

VOLUNTARY CERTIFICATION

An economically robust, freedom-minded reform of occupational licensing

Why Voluntary Certification?



North Carolina has one of the more aggressive occupational licensing regimes in the nation. That system has recently come under scrutiny in several ways:

- In March 2015, Gov. Pat McCrory's North Carolina Government Efficiency and Reform (NC GEAR) program found that "North Carolina imposes more stringent requirements than most other states" but that "many limitations do not match the public safety risk occupations pose." NC GEAR recommended "immediate elimination of occupational licensing requirements that do not provide value to North Carolina citizens."¹
- In December 2014, the Program Evaluation Division (PED) of the North Carolina General Assembly identified 55 occupational licensing agencies in the state. PED found insufficient oversight of the agencies and recommended the legislature review 12 agencies' authority to issue licenses and consolidate 10 agencies with others.²
- In August 2014, the State Auditor identified 57 boards and found their oversight activities ineffective, their performance unmeasured, and even that the official listing of boards was incomplete.³
- In February 2015, the U.S. Supreme Court ruled that the North Carolina State Board of Dental Examiners had violated federal antitrust laws. The dentistry board had forbidden service providers without dental licenses from offering teeth-whitening services.⁴ Dentist offices charged from \$400 to \$1,300 for whitening services, while day spas, mall kiosks, and salons charged \$75 to \$125.⁵

The need for reform beckons, but what kind of reform? Should North Carolina centralize and strengthen state regulation over work even further?

Remember, the North Carolina Constitution — in Article I, Section I — recognizes a *self-evident right* of all people to "the enjoyment of the fruits of their own labor."⁶

Is there a reform to uphold that right that addresses any legitimate concerns behind licensure? There is. It is voluntary certification, which is used in many other unlicensed fields.

The current system: What is occupational licensing?

An occupational license is basically official permission from a government to let an individual work in a regulated area of business.

This permission slip comes at a cost. The licensee must satisfy the government licensing board's requirements of educational credit, class time logged, entrance exams, and licensing fees. These all cost time and money (tuition and exams fees included). Without the license, the individual cannot legally work in his chosen field.

State licensure is usually justified as ensuring safety and quality of service work. Research findings cast much doubt on licensure's actual effectiveness regarding safety and quality.

The strongest, most consistent finding in the research literature is this: licensing yields higher earnings for licensed professionals by keeping competitors out and prices on consumers high.

Occupational licensing is especially harmful to the poor in many ways, directly and indirectly:

1. Higher prices on services burden all consumers but affect the poor the most.
2. Costly hurdles to gaining a license keep some would-be practitioners out, especially the poorest.
3. Occupational licensing blocks many low-income people from becoming self-employed entrepreneurs.
4. Decades of research has shown that entrepreneurial activity in low-income areas causes a "double dividend" of local job growth and economic growth in areas that need it most.⁷ By discouraging it, occupational licensing deals a double blow to low-income communities.

Across the states, there are over 1,100 professions subject to state licensing, but only a little over 5 percent are licensed in every state.⁸ That means states are in *significant disagreement over which services actually need regulation for safety and quality.*

The proposed reform: What is voluntary certification?

Market opportunities exist when consumers want to know which members of a service profession are trustworthy — and when professionals wish to alert potential customers that they can be trusted.

To fill this need, private certification groups emerge. For example, over 300,000 mechanics are certified by the National Institute for Automotive Service Excellence. Over 4,000 locksmiths have been certified by the Associated Locksmiths of America, with another 2,900 still in various stages of the process. Though there was an effort in 2014 to bring behavioral analysts under licensure in North Carolina, a nonprofit Behavioral Analyst Certification Board already offers professional training and certification.⁹

The certification service and certified professionals work in concert to uphold each other's reputations. To remain a sought-after seal of approval, the service ensures they bestow it only on worthy professionals. For their certification to have its quality guarantee effect to potential customers, the service pros ensure their actions don't detract from it.

Furthermore, the certification service is more able to adjust quickly to changing service dynamics, discard insufficient standards, and adopt new ones more reflective of the work needs. Their market survival depends upon getting the standards right. They are not government outfits that can be only statutorily removed.

