

ARIZONA OCCUPATIONAL LICENSING: BARRIERS TO OPPORTUNITY IN THE GRAND CANYON STATE

Matthew D. Mitchell, PhD

Director and Senior Research Fellow, Equity Initiative, Mercatus Center at George Mason University

Arizona State Legislature, Senate Committee on Military & Veterans Affairs

January 27, 2020

Chair Lawrence, Vice Chair Osborne, and distinguished members of the Senate Committee on Military & Veterans Affairs:

My name is Matthew Mitchell. I am an economist and a senior research fellow at the Mercatus Center at George Mason University, where I direct the Equity Initiative. Mercatus scholars working on the Equity Initiative study public policies that favor particular firms, industries, or occupations. In recent years, my colleagues and I have been studying occupational licensing laws, and I am grateful for the opportunity to discuss our findings with you.

In my testimony, I wish to focus on three points:

1. Licensing is a substantial barrier to employment, particularly for certain populations such as military spouses.
2. Licensing does little to enhance either consumer safety or the quality of services; it does, however, increase prices for consumers.
3. Successful reform is difficult, but not impossible. Policymakers must be able to cast conspicuous votes in the general interest while special interest power must be limited.

LICENSURE IS A SUBSTANTIAL BARRIER TO EMPLOYMENT

Licensing represents a significant and growing barrier to work. Nationally, the share of the workforce that is required to have an occupational license has increased more than fourfold in the past 50 years. As of 2015, nearly one in four working Arizonans—22.3 percent of the state’s workforce—was required to be licensed.¹

1. Morris M. Kleiner, *Reforming Occupational Licensing Policies* (Washington, DC: The Hamilton Project at the Brookings Institution, March 2015), 9.

As licensing burdens have increased nationwide, they seem to have depressed interstate migration of those in licensed professions. Economists Janna Johnson and Morris Kleiner estimate that between-state migration of those who are licensed is 36 percent lower than that of members of other professions.²

These burdens have an economic cost. In separate research, Kleiner and Evgeny Vorotnikov estimate that licensure may cost between 1.8 and 1.9 million jobs, result in between \$6.2 billion and \$7.1 billion in lost output, and create a misallocation of resources that costs the US economy between \$183.9 billion and \$197.3 billion each year.³ In Arizona alone, they estimate that licensure has eliminated more than 29,000 jobs, has resulted in \$85.2 million in lost annual output, and has created a \$2.8 billion annual misallocation of resources.⁴

Aspiring entrants to a large number of professions—ranging from travel guide and door repair contractor to cosmetologist—are now required by the state of Arizona to obtain a government-issued license to work. It can take months and hundreds or even thousands of dollars to obtain these licenses. Among 68 low- to moderate-income occupations licensed by Arizona, the average aspiring worker is required to spend 765 days in training and pay \$612 in fees before he or she may obtain a license.⁵ This does not count either the cost of the education or the income that people forgo when they spend months in often-unnecessary training. According to the Institute for Justice, Arizona’s licensing laws are the fourth-most-burdensome in the country.

Licensure is often arbitrary. As shown in table 1, licensing requirements often don’t match the risk posed to the public by certain professions. Compared with emergency medical technicians, aspiring cosmetologists in Arizona must undergo *14 times* as many months of training; would-be sign language interpreters (who are unlicensed in 28 states) must complete more than *57 times* as much training; and commercial door repair contractors (unlicensed in 26 states) must complete more than *56 times* as much training.

TABLE 1. OCCUPATIONAL TRAINING MISMATCHES IN ARIZONA

Occupation	Days of Education/Experience	Fees
Emergency medical technician	26	\$337
Cosmetologist	373	\$247
Pest control applicator	449	\$645
Residential carpenter/cabinet maker	1,460	\$956
Commercial door repair contractor	1,460	\$956
Sign language interpreter	1,469	\$820

Source: Dick M. Carpenter II et al., *License to Work: A National Study of Burdens from Occupational Licensing*, 2nd ed. (Arlington, VA: Institute for Justice, November 14, 2017), 48–49.

Licensing boards are dominated by members of the professions they oversee. About 85 percent of Arizona occupational licensure boards are required by law to have a majority of their members work in the

2. Janna E. Johnson and Morris M. Kleiner, “Is Occupational Licensing a Barrier to Interstate Migration?” (NBER Working Paper No. 24107, National Bureau of Economic Research, Cambridge, MA, December 2017).

