

MOOT

Senator Strickland of the 17th offered the following amendment #2:

1 *Amend the House substitute to SB 195 (LC 46 0655S) by replacing lines 1 through the end*
2 *with the following:*

3 To amend Titles 20, 26, 31, 33, and 43 of the Official Code of Georgia Annotated, relating
4 to education, food, drugs, and cosmetics, health, insurance, and professions and businesses,
5 respectively, so as to create a preclearance process in the licensing of individuals with
6 criminal records who make an application to or are investigated by certain licensing boards
7 and commissions; to provide for definitions; to require certain licensing authorities to provide
8 evidence to support adverse licensing decisions based on criminal convictions; to require a
9 hearing prior to denying certain applicants on the basis of an individual's criminal record; to
10 establish findings that shall be made and evidence that shall and shall not be considered prior
11 to refusing to grant certain licenses based on certain criminal convictions; to allow an
12 applicant to submit his or her own criminal record when applying for certain licenses; to
13 provide for reapplication for licensure; to authorize and provide a process and requirements
14 for predetermination decisions; to require certain licensure application information be
15 included in certain applications and posted on a public website; to require certain annual
16 reports concerning certain applications, predeterminations, and conviction records be filed
17 with the Secretary of State; to amend Chapter 4 of Title 25 of the Official Code of Georgia
18 Annotated, relating to firefighter standards and training, so as to provide for the reporting of
19 guilty pleas taken under the "Georgia First Offender Act" to obtain employment as a fire
20 fighter; to provide for related matters; to provide for an effective date and applicability; to
21 repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23

PART I

24

SECTION 1-1.

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

27 "43-1-1.

28 As used in this title, the term:

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

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

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

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

36 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
37 Section 43-1-2.

38 ~~(2)~~(4) 'Division director' means the individual appointed by the Secretary of State as
39 director of the professional licensing boards division within the office of the Secretary
40 of State.

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

43 ~~(3)~~(6) 'Professional licensing board' means any board, bureau, commission, or other
44 agency of the executive branch of state government which is created for the purpose of
45 licensing or otherwise regulating or controlling any profession, business, or trade and
46 which is placed by law under the jurisdiction of the division director ~~of the professional~~
47 ~~licensing boards division within the office of the Secretary of State."~~

SECTION 1-2.

48

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

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

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

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

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

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

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

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

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

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

89 ~~or~~

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

92 ~~(B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article~~
93 ~~3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be~~
94 ~~conclusive evidence of an arrest and sentencing for such offense;~~

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

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

113 ~~(7)~~(6) Knowingly performed any act which in any way aids, assists, procures, advises,
114 or encourages any unlicensed person or any licensee whose license has been suspended
115 or revoked by a professional licensing board to practice a business or profession licensed
116 under this title or to practice outside the scope of any disciplinary limitation placed upon
117 the licensee by the board;

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

126 ~~(9)~~(8) Been adjudged mentally incompetent by a court of competent jurisdiction within
127 or outside this state; any such adjudication shall automatically suspend the license of any

128 such person and shall prevent the reissuance or renewal of any license so suspended for
 129 so long as the adjudication of incompetence is in effect;
 130 ~~(H)~~(9) Displayed an inability to practice a business or profession licensed under this title
 131 with reasonable skill and safety to the public or has become unable to practice the
 132 licensed business or profession with reasonable skill and safety to the public by reason
 133 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
 134 or
 135 ~~(H)~~(10) Failed to comply with an order for child support as defined by Code Section
 136 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
 137 release to the board from the child support agency within the Department of Human
 138 Services indicating that the applicant or licensee has come into compliance with an order
 139 for child support so that a license may be issued or granted if all other conditions for
 140 licensure are met."

141 **SECTION 1-3.**

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

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

154

SECTION 1-4.

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

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

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

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

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

176 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
177 16-13-2;

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

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

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

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

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

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

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

197 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
198 covered misdemeanor, including, but not limited to, mitigating circumstances or social
199 conditions surrounding the commission of such felony or ~~crime involving moral~~
200 ~~turpitude~~ covered misdemeanor; and

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

203 (i) The completion of the criminal sentence;

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

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

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

234 (iii) Aggravated assault;

235 (iv) Aggravated robbery;

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

237 (vi) Arson;

238 (vii) Carjacking;

239 (viii) Kidnapping; or

240 (ix) Manslaughter, homicide, or murder.

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

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

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

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

261 rehabilitation counselors. The professional licensing board shall issue a decision within
262 60 days of the complete submission of the issues for consideration or the hearing,
263 whichever is later.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

365 **SECTION 1-5.**

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

368 "43-1-27.

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

376 **PART II**377 **SECTION 2-1.**

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

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

384 As used in this paragraph, the term:

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

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

389 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
 390 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
 391 43-1-1 when:

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

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

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

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

402 **SECTION 2-2.**

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

404 "43-3-21.1.

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

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

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

459 43-3-21.2.

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

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

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

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

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

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

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

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

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

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

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

509

SECTION 2-3.

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

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

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

520 **SECTION 2-4.**

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

524 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
525 registration under this chapter who has completed successfully a barber or cosmetologist
526 training program operated by the Department of Corrections and who meets the
527 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
528 and practical examinations, the board may issue the appropriate certificate of registration
529 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
530 43-1-19; provided, however, that the board shall not apply the provisions of paragraph ~~(4)~~
531 (3) of subsection (a) of Code Section 43-1-19 to such inmate based solely upon such
532 person's status as an inmate and shall apply such provisions in the same manner as would
533 otherwise be applicable to an applicant who is not an inmate."

534 **SECTION 2-5.**

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

539 "(4) Been arrested, charged, and sentenced for the commission of any felony, or any
540 ~~crime involving moral turpitude~~ covered misdemeanor, where:

541 ~~(A) A~~ a plea of nolo contendere was entered to the charge;

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

548 **SECTION 2-6.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

656 **SECTION 2-7.**

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

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

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

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

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

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

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

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

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

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

690 (A) The completion of the criminal sentence;

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

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

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

696 (E) Education and training;

697 (F) Employment history;

698 (G) Employment aspirations;

- 699 (H) The individual's current family or community responsibilities, or both;
700 (I) Whether a bond is required to practice the occupation;
701 (J) Any affidavits or other written documents, including, but not limited to, character
702 references; and
703 (K) Any other information regarding rehabilitation the individual submits to the board.
704 (6) In determining whether to terminate and revoke a license, the board shall not consider
705 nor require an individual to disclose:
706 (A) A deferred adjudication, first offender treatment, participation in a diversion
707 program, a conditional discharge, or an arrest not followed by a conviction;
708 (B) A conviction for which no sentence of incarceration can be imposed;
709 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
710 pardoned;
711 (D) A juvenile adjudication;
712 (E) A misdemeanor conviction older than five years, unless the offense of conviction
713 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
714 (F) A conviction older than five years for which the individual was not incarcerated,
715 or a conviction for which the individual's incarceration ended more than five years
716 before the date of the board's consideration, except for a felony conviction related to:
717 (i) A criminal sexual act;
718 (ii) Criminal fraud or embezzlement;
719 (iii) Aggravated assault;
720 (iv) Aggravated robbery;
721 (v) Aggravated abuse, neglect, or endangerment of a child;
722 (vi) Arson;
723 (vii) Carjacking;
724 (viii) Kidnapping; or
725 (ix) Manslaughter, homicide, or murder.

