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# Unleashing Potential

The Burdens of Occupational Licensing  
and How It Can Be Reformed  
in Puerto Rico

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## Introduction

Occupational licenses are state regulations<sup>1</sup> that set requirements for individuals to practice a specific trade or profession. These requirements may include formal education or training, work experience, passing exams, and payment of fees, among others. Occupational licenses function as a permit to work, as they prohibit individuals from practicing without holding a license. The purported purpose of occupational licenses is to set minimum quality standards of occupational practice to protect public health and safety (Timmons et al., 2022); for example, many jobs in the healthcare field require licenses due to the potential harm that subpar services could arguably cause to well-being and life.

Over the years, the requirement for occupational licenses has expanded to jobs that do not pose risks to health and safety. This has led to 30% of jobs in the United States currently requiring a license, compared to less than 5% in the 1950s (Goldman, 2018). These regulatory demands are considered a *burden* for individuals aspiring to work in low- and middle-income occupations such as recreational leader for the community, makeup artist, shampooer, travel guide, condominium administrator assistant, and electrical helper, among others. This is because the combination of cost, effort, and time required to obtain an occupational license can be a barrier for them to engage in a trade or profession.<sup>2</sup>

This report presents a diagnosis of the dysfunctions of occupational licenses, with an emphasis on service quality, labor force participation, personal mobility, and public well-being. Occupational licenses in Puerto Rico and their requirements are discussed, with comparisons made to licenses in the United States. Additionally, reforms implemented in various states<sup>3</sup> and the District

of Columbia are considered, and five key elements are proposed for occupational regulation reform in Puerto Rico: the elimination of occupational licenses, the adoption of universal recognition, the easing of restrictions based on criminal backgrounds, and the establishment of sunrise reviews and sunset reviews.

## Service Quality

Occupational licenses are believed to be necessary to ensure consumers receive quality service; however, evidence indicates licenses do not necessarily achieve this, as they often only rely on meeting certain requirements rather than demonstrating individuals' competence or skill. A recent study found, first, that “across the multiple occupations and states, licensing (or stricter forms of it) consistently does not appear to produce greater service quality. ... Second, where there is a measurable difference between states as indicated by statistical significance, the state with lighter regulation has higher quality” (Sweetland & Carpenter, 2022, p. 10).

Other studies have provided additional evidence that strict occupational regulation does not guarantee high-quality service or yield significant benefits to public health and safety (Carpenter, 2011; Deyo, 2017; 2022; Hall & Horowitz, 2021; Kleiner & Koumenta, 2022; Peterson, Pandya, & Leblang, 2014; Timmons & Mills, 2018). In fact, a report published under the administration of Barack Obama states that, overall, “empirical evidence does not find that stricter licensing requirements improve quality, public safety or health” (Department of the Treasury Office of Economic Policy et al., 2015, p. 58). Instead, more stringent licensing regulations have been documented to be associated with less competition and higher prices, without any improvement in customer satisfaction (Farronato et al., 2020).

For numerous consumers, it is not crucial whether those offering certain services have a license (or if it is valid or expired). When they need a service, many consumers ask acquaintances for recommendations or research online about the quality, compliance, and pricing of providers. Customer-to-customer electronic interaction is rapidly growing as customers increasingly use online tools to assess the service quality of providers (Timmons et al., 2022; Wei et al., 2022);

<sup>1</sup> Throughout this report, occupational licensing refers to state level licensing only. In the United States, licensing can also occur at the municipal, county, and federal levels; therefore, counts of U.S. licenses in this report refer only to state licenses.

<sup>2</sup> Kleiner and Vorotnikov (2018) delve into the economic costs of occupational licenses and provide detailed characteristics of workers who are licensed, certified, or have neither in each state.

<sup>3</sup> The term “state” in both singular and plural forms in this report refers to the 50 federated states of the United States of America.



for instance, through platforms like Yelp, consumers can find information about the best and worst-rated providers (Carpenter, 2017).

Occupational regulation can even undermine service quality when individuals active in the market<sup>4</sup> participate in licensing boards or influence the regulatory authority (Ohlhausen, 2017b). This opens the door for individuals or professional organizations to create barriers to entry into the profession, control the supply, and limit competition. Alternatively, individuals with particular interests may benefit themselves<sup>5</sup> at the expense of consumer welfare and to the detriment of economically disadvantaged groups (Sanderson, 2014). These individuals and organizations often intervene in legislative processes for the establishment or continuation of protectionist measures such as occupational licenses.<sup>6</sup> In fact, some studies (Carpenter, 2008; Mellor & Carpenter, 2016; Sanchez et al., 2022) suggest licenses are almost always created—or preserved, in the event of reform efforts—at the behest of professional associations that lobby legislatures for regulations to fence out competition.<sup>7</sup>

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<sup>4</sup> It refers to individuals who work in the same profession they seek to regulate and who may derive all or much of their income from it (Ohlhausen, 2017b).

<sup>5</sup> Ohlhausen emphasizes that when individuals with financial interests control, dominate, or have influence over a regulatory entity, there is a risk that the decisions of that entity “will serve the private economic interests of its members, not the policies of the state or the well-being of its citizens” (2017b, p. 3).

<sup>6</sup> Self-dealing could arise from inherent biases associated with “singularly strong private interests,” and “an assessment of the structural risk of market participants’ confusing their own interests with the State’s policy goals” (N.C. State Bd. of Dental Examiners v. Fed. Trade Comm’n, 2014).

