



PROFESSIONAL
CERTIFICATION
COALITION

February 26, 2020

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Re: West Virginia H.B. 4011

Dear Senator Trump and Senator Weld:

The Professional Certification Coalition (PCC) writes regarding the potential harmful effects of West Virginia H.B. 4011, relating to occupational licensing reform. In its current form, H.B. 4011 could be misinterpreted to restrict private certification organizations' enforcement of their ethics codes or eligibility requirements. In addition, it could be interpreted as restricting or invalidating licensure regulations that condition licensure on current private certification. Given the importance to the public of the assurances of relevant qualifications and meeting established standards that private certifications confer, the bill should be modified to avoid these potential impacts. We also suggest that the bill could benefit from amendments designed to ensure that licensing agencies consider information relevant to the protection of the public. The PCC has also written to Sen. Maynard about S.B. 313 and Del. Jeffries about H.B. 4122 to share these concerns.

The PCC is a nonprofit association founded in 2018 to address legislative initiatives that affect professional certification programs, those who hold private certification credentials, and the many constituencies that rely on professional certification. The PCC currently has more than 100 organizational members, including non-governmental professional certification organizations, professional societies and service providers. The PCC's members reflect a wide spectrum of professions, including health care, professional and civil engineering, financial services, and information technology, 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 West Virginia. 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.

H.B. 4011 advances the important goal of reducing recidivism by making it easier for an ex-offenders to earn a living. We believe this is a worthy objective, and we support this important

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next step in national efforts to reform the criminal justice system and to ensure pathways to opportunity for ex-offenders.

At the same time, we believe that there is no substitute for the subject matter expertise that serves as the foundation for developing professional certifications, whether those credentials are wholly voluntary or a recognized condition of holding a state-issued occupational license. Private certification organizations are in the best position to assess what profession-specific certification requirements, both substantive and conduct-related, are necessary to protect the public and to qualify for the organization's credentials. The PCC believes it is important to clarify that H.B. 4011 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. We also suggest amendments designed to balance expanded opportunities for ex-offenders with protections for the public.

Therefore, we recommend the inclusion of the following amendments to address these concerns:

- Add a safe harbor provision: **“Nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”**
- Amend definition of “rational nexus” to add **“and (E) evidence of whether the individual poses an unacceptable risk to the people with whom the individual would interact in the conduct of the profession or occupation.”**
- Amend § 30A-1-29(3)(B) to add: **“The individual has not been convicted of any other crime during the period of time following the disqualifying offense and has no pending criminal charges,”**
- Amend § 30A-1-29(3)(C) to add: **“The conviction was not for an offense that directly relates to the individual’s fitness to practice the occupation, did not relate to fraud in connection with the practice of the occupation, and was not for an offense of a violent or sexual nature.”**

The PCC applauds West Virginia for advancing important criminal justice reforms through H.B. 4011. We respectfully request, however, that you and your colleagues in the legislature amend the bill as we have requested above to avoid intruding on the right of private certification organizations to define and enforce their own eligibility standards and to ensure that licensure decisions are made with appropriate protections for the public.

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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