



PROFESSIONAL
CERTIFICATION
COALITION



White Paper on Private Professional Certification

PROFESSIONAL CERTIFICATION COALITION

OCTOBER 2018



EXECUTIVE SUMMARY

- *Professional certification promotes competition by ensuring informed choice for employers, payers, and users of professional services.*
- *In recent years, occupational licensing reform legislation has been introduced to achieve the laudable goals of removing unnecessary barriers to entry into professions in order to promote market competition and employment opportunities. However, some of these bills have included provisions that would be harmful to certified professionals and those they serve.*
- *The Professional Certification Coalition advocates for legislation that avoids restrictions on voluntary professional certification programs, that ensures fair evidentiary burdens for determining whether an occupational licensing regime for a certain field should be renewed, and that balances important economic considerations with equally important considerations related to protection to public health, safety and welfare.*

Professional Certification

“Professional certification” refers to a voluntary process by which a nongovernmental entity grants recognition to an individual to verify that the individual has met established standards of knowledge, skills and/or competencies in the field. In many cases, certification organizations rely on third-party accreditation body standards by which certification programs can demonstrate their ongoing adherence to best practices in areas such as conflicts of interest, test security, exam specifications and development, professional ethics, and test administration.

Professional certifications promote competition by facilitating informed choice for those who would employ, pay for (i.e., health plans, insurance companies, etc.), or use the professional’s services. Professional certification enables the public to distinguish between those who have attained some qualifying level of competence or quality from those that have not and provides credibility, recognition, job satisfaction, and often increased earning power and/or enhanced prospects for employment to the certificant. For the many jobs that require specialized skills for which traditional education may not provide adequate preparation, certification programs provide a way for individuals to identify the skills and knowledge base they need to master for a specific profession and to demonstrate that mastery.



Professional Certification and Occupational Licensure

In some fields, such as health care, safety-related roles, and the engineering and financial industries, regulatory agencies have incorporated the competency standards established by non-governmental professional certification programs into licensure requirements. These regulatory requirements serve to acknowledge both the importance of setting competency standards for the protection of the public and the value of having those standards defined by subject matter experts rather than by government officials. For these professions, the *content* of the standards is best established by the non-governmental professional certification program, but *enforcement* of the standards is more effectively done by the licensing agency. In professions for which state licensing boards have historically provided oversight, it would not serve the interests either of the public or of private certification organizations to eliminate or weaken licensure requirements and shift the enforcement function currently performed by licensure boards onto private certification programs. Private certification organizations lack the legal authority and the resources to serve as a substitute for licensing boards for professions for which licensure is required to protect public health, safety or welfare.

Legislation Affecting Professional Certification

In recent years, some state legislatures have considered bills to reform occupational licensure laws. These bills—some of which are based on model legislation put forward by advocacy groups and think tanks—typically aim to remove unnecessary barriers to entry into professions in order to promote market competition and employment opportunities. This goal is laudable, provided that such legislation does not result in unintended consequences that could harm consumers or individuals who have acquired the skills and knowledge necessary to obtain a professional certification. In practice, however, several recent attempts at legislative reform of occupational licensing requirements have included provisions that would be harmful to certified professionals and those they serve. In particular, some occupational licensing reform bills have defined the terms “certified” and “registered” as titles that only the government can issue and have included provisions barring use of such titles without state authorization, thereby precluding individuals from marketing themselves as having earned their credentials. Other bills have characterized “certification” as a recognition issued only by the government, or have called for state action to offer voluntary certification programs, which, contrary to free-market principles, would position the government as a competitor to private certification programs. Many occupational licensure reform bills have also included provisions mandating that the state use the “least restrictive” form of occupational licensure requirements in any licensure regulations; although perhaps well intentioned, these provisions impose an obstacle to state recognition of professional certification standards, even when such standards protect the public from low-quality or harmful services.

In light of these considerations, lawmakers, in crafting occupational licensing bills, should:

- Avoid restricting or placing burdens on voluntary professional certification programs.



