



February 12, 2021

Senator James Leewright Chairman Business, Commerce and Tourism Committee 2300 N. Lincoln Blvd., Rm. 431 Oklahoma City, OK 73105 James.leewright@oksenate.gov	Senator Bill Coleman Vice Chairman Business, Commerce, and Tourism Committee 2300 N. Lincoln Blvd., Rm 445 Oklahoma City, OK 73105 Bill.coleman@oksenate.gov
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Re: Oklahoma S.B. 542

Dear Senators Leewright and Coleman:

The Professional Certification Coalition (PCC) writes to raise concerns regarding the negative effects of S.B. 542, the “Right to Earn a Living Act.” The PCC strongly opposes the bill’s proposal to mandate that agencies repeal regulations unless an extremely high evidentiary standard is met and to permit a private cause of action for individuals to challenge occupational licensing regulations. S.B. 542 could have an adverse effect on the health, safety, and welfare of Oklahoma citizens who trust the state to protect the public from low-quality or harmful services and could also compel the state to expend taxpayer dollars unnecessarily. For this reason, we respectfully ask that the Business, Commerce, and Tourism Committee not advance the bill to a Senate vote.

The PCC is a nonprofit association formed 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’s organizational members include 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. 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) – govern the PCC.

S.B. 542 has two key components. The first calls on state licensing agencies to review all occupational regulations to ensure that they are limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives. The PCC supports the objective of careful review of licensure laws to ensure that unnecessary obstacles to the practice of professions is lightened or removed. However, we regard the bill’s current definition of “welfare” as too narrow, as it only encompasses protection of members of the public against fraud or harm. This evidentiary burden is extremely high, and the “demonstrably necessary” standard suggests that proof of actual harms from the absence of the regulatory requirements would be needed to meet it. This would impose an impracticable burden on the licensing authority to collect appropriate data, as there

is in fact no existing data available that gathers evidence of public harm from each level of restriction and compares the level of harm from requiring, for example, bonding and insurance versus an occupational license requirement.

In addition, some licensure laws appropriately set baseline levels of professional competence above inflicting harm on members of the public. It promotes public welfare, for example, to ensure that Oklahoma public school teachers pass the three competency-based teacher tests required to become certified to teach in Oklahoma public schools. Quantifying the “harm” to the public from classroom teachers who fall short of those measures would be extremely difficult to do and would require longitudinal data that would be unavailable at the time of review of those regulations.

The second component of the bill invites costly litigation against government agencies by directly creating a private right of action for individuals to seek injunctions against licensure regulations. The PCC opposes this component of the bill, for several reasons. First, the bill effectively shifts the burden of proof to the government in all cases, as any petitioner would be able to meet the threshold of burden of showing that a regulation “burdens the entry into a profession or occupation.” By definition, all licensure laws do that.

Second, the government would bear the burden of proof in establishing that regulations serve the public interest and are drafted in the least restrictive manner, according to the hierarchy of least restrictive to most restrictive listed in the bill. No government agency will have data comparing the effects of the various levels of regulation in the list, because that list was not a factor at the time of adoption of the regulations. Although the PCC does not oppose a procedure in which regulations that do not promote the public interest are modified or repealed, the measure of whether a regulation promotes the public interest should not be an artificial hierarchy that bears no relation to the issues a state agency oversees.

Moreover, inviting costly litigation that the state would have to defend would waste limited state resources and taxpayer dollars. The threat and likelihood of litigation, and the cost burden of the resulting legal expenses, would require agencies would create significant budgetary pressures on the state to eliminate occupational licensure wherever feasible, even when doing so would not be in the best interest of Oklahoma citizens.

With these considerations in mind, we request that the Committee not advance S.B.542, or at least significantly amend it, so as to protect Oklahoma citizens.

Thank you for your consideration of this letter. If you have any questions regarding this letter, please feel free to reach out to us using the contact information identified below.

Sincerely,





Mary Kate Cunningham
Senior Vice President, Public Policy
ASAE: The Center for Association Leadership
Phone: (202) 626-2787
Email: mcunningham@asaacenter.org

Denise Roosendaal
Executive Director
Institute for Credentialing Excellence
Phone: (202) 367-1165
Email: droosendaal@credentialingexcellence.org

cc: Sen. Nathan Dahm
Nathan.dahm@oksenate.gov

Current Members of the PCC

ABRET Neurodiagnostic
Credentialing &
Accreditation (ABRET)

ABSA International: the
Association for Biosafety and
Biosecurity (ABSA)

Academy of Nutrition and
Dietetics (AND)

Academy for Certification of
Vision Rehabilitation &
Education Professionals
(ACVREP)

Alliance of Hazardous
Materials Professionals

American Association of
Post-Acute Care Nurses
(AAPACN)

American Association of
Critical-Care Nurses (AACN)

American Association of
Neuromuscular &
Electrodiagnostic Medicine
(AANEM)

