



# Breaking Down Barriers to Work

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**FOR LOW INCOME FAMILIES**



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## Executive Summary

The number of jobs requiring an occupational license has increased dramatically over the past several decades. These burdensome regulations—many of which do nothing to protect public health and safety—erect barriers to success, especially for low-income Americans struggling to find work. Unnecessary licensure schemes often vary from state to state, meaning someone who works in a licensed profession in one state often must repeat costly and cumbersome requirements to earn a license in a new state. Such redundant regulations can make pursuing economic opportunity in another state difficult or impossible for the least among us.

Fortunately, there is a better way: The Breaking Down Barriers to Work Act is a state law that recognizes a person's license earned in another state, so those who have been competently and safely practicing their trade or profession are not required to obtain new licenses just because they move across state lines.

This report details the effects of occupational licensure on low-income Americans, specifically explaining how occupational licensure without universal recognition or reciprocity acts as a tax on interstate mobility and decreases economic mobility for low-income families. The report then explains how the Breaking Down Barriers to Work Act addresses the negative effects of redundant state licensure.

## Occupational Licensing and Protectionism

Occupational licensure—laws that require people to go through costly and time-consuming processes

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to get government permission to do their jobs—restricts the supply of workers into licensed occupations. Although often implemented under the guise of protecting public health and safety, many licenses do little or nothing to that end; instead, they primarily act as government-imposed barriers to entry into a profession.<sup>1</sup> This form of regulation has become so pervasive over the last 50 years, it now affects one-quarter of the workforce and often is found in professions that have little to no bearing on public health or safety.<sup>2</sup>

Occupational licenses typically have two main components: application fees and formal education or training requirements. These requirements are intended to ensure a baseline level of education, training, or experience among professionals in the occupation. But there's a downside. Licensing requirements make entry to licensed professions particularly difficult for people who lack the income to pay for license fees or training requirements.<sup>3</sup>



## Development of Licensing— Creating Classes of Education and Income

A separation effect is the result of a wall created by occupational licensing barriers. This effect began in learned professions where the costs of the class separation, or the favoring of higher-income workers to the detriment of lower-income workers, is considerably easier to justify due to these jobs' potential consequences on public health and safety. However, licensing's separation effect in trades that do not have an impact on the public's health and safety are simply not justifiable because this payoff on health and safety does not exist. A look into the development of licensing in the medical field during Colonial America and its eventual spread into blue-collar industries during the Industrial Revolution reveals important details about how this separation affects low-income workers today.

There were two main systems of vocational training in Colonial America: formal education, and apprenticeships that included on-the-job training. The former option was accessible only to those wealthy enough to attend European universities, often white aristocrats. The latter was the more common form of education, available to a more diverse workforce. In the medical industry, these two types of training formed distinct groups: a wealthy, formally educated minority, and a lower-income, apprentice-educated majority. The higher-income minority ultimately formed medical societies to protect their interests and successfully lobbied colonial governments to establish mandatory legal standards necessary for a person to practice. Six years after the organization of the first medical society in New Jersey, the first state medical board of examiners was founded. By the beginning of the

19th century, 13 of the 16 states had established formal medical boards, empowering them to license and examine the medical profession, much to the detriment of physicians who were trained through apprenticeship rather than formal education. Apprentice-trained physicians were eventually barred from practice. This was the birth of the occupational license in America.<sup>4</sup>

