



Maryland State Board of Dental Examiners
Spring Grove Hospital Center - Benjamin Rush Bldg.
55 Wade Ave/Tulip Drive
Catonsville, MD 21228

Maryland Health Occupations Boards
4201 Patterson Avenue
Baltimore, MD 21215

February 21, 2023

The Honorable C.T. Wilson
Chair, Economic Matters Committee
Room 231, House Office Building
Annapolis, Maryland 21401-1991

Re: HB 906 - Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process – Letter of Concern

Dear Chair Wilson and Committee Members:

The Maryland State Board of Dental Examiners (the Board), as well as the following health occupations boards: the State Acupuncture Board; the State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists and Music Therapists; the State Board for Certification of Residential Child Care Program Professionals; the State Board of Environmental Health Specialists; the State Board of Chiropractic Examiners; the State Board of Massage Therapy Examiners; the State Board of Pharmacy; the State Board of Physical Therapy Examiners; and the State Board of Podiatric Medical Examiners; the State Board of Professional Counselors and Therapists; the State Board of Psychologists; and the State Board of Social Work Examiners respectfully submits this Letter of Concern for House Bill (HB) 906 - Occupational Licensing and Certification - Criminal History - Prohibited Disclosures and Predetermination Review Process. The bill provides the various circumstances under which certain departments of State government, including the Maryland Department of Health, and its various units, including the Dental Board, may deny a license or certificate based upon the criminal history of the applicant.

The bill provides that an applicant for an occupational license may not be required to disclose the following on an application: A deferred adjudication; participation in a diversion program; an arrest not followed by a conviction; a conviction for which no term of imprisonment may be imposed; a conviction that has been sealed, vacated, dismissed, expunged, or pardoned; an adjudication of a delinquent act as a juvenile; a conviction for a misdemeanor that did not involve physical harm to another individual; a conviction for which a period of 3 years has passed since the applicant completed serving their sentence if the sentence did not include a term of imprisonment; or unless the conviction was for a crime of violence as defined in § 14-101 of the Criminal Law Article, a conviction for which a period of 3 years has passed since the end of the individual's term of imprisonment. Further, a department may not deny an occupational

license to an applicant based solely on the basis that the applicant has previously been convicted of a crime unless the department determines that there is a direct relationship between the applicant's previous conviction and the specific occupational license, or there is a direct and substantial threat to public safety or specific individuals or property.

In addition, the bill provides that an individual may file a predetermination request with a board for review of the individual's criminal history to determine whether the individual's criminal history would disqualify the individual from obtaining the occupational license or certificate. The predetermination is binding on the board unless there is a subsequent direct and material adverse change to the individual's criminal history.

The Board is concerned that the current proposed language under HB 906 is silent as to whether, and to what extent, the Board may require that the potential applicant submit documentation regarding their criminal history, such as submitting to fingerprinting with CJIS (which costs additional money to the applicant), providing true test copies of the conviction(s) from the applicable court, and/or their written explanation of the circumstances surrounding the conviction(s), prior to rendering its binding determination. Without this documentation, and potentially interviewing the potential applicant, the Board would be unable to properly consider whether there is a direct relationship between the applicant's previous conviction and the specific license sought, or whether the issuance of the license would involve a direct and substantial threat to public safety or specific individuals or property prior to rendering a binding decision.

Finally, the Board is concerned that the process for requesting and obtaining a written determination from the Board is similar to, but not identical to, the existing process for petitioning a State unit for a declaratory ruling under Md. Code Ann., State Gov't § 10-301, *et seq.* A petition for a declaratory ruling requests "the manner in which the [State] unit would apply a ... statute that the unit enforces to a person ... on the facts set forth in the petition." State Gov't § 10-304(a). Because there is no provision for a state unit to charge a fee for considering a petition for a declaratory ruling, a potential applicant could avoid paying any fee to the Board to conduct an assessment under the bill by petitioning for a declaratory ruling under the State Gov't provisions.

For these reasons, the State Board of Dental Examiners; the State Acupuncture Board; the State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists and Music Therapists; the State Board for Certification of Residential Child Care Program Professionals; the State Board of Environmental Health Specialists; the State Board of Chiropractic Examiners; the State Board of Massage Therapy Examiners; the State Board of Pharmacy; the State Board of Physical Therapy Examiners; and the State Board of Podiatric Medical Examiners; the State Board of Professional Counselors and Therapists; the State Board of Psychologists; and the State Board of Social Work Examiners strongly urges an unfavorable report on HB 906.

I hope that this information is helpful. If you would like to discuss this further, please contact me at 240-498-8159, asverma93@gmail.com, or Dr. Edwin Morris, the Board's Legislative Committee Chair at 410-218-4203. In addition, the Board's Executive Director, Dr. Christy Collins may be reached at christy.collins1@maryland.gov; 410-402-8518.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arpana S. Verma', is placed over a light gray grid background.

Arpana S. Verma, D.D.S.
Board President

The opinion of the Boards expressed in this document do not necessarily reflect that of the Department of Health or the Administration.