 (27) Is physically or mentally impaired to the extent that it impairs the
2 applicant's or licensee's ability to practice chiropractic safely; [or]

3 (28) Violates any provision of this title; OR

4 **(29) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK**
5 **IN ACCORDANCE WITH § 3-302.1 OF THIS SUBTITLE.**

6 3-5A-06.

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

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

10 (i) Anatomy and physiology;

11 (ii) Massage theory, techniques, and practice;

12 (iii) Contraindications to massage therapy; and

13 (iv) Professional ethics; [and]

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

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

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

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

20 (i) Anatomy and physiology;

21 (ii) Massage theory, techniques, and practice;

22 (iii) Contraindications to massage therapy; and

23 (iv) Professional ethics; [and]

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

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

1 3-5A-09.

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

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

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

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

10 ~~[(3)]~~ **(4)** Pay the application fee set by the Board.

11 3-5A-11.

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

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

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

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

23 13-302.

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

26 **(I) MEETS** the requirements of:

27 ~~[(i)]~~ **1.** This section; and

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

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

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

5 **(I) MEETS** the requirements of:

6 [(i)] 1. This section; and

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

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

10 **13-302.1.**

11 **(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL**
12 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**
13 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

14 **(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A**
15 **STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT**
16 **SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

17 **(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON**
18 **FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE**
19 **DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

20 **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
21 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**
22 **RECORDS; AND**

23 **(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU**
24 **OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

25 **(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**
26 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**
27 **TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD**
28 **INFORMATION OF THE APPLICANT.**

29 **(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL**
30 **ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN**
31 **ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS PERMITTED**

1 BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE
2 FEDERAL BUREAU OF INVESTIGATION.

3 (E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER
4 THIS SECTION:

5 (1) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

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

8 (F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER
9 THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT
10 ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE
11 CRIMINAL PROCEDURE ARTICLE.

12 13-305.

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

14 (1) Submit to the Board:

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

16 (ii) Evidence of completion of:

17 1. A physical therapy curriculum; and

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

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

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

23 [(2)] (3) Pay to the Board the application fee set by the Board.

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

25 (1) Submit to the Board:

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

27 (ii) Evidence of completion of:

- 1 1. A physical therapist assistant curriculum; and
- 2 2. Any clinical training required under the physical
- 3 therapist assistant curriculum; and
- 4 (iii) Any other document that the Board requires; [and]

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

7 **[(2)] (3)** Pay to the Board the application fee set by the Board.

8 13-308.

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

12 **(D) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD**
 13 **INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD**
 14 **IN ACCORDANCE WITH § 13-302.1 OF THIS SUBTITLE, IN DETERMINING**
 15 **WHETHER TO GRANT A LICENSE, THE BOARD SHALL CONSIDER:**

- 16 **(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**
- 17 **(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- 18 **(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE**
 19 **CRIME;**
- 20 **(IV) SUBSEQUENT WORK HISTORY;**
- 21 **(V) EMPLOYMENT AND CHARACTER REFERENCES; AND**
- 22 **(VI) ANY OTHER EVIDENCE THAT DEMONSTRATES WHETHER**
 23 **THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

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

27 13-316.

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.