

HB0175_Occupational_Licensing_Criminal_History_MLC

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0175
Occupational Licensing and Certification – Criminal History – Prohibited
Disclosures and Predetermination Review Process

Bill Sponsor: Delegate Harrison

Committee: Economic Matters

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of HB0175 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Given how many people that have been incarcerated in Maryland for minor offenses as well as the desperate need that the state has for licensed workers in health care and many other areas, it would make sense that those minor convictions not preclude former incarcerated persons from obtaining a license. This bill, if enacted, would preclude agencies from denying licenses and certificates to applicants for offenses where -

- There was a deferred adjudication
- They participated in a diversion program
- The arrest was not followed by a conviction
- There was a conviction but no term of imprisonment was imposed
- There was a conviction but it was expunged
- The applicant was a juvenile
- The conviction was for a misdemeanor that did not involve harm to another person
- The applicant was convicted and completed their sentence and three years have passed since they finished serving

The agency can deny the license if it is felt that the applicant would pose a threat to public safety or to specific individuals or property.

The agency can take into account the applicant's education, training and employment history before and after their sentence as well as whether the license or certificate requires the applicant to be bonded. The applicant can also file a request to get a preliminary determination as to whether their criminal

history would preclude them from getting the license or certificate. The request would require a \$100 fee, which would be waived if the applicant's income is at or below 300% of the Federal poverty limit.

Our members believe that everyone should be given a chance to be gainfully employed unless they are a danger to the public. It is important to allow persons who have made mistakes and paid for them to become a functioning part of our society.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

2.7.24 Testimony of Chad Reese of Institute for Ju

Uploaded by: Chad Reese

Position: FAV



INSTITUTE FOR JUSTICE

**Testimony in Support of House Bill 175
Maryland House Committee on Economic Matters**

February 7, 2024

Dear Chair Wilson and Members of the Committee:

Thank you for the opportunity to submit testimony in support of HB 175, which will improve opportunities for justice-involved people and for employers who want to hire them. My name is Chad Reese. I am the Associate Director of Activism at the Institute for Justice. We are a nonprofit public interest law firm that works to protect civil liberties. For more than 30 years, we have worked to protect the right to earn a living and to reduce barriers to work. We have also studied the burdens of occupational licensing, particularly on lower- to middle-income workers and people with criminal records.

Occupational licensing comes at a great cost to workers. Licensing laws commonly require aspiring workers to spend time and money completing training and testing before they can work, and there is little evidence that licensing improves quality.¹ At the same time, there is mounting evidence that licensing creates significant barriers to entry and disproportionately affects certain populations, especially people with criminal records, who are often overlooked.²

Roughly 30 percent of Americans have criminal records and make up an increasingly large share of the workforce.³ Further, nearly 20 percent of Maryland workers need a license to work.⁴ Together, these percentages show the potential licensing laws have to prevent justice-involved people who are rehabilitated from re-entering the workforce and employers from hiring them.

In 2020, the Institute for Justice published *Barred from Working*, a comprehensive study of the collateral consequences of occupational licensing restrictions for people with criminal records.⁵ The study used 10 criteria to grade all 50 states and the District of Columbia on their legal protections for licensing applicants with criminal records. **In the report, Maryland scored low on its due process protections for people with criminal records in occupational licensing.**⁶ The report found that Maryland has multiple loopholes that make returning to workforce particularly difficult. Despite the protests from some licensing boards, disclosures required by a 2018 Maryland law found that between 2014 and 2018, seven licensing boards at the Department of Health had a denial rate of more than 20%.

Additionally, the extremely low rate of applications from Maryland residents with a criminal record also suggests that the existing requirements are a strong deterrent from applying for these licenses in the first place.



INSTITUTE FOR JUSTICE

HB 175 addresses these problems. It allows people with criminal records to apply to a licensing board for a determination about whether their criminal record disqualifies them from getting a license.

These reforms are good for returning citizens and good for the state. They help address labor shortages and promote public safety. Research shows a job is one of the best ways to reduce the likelihood a person will re-offend, and states that have lower barriers to re-entry also have lower rates of recidivism.⁷

In conclusion, reducing unnecessary licensing barriers is an important way the state can safely create opportunities, support businesses, and stimulate economic growth. I encourage the committee to support these important reforms. Thank you.

Sincerely,

Chad Reese
Associate Director of Activism
Institute for Justice
901 N. Glebe Road, Suite 900
Arlington, VA 22203
(703) 682-9320
creese@ij.org

¹ Carpenter, D. M., et al. *License to work: A national study of burdens from occupational licensing*, Institute for Justice (2nd ed.) (Nov. 2017), <https://ij.org/report/license-work-2/>.

² *Id.*

³ Umez, C. & Pirijs, R., *Barriers to Work: People With Criminal Records*, National Conference of State Legislatures (July 17, 2018), <https://www.ncsl.org/research/labor-and-employment/barriers-to-work-individuals-with-criminal-records.aspx>.

⁴ Institute for Justice, *At What Cost? State and National Estimates of the Economic Costs of Occupational Licensing* (Nov. 2018), <https://ij.org/report/at-what-cost>.