Voluntary certification addresses three distinct problems—one that occupational licensing is supposed to address, and the others caused by licensing's failure to address the first problem adequately:

- *Safety and quality*, by letting consumers choose according to their needs and budgets, and so getting closer to actual market concerns.
- *Economic growth*, especially in poor communities, by not preemptively pricing poor individuals out of entrepreneurship but letting them compete.
- *More affordable services*, with prices being kept lower through more competition.

The table below illustrates key differences between state licensing of occupations and voluntary private certification.

Recommendation: Replace most occupational licensing with voluntary private certification

North Carolina's aggressive occupational licensing faces considerable concerns about its fairness, efficiency, scope, and more.

A ready answer to these concerns would be to transition most jobs currently under state regulation away from licensure and into voluntary private certification.

This move would inject a great amount of freedom and choice into the market for service professionals and into the labor market as well. It would pay dividends in terms of job creation and help lift low-income individuals and neighborhoods.

It would be another strong signal that North Carolina welcomes business and supports her entrepreneurial risk-takers, big or small.

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Differences between occupational licensing and voluntary private certification		
	Licensure	Voluntary certification
Mandatory or choice	Required by law	Chosen by service provider
Legality of work	Illegal to work without license	OK to work without certification; criminal to claim certification falsely
Hurdles	Several costly, mandatory hurdles to licensure: licensing board fees, school tuition and fees, time in school, qualifying exams (some licenses require several), examination fees, etc.	No mandatory hurdles; decision to pursue, satisfy private certification service's requirements a voluntary choice
Supply of labor	Fewer service providers, less competition	More competition, greater range of service providers
Consumer choice	Less consumer choice	More consumer choice, greater range of service options
Earnings	Wage premium: higher earnings by blocking competition	No significant wage premium
Consumer costs	Higher costs on consumers from constraint on labor supply	Lower costs on consumers, greater range of choices, service levels
Low-income entrepreneurship	Especially difficult for low-income individuals to join the industry	More receptive to low-income individuals choosing to join the industry
Low-income communities	Harmed in several ways: higher service costs, less entrepreneurial opportunities, "double blow" against local job creation and local economic growth	Helped in several ways: lower service costs, choice of service levels, more entrepreneurial opportunities, and the "double dividend" of local job creation and local economic growth
Black market	More illegal, under-the-table work from higher consumer costs	Less illegal, under-the-table work
Safety and quality	Safety, quality effects are doubtful — research finds little evidence of safety, quality enhancements	No apparent harm to safety or quality; gets closer to market concerns over safety and quality
Innovation	Resists innovation and improvement	Encourages innovation, lets the market reward new, better service discoveries and improvements
Antitrust	Could even violate antitrust laws	No risk of antitrust violation

Appendix: Low-income entrepreneurship and voluntary certification

Entrepreneurial activity holds significant importance not just to low-income entrepreneurs starting at the bottom rungs, but also to their communities. According to newly published research by Stephen Slivinski, Research Fellow at the Center for the Study of Economic Liberty, Arizona State University:

... one of the most important lessons from the past 20 years is how entrepreneurial activity offers an avenue out of poverty for many. As decades of studies show, entrepreneurs can be extremely effective in fostering local job creation and driving economic growth.

Such cases are often found in low-income areas and immigrant communities. As Federal Reserve Bank of Kansas City economist Kelly Edmiston writes:

“Entrepreneurship may yield a double dividend in low and moderate income communities. Many of the retail and services establishments available in higher income areas, such as grocery stores, often are not available to low and moderate income people ... [who also] face transportation challenges. Entrepreneurial activity not only provides income to the entrepreneurs and perhaps others in the community, but also provides needed goods and services.”

Some studies have noted that large shares of entrepreneurs are centered in industries that rely on low-wage workers—often the type of workers who find themselves below the poverty line, making those potential workers the most likely new hires for an entrepreneur. ...

University of Michigan’s Panel Survey of Entrepreneurial Dynamics indicates that 38 percent of “nascent entrepreneurs,” defined as those actively involved in the creation of new business ventures, live in low- and moderate-income areas. And around 45 percent of those live in low-income neighborhoods. In total, about 8 percent of “nascent entrepreneurs” live in households with below-poverty-level income.

It is for these classes of families that entrepreneurial endeavors are the most important.