<sup>7</sup> Such studies are consistent with the larger concept of public choice theory. As Larkin describes it: “Producers, consumers, and voters seek to maximize their own welfare; politicians, to attain or remain in office; and bureaucrats, to expand their authority. The result is trade in a political market. Interest groups will trade political rents in the form of votes, campaign contributions, paid speaking engagements, book purchases, and get-out-the-vote efforts in return for the economic rents that cartel-creating or -reinforcing regulations, such as occupational licensing, can provide. Government officials are aware of interest groups’ motivations and use those groups to their own poli-

## Labor Force Participation

Obtaining an occupational license requires a combination of time, effort, and money, “which reduces the willingness of new workers to enter a license-gated occupation” (Common Sense Institute [CSI], 2022, p. 1). Research has shown that the requirement for licenses has “a profound impact in reducing labor supply in both online and offline markets and creating persistent labor shortages” (Blair, 2022, p. 7). Licensing depresses business employment and growth, stymying the benefits of entrepreneurship (Plemmons, 2021). Studies have found that occupational licensing reduces total employment between 11% and 27% (Blair & Chung, 2019) in gated sectors<sup>8</sup> and, furthermore, “raises prices for licensed services by 3-16%” (CSI, 2022, p. 2).<sup>9</sup>

The Federal Trade Commission asserts that “[b]ased on recent studies, the burdens of excessive occupational licensing—especially for entry- and mid-level jobs—may fall disproportionately on our nation’s most economically disadvantaged citizens” (2018, p. iv), including immigrants, racial and ethnic minorities, and women attempting to enter licensed occupations (Angrist & Guryan, 2008; Blair & Chung, 2019; Boesch, Kokodoko, & Nunn, 2022; Boesch, Lim, & Nunn, 2022; Cassidy & Dacass, 2021; Chung & Zou, 2021). Often, these individuals face education and procedural costs that make obtaining an occupational license an excessively burdensome task. The former commissioner of this agency remarked on this matter:

I am particularly concerned that occupational licensing disproportionately affects those seeking to move up the lower and middle rungs of the economic

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tical advantage. Lobbyists and associations serve as the brokers” (2016, pp. 228–229).

<sup>8</sup> Kleiner and Krueger (2013) previously documented that occupations requiring a license to work experience slower growth than those that do not require one. These researchers found that in states where occupations such as librarian, respiratory therapist, dietitian, and nutritionist “were unlicensed there was a 20 percent faster growth rate than in states that did license these occupations” (2013, p. 6).

<sup>9</sup> The reduction in competitiveness and supply causes those with licenses to charge more for their services than they would if participating in an open market.

ladder, as well as military families and veterans. Occupational licensing regulations can prevent individuals from using their vocational skills and entering new professions, as well as starting small businesses or creating new business models. (Ohlhausen, 2017a, pp. 4-5)

Many labor-market regulations, such as occupational licensing, commonly lead to participation in the shadow economy (Hoffer & Nesbit, 2020). It is estimated that these economic transactions that go unreported to the government exceed \$17 billion in Puerto Rico, which represents more than 30% of the gross domestic product. When the government unnecessarily intervenes in the free market and imposes onerous burdens for people to work and start small businesses, many turn to alternative routes that deviate from the legal framework and the formal economy (Montalbán Ríos, 2022). This often occurs in licensed occupations such as barber, electrician, and plumber.

## Personal Mobility

Occupational licensing laws not only create entry barriers but also discourage people from changing jobs or careers (Kleiner & Xu, 2020) or moving from one jurisdiction to another, fearing the need to go through the licensing process again (Johnson & Kleiner, 2020; Plemmons, 2021). It is estimated that occupational licenses affect one in five workers in the United States and can pose a substantial barrier to people's mobility (Institute for Justice [IJ], [2022]a). Because occupations are regulated by each jurisdiction using different criteria and requirements, relocation can be a challenge for individuals seeking employment. To address this situation, the Federal Trade Commission recommends license portability.

By enhancing the ability of licensees to provide services in multiple states, and to become licensed quickly upon relocation, license portability initiatives can benefit consumers by increasing competition, choice, and access to services, especially with respect to licensed professions where qualified providers are in short supply. (Goldman, 2018, p. 2)

Of course, the greatest amount of portability comes when an occupation is not licensed; that should be the default position for all occupations. Only when a need for licensure is empirically demonstrated should one be created. In the event of licensure, portability can be increased through recognition,<sup>10</sup> which is when a jurisdiction accepts (i.e., recognizes) licenses from other jurisdictions without requiring aspiring workers to complete additional training, pass tests, etc.

Currently, 21 states have enacted universal recognition for license holders from other states and jurisdictions within the United States (IJ, [2022]a), and many other states have made efforts to improve the mobility of workers across states (Hentze & Herman, 2021). A jurisdiction seeking to establish universal recognition should not impose more burdensome requirements than those of the applicant's home state. Recognizing the license of the issuing jurisdiction only when its requirements are greater or equivalent to those of the receiving jurisdiction<sup>11</sup> or requiring residency would be contrary to the intent of license portability, which is to facilitate mobility across jurisdictions.

According to the Institute for Justice, there are currently eight states (Arizona, Idaho, Iowa, Kansas, Mississippi, Missouri, Utah, and Virginia) that “allow universal recognition of a home state license if it has a similar ‘scope of practice’ or ‘at the same practice level’ to the recognizing state’s license. This means a board does not have to compare and contrast the license requirements

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<sup>10</sup> Recognition is just one—and the least restrictive—form of portability (other than no license). Another is reciprocity, where two states, for example, agree to recognize the licenses of each, so long as the licensure requirements are equivalent between states or other conditions are met. The most restrictive—and least desirable—is interstate compacts. Under these arrangements, states enter into formal contracts to create and/or support a separate governing system and infrastructure to harmonize and oversee licensing requirements for a given occupation. Occupational practitioners in compact states can move and work freely among participating states.

<sup>11</sup> This would penalize those coming from jurisdictions where the burden of requirements for a license is less onerous.

between the two states.”<sup>12</sup> Additionally, in five states (Iowa, Kansas, Mississippi, Ohio, and Virginia), “applicants from states that didn’t license the occupation can still obtain a license to work if they have at least three years of experience in that occupation” ([2022]a).

The process for an individual with a license from another jurisdiction to obtain the same license and be able to work in Puerto Rico could take several months or even years. An example of this is the case of Dr. Elba Gerena, a psychiatrist with subspecialties in neuromuscular medicine and clinical research in muscular dystrophy. She waited two years to obtain in Puerto Rico what had taken her around three months in other states.