⁵ Sibilla, N., *Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders* (“Barred from Working”), Institute for Justice (June 2020), <https://ij.org/report/barred-from-working/>.

⁶ See *Barred from Working*, at “State Grades,” <https://ij.org/report/barred-from-working/state-grades/>.

⁷ Slivinski, S., *Turning Shackles Into Bootstraps: Why Occupational Licensing Reform is the Missing Piece of Criminal Justice Reform*, Center for the Study of Economic Liberty at Arizona State University (Nov. 2016), <https://csel.asu.edu/sites/default/files/2019-09/csel-policy-report-2016-01-turning-shackles-into-bootstraps.pdf>.

HB0175_FAV_CFUF (1).pdf

Uploaded by: Christopher Dews

Position: FAV



TESTIMONY IN SUPPORT OF HOUSE BILL 175:

TO: Hon. C. T. Wilson, Chair, and members of the House Economic Matters Committee

FROM: Christopher Dews, Policy Consultant

DATE: February 7th, 2024

The Center for Urban Families (CFUF) advocates for legislative initiatives to strengthen urban communities by helping fathers and families achieve stability and economic success. CFUF strongly supports House Bill 175 as a means of removing barriers to occupational licensing for returning citizens.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects of [25% of working-age Marylanders with a record](#) (pg.26). Worse yet, in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. Anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged. Individuals with a record are also often prevented from obtaining an occupational license and mastering a trade.

According to the Bureau of Labor Statistics, more than [one-quarter of workers in the United States require a professional license](#); however, occupational licensing and certification can present a significant barrier to employment for individuals with criminal convictions. According to the American Bar Association's [National Inventory of the Collateral Consequences of Conviction](#), there are 521 collateral consequences related to occupational licensing and professional certifications in Maryland. Maryland's statute states in [Criminal Procedure §1-209](#) that state licensing boards may not deny occupational licenses or certificates to applicants solely based on a prior conviction unless:

1. There is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or
2. 2) the issuance of the license or certificate would involve an unreasonable risk to property or the safety or welfare of specific individuals or the general public.

Licensing laws and restrictions on individuals with a criminal record disproportionately affect people of color and low-income populations. In Maryland, black individuals constitute 31% of state residents but 71% of the prison population. Meanwhile, low-income occupations are much more likely to require a license. The cumulative impact of these policies poses a significant barrier to employment and affects not just directly impacted individuals and their successful reentry, but their families and communities.

Finally, the Division of Occupational and Professional Licensing has found no records of anyone denied a license based solely on a criminal record from 2014 through 2018; this data suggests that individuals are deterred from even applying. Of the 613,034 license applications received over these eight years, only



0.13%, or 803, had a criminal record. Given that over 35,000 individuals were released from prison in this period, that many more acquired criminal records during this time, and that most low-income professions require a license, it can be surmised that Maryland laws around restrictions for licensure bar returning citizens from even applying for a license.

House Bill 175 seeks to address this by prohibiting Department of Agriculture (MDA); the Department of the Environment (MDE); the Maryland Department of Health (MDH); the Department of Human Services (DHS); the Maryland Department of Labor (MDL); or the Department of Public Safety and Correctional Services (DPSCS) from requiring an applicant for an occupational license or certificate to disclose any specified information relating to the applicant's prior criminal history. It strengthens the protections listed in [Criminal Procedure §1-209](#) by removing the required disclosure of records if the charges were juvenile, nonviolent, unrelated to the occupation, didn't lead to a conviction, or three (3) years have passed since release. It still excludes violent crimes as defined in [Criminal Law §14-101](#), which effectively addresses any public safety concerns that will arise.

House Bill 175 also aligns with a 2016 Collateral Consequences Workgroup report that recommended that Maryland consider passing a comprehensive anti-discrimination law to address the barriers individuals with criminal records face in hiring and occupational licensing. CFUF fully supports this bill as a step in addressing the complex web of consequences of a criminal record that prevents lower-income communities from securing stable and meaningful employment. We respectfully urge a favorable report on House Bill 175.

HB 175 - Occupational Licensing and Certification

Uploaded by: Kam Bridges

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Testimony in Support of House Bill 175

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

TO: Hon. C.T. Wilson, Chair, and Members of the House Economic Matters Committee

FROM: Job Opportunities Task Force

DATE: February 7, 2024

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. **JOTF supports House Bill 175 as a means of removing barriers to employment for individuals with a criminal record, and of improving reentry outcomes for formerly incarcerated individuals.**

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the 25% of working-age Marylanders with a record. Worse yet, in the state of Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. Anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged. Individuals with a record are also often prevented from entering into business for themselves; such as being barred from obtaining an occupational license.

The Institute for Justice ranks Maryland as 11th in most burdensome licensing laws and 20th in most broadly and onerously licensed state, with almost 60% of all low-income occupations requiring an occupational license. In 2015, the Obama administration released a framework for reforming occupational licensing policy. The subsequent FY2016 Budget included \$15 million for Department of Labor funding to identify, explore, and address areas where licensing requirements create barriers to labor market entry and labor mobility. This funding was used in part to establish a multi-year study of a consortium of 11 states, including Maryland. The Consortium final report, released in 2020, identified three populations facing significant barriers to employment due to licensure requirements, including individuals with a criminal record.

