



Wes Moore, Governor · Aruna Miller, Lt. Governor · Meena Seshamani, M.D., Ph.D., Secretary

Maryland State Board of Massage Therapy Examiners
4201 Patterson Avenue, Suite 301
Baltimore, MD 21215

May 21, 2025

The Honorable Anthony G. Brown
Attorney General
Maryland Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202

Re: Request for Opinion

Dear Attorney General Brown:

We, the chairs of the Maryland State Board of Massage Therapy Examiners, the Maryland State Board of Professional Counselors and Therapists, and the Maryland State Board of Barbers, write respectfully to request an Opinion of the Attorney General regarding the effect of criminal expungement on a previously issued disciplinary order.

As a preliminary matter, regulatory licensing boards exist to protect the public. *See* Md. Code Ann., Health Occ. § 1-102; *Stalker Bros., Inc. v. Alcoa Concrete Masonry, Inc.*, 422 Md. 410, 416-419 (2011). Most, if not all, regulatory licensing boards in the State of Maryland have the authority to discipline an individual's license if that individual has been convicted of a crime. For example, the Maryland Massage Therapy Act authorizes the State Board of Massage Therapy Examiners to discipline an individual if that individual has been found to have "[i]s convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside." *See* Md. Code Ann., Health Occ. ("HO") § 6-308(a).¹ Non-health, "business" licensing boards such

¹ With some minor variations, this language or similar authority is present for each profession regulated under the Health Occupations Article. *See* HO §§ 1A-309(7) (acupuncturists); 2-314(4) (audiologists, hearing aid dispensers, and speech-language pathologists); 2-4A-14(3) (music therapists); 3-313(5) (chiropractors); 4-315(a)(4) (dentists); 4-315(b)(13) (dental hygienists); 5-311(6) (dietician-nutritionists); 7-316(a)(4) (morticians); 7-604(4) (mortuary transport service providers); 8-316(a)(4) (nurses); 8-6A-10(a)(4) (nursing assistants); 8-6B-18(a)(6) (electrologists); 8-6C-20(a)(4) (direct-entry midwives); 8-6D-10(a)(4) (certified midwives); 9-314(b)(4) (nursing home administrators); 9-3A-12(b)(4) (assisted living managers); 10-315(6) (occupational therapists); 11-313(3) (optometrists); 12-313(b)(22) (pharmacists); 12-6B-09(24) (pharmacy technicians); 12-6D-11(15) (registered pharmacy interns); 13-316(6) (physical therapists); 16-311(a)(3) (podiatrists); 17-509(10) (professional counselors); 17-6A-19(3) (behavioral analysts); 18-313(3) (psychologists); 19-311(a)(7) (social workers); 20-313(b)(4) (residential childcare program professionals); 21-312(b)(5) (environmental health specialists).

as the Maryland State Board of Cosmetology have similar provisions. *See* Md. Code Ann., Bus. Occ. & Prof. § 5-314(a)(1)(vii).² As such, an applicant or licensee who has been convicted of a felony or a crime involving moral turpitude is subject to discipline, provided that the respective board follows all necessary procedural due process requirements as well as the Administrative Procedure Act's contested case procedures, which include the issuance of an order with findings of fact and conclusions of law. In addition, if the ultimate result of the contested case process is a public disciplinary order, health occupations boards are required to post that disciplinary order on their website. *See* HO 1-607.

Certain commonly seen felonies, such as thefts over \$1,500 and possession with intent to distribute a controlled dangerous substance, are expungable. Moreover, boards often take adverse licensure actions against applicants or licensees who have been convicted of "crimes involving moral turpitude." Crimes involving moral turpitude historically are "infamous crimes" such as treason, fraud, perjury, forgery, and other offenses that speak to the applicant or licensee's honesty or integrity. *Stidwell v. Maryland State Bd. Of Chiropractic Examiners*, 144 Md. App. 613, 617 (2002). In the context of professional licensing, however, "the expression strikes the broader chord of public confidence in the administration of government" or confidence of the public to practice in a certain profession. *Id.* at 619. Relevant to our inquiry here, it is possible that a crime involving moral turpitude is also a crime that, in Maryland, could be eligible for expungement.