It is challenging to summarize my experience over the past two years trying to navigate the island’s healthcare system. I have encountered numerous barriers to establishing my practice as a subspecialist physician and practicing my profession with dignity and excellence. There are no guidelines to overcome all the obstacles that arise. Moreover, it is disheartening when you know you have met all the requirements necessary to establish a successful private practice and yet receive no response from the local and state agencies vested with the authority to assist in this process. ... No matter how much mental and financial preparation I had before returning to the island, after two years of daily struggles with a broken system, I have had to make the decision to return to the United States. My situation is just a symptom of an ailing healthcare system that is not equipped to assist healthcare professionals or patients. Ultimately, it is the Puerto Rican people who must decide whether this is the system they want to continue supporting or if they will heed the warnings from all the voices indicating that the system is in decline. (Gerena, 2022)

<sup>12</sup> Arizona was the first state to have universal recognition without a “substantially equivalent” requirement through the H.B. 2569 statute (2019, p. 2). A recent study estimates that universal recognition in Arizona will increase the population by 44,376 people, jobs by at least 15,991 workers, and the gross domestic product by \$1.5 billion by the year 2030 (Common Sense Institute, 2022).

Like Dr. Gerena, 550,421 people migrated from Puerto Rico to the United States between 2011 and 2020 (Universidad de Puerto Rico, 2021). The top ten states with the highest incoming migration of Puerto Ricans in that period were Florida, Texas, Arizona, North Carolina, South Carolina, Colorado, Washington, Tennessee, Georgia, and Nevada.<sup>13</sup> Streamlining the portability of occupational licenses held by Puerto Ricans in the United States could serve as an incentive for them to return to the Island.<sup>14</sup>

## People with Criminal Records

Occupational regulations can be a barrier for individuals with criminal records to secure employment and earn an honest living (Mitchell & Palagashvili, 2020). This is partly because many of these individuals lack the resources to undergo the process of obtaining an occupational license (Carpenter, 2018). Additionally, some states prohibit or restrict the issuance of occupational licenses to individuals with criminal records. It has been observed that states with more regulations and restrictions tend to have higher rates of criminal recidivism.<sup>15</sup> When comparing a group of states with low occupational licensing burdens and those with high burdens, Slivinski found

the average increase in the new crime recidivism rate during the survey period was larger than average and much larger than the states that do not prohibit occupational licenses to former prisoners or do not have some kind of restrictions on the conditions for which an ex-prisoner may be denied

<sup>13</sup> All these states significantly outperform the Island in economic freedom, as reported in *Economic Freedom of North America 2022* (Stansel et al., 2022). In this study published by the Fraser Institute, Florida had the highest score with 7.94 and Arizona had the lowest with 5.87 among the states to which most Puerto Ricans migrated, while Puerto Rico ranked last with 2.04—74.31% less than Florida and 65.25% less than Arizona—.

<sup>14</sup> The study by Bae and Timmons (2023) provides information on the effects of universal recognition on labor market activity and geographic mobility of licensed individuals.

<sup>15</sup> According to Institute for Justice, “[r]educing licensing burdens could make considerable strides toward reducing recidivism rates by putting former offenders back to work and helping them reintegrate into society” (IJ, [2022]b).



a license. These “prohibition states” experienced a more than 9% increase in the three-year, new crime recidivism rate. This is over 3.5 times the 2.6% average increase for all the states in the survey and substantially more than the 4.2% *decline* in the average new crime recidivism rate in the low burden, non-prohibition states. (2016, p. 6)

Individuals with criminal records face significant challenges in reintegrating into society, such as the stigma attached to a criminal record, the erosion of job skills, disruption of formal education, and the loss of social networks (Bucknor & Barber, 2016). If the demand or even the denial of occupational licenses is added to this, their chances of finding employment or starting businesses in regulated sectors are severely limited. From 2015 to 2020, 39 states and the District of Columbia reformed their occupational licensing laws to make it easier for people with criminal records to find work in licensed occupations.<sup>16</sup> As a result of these reforms:

- (a) In 21 states, ex-offenders can petition a licensing board at any time, including before enrolling in any required training, to determine whether their criminal record would be disqualifying.
- (b) Nineteen states block boards from denying licenses to ex-offenders based on vague and arbitrary terms as their “good character” or “moral turpitude.”
- (c) Another four states removed moral character requirements from many of their licenses but did not enact an overarching ban.
- (d) Licensing boards in 20 states are generally barred from denying ex-offenders a license to work, unless the applicant’s criminal record is “directly related” to the license.
- (e) Thirteen states impose a time limit for considering old felony convictions (aside from

sexual and violent offenses), ranging from three years in Maine to 20 years in Wyoming.

- f) Eighteen states prohibit licensing boards from using records that have been sealed, expunged, annulled, or erased to disqualify applicants. (Sibilla, 2020)<sup>17</sup>

In Puerto Rico, Senators José Vargas Vidot and Joanne Rodríguez Veve introduced bills to prohibit employment discrimination based on criminal records. The Comisión de Derechos Humanos y Asuntos Laborales (Human Rights and Labor Affairs Commission) consolidated the most substantial provisions of both measures into a substitute bill to establish the Ley para Prohibir el Discrimen Laboral por Razón de Tener Antecedentes Penales (2021) (Law to Prohibit Employment Discrimination Based on Having a Criminal Record). The substitute bill was approved in the Senate and the House of Representatives of Puerto Rico but was vetoed by Governor Pedro R. Pierluisi, alleging a conflict with federal regulations that establish prohibitions or limitations on individuals who have committed certain crimes. The text of the bill decreed that licensing boards could not summarily reject the application of an applicant for a profession covered by the proposed law solely because the applicant had a criminal record.

