



PROFESSIONAL
CERTIFICATION
COALITION

February 21, 2023

Sen. Nathan Dahm
2300 North Lincoln Boulevard, Room 526
Oklahoma City, OK 73105
dahm@oksenate.gov

Re: S.B. 895

Dear Senator Dahm:

The Professional Certification Coalition (PCC) writes regarding the potential negative effects of S.B. 895, the “Right to Earn a Living Act.” In its current form, S.B. 895 would mandate that agencies repeal regulations unless an extremely high evidentiary standard is met and permit a private cause of action for individuals to challenge occupational licensing regulations. S.B. 895 could have an adverse effect on the health, safety, and welfare of Oklahoma citizens who trust the state to protect the public from low-quality or harmful services and could also compel the state to expend taxpayer dollars unnecessarily. **For these reasons, unless the bill is substantially amended, we oppose it.**

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.

S.B. 895 has two key components. The first calls on state licensing agencies to review all occupational regulations to ensure that they are limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives. The PCC supports the objective of careful review of licensure laws to ensure that unnecessary obstacles to the practice of professions is lightened or removed. However, we regard the bill’s current definition of “welfare” as too narrow, as it only encompasses protection of members of the public against fraud or harm. This evidentiary burden is extremely high, and the “demonstrably necessary” standard suggests that proof of actual harms from the absence of the regulatory requirements would be needed to meet it. This would impose an impracticable burden on the licensing authority to collect appropriate data, as there is no existing data available that gathers evidence of public harm from each level of restriction and compares the level of harm from requiring, for example, bonding and insurance versus an occupational license requirement.

In addition, some licensure laws appropriately set baseline levels of professional competence above inflicting harm on members of the public. It promotes public welfare, for example, to ensure that Oklahoma public school teachers pass the three competency-based teacher tests required to become certified to teach in Oklahoma public schools. Quantifying the “harm” to the public from classroom teachers who fall short of those measures would be extremely difficult to do and would require longitudinal data that would be unavailable at the time of review of those regulations.

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The second component of the bill invites costly litigation against government agencies by directly creating a private right of action for individuals to seek injunctions against licensure regulations. The PCC opposes this component of the bill, for several reasons. First, the bill effectively shifts the burden of proof to the government in all cases, as any petitioner would be able to meet the threshold of burden of showing that a regulation “burdens the entry into a profession or occupation.” By definition, all licensure laws do that.

Second, the government would bear the burden of proof in establishing that regulations serve the public interest and are drafted in the least restrictive manner, according to the hierarchy of least restrictive to most restrictive listed in the bill. No government agency will have data comparing the effects of the various levels of regulation in the list, because that list was not a factor at the time of adoption of the regulations. Although the PCC does not oppose a procedure in which regulations that do not promote the public interest are modified or repealed, the measure of whether a regulation promotes the public interest should not be an artificial hierarchy that bears no relation to the issues a state agency oversees.

Moreover, inviting costly litigation that the state would have to defend would waste limited state resources and taxpayer dollars. The threat and likelihood of litigation, and the cost burden of the resulting legal expenses, would require agencies would create significant budgetary pressures on the state to eliminate occupational licensure wherever feasible, even when doing so would not be in the best interest of Oklahoma citizens.

While the PCC stands ready to work with lawmakers who are seeking to craft legislation that strikes a reasonable balance between the benefits of occupational licensing and the desire for free markets in employment, this legislation goes too far in removing protections for the public.

Thank you for your consideration of these issues. If you have any questions regarding this letter, please feel free to reach out to us using the contact information identified below.

Sincerely,



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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
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Engineers (ASCE)
American Speech-Language-
Hearing Association (ASHA)
American Traffic Safety
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Arcitura Education, Inc.
Association for Financial
Counseling & Planning
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Association of Surgical
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Behavior Analyst Certification
Board (BACB)
Board of
Certification/Accreditation
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Board of Certified Safety
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Professional Dog Trainers
(CCPDT)
Certified Financial Planner
Board of Standards (CFP)
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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)
Hearth, Patio, & Barbecue
Education Foundation (HPBA)
Heuristic Solutions
Hospice and Palliative
Credentialing Center (HPCC)
Institute for Credentialing
Excellence (ICE)
Institute of Hazardous Materials
Management (IHMM)
Institute of Inspection Cleaning
and Restoration Certification
(IICRC)

International Coach Federation (ICF)

International Information System Security Certification Consortium (ISC²)

Investments & Wealth Institute (IWI)

Irrigation Association

IT Certification Council (ITCC)

Laborers' International Union of North America Training & Education Fund (LIUNA)

Medical-Surgical Nursing Certification Board (MSNCB)

National Association of Insurance and Financial Advisors (NAIFA)

National Association of Personal Financial Advisors (NAPFA)

National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)

National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)

National Board of Certification in Hearing Instrument Sciences (NBC-HIS)

National Board of Certification in Occupational Therapy (NBCOT)

National Board of Surgical Technology and Surgical Assisting (NBSTSA)

National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)

National Certification Corporation (NCC)

National Commission on Certification of Physician Assistants (NCCPA)

National Commission for Health Education Credentialing (NCHEC)

National Council on Family Relations (NCFR)

National Kitchen and Bath Association (NKBA)

National Recreation and Park Association (NRPA)

National Restaurant Association (NRA)

National Roofing Contractors Association (NRCA)

National Society of Professional Engineers (NSPE)

Nephrology Nursing Certification Commission (NNCC)

Oncology Nursing Certification Corporation (ONCC)

Pediatric Nursing Certification Board (PNCB)

Pharmacy Technician Certification Board (PTCB)

Professional Association of Therapeutic Horsemanship International (PATH)

PSI Services

Pearson Vue

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Rehabilitation Nursing Certification Board (RNCB)

School Nutrition Association (SNA)

SeaCrest Consulting

Security Industry Association (SIA)

Society of Broadcast Engineers (SBE)

Specialty Pharmacy Certification Board (SPCB) c/o National Association of Specialty Pharmacy Certification Board

Spray Polyurethane Foam Alliance (SPFA)

Towing and Recovery Association of America, Inc. (TRA)

National Board of Public Health Examiners (NBPHE)