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HOW TO ANALYZE OCCUPATIONAL LICENSING LAWS

A Model Review Process

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The Mackinac Center for Public Policy

How to Analyze Occupational Licensing Laws: A Model Review Process

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Introduction to Occupational Licensing

What is Licensing?

Occupational licensing is the requirement that a person get special permission from a federal, state or local government department in order to legally work in certain jobs. Obtaining such a license typically requires aspiring workers to pay fees, obtain certain educational credentials, pass an exam and meet other standards or qualifications.

Typically, having any sort of criminal record restricts a person from being eligible for a license. In most states, this is enforced through a requirement that license applicants exhibit “good moral character.” In Michigan, about 160 occupations require a state license, with about 100 including a requirement for good moral character.¹

What Academic Research Says About the Effects of Licensing

The research on state licensing laws is robust and has been studied by various think tanks representing a diverse set of political leanings, as well as by scholars at a variety of universities. Both the Obama and Trump administrations have weighed in on the issue.² While the perspectives of these reports are different, they agree there are negative consequences associated with occupational licensing.

Licensing an occupation restricts the supply of workers for that job, which ultimately limits competition in the market and drives up prices for consumers. Research suggests that licensing increases wages for licensed workers, but also increases prices for consumers, depending on how restrictive the occupational licensing requirements are.³

Some studies suggest that licensing may play a role in protecting public health and safety, but only in relatively small ways and only for a limited number of occupations.⁴ Most of the research suggests state licensing is too extensive and arbitrary to positively impact public safety. Indeed, by limiting the supply of workers — especially in the health care industry — it could just as easily be the case that licensing laws harm the public by artificially limiting the availability and increasing the costs of important medical services. Even in occupations that conventional wisdom suggests should be subject to licensing requirements — such as electricians — the empirical research shows little or no positive benefit to public safety attributable to licensing.⁵

There has been limited research undertaken regarding the impact of licensing laws on people with criminal backgrounds. But there is a strong theoretical case to be made that licensing requirements could lead to worse outcomes for exoffenders and the public at large. Stephen Slivinski of Arizona State University explains:

Decades of academic literature indicates that gainful employment is one of the best ways to keep ex-prisoners from re-offending and ending up back in prison. So, not surprisingly, occupational licensing barriers that make it harder or impossible for them to reintegrate into the labor force can increase the growth rate in criminal recidivism.⁶

A 2016 report from Slivinski found an association between occupational licensing laws and recidivism rates. In his report “Turning Shackles into Bootstraps,” Slivinski estimates that:

[B]etween 1997 and 2007 the states with the heaviest occupational licensing burdens saw an average increase in the three-year, new-crime recidivism rate of over 9%. Conversely, the states that had the lowest burdens and no such [good moral] character provisions saw an average decline in that recidivism rate of nearly 2.5%.⁷

Current Legislation in Michigan

In 2013, at the urging of a report from the Office of Regulatory Reinvention, Michigan eliminated seven occupational licenses and rolled back regulations in several others.⁸ In the years that followed, Gov. Rick Snyder urged the Legislature to do more. The governor said he would only support new licensing rules that protect public health and safety, apply to occupations with specialized training, are cost neutral, have clear “scope of practice” definitions and are superior to less burdensome and less costly alternatives.⁹

In 2018, a bipartisan group of lawmakers introduced two packages of legislation that would create a review process of occupational licensing requirements and remove automatic restrictions on people with criminal backgrounds from obtaining licenses. Interest groups supporting this legislation spanned the political spectrum, and included business and trade groups, criminal justice reform advocates and think tanks with diverse political leanings.¹⁰

Specifically, the bills would have prohibited the state from denying a license to someone based solely on their criminal record, unless their crime was directly related to the occupation they were seeking a license for.¹¹ The review process would have applied to all current and proposed occupational licenses, mandating the use of the “least restrictive regulation” needed to protect consumers. If a licensing requirement was found to be needlessly restrictive by the Michigan Law Review Commission, it would recommend revising it or repealing it altogether.¹² These bills did not pass in the 2017-18 legislative session but similar proposals have been reintroduced in 2019 in both legislative bodies.¹³

Also in 2018, Gov. Snyder signed an executive order related to licensing and criminal backgrounds. This directs state agencies to not consider criminal backgrounds to the extent allowed by law when determining if someone is eligible for an occupational license. When most people apply for a state license, they will no longer be asked about their criminal background. Instead, applicants will self-attest to their ability to serve the public and their rehabilitation from any former criminal history.¹⁴ This order has been continued by Gov. Gretchen Whitmer.

