

West Virginia Occupational Licensing

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In many fields, aspiring workers must obtain a government license in order to legally enter the workforce. Various amounts of training, testing, and experience are usually required to obtain a license, and the process can be costly and time consuming. The common justification for licensure is that consumers of services cannot adequately judge for themselves whether service providers are qualified, so they need these providers to be licensed to ensure they'll receive only safe, high-quality service.

Unfortunately, licensing schemes tend to act as barriers to employment, especially for certain populations. Moreover, because they undermine competition and limit the supply of valued services, the evidence that they actually increase public safety or the quality of services is rather thin. There is abundant evidence, however, that licensing schemes increase the prices that consumers pay.

Economists Morris Kleiner and Evgeny Vorotnikov estimate that each year licensure may cost the nation between 1.8 and 1.9 million jobs, result in between \$6.2 billion and \$7.2 billion in lost output, and create a misallocation of resources costing the economy between \$183.9 billion and \$197.3 billion.¹ The good news? There are some ways to help fix this.

In this brief, we will discuss the problems in the current occupational licensing system in one state, West Virginia, and illustrate how these laws could be improved going forward.

LICENSURE IS A SUBSTANTIAL BARRIER TO EMPLOYMENT, ESPECIALLY FOR CERTAIN POPULATIONS

Licensing affects a growing number of US workers, increasing more than fourfold in the past 70 years.² Including federal and local licenses, almost one in three Americans needs a license to work.³

Over a quarter of West Virginians (about 26 percent of the state's workforce) were required to be licensed as of 2015.⁴ According to the Institute for Justice, among the 50 states, West Virginia has the highest percentage of certified workers (12.3 percent) and is the 17th most broadly and onerously licensed state in the United States. (Unlike a license, a certification is not mandatory.) The state also licenses a number of rarely licensed professions. For example, the state is 1 of only 10 to require a license for upholsterers, 1 of only 22 to require a license for paint contractors, and 1 of only 24 to require a license for commercial door repairmen.⁵

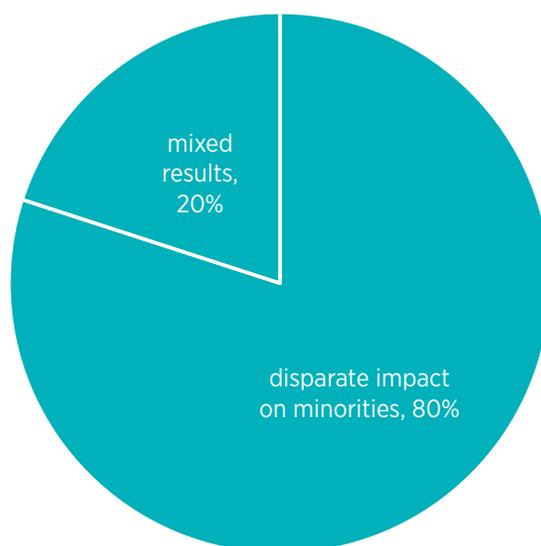
It can take months and hundreds of dollars in fees to become licensed in the state of West Virginia. These costs are significant barriers for many potential new workers. Among 49 low- to moderate-income jobs in West Virginia, licensure requires an average of \$132 in fees and 247 days in training.⁶ Importantly, these fees do not include the additional costs workers face for the necessary education, nor do they include the income that people miss out on when they spend significant amounts of time in often-unnecessary training.

While licensing is justified in the name of protecting the public from unqualified professionals, its requirements are often arbitrary. There is often a mismatch between the risk posed to the public from an insufficiently trained professional in the field and the licensing requirements for the field's workers. For example, emergency medical technicians in West Virginia must undergo less than a month of training to receive their license. But West Virginia auctioneers must complete more than 20 times this amount of training; barbers must complete more than 15 times this amount of training; and security alarm installers must complete more than 25 times this amount of training.⁷

Though ostensibly designed to protect consumers, one of licensure's main effects seems to be to protect incumbent workers from competition. Accounting for differences in education, training, and experience, estimates suggest that licensure results in 10 to 15 percent higher wages for licensed professionals.⁸ These gains come at the expense of consumers and unlicensed workers. Licensing boards are able to protect incumbent workers because they are dominated by these workers. It is estimated that in West Virginia, 81 percent of licensing boards are dominated by members of the profession they are supposed to oversee.⁹

All potential workers entering a licensed profession face the same restrictions, but occupational licensing tends to impact certain populations more than others. These barriers to employment are particularly steep for lower-skilled, lower-educated populations; for immigrants; for non-English speakers; for those with criminal records; and for those who move frequently, such as military spouses. In fact, as shown in figure 1, 80 percent of studies reviewed by scholars at the Mercatus Center at George Mason University find that licensure harms minorities. Researchers also find that measured income inequality is greater in countries with more barriers to entry.¹⁰ And in those states in which licensure of low- to moderate-income occupations has grown the most, individuals raised in relatively low-income households are less likely to move up the income distribution.¹¹

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, 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.

