



PROFESSIONAL
CERTIFICATION
COALITION

March 10, 2021

Senator Mark Maynard
1900 Kanawha Boulevard East
State Capitol - Building 1, Room 217-W
Charleston, WV 25305
mark.maynard@wvsenate.gov

Re: S.B. 269

Dear Senator Maynard:

The Professional Certification Coalition (PCC) writes regarding S.B. 269, which provides for licensing reciprocity and for alternative pathways to West Virginia licensure for unlicensed individuals based on work experience and/or private credentials. The PCC writes to urge amendments to S.B. 269 to ensure that West Virginia residents can rely on West Virginia's occupational licensing agencies to protect against licensure of unqualified individuals.

The PCC is a nonprofit association formed to address legislation that affects 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, 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.

The PCC supports reducing unnecessary barriers for licensed professionals who move to a new state. However, not all state-specific requirements are unwarranted: substantive state-specific licensing requirements protect the public from unqualified or unethical practitioners and uphold the integrity of licensed professions as a whole. Moreover, not all privately issued credentials or work experience can provide assurances of competency or qualifications that would be equivalent to the standards incorporated into West Virginia's licensing laws.

As reflected in the attached Statement of Principles, the PCC urges the legislature to amend S.B. 269 as necessary to reflect the following five principles:

- 1. Require further profession-specific action by licensing agencies, rather than automatically providing sweeping recognition of all out-of-state licenses.**
- 2. Require the licensing agency/board to make an initial assessment of whether licenses in other jurisdictions are, in fact, equivalent in standards and scope of practice.**

3. **Permit reciprocal licensure as a general matter only if there is substantial similarity between the requirements, knowledge, and scope of practice for two jurisdictions.**
4. **Condition reciprocity on joint oversight of the licensee, as well as communication and mandatory reporting between the in-state and out-of-state licensing agencies.**
5. **Grant alternative pathways to licensure for unlicensed out-of-state applicants only if the applicant demonstrates at least substantially equivalent educational, training, examination, credentials, and experience as are required of in-state applicants.**
6. **Consider whether residency requirements are warranted to qualify for reciprocal licensure.**

The PCC recognizes and appreciates that S.B. 269 was drafted to avoid infringing on the decision-making and recognition of private certification organizations. However, consistent with the above principles, the PCC proposes the following amendments to S.B. 269:

- Amend sections §§ 21-17-3(3), 29-33-3(3), and 30-1F-3(3) to provide for reciprocal licensure if “The person has met all educational, examination, **and private certification requirements for occupational licensure or other authorization to practice in the state where he or she holds a valid license and such educational, examination, and private certification requirements are substantially equivalent to or more stringent than that required of West Virginia licensees in the occupation, as determined by the board in this state.**”
- Amend sections §§ 21-17-4, 21-17-5, 29-33-4, 29-33-5, 30-1F-4, and 30-1F-5 to add a new requirement for reciprocal licensure as a new subsection, “**The person demonstrates at least substantially equivalent educational, training, examination, credentials, and experience as are required of West Virginia residents issued a West Virginia occupational license or other authorization to practice in the occupation, as determined by the board in this state.**”
- Amend § 29-33-5(3) to provide that “The person holds a current and valid private certification in the lawful occupation **that is determined by the board in this state to demonstrate at least substantial equivalency with the qualifications required for a West Virginia occupational license or other authorization to practice in the occupation.**”

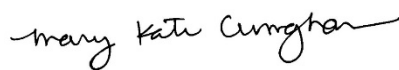
These amendments would ensure that, for professions in which West Virginia conditions licensure on private certification, a pathway to reciprocal licensure is opened for out-of-state individuals who hold that certification, while at the same time protecting West Virginia residents against unqualified practitioners. The amendments also acknowledge that work experience alone cannot substitute for meeting other qualification requirements that West Virginia expects its licensees to meet, especially as there is no assurance that the prior work experience was not marked by misconduct or negligent practice.

This bill directly affects both protections for the public and PCC members that credential professionals in regulated occupations, such as health care, in which certification by recognized private certification organizations is a condition of licensure. Certification organizations exist to establish standards of knowledge and skill for a profession, and to assure the public that certified individuals have demonstrated that they are qualified to practice their professions competently and safely. If, due to variations in licensing laws, reciprocal licensure allows unqualified or unfit individuals to practice, the public's trust in such certified professionals and their respective regulated professions will be irreparably damaged, especially for occupations in which the public conflates certification status with licensure.

