

The House Committee on Rules offers the following substitute to SB 157:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 20, 26, 31, 33, and 43 of the Official Code of Georgia Annotated, relating
2 to education, food, drugs, and cosmetics, health, insurance, and professions and businesses,
3 respectively, so as to create a preclearance process in the licensing of individuals with
4 criminal records who make an application to or are investigated by certain licensing boards
5 and commissions; to provide for definitions; to require certain licensing authorities to provide
6 evidence to support adverse licensing decisions based on criminal convictions; to require a
7 hearing prior to denying certain applicants on the basis of an individual's criminal record; to
8 establish findings that shall be made and evidence that shall and shall not be considered prior
9 to refusing to grant certain licenses based on certain criminal convictions; to allow an
10 applicant to submit his or her own criminal record when applying for certain licenses; to
11 provide for reapplication for licensure; to authorize and provide a process and requirements
12 for predetermination decisions; to require certain licensure application information be
13 included in certain applications and posted on a public website; to require certain annual
14 reports concerning certain applications, predeterminations, and conviction records be filed
15 with the Secretary of State; to amend Chapter 4 of Title 25 of the Official Code of Georgia
16 Annotated, relating to firefighter standards and training, so as to provide for the reporting of
17 guilty pleas taken under first offender treatment to obtain employment as a firefighter; to
18 amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating

19 to Georgia Crime Information Center, so as to provide for criminal history record
 20 information restrictions for certain persons charged with or convicted of certain criminal
 21 offenses; to provide that restricted criminal history record information shall be available to
 22 criminal justice agencies; to provide for petitions; to provide for criminal history record
 23 information restriction for persons granted a pardon for certain offenses; to amend Article
 24 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
 25 offenders, so as to revise the procedure for petitioning for exoneration and discharge when
 26 an individual has qualified for sentencing as a first offender; to provide for exceptions to
 27 retroactively granting first offender treatment; to amend Chapter 28 of Title 43 of the Official
 28 Code of Georgia Annotated, relating to occupational therapists, so as to authorize
 29 occupational therapists to perform dry needling as a physical agent modality if certain
 30 training and education requirements are met; to provide for definitions; to provide for related
 31 matters; to provide for effective dates and applicability; to repeal conflicting laws; and for
 32 other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**
 35 **SECTION 1-1.**

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

38 "43-1-1.

39 As used in this title, the term:

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

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

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

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

47 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
 48 Section 43-1-2.

49 ~~(2)~~(4) 'Division director' means the individual appointed by the Secretary of State as
 50 director of the professional licensing boards division within the office of the Secretary
 51 of State.

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

54 ~~(3)~~(6) 'Professional licensing board' means any board, bureau, commission, or other
 55 agency of the executive branch of state government which is created for the purpose of
 56 licensing or otherwise regulating or controlling any profession, business, or trade and
 57 which is placed by law under the jurisdiction of the division director ~~of the professional~~
 58 ~~licensing boards division within the office of the Secretary of State."~~

59 **SECTION 1-2.**

60 Said title is further amended by revising subsection (a) of Code Section 43-1-19, relating to
 61 a professional licensing board's authority to refuse, grant, revoke, and reinstate licenses,
 62 surrender of licenses, and probationary licenses, and adding a new subsection to read as
 63 follows:

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

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

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

80 (3) Been convicted of any a directly related felony or a directly related covered
81 misdemeanor ~~or of any crime involving moral turpitude~~ in the courts of this state or any
82 other state, territory, or country or in the courts of the United States; ~~as used in this~~
83 ~~paragraph, paragraph (4) of this subsection, and subsection (q) of this Code section, the~~
84 ~~term 'felony' shall include any offense which, if committed in this state, would be deemed~~
85 ~~a felony, without regard to its designation elsewhere; and, as used in this paragraph and~~
86 ~~subsection (q) of this Code section, the term 'conviction' shall include a finding or verdict~~
87 ~~of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been~~
88 ~~sought;~~

89 (4)(A) Been arrested, charged, and sentenced is currently serving a sentence for the
90 commission of any felony, ~~or any crime involving moral turpitude~~, when:

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

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

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

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

99 (B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article
100 3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be
101 conclusive evidence of an arrest and sentencing for such offense;

102 (5) Had his or her license to practice a business or profession licensed under this title
103 revoked, suspended, or annulled by any lawful licensing authority other than the board;
104 had other disciplinary action taken against him or her by any such lawful licensing
105 authority other than the board; was denied a license by any such lawful licensing
106 authority other than the board, pursuant to disciplinary proceedings; or was refused the
107 renewal of a license by any such lawful licensing authority other than the board, pursuant
108 to disciplinary proceedings;

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

120 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
121 encourages any unlicensed person or any licensee whose license has been suspended or

122 revoked by a professional licensing board to practice a business or profession licensed
123 under this title or to practice outside the scope of any disciplinary limitation placed upon
124 the licensee by the board;

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

133 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
134 outside this state; any such adjudication shall automatically suspend the license of any
135 such person and shall prevent the reissuance or renewal of any license so suspended for
136 so long as the adjudication of incompetence is in effect;

137 (10) Displayed an inability to practice a business or profession licensed under this title
138 with reasonable skill and safety to the public or has become unable to practice the
139 licensed business or profession with reasonable skill and safety to the public by reason
140 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
141 or

142 (11) Failed to comply with an order for child support as defined by Code Section
143 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
144 release to the board from the child support agency within the Department of Human
145 Services indicating that the applicant or licensee has come into compliance with an order
146 for child support so that a license may be issued or granted if all other conditions for
147 licensure are met.

148 (a.1) A professional licensing board shall have the burden of justifying that it is
 149 substantially more likely than not that a criminal record supports an adverse licensing
 150 decision. Before the professional licensing board may deny an applicant a license under
 151 subsection (a) of this Code section due to his or her criminal record, such applicant shall
 152 be entitled to a hearing before the professional licensing board in accordance with
 153 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

154 **SECTION 1-3.**

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 (j) as follows:

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

167 **SECTION 1-4.**

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

171 "(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or
 172 any other provision of law, ~~and unless~~ the professional licensing board shall refuse to

173 grant a license to an individual or shall revoke a license only if a felony or ~~crime~~
174 ~~involving moral turpitude~~ covered misdemeanor directly relates to the occupation for
175 which the license is sought or held and granting the license would pose a direct and
176 substantial risk to public safety because the individual has not been rehabilitated to safely
177 perform the duties and responsibilities of such occupation, after considering the criteria
178 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
179 safety and a direct relationship between the conviction and the licensed occupation, no
180 professional licensing board shall refuse to grant a license to an applicant therefor or shall
181 revoke the license of an individual licensed by that board due solely or in part to such
182 applicant's or licensee's:

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

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

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

189 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
190 16-13-2;

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

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

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

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

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

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

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

210 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
211 covered misdemeanor, including, but not limited to, mitigating circumstances or social
212 conditions surrounding the commission of such felony or ~~crime involving moral~~
213 ~~turpitude~~ covered misdemeanor; and

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

216 (i) The completion of the criminal sentence;

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

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

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

222 (v) Education and training;

223 (vi) Employment history;

224 (vii) Employment aspirations;

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

- 226 (ix) Whether a bond is required to practice the occupation;
227 (x) Any affidavits or other written documents, including, but not limited to, character
228 references; and
229 (xi) Any other information regarding rehabilitation the individual submits to the
230 board.
- 231 (3) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew,
232 or otherwise withhold a license, the professional licensing board shall not consider nor
233 require an individual to disclose:
- 234 (A) A deferred adjudication, discharged first offender treatment, completed diversion
235 program, completed conditional discharge, or an arrest not followed by a conviction;
236 (B) A conviction for which no sentence of incarceration can be imposed;
237 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
238 pardoned, provided that the board may consider a plea for which an individual is
239 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
240 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
241 (D) A juvenile adjudication;
242 (E) A misdemeanor conviction older than five years, unless the offense of conviction
243 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
244 (F) A conviction older than five years for which the individual was not incarcerated,
245 or a conviction for which the individual's incarceration ended more than five years
246 before the date of the board's consideration, except for a felony conviction related to:
- 247 (i) A criminal sexual act;
248 (ii) Criminal fraud or embezzlement;
249 (iii) Aggravated assault;
250 (iv) Aggravated robbery;
251 (v) Aggravated abuse, neglect, or endangerment of a child;
252 (vi) Arson;

- 253 (vii) Carjacking;
254 (viii) Kidnapping; or
255 (ix) Manslaughter, homicide, or murder.

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

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

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

270 (B) For the professional licensing board to deny a license on the basis of the applicant's
271 criminal convictions, the board shall first provide an opportunity for a hearing for such
272 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
273 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
274 written or oral testimony of character witnesses, including, but not limited to, family
275 members, friends, prospective employers, probation or parole officers, and
276 rehabilitation counselors. The professional licensing board shall issue a decision within
277 60 days of the complete submission of the issues for consideration or the hearing,
278 whichever is later.

279 (C) The professional licensing board shall have the burden of justifying that it is
280 substantially more likely than not, after a hearing, that an applicant's criminal record
281 supports any adverse licensing decision. If the board denies an applicant a license by
282 reason of the applicant's criminal record, the board shall:

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

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

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

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

298 (7)(A) Notwithstanding any other provision of law, an individual with a criminal
299 record, who has been domiciled in the State of Georgia for five years or more, may
300 petition a professional licensing board at any time, including while incarcerated and
301 before starting or completing any required professional qualifications for licensure, for
302 a predetermination as to whether such individual's criminal record will disqualify him
303 or her from obtaining a license.

304 (B) The petition for predetermination shall include the individual's criminal record or
305 authorize the board to obtain the individual's criminal record. The petitioning

306 individual need not disclose any offenses provided for in paragraph (3) of this
307 subsection. Such petition shall also include any information the petitioner chooses to
308 submit concerning the circumstances of their record and their rehabilitation.

309 (C) In considering predetermination petitions, the professional licensing board shall
310 apply the direct relationship standard in paragraphs (1) and (2) of this subsection and
311 shall not consider any offenses falling under paragraph (3) of this subsection. The
312 board shall support any adverse predetermination by justifying that it is substantially
313 more likely than not that a criminal record supports an adverse licensing decision.

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

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

323 (F) The professional licensing board may predetermine that the petitioner's criminal
324 record is likely grounds for denial of a license only after the board has held a hearing
325 on the petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
326 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
327 or by teleconference within 60 days of receipt of the predetermination petition. The
328 individual shall have the opportunity to offer written or oral testimony of character
329 witnesses at the hearing, including but not limited to family members, friends, past or
330 prospective employers, probation or parole officers, and rehabilitation counselors. The
331 professional licensing board shall not make an adverse inference by a petitioner's
332 decision to forgo a hearing or character witnesses. The board shall issue a final

333 decision within 60 days of complete submission of the issue for consideration or the
334 hearing, whichever is later.

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

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

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

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

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

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

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

356 (B) The direct relationship standard in paragraph (1) of this subsection and those
357 factors in paragraph (2) of this subsection that the board shall consider when making
358 a determination of licensure;

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

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

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

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

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

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

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

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

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

381 **SECTION 1-5.**

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

384 "43-1-27.
 385 Any licensed individual who is convicted under the laws of this state, the United States, or
 386 any other state, territory, or country of a felony as defined in ~~paragraph (3) of subsection~~
 387 ~~(a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the appropriate licensing
 388 authority of the conviction within ten days of the conviction. The failure of a licensed
 389 individual to notify the appropriate licensing authority of a conviction shall be considered
 390 grounds for revocation of his or her license, permit, registration, certification, or other
 391 authorization to conduct a licensed profession."

392 SECTION 1-6.

393 Said title is further amended by revising Code Section 43-15-19, relating to revocation,
 394 suspension, or denial of certificates, certificates of registration, or licenses, and reprimands,
 395 as follows:

396 "43-15-19.