House Bill 175 would begin addressing this undue burden by allowing individuals to seek meaningful employment in fields in which they are otherwise qualified to work. Not only does our State receive poor grades on onerous licensing requirements, but it is one of the lowest rated on scales of barriers to professional licensing imposed on individuals with a criminal record. Although statute requires a direct relationship between convictions and a license, the reality is that loopholes that allow Boards to deny applicants who they deem pose an "unreasonable risk" overshadow statute, as we have often seen with incoming students in our BetterU Pre-Apprenticeship Training Program.

Licensing laws and restrictions on individuals with a criminal record disproportionately affect people of

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

color and low-income populations. In Maryland, black individuals constitute 31% of state residents, but 52% of people in jail and 69% of people in prison. Meanwhile, low-income occupations are much more likely to require a license. The cumulative impact of these policies poses a significant barrier to employment and affects not just directly impacted individuals and their successful reentry, but their families and communities.

Finally, the Division of Occupational and Professional Licensing has found no records of anyone denied a license based solely on a criminal record from 2014 through 2018; this data suggests that individuals are deterred from even applying. Of the 613,034 license applications received over this period of 4 years, only 0.13%, or 803, had a criminal record. Given that over 35,000 individuals were released from prison in this period, that many more acquired criminal records during this time, and that most low-income professions require a license, evidence points to Maryland laws around restrictions for licensure being a barrier for applicants even just considering obtaining a license. Especially when considering that one in five Marylanders have an occupational license, 803 license applications over a four-year period is low compared to the general population.

The Job Opportunities Task force fully supports this bill as a step in addressing the complex web of consequences of a criminal record that disproportionately affects our low-income and black residents, and prevents them from securing stable and meaningful employment. We respectfully urge a favorable report on House Bill 175.

For these reasons, JOTF supports House Bill 175 and urges a favorable report.

For more information, contact:

Kam Bridges / Senior Public Policy Advocate / Kam@jotf.org

Testimony in support of HB0450.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

HB0450_RichardKaplowitz_FAV
2/7//2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON HB#/0450 - FAVORABLE

State Department of Education - Soccer Opportunities Program - Establishment

TO: Chair Atterbeary, Vice Chair Wilkins, and members of the Ways and Means Committee

FROM: Richard Keith Kaplowitz

My name is Richard K. Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of HB#0450 State Department of Education - Soccer Opportunities Program - Establishment

As a former soccer referee for 31 years from 1989-2019 I have seen first hand the incredible benefits participation in soccer offers to its participants. The game of soccer is, by its nature, a tool to build character. It requires continual evaluation of rapidly occurring situations and facilitates quick decision making in reaction to the situation. It requires teamwork to create positive outcomes for actions taken together.

Soccer is also, by its nature, an aerobic sport in which constant movement - walking, jogging and running are part and parcel of its conduct. It focuses hand and eye and feet and body coordination both when in possession of the ball or attempting to gain that possession. A great team has constant communication among its members; soccer is best when the team is communicating and working towards shared goals.

The positive values of soccer, including creating green space in communities to have soccer fields, make this a valuable program for which funding must be secured, The growth of it participants in becoming part of a team in a sport with so many positive values will benefit our society. All of us together will have better people from the better players given these opportunities to become players and coaches and referees for this game.

I respectfully urge this committee to return a favorable report on HB#0450.

HB 175_Del Harrison_FAV.pdf

Uploaded by: Vernita Johnson

Position: FAV

ANDREA FLETCHER HARRISON
Legislative District 24
Prince George's County

Economic Matters Committee

Subcommittees

Alcoholic Beverages

Banking, Consumer Protection,
and Commercial Law

Worker's Compensation



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**Written Testimony – HB 175 – Occupational Licensing and Certification – Criminal
History – Prohibited Disclosure and Predetermination Review Process**

February 7, 2024

Good afternoon, Chairman Wilson, Vice Chair Crosby, and members of the Economic Matters Committee.

For the record, I am Delegate Andrea Fletcher Harrison, and I am here today to introduce HB 175.

I have brought forth this piece of legislation to reduce barriers to re-entry for persons who have been formerly incarcerated. It is important to me that people have second chances to lower chances of recidivism, encourage successful re-entry to society and our communities, and to help support Maryland businesses.

HB 175 creates a pre-clearance process for individuals with criminal records. That would require licensing agencies, if requested, to provide binding guidance as to whether an individual's criminal record would be prohibitive for licensure. That pre-clearance process would require the board to provide individualized consideration of the applicant's criminal record, including evidence of rehabilitation, and places limitations on considerations of irrelevant records or actions taken by law enforcement, like arrest records. Simply put, this bill would require licensing agencies to conduct honest and fair reviews of criminal records before returning citizens invest their valuable time and money pursuing a desired profession.

