



PROFESSIONAL
CERTIFICATION
COALITION

October 28, 2021

Rep. Michael Day, *Chair*
Joint Committee on the Judiciary
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Sen. James Eldridge, *Chair*
Joint Committee on the Judiciary
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Rep. Chynah Tyler, *Vice Chair*
Joint Committee on the Judiciary
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State House, Room 155
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Sen. Eric Lesser, *Vice Chair*
Joint Committee on the Judiciary
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Re: H. 4154

Dear Representative Day, Senator Eldridge, Representative Tyler, and Senator Lesser:

The Professional Certification Coalition (PCC) writes regarding H. 4154. We appreciate that this bill aims to advance the important goal of expanding opportunities for those charged with crimes. We respectfully request your consideration of amendments to ensure protections for the public and certification organizations that rely on licensure decisions.

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.

The PCC supports the goal of H. 4154 to broaden access to licensure for those charged with crimes so they may earn a living in their chosen profession. We agree that simply having a criminal record should not stigmatize or automatically disqualify an individual from an occupational license. It is critical, however, that licensing boards have the ability to consider the underlying facts relating to an applicant's past conduct so they may make independent, individual determinations about that applicant's fitness to practice the profession with the state's endorsement.

Not all professions are the same, nor are all criminal records. Members of the public view licensure as the state's recognition that the licensed individual is qualified to practice the profession safely and competently, without harming public safety, health, or welfare.

As currently written, H. 4154 could place blinders on licensing agencies for convictions that are more than three years old, other than violent or sexual offenses, and places too high a burden of proof on

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licensing agencies. The PCC proposes the following amendments to H. 4154 to bolster that protection for the public:

- Eliminate the clear and convincing evidence burden of proof in Section 172N(d)(1).
- Provide that there is no time limit limitation for consideration of conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee, registrant, or permit holder.

The public expects licensing authorities to serve as gatekeepers, as do private certification organizations. Private certification organizations in regulated professions rely on licensing boards to exercise their authority to deny licenses to individuals who have engaged in conduct that casts serious doubt on their fitness to practice the profession or indicates that the individual poses an unacceptable risk to the people to whom the applicant would interact in the conduct of the profession. For example, a conviction for Medicaid billing fraud, even though non-violent and not a sexual offense, could be directly relevant to licensure of a healthcare provider and to the health and safety of the public, if the fraud took the form of ordering unnecessary medical procedures for patients. Even if a criminal conviction record is not an automatic disqualifier from licensure, licensing boards should have the ability to consider the facts and circumstances of a licensee's or applicant's history.

Most private certification organizations also rely on agency determinations in their own eligibility and ethics code enforcement, as they are non-governmental entities without the resources or legal authority to conduct full-fledged investigations, issue subpoenas, and hold trial-type proceedings. Withholding criminal conviction history from licensing boards therefore also has downstream effects on the information available to private certification organizations.

The PCC applauds Massachusetts for advancing important criminal justice reforms through the H. 4154. We respectfully request, however, that the legislature amend H. 4154 as we have requested above to better protect the public.

Thank you for your consideration of these amendments. If you have any questions regarding this letter, please feel free to reach out to us using the contact information identified below.

Sincerely,



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CC:

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Rep. Vanna Howard
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Current Members of the PCC

