

The Forum for America's Ideas

Overview of the National Occupational Licensing Learning Consortium

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NATIONAL CONFERENCE *of* STATE LEGISLATURES

National Conference of State Legislatures

- NCSL is a national bipartisan membership organization
 - Established in 1975
 - Serves all legislators and staff in every state, territory, and commonwealth of the United States
- NCSL's mission is to improve the quality and effectiveness of legislatures, promote policy innovation and communication among states, and provide a unified voice for the interests of state legislatures at the federal level.



Occupational Licensing: Assessing State Policy and Practice

- 2016: NCSL, in partnership with NGA and CSG, won \$7.5 million grant from US DOL for project on occupational licensure
 - Funds available through December 2019
- 2018: NCSL and partners awarded second US DOL grant to expand licensure project
 - Funds available through December 2021



Occupational Licensing: Assessing State Policy and Practice

- Objectives of the project:
 - Research licensing criteria nationwide
 - Help states identify existing and new licensing requirements that may be overly broad, burdensome or restrictive
 - Assist states in addressing those licensure regulations found to pose unnecessary barriers to labor market entry
 - Improve the portability and reciprocity provisions for selected occupations across state lines



Occupational Licensing: Assessing State Policy and Practice

- Research and analysis
 - 2017: State of Occupational Licensing Report
 - 2018: Series of reports examining disproportionate burden of licensure felt by certain populations
 - Veterans and military spouses
 - Individuals with criminal records
 - Long-term unemployed persons
 - Immigrants with work authorization
 - Ongoing: Licensure Requirement Database and Licensure Legislation Tracker



Occupational Licensing: Assessing State Policy and Practice

- Engagement with state policy-makers through the multi-state Occupational Licensing Learning Consortium

Arkansas

Colorado

Connecticut

Delaware

Illinois

Indiana

Kentucky

Maryland

Nevada

Utah

Wisconsin

- Providing structured technical assistance, hosting meetings and conferences, facilitating planning.



Occupational Licensing: Assessing State Policy and Practice

- Teams of policymakers from each state work with staff from NCSL and our partners to develop a policy action plan that addresses licensure law and regulation
- National meetings with programming provided by licensing policy experts
- Structured interstate networking and licensure policy updates provided via webinar, email
- Five additional states will be added under the grant awarded in 2018



Occupational Licensing: Assessing State Policy and Practice

- In first year of Consortium, 83 licensing reform bills were enacted across the ten Consortium member states that held legislative session.
- After being admitted to the Consortium, member states were over 40 percent more likely to pass proposed licensing legislation compared to non-member states, on average.



Clarifying the subject of our research

- Licensure is a form of government regulation mandating an individual receive qualified approval from an authority designated by the state prior to practicing.
- Regulation by licensure is intended to protect consumer health and safety by preventing the entry of potentially dangerous or otherwise unqualified individuals.
- Data show that, in some cases, licensing benefits the public, but, in many more cases, consumer welfare is unchanged, or sometimes reduced by this regulation.



Mechanics of licensure as public policy

- Independent licensing boards or state regulatory agencies generally establish requirements and are the final arbiter of market entry.
 - Often, state officials develop licensing rules in concert with boards or commissions led by industry participants.
- To obtain a license, individuals typically must meet state- and occupation-specific requirements, such as passing exams, paying fees, completing specified education or training, gaining specified experience and establishing language proficiency.



Growing interest among policymakers

- Licensing is the single largest labor market institution in the country
 - Roughly 25% of the workforce
 - More people need state licenses to work than are covered by the minimum wage or are members of unions
- In the US, occupational and professional licensure is a function of state (or sometimes local) government
 - As licensure has been more frequently and intensely applied, working across state lines has become more complicated
 - 50+ independent jurisdictions will come up with 50+ different systems of regulating the same occupation or profession



Growing interest among policymakers

- In all cases, economic data demonstrate that licensing can have negative consequences for job growth, overall employment and consumer prices
 - These costs are not evenly distributed across the workforce
- Even when the benefits of licensure clearly outweigh the costs, the interstate patchwork of regulations leads to a significant decrease in labor market fluidity which further depresses job growth and overall employment



