

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 3rd Meeting of the 2021 Interim

August 12, 2021

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, August 12, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Jimmy Higdon, Jason Howell, Christian McDaniel, Gerald A. Neal, and Michael J. Nemes; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Thomas Huff, Matthew Koch, C. Ed Massey, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Killian Timoney, and Susan Westrom.

Guests: Senator Whitney Westerfield; Martin Harris, Josh Gaines, Council of State Governments Justice Center; State Representatives Mark Hart, D.J. Johnson, Norma Kirk-McCormick, and Richard White; Mr. Eric Sherman, PMP, Southeast Regional Liaison, Department of Defense, Military Community & Family Policy; and Brandy Cantor and Chris Nolan, MML&K Government Solutions.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

Approval of minutes from June 17 and July 19, 2021, meetings

Representative Koenig motioned to approve the minutes from June 17 and July 19, 2021 meetings, and Representative Burch seconded the motion. Motion carried and the minutes were adopted by voice vote.

Fair Chance Licensing

Senator Westerfield testified that second chance licensing improves access to good-paying licensed jobs for Kentuckians with criminal records. He sponsored Senate Bill 120 (RS 2017) which implemented several best practices, and since then several other state have adopted additional reforms. As the Commonwealth focuses on economic recovery, these measures strengthen employment opportunities, allow businesses to hire from a

broader talent pool, and saves taxpayer money through reduced recidivism and incarceration.

Martin Harris, Legal Fellow, Council of State Governments (CSG) Justice Center, said they work in all 50 states to uphold justice, offer second chances, and ensure safe and healthy communities. The CSG Justice Center is a national, nonprofit, nonpartisan organization that combines the power of a membership association, representing state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities. The economic mobility team is assisting in conducting a landscape analysis of all 50 states. The key areas include assisting states in economic recovery, enhancing good paying jobs, and improving reentry and public safety in providing businesses with qualified candidate pools.

Mr. Harris said providing pre-application determinations to prospective applicants so they know whether their record is disqualifying before investing in the training and education for the license is a practice that Kentucky should consider. The state should also consider barring non-convicting dispositions and closed records, including arrests not followed by conviction, juvenile adjudications, and pardoned, sealed, or expunged records. Another option would be to add evidence of rehabilitation to “relevant factors” required in assessment. Current law requires boards to notify rejected applicants that “evidence of rehabilitation may be considered upon reapplication.” Many states, however, include “evidence of rehabilitation” as a specific factor that must be assessed as part of the initial decision to grant or reject an applicant based on criminal history. Limiting consideration of older convictions after a period of conviction-free years, and less serious offenses, such as non-violent misdemeanors is another option to consider.

Mr. Josh Gaines, Project Manager, Economic Mobility, CSG Justice Center, testified that he was in support of fair chance licensing and was available to answer questions from committee members.

Responding to a question from Representative Koenig, Senator Westerfield said there is not a bill draft at this time. Representative Koenig said the pre-application component makes a lot of sense, but his concern is that this would be an additional burden to many boards that over the last several years have been allowed to increase fees by regulation because they are running low on funds. Senator Westerfield said he had no problem with the state charging the applicant a reasonable fee for the pre-application process to offset costs to the boards. Mr. Gaines also supports a nominal fee to the applicant to cover the cost of a review and this is a very common practice within other states.

Military Spouse Licensure Portability

Representatives Norma Kirk-McCormick, Mark Hart, and D.J. Johnson will sponsor upcoming licensing compacts legislation for different professions. Mr. Eric Sherman, PMP, Southeast Regional Liaison, Department of Defense, Military Community

and Family Policy, said many military spouse professionals must relicense each time they move to a new state with their active-duty spouse. States can facilitate the ability of professionals, including military spouses, to work across state lines by enacting occupational licensure interstate compacts. An increasing number of occupations are establishing interstate compacts to support: common understanding of standards; states sharing authority and responsibility over occupational-based practices; “privilege to practice” policies allowing members to work in other compact states; allowing endorsements for a license transfer, primarily based upon changing legal residence; and tele-practice opportunities using technology to work across state boundaries. The Defense State Liaison Office assists national state boards and membership associations in educating legislators on the benefits of their licensure compacts to the military community. The coronavirus pandemic demonstrates that interstate licensure compacts can provide a permanent solution to leveraging underused medical talent to meet labor shortages in high-need areas.

Representative Hart said the bill draft for the Emergency Medical Services (EMS) profession is forthcoming. He said as soon as the draft is available, he will have it emailed to all committee members.

Representative Johnson gave a personal experience and is very supportive of compacts for military spouses, and he will be sponsoring the bill draft including occupational therapists.

Responding to a question from Senator Higdon, Mr. Sherman said he is not sure how many other states have signed on to this compact, but will get the information to committee members. Senator Higdon said the Licensing, Occupations, and Administrative Regulations committee is the appropriate place for the compacts. Representative Kirk-McCormick said she would be facilitating her bill draft on the fast track.

Responding to a question from Representative Banta, Mr. Sherman said the interstate compact does not change the standards developed in Kentucky for a particular profession. Representative Hart said the compact will still require participants in the EMS field to follow the scope of practice in Kentucky, it just makes the process less cumbersome. Representative Banta would like a tutorial explaining the process to participants. Senator Schickel encouraged the sponsors to get the bills prefiled so they can be vetted sufficiently.

Server Age Limits for Alcohol

Representative Richard White said allowing adults 18 years of age and older to serve alcohol provides an opportunity for businesses to expand their employees. Terry Fritzer, restaurant owner, said West Virginia has incorporated this and has had no problems. This does not allow people under 20 to bartend in Kentucky.

Responding to a question from Senator Higdon regarding grocery store owners hiring people under 18 years of age, Senator Schickel said the language can be changed in the bill to clarify this issue for grocery store owners as this was not the intent. Representative White said he will check into it and change any language that needs to be clarified so grocery store employers can hire employees under 18 years of age.

2021 RS HB 340 AN ACT relating to radon safety

Representative Bratcher said radon is attributable to 22,000 lung cancer cases in America a year. He said this legislation raises awareness to the issue, repeals the radon program advisory committee, and creates a Kentucky Board of Radon Safety. This mirrors the traditional board appointment process of the other boards, and includes seven board seats with four radon professionals and one public health professional. The realtors and home builders will have non-voting seats on the board, and are very supportive of the bill.

Responding to a question from Chairman Schickel, Brandy Cantor, MML&K Government Solutions, said this bill was carried over from 21RS General Assembly in order to give the legislation due diligence.

Responding to a question from Senator Higdon, Chris Nolan, MML&K Government Solutions, on behalf of the Kentucky Association of Radon Professionals, said the amount of licensees and the license fees that are paid for certification will generate enough funds to make the program self-sufficient. There are also federal EPA dollars, and other federal funds, that Kentucky can utilize for the program. Senator Higdon said radon is a silent killer. Parts of Kentucky have extremely high radon levels, and the public needs to be educated on the issue. He also said giving subpoena power is a piece of the bill that needs to be properly vetted and should be given on a limited basis. Ms. Cantor said the program is being moved from the Department of Public Health to Professional Licensing in the Public Protection Cabinet (PPC). The subpoena power language mirrors the language that is in about 20 other boards that are in the PPC. Chairman Schickel said subpoena power should be limited as it is a powerful tool. Representative Koenig said a surprisingly large number of boards have subpoena power.

With no further business before the committee, the meeting adjourned at 10:55 a.m.