Occupational licensing began to trickle into blue-collar occupations in the 19th century as the Industrial Revolution transformed the professions of engineering, architecture, and others. Similar to physicians' creation of medical societies and formal education requirements, workers in these professions sought their own licensing requirements, which often involved requiring practitioners to obtain a college education before entering business. This in turn led colleges to adopt curricula that required students to invest several years in schooling—a far easier task for wealthier families. Eventually, this resulted in a phenomenon similar to that already experienced in the medical and legal professions in the colonies: Apprenticeship training was considered inferior to a college education, and apprentice-trained professionals were eliminated from practice. The adoption of specialized education led to more pressure and more requests from other occupations to adopt specific education requirements for *their* respective occupations. This rapid growth in the need for specialized knowledge continued raising the bar to practice many of the occupations that used to be apprentice-trained, eventually leading to the community college movement, which grew from an attempt to offer voca-

tional training to those unable to pursue a four-year degree.<sup>4</sup>

The expansion of licensing laws continued its pervasive growth into occupations licensed today, including plumbers, barbers, and midwives. As previous examples have shown, licensing laws are, in truth, attempts to cement and establish status for certain occupations by excluding workers through the invention of financial and training requirements. As Lawrence Friedman notes in *A History of American Law*, it is naïve to believe legislators passed licensing laws solely with the health and safety of the public in mind, because little to no impact on the public's health and safety exists in many of today's licensed occupations.<sup>5</sup>

The Civil War marked a sharp turning point for America, one that occupational licensing was inherently a part of. The populace no longer perceived government as a means to expand prosperity, but as a tool to be leveraged for economic and political gain. The occupational societies that had established education requirements for learned professions, and later for engineers, architects, and the like, allowed members to set the qualifications for the “ingroup”—and to decide which qualifications would be excluded, thus defining the “outgroup.” Law, in essence, had become a weapon.<sup>5</sup>

Since then, occupational licensing has grown to encompass many other occupations, affecting different types of people in different economic circumstances. As previously mentioned, the two main goals of licensing are to improve quality outcomes and to do so by controlling who enters the profession. Despite the rationale that occupational licensing is necessary to protect the public's health and safety, even this goal is questionable, as empirical research reveals little proof this is the case.<sup>6</sup> Indeed, only one goal has been unarguably accomplished:

the creation of ingroups and outgroups, with many low-income Americans in the latter category. This phenomenon has become so severe that licensing boards and their members sometimes find themselves under antitrust investigation.<sup>7</sup> Such a revelation helps explain the severity of licensing today.

## Today's Class Separation

Occupations subjected to licensing more recently echo the examples of separation between higher- and lower-income workers seen in physicians and engineers in the 18th and 19th centuries. The funeral industry is one example. Before the 19th century, funerals were typically held in people's homes. After the advent of funeral homes, however, undertakers (who would prepare the body for the funeral) organized their profession as a means of limiting competition. They did so in part by forming professional organizations to lobby legislatures for licensing requirements. State professional organizations merged to create the National Funeral Directors Association (NFDA) in 1882.

Shortly after the association's conception, its members sought anti-competitive regulations, such as establishing high moral standards for embalmers and barring the sale of caskets below \$15, or \$442 today.<sup>8</sup> In the years that followed, the NFDA also sought regulatory control over funeral directors and embalmers, successfully lobbying state legislatures to adopt licensing laws. Today, 49 states plus Washington, D.C., require some form of licensure for these professions. Although the NFDA—a national organization—provides training resources and establishes baseline standards for the profession, funeral director licensing laws vary widely between states, and their standards are repetitive.<sup>9</sup>

Regulation of funeral homes has potentially contributed to increased costs to consumers, which

# Today, that number is as high as **one-third** of the workforce in some states.

rose by nearly 227.1% compared to a 123.4% increase in all commodities since 1986.<sup>10</sup> This coincides with a decrease in funeral homes across the country, from 20,557 in 2009 to 19,136 a decade later.<sup>11</sup> Low-income Americans are hit twice by these regulations: less employment opportunity in the funeral service industry *and* higher costs for services.