397 (a) The board shall have the power, after notice and hearing, to deny any application made
 398 to it, to revoke or suspend any certificate, certificate of registration, or license issued by it,
 399 or to reprimand any individual holding a certificate, certificate of registration, or license
 400 issued by it, upon the following grounds:

- 401 (1) Commission of any fraud or deceit in obtaining a certificate, certificate of
 402 registration, or license;
- 403 (2) Any gross negligence, incompetency, or unprofessional conduct in the practice of
 404 professional engineering or land surveying as a professional engineer or a professional
 405 land surveyor, respectively;
- 406 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
 407 43-15-22;
- 408 (4) Conviction of a felony or ~~crime involving moral turpitude~~ covered misdemeanor as
 409 defined in Code Section 43-1-1 in the courts of this state, the United States, or any state

410 or territory of the United States or the conviction of an offense in another jurisdiction
 411 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
 412 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
 413 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
 414 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~
 415 ~~statute~~ but shall not include a conviction that has been restricted, sealed, annulled,
 416 dismissed, vacated, or pardoned; provided, however, that the board may consider a plea
 417 for which an individual is currently serving a sentence pursuant to Article 3 of Chapter 8
 418 of Title 42, another state's first offender laws, or subsection (a) or (c) of Code Section
 419 16-13-2; or

420 (5) Any violation of this chapter or any rule or regulation promulgated by the board
 421 pursuant to the powers conferred on it by this chapter.

422 (b) 'Unprofessional conduct,' as referred to in paragraph (2) of subsection (a) of this Code
 423 section, includes a violation of those standards of professional conduct for professional
 424 engineers and professional land surveyors adopted by the board pursuant to the power
 425 conferred upon it to promulgate rules and regulations to effectuate the duties and powers
 426 conferred on it by this chapter."

427 SECTION 1-7.

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

429 "43-15-19.1.

430 (a) Notwithstanding paragraph (4) of subsection (a) of Code Section 43-15-19, the board
 431 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
 432 directly relates to the occupation for which the license is sought or held and granting the
 433 license would pose a direct and substantial risk to public safety because the individual has
 434 not been rehabilitated to safely perform the duties and responsibilities of the occupation for

435 which the license is sought or held. In determining if a conviction directly relates to the
436 occupation for which the license is sought or held, the board shall consider:

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

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

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

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

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

446 (A) The completion of the criminal sentence;

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

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

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

452 (E) Education and training;

453 (F) Employment history;

454 (G) Employment aspirations;

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

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

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

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

460 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
461 otherwise withhold a license, the board shall not consider nor require an individual to
462 disclose:

463 (1) A deferred adjudication, discharged first offender treatment, completed diversion
464 program, a completed conditional discharge, or an arrest not followed by a conviction;

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

466 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
467 pardoned, provided that the board may consider a plea for which an individual is
468 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
469 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

470 (4) A juvenile adjudication;

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

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

476 (A) A criminal sexual act;

477 (B) Criminal fraud or embezzlement;

478 (C) Aggravated assault;

479 (D) Aggravated robbery;

480 (E) Aggravated abuse, neglect, or endangerment of a child;

481 (F) Arson;

482 (G) Carjacking;

483 (H) Kidnapping; or

484 (I) Manslaughter, homicide, or murder.

485 42-15-19.2.

486 (a) Notwithstanding any other provision of law, an individual with a criminal record, who
487 has been domiciled in the State of Georgia for five years or more, may petition the board
488 at any time, including while incarcerated and before starting or completing any required
489 professional qualifications for licensure, for a predetermination as to whether the
490 individual's criminal record will disqualify him or her from obtaining a license.

491 (b) The petition for predetermination shall include the individual's criminal record or
492 authorize the board to obtain the individual's criminal record. The petitioning individual
493 need not disclose any offenses falling under subsection (b) of Code Section 43-15-19.1.
494 The petition shall also include any information the petitioner chooses to submit concerning
495 the circumstances of their record and their rehabilitation.

496 (c) In considering predetermination petitions, the board shall apply the direct relationship
497 standard in subsection (a) of Code Section 43-15-19.1. The board shall support any
498 adverse predetermination by justifying that it is substantially more likely than not that a
499 criminal record supports an adverse licensing decision.

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

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

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

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

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

521 (1) The grounds and rationale for the predetermination, including the specific
522 convictions and the factors in subsection (a) of Code Section 43-15-19.1 the board
523 deemed directly relevant;

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

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

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

PART II

SECTION 2-1.

536
537

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

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

544 As used in this paragraph, the term:

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

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

549 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
550 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
551 43-1-1 when:

552 (i) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
553 ~~granted~~ The licensee or applicant is currently serving a sentence pursuant to Article 3
554 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
555 Code Section 16-13-2; or

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

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

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

564 **SECTION 2-2.**

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

566 "43-3-21.1.

567 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
 568 board of accountancy shall refuse to grant a license to an individual or shall revoke a
 569 license only if a criminal record directly relates to the occupation for which the license is
 570 sought or held and granting the license would pose a direct and substantial risk to public
 571 safety because the individual has not been rehabilitated to safely perform the duties and
 572 responsibilities of the practice of public accountancy. In determining if a criminal record
 573 directly relates to the occupation for which the license is sought or held, the board of
 574 accountancy shall consider:

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

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

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

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

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

584 (A) The completion of the criminal sentence;

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

- 586 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
587 program;
- 588 (D) Testimonials and recommendations, which may include a progress report from the
589 individual's probation or parole officer;
- 590 (E) Education and training;
- 591 (F) Employment history;
- 592 (G) Employment aspirations;
- 593 (H) The individual's current family or community responsibilities, or both;
- 594 (I) Whether a bond is required to practice the occupation;
- 595 (J) Any affidavits or other written documents, including, but not limited to, character
596 references; and
- 597 (K) Any other information regarding rehabilitation the individual submits to the board.
- 598 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
599 otherwise withhold a license, the accountancy board shall not consider nor require an
600 individual to disclose:
- 601 (1) A deferred adjudication, discharged first offender treatment, completed diversion
602 program, completed conditional discharge, or an arrest not followed by a conviction;
- 603 (2) A conviction for which no sentence of incarceration can be imposed;
- 604 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
605 pardoned, provided that the board may consider a plea for which an individual is
606 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
607 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 608 (4) A juvenile adjudication;
- 609 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
610 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

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

614 (A) A criminal sexual act;

615 (B) Criminal fraud or embezzlement;

616 (C) Aggravated assault;

617 (D) Aggravated robbery;

618 (E) Aggravated abuse, neglect, or endangerment of a child;

619 (F) Arson;

620 (G) Carjacking;

621 (H) Kidnapping;

622 (I) Manslaughter, homicide, or murder; or

623 (J) Theft.

624 43-3-21.2.

625 (a) Notwithstanding any other provision of law, an individual with a criminal record, who
626 has been domiciled in the State of Georgia for five years or more, may petition the
627 accountancy board at any time, including while incarcerated and before starting or
628 completing any required professional qualifications for licensure, for a predetermination
629 as to whether the individual's criminal record will disqualify him or her from obtaining a
630 license.

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

636 (c) In considering predetermination petitions, the board shall apply the direct relationship
637 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse
638 predetermination by justifying that it is substantially more likely than not that a criminal
639 record supports an adverse licensing decision.

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

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

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

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

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

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

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

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

676 SECTION 2-3.

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

680 "(a) Any individual issued a license or certification under this chapter or providing services
 681 under substantial equivalency practice privileges and convicted under the laws of this state,
 682 the United States, any other state, or any other country of a felony as defined in ~~paragraph~~
 683 ~~(3) of subsection (a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the board
 684 of such conviction within 30 days of such conviction. The failure of such individual to
 685 notify the board of a conviction shall be considered grounds for revocation of his or her
 686 license or other authorization issued pursuant to this chapter."

SECTION 2-4.

687
 688 Said title is further amended in Code Section 43-9-12, relating to refusal, suspension, or
 689 revocation of chiropractor licenses, subpoenas, other discipline, judicial review,
 690 reinstatement, voluntary surrender of license, injunctions, and statement of complaint, by
 691 revising paragraphs (3) and (4) of subsection (a) as follows:

692 "(3) Been convicted of any felony or covered misdemeanors ~~of any crime involving~~
 693 ~~moral turpitude~~ in the courts of this state or any other state, territory, or country or in the
 694 courts of the United States; as used in this paragraph and paragraph (4) of this subsection,
 695 the term 'felony' shall include any offense which, if committed in this state, would be
 696 deemed a felony, without regard to its designation elsewhere; and, as used in this
 697 paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of
 698 guilty, regardless of whether an appeal of the conviction has been sought. Any such
 699 record shall be considered in the manner prescribed by subsection (q) of Code Section
 700 43-1-19;

701 (4) Been arrested, charged, and sentenced for the commission of any felony; ~~or any crime~~
 702 ~~involving moral turpitude;~~ covered misdemeanor where such record is considered in the
 703 manner prescribed by subsection (q) of Code Section 43-1-19 and:

704 (A) A plea of nolo contendere was entered to the charge; or

705 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 706 ~~granted~~ The licensee or applicant is currently serving a sentence pursuant to Article 3
 707 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 708 Code Section 16-13-2; ~~or~~

709 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~

710 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 711 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
 712 treatment shall be conclusive evidence of arrest and sentencing for such crime;"

SECTION 2-5.

713
714 Said title is further amended in Code Section 43-10-20, relating to the teaching of barbering
715 or the practice of a cosmetologist in prisons and certification of registration, by revising
716 subsection (b) as follows:

717 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
718 registration under this chapter who has completed successfully a barber or cosmetologist
719 training program operated by the Department of Corrections and who meets the
720 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
721 and practical examinations, the board may issue the appropriate certificate of registration
722 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
723 43-1-19; provided, however, that the board shall not apply the provisions of ~~paragraph (4)~~
724 ~~of~~ subsection (a) of Code Section 43-1-19 to such inmate based solely upon such person's
725 status as an inmate and shall apply such provisions in the same manner as would otherwise
726 be applicable to an applicant who is not an inmate."

SECTION 2-6.

727
728 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
729 revocation of licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
730 review, investigations, immunity, failure to appear, and voluntary surrender, by revising
731 paragraphs (3) and (4) of subsection (a) as follows:

732 "(3) Been convicted of any felony or ~~of any crime involving moral turpitude~~ covered
733 misdemeanor as defined in Code Section 43-1-1 in the courts of this state or any other
734 state, territory, or country or in the courts of the United States; as used in this subsection,
735 the term 'felony' shall include any offense which, if committed in this state, would be
736 deemed a felony without regard to its designation elsewhere; and, as used in this
737 subsection, the term 'conviction' shall include a finding or verdict of guilty or a plea of
738 guilty, regardless of whether an appeal of the conviction has been sought. Any licensee

739 who is convicted under the laws of this state, the United States, or any other state,
 740 territory, or country of a felony shall be required to notify the board of conviction within
 741 ten days of the conviction. The failure to notify the board of a conviction shall be
 742 considered grounds for revocation of his or her license;

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

745 (A) A plea of nolo contendere was entered to the charge; or

746 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 747 ~~granted;~~ or The licensee or applicant is currently serving a sentence pursuant to Article
 748 3 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 749 Code Section 16-13-2.