3. Morris M. Kleiner and Evgeny S. Vorotnikov, *At What Cost? State and National Estimates of the Economic Costs of Occupational Licensing* (Arlington, VA: Institute for Justice, November 2018), 5.

4. Kleiner and Vorotnikov, *At What Cost?*, 25.

5. Dick M. Carpenter II et al., *License to Work: A National Study of Burdens from Occupational Licensing*, 2nd ed. (Arlington, VA: Institute for Justice, November 14, 2017), 48.

professions they oversee.⁶ See table 2 for board composition data in a sample of Arizona boards. Owing to vacancies, many boards are composed entirely of industry insiders. This presents a legal concern in light of the US Supreme Court’s decision in *North Carolina State Board of Dental Examiners v. FTC*, which held that states may be liable for antitrust violations when boards are dominated by members of the professions they oversee and when elected officials fail to actively supervise these boards.⁷ It also creates a practical concern that boards will tend to act as industry cartels, controlling entry of new members rather than ensuring public safety.

TABLE 2. COMPOSITION OF SELECT ARIZONA BOARDS

Board or Council	Industry Members	Total Members	Percent Industry
Board of Barbers ^a	3	5	60%
Board of Athletic Training ^b	3	5	60%
Board of Cosmetology ^c	5	7	71%
Veterinary Medical Examining Board ^d	6	9	67%
Board of Massage Therapy ^e	3	5	60%
Board of Behavioral Health Examiners: Social Workers, Marriage and Family Therapists, Substance Abuse Counselors ^f	8	12	67%

^a Ariz. Rev. Stat. Ann. § 32-302 (West 2019).

^b Ariz. Rev. Stat. Ann. § 32-4102 (West 2019).

^c Ariz. Rev. Stat. Ann. § 32-502 (West 2019).

^d Ariz. Rev. Stat. Ann. § 32-2202 (West 2019).

^e Ariz. Rev. Stat. Ann. § 32-4202 (West 2019).

^f Ariz. Rev. Stat. Ann. § 32-3252 (West 2019).

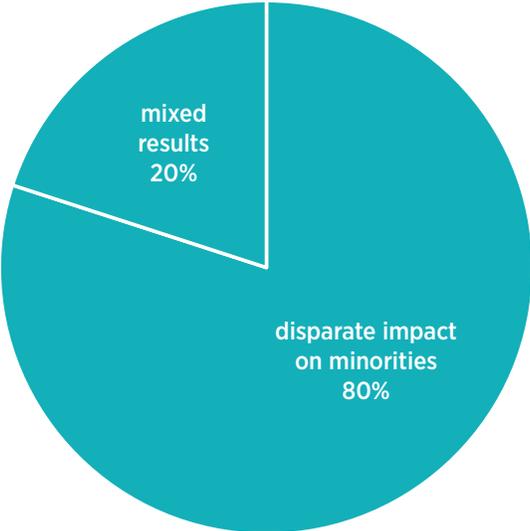
Licensing reduces employment opportunities, especially among certain communities. High barriers to employment pose particular difficulties to lower-skilled, lower-educated populations, to immigrants, to non-English speakers, to those with criminal records, and to those who move frequently, such as military spouses. As shown in figure 1, 80 percent of the studies Mercatus scholars reviewed find that licensure has a disparate impact on minorities.⁸

6. Rebecca Haw Allensworth, “Foxes at the Henhouse: Occupational Licensing Boards Up Close,” *California Law Review* 105, no. 6 (December 2017): 1609.

7. *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015).

8. Patrick A. McLaughlin, Matthew D. Mitchell, and Anne Philpot, “The Effects of Occupational Licensure on Competition, Consumers, and the Workforce” (Mercatus on Policy, Mercatus Center at George Mason University, Arlington, VA, November 2017), 7.

FIGURE 1. STUDIES ASSESSING THE EFFECT OF OCCUPATIONAL LICENSURE ON MINORITIES



Sources: **Disparate Impact:** Stuart Dorsey, “The Occupational Licensing Queue,” *Journal of Human Resources* 15, no. 3 (1980): 424–34; Maya Federman, David Harrington, and Kathy Krynski, “The Impact of State Licensing Regulations on Low-Skilled Immigrants: The Case of Vietnamese Manicurists,” *American Economic Review* 96, no. 2 (2006): 237–41; Joshua Angrist and Jonathan Guryan, “Does Teacher Testing Raise Teacher Quality? Evidence from State Certification Requirements,” *Economics of Education Review* 27, no. 5 (2008): 483–503; David E. Harrington and Jaret Treber, *Designed to Exclude: How Interior Design Insiders Use Government Power to Exclude Minorities & Burden Consumers* (Arlington, VA: Institute for Justice, February 2009). **Mixed Results:** Marc Law and Mindy Marks, “Effects of Occupational Licensing Laws on Minorities: Evidence from the Progressive Era,” *Journal of Law and Economics* 52, no. 2 (2009): 351–66.