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

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

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

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

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

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

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

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

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

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

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

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

777

SECTION 2-8.

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

781 "43-18-46.

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

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

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

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

791 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
792 impersonation of another embalmer, funeral director, or apprentice of a like or different
793 name;

794 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
795 training, or experience of any applicant;

796 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;

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

- 803 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
804 directing, or cremating;
- 805 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
806 preservation when in fact someone else performed such embalming or preparation;
- 807 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
808 director having legal charge of a dead human body;
- 809 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
810 limited to, false or misleading statements regarding a legal or cemetery requirement,
811 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 812 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;
- 813 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
814 unless compelled by law to do otherwise;
- 815 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
816 body, or within the immediate hearing of the family or relatives of a deceased, whose
817 body has not yet been interred or otherwise disposed;
- 818 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
819 assignee of the deceased within ten working days of receipt of the assigned funds;
- 820 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
821 express order of the person lawfully entitled to the custody;
- 822 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
823 funeral establishment general price list, the casket price list, the outer burial container list,
824 or the funeral service contract price list;
- 825 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 826 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
827 certificate plan, or burial membership plan;
- 828 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;

829 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
830 apprentice;

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

837 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
838 representation in the practice of funeral directing or embalming or in any document
839 connected therewith;

840 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
841 religion, gender, or national origin;

842 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
843 remains and failing to dispose of same as directed by a legally authorized person;

844 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
845 company or other third party;

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

856 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
 857 a coroner or who is both a funeral director and a minister presents that person as a funeral
 858 director to a legally authorized person when death is imminent or after death occurs prior
 859 to when the legally authorized person selects a funeral director or funeral establishment
 860 which will handle the dead human body;

861 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
 862 or crematory prior to the board's having approved an application for licensure; or

863 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
 864 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
 865 Code Section 43-18-70."

866 **SECTION 2-9.**

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

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

872 (1) Holds and maintains a valid license as a massage therapist in another state;

873 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 874 defined in Code Section 50-36-2;

875 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 876 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and

877 (4) Has not been convicted of a directly related felony in the courts of this state, any
 878 other state, territory, or country, or in the courts of the United States, including, but not
 879 limited to, a plea of nolo contendere entered to such charge ~~or the affording of first~~
 880 ~~offender treatment to any such charge~~ in the same manner as provided in ~~paragraph (4)~~
 881 ~~of subsection (a) of~~ subsection (q) of Code Section 43-1-19. For purposes of this

882 paragraph, the term 'felony' shall have the same meaning a provided in Code Section
883 43-1-1."

884 **SECTION 2-10.**

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

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

894 **SECTION 2-11.**

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

898 "43-26-40.

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

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

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

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

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

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

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

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

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

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

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

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

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

964 **SECTION 2-12.**

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

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

978 **SECTION 2-13.**

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

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

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

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

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

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

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

999 (A) The completion of the criminal sentence;

1000 (B) A program and treatment certificate issued by the Board of Corrections;

1001 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1002 program;

1003 (D) Testimonials and recommendations, which may include a progress report from the
1004 individual's probation or parole officer;

1005 (E) Education and training;

1006 (F) Employment history;

1007 (G) Employment aspirations;

1008 (H) The individual's current family or community responsibilities, or both;

1009 (I) Whether a bond is required to practice the occupation;

1010 (J) Any affidavits or other written documents, including, but not limited to, character
1011 references; and

1012 (K) Any other information regarding rehabilitation the individual submits to the board.
1013 (6) In determining whether to terminate and revoke a license, the board shall not consider
1014 nor require an individual to disclose:

- 1015 (A) A deferred adjudication, first offender treatment, participation in a diversion
1016 program, a conditional discharge, or an arrest not followed by a conviction;
- 1017 (B) A conviction for which no sentence of incarceration can be imposed;
- 1018 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1019 pardoned;
- 1020 (D) A juvenile adjudication;
- 1021 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1022 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1023 (F) A conviction older than five years for which the individual was not incarcerated,
1024 or a conviction for which the individual's incarceration ended more than five years
1025 before the date of the board's consideration, except for a felony conviction related to:
 - 1026 (i) A criminal sexual act;
 - 1027 (ii) Criminal fraud or embezzlement;
 - 1028 (iii) Aggravated assault;
 - 1029 (iv) Aggravated robbery;
 - 1030 (v) Aggravated abuse, neglect, or endangerment of a child;
 - 1031 (vi) Arson;
 - 1032 (vii) Carjacking;
 - 1033 (viii) Kidnapping; or
 - 1034 (ix) Manslaughter, homicide, or murder.

1035 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
1036 may petition the board at any time, including while incarcerated and before starting or
1037 completing any required professional qualifications for licensure, for a predetermination

1038 as to whether the individual's criminal record will disqualify him or her from obtaining
1039 a license.

1040 (2) The petition for predetermination shall include the individual's criminal record or
1041 authorize the board to obtain the individual's criminal record. The petitioning individual
1042 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1043 petition shall also include any information the petitioner chooses to submit concerning
1044 the circumstances of their record and their rehabilitation.

1045 (3) In considering predetermination petitions, the professional licensing board shall apply
1046 the direct relationship standard in subsection (a.1) of this subsection and shall not
1047 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1048 shall support any adverse predetermination with clear and convincing evidence.

1049 (4) A predetermination made under this subsection that a petitioner is eligible for a
1050 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1051 all other requirements for the occupational license, and the petitioner's submitted criminal
1052 record was correct and remains unchanged at the time of his or her application for a
1053 license.

1054 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1055 from licensure, the board shall notify the petitioner of the potentially disqualifying
1056 convictions. The letter of concern shall advise the petitioner of their opportunity to
1057 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1058 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1059 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1060 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1061 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1062 receipt of the predetermination petition. The individual shall have the opportunity to
1063 include character witnesses at the hearing, including but not limited to family members,
1064 friends, past or prospective employers, probation or parole officers, and rehabilitation

1065 counselors, who may offer their verbal or written support. The board shall not make an
1066 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1067 board shall issue a final decision within 60 days of complete submission of the issue for
1068 consideration or the hearing, whichever is later.

1069 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1070 board shall notify the petitioner of the following:

1071 (A) The grounds and rationale for the predetermination, including any of the
1072 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
1073 Code section the board deemed directly relevant;

1074 (B) An explanation of the process and right to appeal the board's predetermination
1075 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1076 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1077 who receives a predetermination of ineligibility may submit a revised petition reflecting
1078 completion of the remedial actions. The individual may submit a new petition to the
1079 board not before one year following a final judgment on their initial petition or upon
1080 completing the remedial actions, whichever is earlier.

1081 (8) The denial of a predetermination petition because of the applicant's criminal record
1082 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1083 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1084 have the burden of proving that the applicant's criminal record directly relates to the
1085 licensed occupation."

1086 **SECTION 2-14.**

1087 Said title is further amended in Code Section 43-34-107, relating to termination of approval
1088 and revocation of licenses of physician assistants by the Composite Medical Board, notice
1089 and hearing, and sanctions, by revising subsection (a) as follows:

1090 "(a)(1) The approval of a physician's utilization of a physician assistant may be
1091 terminated and the license revoked by the board when, after due notice and a hearing, in
1092 accordance with this Code section, it shall find that the assistant is incompetent or has
1093 committed unethical or immoral acts, including, but not limited to, holding himself or
1094 herself out or permitting another to represent him or her as a licensed physician;
1095 performing otherwise than at the direction of a physician approved by the board to utilize
1096 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
1097 she is unable safely to perform as an assistant to the physician; or being convicted in any
1098 court, state or federal, of any felony or other ~~criminal offense involving moral turpitude~~
1099 covered misdemeanor.