Further, even PCC members that issue certifications to individuals in fields that do not require licensure have an interest in this issue. Certification organizations – and professional societies that represent individuals who hold certification credentials – rely on the role of licensing agencies to protect the public. By their nature, they are also interested in upholding professional standards for knowledge, skills, conduct, and qualifications. If reciprocal licensure laws create loopholes that weaken how state licensing agencies enforce such standards, this is a matter of great concern to the certification community.

Thank you for your attention to these issues and consideration of the PCC's views. Please feel free to contact us using our contact information below if you would like to discuss this further.

Sincerely,



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Current List of PCC Members

ABRET Neurodiagnostic Credentialing & Accreditation (ABRET)	American Board of Wound Management (ABWM)	Behavior Analyst Certification Board (BACB)
ABS International: the Association for Biosafety and Biosecurity (ABS)	American Industrial Hygiene Association (AIHA)	Building Industry Consulting Service International (BICSI)
Academy of Nutrition and Dietetics (AND)	American Medical Certification Association (AMCA)	Board of Certification/Accreditation (BOC)
Academy for Certification of Vision Rehabilitation & Education Professionals (ACVREP)	American Nurses Credentialing Center (ANCC)	Board of Certified Safety Professionals (BCSP)
Alliance of Hazardous Materials Professionals	American Payroll Association (APA)	Board of Pharmacy Specialties (BPS)
American Association of Post-Acute Care Nurses (AAPACN)	American Road & Transportation Builders Association Foundation (ARTBA)	Building Commissioning Certification Board (BCCB)
American Association of Critical-Care Nurses (AACN)	American Society of Association Executives (ASAE)	CCIM Institute (issues the Certified Commercial Investment Member designation)
American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM)	American Society of Civil Engineers (ASCE)	CFA Institute
American Association of Professional Landmen	American Speech-Language-Hearing Association (ASHA)	Certification Board for Music Therapists (CBMT)
American Board for Certification in Orthotics, Prosthetics and Pedorthics (ABCOP)	American Traffic Safety Services Association (ATSSA)	Certification Board of Infection Control and Epidemiology (CBIC)
American Board of Certification for Gastroenterology Nurses (ABCGN)	American Translators Association (ATA)	Certification Council for Professional Dog Trainers
American Board of Neuroscience Nursing (ABNN)	American Veterinary Medical Association (AVMA)	Certified Financial Planner Board of Standards (CFP)
American Board of Post-Acute and Long-Term Care Medicine (ABPLM)	APICS (formerly the American Production and Inventory Control Society)	Certified Fund Raising Executive International (CFRE)
American Board of Foot and Ankle Surgery (ABFAS)	Association for Financial Counseling & Planning Education (AFCPE)	Commercial Real Estate Certification Institute
	Association for Financial Professionals (AFP)	Commission for Case Manager Certification (CCMC)
	Association of Surgical Technologists (AST)	Commission on Nurse Certification (CNC)
		CompTIA

Community Association Institute (CAI)	Certification & Advancement (APCA))	National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)
Construction Management Association of America (CMAA)	Irrigation Association	National Board of Certification in Hearing Instrument Sciences (NBC-HIS)
Council of Engineering and Scientific Specialty Boards (CESB)	International Association of Healthcare Central Service Materiel Management (IAHCSMM)	National Kitchen and Bath Association (NKBA)
Dental Assisting National Board (DANB)	International Association of Lighting Designers (IALD)	National Board of Certification in Occupational Therapy (NBCOT)
Design-Build Institute of America (DBIA)	International Certification & Reciprocity Consortium (IC&RC)	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
Diving Equipment and Marketing Association (DEMA)	International Coach Federation (ICF)	National Certification Board for Diabetes Educators (NCBDE)
Entertainment Services and Technology Association (ESTA)	International Foundation for Retirement Education (InFRE)	National Certification Corporation (NCC)
ETA International (ETA)	International Society of Automation (ISA)	National Commission on Certification of Physician Assistants (NCCPA)
Events Industry Council (EIC)	Institute of Real Estate Management (IREM)	National Commission for Health Education Credentialing
Financial Planning Association (FPA)	International Information System Security Certification Consortium (ISC ²)	National Council on Family Relations (NCFR)
Hearth, Patio, & Barbecue Education Foundation	IT Certification Council (ITCC)	National Recreation and Park Association (NRPA)
Heuristic Solutions	Laborers' International Union of North America Training & Education Fund (LIUNA)	National Restaurant Association (NRA)
Hospice and Palliative Credentialing Center (HPCC)	Medical-Surgical Nursing Certification Board (MSNCB)	National Roofing Contractors Association (NRCA)
Institute for Credentialing Excellence (ICE)	National Association of Legal Assistants, Inc. (NALA)	National Society of Professional Engineers (NSPE)
Institute of Certified Management Accountants (ICMA)	National Association of Insurance and Financial Advisors (NAIFA)	Nephrology Nursing Certification Commission
Institute of Hazardous Materials Management (IHMM)	National Association of Personal Financial Advisors (NAPFA)	Oncology Nursing Certification Corporation
Institute of Internal Auditors (IIA)	National Athletic Trainers' Association Board of Certification, Inc. (NATA)	
Inteleos (includes the American Registry for Diagnostic Medical Sonography (ARDMS) and the Alliance for Physician		