750 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 751 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 752 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of
 753 arrest and sentencing for such crime;"

754 SECTION 2-7.

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

759 "(a.1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section, the
 760 board of dentistry shall refuse to grant a license to an individual or shall revoke a license
 761 only if a conviction directly relates to the occupation for which the license is sought or held
 762 and granting the license would pose a direct and substantial risk to public safety because
 763 the individual has not been rehabilitated to safely perform the duties and responsibilities

764 of the practice of dentistry. In determining if a conviction directly relates to the occupation
765 for which the license is sought or held, the board of dentistry shall consider:

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

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

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

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

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

775 (A) The completion of the criminal sentence;

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

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

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

781 (E) Education and training;

782 (F) Employment history;

783 (G) Employment aspirations;

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

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

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

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

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

- 791 (A) A deferred adjudication, discharged first offender adjudication, completed
792 diversion program, completed conditional discharge, or an arrest not followed by a
793 conviction;
- 794 (B) A conviction for which no sentence of incarceration can be imposed;
- 795 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
796 pardoned, provided that the board may consider a plea for which an individual is
797 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
798 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 799 (D) A juvenile adjudication;
- 800 (E) A misdemeanor conviction older than five years, unless the offense of conviction
801 is listed in Code section 35-3-37(j)(4); or
- 802 (F) A conviction older than five years for which the individual was not incarcerated,
803 or a conviction for which the individual's incarceration ended more than five years
804 before the date of the board's consideration, except for a felony conviction related to:
- 805 (i) A criminal sexual act;
- 806 (ii) Criminal fraud or embezzlement;
- 807 (iii) Aggravated assault;
- 808 (iv) Aggravated robbery;
- 809 (v) Aggravated abuse, neglect, or endangerment of a child;
- 810 (vi) Arson;
- 811 (vii) Carjacking;
- 812 (viii) Kidnapping; or
- 813 (ix) Manslaughter, homicide, or murder.
- 814 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal
815 record, who has been domiciled in the State of Georgia for five years or more, may
816 petition the board of dentistry at any time, including while incarcerated and before
817 starting or completing any required professional qualifications for licensure, for a

818 predetermination as to whether the individual's criminal record will disqualify him or her
819 from obtaining a license.

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

825 (3) In considering predetermination petitions, the board shall apply the direct relationship
826 standard in subsection (a.1) of this Code section and shall not consider any offenses
827 falling under paragraph (6) of subsection (a.1) of this Code section. The board shall
828 support any adverse predetermination by justifying that it is substantially more likely than
829 not that a criminal record supports an adverse licensing decision.

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

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

839 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
840 denial of a license only after the board has held a hearing on the petitioner's eligibility in
841 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
842 hearing shall be held in person, by remote video, or by teleconference within 60 days of
843 receipt of the predetermination petition. The individual shall have the opportunity to
844 include character witnesses at the hearing, including but not limited to family members,

845 friends, past or prospective employers, probation or parole officers, and rehabilitation
846 counselors, who may offer their verbal or written support. The professional licensing
847 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
848 character witnesses. The board shall issue a final decision within 60 days of complete
849 submission of the issue for consideration or the hearing, whichever is later.

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

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

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

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

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

867 **SECTION 2-8.**

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

871 "(a) No person shall be entitled to or be issued such license as set out in Code Section
872 43-11-70 unless such person is at least 18 years of age, ~~of good moral character~~, and a
873 graduate of a dental hygiene program recognized by the board and accredited by the
874 Commission on Dental Accreditation of the American Dental Association (ADA) or its
875 successor agency which is operated by a school or college accredited by an institutional
876 accrediting agency recognized by the United States Department of Education whose
877 curriculum is at least two academic years of courses at the appropriate level and at the
878 completion of which an associate or baccalaureate degree is awarded.

879 (b) Application for a license under Code Section 43-11-70 shall constitute consent for
880 performance of a criminal background check. Each applicant who submits an application
881 to the board for licensure agrees to provide the board with any and all information
882 necessary to run a criminal background check, including but not limited to classifiable sets
883 of fingerprints. The applicant shall be responsible for all fees associated with the
884 performance of a background check.

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

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

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

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

- 897 (4) All circumstances relative to the offense, including, but not limited to, mitigating
898 circumstances or social conditions surrounding the commission of the offense; and
899 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
900 for which the license is sought or held, including, but not limited to:
- 901 (A) The completion of the criminal sentence;
 - 902 (B) A program and treatment certificate issued by the Board of Corrections;
 - 903 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
904 program;
 - 905 (D) Testimonials and recommendations, which may include a progress report from the
906 individual's probation or parole officer;
 - 907 (E) Education and training;
 - 908 (F) Employment history;
 - 909 (G) Employment aspirations;
 - 910 (H) The individual's current family or community responsibilities, or both;
 - 911 (I) Whether a bond is required to practice the occupation;
 - 912 (J) Any affidavits or other written documents, including, but not limited to, character
913 references; and
 - 914 (K) Any other information regarding rehabilitation the individual submits to the board.
- 915 (6) In determining whether to terminate and revoke a license, the board shall not consider
916 nor require an individual to disclose:
- 917 (A) A deferred adjudication, discharged first offender treatment, completed diversion
918 program, completed conditional discharge, or an arrest not followed by a conviction;
 - 919 (B) A conviction for which no sentence of incarceration can be imposed;
 - 920 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
921 pardoned, provided that the board may consider a plea for which an individual is
922 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
923 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

- 924 (D) A juvenile adjudication;
925 (E) A misdemeanor conviction older than five years, unless the offense of conviction
926 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
927 (F) A conviction older than five years for which the individual was not incarcerated,
928 or a conviction for which the individual's incarceration ended more than five years
929 before the date of the board's consideration, except for a felony conviction related to:
- 930 (i) A criminal sexual act;
 - 931 (ii) Criminal fraud or embezzlement;
 - 932 (iii) Aggravated assault;
 - 933 (iv) Aggravated robbery;
 - 934 (v) Aggravated abuse, neglect, or endangerment of a child;
 - 935 (vi) Arson;
 - 936 (vii) Carjacking;
 - 937 (viii) Kidnapping; or
 - 938 (ix) Manslaughter, homicide, or murder.
- 939 (d)(1) Notwithstanding any other provision of law, an individual with a criminal record,
940 who has been domiciled in the State of Georgia for five years or more, may petition the
941 board of dentistry at any time, including while incarcerated and before starting or
942 completing any required professional qualifications for licensure, for a predetermination
943 as to whether the individual's criminal record will disqualify him or her from obtaining
944 a license.
- 945 (2) The petition for predetermination shall include the individual's criminal record or
946 authorize the board to obtain the individual's criminal record. The petitioning individual
947 need not disclose any offenses falling under subparagraph (c)(6)(F) of this Code section.
948 The petition shall also include any information the petitioner chooses to submit
949 concerning the circumstances of their record and their rehabilitation.

950 (3) In considering predetermination petitions, the professional licensing board shall apply
951 the direct relationship standard in subsection (c) of this Code section and shall not
952 consider any offenses falling under subparagraph (c)(6)(F) of this Code section. The
953 board shall support any adverse predetermination by justifying that it is substantially
954 more likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

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

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

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

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

992 **SECTION 2-9.**

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

996 "43-18-46.

997 In addition to the authority and provided in Code Section 43-1-19, the board may refuse
 998 to grant a license to operate a funeral establishment or to practice embalming or funeral
 999 directing, may refuse to grant a registration to serve as an apprentice, or may revoke,
 1000 suspend, fine, or otherwise discipline a licensee or registrant upon any of the following
 1001 grounds:

- 1002 (1) The employment of fraud or deception in applying for a license or registration or in
1003 passing the examination provided for in this article;
- 1004 (2) Issuance of a license or registration through error;
- 1005 ~~(3) Conviction of a crime involving moral turpitude;~~
- 1006 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
1007 impersonation of another embalmer, funeral director, or apprentice of a like or different
1008 name;
- 1009 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
1010 training, or experience of any applicant;
- 1011 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;
- 1012 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
1013 business or paying a commission or making gifts, directly or indirectly, for the purpose
1014 of securing business to any physician or hospital, or to any institution where death occurs,
1015 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
1016 home, or other institution where death occurs; or to any coroner or other government
1017 official;
- 1018 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
1019 directing, or cremating;
- 1020 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
1021 preservation when in fact someone else performed such embalming or preparation;
- 1022 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
1023 director having legal charge of a dead human body;
- 1024 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
1025 limited to, false or misleading statements regarding a legal or cemetery requirement,
1026 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 1027 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;

- 1028 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
1029 unless compelled by law to do otherwise;
- 1030 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
1031 body, or within the immediate hearing of the family or relatives of a deceased, whose
1032 body has not yet been interred or otherwise disposed;
- 1033 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
1034 assignee of the deceased within ten working days of receipt of the assigned funds;
- 1035 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
1036 express order of the person lawfully entitled to the custody;
- 1037 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
1038 funeral establishment general price list, the casket price list, the outer burial container list,
1039 or the funeral service contract price list;
- 1040 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 1041 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
1042 certificate plan, or burial membership plan;
- 1043 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;
- 1044 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
1045 apprentice;
- 1046 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
1047 or regulation; Occupational Safety and Health Administration law or regulation;
1048 Department of Public Health law or regulation; Environmental Protection Agency law
1049 or regulation; or municipal or county ordinance or regulation that affects the handling,
1050 custody, care, or transportation of dead human bodies, including, but not limited to, the
1051 disposal of equipment, residual fluids, or medical wastes;
- 1052 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
1053 representation in the practice of funeral directing or embalming or in any document
1054 connected therewith;

1055 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
1056 religion, gender, or national origin;

1057 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
1058 remains and failing to dispose of same as directed by a legally authorized person;

1059 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
1060 company or other third party;

1061 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
1062 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
1063 affects the fitness of the licensee or registrant to practice in the funeral business, or is of
1064 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
1065 and that need not have resulted in actual injury to any person or be directly related to the
1066 practice of funeral directing or embalming but shows that the person has committed any
1067 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
1068 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
1069 departure from or failure to conform to the minimal reasonable standards of acceptable
1070 and prevailing practice of funeral services;

1071 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
1072 a coroner or who is both a funeral director and a minister presents that person as a funeral
1073 director to a legally authorized person when death is imminent or after death occurs prior
1074 to when the legally authorized person selects a funeral director or funeral establishment
1075 which will handle the dead human body;

1076 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
1077 or crematory prior to the board's having approved an application for licensure; or

1078 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
1079 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
1080 Code Section 43-18-70."

1081

SECTION 2-10.

1082 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
1083 massage therapists, by revising subsection (a) as follows:

1084 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
1085 upon proper application, be issued for a six-month period to an applicant who meets the
1086 following criteria:

1087 (1) Holds and maintains a valid license as a massage therapist in another state;

1088 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
1089 defined in Code Section 50-36-2;

1090 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
1091 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and

1092 (4) Has not been convicted of a directly related felony in the courts of this state, any
1093 other state, territory, or country, or in the courts of the United States, including, but not
1094 limited to, a plea of nolo contendere entered to such charge or ~~the affording of first~~
1095 ~~offender treatment to any such charge~~ a plea to such charge for which an individual is
1096 currently serving a first offender sentence in the same manner as provided in ~~paragraph~~
1097 ~~(4) of subsection (a) of subsection (q) of~~ Code Section 43-1-19. For purposes of this
1098 paragraph, the term 'felony' shall have the same meaning as provided in Code Section
1099 43-1-1."

1100

SECTION 2-11.

1101 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
1102 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
1103 by revising paragraph (1) as follows:

1104 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude,~~ or
1105 directly related crime violating a federal or state law relating to controlled substances or
1106 dangerous drugs in the courts of this state, any other state, territory, or country, or in the

1107 courts of the United States, including but not limited to a plea of nolo contendere entered
1108 to the charge; provided, however, that such conviction shall be evaluated as provided by
1109 subsection (q) of Code Section 43-1-19; or"

1110 **SECTION 2-12.**

1111 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
1112 license and revocation of registered practical nurses licenses and disciplining of licensees,
1113 as follows:

1114 "43-26-40.