For example, from time to time, the State Board of Massage Examiners receives information or complaints that an individual licensed to practice massage therapy has sexually assaulted a client during a massage session. Often, the alleged sexual assault is initially charged by local authorities as rape and assault; however, the Board finds that, ultimately, if the local authorities actually pursue the matter, the rape charged is dropped and/or the crime is pled down to second degree assault in violation of Md. Code Ann., Crim. Law § 3-203. In this context, a second-degree assault could be considered by the Board as a "crime involving moral turpitude" because a person who commits a second degree assault, particularly one of a sexual nature, during a massage session would not have the Board's or the public's confidence to practice as a massage therapist. Thus, it is possible for the Board to issue an order disciplining an individual for pleading guilty to this crime. However, second-degree assault is expungable under Md. Code Ann., Crim. Proc. § 10-110(a)(1)(vii).

The State Board of Professional Counselors and Therapists regulates alcohol and drug counselors. Accordingly, this Board considers certain crimes, felony or otherwise, involving drug and alcohol to be crimes involving moral turpitude as an individual who has been convicted of these crimes may not have the Board's confidence to practice as an alcohol and drug counselor. Certain crimes involving drugs and alcohol, however, are expungable. *See, e.g.*, Md. Code Ann., Crim. Proc. §§ 10-110(a)(1)(viii); 10-111; 10-112.

² *See also* Md. Code Ann., Bus. Occ. & Prof. §§ 2-315(a)(1)(iii) (accountants); 3-311(a)(1)(vii) (architects); 4-314(a)(1)(viii) (barbers); 6-316(a)(1)(vi) (electricians); 6.5-314(a)(1)(iii) (stationary engineers); 7-309(a)(1)(iv) (foresters); 8-310(a)(1)(iii) (interior decorators); 9-310(a)(1)(iii) (landscape architects); 11-409(a)(3) (pilots); 12-312(a)(1)(v) (plumbers); 14-317(a)(1)(iii) (professional engineers); 15-317(a)(1)(iii) (professional land surveyors); 16-701(a)(1)(v) (real estate appraisers); 16-701.1(a)(4) (home inspectors); 16-701.2(a)(3) (appraisal management companies); 17-322(b)(24) (real estate brokers); 18-308(a)(4) (security system technicians); 19-408(a)(4) (security guards); 20-314(a)(6) (private home detention monitors); 21-311(a)(3) (individual tax preparers).

As the State continues to broaden and refine its expungement laws, allowing for more crimes to be expunged, regulatory boards are facing more inquiries from previously disciplined individuals to “expunge”, vacate, or otherwise rescind disciplinary orders based on pleas or convictions to expunged crimes. According to these individuals, since the underlying basis for the board order has been expunged, the order is no longer valid and should carry no force and effect. Further, with regard to health occupations boards, the individuals often cite the reputational harm that results in having the order referencing expunged materials posted publicly to the board’s website.

Thus, we seek your formal opinion on whether regulatory boards have any duty to rescind, vacate, or otherwise remove from public view any disciplinary orders based solely on a crime or crimes expunged after the issuance of those board orders. Thank you for your attention to this matter, and we look forward to your response.

Very truly yours,



Stephen Conti (May 21, 2025 16:19 EDT)

Stephen Conti, LMT, Chair
Maryland State Board of Massage Therapy Examiners



Winnie D. Moore, LCPC, Chair
Maryland State Board of
Professional Counselors and Therapists



Lawrence Franklin (May 21, 2025 15:25 EDT)

Lawrence Franklin, Chair
Maryland Board of Barbers

cc: Tony DeFranco, AAG, Counsel to the Board of Massage Therapy Examiners
Rhonda Edwards, AAG, Counsel to the Board of Professional Counselors and Therapists
Kenneth Sigman, AAG, Counsel to the Board of Barbers