



PROFESSIONAL  
CERTIFICATION  
COALITION

April 18, 2023

Rep. Joel Rudman  
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Rep. Randall Fine, *Chair*  
House Health and Human  
Services Committee  
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Rep. Charles Clemons, *Chair*  
House Healthcare Regulation  
Subcommittee  
[chuck.clemons@myfloridahouse.gov](mailto:chuck.clemons@myfloridahouse.gov)

**Re: H.B. 1403**

Dear Representatives Rudman, Fine, and Clemons:

The Professional Certification Coalition (PCC) writes to share our views regarding H.B. 1403. As currently drafted (and preserved in the second committee substitute), the bill would **unconstitutionally intrude on the First Amendment right of private organizations to establish and define their credentials**. The PCC's preference is always to work with bill sponsors on legislation where we identify areas of disagreement. We are a non-partisan organization solely focused on protecting and promoting the certification community through public policy, not advancing (or, for that matter, opposing) a political agenda. However, the constitutional defects in H.B. 1403 would compel the PCC to oppose the bill unless the proposed provisions of new Section 456.61(2), applicable to private certification organizations, is struck from the bill. We want to explain the basis of the PCC's concerns and urge you to drop this provision.

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, Section 3 of the bill provides that any board within the Department of Health may revoke state approval of a specialty board or other recognizing agency, if that private organization revokes the certification of an individual “because the individual has spoken or written publicly about a health care service or public policy” outside a specific patient relationship. Withdrawal of recognition of specialty board certifications would affect the ability of physicians holding board certification from any specialty medical board, for example, to advertise their certification unless expressly stating that the board certification is not recognized by the Florida Board of Medicine, according to current board regulations. *See Fla. Administrative Code 64B8-11.001.*

This provision would impose content-based restrictions on certification organizations. **For the PCC, this is a direct infringement on our members' First Amendment rights as private organizations.** In this instance, some specialty medical boards have adopted a Code of Conduct that authorizes disciplinary action against board certified physicians who, outside of an individual patient care situation, engage in conduct that puts the safety of patients or the public at risk. The American Medical Association has also issued an Ethics Opinion reminding physicians involved in the media environment to understand that they will be taken as authorities and thus should ensure that medical information shared with the media is accurate and based on valid scientific evidence. Whether physicians who provide inaccurate medical

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information to the public through media statements should face licensure consequences is a decision properly within the purview of the legislature and the state agency. But the Constitution bars the state from interfering with the free speech of private organizations. Choosing who to endorse or not to endorse through conferring a certification goes to the heart of private certification organizations' right to free expression. **The Florida legislature has no authority to dictate the eligibility or disciplinary codes of those private certification programs.**

Although H.B. 1403 is limited in scope to health care-related professions, its overreach is similar to that of a Florida law that was recently blocked on First Amendment grounds by a federal court, the "Individual Freedom Act" (also known as the "Stop WOKE Act"). In issuing a preliminary injunction against the statute in *Honeyfund.com, Inc. v. DeSantis*, the U.S. District Court for the Northern District of Florida explained that "the First Amendment bars the state from burdening speech, while private actors may burden speech freely."

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." H.B. 1403 violates this fundamental principle.

If this bill is enacted, it will certainly face legal challenges, diverting taxpayer funds to litigation – and with the expected result that this provision of the bill will be blocked. For all of these reasons, we respectfully request that you strike the proposed new Section 456.61(2) from this bill. Indeed, we note that a nearly parallel bill pending in the Florida Senate, S.B. 1580, contains a provision on social media speech by health care practitioners that mirrors H.B. 1403's provisions with respect to actions by state agencies, but it does not seek to restrain decisions of private organizations. We urge that H.B. 1403 be revised to also drop that provision.

Sincerely,



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AABC Commissioning Group  
ABRET Neurodiagnostic  
Credentialing & Accreditation  
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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 Board)  
Certified Fund Raising  
Executive International (CFRE)  
CertiProf, LLC

Chartered Financial Analyst  
Institute (CFA Institute)  
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 (ISC<sup>2</sup>)

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

QualityPro

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)