- Conduct careful review, informed by stakeholder input, before repealing any current requirements for professional certification from licensure statutes and regulations.
- Ensure fair evidentiary burdens for determining whether an occupational licensing regime for a certain field should be renewed, with particular focus on recognizing that the public rightfully expects licensure laws to set a higher bar than merely protecting them from gross negligence and injury.

The laudable objectives of occupational licensing reform should be balanced with the protections to public health, safety and welfare derived from professional certification and should not place obstacles to informed consumer choice in seeking high quality professional services.

About the Professional Certification Coalition

The Professional Certification Coalition was formed by the Institute for Credentialing Excellence and the American Society of Association Executives to address efforts by lawmakers and/or interest groups to enact state legislation that could have the effect of undermining the activities or recognition developed or offered by non-governmental, private certification organizations. With legal and advocacy support from Pillsbury Winthrop Shaw Pittman LLP, the PCC promotes and represents non-governmental professional certification organizations and programs and their service providers. The PCC advances the best interests of those who use or rely on professional certification—such as employers, payers and the general public—as well as of individual professionals themselves who achieve professional certification status. The PCC is a D.C. unincorporated nonprofit association whose members consist of non-governmental professional certification organizations, programs and service providers.



WHITE PAPER ON PRIVATE PROFESSIONAL CERTIFICATION

I. About Professional Certification

Professional certification refers to a voluntary process by which a nongovernmental entity grants recognition to an individual to verify that the individual has met established standards of knowledge, skills and/or competencies in the field.¹ Professional certifications serve an important role in self-regulation of professions and provide significant benefits to the individual certified professionals, their employers, and the public.

There is no substitute for professional certification in providing reliable measures of professional competence and skill to employers, third-party payors (i.e., health plans, insurance companies, etc.), customers and the public. Professional certification programs generally create a rigorous process of defining the expected knowledge, skills and abilities for their particular profession through the process of a Job Task Analysis. Subject matter experts define the content domain for assessment based on their extensive knowledge of the profession; the programs also gain input from others in the field in defining the areas of knowledge on which candidates will be assessed. Many certification programs engage professional psychometricians in developing their exams; validation of exam design and content in accordance with psychometric standards is required for accredited certification programs. Certification programs also create strong policy guidelines to ensure their process is fair to all applicants and address a variety of important aspects of the certification process (requests for testing accommodations, test security processes, retake policies, etc.) to ensure the certification is legally defensible, assure accurate scores, and protect the integrity of the process. Employers rely on these quality practices in the certification process to assist their own employment practices.

Third-party accreditation bodies have developed standards by which certification programs can demonstrate their ongoing compliance to quality practices in areas such as conflicts of interest, test security, exam specifications and development, test administration, and examination score equating. These practices are also commonly followed by professional certification programs that have chosen not to apply for accreditation.

¹ The U.S. Bureau of Labor Statistics defines a *certification* as a “credential awarded by a non-governmental certification body, based on an individual demonstrating, through an examination process, that they have acquired the designated knowledge, skills, and abilities to perform a specific job, [and that] does not convey a legal authority to work in an occupation.” According to the BLS definition, the term “certification” does not include “educational certificates awarded by an educational institution—such as a community college, a 4-year college or university, or a trade school—based on completion of all requirements for a program of study” or “certificates of attendance or participation in short-term training.” See <https://www.bls.gov/cps/certifications-and-licenses-faqs.htm#whatare>.



Programs often also promote continued competence through the recertification process. Once initial certification has been obtained, the certification may be time-limited and require maintenance of certification, usually through continuing education and/or recertification examinations. These requirements ensure that the professional's knowledge and skills remain current and do not fall below established competency standards, as well as account for changes in the profession as the result of technological enhancements and other advances. In addition, most certification programs require certified professionals to adhere to a code of professional ethics. Finally, certification programs retain jurisdiction to revoke certification from an individual who ceases to meet qualifications due to a violation of the program's ethics code, failure to meet continuing education requirements, or inability to pass a recertification examination.

