

SB0054_Occupational_Licensing_Criminal_History_MLC

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0054
Occupational Licensing and Certification – Criminal History – Prohibited
Disclosures and Predetermination Review Process

Bill Sponsor: Senator Carter

Committee: Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of SB0054 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.

2.6.24 Testimony of Chad Reese of Institute for Ju

Uploaded by: Chad Reese

Position: FAV



INSTITUTE FOR JUSTICE

**Testimony in Support of Senate Bill 0054
Maryland Senate Finance Committee**

February 6, 2024

Dear Chair Beidle and Members of the Committee:

Thank you for the opportunity to submit testimony in support of SB 54, 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 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

SB 54 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
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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. & Pirius, 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>.

SB0054_FAV_CFUF (4).pdf

Uploaded by: Christopher Dews

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 54:

TO: Hon. Pam Beidle, Chair, and members of the Senate Finance Committee

FROM: Christopher Dews, Policy Consultant

DATE: February 6th, 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 Senate Bill 54 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.

Senate Bill 54 seeks to address this by prohibiting the 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.

Senate Bill 54 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 Senate Bill 54.

SB 54 - 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 Senate Bill 54

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

TO: Hon. Pamela Beidle, Chair, and Members of the Senate Finance 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 Senate Bill 54 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.

Senate Bill 54 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 Senate Bill 54.

For these reasons, JOTF supports Senate Bill 54 and urges a favorable report.

For more information, contact:

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

PCC Written Testimony - MD SB 54.pdf

Uploaded by: Craig Saperstein

Position: FWA



February 2, 2024

Sen. Pamela Beidle, *Chair*
Senate Finance Committee
pamela.beidle@senate.state.md.us

Sen. Katherine Klausmeier, *Vice Chair*
Senate Finance Committee
katherine.klausmeier@senate.state.md.us

Re: SB 54

Dear Senator Beidle and Senator Klausmeier:

The Professional Certification Coalition (PCC)¹ writes regarding SB 54. We respectfully request amendments to ensure that licensing agencies can carry out their statutory responsibilities, and to protect the public and the certification organizations that rely on licensure decisions.

The PCC agrees that having a criminal record should not stigmatize or automatically disqualify an individual from an occupational license. Safeguarding applicants against automatic disqualification from a license, however, does not require a shift to the other extreme: blocking licensing boards from holding applicants to the same conduct standards that apply to a current licensee. **Issuing a license conveys the state's endorsement that an applicant is fit to practice the profession without jeopardizing public health, safety, and welfare. Licensing boards must be able to make decisions that hold applicants and current licensees to consistent disciplinary standards.**

A wide range of conduct that may result in criminal convictions can be relevant to decisions on whether to grant a license that places practitioners in a position of trust or gives them access to vulnerable individuals. Even nonviolent and non-sex-offender crimes can merit a continuing disqualification from certain professions: if a home health nurse has engaged in identity theft or embezzlement, the licensing board should be permitted to consider whether that applicant would still pose a risk to clients, whether the misconduct resulted in a misdemeanor or felony conviction. A misdemeanor conviction may result from a plea bargain based on the same underlying conduct that could otherwise have resulted in a felony conviction. Whether conduct is relevant to determining if an applicant is fit to perform an occupation cannot be determined solely based on the classification of the offense.

¹ The PCC is a nonprofit, nonpartisan association formed to address legislation that affects professional certification programs, those who hold private certification credentials, and the many constituencies that rely on professional certification. The PCC's organizational members include non-governmental professional certification organizations, professional societies, and service providers. The PCC's members reflect a wide spectrum of professions, including health care, engineering, financial services, and information technology, among many others. Our founding organizations – the American Society of Association Executives (the leading organization for association management) and the Institute for Credentialing Excellence (the leading developer of accreditation standards for professional certification programs) – govern the PCC.

SB 54 as currently drafted would prevent licensing boards from taking action based on information that was determined with due process to the applicant and that is relevant to licensing decisions. To address these concerns, the PCC proposes amendments in **Appendix A**.

Overly restricting licensing board decisions based on past conduct that appears in an applicant's criminal conviction history has downstream effects on the information available to private certification organizations. Most private certification organizations rely on agency determinations to enforce their eligibility and ethics codes, as they are non-governmental entities without the resources or legal authority to conduct full-fledged investigations, issue subpoenas, and hold trial-type proceedings.

Both the public and private certification organizations rely on licensing authorities to make informed decisions. Licensing boards must have authority to deny licenses to individuals who have engaged in conduct that casts serious doubt on their fitness to practice the profession or that indicates that the individual poses an unacceptable risk to the people to whom the applicant would interact in the conduct of the profession.

