



May 22, 2023

Sen. John Cronin, *Chair*  
Joint Committee on Consumer Protection and  
Professional Licensure  
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Sen. Susan L. Moran, *Vice Chair*  
Joint Committee on Consumer Protection and  
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Rep. Tackey Chan, *Chair*  
Joint Committee on Consumer Protection and  
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Rep. Mary Keefe, *Vice Chair*  
Joint Committee on Consumer Protection and  
Professional Licensure  
[Mary.Keefe@mahouse.gov](mailto:Mary.Keefe@mahouse.gov)

**Re: S.D. 2536**

Dear Senators Cronin and Moran and Representatives Chan and Keefe:

The Professional Certification Coalition (PCC)<sup>1</sup> writes to share our views regarding S.D. 2536. 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 supports S.D. 2536'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, or even if pled down from a felony charge to a misdemeanor, warrant consideration by licensing agencies as to the underlying facts. 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 considering that conduct or disqualifying that applicant for the protection of the public. And a fraud conviction – even if a misdemeanor, or occurring more than three years prior – is relevant to a licensing agency's decision on whether to grant a CPA license to an applicant who would have access to clients' financial and banking information as a result of holding that license.

To address these concerns, the PCC proposes the following amendments to S.D. 2536:

- Strike the proposed amendments in Section 2 of the bill to Section 172N(c)(5) and (6), which categorically prohibit licensing agencies from considering non-violent misdemeanors or, with limited exceptions, convictions that occurred more than 3 years prior to the date of the licensing authority's consideration.

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<sup>1</sup> 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.

- Amend Section 172N(d)(1) to read “A licensing authority may deny, diminish, suspend, revoke, withhold or otherwise limit a professional or occupational license only if the licensing authority determines, ~~by clear and convincing evidence~~, that...”
- Amend Section 172N(d)(1)(i) to read: “First, an individual’s non-excluded criminal record directly relates to the duties and responsibilities of the profession or occupation. **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 172N(d)(1)(iii) to read: “Third, if the licensing authority determines that the interest in protecting the public, an individual or property from harm outweighs the individual’s right to hold the professional or occupational license, then the licensing authority shall determine if the applicant has failed to be rehabilitated **and poses an unacceptable risk to the people with whom the individual would interact in the conduct of the profession or occupation applied for.**”
- 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 that consider relevant information, 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  
(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 Board)  
Certified Fund Raising  
Executive International (CFRE)  
CertiProf, LLC

Chartered Financial Analyst  
Institute (CFA Institute)  
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 (ISC<sup>2</sup>)  
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)