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)



Statement of Principles for Universal Licensure Recognition and Reciprocity

The PCC supports the objective of reducing unnecessary barriers to entry to practice for licensed professionals who move to a new state. Not all state-specific licensure requirements are unwarranted, however. In their current form, many universal licensing bills may undermine protections for the public by adopting a one-size-fits-all approach to universal licensure and by exempting out-of-state applicants from establishing that they possess the same qualifications as in-state applicants.

Background:

Occupational licensing laws operate as the gatekeepers to licensed professions: they establish the standards of education, training, and testing required to practice in a specific field. The purpose of licensing laws is to protect the public from unqualified or unethical practitioners, but opponents of licensing contend that the administrative and financial burdens of complying with licensing laws also limit opportunities to earn a living. Moreover, as each state independently establishes its own licensing laws, requirements vary by location; as a result, professionals must apply for a license each time they relocate across state borders. This can impose significant costs in time and money. Critics of state-specific licensure laws argue that, rather than protecting the public from unqualified practitioners, they primarily serve to insulate in-state professionals from out-of-state competition and are unnecessary barriers to practice for professionals who already hold a license in their field from another state.

In response, some states have adopted universal licensure recognition—or licensing reciprocity—and recognize a valid out-of-state license as sufficient for a professional to practice in their state, subject to additional conditions such as residency and background checks. Initially, this practice was largely restricted to specific interstate agreements or to populations with special circumstances. Many states now grant reciprocal licensure or temporary permits to military spouses who move into the state due to their spouse's change of duty assignment.¹ The COVID-19 pandemic national emergency has also led some states to enact reciprocal or accelerated licensing provisions for some professions.²

Recently, some states have enacted more expansive universal licensure bills, and many more such bills have been introduced. Unlike profession-specific reciprocal licensing state compacts, these bills generally apply to any licensing authority in the state, with limited exceptions. Some bills provide only for reciprocal licensure to applicants holding an occupational license granted by

¹ See <https://www.veterans.gov/milspouses/>.

² See, e.g., <https://www.fsmb.org/siteassets/advocacy/pdf/state-emergency-declarations-licensure-requirements-covid-19.pdf> and <https://www.aanp.org/advocacy/state/emergency-state-licensure-covid-19-response>.

another state.³ Other bills go further and authorize granting licenses to applicants based on work experience and/or private certification credentials, if the applicant's home state does not require a license to practice the occupation.

Criteria for Responsible Legislation:

The PCC urges state legislatures considering universal licensure bills to take into account the following key principles in order to ensure sufficient safeguards remain in place to protect the public and uphold the integrity of substantive licensure requirements.

The PCC supports universal or reciprocal licensure laws that:

1. Require further profession-specific action by licensing agencies, rather than automatically providing sweeping recognition of all out-of-state licenses.

- a. The level of oversight required to protect the public varies between licensed professions, and not all licensed professions merit the same level of reciprocity. For example, state licensing laws for some professions require licensees to demonstrate state-specific substantive knowledge (e.g., state Bar exams for lawyers⁴ and California's requirement that all California-licensed engineers demonstrate knowledge about seismic strengthening for projects including retrofitting⁵). For other professions, licensing laws may have uniform requirements adopted by every state, such as in professions that require all licensees to have passed a national certification exam or to have completed specialized training.
- b. State agencies should seek input from relevant, industry-specific stakeholders on the potential positive and negative consequences of universal licensure.