## Occupational Licenses in Puerto Rico

The exact number of occupational licenses in Puerto Rico and their burdens is unknown. In order to start mitigating this lack of information, the University of Puerto Rico conducted a study on occupational licenses on the Island and their requirements. These requirements encompass age, level of education, apprenticeship or experience, exams, initial costs, renewal costs, renewal periods, and continuing education, among others. According to the study, over 140 occupations are regulated in Puerto Rico (Ruiz-Torres et al., 2022),<sup>18</sup> of which at

<sup>16</sup> Subsequently, Ohio and the District of Columbia approved additional reforms regarding the consideration of criminal records for occupational licensing. The approved bills in Ohio and the District of Columbia were respectively *Revise Occupational License Restrictions for Former Criminals (2021)* and *Removing Barriers to Occupational Licensing for Returning Citizens Amendment Act of 2019 (2021)*.

<sup>17</sup> CCRC Staff (2021) provides more information on the enacted laws limiting consideration of criminal records by occupational licensing agencies.

<sup>18</sup> Some occupational licenses on the Island such as Medical Ultrasound Technologist (Cardiac) and Medical Ultrasound Technologist (Vascular) were included in the University of Puerto Rico study as a single license: “Sonographer (Cardiovascular).”

least 131 have an active occupational regulation. Table 1 presents the agencies responsible for the identified active licenses, arranged by the number of licenses under their purview.<sup>19</sup>

In the University of Puerto Rico report, each of the occupational licenses in Puerto Rico was compared with those of the 50 states and the District of Columbia, based on studies published by the Institute for Justice and the Knee Center for the Study of Occupational Regulation at West Virginia University. One of the most revealing findings was that Puerto Rico has 34 occupational licenses that exist in fewer than 5 states and the District of Columbia—among them, 13 that exist only on the Island—(see Table 2 to Table 6).<sup>20</sup> Additionally, it was found that 22 occupations in Puerto Rico require a license in less than 75% of the United States, and 54 occupations require a license in less than half of U.S. state jurisdictions.

The study also compared the occupational licenses in Puerto Rico with those of the 10 states with the highest number of Puerto Rican immigrants; these states are Florida, New York, New Jersey, Pennsylvania, Massachusetts, Connecticut, California, Texas, Illinois, and Ohio. In the comparison, it was found that at least 40 of the occupations regulated on the Island do not require a license in 7 or more of these 10 states; specifically:

- (a) Twenty-four do not require a license in any of the states.
- (b) Eight require a license in only one state.
- (c) Four require a license in only two states.
- (d) Four require a license in only three states.

These findings raise questions about the necessity of requiring licenses for occupations in Puerto Rico that, in the majority of states, are not required, meaning they are practiced in all or almost all jurisdictions in the United States without the need for regulation.

## The Burdens of Occupational Licenses on the Island

In 2022, the Institute for Justice released *License to Work: A National Study of Burdens from Occupational Licensing, 3rd Edition*. This report provides an updated snapshot of licensing's breadth and burdens for 102 lower-income occupations across all 50 states, the District of Columbia, and, in a first for this edition, Puerto Rico. Of the 131 occupational licenses active on the Island, 49 were part of the sample examined in *License to Work*. The burden for these 49 licenses was 144 days of required education and experience, at least one exam, and \$228 in fees, on average. This average burden does not include the time and costs of the studies required for each of the licenses.

The *License to Work* study highlights that some of the requirements in Puerto Rico far exceed the minimums in the United States. Among the occupational licenses on the Island whose requirements, such as education, are well above the minimum requirements in the United States, the following stand out: manicurists: 1,000 hours vs. 12 hours in Alaska; skin care specialists: 1,000 hours vs. 220 hours in Florida; electrical helpers: 500 hours vs. 0 in Minnesota, Iowa, and Maine—the only three states that have this license; and pharmacy technicians: An associate degree and a 1,000-hour supervised internship, requirements that exceed those of all other jurisdictions.

The authors add that other requirements in Puerto Rico are too burdensome considering the lack of risks they pose to the public (Knepper et al., 2022). Among those, for example, are cosmetologists, which require almost eight months of preparation; while three months are

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Likewise, the licenses for Recreational Leader for the Community and Recreational Leader for Older Adults appear in the study as a single license: "Recreation Leader." Additionally, the University of Puerto Rico study did not include licenses for sports occupations such as referee, judge, officer, boxer, and jockey, as they were considered atypical occupations.

<sup>19</sup> Data from the entities responsible for licenses in Puerto Rico and Ruiz-Torres et al. (2022) were used to elaborate all the tables included in this report. In cases where there was a discrepancy between these sources, the data from the entities in charge of the licenses were utilized.

<sup>20</sup> Among the occupations included in Table 2 and Table 3, there are four whose designation is not a license but rather a permit, authorization, certification, or revalidation; these are: Assistant Condominium Administrator Permit, Medical Care Operator Authorization, Tour Guide Certification, and Notary Revalidation. There are differences among these designations; but if, ultimately, they are a government-controlled requirement for employment, they are equivalent to an occupational license.

**Table 1.**  
*Agencies Overseeing the Identified Active Occupational Licenses in Puerto Rico*

<b>Agency</b>	<b>Number of Licenses</b>
Department of Health	55
Department of State	34
Department of Consumer Affairs	8
Bureau of Transportation and other Public Services	6
Office of the Commissioner of Insurance of Puerto Rico	5
Puerto Rico Office of the Commissioner of Financial Institutions	4
Puerto Rico Gaming Commission	4
Department of Recreation and Sports	4
Puerto Rico Department of Natural and Environmental Resources	3
Judicial Branch of Puerto Rico	2
Department of Public Safety	2
Puerto Rico Tourism Company	2
Department of the Family	1
Department of Treasury	1

**Source:** Own elaboration.

**Table 2.**  
*Thirteen Licenses in Puerto Rico That Do Not Exist in Any State in the U.S.*

<b>License</b>	<b>Agency</b>
Assistant Condominium Administrator Permit	Department of Consumer Affairs
Chemist	Department of State
Health Educator	Department of Health
Naturopathic Practitioner	Department of Health
Physician Authorized to Prescribe Cannabis	Department of Health
Planner in Training	Department of State
Professional Agronomist	Department of State
Professional Draftsman	Department of State
Public Events Promoter	Department of Treasury
Public Relations Specialist	Department of State
Recreational Leader for the Community	Department of Recreation and Sports
Recreational Leader for Older Adults	Department of Recreation and Sports
Tire Importer	Puerto Rico Department of Natural and Environmental Resources

