

Professional Certification Coalition Member Strategy Call

Thursday, June 25, 2020

12:00 p.m. ET

1. Welcome

- a. Thank you to all members who have kept in touch and stayed engaged during this difficult time.
- b. This is the last call of the 2019-2020 fiscal year.
- c. Please complete any outstanding dues payments for the Second Fiscal Year as soon as possible. All members should soon receive invoices for the 2020-2021 fiscal year.
- d. Certifications are more important than ever during the pandemic
 - i. The pandemic and the shutdown have jeopardized career progression and job security for many Americans, and many are now interested in earning new credentials to become competitive.
 - ii. Lawmakers are paying attention to certification as they consider how to help struggling workers.
 - iii. While COVID-19 has hurt the economy, it also provides an opportunity to highlight the certification community and the importance of subject matter expertise.

2. Strategic Discussion – State Legislation

- a. The PCC is monitoring fewer bills as most state legislatures are out of session for the summer and we saw a significant drop in non-COVID-19 legislation around mid-March.
- b. Missouri legislation update
 - i. HB 2046
 1. Missouri signed the legislation into law; HB 2046 contains an amendment recommended by the PCC that aims to protect the interests of the certification community and certified professionals.
 - ii. Interpretation from the Missouri Division of Professional Registration
 1. The PCC has also been seeking change to or an interpretation of a current Missouri law that, read plainly, could restrict the ability of individual to hold themselves out as a “registered” professional in a profession that confers such title in conjunction with a privately issued credential.
 2. A representative from the Missouri Division of Professional Registration confirmed to the staff of bill sponsor Sen. Andrew Koenig in writing that the Division agrees with the PCC’s interpretation and advises certificants that “if you’ve received a title by a private certification organization, you may continue to use that title.”
 3. The PCC plans to send a letter requesting a formal interpretation of the bill.

4. Please reach out to the PCC if you use any titles other than “certified” or “registered,” so that we can advocate for their protection by the formal interpretation.

3. Strategic Discussion – Federal Legislation

a. H.R. 5339 – Freedom to Invest in Tomorrow’s Workforce Act

- i. Introduced by Rep. Abigail Spanberger (D-VA).
- ii. This bill amends the Internal Revenue Code to allow the use of funds in a 529 plan to pay for expenses associated with obtaining or maintaining recognized postsecondary credentials (including assessments and examinations) and treats postsecondary credentials as qualified higher education expenses.
- iii. ASAE held its first Congressional town hall event and awarded Rep. Spanberger and Rep. Whitman (D-VA) the Centennial Award for their work on this bill.
- iv. NOTE: After this PCC member strategy call, we learned that Rep. Elaine Luria (D-VA) signed on as a cosponsor to H.R. 5339. We will continue to work with the offices of Reps. Spanberger and Wittman to recruit additional cosponsors to the bill.

b. S. 3779/H.R. 7032 – Skills Renewal Act

- i. Introduced by Sens. Amy Klobuchar (D-MN) and Ben Sasse (R-NE) on the Senate side and Reps. Derek Kilmer (D-WA), Terri Sewell (D-AL), and G.T. Thompson (R-PA) on the House side.
- ii. Bill allows eligible individuals a refundable tax credit, up to \$4,000 in a taxable year, for expenses paid for qualified training service.
- iii. The bill defines:
 1. “qualified training service” as a course or program of study that is listed in provisions of the Workforce Innovation and Opportunity Act or that relates to computer science, technology, or another high-need area, such as a coding boot camp, that have been precertified by the Department of Labor.
 2. “eligible individual” as someone who became unemployed or furloughed in 2020 but was otherwise able to work and was available for work and has applied for or is receiving pandemic emergency unemployment compensation related to COVID-19.
- iv. We reached out to Sen. Klobuchar and Sen. Sasse’s offices offering amendments to bill to make sure that credentials were covered.
- v. Handshake agreement with Sen. Klobuchar and Sasse’s staff that the PCC’s amendments will be included in the bill. Similar indications from Rep. Kilmer’s staff.
- vi. We will send messaging in support of this bill that members and certificants can sent to members of Congress.

4. Strategic Discussion – Amicus brief in *Kenney v. American Board of Internal Medicine*

- a. District Court for the Eastern District of Pennsylvania dismissed suit by doctors that alleges that ABIM’s requirement that doctors regularly update board certifications is illegal tying in violation of antitrust laws.

- b. The judge held that initial certification the board offers to physicians in internal medicine and its requirement that the certifications be updated every ten years are a single product and does not constitute illegal tying.
- c. The matter has now been appealed to the United States Court of Appeals for the Third Circuit.
- d. The PCC Steering Committee has decided that it would be worthwhile for the PCC, ASAE, and ICE to file an amicus brief to argue that certification organizations cannot be challenged under antitrust laws if they are using reasonable standards and fair procedures.

5. Year in Review/Looking to the Future

- a. We published a document with key accomplishments and a prospectus for the next fiscal year.
- b. The PCC will continue to monitor legislation, provide updates, hold member strategy calls, host an annual in-person meeting (pending safety considerations), and cultivate relationships with legislators and stakeholder groups.
- c. We are drafting a primer on the content and impact of California AB 5 to solicit member feedback before the PCC takes a position on the bill.