



PROFESSIONAL
CERTIFICATION
COALITION

January 27, 2023

Senator Andrew P. Koenig
201 W Capitol Ave, Room 331-A
Jefferson City, MO 65101-1556
d15web@senate.mo.gov

Re: S.B. 410

Dear Senator Koenig:

The Professional Certification Coalition (PCC) writes regarding S.B. 410. As currently drafted, the bill would **unconstitutionally intrude on the First Amendment right of private associations and organizations to establish and define their credentials**. The bill's content and viewpoint-based restrictions on higher education institutions are also unconstitutional and would interfere with the preparation of Missouri students for health care credentials and careers. While the PCC's preference is to work with bill sponsors on amendments where we identify areas of disagreements, these aspects of the bill are core to the legislation. The PCC accordingly must oppose S.B. 40 and will share its concerns about the bill with the committee of jurisdiction. Before doing so, however, we wanted to explain the basis of the PCC's concerns.

As you may recall from our correspondence with you in prior sessions of the legislature, 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, spanning a wide spectrum of professions, including numerous health care organizations. 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.

Of direct concern to the PCC, S.B. 410 provides that:

No organization that issues health care-related professional certifications or provides materials for such certifications shall use DEI ideologies or materials or require DEI training as part of the certification process.

The bill defines “Diversity-Equity-Inclusion” or “DEI” as “education or training requirements or programs that instruct people on the subjects of antiracism, implicit bias, health equity, social determinants of health, and any other instructions related to the relevance of race, gender, religion, ethnicity, sexual preference, and national origin relating to access to care or treatment by health care providers.” In combination, these provisions would impose content-based and viewpoint-based restrictions on certification organizations. **For the PCC, this is a direct infringement on our members' First Amendment rights as private organizations, and the PCC would have these serious concerns regardless of the particular viewpoints that the bill seeks to restrict.**

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Although S.B. 410 is limited in scope to health care related professions, its content is similar to that of a Florida law that was recently blocked on First Amendment grounds by a federal court. Florida's "Individual Freedom Act" (also known as the "Stop WOKE Act") would have made it unlawful for public universities and professors to promote or inculcate eight concepts, including DEI concepts such as implicit bias. In issuing an injunction in *Pernell v. Florida Board of Governors* against the statute, the U.S. District Court for the Northern District of Florida explained that "enacting a prophylactic ban on protected expression of certain viewpoints—in the interest of suppressing those viewpoints because the State ... finds them 'repugnant'—is neither sufficiently weighty nor reasonable" to outweigh an individual or organization's First Amendment right to free expression. Indeed, the court stated that "such viewpoint discrimination is poison to a free society."

Challenges to the right of certification organizations to develop and define the content and requirements of their credentials have repeatedly failed. As the U.S. Court of Appeals for the Third Circuit stated in *Kenney v. Am. Board of Internal Medicine*, a certification organization "has the right to control who it is certifying and what standards and requirements are necessary."

If this bill is enacted, it will certainly face legal challenges, diverting taxpayer funds to litigation – and with the expected result that the provisions of the bill will be blocked. For all of these reasons, we will be asking the committee of jurisdiction not to move this bill forward.

Sincerely,



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Current Members of the PCC

AABC Commissioning Group

ABRET Neurodiagnostic
Credentialing & Accreditation
(ABRET)

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

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

American Association of
Professional Landmen (AAPL)

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

American Board of Certification
for Gastroenterology Nurses
(ABCGN)

American Board of Foot and
Ankle Surgery (ABFAS)

American Board of Medical
Specialties (ABMS)

American Board of
Neuroscience Nursing (ABNN)

American Board of Nursing
Specialties (ABNS)

American Industrial Hygiene
Association (AIHA)

American Legal Nurse
Consultant Certification Board
(ALNCCB)

American Medical Certification
Association (AMCA)

American Nurses Credentialing
Center (ANCC)

American Payroll Association
(APA)

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)

Arcitura Education, Inc.

Association for Financial
Counseling & Planning
Education (AFCPE)

Association of Surgical
Technologists (AST)

Behavior Analyst Certification
Board (BACB)

Board of
Certification/Accreditation
(BOC)

Board of Certified Safety
Professionals (BCSP)

Board of Pharmacy Specialties
(BPS)

Building Commissioning
Certification Board (BCCB)

Certification Board for Diabetes
Care and Education (CBDCE)

Certification Board for Music
Therapists (CBMT)

Certification Board of Infection
Control and Epidemiology
(CBIC)

Certification Council for
Professional Dog Trainers
(CCPDT)

Certified Financial Planner
Board of Standards (CFP)

Certified Fund Raising
Executive International (CFRE)

CertiProf, LLC

Chartered Financial Analyst
Institute (CFA)

Commission for Case Manager
Certification (CCMC)

Commission on Nurse
Certification (CNC)

Community Association
Institute (CAI)

Computing Technology Industry
Association (CompTIA)

Construction Management
Association of America
(CMAA)

Council for Interior Design
Qualification (CIDQ)

Council of Engineering and
Scientific Specialty Boards
(CESB)

Dental Assisting National Board
(DANB)

Diving Equipment and
Marketing Association (DEMA)

Entertainment Services and
Technology Association (ESTA)

ETA International

Financial Planning Association
(FPA)

Healthcare Sterile Processing Association (HSPA)	National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Oncology Nursing Certification Corporation (ONCC)
Hearth, Patio, & Barbecue Education Foundation (HPBA)	National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Pediatric Nursing Certification Board (PNCB)
Heuristic Solutions	National Board of Certification in Occupational Therapy (NBCOT)	Pharmacy Technician Certification Board (PTCB)
Hospice and Palliative Credentialing Center (HPCC)	National Board of Surgical Technology and Surgical Assisting (NBSTSA)	Professional Association of Therapeutic Horsemanship International (PATH)
Institute for Credentialing Excellence (ICE)	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	PSI Services
Institute of Hazardous Materials Management (IHMM)	National Certification Corporation (NCC)	Pearson Vue
Institute of Inspection Cleaning and Restoration Certification (IICRC)	National Commission on Certification of Physician Assistants (NCCPA)	QualityPro
International Coach Federation (ICF)	National Commission for Health Education Credentialing (NCHEC)	Rehabilitation Nursing Certification Board (RNCB)
International Information System Security Certification Consortium (ISC ²)	National Council on Family Relations (NCFR)	School Nutrition Association (SNA)
Investments & Wealth Institute (IWI)	National Kitchen and Bath Association (NKBA)	SeaCrest Consulting
Irrigation Association	National Recreation and Park Association (NRPA)	Security Industry Association (SIA)
IT Certification Council (ITCC)	National Restaurant Association (NRA)	Society of Broadcast Engineers (SBE)
Laborers' International Union of North America Training & Education Fund (LIUNA)	National Roofing Contractors Association (NRCA)	Specialty Pharmacy Certification Board (SPCB) c/o National Association of Specialty Pharmacy Certification Board
Medical-Surgical Nursing Certification Board (MSNCB)	National Society of Professional Engineers (NSPE)	Spray Polyurethane Foam Alliance (SPFA)
National Association of Insurance and Financial Advisors (NAIFA)	Nephrology Nursing Certification Commission (NNCC)	Towing and Recovery Association of America, Inc. (TRA)
National Association of Personal Financial Advisors (NAPFA)		National Board of Public Health Examiners (NBPHE)
National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)		