1115 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
1116 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
1117 to discipline a licensee upon a finding by the board that the applicant or licensee has:

1118 (1) Been convicted of a directly related felony, ~~a crime involving moral turpitude~~, or any
1119 directly related crime violating a federal or state law relating to controlled substances or
1120 dangerous drugs or marijuana in the courts of this state, any other state, territory, or
1121 country, or in the courts of the United States, including, but not limited to, a plea of nolo
1122 contendere entered to the charge; provided, however, that such conviction shall be
1123 evaluated as provided by subsection (q) of Code Section 43-1-19;

1124 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
1125 licensing authority, had other disciplinary action taken by any lawful licensing authority,
1126 or was denied a license by any lawful licensing authority;

1127 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
1128 practice harmful to the public, which conduct or practice need not have resulted in actual
1129 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
1130 includes the improper charting of medication and any departure from, or the failure to
1131 conform to, the minimal standards of acceptable and prevailing nursing practice;

- 1132 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
1133 of this state, any other state, the board, the United States, or any other lawful authority,
1134 without regard to whether the violation is criminally punishable, which statute, law, or
1135 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
1136 or applicant knows or should know that such action is violative of such law or rule;
- 1137 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
1138 hearing; or
- 1139 (6) Displayed an inability to practice nursing as a licensed practical nurse with
1140 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or
1141 any other types of material, or as a result of any mental or physical condition:
- 1142 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
1143 a licensee or applicant to submit to a mental or physical examination by a board
1144 approved health care professional. The expense of such mental or physical examination
1145 shall be borne by the licensee or applicant. The results of such examination shall be
1146 admissible in any hearing before the board, notwithstanding any claim of privilege
1147 under contrary law or rule. Every person who is licensed to practice practical nursing
1148 as a licensed practical nurse in this state, or an applicant for examination, endorsement,
1149 or reinstatement, shall be deemed to have given such person's consent to submit to such
1150 mental or physical examination and to have waived all objections to the admissibility
1151 of the results in any hearing before the board upon the grounds that the same constitutes
1152 a privileged communication. If a licensee or applicant fails to submit to such an
1153 examination when properly directed to do so by the board, unless such failure was due
1154 to circumstances beyond that person's control, the board may enter a final order upon
1155 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
1156 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
1157 an opportunity to demonstrate to the board that such person can resume or begin to

1158 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
1159 and

1160 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
1161 any and all records relating to the mental or physical condition of a licensee or
1162 applicant, including psychiatric records; such records shall be admissible in any hearing
1163 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
1164 Every person who is licensed in this state or who shall file an application for said
1165 license shall be deemed to have given such person's consent to the board's obtaining
1166 such records and to have waived all objections to the admissibility of such records in
1167 any hearing before the board upon the grounds that the same constitute a privileged
1168 communication.

1169 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
1170 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
1171 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
1172 the minimum requirements shall be considered a contested case within the meaning of
1173 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
1174 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
1175 licensee shall be allowed to appear before the board if he or she so requests.

1176 (c) Notwithstanding any other provision of this Code section, the denial of an initial
1177 license or the denial of a request for reinstatement of a license on the grounds that the
1178 applicant or licensee is disqualified due to a criminal record shall be in accordance with
1179 subsection (a) of Code Section 43-1-19."

1180 SECTION 2-13.

1181 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1182 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1183 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and

1184 publication of final disciplinary actions, by revising paragraph (3) of subsection (a) as
1185 follows:

1186 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
1187 country, or of the United States. As used in this paragraph, the term 'conviction of a
1188 felony' shall include a conviction of an offense which if committed in this state would be
1189 deemed a felony under either state or federal law, without regard to its designation
1190 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
1191 verdict of guilt, ~~a plea of guilty resulting in first offender status, or a plea of nolo~~
1192 ~~contendere in a criminal proceeding, regardless of whether the adjudication of guilt or~~
1193 ~~sentence is withheld or not entered thereon;~~ It shall also include a plea for which an
1194 individual is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42,
1195 another state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1196 (3.1) Been convicted of any directly related felony or directly related crime violating a
1197 federal or state law relating to controlled substances or dangerous drugs in the courts of
1198 this state, any other state, territory, or country, or in the courts of the United States,
1199 including but not limited to a plea of nolo contendere entered to the charge; provided,
1200 however, that such conviction shall be considered in the manner prescribed by subsection
1201 (q) of Code Section 43-1-19;"

1202 **SECTION 2-14.**

1203 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1204 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1205 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
1206 publication of final disciplinary actions, by adding two new subsections to read as follows:

1207 "(a.1) Notwithstanding paragraphs (3), (3.1), (4), and (11) of subsection (a) of this Code
1208 section, the medical board shall refuse to grant a license to an individual or shall revoke a
1209 license only if a conviction directly relates to the occupation for which the license is sought

1210 or held and granting the license would pose a direct and substantial risk to public safety
1211 because the individual has not been rehabilitated to safely perform the duties and
1212 responsibilities of the practice of medicine. In determining if a conviction directly relates
1213 to the occupation for which the license is sought or held, the medical board shall consider:
1214 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1215 conduct to the duties and responsibilities of the occupation for which the license is sought
1216 or held;
1217 (2) The age of the individual at the time the offense was committed;
1218 (3) The length of time elapsed since the offense was committed;
1219 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1220 circumstances or social conditions surrounding the commission of the offense; and
1221 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1222 for which the license is sought or held, including, but not limited to:
1223 (A) The completion of the criminal sentence;
1224 (B) A program and treatment certificate issued by the Board of Corrections;
1225 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1226 program;
1227 (D) Testimonials and recommendations, which may include a progress report from the
1228 individual's probation or parole officer;
1229 (E) Education and training;
1230 (F) Employment history;
1231 (G) Employment aspirations;
1232 (H) The individual's current family or community responsibilities, or both;
1233 (I) Whether a bond is required to practice the occupation;
1234 (J) Any affidavits or other written documents, including, but not limited to, character
1235 references; and
1236 (K) Any other information regarding rehabilitation the individual submits to the board.

1237 (6) In determining whether to terminate and revoke a license, the board shall not consider
1238 nor require an individual to disclose:

1239 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1240 program, completed conditional discharge, or an arrest not followed by a conviction;

1241 (B) A conviction for which no sentence of incarceration can be imposed;

1242 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1243 pardoned, provided that the board may consider a plea for which an individual is
1244 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1245 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1246 (D) A juvenile adjudication;

1247 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1248 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1249 (F) A conviction older than five years for which the individual was not incarcerated,
1250 or a conviction for which the individual's incarceration ended more than five years
1251 before the date of the board's consideration, except for a felony conviction related to:

1252 (i) A criminal sexual act;

1253 (ii) Criminal fraud or embezzlement;

1254 (iii) Aggravated assault;

1255 (iv) Aggravated robbery;

1256 (v) Aggravated abuse, neglect, or endangerment of a child;

1257 (vi) Arson;

1258 (vii) Carjacking;

1259 (viii) Kidnapping; or

1260 (ix) Manslaughter, homicide, or murder.

1261 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal
1262 record, who has been domiciled in the State of Georgia for five years or more, may
1263 petition the board at any time, including while incarcerated and before starting or

1264 completing any required professional qualifications for licensure, for a predetermination
1265 as to whether the individual's criminal record will disqualify him or her from obtaining
1266 a license.

1267 (2) The petition for predetermination shall include the individual's criminal record or
1268 authorize the board to obtain the individual's criminal record. The petitioning individual
1269 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1270 petition shall also include any information the petitioner chooses to submit concerning
1271 the circumstances of their record and their rehabilitation.

1272 (3) In considering predetermination petitions, the professional licensing board shall apply
1273 the direct relationship standard in subsection (a.1) of this subsection and shall not
1274 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1275 shall support any adverse predetermination by justifying that it is substantially more
1276 likely than not that a criminal record supports an adverse licensing decision.

1277 (4) A predetermination made under this subsection that a petitioner is eligible for a
1278 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1279 all other requirements for the occupational license, and the petitioner's submitted criminal
1280 record was correct and remains unchanged at the time of his or her application for a
1281 license.

1282 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1283 from licensure, the board shall notify the petitioner of the potentially disqualifying
1284 convictions. The letter of concern shall advise the petitioner of their opportunity to
1285 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1286 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1287 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1288 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1289 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1290 receipt of the predetermination petition. The individual shall have the opportunity to

1291 include character witnesses at the hearing, including but not limited to family members,
1292 friends, past or prospective employers, probation or parole officers, and rehabilitation
1293 counselors, who may offer their verbal or written support. The board shall not make an
1294 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1295 board shall issue a final decision within 60 days of complete submission of the issue for
1296 consideration or the hearing, whichever is later.

1297 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1298 board shall notify the petitioner of the following:

1299 (A) The grounds and rationale for the predetermination, including any of the
1300 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
1301 Code section the board deemed directly relevant;

1302 (B) An explanation of the process and right to appeal the board's predetermination
1303 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1304 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1305 who receives a predetermination of ineligibility may submit a revised petition reflecting
1306 completion of the remedial actions. The individual may submit a new petition to the
1307 board not before one year following a final judgment on their initial petition or upon
1308 completing the remedial actions, whichever is earlier.

1309 (8) The denial of a predetermination petition because of the applicant's criminal record
1310 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1311 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1312 have the burden of proving that the applicant's criminal record directly relates to the
1313 licensed occupation."

1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1340

SECTION 2-15.

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

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

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

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

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

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

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

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

(i) The completion of the criminal sentence;

- 1341 (ii) A program and treatment certificate issued by the Board of Corrections;
1342 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1343 treatment program;
1344 (iv) Testimonials and recommendations, which may include a progress report from
1345 the individual's probation or parole officer;
1346 (v) Education and training;
1347 (vi) Employment history;
1348 (vii) Employment aspirations;
1349 (viii) The individual's current family or community responsibilities, or both;
1350 (ix) Whether a bond is required to practice the occupation;
1351 (x) Any affidavits or other written documents, including, but not limited to, character
1352 references; and
1353 (xi) Any other information regarding rehabilitation the individual submits to the
1354 board.
- 1355 (3) In determining whether to terminate and revoke a license, the board or investigator
1356 shall not consider nor require an individual to disclose:
- 1357 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1358 program, completed conditional discharge, or an arrest not followed by a conviction;
1359 (B) A conviction for which no sentence of incarceration can be imposed;
1360 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1361 pardoned, provided that the board may consider a plea for which an individual is
1362 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1363 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1364 (D) A juvenile adjudication;
1365 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1366 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 1367 (F) A conviction older than five years for which the individual was not incarcerated,
 1368 or a conviction for which the individual's incarceration ended more than five years
 1369 before the date of the board's consideration, except for a felony conviction related to:
- 1370 (i) A criminal sexual act;
 - 1371 (ii) Criminal fraud or embezzlement;
 - 1372 (iii) Aggravated assault;
 - 1373 (iv) Aggravated robbery;
 - 1374 (v) Aggravated abuse, neglect, or endangerment of a child;
 - 1375 (vi) Arson;
 - 1376 (vii) Carjacking;
 - 1377 (viii) Kidnapping; or
 - 1378 (ix) Manslaughter, homicide, or murder."

1379 **SECTION 2-16.**

1380 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
 1381 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
 1382 follows:

1383 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
 1384 investigation of the applicant to be made and such investigation may include a criminal
 1385 background check; provided, however, that the board shall cause a thorough investigation
 1386 of a new applicant to be made, and such investigation shall include a background check.
 1387 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
 1388 a license. However, the board may issue licenses with varying restrictions to such
 1389 persons where the board deems it necessary for the purpose of safeguarding the public
 1390 health, safety, and welfare.

