



# CHRIS KAPENGA

WISCONSIN STATE SENATOR

## Testimony on Senate Bill 288 & Assembly Bill 369

*Senate Committee on Public Benefits, Licensing, & State-Federal Relations*

*Assembly Committee on Regulatory Licensing Reform*

August 24, 2017

Thank you Chairman Horlacher for holding a joint hearing today and also to committee members for considering Senate Bill 288 and Assembly Bill 369. I also want to thank Representative Hutton, Representative Kooyenga, and Senator Darling for working towards a common goal of lowering barriers to employment in Wisconsin.

In 1996, Wisconsin created its 93<sup>rd</sup> occupational license. Since then, the number of occupations requiring a license in Wisconsin has grown to 166, a 44% increase in licensed professions over the last twenty years. As occupational licenses have been created, little thought is given to whether or not existing licenses continue to be necessary.

Senate Bill 288 and Assembly Bill 369 will offer an opportunity to objectively review currently licenses professions and also reshape the way we analyze new licenses moving forward. First, the bill creates a council that is tasked with reviewing currently regulated occupations using a measured set of criteria. Factors considered will include a comparison to unregulated practice of the profession, public benefit of the license, alternatives to ensure public safety, comparison to other states, number of individuals affected, and the financial burden and economic impact of the license. The council would then report its recommendations to the legislature and governor. Any legislation crafted as a result of those recommendations would follow the normal legislative process. Once the council completes its work it sunsets, but will reconvene every ten years to conduct a review.

The bill also creates a sunrise report to be prepared by the Department of Administration for any bills that would impose a new licensing requirement. This report would use the same criteria the Council utilizes and would give the Legislature an objective cost-benefit analysis of any newly proposed licenses, much like a fiscal effect report.

In the past, an all or nothing approach has been taken with regard to regulating profession. If it is determined an occupation needs to be regulated, legislators quickly decide to require a license for all practitioners in that field. Recently, however, and emphasis has been placed on finding the least restrictive regulation that still protects public safety. For example, inspections, insurance requirements, or registration requirements could, in some case, effectively protect public safety while placing less of a burden on the regulated professions. The Council and sunrise report created in this bill will consider if there are less restrictive forms of regulation that would still protect the public.

Nationwide, there is a bi-partisan effort to rethink occupational licensing laws that prevent people from working in fulfilling careers. A diverse group of public policy experts have taken steps to reveal the economic costs of these policies to individuals and our economy as a whole. Left-leaning groups such as the Brookings Institute and the Obama White House to right-leaning groups such as the Institute for Justice, the Mercatus Center at George Mason University, Wisconsin Policy Research Institute, and the Wisconsin Institute for Law & Liberty have all recently released reports outlining some of the problems. Additionally, the Federal Trade Commission under both the Obama and Trump administrations have made targeting overly burdensome occupational licenses a priority.

States across the political spectrum have also instituted similar sunrise and sunset review processes. Currently, thirteen states require a sunrise review process for bills creating occupational licenses, including Maine, Florida, Vermont, Colorado, and Washington. Twenty-one states have active sunset review laws, similar to the temporary Occupational License Review Council. In recent years, both Michigan and Indiana have undertaken a review process to analyze their occupational licenses, these laws have proven across the nation to slow the growth and begin reversing unnecessary licensing laws that hamper economic opportunity.

In conclusion, these bills will send a strong signal to Wisconsin's workers that we do not see it as our role to unnecessarily restrict their ability to earn a living, while still ensuring citizens that we take our role of ensuring public safety seriously. Thank you for listening, and I would be happy to answer any questions from the committees.

# Rob Hutton

STATE REPRESENTATIVE • 13<sup>TH</sup> ASSEMBLY DISTRICT

Good morning Chairman Kapenga, Chairman Horlacher and members of the committees. Thank you for giving AB 369/ SB 288 and AB 370/SB 296 the opportunity for a public hearing.

Before us today we have two common sense pieces of legislation that would seek to add appropriate review measures to the bureaucratic growth of occupational licensing. Between since 1996 the number of occupations requiring a license in Wisconsin has increased 44%. Nationwide, nearly a quarter of professions now require an occupational license before one can participate in those professions. This is up from only 5% of professions in 1950.

Both of these pieces of legislation before you today seek to institute a necessary review element to all occupational licenses. While the frequency of new occupational licensing continues to expand, little thought has been given to a review process to monitor the necessity of those licenses. These bills would follow the national trend in instituting such a review process and seeking to establish best practices for situations where an occupational license may not be required.

AB 369/SB 288 would create an occupational license review council that would be responsible for reviewing all existing and proposed licensing requirements. This council would then issue a report to the legislature with their recommendations for these licenses. These recommendations could include maintaining the status quo, or a less restrictive option such as inspections, or registration requirements that would still insure protection of public safety while also removing some of the onerous regulatory burden placed on certain industries.

AB 370/SB 296 dovetails well with AB 369/SB 288 in that it creates a pilot program to explore a less restrictive alternative for certain occupations. This bill would create a self-certification registry similar to one that has been used in Indiana. This registry, under the guidance of the Department of Safety and Professional Services (DSPS), would accept up to five applications from accrediting organizations from professions not currently licensed by the state. Once approved to be part of this pilot program, these organizations would be able to issue a "state certified" title to individuals who complete their training requirements.

After 2 years of this pilot program DSPS would then issue a report to the legislature with a recommendation on whether or not to continue to registry as well as a recommendation on possible expansion of the registry to include other professions.

In most areas of life, both personal and professional it's healthy to occasionally step back and evaluate where we are heading and why? In business, with the pace of change rapidly increasing, companies must reassess their direction and strategy on a continual basis, lest they find out too late the market place has changed right underneath their feet.



# Rob Hutton

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STATE REPRESENTATIVE • 13<sup>TH</sup> ASSEMBLY DISTRICT

This assessment is also relevant in government, specifically in the area of occupational licensing. What may have made logical sense 10 years ago may be all but irrelevant today. We can all identify legislation that in hindsight created unintended ripple effects we couldn't have anticipated. Sometimes a solution on one end results in unforeseen problems down the road.

Questions like: "What was the original intent? Did we accomplish the desired outcomes? Is this policy still helpful today?" are all questions worthy of our deeper consideration.

The two bills before this committee today seek to provide the opportunity for all of us to ask those questions and determine if the direction we intended to head is still the path we are on.

I appreciate the opportunity to speak to the merits of both of these bills and look forward to answering any questions you may have.

**Alberta Darling**  
**Wisconsin State Senator**  
Co-Chair, Joint Committee on Finance

**Licensure Reform: Creation of a Self-Certification Registry**

Testimony on Senate Bill 296/Assembly Bill 370

Senate Committee on Public Benefits, Licensing and State-Federal Relations &  
Assembly Committee on Regulatory Licensing Reform

August 24, 2017

Thank you Chairs Kapenga and Horlacher and members of the Senate Committee on Public Benefits, Licensing and State-Federal Relations and Assembly Committee on Regulatory Licensing Reform for hearing these bills. Senate Bill 296 and Assembly Bill 370 create a pro-market alternative to occupational licensing.

Occupational licensure is one of the biggest impediments to those wishing to enter the skilled workforce. More than a quarter of workers in the United States need a government-issued license to work, up from 5% in 1950. Wisconsin currently regulates 166 professions. This impediment has been recognized across the political spectrum from the Obama Administration and the Brookings Institute to the Institute for Justice and Mercatus Center. Occupational licensure creates significant barriers to entry for low income individuals into a wide variety of professions. These barriers reduce competitiveness, increase prices, and stop some of our most vulnerable citizens from gaining employment in well-paying professions. Participation in well-paying professions boosts Wisconsin's economy, increases the tax base, and reduces dependence on government. Access to well-paying jobs helps people succeed.

While licensing certain professions is necessary to protect the health, safety, and welfare of Wisconsinites and signal to consumers which providers of goods and services are reputable, there are often unintended consequences and unnecessary burdens. Three major consequences are increased costs of entry into a profession, limited competition, and increased prices for goods and services. However, in many cases, there is a more efficient, less intrusive way to protect consumer health, safety, and welfare and provide more information about which providers of goods and services are reputable. This bill does that.

The self-certification registry, pioneered by Indiana, balances providing consumers with market information and incentivizing training. SB 296/AB 370 would require the Department of Safety and Professional Services (DSPS) to create a registry where accrediting organizations for professions that are not currently licensed by the state can apply to be a participant. After a public hearing, the Secretary determines if the applicant organization improves consumer protection. If the Secretary determines the organization does improve consumer protection, then the organization shall be approved. Once approved, individuals who are credentialed through the organization can apply to the state to receive the "state certified" title. This title signals to consumers that the titleholder is reputable in their profession. It is important to note that the Legislature, through legislation, already provides the "state certified" title to

**Alberta Darling**  
**Wisconsin State Senator**  
Co-Chair, Joint Committee on Finance

individuals operating in certain professions if they have met the prerequisites set out by an appropriate accrediting organization. This bill simply creates a uniform process with objective criteria to do the same thing.

There are many advantages to self-certification over licensure. First, providing the "state certified" title provides similar market information as licensure because the individual would have earned a credential and been double-checked by the state. Second, this is a less intrusive way to gain market information because much of the regulation is done by the private sector through credentialing organizations. Third, this does not create the extensive barriers to entry like licensure does because practitioners are not required by law to earn a certification to practice in the profession.

While this bill does not include additional barriers of entry, it does continue to protect consumers by providing penalties for those who attempt to harm consumers. Individuals are subject to a forfeiture and removal from the registry for fraud or deceit on their application. Similarly, if an individual falsely claims to the public to be "state certified" they are subject to a forfeiture. Organizations are also subject to removal from the registry for fraud or deceit in the application process. DSPS will have the power to audit individuals and organizations that sign up for the registry to flag these issues. These penalties will help ensure consumers are protected from unscrupulous actors.

SB 296/AB 370 is a pilot program. Under the pilot, DSPS will be limited to adding up to five organizations to the registry. However, as organizations may credential more than one profession, there may be more than five professions eligible for the "state certified" title. Within two years of approving the first organization in the registry, DSPS is required to recommend to the Legislature whether or not to continue the registry. DSPS is allowed to charge fees up to the cost of running the registry to both organizations and individuals signing up to minimize the cost to taxpayers.

Finally, this bill also requires the Department to submit a report to the Legislature on several currently licensed professions. The professions selected to be included in this report were based on the Wisconsin Institute for Law and Liberty's *Fencing Out Opportunity* report on occupational licensure. Among other things, the report will review whether or not the unregulated practice of the selected professions will clearly harm or endanger the health safety, or welfare of the public. The report will also compare the licensing requirements for these professions in Wisconsin to other states and whether or not there is a less burdensome way to regulate these professions. The purpose of the report is to ensure that the state is to get an objective assessment of these licensing requirements and to determine if there are less burdensome ways to protect the public's health, safety, and welfare.

The self-certification registry is an alternative to licensure that provides many of the benefits to consumers and none of the anti-competitive consequences. The creation of a self-certification registry will increase consumer confidence by providing more market information without increasing barriers to entry in a profession. Further, the self-certification registry helps protect

# **Alberta Darling**

## **Wisconsin State Senator**

**Co-Chair, Joint Committee on Finance**

the health, safety, and welfare of Wisconsinites by incentivizing job training for individuals who want to receive the "state certified" title. The state maintains the ability to remove individuals and organizations from the registry and assess forfeitures for misleading consumers or the state. The self-certification registry is a step forward for Wisconsin's workers and economy.

I want to thank my colleagues, Senator Kapenga and Representative Hutton for their leadership on this issue. As always, I am open to conversations on how to make this bill even better. Again, thank you to the committees for taking the time to hear this bill, and I urge your support.

**Alberta Darling**  
**Wisconsin State Senator**  
Co-Chair, Joint Committee on Finance

**Licensure Reform: Occupational License Review Council**

Testimony on Senate Bill 288/Assembly Bill 369

Senate Committee on Public Benefits, Licensing and State-Federal Relations &  
Assembly Committee on Regulatory Licensing Reform

August 24, 2017

Thank you Chairs Kapenga and Horlacher and members of the Senate Committee on Public Benefits, Licensing and State-Federal Relations and Assembly Committee on Regulatory Licensing Reform for hearing these bills. Senate Bill 288 and Assembly Bill 369 increase the opportunity for some of the most vulnerable in our society to gain employment in well-paying professions by getting government out of the way.

Occupational licensure is a major impediment to citizens wishing to enter the workforce. While only 5% of professions were licensed in 1950 this number has increased dramatically. Today over 25% of professions requiring licensure in Wisconsin. Due to this increase in licensure, a variety of organizations ranging from the libertarian leaning Institute for Justice to the Obama Administration have attempted to ease the regulatory burdens associated with licensure. While certain professions and fields, such as the medical field, need to be regulated to protect the health, safety, and welfare of Wisconsinites, many professions do not. Often, occupational licensure creates barriers to entry into professions leading to reduced competition, higher prices for goods and services, and prevents some of the most vulnerable members of our state from gaining employment in well-paying professions.

The costs of unnecessary occupational licensure are real. In a recent study, the Wisconsin Institute for Law and Liberty measured these costs. The Department of Safety and Professional Services' (DSPS) regulation of occupations increased by 84 percent in the last twenty years (1996 through 2016). This regulation costs Wisconsin approximately 30,000 jobs and consumers \$2 billion in higher costs. 440,000 Wisconsinites need occupational licenses to work.

SB 288/AB 369 provides an opportunity to eliminate some of this red tape through the creation of an Occupational License Review Council. The council will be made up of four gubernatorial appointees, four legislators, and the DSPS Secretary. This council will be tasked with reviewing all occupational license and submitting a report containing recommendations for the modification or elimination of those occupational licenses by the end of 2018. The recommendations of this report must be introduced as a bill, with the bill then proceeding through the normal legislative process. The council will disband after it submits its report. However, the council will reconvene every ten years in order to do an additional review. This review will ensure our occupational licensing regulations protect the public's health, safety, and



# **Alberta Darling**

## **Wisconsin State Senator**

Co-Chair, Joint Committee on Finance

welfare in the most efficient way possible. SB288/AB 369 looks not only at the past, but to the future by requiring the Department of Administration to create a report for future occupational licensure legislation containing feedback from businesses, individuals, and government agencies that would be affected by the legislation.

This bill has the potential to help move Wisconsin forward by removing barriers of entry to middle class jobs, reduce consumer costs, and eliminate unnecessary government red tape. I want to thank Senator Kapenga and Representative Hutton for their leadership on this issue. Again, thank you to the committees for taking the time to hear this bill, and I urge your support.



**AIA**  
Wisconsin

August 24, 2017

**Joint Public Hearing – 2017 Senate Bill 288 & 2017 Assembly Bill 369**  
Senate Committee on Public Benefits, Licensing and State-Federal Relations  
Assembly Committee on Regulatory Licensing Reform

Committee Chairs & Members:

Thank you for the opportunity to comment on the proposed legislation that would create an Occupational License Review Council. The purpose of this new council would be to develop recommendations for the elimination of and modification to state licenses, permits, certifications, registrations or approvals that allow a person to engage in a profession, occupation or trade or to use an associated title.

I am William Babcock, the executive director of AIA Wisconsin, the state society of the American Institute of Architects (AIA). I am appearing today to express our opposition to the proposed legislation.

Wisconsin began licensing architects in 1917, which happens to coincide with this year's 100<sup>th</sup> anniversary celebration of our State Capitol. Architects are licensed in all 50 states to protect public health, safety and welfare. The National Council of Architectural Registration Boards facilitates reciprocity between the states.

The proposed legislation sends the wrong signal to young people and emerging professionals. It may discourage individuals from pursuing a career as an architect by creating uncertainty about future state licensing. Wisconsin needs more architects; and AIA Wisconsin works hard to encourage students to consider careers in architecture. We need to replace the retiring "baby boomer" architects, which is a common issue faced by all professions. We also need to replace the architects who left the profession during the recent Great Recession for other opportunities. Wisconsin also needs more architects to meet the growing demand for renewing existing buildings and designing new facilities.

Experience has demonstrated that state licensing of architects is the best approach for effectively screening and disciplining those who hold themselves out to the public as professionals. The public should be able to rely on the state to establish minimum education, experience and examination requirements as well as a code of professional conduct. Without this reasonable reliance, the only recourse available to the public is to pursue a remedy after the property damage or personal injury as occurred.

Founded in 1911, AIA Wisconsin represents over 1,400 individual members, including architects in private practice, business, industry, government and education. AIA Wisconsin members work every day to create better, safer, healthier and more resilient communities through architecture.

Thank you for your consideration of our serious concerns with the proposed legislation.

**The American  
Institute of Architects**

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**Wisconsin-licensed and certified professionals oppose AB 369 and SB 288 relating to occupational licenses and AB 370 and SB 296 relating to the creation of a self-certification registry.**

We stand united as a diverse coalition of Wisconsin professional organizations against proposed legislation that will establish a new Occupational License Review Council (OLRC) and self-certification registry under the Department of Safety and Professional Services (DSPS). We urge you to strongly oppose AB 369, SB 288, AB 370, and SB 296 – which will negatively impact tens of thousands of Wisconsin professionals – for the following reasons:

- The creation of the OLRC is unnecessary. During the Joint Finance Committee's (JFC) consideration of the 2017-2019 Biennial Budget Bill, an amendment was adopted requiring DSPS to conduct a study of occupational licenses. AB 369 and SB 288's formation of the OLRC, therefore, establishes needless government bureaucracy.
- AB 369 and SB 288 provide excessive legislative drafting authority to the OLRC. Specifically, these bills require the Legislative Reference Bureau to prepare legislation based on the OLRC's recommendations and requires the proposed legislation to be introduced without change and referred to an appropriate standing committee in each house.
- AB 370 and SB 296 do not improve public safety. AB 370 and SB 296 establish a new self-certification registry. Of particular concern is that the new "state certified" designation will not come from DSPS, but rather, from five unidentified non-governmental organizations and trade associations that are entirely unaccountable to the citizens of Wisconsin.

