



**PCC Member Strategy Call**  
**Summary**  
**Tuesday, August 24, 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. 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.
- b. Thank you to those who have promptly submitted membership dues! This allows us to ramp up our activity for the fiscal year.
- c. Welcome to the American Board of Medical Specialties, which has joined as a member of the PCC!

**2. State Legislation**

**a. Update on Missouri title restriction Attorney General Opinion**

- Roughly 8 months after we submitted our request, the Missouri Attorney General has issued an Opinion that resolves the PCC's longstanding concern about whether a law enacted in 2018—that could be interpreted as a title restriction—in fact prohibits individuals holding a private credential from using the term “registered.”
- The Opinion provides valuable confirmation that individuals who have obtained the title of “registered” in conjunction with a private certification may continue to do so in Missouri without hesitation.
- A recap on how we got here: Prior to the PCC's founding in 2018, Missouri enacted Missouri Rev. Stat. § 324.047 which defines both certification and registration as governmental processes. With respect to the term “registered,” it states “If the requirement of registration [with the state] is not met, **the individual is prohibited from performing the occupation for compensation or using ‘registered’ as a designated title.**” After creating the PCC, we twice lobbied to amend the statute. In 2019, we had the support of a bill sponsor for our desired amendments, but the legislature adjourned before the amendment could be enacted. In 2020, an amendment was enacted with safe-harbor language for certification requirements, but the bill's sponsor declined to include an amendment about the title issue on the grounds that it wasn't the intent of the statute to bar the use of the title “registered.” The PCC worked with the Interim Director of the Missouri Division of Professional Registration (DPR) to request an official Opinion from the Attorney General's Office interpreting the statute and on August 3, 2021, we received the Opinion. You can access the opinion ([see here](#)).

- The opinion is only binding in Missouri, but is so well explained that it will be helpful to us as persuasive authority if we come across other statutes that pose the same concern.
- **Member question:** Is there a plan for a statement from the PCC acknowledging the decision? Do you think that would be beneficial?
  - i. **Answer:** There definitely would be value to publicizing this victory. We will reach back out to our contact at the DPR and see if she has any guidance on whether the AG’s office would be opposed to us releasing a statement. We also plan to use it in conversation with other stakeholders so we can avoid this issue with any model legislation that is being contemplated. More awareness at the AG’s office regarding the difference between governmental and private credentialing will help us avoid future problematic bills, at least in Missouri.

**b. Update on Clean Slate Legislation**

- Last month, we reported on a Connecticut “clean slate” law that purports to prevent private member associations from considering an applicant’s criminal record. We recently authored an I.C.E. *Credentialing Insights* article on the bill (see [here](#)).
- The rationale behind clean slate legislation is that even though most states have laws that allow individuals with a criminal conviction to petition to have their records sealed for certain offenses after a certain period of time has passed, it can be a lengthy and burdensome process. Individuals often have to hire an attorney and many are not aware of the possibility – leading to only a small percentage of eligible individuals having their records sealed, despite not reoffending and being thoroughly rehabilitated.
- There is a bipartisan interest in removing barriers to opportunities for ex-offenders that aligns with the racial justice movement.
- Most of these bills, except for the Connecticut bill, don’t directly impact private organizations, but there can be indirect consequences for private organizations that consider individual criminal records.
- We have reviewed the federal Clean Slate Act of 2021 and determined it is not of concern to the certification community, because the automatic sealing of records is narrowly tailored to simple possession and nonviolent possession of marijuana. For any other crimes, it requires a non-automatic process of applying to have the conviction records sealed.
- We are seeing a lot of legislative activity on this at the state level, with an organized campaign surrounding the notion of clean slate. The Clean Slate Initiative is a collaboration between the Center for American Progress (a Democratic leaning think tank) and the R Street Institute (a libertarian leaning think tank) funded by Arnold Ventures, the Chan Zuckerberg Initiative, and the W.K. Kellogg Foundation, among others. Jamie Dimon, the CEO of JP Morgan, also wrote an op-ed on the issue. There are significant institutional players invested in this issue.
- Generally speaking, this is a good thing: criminal justice reform is critical and

ensuring there are not unnecessary barriers is a good policy objective, it just needs to be implemented and drafted in the right way. Over the coming months, before state legislatures return, we aim to meet with some of these big institutional players to try and find common ground on these issues so any model legislation is in a better starting place, from the private certification perspective.

