



Notes

**PCC Member Strategy Call
Wednesday, June 23, 2021
12:00 pm ET**

Steering Committee: ICE (Denise Roosendaal), ASAE (Jeff Evans)

Legal Counsel: Jerry Jacobs, Craig Saperstein, Julia Judish, Lori Panosyan, Nicole Steinberg (Pillsbury)

1. Welcome

- a. It has been another busy year confronting both issues we expected and new issues that have surfaced. The PCC is looking forward to another productive fiscal year ahead.
- b. Thank you for your continued support, participation, and engagement. Your time, input, and expertise are invaluable as we navigate the issues that matter most to our community.
- c. Invoices for the next fiscal year (July 1, 2021-June 30, 2022) will arrive in your inboxes in July, and prompt payment will allow us to continue our momentum without interruption and to plan resource allocations for the year.
- d. Please also expect the PCC's year in review and prospectus for the 2021-2022 fiscal year to be sent out in July.

2. State Legislation

a. Update on CT SB 1019

- Connecticut Governor Ned Lamont signed [CT SB 1019](#) into law, but his signing statement, expressed misgivings, suggesting he might want to see immediate changes to the bill in the next session.
- This bill concerned us from a constitutional (First Amendment) and public policy perspective.
- The version Gov. Lamont signed was amended and improved from the original version, in ways that addressed but did not eliminate our concerns. The amended legislation:
 - i. Provides for automatic erasure of criminal history records based solely on the passage of time – for example, after 5 years have passed since the individual's most recent conviction for certain felonies – with a carveout for sexual and certain violent offenses. The original bill applied automatic erasure to felonies with a maximum sentence of up to 10 years; the enacted version applies to felonies with a maximum sentence of 5 years and other less serious offenses.
 - ii. Makes it a prohibited discriminatory practice for a professional membership association or board “the principal purpose of which is the furtherance of the professional or occupational interests of its members” to deny membership to an individual based solely on

that person's erased criminal history information. This applies only to organizations in professions in which state licensure is required. The existing CT human rights law prohibiting discrimination based on protected characteristics such as race and gender applies to private organizations, and this bill elevates erased criminal conviction records to the level of a protected characteristic. This provision could prohibit the enforcement of some conduct and ethics code provisions by private associations or boards.

- Our concern is that passage in CT could pave the way for copycat bills to be introduced elsewhere.
 - i. For example, NY SB 1553B, a “clean slate bill,” in many ways is modeled after the CT bill. It provides for automatic sealing of criminal records and also includes a provision that amends NY’s existing law with respect to discriminatory practices. We have not included this on the watchlist, as it does not directly apply to certification organizations: it prohibits acting adversely against the individual in connection with licensing, employment, credit, insurance, housing, and volunteer service, and doesn’t apply with respect to membership or certification.
- There is clearly a national effort to erase or seal criminal records so that they do not permanently foreclose opportunities for ex-offenders, and this effort could have an impact on certification organizations and professional societies. We will continue monitoring for this type of legislative activity across the country.
- It is politically challenging to oppose clean slate bills due to the increased (and well-placed) public focus on inequities in opportunities for individuals with a criminal history. We are mindful to not position the PCC in opposition to clean slate bills or ex-offender reentry bills as a whole.
- The American Civil Liberties Union is a leading proponent of this legislation. Influencing their thinking on this will be a major focus of the PCC in the coming months. The ACLU has, thus far, been unresponsive to our inquiries.
- We had multiple connectivity points in the past session in CT: submitting testimony for committees, speaking directly to key legislators, and a grass-tops and grassroots push for Gov. Lamont to veto the bill.
- Given Gov. Lamont’s misgivings, we don’t think this is the end of the story in CT. We will aim to position the PCC as a stakeholder in future discussions about the bill.

b. Update on High Priority Bills

- Please see the State Legislative Watchlist and Reciprocity Watchlist on the PCC website for the most up-to-date legislative monitoring information. [[State Watchlist](#)]. [[Reciprocity Watchlist](#)].
- No high priority bills on which we have reported previously have advanced in the past month.
- There is one new high priority bill: PA HB 1492
 - i. This is a reintroduction of last year’s PA HB 811, a title restriction bill

- of the type that was the impetus for forming the PCC.
- ii. It's a very poorly drafted bill. As written, it defines certification as a "Nontransferable certification provided by a licensing or certifying body" and a "licensing or certifying body" as "the issuing body to whom an individual has applied for a license or certification to conduct or perform a lawful occupation or profession for which the license or certification is required in this Commonwealth."
 - iii. This definition doesn't distinguish between private and governmental certification, and an individual who has not received certification may not use the title "certified." As drafted, this could be interpreted very broadly that someone holding a private certification cannot use the title "certified."
 - iv. The bill is also an ex-offender reentry bill.
- If any of your organizations have on the ground resources in Harrisburg, please let us know; you can reach us directly at info@profcertcoalition.com.
 - PA is one of the states where the PCC has previously hired a lobbyist, but we will gather more intelligence about the bill's prospects before we determine whether that step is necessary.

Recently Added

Bill Name	Status	Description
PA HB 1492	Referred to the House Professional Licensure Committee on June 11, 2021.	Ex-offender reentry (reintroduction of HB 811 which includes a dangerous and poorly drafted restriction on use of the title "certified.")