1100 (2) The board shall recommend action to terminate and revoke on the basis of a criminal
1101 conviction or adjudication only if the conviction or adjudication directly relates to the
1102 role of a physician assistant. In determining if a criminal conviction or adjudication
1103 directly relates to the role of a physician assistant, the board shall consider:

1104 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1105 conduct to the duties and responsibilities of the physician assistant;

1106 (B) The age of the individual at the time such crime was committed;

1107 (C) The length of time elapsed since such crime was committed;

1108 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1109 circumstances or social conditions surrounding the commission of the offense; and

1110 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1111 occupation for which the certificate is sought or held, including, but not limited to:

1112 (i) The completion of the criminal sentence;

1113 (ii) A program and treatment certificate issued by the Board of Corrections;

1114 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1115 treatment program;

- 1116 (iv) Testimonials and recommendations, which may include a progress report from
1117 the individual's probation or parole officer;
- 1118 (v) Education and training;
- 1119 (vi) Employment history;
- 1120 (vii) Employment aspirations;
- 1121 (viii) The individual's current family or community responsibilities, or both;
- 1122 (ix) Whether a bond is required to practice the occupation;
- 1123 (x) Any affidavits or other written documents, including, but not limited to, character
1124 references; and
- 1125 (xi) Any other information regarding rehabilitation the individual submits to the
1126 board.
- 1127 (3) In determining whether to terminate and revoke a license, the board or investigator
1128 shall not consider nor require an individual to disclose:
- 1129 (A) A deferred adjudication, first offender treatment, participation in a diversion
1130 program, a conditional discharge, or an arrest not followed by a conviction;
- 1131 (B) A conviction for which no sentence of incarceration can be imposed;
- 1132 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1133 pardoned;
- 1134 (D) A juvenile adjudication;
- 1135 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1136 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1137 (F) A conviction older than five years for which the individual was not incarcerated,
1138 or a conviction for which the individual's incarceration ended more than five years
1139 before the date of the board's consideration, except for a felony conviction related to:
- 1140 (i) A criminal sexual act;
- 1141 (ii) Criminal fraud or embezzlement;
- 1142 (iii) Aggravated assault;

- 1143 (iv) Aggravated robbery;
1144 (v) Aggravated abuse, neglect, or endangerment of a child;
1145 (vi) Arson;
1146 (vii) Carjacking;
1147 (viii) Kidnapping; or
1148 (ix) Manslaughter, homicide, or murder."

1149 **SECTION 2-15.**

1150 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
1151 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
1152 follows:

1153 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
1154 investigation of the applicant to be made and such investigation may include a criminal
1155 background check; provided, however, that the board shall cause a thorough investigation
1156 of a new applicant to be made, and such investigation shall include a background check.
1157 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
1158 a license. However, the board may issue licenses with varying restrictions to such
1159 persons where the board deems it necessary for the purpose of safeguarding the public
1160 health, safety, and welfare.

1161 (2) The board shall recommend action to deny licensure on the basis of a criminal
1162 conviction or adjudication only if the conviction or adjudication directly relates to the
1163 administration of a pain management clinic. In determining if a criminal conviction or
1164 adjudication directly relates to the administration of a pain management clinic, the board
1165 shall consider:

1166 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1167 conduct to the duties and responsibilities of the licensee;

1168 (B) The age of the individual at the time such crime was committed;

- 1169 (C) The length of time elapsed since such crime was committed;
1170 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1171 circumstances or social conditions surrounding the commission of the offense; and
1172 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1173 occupation for which the certificate is sought or held, including, but not limited to:
1174 (i) The completion of the criminal sentence;
1175 (ii) A program and treatment certificate issued by the Board of Corrections;
1176 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1177 treatment program;
1178 (iv) Testimonials and recommendations, which may include a progress report from
1179 the individual's probation or parole officer;
1180 (v) Education and training;
1181 (vi) Employment history;
1182 (vii) Employment aspirations;
1183 (viii) The individual's current family or community responsibilities, or both;
1184 (ix) Whether a bond is required to practice the occupation;
1185 (x) Any affidavits or other written documents, including, but not limited to, character
1186 references; and
1187 (xi) Any other information regarding rehabilitation the individual submits to the
1188 board."

1189 **SECTION 2-16.**

1190 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1191 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1192 Board, as follows:

1193 "43-34-284.

1194 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1195 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1196 that the licensee or a physician practicing at a licensed pain management clinic has:

1197 (1) Furnished false or fraudulent material information in any application filed under this
1198 chapter;

1199 (2) Been convicted of a crime under any state or federal law relating to any controlled
1200 substance;

1201 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1202 substances suspended or revoked; or

1203 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1204 26.

1205 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1206 conviction or adjudication, the board shall consider:

1207 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1208 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1209 management clinic;

1210 (2) The age of the individual at the time such crime was committed;

1211 (3) The length of time elapsed since such crime was committed;

1212 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1213 circumstances or social conditions surrounding the commission of the offense; and

1214 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1215 for which the license is sought or held, including, but not limited to:

1216 (A) The completion of the criminal sentence;

1217 (B) A program treatment certificate issued by the Board of Corrections;

1218 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1219 program;

- 1220 (D) Testimonials and recommendations, which may include a progress report from the
 1221 individual's probation or parole officer;
 1222 (E) Education and training;
 1223 (F) Employment history;
 1224 (G) Employment aspirations;
 1225 (H) The individual's current family or community responsibilities, or both;
 1226 (I) Whether a bond is required to practice the occupation;
 1227 (J) Any affidavits or other written documents, including, but not limited to, character
 1228 references; and
 1229 (K) Any other information regarding rehabilitation the individual submits to the board."

1230

SECTION 2-17.

1231 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1232 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1233 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1234 subsection (b) as follows:

1235 "(b)(1) As used in this subsection, the term:

1236 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
 1237 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
 1238 whether an appeal of the conviction has been brought; a sentencing to first offender
 1239 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
 1240 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
 1241 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
 1242 commission shall have the burden of justifying by clear and convincing evidence that
 1243 a conviction supports an adverse licensing decision.

1244 (B) 'Felony' means any offense committed:

1245 (i) Within this state and deemed a felony under the laws of this state or under the
1246 laws of the United States; or

1247 (ii) In another state and deemed a felony under the laws of that state or the laws of
1248 the United States.

1249 (1.1) No person who has a directly related conviction shall be eligible to become an
1250 applicant for a license or an approval authorized by this chapter unless such person has
1251 successfully completed all terms and conditions of any sentence imposed for such
1252 conviction, provided that if such individual has multiple convictions, at least five years
1253 shall have passed since the individual satisfied all terms and conditions of any sentence
1254 imposed for the last conviction before making application for licensure or approval; and
1255 provided, further, that if such individual has a single conviction, at least two years shall
1256 have passed since the individual satisfied all terms and conditions of any sentence
1257 imposed for the last conviction before making application for licensure or approval.

