

Senate Bill 157

By: Senators Strickland of the 17th, Goodman of the 8th, Robertson of the 29th, Anderson of the 43rd and Jones of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 20, 26, 31, 33, and 43 of the Official Code of Georgia Annotated, relating
2 to education, food, drugs, and cosmetics, health, insurance, and professions and businesses,
3 respectively, so as to create a preclearance process in the licensing of individuals with
4 criminal records who make an application to or are investigated by certain licensing boards
5 and commissions; to provide for definitions; to require certain licensing authorities to provide
6 evidence to support adverse licensing decisions based on criminal convictions; to require a
7 hearing prior to denying certain applicants on the basis of an individual's criminal record; to
8 establish findings that shall be made and evidence that shall and shall not be considered prior
9 to refusing to grant certain licenses based on certain criminal convictions; to allow an
10 applicant to submit his or her own criminal record when applying for certain licenses; to
11 provide for reapplication for licensure; to authorize and provide a process and requirements
12 for predetermination decisions; to require certain licensure application information be
13 included in certain applications and posted on a public website; to require certain annual
14 reports concerning certain applications, predeterminations, and conviction records be filed
15 with the Secretary of State; to provide for related matters; to provide for an effective date and
16 applicability; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 157

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PART I
SECTION 1-1.

20 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
21 is amended by revising Code Section 43-1-1, relating to definitions, as follows:

22 "43-1-1.

23 As used in this title, the term:

24 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
25 whether an appeal of such finding, verdict, or plea has been sought.

26 (2) 'Covered misdemeanor' shall mean any:

27 (A) Misdemeanor conviction in the five years prior to the submission of the licensing
28 application; and

29 (B) Misdemeanor conviction listed in subparagraph (j)(4)(B) of Code Section 35-3-37,
30 irrespective of the date of such conviction.

31 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
32 Section 43-1-2.

33 ~~(2)~~(4) 'Division director' means the individual appointed by the Secretary of State as
34 director of the professional licensing boards division within the office of the Secretary
35 of State.

36 (5) 'Felony' means any offense which, if committed in this state, would be deemed a
37 felony, without regard to its designation elsewhere.

38 ~~(3)~~(6) 'Professional licensing board' means any board, bureau, commission, or other
39 agency of the executive branch of state government which is created for the purpose of
40 licensing or otherwise regulating or controlling any profession, business, or trade and
41 which is placed by law under the jurisdiction of the division director ~~of the professional~~
42 ~~licensing boards division within the office of the Secretary of State."~~

SECTION 1-2.

43

44 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
45 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
46 probationary licenses, by revising subsection (a) as follows:

47 "(a) A professional licensing board shall have the authority to refuse to grant a license to
48 an applicant therefor or to revoke the license of a person licensed by that board or to
49 discipline a person licensed by that board, upon a finding by a majority of the entire board
50 that the licensee or applicant has:

51 (1) Failed to demonstrate the qualifications or standards for a license contained in this
52 Code section, or under the laws, rules, or regulations under which licensure is sought or
53 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
54 board that he or she meets all the requirements for the issuance of a license, and, if the
55 board is not satisfied as to the applicant's qualifications, it may deny a license without a
56 prior hearing; provided, however, that the applicant shall be allowed to appear before the
57 board if he or she so desires;

58 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
59 practice of a business or profession licensed under this title or on any document
60 connected therewith; practiced fraud or deceit or intentionally made any false statement
61 in obtaining a license to practice the licensed business or profession; or made a false
62 statement or deceptive registration with the board;

63 (3) Been convicted of any a directly related felony or a directly related covered
64 misdemeanor ~~or of any crime involving moral turpitude~~ in the courts of this state or any
65 other state, territory, or country or in the courts of the United States; ~~as used in this~~
66 ~~paragraph, paragraph (4) of this subsection, and subsection (q) of this Code section, the~~
67 ~~term 'felony' shall include any offense which, if committed in this state, would be deemed~~
68 ~~a felony, without regard to its designation elsewhere; and, as used in this paragraph and~~
69 ~~subsection (q) of this Code section, the term 'conviction' shall include a finding or verdict~~

70 ~~of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been~~
71 ~~sought. The professional licensing board shall have the burden of justifying by clear and~~
72 ~~convincing evidence that a conviction supports an adverse licensing decision. Before the~~
73 ~~professional licensing board may deny an applicant a license due to his or her criminal~~
74 ~~record, such applicant shall be entitled to a hearing before the professional licensing~~
75 ~~board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure~~
76 ~~Act';~~

77 ~~(4)(A) Been arrested, charged, and sentenced for the commission of any felony, or any~~
78 ~~crime involving moral turpitude, when:~~

79 ~~(i) A sentence for such offense was imposed pursuant to Article 3 of Chapter 8 of~~
80 ~~Title 42 or another state's first offender laws;~~

81 ~~(ii) A sentence for such offense was imposed pursuant to subsection (a) or (c) of~~
82 ~~Code Section 16-13-2;~~

83 ~~(iii) A sentence for such offense was imposed as a result of a plea of nolo contendere;~~
84 ~~or~~

85 ~~(iv) An adjudication of guilt or sentence was otherwise withheld or not entered on the~~
86 ~~charge.~~

87 ~~(B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article~~
88 ~~3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be~~
89 ~~conclusive evidence of an arrest and sentencing for such offense;~~

90 ~~(5)(4) Had his or her license to practice a business or profession licensed under this title~~
91 ~~revoked, suspended, or annulled by any lawful licensing authority other than the board;~~
92 ~~had other disciplinary action taken against him or her by any such lawful licensing~~
93 ~~authority other than the board; was denied a license by any such lawful licensing~~
94 ~~authority other than the board, pursuant to disciplinary proceedings; or was refused the~~
95 ~~renewal of a license by any such lawful licensing authority other than the board, pursuant~~
96 ~~to disciplinary proceedings;~~

97 ~~(6)~~(5) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious
98 conduct or practice harmful to the public that materially affects the fitness of the licensee
99 or applicant to practice a business or profession licensed under this title or is of a nature
100 likely to jeopardize the interest of the public; such conduct or practice need not have
101 resulted in actual injury to any person ~~or~~ but must be directly related to the practice of the
102 licensed business or profession ~~but shows~~ and show that the licensee or applicant has
103 committed any act or omission which is indicative of ~~bad moral character or~~
104 untrustworthiness and which makes the licensee or applicant currently likely to harm the
105 public. Such conduct or practice shall also include any departure from, or the failure to
106 conform to, the minimal reasonable standards of acceptable and prevailing practice of the
107 business or profession licensed under this title;

108 ~~(7)~~(6) Knowingly performed any act which in any way aids, assists, procures, advises,
109 or encourages any unlicensed person or any licensee whose license has been suspended
110 or revoked by a professional licensing board to practice a business or profession licensed
111 under this title or to practice outside the scope of any disciplinary limitation placed upon
112 the licensee by the board;

113 ~~(8)~~(7) Violated a statute, law, or any rule or regulation of this state, any other state, the
114 professional licensing board regulating the business or profession licensed under this title,
115 the United States, or any other lawful authority without regard to whether the violation
116 is criminally punishable when such statute, law, or rule or regulation relates to or in part
117 regulates the practice of a business or profession licensed under this title and when the
118 licensee or applicant knows or should know that such action violates such statute, law,
119 or rule; or violated a lawful order of the board previously entered by the board in a
120 disciplinary hearing, consent decree, or license reinstatement;

121 ~~(9)~~(8) Been adjudged mentally incompetent by a court of competent jurisdiction within
122 or outside this state; any such adjudication shall automatically suspend the license of any

123 such person and shall prevent the reissuance or renewal of any license so suspended for
 124 so long as the adjudication of incompetence is in effect;
 125 ~~(H)(9)~~ (9) Displayed an inability to practice a business or profession licensed under this title
 126 with reasonable skill and safety to the public or has become unable to practice the
 127 licensed business or profession with reasonable skill and safety to the public by reason
 128 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
 129 or
 130 ~~(H)(10)~~ (10) Failed to comply with an order for child support as defined by Code Section
 131 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
 132 release to the board from the child support agency within the Department of Human
 133 Services indicating that the applicant or licensee has come into compliance with an order
 134 for child support so that a license may be issued or granted if all other conditions for
 135 licensure are met."

136 **SECTION 1-3.**

137 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 138 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 139 probationary licenses, by revising subsection (j) as follows:

140 "(j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity
 141 ~~nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a~~
 142 ~~previously denied license~~ shall be considered to be a contested case within the meaning of
 143 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing
 144 within the meaning of such chapter shall not be required, but the applicant or licensee shall
 145 be allowed to appear before the board if he or she so requests. A board may resolve a
 146 pending action by the issuance of a letter of concern. Such letter shall not be considered
 147 a disciplinary action or a contested case under Chapter 13 of Title 50 and shall not be
 148 disclosed to any person except the licensee or applicant."

149

SECTION 1-4.

150 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 151 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 152 probationary licenses, by revising subsection (q) as follows:

153 ~~“(q)(1) Notwithstanding paragraphs paragraph (3) and (4) of subsection (a) of this Code~~
 154 ~~section or any other provision of law, and unless the professional licensing board shall~~
 155 ~~refuse to grant a license to an individual or shall revoke a license only if a felony or crime~~
 156 ~~involving moral turpitude~~ covered misdemeanor directly relates to the occupation for
 157 which the license is sought or held and granting the license would pose a direct and
 158 substantial risk to public safety because the individual has not been rehabilitated to safely
 159 perform the duties and responsibilities of such occupation, after considering the criteria
 160 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
 161 safety and a direct relationship between the conviction and the licensed occupation, no
 162 professional licensing board shall refuse to grant a license to an applicant therefor or shall
 163 revoke the license of an individual licensed by that board due solely or in part to such
 164 applicant's or licensee's:

165 (A) Conviction of any felony or any ~~crime involving moral turpitude~~ covered
 166 misdemeanor, whether it occurred in the courts of this state or any other state, territory,
 167 or country or in the courts of the United States;

168 (B) Arrest, charge, and sentence for the commission of such offense;

169 (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another
 170 state's first offender laws;

171 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
 172 16-13-2;

173 (E) Sentence for such offense as a result of a plea of nolo contendere;

174 (F) Adjudication of guilt or sentence was otherwise withheld or not entered; or

175 (G) Being under supervision by a community supervision officer, as such term is
176 defined in Code Section 42-3-1, for a conviction of any felony or any ~~crime involving~~
177 ~~moral turpitude~~ covered misdemeanor, whether it occurred in the courts of this state or
178 any other state, territory, or country or in the courts of the United States, so long as such
179 individual was not convicted of a felony violation of Chapter 5 of Title 16 nor
180 convicted of a crime requiring registration on the state sexual offender registry.

181 (2) In determining if a felony or ~~crime involving moral turpitude~~ covered misdemeanor
182 directly relates to the occupation for which the license is sought or held, the professional
183 licensing board shall consider:

184 (A) The nature and seriousness of such felony or ~~crime involving moral turpitude~~
185 covered misdemeanor and the direct relationship of ~~such felony or crime involving~~
186 ~~moral turpitude~~ the criminal conduct to the duties and responsibilities of the occupation
187 for which the license is sought or held;

188 (B) The age of the individual at the time such felony or ~~crime involving moral~~
189 ~~turpitude~~ covered misdemeanor was committed;

190 (C) The length of time elapsed since such felony or ~~crime involving moral turpitude~~
191 covered misdemeanor was committed;

192 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
193 covered misdemeanor, including, but not limited to, mitigating circumstances or social
194 conditions surrounding the commission of such felony or ~~crime involving moral~~
195 ~~turpitude~~ covered misdemeanor; and

196 (E) Evidence of rehabilitation and present fitness to perform the duties of the
197 occupation for which the license is sought or held; including, but not limited to:

198 (i) The completion of the criminal sentence;

199 (ii) A program and treatment certificate issued by the Board of Corrections;

200 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
201 treatment program;

- 202 (iv) Testimonials and recommendations, which may include a progress report from
203 the individual's probation or parole officer;
- 204 (v) Education and training;
- 205 (vi) Employment history;
- 206 (vii) Employment aspirations;
- 207 (viii) The individual's current family or community responsibilities, or both;
- 208 (ix) Whether a bond is required to practice the occupation;
- 209 (x) Any affidavits or other written documents, including, but not limited to, character
210 references; and
- 211 (xi) Any other information regarding rehabilitation the individual submits to the
212 board.
- 213 (3) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
214 otherwise withhold a license, the professional licensing board shall not consider nor
215 require an individual to disclose:
- 216 (A) A deferred adjudication, first offender treatment, participation in a diversion
217 program, a conditional discharge, or an arrest not followed by a conviction;
- 218 (B) A conviction for which no sentence of incarceration can be imposed;
- 219 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
220 pardoned;
- 221 (D) A juvenile adjudication;
- 222 (E) A misdemeanor conviction older than five years, unless the offense of conviction
223 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 224 (F) A conviction older than five years for which the individual was not incarcerated,
225 or a conviction for which the individual's incarceration ended more than five years
226 before the date of the board's consideration, except for a felony conviction related to:
- 227 (i) A criminal sexual act;
- 228 (ii) Criminal fraud or embezzlement;

229 (iii) Aggravated assault;

230 (iv) Aggravated robbery;

231 (v) Aggravated abuse, neglect, or endangerment of a child;

232 (vi) Arson;

233 (vii) Carjacking;

234 (viii) Kidnapping; or

235 (ix) Manslaughter, homicide, or murder.