As further detailed below, professional certification programs perform four primary functions for credential holders:

- Certification programs *develop* people, helping them maintain required knowledge, skills and abilities.
- Certification programs *qualify* people, confirming that they have acquired knowledge, skills and abilities.
- Certification programs *differentiate* people with different levels of professional proficiency or specialty.
- Certification programs *recognize* people, acknowledging or rewarding those who consistently perform to a standard.²

II. The Value of Certification for Professionals, the Public, Payors and Employers

Professional certification programs help to advance and ensure qualifications and serve as indicators of diligence and competence in certified professionals. Increasingly, many jobs require specialized skills for which traditional education may not provide adequate preparation.³ Certification programs provide a way for individuals to identify the skills and knowledge base they need to master for a specific profession and to demonstrate that mastery.

In addition, certification programs promote competition by facilitating informed choice by those who would employ, pay for or use the professional's services. Professional certification enables the public (as well as employers, government and private third-party payors, and users of professional services) to distinguish between those who have attained some qualifying level of competence or quality from those that have not. Because of the often highly technical or

² Judith Hale. *Performance-Based Certification: How to Design a Valid, Defensible, Cost-Effective Program* (2nd ed.); 2011. See also Mary Tschirhart, Ph.D., Chongmyoung Lee, and Gary Travinin. *The Benefits of Credentialing Programs to Membership Associations*. ASAE Foundation Research Series; 2012.

³ Pew Research Center. *The State of American Jobs*. October 2016.



specialized nature of professional services, members of the public and those outside of the professional field would otherwise often be unable to make an informed assessment of the professional's level of expertise or the quality of the services. In short, voluntary non-governmental certification programs protect the public by enabling anyone to identify more readily those people who have demonstrated achievement, knowledge, skill and competence.

Indeed, younger and less experienced individuals tend to favor the creation of new certification programs in their fields, suggesting that certifications tend to be sought as signals of competence and are viewed as a market advantage, rather than as a way for older workers to limit competition or access to the field. Research also indicates that certification programs can promote entrepreneurial activity by helping entrepreneurs build legitimacy for their new businesses. Moreover, earning professional certification gives individuals confidence that they can be successful working for themselves.⁴

Certification programs add value both early in a profession and later in a professional's career. A study of labor market demand across unlicensed jobs as varied as automotive repair, information technology and welding found that certifications function as "door openers." The certifications create entry-level access to skilled jobs that do not typically have degree or stringent prior experience requirements, with employers seeking certified candidates and willing to pay a premium for the demonstration of competency that certification provides.⁵ Professional certification also functions as a "career escalator" for mid-career professionals. Professional certifications with eligibility requirements that include minimum work experience, in fields such as project management and information systems security, are in high demand by employers and command salary premiums.⁶ Similarly, a 2017 study of IT professionals found that IT staff with professional certifications earned salaries over 11% higher than their non-certified coworkers.⁷ Indeed, in most professions, voluntary certification has a positive, significant effect on earnings.⁸ Research suggests that the wage premiums for holders of professional certification result from demand for professionals with such "quality-of-service" credentials, rather than any barriers to entry into the profession.⁹

⁴ Research of Dr. Kyle Albert, Assistant Research Professor, George Washington University, at <https://kylealbert.weebly.com/research.html>.

⁵ Burning Glass Technologies. *The Narrow Ladder: The Value of Industry Certifications in the Job Market*. October 2017.

⁶ *Id.*

⁷ Global Knowledge 2017 *IT Skills and Salary Report*, at <https://images.globalknowledge.com/wwwimages/web/salary-report/past-reports/2017-it-skills-salary-report-global-knowledge-en-ww.pdf>.

⁸ Kim A. Weeden. *Why Do Some Occupations Pay More than Others? Social Closure and Earnings Inequality in the United States*. *American Journal of Sociology*. 2002; 108(1):55-101

⁹ Weeden, *supra* note 9.



Certified professionals also tend to experience greater job satisfaction—a perhaps unsurprising finding given the related evidence that certified professionals exhibit improved job performance. For example, a large-scale study of several thousand human resources professionals and their supervisors found significantly increased career satisfaction and overall job performance among human resources employees holding professional certifications, as compared to non-certificants.¹⁰ Studies also show that certification is positively associated with job satisfaction (and negatively related to turnover) for young employees.¹¹

Thus, for the certified professional, the credential provides credibility, recognition, job satisfaction, and often increased earning power and/or enhanced prospects for employment.

