

**United States House of Representatives  
Committee on Education and the Workforce  
Subcommittee on Higher Education and Workforce Development**

**Hearing on  
“Occupational Licensing: Reducing Barriers to Economic Mobility and Growth”**

June 20, 2018

The public is best served when state regulatory boards, duly constituted under state law, are free to make decisions on issues of occupational public health, safety, and welfare, decisions which involve a balancing of multiple values—including the necessity of occupational license, regulatory expediency, and ultimate effect on the economic health of the marketplace. Just as important as these values is the ability to protect their citizens from fraudulent or unsafe practices by unqualified practitioners of vital consumer services.

The undersigned associations of state licensing boards and the organizations representing those licensed professionals serving on these boards have a direct interest in the issues being considered by this Subcommittee. Collectively, our organizations produce uniform examinations and assessment mechanisms to ensure entry level competency, assess domestic and foreign educational programs, draft best practice guidelines and model laws, and manage comprehensive databanks of information crucial to occupational licensure, including information on education, examinations, demographics, post-licensure continuing education and continuing competence. These materials and programs are used by state legislatures and state regulatory boards when contemplating reforms which impact occupational licensure. State governments use occupational licensure to ensure the quality, safety, and integrity of the knowledge-based professions. Licensure and regulation promotes high standards practice and effectuates the state’s primary goal of protecting public health, safety, and welfare.

We urge the Subcommittee to contemplate the unique role of state licensing bodies and occupational licensure in the system of state government. Throughout the history of this country, states have relied upon a system of regulation that includes various approaches to licensure and

have created licensing boards under the auspices of state law to oversee the licensure process and protect the consuming public from harm. We ask you to acknowledge that regulation of certain licensed professional services requires deference to the preferences of the state regarding the type, number, and method of licensure, as well defer to choices of the states on how best to structure occupational licensure and empower regulatory authorities charged with enforcing regulations for the public good.

### The Role of Licensure and Licensing Boards in a Free Market

Professional licensure exists within a system of federalism in which, under the Tenth Amendment, the federal government displays respect for the sovereign decisions made by the states to oversee professionals providing services within their boundaries. State licensing boards limit the ability of unqualified professionals from entering the market and restrict or remove professionals when they do not adhere to the professional standards set by the state or they endanger members of the consuming public. Through promulgation and enforcement of standards of practice, state licensing boards ensure that the skilled professional is acting for the benefit of the consumer, and not at the expense of the consumers. All of these actions are deliberate, and undertaken subject to state laws guaranteeing transparency and public inclusion. In comments at the July 2017 FTC Economic Liberty Taskforce Roundtable, Acting Chairman Maureen Ohlhausen recognized that occupational licensure serves important consumer protection functions, especially in situations where consumers may be vulnerable because they lack sufficient information to evaluate the quality of service providers.

State licensing boards serve an important role in the function of a free market by creating trust between the public consumer of a service and the professional who provides it within a state's borders. Although boards vary in structure and form, the legislatively mandated purview of any state licensing board is to determine whether certain societal values, such as reduction of physical harm or avoidance of deception, outweigh the benefits of unrestricted competition. In addition, state licensing regimes help to level the playing field for persons seeking to enter a particular profession because there are clear requirements and pathways to enter that profession, as opposed to purely relying on access to information and relationships that could otherwise assist in gaining entry into the profession.

The broad generalizations relied upon by critics of state licensing boards assume that consumers can unilaterally distinguish the qualifications necessary to provide a service and characterize the role of licensing boards as superfluous in a modern marketplace. However, it is difficult for a consumer to properly value a market good or service that is based upon the provision of advanced knowledge. Knowledge-based market goods and services lack the purely transparent character that would allow consumers to discern the quality of the goods or services much in the same way they would discern the quality of basic retail goods such as food or clothing. This understanding is implicit in the decision of a state to license a profession and should be reflected in federal competition preferences.

#### Procompetitive Steps to Streamline & Reduce Barriers

It is important for this Subcommittee to recognize the great, procompetitive strides that states and state licensing boards have made in recent years to facilitate and encourage licensed professionals to engage in the delivery of regulated services in a variety of U.S. jurisdictions. These strides have been in the form of interstate compacts, mutual recognition agreements, and various forms of mobility initiatives. These efforts have been coupled with efforts to reduce licensing burdens for veterans and military spouses.

A healthy respect for the ability of states to work together absent federal mandate or interference in the proper functioning of state-based regulation is imperative, as the choices made by the states in structuring its regulatory system are not solely determined by one factor, such as federal competition preferences or economic analysis, when matters of the public health, safety, and welfare of its citizens are at issue. To that end, Congress should be hesitant to enact occupational licensing reforms which would frustrate or impair the ability of state boards to regulate professions in compliance with state law, state policies, and the chosen structures of a state. Congress should continue to defer the primary responsibility to institute occupational licensure reform to the states, as the state regulatory community is better suited to align with multiple aims, including economic outcomes, without sacrificing public protection.

## Conclusion

We appreciate the Subcommittee's attention to this issue, and respectfully urge the Subcommittee to consider devising appropriate policies that balance underlying concerns of competition, economic efficiency, and innovation with the principles of federalism and the good public policy of state regulatory boards as the protector of the health, safety and welfare of the public. We would be pleased to meet with the Subcommittee and its members to discuss these issues further. Thank you.

*Respectfully Submitted,*

**American Association of Osteopathic Examiners**

**American Association of Veterinary State Boards**

**American Council of Engineering Companies**

**American Institute of Certified Public Accountants**

**American Osteopathic Association**

**American Physical Therapy Association**

**American Psychological Association Practice Organization**

**American Society of Anesthesiologists**

**American Society of Civil Engineers**

**American Society of Landscape Architects**

**Association of Social Work Boards**

**Association of State and Provincial Psychology Boards**

**Council of Landscape Architectural Registration Boards**

**Federation of Associations of Regulatory Boards**

**Federation of Podiatric Medical Boards**

**Federation of State Boards of Physical Therapy**

**Federation of State Medical Boards**

**National Association of State Boards of Accountancy**