**Source:** Own elaboration.

**Table 3.***Seven Licenses in Puerto Rico That Exist in Only One State in the U.S.*

<b>License</b>	<b>Agency</b>
Automotive Apprentice	Department of State
Automotive Technician	Department of State
Community Health Educator	Department of Health
Medical Care Operator Authorization	Bureau of Transportation and other Public Services
Professional Planner	Department of State
Registered Mechanic (RM)	Department of Consumer Affairs
Tour Guide Certification	Puerto Rico Department of Natural and Environmental Resources

**Source:** Own elaboration.**Table 4.***Three Licenses in Puerto Rico That Exist in Only Two States in the U.S.*

<b>License</b>	<b>Agency</b>
Ambulance Operator	Bureau of Transportation and other Public Services
Electronic Technician	Department of State
Health Services Administrator	Department of Health

**Source:** Own elaboration.**Table 5.***Eight Licenses in Puerto Rico That Exist in Only Three States in the U.S.*

<b>License</b>	<b>Agency</b>
Apprentice as a Refrigeration and Air Conditioning Technician	Department of State
Automotive Mechanic	Department of State
Employee in a Medical Cannabis Establishment	Department of Health
Insurance Solicitor	Office of the Commissioner of Insurance of Puerto Rico
Interior Designer and Decorator	Department of State
Medical Ultrasound Technologist (Cardiac)	Department of Health
Medical Ultrasound Technologist (General)	Department of Health
Medical Ultrasound Technologist (Vascular)	Department of Health

**Source:** Own elaboration.

**Table 6.**

*Three Licenses in Puerto Rico That Exist in Only Four States in the U.S.*

<b>License</b>	<b>Agency</b>
Manager in a Medical Cannabis Establishment	Department of Health
Notary Revalidation	Judicial Branch of Puerto Rico
Travel Agency	Puerto Rico Tourism Company

**Source:** Own elaboration.

required for an emergency medical technician,<sup>21</sup> who often care for people in life-or-death situations. Another example is interior designer, a license that exists only in three jurisdictions in the United States and that on the Island requires more hours of continuing education than for dental hygienists, nurses, paramedics, physical therapists, podiatrists, and veterinarians. Contrasts like this lead us to question if licenses in Puerto Rico are really established to protect public health and safety.

## Mandatory Professional Membership

Occupational licenses are not the same as membership in professional associations, and in many cases, the latter constitutes an additional burden for those aspiring to practice a profession in Puerto Rico. Professional associations are groups of individuals in the same profession formed for “the defense, organization, and control of professional practice” (Delgado-Aleman et al., 2020, p. 233).<sup>22</sup> Entry into these associations requires having the corresponding academic or professional degree, possessing and maintaining a valid license to practice the profession, and paying an initial and renewal fee to the association. Unlike the United States, in Puerto Rico, some professions require practitioners belong to a professional association.

<sup>21</sup> This difference is even more peculiar considering that Puerto Rico’s training requirements for entry-level emergency medical technicians—400 hours of accredited coursework—are triple the requirements of most states.

<sup>22</sup> This encompasses deontology defined as the concretization of certain ethical principles into rules of conduct demanded of those practicing a profession (Marcheco Acuña, 2018).

On the Island, there are over 20 professions that currently require occupational licensing and mandatory professional association membership. For some individuals, mandatory professional membership violates the general principle of individual freedom upon which democratic constitutions are founded (Marcheco Acuña, 2018) and the rights to free association and the free exercise of the profession. Mandatory professional membership has been debated in the courts of Puerto Rico several times and, in most cases, the courts declared mandatory professional membership unconstitutional, as it contravenes the freedom of association and is not considered to be the least burdensome and restrictive alternative for safeguarding public health and welfare.<sup>23</sup>

## Occupational Regulation Reform

The reform of occupational regulation has been a matter of public policy for both Democratic and Republican administrations in the United States, aimed at promoting labor force participation, personal mobility, and economic development. The Obama administration published a report titled *Occupational Licensing: A Framework for Policy Makers*, which concludes “state legislators and policymakers should adopt institutional reforms that promote a more careful and individualized approach to occupational regulation that takes into account its costs and benefits, and harmonizes requirements across States” (Department of the Treasury Office of Economic Policy et al., 2015, p. 56).

<sup>23</sup> In these cases, judicial decisions left the door open to voluntary membership, as in the case *Rodríguez Casillas v. Colegio de Técnicos y Mecánicos* (2019).



Similarly, former President Donald J. Trump issued the Executive Order *Increasing Economic and Geographic Mobility*, “to reduce the burden of occupational regulations that impede job creation and slow economic growth.” This document states occupational licensing frequently imposes expensive requirements “on potential job seekers, even for occupations with limited future earnings potential.” It also indicates that “[a]ccording to recent research, licensing requirements have cost our country an estimated 2.85 million jobs and over \$200 billion annually in increased consumer costs” (Exec. Order No. 13966, 2020, p. 1).

Likewise, President Joseph R. Biden, Jr.’s Executive Order *Promoting Competition in the American Economy* recognizes that “some overly restrictive occupational licensing requirements can impede workers’ ability to find jobs and to move between States” and urges state, territorial, and tribal governments to “review existing occupational regulations to ensure that their requirements are the least restrictive to competition” (Exec. Order No. 14036, 2021, pp. 1-2). This is crucial in Puerto Rico—with a historically low labor force participation rate of less than 50% and 41.7% of people in poverty (U.S. Census Bureau, 2023)—to encourage more individuals to enter the workforce and start small businesses.<sup>24</sup>

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<sup>24</sup> The Financial Oversight and Management Board for Puerto Rico (FOMBPR) created under the Puerto Rico Oversight, Management and Economic Stability Act of 2016 has also expressed its views on this matter. “To promote labor force participation and create incentives for skilled workers to relocate to and remain on-Island, the Government must, as appropriate, streamline, eliminate, or harmonize occupational licensing requirements with those on the U.S. Additionally, the Government should identify the different occupational licenses with the highest number of workforce members in the informal economy in order to leverage and establish best practices for the creation of new licenses and to avoid the production of burdensome regulations and time-intensive legislative overhauls” (FOMBPR, 2023b, p. 63).

