



PROFESSIONAL
CERTIFICATION
COALITION

March 22, 2019

The Honorable Bruce Cozart
Representative
Arkansas General Assembly
Room 350
State Capitol Building
500 Woodlane Street
Little Rock, AR 72201

The Honorable John Cooper
Senator
Arkansas State Senate
P.O. Box 16801
Jonesboro, AK 72404

Re: Arkansas H.B. 1527

Dear Representative Cozart:

The Professional Certification Coalition (PCC) writes to express our concerns about the effect of H.B. 1527 on private professional certification. Although the PCC shares your objective that occupational licensing regulations should balance the needs of market competition with consumer protection, we believe that, in its current form, H.B. 1527 could have a negative impact on professional certification organizations and on Arkansas citizens who have earned those certifications. It would impose obstacles to state recognition of professional certification standards that protect the public from low-quality or harmful services and could also compel the state to expend taxpayer dollars unnecessarily.

The PCC is a nonprofit association founded last year to address legislative initiatives that affect professional certification programs and those who hold or rely upon private certification credentials, including many residents of Arkansas. 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. 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.

Unfortunately, in its current form, H.B. 1527 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 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

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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.

With these considerations in mind, the PCC encourages the following amendments:

1. In its current form, H.B. 1527 appears to call for the state to establish its own certification programs, rather than relying on private certifications. Doing so would be a waste of taxpayer money, given that well-established and recognized private voluntary professional certifications already exist. There is no reason for the state to expend taxpayer resources to enter into the certification business by establishing costly new programs, in many instances competing with private organizations that have already established certification programs based on their unique expertise in the field or profession. The PCC therefore encourages adoption of the following amendment to this provision:
 - Amend Sec. 10-3-318(e)(2) to state that “If the Legislative Council finds substantiated evidence of significant harm arising from ... (H) Shortfalls or lack of knowledge about the good or service among consumers relative to the occupational practitioner's knowledge, the Legislative Council may recommend legislation enacting government-required certification or other occupational authorization, **unless suitable, private certification for the relevant occupation is available. As used in this section, ‘suitable’ means widely recognized as reflecting established standards of competency, skill, or knowledge in the field.**”

This language is 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.

2. As currently drafted, H.B. 1527 appears not to allow regulations to protect consumers from financial harm or other harms not directly related to their health or safety. The PCC encourages adoption of the following amendments, which tracks language proposed by Sen. Cooper in S.B. 451:
 - Amend Sec. 10-3-318(b) to state that “It is the intent of the General Assembly to determine and implement the least restrictive form of occupational authorization to protect consumers from significant and substantiated harms to public health and safety. **‘Public health and safety,’ as used in this chapter, includes protections from items or events that can cause disease, illness, injury to a person or damage to property, or financial harm, or have detrimental effects on the public good.**”
3. Finally, to avoid creating barriers to state recognition of private certification in licensure requirements, we also request that the bill be revised to add a new Section Sec. 10-3-318(h):


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- **“Nothing in this chapter is intended to restrict an agency from requiring, as a condition of licensure or renewal 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.”**

This language is also modeled on similar language adopted by the Ohio legislature in its enactment in 2018 of S.B. 255.

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,



Mary Kate Cunningham
Vice President, Public Policy
ASAE: The Center for Association Leadership
Phone: (202) 626-2787
Email: mcunningham@asaecenter.org



Denise Roosendaal
Executive Director
Institute for Credentialing Excellence
Phone: (202) 367-1165
Email: droosendaal@credentialingexcellence.org

CC: Representative LeAnn Burch
Representative Roger D. Lynch
Representative Milton Nicks, Jr.
Representative Richard Womack
Senator Trent Garner