



March 17, 2025

Senator Michael Stuart, *Chair*
Senate Judiciary Committee
mike.stuart@wvsenate.gov

Senator Thomas Willis, *Vice Chair*
Senate Judiciary Committee
tom.willis@wvsenate.gov

Re: Senate Bill 263

Dear Senators Stuart and Willis:

The Professional Certification Coalition (PCC)¹ writes regarding SB 263. We respectfully request amendments to ensure that licensing agencies can carry out their statutory responsibilities, and to protect the public and the certification organizations that rely on licensure decisions.

The PCC agrees that having a criminal record should not stigmatize or automatically disqualify an individual from an occupational license. Safeguarding applicants against automatic disqualification from a license, however, does not require blocking licensing boards from holding applicants to the same conduct standards that apply to a current licensee. **Issuing a license conveys the state's endorsement that an applicant is fit to practice the profession without jeopardizing public health, safety, and welfare. Licensing boards must be able to make decisions that hold applicants and current licensees to consistent disciplinary standards.**

A wide range of conduct that may result in criminal convictions can be relevant to decisions on whether to grant a license that places practitioners in a position of trust or gives them access to vulnerable individuals. Even nonviolent and non-sex-offender crimes, such as fraud, can merit a continuing disqualification from certain professions. For example, if a home health nurse has engaged in identity theft or embezzlement, the licensing board should be permitted to consider whether that applicant would still pose a risk to clients. Moreover, whether misconduct is relevant to practicing an occupation cannot be determined solely based on whether the misconduct resulted in a misdemeanor or felony conviction. A misdemeanor conviction may result from a plea bargain based on the same underlying conduct that could otherwise have resulted in a felony conviction. Also, the same offense and length of jail sentence may be classified as a misdemeanor in one jurisdiction and a felony in another jurisdiction.

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.

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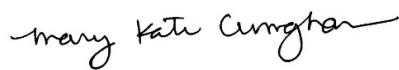
Because of SB 263's broad sweep – applying to licensing agencies across almost all regulated professions – the bill as currently drafted would prevent licensing boards from taking action based on information that was determined with full due process to the applicant and that is relevant to licensing decisions. To address these concerns, the PCC proposes the amendments in **Appendix A**.

Overly restricting licensing board decisions based on past conduct that appears in an applicant's criminal conviction history has downstream effects on the information available to private certification organizations. Most private certification organizations rely on agency determinations to enforce their eligibility and ethics codes, as they are non-governmental entities without the resources or legal authority to conduct full-fledged investigations, issue subpoenas, and hold trial-type proceedings.

Both members of the public and private certification organizations rely on licensing authorities to make informed decisions. Licensing boards must have authority to deny licenses to individuals who have engaged in conduct that casts serious doubt on their fitness to practice the profession or that indicates that the individual poses an unacceptable risk to the people to whom the applicant would interact in the conduct of the profession.

Thank you for your consideration of these amendments. Please feel free to reach out to us using the contact information identified below.

Sincerely,



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APPENDIX A

- Amend Section 21-1-6 to add a definition of “directly and specifically relates”: “The commissioner may not disqualify an applicant from initial licensure, as required in this chapter, because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that directly and specifically relates to the activity requiring licensure. **A criminal conviction ‘directly and specifically relates’ to the activity requiring licensure if the circumstances of the offense and the nature of the profession or occupation would create an unreasonable risk to public safety, health, or welfare for an individual to practice the licensed profession, or if the underlying conduct resulting in the conviction would be grounds for disciplinary action against a current licensee.**”
- Add to the list of factors an agency or administrator must consider in Section 21-1-6(a)(4) and Section 30-1-24(b)(1) a new factor: “**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 or occupation.**”
- Add a safe harbor provision to Chapter 21 and Chapter 30: “**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.**”
- Amend Section 30-1-24(a) to add a definition of “directly and specifically relates”: “**A criminal conviction ‘directly and specifically relates’ to the duties and responsibilities of the profession or occupation requiring licensure if the circumstances of the offense and the nature of the profession or occupation would create an unreasonable risk to public safety, health, or welfare for an individual to practice the licensed profession, or if the underlying conduct resulting in the conviction would be grounds for disciplinary action against a current licensee.**”
- Revise Section 30-1-24(b)(1) as follows: “Boards subject to the requirements of this section may not disqualify an applicant from initial licensure to engage in a profession or occupation because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that directly and specifically relates to the duties and responsibilities of the profession or occupation requiring licensure such that granting the applicant licensure would pose ~~a direct and substantial~~ **an unreasonable** risk to the public **safety, health, or welfare** because the applicant has not been rehabilitated.”



AABC Commissioning Group
ABRET Neurodiagnostic
Credentialing & Accreditation
(ABRET)
ABS International: the
Association for Biosafety and
Biosecurity (ABSIA)
Academy for Certification of
Vision Rehabilitation &
Education Professionals
(ACVREP)
American Association of
Critical-Care Nurses (AACN)
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
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 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)
Chartered Financial Analyst
Institute (CFA Institute)
Commission for Case Manager
Certification (CCMC)
Community Association
Institute (CAI)
Competency & Credentialing
Institute (CCI)

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)
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 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 for Health Education Credentialing (NCHEC)

National Commission on Certification of Physician Assistants (NCCPA)

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)

Pearson Vue

Pediatric Nursing Certification Board (PNCB)

Pharmacy Technician Certification Board (PTCB)

Professional Association of Therapeutic Horsemanship International (PATH)

Project Management Institute (PMI)

PSI Services

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)

Spray Polyurethane Foam Alliance (SPFA)

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

Last updated March 17, 2025