



# PROFESSIONAL CERTIFICATION COALITION

## Summary of Professional Certification Coalition Strategy Call

December 6, 2018

### I. Introduction

- a. Welcome and thank you for your continued support. We have accomplished much since our last strategy call.

### II. Membership

- a. Update on Current Members.
  - i. The PCC currently comprises 105 members. The size of the organization not only provides “strength in numbers” for our advocacy efforts, but the diversity of fields encompassed by our members enables it to be an influential, representative organization for the certification community.
- b. Invoices for the second installment of annual dues will be sent in January.
  - i. Under the PCC’s charter, a payment schedule was instituted in which annual dues would be paid in two installments: the first upon joining, and the second in January 2019. This payment schedule was introduced in recognition that most members’ 2018 budgets would not have accounted for the full dues payment. The second payment will be requested from existing members this coming January. We expect that our upcoming work, particularly in states that introduce legislation in 2019 affecting certification, will require significant dedication of financial resources. Members that join after December will be invoiced for the full annual dues payment, as they will have the full benefit of the PCC’s efforts and access to all PCC work product that has been produced since the PCC’s inception.
- c. PR Update
  - i. We are not aware of any media coverage on the PCC since our last update. Previous media coverage is available on the PCC website under the “Media Coverage” page, <https://members.profcertcoalition.org/media-coverage>.

### III. Strategic Discussion

- a. Ohio Legislation

- i. We have made considerable progress toward amending Ohio SB 255, which represents the most significant threat against private certification among current legislation. In coordination with PCC members and allies on the ground, we were able to persuade the bill sponsor to amend its most offensive provision, which would have called for government certification to supplant private certification in some instances. We were also successful in drafting a safe harbor provision, now included in the substitute version of the bill, stating that nothing in the bill would restrict an occupational licensing board from requiring, as a condition of licensure, to that an individual obtain/maintain certification from a private credentialing organization. If the amended legislation passes the House in its current form, it will go back to the Senate for a final concurrence vote. The changes we have made to this bill could provide a crucial precedent for future bills pertaining to occupational licensure.
  - ii. We have also been monitoring, but not engaging in advocacy efforts related to, SB 716, which allows members of the military and their spouses that are relocated to Ohio to hold temporary Ohio licenses in reliance on licenses issued by other states. These temporary licenses depend on the holder remaining licensed in good standing by the other state, and the temporary license expires after six years of residence in Ohio, or six months after military discharge or transfer out of Ohio, whichever is sooner.
- b. Michigan Legislation
  - i. Michigan HB 6114 is not as problematic as the originally introduced version of Ohio SB 255, but we nevertheless have suggested several amendments to improve the legislation. Most notably, we believe the bill should be amended so that occupational licensing sunset recommendations adequately balance between free market principles and public protection considerations. Although we understand that the sponsor of HB 6114 would like to move the legislation, our best intelligence indicates it is unlikely to advance prior to the end of the short and fast-moving lame-duck session this month.
- c. Illinois Legislation
  - i. Legislation in Illinois related to occupational licensing reform was introduced in mid-November, with several mildly problematic provisions. The state's veto session for 2018 has now ended and the bill never advanced. Based on intelligence we have gathered from sources in Springfield, we will be closely monitoring the state legislature in 2019 to ensure we are prepared to respond should future bills or provisions arise.