Recent research finds that in countries with more barriers to entering business, measured income inequality is greater.⁹ Separate research finds that in states with greater growth in licensure for low- to moderate-income occupations, there is less absolute income mobility, as measured by the chances that an individual raised in a relatively low-income household will move up the income distribution.¹⁰

Those with criminal histories are particularly likely to be stymied by these laws. The Council of State Governments Justice Center estimates that nationally about 15,000 laws and regulations limit the ability of those with prior convictions to obtain state occupational licenses. Among these, 6,000 are blanket or mandatory restrictions.¹¹

Licensure presents an especially steep employment barrier for military spouses. About 35 percent of working military spouses are either licensed or certified.¹² And compared with the broader population, military spouses are 10 times more likely to have moved across a state line in the past year.¹³ When military spouses were asked to name the biggest challenges to employment, 22 percent identified the

9. Patrick A. McLaughlin and Laura Stanley, “Regulation and Income Inequality: The Regressive Effects of Entry Regulations” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016).
 10. Brian Meehan, Edward Timmons, and Andrew Meehan, *Barriers to Mobility: Understanding the Relationship between Growth in Occupational Licensing and Economic Mobility* (Washington, DC: Archbridge Institute, 2017).
 11. National Inventory of Collateral Consequences of Conviction home page, Council of State Governments Justice Center, accessed December 11, 2019, <https://niccc.csgjusticecenter.org/>.
 12. US Department of the Treasury and US Department of Defense, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, February 2012, 3.
 13. US Department of the Treasury and US Department of Defense, *Supporting Our Military Families*.

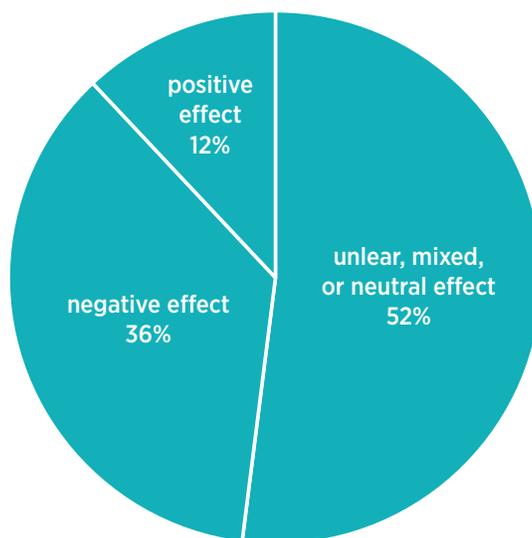
inability to transfer their professional licenses from one state to another.¹⁴ This helps to explain why, in 2017, the military spouse unemployment rate was 16 percent, nearly four times the national average.¹⁵

LICENSURE DOES NOT SEEM TO INCREASE QUALITY OR SAFETY BUT IT DOES RAISE PRICES

The most common justification for occupational licensing is that it is necessary to ensure quality and safety. Unfortunately, it seems to fall short in attaining these goals. In theory, licensure could increase the quality and safety of services if it were to successfully screen out low-quality workers, equip workers with the skills to perform their jobs safely, or both. On the other hand, theory also suggests that licensure could decrease quality and safety. This could happen in two ways: First, licensure may insulate service providers from market competition, and quality tends to be enhanced by market competition. Second, by raising prices and limiting the quantity of providers, licensure may reduce the availability of needed services. In some cases, this can lead to tragedy. For example, when there are fewer electricians in an area, homeowners are more inclined to perform their own electrical work, leading to more injuries.

Because the economic theory is ambiguous, one must turn to the data. In figure 2 I present a survey of the empirical work on licensure and quality. Most studies find that licensure either has mixed, unclear, or neutral effects on quality. Interestingly, however, more studies find a negative effect of licensure on quality than find a positive effect.