Legislation in Other States

The legislative changes Michigan is considering are not unusual. For example, many states have “sunset” provisions attached to licensing laws, which trigger a periodic review of these laws.¹⁵ Other states have launched systematic assessments of their current licensing laws.

In the past few years, Mississippi, Nebraska, Tennessee, Arizona and Louisiana each initiated a licensing review process.¹⁶ The new policies in these states, generally speaking, actively supervise licensing boards

and promote competition within the licensed occupations. Going forward, licensing boards in those states must use the least restrictive regulation needed to protect the public.

Since 2015, according to the Institute for Justice, 29 states have made it easier for people with criminal records to attain licensure. State that made significant reforms along these lines are Arizona, Georgia, Illinois, Indiana, Kansas, Kentucky, New Hampshire, Tennessee, Wisconsin and Wyoming. In 10 states, licensing boards and agencies are generally restricted from denying exoffenders a license unless their crime is directly related to the occupation they want to be licensed in.¹⁷

A Model Review Process

Michigan Senate Bill 40 would create a review process of the state's occupational licensing regulations. The Michigan Law Revision Commission would be charged with this task and would recommend the least restrictive regulation necessary to protect consumers from harms that threaten public health and safety.

If the law is passed, the MLRC will annually review the licensing laws of approximately 20% of the occupations that are subject to licensure. Over each five-year period, then, all licensed occupations would be reviewed. In its analysis, the MLRC will employ a rebuttable presumption that market competition and private remedies are sufficient to protect consumers. If that presumption is rebutted, the MLRC will recommend licensing laws tailored to protect consumers and address specific issues identified by the commission.

Under the proposed legislation, the term "least restrictive regulation" is defined using a hierarchy of regulatory mechanisms, ordered here from least to most restrictive:

- Market competition
- Private third-party or consumer-created ratings and reviews
- Voluntary certification from a private third party
- Mediation in civil court to remedy customer harm
- Regulations of the equipment or material used to provide goods or services to consumers, such as requiring these items to meet certain specifications
- Requiring an inspection of facilities or activities
- A mandate to purchase liability insurance
- Voluntary public registration with the state
- Voluntary government certification, with only certified individuals being able to use the term "licensed" or "certified"
- A specialty, optional occupational license established for the purpose of qualifying licensees for third-party payments, such as for medical reimbursement
- An occupational license

Choosing the most appropriate and least restrictive regulation requires a comprehensive evaluation of each licensed occupation in Michigan. What follows are issues that should be considered before making a judgement about which regulatory mechanism would be most appropriate for a given occupation.

Analytic Framework for Reviewing Occupational Regulation

- 1) Provide the legal definition of the occupation, including the existing legal scope of practice, where appropriate.

Precision in knowing what work an occupation performs is important for understanding which occupational regulations are the most appropriate. The scope of practice is also important for comparing the regulations to those that exist in other states.

- 2) How many people are licensed in this occupation in Michigan and how has this changed over the years? Does the licensing law appear to be enforced?

A relatively low number of licensed individuals or a law in which the department rarely or never enforces the licensing requirement suggests that a less restrictive form of regulation might be more appropriate. If fewer people are getting new licenses, this may reflect decreasing consumer demand for the service or that the work has become obsolete. If this is the case, a re-evaluation of the potential risk to public safety may be in order. Most of this information can be found from the state licensing agency — the Michigan Department of Licensing and Regulatory Affairs, or LARA — and state and federal government survey statistics.

- 3) How many other states license this occupation? If possible, find data for state licensure of the occupation nationwide for the previous 10 years.

Both the nationwide extent of licensure and recent trends provide a quick check on the need for licensure. Sources for this data include national trade associations or occupational licensing studies undertaken over the previous decade. The website www.careeronestop.com, sponsored by the U.S. Department of Labor, Employment and Training Administration, compiled a database of about 1,000 different occupational licensing laws across the states.¹⁸

- 4) Compare the licensing requirements to a sample of requirements from other states that also license the occupation.

