

POLICY *focus*

RECIPES FOR RATIONAL GOVERNMENT

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Solutions To Occupational Licensing Challenges

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What You Need To Know

Finding employment can be difficult even during strong economic times because government policies can unintentionally create barriers to obtaining work. One such barrier is excessive occupational licensing. Today, as the U.S. continues to struggle through the COVID-19 pandemic and unemployment stands at 6.3 percent, policymakers should seize every opportunity to remove barriers to employment so that our recovery can be fast and strong.

Occupational licensing is a labor policy that has been overlooked until recently, but is ripe for reform. These government permissions that allow individuals to work in certain professions have grown exponentially over the past five decades. They are intended to prevent consumer harm from unskilled or inexperienced workers, but more often than not, they simply limit new competition and protect established businesses.

Excessive licensing has robbed our economy of nearly 3 million jobs, forced consumers to spend over \$300 million each year for services that are not necessarily better, and prevented workers who already face social and economic challenges from gaining access to opportunities and economic mobility.

During the pandemic, states enacted common-sense reforms that increased the supply of healthcare professionals and beds for patients, without sacrificing health standards. These deregulatory measures serve as a model of what is possible, and they must be made permanent.

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As the pandemic eases and jobs return, many workers in various industries will still struggle to obtain gainful employment because occupational licenses create costly, time-consuming obstacles. States should not waste this opportunity, but implement real reforms. This policy focus will explore policy approaches and solutions they can pursue.

Why You Should Care

Excessive licensing costs the economy millions of jobs, reduces competition, and stifles innovation. Occupational licenses are often unrelated to any public health or safety concern, but significantly reduce opportunities for people who need them most. To increase workers' access to skilled employment, states should:

- **Make licensing reforms enacted during the pandemic permanent.** All 50 states enacted various temporary executive and regulatory changes to increase the supply of medical professionals, expand telehealth services, and increase capacity at healthcare facilities. Some actions have expired, and others will. By making reforms permanent, states can strengthen the responsiveness of their healthcare systems to future emergencies and address shortages of healthcare workers.
- **Reduce or eliminate occupational licenses.** States should conduct regular cost-benefit analyses of their licensing systems to determine if they truly serve a public good and remove any licensing requirements that do not.
- **Consider alternatives to occupational licenses.** Licenses are the heaviest-handed government approach to regulating occupations. States should consider private and light-touch government approaches that achieve the same goals, but do not impose insurmountable barriers to opportunity for workers.

More Information

Background

Before beginning a job in certain occupations and fields, states require that an individual obtain an occupational license. This verifies that he or she has obtained a level of education, training, and testing to deliver a good or service. Often, obtaining a license requires paying fees directly to the state (in addition to the costs of training and testing). Over the past 60 years, the number of occupational licenses has proliferated, rising from just **5 percent** of workers in the 1950s to more than one out of four workers today. Excessive licensing has created a situation where too many occupations require government permission to work.

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Interestingly, working women are more likely to have a license than men (**25 percent and 20 percent**, respectively), likely because many female-dominated occupations are heavily

licensed. In 2016, **73 percent** of healthcare and technical workers, 52 percent of workers in education, and 32 percent of those in personal care services had a license.

Advocates argue that occupational licenses provide public safety and health safeguards, ensuring that practitioners do not inflict harm on clients or the public at large. For example, most people expect that their surgeon or pilot are licensed, signaling their competence and experience to do the job. But some licenses have no connection to public health or safety at all. Instead, they serve to protect established businesses against new competition allowing them to keep prices for their services high.

Defenders of occupational licensing also say that it is justified as a means of professionalization and professional development for an occupation. Even so, the requirements of a license should match the qualifications needed to perform a job, but too often they do not. Instead, some states require unnecessary training, delays, and high fees that create barriers to employment.

This can be a discouraging impediment for workers, especially women, who are skilled in an occupation such as hair braiding and massage therapy, to engage in honest work.

The licensure system also often holds back immigrant workers. They are prevented from working in the U.S. because work experience and training gained abroad, even if considerable, may not be accepted or meet state requirements. Licensure boards may even require them to repeat their post-graduate education to obtain a license, a significant cost and time burden. Foreign-trained doctors and medical professionals end up working in lesser medical roles or as taxicab drivers just to earn a living while their skills languish.

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Workers who are caught operating unlicensed can face severe financial penalties and even jail time.

A Patchwork of Policies

States vary in their rates of licensure. While we lack comprehensive data on licensure, according to estimates, more than 1,100 occupations are regulated in at least one state. However, fewer than 60 occupations are regulated in all 50 states.

States vary in the requirements for a given occupation, creating significant challenges for workers who cross state lines to gain permission to work and to keep their licenses in good standing through continuing education. This makes it difficult for workers who move frequently, such as military spouses, to be gainfully employed.

Military spouses are uniquely affected by excessive licensing. The 600,000 military spouses in the U.S., nearly all of whom are women, are highly educated (89 percent have some college education), but experience an astoundingly high **33-percent** underemployment rate.

Half of states also impose blanket restrictions against individuals with a criminal record obtaining a license. According to **an analysis** by the Institute for Justice, in 32 states, individuals can be denied licenses just for an arrest even if it did not lead to a criminal conviction. Given that an estimated **one out of three** working-age adults has a criminal record, states are cutting off citizens from gainful employment opportunities that would keep them from reoffending.

Licensure's National Impact

Occupational licenses cost the U.S. economy **2.85 million** jobs and cost consumers \$203 billion annually. In addition to increased prices and reduced employment, occupational licenses discourage entrepreneurship and innovation. For more on the impact of occupational licenses on workers and consumers, please read **Policy Focus: Occupational Licensing**.

