PROFESSIONAL CERTIFICATION COALITION

February 1, 2023

Sen. Liz Krueger, *Chair*
Senate Finance Committee
172 State St Legislative Office Bldg
State Capitol Building, Room 416 Cap
Albany, NY 12247
lkrueger@nysenate.gov

Sen. Thomas F. O'Mara, *Ranking Minority Member*
Senate Finance Committee
933 Albany Legislative Office Bldg
Legislative Office Building, Room 711B
Albany, NY 12248-0001
omara@nysenate.gov

Re: S. 211

Dear Senator Krueger and Senator O'Mara:

The Professional Certification Coalition (PCC) writes to share our views regarding S. 211. We appreciate that the bill aims to advance the important goal of expanding opportunities for those with criminal conviction histories. We urge that the bill incorporate amendments to New York law to ensure protections for the public and for certification organizations.

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 ensuring that individuals who have completed their sentences are not permanently stigmatized when seeking employment. **But state licensing agencies and private certification organizations need access to the records of certain past criminal convictions in order to make well-informed decisions about conferring credentials that endorse the individual as trustworthy.**

Some nonviolent and non-sex-offender crimes merit a continuing disqualification from certain professions, such as if a licensed financial advisor has embezzled from clients or a licensed practical nurse providing home health care services has engaged in identity theft. Further, many misdemeanor convictions result from plea bargains, even though the underlying offense would constitute a felony or a misdemeanor that carries a longer maximum sentence. A misdemeanor conviction for which the sentence has been served may still be relevant to an applicant's fitness to perform an occupation.

Licensing boards play a critical role in ensuring that the public can safely engage the services of a licensed professional. Licensing boards should not be prevented from having access to information that bears on an applicant's fitness to perform a profession, especially where that information has been established beyond a reasonable doubt, with due process to the applicant.

Private certification organizations also play an important role in conferring credentials on which the public relies. Certifications convey the certification organization's endorsement that the individual meets the competency, knowledge, and conduct standards required for the credential – an endorsement that may be misleading if the certification organization cannot even consider relevant past conduct.

To address these concerns, the PCC proposes that a new safe harbor provision be added as Section 160.57(3)(g):

"**Notwithstanding any other provision of law to the contrary, nothing in this chapter shall prevent a licensing authority or certification organization from accessing, or requiring an individual to disclose, the individual's expunged misdemeanor and felony conviction records in connection with a decision on the licensing or certification status of the individual. A licensing agency or certification organization may use such information solely in connection with that decision and may take an action based on an expunged conviction only if the underlying conduct resulting in the prior conviction would, if committed by a current licensee or certificant, be the basis for disciplinary action by the licensing authority or certification organization.**"

Thank you for your consideration of this amendment. 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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Current Members of the PCC

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 Industrial Hygiene Association (AIHA)

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)

Board of Certification/Accreditation (BOC)

Board of Certified Safety Professionals (BCSP)

Board of Pharmacy Specialties (BPS)

Building Commissioning Certification Board (BCCB)

Certification Board for Diabetes Care and Education (CBDCE)

Certification Board for Music Therapists (CBMT)

Certification Board of Infection Control and Epidemiology (CBIC)

Certification Council for Professional Dog Trainers (CCPDT)

Certified Financial Planner Board of Standards (CFP)

Certified Fund Raising Executive International (CFRE)

CertiProf, LLC

Chartered Financial Analyst Institute (CFA)

Commission for Case Manager Certification (CCMC)

Commission on Nurse Certification (CNC)

Community Association Institute (CAI)

Computing Technology Industry Association (CompTIA)

Construction Management Association of America (CMAA)

Council for Interior Design Qualification (CIDQ)

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)

Institute for Credentialing Excellence (ICE)

Institute of Hazardous Materials Management (IHMM)

Institute of Inspection Cleaning and Restoration Certification (IICRC)

International Coach Federation (ICF)

International Information System Security Certification Consortium (ISC²)

Investments & Wealth Institute (IWI)

Irrigation Association

IT Certification Council (ITCC)

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

Medical-Surgical Nursing Certification Board (MSNCB)

National Association of Insurance and Financial Advisors (NAIFA)

National Association of Personal Financial Advisors (NAPFA)

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

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

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

National Board of Certification in Occupational Therapy (NBCOT)

National Board of Surgical Technology and Surgical Assisting (NBSTSA)

National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)

National Certification Corporation (NCC)

National Commission on Certification of Physician Assistants (NCCPA)

National Commission for Health Education Credentialing (NCHEC)

National Council on Family Relations (NCFR)

National Kitchen and Bath Association (NKBA)

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 (NNCC)

Oncology Nursing Certification Corporation (ONCC)

Pediatric Nursing Certification Board (PNCB)

Pharmacy Technician Certification Board (PTCB)

Professional Association of Therapeutic Horsemanship International (PATH)

PSI Services

Pearson Vue

QualityPro

Rehabilitation Nursing Certification Board (RNCB)

School Nutrition Association (SNA)

SeaCrest Consulting

Security Industry Association (SIA)

Society of Broadcast Engineers (SBE)

Specialty Pharmacy Certification Board (SPCB) c/o National Association of Specialty Pharmacy Certification Board

Spray Polyurethane Foam Alliance (SPFA)

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

National Board of Public Health Examiners (NBPHE)