This process should allow for an indication of how stringent the licensing requirements need to be. This is particularly helpful if the licensing requirements in question are at one extreme or the other. This information could be evidence of an unsubstantiated barrier to entry for an occupation or, the opposite, too lenient of entry requirements that makes the licensing requirement less effective.

- 5) Inquire of the state licensing board about the volume and type of health or safety complaints filed by consumers in relation to the occupation in question.

This data can be crucial in assisting policymakers who are trying to determine the potential need for a licensing law for the purpose of improving public health and safety. If there are very few consumer complaints, it could be an indication that the license is not needed and excessive. If there are a lot of serious

complaints, it might mean that the licensing requirements are not working properly. In addition, this information will also be helpful in identifying the least restrictive form of regulation that should be used for an occupation.

6) Are there similar occupations that have significantly different licensing requirements?

Licensing laws tend to be created one at a time; it is rare for a state to create similar licensing requirements for a large group of similar occupations. For this reason, it is likely that there are occupations that are similar but have very different licensing requirements. The case for licensing an occupation is weakened if there's similar occupations that appear to function well without a licensing requirement, especially if there's no evidence that the unlicensed occupation threatens public health or safety. On the other hand, if there is a connection to public safety issues, this analysis may make the case for expanding licensing requirements to unlicensed occupations that are similar to licensed ones.

7) Is there a difference in liability insurance costs between unlicensed occupations and licensed ones?

The value of this analysis is based on the idea that the more dangerous an occupation is to the public the more liability insurance will cost. This comparison could be done one of two ways: by comparing the liability insurance costs of the licensed occupation to that of similar occupations that are unlicensed, or by comparing insurance costs in Michigan for the occupation to those in other states that do not license the same occupation. If there is no significant difference in how much liability insurance costs for the licensed occupation, it is evidence that the licensing itself is not making the public safer.

There are three main public interests that need to be considered when choosing a regulatory mechanism for an occupation: health, safety and welfare. It is important to remember that there may be more than one acceptable regulatory option, and that choosing the most appropriate one, or combination, can produce a positive outcome for all interest groups involved.

Analyzing an occupational licensing law by finding answers to these seven questions will go a long way to providing policymakers with a means to improve Michigan's licensing system. In the end, the goal is to determine precisely where occupational licensing is needed, where it needs to be modified or swapped out for a more appropriate regulatory mechanism, and, of course, when these requirements amount to nothing more than needless barriers to entry that artificially limit supply, raise consumer prices and make it more costly for people to be gainfully employed in a trade of their choice.

Some of this analysis may seem like just gathering basic data about these occupations, but it is highly likely that this type of information was not considered by the policymakers who created these licensing requirements. Therefore, this information is needed to better inform lawmakers about the optimal type of regulatory mechanism to use for the occupations under review.

The Regulatory Review Process in Action: Four Examples

The following provides examples of how to apply the analytic framework described above for a sample selection of licensed occupations in Michigan. The occupations reviewed are painters, roofers, school librarians and barbers.

Example: Painters

- 1) Provide the legal definition of the occupation, including the existing legal scope of practice, where appropriate.

Michigan law required, until March 2019, an occupational license for “painting and decorating” under its broader “maintenance and alteration” license.¹⁹ The law specified the fees and educational mandates required of licensees, but did not provide a definition of the occupation. The statute did specify that a person could do “incidental and supplemental” work without needing a license, and that the regulation does not apply to projects valued under \$600, counting the costs of labor and materials.²⁰

- 2) How many people are licensed in this occupation in Michigan and how has this changed over the years? Does the law appear to be enforced?

According to LARA, there were 425 people with a painting and decorating license in Michigan, as of May 2017.²¹ The number of new licenses per year wavered between 15 and 30 from 2007 to 2018. But also in May 2017, according to the federal Bureau of Labor Statistics, there were about 4,000 people in the state who defined their occupation as painter. This suggests that most of the painting work done in Michigan is completed by unlicensed painters. And this does not account for all the painting that is done by homeowners themselves or by volunteers.

The law appears to be rarely enforced. While it is legal for unlicensed painters to be employed by someone with a license, the large disparity between the number of licensed painters and people who consider painting their occupation suggests that there were hundreds, or even thousands, of painters working illegally. In addition, public records requests to LARA asking for complaints about painters over a two-year period yielded no results. There was news coverage of complaints of one company allegedly using unlicensed painters, but the multiple issues and complaints were solved by the attorney general’s office rather than Michigan’s licensing agency.²²

- 3) How many other states license this occupation? If possible, find data for state licensure of the occupation nationwide for the previous 10 years.

