



PROFESSIONAL
CERTIFICATION
COALITION

April 17, 2019

Representative Raymond Dehn
537 State Office Building
St. Paul, MN 55155

Representative Aisha Gomez
529 State Office Building
St. Paul, MN 55155

Representative Fue Lee
485 State Office Building
St. Paul, MN 55155

Representative John Lesch
563 State Office Building
St. Paul, MN 55155

Re: Minnesota H.F. 2394

Dear Representatives Dehn, Gomez, Lee and Lesch:

The Professional Certification Coalition (PCC) writes to express concerns about the potential effects of Minnesota H.F. 2394 relating to private certification organizations. The PCC applauds Minnesota for advancing important criminal justice reforms through H.F. 2394 and for carefully distinguishing between state-issued certifications, state licensure boards, and private certifications. In its current form, however, H.F. 2394 could be interpreted as restricting or invalidating licensure regulations that condition licensure on current private certification. Given that private certifications provide important assurances to the public that certified professionals have relevant qualifications and meet established standards, we request that the legislature modify the bill to avoid potential negative impacts.

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 professionals, professional and civil engineers, human resources managers, financial professionals, and information technology professionals, among many others. 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 Minnesota. 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.

The PCC supports H.F. 2394's worthy objective of reducing recidivism by expanding opportunities for ex-offenders to earn a living. The PCC believes it is important, however, to clarify that H.F. 2394 is not intended to remove certification requirements from practice acts that require licensed professionals to earn and maintain current certifications issued by private certification bodies.

In its current form, the bill provides that a state licensing board may only consider a conviction of a nonexcluded crime that is a felony or violent misdemeanor. A board may not consider any conviction that occurred more than three years before the date of the board's consideration except for a conviction of: (i) a felony crime of violence; (ii) a felony criminal sexual conduct; or (iii) a felony related to fraud or embezzlement. The ethics codes of some private certification programs, by contrast, call for revocation or denial of certification due to nonviolent criminal convictions – and the conduct underlying those convictions – that are relevant to the practice of a specific occupation, even if the conviction was at the misdemeanor level or occurred several years prior to any application for certification. (The vast majority of felony charges result in plea bargain convictions, often in exchange for reducing the felony charge to a misdemeanor.)

For example, convictions for abusing prescription privileges to distribute opioids typically lead to loss of certification for healthcare professionals, and convictions for embezzlement or fraud typically lead to loss of certification for financial professionals, even at the misdemeanor level. This is relevant to H.F. 2394 because licensure laws for healthcare and financial professionals require current private certification, as do licensure laws for safety-related roles, civil and professional engineers, and other professions in which significant expertise is needed to practice competently. If individuals in those professions do not hold current certification – because they failed the certification exam, did not pay their certification maintenance fees, allowed their certification to expire without applying for renewal, or had their certification revoked for any reason, including criminal conduct – then, under the practice acts, those individuals would not be eligible for licensure or renewal of licensure. H.F. 2394 should not create a special exception to this requirement for individuals whose loss of certification results from a criminal conviction.

To avoid undermining practice acts that incorporate certification, we recommend the inclusion of a new provision to Subd. 8 to Section 214.52, as follows:

Nothing in sections 214.50 to 214.54 shall be construed to alter any requirement in a licensure statute or regulation for an individual

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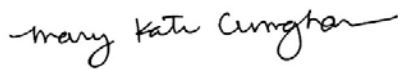
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to hold current private certification as a condition of licensure or renewal of licensure.

This amendment would clarify that H.F. 2394 governs decision-making by the state about whether to grant certification to an individual with a criminal conviction history and what factors the state agency must consider in making those determinations. It should not, however, require the state to review the disciplinary actions of certification organizations and second-guess them before the state can enforce certification requirements in practice acts.

Thank you for your consideration of this amendment. 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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