***The current board and council structure at DSPS is working.***

The above-mentioned legislation is an unsolicited solution in search of a problem. The independent boards and councils at DSPS are comprised primarily of professionals who practice in the specialty for which they are given regulatory oversight. As a result, the boards and councils possess profession-specific knowledge that allows for the greatest possible protection of public safety. However, the provisions contained in AB 369, SB 288, AB 370, and SB 296 would negatively impact profession-specific expertise and decrease the level of public safety that each board and council has worked hard to protect.


WISCONSIN  
OPTOMETRIC  
ASSOCIATION

 WPMA  
The Wisconsin Podiatric Medical Association

 WISCONSIN ACADEMY  
of  
PHYSICIAN ASSISTANTS

 WPTA  
Wisconsin Physical Therapy Association

 WOTA  
WISCONSIN OCCUPATIONAL  
THERAPY ASSOCIATION

 Wisconsin Society of  
Radiologic Technologists

 amta  
AMERICAN MASSAGE THERAPY EDUCATION  
Wisconsin Chapter

 WISCONSIN ATHLETIC  
TRAINERS' ASSOCIATION

**Wisconsin Health Professionals Oppose the  
Budget Bill's Elimination of DSPS Boards and Councils.**

We stand united as a diverse coalition of Wisconsin healthcare organizations against the Budget Bill's proposed elimination and consolidation of boards and councils under the Department of Safety and Professional Services ("DSPS"). (See LFB Summary of Governor's Budget Recommendations, pp. 399-402, Item 2). We urge you to oppose this Budget Bill provision – which impacts approximately 35,000 Wisconsin health professionals – because it:

- Weakens regulatory structures that protect public health and safety;
- Undermines the development of profession-specific expertise by specialized healthcare boards and councils;
- Fails to provide meaningful cost savings to the state; and
- Decreases administrative efficiencies at DSPS.

***The Current Board and Council Structure at DSPS is Working.***

Under current law, the independent healthcare boards and councils at DSPS are comprised primarily of professionals who practice in the specialty for which they are given regulatory oversight or regarding which they serve in an advisory role. As a result, the boards and councils possess profession-specific knowledge that allows for the greatest possible protection of public health and safety. However, the Budget Bill provision dilutes the profession-specific expertise that each board and council has developed by transferring their regulatory authority to a larger and more generalized governing board.

***The Budget Bill Provision Creates Negligible Cost Savings and Efficiencies.***

Over the 2017-2019 biennium, the Legislative Fiscal Bureau reports that eliminating specialized healthcare boards and councils (as well as other changes at DSPS) achieves a mere \$50,800 in program revenue cost savings and the termination of a single, half-time FTE position. These minimal cost savings and insignificant administrative efficiencies do not justify the risk to public health and safety created by the Budget Bill provision.

## WISCONSIN OCCUPATIONAL LICENSING: BARRIERS TO OPPORTUNITY IN THE BADGER STATE

**MATTHEW D. MITCHELL, PhD**

*Director, Project for the Study of American Capitalism, Mercatus Center at George Mason University*

Joint Hearing, Senate Committee on Public Benefit, Licensing and State/Federal Relations and the Assembly Committee on Regulatory Licensing Reform  
Public Hearing

August 24, 2017

Chairmen Kapenga and Horlacher, Vice-chairs Harsdorf and Ballweg, and distinguished members of the Senate Committee on Public Benefit, Licensing and State-Federal Relations and the Assembly Committee on Regulatory Licensing Reform:

My name is Matthew Mitchell. I am an economist and a senior research fellow at the Mercatus Center at George Mason University, where I direct the Project for the Study of American Capitalism. In recent years, my colleagues and I have been studying occupational licensing laws, and I am grateful for the opportunity to discuss our findings with you.

Attached to this letter, you will find a report that my colleagues and I have recently published, “The State of Occupational Licensure in Wisconsin.” References for the factual claims made in this letter may be found in the report. In this letter, as in my oral statement, I wish to make the following points:

1. Aspiring entrants to a large and increasing number of professions—ranging from manicurists to bill collectors—are now required by the state of Wisconsin to obtain a government-issued license to work. It can take months and hundreds, even thousands, of dollars to obtain these licenses.
2. There is little evidence that licensure improves quality but considerable evidence that it raises prices and has a disparate effect on minorities.
3. Comprehensive reform should include sharply reducing the number of occupations requiring a license. This reform can be accomplished by setting up an independent commission to examine occupational licensing laws and make recommendations for reform.

### I. BACKGROUND

An occupational license requires those seeking to enter a profession to first obtain government permission. In order to obtain a license, prospective licensees may be required to take tests, pay fees, undergo certain training, or meet other requirements such as residency, age, or education. Occupational licensing is ostensibly intended to protect the public from unsafe and low-quality service. But a broad and growing consensus among economists suggests that these rules mostly serve to protect incumbent

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providers from competition, raising consumer prices and limiting opportunities for new entrants in the field without improving quality.

## II. THE CASE OF WISCONSIN

A number of facts about licensure in the state of Wisconsin merit attention:

### 1. Licensure has grown dramatically in recent decades.

Nationally, the share of the workforce required to have an occupational license has increased more than fourfold in the last 50 years. In Wisconsin today, 18.4 percent of the state’s workforce is required to be licensed and 1.9 percent more is certified.

### 2. Wisconsin’s licensure burdens are significant.

On average, the state requires licensees in 47 low- and moderate-income occupations to undergo 145 days of education and experience, take one exam, and pay \$209 in fees. The highest fee imposed by the state is \$1,570 for a cathodic protection testing license.

### 3. Wisconsin requires licenses for rarely licensed professions whose work carries little risk to the public.

These professions include fire sprinkler system testers, pipelayers, and bill collectors.

### 4. Wisconsin licensing laws often impose greater burdens on lower-risk professions such as athletic trainers than on higher-risk professions such as EMTs.

Table 1 shows the mismatch between risk and occupational education and experience requirements.

TABLE 1. OCCUPATIONAL TRAINING MISMATCHES IN WISCONSIN

Occupation	Education or experience (days)	Exams
Emergency medical technician	28	2
Manicurist	70	2
Makeup artist or skincare specialist	105	2
Massage therapist	140	2
Cosmetologist or barber	420	2
Earth driller	730	1
Midwife	730	1
Veterinary technologist	730	3
Athletic trainer	1,460	1
Preschool teacher	1,825	2

Source: Dick M. Carpenter II et al., “License to Work: A National Study of Burdens from Occupational Licensing” (Arlington, VA: Institute for Justice, May 2012).

**5. Most Wisconsin licensing boards are dominated by members of the industry that they oversee.**

As seen in table 2, most Wisconsin boards are required by statute to consist primarily of license holders, and, owing to vacancies, many boards are composed entirely of industry insiders. This presents a legal concern in light of the Supreme Court’s decision in *North Carolina Dental*, which held that states cannot claim immunity from antitrust laws if active participants in the industry constitute a “controlling number” of board members and if elected officials fail to “actively supervise” the board.<sup>1</sup>

It also creates a practical concern that boards will tend to act as industry cartels, controlling entry rather than ensuring public safety.

TABLE 2. COMPOSITION OF SELECT WISCONSIN BOARDS

Board/council	Statutory board composition			Actual board composition		
	Industry members	Total	Percentage industry	Industry members	Total	Percentage industry
Respiratory Care Practitioners Examining Council	3	5	60%	3	3	100%
Athletic Trainers Affiliated Credentialing Board	4	6	67%	4	4	100%
Occupational Therapists Affiliated Credentialing Board	5	7	71%	4	4	100%
Hearing and Speech Examining Board	8	10	80%	7	7	100%
Dentistry Examining Board	9	11	82%	9	9	100%

Source: Wisconsin Department of Safety and Professional Services, “License/Permit/Registrations,” accessed August 16, 2017, <http://dsps.wi.gov/Licenses-Permits/Credentialing>.

**III. EFFECTS OF OCCUPATIONAL LICENSING**

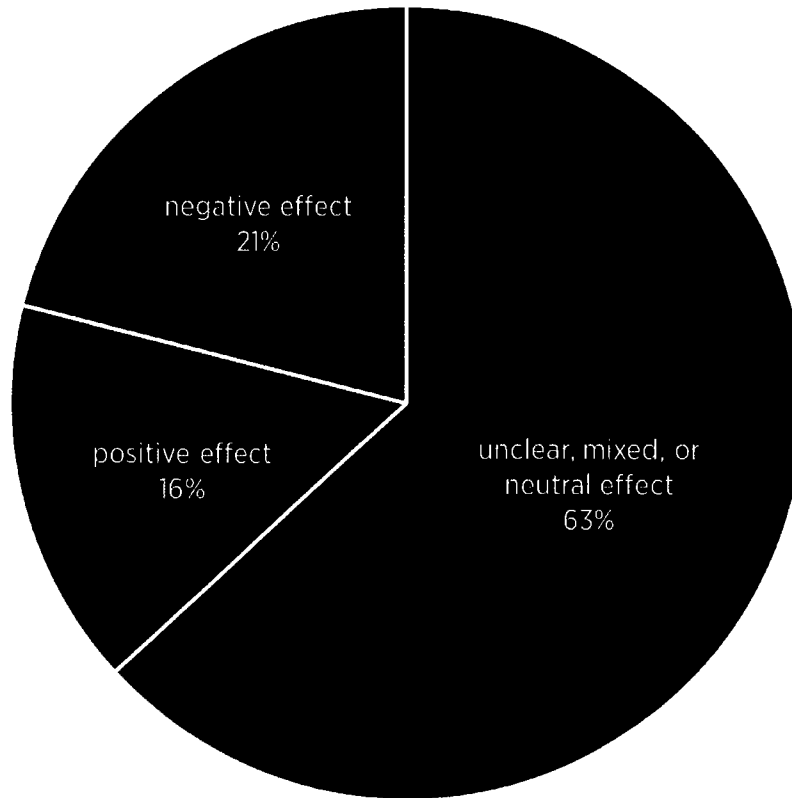
**1. Though licensure is ostensibly supposed to increase quality, the evidence is mixed at best.**

Numerous surveys by both academic economists and government officials find that studies assessing the effect of licensure on quality are most likely to find a neutral, mixed, or unclear effect. Figure 1 presents the results of the most comprehensive survey to date.

<sup>1</sup>NC State Bd. of Dental Exam’rs v. FTC, 135 S. Ct. 1101 (2015).



FIGURE 1. FINDINGS OF 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:** 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*, 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*, 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 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 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.

**2. The effect of licensure on consumer prices is clearer. By restricting entry into markets, licensure raises consumer prices.**

According to a 2015 survey by officials in the Obama administration,

The evidence on licensing's effects on prices is unequivocal: many studies find that more restrictive licensing laws lead to higher prices for consumers. In 9 of the 11 studies we reviewed . . . significantly higher prices accompanied stricter licensing.

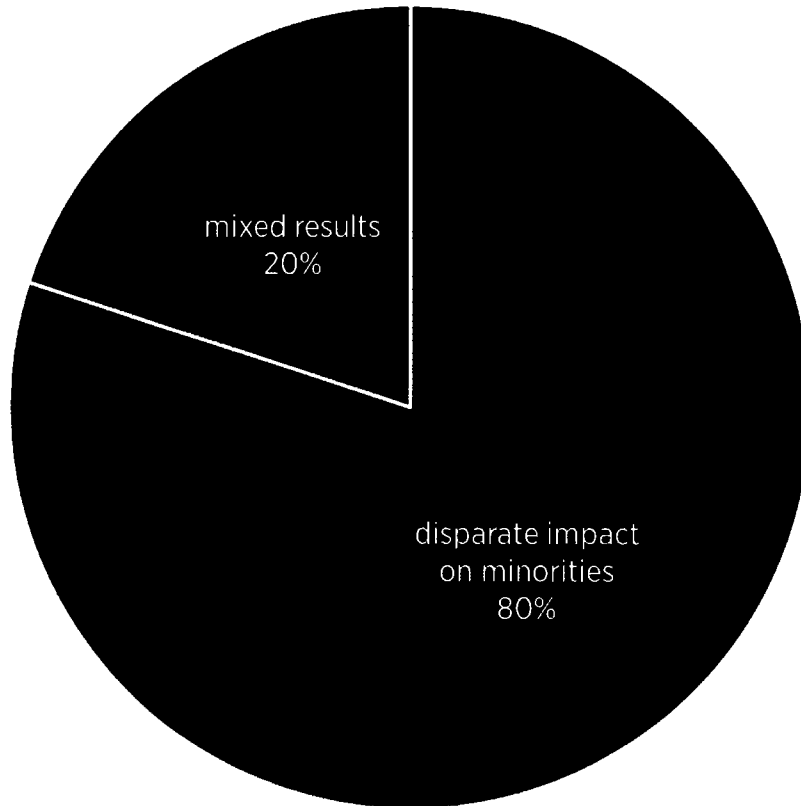
A separate survey found that licensure increased prices in all 19 of the studies reviewed.

**3. Licensure has a disparate impact on minorities and is associated with income inequality.**

A recent study of 175 countries found that nations with steeper legal barriers to starting a business tended to experience greater levels of income inequality.

Furthermore, as shown in figure 2, four out of five studies have found that licensing disparately affects ethnic minorities.

FIGURE 2. FINDINGS OF 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* (Arlington, VA: Institute for Justice, February 2009). **Mixed results:** Marc Law and Mindy Marks, “Effects of Occupational Licensing Laws on Minorities: Evidence from the Progressive Era,” *Journal of Law and Economics* 52, no. 2 (2009): 351–66.

#### IV. STEPS TO REFORM

Wisconsin policymakers looking to reduce their state’s occupational licensing burden would be wise to follow these steps:

1. Pass legislation that sets an ambitious goal for the elimination of licenses and the reduction of licensing burdens.
2. Establish an independent commission charged with examining the state’s licensing laws. Its first task should be to identify each license the state requires as well as the burdens associated with each license (fees, exams, required training, education, experience, and other limitations). The commission should be charged with evaluating all licenses, should not be dominated by members of the licensed professions, should include consumer representatives, and should include third-party experts such as academics who have no financial stake in licensure. Furthermore, the commission should be guided by a set of criteria for evaluating regulations, as listed in table 3.

TABLE 3. GUIDING PRINCIPLES FOR OCCUPATIONAL LICENSING REFORM

Begin with a blank slate.	Consumer tastes, technology, and prices change, so analysts should not be beholden to past practices and should approach their task as if they were starting anew.
Define the nature of the problem.	Is there a systematic market failure that needs to be addressed? If not, occupational regulation is probably not the answer. Keep in mind that entrepreneurs have an incentive to come up with their own solutions to market failures.
Identify alternative solutions to occupational regulation.	These should include the alternative of deregulation. They should also include reliance on both private governance (competition, bond-posting, reputation feedback mechanisms, third-party evaluation, etc.) and public governance (deceptive trade practice law, registration, certification, etc.).
Identify the potential costs of regulation.	These include higher consumer prices; inconveniences such as diminished access to products and services; higher entrance fees, exam costs, education costs, etc.; rent-seeking waste; production inefficiencies that arise when firms and providers are protected from competition; and dynamic losses that accrue over time as protected firms and providers are less likely to adapt and innovate.
Identify the potential benefits of regulation.	What systematic market failure is the regulation intended to address? Remember that the additional profits of incumbent firms and their employees are not legitimate benefits of regulation since these gains come at the expense of consumers and would-be competitors.
Measure costs and benefits.	Whenever possible, an objective measure of costs and benefits should be produced. When that is impossible, analysts should acknowledge that certain judgements are subjective.

3. The commission should be charged with setting a comprehensive path for licensure elimination and reform. The authorizing legislation should commit elected officials to accepting the commission's recommendations in their entirety or not at all.

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

Sincerely,

Matthew D. Mitchell, PhD

Senior Research Fellow  
 Director, Project for the Study of American Capitalism  
 Mercatus Center at George Mason University

**ATTACHMENT**

The State of Occupational Licensure in Wisconsin (Mercatus on Policy)

# MERCATUS ON POLICY

## The State of Occupational Licensure in Wisconsin

Patrick A. McLaughlin, Matthew D. Mitchell, Anne Philpot, and Tamara Winter

August 2017



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**IN MANY LINES OF WORK, THOSE WHO ENTER** the field must first obtain a government-issued license. In order to obtain a license, prospective licensees may be required to take tests, pay fees, undergo certain training, or fulfill other requirements such as residency, age, or education. Occupational licensing is ostensibly intended to protect the public from unsafe and low-quality service. But a broad and growing consensus among economists suggests that these rules mostly serve to protect incumbent providers from competition, raising consumer prices without improving quality and limiting opportunities for new entrants in the field. In this policy brief, we focus on occupational licensing in the state of Wisconsin and put that state's practices into the broader context of existing economic research.

### **A SNAPSHOT OF WISCONSIN'S OCCUPATIONAL LICENSURE REGIME**

Nationally, the share of the workforce required to have an occupational license has increased more than fourfold in the past 50 years.<sup>1</sup> While states vary greatly in the number of occupations for which they require a license and in the requirements to obtain an occupational license, this increase is evident nearly everywhere.