Current estimates predict that \$203 billion per year<sup>1</sup> is spent by consumers due to burdensome occupational licensing. This trend is especially dangerous when considering *how* people spend their money. Those residing in the bottom 20% of the income distribution spend a larger share of their income on items considered necessities—housing, food, and transportation, for instance—while a lesser share of their income is spent on insurance, retirement, education, clothing, and luxury items.<sup>12</sup> This means that occupational licensing laws that make services more expensive for everyone disproportionately hurt low-income families because a larger share of their income is spent on these services, specifically necessities. Examples of such services include healthcare (nurses and physicians), dental care (dentists, hygienists, and assistants), emergency medical services, insurance, plumbing, and HVAC work. The additional expense that many middle, upper-middle, and wealthier classes incur because of licensure in these occupations goes largely unnoticed. But for a family of four making less than \$40,000 per year, these costs are not as easily ignored.

## Trends in Licensure

In the 1950s, only 5% of the workforce was required to hold an occupational license. Today, that number has exploded to between one-third and one-fourth of the workforce depending on the state.<sup>13</sup> Defenders of this exponential increase—oftentimes the occupational licensing boards and insiders themselves—argue licensing protects the public's health and safety.<sup>14</sup> However, many of these newly licensed occupations are in harmless, low-income occupations, such as florists in Louisiana and bed salespeople in West Virginia.<sup>13</sup> Not only are these innocuous occupations licensed, but they are frequently licensed equally or more onerously than occupations that *actually* do pose a health and safety risk. For example, the licensing requirements for retail florists in Louisiana (including over \$200 in fees<sup>15</sup> and weeks of training<sup>16</sup>) are similar to those imposed on emergency medical technicians (\$115 in fees with no specified length of training requirement<sup>17</sup>), who aid in the potential lifesaving care and transport of victims of physical trauma and illness. In Arizona, requirements for an EMT certificate are considerably less than those for a cosmetologist: EMTs must have 130 hours of training, and cosmetologists 1,600. And while cosmetologists must pay \$247 in fees the first year and \$60 every two years afterward to maintain their licenses, EMTs are responsible for only a \$230 initial fee and a \$15 biyearly renewal fee.<sup>17</sup>

Defenders of the florist licensing requirement in Louisiana have claimed it helps protect the public safety because florists deal with potting soil that could contain harmful bacteria and tools that could be sharp—but people who garden at their own homes are exposed to the same minor risks without requiring state intervention. Moreover, outlawing professional florist services without government

permission contrasts sharply with industries that do not use licensing at all, such as the automobile mechanic industry—a field in which poor service could mean thousands of dollars wasted as well as serious risk of injury or death. Automobile mechanics use voluntary private certification rather than licensing,<sup>18</sup> which is not only cheaper, but does less to inhibit state-to-state mobility.<sup>19</sup> It is illogical to suggest that auto mechanics can be trusted to provide high-quality service via voluntary certification and other consumer protections, whereas florists cannot be expected to maintain professional standards absent government intervention.

All of this variation between and within states is compounded because workers in one state cannot carry their license with them to another. Each time a worker moves to a new state, they are subject to a new licensing board, which imposes new requirements to allow them to continue doing a job they are already licensed to do. This is especially detrimental to low-income people, who are more likely to be stuck with the economic circumstances within the state they are licensed. If a low-income veterinary technician earns a license in one state and can only practice in that state, they are now especially vulnerable to the economic success of veterinary technicians in that state. If the market within that vet's state is in a downturn while other states do not accept the license transfer—especially if those states are economically prosperous—the vet is missing out on maximizing the economic benefit of having a transportable license.

## Effects of Licensure

In 1962, economist Milton Friedman argued that the free movement of workers from location to location is necessary for the functioning of an efficient labor market. Research, however, has found that occupational licensing requirements restricts

this free flow of labor.<sup>20</sup> As shown, many requirements are state-specific, meaning low-income families must repeat any education requirements once they move to another state even though education and training requirements are often the same or very similar. Requiring licensed professionals to obtain a new occupational license each time they move to a new state—which usually means repeating education and training, on top of new monetary requirements—essentially treats workers as though they lose their skills once they cross state lines. Not only is that illogical, it discourages people from taking advantage of economic prospects in other states.<sup>21</sup> This, of course, is particularly taxing on low-income individuals and families, who can least afford to get re-licensed each time that opportunity arises for them or a family member, even though they are the most in need.