HB 175 is crucial because of its many societal and economic benefits. Current policies do not promote an equitable workforce. The Prison Policy Initiative, a nonprofit, nonpartisan research group has conducted studies about hiring previously incarcerated people. Their 2018 study shows that previously incarcerated people are 27 times more likely to be unemployed, which is higher than the unemployment rates during the Great Depression. This is especially true among marginalized groups.

Their study also showed that non-violent ex-offenders are willing to work. However, they struggle with getting a job for up to three years after their release, the most crucial years for successful re-entry. After years of struggle, the recidivism rate increases which stunts the rehabilitation progress and creates public safety risks due to the rising likelihood of recidivism. Unfortunately, their record acts as a collateral consequence for years to decades later, no matter

their qualifications or years since the offense happened. This prejudice impedes Marylanders from creating successful lives, communities, and families. With HB 175, we can unlock the 19 percent of Maryland jobs that require licensing and certificates while increasing public safety and encouraging reintegration.

The Society for Human Resource Management has a study that shows CEOs, managers, and workers are willing to hire and work alongside persons who have been formerly incarcerated. If the public is open to working with non-violent persons who have been formerly incarcerated, so should licensing authorities. Persons who have been formerly incarcerated can utilize the plethora of skills they had before prison, learned in prison, or after. This is especially true when their prior offenses do not hinder their ability to work or don't affect the safety of the people around them.

Everyone has a past, and it's our responsibility as lawmakers to show that the past doesn't define anyone. Change and progress are always possible; together, we can keep improving the quality of formerly incarcerated people in Maryland and the families, communities, and businesses affected by the structural barriers presented by licensing.

With that, I will turn it over to the rest of our panel, which will further explain why this is an important issue. Thank you for your time, and I urge a favorable report on HB 175.

HB0175_MMBBA_Gough-FWA.pdf

Uploaded by: DENNIS RASMUSSEN

Position: FWA



Testimony offered on behalf of:
MARYLAND MORTGAGE BANKERS & BROKERS ASSOCIATION, INC.

IN SUPPORT, WITH AN AMENDMENT:
HB0175 – Occupational Licensing and Certification – Criminal History –
Prohibited Disclosures and Predetermination Review Process

Economic Matters Committee
Hearing – 2/7/2024 at 2:30 pm

The members of the Maryland Mortgage Bankers and Brokers Association, Inc. (“MMBBA”) SUPPORT, with AMENDMENT, HOUSE BILL 0175.

The MMBBA recognizes and supports the positive intention behind HB0175. The aspect of providing a second chance to Maryland residents with previous criminal records, enabling them to pursue licensure in various vocations, aligns with the principles of fairness and rehabilitation. But while this concept may be true for other types of licenses, it is not applicable to the same extent to mortgage loan originator licenses.

HB0175 is inconsistent with the requirements for a mortgage loan originator license as set forth in Maryland Code, Financial Institutions Article (“FI”), §11-605. That statute provides in part:

- (a) The Commissioner may not issue a mortgage loan originator license unless the Commissioner makes, at a minimum, the following findings:*
- (1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction.*
 - (2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:*
 - (i) During the 7-year period immediately preceding the date of the application for licensing; or*
 - (ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering.*

The provisions of FI §11-605 parallel the language of Section 1505 of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act), 12 U.S.C. Sec. 5101-5116, Title V of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, 122 Stat. 2654, 12 U.S.C. 5101 et seq.) as amended by Title X of the

01/29/2024

HB0175

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, 124 Stat. 1376). See particularly 12 U.S.C. 5104.

The Maryland General Assembly and Congress have already determined what actions disqualify a person from obtaining a mortgage loan originator license. These legislative bodies have set high standards for this type of license, and we believe that these standards should be maintained so that mortgage loan originators will continue to merit the trust of the public.

For the reasons above, the Maryland Mortgage Bankers and Brokers Association, Inc., urges a FAVORABLE COMMITTEE REPORT, with as AMENDMENT on House Bill 0175, to exclude mortgage loan originator licenses from its coverage.

Respectfully submitted,

Timothy J. Gough

Timothy J. Gough, CMB, Co-Chair, MMBBA Legislative Committee
tgough@baycapitalmortgage.com – (410) 320-0852

HB 175 - MACPA Written Testimony _ FWA.pdf

Uploaded by: MB Halpern

Position: FWA



**HB 175 - Occupational Licensing and Certification – Criminal History –
Prohibited Disclosures and Predetermination Review Process
House Economic Matters Committee
February 7, 2024
Legislative Position: Favorable with Amendments**

Dear Chair Wilson and members of the Committee:

Founded in 1901, the Maryland Association of CPAs is the only state-wide organization dedicated solely to advancing the CPA profession and advocating for the more than 14,000 licensed CPAs in Maryland. Our members serve thousands of individual and business clients throughout the state.

We are concerned HB 175, as currently drafted, could have unintended consequences for the Maryland Board of Public Accountancy and jeopardize public safety and trust. While recognizing that individuals deserve opportunities for rehabilitation, the nature of certain convictions, especially those involving financial crimes and fraud, directly impacts the trustworthiness and competence required for a CPA license.