Wisconsin is no exception, as 18.4 percent of the state's workforce is now required to be licensed, and an additional 1.9 percent is certified.<sup>2</sup> The total number of regulated occupations in Wisconsin has also grown from 90 to 166—an 84 percent increase in the last 20 years.<sup>3</sup> This increase in licensed occupations has outpaced Wisconsin's growth in population, labor force, and employment.

A 2012 study by the Institute for Justice (IJ) examined occupational licensing laws for 102 low- and moderate-income occupations and found that Wisconsin requires a license for 47 of them.<sup>4</sup> Accounting for the number of licensed jobs as well as the burdens the state imposes on licensees—including fees, exams, age requirements, grade requirements, and training and experience requirements—the report ranked Wisconsin the 28th “most broadly and onerously licensed state” in the nation.<sup>5</sup>

On average, the Badger State requires those seeking to enter the 47 low- and moderate-income occupations identified by IJ to complete 145 days of education and experience, pass one exam, and pay \$209 in fees.<sup>6</sup> Veterinary technologists, massage therapists, pipelayers, barbers, security guards, cosmetologists, and many others face steep fines for operating in Wisconsin without a license.<sup>7</sup>

While proponents of occupational licensure claim that these rules protect public safety, inconsistencies across states in the types of professions that are licensed and in the requirements imposed on licensees belie this notion. For example, Wisconsin licenses occupations for which most states require no license at all. Fire sprinkler system testers, pipelayers, and bill collectors must complete expensive and time-consuming mandates before they can begin work that could be begun elsewhere with significantly less hassle.<sup>8</sup> As we will note below, there is little evidence that requirements such as these increase the quality of the product or service rendered.

In addition, occupations that are less likely to involve risk to the public are often more highly controlled than riskier occupations. For example, Wisconsin emergency medical technicians (EMTs) must complete 28 days of training and pass two exams before being licensed to work on an ambulance team.<sup>9</sup> By contrast, cosmetologists and barbers must undergo 15 times as much training before they reach their licensure minimum of 420 days. Wisconsin charges manicurists \$174 in fees and requires 70 days of education and experience—2.5 times that required of an EMT—while athletic trainers must complete 1,460

days of training—52 times that of an EMT.<sup>10</sup> Additional regulatory mismatches are shown in table 1.

Licensing requirements for the same jobs vary significantly across states. Licensing boards can require a minimum level of education or experience, a steep processing fee, or a passing score on one or more examinations. In Wisconsin, 14 of the 47 licenses identified by IJ require all three.<sup>11</sup> All but one require the applicant to pay a fee, the highest of which is \$1,570 for a cathodic protection testing license.<sup>12</sup>

Veterinary technologists, licensed in 37 states (including Wisconsin), are among the most heavily regulated workers nationally. These workers spend an average of 710 days in training, take two exams, and pay about \$200 before gaining their license. In Wisconsin, however, the barriers are even higher—a prospective licensee must undergo an extra month of training, take one more exam, and pay an additional \$152 in fees.<sup>13</sup>

Midwives in Wisconsin spend \$753 to file an application and sit for the exam.<sup>14</sup> Meanwhile, their counterparts across the border in Illinois may invest

**Table 1. Occupational Training Mismatches in Wisconsin**

OCCUPATION	EDUCATION/ EXPERIENCE (DAYS)	EXAMS
Emergency medical technician	28	2
Manicurist	70	2
Makeup artist or skincare specialist	105	2
Massage therapist	140	2
Cosmetologist or barber	420	2
Earth driller	730	1
Midwife	730	1
Veterinary technologist	730	3
Athletic trainer	1,460	1
Preschool teacher	1,825	2

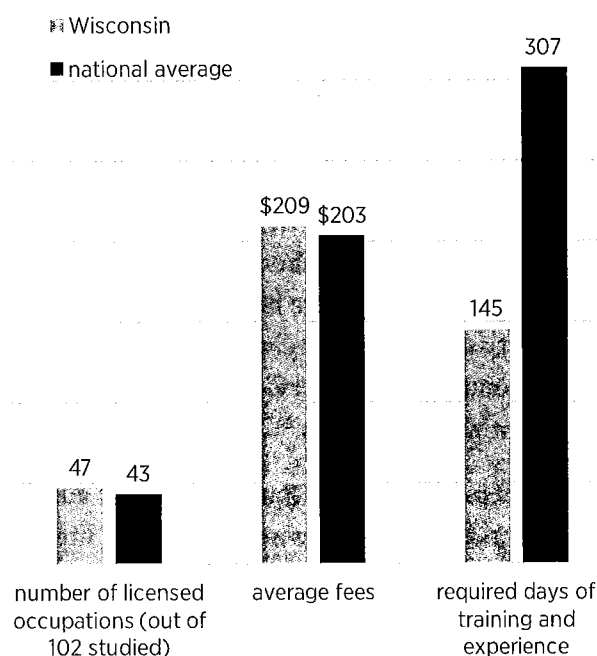
Source: Dick M. Carpenter II et al., “License to Work: A National Study of Burdens from Occupational Licensing” (Arlington, VA: Institute for Justice, May 2012).

## While proponents of occupational licensure claim that these rules protect public safety, inconsistencies across states in the types of professions that are licensed and in the requirements imposed on licensees belie this notion.

that amount in marketing for their practices and get to work almost *three years* sooner.<sup>15</sup> If an applicant wants to save money and begin working with an experienced midwife in Illinois, what incentive does that applicant have to stay in Wisconsin?

Figure 1 compares the state's fee and experience requirements in these surveyed occupations to the national average. Although training and experience requirements are significantly lower than the national average, Wisconsin's fees and number of licensed occupations are slightly higher.

**Figure 1. Number of Licensed Occupations, Fees, and Required Training and Experience (Wisconsin vs. National Average)**



Source: Dick M. Carpenter II et al., "License to Work: A National Study of Burdens from Occupational Licensing" (Arlington, VA: Institute for Justice, May 2012).

The membership of licensing boards poses an additional problem.<sup>16</sup> As seen in table 2, most boards are required by statute to consist primarily of license holders, plus a few nonindustry members of the public. Eleven of Wisconsin's 29 licensing boards currently have nonindustry seat vacancies, creating disproportionate representation of license-holding professionals. For example, because of public vacancies, the Athletic Trainers Affiliated Credentialing Board is now composed entirely of industry members.

The licensing requirements for several professions—midwives, home inspectors, behavior analysts, and others—are determined by national boards and associations rather than by Wisconsinites.<sup>17</sup> Outsourcing rulemaking to national associations does more than just remove public oversight; it makes it more likely that licensing rules will limit competition rather than ensure public safety.

Industry domination is problematic because industry insiders have an incentive to prevent new competitors from entering the profession, thereby raising prices and allowing incumbents a larger market share. This industry domination of boards and associations also presents a legal concern in light of the Supreme Court's decision in *North Carolina Dental*, which held that states cannot claim immunity from antitrust laws if active participants in the industry constitute a "controlling number" of board members and if elected officials fail to "actively supervise" the board.<sup>18</sup> To ensure licensing boards don't become "captured" by professional interests, boards should be composed of a balance of members who are interested in both public safety and accessibility of work.

In the following section, we discuss the economics of occupational licensure. We then outline a path for reform in Wisconsin.

**Table 2. Composition of Select Wisconsin Boards**

BOARD OR COUNCIL	STATUTORY BOARD COMPOSITION			ACTUAL BOARD COMPOSITION		
	INDUSTRY MEMBERS	TOTAL MEMBERS	PERCENTAGE INDUSTRY	INDUSTRY MEMBERS	TOTAL MEMBERS	PERCENTAGE INDUSTRY
Respiratory Care Practitioners Examining Council	3	5	60	3	3	100
Athletic Trainers Affiliated Credentialing Board	4	6	67	4	4	100
Occupational Therapists Affiliated Credentialing Board	5	7	71	4	4	100
Hearing and Speech Examining Board	8	10	80	7	7	100
Dentistry Examining Board	9	11	82	9	9	100

Source: Wisconsin Department of Safety and Professional Services, "License/Permit/Registrations," accessed August 16, 2017.

**THE ECONOMICS OF OCCUPATIONAL LICENSURE**

Nationally, occupational licensure has expanded dramatically over the last 50 years, and as of 2000, at least 20 percent of US workers had occupations that required state licenses. When federal and local licenses are included, the percentage of the workforce required to obtain an occupational license reached 29 percent in 2006.<sup>19</sup> This percentage represents a significant increase from the 1950s, when just 5 percent of the workforce was licensed through state laws.<sup>20</sup> This growth in the prevalence of licensure arises primarily from the number of occupations that require a license rather than from a redistribution of the workforce out of jobs that do not require occupational licenses and into jobs that do require licenses.<sup>21</sup>

**Licensure and Quality**

Licensure is typically justified by legislators and advocates as being necessary to protect the public from subpar products or potential health risks.<sup>22</sup> It is theoretically possible that a well-constructed quality gate will ensure that only high-quality professionals join an occupation. It is also possible, however, that by limiting the supply of professionals, licensure may undermine competition, thereby depressing quality

while driving prices higher. As Morris M. Kleiner has put it, licensure ensures that “prices and wages will rise as a result of restricting the number of practitioners, which should tend to reduce quality received by consumers.”<sup>23</sup>

This means that the true effect of licensure on quality is an empirical question, the answer to which depends on which of these two forces dominates. A number of studies have assessed the effect of licensure on quality, and the weight of evidence suggests that the two effects roughly cancel each other out. As Kleiner put it in his review of the literature,

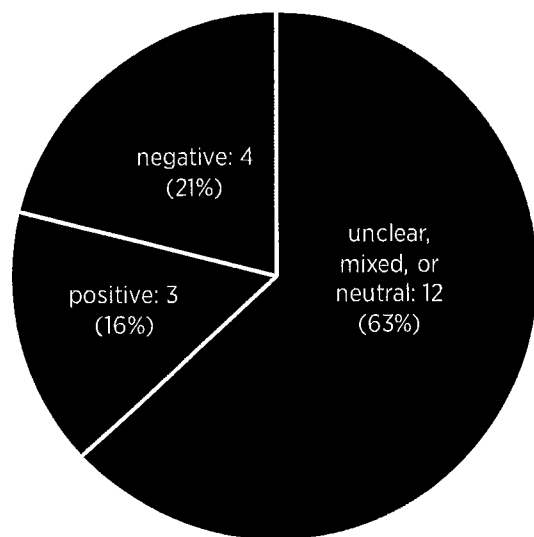
From this evidence there is little to show that occupational licensure has a major effect on the quality of services received by consumers or on the demand for the services other than through potential price effects.<sup>24</sup>

Researchers in President Barack Obama’s administration conducted their own review of the literature and reached the same conclusion:

With the caveats that the literature focuses on specific examples and that quality is difficult to measure, most research does not find that licensing improves quality or public health and safety.<sup>25</sup>



**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:** 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*, *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*, *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 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 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.

Patrick A. McLaughlin, Jerry Ellig, and Dima Yazji Shamoun recently surveyed 19 studies assessing the effect of occupational licensure on quality.<sup>26</sup> Figure 2 presents the results of their survey. Consistently with the surveys by Kleiner and the Obama administration, they found that the most common result of the 19 studies was neutral, mixed, or unclear. Three studies found that occupational licensure positively affects quality, while four found that it negatively affects quality.

If it were true that licenses are necessary to protect the public, one would expect states to more or less uniformly regulate certain professions but not others. In reality, however, states vary widely in terms of occupations regulated and the stringency with which they are regulated. For example, in four states, interior designers are heavily regulated—required, on average, to have nearly 2,200 days of education and experience to practice their trade—while in the rest of the country, these professionals are able to offer their services free of regulation with no apparent risk to the public.<sup>27</sup>

Finally, it should be noted that licensure is hardly the only or even the most effective way to ensure quality.<sup>28</sup> Tort law as well as civil and criminal statutes against deceptive trade practices protect consumers from fraud and negligence. Firms post bonds that will be forfeited in the case of negligence, scrupulously guard their reputations and brands, and seek the approval of third-party evaluators such as the Better Business Bureau and Angie's List. More recently, a new generation of consumer-driven technologies has radically empowered consumers and balanced the information asymmetry that long persisted in some highly technical fields.<sup>29</sup> And if policymakers think private measures are insufficient to protect consumers, there are a number of public regulatory options that are more effective and less likely to be counterproductive. For example, firms might be required to post bonds, or they might simply be required to register their businesses with the state so that consumers can be assured that they are not "fly-by-night" operations.<sup>30</sup>

### Licensure and Prices

Economic theory predicts that a restriction in supply will result in higher prices. And, indeed, the empirical research consistently finds this to be the case. According to the Obama administration review,

The evidence on licensing's effects on prices is unequivocal: many studies find that more restrictive licensing laws lead to higher prices for consumers. In 9 of the 11 studies we reviewed . . . significantly higher prices accompanied stricter licensing.<sup>31</sup>

Similarly, McLaughlin, Ellig, and Shamoun found that licensure increased prices in all 19 of the studies they surveyed, including studies covering optometry, law, dentistry, and cosmetology.<sup>32</sup>

The effects of these increased prices are not trivial. For example, state nurse practitioner licensing is estimated to raise the price of a well-child checkup by 3 to 16 percent,<sup>33</sup> dental hygienist and dental assistant licensing is estimated to increase the price of a dental visit by 7 to 11 percent,<sup>34</sup> and optometry licensing is estimated to increase the price of eye care by 5 to 13 percent.<sup>35</sup> Consistently with the literature, none of these studies found that licensing increased quality.

### Licensure and Regulatory Privilege

Writing in the *Harvard Journal of Law and Public Policy*, Paul Larkin Jr. notes a "curious and stubborn fact: Private individuals rarely urge governments to adopt licensing regimes, but private firms often do."<sup>36</sup> This inconsistency is one reason why the economic theory of regulation suggests that the primary purpose of licensure is to protect incumbent providers from competition.<sup>37</sup> By limiting supply and thus raising prices, these rules allow incumbent providers to earn above-normal profits. Indeed, the latest research suggests that licensure raises the wages of licensees by about 14 percent.<sup>38</sup> In other words, occupational licensing is a regulatory privilege to incumbent providers.<sup>39</sup>

This privilege is paid for by consumers in the form of higher prices and by providers unable or unwilling to obtain licenses. The loss to consumers, including some who do not buy because of the higher prices, and the loss to would-be competitors exceed the gains to the license holders (economists call this excess a deadweight loss). What's more, because licensure confers a privilege on license holders, these professionals are willing to expend scarce resources convincing policymakers to contrive and maintain these privileges—a socially wasteful endeavor known as rent-seeking.<sup>40</sup> Being fewer in number and more established in their fields, these license holders generally find it easier to organize politically than the large number of consumers and would-be competitors who are harmed by licensure.<sup>41</sup>

### The Disparate Impact of Licensure

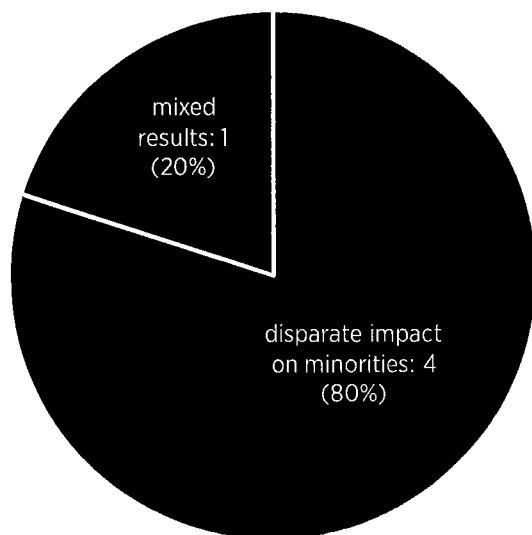
We have mentioned that those who fail to obtain licenses pay a price in the form of lost income. Research suggests that these burdens often fall on particular communities. For example, military spouses are more likely to be in licensed professions and more likely to relocate from one licensing regime to another, so licensure presents a particularly high barrier for them.<sup>42</sup>

Licensure also presents a high barrier to immigrants because many states require domestic work experience. For ex-offenders, occupational licensing is particularly burdensome, as most states make it impossible for those with a past conviction to obtain an occupational license.

According to McLaughlin, Ellig, and Shamoun's survey of the literature, four out of five studies found that licensing disparately affects ethnic minorities, as shown in figure 3.<sup>43</sup>

Licensure may also be associated with greater income inequality. In a recent study of 175 countries, McLaughlin and Stanley find that nations with more legal barriers to starting a business experience greater levels of income inequality.<sup>44</sup>

**Figure 3. 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" (Arlington, VA: Institute for Justice, February 2009). **Mixed results:** Marc Law and Mindy Marks, "Effects of Occupational Licensing Laws on Minorities: Evidence from the Progressive Era," *Journal of Law and Economics* 52, no. 2 (2009): 351-66.