1258 (1.2) The board shall recommend disciplinary action or denial of an application for a
1259 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1260 adjudication only if the conviction or adjudication directly relates to the role of an
1261 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1262 role of an appraiser, the board shall consider:

1263 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1264 conduct to the duties and responsibilities of the appraiser;

1265 (B) The age of the individual at the time such crime was committed;

1266 (C) The length of time elapsed since such crime was committed;

1267 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1268 circumstances or social conditions surrounding the commission of the offense; and

1269 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1270 occupation for which the license is sought or held, including, but not limited to:

1271 (i) The completion of the criminal sentence;

- 1272 (ii) A program and treatment certificate issued by the Board of Corrections;
 1273 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
 1274 treatment program;
 1275 (iv) Testimonials and recommendations, which may include a progress report from
 1276 the individual's probation or parole officer;
 1277 (v) Education and training;
 1278 (vi) Employment history;
 1279 (vii) Employment aspirations;
 1280 (viii) The individual's current family or community responsibilities, or both;
 1281 (ix) Any affidavits or other written documents, including, but not limited to, character
 1282 references; and
 1283 (x) Any other information regarding rehabilitation the individual submits to the
 1284 board.
- 1285 (F) In determining whether to terminate and revoke a license, the board shall not
 1286 consider nor require an individual to disclose:
- 1287 (i) A deferred adjudication, first offender treatment, participation in a diversion
 1288 program, a conditional discharge, or an arrest not followed by a conviction;
 1289 (ii) A conviction for which no sentence of incarceration can be imposed;
 1290 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1291 pardoned; or
 1292 (iv) A juvenile adjudication.
- 1293 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1294 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1295 licensure or an approval authorized by this chapter only if:
- 1296 (A) Such person has satisfied all terms and conditions of any conviction such person
 1297 may have had before making application for licensure or approval, provided that if such
 1298 individual has multiple convictions, at least five years shall have passed since the

1299 individual satisfied all terms and conditions of any sentence imposed for the last
 1300 conviction before making application for licensure or approval; and provided, further,
 1301 that if such individual has been convicted of a single felony or of ~~a single crime of~~
 1302 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1303 individual satisfied all terms and conditions of any sentence imposed for the last
 1304 conviction before making application for licensure or approval;

1305 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1306 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1307 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1308 against the person; and

1309 (C) Such person presents to the commission satisfactory proof that the person now
 1310 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1311 transact the business of a licensee in such a manner as to safeguard the interest of the
 1312 public."

1313 **SECTION 2-18.**

1314 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
 1315 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
 1316 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
 1317 revising subsection (b) as follows:

1318 "(b)(1) As used in this Code section, the term:

1319 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
 1320 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
 1321 whether an appeal of the conviction has been brought; a sentencing to first offender
 1322 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
 1323 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
 1324 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The

1325 commission shall have the burden of justifying by clear and convincing evidence that
1326 a conviction supports an adverse licensing decision.

1327 (B) 'Felony' means any offense committed:

1328 (i) Within this state and deemed a felony under the laws of this state or under the
1329 laws of the United States; or

1330 (ii) In another state and deemed a felony under the laws of that state or the laws of
1331 the United States.

1332 (1.1) No person who has a directly related conviction shall be eligible to become an
1333 applicant for a license or an approval authorized by this chapter unless such person has
1334 successfully completed all terms and conditions of any sentence imposed for such
1335 conviction, provided that if such individual has multiple convictions, at least five years
1336 shall have passed since the individual satisfied all terms and conditions of any sentence
1337 imposed for the last conviction before making application for licensure or approval; and
1338 provided, further, that if such individual has a single conviction, at least two years shall
1339 have passed since the individual satisfied all terms and conditions of any sentence
1340 imposed for the last conviction before making application for licensure or approval.

1341 (1.2) The commission shall recommend disciplinary action or denial of an application
1342 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1343 or adjudication only if the conviction or adjudication directly relates to the role of the
1344 license sought. In determining if a criminal conviction or adjudication directly relates to
1345 the role of a broker or real estate salesperson, the commission shall consider:

1346 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1347 conduct to the duties and responsibilities of the licensee;

1348 (B) The age of the individual at the time such crime was committed;

1349 (C) The length of time elapsed since such crime was committed;

1350 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1351 circumstances or social conditions surrounding the commission of the offense; and

- 1352 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1353 occupation for which the license is sought or held, including, but not limited to:
- 1354 (i) The completion of the criminal sentence;
 - 1355 (ii) A program and treatment certificate issued by the Board of Corrections;
 - 1356 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1357 treatment program;
 - 1358 (iv) Testimonials and recommendations, which may include a progress report from
1359 the individual's probation or parole officer;
 - 1360 (v) Education and training;
 - 1361 (vi) Employment history;
 - 1362 (vii) Employment aspirations;
 - 1363 (viii) The individual's current family or community responsibilities, or both;
 - 1364 (ix) Any affidavits or other written documents, including, but not limited to, character
1365 references; and
 - 1366 (x) Any other information regarding rehabilitation the individual submits to the
1367 commission.
- 1368 (F) In determining whether to terminate and revoke a license, the board shall not
1369 consider nor require an individual to disclose:
- 1370 (i) A deferred adjudication, first offender treatment, participation in a diversion
1371 program, a conditional discharge, or an arrest not followed by a conviction;
 - 1372 (ii) A conviction for which no sentence of incarceration can be imposed;
 - 1373 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1374 pardoned; or
 - 1375 (iv) A juvenile adjudication.
- 1376 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1377 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1378 licensure or an approval authorized by this chapter only if:

1379 (A) Such person has satisfied all terms and conditions of any conviction such person
 1380 may have had before making application for licensure or approval, provided that if such
 1381 individual has multiple convictions, at least five years shall have passed since the
 1382 individual satisfied all terms and conditions of any sentence imposed for the last
 1383 conviction before making application for licensure or approval; and provided, further,
 1384 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1385 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1386 individual satisfied all terms and conditions of any sentence imposed for the last
 1387 conviction before making application for licensure or approval;

1388 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1389 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1390 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1391 against the person; and

1392 (C) Such person presents to the commission satisfactory proof that the person now
 1393 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1394 transact the business of a licensee in such a manner as to safeguard the interest of the
 1395 public."

1396 **SECTION 2-19.**

1397 Said title is further amended in Code Section 43-45-9, relating to examination for structural
 1398 pest control operator certification by the Structural Pest Control Commission, by revising
 1399 subsection (a) as follows:

1400 "(a)(1) All applicants for examination for certification as an operator must have a
 1401 knowledge of the practical and scientific facts underlying the practice of structural pest
 1402 control, control of wood-destroying organisms, and fumigation and the necessary
 1403 knowledge and ability to recognize and control those hazardous conditions which may
 1404 affect human life and health. The commission may refuse to examine anyone convicted

1405 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
1406 misdemeanor.

1407 (2) The commission shall refuse to examine an applicant on the basis of a criminal
1408 conviction or adjudication only if the conviction or adjudication directly relates to the
1409 role of an operator. In determining if a criminal conviction or adjudication directly
1410 relates to the role of a pest control operator, the commission shall consider:

1411 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1412 conduct to the duties and responsibilities of the operator;

1413 (B) The age of the individual at the time such crime was committed;

1414 (C) The length of time elapsed since such crime was committed;

1415 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1416 circumstances or social conditions surrounding the commission of the offense; and

1417 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1418 occupation for which the certificate is sought or held, including, but not limited to:

1419 (i) The completion of the criminal sentence;

1420 (ii) A program and treatment certificate issued by the Board of Corrections;

1421 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1422 treatment program;

1423 (iv) Testimonials and recommendations, which may include a progress report from
1424 the individual's probation or parole officer;

1425 (v) Education and training;

1426 (vi) Employment history;

1427 (vii) Employment aspirations;

1428 (viii) The individual's current family or community responsibilities, or both;

1429 (ix) Whether a bond is required to practice the occupation;

1430 (x) Any affidavits or other written documents, including, but not limited to, character
1431 references; and

1432 (xi) Any other information regarding rehabilitation the individual submits to the
1433 commission.

