



PROFESSIONAL
CERTIFICATION
COALITION

info@profcertcoalition.org

**Public Hearing Testimony for the Professional Certification Coalition
H.B. 6474, An Act Concerning Collateral Employment Consequences of a Criminal Record**

Senator Kushner, Representative Porter, Ranking Members Sampson and Arora, and distinguished members of the committee:

The Professional Certification Coalition (PCC) writes to share our views regarding H.B. 6474. We appreciate that this bill aims to advance the important goal of reducing recidivism by making it easier for an ex-offender to earn a living in certain occupations. Unfortunately, **in its current form, H.B. 6474 intrudes on the right of private associations and organizations to enforce their ethics codes or eligibility requirements and weakens important protections for the public in licensure decisions.** We respectfully request that H.B. 6474 be amended to address these issues.

The PCC is a nonprofit 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.

We support H.B. 6474's worthy objectives, which are consistent with national efforts to reform the criminal justice system and to ensure pathways to opportunity for ex-offenders. As reflected in our [statement of principles](#), however, these objectives must be balanced against the need to protect the public and the ability of both state licensing boards and private organizations to consider relevant conduct for which individuals have been provided full due process. Moreover, H.B. 6474 seeks to bar private organizations from denying membership on the basis of criminal history record information. In contrast to "ban the box" laws applicable to employment decisions, **this interference with the membership decisions of associations and credentialing organizations violates the First Amendment rights of those private organizations.** As the U.S. Supreme Court explained in *Roberts v. United States Jaycees*:

There can be no clearer example of an intrusion into the internal structure or affairs of an association than a regulation that forces the group to accept members it does not desire. Such a regulation may impair the ability of the original members to express only those

views that brought them together. Freedom of association therefore plainly presupposes a freedom not to associate.

Although the Supreme Court held that states nonetheless may have a compelling interest in barring discrimination on the basis of race or gender, a person's commission of criminal offenses is not entitled to the same legal protections and does not outweigh the constitutional rights of private organizations. Some criminal offenses may be antithetical to a credentialing or membership organization's purposes and values. For example, a professional society of financial advisors may legitimately screen applicants for embezzlement or fraud convictions, and an association of youth counselors may appropriately exclude applicants with records of criminal violence or sexual offenses. To avoid this unconstitutional interference with associations' eligibility decisions and enforcement of their ethics codes, **the PCC urges that that the bill be amended to delete the reference to criminal history record information in Section 5(a).**

The PCC supports H.B. 6474 in restricting licensing agencies from treating criminal records as automatic disqualifiers and instead requiring individualized consideration of an applicant's circumstances. In its current form, however, H.B. 6474 unduly constrains that process. The bill would prohibit denying a license, permit, certificate, or registration unless the denial is consistent with "business necessity" and "there is a substantial nexus between the circumstances of the person's criminal history record information and the occupational license the person is seeking." This provides insufficient protections to the public. Some crimes outside the scope of practice nonetheless indicate that a person poses a threat to the public. For example, a conviction for identity theft is relevant to whether to license a person to work as a licensed practical nurse who cares for vulnerable seniors in their homes, and person convicted of distributing child pornography may appropriately be denied a teaching license, even if neither crime occurred in connection with the practice of those professions.

The PCC therefore urges that Section 4(a) be amended to add a fourth basis on which a licensing agency may determine that denial of an occupational license is consistent with business necessity: **"The offense reflects that the person poses a threat to the health, safety, or welfare of members of the public the individual would encounter in the practice of the occupation."** Further, the PCC urges that any of the enumerated bases be considered sufficient for denial, and that therefore the "and" at the end of line 208 of the current bill be changed to **"or."**

Thank you for your consideration of these amendments. The PCC welcomes the opportunity to work with you to improve this legislation to ensure that the law provides pathways to opportunity for ex-offenders while empowering state licensing boards and private organizations to consider relevant conduct for which individuals have been provided full due process.