The handling of confidential financial information is a key part of the CPA-client relationship. As proposed, HB 175 lacks adequate considerations for evaluating the nature of past criminal convictions for CPA license applicants. The Board of Public Accountancy would not be allowed to consider certain crimes if older than three years from the date the individual applied for licensure. For a CPA license, assessing the nature of the crime, its relevance to the authorized activities, and the length of time since the conviction are essential for the Board to make informed decisions about an individual's fitness and qualifications to practice as a CPA.

We urge the committee to carefully consider the complexities of evaluating individuals with a criminal history directly related to the duties and responsibilities of a specific licensed occupation. Maryland CPA license requirements are currently deemed “substantially equivalent” by all 55 accountancy jurisdictions, allowing Maryland CPAs to practice across jurisdictions. Changes to how the Maryland Board of Accountancy assesses criminal history could have potential ramifications on the mobility of a Maryland CPA license, which would mean that Maryland CPAs could not practice in the other 54 accountancy jurisdictions without obtaining a separate license in each of those states.

We request the Board of Public Accountancy be excluded from the three-year look-back limitation in HB 175. CPAs are entrusted with financial responsibilities that require a thorough evaluation of an applicant's history before, during, and after any term of imprisonment. Excluding the Board from the strict three-year timeframe allows for a more comprehensive assessment of an individual's qualifications and recognizes the importance of a CPA's role in safeguarding financial integrity.

For these reasons, we respectfully request a **favorable with amendments** report for **HB 175**.

For more information about this position, please contact marybeth@macpa.org or Nick Manis nmanis@maniscanning.com.

HB 175 - Occupational Licensing - Criminal History

Uploaded by: Christa McGee

Position: UNF



House Bill 175 –Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process

Position: Oppose

Maryland REALTORS® have concerns with HB 175, which would prevent the Department of Labor from requiring applicants seeking a license to engage in real estate transactions to disclose certain convictions based on the amount of time that has elapsed.

There are certain criminal histories, including non-violent crimes such as those involving crimes of dishonesty, specifically those involving theft, forgery, fraud that are incompatible with the duties of a real estate professional. Real estate professionals have personal access to their clients, homes and an individual's financial information in the ordinary course of business; therefore, REALTORS® are concerned that by allowing those who have been convicted of these types of crimes to become licensed, would put the general public at risk of harm.

Although the Maryland REALTORS® opposes HB 175, we do agree that it would be helpful for those who are considering becoming a real estate licensee, the ability to have a predetermination made by the Department as to whether their criminal background would prevent them from being licensed. Prior to becoming licensed to engage in real estate transactions, applicants are required to complete pre-licensing coursework and pass an examination; therefore, when they are applying for licensure, they have already expended a considerable amount of time and expense. Allowing individuals the opportunity to request an official predetermination from the Department, prior to attending pre-licensing classes and passing an exam, would prevent those who don't qualify for licensure from wasting their time and money.

On the whole, HB 175 would diminish the ability for the Department of Labor to prevent those with past convictions that are incompatible with the duties of a licensee from becoming licensed. Therefore, we recommend an unfavorable report.

For more information, contact lisa.may@mdrealtor.org or christa.mcgee@mdrealtor.org

HB 175 - EMC - MBON - LOO.docx (1).pdf

Uploaded by: Jennay Ghowrwal

Position: UNF



Board of Nursing

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 23, 2024

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

RE: Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process – Letter of Opposition

Dear Chair Wilson and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of opposition for House Bill (HB) 175 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process. This bill alters certain provisions regarding the prohibition on certain departments of State Government from denying an occupational license or certificate to an applicant solely on the basis of the criminal history of the applicant by prohibiting a department from requiring disclosure of certain actions on an application and establishing a pre – determination review process.

The proposed legislation, as written, would jeopardize the state of Maryland’s participation in the Nurse Licensure Compact, as it prohibits an agency from requiring an applicant for an occupational license or certificate to disclose, as part of an application, participation in a diversion program. MD Health Occupations Article § 8-7A-01 states that “each party state shall require the following for an applicant to obtain or retain a multistate license in the home state: (8) is not currently enrolled in an alternative program; and (9) is subject to self-disclosure requirements regarding current participation in an alternative (i.e., diversion) program.”

House Bill 175 substantially deviates from the NLC requirements and hinders the Board’s ability to perform its administrative duties to regulate the rules of the Compact. If the state were found to be in violation of the NLC, the subsequent consequences for the direct nursing workforce would be catastrophic. Out-of-state registered nurses and licensed practical nurses would be prohibited from administering telehealth or direct care until they received a single-state license. The Board could potentially receive thousands of endorsement applications, which would further exacerbate processing delays and operational, information technology, and staffing challenges. The state has been a member state of the NLC since 1999. It is critical to maintain the state’s participation in the nursing workforce, hospitals, and long-term care settings.