The licensing of painters was very rare a decade ago but has become more common. A national review found only 10 states that licensed residential painters in 2012, but that number increased to 28 states by 2017.²³ In the Midwest, however, this license remains rare. Ohio, Indiana, Illinois and Wisconsin do not require painters to be licensed.

- 4) Compare the licensing requirements to a sample of requirements from other states that also license the occupation.

Michigan required painters to pay a \$195 application fee and then a \$150 renewal fee every three years. A person would also have to complete a 60-hour educational course and pass an exam, each costing more than \$100.²⁴

These mandates were more than what most states require. Only four other states mandate any educational courses, with Michigan having required the most. Other states allow for apprentice time to meet a level of experience, meaning people can start working without a license if they are on their way to earning one.

- 5) Inquire of the state licensing board about the volume and type of health or safety complaints filed by consumers in relation to the occupation in question.

The number of health and safety complaints is minimal. The state provides disciplinary action reports by occupation, and a review of the documents for 2016 and 2017 found no complaints specifically about painters.²⁵

A news report discusses one painting company that has had a series of complaints, including nine over three years to the Better Business Bureau, earning them an F ranking. Six complaints against the company were filed with the state attorney general, with four of them being dismissed or settled. A licensing complaint was also filed with LARA.²⁶ The alleged problems, however, were over disputes about cost and work getting done and was resolved by law enforcement. Complaints directly related to health and safety could not be found.

- 6) Are there similar occupations that have significantly different licensing requirements?

In Michigan law, there are a variety of occupations that the state defines as “maintenance and alteration” contractors. Many do not require a state license in Michigan, such as workers who build a fence, install vinyl floors, put up drywall, pave with asphalt or move a house.²⁷

- 7) Is there a difference in liability insurance costs between unlicensed occupations and licensed ones?

It does not appear that liability insurance is less expensive in states that do not require painters to be licensed. There are companies that insure contractors across the country and track state licensing laws. When one of these companies was asked if they charge higher rates in states that do not license painters, they said that rates do not differ based on state licensing laws. This suggests that, according to the market for liability insurance, unlicensed painters pose no greater threat to public health and safety than licensed ones.

Example: Roofers

- 1) Provide the legal definition of the occupation, including the existing legal scope of practice, where appropriate.

Michigan law requires an occupational license for individuals who want to sell and perform roofing services. It falls under the state's "residential maintenance and alteration contractor" license.* The law specifies the fees and training mandates, but does not provide a definition of the specific occupation.²⁸ The statute notes that a person can do "incidental and supplemental" work without needing a license and that the licensing requirement does not apply to projects valued under \$600, counting the costs of labor and materials.²⁹

- 2) How many people are licensed in this occupation in Michigan and how has this changed over the years? Does the law appear to be enforced?

According to information provided by the Michigan Department of Licensing and Regulatory Affairs, there were 488 active individual roofer licenses and 180 roofing company licenses in Michigan in 2018. Both of these have been on a steady decline, down from 758 individuals and 246 companies in 2009. In other words, there are 36% fewer individual roofers and 27% fewer roofing companies licensed by the state of Michigan than a decade ago.

The licensure law for residential builders and contractors does appear to be routinely enforced, however. From Oct. 1, 2018 through Sept. 30, 2019, there were 52 different Occupational License Disciplinary Action Reports and more than a dozen cease and desist orders issued by LARA for licensed builders and contractors.³⁰ It is unknown how many of these were issued to licensed roofers, however.

- 3) How many other states license this occupation? If possible, find data for state licensure of the occupation nationwide for the previous 10 years.

There are 28 states that require licensure for roofers, specific either to the trade or under a general contractor license.³¹ Often, these license requirements are only for work above a certain minimum cost per project, like in Michigan. This allows unlicensed roofers to perform lower cost jobs without the need for a state license. In addition, some states, while not requiring a license, regulate the profession through a mandatory registration process.

- 4) Compare the licensing requirements to a sample of requirements from other states that also license the occupation.