## Occupational Licensing Reform in Puerto Rico

Reforming occupational licenses in Puerto Rico is imperative to align requirements with current evidence and needs, facilitate workforce participation, and promote overcoming dependency. The review of occupational licenses on the Island should be based on the strict adherence—by each of them—to public health, safety, and welfare objectives (Timmons & Norris, 2021). The reform of occupational regulation in Puerto Rico is, therefore, an opportunity to balance public protection with the creation of avenues for economic freedom that are more accessible and equitable for all. Achieving effective changes and the stated goals is a process that involves the following elements.

### Elimination of Occupational Licenses

It is recommended that the reform of the current occupational regulation begins with licenses that, at first glance, fail to pose an evident risk to public health and safety; and, therefore, seem unnecessary. The first of such licenses include the 13 that exist only in Puerto Rico and the 21 that—aside from the Island—exist in fewer than 5 jurisdictions in the United States. These 34 occupations or professions are practiced in all or almost all jurisdictions in the United States without the need for regulation and, likely, many of them could also be practiced in Puerto Rico without the necessity of an occupational license.

### Adoption of Universal Recognition

An important element of occupational regulation reforms that have taken place in several jurisdictions is the adoption of universal recognition. Embracing the universality of occupational licenses in Puerto Rico would make it easier for Puerto Ricans living in the United States who wish to return to the Island to do so and practice their professions as they do in the states. It is recommended to recognize licenses from other jurisdictions “as valid for practice *regardless of whether their requirements are more, less, or equally burdensome* ... This makes recognition administratively easy, as officials do not need to scrutinize other states’ licensing regimes” (Knepper et al., 2022, p. 57).

Based on the Arizona reform, the Institute for Justice drafted and published the model bill *Universal Recognition of Occupational Licenses Act*. This document includes the recognition of a license from another state if the worker (a) is currently authorized to practice their profession in another state and (b) has been authorized for at least one year (IJ, 2020). Additionally, it features an interactive map of the 20 states that have approved some form of universal recognition of occupational licenses (IJ, [2022]). This tool can be used to access the laws and amendments of those 20 states and identify best practices that could serve as a model for legislation in Puerto Rico.

### Reducing Restrictions for Individuals with Criminal Backgrounds

Occupational licensing reform in Puerto Rico should consider the following three elements in cases involving individuals with criminal backgrounds.

- (1) Limit disqualifications to convictions directly related to the specific license, instead of allowing blanket bans that deny licenses for any conviction (or even arrest) or vague, arbitrary “good moral character” provisions that are difficult to enforce fairly and leave aspirants unsure of whether they will be denied.
- (2) Give former offenders the opportunity to petition a licensing board at any time, including before they invest in required education and training, for a determination of whether their criminal record will be disqualifying.
- (3) Put the burden on the government to prove a person should be excluded from an occupation to protect public health and safety, rather than requiring former offenders to prove why they should not be excluded. (Knepper et al., 2022, p. 58)

### Foresight for New Licenses

To prevent the introduction of new occupational licenses while reviewing existing ones, it is recommended that an independent commission be established to examine and evaluate whether a proposed new license is justified. This process is known as sunrise review, and it entails a careful, data-driven analysis conducted before a state legislature considers any new regulation. The outcome

of this process should contribute greater and more comprehensive insights into the benefits and drawbacks of the proposed regulation (Bison, 2020). Sunrise review processes pose questions such as:

- (1) Is the harm to public health and safety well documented, significant, and widespread, not merely anecdotal, potential, or even likely?
- (2) Where harms exist, what is the least restrictive voluntary or regulatory option available to best address them?
- (3) What are the probable costs and benefits of the proposed regulations, and do the benefits outweigh the costs? (Knepper et al., 2022, p. 57)

The Institute for Justice published a study on state laws and sunrise reviews titled *Too Many Licenses?* (Sanchez et al., 2022), along with the *Occupational Licensing Review Act. Model Legislation*, to assist states in drafting their legislation (IJ, 2021).<sup>25</sup> Sunrise reviews assist legislatures in assessing whether proposals for the creation or expansion of occupational licenses and other regulations are essential to protect the public or, conversely, serve as barriers to restrict competition.

### Review of Existing Licenses

To identify existing occupational licenses that are inappropriate or unnecessary, an independent commission should be established with the authority to regularly review current occupational regulation laws. This process is known as sunset review. The purpose is to determine which of the active licenses remain necessary but may need modification for an appropriate burden and which licenses should be eliminated. The criteria established for sunrise reviews can also be applied to sunset reviews. In addition to those criteria, questions that may arise in sunrise review processes include:

- (1) What evidence is there that licensing is the best shield for consumers in this occupation?
- (2) How would a titling or registration policy compare to licensing this occupation?

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<sup>25</sup> Additionally, Timmons & Norris (2021) present key considerations when establishing a sunrise review.

- (3) Why don't existing laws against fraud adequately serve to protect consumers and give them recourse when they are harmed? (Timmons & Vargo, 2021, p. 5)<sup>26</sup>

The works of Norris et al. (2020) and McLaughlin et al. (2020), published by the Center for Growth and Opportunity at Utah State University and the Mercatus Center at George Mason University, respectively, are additional resources that the independent commission could utilize.

## A Menu of Regulatory Options

Whether during sunrise or sunset reviews or when pondering new licensing proposals, consideration should be given to the least restrictive regulatory option. Hemphill and Carpenter (2016) provided a useful menu of such options. This menu can be thought of as a hierarchy, with the least intrusive forms of regulation at the top and the most restrictive—licensing—at the bottom (see Figure 1). Hemphill and Carpenter describe all the options in detail; we present some of the more common here. The top options in the hierarchy are voluntary and include the following.

