



March 9, 2023

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Sen. Randy Robertson
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Sen. Tonya Anderson
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Sen. Emanuel Jones
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Re: S.B. 157

Dear Senators Anderson, Goodman, Jones, Robertson, and Strickland:

The Professional Certification Coalition (PCC) writes to share our views regarding S.B. 157. 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 S.B. 157'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 S.B. 157:

- Add a definition of “directly relates” to Section 43-1-1 to read: **“A criminal conviction is ‘directly related’ to an occupation or profession if the circumstances of the offense and the nature of the occupation would create an unreasonable risk to public safety, health, or welfare for an individual to practice the licensed profession.”**
- Amend Section 43-1-19(a)(3) to read “...The professional licensing board shall have the burden of justifying ~~by clear and convincing evidence~~ that a conviction supports an adverse licensing decision.”
- Amend Section 43-1-19(a)(5) to read “Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public **safety, health, or welfare** that materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title or is of a nature likely to jeopardize the interest of the public; such conduct or practice need not have resulted

in actual injury to any person or but must be directly related to the practice of the licensed business or profession but shows and show that the licensee or applicant has committed any act or omission which is indicative of untrustworthiness and which makes the licensee or applicant currently likely to harm the public **safety, health, or welfare;**”

- Amend Section 43-1-19(q)(1) to read: “Notwithstanding paragraph (3) and (4) of subsection (a) of this Code section or any other provision of law, the professional licensing board shall refuse to grant a license to an individual or shall revoke a license only if a felony or covered misdemeanor directly relates to the occupation for which the license is sought or held and granting the license would pose an **unreasonable ~~direct and substantial~~ risk to public safety, health, or welfare** because the individual has not been rehabilitated to safely perform the duties and responsibilities of such occupation, after considering the criteria in paragraph (2) of this subsection. Without finding an **unreasonable ~~direct and substantial~~ risk to public safety, health, or welfare** and a direct relationship between the conviction and the licensed occupation...”
- Amend Section 43-1-19(q)(2) to include an additional factor for the professional licensing board to consider, (H): “**Whether the circumstances of the offense and the nature of the occupation would create an unreasonable risk to public safety, health, or welfare for an individual to practice the licensed profession.**”
- Add a safe harbor provision: “**Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair 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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AABC Commissioning Group
ABRET Neurodiagnostic
Credentialing & Accreditation
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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)