Current licensing requirements include:

- Successfully complete 60 hours of approved education, including at least six hours in specified courses, such as business management, marketing and project management;

* MCL § 339.2404(3). An individual could also legally work as a roofer with a residential builder's license, which covers the "erection, construction, replacement, repair, alteration, or an addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure." MCL § 339.2401(a).

- Submit an application and pay corresponding fee;
- Be of good moral character; and
- Once all other requirements are met, pass an examination.³²

An online search of training providers shows that the cost of the completing the educational courses ranges from \$350 to \$400. The application fee is \$195 and the examination fee is \$111, according to LARA. License renewal is every three years and costs about \$150. The state of Michigan requires 21 credit hours of continuing education for the first two renewal cycles — six years — and three hours of continuing education each cycle thereafter.

A sample of three states requiring licensing for roofers is found below:

California: Roofing contractors must be licensed on projects worth more than \$500. To attain a license, you must pass an exam and pay an application fee, which cost a combined \$330. However, before one applies, a person needs to show that for at least four years of the previous 10 years they worked in a related construction role, such as a journeyman, foreman, supervisor or contractor. The initial license fee is \$200 and there is an additional fingerprinting fee of \$49. The license renewal fee is \$400 every two years. A roofing contractor must also purchase a \$15,000 surety bond in order to be licensed.³³

Florida: To become a licensed roofer, an applicant needs to pass a two-part examination and pay an application fee of either \$149 or \$249, depending on the time of year when the application is submitted. To be eligible for the examination, a person must show evidence of four years of relevant work experience or construction-related education, or a combination of the two. Other requirements include providing a recent credit report and financial statement, as well as purchasing a general liability insurance policy of at least \$100,000 and \$25,000 for property damage. In addition, 14 hours of education requirements are required to be completed every two years. Renewal is every two years, costing \$209.³⁴

Illinois: There are three different licenses for roofers: residential; commercial and industrial; and residential, commercial and industrial. The test and license fees are \$226. The application fee is \$125 for all three types, and a renewal, required every two years, also costs \$125. Bonding requirements are \$10,000 for the first two licenses and \$25,000 for the third. Liability insurance of \$250,000 for property damage and \$500,000 for personal injury is also required.³⁵

- 5) Inquire of the state licensing board about the volume and type of health or safety complaints filed by consumers in relation to the occupation in question.

For roofing contractors, there were no health and safety violations filed by consumers over a recent six-month period, according to information requests made of LARA. There were disciplinary actions taken against other types of builders — presumably as a result of consumer complaints — but it is not possible to say how many of these might be related to roofing. Most individuals and businesses were disciplined for abandonment, fraud or failing to keep proper records, rather than anything that directly harms public safety.³⁶

6) Are there similar occupations that have significantly different licensing requirements?

Among maintenance and alteration contractors in Michigan, there are several other similar jobs which do not require a license, including drywall and plaster installers, carpeting and vinyl floorers, and fence and awning builders.³⁷

7) Is there a difference in liability insurance costs between unlicensed occupations and licensed ones?

According to an insurance industry representative whose agency writes policies in a number of states, the question of whether or not a roofer is licensed is not considered when liability insurance is available to the roofer. Therefore, there does not appear to be a difference in liability insurance premiums charged between licensed and unlicensed roofers in the insurance industry.

Example: School Librarians

1) Provide the legal definition of the occupation, including the existing legal scope of practice, where appropriate.

According to state rules, a person needs a school librarian license if they participate in any of the following activities related to a school library program: teaching; literacy and reading promotion; selecting library material; leading professional development; or planning, developing, implementing and evaluating school library programs.³⁸

2) How many people are licensed in this occupation in Michigan and how has this changed over the years? Does the law appear to be enforced?

In 2018, according to the Michigan Department of Education, there were 3,777 individuals who had a permanent teaching certificate with a library media endorsement. However, many are no longer working in Michigan schools and, in the 2017-18 school year, there were only 42 individuals with the library media endorsement employed by school districts. The number of school librarians in the state has declined by 73% since 2000 and 92% of schools don't have a full-time librarian.³⁹

In Michigan, the total number of certifications has increased from 3,090 in 2007 to 3,777 in 2018. Nationwide, there were 44,180 school librarians in 2018, according to the U.S. Bureau of Labor Statistics.⁴⁰ This number has steadily declined over the past decade by about 20%.⁴¹

3) How many other states license this occupation? If possible, find data for state licensure of the occupation nationwide for the previous 10 years.