1434 (3) In determining whether to refuse to examine an applicant, the commission shall not
1435 consider nor require an individual to disclose:

1436 (A) A deferred adjudication, first offender treatment, participation in a diversion
1437 program, a conditional discharge, or an arrest not followed by a conviction;

1438 (B) A conviction for which no sentence of incarceration can be imposed;

1439 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1440 pardoned;

1441 (D) A juvenile adjudication;

1442 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1443 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1444 (F) A conviction older than five years for which the individual was not incarcerated,
1445 or a conviction for which the individual's incarceration ended more than five years
1446 before the date of the commission's consideration, except for a felony conviction related
1447 to:

1448 (i) A criminal sexual act;

1449 (ii) Criminal fraud or embezzlement;

1450 (iii) Aggravated assault;

1451 (iv) Aggravated robbery;

1452 (v) Aggravated abuse, neglect, or endangerment of a child;

1453 (vi) Arson;

1454 (vii) Carjacking;

1455 (viii) Kidnapping; or

1456 (ix) Manslaughter, homicide, or murder.

1457 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1458 record may petition the commission at any time, including while incarcerated and

1459 before starting or completing any required professional qualifications for certification,
1460 for a predetermination as to whether the individual's criminal record will disqualify
1461 such individual from obtaining a certification as an operator.

1462 (B) The petition for predetermination shall include the individual's criminal record or
1463 authorize the commission to obtain the individual's criminal record. The petitioning
1464 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1465 The petition shall also include any information the petitioner chooses to submit
1466 concerning the circumstances of their record and their rehabilitation.

1467 (C) In considering predetermination petitions, the commission shall apply the direct
1468 relationship standard in paragraph (2) of this subsection and shall not consider any
1469 offenses falling under paragraph (3) of this subsection. The commission shall support
1470 any adverse predetermination with clear and convincing evidence.

1471 (D) A predetermination made under this subsection that a petitioner is eligible for a
1472 license shall be binding on the commission only if the petitioner applies for
1473 certification, fulfills all other requirements for operator certification, and the petitioner's
1474 submitted criminal record was correct and remains unchanged at the time of his or her
1475 application for certification.

1476 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1477 from certification, the commission shall notify the petitioner of the potentially
1478 disqualifying convictions. The letter of concern shall advise the petitioner of their
1479 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1480 hearing, or both.

1481 (F) The commission may predetermine that the petitioner's criminal record is likely
1482 grounds for denial of certification only after the commission has held a hearing on the
1483 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1484 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1485 or by teleconference within 60 days of receipt of the predetermination petition. The

1486 individual shall have the opportunity to include character witnesses at the hearing,
1487 including but not limited to family members, friends, past or prospective employers,
1488 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1489 or written support. The commission shall not make an adverse inference by a
1490 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1491 issue a final decision within 60 days of complete submission of the issue for
1492 consideration or the hearing, whichever is later.

1493 (G) If the commission decides that a predetermination petitioner is ineligible for a
1494 license, the board shall notify the petitioner of the following:

1495 (i) The grounds and rationale for the predetermination, including any of the
1496 petitioner's specific convictions and the factors provided for in paragraph (3) of this
1497 subsection the commission deemed directly relevant;

1498 (ii) An explanation of the process and right to appeal the commission's
1499 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1500 Procedure Act'; and

1501 (iii) Any actions the petitioner may take to remedy the disqualification. An
1502 individual who receives a predetermination of ineligibility may submit a revised
1503 petition reflecting completion of the remedial actions. The individual may submit a
1504 new petition to the commission not before one year following a final judgment on
1505 their initial petition or upon completing the remedial actions, whichever is earlier.

1506 (H) The denial of a predetermination petition because of the applicant's criminal record
1507 shall constitute a contested case as defined in Code Section 50-13-2. In an
1508 administrative hearing or civil action reviewing the denial of a predetermination
1509 petition, the commission shall have the burden of proving that the applicant's criminal
1510 record directly relates to the licensed occupation."

1511

PART III

1512

SECTION 3-1.

1513 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
1514 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
1515 professional standards of teachers and other school personnel, to read as follows:

1516 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
1517 whether an appeal of such finding, verdict, or plea has been sought."

1518

SECTION 3-2.

1519 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
1520 investigation of violations by the Professional Standards Commission, requirement for
1521 automatic investigation, and investigation of sexual offenses, as follows:

1522 "20-2-984.3.

1523 (a) Upon receipt of a written request from a local board, the state board, or one or more
1524 individual residents of this state, the commission shall be authorized to investigate:

1525 (1) Alleged violations by an educator of any law of this state pertaining to educators or
1526 the profession of education;

1527 (2) Alleged violations by an educator of the code of ethics of the commission;

1528 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
1529 or the commission;

1530 (4) Complaints alleging a failure by an educator to meet or comply with standards of
1531 performance of the commission or the state board; or

1532 (5) Complaints alleging that an educator has been convicted of any directly related
1533 felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as
1534 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
1535 distribution, trafficking, sale, or possession of a controlled substance or marijuana as

1536 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
1537 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
1538 in the courts of this state or any other state, territory, or country or in the courts of the
1539 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or
1540 verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the
1541 conviction has been sought; a situation where first offender treatment without
1542 adjudication of guilt pursuant to the charge was granted; and a situation where an
1543 adjudication of guilt or sentence was otherwise withheld or not entered on the charge or
1544 the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1545 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1546 to this Code section within 30 days of the request unless an extension is granted pursuant
1547 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1548 may appoint a committee of its membership with the power to transact and carry out the
1549 business and duties of the commission when deciding whether to conduct a preliminary
1550 investigation.

1551 (b.1) In investigating whether to deny, diminish, limit, suspect, revoke, refuse to renew,
1552 or otherwise withhold a certificate, the commission shall not consider nor require an
1553 educator to disclose:

1554 (1) A deferred adjudication, first offender treatment, participation in a diversion
1555 program, a conditional discharge, or an arrest not followed by a conviction;

1556 (2) A conviction for which no sentence of incarceration can be imposed;

1557 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1558 pardoned;

1559 (4) A juvenile adjudication;

1560 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1561 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 1562 (6) A conviction older than five years for which the individual was not incarcerated, or
 1563 a conviction for which the individual's incarceration ended more than five years before
 1564 the date of the commission's consideration, except for a felony conviction related to:
- 1565 (A) A criminal sexual act;
 - 1566 (B) Criminal fraud or embezzlement;
 - 1567 (C) Aggravated assault;
 - 1568 (D) Aggravated robbery;
 - 1569 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 1570 (F) Arson;
 - 1571 (G) Carjacking;
 - 1572 (H) Kidnapping; or
 - 1573 (I) Manslaughter, homicide, or murder.
- 1574 (c) When an educator admits on a Professional Standards Commission application to
 1575 having resigned or being discharged for committing a felony or ~~misdemeanor involving~~
 1576 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1577 investigation by law enforcement authorities for such conduct or for committing a breach
 1578 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1579 record or having had a surrender, denial, revocation, or suspension of a certificate or being
 1580 the subject of an investigation or adverse action regarding a certificate, an investigation
 1581 will automatically open without notification to the commission and with written
 1582 notification to the educator.
- 1583 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
 1584 consider nor require an educator to disclose on a Professional Standards Commission
 1585 application:
- 1586 (1) A deferred adjudication, first offender treatment, participation in a diversion
 1587 program, a conditional discharge, or an arrest not followed by a conviction;
 - 1588 (2) A conviction for which no sentence of incarceration can be imposed;