Thank you for your consideration of these amendments. Please feel free to reach out to us using the contact information identified below.

Sincerely,



Jeff Evans
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ASAE: The Center for Association Leadership
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Denise Roosendaal, FASAE, CAE
Executive Director
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cc:

Sen. Jill P. Carter
jill.carter@senate.state.md.us

Senate Finance Committee
AA_FIN@mlis.state.md.us

APPENDIX A

- Amend Section 1-209(C)(5) to read: “A conviction for a misdemeanor that did not involve physical harm **or threat of physical harm** to another individual, **fraud, sexual crimes (including child pornography or revenge porn), or conduct that, if committed by a current licensee, would be the basis for disciplinary action by the Department.**”
- Amend Section 1-209(C)(7) to read: “Unless the conviction was for a crime of violence as defined in § 14-101 of the Criminal Law Article, **or threat of physical harm to another individual, fraud, sexual crimes (including child pornography or revenge porn)**, a conviction for which a period of 3 years has passed since the end of the individual’s term of imprisonment.”
- Amend Section 1-209(d)(1) to read: “there is a direct relationship between the applicant’s previous conviction and the specific occupational license or certificate sought. **There is a direct relationship between a conviction and an occupational license or certificate sought if the previous conviction involves conduct that, if committed by a current licensee, would be a basis for disciplinary action by the licensing authority; or**”
- Strike the amendment to Section 1-209(d)(2) or amend it to read “the issuance of the license or certificate ~~would involve a direct and substantial threat~~ **poses an unacceptable risk** to public safety, **health, or welfare**, or specific individuals or property **that the individual would interact in the conduct of the profession or occupation applied for.**”
- Amend Section 1-209(e) to add an additional consideration, (10): “**Whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation applied for.**”
- Add a safe harbor provision: “**Nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.**”



AABC Commissioning Group

ABRET Neurodiagnostic
Credentialing & Accreditation
(ABRET)

ABSA International: the
Association for Biosafety and
Biosecurity (ABSA)

Academy for Certification of
Vision Rehabilitation &
Education Professionals
(ACVREP)

American Association of
Professional Landmen (AAPL)

American Board for
Certification in Orthotics,
Prosthetics and Pedorthics
(ABCOP)

American Board of Certification
for Gastroenterology Nurses
(ABCGN)

American Board of Foot and
Ankle Surgery (ABFAS)

American Board of Medical
Specialties (ABMS)

American Board of
Neuroscience Nursing (ABNN)

American Board of Nursing
Specialties (ABNS)

American Legal Nurse
Consultant Certification Board
(ALNCCB)

American Medical Certification
Association (AMCA)

American Nurses Credentialing
Center (ANCC)

American Payroll Association
(APA)

American Society of
Association Executives (ASAE)

American Society of Civil
Engineers (ASCE)

American Speech-Language-
Hearing Association (ASHA)

American Traffic Safety
Services Association (ATSSA)

American Translators
Association (ATA)

Arcitura Education, Inc.

Association for Financial
Counseling & Planning
Education (AFCPE)

Association of Surgical
Technologists (AST)

Behavior Analyst Certification
Board (BACB)

Beingcert

Board of
Certification/Accreditation
(BOC)

Board of Certified Safety
Professionals (BCSP)

Board of Pharmacy Specialties
(BPS)

Building Commissioning
Certification Board (BCCB)

Building Industry Consulting
Service International, Inc.
(BICSI)

Certification Board for Diabetes
Care and Education (CBDCE)

Certification Board for Music
Therapists (CBMT)

Certification Council for
Professional Dog Trainers
(CCPDT)

Certified Financial Planner
Board of Standards (CFP Board)

Certified Fund Raising
Executive International (CFRE)

CertiProf, LLC

Chartered Financial Analyst
Institute (CFA Institute)

Commission for Case Manager
Certification (CCMC)

Commission on Nurse
Certification (CNC)

Community Association
Institute (CAI)

Construction Management
Association of America
(CMAA)

Council of Engineering and
Scientific Specialty Boards
(CESB)

Dental Assisting National Board
(DANB)

Diving Equipment and
Marketing Association (DEMA)

Entertainment Services and
Technology Association (ESTA)

ETA International

Financial Planning Association
(FPA)

Healthcare Sterile Processing
Association (HSPA)

Hearth, Patio, & Barbecue
Education Foundation (HPBA)

Heuristic Solutions

Hospice and Palliative
Credentialing Center (HPCC)