## Effects on Interstate Migration

Interstate migration is hit hard by licensing requirements that vary from state to state. Whether the requirements are altogether different or simply repetitive for a given occupation, such restrictions reduce the number of interstate migrants by an estimated 93,600 per year, and shrink annual wages by \$356 million cumulatively.<sup>22</sup>

Repetitive and varying qualifications often establish an unnecessarily high hurdle. For instance, the 4,000 hours of experience that Wisconsin cosmetologists must log can be reduced by completing an optional 1,550-hour training requirement—the equivalent of 500 eight-hour work days.<sup>17</sup> A full-time employee who wishes to become a licensed cosmetologist in Wisconsin is required to balance competing priorities: their current job's demands as well as the license's. Suppose that a low-income cosmetologist in Massachusetts moves to Wisconsin with their spouse to seek work. This cosmetologist

leaves a current job only to be shunned by Wisconsin licensing boards for not completing Wisconsin's requirements. As a result, that person is kicked out of a profession they are qualified to practice.

Indeed, research validates this example. Licensing requirements that are especially difficult restrict interstate mobility proportionally. Exam requirements that vary between states for a single occupation without a national curriculum are often found to have the largest restriction on interstate mobility for workers in that occupation.<sup>21</sup>

Any policy that restricts the movement of a low-income family to other states effectively hampers their ability to take advantage of economic opportunities.

The redundancy of occupational licensing laws can be insurmountable for low-income families. Not only must they go through initial hurdles to obtain a license, but having to go through the whole process again—and possibly many times over depending on how often they move—is not feasible, and places these families at a huge disadvantage. They are asked to spend valuable financial resources putting themselves through training and education, and they are also losing another valuable resource: time. The time spent repeating licensing requirements for each state limits income the family could otherwise have been earning during those hours. In fact, the costs associated with license holders who move and have to obtain a new license in a different state is essentially an implicit tax on moving (an additional cost incurred as a result of a government policy, without government actually collecting this cost). Logically, this implicit tax rate is highly regressive because low-income people must spend a larger share of their income than would higher earners to move to another state due to occupational licensing.

## Effects on Economic Mobility and Low-Income Employment

Economic mobility refers to people's ability to elevate themselves above the economic circumstances of their parents—specifically, the ability of those born to a household in the bottom 20% of the income distribution to later achieve entrance into the top 20% of income. Being raised in poverty is a significant factor contributing to one's lack of economic mobility—in other words, those of us who are born poor are more likely to stay poor.<sup>23</sup> One of the best means to reduce poverty is through consistent and productive employment appropriate to the skillset of the job seeker.<sup>24</sup> Occupational licensing is counterproductive to that goal, significantly reducing consistent employment opportunities.<sup>25</sup>

Perhaps this is why a positive link between economic growth, income inequality, and occupational licensing has existed since the 1970s.<sup>26</sup> While much of the economic growth prior to the 1960s was due to manufacturing, modern growth since has been attributed primarily to the service sector, where occupational licenses are more prominent. Occupational licensing may therefore be preventing low-income people from taking part in economic prosperity, increasing the earnings gap between higher and lower earners, and hurting the economic opportunity for low-income Americans.

According to a study specifically focused on low- to moderate-income occupations, states with substantial increases in occupational licensing, such as Louisiana, have the largest decreases in economic mobility—approximately 6.7%. Comparing this statistic to states with the least occupational licensing growth, such as Kentucky, the decreases in economic mobility are much less severe (1.7%).<sup>27</sup> These results point to a potential relationship between

increases in occupational licensure and the persistence and severity of a poverty trap.

Census data indicates a strong association between full-time employment and lower poverty rates. Full-time workers have a poverty rate of a mere 2.3%, while part-time workers have a poverty rate of 12.7%. The poverty rate for those who do not work is 29.7%.