- 1589 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1590 pardoned;
- 1591 (4) A juvenile adjudication;
- 1592 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1593 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1594 (6) A conviction older than five years for which the individual was not incarcerated, or
1595 a conviction for which the individual's incarceration ended more than five years before
1596 the date of the commission's consideration, except for a felony conviction related to:
- 1597 (A) A criminal sexual act;
- 1598 (B) Criminal fraud or embezzlement;
- 1599 (C) Aggravated assault;
- 1600 (D) Aggravated robbery;
- 1601 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1602 (F) Arson;
- 1603 (G) Carjacking;
- 1604 (H) Kidnapping; or
- 1605 (I) Manslaughter, homicide, or murder.
- 1606 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1607 shall be authorized, without notification to the commission, to immediately open an
1608 investigation submitted to the commission by a local school superintendent, with approval
1609 of the local board of education, of a complaint by a student against an educator alleging a
1610 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1611 16-6-20, 16-6-22.2, or 16-12-100.
- 1612 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1613 may petition the commission at any time, including while incarcerated and before starting
1614 or completing any required professional qualifications for certification, for a

1615 predetermination as to whether the individual's criminal record will disqualify him or her
1616 from obtaining a certificate.

1617 (2) The petition for predetermination shall include the individual's criminal record or
1618 authorize the board to obtain the individual's criminal record. The petitioning individual
1619 need not disclose any offenses falling under subsection (c.1) of this Code section. The
1620 petition shall also include any information the petitioner chooses to submit concerning
1621 the circumstances of their record and their rehabilitation.

1622 (3) In considering predetermination petitions, the commission shall apply the direct
1623 relationship standard provided for in subsection (a.1) of Code Section 20-2-984.5 and
1624 shall not consider any offenses falling under subsection (c.1) of this Code section. The
1625 commission shall support any adverse predetermination with clear and convincing
1626 evidence.

1627 (4) A predetermination made under this subsection that a petitioner is eligible for a
1628 certificate shall be binding on the commission only if the petitioner applies for
1629 certification, fulfills all other requirements for the certificate, and the petitioner's
1630 submitted criminal record was correct and remains unchanged at the time of his or her
1631 application for a certificate.

1632 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1633 from certification, the commission shall notify the petitioner of the potentially
1634 disqualifying convictions. The letter of concern shall advise the petitioner of their
1635 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1636 hearing, or both.

1637 (6) The commission may predetermine that the petitioner's criminal record is likely
1638 grounds for denial of a license only after the commission has held a hearing on the
1639 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1640 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1641 by teleconference within 60 days of receipt of the predetermination petition. The

1642 individual shall have the opportunity to include character witnesses at the hearing,
1643 including but not limited to family members, friends, past or prospective employers,
1644 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1645 written support. The commission shall not make an adverse inference by a petitioner's
1646 decision to forgo a hearing or character witnesses. The commission shall issue a final
1647 decision within 60 days of complete submission of the issue for consideration or the
1648 hearing, whichever is later.

1649 (7) If the commission decides that a predetermination petitioner is ineligible for a
1650 certificate, the board shall notify the petitioner of the following:

1651 (A) The grounds and rationale for the predetermination, including any specific
1652 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1653 commission deemed directly relevant;

1654 (B) An explanation of the process and right to appeal the commission's
1655 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1656 Procedure Act'; and

1657 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1658 who receives a predetermination of ineligibility may submit a revised petition reflecting
1659 completion of the remedial actions. The individual may submit a new petition to the
1660 commission not before one year following a final judgment on their initial petition or
1661 upon completing the remedial actions, whichever is earlier.

1662 (8) The denial of a predetermination petition because of the applicant's criminal record
1663 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1664 hearing or civil action reviewing the denial of a predetermination petition, the
1665 commission shall have the burden of proving that the applicant's criminal record directly
1666 relates to the licensed occupation."

1667

SECTION 3-3.

1668 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
1669 investigations of educators, disciplinary actions, and hearings by the Professional Standards
1670 Commission, by adding two new subsections to read as follows:

1671 "(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1672 conviction only if the conviction or adjudication directly relates to the role of an educator.
1673 In determining if a criminal conviction directly relates to the role of an educator, the
1674 commission shall consider:

1675 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1676 conduct to the duties and responsibilities of the educator;

1677 (2) The age of the individual at the time such crime was committed;

1678 (3) The length of time elapsed since such crime was committed;

1679 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1680 circumstances or social conditions surrounding the commission of the offense; and

1681 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1682 for which the certificate is sought or held, including, but not limited to:

1683 (A) The completion of the criminal sentence;

1684 (B) A program and treatment certificate issued by the Board of Corrections;

1685 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1686 program;

1687 (D) Testimonials and recommendations, which may include a progress report from the
1688 individual's probation or parole officer;

1689 (E) Education and training;

1690 (F) Employment history;

1691 (G) Employment aspirations;

1692 (H) The individual's current family or community responsibilities, or both;

1693 (I) Whether a bond is required to practice the occupation;

- 1694 (J) Any affidavits or other written documents, including, but not limited to, character
1695 references; and
- 1696 (K) Any other information regarding rehabilitation the individual submits to the
1697 commission.
- 1698 (a.2) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1699 otherwise withhold a license, the commission or investigator shall not consider nor require
1700 an individual to disclose:
- 1701 (1) A deferred adjudication, first offender treatment, participation in a diversion
1702 program, a conditional discharge, or an arrest not followed by a conviction;
- 1703 (2) A conviction for which no sentence of incarceration can be imposed;
- 1704 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1705 pardoned;
- 1706 (4) A juvenile adjudication;
- 1707 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1708 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1709 (6) A conviction older than five years for which the individual was not incarcerated, or
1710 a conviction for which the individual's incarceration ended more than five years before
1711 the date of the commission's consideration, except for a felony conviction related to:
- 1712 (A) A criminal sexual act;
- 1713 (B) Criminal fraud or embezzlement;
- 1714 (C) Aggravated assault;
- 1715 (D) Aggravated robbery;
- 1716 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1717 (F) Arson;
- 1718 (G) Carjacking;
- 1719 (H) Kidnapping; or
- 1720 (I) Manslaughter, homicide, or murder."

1721

PART IV

1722

SECTION 4-1.