Human Resource Certification
Institute, Inc. (HRCI)

Institute for Credentialing
Excellence (ICE)

Institute of Hazardous Materials
Management (IHMM)

International Coach Federation
(ICF)

International Information
System Security Certification
Consortium (ISC²)

Investments & Wealth Institute
(IWI)

Irrigation Association	National Recreation and Park Association (NRPA)
IT Certification Council (ITCC)	National Restaurant Association (NRA)
Laborers' International Union of North America Training & Education Fund (LIUNA)	National Roofing Contractors Association (NRCA)
Medical-Surgical Nursing Certification Board (MSNCB)	National Society of Professional Engineers (NSPE)
National Association of Insurance and Financial Advisors (NAIFA)	Nephrology Nursing Certification Commission (NNCC)
National Association of Personal Financial Advisors (NAPFA)	Oncology Nursing Certification Corporation (ONCC)
National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)	Pearson Vue
National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Pediatric Nursing Certification Board (PNCB)
National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Pharmacy Technician Certification Board (PTCB)
National Board of Certification in Occupational Therapy (NBCOT)	Professional Association of Therapeutic Horsemanship International (PATH)
National Board of Public Health Examiners (NBPHE)	PSI Services
National Board of Surgical Technology and Surgical Assisting (NBSTSA)	QualityPro
National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	Rehabilitation Nursing Certification Board (RNCB)
National Certification Corporation (NCC)	School Nutrition Association (SNA)
National Commission for Health Education Credentialing (NCHEC)	SeaCrest Consulting
National Commission on Certification of Physician Assistants (NCCPA)	Security Industry Association (SIA)
National Council on Family Relations (NCFR)	Society of Broadcast Engineers (SBE)
National Kitchen and Bath Association (NKBA)	Specialty Pharmacy Certification Board (SPCB)
	Spray Polyurethane Foam Alliance (SPFA)
	Towing and Recovery Association of America, Inc. (TRA)

SB0054_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:
 SB0054 – Occupational Licensing and Certification – Criminal History –
 Prohibited Disclosures and Predetermination Review Process

Finance Committee
 Hearing – 2/6/2024 at 1:00 pm

The members of the Maryland Mortgage Bankers and Brokers Association, Inc. (“MMBBA”) **SUPPORT, with AMENDMENT, SENATE BILL 0054.**

The MMBBA recognizes and supports the positive intention behind SB0054. 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.

SB0054 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

SB0054

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 Senate Bill 0054, 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

SB 54 - MACPA Written Testimony _ FWA.pdf

Uploaded by: MB Halpern

Position: FWA



**SB 54 - Occupational Licensing and Certification – Criminal History –
Prohibited Disclosures and Predetermination Review Process
Senate Finance Committee
February 6, 2024
Legislative Position: Favorable with Amendments**

Dear Chair Beidle 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 SB 54, 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, SB 54 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 Public 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 SB 54. 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 **SB 54**.

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

SB 54- Occupational Licensing - Criminal History

Uploaded by: Christa McGee

Position: UNF



**Senate Bill 54 –Occupational Licensing and Certification – Criminal History –
Prohibited Disclosures and Predetermination Review Process**

Position: Oppose

Maryland REALTORS® have concerns with SB 54, 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 SB 54, 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, SB 54 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**

3c - SB 54 - FIN - MBON - LOO.docx.pdf

Uploaded by: Jason Caplan

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 Senator Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

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

Dear Chair Beidle and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of opposition for Senate Bill (SB) 54 – 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.”

Senate Bill 54 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. SB 54 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 SB 54.

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.

3b - SB 54 - Audiology Bd - LOC - FIN.pdf

Uploaded by: Maryland State of

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 6, 2024

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

Re: SB 54 Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process – Letter of Concern

Dear Chair Beidle 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 SB 54 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.

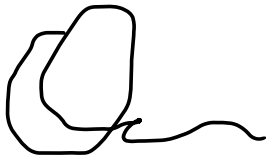
The Board is concerned that the process for requesting and obtaining a written determination from the Board is similar to, but not identical to, the existing process for petitioning a state unit for a declaratory ruling under Md. Code Ann., State Gov't § 10-301, et seq. A petition for a declaratory ruling 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 SB 54.

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.

MCPA-MSA_SB 54 - Prohibited Disclosures Predetermi

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Pam Beidle and Brian Feldman, Chairs and Members of the Senate Finance and Education, Energy, and Environment Committees

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: **SB 54 – 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 SB 54**. While well-meaning, the changes proposed under the bill have the unintended consequences of eroding public safety.