The Board is additionally concerned about the provisions relating to the predetermination review of an applicant's eligibility for an occupational license or certificate. In practice, it is exceedingly rare that the Board denies a license based solely on the grounds of a criminal conviction. The Board thoroughly reviews each criminal conviction and requests the applicant submit a detailed letter of explanation and court certified or true test copies of court documents. The Board's mission of safeguarding the public relies on its ability to properly investigate prior criminal history. HB 175 would remove the requirement that applicants disclose certain criminal history, such as non-violent offenses and crimes that did not result in imprisonment. But many of these types of offenses can be extremely serious when issuing licenses to nurses and related professions.

Our last concern is that the use of a predetermination program involves a request of predetermination from the Maryland Department of Health, rather than the Maryland Board of Nursing. This would alter the structure of health occupations licensing as it is done in Maryland, as typically Boards make that determination, rather than the Department.

For the reasons discussed above, the Maryland Board of Nursing respectfully submits this letter of opposition for HB 175.

I hope this information is useful. For more information, please contact Ms. Mitzi Fishman, Director of Legislative Affairs, at mitzi.fishman@maryland.gov or 410-585-2049, or Ms. Rhonda Scott, Executive Director, at rhonda.scott2@maryland.gov or 410-585-1953.

Sincerely,



Gary N. Hicks
Board President

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

11b - HB 175 - ECM - Joint Letter - LOO.docx.pdf

Uploaded by: Maryland State of

Position: UNF



Board of Physicians

Wes Moore, Governor · Aruna Miller, Lt. Governor · Harbhajan Ajrawat, M.D., Chair

2024 SESSION POSITION PAPER

BILL NO.: HB 175 – 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, State Board of Dental Examiners, State Board of Pharmacy, State Acupuncture Board, State Board of Chiropractic Examiners, State Board of Massage Therapy Examiners, State Board of Morticians and Funeral Directors, State Board of Examiners in Optometry, State Board of Occupational Therapy Practice, State Board of Podiatric Medical Examiners, State Board of Professional Counselors and Therapists, State Board of Examiners of Psychologists, and State Board of Social Work Examiners (the Boards) are respectfully submitting this letter of opposition for House Bill 175 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process (HB 175). While the intent of HB 175 is positive, the Boards are concerned that in practice, HB 175 would limit the ability of the Boards to thoroughly verify that applicants meet all licensure standards and could potentially place even more burdens on applicants with criminal convictions.

Under current law, applicants must submit a criminal history record check (CHRC) and/or disclose information regarding criminal history to obtain a health occupations license issued by the Boards. The Boards thoroughly review each applicant’s criminal history and use the balancing factors outlined in Criminal Procedures Article §1-209, Maryland Annotated Code, when making determinations about licensure. It is exceedingly rare that the Boards deny an application based solely on the grounds of a criminal conviction. For example, in fiscal year 2023, the Maryland Board of Physicians processed 7,100 CHRCs, including 118 with positive results, but did not deny a single application due to criminal history.

While denial of licensure is rare, properly investigating prior criminal history is essential to the Boards’ mission of safeguarding the public through the licensure of its health professionals. HB 175 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 Boards when licensing physicians, pharmacists, dentists, 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 healthcare providers have a particular place of trust within their communities and frequently deal with the most vulnerable members of the public, these investigations are necessary parts of the licensure process. Removing the disclosure requirements would hamper the ability of the Boards to fully investigate before issuing a license.

Furthermore, creating a predetermination 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 occur 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 Boards 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 Boards would then need to establish an appeals process, which could be costly both for the Boards and the applicants and could potentially discourage applicants from ever submitting a full application following an initial rejection.

A predetermination process would also fail to encompass scenarios where a board approves issuing a license with conditions. For example, if a physician's criminal history seems to indicate a history of drug or alcohol abuse, the Maryland Board of Physicians may choose to issue the license but require, as a condition of licensure, that the applicant participate in the Maryland Physician Rehabilitation Program for monitoring and counseling. Scenarios such as these are far more common than outright denials of licensure but would not be possible as part of the predetermination review outlined in HB 175.

The Boards strongly believe that the application process should never place undue burdens on the applicant and have 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 a previous criminal conviction, the Boards believe that these procedures have been demonstrably effective in ensuring that a criminal conviction is not a barrier to licensure. However, HB 175 would restrict the Boards' ability to properly protect the public. Therefore, the Boards would urge the Committee to submit an unfavorable report unless HB 175 is amended to remove the health occupations boards.

Thank you for your consideration. For more information, please contact:

Matthew Dudzic
Manager, Policy & Legislation
Maryland Board of Physicians
(410) 764-5042

Lillian Reese
Legislative and Regulations Coordinator
Health Occupations Boards and Commissions
(410) 764-5978

Murray L. Sherman
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Deena Speights-Napata, MA
Executive Director
Maryland Board of Pharmacy
(410) 764-4709

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

MCPA-MSA_HB 175 - Prohibited Disclosures Predeterm

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable CT Wilson, Chair and
Members of the House Economic Matters Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 6, 2024

RE: **HB 175 – Occupational Licensing and Certification - Criminal History -
Prohibited Disclosures and Predetermination Review Process**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE HB 175**. While well-meaning, the changes proposed under the bill have the unintended consequences of eroding public safety.

