



PROFESSIONAL
CERTIFICATION
COALITION

March 18, 2019

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Senator Travis Holdman
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Sen. Victoria Spartz
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Re: Indiana S.B. 384

Dear Senator Koch, Senator Holdman, and Senator Spartz:

The Professional Certification Coalition (PCC) writes to express our concerns about S.B. 384, which would make changes to relating to regulation of professions and occupations. In its current form, S.B. 384 would impose broad and indiscriminate obstacles to state recognition of professional certification standards that protect the public from low-quality or harmful services.

The PCC is a nonprofit association founded last year to address legislative initiatives that affect professional certification programs and those who hold private certification credentials. The PCC currently has well over 100 members, including non-governmental professional certification organizations, professional societies and service providers. The PCC's members reflect a full spectrum of professions: including health care, engineering, human resources, financial services and information technology professionals, among many others. The credentials issued, held, or relied upon by our members include both wholly voluntary certifications and some private certifications that are a recognized condition of holding an occupational license. The PCC advances the best interests of those who use or rely on professional certification—such as employers, reimbursers and the general public—as well as of individual professionals themselves who achieve professional certification status, including many residents of Indiana. Our founding organizations – the American Society of Association Executives (the leading organization for association management) and the Institute for Credentialing Excellence (the leading developer of accreditation standards for professional certification programs) – serve as the Steering Committee for the PCC.

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Unfortunately, in its current form, S.B. 384 could have the effect of restricting regulatory agencies from requiring private certification as a condition of licensure. Certifications communicate to the public that certified professionals have met established standards for knowledge, skill, and competency in their fields. As subject matter experts, private certification organizations are in the best position to develop requirements for their certificants that are necessary to protect the public. In some fields, such as health care, safety-related roles and the engineering and financial industries, regulatory agencies have incorporated the competency standards established by non-governmental professional certification programs into licensure requirements. These regulatory requirements serve to acknowledge both the importance of setting competency standards for the protection of the public and the value of having those standards defined by subject matter experts rather than by government officials.

For these professions, the *content* of the standards is best established by the non-governmental professional certification program, but *enforcement* of the standards is more effectively done by the licensing agency. In professions for which state licensing boards have historically provided oversight, it would not serve the public interest to eliminate or weaken licensure requirements and shift the enforcement function currently performed by licensure boards onto private certification programs. Private certification organizations lack the legal authority and the resources to serve as a substitute for licensing boards for professions for which licensure is required to protect public health, safety or welfare.

As introduced, S.B. 384 calls for the Attorney General to disapprove of any regulation that would displace competition if it is not necessary and the “least restrictive regulation” to protect consumers from “present, significant, and substantiated harms that threaten the public health and safety.” Because current regulations that incorporate certification requirements as a condition of licensure already protect the public from “present” harm at the hands of unqualified professionals, these regulations will be unable to meet this evidentiary standard. Unless the bill is amended to change this unrealistic evidentiary standard, the public will lose the protections that the Indiana legislature has adopted in its licensure laws.

With these considerations in mind, the PCC encourages the Indiana General Assembly to make the following amendments:

1. Amend § 41-22-2-32(b)(4) to read as follows:

(4) If the adopted rule is necessary but would displace competition, the least restrictive regulation (as defined in IC 4-22-2.1-2.2) that would protect consumers from present **or potential**, significant, and substantiated harms that threaten public health, **safety, or welfare**.

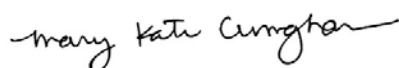
2. Add two safe harbor provisions, in a new Section 1(l) and 1(m):
 - “Nothing in this chapter is intended to restrict an agency from requiring, as a condition of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.”
 - “The state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”

These safe harbor provisions are modeled on similar language adopted by the Ohio legislature in its enactment in 2018 of S.B. 255, after the PCC raised similar concerns about that legislation.

The PCC applauds Indiana for its efforts to remove unnecessary barriers to entry into professions in order to promote market competition and employment opportunities through S.B. 384. We respectfully request, however, that the legislature amend the bill as suggested above to better balance the protections to public health, safety and welfare derived from professional certification with the laudable objectives of professional licensing reform.

Thank you for your consideration of these amendments. If you have any questions regarding this letter, please feel free to reach out to us using the contact information identified below.

Sincerely,



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