FIGURE 2. STUDIES ASSESSING THE EFFECT OF OCCUPATIONAL LICENSURE ON QUALITY



Sources: **Positive:** Arlene Holen, *The Economics of Dental Licensing* (Washington, DC: Public Research Institute, Center for Naval Analysis, 1978); Samuel Claude Martin, "An Examination of the Economic Side Effects of the State Licensing of Pharmacists" (PhD diss., University of Tennessee, 1982); Roger Feldman and James W. Begun, "The Effects of Advertising: Lessons from Optometry," *Journal of Human Resources* 13, supplement (1978): 247-62. **Unclear, Mixed, or Neutral:** Morris M. Kleiner et al., "Relaxing Occupational Licensing Requirements: Analyzing Wages and Prices for a Medical Service," *Journal of Law and Economics* 59, no. 2 (2016): 261-91; Kathryn Healey, "The Effect of Licensure on

14. US Chamber of Commerce Foundation, *Military Spouses in the Workplace: Understanding the Impacts of Spouse Unemployment on Military Recruitment, Retention, and Readiness*, June 2017, 10.

15. US Chamber of Commerce Foundation, *Military Spouses in the Workplace*, 7. There are other explanations too. For example, 41 percent of military spouses believe that employers are reluctant to hire workers who might move.

Clinical Laboratory Effectiveness” (PhD diss., University of California, Los Angeles, 1973); John J. Phelan, *Regulation of the Television Repair Industry in Louisiana and California: A Case Study* (Washington, DC: Federal Trade Commission, 1974); John F. Cady, *Restricted Advertising and Competition: The Case of Retail Drugs* (Washington, DC: American Enterprise Institute, 1976); Robert J. Thornton and Andrew R. Weintraub, “Licensing in the Barbering Profession,” *Industrial and Labor Relations Review* 32, no. 2 (1979): 242–49; Ronald Bond et al., *Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry* (Washington, DC: Federal Trade Commission, 1980); Chris Paul, “Physician Licensure Legislation and the Quality of Medical Care,” *Atlantic Economic Journal* 12, no. 4 (1984): 18–30; David S. Young, *The Rule of Experts: Occupational Licensing in America* (Washington, DC: Cato Institute, 1987); Morris M. Kleiner and Daniel L. Petree, “Unionizing and Licensing of Public School Teachers: Impact on Wages and Educational Output,” in *When Public Sector Workers Unionize*, ed. R. B. Freeman and C. Ichniowski (Chicago: University of Chicago Press, 1988), 305–19; D. D. Goldhaber and D. J. Brewer, “Does Teacher Certification Matter? High School Teacher Certification Status and Student Achievement,” *Educational Evaluation and Policy Analysis* 22, no. 2 (2000): 129–45; Morris M. Kleiner and Robert T. Kudrle, “Does Regulation Affect Economic Outcomes? The Case of Dentistry,” *Journal of Law and Economics* 43, no. 2 (2000): 547–82; David Blau, “Unintended Consequences of Child Care Regulations,” *Labour Economics* 14, no. 3 (2007): 513–38; Joshua Angrist and Jonathan Guryan, “Does Teacher Testing Raise Teacher Quality? Evidence from State Certification Requirements,” *Economics of Education Review* 27, no. 5 (2008): 483–503. **Negative:** Timothy Muris and Fred McChesney, “Advertising, Consumer Welfare, and the Quality of Legal Services: The Case of Legal Clinics” (working paper no. 78-5, Law and Economics Center, University of Miami, Miami, FL, 1978); Sidney Carroll and Robert Gaston, “Occupational Restrictions and the Quality of Service Received: Some Evidence,” *Southern Economic Journal* 47, no. 4 (1981): 959–76; John E. Kwoka, “Advertising and the Price and Quality of Optometric Services,” *American Economic Review* 74, no. 1 (1984): 211–16; Mark C. Berger and Eugenia F. Toma, “Variation in State Education Policies and Effects on Student Performance,” *Journal of Policy Analysis and Management* 13, no. 3 (1994): 477; Sidney L. Carroll and Robert J. Gaston, “State Occupational Licensing Provisions and Quality of Services Received: The Real Estate Business,” *Research in Law and Economics* 1 (1979): 1–14; Sidney L. Carroll and Robert J. Gaston, “Occupational Licensing: Final Report” (NTIS No. NSF/FA7704140, National Science Foundation, Alexandria, VA, October 1977); Ronald S. Bond et al., “Self-Regulation in Optometry: The Impact on Price and Quality,” *Law and Human Behavior* 7, no. 2/3 (1983): 219–34; Sidney L. Carroll and Robert J. Gaston, “Barriers of Occupational Licensing of Veterinarians and the Incidence of Animal Diseases,” *Agricultural Economic Research* 30 (1978): 37–39.