236 (4) Notwithstanding any other provision of law, no professional licensing board may
237 apply a vague character standard to licensure decisions or predeterminations, including,
238 but not limited to, 'good moral character,' 'moral turpitude,' or 'character and fitness.'

239 (5) Notwithstanding any other provision of law, a professional licensing board shall
240 provide individualized consideration of an individual's criminal record and shall not
241 automatically deny licensure on the basis of the individual's criminal record.

242 (6)(A) If an applicant's criminal record includes issues that will or may prevent the
243 board from issuing a license to the applicant, the board shall notify the applicant, in
244 writing, of the specific issues in sufficient time for the applicant to provide additional
245 documentation supporting the application before the board's final decision to deny the
246 application. After receiving notice of any potential issue with licensure due to his or
247 her criminal convictions, an applicant shall have 30 days to respond by correcting any
248 inaccuracy in the criminal record or by submitting additional evidence of mitigation or
249 rehabilitation for the board's consideration, or both.

250 (B) For the professional licensing board to deny a license on the basis of the applicant's
251 criminal convictions, the board shall first provide an opportunity for a hearing for such
252 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
253 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
254 written or oral testimony of character witnesses, including, but not limited to, family
255 members, friends, prospective employers, probation or parole officers, and

256 rehabilitation counselors. The professional licensing board shall issue a decision within
257 60 days of the complete submission of the issues for consideration or the hearing,
258 whichever is later.

259 (C) The professional licensing board shall have the burden of justifying by clear and
260 convincing evidence, after a hearing, that an applicant's criminal record supports any
261 adverse licensing decision. If the board denies an applicant a license by reason of the
262 applicant's criminal record, the board shall:

263 (i) Make written findings specifying any of the applicant's convictions and the factors
264 provided for in subparagraph (A) of paragraph (2) of this subsection the board
265 deemed directly relevant and explaining the basis and rationale for the denial. Such
266 written findings shall be signed by the board's presiding officer and shall note the
267 applicant's right to appeal and explain the applicant's ability to reapply. No applicant
268 shall be restricted from reapplying for licensure for more than two years from the date
269 of the most recent application;

270 (ii) Provide or serve a signed copy of the written findings to the applicant within 60
271 days of the denial; and

272 (iii) Retain a signed copy of the written findings for no less than five years.

273 (D) The denial of a license in part or in whole because of the applicant's criminal
274 record shall constitute a contested case as defined in Code Section 50-13-2. In an
275 administrative hearing or civil action reviewing the denial of a license, the professional
276 licensing board shall have the burden of proving that the applicant's criminal record
277 directly relates to the occupation for which the license is sought.

278 (7)(A) Notwithstanding any other provision of law, an individual with a criminal
279 record may petition a professional licensing board at any time, including while
280 incarcerated and before starting or completing any required professional qualifications
281 for licensure, for a predetermination as to whether such individual's criminal record will
282 disqualify him or her from obtaining a license.

283 (B) The petition for predetermination shall include the individual's criminal record or
284 authorize the board to obtain the individual's criminal record. The petitioning
285 individual need not disclose any offenses provided for in paragraph (3) of this
286 subsection. Such petition shall also include any information the petitioner chooses to
287 submit concerning the circumstances of their record and their rehabilitation.

288 (C) In considering predetermination petitions, the professional licensing board shall
289 apply the direct relationship standard provided for in paragraphs (1) and (2) of this
290 subsection and shall not consider any offenses falling under paragraph (3) of this
291 subsection. The board shall support any adverse predetermination with clear and
292 convincing evidence.

293 (D) A predetermination made under this subsection that a petitioner is eligible for a
294 license shall be binding on the professional licensing board only if the petitioner applies
295 for licensure, fulfills all other requirements for the occupational license, and the
296 petitioner's submitted criminal record was correct and remains unchanged at the time
297 of his or her application for a license.

298 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
299 from licensure, the board shall notify the petitioner of the potentially disqualifying
300 convictions. The letter of concern shall advise the petitioner of their opportunity to
301 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

302 (F) The professional licensing board may predetermine that the petitioner's criminal
303 record is likely grounds for denial of a license only after the board has held a hearing
304 on the petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
305 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
306 or by teleconference within 60 days of receipt of the predetermination petition. The
307 individual shall have the opportunity to offer written or oral testimony of character
308 witnesses at the hearing, including but not limited to family members, friends, past or
309 prospective employers, probation or parole officers, and rehabilitation counselors. The

310 professional licensing board shall not make an adverse inference by a petitioner's
311 decision to forgo a hearing or character witnesses. The board shall issue a final
312 decision within 60 days of complete submission of the issue for consideration or the
313 hearing, whichever is later.

314 (G) If the professional licensing board decides that a predetermination petitioner is
315 ineligible for a license, the board shall notify the petitioner of the following:

316 (i) The grounds and rationale for the predetermination, including any of the
317 petitioner's specific convictions and the factors provided for in subparagraph (A) of
318 paragraph (2) of this subsection the board deemed directly relevant;

319 (ii) An explanation of the process and right to appeal the board's predetermination
320 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
321 and

322 (iii) Any actions the petitioner may take to remedy the disqualification. An
323 individual who receives a predetermination of ineligibility may submit a revised
324 petition reflecting completion of the remedial actions. The individual may submit a
325 new petition to the board not before one year following a final judgment on their
326 initial petition or upon completing the remedial actions, whichever is earlier.

327 (H) The denial of a predetermination petition because of the applicant's criminal record
328 shall constitute a contested case as defined in Code Section 50-13-2. In an
329 administrative hearing or civil action reviewing the denial of a predetermination
330 petition, the professional licensing board shall have the burden of proving that the
331 applicant's criminal record directly relates to the licensed occupation.

332 (8) Each professional licensing board shall include in its application for licensure and on
333 its public website all of the following information:

334 (A) Whether the board requires applicants to consent to a criminal record check;

335 (B) The direct relationship standard provided for in paragraph (1) of this subsection
336 and those factors provided for in paragraph (2) of this subsection that the board shall
337 consider when making a determination of licensure;

338 (C) The criminal record disclosure provided for in paragraph (3) of this subsection;

339 (D) The appeals process pursuant to Chapter 13 of Title 50, the 'Georgia
340 Administrative Procedure Act,' if the board denies or revokes licensure in whole or in
341 part because of a criminal conviction; and

342 (E) The predetermination petition process, standards, and application, as well as the
343 process for appealing an adverse predetermination pursuant to Chapter 13 of Title 50,
344 the 'Georgia Administrative Procedure Act.'

345 (9) No later than March 31 each year, each occupational licensing board shall file with
346 the Secretary of State an annual report containing information from the previous year as
347 to:

348 (A) The number of applicants for a license and, of that number, the number of licenses
349 granted;

350 (B) The number of applicants with a criminal record and, of that number, the number
351 of licenses granted, denied a license for any reason, and denied due to a conviction or
352 state supervision status;

353 (C) The number of predetermination petitioners and, of that number, the number
354 deemed eligible for a license and the number deemed ineligible for a license;

355 (D) The racial and ethnic distribution of licensing applicants, including the racial and
356 ethnic distribution of applicants with a criminal record; and

357 (E) The racial and ethnic distribution of licensing applicants with a criminal record
358 granted a license, denied a license for any reason, and denied a license due to a
359 conviction or state supervision status."

360 **SECTION 1-5.**

361 Said title is further amended by revising Code Section 43-1-27, relating to requirement that
362 licensee notify licensing authority of felony conviction, as follows:

363 "43-1-27.

364 Any licensed individual who is convicted under the laws of this state, the United States, or
365 any other state, territory, or country of a felony as defined in ~~paragraph (3) of subsection~~
366 ~~(a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the appropriate licensing
367 authority of the conviction within ten days of the conviction. The failure of a licensed
368 individual to notify the appropriate licensing authority of a conviction shall be considered
369 grounds for revocation of his or her license, permit, registration, certification, or other
370 authorization to conduct a licensed profession."

371 **PART II**372 **SECTION 2-1.**

373 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
374 is amended in Code Section 43-3-21, relating to revocation or refusal to grant or renew
375 accountant's licenses, by revising paragraphs (3) and (4) of subsection (a) as follows:

376 "(3) Had been convicted of any directly related felony or ~~crime involving moral turpitude~~
377 directly related covered misdemeanor as defined in Code Section 43-1-1 in the courts of
378 this state, any other state, a territory, or a country or in the courts of the United States.

379 As used in this paragraph, the term:

380 (A) 'Conviction' means and includes a finding or verdict of guilty or a plea of guilty,
381 regardless of whether an appeal of the conviction has been sought;

382 (B) 'Felony' means and includes any offense which, if committed in this state, would
383 be deemed a felony, without regard to its designation elsewhere.

384 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
 385 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
 386 43-1-1 when:

387 (i) First offender treatment without adjudication of guilt pursuant to the charge was
 388 granted; or

389 (ii) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 390 charge, except with respect to a plea of nolo contendere.

391 (B) An order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42
 392 or other first offender treatment shall be conclusive evidence of arrest and sentencing
 393 for such crime.

394 (C) As used in this paragraph, the term 'felony' shall include any offense which, if
 395 committed in this state, would be deemed a felony, without regard to its designation
 396 elsewhere;"

397

SECTION 2-2.

398 Said title is further amended by adding two new Code sections to read as follows:

399 "43-3-21.1.

400 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
 401 board of accountancy shall refuse to grant a license to an individual or shall revoke a
 402 license only if a conviction directly relates to the occupation for which the license is sought
 403 or held and granting the license would pose a direct and substantial risk to public safety
 404 because the individual has not been rehabilitated to safely perform the duties and
 405 responsibilities of the practice of public accountancy. In determining if a conviction
 406 directly relates to the occupation for which the license is sought or held, the board of
 407 accountancy shall consider:

- 408 (1) The nature and seriousness of the offense and the direct relationship of the criminal
409 conduct to the duties and responsibilities of the occupation for which the license is sought
410 or held;
- 411 (2) The age of the individual at the time the offense was committed;
- 412 (3) The length of time elapsed since the offense was committed;
- 413 (4) All circumstances relative to the offense, including, but not limited to, mitigating
414 circumstances or social conditions surrounding the commission of the offense; and
- 415 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
416 for which the license is sought or held, including, but not limited to:
- 417 (A) The completion of the criminal sentence;
- 418 (B) A program and treatment certificate issued by the Board of Corrections;
- 419 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
420 program;
- 421 (D) Testimonials and recommendations, which may include a progress report from the
422 individual's probation or parole officer;
- 423 (E) Education and training;
- 424 (F) Employment history;
- 425 (G) Employment aspirations;
- 426 (H) The individual's current family or community responsibilities, or both;
- 427 (I) Whether a bond is required to practice the occupation;
- 428 (J) Any affidavits or other written documents, including, but not limited to, character
429 references; and
- 430 (K) Any other information regarding rehabilitation the individual submits to the board.
- 431 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
432 otherwise withhold a license due to criminal record, the accountancy board shall not
433 consider nor require an individual to disclose:

- 434 (1) A deferred adjudication, first offender treatment, participation in a diversion
435 program, a conditional discharge, or an arrest not followed by a conviction;
436 (2) A conviction for which no sentence of incarceration can be imposed;
437 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
438 pardoned;
439 (4) A juvenile adjudication;
440 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
441 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
442 (6) A conviction older than five years for which the individual was not incarcerated, or
443 a conviction for which the individual's incarceration ended more than five years before
444 the date of the board's consideration, except for a felony conviction related to:
445 (A) A criminal sexual act;
446 (B) Criminal fraud or embezzlement;
447 (C) Aggravated assault;
448 (D) Aggravated robbery;
449 (E) Aggravated abuse, neglect, or endangerment of a child;
450 (F) Arson;
451 (G) Carjacking;
452 (H) Kidnapping; or
453 (I) Manslaughter, homicide, or murder.

454 43-3-21.2.

455 (a) Notwithstanding any other provision of law, an individual with a criminal record may
456 petition the accountancy board at any time, including while incarcerated and before starting
457 or completing any required professional qualifications for licensure, for a predetermination
458 as to whether the individual's criminal record will disqualify him or her from obtaining a
459 license.