1391 (2) The board shall recommend action to deny licensure on the basis of a criminal
 1392 conviction or adjudication only if the conviction or adjudication directly relates to the

1393 administration of a pain management clinic. In determining if a criminal conviction or
1394 adjudication directly relates to the administration of a pain management clinic, the board
1395 shall consider:

1396 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1397 conduct to the duties and responsibilities of the licensee;

1398 (B) The age of the individual at the time such crime was committed;

1399 (C) The length of time elapsed since such crime was committed;

1400 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1401 circumstances or social conditions surrounding the commission of the offense; and

1402 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1403 occupation for which the certificate is sought or held, including, but not limited to:

1404 (i) The completion of the criminal sentence;

1405 (ii) A program and treatment certificate issued by the Board of Corrections;

1406 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1407 treatment program;

1408 (iv) Testimonials and recommendations, which may include a progress report from
1409 the individual's probation or parole officer;

1410 (v) Education and training;

1411 (vi) Employment history;

1412 (vii) Employment aspirations;

1413 (viii) The individual's current family or community responsibilities, or both;

1414 (ix) Whether a bond is required to practice the occupation;

1415 (x) Any affidavits or other written documents, including, but not limited to, character
1416 references; and

1417 (xi) Any other information regarding rehabilitation the individual submits to the
1418 board."

1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1440
1441
1442
1443
1444
1445

SECTION 2-17.

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

"43-34-284.

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

- (1) Furnished false or fraudulent material information in any application filed under this chapter;
- (2) Been convicted of a crime under any state or federal law relating to any controlled substance;
- (3) Had his or her federal registration to prescribe, distribute, or dispense controlled substances suspended or revoked; or
- (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title 26.

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

- (1) The nature and seriousness of the crime and the direct relationship of the criminal conduct to the duties and responsibilities of the physician practicing at a licensed pain management clinic;
- (2) The age of the individual at the time such crime was committed;
- (3) The length of time elapsed since such crime was committed;
- (4) All circumstances relative to such crime, including, but not limited to, mitigating circumstances or social conditions surrounding the commission of the offense; and
- (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation for which the license is sought or held, including, but not limited to:

- 1446 (A) The completion of the criminal sentence;
- 1447 (B) A program treatment certificate issued by the Board of Corrections;
- 1448 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
- 1449 program;
- 1450 (D) Testimonials and recommendations, which may include a progress report from the
- 1451 individual's probation or parole officer;
- 1452 (E) Education and training;
- 1453 (F) Employment history;
- 1454 (G) Employment aspirations;
- 1455 (H) The individual's current family or community responsibilities, or both;
- 1456 (I) Whether a bond is required to practice the occupation;
- 1457 (J) Any affidavits or other written documents, including, but not limited to, character
- 1458 references; and
- 1459 (K) Any other information regarding rehabilitation the individual submits to the board."

SECTION 2-18.

1460
 1461 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1462 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1463 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1464 subsection (b) as follows:

1465 "(b)(1) As used in this subsection, the term:

- 1466 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
- 1467 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
- 1468 whether an appeal of the conviction has been brought; a sentencing to first offender
- 1469 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
- 1470 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
- 1471 charge of a felony or any ~~crime involving moral turpitude~~ covered misdemeanor. The

1472 commission shall have the burden of justifying that it is substantially more likely than
1473 not that a criminal record supports an adverse licensing decision.

1474 (B) 'Felony' means any offense committed:

1475 (i) Within this state and deemed a felony under the laws of this state or under the
1476 laws of the United States; or

1477 (ii) In another state and deemed a felony under the laws of that state or the laws of
1478 the United States.

1479 (1.1) No person who has a directly related conviction shall be eligible to become an
1480 applicant for a license or an approval authorized by this chapter unless such person has
1481 successfully completed all terms and conditions of any sentence imposed for such
1482 conviction, provided that if such individual has multiple convictions, at least five years
1483 shall have passed since the individual satisfied all terms and conditions of any sentence
1484 imposed for the last conviction before making application for licensure or approval; and
1485 provided, further, that if such individual has a single conviction, at least two years shall
1486 have passed since the individual satisfied all terms and conditions of any sentence
1487 imposed for the last conviction before making application for licensure or approval.

1488 (1.2) The board shall recommend disciplinary action or denial of an application for a
1489 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1490 adjudication only if the conviction or adjudication directly relates to the role of an
1491 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1492 role of an appraiser, the board shall consider:

1493 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1494 conduct to the duties and responsibilities of the appraiser;

1495 (B) The age of the individual at the time such crime was committed;

1496 (C) The length of time elapsed since such crime was committed;

1497 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1498 circumstances or social conditions surrounding the commission of the offense; and

- 1499 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1500 occupation for which the license is sought or held, including, but not limited to:
- 1501 (i) The completion of the criminal sentence;
 - 1502 (ii) A program and treatment certificate issued by the Board of Corrections;
 - 1503 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1504 treatment program;
 - 1505 (iv) Testimonials and recommendations, which may include a progress report from
1506 the individual's probation or parole officer;
 - 1507 (v) Education and training;
 - 1508 (vi) Employment history;
 - 1509 (vii) Employment aspirations;
 - 1510 (viii) The individual's current family or community responsibilities, or both;
 - 1511 (ix) Any affidavits or other written documents, including, but not limited to, character
1512 references; and
 - 1513 (x) Any other information regarding rehabilitation the individual submits to the
1514 board.
- 1515 (F) In determining whether to terminate and revoke a license, the board shall not
1516 consider nor require an individual to disclose:
- 1517 (i) A deferred adjudication, discharged first offender treatment, completed diversion
1518 program, completed conditional discharge, or an arrest not followed by a conviction;
 - 1519 (ii) A conviction for which no sentence of incarceration can be imposed;
 - 1520 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1521 pardoned, provided that the board may consider a plea for which an individual is
1522 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1523 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or
1524 (iv) A juvenile adjudication.

1525 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1526 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1527 licensure or an approval authorized by this chapter only if:

1528 (A) Such person has satisfied all terms and conditions of any conviction such person
1529 may have had before making application for licensure or approval, provided that if such
1530 individual has multiple convictions, at least five years shall have passed since the
1531 individual satisfied all terms and conditions of any sentence imposed for the last
1532 conviction before making application for licensure or approval; and provided, further,
1533 that if such individual has been convicted of a single felony or of ~~a single crime of~~
1534 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
1535 individual satisfied all terms and conditions of any sentence imposed for the last
1536 conviction before making application for licensure or approval;

1537 (B) No criminal charges for forgery, embezzlement, obtaining money under false
1538 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
1539 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
1540 against the person; and

1541 (C) Such person presents to the commission satisfactory proof that the person now
1542 bears a good reputation for honesty, trustworthiness, integrity, and competence to
1543 transact the business of a licensee in such a manner as to safeguard the interest of the
1544 public."

1545 **SECTION 2-19.**

1546 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
1547 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
1548 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
1549 revising subsection (b) as follows:

1550 "(b)(1) As used in this Code section, the term:

1551 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1552 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1553 whether an appeal of the conviction has been brought; a sentencing to first offender
1554 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
1555 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
1556 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1557 commission shall have the burden of justifying that it is substantially more likely than
1558 not that a criminal record supports an adverse licensing decision.

1559 (B) 'Felony' means any offense committed:

1560 (i) Within this state and deemed a felony under the laws of this state or under the
1561 laws of the United States; or

1562 (ii) In another state and deemed a felony under the laws of that state or the laws of
1563 the United States.

1564 (1.1) No person who has a directly related conviction shall be eligible to become an
1565 applicant for a license or an approval authorized by this chapter unless such person has
1566 successfully completed all terms and conditions of any sentence imposed for such
1567 conviction, provided that if such individual has multiple convictions, at least five years
1568 shall have passed since the individual satisfied all terms and conditions of any sentence
1569 imposed for the last conviction before making application for licensure or approval; and
1570 provided, further, that if such individual has a single conviction, at least two years shall
1571 have passed since the individual satisfied all terms and conditions of any sentence
1572 imposed for the last conviction before making application for licensure or approval.

1573 (1.2) The commission shall recommend disciplinary action or denial of an application
1574 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1575 or adjudication only if the conviction or adjudication directly relates to the role of the

- 1576 license sought. In determining if a criminal conviction or adjudication directly relates to
1577 the role of a broker or real estate salesperson, the commission shall consider:
- 1578 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1579 conduct to the duties and responsibilities of the licensee;
- 1580 (B) The age of the individual at the time such crime was committed;
- 1581 (C) The length of time elapsed since such crime was committed;
- 1582 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1583 circumstances or social conditions surrounding the commission of the offense; and
- 1584 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1585 occupation for which the license is sought or held, including, but not limited to:
- 1586 (i) The completion of the criminal sentence;
- 1587 (ii) A program and treatment certificate issued by the Board of Corrections;
- 1588 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1589 treatment program;
- 1590 (iv) Testimonials and recommendations, which may include a progress report from
1591 the individual's probation or parole officer;
- 1592 (v) Education and training;
- 1593 (vi) Employment history;
- 1594 (vii) Employment aspirations;
- 1595 (viii) The individual's current family or community responsibilities, or both;
- 1596 (ix) Any affidavits or other written documents, including, but not limited to, character
1597 references; and
- 1598 (x) Any other information regarding rehabilitation the individual submits to the
1599 commission.
- 1600 (F) In determining whether to terminate and revoke a license, the board shall not
1601 consider nor require an individual to disclose:

- 1602 (i) A deferred adjudication, discharged first offender treatment, completed diversion
 1603 program, completed conditional discharge, or an arrest not followed by a conviction;
 1604 (ii) A conviction for which no sentence of incarceration can be imposed;
 1605 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1606 pardoned, provided that the board may consider a plea for which an individual is
 1607 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
 1608 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or
 1609 (iv) A juvenile adjudication.

1610 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1611 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1612 licensure or an approval authorized by this chapter only if:

1613 (A) Such person has satisfied all terms and conditions of any conviction such person
 1614 may have had before making application for licensure or approval, provided that if such
 1615 individual has multiple convictions, at least five years shall have passed since the
 1616 individual satisfied all terms and conditions of any sentence imposed for the last
 1617 conviction before making application for licensure or approval; and provided, further,
 1618 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1619 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1620 individual satisfied all terms and conditions of any sentence imposed for the last
 1621 conviction before making application for licensure or approval;

1622 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1623 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1624 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1625 against the person; and

1626 (C) Such person presents to the commission satisfactory proof that the person now
 1627 bears a good reputation for honesty, trustworthiness, integrity, and competence to

1628 transact the business of a licensee in such a manner as to safeguard the interest of the
1629 public."

1630 **SECTION 2-20.**

1631 Said title is further amended in Code Section 43-45-9, relating to examination for structural
1632 pest control operator certification by the Structural Pest Control Commission, by revising
1633 subsection (a) as follows:

1634 "(a)(1) All applicants for examination for certification as an operator must have a
1635 knowledge of the practical and scientific facts underlying the practice of structural pest
1636 control, control of wood-destroying organisms, and fumigation and the necessary
1637 knowledge and ability to recognize and control those hazardous conditions which may
1638 affect human life and health. The commission may refuse to examine anyone convicted
1639 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
1640 misdemeanor.