Compared to the national average of 11.8%, a strong association between working full time and avoiding poverty is suggested.<sup>28</sup> Unsurprisingly, research generally indicates that the increased pervasiveness and difficulty of occupational licensing requirements lead to fewer job opportunities and reduced job growth, especially for low-income individuals.<sup>29</sup>

Laws that erect barriers to work not only keep people from employment, but they make it more difficult for low-income families to deal with poverty and escape it. Many social safety-net programs are designed to provide temporary economic assistance for people who are between jobs. Thus, those programs require individuals to find employment in order to be eligible for the assistance. The Earned Income Tax Credit (EITC)—the most effective anti-poverty program for working-age households in the United States—is an example of a program that includes employment as an eligibility requirement.<sup>30</sup> The Temporary Assistance for Needy Families (TANF) program, the country's chief cash-assistance welfare program, requires work through national performance standards (although requirements differ between states). Finally, the Supplemental Nutrition Assistance Program (SNAP), also known as the Food Stamp Program, requires able-bodied adults without dependents to meet certain work-related criteria.<sup>31</sup> Combined, these programs affect millions of low-income families. Without work, the benefits of these social

safety-net programs cannot be realized. Occupational licensing makes it difficult for people to find work—and it makes it difficult for people to use these programs to help them get back on their feet. The Bureau of Labor Statistics has an oft-forgotten category of employment: the discouraged worker. Many of these individuals have become so frustrated or feel so helpless in job hunting that they simply give up hope of finding employment.<sup>32</sup> Occupational licensing is one of the barriers standing in their way because it makes it harder to find work in one's own state and harder to move elsewhere in search of economic success.

Many workers who are both poor and lacking formal education often turn to entrepreneurship—starting a business in hopes of making a profit—as means of economic success. Entrepreneurship can be particularly beneficial for low-income families, as it can boost labor demand and further communi-

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ty cohesion.<sup>33</sup> Low-income entrepreneurship offers a means to self-sufficiency and economic independence for low-income individuals, especially when employment opportunities are scarce either from a lack of local business or labor market demand by incumbent firms.<sup>34</sup> Yet occupational licensure suppresses entrepreneurial activity—especially for low-income families. In a 2015 report by Stephen Slivinski, increased occupational licensing burdens were significantly associated with decreased entrepreneurial activity. In fact, states that license 50% or more of low-income occupations averaged 11% lower entrepreneurial activity than average, while states that license less than one-third have 11% higher entrepreneurial activity than average.<sup>35</sup>

## Alternatives to Occupational Licensing

Public policy has the power to mitigate the damaging effects of occupational licensing on interstate migration. Agreements between states or any law that allows for the transfer of an occupational license earned in one state to another increases interstate migration.<sup>21</sup> Arizona's universal recognition of out-of-state licenses, effective since late August 2019, has already allowed out-of-state migrants to apply for and be granted Arizona licensure with no impact on health and safety concerns within the state. This law essentially acts like a large reciprocity agreement between Arizona and all other states, allowing incoming migrants with occupational licenses to be accepted by Arizona licensing boards.

In 2019, Arizona became the first state to enact the Breaking Down Barriers to Work Act, a universal licensing law that recognizes workers' out-of-state licenses when they move to a new state. Shortly after, Pennsylvania followed suit. In 2020, twenty states introduced versions of Breaking Down Barriers to

Work, with Idaho, Indiana, and Utah passing versions of the reform into law. The law does not eliminate occupational licensure; instead, it eliminates the redundant training and education requirements a licensed professional must fulfill each time they move to a new state. Under Breaking Down Barriers to Work, so long as a person has held a license in good standing for at least one year, the receiving state will recognize the out-of-state license.

Arizona and the states that have followed its lead have taken an important step toward eliminating unnecessary barriers that prevent Americans from pursuing the jobs of their choice—especially low-income workers, who are most in need of economic opportunity. Other states would be wise to adopt similar legislation. Doing so would encourage the free movement of low-income families to states that provide them with more opportunities to flourish and to live their American Dream.

# ENDNOTES

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