Growing interest among policymakers

- Licensing disproportionately disadvantages certain segments of the workforce
 - Military veterans face legal barriers to work when experience requirements do not account for servicemen and women
 - Military spouses face legal barriers to remaining in their line of work when stationed in new states
 - Individuals with criminal records can face outright bans on working
 - The long-term unemployed and people with low-incomes face time and monetary costs they may be unable to pay and may lack the connections necessary to meet experience or apprenticeship requirements



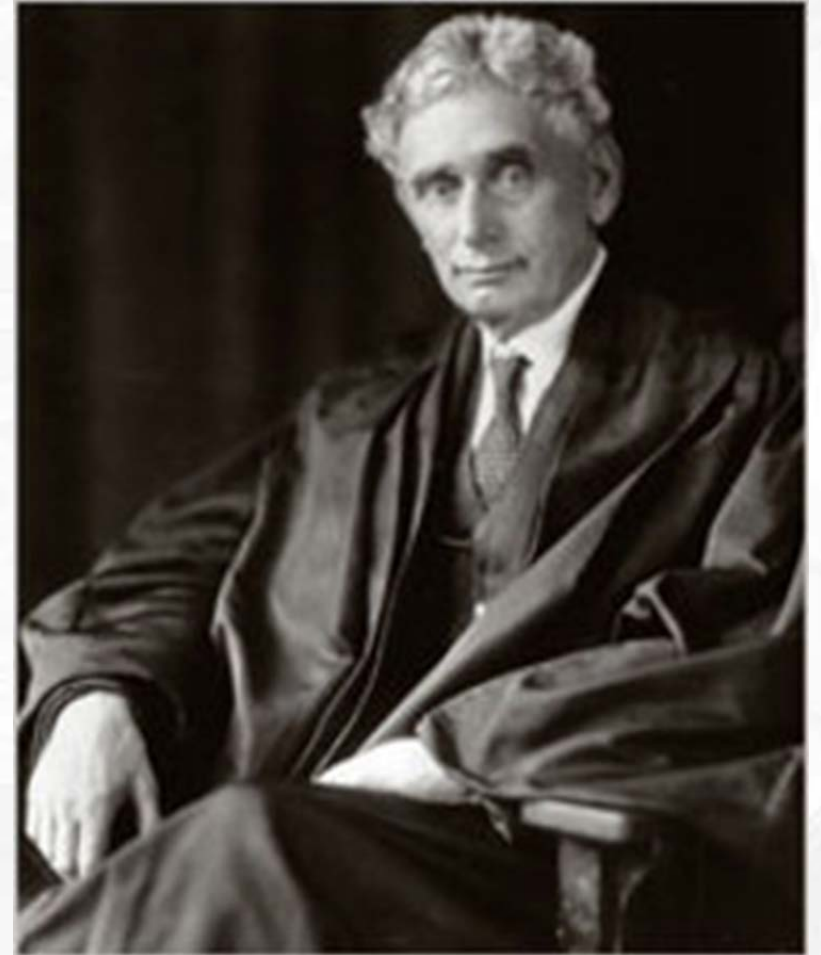
Growing interest among policymakers

- *North Carolina Board of Dental Examiners v. Federal Trade Commission*
 - US Supreme Court ruled in 2015 that regulatory bodies (licensing boards) which are controlled by active market participants constitute illegal cartels, in violation of federal anti-trust law
- *Occupational Licensing: A Framework for Policymakers*
 - The Obama White House in 2015 released a series of reports and made the recommendation that licensure laws be reexamined
- Since 2015, state lawmakers have become increasingly attentive to licensing policy



Common approaches in the states

- Establish board immunity
 - Active supervision
 - Consolidation
- Streamline process
- Interstate agreements
- Conduct comprehensive review
- Strengthen or create sunrise/sunset procedures
- Legislatively alter requirements



Trends in licensing legislation

- 2017: 61 pieces of legislation were enacted across 24 states to reduce licensing mandates, expand options for meeting licensing criteria, or create waivers for certain licensing requirements
- 2018: 66% of proposals to create new licenses or expand the scope of practice covered by an existing license were rejected by state legislatures
 - 12-percentage point increase over average rate of rejection from the previous two years