460 (b) The petition for predetermination shall include the individual's criminal record or
461 authorize the board to obtain the individual's criminal record. The petitioning individual
462 need not disclose any offenses falling under subsection (b) of Code Section 43-3-21.1. The
463 petition shall also include any information the petitioner chooses to submit concerning the
464 circumstances of their record and their rehabilitation.

465 (c) In considering predetermination petitions, the board shall apply the direct relationship
466 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse
467 predetermination with clear and convincing evidence.

468 (d) A predetermination made under this subsection that a petitioner is eligible for a license
469 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
470 requirements for the licensure, and the petitioner's submitted criminal record was correct
471 and remains unchanged at the time of his or her application for a license.

472 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
473 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
474 The letter of concern shall advise the petitioner of their opportunity to submit additional
475 evidence of rehabilitation and mitigation or for a hearing, or both.

476 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
477 denial of a license only after the board has held a hearing on the petitioner's eligibility in
478 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
479 hearing shall be held in person, by remote video, or by teleconference within 60 days of
480 receipt of the predetermination petition. The individual shall have the opportunity to
481 include character witnesses at the hearing, including but not limited to family members,
482 friends, past or prospective employers, probation or parole officers, and rehabilitation
483 counselors, who may offer their verbal or written support. The board shall not make an
484 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
485 board shall issue a final decision within 60 days of complete submission of the issue for
486 consideration or the hearing, whichever is later.

487 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
 488 board shall notify the petitioner of the following:

489 (1) The grounds and rationale for the predetermination, including the specific
 490 convictions and the factors in subsection (a) of Code Section 43-3-21.1 the board deemed
 491 directly relevant;

492 (2) An explanation of the process and right to appeal the board's predetermination
 493 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

494 (3) Any actions the petitioner may take to remedy the disqualification. An individual
 495 who receives a predetermination of ineligibility may submit a revised petition reflecting
 496 completion of the remedial actions. The individual may submit a new petition to the
 497 board not before one year following a final judgment on their initial petition or upon
 498 completing the remedial actions, whichever is earlier.

499 (h) The denial of a predetermination petition because of the applicant's criminal record
 500 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 501 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 502 have the burden of proving that the applicant's criminal record directly relates to the
 503 licensed occupation."

504

SECTION 2-3.

505 Said title is further amended in Code Section 43-3-27, relating to notification by an
 506 individual issued a license or certification as an accountant of conviction, time limit, and
 507 suspension, by revising subsection (a) as follows:

508 "(a) Any individual issued a license or certification under this chapter or providing services
 509 under substantial equivalency practice privileges and convicted under the laws of this state,
 510 the United States, any other state, or any other country of a felony as defined in ~~paragraph~~
 511 ~~(3) of subsection (a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the board
 512 of such conviction within 30 days of such conviction. The failure of such individual to

513 notify the board of a conviction shall be considered grounds for revocation of his or her
514 license or other authorization issued pursuant to this chapter."

515 **SECTION 2-4.**

516 Said title is further amended in Code Section 43-10-20, relating to the teaching of barbering
517 or the practice of a cosmetologist in prisons and certification of registration, by revising
518 subsection (b) as follows:

519 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
520 registration under this chapter who has completed successfully a barber or cosmetologist
521 training program operated by the Department of Corrections and who meets the
522 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
523 and practical examinations, the board may issue the appropriate certificate of registration
524 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
525 43-1-19; provided, however, that the board shall not apply the provisions of paragraph ~~(4)~~
526 (3) of subsection (a) of Code Section 43-1-19 to such inmate based solely upon such
527 person's status as an inmate and shall apply such provisions in the same manner as would
528 otherwise be applicable to an applicant who is not an inmate."

529 **SECTION 2-5.**

530 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
531 revocation of licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
532 review, investigations, immunity, failure to appear, and voluntary surrender, by revising
533 paragraph (4) of subsection (a) as follows:

534 "(4) Been arrested, charged, and sentenced for the commission of any felony, or any
535 ~~crime involving moral turpitude~~ covered misdemeanor, where:
536 ~~(A) A~~ a plea of nolo contendere was entered to the charge; ~~2~~

537 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~
 538 ~~granted; or~~
 539 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 540 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~
 541 ~~of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of~~
 542 ~~arrest and sentencing for such crime;"~~

543 **SECTION 2-6.**

544 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
 545 revocation of, licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
 546 review, investigations, immunity, failure to appear, and voluntary surrender, by adding two
 547 new subsections to read as follows:

548 "(a.1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section, the
 549 board of dentistry shall refuse to grant a license to an individual or shall revoke a license
 550 only if a conviction directly relates to the occupation for which the license is sought or held
 551 and granting the license would pose a direct and substantial risk to public safety because
 552 the individual has not been rehabilitated to safely perform the duties and responsibilities
 553 of the practice of dentistry. In determining if a conviction directly relates to the occupation
 554 for which the license is sought or held, the board of dentistry shall consider:

555 (1) The nature and seriousness of the offense and the direct relationship of the criminal
 556 conduct to the duties and responsibilities of the occupation for which the license is sought
 557 or held;

558 (2) The age of the individual at the time the offense was committed;

559 (3) The length of time elapsed since the offense was committed;

560 (4) All circumstances relative to the offense, including, but not limited to, mitigating
 561 circumstances or social conditions surrounding the commission of the offense; and

- 562 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
563 for which the license is sought or held, including, but not limited to:
- 564 (A) The completion of the criminal sentence;
 - 565 (B) A program and treatment certificate issued by the Board of Corrections;
 - 566 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
567 program;
 - 568 (D) Testimonials and recommendations, which may include a progress report from the
569 individual's probation or parole officer;
 - 570 (E) Education and training;
 - 571 (F) Employment history;
 - 572 (G) Employment aspirations;
 - 573 (H) The individual's current family or community responsibilities, or both;
 - 574 (I) Whether a bond is required to practice the occupation;
 - 575 (J) Any affidavits or other written documents, including, but not limited to, character
576 references; and
 - 577 (K) Any other information regarding rehabilitation the individual submits to the board.
- 578 (6) In determining whether to terminate and revoke a license, the board shall not consider
579 nor require an individual to disclose:
- 580 (A) A deferred adjudication, a first offender adjudication, participation in a diversion
581 program, a conditional discharge, or an arrest not followed by a conviction;
 - 582 (B) A conviction for which no sentence of incarceration can be imposed;
 - 583 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
584 pardoned;
 - 585 (D) A juvenile adjudication;
 - 586 (E) A misdemeanor conviction older than five years, unless the offense of conviction
587 is listed in Code section 35-3-37(j)(4); or

588 (F) A conviction older than five years for which the individual was not incarcerated,
589 or a conviction for which the individual's incarceration ended more than five years
590 before the date of the board's consideration, except for a felony conviction related to:
591 (i) A criminal sexual act;
592 (ii) Criminal fraud or embezzlement;
593 (iii) Aggravated assault;
594 (iv) Aggravated robbery;
595 (v) Aggravated abuse, neglect, or endangerment of a child;
596 (vi) Arson;
597 (vii) Carjacking;
598 (viii) Kidnapping; or
599 (ix) Manslaughter, homicide, or murder.

600 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
601 may petition the board of dentistry at any time, including while incarcerated and before
602 starting or completing any required professional qualifications for licensure, for a
603 predetermination as to whether the individual's criminal record will disqualify him or her
604 from obtaining a license.

605 (2) The petition for predetermination shall include the individual's criminal record or
606 authorize the board to obtain the individual's criminal record. The petitioning individual
607 need not disclose any offenses falling under paragraph (6) subsection (a.1) of this Code
608 section. The petition shall also include any information the petitioner chooses to submit
609 concerning the circumstances of their record and their rehabilitation.

610 (3) In considering predetermination petitions, the board shall apply the direct relationship
611 standard in subsection (a.1) of this Code section and shall not consider any offenses
612 falling under paragraph (6) of subsection (a.1) of this Code section. The board shall
613 support any adverse predetermination with clear and convincing evidence.

614 (4) A predetermination made under this subsection that a petitioner is eligible for a
615 license shall be binding on the board only if the petitioner applies for licensure, fulfills
616 all other requirements for the occupational licensure, and the petitioner's submitted
617 criminal record was correct and remains unchanged at the time of his or her application
618 for a license.

619 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
620 from licensure, the board shall notify the petitioner of the potentially disqualifying
621 convictions. The letter of concern shall advise the petitioner of their opportunity to
622 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

623 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
624 denial of a license only after the board has held a hearing on the petitioner's eligibility in
625 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
626 hearing shall be held in person, by remote video, or by teleconference within 60 days of
627 receipt of the predetermination petition. The individual shall have the opportunity to
628 include character witnesses at the hearing, including but not limited to family members,
629 friends, past or prospective employers, probation or parole officers, and rehabilitation
630 counselors, who may offer their verbal or written support. The professional licensing
631 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
632 character witnesses. The board shall issue a final decision within 60 days of complete
633 submission of the issue for consideration or the hearing, whichever is later.

634 (7) If the professional licensing board decides that a predetermination petitioner is
635 ineligible for a license, the board shall notify the petitioner of the following:

636 (A) The grounds and rationale for the predetermination, including the specific
637 convictions and the factors in subsection (a.1) of this Code section the board deemed
638 directly relevant;

639 (B) An explanation of the process and right to appeal the board's predetermination
640 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

641 (C) Any actions the petitioner may take to remedy the disqualification. An individual
642 who receives a predetermination of ineligibility may submit a revised petition reflecting
643 completion of the remedial actions. The individual may submit a new petition to the
644 board not before one year following a final judgment on their initial petition or upon
645 completing the remedial actions, whichever is earlier.

646 (8) The denial of a predetermination petition because of the applicant's criminal record
647 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
648 hearing or civil action reviewing the denial of a predetermination petition, the board shall
649 have the burden of proving that the applicant's criminal record directly relates to the
650 licensed occupation."

651

SECTION 2-7.

652 Said title is further amended in Code Section 43-11-71, relating to qualifications of
653 applicants for license and criminal background check, by revising subsection (a) and by
654 adding two new subsections to read as follows:

655 "(a) No person shall be entitled to or be issued such license as set out in Code Section
656 43-11-70 unless such person is at least 18 years of age, ~~of good moral character~~, and a
657 graduate of a dental hygiene program recognized by the board and accredited by the
658 Commission on Dental Accreditation of the American Dental Association (ADA) or its
659 successor agency which is operated by a school or college accredited by an institutional
660 accrediting agency recognized by the United States Department of Education whose
661 curriculum is at least two academic years of courses at the appropriate level and at the
662 completion of which an associate or baccalaureate degree is awarded.

663 (b) Application for a license under Code Section 43-11-70 shall constitute consent for
664 performance of a criminal background check. Each applicant who submits an application
665 to the board for licensure agrees to provide the board with any and all information
666 necessary to run a criminal background check, including but not limited to classifiable sets

667 of fingerprints. The applicant shall be responsible for all fees associated with the
668 performance of a background check.

669 (c) Notwithstanding subsections (a) and (b) of this Code section, the board of dentistry
670 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
671 directly relates to the occupation for which the license is sought or held and granting the
672 license would pose a direct and substantial risk to public safety because the individual has
673 not been rehabilitated to safely perform the duties and responsibilities of the practice of a
674 dental hygienist. In determining if a conviction directly relates to the occupation for which
675 the license is sought or held, the board of dentistry shall consider:

676 (1) The nature and seriousness of the offense and the direct relationship of the criminal
677 conduct to the duties and responsibilities of the occupation for which the license is sought
678 or held;

679 (2) The age of the individual at the time the offense was committed;

680 (3) The length of time elapsed since the offense was committed;

681 (4) All circumstances relative to the offense, including, but not limited to, mitigating
682 circumstances or social conditions surrounding the commission of the offense; and

683 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
684 for which the license is sought or held, including, but not limited to:

685 (A) The completion of the criminal sentence;

686 (B) A program and treatment certificate issued by the Board of Corrections;

687 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
688 program;

689 (D) Testimonials and recommendations, which may include a progress report from the
690 individual's probation or parole officer;

691 (E) Education and training;

692 (F) Employment history;

693 (G) Employment aspirations;

694 (H) The individual's current family or community responsibilities, or both;

695 (I) Whether a bond is required to practice the occupation;

696 (J) Any affidavits or other written documents, including, but not limited to, character
697 references; and

698 (K) Any other information regarding rehabilitation the individual submits to the board.