Because they are more likely to work in licensed professions and because they are 10 times more likely to move compared with the general population, military spouses face particularly steep employment barriers owing to licensing laws.¹² When asked to name their biggest challenges to employment, 22 percent of military spouses identified the fact that they can't transfer their professional licenses from one state to another.¹³

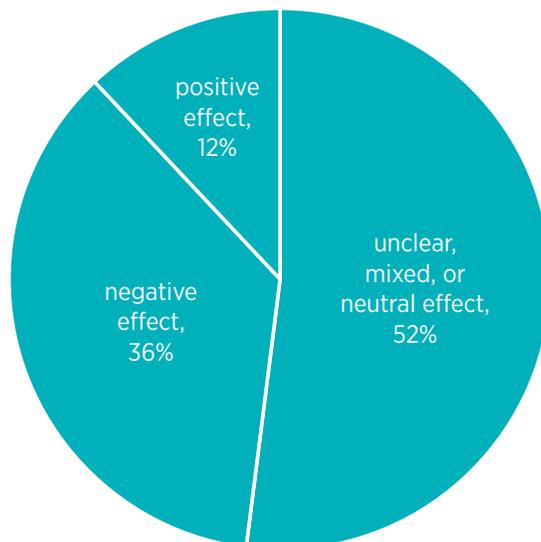
Those with criminal histories are also particularly likely to be stymied by these laws. The Council of State Governments Justice Center estimates that nationally there are about 15,000 laws and regulations that limit the ability of those with prior convictions to obtain state occupational licenses. Among these, 6,000 are blanket or mandatory restrictions.¹⁴

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

As we've noted, 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 this goal. In theory, licensure could increase the quality and safety of services if it were to successfully screen out low-quality workers or equip workers with the right skills to perform their jobs safely. 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.¹⁵

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" (doctoral dissertation, 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 Clinical Laboratory Effectiveness" (doctoral dissertation, 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 of 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 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: 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 Ronald J. Gaston, "Barriers of Occupational Licensing of Veterinarians and the Incidence of Animal Diseases," *Agricultural Economic Research* 30 (1978): 37–39.

Because the economic theory is ambiguous, one must turn to the data. In figure 2 we present a survey of the empirical work on licensure and quality. Most studies find that licensure 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.

Basic economic theory suggests that a supply restriction will tend to raise prices. And consistent with this theory, there is abundant evidence that this does happen with licensure. One assessment of 19 studies found support for this proposition in *all 19* studies.¹⁶ In separate research conducted by Obama administration officials, the authors conclude that “the evidence on licensing’s effect on prices is unequivocal.”¹⁷

In sum, licensure is likely doing little to ensure the quality of service providers, while it is clear that it raises consumer costs and limits employment opportunities for certain populations.

REFORM IS DIFFICULT, BUT NOT IMPOSSIBLE

It will not be easy to address this problem. Consumers and aspiring workers are the ones harmed by licensure, and they form a large but unorganized group. On the other hand, industry insiders who benefit from licensing laws tend to be well organized because they are fewer in number and they have more to gain by restricting competition. This dynamic has made, and will continue to make, the reform of occupational licensure a struggle even though the benefits of reform exceed the costs.

Despite the potential uphill battle in this arena, there are some opportunities for reform. The best of these will permit policymakers to cast conspicuous votes for the general interest while limiting the ability of special interests to dominate the process:¹⁸

1. *Task an independent commission with identifying and eliminating anticompetitive licensing laws.* Members of the commission should not benefit from the laws currently in place.
2. *Require less restrictive methods of regulation.* Nebraska has recently mandated a review of licensure, requiring policymakers to adopt the least restrictive approach necessary to ensure public safety.
3. *Reverse the burden of proof by making state agencies demonstrate that regulations are actually fulfilling a public health or safety concern while ensuring that citizens have a fundamental civil right to earn a living.* Arizona has adopted this approach, creating accountability for regulators.¹⁹
4. *Ease restrictions for those with criminal histories.* This reform is especially warranted when an aspiring worker’s past offenses are unrelated to the profession he or she seeks to enter.
5. *Recognize out-of-state licenses for active-duty military and their spouses.* As we’ve discussed, licensure is particularly problematic for this group. This change would help alleviate that

burden. This reform, however, has the downside of alleviating the barrier only for this particular population.

6. *Recognize licenses universally.* Arizona now allows any state resident who is currently licensed by another state, has been licensed in that state for at least a year, and is in good standing with that state to obtain an Arizona license. The worker may have to pay an Arizona license fee and, in some cases, pass a background check and take a test. With this, the worker is able to skip months or even years of unnecessary and expensive duplicative training.²⁰

None of these reforms are mutually exclusive. Indeed, they reinforce one another. Reforming the current occupational licensing structure in the United States should be a goal of anyone who values consumer protection, lower prices, and greater employment opportunities for all.

ABOUT THE AUTHORS

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NOTES

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