There is no known list of states that require school librarians to be licensed. The American Association of School Librarians lists 16 states with links to certification websites, but it is incomplete.⁴² Twelve states require some librarians, though not necessarily school librarians, to have some type of a license or certification.⁴³

- 4) Compare the licensing requirements to a sample of requirements from other states that also license the occupation.

Michigan law requires school librarians to have a bachelor's degree, a valid Michigan teaching certificate and a library media endorsement.⁴⁴ This endorsement requires a master's degree in library science or library and information science. According to the American Association of School Librarians, many states have a library certificate which requires a bachelor's degree and teaching certification, but only some — like Michigan — require a specific master's degree.⁴⁵

In Ohio, school librarians typically need a teaching degree and master's degree.⁴⁶ But there is also a separate path for those without a teaching license that requires completing a course consisting of 57 credit hours.⁴⁷

In Indiana, there does not appear to be a licensing requirement for school librarians, though there are defined content standards — guidelines for what school librarians should teach.⁴⁸ Librarians can be certified, but it's voluntary. According to the latest annual educator summary licensing report from the Hoosier State, there were only three library certificates awarded and only six renewed between July 2017 and June 2018.⁴⁹ There are multiple ways that aspiring librarians can obtain this certification with fewer requirements than Michigan, such as simply passing an additional exam or completing a custom certification program offered by a university.⁵⁰

- 5) Inquire of the state licensing board about the volume and type of health or safety complaints filed by consumers in relation to the occupation in question.

The number of health and safety complaints related to school librarians is nonexistent. A review of a state database of licensing complaints yielded none related to school librarians, or any librarians, for that matter.

- 6) Are there similar occupations that have significantly different licensing requirements?

There are dozens of similar occupations in Michigan that require fewer mandatory training than school librarians, including child care providers.⁵¹ Other school employees who provide instructional support, like paraprofessionals, are not required to be licensed.⁵²

School librarians also have another occupation which is very comparable: other librarians working in nonschool settings. To be eligible for state aid, directors of public libraries in Michigan need a certificate from the Library of Michigan, but other library employees do not need such certification. The requirements needed to qualify for the certification vary by the size of the library: directors in cities need a master's degree and four years of library experience, while directors of libraries in small towns and rural areas need only a GED and one year of work experience.⁵³

- 7) Is there a difference in liability insurance costs between unlicensed occupations and licensed ones?

The authors were unable to find any company specifically insuring librarians. But the Association of American Educators, which supplies legal services and liability insurance to tens of thousands of school employees, does not charge different membership rates based on librarian licensing requirements. This

suggest that licensing standards do not affect the exposure to risk insurers face in providing coverage to school librarians in different states.

Example: Barbers

- 1) Provide the legal definition of the occupation, including the existing legal scope of practice, where appropriate.

Michigan law defines a barber as “a person who shaves or trims the beard of a person; cuts, trims, shampoos, relaxes, curls, permanently waves, dresses, tints, bleaches, colors, arranges, or styles the hair of a person; massages the face and head of a person; or renders personal services of a similar nature customarily done by a barber.”⁵⁴

- 2) How many people are licensed in this occupation in Michigan and how has this changed over the years? Does the law appear to be enforced?

According to state licensing agency reports, there are about 800 to 900 barber licensing applications received each year with about 700 being accepted annually.⁵⁵ This data has only been tracked in recent years, so it is unknown how much this has changed over time.

- 3) How many other states license this occupation? If possible, find data for state licensure of the occupation nationwide for the previous 10 years.

All 50 states and the District of Columbia license barbers with the state of Alabama becoming the final state to become licensed in 2013.⁵⁶ It is one of the oldest licensed professions in the nation, with Minnesota becoming the first states to pass this occupational regulation in 1897.⁵⁷

- 4) Compare the licensing requirements to a sample of requirements from other states that also license the occupation.