## REFORM

Reform efforts are under way in several states. The Kentucky legislature passed a bill in 2016 eliminating the licensing requirement for hair braiders.<sup>45</sup> Missouri and Nebraska are also taking steps to lower barriers in a variety of occupations. An effort in Missouri called "No MO Red Tape" aims to gather feedback on how regulations impact people.<sup>46</sup> Governor Greitens recently signed an executive order suspending all new rulemaking and requiring agencies to review existing regulations to ensure they are "essential to the health, safety, or welfare of Missouri residents."<sup>47</sup> In Nebraska, the governor

has ordered a review of all existing regulations and has instructed agencies to stop issuing new rules unless they are deemed critical to the health, safety, and welfare of state residents.<sup>48</sup> Pending legislation in that state has the potential to reform licensing requirements for estheticians, potato shippers, car salespeople, barbers, and many other workers.<sup>49</sup>

While occupational licensure is ostensibly intended to protect consumers from harm, there are many other less burdensome mechanisms to ensure public safety. These include tort liability for harms and civil and criminal penalties against fraud.<sup>50</sup> But they also include several private mechanisms, including private certification, insurance, bond posting, brand reputation, publicly posted customer feedback such as Yelp and Google reviews, and third-party validation from organizations such as Angie's List, Consumer Reports, and Underwriters Laboratories.<sup>51</sup>

Competition itself may be the most effective alternative to licensure. As the late economist and chair of the Civil Aeronautics Board Alfred Kahn once put it, "Whenever competition is feasible, it is, for all its imperfections, superior to regulation as a means of serving the public interest."<sup>52</sup>

Policymakers looking to reduce their state's occupational licensing burden would be wise to follow these steps:

1. Pass legislation that sets an ambitious goal for the elimination of licenses and the reduction of licensing burdens.
2. Establish an independent commission charged with examining the state's licensing laws. Its first task should be to identify each license the state requires as well as the burdens associated with each license (fees, exams, required training, education, experience, and other limitations). The commission should be charged with evaluating all licenses, should not be dominated by members of the licensed professions, should include consumer representatives, and should include third-party experts such as academics who have no financial stake

<b>BEGIN WITH A BLANK SLATE</b>	Consumer tastes, technology, and prices change, so analysts should not be beholden to past practices and should approach their task as if they were starting anew.
<b>DEFINE THE NATURE OF THE PROBLEM</b>	Is there a systematic market failure that needs to be addressed? If not, occupational regulation is probably not the answer. Keep in mind that entrepreneurs have an incentive to come up with their own solutions to market failures.
<b>IDENTIFY ALTERNATIVE SOLUTIONS TO OCCUPATIONAL REGULATION</b>	These should include the alternative of deregulation. They should also include reliance on both private governance (competition, bond-posting, reputational feedback mechanisms, third-party evaluation, etc.) and public governance (deceptive trade practice law, registration, certification, etc.).
<b>IDENTIFY THE POTENTIAL COSTS OF REGULATION</b>	These include higher consumer prices; inconveniences such as diminished access to products and services; higher entrance fees, exam costs, education costs, etc.; rent-seeking waste; production inefficiencies that arise when firms and providers are protected from competition; and dynamic losses that accrue over time as protected firms and providers are less likely to adapt and innovate.
<b>IDENTIFY THE POTENTIAL BENEFITS OF REGULATION</b>	What systematic market failure is the regulation intended to address? Remember that the profits of incumbent firms and their employees are not legitimate benefits of regulation since these gains come at the expense of consumers and would-be competitors.
<b>MEASURE COSTS AND BENEFITS</b>	Whenever possible, an objective measure of costs and benefits should be produced. When that is impossible, analysts should acknowledge that certain judgements are subjective.

in licensure. Furthermore, the commission should be guided by a set of criteria for evaluating regulations as listed in table 3.

3. The commission should be charged with setting a comprehensive path for licensure elimination and reform. The authorizing legislation should commit elected officials to accepting the commission’s recommendations in their entirety or not at all.

The last provision is designed to overcome the political economy problems that plague licensure reform. In particular, whenever any individual license is evaluated, concentrated members of the industry are typically able to organize in defense of the license, while diffuse consumers and would-be competitors are unable to organize in opposition. The institutional structure that we recommend borrows elements from other reforms that have succeeded in eliminating favoritism.<sup>53</sup> In particular, it allows elected officials to cast conspicuous votes in the public interest while

giving them some degree of “cover” from the special interests that will inevitably be harmed by the elimination of their regulatory privilege. We believe that this proposal offers the best chance for meaningful and reasonable reform of Wisconsin’s antiquated and counterproductive licensing regime.

**NOTES**

1. Morris M. Kleiner and Alan B. Krueger, “The Prevalence and Effects of Occupational Licensing,” *British Journal of Industrial Relations* 48, no. 4 (2010): 676–87; Morris M. Kleiner, “Reforming Occupational Licensing Policies” (Washington, DC: Brookings Institution, March 2015).
2. Kleiner, “Reforming Occupational Licensing Policies.”
3. Colin Roth and Elena Ramlow, “Fencing Out Opportunity: Occupational Licensure in the Badger State” (Milwaukee: Wisconsin Institute for Law & Liberty, November 2016).
4. Dick M. Carpenter II et al., “License to Work: A National Study of Burdens from Occupational Licensing” (Arlington, VA: Institute for Justice, May 2012).
5. Ibid.
6. Ibid., 134.

7. Ibid. In addition, these recent Department of Safety and Professional Services actions have been taken against Wisconsin workers: Cosmetologist Shiloh K. Allred was fined \$1,000 for providing services outside of a licensed establishment. Similarly, Anh Trieu was issued a fine of \$1,000 for performing two manicure services after the expiration of her license. Other professionals have paid hefty fines for working with expired licenses: a funeral service (fined \$4,395), a hearing instrument specialist (fined \$1,250), and a midwife who was threatened with a fine of \$10,000 per day if she continued to practice. See disciplinary proceedings and citations of administrative forfeiture at Wisconsin Department of Safety and Professional Services, "Reports of Decisions," accessed August 9, 2017.
8. Carpenter et al., "License to Work."
9. Ibid.
10. Ibid., 42.
11. Ibid., 134.
12. Cathodic protection testers use electrodes to measure the potential corrosion of a metal in contact with soil, freshwater, or saltwater. Typically, the surface is then covered with a protective coating to prevent the metal from deteriorating. See NACE International, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems," 2012.
13. Carpenter et al., "License to Work," 134.
14. Ibid.
15. Illinois does not require licenses for midwives. Instead, practitioners can opt for a nurse-midwifery certificate (CNM) through the American Midwifery Certification Board, or they can become direct-entry midwives, who typically enter the profession "through a combination of apprenticeship and formal study." (Illinois Midwifery, "Frequently Asked Questions: Home Birth Safety Act," accessed August 16, 2017.)
16. Rebecca Haw Allensworth, "Foxes at the Henhouse: Occupational Licensing Boards Up Close," *California Law Review*, forthcoming.
17. For midwife credentialing, see Wisconsin Department of Safety and Professional Services, "Licensed Midwives: License Information," accessed August 9, 2017. For home inspector information, see Wisconsin Department of Safety and Professional Services, "Home Inspector License Information," accessed August 9, 2017. For behavior analyst certification information, see Wisconsin Department of Safety and Professional Services, "Behavior Analyst License Information," accessed August 9, 2017.
18. NC State Bd. of Dental Exam'rs v. FTC, 135 S. Ct. 1101 (2015).
19. Kleiner and Krueger, "Prevalence and Effects of Occupational Licensing," 2.
20. Kleiner, "Reforming Occupational Licensing Policies," 3.
21. US Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, *Occupational Licensing: A Framework for Policymakers*, July 2015, 3.
22. Kleiner, "Reforming Occupational Licensing Policies," 4.
23. Morris M. Kleiner, "Occupational Licensing," *Journal of Economic Perspectives* 14, no. 4 (2000): 189–202.
24. Morris M. Kleiner, *Licensing Occupations: Ensuring Quality or Restricting Competition?* (Kalamazoo, MI: Upjohn Press, 2006), 56.
25. Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, *Occupational Licensing*, 13.
26. Patrick A. McLaughlin, Jerry Ellig, and Dima Yazji Shamoun, "Regulatory Reform in Florida: An Opportunity for Greater Competitiveness and Economic Efficiency," *Florida State University Business Review* 13, no. 1 (2014): 95–130.
27. Carpenter et al., "License to Work," 12.
28. For a hierarchy of alternatives to occupational licensure, see Thomas A. Hemphill and Dick M. Carpenter II, "Occupations: A Hierarchy of Regulatory Options," *Regulation* 39, no. 3 (2016): 20–24.
29. For more on reputational feedback mechanisms, see Adam Thierer et al., "How the Internet, the Sharing Economy, and Reputational Feedback Mechanisms Solve the 'Lemons Problem'" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2015).
30. Hemphill and Carpenter, "Occupations."
31. Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, *Occupational Licensing*, 14.
32. McLaughlin, Ellig, and Shamoun, "Regulatory Reform in Florida," 14–15.
33. Morris M. Kleiner et al., "Relaxing Occupational Licensing Requirements: Analyzing Wages and Prices for a Medical Service" (NBER Working Paper No. 19906, National Bureau of Economic Research, Cambridge, MA, February 2014).
34. Nellie J. Liang and Jonathan D. Ogur, *Restrictions on Dental Auxiliaries: An Economic Policy Analysis*, Federal Trade Commission, 1987.
35. Deborah Haas-Wilson, "The Effect of Commercial Practice Restrictions: The Case of Optometry," *Journal of Law & Economics* 29, no. 1 (1986): 165–86.
36. Paul J. Larkin Jr., "Public Choice Theory and Occupational Licensing," *Harvard Journal of Law & Public Policy* 39, no. 1 (n.d.): 209–331, 226.
37. George J. Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics and Management Science* 2, no. 1 (April 1, 1971): 3–21; Sam Peltzman, "Toward a More General Theory of Regulation," *Journal of Law and Economics* 19, no. 2 (1976): 211–40.
38. Kleiner and Krueger, "Prevalence and Effects of Occupational Licensing."
39. Matthew D. Mitchell, *The Pathology of Privilege: The Economic Consequences of Government Favoritism* (Arlington, VA: Mercatus Center at George Mason University, 2014); Patrick A. McLaughlin, Matthew D. Mitchell, and Ethan Roberts, "Regulatory Subsidies: How Regulations Can Become Privileges for Firms and Burdens for Consumers" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, forthcoming).

40. Gordon Tullock, "The Welfare Costs of Tariffs, Monopolies, and Theft," *Western Economic Journal [Economic Inquiry]* 5, no. 3 (1967): 224–32; Anne O. Krueger, "The Political Economy of the Rent-Seeking Society," *American Economic Review* 64, no. 3 (1974): 291–303; Mitchell, *Pathology of Privilege*.
41. Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups, Second Printing with New Preface and Appendix* (Cambridge, MA: Harvard University Press, 1965).
42. Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, *Occupational Licensing*, 4–5.
43. The fifth study, which only found a disparate effect of licensure in one profession, barbering, has been criticized. See Daniel Klein, Benjamin Powell, and Evgeny Vorotnikov, "Was Occupational Licensing Good for Minorities? A Critique of Marc Law and Mindy Marks," *Econ Journal Watch* 9, no. 3 (2012): 210–33.
44. Patrick A. McLaughlin and Laura Stanley, "Regulation and Income Inequality: The Regressive Effects of Entry Regulations" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016).
45. Institute for Justice, "Kentucky Deregulated Hair Braiding—And Cosmetologists Are Threatening to Sue," April 19, 2016.
46. No MO Red Tape, "FAQ," accessed August 16, 2017.
47. Executive Order 17-03, Missouri Secretary of State, Commissions Division, January 10, 2017.
48. Grant Schulte, "Ricketts Orders Review of All Nebraska State Regulations," *US News & World Report*, July 6, 2017.
49. "Occupational Licensing Reform: Removing Barriers to Jobs," Platte Institute, accessed August 16, 2017.
50. For the benefits of ex post sanctions as opposed to ex ante sanctions, see Adam Thierer, *Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom*, 2nd ed. (Arlington, VA: Mercatus Center at George Mason University, 2016).
51. Thierer et al., "How the Internet."
52. Richard Adams, "Alfred Kahn Obituary," *Guardian*, January 12, 2011.
53. Jerry Brito, "Running for Cover: The BRAC Commission as a Model for Federal Spending Reform," *Georgetown Journal of Law & Public Policy* 9 (2010): 131–56; Patrick A. McLaughlin and Richard Williams, "The Consequences of Regulatory Accumulation and a Proposed Solution" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2014).

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### About the Mercatus Center

The Mercatus Center at George Mason University is the world's premier university source for market-oriented ideas—bridging the gap between academic ideas and real-world problems.

A university-based research center, Mercatus advances knowledge about how markets work to improve people's lives by training graduate students, conducting research, and applying economics to offer solutions to society's most pressing problems.

Our mission is to generate knowledge and understanding of the institutions that affect the freedom to prosper and to find sustainable solutions that overcome the barriers preventing individuals from living free, prosperous, and peaceful lives.

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## AMERICANS FOR PROSPERITY.

August 23, 2017

To the Assembly Committee on Regulatory Licensing Reform and the Senate Committee on Public Benefits, Licensing, and State-Federal Relations:

Thank you for holding this hearing and for the opportunity to provide written testimony. We also want to thank Senator Darling and Representative Hutton for authoring this bill.

On behalf of the Wisconsin chapter of Americans for Prosperity, and our 130,000 plus activists across the state, I urge you to support **Senate Bill 296** and its companion bill **Assembly Bill 370**. These bills would establish a self-certification registry for Wisconsin workers.

Occupational licensing is a major barrier to opportunity in Wisconsin. According to University of Minnesota professor Morris Kleiner, almost 1 in 5 workers in Wisconsin require an occupational license to work in their chosen profession. This is a massive increase from only a few decades ago, when only 1 in 20 workers required a government license.

Ostensibly these licenses are to protect the public, but often instead act as barriers to prevent others from working in that field.

By contrast, certification provides many of the benefits of a license, without some of the negative effects.

It makes sense that consumers would want assurance of the quality of the professionals and practitioners who serve them, and certification provides that information. Although many online services, such as Thumbtack and Yelp, have diminished the need of licenses and certifications, the assurance these certifications provide can help consumers who aren't familiar with those services.

Often, proponents of licenses provide a binary choice, total deregulation of an industry, or a burdensome occupational license which denies opportunity to so many. This is a false choice

Self-certification is a happy middle ground and an effective tool for consumers, and at the same time allows everyone in Wisconsin with skills to sell them on the open market.

I strongly urge you to pass **Senate Bill 296/Assembly Bill 370** to say no to the false choice that the proponents of occupational licensing present. It has been proven over and over again that consumer protection need not come at the expense Wisconsin workers' ability to support themselves and their family. With Senate Bill 296/Assembly Bill 370, we can do both.

Sincerely,

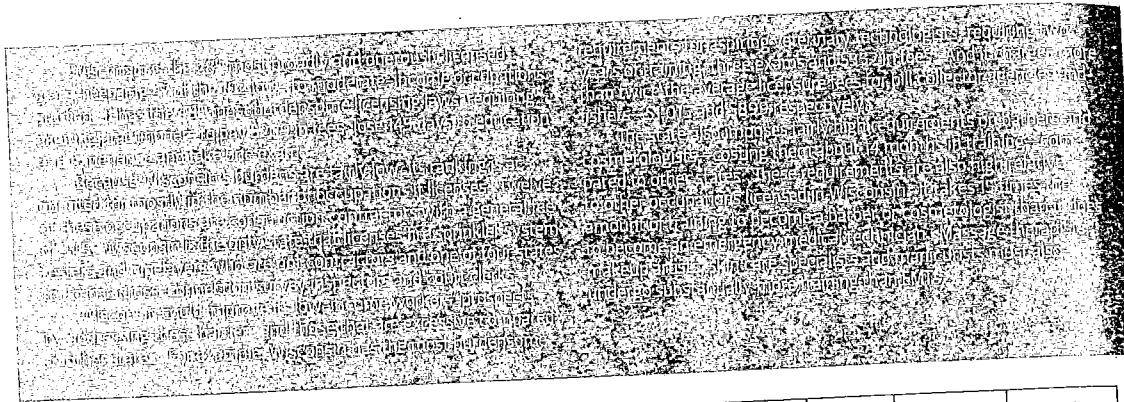
Annette Olson  
Deputy State Director  
Americans for Prosperity-Wisconsin

Wisconsin

47

48<sup>th</sup>

28<sup>th</sup>



Burden Rank	Occupation	Number of States that License	Fees	Education/Experience (Days)	Exams	Minimum Grade	Minimum Age
1	Preschool Teacher	49	\$118	1,825	2	0	0
2	Athletic Trainer	46	\$353	1,460	1	0	0
3	Veterinary Technologist	37	\$352	730	3	0	18
4	Midwife	29	\$753	730	1	0	0
5	Earth Driller	47	\$50	730	1	0	0
6	Barber	50	\$203	420	2	12	18
7	Cosmetologist	51	\$193	420	2	12	18
8	Massage Therapist	39	\$57	140	2	12	18
9	Skin Care Specialist	50	\$202	105	2	12	18
9	Makeup Artist	36	\$202	105	2	12	18
11	Tester, Cathodic Protection	16	\$1,570	8	2	0	0
12	School Bus Driver	51	\$129	0	6	0	18
13	Bus Driver (City/Transit)	51	\$129	0	5	0	18
14	Manicurist	50	\$174	70	2	0	0
15	Truck Driver	51	\$124	0	4	0	18
16	Emergency Medical Technician	51	\$70	28	2	0	18
17	Fisher	41	\$899	0	0	0	0
18	Bill Collector Agency	30	\$1,015	0	0	0	18
19	Mobile Home Installer	39	\$115	2	1	0	18
20	Auctioneer	33	\$135	0	1	0	18
21	Vegetation Pesticide Handler	51	\$99	0	1	0	16
21	Pest Control Applicator	51	\$99	0	1	0	16
23	Pipelayer Non-contractor	1	\$195	0	0	0	18

Burden Rank	Occupation
24	Child Care Worker
25	Security Guard
26	Bartender
27	Travel Guide
28	Fire Sprinkler Fitter
29	Backflow Preventer Tester
29	Cross-country Motorist
31	Milk Sampler
32	Tester, Tapes
33	Pipelayer
34	HVAC Commercial
35	Sheet Metal Commercial
35	Iron/Steel Commercial
35	Carpenter tractor (General)
35	Cement (General)
35	Mason Commercial
35	Insulation Commercial
35	Drywall (General)
35	Terrazzo Commercial
35	Floor Seral/Commercial
35	Glazier Commercial
35	Door Fitter
46	Coach
47	Court Reporter



Thank you Chairman Kapenga and Chairman Horlacher, and respective Senate and Assembly Committee members, for the opportunity to speak today about licensing and certification in Wisconsin.