There is abundant evidence that licensure raises prices. Economic theory is unambiguous: supply restrictions such as licensure tend to raise prices. And the evidence supports this theory. In a Mercatus assessment of 19 peer-reviewed studies, my colleagues and I found that licensure was associated with higher prices in all 19 studies.¹⁶ Reviewing many of the same studies, Obama administration officials similarly concluded that the association between licensing and higher prices is “unequivocal.”¹⁷

SUCCESSFUL REFORM IS DIFFICULT BUT NOT IMPOSSIBLE

Licensing reform efforts are difficult to implement successfully. The consumers and the aspiring professionals who suffer from anticompetitive licensing regimes are numerous and typically politically unorganized. On the other hand, the industry insiders who benefit from these regimes are comparatively few in number and typically well organized. Economists and political scientists have long blamed this pattern of diffuse costs and concentrated benefits for the persistence of inefficient and inequitable policy.¹⁸ And this pattern has made licensing reform an uphill battle, even though experts across the political spectrum tend to agree that current licensing laws are inefficient and anticompetitive.

Drawing lessons from successful reform. Despite the advantages enjoyed by special interests, history affords a number of examples in which the general interest has prevailed.¹⁹ In areas as varied as trade,

16. McLaughlin, Mitchell, and Philpot, “The Effects of Occupational Licensure on Competition,” 5.

17. US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework for Policymakers*, July 2015, 14.

18. See, for example, Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups*, Second Printing with New Preface and Appendix, Revised (Cambridge, MA: Harvard University Press, 1971); Theodore J. Lowi, *The End of Liberalism: The Second Republic of the United States*, 40th anniversary ed. (New York: W. W. Norton & Company, 1969); James Wilson, *Bureaucracy: What Government Agencies Do And Why They Do It* (New York: Basic Books, 1991).

19. Matthew D. Mitchell, “Overcoming the Special Interests That Have Ruined Our Tax Code,” in *For Your Own Good: Taxes, Paternalism, and Fiscal Discrimination in the Twenty-First Century*, ed. Adam Hoffer and Todd Nesbit (Arlington, VA: Mercatus Center at George Mason University, 2018), 327–50.

race relations, and airline policy, special interests have occasionally lost their privileges while general and diffuse interests have benefitted from a more level and open playing field.

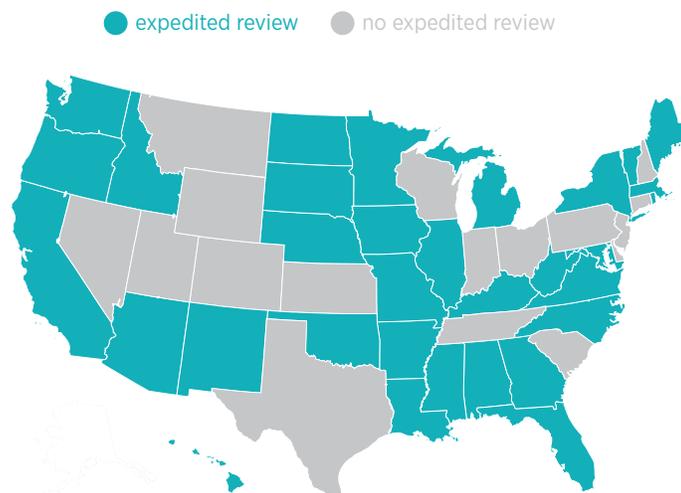
There are a number of important lessons to draw from these cases.²⁰ But perhaps the most important is that institutional reforms must permit policymakers to cast conspicuous votes in the general interest and limit the power of special interests to dominate the process.