Equally important, certification also benefits those who use professional services, pay for them, or employ service providers. Certification programs promote responsible conduct through the establishment of ethics and disciplinary codes, continuing education requirements, and assessments of core competencies. In addition, because professional certification programs regularly update certification examinations and requirements to reflect current knowledge and evolving skills, professional certification programs help to drive innovation and professional proficiency. Professional certification promotes high standards that advance the profession. Multiple studies show, for example, that earning specialty certifications for health care professionals improves patient care.¹² Similarly, a 2017 survey of over 14,000 information technology managers found that “[r]espondents across the board noted direct benefits of IT professionals being certified, including increased productivity, faster troubleshooting and fewer skills gaps.”¹³ Simply put, consumers, payors and employers can expect higher quality services from a professional who holds a professional certification.

Voluntary, non-governmental professional certification is also consistent with free market principles. Non-governmental professional certification programs—the vast majority of which are developed by nonprofit organizations—represent the self-regulation of professions and promote informed consumer choices. A number of professions have developed and support multiple professional certification programs; in those fields, those who aspire to earn professional certifications have choices about which certification program to pursue. In addition, there are several different organizations that accredit professional certification programs—and accreditation itself is voluntary on the part of certification programs. In short, these non-governmental professional certification programs enable the voluntary fostering and recognition of quality and competency standards, to the benefit both of the professionals themselves and of those they serve.

¹⁰ Human Resources Research Organization. *An Evaluation of the HR Certification for Individuals and Organizations*. April 2015.

¹¹ Research of Dr. Kyle Albert, *supra* note 5.

¹² *Benefits of Certification: What the Research Says*, Cidalia J. Vital, MS, RN, CNL, CPAN (collecting studies on impact of specialty certification in nursing), at https://cpanaca.org/wp-content/uploads/2018/04/Benefits-of-Certification-Research_2.8.18.pdf.

¹³ Global Knowledge *2017 IT Skills and Salary Report*, *supra* note 9.



III. Professional Certification and Occupational Licensure

Many professional certification programs are purely voluntary and are not required for an individual to engage in the profession. Voluntary professional certification, as described above, helps to protect the public from low-quality or even negligent services. Compared to governmental regulation, voluntary professional certification: (a) permits the promulgation and use of higher standards by eliminating mistrust and resistance toward governmental regulation; (b) reduces taxpayer costs; (c) offers greater opportunities for flexibility and responsiveness to changing conditions than typically characteristic of the legislative and regulatory process; and (d) draws on volunteers within a field who offer subject matter expertise that government officials often do not possess.

In some fields, however, such as health care, safety-related roles, and the engineering and financial industries, regulatory agencies have incorporated the competency standards established by non-governmental professional certification programs into licensure requirements. For example, according to 2017 data from the Bureau of Labor Statistics' Current Population Survey, fully one-quarter of licensed workers work in the health care field.¹⁴ These regulatory requirements serve to acknowledge both the importance of setting competency standards for the protection of the public and the value of having those standards defined by subject matter experts rather than by government officials. For these professions, the *content* of the standards is best established by the non-governmental professional certification program, but *enforcement* of the standards is more effectively done by the licensing agency. In professions for which state licensing boards have historically provided oversight, it would not serve the interests either of the public or of private certification organizations to eliminate or weaken licensure requirements and shift the enforcement function currently performed by licensure boards onto private certification programs. Private certification organizations lack the legal authority and the resources to serve as a substitute for licensing boards for professions for which licensure is required to protect public health, safety or welfare.

In recent years, many state legislatures have considered bills to reform occupational licensure laws. These bills—and related model legislation put forward by advocacy groups and think tanks—typically aim to remove unnecessary barriers to entry into professions in order to promote market competition and employment opportunities. This goal is laudable, provided that such legislation does not result in unintended consequences that could harm consumers or individuals who have acquired the skills and knowledge necessary to obtain a professional certification. In practice, however, recent attempts at legislative reform of occupational licensing requirements have included provisions that would be harmful to certified professionals and those they serve:

- Professional certification programs often use the terms “Certified” or “Registered” as part of the credential earned by individuals who have met the certification program’s requirements. Some occupational licensure reform bills, however, have defined the

¹⁴ Bureau of Labor Statistics, 2017 Data on Certifications and Licenses, at <https://www.bls.gov/cps/certifications-and-licenses.htm>.



terms “certified” and “registered” as titles that only the government can issue and have included provisions barring anyone from using “certified” or “registered” as a title unless specifically authorized to do so by the state.¹⁵ The result of such provisions would be to prohibit individuals from truthful advertising of earned credentials.