My name is Ken Groeschel Jr., P.E., of Butters-Fetting Co. Inc., Milwaukee, Wis.,

On behalf of the thousands of employers and employees of the mechanical trades, I appreciate your interest to review the licensing and certification requirements within varying occupations, and we are happy to speak about ours. I am speaking today in opposition because of the highly skilled people we surround ourselves with every day.

Construction is one of the most dangerous industries, and therefore can be highly regulated. We value the skills and professionalism that help ensure a safe work environment on every project we construct.

Today I want to address a few key factors and then look forward to having follow-up discussions with you that may lead to sharing additional facts and data.

- First, many Wisconsin contractors bid and work on projects outside of state lines. We are concerned that eliminating current licensing and certification requirements would put us at a competitive disadvantage.
- Second, we greatly value licensure and certification as a measuring point for worker competency, skill set, knowledge and professionalism. It is important for construction workers to be updated on codebooks, safety requirements and level of skillset.
- Third, we believe that our industry clearly falls within the category of protecting public health, safety and welfare. Plumbers, for example, must be very cognizant of drinking versus not drinking water lines.

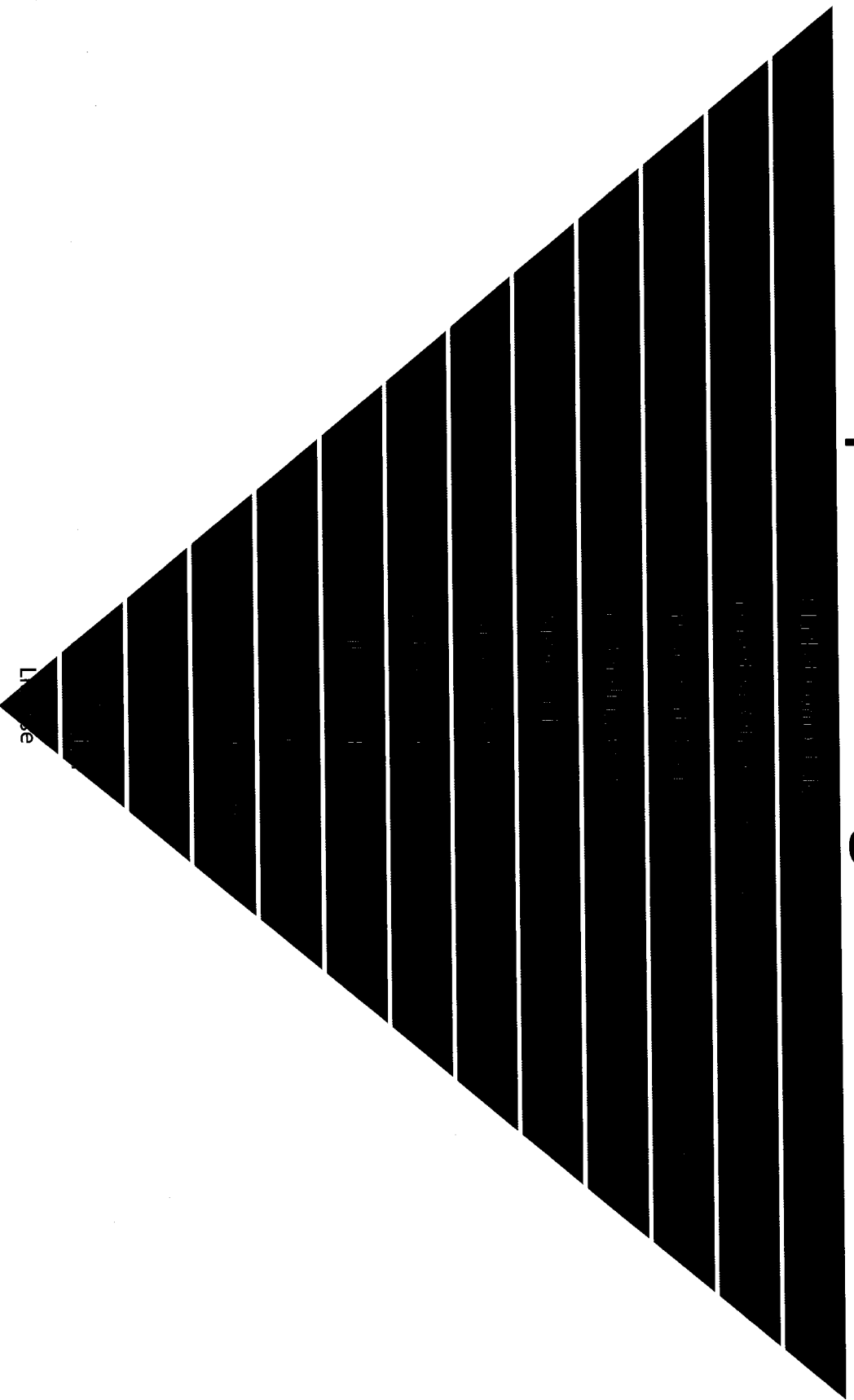
In our world, standards are not barriers to entry; quite the opposite in fact - we actively recruit citizens into the trades and into construction every single day. We simply value and respect how dangerous and deadly our work can be and therefore value professional standards that our state has in place.

While we understand the merits of these legislative proposals are not necessarily about our particular licensing requirements, we are respectfully opposing any legislation that would remove current credentialing, licensing or certification in our industry.

Thank you again for the time today, and I'd be happy to address any questions you have at this time.

Ken Groeschel Jr., P.E.  
Butters-Fetting Co. Inc  
~~414-405-1050~~  
414-788-9100

# Inverted Pyramid of Least Restricted Occupational Regulations



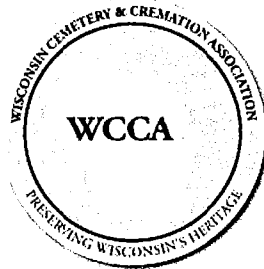
# Protecting Consumers: Use least restrictive form of regulation.

## Consumer Concern

- Fraud
- Health & safety, cleanliness
- Damages to buyer or 3rd-parties (externalities)
- Fly-by-night providers
- Knowledge gap (Asymmetrical information)
- Government reimbursement for new medical niche services

## Response

- Deceptive Trade Practice/ Mandatory Disclosures
- Inspections
- Bonding/insurance
- Registration
- Certification
- Specialty Government Certification



DATE: August 24, 2017  
TO: Members of the Senate Committee on Public Benefits, Licensing, and State-Federal Relations, Members of the Assembly Committee on Regulatory Licensing Reform  
FROM: Glen Porter, on Behalf of the Wisconsin Cemetery and Cremation Association  
RE: Testimony on Senate Bill 288 and Assembly Bill 369

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Dear Co-chairpersons Kapenga and Horlacher,

My name is Glen Porter. I am the President of Highland Memorial Park Inc. located in New Berlin, WI. I have been employed full-time for over 33 years at Highland Memorial Park. Previously, I also served as the Chairperson of the Cemetery Board at the Department of Safety and Professional Services for 7 years. In addition, I served on the Cemetery Advisory Committee at the Department of Regulation and Licensing from 1992 until the creation of the Cemetery Board. I have also served in an advisory role to both executives and staff at the Department of Safety and Professional Services, the Department of Regulation and Licensing, and other state agencies during that same period.

I speak to you today for informational purposes on behalf of the Wisconsin Cemetery and Cremation Association (WCCA). I currently serve as a Board Member and the Chairperson of the Legislative Committee of the WCCA.

The WCCA is a statewide association of cemetery, crematory and cemetery supplier professionals. We have existed for nearly a century and are the largest cemetery trade association in the state. Our members include for-profit, non-profit, religious and municipal cemeteries. Cemeterians provide services associated with burials, including cemetery plots, monuments, and markers.

The state of Wisconsin, through the Cemetery Board at DSPS, licenses cemetery authorities, cemetery salespersons, and cemetery preneed sellers. All three licenses are intended to protect the safety of consumers and families during what is often a very vulnerable time.

Often significant amounts of money are paid for products and services under trying circumstances. Furthermore, people buy Burial Rights and other items at cemeteries with the expectation that the cemetery will be maintained for many, many years. It has been estimated that in Cemetery Endowment Trust Funds alone, there may be hundreds of millions of dollars in accounts for future care. In addition there are funds placed in Trust for Interment Fees, Burial Vaults and Headstones for products and services to be provided in the future.

Wisconsin has an estimated 5,000 cemeteries, ranging from very small to very large. By licensing authorities, preneed sellers, and salespersons, it guarantees the Cemetery Board knows

exactly who is in charge of cemetery trusts and who is providing services to families during a vulnerable time.

It is very important that those of us that offer these products and services to the public know that the state Cemetery Board is looking over our shoulder. Fortunately, problems at Cemeteries are few and far between, but when they do occur it is horrible for the family that is affected. Under the current regulatory structure, those problems can be swiftly and responsibly dealt with by the state Cemetery Board.

We believe that the current licensure and registration requirements for cemetery authorities, cemetery salespersons and cemetery preneed sellers already meet the "least restrictive" standard that is described in the Senate Bill 288 and Assembly Bill 369. We also believe that a less restrictive environment would be unwise for our industry.

However, should one of these bills become law, we would like to work with the Occupational License Review Council. As the largest association representing Wisconsin cemeteries, we have the knowledge and experience to educate the council on responsible regulation of the industry.

Thank you for your time. If you have any questions, please contact WCCA's legislative affairs team, Erik Kanter and Tim Hoven, at 608-310-8833.

Sincerely,

Glen Porter  
Wisconsin Cemetery and Cremation Association



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

1139 E. Knapp Street, Milwaukee, WI 53202-2828

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Fax 414-727-6385

www.will-law.org

August 24, 2017

Dear Chairmen Kapenga and Horlacher, and members of the Senate and Assembly Committees,

Thank you for the opportunity to speak. My name is Collin Roth, a Research Fellow with the Wisconsin Institute for Law & Liberty, a not-for-profit law and policy organization in Milwaukee. I am the author of two recent reports on occupational licensing in Wisconsin: Fencing Out Opportunity (November 2016) and The Effect of Licensing Regulations on Employment (March 2017). Today I'll be testifying for information purposes only about SB 288 and SB 296.

First, I would like to commend the committee for taking the time to consider occupational licensing reforms. This is an increasingly large and significant area of regulation, impacting more and more workers and businesses. It is worthy of the attention of the legislature.

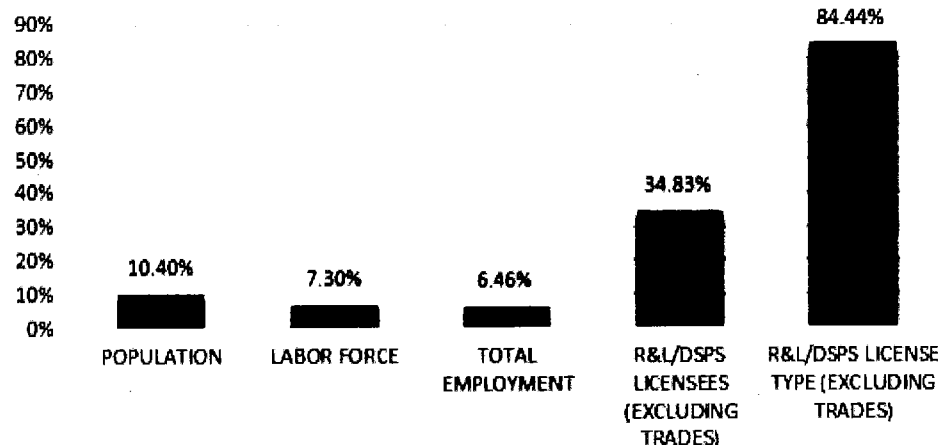
I would like to use my time to attempt to convince you of, at least, two things: occupational licensing has grown, and that this growth does have costs.

**1. In Wisconsin, like the rest of the United States, licenses, or state permission slips to work in certain regulated professions, have seen dramatic growth in recent decades.**

In 1950, just 5% of workers required a license to work in the United States. Nationally, that number today stands at 25% - or 1 in 4 workers. The State of Wisconsin requires hundreds of different government credentials for hundreds of thousands of Wisconsinites who simply want to work.

Since 1996, license types regulated by R&L and DSPS have grown by 84%. The number of license holders has grown by 34%. As the chart shows, this growth far outpaces Wisconsin's growth in population (10.6%) and total employment (7.4%). DSPS alone now regulates more than 440,000 credential holders in Wisconsin.

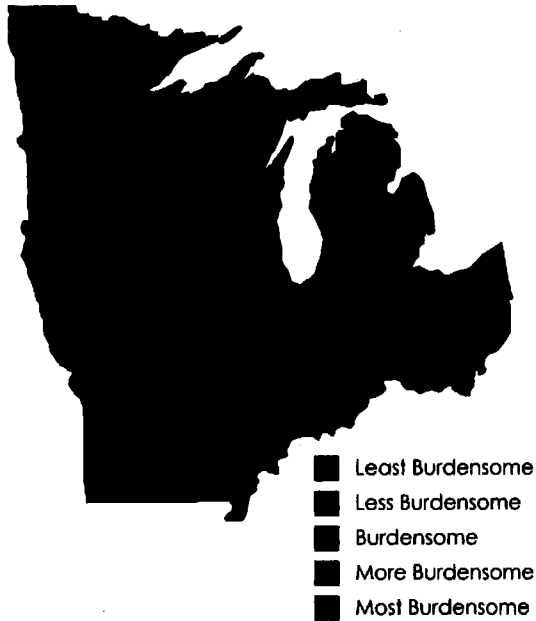
**Percentage Growth in Wisconsin 1996-2016**



## 2. Licensing carries certain costs that can hurt Wisconsin's low- and middle- income families.

Our organization does not suggest that there is no proper role for the government to regulate and protect the public from clear and substantiated threats to health and safety. What we do suggest is that licensing has costs and that the current system is out of balance.

Figure 2. Red Tape Index Scores in the Midwest



Occupational licensing carries an economic cost. A statistical analysis undertaken by the Wisconsin Institute for Law & Liberty this past spring found that states with more burdensome licensure requirements do, in fact, have lower employment in the professions we studied. Wisconsin could increase employment in these professions by 7.06% if regulations matched the least burdensome state, and 2.42% if regulations matched the national average. Our study also found that, for ten different licensed occupations – i.e. EMTs, aestheticians, and cosmetologists, Wisconsin's regulations were the 5<sup>th</sup> most burdensome in the entire country and the most burdensome in the Midwest.

Our study is not the only one to reach these conclusions. A 2016 study by the Beauty Industry Working Group, a group supportive of licensing, researched the effect of differences in cosmetology licensure around the country. They found a strong and negative relationship between cosmetology licensure requirements — in the form of curriculum hours — and employment rates. In fact, the Beauty Industry Working Group could not conclusively find evidence that lengthy curriculums increased safety.

Dr. Morris Kleiner at the University of Minnesota estimated that licensing costs the United States 2.85 million jobs and \$203 billion in higher consumer costs annually. In Wisconsin, that means 31,000 fewer jobs and \$1.9 billion in higher consumer costs.

What is more, occupational licensing often carries a cost in terms of opportunity. Wisconsin has many licenses that other states do not. Our fees and training requirements, in some cases, are markedly different and more burdensome from other states. In terms of reciprocity, Wisconsin does not always accept the credentials of licensed professionals who happen to move from another state. In other words, Wisconsin's licensing regime has costs for our workers – many who are of low and middle income – that do not exist in many other states.

This all deserves scrutiny, careful examination, and in some cases a reevaluation. The costs of licensing deserve to be recognized and weighed against any claimed benefits.

What the two bills before you have in common is they provide an avenue to systematically examine and evaluate our current licensing laws and seek to find the right balance between opportunity and protection of the health and safety of the public. Those are worthy goals.

**August 24, 2017 - Joint Committee Meeting  
Assembly Committee on Regulatory Licensing Reform, and;  
Senate Committee on Public Benefits, Licensing and State Federal Relations**

RE: Assembly Bill 370 / Senate Bill 296  
Assembly Bill 369 / Senate Bill 288

**Testimony by: Gary A. Brown, PLA, FASLA (WI LA#97)  
6709 Gaylord Nelson Road  
Middleton, WI 53562**

Good Morning Senator Kapenga, Representative Horlacher and Committee members,

Thank you for your time and the opportunity to testify this morning. My name is Gary Brown and I am a professional, licensed landscape architect in Wisconsin. I am currently the director of Campus Planning & Landscape Architecture at the University of Wisconsin here in Madison and have been in that role for over 15 years. I have over 34 years of professional experience and have been licensed as a landscape architect since 1995. I also currently serve on the national Board of Trustees for the American Society of Landscape Architects and am a Fellow of the Society, one of the highest levels of professional recognition, bestowed on me by my peers. I am here today representing myself, as well as the hundreds of practicing, licensed landscape architects in our great state.