1641 (2) The commission shall refuse to examine an applicant on the basis of a criminal
1642 conviction or adjudication only if the conviction or adjudication directly relates to the
1643 role of an operator. In determining if a criminal conviction or adjudication directly
1644 relates to the role of a pest control operator, the commission shall consider:

1645 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1646 conduct to the duties and responsibilities of the operator;

1647 (B) The age of the individual at the time such crime was committed;

1648 (C) The length of time elapsed since such crime was committed;

1649 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1650 circumstances or social conditions surrounding the commission of the offense; and

1651 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1652 occupation for which the certificate is sought or held, including, but not limited to:

1653 (i) The completion of the criminal sentence;

- 1654 (ii) A program and treatment certificate issued by the Board of Corrections;
1655 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1656 treatment program;
1657 (iv) Testimonials and recommendations, which may include a progress report from
1658 the individual's probation or parole officer;
1659 (v) Education and training;
1660 (vi) Employment history;
1661 (vii) Employment aspirations;
1662 (viii) The individual's current family or community responsibilities, or both;
1663 (ix) Whether a bond is required to practice the occupation;
1664 (x) Any affidavits or other written documents, including, but not limited to, character
1665 references; and
1666 (xi) Any other information regarding rehabilitation the individual submits to the
1667 commission.
- 1668 (3) In determining whether to refuse to examine an applicant, the commission shall not
1669 consider nor require an individual to disclose:
- 1670 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1671 program, completed conditional discharge, or an arrest not followed by a conviction;
1672 (B) A conviction for which no sentence of incarceration can be imposed;
1673 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1674 pardoned, provided that the board may consider a plea for which an individual is
1675 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1676 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1677 (D) A juvenile adjudication;
1678 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1679 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1680 (F) A conviction older than five years for which the individual was not incarcerated,
1681 or a conviction for which the individual's incarceration ended more than five years
1682 before the date of the commission's consideration, except for a felony conviction related
1683 to:

- 1684 (i) A criminal sexual act;
1685 (ii) Criminal fraud or embezzlement;
1686 (iii) Aggravated assault;
1687 (iv) Aggravated robbery;
1688 (v) Aggravated abuse, neglect, or endangerment of a child;
1689 (vi) Arson;
1690 (vii) Carjacking;
1691 (viii) Kidnapping; or
1692 (ix) Manslaughter, homicide, or murder.

1693 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1694 record, who has been domiciled in the State of Georgia for five years or more, may
1695 petition the commission at any time, including while incarcerated and before starting
1696 or completing any required professional qualifications for certification, for a
1697 predetermination as to whether the individual's criminal record will disqualify such
1698 individual from obtaining a certification as an operator.

1699 (B) The petition for predetermination shall include the individual's criminal record or
1700 authorize the commission to obtain the individual's criminal record. The petitioning
1701 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1702 The petition shall also include any information the petitioner chooses to submit
1703 concerning the circumstances of their record and their rehabilitation.

1704 (C) In considering predetermination petitions, the commission shall apply the direct
1705 relationship standard in paragraph (2) of this subsection and shall not consider any
1706 offenses falling under paragraph (3) of this subsection. The commission shall support

1707 any adverse predetermination by justifying that it is substantially more likely than not
1708 that a criminal record supports an adverse licensing decision.

1709 (D) A predetermination made under this subsection that a petitioner is eligible for a
1710 license shall be binding on the commission only if the petitioner applies for
1711 certification, fulfills all other requirements for operator certification, and the petitioner's
1712 submitted criminal record was correct and remains unchanged at the time of his or her
1713 application for certification.

1714 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1715 from certification, the commission shall notify the petitioner of the potentially
1716 disqualifying convictions. The letter of concern shall advise the petitioner of their
1717 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1718 hearing, or both.

1719 (F) The commission may predetermine that the petitioner's criminal record is likely
1720 grounds for denial of certification only after the commission has held a hearing on the
1721 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1722 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1723 or by teleconference within 60 days of receipt of the predetermination petition. The
1724 individual shall have the opportunity to include character witnesses at the hearing,
1725 including but not limited to family members, friends, past or prospective employers,
1726 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1727 or written support. The commission shall not make an adverse inference by a
1728 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1729 issue a final decision within 60 days of complete submission of the issue for
1730 consideration or the hearing, whichever is later.

1731 (G) If the commission decides that a predetermination petitioner is ineligible for a
1732 license, the board shall notify the petitioner of the following:

1733 (i) The grounds and rationale for the predetermination, including any of the
1734 petitioner's specific convictions and the factors provided for in paragraph (3) of this
1735 subsection the commission deemed directly relevant;
1736 (ii) An explanation of the process and right to appeal the commission's
1737 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1738 Procedure Act'; and
1739 (iii) Any actions the petitioner may take to remedy the disqualification. An
1740 individual who receives a predetermination of ineligibility may submit a revised
1741 petition reflecting completion of the remedial actions. The individual may submit a
1742 new petition to the commission not before one year following a final judgment on
1743 their initial petition or upon completing the remedial actions, whichever is earlier.
1744 (H) The denial of a predetermination petition because of the applicant's criminal record
1745 shall constitute a contested case as defined in Code Section 50-13-2. In an
1746 administrative hearing or civil action reviewing the denial of a predetermination
1747 petition, the commission shall have the burden of proving that the applicant's criminal
1748 record directly relates to the licensed occupation."

1749

PART III

1750

SECTION 3-1.

1751 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
1752 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
1753 professional standards of teachers and other school personnel, to read as follows:

1754 “(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
1755 whether an appeal of such finding, verdict, or plea has been sought.”

1756
1757
1758
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1780
1781
1782

SECTION 3-2.

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

"20-2-984.3.

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

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

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

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

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

(5) Complaints alleging that an educator has been convicted of any directly related felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as defined in Code Section 43-1-1, of any other criminal offense involving the manufacture, distribution, trafficking, sale, or possession of a controlled substance or marijuana as provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100 in the courts of this state or any other state, territory, or country or in the courts of the United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the conviction has been sought; a situation where first offender treatment without adjudication of guilt pursuant to the charge was granted; and a situation where an adjudication of guilt or sentence was otherwise withheld or not entered on the charge or the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1783 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1784 to this Code section within 30 days of the request unless an extension is granted pursuant
1785 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1786 may appoint a committee of its membership with the power to transact and carry out the
1787 business and duties of the commission when deciding whether to conduct a preliminary
1788 investigation.

1789 (b.1) In investigating whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1790 or otherwise withhold a certificate, the commission shall not consider nor require an
1791 educator to disclose:

1792 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1793 program, completed conditional discharge, or an arrest not followed by a conviction;

1794 (2) A conviction for which no sentence of incarceration can be imposed;

1795 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1796 pardoned, provided that the board may consider a plea for which an individual is
1797 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1798 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1799 (4) A juvenile adjudication;

1800 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1801 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1802 (6) A conviction older than five years for which the individual was not incarcerated, or
1803 a conviction for which the individual's incarceration ended more than five years before
1804 the date of the commission's consideration, except for a felony conviction related to:

1805 (A) A criminal sexual act;

1806 (B) Criminal fraud or embezzlement;

1807 (C) Aggravated assault;

1808 (D) Aggravated robbery;

1809 (E) Aggravated abuse, neglect, or endangerment of a child;

1810 (F) Arson;

1811 (G) Carjacking;

1812 (H) Kidnapping; or

1813 (I) Manslaughter, homicide, or murder.

1814 (c) When an educator admits on a Professional Standards Commission application to
 1815 having resigned or being discharged for committing a felony or ~~misdemeanor involving~~
 1816 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1817 investigation by law enforcement authorities for such conduct or for committing a breach
 1818 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1819 record or having had a surrender, denial, revocation, or suspension of a certificate or being
 1820 the subject of an investigation or adverse action regarding a certificate, an investigation
 1821 will automatically open without notification to the commission and with written
 1822 notification to the educator.

1823 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
 1824 consider nor require an educator to disclose on a Professional Standards Commission
 1825 application:

1826 (1) A deferred adjudication, discharged first offender treatment, completed diversion
 1827 program, completed conditional discharge, or an arrest not followed by a conviction;

1828 (2) A conviction for which no sentence of incarceration can be imposed;

1829 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1830 pardoned, provided that the board may consider a plea for which an individual is
 1831 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
 1832 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1833 (4) A juvenile adjudication;

1834 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
 1835 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1836 (6) A conviction older than five years for which the individual was not incarcerated, or
1837 a conviction for which the individual's incarceration ended more than five years before
1838 the date of the commission's consideration, except for a felony conviction related to:

1839 (A) A criminal sexual act;

1840 (B) Criminal fraud or embezzlement;

1841 (C) Aggravated assault;

1842 (D) Aggravated robbery;

1843 (E) Aggravated abuse, neglect, or endangerment of a child;

1844 (F) Arson;

1845 (G) Carjacking;

1846 (H) Kidnapping; or

1847 (I) Manslaughter, homicide, or murder.

1848 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1849 shall be authorized, without notification to the commission, to immediately open an
1850 investigation submitted to the commission by a local school superintendent, with approval
1851 of the local board of education, of a complaint by a student against an educator alleging a
1852 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1853 16-6-20, 16-6-22.2, or 16-12-100.

1854 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record,
1855 who has been domiciled in the State of Georgia for five years or more, may petition the
1856 commission at any time, including while incarcerated and before starting or completing
1857 any required professional qualifications for certification, for a predetermination as to
1858 whether the individual's criminal record will disqualify him or her from obtaining a
1859 certificate.

1860 (2) The petition for predetermination shall include the individual's criminal record or
1861 authorize the board to obtain the individual's criminal record. The petitioning individual
1862 need not disclose any offenses falling under subsection (c.1) of this Code section. The

1863 petition shall also include any information the petitioner chooses to submit concerning
1864 the circumstances of their record and their rehabilitation.

1865 (3) In considering predetermination petitions, the commission shall apply the direct
1866 relationship standard in subsection (a.1) of Code Section 20-2-984.5 and shall not
1867 consider any offenses falling under subsection (c.1) of this Code section. The
1868 commission shall support any adverse predetermination by justifying that it is
1869 substantially more likely than not that a criminal record supports an adverse licensing
1870 decision.

1871 (4) A predetermination made under this subsection that a petitioner is eligible for a
1872 certificate shall be binding on the commission only if the petitioner applies for
1873 certification, fulfills all other requirements for the certificate, and the petitioner's
1874 submitted criminal record was correct and remains unchanged at the time of his or her
1875 application for a certificate.

1876 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1877 from certification, the commission shall notify the petitioner of the potentially
1878 disqualifying convictions. The letter of concern shall advise the petitioner of their
1879 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1880 hearing, or both.

1881 (6) The commission may predetermine that the petitioner's criminal record is likely
1882 grounds for denial of a license only after the commission has held a hearing on the
1883 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1884 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1885 by teleconference within 60 days of receipt of the predetermination petition. The
1886 individual shall have the opportunity to include character witnesses at the hearing,
1887 including but not limited to family members, friends, past or prospective employers,
1888 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1889 written support. The commission shall not make an adverse inference by a petitioner's

1890 decision to forgo a hearing or character witnesses. The commission shall issue a final
1891 decision within 60 days of complete submission of the issue for consideration or the
1892 hearing, whichever is later.

1893 (7) If the commission decides that a predetermination petitioner is ineligible for a
1894 certificate, the board shall notify the petitioner of the following:

1895 (A) The grounds and rationale for the predetermination, including any specific
1896 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1897 commission deemed directly relevant;

1898 (B) An explanation of the process and right to appeal the commission's
1899 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1900 Procedure Act'; and

1901 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1902 who receives a predetermination of ineligibility may submit a revised petition reflecting
1903 completion of the remedial actions. The individual may submit a new petition to the
1904 commission not before one year following a final judgment on their initial petition or
1905 upon completing the remedial actions, whichever is earlier.

1906 (8) The denial of a predetermination petition because of the applicant's criminal record
1907 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1908 hearing or civil action reviewing the denial of a predetermination petition, the
1909 commission shall have the burden of proving that the applicant's criminal record directly
1910 relates to the licensed occupation."