d. Missouri Follow-Up

- i. Under laws passed in May 2018 (prior to the PCC's formation), Missouri has defined certification as a state, rather than private, function. Working in partnership with our member, the CFP Board, the PCC has provided interpretive guidance to the sponsor of last year's occupational licensing reform bill. This guidance would clarify that professionals with private certifications may continue to use the term "certified" to describe themselves. Although no firm commitments have been made by the legislature or by the regulators charged with implementing the legislation, the bill sponsor has been receptive to such guidance and may work to persuade regulators to adopt it. Moreover, the CFP Board is in active conversations with the bill sponsor regarding the introduction of a "technical corrections" bill in 2019 that would address some of the issues we have identified.
- ii. In response to a member question on why PCC members were not involved in advocacy about the Missouri bills, the Steering Committee notes that the Missouri law was enacted before the formation of the PCC. The Steering Committee further noted that we encourage members to collaborate with the PCC on all steps of the legislative and advocacy process. We make available all PCC updates, work product, and other materials on the website, and work with lobbyists and legislative officials on the ground, but the involvement members within relevant states is invaluable. Members should continue to monitor the website and email [info@profcertcoalition.org](mailto:info@profcertcoalition.org) to further this collaboration.

e. Executive Orders

- i. We have also been monitoring executive orders by governors, particularly one in New Mexico that calls for consumer disclosures as an alternative to licensure. That provision would require legislative action, however, to become effective.
- ii. The midterms have resulted in a shift in power in a number of state governments, and newly appointed officials frequently utilize executive orders to advance their agenda. While rarely pertaining to public and private licensure laws, we will monitor executive orders and post any updates on the PCC website.

f. Update for Monitoring Pre-filing Bills

- i. Many states have begun their pre-filing period; however, no bills pertaining to the PCC's issue at hand have been pre-filed thus far, according to our active monitoring activities. PCC members with a presence in a particular state are encouraged to reach out to the PCC if

they learn about any legislative/regulatory activity relevant to our priorities.

#### IV. Communication with Stakeholder Groups

##### a. NCSL/NGA/CSG Multistate Consortium Conference

- i. In late November, Craig Saperstein of Pillsbury attended, on the PCC's behalf, a meeting of the multistate consortium formed to collaborate on best practices related to occupational licensing reform. The meeting was convened by the National Conference of State Legislatures, National Governors' Association, and Council of State Governments (with funding from the U.S. Department of Labor). The PCC sponsored the opening reception of the meeting, and Craig delivered a presentation on what the PCC is, who it represents, and what our objectives are. Apart from the visibility we received from speaking, the meeting provided valuable opportunities to get to know state legislators and other stakeholders actively working on occupational licensing reform bills. We also provided copies of our White Paper on Private Professional Certification to meeting attendees; indeed, the White Paper generated significant interest that resulted in NCSL staff printing additional copies for attendees who wanted to review it.

##### b. IJ and ALEC

- i. We remain in frequent communication with the Institute for Justice and the American Legislative Exchange Council, the two primary advocacy groups influencing state occupational licensing reform efforts. We are pleased to report that new model legislation adopted by ALEC (and drafted in large part by IJ) contains several amendments proposed by PCC after we consulted with ALEC in October. Although the PCC and ALEC/IJ are unlikely to reach agreement on all issues – particularly as it pertains to evidentiary standards for justifying occupational licensing requirements – we will continue our dialogue with these groups and believe we have “narrowed the gap” in many important respects. For example, the new model bill now includes “private certification” among the few listed private remedies that fall within the “rebuttable presumption that consumers are sufficiently protected by market competition and [certain enumerated] private remedies.” The new model bill also makes a clear distinction between “government certification” and “private certification.” The restrictions on individuals' right to hold themselves out as certified are limited only to use of the titles “government certified” or “state certified.”

##### c. Women in Government

- i. We have been in contact with leadership from Women in Government and plan to meet with that group soon. The organization is likely to possess markedly more influence next year due to the influx of new female legislators elected in 2018.

V. In-Person Meeting – February 13, 2019

- a. The PCC’s first-ever in-person strategy meeting will take place on the afternoon of February 13, 2018, at the Washington, D.C., law offices of Pillsbury Winthrop Shaw Pittman LLP. The meeting will offer the opportunity for PCC members to discuss strategy, plan our advocacy efforts, and network with fellow professionals. The PCC will provide an agenda and additional details for the event in the coming weeks.

VI. Wrap - Up

- a. As the PCC continues to grow in size, our influence is increasing. Thank you for your continued membership in the PCC.