SB 54 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 SB 54** and urge an **UNFAVORABLE** committee report.

SB 54 - FIN - MBON - LOO.docx.pdf

Uploaded by: Rhonda Scott

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 Senator Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

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

Dear Chair Beidle and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of opposition for Senate Bill (SB) 54 – 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.

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Senate Bill 54 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.

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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. SB 54 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 SB 54.

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.

3a - SB 54 - FIN - Joint Letter - LOO.docx.pdf

Uploaded by: State of Maryland (MD)

Position: UNF



Board of Physicians

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

2024 SESSION POSITION PAPER

BILL NO.: SB 54 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process
COMMITTEE: Finance / Education, Energy, and the Environment
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 Senate Bill 54 – Occupational Licensing and Certification – Criminal History – Prohibited Disclosures and Predetermination Review Process (SB 54). While the intent of SB 54 is positive, the Boards are concerned that in practice, SB 54 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. SB 54 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 SB 54.

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, SB 54 would restrict the Boards' ability to properly protect the public. Therefore, the Boards would urge the Committee to submit an unfavorable report unless SB 54 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
Legal Assistant
Maryland State Board of Dental Examiners
murray.sherman@maryland.gov

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.

SB0054_The Arc Maryland_Letter of Information.pdf

Uploaded by: Ande Kolp

Position: INFO



The Arc Maryland
8601 Robert Fulton Drive
Suite 140
Columbia, MD 21046
T 410.571.9320
www.thearcmd.org

**SB0054: Occupational Licensing and Certification –
Criminal History – Prohibited Disclosures and
Predetermination Review Process**

Finance 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.

SB0054 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*



The Arc Maryland
8601 Robert Fulton Drive
Suite 140
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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

SB0054 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>

Deyo MD Testimony_2024_SB 54.pdf

Uploaded by: Joana da Silva-Gonzalez

Position: INFO

Maryland Senate Committee on Finance

Written Testimony: Dr. Darwyn Deyo, PhD

Chair Beidle, Vice Chair Klausmeier, and members of the Senate Committee on Finance:

My name is Dr. Darwyn Deyo. I am an associate professor of economics at San José State University and a senior research fellow with the Knee Regulatory Research Center at West Virginia University. My research focuses on the effects of occupational regulation on labor and crime outcomes. I am writing today about the costs to everyday Marylanders from collateral consequences for occupational licensing.

The main takeaways from my testimony are as follows:

- Maryland is currently one of the most burdensome states for occupational licensing and collateral consequences make it even harder for people to get to work.
- SB 54 could reduce systematic inequities for people reintegrating into society while also reducing uncertainty for licensing applicants and departments.
- Economics research has found that higher licensing barriers are associated with higher recidivism rates, and SB 54 could also mitigate these issues by improving workforce access.

Occupational licensing is a government permission slip to work

Maryland is currently one of the most burdensome states for occupational licensing, according to the 2022 License to Work report from the Institute for Justice, which I co-authored.¹ Maryland licenses dozens of blue-collar occupations that make it harder for people to get to work, and collateral consequences exacerbate economic inequities from these structural barriers by making people pay twice for the same offense. Prohibitions on double jeopardy prevent people from having to keep defending themselves against the same charge, but collateral consequences mean that people keep paying over and over for their mistakes. This creates often-insurmountable burdens for most people simply trying to start again, especially after they have already paid a fine or were incarcerated. Working in a licensed occupation without the license could even send someone back to prison, even if they did nothing to jeopardize public safety.

SB 54 creates opportunities for Marylanders by reducing systematic barriers

Maryland has lagged behind the movement to reform collateral consequences for occupational licensing. This year, SB 54 would open important doors for aspiring workers with nonviolent criminal records. Right now, Maryland imposes more burdensome collateral consequences for its residents than its neighbors, even allowing departments to deny licenses for arrest records that did not lead to convictions and limiting due process for applicants. Research has found that higher licensing barriers are associated with higher recidivism rates, as aspiring workers are locked out of a fresh start. SB 54, by reducing uncertainty for licensing applicants and departments, raising the standard for when licenses can be denied because of a criminal record, and providing for a predetermination review process, thus has the potential to improve equity, public safety, and economic opportunity in Maryland. Further collateral consequence reform, that has already been successfully implemented in other states, can improve economic opportunities and reduce systematic economic inequalities in Maryland.

Darwyn Deyo, PhD

Associate Professor of Economics, San José State University
Senior Research Fellow, Knee Regulatory Research Center

¹ <https://ij.org/report/license-to-work-3/>