- **Member comment:** One thing we see often is the reality that certain individuals will never get hired with a criminal record: for example, an IT or cyber security company will not hire anyone with a criminal record and in the medical facility, if an individual has been in a detox facility, they will never be hired for a position that interacts with controlled substances. An important thing to consider is what is most beneficial to the individuals seeking a career – a student’s time is a terrible thing to waste.
- **Member question:** Our main concern is continuing to have access to records concerning financial crime, do such carveouts come up?
  - i. **Answer:** Generally, exceptions tend to be limited to violent and/or sexual crimes. However, we recognize that with respect to certification organizations, non-violent and non-sexual crimes, such as fraud, may have a bearing on the role the individual is seeking to hold. To completely seal that information prevents the kind of careful consideration that a licensure board and certification organization needs to undertake. One carveout we’ve seen is for crimes that would violate the conduct rules for the profession – with respect to regulated professions, would engaging in that behavior be subject to disciplinary action?

**c. Update on High Priority Bills**

- a. PA HB 1492 is a re-introduction of 2019’s PA HB 811, an ex-offender reentry bill that 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.”
- b. 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.”
- c. The bill has not moved since it was introduced. We have contacted the sponsor and the committee to raise our concerns, but given that it also did not go forward in the prior session, we have not yet retained a local lobbyist. We are waiting to see if there is any movement.

**No Recent Movement**

<b>Bill Name</b>	<b>Status</b>	<b>Description</b>
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.”)

### 3. Federal Legislation

- a. *Freedom to Invest in Tomorrow's Workforce Act* (S. 905/H.R. 2171) Update
  - 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. We are working actively with sponsors of both the House and Senate version, but primarily with Rep. Spanberger to persuade the House Ways and Means Committee to move the bill to the House floor. We are considering some small tweaks to the bill's language that will not change the purpose and will keep you updated on tangible milestones.
  - iii. We aim to engage in grassroots and grasstops advocacy to build up the list of congressional co-sponsors and make sure decisionmakers are aware that there is broad support. (*See Fly-In* information below).
- b. **Proposed Credentialing, Education, Resources, and Training ("CERT") Act/REBUILD Skills Act Update**
  - i. Recap: drafted by the PCC, this bill would allow authorized certification programs to offer scholarships to individuals displaced from their jobs or who became underemployed in 2020 or 2021 to fund expenses to obtain or maintain a certification, and in return certification organizations would receive a payroll tax credit.
  - ii. We have been in frequent contact with Rep. Kilmer, the presumptive sponsor of the REBUILD Skills Act, and although we don't want to get ahead of ourselves, we think Rep. Kilmer is close to introducing the bill.
  - iii. It has been sent to the House Office of Legislative Counsel, which we take as a very good sign.
  - iv. We have had conversations with the House Education and Labor Committee and have integrated some of their feedback. We will share an updated copy once the bill is close to introduction.
  - v. Our hope is that we'll have an introduced bill before our next strategy call!
- c. **ANNOUNCEMENT: PCC Virtual Capitol Hill "Fly-In" to Advocate for Federal Bills – Wednesday, October 6**
  - i. We are hosting a virtual "fly-in" and would encourage as many members as possible to attend. If you are comfortable sharing with your members, you are welcome to do so as well.
  - ii. This is a great opportunity to build momentum as we approach the end of the year, where there sometimes is a flurry of legislative activity.
  - iii. You will receive a registration form via email and the PCC will take care of setting up meetings with your congressional representatives and providing you with all the information you need.

- iv. We have secured Rep. Spanberger to speak to us during the educational/preparatory portion of the event. We have checked back in with Sen. Klobuchar to determine her availability. She has a lot of bills on her plate (e.g., voting reform legislation).
- v. We will share additional updates as they become available.

#### **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.