

# Update on the Legislative Landscape in Credentialing

Wednesday, February 27, 2019 | By Denise Roosendaal, CAE, ICE Executive Director



“If you’re not at the table, then you’re on the menu,” said Michael Enzi, senior Senator from Wyoming. This past year, the credentialing community has learned this lesson firsthand through the outbreak of state legislation in 2018, and now being proposed in 2019, related to issues impacting certification and licensure.

In April 2018, ICE learned of a bill in Louisiana that was potentially devastating to the certification community. Among other provisions, the bill would have prohibited the use of the term “certified” unless the government specifically authorized the individual to use that title. Through the collective efforts of an ad hoc coalition that preceded the formation of the [Professional Certification Coalition](#) (PCC), we were able to satisfactorily amend the language. A month later, when a Missouri bill passed with confusing language enabling government to compete with private certification and a similar bill was introduced in Ohio, ICE and the American Society for Association Executives (ASAE) realized that the certification community needed a more permanent and proactive organization to address these legislative threats, and they partnered to found the PCC.

The PCC is an association of certification organizations, professional societies, and other entities that support certification. ICE and ASAE serve as its Steering Committee, and the PCC is supported by Pillsbury Winthrop Shaw Pittman LLC. As of the date of this article, the Coalition is 112 members strong, including organizations engaged in wholly voluntary certification and certification programs that issue credentials required for state licensure.

The PCC has engaged in considerable outreach to organizations across the political spectrum and nonpartisan organizations of state lawmakers. The PCC's efforts have largely been fruitful in the attempt to clarify and protect the important role of private certification in the marketplace and in connection to licensure programs within the states.

---

### What is the PCC?



The Professional Certification Coalition (PCC) advocates for legislation that avoids restrictions on voluntary professional certification programs, that ensures fair evidentiary burdens for review of occupational licensing regimes that incorporate certification, and that balances important economic considerations with equally important considerations related to protection of public health, safety and welfare.

Read the PCC's white paper and see the full list of current members here:

<https://www.profcertcoalition.org/about-pcc>

---

### What's Next? 4 Areas of Focus

After successfully amending language in the Louisiana and Ohio bills, the PCC has been monitoring and analyzing bills introduced in the 2019 state legislative sessions that impact private certification. The PCC has identified over 60 bills across the nation that affect private certification in four principal contexts:

**Occupational Licensing Reform:** While not disputing the need for periodic review of occupational regulation, the PCC believes the review process should balance market competition considerations with public protection (health, safety, and welfare). In addition, occupational regulation review should avoid evidentiary presumptions against licensure regulations that incorporate professional certification as a required personal qualification.

**Governmental versus Private Certification:** Many occupational licensure reform bills have included provisions that call for the government to establish its own certification programs. The PCC seeks to ensure that certification is accurately defined as an activity primarily conducted by a private (not a government) entity and that taxpayer money is not needlessly spent in establishing competing governmental certification programs when suitable private certification programs exist that are developed by professionals with expertise on established standards for their fields.

**Consumer Choice Acts (or Right to Earn a Living Acts):** Consumer Choice bills establish a pathway to bypass licensure requirements with some kind of disclosure to the consumer. The PCC is concerned that these bills do not ensure informed consumer consent and fail to protect third parties who may be harmed by an unqualified individual practicing a licensed profession. Right to Earn a Living bills open the door wide to litigation against government agencies, creating a private right of action for individuals to seek injunctions against licensure regulations and shifting the burden of proof to the government to show that regulations that serve the public interest are drafted in the least restrictive manners.

**Criminal Conviction Re-entry Legislation:** These bills address the challenges facing ex-offenders when attempting to re-enter the workforce and prohibit or limit the government's consideration of previous convictions to disqualify a former convict from holding a license. The PCC's proposed amendments seek to ensure that the government is not dictating how private certification programs establish or enforce their eligibility or ethics policies, since many certification bodies may need to consider previous convictions related to a particular profession.

ICE is grateful for its partnership with ASAE and the incredible support of the Pillsbury law firm. The PCC intends to work diligently and thoughtfully with state legislators to ensure that proposed legislation is not harmful to the private certification community and the way it operates with licensure or in the workforce.

It's not too late to join the effort. You can find out more about PCC membership [here](#). The PCC meets on a regular basis to discuss the current status of legislation, as well as strategy ideas for tackling the issues. Contact Denise Roosendaal ([droosendaal@credentialingexcellence.org](mailto:droosendaal@credentialingexcellence.org)) or the PCC ([info@profcertcoalition.org](mailto:info@profcertcoalition.org)) with any questions.