



April 15, 2024

Sen. Kristina D. Roegner, *Chair*  
Senate Government Oversight Committee  
[roegner@ohiosenate.gov](mailto:roegner@ohiosenate.gov)

Sen. Niraj J. Antani, *Vice Chair*  
Senate Government Oversight Committee  
[antani@ohiosenate.gov](mailto:antani@ohiosenate.gov)

Rep. Paula Hicks-Hudson, *Ranking Minority Member*  
Senate Government Oversight Committee  
[hicks-hudson@ohiosenate.gov](mailto:hicks-hudson@ohiosenate.gov)

**Re: HB 238**

Dear Senators Roegner, Antani, and Hicks-Hudson:

The Professional Certification Coalition (PCC)<sup>1</sup> writes regarding HB 238, which contains provisions that violate First Amendment principles.

As currently drafted, Section 4743.06 of HB 238 prohibits occupational licensing boards from adopting or providing certain continuing education courses. Although these provisions relate to content offered by the state government, the bill also would make it unlawful for a licensing board to “approve for credit, count for credit, or require completion of” continuing education courses “that promote any of [certain enumerated] concepts.” The list of prohibited concepts includes content such as recognition of implicit bias tied to sex or race.

Many occupational licensing boards require licensees to complete continuing education (“CE”) courses to renew a license, and the boards will approve for credit CE based on whether the courses meet the standards of a private certification organization or an accredited college or university. For example, the Ohio Board of Nursing explains that licensed RNs can meet the CE requirements for license renewal through “[a]cademic credit for successful completion of a course taken through an accredited educational institution, such as a college course” or “contact hours of CE completed for APRN national certification.” See <https://nursing.ohio.gov/continuing-education-and-pre-licensure/continuing-education/ce-requirements-for-renewal>.

Thus, introducing content and viewpoint-based restrictions based on concepts covered in a CE course would require a state licensing board to selectively approve or deny credit based on the content of a course that is approved by private national certification organizations and would impose content-based and viewpoint-based restrictions on private certification organizations as a condition of governmental recognition. **For the PCC, this is a direct infringement on our members’ First Amendment rights as private organizations.**

---

<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.

Legal 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.” HB 238 violates this fundamental principle.

Moreover, in a unanimous decision issued earlier this year on March 4, 2024, the U.S. Court of Appeals for the Eleventh Circuit affirmed a preliminary injunction against a Florida law, in *Honeyfund.com Inc. v. Governor, State of Fla.* The Florida statute enumerated a list of prohibited concepts very similar to the list of prohibited CE course concepts in Section 4743.06 and would have barred private entities from requiring attendance at courses or training sessions promoting those concepts. In holding that the Florida law “exceeds the bounds of the First Amendment,” the Court of Appeals wrote that “[b]y limiting its restrictions to a list of ideas designated as offensive, the Act targets speech based on its content. And by barring only speech that endorses any of those ideas, it penalizes certain viewpoints—the greatest First Amendment sin.” **For these reasons, the PCC urges that Section 4743.06 be deleted in its entirety from HB 238.** Alternatively, to ensure that Section 4743.06 is limited to governmental speech and does not interfere with private entity decisions about course content, the PCC urges amending the bill to:

- Delete “approve for credit, count for credit, or require completion of” from Section 4743.06(B), and
- Add a new provision: **“Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, alter or impair 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, or withhold occupational licensing board recognition of continuing education credits earned from an accredited educational institution or that are consistent with continuing education credits awarded or recognized by a private national certifying organization that issues credentials for the occupation.”**

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

Sincerely,



Jeff Evans  
Director, Public Policy  
ASAE: The Center for Association Leadership  
Phone: (202) 626-2722  
Email: [jevans@asaacenter.org](mailto:jevans@asaacenter.org)



Denise Roosendaal, FASAE, CAE  
Executive Director  
Institute for Credentialing Excellence  
Phone: (202) 367-1165  
Email: [drosendaal@credentialingexcellence.org](mailto:drosendaal@credentialingexcellence.org)

cc:

Rep. Sarah Fowler Arthur  
[rep99@ohiohouse.gov](mailto:rep99@ohiohouse.gov)

Rep. Roy Klopfenstein  
[rep82@ohiohouse.gov](mailto:rep82@ohiohouse.gov)



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)