Trends in licensing legislation

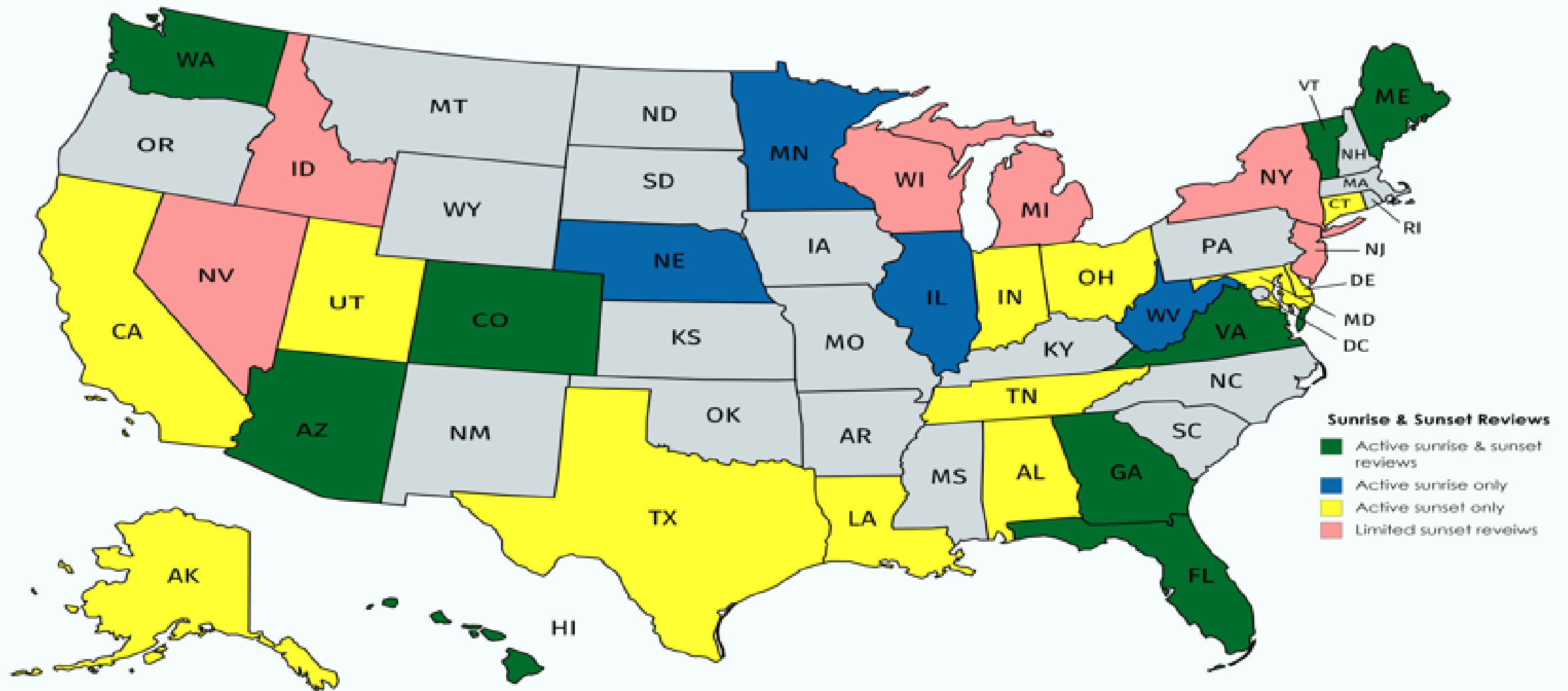
- 2018: nine states considered legislation to require regulatory impact reviews of all new and existing licensing laws
 - Currently, 31 states have nominal requirements for sunrise or sunset reviews of licensing regulations, 10 of which actively perform both sunrise and sunset reviews
- In 2017 and 2018, eight bills were enacted to delicense occupations in seven states
 - This equals the total number of occupations that had been delicensed nationwide in the 40 years prior



Understanding Sunrise/Sunset

- At the federal level, regulatory bodies have been required by every President since Jimmy Carter to review the cost and benefits of regulatory alternatives before issuing rules
 - Also required in many states, for licensing and other rulemaking
- Ex-ante or “lookback” analysis can help enforcement, expand public input, and reduce mission creep
- When and by whom reviews are executed matters
 - Independent agency or commission, self-review, legislative body





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Source: Council on Licensure Enforcement and Regulation



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Conclusion

- Effective policy takes quantitative analysis of well-collected data and trial-and-error
- Econometric results of licensure have given lawmakers reason to question its efficacy and reexamine its appropriateness as a form of regulation
- Licensure reform legislation is being enacted across the country to address not only public welfare concerns, but also anti-trust and economic inequality



Thank you

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