Evidence of how entrepreneurship can be a ladder out of poverty comes from the Aspen Institute. Researchers there conducted a five-year survey in the mid-1990s, following more than 1,500 low-income entrepreneurs across the nation. Close to three-fourths (72%) of those low-income entrepreneurs experienced an increase in their household income between \$8,000 and \$22,374. Their household assets increased by an average of more than \$15,000 over five years. Perhaps most impressive, more than half (53%) had moved out of poverty in five years. Additionally, those who were on welfare before becoming entrepreneurs were able to generate enough income on their own that, on average, the amount of public assistance they accepted declined by 61 percent.¹⁰

This ladder-out-of-poverty effect is even more impressive for low-income black entrepreneurs over the long term, as researchers Douglas Holtz-Eakin, Harvey S. Rosen, and Robert Weathers found:

...for individuals who began toward the bottom of the earnings distribution, continuous experience with self-employment was a successful strategy for moving ahead (relative to wage-earners), both in the short- and long-term. The result is just the opposite for those who started out toward the top—continuous experience with self-employment led to a fall in their relative positions. ...

With respect to blacks, the most striking phenomenon is the difference between the short-term and long-term effects of experience with self-employment. In the short-term, the effects were often negative, and dramatically so for those who began in the middle of the earnings distribution and exited from self-employment. However, when we look at longer term effects of experience with self-employment, the impact was generally positive and sometimes substantially so. Importantly, continuous experience with self-employment led to very large improvements for blacks who started toward the bottom of the earning distribution. ...

A striking result is that, on average, entrepreneurship was a more successful long-term strategy for blacks than for non-blacks, ceteris paribus.¹¹

Consider then the lost entrepreneurship opportunities, the lost “double dividends” in low-income communities, especially in an aggressive licensing state. Research by University of Minnesota labor economist Morris Kleiner, the nation’s foremost expert in occupational licensing, estimates the lost jobs and higher consumer costs nationally that, if viewed from the reform side, suggests large gains in jobs and consumer savings:

While it is not possible to precisely estimate the effects of substantially reducing occupational licensing, the current evidence suggests that such a reduction could translate into significantly higher employment, better job matches, and improved customer satisfaction. Low-income consumers, in particular, would benefit because reduced barriers to entry would reduce the prices of services provided (Shapiro 1986; Cox and Foster 1990). Suppose that the entire 15 percent wage premium for licensing is from rents (as opposed to human capital), labor supply is perfectly elastic, and the labor demand elasticity is 0.5. There are approximately 38 million licensed workers in the United States with average annual earnings of \$41,000. Under these assumptions, licensing results in 2.85 million fewer jobs with an annual cost to consumers of \$203 billion.¹²

Those would be offset somewhat by possible benefits from licensing. Nevertheless, the quickest policy option to produce these gains is voluntary private certification. As Kleiner wrote,

Finally, in thinking about the policy implications of empirical research in this area, it is important always to keep in mind the policy option of certification. This potential substitute for licensing allows consumers or employers to choose whether they are willing to pay a higher wage for someone with greater state-documented skills relative to someone with fewer job characteristics. It is plausible to believe that certification would have lesser effects on the prices charged or the wages of an occupation, because it would not restrict supply as tightly, and also that it would have lesser effects on quality. Thus, it offers an intermediate choice between the extremes of no state role in qualifications at all and the absolute requirement of having a license before working at certain occupations.¹³

Certification is protected by the government through criminal fraud law, as noted by Byron Schlomach, director of the Center for Economic Prosperity at the Goldwater Institute, who wrote:

However, certification does not preclude anyone from practicing a profession. It only precludes someone from claiming a certification. Not unlike companies that pursue the UL label, private professionals will have an incentive to band together and create professional standards outside of government as long as they know their efforts will be protected without necessarily going through the high costs of civil litigation. The potential is that there might be competing certifying organizations. This potential is already witnessed with the simultaneous existence of medical doctors, osteopaths, and podiatrists as licensed professions—all with hospital privileges. With certification, though, other types of health professionals with hospital privileges could more easily arise.¹⁴

Private professionals are indeed spontaneously banding together to create and police their own professional standards. Certification is in fact proliferating in unlicensed fields, including especially newer fields. Pam Brinegar, the executive director of the Council on Licensure, Enforcement, and Regulation, as affiliate of The Council of State Governments, described it this way:

... emerging professions increasingly evaluate and certify practitioners through private sector voluntary credentialing organizations. These organizations usually require that members meet standards of professional practice, codes of ethics and continuing education. They also may have mechanisms for professional discipline and are likely to require recertification of credential holders. Many voluntary groups submit their certification programs to a third-party accreditation organization such as the National Organization for Competency Assurance or the American National Standards Institute to ensure that their programs are properly structured to ensure protection of consumers.