- Occupational licensing reform bills have defined “certification” as a recognition issued only by the government, or have called for state action to offer voluntary certification programs. These provisions would set up the government as a competitor to private certification programs.¹⁶
- Other occupational licensure reform bills have called for presumptive elimination of occupational licensure regulations or entire regulatory agencies unless the regulations are proven to be narrowly tailored to protect consumers from “present, significant, and substantiated harms” to public health and safety; in some bills, but not all, protection of public “welfare” is also included as a legitimate government interest. Other bills have required evidence of a “systematic problem.” These evidentiary standards are highly problematic. Any regulation that currently requires professional certification for licensure already protects the public from harm at the hands of unqualified professionals, so no “present” data of significant or systemic harms will exist. Current regulations have avoided subjecting the public to such harm.¹⁷
- Many occupational licensure reform bills have also included provisions mandating that the state use the “least restrictive” form of occupational licensure requirements in any licensure regulations; such bills also provide that the state shall employ a “rebuttable presumption that market competition and private remedies are sufficient to protect consumers.” These provisions impose an obstacle to state recognition of professional certification standards, even when such standards protect the public from low-quality or harmful services.¹⁸

¹⁵ For example, Louisiana House Bill 748, as passed by the Louisiana House in April 2018, included provisions barring the use of “certified” and “registered” as a title, except when authorized by the state. The bill language incorporated model legislation provisions from the American Legislative Exchange Council. Following substantial opposition, those provisions were removed from the bill in the Senate.

¹⁶ For example, two recently enacted laws in Missouri, House Bill 1500 and House Bill 1719, define “certification” as “a program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a regulatory entity.” Ohio Senate Bill 255, as passed by the Senate on June 27, 2018, calls for “state action ... to offer voluntary certification.”

¹⁷ For example, Ohio Senate Bill 255, as passed by the Ohio Senate on June 27, 2018, recites the “present, significant, and substantiated harms” to public health and safety evidentiary standard; a prior version of the bill omitted public welfare as a legitimate state interest. Louisiana House Bill 748, as passed by the Louisiana House in April 2018, used the “systematic problem” language; that provision was removed from the enacted version of the bill.

¹⁸ For example, both Ohio Senate Bill 255, as passed by the Ohio Senate on June 27, 2018, and Louisiana House Bill 748, as passed by the Louisiana House in April 2018, included this presumption; the presumption was stripped from the Louisiana bill before it passed the Louisiana Senate.



In light of these considerations, legislation aimed at occupational licensing reform should avoid restricting or placing burdens on voluntary professional certification programs. In addition, legislatures should exercise caution and conduct careful, case-by-case review, informed by stakeholder input, before repealing any current requirements for professional certification from licensure statutes and regulations. Overly restrictive definitions or whether licensure regulations are narrowly tailored to protect the public interest often demand evidence of widespread, current harm to consumer health or safety from unqualified practitioners. In professions in which licensure regulations already protect the public from such harms, that evidentiary standard cannot be met. Moreover, the public rightfully expects licensure laws to set a higher bar than merely protecting them from gross negligence and injury. Rather, a public accustomed to licensed professionals who hold certifications equates licensure with high standards of quality, skill and knowledge.

The laudable objectives of occupational licensing reform initiatives should be balanced with the important protections to public health, safety and welfare derived from professional certification and should not place obstacles to informed consumer choice in seeking high quality professional services.

Additional Sources:

Certification & Accreditation Law Handbook (3d ed.), Jerald A. Jacobs, Association Management Press (2016).

Certification: The ICE Handbook (2d ed.), Institute for Credentialing Excellence (2009).