Enacted

Bill Name	Description
CT SB 1019	Ex-offender reentry (automatic erasure of criminal conviction history plus prohibits certain private association membership decisions)
MI HB 4377 (SB 158 and SB 312)	Reciprocity (lifetime exemption from exam requirements for veterans and their spouses)

Dead

Bill Name
CT HB 6407
KS SB 137
KS SB 10
ME LD 612
ME LD 1131
MN HF 266
NE LB 263
NV SB 402
OK SB 542
OK SB 756

RI 5960
SC H 3334
SC H 3474
SC S 295
TN HB 1081
WA HB 1403

3. Federal Legislation

a. *Freedom to Invest in Tomorrow's Workforce Act* (S. 905/H.R. 2171)

- i. Recap: drafted by the PCC and introduced by Rep. Spanberger, this bill would allow individuals to use their 529 college savings plans for expenses associated with obtaining and maintaining a professional certification or other similar credential.
- ii. Rep. Spanberger is a very committed bill sponsor – she and her staff are very determined to have movement on this legislation.
- iii. We have had several conversations with staff members from the House Ways and Means Committee to convince them to let the bill move through or around committee and reach the House floor.
- iv. The House Ways and Means Committee has offered several substantive objections/comments, and we have proposed amendments to address issues head-on.
- v. From a broader political perspective, the Committee does not have a substantial appetite to make 529 plans a policy priority. 529 plans have traditionally been more heavily supported by Republican members of Congress. Given the current makeup of Congress and the White House, this is a different dynamic we are navigating this year.
- vi. One suggestion Rep. Spanberger's office has made is to reach out to labor groups who are particularly influential with Democratic lawmakers. When 529 plans were expanded to include registered apprenticeships, labor groups were particularly influential.
- vii. If any of your organizations have relationships with organized labor and can help connect the PCC to such groups, we would be grateful to hear from you.
- viii. We will be back in touch with you regarding draft language that will be sent to the chair and ranking member of the House Ways and Means and Senate Finance Committees. We are directly connected to Chairman Neal, and the House Ways and Means Committee does want to help Rep. Spanberger.
- ix. **Member question:** What are the Democratic arguments against 529 plans? What is labor's interest if they've already gotten them to apply to apprenticeships?
 1. **Answer:** The interesting dynamic is that Chairman Neal's committee staff is concerned that 529 plans are primarily a tool for more affluent individuals or families to achieve higher education. We think the purpose of the bill is to expand access to 529 plans for middle-skill and middle- and lower-income individuals. We have made this point repeatedly to Committee staff.
 2. The House Ways and Means Committee also opposed the defined term

of “recognized post-secondary credential” because it was incorporated from WIOA, which is not under the jurisdiction of the Committee. The PCC has now provided revisions to Rep. Spanberger’s office for the bill to use its own definition.

3. The Committee also did not like that the bill as introduced required the IRS to develop guidelines for the expenses would qualify, so the PCC has proposed revisions that tighten up that language.
- x. **Member question:** Have you tried to argue that it would expand access to those who weren’t planning to pursue a credential?
 1. Yes. This is exactly the message and goal we have communicated, especially in the context of the pandemic, when many young people who have 529 funds that were saved for college are rethinking whether they want to attend college.
- xi. **Member question:** Is there is a way to tie this to increasing racial and gender diversity among certificants?
 1. There is a [study](#) that shows certification and licensure are instrumental in eliminating or narrowing the gender and racial pay gap. We have shared that information and do believe this is a way to address DEI issues.

b. Proposed Credentialing, Education, Resources, and Training (“CERT”) Act Update

- i. Our second federal bill in development right now has not been introduced yet, but is very much topic of conversation with allies on Capitol Hill, and we hope to have it introduced soon.
- ii. We’ve been calling it the CERT Act, but want to ensure there is no confusion with a bill that passed last year, the CERTS Act. The bill may be renamed for that reason.
- iii. Rep. Kilmer from Washington will likely be the House Democratic lead. He was also the lead sponsor on the Skills Renewal Act. We have had several discussions with Kilmer’s office and the House Education and Labor Committee.
- iv. The feedback from last month’s Member Strategy call regarding the impracticability of requiring outcomes data for certification organizations to participate in Career Rebuilding scholarships was extremely helpful.
- v. We have expanded eligibility beyond those affected by the COVID-19 pandemic to include military servicemembers who are rolling off duty, as well their spouses. This will expand the scope of the bill and potentially cultivate more support for the bill.
- vi. **Member question:** What is the aim of the CERT Act?
 1. While the Freedom to Invest in Tomorrow’s Workforce Act allows individuals to use their own 529 funds for certification expenses, the CERT Act would provide federal money through a payroll tax credit similar to the way Congress funded the FFCRA. It would provide up to \$3,000 to fund expenses to obtain or maintain a certification to individuals displaced from their jobs or who became underemployed

in 2020 or 2021 and to military servicemembers transitioning off of military service and their spouses. It is a workforce development act via expanding access to certification. It also creates a federal unified directory for certification programs listed on the Department of Labor’s website, which will continue to create value.

c. Federal Legislation Watchlist now on Member website

- i. [\[Federal Watchlist\]](#)

4. Outreach to Stakeholders

- a. The PCC typically aims to spend summer and fall months – when most state legislatures are out of session – reaching out to key stakeholders: nonpartisan groups that represent policymakers like NCSL, NGA and CSG multistate licensing consortium, groups that have been driving “clean slate” legislation like the ACLU, NELP, and primarily libertarian groups that are heavily involved with occupational licensing reform such as ALEC and IJ.
- b. We also plan to draft model legislation for “clean slate” bills and have a good example in PA SB 637 that balances DEI considerations with public safety and associational rights issues.