1723 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
1724 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
1725 pharmacist licenses, examination, and internships and other training programs, as follows:

1726 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
1727 applicant for licensure by examination shall:

1728 (1) Have submitted an application in the form prescribed by the board;

1729 (2) Have attained the age of majority;

1730 ~~(3) Be of good moral character;~~

1731 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
1732 or school of pharmacy as the same may be approved by the board; provided, however,
1733 that, since it would be impractical for the board to evaluate a school or college of
1734 pharmacy located in another country, the board may accept a graduate from such a school
1735 or college so long as the graduate has completed all requirements of the Foreign
1736 Pharmacy Equivalency Certification Program administered by the National Association
1737 of Boards of Pharmacy. This shall include successful completion of all required
1738 examinations and the issuance of the equivalency certificate and be based upon an
1739 individual evaluation by the board of the applicant's educational experience, professional
1740 background, and proficiency in the English language;

1741 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
1742 board or demonstrated to the board's satisfaction that experience in the practice of
1743 pharmacy which meets or exceeds the minimum internship requirements of the board;

1744 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;
1745 and

1746 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 1747 materials and have paid for the issuance of the license."

1748 **SECTION 4-2.**

1749 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 1750 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 1751 as follows:

1752 "(3) Except as prohibited in Code Section 26-4-60.1, for being Being:

1753 (A) Convicted of a felony;

1754 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 1755 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 1756 in the courts of the United States; or

1757 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 1758 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 1759 or of the federal government;"

1760 **SECTION 4-3.**

1761 Said title is further amended by adding two new Code sections to read as follows:

1762 "26-4-60.1.

1763 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
 1764 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
 1765 if a conviction directly relates to the occupation for which the license is sought or held and
 1766 granting the license would pose a direct and substantial risk to public safety because the
 1767 individual has not been rehabilitated to safely perform the duties and responsibilities of the
 1768 practice of pharmacy. In determining if a conviction directly relates to the occupation for
 1769 which the license is sought or held, the board of pharmacy shall consider:

- 1770 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1771 conduct to the duties and responsibilities of the occupation for which the license is sought
1772 or held;
- 1773 (2) The age of the individual at the time the offense was committed;
- 1774 (3) The length of time elapsed since the offense was committed;
- 1775 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1776 circumstances or social conditions surrounding the commission of the offense; and
- 1777 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1778 for which the license is sought or held, including, but not limited to:
- 1779 (A) The completion of the criminal sentence;
- 1780 (B) A program and treatment certificate issued by the Board of Corrections;
- 1781 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1782 program;
- 1783 (D) Testimonials and recommendations, which may include a progress report from the
1784 individual's probation or parole officer;
- 1785 (E) Education and training;
- 1786 (F) Employment history;
- 1787 (G) Employment aspirations;
- 1788 (H) The individual's current family or community responsibilities, or both;
- 1789 (I) Whether a bond is required to practice the occupation;
- 1790 (J) Any affidavits or other written documents, including, but not limited to, character
1791 references; and
- 1792 (K) Any other information regarding rehabilitation the individual submits to the board.
- 1793 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1794 otherwise withhold a license due to criminal record, the board of pharmacy shall not
1795 consider nor require an individual to disclose:

- 1796 (1) A deferred adjudication, first offender treatment, participation in a diversion
1797 program, a conditional discharge, or an arrest not followed by a conviction;
1798 (2) A conviction for which no sentence of incarceration can be imposed;
1799 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1800 pardoned;
1801 (4) A juvenile adjudication;
1802 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1803 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1804 (6) A conviction older than five years for which the individual was not incarcerated, or
1805 a conviction for which the individual's incarceration ended more than five years before
1806 the date of the board's consideration, except for a felony conviction related to:
1807 (A) A criminal sexual act;
1808 (B) Criminal fraud or embezzlement;
1809 (C) Aggravated assault;
1810 (D) Aggravated robbery;
1811 (E) Aggravated abuse, neglect, or endangerment of a child;
1812 (F) Arson;
1813 (G) Carjacking;
1814 (H) Kidnapping;
1815 (I) Manslaughter, homicide, or murder; or
1816 (J) Distribution, manufacturing, or possession of a controlled substance.
- 1817 26-4-60.2.
1818 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1819 petition the board of pharmacy at any time, including while incarcerated and before starting
1820 or completing any required professional qualifications for licensure, for a predetermination

1821 as to whether the individual's criminal record will disqualify him or her from obtaining a
1822 license.

1823 (b) The petition for predetermination shall include the individual's criminal record or
1824 authorize the board to obtain the individual's criminal record. The petitioning individual
1825 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
1826 petition shall also include any information the petitioner chooses to submit concerning the
1827 circumstances of their record and their rehabilitation.

1828 (c) In considering predetermination petitions, the board shall apply the direct relationship
1829 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
1830 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
1831 adverse predetermination with clear and convincing evidence.

1832 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1833 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
1834 requirements for the licensure, and the petitioner's submitted criminal record was correct
1835 and remains unchanged at the time of his or her application for a license.

1836 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1837 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
1838 The letter of concern shall advise the petitioner of their opportunity to submit additional
1839 evidence of rehabilitation and mitigation or for a hearing, or both.

1840 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
1841 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1842 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1843 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1844 receipt of the predetermination petition. The individual shall have the opportunity to
1845 include character witnesses at the hearing, including but not limited to family members,
1846 friends, past or prospective employers, probation or parole officers, and rehabilitation
1847 counselors, who may offer their verbal or written support. The board shall not make an

1848 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1849 board shall issue a final decision within 60 days of complete submission of the issue for
1850 consideration or the hearing, whichever is later.

1851 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
1852 board shall notify the petitioner of the following:

1853 (1) The grounds and rationale for the predetermination, including the specific
1854 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
1855 board deemed directly relevant;

1856 (2) An explanation of the process and right to appeal the board's predetermination
1857 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1858 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1859 who receives a predetermination of ineligibility may submit a revised petition reflecting
1860 completion of the remedial actions. The individual may submit a new petition to the
1861 board not before one year following a final judgment on their initial petition or upon
1862 completing the remedial actions, whichever is earlier.

1863 (h) The denial of a predetermination petition because of the applicant's criminal record
1864 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1865 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1866 have the burden of proving that the applicant's criminal record directly relates to the
1867 licensed occupation."

1868

PART V

1869

SECTION 5-1.

1870 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
1871 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
1872 check program, by revising paragraph (5) as follows:

1873 "(5)(A) 'Criminal record' means any of the following:

1874 (i) Conviction of a crime;

1875 (ii) Arrest, charge, and sentencing for a crime when:

1876 (I) A plea of nolo contendere was entered to the crime;

1877 (II) First offender treatment without adjudication of guilt was granted to the crime;

1878 or

1879 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;

1880 or

1881 (iii) Arrest and charges for a crime if the charge is pending, unless the time for

1882 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

1883 (B) Such term shall not include an owner, applicant, or employee for which at least ten

1884 years have elapsed from the date of his or her criminal background check since the

1885 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;

1886 such term also shall not include an owner, applicant, or employee who has received a

1887 general pardon from the State Board of Pardons and Paroles for the convictions;

1888 provided, however, that such ten-year period exemption or and pardon exemption shall

1889 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

1890

PART VI

1891

SECTION 6-1.

1892 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code

1893 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance

1894 agent licenses, by revising paragraphs (15) and (16) as follows:

1895 "(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted

1896 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined

1897 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country

1898 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
 1899 subsection, the term 'felony' shall include any offense which, if committed in this state,
 1900 would be deemed a felony, without regard to its designation elsewhere; and, as used in
 1901 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
 1902 of guilty, regardless of whether an appeal of the conviction has been sought;

1903 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
 1904 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
 1905 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
 1906 Section 43-1-1, where:

1907 (A) First offender treatment without adjudication of guilt pursuant to the charge was
 1908 granted; or

1909 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 1910 charge.

