



Maryland

DEPARTMENT OF HEALTH

Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Damean W.E. Freas, D.O., Chair

**2022 SESSION
POSITION PAPER**

BILL NO.: SB 111 – Occupational Licenses or Certificates – Pre-application Determinations – Criminal Convictions
COMMITTEE: Judicial Proceedings
POSITION: Letter of Opposition

TITLE: Occupational Licenses or Certificates – Pre-application Determinations – Criminal Convictions

BILL ANALYSIS: Establishes a pre-application process for applicants to obtain a determination as to whether certain criminal convictions would be the basis for the denial of an application for certain occupational licenses or certificates.

POSITION & RATIONALE:

The Maryland Board of Physicians and the Maryland Board of Occupational Therapy Practice (the Boards) are respectfully submitting this letter of opposition for Senate Bill 111 – Occupational Licenses or Certificates – Pre-application Determinations – Criminal Convictions. While the intent of SB 111 is positive, the Boards are concerned that in practice, SB 111 would place more burdens on those applicants with criminal convictions and lead to delays and increased fees.

SB 111 would allow applicants to request a determination from the Boards as to whether a criminal conviction would be the basis for the denial of a license. However, in practice, it is exceedingly rare that the Boards deny a license based solely on the grounds of a criminal conviction. The Boards thoroughly review each applicant's prior criminal conviction and use the balancing factors provided in the Criminal Procedures Article § 1-209, Maryland Annotated Code, when making determinations about licensure. In fact, despite receiving over 3,000 initial applications and 25,000 renewal applications annually, the Board of Physicians has only denied a single applicant based on a criminal conviction since 2018.

However, while denials of licensure are rare, the Boards are very concerned about the potential ramifications of making blanket statements regarding whether or not certain criminal convictions would be disqualifying factors for licensure. Two individuals with the same criminal conviction may have drastically different outcomes based on factors such as when the conviction occurred and whether or not such a conviction would speak to the applicant's character and fitness to practice medicine or occupational therapy.

SB 111 would require the Boards to consider solely whether a specified criminal conviction would be the basis for denial of licensure, without providing any way for the Boards to fully weigh the balancing factors found in the Criminal Procedures Article. Crimes that directly involve the practice of medicine and crimes involving moral turpitude must by necessity be treated extremely seriously by the Boards. Absent the full context and circumstances surrounding the conviction, the Boards would need to err on the side of rejecting any convictions that might potentially fall under these categories in the interest of public safety. The Boards would then need to establish an appeals process, which could be costly for both the Boards and applicants, and could discourage applicants from ever submitting a full application following an initial rejection.

Furthermore, in addition to the operational costs to the Boards detailed in the Boards' fiscal notes, adding a pre-application process for applicants with criminal convictions would create additional fees and delays for the applicant. The Boards would be required to assess application fees for both the pre-application and the full application, and the Boards expect that the applicant would also be responsible for paying for fingerprinting through the Court Judiciary Information System ("CJIS"), preparing a narrative explaining the circumstances of the conviction and obtaining any necessary court documents for the Boards to review (which may incur additional fees for the applicant). Once collected and reviewed by a Board analyst, these documents would then need to go before the Boards at a scheduled meeting for final approval. Once the applicant was notified of approval, they would then need to re-apply, which would include paying for fingerprinting through CJIS once again.

The Boards strongly believes that their application processes should never place undue burdens on applicants, and have developed procedures that allow applicants with prior criminal convictions to be treated fairly and quickly. SB 111 would create new fees and a longer application process for many applicants. Given the rarity of cases where a license was denied due to a prior criminal conviction, the Boards believe such changes are unnecessary, and urge an unfavorable report on SB 111.

For more information, please contact Matthew Dudzic, Health Policy Analyst, Maryland Board of Physicians, 410-764-5042 and Lillian Reese, Legislative and Regulations Coordinator, Maryland Board of Occupational Therapy Practice, 410-764-5978.

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