699 (6) In determining whether to terminate and revoke a license, the board shall not consider
700 nor require an individual to disclose:

701 (A) A deferred adjudication, first offender treatment, participation in a diversion
702 program, a conditional discharge, or an arrest not followed by a conviction;

703 (B) A conviction for which no sentence of incarceration can be imposed;

704 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
705 pardoned;

706 (D) A juvenile adjudication;

707 (E) A misdemeanor conviction older than five years, unless the offense of conviction
708 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

709 (F) A conviction older than five years for which the individual was not incarcerated,
710 or a conviction for which the individual's incarceration ended more than five years
711 before the date of the board's consideration, except for a felony conviction related to:

712 (i) A criminal sexual act;

713 (ii) Criminal fraud or embezzlement;

714 (iii) Aggravated assault;

715 (iv) Aggravated robbery;

716 (v) Aggravated abuse, neglect, or endangerment of a child;

717 (vi) Arson;

718 (vii) Carjacking;

719 (viii) Kidnapping; or

720 (ix) Manslaughter, homicide, or murder.

721 (d)(1) Notwithstanding any other provision of law, an individual with a criminal record
722 may petition the board of dentistry at any time, including while incarcerated and before
723 starting or completing any required professional qualifications for licensure, for a
724 predetermination as to whether the individual's criminal record will disqualify him or her
725 from obtaining a license.

726 (2) The petition for predetermination shall include the individual's criminal record or
727 authorize the board to obtain the individual's criminal record. The petitioning individual
728 need not disclose any offenses falling under subparagraph (c)(6)(F) of this Code section.
729 The petition shall also include any information the petitioner chooses to submit
730 concerning the circumstances of their record and their rehabilitation.

731 (3) In considering predetermination petitions, the professional licensing board shall apply
732 the direct relationship standard in subsection (c) of this Code section and shall not
733 consider any offenses falling under subparagraph (c)(6)(F) of this Code section. The
734 board shall support any adverse predetermination with clear and convincing evidence.

735 (4) A predetermination made under this subsection that a petitioner is eligible for a
736 license shall be binding on the professional licensing board only if the petitioner applies
737 for licensure, fulfills all other requirements for the occupational licensure, and the
738 petitioner's submitted criminal record was correct and remains unchanged at the time of
739 his or her application for a license.

740 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
741 from licensure, the board shall notify the petitioner of the potentially disqualifying
742 convictions. The letter of concern shall advise the petitioner of their opportunity to
743 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

744 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
745 denial of a license only after the board has held a hearing on the petitioner's eligibility in
746 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
747 hearing shall be held in person, by remote video, or by teleconference within 60 days of

748 receipt of the predetermination petition. The individual shall have the opportunity to
749 include character witnesses at the hearing, including but not limited to family members,
750 friends, past or prospective employers, probation or parole officers, and rehabilitation
751 counselors, who may offer their verbal or written support. The professional licensing
752 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
753 character witnesses. The board shall issue a final decision within 60 days of complete
754 submission of the issue for consideration or the hearing, whichever is later.

755 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
756 board shall notify the petitioner of the following:

757 (A) The grounds and rationale for the predetermination, including the specific
758 convictions and the factors in subsection (c) of this Code section the board deemed
759 directly relevant;

760 (B) An explanation of the process and right to appeal the board's predetermination
761 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

762 (C) Any actions the petitioner may take to remedy the disqualification. An individual
763 who receives a predetermination of ineligibility may submit a revised petition reflecting
764 completion of the remedial actions. The individual may submit a new petition to the
765 board not before one year following a final judgment on their initial petition or upon
766 completing the remedial actions, whichever is earlier.

767 (8) The denial of a predetermination petition because of the applicant's criminal record
768 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
769 hearing or civil action reviewing the denial of a predetermination petition, the board shall
770 have the burden of proving that the applicant's criminal record directly relates to the
771 licensed occupation."

772

SECTION 2-8.

773 Said title is further amended by revising Code Section 43-18-46, relating to grounds for
 774 denial or revocation of license or registration and other discipline for funeral directors and
 775 embalmers, as follows:

776 "43-18-46.

777 In addition to the authority and provided in Code Section 43-1-19, the board may refuse
 778 to grant a license to operate a funeral establishment or to practice embalming or funeral
 779 directing, may refuse to grant a registration to serve as an apprentice, or may revoke,
 780 suspend, fine, or otherwise discipline a licensee or registrant upon any of the following
 781 grounds:

782 (1) The employment of fraud or deception in applying for a license or registration or in
 783 passing the examination provided for in this article;

784 (2) Issuance of a license or registration through error;

785 ~~(3) Conviction of a crime involving moral turpitude;~~

786 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
 787 impersonation of another embalmer, funeral director, or apprentice of a like or different
 788 name;

789 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
 790 training, or experience of any applicant;

791 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;

792 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
 793 business or paying a commission or making gifts, directly or indirectly, for the purpose
 794 of securing business to any physician or hospital, or to any institution where death occurs,
 795 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
 796 home, or other institution where death occurs; or to any coroner or other government
 797 official;

- 798 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
799 directing, or cremating;
- 800 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
801 preservation when in fact someone else performed such embalming or preparation;
- 802 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
803 director having legal charge of a dead human body;
- 804 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
805 limited to, false or misleading statements regarding a legal or cemetery requirement,
806 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 807 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;
- 808 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
809 unless compelled by law to do otherwise;
- 810 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
811 body, or within the immediate hearing of the family or relatives of a deceased, whose
812 body has not yet been interred or otherwise disposed;
- 813 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
814 assignee of the deceased within ten working days of receipt of the assigned funds;
- 815 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
816 express order of the person lawfully entitled to the custody;
- 817 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
818 funeral establishment general price list, the casket price list, the outer burial container list,
819 or the funeral service contract price list;
- 820 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 821 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
822 certificate plan, or burial membership plan;
- 823 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;

824 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
825 apprentice;

826 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
827 or regulation; Occupational Safety and Health Administration law or regulation;
828 Department of Public Health law or regulation; Environmental Protection Agency law
829 or regulation; or municipal or county ordinance or regulation that affects the handling,
830 custody, care, or transportation of dead human bodies, including, but not limited to, the
831 disposal of equipment, residual fluids, or medical wastes;

832 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
833 representation in the practice of funeral directing or embalming or in any document
834 connected therewith;

835 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
836 religion, gender, or national origin;

837 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
838 remains and failing to dispose of same as directed by a legally authorized person;

839 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
840 company or other third party;

841 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
842 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
843 affects the fitness of the licensee or registrant to practice in the funeral business, or is of
844 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
845 and that need not have resulted in actual injury to any person or be directly related to the
846 practice of funeral directing or embalming but shows that the person has committed any
847 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
848 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
849 departure from or failure to conform to the minimal reasonable standards of acceptable
850 and prevailing practice of funeral services;

851 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
 852 a coroner or who is both a funeral director and a minister presents that person as a funeral
 853 director to a legally authorized person when death is imminent or after death occurs prior
 854 to when the legally authorized person selects a funeral director or funeral establishment
 855 which will handle the dead human body;
 856 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
 857 or crematory prior to the board's having approved an application for licensure; or
 858 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
 859 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
 860 Code Section 43-18-70."

861 **SECTION 2-9.**

862 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
 863 massage therapists, by revising subsection (a) as follows:

864 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 865 upon proper application, be issued for a six-month period to an applicant who meets the
 866 following criteria:

- 867 (1) Holds and maintains a valid license as a massage therapist in another state;
 868 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 869 defined in Code Section 50-36-2;
 870 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 871 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
 872 (4) Has not been convicted of a directly related felony in the courts of this state, any
 873 other state, territory, or country, or in the courts of the United States, including, but not
 874 limited to, a plea of nolo contendere entered to such charge ~~or the affording of first~~
 875 ~~offender treatment to any such charge~~ in the same manner as provided in ~~paragraph (4)~~
 876 ~~of subsection (a) of~~ subsection (q) of Code Section 43-1-19. For purposes of this

877 paragraph, the term 'felony' shall have the same meaning a provided in Code Section
878 43-1-1."

879 **SECTION 2-10.**

880 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
881 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
882 by revising paragraph (1) as follows:

883 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude~~, or
884 directly related crime violating a federal or state law relating to controlled substances or
885 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
886 courts of the United States, including but not limited to a plea of nolo contendere entered
887 to the charge; provided, however, that such conviction shall be evaluated as provided by
888 subsection (q) of Code Section 43-1-19; or"

889 **SECTION 2-11.**

890 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
891 license and revocation of registered practical nurses licenses and disciplining of licensees,
892 as follows:

893 "43-26-40.

894 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
895 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
896 to discipline a licensee upon a finding by the board that the applicant or licensee has:

897 (1) Been convicted of a directly related felony, ~~a crime involving moral turpitude~~, or any
898 directly related crime violating a federal or state law relating to controlled substances or
899 dangerous drugs or marijuana in the courts of this state, any other state, territory, or
900 country, or in the courts of the United States, including, but not limited to, a plea of nolo

901 contendere entered to the charge; provided, however, that such conviction shall be
902 evaluated as provided by subsection (q) of Code Section 43-1-19;

903 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
904 licensing authority, had other disciplinary action taken by any lawful licensing authority,
905 or was denied a license by any lawful licensing authority;

906 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
907 practice harmful to the public, which conduct or practice need not have resulted in actual
908 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
909 includes the improper charting of medication and any departure from, or the failure to
910 conform to, the minimal standards of acceptable and prevailing nursing practice;

911 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
912 of this state, any other state, the board, the United States, or any other lawful authority,
913 without regard to whether the violation is criminally punishable, which statute, law, or
914 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
915 or applicant knows or should know that such action is violative of such law or rule;

916 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
917 hearing; or

918 (6) Displayed an inability to practice nursing as a licensed practical nurse with
919 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or
920 any other types of material, or as a result of any mental or physical condition:

921 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
922 a licensee or applicant to submit to a mental or physical examination by a board
923 approved health care professional. The expense of such mental or physical examination
924 shall be borne by the licensee or applicant. The results of such examination shall be
925 admissible in any hearing before the board, notwithstanding any claim of privilege
926 under contrary law or rule. Every person who is licensed to practice practical nursing
927 as a licensed practical nurse in this state, or an applicant for examination, endorsement,

928 or reinstatement, shall be deemed to have given such person's consent to submit to such
929 mental or physical examination and to have waived all objections to the admissibility
930 of the results in any hearing before the board upon the grounds that the same constitutes
931 a privileged communication. If a licensee or applicant fails to submit to such an
932 examination when properly directed to do so by the board, unless such failure was due
933 to circumstances beyond that person's control, the board may enter a final order upon
934 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
935 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
936 an opportunity to demonstrate to the board that such person can resume or begin to
937 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
938 and

939 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
940 any and all records relating to the mental or physical condition of a licensee or
941 applicant, including psychiatric records; such records shall be admissible in any hearing
942 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
943 Every person who is licensed in this state or who shall file an application for said
944 license shall be deemed to have given such person's consent to the board's obtaining
945 such records and to have waived all objections to the admissibility of such records in
946 any hearing before the board upon the grounds that the same constitute a privileged
947 communication.

948 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
949 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
950 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
951 the minimum requirements shall be considered a contested case within the meaning of
952 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
953 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
954 licensee shall be allowed to appear before the board if he or she so requests.

955 (c) Notwithstanding any other provision of this Code section, the denial of an initial
956 license or the denial of a request for reinstatement of a license on the grounds that the
957 applicant or licensee is disqualified due to a criminal record shall be in accordance with
958 subsection (a) of Code Section 43-1-19."

959

SECTION 2-12.

960 Said title is further amended in Code Section 43-34-8, relating to the authority of the
961 Composite Medical Board to refuse license, certificate, or permit medical professionals or
962 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
963 publication of final disciplinary actions, by revising paragraph (3) of subsection (a) as
964 follows:

965 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
966 country, or of the United States. As used in this paragraph, the term 'conviction of a
967 felony' shall include a conviction of an offense which if committed in this state would be
968 deemed a felony under either state or federal law, without regard to its designation
969 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
970 verdict of guilt, ~~a plea of guilty resulting in first offender status~~, or a plea of nolo
971 contendere in a criminal proceeding, ~~regardless of whether the adjudication of guilt or~~
972 ~~sentence is withheld or not entered thereon;"~~

973

SECTION 2-13.