Arizona has already pursued a number of important institutional reforms of occupational licensure, including the right to earn a living and universal license recognition.²¹

Because licensure imposes particularly steep burdens for peripatetic military personnel and their spouses, a number of states have moved to ease that burden for this particular population. The most common approach, adopted by every state but Connecticut, is to somehow recognize out-of-state licenses of current or former military personnel, their spouses, or both.²² This can take a number of forms. In Tennessee, Texas, and Utah, for example, active-duty military personnel and their spouses may work without a license so long as they possess a valid out-of-state license.²³ In the other 46 states that recognize out-of-state licenses, state agencies must grant in-state licenses to those military personnel and their spouses who currently possess valid out-of-state licenses.²⁴

In 32 states (shown in figure 3), regulators are required to conduct an expedited review process in order to determine the validity of out-of-state licenses. In 35 states (shown in figure 4), regulators are required to issue temporary licenses during the review period. These temporary licenses can be helpful because they permit recently relocated members of the armed forces or their spouses to get to work right away.

FIGURE 3. EXPEDITED REVIEW FOR MILITARY SPOUSES WITH OUT-OF-STATE LICENSES



Source: “Military Spouse License Recognition Options,” US Department of Labor, accessed January 13, 2020, https://www.veterans.gov/milspouses/military_spouse_txt.htm.

20. Again, see Mitchell, “Overcoming the Special Interests.” But briefly, these lessons are (1) ideas matter, especially in the long run, (2) institutions matter too, (3) go for the “grand bargain,” (4) reform requires good leaders, (5) sometimes it takes a special interest to beat a special interest, (6) when a crisis arises, be prepared, and (7) embrace permissionless innovation.

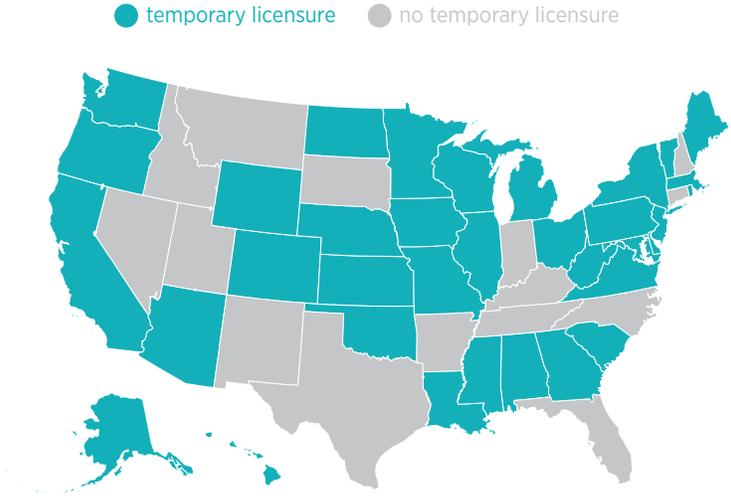
21. S. B. 1437, 53rd Leg., 1st Sess. (Ariz. 2017); H. B. 2569, 54th Leg., 1st Reg. Sess. (Ariz. 2019).

22. “Military Spouse License Recognition Options,” US Department of Labor, accessed January 13, 2020, https://www.veterans.gov/milspouses/military_spouse_txt.htm.

23. “Military Spouse License Recognition Options.”

24. “Military Spouse License Recognition Options.”

FIGURE 4. TEMPORARY LICENSURE FOR MILITARY SPOUSES WITH OUT-OF-STATE LICENSES



Source: “Military Spouse License Recognition Options.”

HB 2288 in Arizona would further ease the burden of licensure for low-income individuals, active-duty military personnel, military spouses, and veterans by waiving licensing fees for these individuals.²⁵ While this approach is certainly beneficial for this population, it fails to alleviate the burden borne by most licensed workers.²⁶

Policymakers who value consumer protection, lower prices, and greater opportunity for employment—especially among lower-skilled and lower-educated populations—would do well to consider these reforms.

Thank you for the opportunity to share my research with you today. I look forward to answering any questions you may have.

Sincerely,

Matthew D. Mitchell, PhD

Director and Senior Research Fellow, Equity Initiative, Mercatus Center at George Mason University

25. H. B. 2288, 54th Leg., 2nd Reg. Sess. (Ariz. 2020).
26. Since both equity and freedom are worthy goals, there is a philosophical tradeoff here. When burdens are especially steep, piecemeal reforms may be desirable even if they increase inequity. On the other hand, when policy is especially inequitable, more equity may be worthwhile, even if it raises burdens. Beyond the philosophical tradeoffs, there may be political economy tradeoffs. For example, inequitable policy may lead to higher burdens by reducing the political pressure for reform. For a general discussion of nondiscriminatory policy, see James M. Buchanan and Roger D. Congleton, *Politics by Principle, Not Interest: Toward Nondiscriminatory Democracy* (Cambridge: Cambridge University Press, 1998).