- (a) Market competition/no government regulation. Due to social media, advice blogs, and websites (e.g., Angie and Yelp), consumers enjoy ready access to voluminous information about service providers. As consumers use such information to choose providers, the market forces created in the process can often identify and punish incompetents and fraudsters more effectively than government regulation.

- (b) Third-party professional certification and maintenance. Such certifications can and often do come through professional associations. Additionally, the National Commission for Certifying Agencies has credentialed approximately 300 professional and occupational programs from more than 120 organizations over the past three decades. These occupational certification programs cover nurses, automotive occupations, respiratory therapists, counselors, emergency technicians, and crane operators, among others. Certifications often carry the same requirements as state regulations for licensure, and many employers require these certifications for employment.
- (c) Voluntary bonding. Because some occupations introduce more risks to consumers than others, bonding guarantees protection against losses from theft or damage by a service provider. In practice, it shifts management of risks to bonding companies.

The remaining elements of the hierarchy require government intervention. These are presented from the least to most restrictive.

- (d) Inspections. Inspections of businesses are common in some industries, such as restaurants, and can be applied to other professionals, such as barbers and cosmetologists, where the government's primary concern is cleanliness of instruments and facilities.
- (e) Mandatory bonding or insurance. For some occupations, governments may find voluntary bonding insufficient and instead require mandatory bonding or insurance. This may be preferable when, for example, parties not involved in a contact between a customer and a service provider could nevertheless be exposed to risk by the service provider. This provides some avenue of restitution for the third party.
- (f) Registration. This requires providers to notify the government of their name, their address, and a description of their services. Registration facilitates service of process for private

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<sup>26</sup> Timmons and Vargo state that “[w]hen asking if the state is getting the regulations right, regulators could be asked to conduct a basic cost-benefit analysis. Anecdotes of offenses that cannot be directly attributable to regulation are insufficient as justifications. Rather, evidence should be presented that a real problem exists in the labor market and that the problem is systemic rather than anecdotal. Moreover, it should be clearly indicated why licensing improves outcomes for consumers instead of making things worse” (2021, p. 5).

civil actions. It may also be enough to deter bad actors from offering services to begin with.

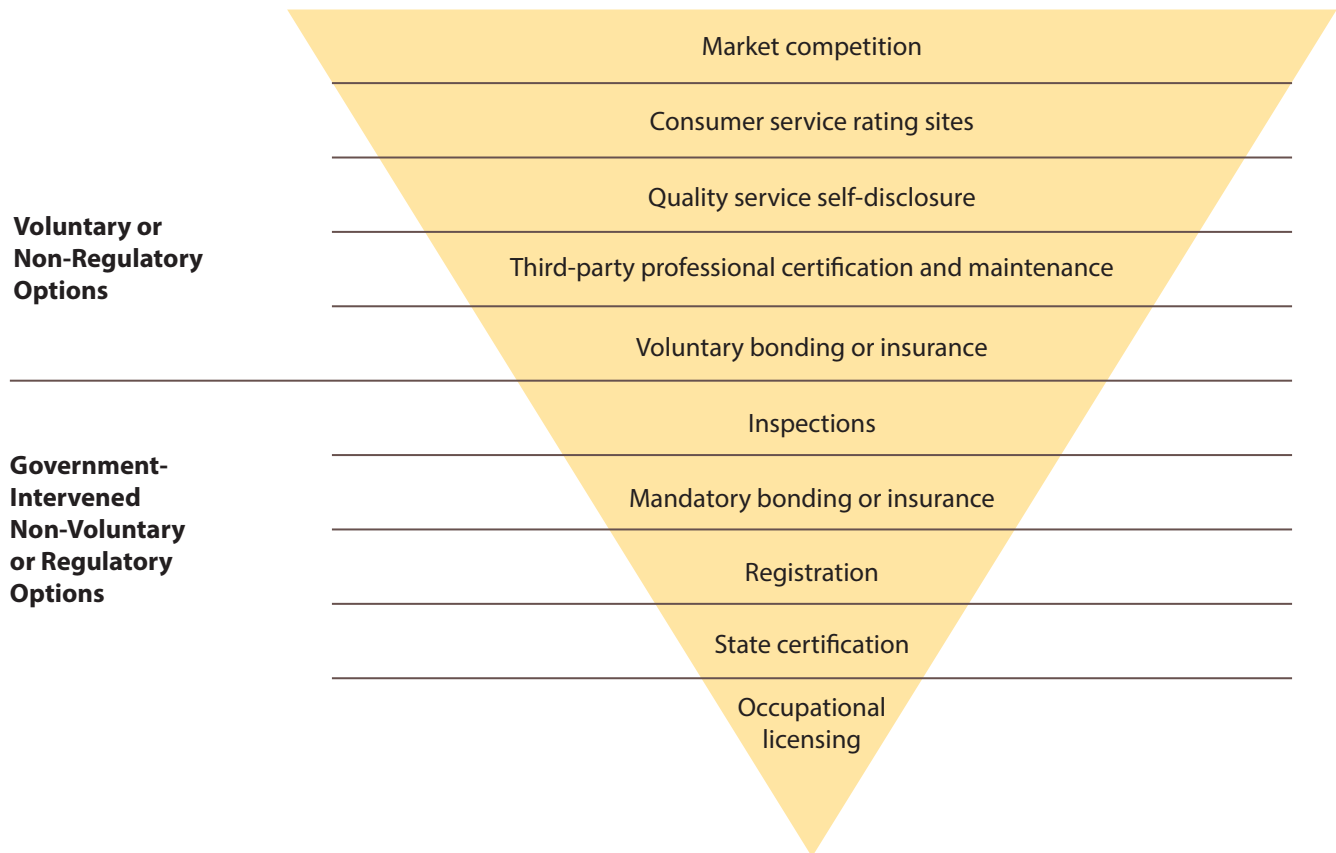
- (g) State certification. In state certification, the government—not a private third-party organization—acts as the certifying body. This arrangement restricts the use of a title (e.g., certified interior designer) rather than the practice of an occupation. With it, service providers can “signal” to consumers they have completed the necessary requirements to be called certified, while still allowing other, non-certified providers to practice. Consumers are then free to decide for themselves what type of provider they prefer.
- (h) Occupational license. Licenses are the most restrictive form of occupational regulation, and because they are often, if not almost

always, created at the behest of industry leaders and come with significant costs and questionable benefit, they should be created or maintained with significant caution. Moreover, proposals for new or the perpetuation of existing licenses should be supported by empirical evidence of their need, not just anecdotes and speculation.