1911 **SECTION 3-3.**

1912 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
1913 investigations of educators, disciplinary actions, and hearings by the Professional Standards
1914 Commission, by adding two new subsections to read as follows:

1915 "(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1916 conviction only if the conviction or adjudication directly relates to the role of an educator.
1917 In determining if a criminal conviction directly relates to the role of an educator, the
1918 commission shall consider:

1919 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1920 conduct to the duties and responsibilities of the educator;

1921 (2) The age of the individual at the time such crime was committed;

1922 (3) The length of time elapsed since such crime was committed;

1923 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1924 circumstances or social conditions surrounding the commission of the offense; and

1925 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1926 for which the certificate is sought or held, including, but not limited to:

1927 (A) The completion of the criminal sentence;

1928 (B) A program and treatment certificate issued by the Board of Corrections;

1929 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1930 program;

1931 (D) Testimonials and recommendations, which may include a progress report from the
1932 individual's probation or parole officer;

1933 (E) Education and training;

1934 (F) Employment history;

1935 (G) Employment aspirations;

1936 (H) The individual's current family or community responsibilities, or both;

1937 (I) Whether a bond is required to practice the occupation;

1938 (J) Any affidavits or other written documents, including, but not limited to, character
1939 references; and

1940 (K) Any other information regarding rehabilitation the individual submits to the
1941 commission.

- 1942 (a.2) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1943 or otherwise withhold a license, the commission or investigator shall not consider nor
1944 require an individual to disclose:
- 1945 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1946 program, completed conditional discharge, or an arrest not followed by a conviction;
- 1947 (2) A conviction for which no sentence of incarceration can be imposed;
- 1948 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1949 pardoned, provided that the board may consider a plea for which an individual is
1950 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1951 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 1952 (4) A juvenile adjudication;
- 1953 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1954 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1955 (6) A conviction older than five years for which the individual was not incarcerated, or
1956 a conviction for which the individual's incarceration ended more than five years before
1957 the date of the commission's consideration, except for a felony conviction related to:
- 1958 (A) A criminal sexual act;
- 1959 (B) Criminal fraud or embezzlement;
- 1960 (C) Aggravated assault;
- 1961 (D) Aggravated robbery;
- 1962 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1963 (F) Arson;
- 1964 (G) Carjacking;
- 1965 (H) Kidnapping; or
- 1966 (I) Manslaughter, homicide, or murder."

1967
 1968
 1969
 1970
 1971
 1972
 1973
 1974
 1975
 1976
 1977
 1978
 1979
 1980
 1981
 1982
 1983
 1984
 1985
 1986
 1987
 1988
 1989
 1990
 1991

PART IV
SECTION 4-1.

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

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

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

(2) Have attained the age of majority;

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

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

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

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

- 2016 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2017 conduct to the duties and responsibilities of the occupation for which the license is sought
2018 or held;
- 2019 (2) The age of the individual at the time the offense was committed;
- 2020 (3) The length of time elapsed since the offense was committed;
- 2021 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2022 circumstances or social conditions surrounding the commission of the offense; and
- 2023 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2024 for which the license is sought or held, including, but not limited to:
- 2025 (A) The completion of the criminal sentence;
- 2026 (B) A program and treatment certificate issued by the Board of Corrections;
- 2027 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2028 program;
- 2029 (D) Testimonials and recommendations, which may include a progress report from the
2030 individual's probation or parole officer;
- 2031 (E) Education and training;
- 2032 (F) Employment history;
- 2033 (G) Employment aspirations;
- 2034 (H) The individual's current family or community responsibilities, or both;
- 2035 (I) Whether a bond is required to practice the occupation;
- 2036 (J) Any affidavits or other written documents, including, but not limited to, character
2037 references; and
- 2038 (K) Any other information regarding rehabilitation the individual submits to the board.
- 2039 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
2040 otherwise withhold a license, the board of pharmacy shall not consider nor require an
2041 individual to disclose:

- 2042 (1) A deferred adjudication, discharged first offender treatment, completed diversion
2043 program, completed conditional discharge, or an arrest not followed by a conviction;
2044 (2) A conviction for which no sentence of incarceration can be imposed;
2045 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
2046 pardoned, provided that the board may consider a plea for which an individual is
2047 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
2048 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
2049 (4) A juvenile adjudication;
2050 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
2051 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
2052 (6) A conviction older than five years for which the individual was not incarcerated, or
2053 a conviction for which the individual's incarceration ended more than five years before
2054 the date of the board's consideration, except for a felony conviction related to:
2055 (A) A criminal sexual act;
2056 (B) Criminal fraud or embezzlement;
2057 (C) Aggravated assault;
2058 (D) Aggravated robbery;
2059 (E) Aggravated abuse, neglect, or endangerment of a child;
2060 (F) Arson;
2061 (G) Carjacking;
2062 (H) Kidnapping;
2063 (I) Manslaughter, homicide, or murder; or
2064 (J) Distribution, manufacturing, or possession of a controlled substance.

2065 26-4-60.2.

2066 (a) Notwithstanding any other provision of law, an individual with a criminal record, who
2067 has been domiciled in the State of Georgia for five years or more, may petition the board

2068 of pharmacy at any time, including while incarcerated and before starting or completing
2069 any required professional qualifications for licensure, for a predetermination as to whether
2070 the individual's criminal record will disqualify him or her from obtaining a license.

2071 (b) The petition for predetermination shall include the individual's criminal record or
2072 authorize the board to obtain the individual's criminal record. The petitioning individual
2073 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
2074 petition shall also include any information the petitioner chooses to submit concerning the
2075 circumstances of their record and their rehabilitation.

2076 (c) In considering predetermination petitions, the board shall apply the direct relationship
2077 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
2078 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
2079 adverse predetermination by justifying that it is substantially more likely than not that a
2080 criminal record supports an adverse licensing decision.

2081 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2082 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
2083 requirements for the licensure, and the petitioner's submitted criminal record was correct
2084 and remains unchanged at the time of his or her application for a license.

2085 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2086 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
2087 The letter of concern shall advise the petitioner of their opportunity to submit additional
2088 evidence of rehabilitation and mitigation or for a hearing, or both.

2089 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
2090 denial of a license only after the board has held a hearing on the petitioner's eligibility in
2091 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
2092 hearing shall be held in person, by remote video, or by teleconference within 60 days of
2093 receipt of the predetermination petition. The individual shall have the opportunity to
2094 include character witnesses at the hearing, including but not limited to family members,

2095 friends, past or prospective employers, probation or parole officers, and rehabilitation
2096 counselors, who may offer their verbal or written support. The board shall not make an
2097 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
2098 board shall issue a final decision within 60 days of complete submission of the issue for
2099 consideration or the hearing, whichever is later.

2100 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
2101 board shall notify the petitioner of the following:

2102 (1) The grounds and rationale for the predetermination, including the specific
2103 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
2104 board deemed directly relevant;

2105 (2) An explanation of the process and right to appeal the board's predetermination
2106 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

2107 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2108 who receives a predetermination of ineligibility may submit a revised petition reflecting
2109 completion of the remedial actions. The individual may submit a new petition to the
2110 board not before one year following a final judgment on their initial petition or upon
2111 completing the remedial actions, whichever is earlier.

2112 (h) The denial of a predetermination petition because of the applicant's criminal record
2113 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
2114 hearing or civil action reviewing the denial of a predetermination petition, the board shall
2115 have the burden of proving that the applicant's criminal record directly relates to the
2116 licensed occupation."

2117
2118

2119
2120
2121
2122
2123
2124
2125
2126
2127
2128
2129
2130
2131
2132
2133
2134
2135
2136
2137
2138

PART V
SECTION 5-1.

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

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

(i) Conviction of a crime;

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

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

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

or

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

or

(iii) Arrest and charges for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(B) Such term shall not include an owner, applicant, or employee for which at least ten years have elapsed from the date of his or her criminal background check since the ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication; such term also shall not include an owner, applicant, or employee who has received a general pardon from the State Board of Pardons and Paroles for the convictions; provided, however, that such ten-year period ~~exemption or and pardon exemption~~ shall never apply to any crime identified in subsection (j) of Code Section 42-8-60."

2139
2140

2141
2142
2143
2144
2145
2146
2147
2148
2149
2150
2151
2152
2153
2154
2155
2156
2157
2158
2159
2160
2161
2162

PART VI
SECTION 6-1.

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

"(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (16) of this subsection, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

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

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

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

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

2163
2164
2165
2166
2167
2168
2169
2170
2171
2172
2173
2174
2175
2176
2177
2178
2179
2180
2181
2182
2183
2184
2185
2186
2187
2188
2189

SECTION 6-2.

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

"33-23-21.2.

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

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

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

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

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

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

(A) The completion of the criminal sentence;

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

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

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

(E) Education and training;

(F) Employment history;

- 2190 (G) Employment aspirations;
2191 (H) The individual's current family or community responsibilities, or both;
2192 (I) Whether a bond is required to practice the occupation;
2193 (J) Any affidavits or other written documents, including, but not limited to, character
2194 references; and
2195 (K) Any other information regarding rehabilitation the individual submits to the
2196 Commissioner.

2197 33-23-21.3.

2198 (a) Notwithstanding any other provision of law, an individual with a criminal record, who
2199 has been domiciled in the State of Georgia for five years or more, may petition the
2200 Commissioner at any time, including while incarcerated and before starting or completing
2201 any required professional qualifications for licensure, for a predetermination as to whether
2202 the individual's criminal record will disqualify him or her from obtaining a license.

2203 (b) The petition for predetermination shall include the individual's criminal record or
2204 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2205 also include information submitted by the petitioner concerning the circumstances of their
2206 record and their rehabilitation.

2207 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2208 relationship standard in Code Section 33-23-21.2.

2209 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2210 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2211 all other requirements for the licensure, and the petitioner's submitted criminal record was
2212 correct and remains unchanged at the time of his or her application for a license.

2213 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2214 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2215 accordance with Chapter 2 of this title.

2216 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
 2217 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
 2218 petitioner of the following:

2219 (1) The grounds and rationale for the predetermination, including the factors in Code
 2220 Section 33-23-21.2 the Commissioner deemed directly relevant;

2221 (2) An explanation of the process and right to appeal the Commissioner's
 2222 predetermination decision; and

2223 (3) Any actions the petitioner may take to remedy the disqualification. An individual
 2224 who receives a predetermination of ineligibility may submit a revised petition reflecting
 2225 completion of the remedial actions. The individual may submit a new petition to the
 2226 Commissioner not before one year following a final judgment on their initial petition or
 2227 upon completing the remedial actions, whichever is earlier."

2228 **SECTION 6-3.**

2229 Said title is further amended by adding two new Code sections to read as follows:

2230 "33-23-43.11.

2231 Notwithstanding Code Section 33-23-43.10, the Commissioner shall refuse to grant a
 2232 license to an individual or shall revoke a license on the basis of a conviction only if such
 2233 conviction directly relates to the occupation for which the license is sought or held and
 2234 granting the license would pose a direct and substantial risk to public safety because the
 2235 individual has not been rehabilitated to safely perform the duties and responsibilities of a
 2236 licensee. In determining if a conviction directly relates to the occupation for which the
 2237 license is sought or held, the Commissioner shall consider:

2238 (1) The nature and seriousness of the offense and the direct relationship of the criminal
 2239 conduct to the duties and responsibilities of the occupation for which the license is sought
 2240 or held;

2241 (2) The age of the individual at the time the offense was committed;

- 2242 (3) The length of time elapsed since the offense was committed;
2243 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2244 circumstances or social conditions surrounding the commission of the offense; and
2245 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2246 for which the license is sought or held, including, but not limited to:
2247 (A) The completion of the criminal sentence;
2248 (B) A program and treatment certificate issued by the Board of Corrections;
2249 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2250 program;
2251 (D) Testimonials and recommendations, which may include a progress report from the
2252 individual's probation or parole officer;
2253 (E) Education and training;
2254 (F) Employment history;
2255 (G) Employment aspirations;
2256 (H) The individual's current family or community responsibilities, or both;
2257 (I) Whether a bond is required to practice the occupation;
2258 (J) Any affidavits or other written documents, including, but not limited to, character
2259 references; and
2260 (K) Any other information regarding rehabilitation the individual submits to the
2261 Commissioner.