Professional Certification Coalition Members

ABRET Neurodiagnostic Credentialing & Accreditation (ABRET)	American Nurses Credentialing Center (ANCC)	CCIM Institute (issues the Certified Commercial Investment Member designation)
ABSA International: the Association for Biosafety and Biosecurity (ABSA)	American Payroll Association (APA)	CFA Institute
Academy of Nutrition and Dietetics (AND)	American Road & Transportation Builders Association Foundation (ARTBA)	Certification Board for Music Therapists (CBMT)
Academy for Certification of Vision Rehabilitation & Education Professionals (ACVREP)	American Society of Association Executives (ASAE)	Certification Board of Infection Control and Epidemiology (CBIC)
Alliance of Hazardous Materials Professionals	American Society of Civil Engineers (ASCE)	Certification Council for Professional Dog Trainers
American Association of Post-Acute Care Nurses (AAPACN)	American Speech-Language-Hearing Association (ASHA)	Certified Financial Planner Board of Standards (CFP)
American Association of Critical-Care Nurses (AACN)	American Traffic Safety Services Association (ATSSA)	Certified Fund Raising Executive International (CFRE)
American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM)	American Translators Association (ATA)	Commercial Real Estate Certification Institute
American Association of Professional Landmen	American Veterinary Medical Association (AVMA)	Commission for Case Manager Certification (CCMC)
American Board for Certification in Orthotics, Prosthetics and Pedorthics (ABCOP)	APICS (formerly the American Production and Inventory Control Society)	Commission on Nurse Certification (CNC)
American Board of Certification for Gastroenterology Nurses (ABCGN)	Association for Financial Counseling & Planning Education (AFCPE)	CompTIA
American Board of Neuroscience Nursing (ABNN)	Association for Financial Professionals (AFP)	Community Association Institute (CAI)
American Board of Post-Acute and Long-Term Care Medicine (ABPLM)	Association of Surgical Technologists (AST)	Construction Management Association of America (CMAA)
American Board of Foot and Ankle Surgery (ABFAS)	Behavior Analyst Certification Board (BACB)	Council of Engineering and Scientific Specialty Boards (CESB)
American Board of Wound Management (ABWM)	Building Industry Consulting Service International (BICSI)	Dental Assisting National Board (DANB)
American Industrial Hygiene Association (AIHA)	Board of Certification/Accreditation (BOC)	Design-Build Institute of America (DBIA)
American Medical Certification Association (AMCA)	Board of Certified Safety Professionals (BCSP)	Diving Equipment and Marketing Association (DEMA)
	Board of Pharmacy Specialties (BPS)	Entertainment Services and Technology Association (ESTA)
	Building Commissioning Certification Board (BCCB)	ETA International (ETA)
		Events Industry Council (EIC)
		Financial Planning Association (FPA)

Hearth, Patio, & Barbecue
Education Foundation

Heuristic Solutions

Hospice and Palliative
Credentialing Center (HPCC)

Institute for Credentialing
Excellence (ICE)

Institute of Certified
Management Accountants
(ICMA)

Institute of Hazardous Materials
Management (IHMM)

Institute of Internal Auditors
(IIA)

Inteleos (includes the American
Registry for Diagnostic Medical
Sonography (ARDMS) and the
Alliance for Physician
Certification & Advancement
(APCA))

Irrigation Association

International Association of
Healthcare Central Service
Materiel Management
(IAHCSMM)

International Association of
Lighting Designers (IALD)

International Certification &
Reciprocity Consortium
(IC&RC)

International Coach Federation
(ICF)

International Foundation for
Retirement Education (InFRE)

International Society of
Automation (ISA)

Institute of Real Estate
Management (IREM)

International Information
System Security Certification
Consortium (ISC²)

IT Certification Council (ITCC)

Laborers' International Union of
North America Training &
Education Fund (LIUNA)

Medical-Surgical Nursing
Certification Board (MSNCB)

National Association of Legal
Assistants, Inc. (NALA)

National Association of
Insurance and Financial
Advisors (NAIFA)

National Association of Personal
Financial Advisors (NAPFA)

National Athletic Trainers'
Association Board of
Certification, Inc. (NATA)

National Board of Certification
and Recertification for Nurse
Anesthetists (NBCRNA)

National Board for Certification
in Hearing Instrument Sciences
(NBC-HIS)

National Kitchen and Bath
Association (NKBA)

National Board of Certification
in Occupational Therapy
(NBCOT)

National Certification
Commission for Acupuncture
and Oriental Medicine
(NCCAOM)

National Certification Board for
Diabetes Educators (NCBDE)

National Certification
Corporation (NCC)

National Commission on
Certification of Physician
Assistants (NCCPA)

National Commission for Health
Education Credentialing

National Council on Family
Relations (NCFR)

National Recreation and Park
Association (NRPA)

National Restaurant Association
(NRA)

National Roofing Contractors
Association (NRCA)

National Society of Professional
Engineers (NSPE)

Nephrology Nursing
Certification Commission

Oncology Nursing Certification
Corporation

Professional Association of
Therapeutic Horsemanship
International (PATH)

Pediatric Nursing Certification
Board (PNCB)

Pharmacy Technician
Certification Board (PTCB)

PSI Services

Pearson Vue

QualityPro

School Nutrition Association
(SNA)

SeaCrest Consulting

Security Industry Association

Society of Broadcast Engineers
(SBE)

Specialty Pharmacy
Certification Board (SPCB)

Spray Polyurethane Foam
Alliance (SPFA)

Towing and Recovery
Association of America, Inc.
(TRA)