2. Require the licensing agency make an initial assessment of whether licenses in other jurisdictions are, in fact, equivalent in standards and scope of practice.

- a. The requirements to get licensed in a profession can vary widely between states. Depending on the profession, state licensure requirements may include different elements or differing levels of requirements for formal education, training, practical experience, national certification, verification of prior disciplinary or criminal conviction history, and character examinations.
- b. Differences in licensing requirements across states cannot be broadly written off as bureaucratic red tape. Often, variance in licensing requirements corresponds

³ Arizona became the first state to adopt universal licensure when H.B. 2569 was signed into law on April 10, 2019. Under A.R.S. § 32-4302, Arizona will issue a license to new residents with a current, out-of-state license in the licensed profession, if the out-of-state licensee is in good standing, has been licensed for at least a year, and has passed a criminal background check. Montana, New Jersey, and Pennsylvania have passed similar statutes.

⁴ See, e.g., https://www.ncbex.org/pdfviewer/?file=%2Fassets%2FBarAdmissionGuide%2FCompGuide2020_021820_Online_Final.pdf#page=40.

⁵ See https://www.bpelsg.ca.gov/pubs/consumer_guide.pdf.

with differences in the scope of practice a license permits. For example, in several states, licensed pharmacy technicians may administer immunizations, but also are subject to related training requirements associated with vaccinations.⁶ In many other states, however, pharmacy technicians are not authorized to administer immunizations and therefore may not have received the relevant training.⁷

- c. Different states also have varying substantive prerequisites for licensure or renewal of licensure for some professions. For example, states vary as to whether passage of a national certification exam is required for licensure as a dental assistant,⁸ and not all states require current certification for renewal of licensure as a physician assistant.⁹

3. Permit reciprocal licensure as a general matter only if there is substantial similarity between the requirements, knowledge, and scope of practice for two jurisdictions.

- a. Subject to limited and temporary exceptions, as for national emergencies and military spouses, state agencies should be authorized to grant reciprocal licensure only if the out-of-state license reflects an assurance of comparable qualifications and authorizes the full scope of practice granted by the in-state licensing law. Otherwise, in a race to the bottom, less qualified individuals could apply for initial licensure in states with less stringent requirements and rely on a universal licensure law to bypass the licensure conditions that other states have determined should be required for protection of the public.
- b. States with stricter licensing requirements should consider adopting bridging requirements that would enable licensed practitioners from other states to have an abbreviated path to licensure, by establishing that they have met the additional qualifications of that state.

4. Condition reciprocity on joint oversight of the licensee, as well as communication and mandatory reporting between the in-state and out-of-state licensing agencies.

- a. Licensees subject to pending disciplinary proceedings should not be granted reciprocal licensure until the proceedings are resolved. Mobility between states should not be a means to evade disciplinary oversight by a licensing board, even if a license in one state expires.
- b. Individuals granted reciprocity should be jointly subject to the new and old state licensing agencies' enforcement authority and rules.

⁶ See, e.g., https://dopl.utah.gov/pharm/vaccine_administration_protocol.pdf.

⁷ See <https://www.pharmacist.com/article/pharmacy-technicians-gear-immunize>.

⁸ See <https://www.ada.org/en/education-careers/careers-in-dentistry/dental-team-careers/dental-assistant/education-training-requirements-dental-assistant>.

⁹ See <https://www.aapa.org/download/19739/>.

5. Grant alternative pathways to licensure for unlicensed out-of-state applicants only if the applicant demonstrates at least substantially equivalent educational, training, examination, credentials, and experience as are required of in-state applicants.

- a. Prior work experience is not a substitute for examination-based or certification credentials, as it does not establish competency or skill. Similarly, not all private certifications are equivalent. There is no basis to presume that an unlicensed individual holding an unspecified private certification credential possesses equivalent qualifications as in-state licensed professionals hold, unless that private certification is a condition of licensure in the state.
- b. Requiring unlicensed out-of-state applicants to demonstrate substantive qualifications that are at least comparable to those required of in-state applicants would protect against bogus or flimsy certification programs being used as a substitute for licensure. At the same time, for licensed professions that condition licensure on private certification, accepting that certification from out-of-state applicants can provide an alternative pathway to universal licensure that still safeguards the public.

6. Consider residency requirements.

- a. State legislatures should consult with licensing agencies and industry stakeholders to determine whether intent to relocate should be a requirement for granting reciprocal licensure.