974 Said title is further amended in Code Section 43-34-8, relating to the authority of the
975 Composite Medical Board to refuse license, certificate, or permit medical professionals or
976 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
977 publication of final disciplinary actions, by adding two new subsections to read as follows:
978 "(a.1) Notwithstanding paragraphs (3), (4), and (11) of subsection (a) of this Code section,
979 the medical board shall refuse to grant a license to an individual or shall revoke a license

980 only if a conviction directly relates to the occupation for which the license is sought or held
981 and granting the license would pose a direct and substantial risk to public safety because
982 the individual has not been rehabilitated to safely perform the duties and responsibilities
983 of the practice of medicine. In determining if a conviction directly relates to the occupation
984 for which the license is sought or held, the medical board shall consider:

985 (1) The nature and seriousness of the offense and the direct relationship of the criminal
986 conduct to the duties and responsibilities of the occupation for which the license is sought
987 or held;

988 (2) The age of the individual at the time the offense was committed;

989 (3) The length of time elapsed since the offense was committed;

990 (4) All circumstances relative to the offense, including, but not limited to, mitigating
991 circumstances or social conditions surrounding the commission of the offense; and

992 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
993 for which the license is sought or held, including, but not limited to:

994 (A) The completion of the criminal sentence;

995 (B) A program and treatment certificate issued by the Board of Corrections;

996 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
997 program;

998 (D) Testimonials and recommendations, which may include a progress report from the
999 individual's probation or parole officer;

1000 (E) Education and training;

1001 (F) Employment history;

1002 (G) Employment aspirations;

1003 (H) The individual's current family or community responsibilities, or both;

1004 (I) Whether a bond is required to practice the occupation;

1005 (J) Any affidavits or other written documents, including, but not limited to, character
1006 references; and

1007 (K) Any other information regarding rehabilitation the individual submits to the board.
1008 (6) In determining whether to terminate and revoke a license, the board shall not consider
1009 nor require an individual to disclose:
1010 (A) A deferred adjudication, first offender treatment, participation in a diversion
1011 program, a conditional discharge, or an arrest not followed by a conviction;
1012 (B) A conviction for which no sentence of incarceration can be imposed;
1013 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1014 pardoned;
1015 (D) A juvenile adjudication;
1016 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1017 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1018 (F) A conviction older than five years for which the individual was not incarcerated,
1019 or a conviction for which the individual's incarceration ended more than five years
1020 before the date of the board's consideration, except for a felony conviction related to:
1021 (i) A criminal sexual act;
1022 (ii) Criminal fraud or embezzlement;
1023 (iii) Aggravated assault;
1024 (iv) Aggravated robbery;
1025 (v) Aggravated abuse, neglect, or endangerment of a child;
1026 (vi) Arson;
1027 (vii) Carjacking;
1028 (viii) Kidnapping; or
1029 (ix) Manslaughter, homicide, or murder.
1030 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
1031 may petition the board at any time, including while incarcerated and before starting or
1032 completing any required professional qualifications for licensure, for a predetermination

1033 as to whether the individual's criminal record will disqualify him or her from obtaining
1034 a license.

1035 (2) The petition for predetermination shall include the individual's criminal record or
1036 authorize the board to obtain the individual's criminal record. The petitioning individual
1037 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1038 petition shall also include any information the petitioner chooses to submit concerning
1039 the circumstances of their record and their rehabilitation.

1040 (3) In considering predetermination petitions, the professional licensing board shall apply
1041 the direct relationship standard in subsection (a.1) of this subsection and shall not
1042 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1043 shall support any adverse predetermination with clear and convincing evidence.

1044 (4) A predetermination made under this subsection that a petitioner is eligible for a
1045 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1046 all other requirements for the occupational license, and the petitioner's submitted criminal
1047 record was correct and remains unchanged at the time of his or her application for a
1048 license.

1049 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1050 from licensure, the board shall notify the petitioner of the potentially disqualifying
1051 convictions. The letter of concern shall advise the petitioner of their opportunity to
1052 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1053 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1054 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1055 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1056 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1057 receipt of the predetermination petition. The individual shall have the opportunity to
1058 include character witnesses at the hearing, including but not limited to family members,
1059 friends, past or prospective employers, probation or parole officers, and rehabilitation

1060 counselors, who may offer their verbal or written support. The board shall not make an
 1061 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
 1062 board shall issue a final decision within 60 days of complete submission of the issue for
 1063 consideration or the hearing, whichever is later.

1064 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
 1065 board shall notify the petitioner of the following:

1066 (A) The grounds and rationale for the predetermination, including any of the
 1067 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
 1068 Code section the board deemed directly relevant;

1069 (B) An explanation of the process and right to appeal the board's predetermination
 1070 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1071 (C) Any actions the petitioner may take to remedy the disqualification. An individual
 1072 who receives a predetermination of ineligibility may submit a revised petition reflecting
 1073 completion of the remedial actions. The individual may submit a new petition to the
 1074 board not before one year following a final judgment on their initial petition or upon
 1075 completing the remedial actions, whichever is earlier.

1076 (8) The denial of a predetermination petition because of the applicant's criminal record
 1077 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1078 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 1079 have the burden of proving that the applicant's criminal record directly relates to the
 1080 licensed occupation."

1081 **SECTION 2-14.**

1082 Said title is further amended in Code Section 43-34-107, relating to termination of approval
 1083 and revocation of licenses of physician assistants by the Composite Medical Board, notice
 1084 and hearing, and sanctions, by revising subsection (a) as follows:

1085 "(a)(1) The approval of a physician's utilization of a physician assistant may be
1086 terminated and the license revoked by the board when, after due notice and a hearing, in
1087 accordance with this Code section, it shall find that the assistant is incompetent or has
1088 committed unethical or immoral acts, including, but not limited to, holding himself or
1089 herself out or permitting another to represent him or her as a licensed physician;
1090 performing otherwise than at the direction of a physician approved by the board to utilize
1091 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
1092 she is unable safely to perform as an assistant to the physician; or being convicted in any
1093 court, state or federal, of any felony or other ~~criminal offense involving moral turpitude~~
1094 covered misdemeanor.

1095 (2) The board shall recommend action to terminate and revoke on the basis of a criminal
1096 conviction or adjudication only if the conviction or adjudication directly relates to the
1097 role of a physician assistant. In determining if a criminal conviction or adjudication
1098 directly relates to the role of a physician assistant, the board shall consider:

1099 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1100 conduct to the duties and responsibilities of the physician assistant;

1101 (B) The age of the individual at the time such crime was committed;

1102 (C) The length of time elapsed since such crime was committed;

1103 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1104 circumstances or social conditions surrounding the commission of the offense; and

1105 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1106 occupation for which the certificate is sought or held, including, but not limited to:

1107 (i) The completion of the criminal sentence;

1108 (ii) A program and treatment certificate issued by the Board of Corrections;

1109 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1110 treatment program;

- 1111 (iv) Testimonials and recommendations, which may include a progress report from
1112 the individual's probation or parole officer;
- 1113 (v) Education and training;
- 1114 (vi) Employment history;
- 1115 (vii) Employment aspirations;
- 1116 (viii) The individual's current family or community responsibilities, or both;
- 1117 (ix) Whether a bond is required to practice the occupation;
- 1118 (x) Any affidavits or other written documents, including, but not limited to, character
1119 references; and
- 1120 (xi) Any other information regarding rehabilitation the individual submits to the
1121 board.
- 1122 (3) In determining whether to terminate and revoke a license, the board or investigator
1123 shall not consider nor require an individual to disclose:
- 1124 (A) A deferred adjudication, first offender treatment, participation in a diversion
1125 program, a conditional discharge, or an arrest not followed by a conviction;
- 1126 (B) A conviction for which no sentence of incarceration can be imposed;
- 1127 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1128 pardoned;
- 1129 (D) A juvenile adjudication;
- 1130 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1131 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1132 (F) A conviction older than five years for which the individual was not incarcerated,
1133 or a conviction for which the individual's incarceration ended more than five years
1134 before the date of the board's consideration, except for a felony conviction related to:
- 1135 (i) A criminal sexual act;
- 1136 (ii) Criminal fraud or embezzlement;
- 1137 (iii) Aggravated assault;

- 1138 (iv) Aggravated robbery;
 1139 (v) Aggravated abuse, neglect, or endangerment of a child;
 1140 (vi) Arson;
 1141 (vii) Carjacking;
 1142 (viii) Kidnapping; or
 1143 (ix) Manslaughter, homicide, or murder."

1144 **SECTION 2-15.**

1145 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
 1146 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
 1147 follows:

1148 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
 1149 investigation of the applicant to be made and such investigation may include a criminal
 1150 background check; provided, however, that the board shall cause a thorough investigation
 1151 of a new applicant to be made, and such investigation shall include a background check.
 1152 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
 1153 a license. However, the board may issue licenses with varying restrictions to such
 1154 persons where the board deems it necessary for the purpose of safeguarding the public
 1155 health, safety, and welfare.

1156 (2) The board shall recommend action to deny licensure on the basis of a criminal
 1157 conviction or adjudication only if the conviction or adjudication directly relates to the
 1158 administration of a pain management clinic. In determining if a criminal conviction or
 1159 adjudication directly relates to the administration of a pain management clinic, the board
 1160 shall consider:

- 1161 (A) The nature and seriousness of the crime and the direct relationship of the criminal
 1162 conduct to the duties and responsibilities of the licensee;
 1163 (B) The age of the individual at the time such crime was committed;

- 1164 (C) The length of time elapsed since such crime was committed;
1165 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1166 circumstances or social conditions surrounding the commission of the offense; and
1167 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1168 occupation for which the certificate is sought or held, including, but not limited to:
1169 (i) The completion of the criminal sentence;
1170 (ii) A program and treatment certificate issued by the Board of Corrections;
1171 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1172 treatment program;
1173 (iv) Testimonials and recommendations, which may include a progress report from
1174 the individual's probation or parole officer;
1175 (v) Education and training;
1176 (vi) Employment history;
1177 (vii) Employment aspirations;
1178 (viii) The individual's current family or community responsibilities, or both;
1179 (ix) Whether a bond is required to practice the occupation;
1180 (x) Any affidavits or other written documents, including, but not limited to, character
1181 references; and
1182 (xi) Any other information regarding rehabilitation the individual submits to the
1183 board."

1184 **SECTION 2-16.**

1185 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1186 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1187 Board, as follows:

1188 "43-34-284.

1189 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1190 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1191 that the licensee or a physician practicing at a licensed pain management clinic has:

1192 (1) Furnished false or fraudulent material information in any application filed under this
1193 chapter;

1194 (2) Been convicted of a crime under any state or federal law relating to any controlled
1195 substance;

1196 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1197 substances suspended or revoked; or

1198 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1199 26.

1200 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1201 conviction or adjudication, the board shall consider:

1202 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1203 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1204 management clinic;

1205 (2) The age of the individual at the time such crime was committed;

1206 (3) The length of time elapsed since such crime was committed;

1207 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1208 circumstances or social conditions surrounding the commission of the offense; and

1209 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1210 for which the license is sought or held, including, but not limited to:

1211 (A) The completion of the criminal sentence;

1212 (B) A program treatment certificate issued by the Board of Corrections;

1213 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1214 program;

- 1215 (D) Testimonials and recommendations, which may include a progress report from the
 1216 individual's probation or parole officer;
 1217 (E) Education and training;
 1218 (F) Employment history;
 1219 (G) Employment aspirations;
 1220 (H) The individual's current family or community responsibilities, or both;
 1221 (I) Whether a bond is required to practice the occupation;
 1222 (J) Any affidavits or other written documents, including, but not limited to, character
 1223 references; and
 1224 (K) Any other information regarding rehabilitation the individual submits to the board."

1225 **SECTION 2-17.**

1226 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1227 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1228 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1229 subsection (b) as follows:

1230 "(b)(1) As used in this subsection, the term:

1231 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
 1232 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
 1233 whether an appeal of the conviction has been brought; a sentencing to first offender
 1234 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
 1235 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
 1236 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
 1237 commission shall have the burden of justifying by clear and convincing evidence that
 1238 a conviction supports an adverse licensing decision.

1239 (B) 'Felony' means any offense committed:

1240 (i) Within this state and deemed a felony under the laws of this state or under the
1241 laws of the United States; or

1242 (ii) In another state and deemed a felony under the laws of that state or the laws of
1243 the United States.

1244 (1.1) No person who has a directly related conviction shall be eligible to become an
1245 applicant for a license or an approval authorized by this chapter unless such person has
1246 successfully completed all terms and conditions of any sentence imposed for such
1247 conviction, provided that if such individual has multiple convictions, at least five years
1248 shall have passed since the individual satisfied all terms and conditions of any sentence
1249 imposed for the last conviction before making application for licensure or approval; and
1250 provided, further, that if such individual has a single conviction, at least two years shall
1251 have passed since the individual satisfied all terms and conditions of any sentence
1252 imposed for the last conviction before making application for licensure or approval.