I am here today to voice my concerns about two pieces of legislation that could lead to the elimination of Wisconsin's landscape architect licensure law--AB370/SB296 and AB 369/SB288.

In my work as a professional, licensed landscape architect, I facilitate, oversee and review the work of many licensed landscape architects who provide professional, contracted services to the State of Wisconsin. In my similar, prior role at the University of Wisconsin System, I provided this same level of service to all of our university campuses for over 15 years. I can say without a doubt that the work these professionals have provided to our great university system have directly protected the health, safety and welfare of the thousands of faculty, staff, students and the many visitors who live, learn, work and visit our campuses.

AB369/SB288 creates an occupational license review council, which has already been fully debated by the Joint Finance Committee on May 11<sup>th</sup> of this year and, which requires the Dept. of Safety and Professional Services to conduct a study of all licensing laws reporting out by the end of 2018. Since a study is already underway with the same reporting deadline, we see no need for additional legislation to do the same.

AB370/SB296 requires DSPS to report on if other state or national organizations can provide voluntary professional certification instead of our current licensing law. As a sitting Trustee of the American Society of Landscape Architects and a prior vice-president of Professional Practice of this national organization, I can fully state that there is no such organization, either locally or nationally in existence today to provide certification of landscape architects. ASLA does not provide a self-reporting, professional certification process.

I would note that currently all 50 states, and joined most recently by the District of Columbia, have professional landscape architecture regulations in place that protect the public health, safety and welfare of their citizens. In all cases, the States provide the necessary regulatory control over the profession, not an outside private or voluntary authority.

As professional, licensed landscape architects:

- We protect and maximize the use of our precious natural systems and environmental resources.
- We investigate, research and recommend selection of land and water resources for appropriate uses that minimize impacts to our environment and protect the safety of our clients.



- We develop feasibility studies providing written and graphic criteria to govern the planning, design and management of land and water resources.
- We prepare, analyze and review land use master plans, subdivision plans and preliminary plats for future development.
- We develop policies, standards and guidelines to manage physical development in our state agencies, municipalities and local jurisdictions. We help set local, state and national policies related to environmental protection, stormwater management, efficient and effective transportation planning, and the protection of millions of acres of parks and recreational areas.
- We prevent damage to public and private property created by changes in the built environment that do not take into consideration things like urban heat islands, stormwater runoff, soil conditions and slopes.
- We design landforms, stormwater drainage systems, soil conservation and erosion control systems, site lighting, water features, irrigation systems, planting designs, pedestrian and vehicular circulation systems, and the related construction details to assure proper implementation.

I often tell people “I plant buildings, not trees!” in my role as the campus planner, campus landscape architect, and facilitator of the UW-Madison Campus Master Plan. I help site, design, implement and ultimately operate our campus buildings and sites. Many of my colleagues, peers and indeed my professional landscape architecture staff, provide landscape planting designs. I review those plans to assure we are selecting appropriate materials to reduce our university operating costs and manage our state fiscal resources effectively and efficiently.

- Through our education, experience and professional licensing exam (similar to what Professional Engineers and Architects obtain), we earn a license that ensures the public that we can indeed do our job fully and protect our clients and their communities from harm.

Removing the regulation of landscape architects in Wisconsin puts us all at a competitive disadvantage to our colleagues in other states. We won't be able to pursue jobs on numerous federal, state and local contracts as many require the plans to be stamped and sealed by a professional, licensed landscape architect. This hurts Wisconsin businesses and our workers. It also drives our newly graduating landscape architecture students to other states and other opportunities for employment.

Removing the landscape architect licensing law also limits our ability to do work in other states. Many of my colleagues here in Wisconsin provide their services across the Midwest. Some do work nationally and even internationally. Without their professional landscape architect license, they will not be able to practice in other states and they too will likely leave Wisconsin taking their professional services with them.

I ask that you delete landscape architects from the list of regulatory license reform and continue to support the professional landscape architects who work for you and the citizens of the state of Wisconsin, by protecting our health, safety and welfare.

Thank you for your time and consideration on this important topic.

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My name is Alex DeSmidt. I'm a professional Landscape Architect licensed in Wisconsin and South Dakota. I moved back to Wisconsin just this month to work as a Landscape Architect in Park Facility Planning. As such, I would like to express my concern for Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288 that may lead to the elimination of Wisconsin's Landscape Architect licensure law.

I have spent a third of my life earning the licenses I hold for the work that I do. It has taken me 6 years of college education, 9 years of public service in government administration and countless hours of studying and testing. To get my license in Wisconsin while already licensed in the State of South Dakota as a Landscape Architect I had to apply and prove my education, my experience, and my testing. I had to have professional references and show my continuing education credits. It's not any easy task, nor should it be because the license issued by the Wisconsin Department of Safety and Professional Services, with my name on it, is not for me, it's for you and for the constituents you serve. My license and the licensure of my fellow landscape architects assures the general public of the state Wisconsin that we are qualified by the highest standards set in this State.

Landscape architects and other licensed professionals plan and design communities throughout this state. The licensure system is your assurance we are competently planning and developing the public spaces that you live, work and play in with the health safety and welfare of our friends, family and community members in mind every day when we go to work. Licensure of Landscape Architects is an assurance that beneath the beautiful flowers and trees are safe functional and accessible facilities designed for all ages and abilities. These principles are part of our professional code of conduct and if we don't adhere to them we lose the ability to practice our profession in this state. The system of licensing professionals like landscape architects is a system of checks and balances that works for the public.

I urge you to consider the public's safety while voting on these bills, and know that we as licensed professionals put public health safety and welfare above all else. Please keep landscape architects licensed in Wisconsin and please vote against Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

Thank You.

Alex DeSmidt, PLA, ASLA  
WI License #745

August 24<sup>th</sup>, 2017

Good Morning Senator Kapenga, Representative Horlacher and Committee members, thank you for the opportunity to testify this morning. My name is Chris James and I have been a professional/practicing Landscape Architect licensed by the State of Wisconsin since 1995. I am here today to voice my concerns about two pieces of legislation that could lead to the elimination of Wisconsin's Landscape Architect licensure law--Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

The professional responsibilities of a Landscape Architect are incredibly diverse, and for many of us insuring the public spaces we design meet Federal, State and local health, safety and welfare standards is a part of our daily work routine. I have been designing and developing public parks and transportation facilities for the past 17 years of my career as a Landscape Architect. Park and transportation planning is nothing new to the profession of Landscape Architecture. In 1858, Landscape Architects Frederick Law Olmsted and Calvert Vaux designed New York's Central Park, at the time a far fetched idea on a remote site that many critics said could never happen. In 1908, Harvard graduate and Landscape Architect John Nolen was instrumental in planning our original State park system. In 1924 National Park Service Landscape Architects led the Bureau of Public Roads design team to develop specifications for building the Trans Mountain Highway in Glacier National Park, now known as Going to the Sun Road. Seventy years later my predecessor and Landscape Architect Jim Mueller would lead the US Highway 12 alignment study between Madison and Sauk City.

These were all high profile projects led by Landscape Architects that demanded a high level of competency and skill levels to insure public health, safety and welfare. Today, the challenges to provide safe public spaces are greater than ever. Here are some examples of my daily work responsibilities that directly address public health, safety and welfare issues:

- Reviewing placement of parking lot and pathway lighting to insure adequate light distribution.
- Overseeing installation of regulatory traffic signage on a regional bicycle pedestrian trail.
- Insuring placement of regulatory traffic signage provides adequate clear zone to bicyclists.
- Monitoring and maintaining temporary construction barriers to insure public is not entering active construction zones.
- Directing staff to remove vegetation to improve vehicle site distances.
- Insuring required flood plain storage volumes are being provided associated with shoreline stabilization projects.
- Meeting with the railroad company to discuss safety concerns for newly proposed trail crossings.
- Meeting with local EMS staff to discuss extraction strategies for injured trail users on a remote trail location.
- Preparing a railing modification detail to meet international building code safety requirements.

-Convincing a local unit of government it is not a good idea to construct an off road trail that simply ends at a busy road.

-Clarifying Federal Americans with Disabilities Act requirements for a proposed recreation facility.

You may be thinking that these 11 health, safety and welfare examples occurred over the past several weeks, or even months. They actually occurred over the past 4 days. My list of examples of how my job as a professional Landscape Architect addresses health, safety and welfare concerns is endless, and grows every day. In my opinion, the proposed legislation would have serious consequences on overall public safety and well being and I am hopeful this committee will decide to eliminate further consideration of it.

I appreciate your time and am available to answer any questions.

Thank You.

Chris James, Professional Landscape Architect #190

Good morning Senator Kapenga , Representative Horlacher and Committee members,

Thank you for the opportunity to speak here today. My name is Cody Axness. I am the president of the American Society of Landscape Architects – Wisconsin Chapter, and a Wisconsin-licensed landscape architect. I am employed by a national multi-disciplinary practice headquartered here in Wisconsin.

I am here today to voice my concerns about legislation that could lead to the elimination of Wisconsin's landscape architect licensure law--Assembly Bill 370, Senate Bill 296, Assembly Bill 369 and Senate Bill 288.

Landscape architect is a frequently misunderstood or mischaracterized occupation. We are often confused with trades which are not regulated, such as gardeners and planting designers, or landscape contractors. Landscape architecture is a broad and multi-faceted design discipline, with training and technical production on par with professions like architecture and engineering. Statutes regulating architecture, landscape architecture and engineering collectively enhance the safety of the built environment as a safe place for people to live, work, and move about. However, some individuals and organizations, with the argument that occupational licensing is restrictive to job opportunities, have seized on the common misconceptions of our profession. They have paired them with broad occupational statistics and misleading statements to imply that a landscape architect license is unnecessary, with negligible public safety impacts.

Landscape architects are licensed in all 50 states and Washington D.C. We are one of only a few dozen occupations, out of many hundreds, to which that applies. Over the past several years, multiple states have reviewed this profession as a part of their sunset review process. All of those states have upheld licensure of landscape architects. This is due, in significant part, to the profession's direct, undeniable and substantial impact on the health, safety, and welfare of the public. The public relies on professional licensure for protection from injury or damages as a result of incompetent design and practice. Inadequate landscape architect practice can and has led to cases of both physical and financial harm. Examples include: obstructed views at intersections – this can and has resulted in collisions killing and injuring pedestrians, cyclists, drivers and passengers; poor design and use of materials in parks and playgrounds can and has resulted in injuries and deaths of children. Negligent design of grading and stormwater drainage can and has resulted in flooding & costly damage to adjacent buildings, walkways, highways and public facilities. Financial harm can be suffered from negligent design, permitting or bidding errors. We do not believe it is appropriate that the state of Wisconsin out-source its minimum standards for professional competency.

Because of the profession's impact on public health and safety, a certification program for landscape architects, or for any of the design professions, does not exist. All states have determined licensure to be the proper form of regulation. Transitioning landscape architects to a self-certification system will not break down any of the imagined occupational barriers of this

profession. On the contrary, it will in fact erect barriers, barriers between WI landscape architects, often part of small businesses, and all of the federal, state and local contracts that explicitly require the services of licensed landscape architects. It will create barriers limiting federal, state and local agencies from employing WI landscape architects because they would no longer hold a license, and it will limit WI landscape architects from seeking licensure reciprocity in other states. It will also create a barrier to increased competition for professional design services.

Any envisioned job growth will be severely diminished by the license-requiring contracts being outsourced to landscape architects from any of our neighboring states, all of which license our profession. Wisconsin landscape architects rely on our professional license to maintain a competitive balance with other states, and to compete with architects and engineers. We rely on our license to meet the requirement of numerous agency work-contracts available each year. We rely on our license for professional career growth opportunities. Without my license, my personal career path is limited. This creates a barrier for me to be able to provide for my family. But most important of all, landscape architects rely on our professional license to instill confidence and to establish to the public that we meet minimum standards of competency of our profession.

We believe Assembly Bill 369 and Senate Bill 288 are not necessary. This legislation, that creates an Occupational License Review Council, is duplicative. After several statewide hearings and much deliberation, the Joint Finance Committee rejected the idea of creating a licensure review council and voted instead on May 11<sup>th</sup> to require the Department of Safety and Professional Services (DSPS) to conduct a study of all licensure laws in the state. DSPS is required, by language currently included in the state budget, to submit a report on licensure laws by December 31, 2018 to the Governor and Legislature. This is the same reporting deadline created by Assembly Bill 369 and Senate Bill 288. Since a study is already being conducted, we do not see the need for additional legislation.

So as I conclude, I respectfully ask the committees to vote NO on these bills being discussed here today.

Thank you for your time and consideration and I would be happy to answer any questions.

Good morning Senator Kapenga, Representative Horlacher and Committee members,

Thank you for the opportunity to testify this morning. My name is Sarah Lerner and I am representing myself as a State of Wisconsin licensed landscape architect who has worked in the private sector for 9 years and in the public sector for 7 years. I am here today to voice my concerns about Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

**Removing the licensure requirement for landscape architects in the State of Wisconsin will put children who use their local playground, pool or splash park at greater risk for injury.** Landscape architects are responsible for ensuring that outdoor facilities, many tied to our local community's parks and schools are designed to meet state and federal regulations to minimize the risk of injury and death. The CDC reported that playgrounds injuries alone cause 200,000 emergency room trips each year and were identified to be the cause of death for over 140 children between 1990 and 2000.

As a landscape architect in a municipal parks division, my work is closely tied to development of public recreational facilities that must be designed to ensure the health, safety and welfare of the public is met. In the past 3 years alone our staff of landscape architects have designed and managed construction of over 30 playgrounds, 2 splash parks, a rooftop park, and skate park, as well as numerous trails, buildings, boat launches, piers, and other amenities.

Transferring state occupational licensing to a self-certification system as proposed by AB 370 and SB 296 will allow those without expertise assured by a professional license to design these facilities.

**From my experience as a landscape architect in the private sector, I believe this bill will cause financial harm to Wisconsin firms and will limit the ability for Wisconsin landscape architecture firms to compete in the marketplace.** In the private sector, myself and other landscape architects designed subdivisions and commercial facilities for some of the state's largest developers. We developed road layouts, stormwater systems, identified the utility infrastructure that would be required for these projects and reviewed how these issues would affect the implementation of the development. As landscape architects our firm also worked for public and governmental agencies designing roads, trails, athletic facilities, and facilities for the department of military affairs. Our firm competed with firms across the nation to be awarded the opportunity to design these facilities. If the proposed bill moves forward, local Wisconsin firms will be at a disadvantage in competing for projects against firms in neighboring states that still require occupational licensing since many of these projects and clients require licensed landscape architects.

**Likewise, this bill disincentivizes municipalities, county, state and federal agencies from hiring Wisconsin landscape architects.** Government agencies have a duty to ensure that taxpayer funded projects are designed by the highest quality professionals to ensure the safety, health and welfare of their community. By removing state licensure requirements, many local landscape architects will not meet the required criteria for bidding on these projects, undermining local companies and expertise in the State of Wisconsin. I ask that you please consider carefully the implications of these bills and vote against removing state licensure to a self-reporting credential system. Thank you for your time and consideration and I would be happy to answer any questions you might have.

  
Sarah Lerner, Registered Landscape Architect

Good Morning Senator Kapenga, Representative Horlacher and Committee members,

Thank you for the opportunity to testify this morning. My name is Jonathan Bronk and I am a professional landscape architect licensed by the state of Wisconsin. Born and raised in central Wisconsin, I attended the UW-Madison after high school to study landscape architecture because it was an opportunity to meld my passions of art and the natural environment; both nurtured through my experience growing up in rural Wisconsin and my journey through Boy Scouts to Eagle Scout. This path also made it financially viable to remain here in Wisconsin after graduation to be near family. I am here today to talk about landscape architecture and voice my opposition to two pieces of legislation that could lead to the elimination of Wisconsin's landscape architect licensure law--Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

So what is landscape architecture? Many may not know....I didn't until I stumbled upon it paging through the UW-Madison course catalog in my high school guidance counselor's office 17 years ago. Landscape architecture is the melding of science and design, using the tools of analysis, planning, critical thinking, project management, and stewardship of the natural and built environments to create safe, accessible spaces for the public and vibrant, active communities. Landscape architects work on a diverse range of projects including: residential design, slope and shoreline stabilization, waterway development, playgrounds, splash parks, multimodal transportation corridors, public parks, green roofs, sports facilities, residential and commercial developments, schools, ecological restoration, infrastructure, urban agriculture, historical and cultural resource preservation, natural disaster planning and recovery, and site security.

To design for such a wide range of projects, landscape architects require a unique skill set developed through a combination of formal education and job experience. These skills include: project development, site suitability, stormwater management, erosion control, irrigation, playground design, vehicular and pedestrian circulation, site lighting, site grading, material selection, horticulture, and security design. Landscape architects must also understand standard design principles and the social sciences to insure spaces are not only safe, but create engaging spaces for the public to use.

It is not enough to be competent in these skills. A landscape architect must also be able to effectively communicate these skills graphically in the form of specifications, reports, and construction documents that convey to the client and the contractor how a project is to be constructed and how they fulfill local, state, and federal regulations.

