

PCC March 6, 2019 Member Call

1. Welcome (Denise Roosendaal and Mary Kate Cunningham)
 - a. Thanks to members for continuing participation, as well as participation in the in-person meeting last month.
 - b. Welcome to Jeff Evans, new associate government affairs director for ASAE, who will be participating in PCC activities.
2. Membership Updates
 - a. We have 113 members. Thank you to all members for referrals. We are pleased with our growing membership.
 - b. PR Update – Denise Roosendaal wrote an article (accessible on the PCC website) discussing the current legislation and summarizing key activities of the PCC. Please feel free to use this article to educate your board of directors/members about the PCC’s activities and objectives. Members should also feel welcome to forward any relevant PR materials to the PCC email account.
 - c. Craig Saperstein was pleased to participate in an ASAE Government Relations Section Council webinar on February 4th, alongside representatives from AICPA, the Ohio Society of Association Executives, and HillStaffer. Over 140 listeners participated. ICE is sponsoring a webinar hosted by Julia Judish and Denise Roosendaal on March 21st to continue to get the word out regarding our coalition.
 - d. The PCC legal team has been contacted by member organization to speak to their stakeholders and board members regarding the PCC. The PCC’s lawyers are more than happy to do so. Please reach out to us via email if you are interested in having a representative speak to your members or board.
3. Strategic Discussion
 - a. Overview: We are currently tracking approximately 70 state bills that have potential effects on licensure/certification. More than half are related to criminal reentry. With respect to these criminal reentry bills, we have informed legislators that a safe harbor provision protecting private certification standards/ethics codes is needed. Our production of those letters articulating the PCC’s position remains ongoing.
 - b. Bills that are no longer active: There are now numerous bills we’ve been monitoring that did not make it out of committee, did not pass prior to the end of the state legislative session, or did not meet certain state legislative deadlines, such as “crossover” deadlines. These bills are effectively dead for the 2019 legislative session.
 - c. Bills enacted into law: A Virginia bill we have been monitoring is the only one on PCC watchlist that passed both chambers of legislature, prior to the end of the VA regular legislative session in late February.

- d. Consumer choice bills: As reported previously, we have been monitoring three bills (two companion bills in West Virginia and one in Indiana) that would allow unlicensed and potentially unqualified individuals to perform an otherwise licensed occupation so long as they provide an (in our view, inadequate) disclosure. All three bills are now effectively dead for the 2019 legislative session. However, a new consumer choice bill, Missouri Senate Bill 500, has been introduced. The bill exempts 11 healthcare-related occupations from coverage, but is otherwise quite harmful to the certification community. We are drafting proposed amendments to this bill and are considering engaging a local lobbyist.
- e. Right to Earn a Living Act: In Oklahoma, the so-called “Right to Earn a Living Act”. would have allowed any individual to get a court injunction related to needing to obtain an occupational license and would have placed the burden of proof on the government to justify the licensure requirement. Fortunately, the bill failed to pass the Senate prior to that state’s crossover deadline. However, the bill could come back in another form or during the 2020 legislative session. We continue to monitor Oklahoma legislation and will engage if provisions from the dead bill are attached to another legislative vehicle.
- f. Member questions:

Question: It appears in the Oklahoma Right to Earn a Living bill that the bills are very general and don’t appear to prevent healthcare licensure. What is your taken on their impact on healthcare occupations that more traditionally have more stringent licensure?

Julia Judish – We haven’t seen this issue – whether healthcare license requirements are the least restrictive measure to protect the public interest -- play out in court.

Question: Is there any explanation regarding the selection of professions, particularly health care professions, are being exempted from coverage under the consumer choice bills?

Julia Judish – There appears to be no rhyme or reason on this. The Missouri bill lists both physicians and PAs as excluded from coverage, but in WV the five exempted occupations did not include PAs; the selection was puzzling and seemed somewhat random. It is possible the bill authors went through the legal code that had title chapters defining these positions, but we don’t know what groups were given advance notice of the bill or if the lists of exempted professions have just been developed by the sponsors of the bills. If anyone has insight on how these decisions are made, please let us know.

Question: We are very concerned that engineers are not exempt from the consumer choice bills. How do members of the public provide consent to products produced by unlicensed engineers?

Answer – We are working on letters that make this very point. We are very concerned about the Missouri consumer choice bill and are considering hiring a lobbyist for this issue.

Question: There are other unlicensed groups in the design industry that can find loopholes through these various bills – is consumer consent going to put these groups at a disadvantage?

Julia Judish – Our proposed amendments to these bills specify that any consumer consent requirements should apply only to professions that are licensed.

4. Stakeholder Group Communications

- a. We have maintained contact with ALEC and IJ. While we have not had a lot of sustentative communication over the past few weeks, we intend to share letters with our contacts at those organizations and, if they are comfortable with our views, we will encourage them to the inform bill sponsors with whom they are working to accept our proposed amendments.
- b. Model bills that incorporate some of the legislative language we've shared with the organizations has been posted to the ALEC and IJ websites. Several bills we've been monitoring have additional language specifying that they are not intended to affect private certification, perhaps reflecting our influence on ALEC and IJ.

5. In-Person Meeting

- a. The PCC Steering Committee and legal counsel provided a detailed overview of the status of relevant legislation and the PCC's proposed strategy for addressing such legislation.
- b. Later in the session, we formed two breakout groups – one for wholly voluntary certification organizations and one for certification organizations whose standards have been incorporated into licensure requirements – to discuss issues of particular concern to those segments of our membership. PCC members commented that they found the breakout groups to be highly informative.
- c. We also discussed broadening the PCC's scope of work to include advocacy at the federal level. In particular, PCC members expressed support for the PCC advocating for federal legislation (S. 379) that would allow individuals to use funds in their 529 college savings accounts to pay for expenses associated with obtaining a certification credential or occupational licensing. Right now, S. 379 only has support from Democratic senators and the bill may face challenges in the GOP-controlled Senate given that Sen. Amy Klobuchar (D-MN), a declared candidate for President, is the author of the legislation. Nevertheless, given its merits, we believe this bill is worth monitoring and advocating for. Several PCC members also expressed interest in building grassroots support for S. 379 among their members.
- d. White Paper: Several members suggested that the PCC compose a white paper outlining key principles related to criminal conviction reentry-related legislation. The PCC agrees, and envisions preparing two such papers – one for internal organizational use and one for external use. The PCC will work on these papers after the press of responding to state legislation eases.