



PROFESSIONAL
CERTIFICATION
COALITION

March 22, 2021

Del. Geoff Foster
1900 Kanawha Boulevard East
State Capitol - Building 1, Room 211-E
Charleston, WV 25305
geoff.foster@wvhouse.gov

Re: H.B. 2909

Dear Delegate Foster:

The Professional Certification Coalition (PCC) writes regarding the potential harmful effects of H.B. 2909 on important protections for the public. We appreciate that H.B. 2909 has been drafted to include provisions designed to avoid intruding on the credentialing decisions of private certification organizations. Nonetheless, in its current form, H.B. 2909 imposes obstacles to state recognition of professional certification standards that protect the public from low-quality or harmful services.

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.

Members of the PCC provide certifications that communicate to the public that certified professionals have met established standards for knowledge, skill, and competency in their fields. Private certification is not a substitute for occupational licensure, however, in fields such as health care, safety-related roles, and the engineering and financial industries. For those occupations, regulatory agencies have incorporated the competency standards established by private professional certification programs into licensure requirements and play a critical role in enforcing competency and conduct standards. In professions for which state licensing boards have historically provided oversight, it would not serve the public interest to eliminate or weaken licensure requirements and shift the enforcement function currently performed by licensure boards onto private certification programs. A private certification organization lacks the legal authority and the resources to serve as a substitute for a licensing board for a profession for which licensure is required to protect public health, safety, or welfare. We therefore propose amendments to preserve current licensure regulations that include private certification as a condition of licensure. The PCC is concerned that H.B. 2909 creates a rebuttable presumption that state occupational licenses should be abolished and incorporates weighted and incomplete evidentiary standards. The bill would require a recommendation against licensure regulations in any profession or occupation unless there is a showing by “empirical evidence of present, significant and substantiated harm” that the occupation is overseen by the “least restrictive regulation.” For many traditionally licensed professions – such as civil or nuclear

engineers, structural architects, certified public accountants, and many more – the nearly universal existence of these licensure requirements means that there, thankfully, is no “present” data on the harms of unlicensed and unqualified practitioners engaging in these professions.

With these considerations in mind, the PCC requests that the legislature make the following amendments to avoid abolishing regulations that provide important protections to the public and to ensure continued safeguards against recognizable dangers. The key amendments we seek are:

- Add that: **“nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure or renewal of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.”**
- To avoid placing the government in competition with private certification, at unnecessary taxpayer expense, we also urge modifying the provision calling for enactment of government certification by adding **“unless suitable, private certification for the relevant occupation is available. As used in this section, ‘suitable’ means widely recognized as reflecting established standards of competency, skill, or knowledge in the field”**. As an alternative, we suggest that this provision could be deleted entirely.

In addition, we propose additional amendments to promote informed recommendations on occupational licensure reforms and to preserve important protections for the public:

- Change all “present, significant, or substantiated harms to consumers” references to **“significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare,”** and change “evidence of present, significant, and substantiated harm” to **“identification of significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare.”**
- Change the provision on when committees may recommend occupational licensure to state that if there is “a systematic information shortfall in which a reasonable consumer of the service is unable to distinguish between the quality of providers **or there is an imbalance in the consumer’s knowledge about the good or service relative to the provider’s knowledge** (asymmetrical information), the committees may recommend enacting an occupational license and **may consider recognizing or requiring private certification as a condition of licensure.”**
- Provide that **“staff must also invite public comment from licensees, the occupational licensing board, and the public about the impact of the existing occupational license requirements”** in reviewing existing occupational licensure laws.
- Provide that staff’s **“reports must be publicly available and posted on the website of the office, and must include the rationale for the staff’s recommendation, including a description of the expected impact of any regulatory changes on public health, safety, or welfare.”**
- The definition of “private certification” should be revised to state that **“‘Private Certification’ means a “voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications relevant to performing the occupation, including by demonstrating a specified level of knowledge and skill required to meet recognized standards in the profession, as determined by the private organization. The**

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individual may use a designated title of “certified” or other title conferred by the private organization.”

