



PROFESSIONAL  
CERTIFICATION  
COALITION

February 26, 2024

Rep. Ryan Wilcox  
350 State Capitol  
Salt Lake City, UT 84114  
[ryanwilcox@le.utah.gov](mailto:ryanwilcox@le.utah.gov)

**Re: HB 508**

Dear Rep. Wilcox:

The Professional Certification Coalition (PCC)<sup>1</sup> writes regarding HB 508. In its current form, HB 508 would incentivize individuals to challenge occupational licensing regulations, inviting administrative burden and expensive litigation. HB 508 could have an adverse effect on the health, safety, and welfare of Utah 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 amended to remove Sections 13-1b-302(3) and 13-1b-401, the PCC must oppose HB 508.**

The PCC supports a careful review of licensure laws to ensure that unnecessary obstacles to practicing a profession are removed. However, HB 508 invites a burdensome petition process and costly litigation against government agencies by directly creating a private right of action for individuals to seek injunctions against licensure regulations that currently protect the public from unqualified practitioners. The PCC opposes these provisions of the bill, for several reasons. *First*, the bill permits a petitioner to bring an action in court based only on disagreement with action taken by the Office of Professional Licensure in response to a petition. The bill does not require that a petitioner have any basis for their disagreement.

*Second*, the Office of Professional Licensure faces a significant disadvantage in establishing that the challenged regulation is necessary to address a “present, recognizable, and significant harm to the health, safety, or financial welfare of the public,” and is the least burdensome regulation available. Because current regulations already protect the public from “present” harm at the hands of unqualified professionals, these regulations will be unable to meet this evidentiary standard. Accordingly, the standard would need to be changed to justify regulations based on a “*threat* of recognizable and significant harm” in order to avoid setting an impossible evidentiary

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<sup>1</sup> The PCC is a nonprofit, nonpartisan 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.

standard for licensing authorities. Unless the bill is amended in this way, the public will lose the protections that the Utah legislature has adopted in its licensure laws.

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 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 Utah citizens. The PCC respectfully suggests that the legislature and state agencies should instead take a leadership role in carefully considering whether any licensure requirements for specific occupations may be unduly restrictive, rather than enacting legislation that applies broadly to all occupations, spurring litigation battles for judges to resolve. Specifically, the PCC proposes the amendments attached in **Appendix A**, which include amendments that recognize the legitimacy of licensing requirements that are uniform and have been widely adopted nationwide, as for physicians, CPAs, professional engineers, and similar professions. The PCC's proposed amendments also include a provision that protects against this legislation being used as a tool to attack regulations that recognize private certification qualifications.

The PCC stands ready to work with lawmakers who seek to craft legislation that strikes a reasonable balance between the benefits of occupational licensing and the desire for free markets in employment. Unfortunately, in its current form, this legislation goes too far in enabling removal of protections for the public.

Thank you for your consideration of these issues. Please feel free to reach out to us using the contact information identified below.

Sincerely,



Craig Saperstein  
Partner, Pillsbury Winthrop Shaw Pittman LLP  
Legal Counsel to the PCC  
Email: [craig.saperstein@pillsburylaw.com](mailto:craig.saperstein@pillsburylaw.com)

## Appendix A

- **Remove Sections 13-1b-302(3) and 13-1b-401.**
- Revise the evidentiary standard in current law by amending proposed Section 13-1b-302(1)(a) to read: “whether the regulation of the occupation is necessary to address a **threat of or** present, recognizable, and significant harm to the health, safety, or financial welfare of the public;”
- Add a safe harbor provision: **“Regulatory requirements for an occupation shall be presumed to be necessary where the regulatory requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”**
- Add another safe harbor provision: **“Nothing in this chapter shall require the Office to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”**



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 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)

Beingcert

Board of  
Certification/Accreditation  
(BOC)

Board of Certified Safety  
Professionals (BCSP)

Board of Pharmacy Specialties  
(BPS)

Building Commissioning  
Certification Board (BCCB)

Building Industry Consulting  
Service International, Inc.  
(BICSI)

Certification Board for Diabetes  
Care and Education (CBDCE)

Certification Board for Music  
Therapists (CBMT)

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)

Construction Management  
Association of America  
(CMAA)

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)

Human Resource Certification  
Institute, Inc. (HRCI)

Institute for Credentialing  
Excellence (ICE)

Institute of Hazardous Materials  
Management (IHMM)

International Coach Federation  
(ICF)

International Information  
System Security Certification  
Consortium (ISC<sup>2</sup>)

Investments & Wealth Institute  
(IWI)

Irrigation Association	National Recreation and Park Association (NRPA)
IT Certification Council (ITCC)	National Restaurant Association (NRA)
Laborers' International Union of North America Training & Education Fund (LIUNA)	National Roofing Contractors Association (NRCA)
Medical-Surgical Nursing Certification Board (MSNCB)	National Society of Professional Engineers (NSPE)
National Association of Insurance and Financial Advisors (NAIFA)	Nephrology Nursing Certification Commission (NNCC)
National Association of Personal Financial Advisors (NAPFA)	Oncology Nursing Certification Corporation (ONCC)
National Athletic Trainers' Association Board of Certification, Inc. (NATA/BOC)	Pearson Vue
National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)	Pediatric Nursing Certification Board (PNCB)
National Board of Certification in Hearing Instrument Sciences (NBC-HIS)	Pharmacy Technician Certification Board (PTCB)
National Board of Certification in Occupational Therapy (NBCOT)	Professional Association of Therapeutic Horsemanship International (PATH)
National Board of Public Health Examiners (NBPHE)	PSI Services
National Board of Surgical Technology and Surgical Assisting (NBSTSA)	QualityPro
National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)	Rehabilitation Nursing Certification Board (RNCB)
National Certification Corporation (NCC)	School Nutrition Association (SNA)
National Commission for Health Education Credentialing (NCHEC)	SeaCrest Consulting
National Commission on Certification of Physician Assistants (NCCPA)	Security Industry Association (SIA)
National Council on Family Relations (NCFR)	Society of Broadcast Engineers (SBE)
National Kitchen and Bath Association (NKBA)	Specialty Pharmacy Certification Board (SPCB)
	Spray Polyurethane Foam Alliance (SPFA)
	Towing and Recovery Association of America, Inc. (TRA)