



PROFESSIONAL
CERTIFICATION
COALITION

March 8, 2024

Rep. David Tarnas, *Chair*
House Committee on Judiciary and Hawaiian
Affairs
reptarnas@capitol.hawaii.gov

Rep. Gregg Takayama, *Vice Chair*
House Committee on Judiciary and Hawaiian
Affairs
reptakayama@capitol.hawaii.gov

Re: SB 2706

Dear Rep. Tarnas and Rep. Takayama:

The Professional Certification Coalition (PCC)¹ writes regarding SB 2706. We appreciate that the bill aims to advance the important goal of expanding opportunities for individuals with criminal conviction histories. However, we respectfully request an amendment to ensure that licensing agencies can carry out their statutory responsibilities, to enable private certification organizations to preserve the integrity of their credentials, and to protect the public.

The PCC shares SB 2706's goal of ensuring that individuals with criminal conviction histories are not stigmatized in perpetuity. **But licensing agencies and certification organizations must have access to facts about an applicant's past conduct in order to make informed, individualized decisions about conferring credentials that endorse the individual as trustworthy.**

Automatic expungement or "clean slate" bills, by their nature, place blinders on employers, landlords, and others who interact with individuals with criminal conviction histories, preventing them from learning about past conduct that may influence employment, renting, or other decisions. These restrictions on access to information are seen as justified by the societal value of removing obstacles to successful community reentry for individuals with criminal conviction histories. **But licensing agencies and certification organizations are in a different category from employers and landlords:** a license or professional certification reflects more than a demonstration of technical skills. These credentials also signal to the public that the individual acts consistently with the conduct code for that profession.

Licensing boards play a critical role in ensuring that the public can safely engage the services of a licensed professional; they therefore need access to information relevant to an applicant's fitness to perform a profession, especially reliable information resulting from proceedings with due process to the applicant. Private certification organizations also play an important role in conferring credentials the public relies on. Private certification conveys the endorsement that the individual meets the competency, knowledge, and conduct standards required for the credential.

¹ The PCC is a nonprofit, nonpartisan 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.

A wide range of conduct that may result in criminal convictions can be relevant to decisions on whether to grant a license to practice a profession or to issue a private certification that places practitioners in a position of trust or gives them access to vulnerable individuals. Even nonviolent and non-sex-offender crimes can merit a continuing disqualification from certain professions; if a financial advisor or home health nurse has engaged in identity theft or embezzlement, a licensing board or certification organization for the profession should be permitted to consider whether those applicants would still pose a risk to clients. Nor should misdemeanor convictions automatically be hidden from licensing boards and certification organizations. A misdemeanor conviction may result from a plea bargain based on the same underlying conduct that could otherwise have resulted in a felony conviction. The relevance of the conduct to whether an applicant merits an affirmative endorsement as fit to perform an occupation cannot be determined solely based on the classification of the offense.

Because of its broad sweep, with exceptions for only a few categories of offenses, SB 2706 as currently drafted would block licensing boards and private certification organizations from learning about information that is relevant to their decisions. To address these concerns, the PCC proposes that a new safe harbor provision be added to provide access to criminal conviction records solely in connection with licensure or certification decisions on an individual with a criminal conviction history, with guardrails for how licensing boards and certifications organizations use such information, and without treating the criminal record as broadly stigmatizing:

“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. 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 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)

Beingcert

Board of
Certification/Accreditation
(BOC)

Board of Certified Safety
Professionals (BCSP)

Board of Pharmacy Specialties
(BPS)

Building Commissioning
Certification Board (BCCB)

Building Industry Consulting
Service International, Inc.
(BICSI)

Certification Board for Diabetes
Care and Education (CBDCE)

Certification Board for Music
Therapists (CBMT)

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)

Construction Management
Association of America
(CMAA)

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)

Human Resource Certification
Institute, Inc. (HRCI)

Institute for Credentialing
Excellence (ICE)

Institute of Hazardous Materials
Management (IHMM)

International Coach Federation
(ICF)

International Information
System Security Certification
Consortium (ISC²)

Investments & Wealth Institute
(IWI)

Irrigation Association	National Recreation and Park Association (NRPA)
IT Certification Council (ITCC)	National Restaurant Association (NRA)
Laborers' International Union of North America Training & Education Fund (LIUNA)	National Roofing Contractors Association (NRCA)
Medical-Surgical Nursing Certification Board (MSNCB)	National Society of Professional Engineers (NSPE)
National Association of Insurance and Financial Advisors (NAIFA)	Nephrology Nursing Certification Commission (NNCC)
National Association of Personal Financial Advisors (NAPFA)	Oncology Nursing Certification Corporation (ONCC)
National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)	Pearson Vue
National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Pediatric Nursing Certification Board (PNCB)
National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Pharmacy Technician Certification Board (PTCB)
National Board of Certification in Occupational Therapy (NBCOT)	Professional Association of Therapeutic Horsemanship International (PATH)
National Board of Public Health Examiners (NBPHE)	PSI Services
National Board of Surgical Technology and Surgical Assisting (NBSTSA)	QualityPro
National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	Rehabilitation Nursing Certification Board (RNCB)
National Certification Corporation (NCC)	School Nutrition Association (SNA)
National Commission for Health Education Credentialing (NCHEC)	SeaCrest Consulting
National Commission on Certification of Physician Assistants (NCCPA)	Security Industry Association (SIA)
National Council on Family Relations (NCFR)	Society of Broadcast Engineers (SBE)
National Kitchen and Bath Association (NKBA)	Specialty Pharmacy Certification Board (SPCB)
	Spray Polyurethane Foam Alliance (SPFA)
	Towing and Recovery Association of America, Inc. (TRA)