Michigan mandates 1,800 hours of training at a school costing up to \$13,000 annually, the passing of an exam, continuing education requirements and hundreds of dollars in fees and testing costs.⁵⁸

The total regulatory burden for Michigan barbers is ranked as the 11th highest in the nation. The total number of hours to meet the licensing requirement is higher than other states in the Midwest, such as Illinois, Indiana and Wisconsin. And the mandates are far more than in New York, which requires only about 10% of the training required by Michigan.⁵⁹

- 5) Inquire of the state licensing board about the volume and type of health or safety complaints filed by consumers in relation to the occupation in question.

In the most recent fiscal year, there were 83 total complaints made in Michigan against barbers, and the state opened 49 investigations and took some type of enforcement action 29 times.⁶⁰ In other words, of the 1,000 or so barbers estimated by the BLS to be working in Michigan, about 8% had a complaint filed against them in 2018. Based on state reports, nearly all the disciplinary actions taken in 2019, about a dozen, were related to barbers operating without a license or aiding others who were unlicensed.⁶¹

6) Are there similar occupations that have significantly different licensing requirements?

The most similar occupation to a barber is a cosmetology worker, who can provide most of the same services as barbers and more. Besides hair care services, cosmetologists can also provide skin care, manicuring and electrology.⁶² But cosmetologists in Michigan pay 17% less in fees and exam costs and need 300 fewer hours of mandated education and training.⁶³

7) Is there a difference in liability insurance costs between unlicensed occupations and licensed ones?

There is a wide variety of liability insurance options for barbers. Since barbers are licensed in all 50 states, any comparison of rates cannot be easily made. However, the rules and regulations differ significantly across state lines — barbers in Nevada, for example, are required to have five times the amount of training prior to licensure than those in New York.⁶⁴ According to the leading online insurance marketplace, insurance costs for barber shops, spas and salons are based on business experience, a claims history and the size of the company. There is no mention of whether state occupational licensing rules impacts the risk involved in insuring a barber.

Discussion and Conclusion

From the medieval guild system to modern labor unions and professional associations, there have long been groups that provide training, assistance and gatekeeping for those interested in entering a profession. But there is a trade-off to these groups, and government or private systems which are too strict and block too many entrants to an occupation can impose costs on the rest of us.

Occupational licensing laws have a significant effect on the labor market. The bulk of the research suggests these laws limit the number of workers, increase costs to consumers and prevent those with a criminal background from achieving employment. As the percent of the workforce now needing a license has increased, these negative economic effects have been magnified.

The argument from proponents of licensure is typically that the benefits of state laws are worth it. Most arguments for state licensing center around health and safety effects. If state lawmakers are going to pass new licensing laws or continue with old ones currently on the books, they should be sure the benefits of the regulations outweigh the costs.

The review process suggested in this report is one way to do that. Applying the process to four occupations — painters, roofers, school librarians and barbers — shows the value, and limitations, of this analysis.

Based on this review, the value of requiring licenses for painters and school librarians should be called into question. There is nothing inherently dangerous about these occupations, and the review shows that many states regulate the professions in ways that do not erect large barriers for aspiring professionals like licensing laws do. There is no evidence that the general public is better off as a result of these licensing laws.

For roofers and barbers, the need for quality control is more obvious. Consumers could be put in danger if this work is not done correctly. And workers could be put in danger if they are careless. Despite this, there still is the question of whether licensing requirements contributes to minimizing these risks. It is not

obvious that a less obtrusive quality control method would not work just as well, such as mandatory inspections. These should be preferred if they can accomplish the same goals of licensing without erecting barriers to the profession.

As demonstrated in the review of four sample occupations, reviews of this kind will not answer every question: some information will be just too difficult to obtain or does not exist. And many occupations do not have similar jobs to which they can easily be compared. It is impossible to compare outcomes for occupations that are licensed in all 50 states, like barbers. But some information and analysis is better than none, and states should still find value in analyzing occupational licenses with this tool.

Overall, this sample review and analysis suggests that states regulate occupations in a variety of inconsistent ways. Objective health and safety measures do not seem to be considered. It's unlikely that when states began licensing most of their occupations that they performed any systematic analysis at all to justify the regulation. This analysis can serve that purpose, even if these occupations have been licensed for decades.

It's important to review these regulations because there is a trade-off between providing the environment where individuals can create employment opportunities and protecting the general safety of the public. How do states ensure proper regulation, targeted at the issue they are trying to mitigate, without locking people out of work and causing worse problems? Applying this review process to occupational licenses on the books in regular intervals is one way towards answering that question.

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