

September 26, 2018

Good morning Chairman Iden and members of the Committee. My name is Taylor Benavente, MSAE's Association Industry Advocate. Thank you for the opportunity to testify on House Bill 6114.

MSAE's position on this legislation is neither in opposition nor adversarial. Rather, as described by my colleague, there is a need in the State of Michigan for the annual review of occupational regulations, particularly so for the protection and benefit of consumers.

However, MSAE does believe that the proposed legislative language could be improved to better balance the needs of market competition with consumer protection and to make the evidentiary standard for meeting the state's new policy more realistic for those organizations whose work is valid and necessary for maintaining healthy and functioning industries.

To that end, MSAE offers the following two recommendations:

1. In Section 404(1) the Michigan Law Revision Commission is directed to review occupational licensing using the "least restrictive regulations" necessary to protect consumers from present and significant harms.

MSAE and groups such as the Professional Certification Coalition recommend that occupational licensing agencies/boards should be able to justify regulations that prevent against potential harms that are foreseeable, including harms that have thus far been avoided because of the protection that current licensure requirements provide. To achieve this, we would propose that the language in Section 404(1) be amended to reference "present or potential harms, or threats to the health, safety, or welfare of the public."

This change and the elimination of the term 'substantiated' in this context would allow occupational regulations to also protect against foreseeable harms and clarifies that any threats to the health, safety, or welfare of consumers are thereby sufficient to warrant lawful regulatory protection.

2. MSAE commends the legislature for its careful balance of labor market competition and the need to protect consumers and the public. However, in several provisions of this bill there are references to the promotion of market competition as a critical goal that do not appear to be balanced by language related to public safety.

Returning to Section 404(1), the bill directs the Commission to require information from outside parties knowledgeable about each occupational license under review. It is concerning that there is no explicit reference for the Commission to also consider

information about public health, safety, or welfare as a factor in balance of market competition as a critical goal. Similarly, also found in Section 404(1), the Commission is directed to “evaluate the effects of legislation on opportunities for workers, consumer choices and costs, general unemployment, governmental costs...” and so on.

Offered as an additional layer of protection for both the consumer and occupational licensing agencies, MSAE’s 2nd recommendation would be that this provision is amended to require the Commission to explicitly evaluate the effects of the legislation on “the protection of public health, safety, or welfare,” when balancing market competition.

MSAE exists to ensure a knowledgeable, professional, and successful association community. The occupational licensing agencies we are fortunate enough to work with continue to demonstrate their worth in not only the protection of consumers, but also in the daily advancement and benefit of their industries. A large part of what makes this possible are the various yet valid occupational regulations they offer.

For those organizations which cannot demonstrate adequate market necessity nor meet the proposed consumer protection standards, MSAE offers its support to the Michigan Law Revision Commission’s annual review and its recommendations to the legislature.

Thank you committee members for the opportunity to offer this feedback on House Bill 6114.

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