



Board of Physicians

Wes Moore, Governor · Aruna Miller, Lt. Governor · Damean W.E. Freas, D.O., Chair

2023 SESSION POSITION PAPER

BILL NO.: HB 906 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process
COMMITTEE: Economic Matters
POSITION: Letter of Opposition

TITLE: Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process

POSITION & RATIONALE:

The Maryland Board of Physicians (the Board) is respectfully submitting this letter of opposition for House Bill (HB) 906 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process. While the intent of HB 906 is positive, the Board is concerned that in practice, HB 906 would limit the Board’s ability to thoroughly verify that applicants meet all licensure standards, and could potentially place even more burdens on applicants with criminal convictions.

Under current law, in order to obtain a health occupations license issued by the Board, applicants must submit a criminal history record check (CHRC) and disclose information regarding criminal history. However, it is exceedingly rare that the Board denies an application based solely on the grounds of a criminal conviction. The Board thoroughly reviews each applicant’s criminal history and uses the balancing factors outlined in Criminal Procedures Article § 1-209, Maryland Annotated Code, when making determinations about licensure. In fiscal year 2022, the Board received almost 8,000 CHRC reports, but did not deny a single application due to criminal history.

While denial of licensure is rare, the ability to properly investigate prior criminal history is essential to the Board’s mission of safeguarding the public through licensure of its health professionals. HB 906 would remove the requirement that applicants disclose certain criminal history, particularly for non-violent offenses and crimes that did not result in imprisonment. However, many offenses that would fall under this umbrella must by necessity still be treated extremely seriously by the Board when licensing physicians and other health care practitioners. For example, crimes of fraudulent conduct or non-violent crimes involving inappropriate sexual contact typically require a thorough investigation even when they do not result in terms of imprisonment. As physicians and other health care providers have a particular place of trust within their communities and are frequently dealing with the most vulnerable members of the public, these investigations are necessary parts of the licensure process, and removing the disclosure requirements would hamper the Board’s ability to fully investigate before issuing a license.

Furthermore, the creation of a pre-determination review process for criminal convictions, while well intended, could have a deleterious effect on applicants. As referenced earlier, denials of licensure for reasons of criminal conviction are exceedingly rare, and only take place after a thorough investigation and review of the context and circumstances surrounding the conviction. However, absent the full context and

circumstances surrounding the conviction, in the interest of public safety, the Board may be forced to err on the side of rejecting applications due to convictions that could potentially result in a denial of licensure but that might otherwise have been approved. The Board would then need to establish an appeals process, which could be costly both for the Board and the applicant, and could potentially discourage applicants from ever submitting a full application following an initial rejection.

The Board strongly believes that the application process should never place undue burdens on the applicant, and has developed procedures to allow applicants with prior criminal convictions to be treated fairly, respectfully and without unnecessary delays. Given the rarity of cases where a license was denied due to prior criminal conviction, the Board believes that these procedures have been demonstrably effective in ensuring that a criminal conviction is not a barrier to licensure. However, HB 906 would restrict the Board's ability to properly protect the public, and the Board would urge the Committee to submit an unfavorable report.

Thank you for your consideration. For more information, please contact Matthew Dudzic, Manager of Policy and Legislation, Maryland Board of Physicians, 410-764-5042.

Sincerely,

A handwritten signature in blue ink, appearing to read "Damean W. E. Freas".

Damean W. E. Freas, D.O.
Chair, Maryland Board of Physicians

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.