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Policy Statement: Occupational Licensing

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Occupational Licensing Reviews

The Arkansas legislature passed Act 600 in 2019, mandating sunset reviews of every licensed occupation in Arkansas [1]. One sixth of the occupations are examined every year by the Arkansas Legislative Council's (ALC) Occupational Licensing Review Subcommittee. The aim is to ensure requirements are appropriate and to phase out those that are burdensome.

Fewer Jobs, Higher Prices, Unclear Benefits

In 1950, only 5% of occupations in the United States were licensed. In Arkansas today, about 20% of jobs require a license. These licenses are also harder to get and harder to maintain than they used to be.

Economists have shown that higher levels of licensing restrict employment opportunities in Arkansas and increase prices for consumers. Reducing requirements would directly lead to lower costs for new practitioners, and lower prices for consumers. Lowering costs for Arkansans will help their dollars go further, improving lives. Research from UCA Associate Professor of Economics and ACRE Scholar Dr. Thomas Snyder suggests that if Arkansas lowered its licensing requirements for lower-paying jobs to match Mississippi's requirements, prices for services in Arkansas would drop by 4.5% [2].

84% of studies agree that occupational licensing does not improve practitioner quality. Many studies also highlight the disparate, negative effect of high licensing requirements on ethnic minorities, military spouses, immigrants, and ex-criminal offenders.

Sunset Reviews: Part of the Solution

By enacting sunset review legislation, Arkansas joins 35 other states in systematically reviewing its licensing laws. Thirty-six states have been conducting these reviews since the first sunset legislation for licensing was passed in 1976 [3]. Texas's Sunset Advisory Commission has been active since 1977. It has saved 19 federal and state dollars for every dollar spent on sunset reviews [4].

Success comes from tailoring state regulations to demonstrated and quantified health and safety risks. The better the Arkansas Legislative Council's Occupational Licensing Review Subcommittee can do this, the better off they make Arkansans.

When to Avoid Licensure

Many job skills can and should be learned through voluntary education, certification, or on-the-job training. Job seekers choose to acquire these skills because they want to earn a living. As practitioners, they enhance their skills to advance in their careers, acquire more customers, or increase their earnings. While a practitioner might benefit from mastering a certain skill or subject, the state need not require proof of it before allowing an Arkansan to work a chosen profession.

A careful list of if/then statements will show clear alternatives to licensure. For example, if legislators are concerned that consumers are harmed when practitioners fail to complete a job, then requiring bonding for practitioners is a less burdensome method of regulation that still protects consumers.

One area where people aren't licensed in Arkansas is the restaurant industry. The government doesn't require any training or experience from chefs. Instead, it ensures consumer protection through less burdensome methods, such as inspections.

Licensing for Arkansans' Needs

Licenses often have costly educational requirements that are unrelated to consumer health and safety risks. Not too long ago, Arkansas licensed African hair braiders under the same requirements as cosmetologists. At the time, braiders using techniques specifically related to hair braiding were forced to learn unrelated techniques, such as how to perm hair, in order to practice braiding.

Braiders have been freed from those burdensome requirements [5]. However, people in other occupations in Arkansas are still forced to go through hundreds of hours of education for professions that don't need them.

A Review of ALC's First Year

We've reached the end of the first year for the ALC Occupational Licensing Review subcommittee, and they've submitted their final report to the Arkansas Legislative Council [6]. What's happened so far?

They made a couple of good recommendations, with room for improvement. ACRE report "Occupational Licensing Reform in the United States" by Marc Kilmer showed that sunset reviews in some states were ineffective, such as Indiana [7]. But Arkansas has had a much more positive outcome, with strong suggestions for reform.

Positive Outcomes for Sprinkler Fitters, Used Car Sales, Lime Vendors, Physical Therapists

The subcommittee has found that sprinkler fitters required a whopping 6,000 hours of experience and had very little impact on public safety, so they made a recommendation to delicense them.

Sprinkler fitters are the workers who install sprinklers in commercial buildings. However, they are under the supervision of sprinkler contractors, who are already licensed by the Arkansas Contractors Licensing Board.

The state was testing the competence of the sprinkler contractors, then testing the competence of their workers instead of trusting them to know who to hire. Co-chair Representative Womack called this double licensure [8]

The subcommittee also recommended to delicense used car salespersons and lime vendors, which have no experience requirements and \$15 license fees. While these are small requirements, they are still unneeded licenses that do not protect the public. They were really taxes rather than guarantees of training and experience.

Lastly, the board recommended to reevaluate and restructure physical therapy board fees. While the recommendation does not specify which fees to change, the application fees for people licensed in another state are much higher than people applying for the first time. For example, when a professional applies for licensure by exam it is only \$50, but if someone tries to apply for licensure by endorsement it costs \$160. Licensure by endorsement is only for people licensed in another state.