1911 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
 1912 to probation of first offenders, or other first offender treatment shall be conclusive
 1913 evidence of arrest and sentencing for such crime;”

1914 **SECTION 6-2.**

1915 Said title is further amended by adding two new Code sections to read as follows:

1916 “33-23-21.2.

1917 Notwithstanding Code Section 33-23-21, the Commissioner shall refuse to grant a license
 1918 to an individual or shall revoke a license only if a conviction directly relates to the
 1919 occupation for which the license is sought or held and granting the license would pose a
 1920 direct and substantial risk to public safety because the individual has not been rehabilitated
 1921 to safely perform the duties and responsibilities of a licensee. In determining if a
 1922 conviction directly relates to the occupation for which the license is sought or held, the
 1923 Commissioner shall consider:

- 1924 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1925 conduct to the duties and responsibilities of the occupation for which the license is sought
1926 or held;
- 1927 (2) The age of the individual at the time the offense was committed;
- 1928 (3) The length of time elapsed since the offense was committed;
- 1929 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1930 circumstances or social conditions surrounding the commission of the offense; and
- 1931 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1932 for which the license is sought or held, including, but not limited to:
- 1933 (A) The completion of the criminal sentence;
- 1934 (B) A program and treatment certificate issued by the Board of Corrections;
- 1935 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1936 program;
- 1937 (D) Testimonials and recommendations, which may include a progress report from the
1938 individual's probation or parole officer;
- 1939 (E) Education and training;
- 1940 (F) Employment history;
- 1941 (G) Employment aspirations;
- 1942 (H) The individual's current family or community responsibilities, or both;
- 1943 (I) Whether a bond is required to practice the occupation;
- 1944 (J) Any affidavits or other written documents, including, but not limited to, character
1945 references; and
- 1946 (K) Any other information regarding rehabilitation the individual submits to the
1947 Commissioner.

1948 33-23-21.3.

1949 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1950 petition the Commissioner at any time, including while incarcerated and before starting or
1951 completing any required professional qualifications for licensure, for a predetermination
1952 as to whether the individual's criminal record will disqualify him or her from obtaining a
1953 license.

1954 (b) The petition for predetermination shall include the individual's criminal record or
1955 authorize the Commissioner to obtain the individual's criminal record. The petition shall
1956 also include information submitted by the petitioner concerning the circumstances of their
1957 record and their rehabilitation.

1958 (c) In considering predetermination petitions, the Commissioner shall apply the direct
1959 relationship standard in Code Section 33-23-21.2.

1960 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1961 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
1962 all other requirements for the licensure, and the petitioner's submitted criminal record was
1963 correct and remains unchanged at the time of his or her application for a license.

1964 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1965 licensure, the Commissioner shall provide notice and opportunity for a hearing in
1966 accordance with Chapter 2 of this title.

1967 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
1968 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
1969 petitioner of the following:

1970 (1) The grounds and rationale for the predetermination, including the factors in Code
1971 Section 33-23-21.2 the Commissioner deemed directly relevant;

1972 (2) An explanation of the process and right to appeal the Commissioner's
1973 predetermination decision; and

1974 (3) Any actions the petitioner may take to remedy the disqualification. An individual
 1975 who receives a predetermination of ineligibility may submit a revised petition reflecting
 1976 completion of the remedial actions. The individual may submit a new petition to the
 1977 Commissioner not before one year following a final judgment on their initial petition or
 1978 upon completing the remedial actions, whichever is earlier."

1979 **SECTION 6-3.**

1980 Said title is further amended by adding two new Code sections to read as follows:

1981 "33-23-43.11.

1982 Notwithstanding Code Section 33-23-43.10, the Commissioner shall refuse to grant a
 1983 license to an individual or shall revoke a license only if a conviction directly relates to the
 1984 occupation for which the license is sought or held and granting the license would pose a
 1985 direct and substantial risk to public safety because the individual has not been rehabilitated
 1986 to safely perform the duties and responsibilities of a licensee. In determining if a
 1987 conviction directly relates to the occupation for which the license is sought or held, the
 1988 Commissioner shall consider:

1989 (1) The nature and seriousness of the offense and the direct relationship of the criminal
 1990 conduct to the duties and responsibilities of the occupation for which the license is sought
 1991 or held;

1992 (2) The age of the individual at the time the offense was committed;

1993 (3) The length of time elapsed since the offense was committed;

1994 (4) All circumstances relative to the offense, including, but not limited to, mitigating
 1995 circumstances or social conditions surrounding the commission of the offense; and

1996 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
 1997 for which the license is sought or held, including, but not limited to:

1998 (A) The completion of the criminal sentence;

1999 (B) A program and treatment certificate issued by the Board of Corrections;

2000 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2001 program;
2002 (D) Testimonials and recommendations, which may include a progress report from the
2003 individual's probation or parole officer;
2004 (E) Education and training;
2005 (F) Employment history;
2006 (G) Employment aspirations;
2007 (H) The individual's current family or community responsibilities, or both;
2008 (I) Whether a bond is required to practice the occupation;
2009 (J) Any affidavits or other written documents, including, but not limited to, character
2010 references; and
2011 (K) Any other information regarding rehabilitation the individual submits to the
2012 Commissioner.

2013 33-23-43.12.

2014 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2015 petition the Commissioner at any time, including while incarcerated and before starting or
2016 completing any required professional qualifications for licensure, for a predetermination
2017 as to whether the individual's criminal record will disqualify him or her from obtaining a
2018 public adjuster's license.

2019 (b) The petition for predetermination shall include the individual's criminal record or
2020 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2021 also include information submitted by the petitioner concerning the circumstances of their
2022 record and their rehabilitation.

2023 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2024 relationship standard in Code Section 33-23-43.11.

2025 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2026 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2027 all other requirements for the licensure, and the petitioner's submitted criminal record was
2028 correct and remains unchanged at the time of his or her application for a license.

2029 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2030 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2031 accordance with Chapter 2 of this title.

2032 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2033 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2034 petitioner of the following:

2035 (1) The grounds and rationale for the predetermination, including the specific
2036 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
2037 directly relevant;

2038 (2) An explanation of the process and right to appeal the Commissioner's
2039 predetermination decision; and

2040 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2041 who receives a predetermination of ineligibility may submit a revised petition reflecting
2042 completion of the remedial actions. The individual may submit a new petition to the
2043 Commissioner not before one year following a final judgment on their initial petition or
2044 upon completing the remedial actions, whichever is earlier."

2045

PART VII

2046

SECTION 7-1.

2047 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
2048 standards and training is amended by adding a new subsection to Code Section 25-4-8,
2049 relating to qualifications of firefighters generally, to read as follows:

2050 "(d) A person who pleaded guilty to a felony offense under the 'Georgia First Offender Act'
2051 and successfully completed the terms of his or her sentence pursuant to Article 3 of Chapter
2052 8 of Title 42 may, at the council's discretion, be certified and employed as a firefighter if
2053 such person otherwise meets the qualifications set forth in this Code section. Such person
2054 shall provide information on the circumstances underlying the plea of guilty, as requested
2055 by the council, to enable the council to make an informed decision on such individual's
2056 qualification status."

2057

PART VIII

2058

SECTION 8-1.

2059 This Act shall become effective on January 1, 2024, and shall apply to all applications for
2060 licensure submitted on or after such date.

2061

SECTION 8-2.

2062 All laws and parts of laws in conflict with this Act are repealed.