All of these skills are learned through job experience and formal education programs such as the Planning & Landscape Architecture program at the University of Wisconsin-Madison. If formal education is not an option, an individual in Wisconsin is able to learn the necessary skills through completing 7 years of job experience and training. Both tracks include taking the Landscape Architect Registration Examination to prove an individual has minimum competency to design spaces that promote the health, safety, and welfare of the public.

Little did I know when I started digging into landscape architecture 17 years ago how diverse and technical this profession is and how important it is to create safe, vibrant communities. Without licensure in Wisconsin, landscape architecture expertise will move out of state and it will be our local



communities and our state that suffers. Landscape architecture needs to remain licensed in the state of Wisconsin to insure the health, safety, and welfare of the public. I am therefore, respectfully, opposed to Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

Thank you again for your time and the opportunity to speak. I'd be happy to take any questions

Sincerely,

Jonathan L Bronk, PLA, ASLA

August 24, 2017

Wisconsin State Capitol  
2 E Main St  
Madison, WI 53703

Senator Kapenga, Representative Horlacher and Committee members,

My name is Sarah McDonald I'm a Licensed Landscape Architect in Wisconsin and an Urban Planner.

I was born, raised and educated here in Wisconsin and I intend to practice in Wisconsin.

My ability to do so is in jeopardy. I am here today to voice my concerns about two pieces of legislation that could lead to the elimination of Wisconsin's landscape architect licensure law--Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

### **Health, Safety, Welfare in Wisconsin**

Landscape Architects like me design spaces for people. These spaces improve people's quality of life. Here in Wisconsin we design parks and recreational facilities, playgrounds, splash pads, aquatic centers, streetscapes, plazas and riverfront developments, and even campuses for new companies who chose to call Wisconsin home. These projects are complex and require a significant amount of knowledge and technical skill to make sure they are built correctly to protect the health, safety and welfare of their users.

As the expression goes: "If you think it's expensive to hire a professional, wait until you hire an amateur." Eliminating licensure could have serious implications for not only physical damages but financial implications due to poor services and poor quality provided by improperly educated, trained and otherwise unqualified parties. Poorly designed sites and playgrounds have led to significant injury and loss of life. As we try to attract new businesses to our state, let's put our best foot forward. Let's attract, retain and protect those people with spaces designed by landscape architects.

### **Loss of work and wages for Wisconsin professionals and companies**

Many of my municipal clients require construction drawings and specifications be stamped by a licensed landscape architect. Eliminating licensure would put our Wisconsin landscape architects, like me, at a competitive disadvantage, hindering our ability to get work get work in those municipalities. This will open the door for out of

state licensed professionals to get work otherwise available to landscape architects in state.

### **Brain drain out of Wisconsin**

As Wisconsin tries to encourage Wisconsin university trained and qualified professionals to stay in our state, and attract more professionals to live here, these bills would work against us. Licensure is required in all 50 states to be identified as a "landscape architect." If Wisconsin eliminates its license you run the risk of losing all of the qualified, experienced professionals in the state.

We may be forced to move out of Wisconsin in order to make a living. I'd be taking my education, experience and passion for the state I love elsewhere. If licensure is eliminated it would have a ripple effect on the University's ability to attract students who wish to study landscape architecture and practice in the state.

These bills pose a direct threat to the health, safety and welfare of the public. They jeopardize livelihood of professionals in and entering the field and will negatively impact Wisconsin's ability to attract and retain professionals in the state.

I respectfully request that you vote "**No**" for Assembly Bill 369/Senate Bill 288 and Assembly Bill 370/Senate Bill 296.

Sincerely,



Sarah McDonald, PLA, CLARB, ASLA

Cc:

**Assembly Committee on Regulatory Licensing Reform**

Representative Ballweg (Vice-Chair)  
Representative Hutton  
Representative Jacque  
Representative Macco  
Representative Quinn  
Representative Brostoff  
Representative Genrich

Representative Anderson

**Senate Committee on Public Benefits, Licensing and State-Federal Relations**

Senator Harsdorf (Vice-Chair)  
Senator Craig  
Senator Johnson  
Senator Vinehout

August 24<sup>th</sup>, 2017

Good Morning Senator Kapenga, Representative Horlacher and Committee members, thank you for the opportunity to testify this morning. My name is Sarah Close and I am currently in the process of obtaining my license to become a Landscape Architect. I am here today to voice my concerns about two pieces of legislation that could lead to the elimination of Wisconsin's Landscape Architect licensure law--Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

For the past two years while I have been studying for and taking my required exams I have also been working under a licensed Landscape Architect. The necessity for State regulation to practice Landscape Architecture to insure public health, safety and welfare needs are being met has become very apparent through my daily work assignments. In addition to health, safety and welfare considerations, we are also responsible for designing and building public facilities including signage, boardwalks, bridges, playgrounds, boat landings and picnic shelters. Because these facilities are primarily funded with public dollars and it is critical that they are able to sustain themselves with minimal maintenance in our harsh environment. Professional Landscape Architects insure these facilities not only meet required building codes and material standards, but also will withstand rigorous public use.

From my work experience, eliminating the requirement for State regulation of Landscape Architects could greatly compromise the high facility standards that are necessary to insure public health, safety and welfare.

I appreciate this opportunity and am available to answer questions.

Sarah Close

Senator Kapenga, Representative Horlacher, and Committee members,

Thank you for the opportunity to testify today. My name is Bradlee Bertram and I am a professional Landscape Architect licensed by the state of Wisconsin. I am here to voice my concerns about two pieces of legislation that could lead to the elimination of Wisconsin's landscape architect licensure law — Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288.

I want to explain how and why I chose to become a Landscape Architect: the processes involved, its impact, and why I ultimately became licensed in Wisconsin.

I entered UW-Madison as an undergraduate engineering student with the intention of becoming a civil engineer. After a year of study, I found myself seeking a more creative profession, and began a search for a different major. Architecture seemed like a great way to combine my interests under one profession, so I began searching for a new school, with every intention of attending out of state. Luckily, a friend mentioned UW-Madison's Landscape Architecture program, and suggested I speak with the department before leaving.

Not knowing what Landscape Architecture entailed, I visited the department chair and was immediately hooked by the sheer breadth of the profession. This wasn't designing patios and driveways, it was planning neighborhoods, campuses, even cities. I learned that prominent Landscape Architects such as John Nolen and Jens Jensen had profound impacts on this state. John Nolen developed a master plan for Madison that led to the creation of some of its most iconic features: state street, the building site for Monona Terrace, its system of parks. He even developed the framework for identifying, locating, and implementing our state park system. The more I learned about the role Landscape Architects play in planning and developing public and private spaces, and their responsibilities for protecting health, safety, and welfare, the more certain I was that I chose the right profession.

As I approached my last year of school, Wisconsin passed its Landscape Architecture practice act, meaning I finally had a chance to stay in the state upon graduation, find work at a local firm or municipality, and ultimately become a licensed professional. Had this not happened, I planned to move to a different state to pursue the profession.

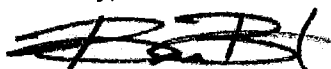
To the relief of my family in north-central Wisconsin, I found work here in Madison and did not move to a faraway coastal city in search of employment. I was able to settle in, start a family, and buy a home right here. After several years of professional practice, I took the four-part licensure examinations and became Wisconsin license holder 725 last September.

It is worth noting that my path toward becoming a Landscape Architect is not the only option available; one can forgo the accredited degree/two-year practice/licensure exam route by working as an apprentice under a licensed Landscape Architect for seven years and then completing the licensure examinations. The eventual outcome and overarching accomplishment, however, remains the same — licensure.

Mine is a happy story, but it could have easily been quite different. If Wisconsin removes its licensure requirements for Landscape Architecture, there will be little incentive for me to continue residing in the state for professional practice when all 49 other states (and the District of Columbia) require licensure. There will also be severe implications for future Wisconsin-based Landscape Architects: why would students come here to study Landscape Architecture if the state does not allow them to become a licensed professional? What incentive would there be for firms to hire Landscape Architects from Wisconsin when licensed professionals are required to sign their drawings? The students will go elsewhere. The jobs will go elsewhere. Wisconsin will lose talented professionals whose works impact the lives of so many people.

Please do not support this legislation.

Sincerely,



Bradlee Bertram | Professional Landscape Architect, ASLA

August 24, 2017

To: Representative Cody Horlacher, Chair Assembly Committee on Regulatory Licensing Reform  
Members, Assembly Committee on Regulatory Licensing Reform  
Senator Kapenga, Chair Senate Committee on Public Benefits, Licensing, and State-Federal Relations  
Members, Senate Committee on Public Benefits, Licensing, and State-Federal Relations

From: Disability Rights Wisconsin

Re: 2017 AB 370/2017 SB 296

Thank you to Members of the Assembly Committee on Regulatory Licensing Reform and Senate Committee on Public Benefits, Licensing, and State-Federal Relations for hosting a joint hearing on this important issue of licensing, especially for sign language interpreters.

Disability Rights Wisconsin is the state's Protection and Advocacy agency, charged with ensuring the rights of individuals with disabilities. People with disabilities have the right to participate equally in the world around them and may face physical, communication, attitudinal, systemic, or other barriers as a part of daily life. DRW works to remove these barriers.

Because DRW works to remove barriers to communication for people with disabilities, and competent and qualified sign language interpreters are critical to effective communication for people who are deaf, hard of hearing, and deaf-blind, DRW opposes 2017 AB 370/SB 296. Disability Rights Wisconsin (DRW) does not support a self-certification model for sign language interpreters and is strongly opposed to the de-regulation of the sign language interpreter licensure.

Wisconsin citizens who are deaf, hard of hearing, and deaf-blind rely on sign language interpreters in many situations, including those of public and personal safety. Competent sign language interpreters are needed to protect the civil, human, linguistic, and cultural rights of the deaf, hard of hearing, and deaf-blind persons. Licensure can ensure that sign language interpreters are qualified to provide essential communications between the deaf individual and hearing individual in all circumstances but especially where personal or public safety is at issue, i.e. emergency broadcasts, legal or medical situations, or a mental health crisis.

Thank you in advance for listening to our concerns. Disability Rights Wisconsin remains available to discuss this proposal in greater detail with the committee.

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**MADISON**

131 W. Wilson St.  
Suite 700  
Madison, WI 53703

608 267-0214  
608 267-0368 FAX

**MILWAUKEE**

6737 West Washington St.  
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414 773-4646  
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**RICE LAKE**

217 West Knapp St.  
Rice Lake, WI 54868

715 736-1232  
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[disabilityrightswi.org](http://disabilityrightswi.org)

800 928-8778 consumers & family



DATE: August 24, 2017

TO: Committee Chairs Senator Kapenga and Representative Horlacher and Committee Members

FROM: Dr. Gregg Bogost, Wisconsin Radiological Society

RE: Concerns regarding Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288

Thank you for the opportunity to provide written testimony regarding Assembly Bill 370/Senate Bill 296 and Assembly Bill 369/Senate Bill 288. The Wisconsin Radiological Society has concerns regarding these two pieces of legislation since both bills have the potential to lead to the elimination of radiologic technologist licensure.

I am a practicing physician, diagnostic radiologist, in south central Wisconsin. My practice encompasses a variety of rural hospitals and clinics as well as hospitals and clinics in Madison. I am past president of the Wisconsin Radiological Society and currently serve as its legislative chair. My job is to interpret x-ray studies. My ability to make a diagnosis for the patient depends on the quality of the x-ray presented to me by the radiologic technologists working in my field. Radiologic technologists play an important role in the health care field and are responsible for making sure that Wisconsin's patients receive the lowest dose of ionizing radiation possible during procedures. Ionizing radiation is a known carcinogen and can be harmful, or even deadly, if misadministered.

I strongly believe that radiologic technologist licensure protects the health and safety of Wisconsin citizens and also lowers health care costs. That is why I am concerned by the licensure review council created by Assembly Bill 369/Senate Bill 288. This bill requires the review of all professions in the state even if regulation of the profession has a clear public health and safety component. We believe the scope of this bill is too broad. Licensure for radiologic technologists should not be up for debate.

Furthermore, the Department of Safety and Professional Services (DSPS) is already required by language included in the state budget to submit a report on licensure laws by December 31, 2018 to the Governor and Legislature. This is the same reporting deadline created by Assembly Bill 369/Senate Bill 288. Since a study is already being conducted, we do not see the need for additional legislation.

I have additional concerns about Assembly Bill 370/Senate Bill 296, which directs DSPS to consider moving several occupations from licensure to a self-certification process.

While radiologic technologists are not currently mentioned in this bill, I am concerned that this legislation opens the door to potential de-licensure in the future.

Prior to our radiologic technologist licensure law, anyone in Wisconsin could administer x-rays. There are many patient horror stories from this era where patients were exposed to harmful and unnecessary doses of radiation because the person administering their exam was unqualified.

By ensuring that operators of radiographic equipment have full knowledge of its use, unnecessary radiation exposure to patients is avoided. This is important because radiation can cause cancer. As an example, an improperly trained individual can overexpose a patient during a procedure by using improper settings. Another way excessive radiation exposure could occur is if improperly trained staff does not properly position the view/x-ray obtained. This requires repeat x-rays to correct the original mistake, resulting in additional unnecessary patient dosing of radiation.

Another problem with improperly performed x-rays is that abnormalities can be hidden or obscured leading to delays in diagnosis or failure to diagnose. An example of this that I witnessed on several occasions prior to Wisconsin's radiologic technologist licensure law is that of an improperly positioned elbow x-ray that prevented visualization of a fracture. Recognizing the improper position, I requested the patient return for repeat better positioned views that revealed the fracture. Similar situations could result in the inability to demonstrate lung cancer or bone abnormalities. There are innumerable similar scenarios that demonstrate how quality could be impaired in the absence of proper training and licensure.

Finally, the delays, potential misdiagnoses and repeated exams that occur when an unqualified person performs x-rays all contribute to additional, unnecessary health care costs. Radiologic technologist licensure helps ensure that health care dollars are used efficiently by reducing the incidence of repeat examinations.

Thank you for your consideration.





# Wisconsin Society of Radiologic Technologists

Testimonial to The Assembly Committee  
on Regulatory Licensing Reform and the Senate Committee on Public Benefits,  
Licensing and State-Federal Relations  
August 24, 2017

Dear Committee Members:

My name is Randy Griswold, and I reside in Green Bay, WI. I am a registered radiologic technologist, a Past-President of the Wisconsin Society of Radiologic Technologists and currently a sitting member of its Legislative Committee.

I would like to thank you for the opportunity to express my concerns regarding Assembly Bill 369/Senate Bill 288 and Assembly Bill 370/Senate Bill 296. These bills would require the review of all professions in the state and the creation of a self-certification registry. I understand and can appreciate the legislative intent to look at the amount of professional licensure and regulation in WI and to reassess the need for some of the existing regulations. My concerns center around some existing regulations and the possible elimination of those that clearly benefit the citizens of WI. One of those involves the use of ionizing radiation for medical procedures. Currently this is regulated by the Radiography Examining Board (REB).

The REB was established in 2009 to certify and monitor the use of x-rays on patients in WI by qualified individuals. Prior to this, anybody could take x-rays in WI. The REB has proven to be very effective and diligent in its decisions and actions. The REB impacts over 7000 qualified professionals in radiology, throughout the State. Elimination of the REB would likely place its responsibilities under the already-overworked Medical Examining Board (MEB).

The Radiography Examining Board consists of individuals specifically knowledgeable in the delivery of medical radiation and is comprised of three radiographers, a radiologist physician, and a radiation physicist—individuals who actually perform, interpret, and monitor, respectively, medical practices involving radiation, plus two public members.

I feel the proposed legislation is too broad as it requires the review of all professions in the State. There is a clear public safety, health and welfare component to radiologic technologist licensure. Licensure for our profession should not be up for debate. Radiologic technologists are responsible for making sure patients receive the lowest dose of ionizing radiation possible during procedures. Ionizing radiation is a known carcinogen and can be harmful if not administered properly.

Additionally, the cost-savings potentially realized with the changes are miniscule and will have no significant impact for the taxpayers of WI. Currently, certification/licensing fees collected clearly offset any costs to the State, regarding the REB.

Personally, I have been a registered radiologic technologist since 1973. I have spent my entire professional career in medical imaging, as an educator, author, manager, marketing professional, consultant and technologist. The sophistication of medical imaging continues to advance and now employs very expensive digital technologies to produce x-ray images on patients. The level of technological expertise needed to correctly use these advancements, is higher than ever before. Now more than ever, proven and maintained competence is critical to high quality medical imaging.

As a technical applications specialist, I encountered many instances that, without proper education and training, medical images were created on patients that over exposed patients and even produced image artifacts simulating patient pathologies, that did not exist. From a medical viewpoint this is alarming and clearly jeopardizes patient care and medical costs, in very profound ways.

Proper training with these newer technologies is a constant effort by those of us in the profession, to improve patient care outcomes. I am fearful that elimination of the REB will have a negative impact on these educational needs and cause us to step back to a time when anyone, with little or no education, could again take x-rays on Wisconsin patients.

The Wisconsin Society of Radiologic Technologists (WSRT) has joined with several other organizations within the State to oppose the proposed changes. We see them as being duplicative and unneeded. The current system of regulation and licensing of select professions works and should be left as is, in the protection of WI patients and their families.

Both the self-certification and Occupational License Review Council bills open the door to potential de-licensure for radiologic technologists. This would return the profession to the time of pre-licensure when anyone in Wisconsin was allowed to take x-rays.