American Association of
Professional Landmen

American Board for
Certification in Orthotics,
Prosthetics and Pedorthics
(ABCOP)

American Board of
Certification for
Gastroenterology Nurses
(ABCGN)

American Board of
Neuroscience Nursing
(ABNN)

American Board of Post-
Acute and Long-Term Care
Medicine (ABPLM)

American Board of Foot and
Ankle Surgery (ABFAS)

American Board of Wound
Management (ABWM)

American Industrial Hygiene
Association (AIHA)

American Medical
Certification Association
(AMCA)

American Nurses
Credentialing Center
(ANCC)

American Payroll
Association (APA)

American Road &
Transportation Builders
Association Foundation
(ARTBA)

American Society of
Association Executives
(ASAE)

American Society of Civil
Engineers (ASCE)

American Speech-Language-
Hearing Association (ASHA)

American Traffic Safety
Services Association
(ATSSA)

American Translators
Association (ATA)

American Veterinary Medical Association (AVMA)	Certification Council for Professional Dog Trainers	Financial Planning Association (FPA)
APICS (formerly the American Production and Inventory Control Society)	Certified Financial Planner Board of Standards (CFP)	Hearth, Patio, & Barbecue Education Foundation
Association for Financial Counseling & Planning Education (AFCPE)	Certified Fund Raising Executive International (CFRE)	Heuristic Solutions
Association for Financial Professionals (AFP)	Commercial Real Estate Certification Institute	Hospice and Palliative Credentialing Center (HPCC)
Association of Surgical Technologists (AST)	Commission for Case Manager Certification (CCMC)	Institute for Credentialing Excellence (ICE)
Behavior Analyst Certification Board (BACB)	Commission on Nurse Certification (CNC)	Institute of Certified Management Accountants (ICMA)
Building Industry Consulting Service International (BICSI)	CompTIA	Institute of Hazardous Materials Management (IHMM)
Board of Certification/Accreditation (BOC)	Community Association Institute (CAI)	Institute of Internal Auditors (IIA)
Board of Certified Safety Professionals (BCSP)	Construction Management Association of America (CMAA)	Inteleos (includes the American Registry for Diagnostic Medical Sonography (ARDMS) and the Alliance for Physician Certification & Advancement (APCA))
Board of Pharmacy Specialties (BPS)	Council of Engineering and Scientific Specialty Boards (CESB)	Irrigation Association
Building Commissioning Certification Board (BCCB)	Dental Assisting National Board (DANB)	International Association of Healthcare Central Service Materiel Management (IAHCSMM)
CCIM Institute (issues the Certified Commercial Investment Member designation)	Design-Build Institute of America (DBIA)	International Association of Lighting Designers (IALD)
CFA Institute	Diving Equipment and Marketing Association (DEMA)	International Certification & Reciprocity Consortium (IC&RC)
Certification Board for Music Therapists (CBMT)	Entertainment Services and Technology Association (ESTA)	International Coach Federation (ICF)
Certification Board of Infection Control and Epidemiology (CBIC)	ETA International (ETA)	
	Events Industry Council (EIC)	

International Foundation for Retirement Education (InFRE)

International Society of Automation (ISA)

Institute of Real Estate Management (IREM)

International Information System Security Certification Consortium (ISC²)

IT Certification Council (ITCC)

Laborers' International Union of North America Training & Education Fund (LIUNA)

Medical-Surgical Nursing Certification Board (MSNCB)

National Association of Legal Assistants, Inc. (NALA)

National Association of Insurance and Financial Advisors (NAIFA)

National Association of Personal Financial Advisors (NAPFA)

National Athletic Trainers' Association Board of Certification, Inc. (NATA)

National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)

National Board for Certification in Hearing Instrument Sciences (NBC-HIS)

National Kitchen and Bath Association (NKBA)

National Board of Certification in Occupational Therapy (NBCOT)

National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)

National Certification Board for Diabetes Educators (NCBDE)

National Certification Corporation (NCC)

National Commission on Certification of Physician Assistants (NCCPA)

National Commission for Health Education Credentialing

National Council on Family Relations (NCFR)

National Recreation and Park Association (NRPA)

National Restaurant Association (NRA)

National Roofing Contractors Association (NRCA)

National Society of Professional Engineers (NSPE)

Nephrology Nursing Certification Commission

Oncology Nursing Certification Corporation

Professional Association of Therapeutic Horsemanship International (PATH)

Pediatric Nursing Certification Board (PNCB)

Pharmacy Technician Certification Board (PTCB)

PSI Services

Pearson Vue

QualityPro

School Nutrition Association (SNA)

SeaCrest Consulting

Security Industry Association

Society of Broadcast Engineers (SBE)

Specialty Pharmacy Certification Board (SPCB)

Spray Polyurethane Foam Alliance (SPFA)

Towing and Recovery Association of America, Inc. (TRA)



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