HB 175 makes several changes to the statutes that prohibit certain executive departments from denying an occupational license or certificate to an applicant solely on the basis of the applicant's criminal history. It also prohibits a department from requiring applicants to disclose certain criminal history information and creates a predetermination review process for people to request a preliminary review of their criminal history to determine whether it would disqualify them from the license or certification being sought.

The existing statute strikes the appropriate balance between ensuring that applicants with criminal histories are afforded the opportunity to receive a license or certification and safeguarding the public by thoroughly vetting those seeking licensure or certification. In general, such licenses or certifications are rarely denied. The bill would upset this balance.

Under the bill, applicants would no longer have to disclose certain criminal histories primarily those involving non-violent crimes and crimes that did not result in a conviction. Additionally, departments may not deny the issuance of a license or certificate unless there is "a direct and substantial threat" rather than "an unreasonable risk" to public safety, specific individuals, or property. These provisions open the door too broadly as many nonviolent offenses still need to be treated very seriously when it comes to licensing and certifications. This is especially valid for those who are seeking licenses or certifications in the public safety field. Given the sensitive nature of the work, the standards for safeguarding the public, and the responsibilities granted with the roles, applicants need to be thoroughly vetted. The vetting process takes many things into consideration so that the decision to approve or deny an applicant is a holistic one and not one based solely on their criminal record. The proposed predetermination process creates a more

black-and-white process where binding predeterminations are being made solely on the individual's criminal record.

Investigations into a person, including their criminal history, are a necessary part of the license and certification process for public safety positions. The changes under the bill would hamper the ability to fully investigate someone before issuing a license. For these reasons, MCPA and MSA **OPPOSE HB 175** and urge an **UNFAVORABLE** committee report.

11a - HB 175 - EN - Audiology Bd - LOC.pdf

Uploaded by: State of Maryland

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

Board of Examiners for Audiologists,
Hearing Aid Dispensers, Speech-Language
Pathologists & Music Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215

February 7, 2024

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

Re: HB 175 Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process – Letter of Concern

Dear Chair Wilson and Committee members:

The State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists and Music Therapists (the “Board”) is submitting this Letter of Concern for HB 175 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 Department of Health, and its various units, including the 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.

The bill also changes the threshold by which a Board may deny a prospective licensee licensure by replacing the “unreasonable risk to property or to the safety or welfare of specific individuals

or general public” standard with the “direct and substantial threat to public safety or specific individuals or property” standard.

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. The predetermination is binding on the board unless there is a subsequent direct and material adverse change to the individual's criminal history.

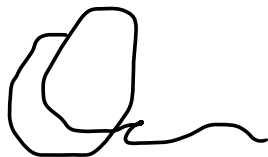
The Board is concerned that the process for requesting and obtaining a written determination from the Board is similar to, but not identical to, the existing process for petitioning a state unit for a declaratory ruling under Md. Code Ann., State Gov't § 10-301, et seq. A petition for a declaratory ruling request “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.

The Board also reviews prospective licensees' criminal records as a matter of course, both self-reported and through obtaining a criminal history report. The Board routinely communicates with prospective licensees regarding any criminal justice system contacts, inviting prospective licensees to explain the circumstances around any convictions. The Board is concerned that the addition of a predetermination process is duplicative of the Board's current procedures and would place an additional burden on Board staff.

For these reasons, the Board strongly urges an unfavorable report on HB 175.

If you would like to discuss this further, please contact me at (443) 832-0597 or at keena.stephenson1@maryland.gov.

Respectfully,

A handwritten signature in black ink, appearing to read 'Keena S. Stephenson', with a long, sweeping tail extending to the right.

Keena S. Stephenson
Executive Director

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

11c - HB 175 - EMC - MBON - LOO.docx.pdf

Uploaded by: State of Maryland (MD)

Position: UNF



Board of Nursing

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 23, 2024

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

RE: Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process – Letter of Opposition

Dear Chair Wilson and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of opposition for House Bill (HB) 175 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process. This bill alters certain provisions regarding the prohibition on certain departments of State Government from denying an occupational license or certificate to an applicant solely on the basis of the criminal history of the applicant by prohibiting a department from requiring disclosure of certain actions on an application and establishing a pre – determination review process.

The proposed legislation, as written, would jeopardize the state of Maryland’s participation in the Nurse Licensure Compact, as it prohibits an agency from requiring an applicant for an occupational license or certificate to disclose, as part of an application, participation in a diversion program. MD Health Occupations Article § 8-7A-01 states that “each party state shall require the following for an applicant to obtain or retain a multistate license in the home state: (8) is not currently enrolled in an alternative program; and (9) is subject to self-disclosure requirements regarding current participation in an alternative (i.e., diversion) program.”