To apply this hierarchy, Hemphill and Carpenter recommend that legislators or agency officials (a) identify the problem, (b) quantify the risk, and (c) apply solutions mostly tightly linked to the problem as possible. Moreover, applying the appropriate solution should always begin by considering options at the top of the hierarchy—the market-based mechanisms—and then proceeding to government regulation only as necessary.

**Figure 1.**

*Hierarchy of 10 Occupational Regulation Options from Less Restrictive to More Restrictive*



Source: Own elaboration based on Hemphill and Carpenter (2016) and Knepper et al. (2022).

## Conclusion

As this report has outlined, the barriers imposed by occupational licenses have become unwarranted hindrances for the practice of various trades and professions. These regulations, originally purported to ensure minimum quality standards to protect public health and safety, have extended to occupations where risks are minimal and the necessity of regulation is unjustified. Excessive regulation discourages labor force participation, restricts personal mobility, and creates economic barriers that disproportionately affect those with fewer resources; therefore, occupational regulation reform must not lose sight of individuals' right to work and earn a livelihood.

The right to earn an honest living is explicitly acknowledged in the Constitución del Estado Libre Asociado de Puerto Rico. Article II, section 16 recognizes “[t]he right of every employee to choose his occupation freely,” which is similarly noted in section 20: “The Commonwealth also recognizes the existence of the following human rights: ... The right of every person to obtain work.” Section 20 further recognizes “[t]he right of every person to a standard of living adequate for the health and well-being of himself and of his family” (P.R. Const. art. II, §§ 16, 20), which is contingent upon the preceding rights of occupational freedom and obtaining work.

Those rights are too often burdened, if not denied, by unnecessary occupational licenses that inhibit or prevent workers from entering the occupation of their choice. The government of Puerto Rico has a duty to protect public health and safety, yet occupational licenses rarely fulfill such a duty and instead protect license holders from competition in the form of unlicensed practitioners. Hindering the rights of free occupational practice cannot be justified under these circumstances.

Moreover, as has been discussed at length, Puerto Rico has, for too long, subordinated its own economy to United States industrial policy and fiscal incentives rather than pursue grassroots economic development sustainable beyond the shifting tides of federal policymaking or

capricious responses to incentives.<sup>27</sup> Reforming occupational licensing is an action that policy-makers in Puerto Rico have to stimulate the type of economic growth that would retain local workers and entrepreneurs; attract to the Island those who migrated; and generate opportunities for prosperity stemming from the creativity, talent, and innovation of such individuals. This action would need not depend on uncertain and unreliable federal policymaking and what follows in its wake.

At first glance, occupational licensing reform may seem only a small intervention amid Puerto Rico's current economic challenges; however, it is a policy action with significant latent potential. This potential lies in its combined effects of transitioning work and workers from the informal to the formal economy, stimulating entrepreneurship, curbing costs and improving access to quality services for consumers, and reducing, if not reversing, the drain of human talent leaving the Island in pursuit of economic opportunities elsewhere. If, after all, Puerto Ricans can achieve prosperity in the states, they can do the same in Puerto Rico if given the chance.

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<sup>27</sup> Numerous scholars have addressed this topic including Atiles-Osoria (2018), Cabán (2018), Caraballo-Cueto and Lara (2018), García (2021), Lloréns (2018), and Rawlins (2018).



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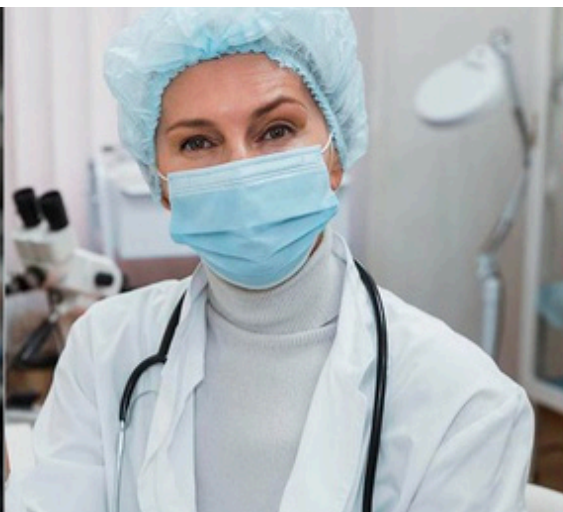
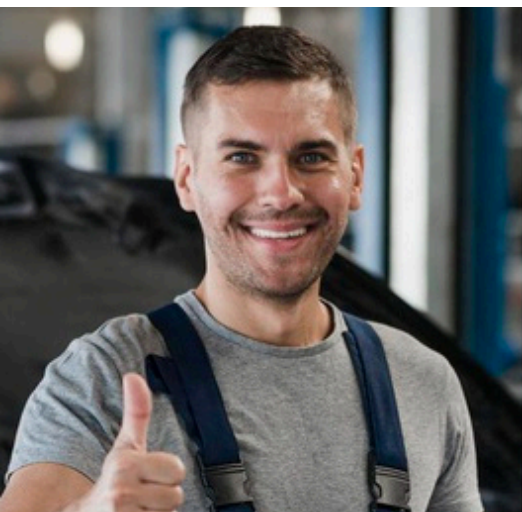
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*I love all forms of freedom; and among these, the one that is the most universally useful to mankind, the one you enjoy at each moment of the day and in all of life's circumstances, is the freedom to work and to trade.*

Frédéric Bastiat







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