Thank you

Respectfully submitted

Randy Griswold, M.P.A., RTR

1041 Village Green Court

Green Bay, WI. 54313



# Wisconsin Society of Radiologic Technologists

August 24, 2017

Good Morning Senator Kapenga and Representative Horlacher, and members of the Committee,

My name is Sandra Helinski. I have been a registered radiologic technologist for over 30 years, certified by the American Registry of Radiologic Technologists. A Radiologic Technologist is also known as an x-ray technologist or a radiographer. As the Legislative Committee Chairperson of the Wisconsin Society of Radiologic Technologists (WSRT), I bring to this hearing the concerns of over 7100 other registered radiologic technologists in this state, most of them who are working in clinics and hospitals at this hour, regarding 2017 Assembly Bill 369/ Senate Bill 288, and Assembly Bill 370/Senate Bill 296.

When an individual sees a doctor, often an x-ray examination is ordered as the first step to diagnose the reason behind the symptoms presented. A properly performed x-ray is the gateway to an effective and expedient care path. Recognizing our primary and crucial role in health care, The WSRT set out to ensure that only persons who demonstrated competency through national certification or by passage of a limited scope examination exposed patients to ionizing medical radiation. 2009 Act 106 was signed into law on February 4, 2010 and received great bipartisan support. Before that day, **anyone** was allowed to irradiate patients to the trusting patient population of Wisconsin, regardless of competence, or having had any training at all. Stories of venipuncture personnel, reception and even janitorial staff irradiating patients were brought to our attention. Prior to 2010, It was reported that incidents of repeat imaging were required around our state. Patients were being recalled to other facilities due to the fact that diagnostic information could not be obtained from the poor quality initial examinations. Patients were angry, and justifiably so. Regardless of locale, repeated procedures are costly, delay a patient's diagnosis and result in additional radiation exposure. Ionizing medical radiation is cumulative, and permanently changes cell composition. In fact, 3-5% of all cancers may be the result of medical radiation exposure. The passage of licensure for persons along with the creation of the Radiography Examining Board (REB) through that legislation ensured that substandard radiologic care was no longer acceptable and that Wisconsin's patients would no longer suffer from poorly performed radiography. Through the establishment of sensible rules and dedicated oversight on the administration of medical radiation, licensure and the REB has proven to be an effective mechanism to ensure that proper radiographic practices are followed for safe, quality-conscious, and cost effective delivery of ionizing medical radiation.

It is important that it be understood that the practice of radiography is a highly specialized field that involves significant doses of medical radiation. In my career, I have seen our field evolve into an even more technically specialized science with digital technology and other advances. Licensure not only administers to practices involving x-ray examinations, but also those of CT scan examinations, interventional radiology procedures, and others performed in catheterization suites. Some of these radiologic procedures have replaced operative measures at the expense of significant radiation dose

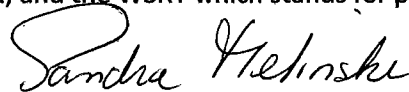
delivery. For this reason alone, it is essential that proper practices are followed and monitored by the REB by persons specifically trained in radiation safety, validated by licensure.

The prospect of de-licensure of persons performing radiographic procedures is problematic from an equality of care standpoint. Through licensure, the gold standard of care as outlined by the American Registry of Radiologic Technologists was established throughout Wisconsin. The licensure law enacted had been drafted and thoroughly vetted to ensure that persons who were already performing radiography whether on a full or a limited scope, or those planning to, were not fenced out of their jobs. Therefore, in all patient care scenarios, licensure ensures that patients experience no disparity of care across geographic or socioeconomic boundaries. Patients, whether seeking care in pain clinics, or other clinical and hospital settings should be confident that they are served by staff competent in radiography. This is especially important to my colleagues who work in rural and tribal communities. Julie Burt, Potawatomi Health Division Imaging Director, Safety and Radiation Safety Officer Training works in a small community facility in Crandon, Wisconsin that does not have a hospital nearby. She states "Without licensure, I can't even remotely imagine what would become of our patients, their families, and their communities as well as who would be taking their images." Additionally, radiologists utilizing teleradiology, interpreting digitized x-rays from remote locations must be able to rely on the integrity of the information presented to them. All of Wisconsin's patients deserve a high standard of radiographic care, regardless of where they reside or what type of venue is available to them.

The Wisconsin Society of Radiologic Technologists is opposed to Assembly Bill 369/Senate Bill 288 which creates an Occupational License Review Council. The Joint Finance Committee voted on May 11 after several statewide hearings and much deliberation to require the Department of Safety and Professional Services to conduct a study of all licensure laws in the state to be completed by December 31, 2018, language currently included in the state budget. We do not see the need for additional legislation. Furthermore, for all the aforementioned reasons, licensure for our profession should be not up for debate.

Passage of Assembly Bill 370/ Senate Bill 296 would also be detrimental to Wisconsin's patients, which would create a self-certification registry to allow persons to use a "state-certified" title in conjunction with their practice. Voluntary use of a title would not guarantee that anyone would seek such a title, nor conduct their practices in accordance with any established standards of care, since any enforcement mechanism to do so through licensure would be eliminated. Both of these bills heard today are too broad in scope. Both open the door to the time when anyone could irradiate patients, a legitimate public safety and health concern.

Thank you for your time and consideration in hearing our concerns on behalf of the patients of Wisconsin, and the WSRT which stands for proper radiologic patient care.



Sandra Helinski, MBA, RTR, QM, MR  
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August 24, 2017

Good Morning members of the Assembly on Regulatory and Licensing Reform and members of the Senate Committee on Public Benefits, Licensing and State-Federal Relations. My name is Laura Isaacson and I am the Director of Clinical Nutrition at Upland Hills Health in Dodgeville, Wisconsin and the President-Elect of the Wisconsin Academy of Nutrition and Dietetics. I have over 15 years of experience in the State of Wisconsin as a Registered Dietitian and I have been working at Upland Hills Health since 2013.

Upland Hills Health serves the residents of Iowa County by providing access to a 25 bed critical access hospital with a birthing unit, a skilled nursing and rehabilitation facility, therapy and wellness center, heart lung and sleep center, four family medicine clinics, and many physician specialty services. We are a community-minded healthcare system providing innovative, individualized and compassionate care for every stage of life.

As a Registered Dietitian, I appreciate the chance to be here to testify regarding Assembly Bill 369, Assembly Bill 370, Senate Bill 288 and Senate bill 296. This past June, these bills were introduced to create an Occupational License Review Council within DSPS to modify or eliminate occupational licenses and to create a new self-certification registry that does not improve health and safety for patients. While we recognize the intent to review current certification and credentialing practices, the potential to make negative changes to certification for the dietetics profession gives us reason to oppose these bills because the quality of care, safety and well-being of patients could be significantly compromised.

As you may know, Wisconsin is one of forty-five states that has dietitian credentialing laws in place to uphold professional standards for Registered Dietitians. In order to become a Certified Dietitian in the State of Wisconsin, I earned a Bachelor's degree in dietetics from an accredited university, completed 1,200 hours of supervised practice through an accredited program, and passed the National Registration Examination for Dietetics.

Approximately 50% of dietitians, myself included, also hold a graduate degree in nutrition. In addition, we must complete 75 hours of continuing education every five years to maintain our Certification. Registered Dietitians have industry oversight in Wisconsin from the Dietitian Affiliated Credentialing Board, which is part of the Medical Examining Board within the Department of Safety and Professional Services. This is important oversight for our profession and the work we do with patients because it sets educational and training requirements, issues and renews certifications, enforces a code of ethics and professional conduct, investigates complaints from the public, and takes disciplinary action when necessary.

There is no other profession that has the high level of nutrition education and training that is required of the Registered Dietitian. We are Wisconsin's nutrition experts and our professional qualifications enable us to provide safe, individualized, quality nutrition care. I personally work with a highly vulnerable patient population in rural Wisconsin, and it is my role to enhance the health and quality of life of my patients.

I recently provided nutrition care for a patient admitted to a long-term care facility with a surgical wound and failure to thrive. He was placed on hospice, because his wounds had been non-healing for the past 5 months. I completed a comprehensive nutrition assessment on this patient, diagnosed him with severe malnutrition, and put in place evidence-based nutrition interventions. Within a month of receiving good nutrition, this patient's wounds were nearly healed and he was taken off hospice. Dietitians across the state are positively impacting the lives of Wisconsinites in a similar manner every day.

Thank you again for allowing me the chance to testify regarding these bills. As a dedicated Registered Dietitian and someone with first-hand experience in the profession, I ask you to oppose these bills because of the significant impacts they would have on the dietetic profession as well as the health and safety of patients. Our certification requirements ensure the professionals who provide care are qualified and the care we provide is evidence-based medicine, especially for some of our most vulnerable residents. I'm happy to answer any questions at this time.



**August 24, 2017**

**TO:** Members of the Senate Committee on Public Benefits, Licensing and State-Federal Relations and Assembly Committee on Regulatory Licensing Reform  
**From:** Lynn Kutz, American Massage Therapy Association -Wisconsin Chapter Legislative Chair  
**RE:** Oppose elimination of professional Licensing Board for Massage Therapists

AB 369/SB 288 Proposes an Occupational License Review Board which will recommend which occupational licenses and their respective continuing education requirements should be downsized or eliminated.

The Massage Therapy Association – Wisconsin Chapter with its 2,137 members, urge retention of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board.

The credentialing board protects the public from unscrupulous actors including those who prior to licensing used the massage therapy profession as a front for prostitution and human trafficking. The credentialing board both protects the public and provides a sense of consumer confidence about qualifications for any massage therapists performing specific services. Legitimate licensed massage therapists invest in education and training and abhor the illegal abuse of unscrupulous individuals. Massage therapists can obtain continuing education credits, free of charge or very affordably (as low as \$2 per credit), so financial hardship is not a valid reason to do away with CE.

Massage therapists work with all kinds of individuals, some for relaxation, others who are sick and injured. Massage therapy is considered a vital part of complementary and integrative medicine and practices in hospitals, medical clinics, chiropractic offices, physical therapy offices, hospice facilities, and with infants born to opiate addiction and sports teams. Individuals receive massage therapy post operatively for procedures like open heart surgery, mastectomies, and joint replacements. These people deserve to know that the massage therapist treating them is credentialed.

Since its inception, the Massage Therapy Board has disciplined bad actors. For example, 16 licensed or previously licensed therapists were disciplined in 2016, a 100% increase over the previous year. (This does not include non-licensed and never previously licensed individuals). Issues included sexual assault, inappropriate touching, sanitation practices, falsified information on license applications, presenting as if a licensed massage therapist to cover for other criminal activity, failure to maintain records, failure to obtain informed consent, practicing without current license, and aiding practice by non-licensed practitioners. Almost all resulted in license revocation or suspension and where appropriate, law enforcement was alerted. Several instances required mandated continuing education, fines, counseling, inspections, and quarterly reporting.

The savings to the state is negligible to eliminate our board (\$25,000), but would create new risks and send Wisconsin backwards. One civil suit can exceed \$25,000 for all parties involved. Wisconsin prides itself on allowing professions asking for regulation and oversight to “handle their own” and ensure best practices and a certain quality of care. We urge you to carry on with that tradition. We respectfully urge members of the committee to maintain current law and continue supporting the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board.

## Licensure testimony

Senate Committee on Public Benefit, Licensing and State-Federal Relations and  
Assembly Committee on Regulatory Licensing Reform

Aug. 24, 2017

Mr. Chairman, members of the committee, thank you for this opportunity. I'm Michael Jahr, vice president of the Wisconsin Policy Research Institute, a nonprofit, nonpartisan organization marking its 30<sup>th</sup> year of promoting free markets, individual initiative, limited government and educational opportunity in the advancement of economic prosperity and human dignity.

It's not unusual for policies that begin with good intentions to, over time, expand and evolve in ways that produce consequences their authors never intended. This is the story of occupational licensing. What was established as a means of protecting public safety has morphed into a tool for stifling competition.

No doubt you will hear from others this morning about the exponential growth of occupational licenses, the onerous burdens they impose, the inconsistent and arbitrary nature of the requirements and the unnecessary costs that they create.

We reported many of these same troubling trends in "Government's Love for Licensure," which we released this spring. I won't reiterate all



that we found, but I do want highlight one unique finding. We examined complaints filed with the Wisconsin Department of Safety and Professional Services and discovered that few of them came from consumers who were harmed or cheated by incompetent or fraudulent practitioners. On the contrary, most complaints came from people who already possessed a license and wanted to make sure others had to jump through the same state hoops that they had jumped through.

A few examples are highlighted in our report, including:

- ▶ the story of an auctioneer who reported that a competitor that he claimed was operating without a license was undermining “the properly licensed auctioneers of this region and impact(ing) our ability to compete and earn a living.” He sought action from the state “to protect our investment in business and our profession.”
- ▶ an example of a barber in Green Bay lodging a complaint against a potential competitor who apparently did not have the right license. The complainant said, “I feel that everyone should have to go to school like all other professionals as myself and others (have).”
- ▶ a complaint lodged against a young mom in Cumberland, Wis., seeking to do manicures out of her home. She’d posted her pitch, along with photos showing her work, on the Internet and was upfront about not being licensed. She described herself as “a stay-at-home mom

looking for something to do and people to talk to.” We don’t know if she got any takers, but she did get a complaint filed against her indicating that the Department should inform the young lady that she needed to be licensed.

Not surprisingly, our analysts found that licensed professions as a rule have fewer practitioners than unlicensed professions. Erecting high and unnecessary barriers to entry for those who want to pursue an occupation disproportionately impacts vulnerable and minority populations. It also results in fewer choices – and higher prices -- for consumers.

An examination of the arbitrary nature of licensure requirements, a look at the onerous and irrational numbers, confirms that public safety is no longer the key objective. How is it reasonable, for instance, that in Wisconsin it takes 15 times the amount of training to become a barber or cosmetologist than it does to become an emergency medical technician? Why are massage therapists, makeup artists, skin care specialists and manicurists required to undergo substantially more training than first responders who aid victims of car accidents, heart attacks, head injuries and shootings?

Our analysts found that “For nearly all licenses, DSPS requires hundreds of hours of training, hundreds of dollars in application fees, at least one

exam and a waiting period that could range anywhere from several days to many months before the issuance of a license.”

We believe all this is the result of a clear conflict of interest. In Wisconsin, most of the licensing boards consist of people in the field being licensed. Professional regulations tend to grow as incumbents lobby their elected representatives or various regulatory bodies to restrict entry into their fields – ostensibly for the public good.

But these policies impact real lives, the lives of people who don't have lobbyists to represent their interests, who can't make large campaign contributions and who don't host receptions in the Capitol.

In a few minutes, you will hear from two such people, one who will talk about the barriers to entry that result from licensure and one who will discuss how licensing regulations stifle the on-demand economy.

The first is Albert Walker who transformed his life from a Chicago gang member and ex-offender to a Green Bay barber who cuts hair for and mentors several of the Green Bay Packers. Albert almost lost his business due to a redundant and unnecessary licensing requirement.

You'll also hear from Samuel Haatch, a UW-Madison student pursuing an Uber-like, on-demand barbering business. It's a brilliant model and just the sort of entrepreneurial startup we want to see in Wisconsin. But licensing rules stand in the way.

For the third straight year, Wisconsin was dead last in business startups, according to an annual analysis conducted by the Ewing Marion Kauffman Foundation. One of the quickest, most effective ways to combat this would be to remove regulatory requirements that make it difficult for aspiring entrepreneurs to start a business in the first place – and keep it going once it's established.

This is not a partisan or ideological issue. Licensure reform enjoyed support from both the Trump and Obama administrations. In 2015, President Obama's White House Council of Economic Advisers released a report that found "evidence that licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines." The Council recommended that states adopt practices to eliminate these barriers to work.

Regardless of party affiliation, all of you are looking for ways to improve the quality of life for the people of Wisconsin.

You want to find ways to reduce recidivism.

You want to see more startups in the state.

You desire more employment opportunities in our central cities.

You want our young people to stay, work and live in Wisconsin.

You want Wisconsin to be an inbound migration state.

You want to care for our military families.

You want Wisconsin to be open for business.

You all embrace Wisconsin's motto of "Forward."

But, as you will hear from Albert and Samuel, occupational licensing regulations hold people back. It makes no sense to say we want these policy outcomes and then make it more difficult for people achieve them. It's like building a rail trail only to erect jersey barriers along the way that users have to overcome or circumvent.

Some professions have the potential to impact *every* resident of the state of Wisconsin. These practitioners, for good or for bad, can alter the quality of our health care, impact our environment, affect our business climate, determine the quality of education, take money from our family budgets and even determine which of our actions will cause us to lose our freedom.

For example, you would all agree that the governor and lieutenant governor can have an enormous impact on the direction of the state and the quality of life of our 5.8 million residents. So what does Wisconsin require of candidates to these offices? One must be a U.S. citizen and a qualified elector of the state at the time of taking office.

That's it.

The bar is equally low for state senators and representatives (no offense). The only requirements for you to occupy these important seats is that you be a state resident for one year and a qualified elector of your district.

How about the state attorney general? Wisconsin only requires that he or she be a U.S. citizen and a qualified elector of the state at the time of taking office. You don't even need to be a licensed attorney!

None of these positions require a certain level of education. There's no continuing education requirement to make sure you're on top of the complex issues you weigh in on every day. You don't need to renew any licenses during your tenure.

This is as it should be. Our state constitution entrusts *the people* of Wisconsin with the decision to select who serves in these important positions. Shouldn't we entrust them to choose their interior designers, auctioneers and barbers in the same manner?

Thank you.