House Bill 175 substantially deviates from the NLC requirements and hinders the Board’s ability to perform its administrative duties to regulate the rules of the Compact. If the state were found to be in violation of the NLC, the subsequent consequences for the direct nursing workforce would be catastrophic. Out-of-state registered nurses and licensed practical nurses would be prohibited from administering telehealth or direct care until they received a single-state license. The Board could potentially receive thousands of endorsement applications, which would further exacerbate processing delays and operational, information technology, and staffing challenges. The state has been a member state of the NLC since 1999. It is critical to maintain the state’s participation in the nursing workforce, hospitals, and long-term care settings.

The Board is additionally concerned about the provisions relating to the predetermination review of an applicant's eligibility for an occupational license or certificate. In practice, it is exceedingly rare that the Board denies a license based solely on the grounds of a criminal conviction. The Board thoroughly reviews each criminal conviction and requests the applicant submit a detailed letter of explanation and court certified or true test copies of court documents. The Board's mission of safeguarding the public relies on its ability to properly investigate prior criminal history. HB 175 would remove the requirement that applicants disclose certain criminal history, such as non-violent offenses and crimes that did not result in imprisonment. But many of these types of offenses can be extremely serious when issuing licenses to nurses and related professions.

Our last concern is that the use of a predetermination program involves a request of predetermination from the Maryland Department of Health, rather than the Maryland Board of Nursing. This would alter the structure of health occupations licensing as it is done in Maryland, as typically Boards make that determination, rather than the Department.

For the reasons discussed above, the Maryland Board of Nursing respectfully submits this letter of opposition for HB 175.

I hope this information is useful. For more information, please contact Ms. Mitzi Fishman, Director of Legislative Affairs, at mitzi.fishman@maryland.gov or 410-585-2049, or Ms. Rhonda Scott, Executive Director, at rhonda.scott2@maryland.gov or 410-585-1953.

Sincerely,



Gary N. Hicks
Board President

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

HB175_ The Arc Maryland_ Letter of Information.pdf

Uploaded by: Ande Kolp

Position: INFO



The Arc Maryland
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**HB175: Occupational Licensing and Certification –
Criminal History – Prohibited Disclosures and
Predetermination Review Process**
Economic Matters Committee
February 7, 2024
Letter of Information

The Arc Maryland is the largest statewide advocacy organization dedicated to protecting and advancing the rights and quality of life of people with intellectual and developmental disabilities.

HB175 proposes to alter certain provisions of law regarding the prohibition on certain departments of State government from denying an occupational license or certificate to an applicant solely on the basis of the criminal history of the applicant, by prohibiting a department from requiring disclosure of certain actions on an application and establishing a predetermination review process.

The organizations of The Arc in Maryland directly support over 5,000 individuals with intellectual and developmental disabilities across the state through DDA's Community Pathways, Community Supports, and Family Supports 1915C Waivers. The individuals we support frequently come into contact with Occupational, Physical, and Speech therapists for assistance with eating mechanics, speaking, movement, and mobility and other activities of daily living.

We have concerns about the inconsistency in standards, for "passing a background check," that are currently required through our waivers to protect vulnerable individuals, and approved federally, and the standard that would be created through this bill.

Current Medicaid Waiver Regulations require specific providers have criminal background checks prior to services delivery. DDA's regulations also require that each DDA-licensed and DDA-certified community-based provider complete either: (1) a State criminal history records check via the Maryland Department of Public Safety's Criminal Justice Information System; or (2) a National criminal background check via a private agency, with whom the provider contracts.

*If the provider chooses the second option, the criminal background check must pull court or other records "in each state in which [the provider] knows or has reason to know the eligible employee [or contractor] worked or resided during the past 7 years." The same requirements are required for participants self-directing services as indicated within each service qualification. The DDA-licensed and certified provider must complete this requirement for all of the provider's employees and contractors hired to provide direct care. **If this background check identifies a criminal history that "indicate[s] behavior potentially harmful" to participants receiving services, then the provider is prohibited from employing or contracting with the individual.** See Code of Maryland Regulations*



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(COMAR) 10.22.02.11, Maryland Annotated Code Health-General Article § 19-1901 et seq., and COMAR Title 12, Subtitle 15. COMAR 10.22.02.11B also provides the DDA discretion to prevent individuals from providing services.ⁱ

HB175 states that a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:

- (1) there is a **direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought**; or
- (2) (2) the issuance of the license or certificate would involve [an unreasonable risk to property or to the safety or welfare of specific individuals or the general public] **A DIRECT AND SUBSTANTIAL THREAT TO PUBLIC SAFETY OR SPECIFIC INDIVIDUALS OR PROPERTY.**

While we do not disagree that reform is needed- that many people are unfairly disqualified from employment for their backgrounds, when they are otherwise qualified applicants- we hope there continues to be a lens on safety of vulnerable populations who rely on certain occupationally licensed professionals for needed care. We also suggest this legislation be viewed against federal CMS requirements for backgrounds to promote quality and safety.

For more information, please contact: Ande Kolp, Executive Director, The Arc Maryland 443-851-9351
akolp@thearcmd.org

ⁱ Page 244: <https://health.maryland.gov/dda/Documents/CPW%20Waiver%20Amendment%20%231%202023.pdf>