1253 (1.2) The board shall recommend disciplinary action or denial of an application for a
1254 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1255 adjudication only if the conviction or adjudication directly relates to the role of an
1256 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1257 role of an appraiser, the board shall consider:

1258 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1259 conduct to the duties and responsibilities of the appraiser;

1260 (B) The age of the individual at the time such crime was committed;

1261 (C) The length of time elapsed since such crime was committed;

1262 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1263 circumstances or social conditions surrounding the commission of the offense; and

1264 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1265 occupation for which the license is sought or held, including, but not limited to:

1266 (i) The completion of the criminal sentence;

- 1267 (ii) A program and treatment certificate issued by the Board of Corrections;
1268 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1269 treatment program;
1270 (iv) Testimonials and recommendations, which may include a progress report from
1271 the individual's probation or parole officer;
1272 (v) Education and training;
1273 (vi) Employment history;
1274 (vii) Employment aspirations;
1275 (viii) The individual's current family or community responsibilities, or both;
1276 (ix) Any affidavits or other written documents, including, but not limited to, character
1277 references; and
1278 (x) Any other information regarding rehabilitation the individual submits to the
1279 board.
- 1280 (F) In determining whether to terminate and revoke a license, the board shall not
1281 consider nor require an individual to disclose:
- 1282 (i) A deferred adjudication, first offender treatment, participation in a diversion
1283 program, a conditional discharge, or an arrest not followed by a conviction;
1284 (ii) A conviction for which no sentence of incarceration can be imposed;
1285 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1286 pardoned; or
1287 (iv) A juvenile adjudication.
- 1288 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1289 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1290 licensure or an approval authorized by this chapter only if:
- 1291 (A) Such person has satisfied all terms and conditions of any conviction such person
1292 may have had before making application for licensure or approval, provided that if such
1293 individual has multiple convictions, at least five years shall have passed since the

1294 individual satisfied all terms and conditions of any sentence imposed for the last
1295 conviction before making application for licensure or approval; and provided, further,
1296 that if such individual has been convicted of a single felony or of ~~a single crime of~~
1297 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
1298 individual satisfied all terms and conditions of any sentence imposed for the last
1299 conviction before making application for licensure or approval;

1300 (B) No criminal charges for forgery, embezzlement, obtaining money under false
1301 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
1302 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
1303 against the person; and

1304 (C) Such person presents to the commission satisfactory proof that the person now
1305 bears a good reputation for honesty, trustworthiness, integrity, and competence to
1306 transact the business of a licensee in such a manner as to safeguard the interest of the
1307 public."

1308 **SECTION 2-18.**

1309 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
1310 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
1311 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
1312 revising subsection (b) as follows:

1313 "(b)(1) As used in this Code section, the term:

1314 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1315 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1316 whether an appeal of the conviction has been brought; a sentencing to first offender
1317 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
1318 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
1319 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The

1320 commission shall have the burden of justifying by clear and convincing evidence that
1321 a conviction supports an adverse licensing decision.

1322 (B) 'Felony' means any offense committed:

1323 (i) Within this state and deemed a felony under the laws of this state or under the
1324 laws of the United States; or

1325 (ii) In another state and deemed a felony under the laws of that state or the laws of
1326 the United States.

1327 (1.1) No person who has a directly related conviction shall be eligible to become an
1328 applicant for a license or an approval authorized by this chapter unless such person has
1329 successfully completed all terms and conditions of any sentence imposed for such
1330 conviction, provided that if such individual has multiple convictions, at least five years
1331 shall have passed since the individual satisfied all terms and conditions of any sentence
1332 imposed for the last conviction before making application for licensure or approval; and
1333 provided, further, that if such individual has a single conviction, at least two years shall
1334 have passed since the individual satisfied all terms and conditions of any sentence
1335 imposed for the last conviction before making application for licensure or approval.

1336 (1.2) The commission shall recommend disciplinary action or denial of an application
1337 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1338 or adjudication only if the conviction or adjudication directly relates to the role of the
1339 license sought. In determining if a criminal conviction or adjudication directly relates to
1340 the role of a broker or real estate salesperson, the commission shall consider:

1341 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1342 conduct to the duties and responsibilities of the licensee;

1343 (B) The age of the individual at the time such crime was committed;

1344 (C) The length of time elapsed since such crime was committed;

1345 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1346 circumstances or social conditions surrounding the commission of the offense; and

- 1347 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1348 occupation for which the license is sought or held, including, but not limited to:
1349 (i) The completion of the criminal sentence;
1350 (ii) A program and treatment certificate issued by the Board of Corrections;
1351 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1352 treatment program;
1353 (iv) Testimonials and recommendations, which may include a progress report from
1354 the individual's probation or parole officer;
1355 (v) Education and training;
1356 (vi) Employment history;
1357 (vii) Employment aspirations;
1358 (viii) The individual's current family or community responsibilities, or both;
1359 (ix) Any affidavits or other written documents, including, but not limited to, character
1360 references; and
1361 (x) Any other information regarding rehabilitation the individual submits to the
1362 commission.
- 1363 (F) In determining whether to terminate and revoke a license, the board shall not
1364 consider nor require an individual to disclose:
1365 (i) A deferred adjudication, first offender treatment, participation in a diversion
1366 program, a conditional discharge, or an arrest not followed by a conviction;
1367 (ii) A conviction for which no sentence of incarceration can be imposed;
1368 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1369 pardoned; or
1370 (iv) A juvenile adjudication.
- 1371 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1372 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1373 licensure or an approval authorized by this chapter only if:

1374 (A) Such person has satisfied all terms and conditions of any conviction such person
 1375 may have had before making application for licensure or approval, provided that if such
 1376 individual has multiple convictions, at least five years shall have passed since the
 1377 individual satisfied all terms and conditions of any sentence imposed for the last
 1378 conviction before making application for licensure or approval; and provided, further,
 1379 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1380 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1381 individual satisfied all terms and conditions of any sentence imposed for the last
 1382 conviction before making application for licensure or approval;

1383 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1384 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1385 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1386 against the person; and

1387 (C) Such person presents to the commission satisfactory proof that the person now
 1388 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1389 transact the business of a licensee in such a manner as to safeguard the interest of the
 1390 public."

1391 **SECTION 2-19.**

1392 Said title is further amended in Code Section 43-45-9, relating to examination for structural
 1393 pest control operator certification by the Structural Pest Control Commission, by revising
 1394 subsection (a) as follows:

1395 "(a)(1) All applicants for examination for certification as an operator must have a
 1396 knowledge of the practical and scientific facts underlying the practice of structural pest
 1397 control, control of wood-destroying organisms, and fumigation and the necessary
 1398 knowledge and ability to recognize and control those hazardous conditions which may
 1399 affect human life and health. The commission may refuse to examine anyone convicted

1400 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
1401 misdemeanor.

1402 (2) The commission shall refuse to examine an applicant on the basis of a criminal
1403 conviction or adjudication only if the conviction or adjudication directly relates to the
1404 role of an operator. In determining if a criminal conviction or adjudication directly
1405 relates to the role of a pest control operator, the commission shall consider:

1406 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1407 conduct to the duties and responsibilities of the operator;

1408 (B) The age of the individual at the time such crime was committed;

1409 (C) The length of time elapsed since such crime was committed;

1410 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1411 circumstances or social conditions surrounding the commission of the offense; and

1412 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1413 occupation for which the certificate is sought or held, including, but not limited to:

1414 (i) The completion of the criminal sentence;

1415 (ii) A program and treatment certificate issued by the Board of Corrections;

1416 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1417 treatment program;

1418 (iv) Testimonials and recommendations, which may include a progress report from
1419 the individual's probation or parole officer;

1420 (v) Education and training;

1421 (vi) Employment history;

1422 (vii) Employment aspirations;

1423 (viii) The individual's current family or community responsibilities, or both;

1424 (ix) Whether a bond is required to practice the occupation;

1425 (x) Any affidavits or other written documents, including, but not limited to, character
1426 references; and

1427 (xi) Any other information regarding rehabilitation the individual submits to the
1428 commission.

1429 (3) In determining whether to refuse to examine an applicant, the commission shall not
1430 consider nor require an individual to disclose:

1431 (A) A deferred adjudication, first offender treatment, participation in a diversion
1432 program, a conditional discharge, or an arrest not followed by a conviction;

1433 (B) A conviction for which no sentence of incarceration can be imposed;

1434 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1435 pardoned;

1436 (D) A juvenile adjudication;

1437 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1438 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1439 (F) A conviction older than five years for which the individual was not incarcerated,
1440 or a conviction for which the individual's incarceration ended more than five years
1441 before the date of the commission's consideration, except for a felony conviction related
1442 to:

1443 (i) A criminal sexual act;

1444 (ii) Criminal fraud or embezzlement;

1445 (iii) Aggravated assault;

1446 (iv) Aggravated robbery;

1447 (v) Aggravated abuse, neglect, or endangerment of a child;

1448 (vi) Arson;

1449 (vii) Carjacking;

1450 (viii) Kidnapping; or

1451 (ix) Manslaughter, homicide, or murder.

1452 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1453 record may petition the commission at any time, including while incarcerated and

1454 before starting or completing any required professional qualifications for certification,
1455 for a predetermination as to whether the individual's criminal record will disqualify
1456 such individual from obtaining a certification as an operator.

1457 (B) The petition for predetermination shall include the individual's criminal record or
1458 authorize the commission to obtain the individual's criminal record. The petitioning
1459 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1460 The petition shall also include any information the petitioner chooses to submit
1461 concerning the circumstances of their record and their rehabilitation.

1462 (C) In considering predetermination petitions, the commission shall apply the direct
1463 relationship standard in paragraph (2) of this subsection and shall not consider any
1464 offenses falling under paragraph (3) of this subsection. The commission shall support
1465 any adverse predetermination with clear and convincing evidence.

1466 (D) A predetermination made under this subsection that a petitioner is eligible for a
1467 license shall be binding on the commission only if the petitioner applies for
1468 certification, fulfills all other requirements for operator certification, and the petitioner's
1469 submitted criminal record was correct and remains unchanged at the time of his or her
1470 application for certification.

1471 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1472 from certification, the commission shall notify the petitioner of the potentially
1473 disqualifying convictions. The letter of concern shall advise the petitioner of their
1474 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1475 hearing, or both.

1476 (F) The commission may predetermine that the petitioner's criminal record is likely
1477 grounds for denial of certification only after the commission has held a hearing on the
1478 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1479 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1480 or by teleconference within 60 days of receipt of the predetermination petition. The

1481 individual shall have the opportunity to include character witnesses at the hearing,
1482 including but not limited to family members, friends, past or prospective employers,
1483 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1484 or written support. The commission shall not make an adverse inference by a
1485 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1486 issue a final decision within 60 days of complete submission of the issue for
1487 consideration or the hearing, whichever is later.

1488 (G) If the commission decides that a predetermination petitioner is ineligible for a
1489 license, the board shall notify the petitioner of the following:

1490 (i) The grounds and rationale for the predetermination, including any of the
1491 petitioner's specific convictions and the factors provided for in paragraph (3) of this
1492 subsection the commission deemed directly relevant;

1493 (ii) An explanation of the process and right to appeal the commission's
1494 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1495 Procedure Act'; and

1496 (iii) Any actions the petitioner may take to remedy the disqualification. An
1497 individual who receives a predetermination of ineligibility may submit a revised
1498 petition reflecting completion of the remedial actions. The individual may submit a
1499 new petition to the commission not before one year following a final judgment on
1500 their initial petition or upon completing the remedial actions, whichever is earlier.

1501 (H) The denial of a predetermination petition because of the applicant's criminal record
1502 shall constitute a contested case as defined in Code Section 50-13-2. In an
1503 administrative hearing or civil action reviewing the denial of a predetermination
1504 petition, the commission shall have the burden of proving that the applicant's criminal
1505 record directly relates to the licensed occupation."

1506

PART III

1507

SECTION 3-1.

1508 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 1509 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
 1510 professional standards of teachers and other school personnel, to read as follows:

1511 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
 1512 whether an appeal of such finding, verdict, or plea has been sought."

1513

SECTION 3-2.

1514 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
 1515 investigation of violations by the Professional Standards Commission, requirement for
 1516 automatic investigation, and investigation of sexual offenses, as follows:

1517 "20-2-984.3.

1518 (a) Upon receipt of a written request from a local board, the state board, or one or more
 1519 individual residents of this state, the commission shall be authorized to investigate:

1520 (1) Alleged violations by an educator of any law of this state pertaining to educators or
 1521 the profession of education;

1522 (2) Alleged violations by an educator of the code of ethics of the commission;

1523 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
 1524 or the commission;

1525 (4) Complaints alleging a failure by an educator to meet or comply with standards of
 1526 performance of the commission or the state board; or

1527 (5) Complaints alleging that an educator has been convicted of any directly related
 1528 felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as
 1529 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
 1530 distribution, trafficking, sale, or possession of a controlled substance or marijuana as

1531 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
1532 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
1533 in the courts of this state or any other state, territory, or country or in the courts of the
1534 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or
1535 verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the
1536 conviction has been sought; a situation where first offender treatment without
1537 adjudication of guilt pursuant to the charge was granted; and a situation where an
1538 adjudication of guilt or sentence was otherwise withheld or not entered on the charge or
1539 the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1540 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1541 to this Code section within 30 days of the request unless an extension is granted pursuant
1542 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1543 may appoint a committee of its membership with the power to transact and carry out the
1544 business and duties of the commission when deciding whether to conduct a preliminary
1545 investigation.

