

Professional Certification Coalition Member Strategy Call
Thursday, May 23, 2019 11:00 a.m. ET

I. Welcome (Craig Saperstein, Mary-Kate Cunningham and Denise Roosendaal)

- a. Welcome to the monthly member call and thanks for your continued participation and support.
- b. The PCC wants to emphasize that there is more work on the horizon despite the decline in legislative activity in recent weeks.

II. Membership

- a. Outstanding invoices
 - i. Please forward outstanding dues from this year to accounting team for processing.
 - ii. Invoices for the next fiscal year will be sent around the beginning of June.
- b. Announcements regarding new fiscal year/new website access
 - i. The PCC website has now reached a level of content and maturity that is prompting the PCC to seek new ways for members to access the website. The PCC is in the process of developing individual username and password login information for each PCC member for the website. Announcements on this development to come in the next few weeks.
- c. PR update
 - i. The PCC has been monitoring news coverage and has circulated relevant articles over the past few weeks.
 - ii. Organizations within the PCC are also producing their own materials. Mary Kate Cunningham of ASAE recently worked on a piece for *Associations Now* in hopes of broadening exposure.

III. Strategic Discussion – State Legislation

- a. Missouri Legislation
 - i. H.B. 564 is a criminal reentry bill introduced by Missouri Rep. Derek Grier. Although H.B. 564 passed the Missouri Senate on 5/17/19, H.B. 564 did not become law before the end of the Missouri legislative session due to time constraints. The PCC's lobbying firm in Jefferson City

received confirmation from Rep. Grier that a safe harbor provision will be added to H.B. 564 (or its successor bill) should it return next year.

- ii. In addition to amending H.B. 564 to provide a safe harbor for private certification, the PCC also seeks to amend a 2018 law (enacted prior to the PCC's formation) that could have an adverse impact on private certification and certificants. First, the PCC is concerned that the restriction on use of the title "registered", as defined under that law, would prohibit use of the title by individuals who have earned a private credential that identifies them as a "registered" professional. Although we are unaware of any enforcement activity on this issue, we believe that the law should be amended to protect the right of individuals to use titles they have earned. Second, the language of the 2018 law calls for the state to establish competing certification programs if there is an imbalance in information between providers and consumers. The PCC wants this language removed to ensure that state regulatory agencies do not abuse this discretion.
- iii. The PCC has engaged the services of Husch Blackwell Strategies in Missouri until the end of the 2020 legislative session to assist on H.B. 564 and other relevant bills in the state. Our goal is to ensure that any relevant legislation contain the PCC's favored language.

b. Pennsylvania Legislation

- i. After last month's member call, the PCC has formed an informal working group for members that have expressed interest in H.B. 811. We thank those that sent letters from your organizations and believe it is having a real impact. A PCC member relayed to us the valuable intelligence that the Chair of the House Professional Licensure Committee does not plan to move forward with H.B. 811 in its current form. This is potentially subject to change, given the broader support for occupational licensing reform in the legislature, but we are cautiously optimistic.
- ii. Several PCC members and allies have traveled to Harrisburg to lobby legislators on H.B. 811 and have met with staffers for the bill sponsor, Rep. Cox. Staffers indicated that there is a lack of understanding with the substance of H.B. 811 and will inform Rep. Cox of the issues raised by PCC.
- iii. H.B. 811 defines licensing and certifying bodies as an issuing body where an individual has applied for a license or certification needed to perform the profession in Pennsylvania. On its face, H.B. 811 would apply to both private certifying bodies and governmental licensing authorities in Pennsylvania. An additional provision in H.B. 811 provides that use of the title "certified" may only be used if an individual has been issued a certification by a certifying body. This may result in restricting persons

certified by a private organization from using the title “certified” if the scope of H.B. 811 is narrowly interpreted to only include government certifications.

- iv. More generally, there is currently a high interest in occupational licensing reform in Pennsylvania. There is a chance that language from H.B. 811 may be added to future legislation, so the PCC will remain vigilant about monitoring developments in this state and continue its efforts. Please feel free reach out if your organization would benefit from receiving PCC-crafted talking points when approaching advocacy with Pennsylvania legislators.

c. Michigan Legislation

- i. Michigan S.B. 40 remains active and we are monitoring its progress.
- ii. More recently, Michigan H.B. 4488 was introduced. H.B. 4488 prohibits any licensing board from considering any misdemeanor or civil judgment to disqualify an individual from licensure. Felonies may only be considered if the licensure board determines that the conviction history indicates a threat to public safety. The PCC is concerned because many certification organizations do not conduct their own hearings, trials or other disciplinary proceedings and rely on information from licensing board decisions. H.B. 4488 would also remove an important source of information that certification organizations rely on to enforce their own ethics codes since most certification bodies do not conduct their own background checks. In addition, H.B. 4488 would prohibit any other public record that bears on an individual’s good moral character from being considered, which could undercut licensure laws that condition licensure on holding a private certification.
- iii. A member of the Michigan Society of Association Executives attended a hearing on H.B. 4488 earlier this week and indicated that a number of groups and committee members spoke in opposition to H.B. 4488. Nevertheless, proponents of H.B. 4488 argue that many individuals already practice within various professions without a license, making enforcement efforts futile. Proponents also argue that H.B. 4488 would allow more people into the workforce and that market forces will naturally force unqualified people out.
- iv. Please note that Michigan has a year-round legislative session; as such, both S.B. 40 and H.B. 4488 will likely remain on our radar for many months. Please contact us if you have any allies or affiliates in Lansing who might be willing to assist in our advocacy efforts related to these bills.

