

## BARRIERS TO WORK IN THE MOUNTAIN STATE

**Edward J. Timmons**

*Senior Affiliated Scholar, Mercatus Center at George Mason University*

West Virginia Legislature, Joint Standing Committee on Government Organization

December 16, 2019

Chairman Maynard, Chairman Howell, and all distinguished members of the Joint Standing Committee on Government Organization, thank you for inviting me to testify on the subject of occupational licensing in West Virginia.

I am a professor of economics at Saint Francis University in Loretto, PA, and the director of the Kneecenter for the Study of Occupational Regulation, the only university-based academic center focusing solely on the topic of occupational regulation. I am also a senior affiliated scholar with the Mercatus Center at George Mason University. My published research on the topic has been cited by the White House and some federal agencies. I have been involved with or led three federally funded grant projects exploring the issue. Most of my comments today are based on report that I coauthored for the Cardinal Institute for Public Policy in September.<sup>1</sup>

The main takeaways of my comments are the following:

1. West Virginia, broadly speaking, has more licensing boards and charges higher licensing fees than neighboring states.
2. There is little to no evidence to suggest that these barriers help protect consumers. On the contrary, they make services more expensive.
3. These fees also impose a disproportionate burden on lower-income Americans, and on military spouses.

### SOME BACKGROUND ON OCCUPATIONAL LICENSING

Occupational licensing laws establish mandatory requirements for entry into a profession. Occupational licensing is not the same thing as regulation, but rather, occupational licensing is the strictest form of occupational regulation, and thus its costs are most significant for consumers and aspiring workers. As an example, chefs and restaurant staff are not required to obtain a license to work. This does not mean that the workers are not subject to regulation. Instead, the restaurant is subject to random inspections and is also subject to consumer feedback and ratings from a variety of private sources.

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1. Edward J. Timmons, Emily Vargo, and Conor Norris, *Barriers to Work in the Mountain State: A Closer Look at Occupational Licensing in West Virginia* (Charleston, WV: Cardinal Institute for West Virginia Policy, 2019).

The fraction of the US workforce that is licensed has significantly grown in the past 60 years. In the 1950s, approximately 5 percent of workers were licensed.<sup>2</sup> Today, that figure stands at 21.5 percent.<sup>3</sup> West Virginia is estimated to have slightly more—22 percent of workers are estimated to be licensed—and it has the eighth-highest percentage of workers licensed among all states.<sup>4</sup>

The purpose of occupational licensing laws is to protect consumers and maintain a minimum quality standard for professions. The existing evidence that occupational licensing fulfills this purpose is ambiguous at best.<sup>5</sup> In fact, new research indicates that licensing may reduce consumer perceptions of the quality of service.<sup>6</sup> On the other hand, evidence on the costs of licensing is much more conclusive. Licensing is found to increase prices by anywhere from 3 to 16 percent.<sup>7</sup> In addition, licensing is found to reduce the supply of workers by 17 to 27 percent.<sup>8</sup>

## COMPARING WEST VIRGINIA TO ITS NEIGHBORS

The report I coauthored for the Cardinal Institute was conducted in two phases. In the first phase, we identified 25 occupations that we classify as “high barrier.” This means that many of the licensing requirements for the occupation are higher in West Virginia than in both Pennsylvania and Ohio. In the second phase, we more closely examined the licensing requirements for these 25 high-barrier occupations. The conclusions of our report are as follows:

- West Virginia has higher initial licensing fees than Pennsylvania and Ohio for 18 of the 25 high-barrier occupations. Eight of the occupations have fees that are more than \$100 more than the comparison states.
- West Virginia has higher renewal fees than Pennsylvania and Ohio for 21 of the 25 high-barrier occupations. Ten of the occupations have fees that are more than \$100 more than the comparison states.
- West Virginia has 38 licensing boards and commissions—17 more than Ohio and 9 more than Pennsylvania.
- Pennsylvania has a separate regulatory entity providing regulatory oversight of its licensing boards and commissions. Both West Virginia and Ohio do not provide similar oversight.

## SUMMARIZING OCCUPATIONAL LICENSING IN WEST VIRGINIA

From the standpoint of consumer welfare and safety, the wide variation in licensing requirements for the same profession state to state is hard to justify. In our Cardinal Institute report, my coauthors and I uncover this type of variation. Before our investigation, our expectation was that Pennsylvania and Ohio might have higher fees than West Virginia—perhaps as a result of higher living standards and costs of living than their southern neighbor. What we found was exactly the opposite: fees in West Virginia for many occupations are significantly higher. We find it difficult to establish a compelling consumer welfare and safety justification for this difference.

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2. Morris M. Kleiner and Alan B. Krueger, “The Prevalence and Effects of Occupational Licensing,” *British Journal of Industrial Relations* 48, no. 4 (2010): 676–87.

3. Bureau of Labor Statistics, “49. Certification and Licensing Status of the Civilian Noninstitutional Population 16 Years and Over by Employment Status, 2017 Annual Averages,” February 8, 2018, <https://www.bls.gov/cps/aa2017/cpsaat49.htm>.

4. Morris M. Kleiner and Evgeny Vorotnikov, “Analyzing Occupational Licensing among the States,” *Journal of Regulatory Economics* 52, no. 2 (2017): 132–58.

5. US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework for Policymakers*, July 2015.

6. Darwyn Deyo, “Licensing and Service Quality: Evidence Using Yelp Consumer Reviews” (unpublished manuscript, n.d.), PDF file, <https://www.aeaweb.org/conference/2017/preliminary/paper/efy2hraQ>.

7. US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework*.

8. Peter Blair and Bobby Chung, “How Much of a Barrier Is Occupational Licensing,” *British Journal of Industrial Relations* 57, no. 4 (2019): 919–43.

It is also difficult for us to justify the difference in the number of licensing boards. Ohio has more than six times the residents of West Virginia. Pennsylvania has more than seven times the number of residents. Nevertheless, West Virginia has more licensing boards to regulate its licensed professions.

I would encourage policymakers in the state to reconsider the costs and benefits of occupational licensing as a policy tool to enhance consumer safety. As noted, there are a number of policy alternatives—such as private certification—that fulfill the same regulatory objective and do not have the same cost. As an additional example, the National Institute for Automotive Service Excellence is a private nonprofit entity that allows auto mechanics to obtain a credential that can serve as a signal to consumers that mechanics have completed rigorous training. Occupational licensing is not the only regulatory tool available to policymakers. Instead, occupational licensing is the most expensive and cumbersome policy tool, and there is little evidence that it serves its intended purpose. Policymakers should exercise prudence and always carefully consider the costs of occupational licensing.