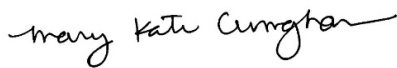
- Add that: **“the state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”**

The PCC supports efforts to remove unnecessary barriers to entry into professions in order to promote market competition and employment opportunities. We respectfully request, however, that you and your colleagues in the legislature amend the bill as we have requested above to avoid stripping important protections from 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,

Sincerely,



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Current List of PCC Members

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)

APICS (formerly the American
Production and Inventory
Control Society)

Association for Financial
Counseling & Planning
Education (AFCPE)

Association for Financial
Professionals (AFP)

Association of Surgical
Technologists (AST)

Behavior Analyst Certification
Board (BACB)

Building Industry Consulting
Service International (BICSI)

Board of
Certification/Accreditation
(BOC)

Board of Certified Safety
Professionals (BCSP)

Board of Pharmacy Specialties
(BPS)

Building Commissioning
Certification Board (BCCB)

CCIM Institute (issues the
Certified Commercial
Investment Member
designation)

CFA Institute

Certification Board for Music
Therapists (CBMT)

Certification Board of Infection
Control and Epidemiology
(CBIC)

Certification Council for
Professional Dog Trainers

Certified Financial Planner
Board of Standards (CFP)

Certified Fund Raising
Executive International (CFRE)

Commercial Real Estate
Certification Institute

Commission for Case Manager
Certification (CCMC)

Commission on Nurse
Certification (CNC)

CompTIA

Community Association
Institute (CAI)

Construction Management
Association of America
(CMAA)

Council of Engineering and
Scientific Specialty Boards
(CESB)

Dental Assisting National Board
(DANB)

Design-Build Institute of
America (DBIA)

Diving Equipment and
Marketing Association (DEMA)

Entertainment Services and
Technology Association (ESTA)

ETA International (ETA)

Events Industry Council (EIC)

Financial Planning Association
(FPA)

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Hearth, Patio, & Barbecue Education Foundation	IT Certification Council (ITCC)	National Council on Family Relations (NCFR)
Heuristic Solutions	Laborers' International Union of North America Training & Education Fund (LIUNA)	National Recreation and Park Association (NRPA)
Hospice and Palliative Credentialing Center (HPCC)	Medical-Surgical Nursing Certification Board (MSNCB)	National Restaurant Association (NRA)
Institute for Credentialing Excellence (ICE)	National Association of Legal Assistants, Inc. (NALA)	National Roofing Contractors Association (NRCA)
Institute of Certified Management Accountants (ICMA)	National Association of Insurance and Financial Advisors (NAIFA)	National Society of Professional Engineers (NSPE)
Institute of Hazardous Materials Management (IHMM)	National Association of Personal Financial Advisors (NAPFA)	Nephrology Nursing Certification Commission
Institute of Internal Auditors (IIA)	National Athletic Trainers' Association Board of Certification, Inc. (NATA)	Oncology Nursing Certification Corporation
Inteleos (includes the American Registry for Diagnostic Medical Sonography (ARDMS) and the Alliance for Physician Certification & Advancement (APCA))	National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Professional Association of Therapeutic Horsemanship International (PATH)
Irrigation Association	National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Pediatric Nursing Certification Board (PNCB)
International Association of Healthcare Central Service Materiel Management (IAHCSMM)	National Kitchen and Bath Association (NKBA)	Pharmacy Technician Certification Board (PTCB)
International Association of Lighting Designers (IALD)	National Board of Certification in Occupational Therapy (NBCOT)	PSI Services
International Certification & Reciprocity Consortium (IC&RC)	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	Pearson Vue
International Coach Federation (ICF)	National Certification Board for Diabetes Educators (NCBDE)	QualityPro
International Foundation for Retirement Education (InFRE)	National Certification Corporation (NCC)	School Nutrition Association (SNA)
International Society of Automation (ISA)	National Commission on Certification of Physician Assistants (NCCPA)	SeaCrest Consulting
Institute of Real Estate Management (IREM)	National Commission for Health Education Credentialing	Security Industry Association
International Information System Security Certification Consortium (ISC ²)		Society of Broadcast Engineers (SBE)
		Specialty Pharmacy Certification Board (SPCB)
		Spray Polyurethane Foam Alliance (SPFA)
		Towing and Recovery Association of America, Inc. (TRA)