



PROFESSIONAL
CERTIFICATION
COALITION

February 3, 2023

Rep. Murrell Smith
1105 Pendleton St
Blatt Building, Room 525
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murrellsmith@schouse.gov

Re: H. 3605

Dear Rep. Smith:

The Professional Certification Coalition (PCC) writes to share our views regarding H. 3605. We appreciate that the bill aims to advance the important goal of expanding opportunities for those with criminal conviction histories. However, 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 H. 3605's goal to broaden access to licensure for ex-offenders 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 be able to consider the facts underlying an applicant's past conduct and 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. Some crimes, even if non-violent and non-sexual in nature, merit a continuing disqualification from certain professions. For example, if a health care professional has abused prescription privileges to run an opioid distribution ring or has engaged in identity theft of vulnerable patients while providing home health services, a licensure board should not be blocked from disqualifying that applicant for the protection of the public, nor should an employer be blocked from taking that into consideration.

To address these concerns, the PCC proposes the following amendments to H. 3605:

- Amend Section 40-1-140(A)(1) to read: "A professional or occupational board may not solely or in part deny a license to an applicant because of a prior criminal conviction, unless the criminal conviction directly relates to the duties, responsibilities, or fitness of the occupation or profession for which the applicant is seeking a license. **A criminal conviction is 'directly related' to an occupation if the circumstances of the offense and the nature of the occupation would create**

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an unreasonable risk to public safety, health, or welfare for an ex-offender to practice the licensed profession.”

- Add a safe harbor provision: **“Nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”**

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.

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.

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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Current Members of the PCC

AABC Commissioning Group	American Payroll Association (APA)	Certification Council for Professional Dog Trainers (CCPDT)
ABRET Neurodiagnostic Credentialing & Accreditation (ABRET)	American Society of Association Executives (ASAE)	Certified Financial Planner Board of Standards (CFP)
ABSA International: the Association for Biosafety and Biosecurity (ABSA)	American Society of Civil Engineers (ASCE)	Certified Fund Raising Executive International (CFRE)
Academy for Certification of Vision Rehabilitation & Education Professionals (ACVREP)	American Speech-Language-Hearing Association (ASHA)	CertiProf, LLC
American Association of Professional Landmen (AAPL)	American Traffic Safety Services Association (ATSSA)	Chartered Financial Analyst Institute (CFA)
American Board for Certification in Orthotics, Prosthetics and Pedorthics (ABCOP)	American Translators Association (ATA)	Commission for Case Manager Certification (CCMC)
American Board of Certification for Gastroenterology Nurses (ABCGN)	Arcitura Education, Inc.	Commission on Nurse Certification (CNC)
American Board of Foot and Ankle Surgery (ABFAS)	Association for Financial Counseling & Planning Education (AFCPE)	Community Association Institute (CAI)
American Board of Medical Specialties (ABMS)	Association of Surgical Technologists (AST)	Computing Technology Industry Association (CompTIA)
American Board of Neuroscience Nursing (ABNN)	Behavior Analyst Certification Board (BACB)	Construction Management Association of America (CMAA)
American Board of Nursing Specialties (ABNS)	Board of Certification/Accreditation (BOC)	Council for Interior Design Qualification (CIDQ)
American Industrial Hygiene Association (AIHA)	Board of Certified Safety Professionals (BCSP)	Council of Engineering and Scientific Specialty Boards (CESB)
American Legal Nurse Consultant Certification Board (ALNCCB)	Board of Pharmacy Specialties (BPS)	Dental Assisting National Board (DANB)
American Medical Certification Association (AMCA)	Building Commissioning Certification Board (BCCB)	Diving Equipment and Marketing Association (DEMA)
American Nurses Credentialing Center (ANCC)	Certification Board for Diabetes Care and Education (CBDCE)	Entertainment Services and Technology Association (ESTA)
	Certification Board for Music Therapists (CBMT)	ETA International
	Certification Board of Infection Control and Epidemiology (CBIC)	Financial Planning Association (FPA)

Healthcare Sterile Processing Association (HSPA)	National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Nephrology Nursing Certification Commission (NNCC)
Hearth, Patio, & Barbecue Education Foundation (HPBA)	National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Oncology Nursing Certification Corporation (ONCC)
Heuristic Solutions		Pediatric Nursing Certification Board (PNCB)
Hospice and Palliative Credentialing Center (HPCC)	National Board of Certification in Occupational Therapy (NBCOT)	Pharmacy Technician Certification Board (PTCB)
Institute for Credentialing Excellence (ICE)	National Board of Surgical Technology and Surgical Assisting (NBSTSA)	Professional Association of Therapeutic Horsemanship International (PATH)
Institute of Hazardous Materials Management (IHMM)	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	PSI Services
Institute of Inspection Cleaning and Restoration Certification (IICRC)		Pearson Vue
International Coach Federation (ICF)	National Certification Corporation (NCC)	QualityPro
International Information System Security Certification Consortium (ISCS ²)	National Commission on Certification of Physician Assistants (NCCPA)	Rehabilitation Nursing Certification Board (RNCB)
Investments & Wealth Institute (IWI)	National Commission for Health Education Credentialing (NCHEC)	School Nutrition Association (SNA)
Irrigation Association		SeaCrest Consulting
IT Certification Council (ITCC)	National Council on Family Relations (NCFR)	Security Industry Association (SIA)
Laborers' International Union of North America Training & Education Fund (LIUNA)	National Kitchen and Bath Association (NKBA)	Society of Broadcast Engineers (SBE)
Medical-Surgical Nursing Certification Board (MSNCB)	National Recreation and Park Association (NRPA)	Specialty Pharmacy Certification Board (SPCB) c/o National Association of Specialty Pharmacy Certification Board
National Association of Insurance and Financial Advisors (NAIFA)	National Restaurant Association (NRA)	Spray Polyurethane Foam Alliance (SPFA)
National Association of Personal Financial Advisors (NAPFA)	National Roofing Contractors Association (NRCA)	Towing and Recovery Association of America, Inc. (TRA)
National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)	National Society of Professional Engineers (NSPE)	National Board of Public Health Examiners (NBPHE)