1. ABRET Neurodiagnostic Credentialing & Accreditation (ABRET)
2. ABSA International: the Association for Biosafety and Biosecurity (ABSA)
3. AABC Commissioning Group
4. Academy for Certification of Vision Rehabilitation & Education Professionals (ACVREP)
5. Alliance of Hazardous Materials Professionals
6. American Association of Post-Acute Care Nurses (AAPACN)
7. American Association of Critical-Care Nurses (AACN)
8. American Association of Professional Landmen
9. American Board for Certification in Orthotics, Prosthetics and Pedorthics (ABCOP)
10. American Board of Certification for Gastroenterology Nurses (ABCGN)
11. American Board of Neuroscience Nursing (ABNN)
12. American Board of Post-Acute and Long-Term Care Medicine (ABPLM)
13. American Board of Foot and Ankle Surgery (ABFAS)
14. American Board of Wound Management (ABWM)
15. American Industrial Hygiene Association (AIHA)
16. American Medical Certification Association (AMCA)
17. American Nurses Credentialing Center (ANCC)
18. American Payroll Association (APA)
19. American Society of Association Executives (ASAE)
20. American Society of Civil Engineers (ASCE)
21. American Speech-Language-Hearing Association (ASHA)
22. American Traffic Safety Services Association (ATSSA)
23. American Translators Association (ATA)
24. American Veterinary Medical Association (AVMA)
25. Association for Financial Counseling & Planning Education (AFCPE)
26. Association for Financial Professionals (AFP)
27. Association of Surgical Technologists (AST)
28. Behavior Analyst Certification Board (BACB)
29. Building Industry Consulting Service International (BICSI)
30. Board of Certification/Accreditation (BOC)
31. Board of Certified Safety Professionals (BCSP)
32. Board of Pharmacy Specialties (BPS)
33. Building Commissioning Certification Board (BCCB)
34. CCIM Institute (issues the Certified Commercial Investment Member designation)
35. CFA Institute
36. Certification Board for Music Therapists (CBMT)
37. Certification Board of Infection Control and Epidemiology (CBIC)
38. Certification Council for Professional Dog Trainers
39. Certified Financial Planner Board of Standards (CFP)
40. Certified Fund Raising Executive International (CFRE)
41. Commercial Real Estate Certification Institute
42. Commission for Case Manager Certification (CCMC)
43. Commission on Nurse Certification (CNC)
44. CompTIA
45. Community Association Institute (CAI)
46. Construction Management Association of America (CMAA)
47. Council of Engineering and Scientific Specialty Boards (CESB)
48. Dental Assisting National Board (DANB)
49. Diving Equipment and Marketing Association (DEMA)
50. Entertainment Services and Technology Association (ESTA)
51. ETA International (ETA)

52. Financial Planning Association (FPA)
53. Hearth, Patio, & Barbecue Education Foundation
54. Heuristic Solutions
55. Hospice and Palliative Credentialing Center (HPCC)
56. Institute for Credentialing Excellence (ICE)
57. Institute of Certified Management Accountants (ICMA)
58. Institute of Hazardous Materials Management (IHMM)
59. Institute of Internal Auditors (IIA)
60. Irrigation Association
61. International Association of Healthcare Central Service Materiel Management (IAHCSMM)
62. International Association of Lighting Designers (IALD)
63. International Coach Federation (ICF)
64. International Foundation for Retirement Education (InFRE)
65. International Information System Security Certification Consortium (ISC²)
66. IT Certification Council (ITCC)
67. Laborers' International Union of North America Training & Education Fund (LIUNA)
68. Medical-Surgical Nursing Certification Board (MSNCB)
69. National Association of Legal Assistants, Inc. (NALA)
70. National Association of Insurance and Financial Advisors (NAIFA)
71. National Association of Personal Financial Advisors (NAPFA)
72. National Athletic Trainers' Association Board of Certification, Inc. (BOC)
73. National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)
74. National Board of Certification in Hearing Instrument Sciences (NBC-HIS)
75. National Kitchen and Bath Association (NKBA)
76. National Board of Certification in Occupational Therapy (NBCOT)
77. National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
78. Certification Board for Diabetes Care and Education (CBDCE)
79. National Certification Corporation (NCC)
80. National Commission on Certification of Physician Assistants (NCCPA)
81. National Commission for Health Education Credentialing
82. National Council on Family Relations (NCFR)
83. National Recreation and Park Association (NRPA)
84. National Restaurant Association (NRA)
85. National Roofing Contractors Association (NRCA)
86. National Society of Professional Engineers (NSPE)
87. Nephrology Nursing Certification Commission
88. Oncology Nursing Certification Corporation
89. Professional Association of Therapeutic Horsemanship International (PATH)
90. Pediatric Nursing Certification Board (PNCB)
91. Pharmacy Technician Certification Board (PTCB)
92. PSI Services
93. Pearson Vue
94. QualityPro
95. School Nutrition Association (SNA)
96. SeaCrest Consulting
97. Security Industry Association
98. Society of Broadcast Engineers (SBE)
99. Specialty Pharmacy Certification Board (SPCB) c/o National Association of Specialty Pharmacy Certification Board
100. Spray Polyurethane Foam Alliance (SPFA)
101. Towing and Recovery Association of America, Inc. (TRA)