1546 (b.1) In investigating whether to deny, diminish, limit, suspect, revoke, refuse to renew,
1547 or otherwise withhold a certificate, the commission shall not consider nor require an
1548 educator to disclose:

1549 (1) A deferred adjudication, first offender treatment, participation in a diversion
1550 program, a conditional discharge, or an arrest not followed by a conviction;

1551 (2) A conviction for which no sentence of incarceration can be imposed;

1552 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1553 pardoned;

1554 (4) A juvenile adjudication;

1555 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1556 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 1557 (6) A conviction older than five years for which the individual was not incarcerated, or
 1558 a conviction for which the individual's incarceration ended more than five years before
 1559 the date of the commission's consideration, except for a felony conviction related to:
- 1560 (A) A criminal sexual act;
 - 1561 (B) Criminal fraud or embezzlement;
 - 1562 (C) Aggravated assault;
 - 1563 (D) Aggravated robbery;
 - 1564 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 1565 (F) Arson;
 - 1566 (G) Carjacking;
 - 1567 (H) Kidnapping; or
 - 1568 (I) Manslaughter, homicide, or murder.
- 1569 (c) When an educator admits on a Professional Standards Commission application to
 1570 having resigned or being discharged for committing a felony or ~~misdemeanor involving~~
 1571 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1572 investigation by law enforcement authorities for such conduct or for committing a breach
 1573 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1574 record or having had a surrender, denial, revocation, or suspension of a certificate or being
 1575 the subject of an investigation or adverse action regarding a certificate, an investigation
 1576 will automatically open without notification to the commission and with written
 1577 notification to the educator.
- 1578 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
 1579 consider nor require an educator to disclose on a Professional Standards Commission
 1580 application:
- 1581 (1) A deferred adjudication, first offender treatment, participation in a diversion
 1582 program, a conditional discharge, or an arrest not followed by a conviction;
 - 1583 (2) A conviction for which no sentence of incarceration can be imposed;

- 1584 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1585 pardoned;
- 1586 (4) A juvenile adjudication;
- 1587 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1588 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1589 (6) A conviction older than five years for which the individual was not incarcerated, or
1590 a conviction for which the individual's incarceration ended more than five years before
1591 the date of the commission's consideration, except for a felony conviction related to:
- 1592 (A) A criminal sexual act;
- 1593 (B) Criminal fraud or embezzlement;
- 1594 (C) Aggravated assault;
- 1595 (D) Aggravated robbery;
- 1596 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1597 (F) Arson;
- 1598 (G) Carjacking;
- 1599 (H) Kidnapping; or
- 1600 (I) Manslaughter, homicide, or murder.
- 1601 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1602 shall be authorized, without notification to the commission, to immediately open an
1603 investigation submitted to the commission by a local school superintendent, with approval
1604 of the local board of education, of a complaint by a student against an educator alleging a
1605 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1606 16-6-20, 16-6-22.2, or 16-12-100.
- 1607 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1608 may petition the commission at any time, including while incarcerated and before starting
1609 or completing any required professional qualifications for certification, for a

1610 predetermination as to whether the individual's criminal record will disqualify him or her
1611 from obtaining a certificate.

1612 (2) The petition for predetermination shall include the individual's criminal record or
1613 authorize the board to obtain the individual's criminal record. The petitioning individual
1614 need not disclose any offenses falling under subsection (c.1) of this Code section. The
1615 petition shall also include any information the petitioner chooses to submit concerning
1616 the circumstances of their record and their rehabilitation.

1617 (3) In considering predetermination petitions, the commission shall apply the direct
1618 relationship standard provided for in subsection (b.1) of this Code section and shall not
1619 consider any offenses falling under subsection (c.1) of this Code section. The
1620 commission shall support any adverse predetermination with clear and convincing
1621 evidence.

1622 (4) A predetermination made under this subsection that a petitioner is eligible for a
1623 certificate shall be binding on the commission only if the petitioner applies for
1624 certification, fulfills all other requirements for the certificate, and the petitioner's
1625 submitted criminal record was correct and remains unchanged at the time of his or her
1626 application for a certificate.

1627 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1628 from certification, the commission shall notify the petitioner of the potentially
1629 disqualifying convictions. The letter of concern shall advise the petitioner of their
1630 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1631 hearing, or both.

1632 (6) The commission may predetermine that the petitioner's criminal record is likely
1633 grounds for denial of a license only after the commission has held a hearing on the
1634 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1635 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1636 by teleconference within 60 days of receipt of the predetermination petition. The

1637 individual shall have the opportunity to include character witnesses at the hearing,
1638 including but not limited to family members, friends, past or prospective employers,
1639 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1640 written support. The commission shall not make an adverse inference by a petitioner's
1641 decision to forgo a hearing or character witnesses. The commission shall issue a final
1642 decision within 60 days of complete submission of the issue for consideration or the
1643 hearing, whichever is later.

1644 (7) If the commission decides that a predetermination petitioner is ineligible for a
1645 certificate, the board shall notify the petitioner of the following:

1646 (A) The grounds and rationale for the predetermination, including any specific
1647 convictions and the factors in subsection (b.1) of this Code section the commission
1648 deemed directly relevant;

1649 (B) An explanation of the process and right to appeal the commission's
1650 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1651 Procedure Act'; and

1652 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1653 who receives a predetermination of ineligibility may submit a revised petition reflecting
1654 completion of the remedial actions. The individual may submit a new petition to the
1655 commission not before one year following a final judgment on their initial petition or
1656 upon completing the remedial actions, whichever is earlier.

1657 (8) The denial of a predetermination petition because of the applicant's criminal record
1658 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1659 hearing or civil action reviewing the denial of a predetermination petition, the
1660 commission shall have the burden of proving that the applicant's criminal record directly
1661 relates to the licensed occupation."

1662 **SECTION 3-3.**

1663 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
1664 investigations of educators, disciplinary actions, and hearings by the Professional Standards
1665 Commission, by adding two new subsections to read as follows:

1666 "(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1667 conviction only if the conviction or adjudication directly relates to the role of an educator.
1668 In determining if a criminal conviction directly relates to the role of an educator, the
1669 commission shall consider:

1670 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1671 conduct to the duties and responsibilities of the educator;

1672 (2) The age of the individual at the time such crime was committed;

1673 (3) The length of time elapsed since such crime was committed;

1674 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1675 circumstances or social conditions surrounding the commission of the offense; and

1676 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1677 for which the certificate is sought or held, including, but not limited to:

1678 (A) The completion of the criminal sentence;

1679 (B) A program and treatment certificate issued by the Board of Corrections;

1680 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1681 program;

1682 (D) Testimonials and recommendations, which may include a progress report from the
1683 individual's probation or parole officer;

1684 (E) Education and training;

1685 (F) Employment history;

1686 (G) Employment aspirations;

1687 (H) The individual's current family or community responsibilities, or both;

1688 (I) Whether a bond is required to practice the occupation;

1689 (J) Any affidavits or other written documents, including, but not limited to, character
1690 references; and
1691 (K) Any other information regarding rehabilitation the individual submits to the
1692 commission.
1693 (a.2) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1694 otherwise withhold a license, the commission or investigator shall not consider nor require
1695 an individual to disclose:
1696 (1) A deferred adjudication, first offender treatment, participation in a diversion
1697 program, a conditional discharge, or an arrest not followed by a conviction;
1698 (2) A conviction for which no sentence of incarceration can be imposed;
1699 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1700 pardoned;
1701 (4) A juvenile adjudication;
1702 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1703 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1704 (6) A conviction older than five years for which the individual was not incarcerated, or
1705 a conviction for which the individual's incarceration ended more than five years before
1706 the date of the commission's consideration, except for a felony conviction related to:
1707 (A) A criminal sexual act;
1708 (B) Criminal fraud or embezzlement;
1709 (C) Aggravated assault;
1710 (D) Aggravated robbery;
1711 (E) Aggravated abuse, neglect, or endangerment of a child;
1712 (F) Arson;
1713 (G) Carjacking;
1714 (H) Kidnapping; or
1715 (I) Manslaughter, homicide, or murder."

1716

PART IV

1717

SECTION 4-1.

1718 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
1719 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
1720 pharmacist licenses, examination, and internships and other training programs, as follows:

1721 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
1722 applicant for licensure by examination shall:

1723 (1) Have submitted an application in the form prescribed by the board;

1724 (2) Have attained the age of majority;

1725 ~~(3) Be of good moral character;~~

1726 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
1727 or school of pharmacy as the same may be approved by the board; provided, however,
1728 that, since it would be impractical for the board to evaluate a school or college of
1729 pharmacy located in another country, the board may accept a graduate from such a school
1730 or college so long as the graduate has completed all requirements of the Foreign
1731 Pharmacy Equivalency Certification Program administered by the National Association
1732 of Boards of Pharmacy. This shall include successful completion of all required
1733 examinations and the issuance of the equivalency certificate and be based upon an
1734 individual evaluation by the board of the applicant's educational experience, professional
1735 background, and proficiency in the English language;

1736 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
1737 board or demonstrated to the board's satisfaction that experience in the practice of
1738 pharmacy which meets or exceeds the minimum internship requirements of the board;

1739 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;

1740 and

1741 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 1742 materials and have paid for the issuance of the license."

1743 **SECTION 4-2.**

1744 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 1745 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 1746 as follows:

1747 "(3) Except as prohibited in Code Section 26-4-60.1, for being ~~Being~~:

1748 (A) Convicted of a felony;

1749 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 1750 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 1751 in the courts of the United States; or

1752 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 1753 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 1754 or of the federal government;"

1755 **SECTION 4-3.**

1756 Said title is further amended by adding two new Code sections to read as follows:

1757 "26-4-60.1.

1758 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
 1759 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
 1760 if a conviction directly relates to the occupation for which the license is sought or held and
 1761 granting the license would pose a direct and substantial risk to public safety because the
 1762 individual has not been rehabilitated to safely perform the duties and responsibilities of the
 1763 practice of pharmacy. In determining if a conviction directly relates to the occupation for
 1764 which the license is sought or held, the board of pharmacy shall consider:

- 1765 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1766 conduct to the duties and responsibilities of the occupation for which the license is sought
1767 or held;
- 1768 (2) The age of the individual at the time the offense was committed;
- 1769 (3) The length of time elapsed since the offense was committed;
- 1770 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1771 circumstances or social conditions surrounding the commission of the offense; and
- 1772 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1773 for which the license is sought or held, including, but not limited to:
- 1774 (A) The completion of the criminal sentence;
- 1775 (B) A program and treatment certificate issued by the Board of Corrections;
- 1776 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1777 program;
- 1778 (D) Testimonials and recommendations, which may include a progress report from the
1779 individual's probation or parole officer;
- 1780 (E) Education and training;
- 1781 (F) Employment history;
- 1782 (G) Employment aspirations;
- 1783 (H) The individual's current family or community responsibilities, or both;
- 1784 (I) Whether a bond is required to practice the occupation;
- 1785 (J) Any affidavits or other written documents, including, but not limited to, character
1786 references; and
- 1787 (K) Any other information regarding rehabilitation the individual submits to the board.
- 1788 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1789 otherwise withhold a license due to criminal record, the board of pharmacy shall not
1790 consider nor require an individual to disclose:

- 1791 (1) A deferred adjudication, first offender treatment, participation in a diversion
1792 program, a conditional discharge, or an arrest not followed by a conviction;
1793 (2) A conviction for which no sentence of incarceration can be imposed;
1794 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1795 pardoned;
1796 (4) A juvenile adjudication;
1797 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1798 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1799 (6) A conviction older than five years for which the individual was not incarcerated, or
1800 a conviction for which the individual's incarceration ended more than five years before
1801 the date of the board's consideration, except for a felony conviction related to:
1802 (A) A criminal sexual act;
1803 (B) Criminal fraud or embezzlement;
1804 (C) Aggravated assault;
1805 (D) Aggravated robbery;
1806 (E) Aggravated abuse, neglect, or endangerment of a child;
1807 (F) Arson;
1808 (G) Carjacking;
1809 (H) Kidnapping;
1810 (I) Manslaughter, homicide, or murder; or
1811 (J) Distribution, manufacturing, or possession of a controlled substance.
- 1812 26-4-60.2.
1813 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1814 petition the board of pharmacy at any time, including while incarcerated and before starting
1815 or completing any required professional qualifications for licensure, for a predetermination

1816 as to whether the individual's criminal record will disqualify him or her from obtaining a
1817 license.

1818 (b) The petition for predetermination shall include the individual's criminal record or
1819 authorize the board to obtain the individual's criminal record. The petitioning individual
1820 need not disclose any offenses falling under subparagraph (b)(6)(A) of Code Section
1821 20-4-60.1. The petition shall also include any information the petitioner chooses to submit
1822 concerning the circumstances of their record and their rehabilitation.