2262 33-23-43.12.

2263 (a) Notwithstanding any other provision of law, an individual with a criminal record, who
2264 has been domiciled in the State of Georgia for five years or more, may petition the
2265 Commissioner at any time, including while incarcerated and before starting or completing
2266 any required professional qualifications for licensure, for a predetermination as to whether

2267 the individual's criminal record will disqualify him or her from obtaining a public adjuster's
2268 license.

2269 (b) The petition for predetermination shall include the individual's criminal record or
2270 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2271 also include information submitted by the petitioner concerning the circumstances of their
2272 record and their rehabilitation.

2273 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2274 relationship standard in Code Section 33-23-43.11.

2275 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2276 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2277 all other requirements for the licensure, and the petitioner's submitted criminal record was
2278 correct and remains unchanged at the time of his or her application for a license.

2279 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2280 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2281 accordance with Chapter 2 of this title.

2282 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2283 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2284 petitioner of the following:

2285 (1) The grounds and rationale for the predetermination, including the specific
2286 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
2287 directly relevant;

2288 (2) An explanation of the process and right to appeal the Commissioner's
2289 predetermination decision; and

2290 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2291 who receives a predetermination of ineligibility may submit a revised petition reflecting
2292 completion of the remedial actions. The individual may submit a new petition to the

2293 Commissioner not before one year following a final judgment on their initial petition or
2294 upon completing the remedial actions, whichever is earlier."

2295 **PART VII**
2296 **SECTION 7-1.**

2297 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
2298 standards and training is amended by adding a new subsection to Code Section 25-4-8,
2299 relating to qualifications of firefighters generally, to read as follows:

2300 "(d) A person who pleaded guilty to a felony offense under the 'Georgia First Offender Act'
2301 and successfully completed the terms of his or her sentence pursuant to Article 3 of Chapter
2302 8 of Title 42 may, at the council's discretion, be certified and employed as a firefighter if
2303 such person otherwise meets the qualifications set forth in this Code section. Such person
2304 shall provide information on the circumstances underlying the plea of guilty, as requested
2305 by the council, to enable the council to make an informed decision on such individual's
2306 qualification status."

2307 **PART VIII**
2308 **SECTION 8-1.**

2309 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
2310 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
2311 of individual's criminal history record information, definitions, privacy considerations,
2312 written application requesting review, and inspection, by revising divisions (j)(4)(B)(xvi),
2313 (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraph (j)(4)(C), paragraph (7) of subsection (j),
2314 and subsections (m) and (v) as follows:

2315 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
2316 Chapter 12 of Title 16; or
2317 ~~(xvii) Theft in violation of Chapter 8 of Title 16; provided, however, that such~~
2318 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
2319 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~
2320 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~
2321 (C) ~~An individual shall be limited to filing a petition under this paragraph to a lifetime~~
2322 ~~maximum of requesting record restriction on two convictions for a misdemeanor or a~~
2323 ~~series of misdemeanors arising from a single incident. For the purposes of this~~
2324 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
2325 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
2326 ~~petition under this subsection has been denied, an individual may file a subsequent~~
2327 ~~petition on the same conviction for a misdemeanor or series of misdemeanors arising~~
2328 ~~from a single incident after the expiration of two years from the date of the final order~~
2329 ~~from the previous petition."~~
2330 "(7) When an individual was convicted in this state of an offense for which that
2331 individual has been granted a pardon from the State Board of Pardons and Paroles as
2332 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
2333 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual
2334 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
2335 such individual has not been convicted of any crime in any jurisdiction, excluding any
2336 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
2337 further, that he or she has no pending charged offenses, he or she may petition the court
2338 in which the conviction occurred to restrict access to criminal history record information.
2339 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
2340 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
2341 hearing shall be held within 90 days of the filing of the petition. If the court finds that the

2342 criteria for such petition are met, the court shall grant an order restricting such criminal
2343 history record information. The court shall hear evidence and shall grant an order
2344 restricting such criminal history record information if it determines that the harm
2345 otherwise resulting to the individual clearly outweighs the public's interest in the criminal
2346 history record information being publicly available."

2347 "(m)(1) For criminal history record information maintained by the clerk of court, an
2348 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
2349 section or an individual who has been cited for a criminal offense but was not arrested
2350 and the charged offense was subsequently dismissed, nolle prossed, or reduced to a
2351 violation of a local ordinance may petition the court with original jurisdiction over the
2352 offenses in the county where the clerk of court is located for an order to seal all criminal
2353 history record information maintained by the clerk of court for such individual's charged
2354 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting
2355 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
2356 be sufficient notice.

2357 (2) The court shall order all criminal history record information in the custody of the
2358 clerk of court, including within any index, to be restricted and unavailable to the public
2359 if the court finds by a preponderance of the evidence that:

2360 (A) The criminal history record information has been restricted pursuant to this Code
2361 section; and

2362 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
2363 public interest in the criminal history record information being publicly available.

2364 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
2365 history record information in the custody of the clerk of court, including within any
2366 index, to be restricted and unavailable to the public if the criminal history record has been
2367 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

2368 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
 2369 physical or electronic, in its custody, possession, or control to be restricted."

2370 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
 2371 available for inspection, copying, and use:

2372 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;

2373 (B) By the Judicial Qualifications Commission;

2374 (C) By an attorney representing an accused individual who submits a sworn affidavit
 2375 to the clerk of court attesting that such information is relevant to a criminal proceeding;

2376 (D) By a prosecuting attorney or a public defender;

2377 (E) Pursuant to a court order; ~~and~~

2378 (F) By an individual who is the subject of restricted criminal history record information
 2379 or sealed court files; and

2380 (G) By criminal justice agencies for law enforcement or criminal investigative
 2381 purposes.

2382 (2) The confidentiality of such information shall be maintained insofar as practicable."

2383 **PART IX**

2384 **SECTION 9-1.**

2385 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
 2386 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
 2387 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
 2388 paragraph (1) of subsection (a) and subsection (d) as follows:

2389 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
 2390 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
 2391 ~~the prosecuting attorney,~~ petition the court in which he or she was convicted for
 2392 exoneration of guilt and discharge pursuant to this article."

2393 "(d) The court may issue an order retroactively granting first offender treatment and
2394 discharge the defendant pursuant to this article if the court finds by a preponderance of the
2395 evidence that the defendant was eligible for sentencing under the terms of this article at the
2396 time he or she was originally sentenced or that he or she qualifies for sentencing under
2397 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare
2398 of society are served by granting such petition; provided, however, that no relief pursuant
2399 to this subsection may be given on a conviction that was used as the underlying conviction
2400 for a conviction for violating Code Section 16-11-131 or if the conviction was used to
2401 enhance a sentence pursuant to Code Section 17-10-7."

2402

PART X

2403

SECTION 10-1.

2404 Chapter 28 of Title 43 of the Official Code of Georgia Annotated, relating to occupational
2405 therapists, is amended by revising paragraph (12) of Code Section 43-28-3, relating to
2406 definitions, and by adding a new paragraph to read as follows:

2407 "(1.1) 'Dry needling' means a skilled technique that uses a thin filiform needle to
2408 penetrate the skin and stimulate underlying neural, muscular, and connective tissues for
2409 the management of neuromusculoskeletal conditions, pain, and movement impairments.
2410 Such term shall not include the teaching or application of acupuncture.

2411 "(12) 'Physical agent modalities' means occupational therapy treatment techniques, both
2412 superficial and deep tissue, which may, but are not required to utilize the following
2413 agents: thermal, mechanical, electromagnetic, water, ~~and light,~~ and dry needling for a
2414 specific therapeutic effect to promote functional outcomes."

2415
2416
2417
2418
2419
2420
2421
2422
2423
2424
2425
2426
2427
2428
2429
2430
2431
2432
2433
2434
2435
2436
2437
2438
2439
2440

SECTION 10-2.

Said chapter is further amended by revising Code Section 43-28-8, relating to license requirements for therapy techniques involving physical agent modalities, as follows:

"43-28-8.

(a) No person shall utilize occupational therapy techniques involving physical agent modalities unless such person:

(1) Is licensed according to this article; and

(2) Has successfully completed a minimum of 90 hours of instruction or training approved by the board which covers the following subjects:

(A) Principles of physics related to specific properties of light, water, temperature, sound, or electricity, as indicated by selected modality;

(B) Physiological, neurophysiological, and electrophysiological, as indicated, changes which occur as a result of the application of the selected modality;

(C) The response of normal and abnormal tissue to the application of the modality;

(D) Indications and contraindications related to the selection and application of the modality;

(E) Guidelines for treatment or administration of the modality within the philosophical framework of occupational therapy;

(F) Appropriate selection and practical application of physical agent modalities, including determining treatment parameters based on existing pathology, impairments, functional limitations, and expected outcomes;

(G) Guidelines for educating the patient, including instructing the patient as to the process and possible outcomes of treatment, including risks and benefits;

(H) Safety rules and precautions related to the selected modality;

(I) Methods for documenting the effectiveness of immediate and long-term effects of treatment; and

2441 (J) Characteristics of the equipment, including safe operation, adjustment, and care of
2442 the equipment.

2443 (b)(1) No occupational therapist shall perform dry needling unless he or she:

2444 (A) Is certified to use physical agent modalities;

2445 (B) Has a minimum of three years of clinical experience as a licensed occupational
2446 therapist; provided, however, that the board may, in its discretion, accept a lesser
2447 amount of clinical experience if the board receives documentation of completion of
2448 courses specifically in dry needling taken while in attendance at an occupational
2449 therapy program recognized by the board; and

2450 (C) Has documented successful completion of coursework in dry needling acceptable
2451 to the board that includes study of musculoskeletal and neuromuscular systems; the
2452 anatomical basis of pain mechanisms, chronic pain, and referred pain; myofascial
2453 trigger point theory; and universal precautions. Such coursework shall also include
2454 postgraduate instruction in:

2455 (i) Anatomical review for safety and effectiveness;

2456 (ii) Indications and contraindications for dry needling;

2457 (iii) Management of adverse effects; and

2458 (iv) Evidence based instruction in the theory of dry needling.

2459 (2) Except for remote study or self-study required as a part of postgraduate coursework
2460 in dry needling, online instruction shall not be considered appropriate training.

2461 (3)(A) In order to perform dry needling on a patient's upper extremities, an
2462 occupational therapist shall have successfully completed a minimum of 28 hours of
2463 postgraduate instruction, of which a minimum of 22 hours shall have been in-person
2464 postgraduate instruction in dry needling on upper extremities in a course acceptable to
2465 the board.

2466 (B) In order to perform dry needling on a patient's lower extremities, an occupational
2467 therapist shall meet the requirements of subparagraph (A) of this paragraph and shall

2468 have successfully completed a minimum of an additional 40 hours of in-person
2469 postgraduate instruction in dry needling on lower extremities in a course acceptable to
2470 the board.

2471 (4) An occupational therapist shall not perform dry needling unless the patient has signed
2472 an informed consent, which shall be maintained in the patient's medical record. The
2473 written informed consent shall clearly state the risks and benefits of dry needling, the
2474 occupational therapist's level of education and training in dry needling, and any other
2475 information required by the board.

2476 ~~(b)~~(c) The board shall promulgate rules and regulations specifically pertaining to the use
2477 of physical agent modalities by a person licensed under this article."

2478 **PART XI**
2479 **SECTION 11-1.**

2480 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
2481 July 1, 2024.

2482 (b) Parts 1 through 7 of this Act shall become effective on January 1, 2025, and shall apply
2483 to all applications for licensure submitted on or after such date.

2484 **SECTION 11-2.**

2485 All laws and parts of laws in conflict with this Act are repealed.