In other words, even the private certification programs themselves seek third-party assurance of their standards.¹⁵

The key takeaway from this reform is this, as stated in the Institute for Justice’s comprehensive study of state licensure of low-income jobs:

*Voluntary certification through professional associations can benefit practitioners by enabling them to distinguish themselves, while consumers remain free to choose among all providers and decide for themselves how much value to place on such credentials.*¹⁶

Endnotes

1. “Reduce Barriers to Work Through Occupational Licensing,” *Report to the Joint Legislative Commission on Government Operations*, North Carolina Government Efficiency and Reform, March 5, 2015, p. 40, ncgear.nc.gov/documents/NC%20GEAR%20Final%20Report.pdf.
2. “Occupational Licensing Agencies Should Not Be Centralized, But Stronger Oversight Is Needed,” Program Evaluation Division, North Carolina General Assembly, December 2014, ncleg.net/PED/Reports/2014/OccLic.html.
3. “Occupational Licensing Boards and Commissions: Financial Related Audit” (FCA-2014-7902), North Carolina Office of the State Auditor, August 2014, ncauditor.net/EPSTWeb/Reports/FiscalControl/FCA-2014-7902.pdf.
4. Dan Way, “N.C. Dental Board Loses Antitrust Challenge,” *Carolina Journal*, February 26, 2015, carolinajournal.com/exclusives/display_exclusive.html?id=11825.
5. Nina Totenberg, “Supreme Court Hears Arguments In Teeth Whitening Case,” National Public Radio, October 14, 2014, npr.org/2014/10/14/356177201/supreme-court-hears-arguments-in-teeth-whitening-case.
6. North Carolina State Constitution, Article I, Section 1, ncga.state.nc.us/Legislation/constitution/article1.html.
7. Stephen Slivinski, “Bootstraps Tangled in Red Tape: How State Occupational Licensing Hinders Low-Income Entrepreneurship,” Goldwater Institute, *Policy Report* No. 272, February 23, 2015, pp. 6–8, goldwater-media.s3.amazonaws.com/cms_page_media/2015/2/23/OccLicensing3.pdf.
8. Pam Brinegar, “Trends and Issues in State Professional Licensing,” *The Book of the States 2004*, Council of State Governments, 2004, p. 447.
9. Q.v., National Institute for Automotive Service Excellence, ase.com/Home.aspx; Associated Locksmiths of America, “Education,” aloea.org/education/aloea-education.html; Behavioral Analyst Certification Board, bacb.com/index.php?page=1.
10. Slivinski, “Bootstraps Tangled in Red Tape,” pp. 6–8.
11. Douglas Holtz-Eakin, Harvey S. Rosen, and Robert Weathers, “Horatio Alger Meets the Mobility Tables,” National Bureau of Economic Research, *Working Paper* No. 7619, March 2000, pp. 23–24, nber.org/papers/w7619.
12. Morris M. Kleiner, “Occupational Licensing: Protecting the Public Interest or Protectionism?”, W.E. Upjohn Institute for Employment Research, *Policy Paper* No. 2011-009, July 2011, p. 3, research.upjohn.org/cgi/viewcontent.cgi?article=1008&context=up_policypapers.
13. Morris M. Kleiner, “Occupational Licensing,” *The Journal of Economic Perspectives*, Vol. 14, No. 4 (Autumn 2000), p. 200, hhh.umn.edu/people/mkleiner/pdf/licensing.pdf.
14. Byron Schlomach, “Six Reforms to Occupational Licensing Laws to Increase Jobs and Lower Costs,” Goldwater Institute *Policy Report* No. 247, July 10, 2012, pp. 23–24.
15. Brinegar, “Trends and Issues in State Professional Licensing,” pp. 447–448.
16. Dick M. Carpenter II, Lisa Knepper, Angela C. Erickson, and John K. Ross, “License to Work: A National Study of Burdens from Occupational Licensing,” Institute for Justice, May 2012, pp. 32–33, ij.org/licensetowork..