1823 (c) In considering predetermination petitions, the board shall apply the direct relationship
1824 standard in subparagraph (a)(3)(D) of Code Section 26-4-60 and shall not consider any
1825 offenses falling under subparagraph (a)(3)(E) of Code Section 26-4-60. The board shall
1826 support any adverse predetermination with clear and convincing evidence.

1827 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1828 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
1829 requirements for the licensure, and the petitioner's submitted criminal record was correct
1830 and remains unchanged at the time of his or her application for a license.

1831 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1832 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
1833 The letter of concern shall advise the petitioner of their opportunity to submit additional
1834 evidence of rehabilitation and mitigation or for a hearing, or both.

1835 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
1836 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1837 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1838 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1839 receipt of the predetermination petition. The individual shall have the opportunity to
1840 include character witnesses at the hearing, including but not limited to family members,
1841 friends, past or prospective employers, probation or parole officers, and rehabilitation
1842 counselors, who may offer their verbal or written support. The board shall not make an

1843 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1844 board shall issue a final decision within 60 days of complete submission of the issue for
1845 consideration or the hearing, whichever is later.

1846 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
1847 board shall notify the petitioner of the following:

1848 (1) The grounds and rationale for the predetermination, including the specific
1849 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
1850 board deemed directly relevant;

1851 (2) An explanation of the process and right to appeal the board's predetermination
1852 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1853 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1854 who receives a predetermination of ineligibility may submit a revised petition reflecting
1855 completion of the remedial actions. The individual may submit a new petition to the
1856 board not before one year following a final judgment on their initial petition or upon
1857 completing the remedial actions, whichever is earlier.

1858 (h) The denial of a predetermination petition because of the applicant's criminal record
1859 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1860 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1861 have the burden of proving that the applicant's criminal record directly relates to the
1862 licensed occupation."

1863

PART V

1864

SECTION 5-1.

1865 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
1866 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
1867 check program, by revising paragraph (5) as follows:

1868 "(5)(A) 'Criminal record' means any of the following:
 1869 (i) Conviction of a crime;
 1870 (ii) Arrest, charge, and sentencing for a crime when:
 1871 (I) A plea of nolo contendere was entered to the crime;
 1872 (II) First offender treatment without adjudication of guilt was granted to the crime;
 1873 or
 1874 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;
 1875 or
 1876 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
 1877 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
 1878 (B) Such term shall not include an owner, applicant, or employee for which at least ten
 1879 years have elapsed from the date of his or her criminal background check since the
 1880 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;
 1881 such term also shall not include an owner, applicant, or employee who has received a
 1882 general pardon from the State Board of Pardons and Paroles for the convictions;
 1883 provided, however, that such ten-year period exemption or and pardon exemption shall
 1884 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

1885 **PART VI**
 1886 **SECTION 6-1.**

1887 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
 1888 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance
 1889 agent licenses, by revising paragraphs (15) and (16) as follows:

1890 "(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted
 1891 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined
 1892 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country

1893 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
 1894 subsection, the term 'felony' shall include any offense which, if committed in this state,
 1895 would be deemed a felony, without regard to its designation elsewhere; and, as used in
 1896 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
 1897 of guilty, regardless of whether an appeal of the conviction has been sought;

1898 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
 1899 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
 1900 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
 1901 Section 43-1-1, where:

1902 (A) First offender treatment without adjudication of guilt pursuant to the charge was
 1903 granted; or

1904 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 1905 charge.

1906 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
 1907 to probation of first offenders, or other first offender treatment shall be conclusive
 1908 evidence of arrest and sentencing for such crime;"

1909 **SECTION 6-2.**

1910 Said title is further amended by adding two new Code sections to read as follows:

1911 "33-23-21.2.

1912 (a) Notwithstanding paragraphs (15) and (16) of Code Section 33-23-21, the
 1913 Commissioner shall refuse to grant a license to an individual or shall revoke a license only
 1914 if a conviction directly relates to the occupation for which the license is sought or held and
 1915 granting the license would pose a direct and substantial risk to public safety because the
 1916 individual has not been rehabilitated to safely perform the duties and responsibilities of a
 1917 licensee. In determining if a conviction directly relates to the occupation for which the
 1918 license is sought or held, the Commissioner shall consider:

- 1919 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1920 conduct to the duties and responsibilities of the occupation for which the license is sought
1921 or held;
- 1922 (2) The age of the individual at the time the offense was committed;
- 1923 (3) The length of time elapsed since the offense was committed;
- 1924 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1925 circumstances or social conditions surrounding the commission of the offense; and
- 1926 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1927 for which the license is sought or held, including, but not limited to:
- 1928 (A) The completion of the criminal sentence;
- 1929 (B) A program and treatment certificate issued by the Board of Corrections;
- 1930 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1931 program;
- 1932 (D) Testimonials and recommendations, which may include a progress report from the
1933 individual's probation or parole officer;
- 1934 (E) Education and training;
- 1935 (F) Employment history;
- 1936 (G) Employment aspirations;
- 1937 (H) The individual's current family or community responsibilities, or both;
- 1938 (I) Whether a bond is required to practice the occupation;
- 1939 (J) Any affidavits or other written documents, including, but not limited to, character
1940 references; and
- 1941 (K) Any other information regarding rehabilitation the individual submits to the
1942 Commissioner.
- 1943 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1944 otherwise withhold a license due to criminal record, the Commissioner shall not consider
1945 nor require an individual to disclose:

- 1946 (1) A deferred adjudication, first offender treatment, participation in a diversion
1947 program, a conditional discharge, or an arrest not followed by a conviction;
1948 (2) A conviction for which no sentence of incarceration can be imposed;
1949 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1950 pardoned;
1951 (4) A juvenile adjudication;
1952 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1953 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1954 (6) A conviction older than five years for which the individual was not incarcerated, or
1955 a conviction for which the individual's incarceration ended more than five years before
1956 the date of the Commissioner's consideration, except for a felony conviction related to:
1957 (A) A criminal sexual act;
1958 (B) Criminal fraud or embezzlement;
1959 (C) Aggravated assault;
1960 (D) Aggravated robbery;
1961 (E) Aggravated abuse, neglect, or endangerment of a child;
1962 (F) Arson;
1963 (G) Carjacking;
1964 (H) Kidnapping; or
1965 (I) Manslaughter, homicide, or murder.
- 1966 33-23-21.3.
1967 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1968 petition the Commissioner at any time, including while incarcerated and before starting or
1969 completing any required professional qualifications for licensure, for a predetermination
1970 as to whether the individual's criminal record will disqualify him or her from obtaining a
1971 license.

1972 (b) The petition for predetermination shall include the individual's criminal record or
1973 authorize the Commissioner to obtain the individual's criminal record. The petitioning
1974 individual need not disclose any offenses falling under subsection (b) of Code Section
1975 33-23-21.2. The petition shall also include any information the petitioner chooses to
1976 submit concerning the circumstances of their record and their rehabilitation.

1977 (c) In considering predetermination petitions, the Commissioner shall apply the direct
1978 relationship standard in subsection (a) of Code Section 33-23-21.2. The Commissioner
1979 shall support any adverse predetermination with clear and convincing evidence.

1980 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1981 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
1982 all other requirements for the licensure, and the petitioner's submitted criminal record was
1983 correct and remains unchanged at the time of his or her application for a license.

1984 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1985 licensure, the Commissioner shall provide notice and opportunity for a hearing in
1986 accordance with Chapter 2 of this title.

1987 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
1988 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
1989 petitioner of the following:

1990 (1) The grounds and rationale for the predetermination, including the specific
1991 convictions and the factors in subsection (a) of Code Section 33-23-21.2 the
1992 Commissioner deemed directly relevant;

1993 (2) An explanation of the process and right to appeal the Commissioner's
1994 predetermination decision; and

1995 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1996 who receives a predetermination of ineligibility may submit a revised petition reflecting
1997 completion of the remedial actions. The individual may submit a new petition to the

1998 Commissioner not before one year following a final judgment on their initial petition or
 1999 upon completing the remedial actions, whichever is earlier."

2000 **SECTION 6-3.**

2001 Said title is further amended by adding two new Code sections to read as follows:

2002 "33-23-43.11.

2003 (a) Notwithstanding paragraph (9) of subsection (a) of Code Section 33-23-43.10, the
 2004 Commissioner shall refuse to grant a license to an individual or shall revoke a license only
 2005 if a conviction directly relates to the occupation for which the license is sought or held and
 2006 granting the license would pose a direct and substantial risk to public safety because the
 2007 individual has not been rehabilitated to safely perform the duties and responsibilities of a
 2008 licensee. In determining if a conviction directly relates to the occupation for which the
 2009 license is sought or held, the Commissioner shall consider:

2010 (1) The nature and seriousness of the offense and the direct relationship of the criminal
 2011 conduct to the duties and responsibilities of the occupation for which the license is sought
 2012 or held;

2013 (2) The age of the individual at the time the offense was committed;

2014 (3) The length of time elapsed since the offense was committed;

2015 (4) All circumstances relative to the offense, including, but not limited to, mitigating
 2016 circumstances or social conditions surrounding the commission of the offense; and

2017 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
 2018 for which the license is sought or held, including, but not limited to:

2019 (A) The completion of the criminal sentence;

2020 (B) A program and treatment certificate issued by the Board of Corrections;

2021 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
 2022 program;

- 2023 (D) Testimonials and recommendations, which may include a progress report from the
2024 individual's probation or parole officer;
2025 (E) Education and training;
2026 (F) Employment history;
2027 (G) Employment aspirations;
2028 (H) The individual's current family or community responsibilities, or both;
2029 (I) Whether a bond is required to practice the occupation;
2030 (J) Any affidavits or other written documents, including, but not limited to, character
2031 references; and
2032 (K) Any other information regarding rehabilitation the individual submits to the
2033 Commissioner.
- 2034 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
2035 otherwise withhold a license due to criminal record, the Commissioner shall not consider
2036 nor require an individual to disclose:
- 2037 (1) A deferred adjudication, first offender treatment, participation in a diversion
2038 program, a conditional discharge, or an arrest not followed by a conviction;
2039 (2) A conviction for which no sentence of incarceration can be imposed;
2040 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
2041 pardoned;
2042 (4) A juvenile adjudication;
2043 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
2044 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
2045 (6) A conviction older than five years for which the individual was not incarcerated, or
2046 a conviction for which the individual's incarceration ended more than five years before
2047 the date of the Commissioner's consideration, except for a felony conviction related to:
- 2048 (A) A criminal sexual act;
2049 (B) Criminal fraud or embezzlement;

- 2050 (C) Aggravated assault;
2051 (D) Aggravated robbery;
2052 (E) Aggravated abuse, neglect, or endangerment of a child;
2053 (F) Arson;
2054 (G) Carjacking;
2055 (H) Kidnapping; or
2056 (I) Manslaughter, homicide, or murder.

2057 33-23-43.12.

2058 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2059 petition the Commissioner at any time, including while incarcerated and before starting or
2060 completing any required professional qualifications for licensure, for a predetermination
2061 as to whether the individual's criminal record will disqualify him or her from obtaining a
2062 public adjuster's license.

2063 (b) The petition for predetermination shall include the individual's criminal record or
2064 authorize the Commissioner to obtain the individual's criminal record. The petitioning
2065 individual need not disclose any offenses falling under subsection (b) of Code Section
2066 33-23-43.11. The petition shall also include any information the petitioner chooses to
2067 submit concerning the circumstances of their record and their rehabilitation.

2068 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2069 relationship standard in subsection (a) of Code Section 33-23-43.11. The Commissioner
2070 shall support any adverse predetermination with clear and convincing evidence.

2071 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2072 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2073 all other requirements for the licensure, and the petitioner's submitted criminal record was
2074 correct and remains unchanged at the time of his or her application for a license.

2075 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2076 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2077 accordance with Chapter 2 of this title.

2078 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2079 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2080 petitioner of the following:

2081 (1) The grounds and rationale for the predetermination, including the specific
2082 convictions and the factors in subsection (a) of Code Section 33-23-43.11 the
2083 Commissioner deemed directly relevant;

2084 (2) An explanation of the process and right to appeal the Commissioner's
2085 predetermination decision; and

2086 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2087 who receives a predetermination of ineligibility may submit a revised petition reflecting
2088 completion of the remedial actions. The individual may submit a new petition to the
2089 Commissioner not before one year following a final judgment on their initial petition or
2090 upon completing the remedial actions, whichever is earlier."

2091

PART VII

2092

SECTION 7-1.

2093 This Act shall become effective on January 1, 2024, and shall apply to all applications for
2094 licensure submitted on or after such date.

2095

SECTION 7-2.

2096 All laws and parts of laws in conflict with this Act are repealed.