A Missed Opportunity

One recommendation that came before the subcommittee was to make acupuncturist licensure optional. They ultimately decided not to move forward with the recommendation, stating they wanted to ensure that acupuncturists pass a clean needle technique course [9].

This is a valid concern. But rather than throwing out the recommendation entirely, the subcommittee should have considered the existing education requirements for acupuncturists relative to their concerns. For example, a clean needle technique course from the Council of Colleges of Acupuncture and Oriental Medicine takes seven hours to complete [10]. Tattoo artists work with needles, and their bloodborne pathogens course is required to take at least two hours to complete [11].

The current laws for acupuncturists require an education of four years. A middle ground between requiring four years of someone's life to be able to practice a profession and complete deregulation is requiring a seven hour clean needle technique course. [12].

Hope for the Future

The ALC Occupational Licensing Review Subcommittee should keep Texas's \$19-to-\$1 benefit in mind, and perhaps try to beat it. Arkansas legislators have had a good start in removing red tape, but there's more to cut through. Members of the legislature have a great opportunity to tailor Arkansas's regulations to Arkansas's needs: a strong economy, abundant job opportunities, competitive prices for consumers, and protection from unsafe service providers.

ENDNOTES

[1] Red Tape Reduction Sunrise and Sunset Act of 2019, Act 600, § 10-3-318, 92nd Arkansas General Assembly. [February 28, 2019].

[2] Thomas J. Snyder, The Effects of Arkansas' Occupational Licensure Regulations. The Arkansas Center for Research in Economics at the University of Central Arkansas, Spring 2016.

[3] Iris Hentze, "Improving Occupational Licensing with Sunrise and Sunset Reviews," LegisBrief 26, no. 25 [2018].

[4] Texas Sunset Advisory Commission, "Impact of Sunset Reviews," under "How Sunset Works," <https://www.sunset.texas.gov/impact-sunset-reviews> [accessed December 17, 2020].

[5] Matt Powers, "'Natural Hair Braiding Protection Act' Now Law in Arkansas", Press Release, Institute for Justice, March 19, 2015.

[6] Occupational Licensing Review Subcommittee of the Arkansas Legislative Council. Final Report to the Arkansas Legislative Council, 93rd General Assembly, Regular Session, 2021, December 18, 2020.

[7] Marc Kilmer. Occupational Licensing Reform Across the United States. The Arkansas Center for Research in Economics at the University of Central Arkansas. November, 2018.

[8] Richard Womack, Occupational Licensing Review Subcommittee of the Arkansas Legislative Council. 2:01:52. September 14, 2020. Little Rock, AR. https://sg001-harmony.sliq.net/00284/Harmony/en/PowerBrowser/PowerBrowserV2/20200914/-1/18749?viewMode%3D1%23agenda_&sa=D&ust=1608080862680000&usg=AOvVaw2GLxd2EEGJIFsFqsfN9M21 [accessed December 17, 2020].

[9] Missy Irvin, Occupational Licensing Review Subcommittee of the Arkansas Legislative Council. 1:51:20, September 14, 2020. Little Rock, AR. https://sg001-harmony.sliq.net/00284/Harmony/en/PowerBrowser/PowerBrowserV2/20200914/-1/18749?viewMode%3D1%23agenda_&sa=D&ust=1608080862680000&usg=AOvVaw2GLxd2EEGJIFsFqsfN9M21 [accessed December 17, 2020].

ENDNOTES (continued)

[10] Council of Colleges of Acupuncture and Oriental Medicine. "CNT Course Frequently Asked Questions" under "CNT Course" under "Clean Needle Technique," https://www.ccaom.org/ccaom/Clean_Needle_Technique_Course_FAQs.asp [accessed December 17, 2020].

[11] Arkansas Department of Health - Body Art Program. "Specific Requirements for Body Art Licensure" under "Tattoo and Body Art" under "Licensing, Permits and Plan Review," https://www.healthy.arkansas.gov/images/uploads/pdf/Specific_Requirements_for_Body_Art_Licensure.pdf [accessed December 17, 2020].

[12] Alex Kanode. "[Occupational Licensing Review: Acupuncturist](#)". The Arkansas Center for Research in Economics at the University of Central Arkansas. November, 2019.



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Kanode's research focus is occupational licensing. He was a coauthor of the research paper "The Costs of Occupational Licensing in Alabama" published by the Alabama Policy Institute. He was also a coauthor of "U.S. State Occupational Licensing: Measuring its Impact on Business Establishments during the Great Recession" forthcoming from *International Journal of Business & Applied Sciences*.

Kanode earned an M.A. in Economics from George Mason University, where he was also an M.A. Fellow at the Mercatus Center.

About ACRE

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