d. Other bills

- i. Several other high priority bills have died due to the end of legislative sessions or not progressing before legislative deadlines, including Washington H.B. 1770, Iowa H.F. 751, and South Carolina S.B. 330. North Carolina S.B.

305 also missed a crossover deadline and is presumably inactive until 2020. The PCC will still monitor this bill since its substantive provisions could appear in other bills that remain active.

- ii. There has not been much activity on other bills contained in the Watchlist due to adjournment of state legislative sessions. In particular, the vast majority of the numerous criminal history bills did not advance. The PCC will schedule debriefing meetings with stakeholder groups to discuss the legislation from the recent legislative sessions. We suspect legislators and stakeholder groups are going to go back to the drawing board and, now that state legislators are aware of us, the PCC aims to be involved in new drafting efforts.

IV. Strategic Discussion – Federal Legislation

a. Use of 529 plans for post-secondary credentials

- i. Over the past few days, the PCC was in frequent communication with key staff and Members on the House Ways and Means Committee in an attempt to persuade them to insert an amendment – largely similar to Sen. Klobuchar’s S. 379 – into the bipartisan SECURE Act, a retirement security bill that passed the House on Thursday. The amendment would have permitted use of tax-favored 529 plan funds to cover expenses relating to preparing for and taking certification exams. We emphasized to key Members and staff that the 529-related provisions of the SECURE Act could naturally be expanded to permit beneficiaries to use funds in 529 plans for expenses associated with postsecondary credentials. Although the PCC received very positive feedback on our proposal, our stealth campaign to have our language inserted ultimately fell short, because the Committee determined that further changes to the already contentious 529-related provisions (even ones as non-controversial as ours) could derail the broad bipartisan support for the legislation. However, our advocacy efforts laid the groundwork for broad support for the concept in the House going forward.
- ii. Additionally, the PCC is working with staff for Senator Klobuchar to determine how we could best achieve advancement of her legislation (or a slightly broader version of it that covers a wider range of certification-related expenses), which is the inspiration for our efforts. We will be talking with her staff about developing a grassroots campaign to build support for this legislation. We do believe legislation similar to the SECURE Act will be introduced on the Senate side; such legislation could serve as a vehicle for getting it passed.

b. Fair Chance Licensing Act

- i. An in-depth analysis of this bill is available on our website, on the position papers site. We plan to speak to the sponsors of the legislation, Senator

Booker and Rep. Watson Coleman, regarding concerns with the language of the bill, but do not expect any movement in near future.

V. Questions from Members

1. *Should members still write in about Pennsylvania H.B.811?*

-The PCC encourages members to continue sending letters about H.B. 811. The bill may still move forward and changes may occur quickly or unexpectedly.

2. *Is there sample correspondence regarding H.B. 811 for guidance?*

- Yes; the PCC has sent a letter that members can use as a model. Go to the For Members section of the website and look at PCC's letter to Rep. Cox.

3. *I heard that Pennsylvania H.B. 811 addresses the need for licensing and not voluntary certification. Is that distinction made in the bill?*

- H.B. 811's provisions limiting consideration of criminal conviction histories applies to "licensing and certifying bodies," if the certification or other qualification is required to engage in the profession in Pennsylvania. Facially, H.B. 811 would apply to any certification body that issues certifications that are a precondition to licensure, whether governmental or private. This could be a drafting error, or drafters may not have a full appreciation of how this language works with other parts of the bill. As such, it needs to be addressed. In addition, the restriction on the use of the title "certified" could apply to those holding private certifications, depending on the interpretation of the term "licensing and certifying bodies."

4. *Is there any benefit to attending conferences such as WiG or NCSL?*

- We encourage PCC members to engage with anyone presenting on these types of topics. The PCC has also engaged with both organizations on potential sponsorship opportunities that could provide opportunities to promote our message.

V. Closing Comments

- a. Despite extensive efforts to educate stakeholder groups and legislators, we keep encountering bills that have a realistic chance of being enacted and that reflect a lack of understanding of the difference between government and private certification of certain professions. We are afraid this misunderstanding is something the PCC will continue to see this upcoming year.
- b. Please keep in touch as you become aware of legislative activity and with updates on your organization's advocacy.