Occupational Licensing Reforms

States Take Steps in the Right Direction

States should make every effort to eliminate excessive licenses or reduce the onerous requirements for licenses in their jurisdiction. For four decades, states did little to eliminate or reform occupational licenses even as they imposed new licensure on occupations. However, over the past ten years, the negative impacts of licensing regimes have drawn bipartisan support for reforms from **President Barack Obama** to **President Donald Trump**. Governors and lawmakers in red and blue states have steadily implemented **reforms** to lessen requirements, shift to less restrictive regulatory approaches, or reduced the scope of licensing requirements for specific occupations.

A few states have enacted broad reforms. In 2020, **Florida** deregulated 30 occupations. In 2019, Arizona became the first state to recognize all out-of-state occupational and professional licenses in good standing, a move called Universal License Recognition. In addition, Arizona waived licensing fees for low-income workers and allowed those with a criminal record to obtain a license. Since then four other states (**Pennsylvania**, **Missouri**, **Montana**, and **Utah**) have enacted similar reforms.

Several states have exempted specific occupations from broader licensure categories. In 2021, Massachusetts **exempted** hair braiders from its cosmetology licensing requirement freeing women, many of whom are immigrants, from taking **1,000 hours** of courses unrelated to hair braiding. The Bay State joined Utah, California, Oregon, and Mississippi in exempting hair braiders from licensure. Other states are ending bans that bar people with criminal records from obtaining licenses.

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In determining whether an occupational license should be implemented, reformed, or eliminated, states are applying various cost-benefit analyses. Some states conduct audits of all occupational licenses. As of 2017, over a **dozen states** have adopted sunrise reviews as part of any proposal

to regulate a previously unlicensed profession, and 36 states adopted sunset reviews of current licenses and licensing boards to determine when they truly serve a public health and safety purpose.

Alternatives to Licenses

Government licenses are not the only way to regulate occupational qualifications.

The National Conference of State Legislatures offers a **continuum of regulatory approaches** for states from no action to licensing. At the one end of the spectrum, the government plays no role. Market forces drive providers to deliver high-quality services to grow their businesses and maintain their reputations. They are incentivized to invest in maintaining their skills or operating with professionalism. The fear of civil action by harmed customers may also compel providers to deliver high-quality services. Consumer reviews and ratings can provide consumers with valuable information about service providers, and the information age has made reviews increasingly easy to share and find. In addition, non-governmental third-party certifications can, similar to a license, signify when workers have reached a certain level of professional development and qualification, only without state involvement.

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There are light regulatory approaches such as random inspections and requiring bonding or insurance to ensure that providers can cover the cost of damages for consumers. Finally, heavy regulatory approaches include mandating that workers register with a governmental agency before practicing and potentially pay fees or obtain required training before getting licensed.

Some policymakers advocate greater synchronization of license requirements between states such as recognizing licenses from neighboring states or forming interstate compacts. Specific occupations already offer interstate arrangements such as the nurse licensure compact adopted by two dozen states. Federal policymakers also proposed a national **temporary license compact** for all professions.

While such agreements aid workers in moving from one state to another, they also have their drawbacks. Not every state licenses every occupation, and so unlicensed workers are unable to take advantage of compacts.

We should also be wary of government proposals to create national standards for occupations. The unintended consequence of this approach is that it could force states to create licenses that did not exist before or to increase licensing requirements that were not as high to the new national level. For example, **Iowa** allows work experience to count towards training requirements, which could be a solution to this problem.

Occupational licenses are a one-size-fits-all approach that create unnecessary barriers to work. We need not privilege established practitioners over those who need opportunity most—low-

income workers, women, immigrants, military spouses, and those with criminal backgrounds—to ensure a skilled workforce that delivers quality service. Policymakers have a variety of potential reforms at their disposal to reduce the burden of occupational licensing, and they should make every effort to do so.

Occupational Licensing and the COVID-19 Pandemic

Early in the coronavirus outbreak, the sudden spike in infected patients coupled with shortages of medical professionals threatened to overwhelm healthcare systems in certain areas.

Following the precedent set by other emergencies, **all 50 states** enacted various temporary executive and regulatory actions to expand the supply of skilled medical workers and lift restrictions on the provision of health services and infrastructure:

- At least **22 states** expanded the scope of practice for healthcare professionals, such as physician assistants (PAs) and nurse practitioners (NPs), allowing them to apply their full training without a supervising physician.
- **Many states** recognized out-of-state licenses or granted licensing reciprocity to allow healthcare professionals to offer their services across state lines.
- Some states waived or modified licensing requirements, issued temporary or emergency licenses, and shortened the review timeline for their license applicants.
- Some allowed retired health workers and students in the final stages of training and in clinical rotations to begin practicing their profession.
- Some delayed licensing renewal requirements and waived continuing education requirements and fees.
- **24 states** suspended certificate of need laws that limit the growth of healthcare facilities.
- **Most states** relaxed telehealth regulations.

Without these critical reforms, it is uncertain that hard-hit areas of New York, New Jersey, and California could have cared for as many COVID-19 and non-COVID-19 patients. But some executive and regulatory actions have expired. To knock down the barriers created by occupational licensing and increase healthcare supply, states should make emergency reforms permanent. It shouldn't take a crisis to foster good policy reform, but in the case of the COVID-19 pandemic, relaxed licensing requirements in health care may be a lasting silver lining.

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What You Can Do

Get Informed

Get Informed: Learn more about occupational licensing. Visit:

- [Institute for Justice](#)
- [National Conference of State Legislatures](#)
- [Independent Women's Forum Policy Focus: Occupational Licensing](#)

Talk to Your Friends

Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

Become a Leader in the Community

Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

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ABOUT INDEPENDENT WOMEN'S FORUM

Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

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