

If states want to help workers find jobs, they should reform licensing

By Jack Markell June 2 at 8:19 PM

Jack Markell is governor of Delaware.

I've met too many people who want to work but aren't given a shot. Often, that's because licensing and certification requirements create obstacles to joining skilled professions where no or lower barriers should exist.

A couple of years ago, my office identified a clear example in Delaware's barber and cosmetology industries, which used to require either paying for 1,500 hours of instruction or spending 3,000 hours as an apprentice to earn a license — the equivalent of about a year of schooling or two years as an apprentice. That wasn't necessary to succeed in these fields, and the rules kept some good people out of these professions because it was either too expensive or took too long to become qualified. To address those issues, we came up with a third option that allows people to combine on-the-job experience with a shorter school program.

Meanwhile, research across the country has suggested that there is a lack of access to work in certain legal and health services that don't require a law or medical degree, such as providing defense in eviction cases and basic primary-care services, because of overly burdensome licensing laws.

With the massive proliferation of licensing boards created by state governments — for everything from florists and manicurists to construction and maintenance workers — it's time that public officials across the country take a close look at how we can remove impediments to jobs.

In an era of increasing partisanship, this issue presents a clear opportunity for elected officials to help their constituents go as far as their potential will take them. That's something that respected policy leaders on the left and right agree on.

Still, governors and legislators face real obstacles. Those who work in every affected industry have an enormous incentive to keep barriers in place. Removing professional licensing requirements means more competition for incumbents. Many of them point to the public safety interest in having some licensing system, even though a closer examination would show safety does

not explain the need for all of their requirements, as in the case of barbers and cosmetologists.

To overcome those hurdles, political leaders must build coalitions to represent the diverse beneficiaries of licensing reform. That includes groups such as the American Civil Liberties Union and other criminal justice advocates concerned about ex-offenders who are forced to wait too long after release before joining certain professions and earning the type of living that would help them avoid recidivism.

Pushing back against the power of licensing boards also fits with concerns from the right about government overreach. One conservative state senator in Delaware has bemoaned the number of licenses he needed in his business career, and conservative lawmakers have made complaints about licensure requirements part of their message about excessive government involvement in the economy.

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By bringing groups such as these together, we can enact broad reforms necessary to reverse the overregulation of many professions and address the fact that Delaware's Division of Professional Regulation averages more than 85,000 active licenses in a given year in a state with a population of only 930,000.

A recent Supreme Court ruling has helped shift the political winds in favor of reform, with the justices deciding that when a controlling number of the decision makers on a state licensing board are active participants in the occupation the board regulates — as is often the case — board members may be subject to liability under federal antitrust laws if there isn't sufficient supervision of the board by the state. We should use that ruling as an opportunity to be more judicious about the number of licensing requirements created and who creates them.

To build support and make the case for change in Delaware, I recently signed an executive order creating a committee to review existing licensing regulations and recommend ways to eliminate unnecessary barriers to entry. Through that process, we will root out onerous requirements, recognizing that not all of our regulations can be right. We will ask whether those licensed in states with less imposing requirements are in fact less qualified, and we will challenge ourselves to defend the reasons for additional burdens on licensees.

Our final product will also confirm our commitment to the benefits of thoughtful professional licensing. We all appreciate the requirements that doctors must earn the MD or DO after their names to practice medicine, and that lawyers must acquire JDs to show they can be trusted to provide expert legal advice. The important role of our licensing system is most clearly seen when we eliminate the excess.

For far too long, we haven't been sufficiently thoughtful when industries create high barriers to entry. The government has a moral obligation to protect its citizens from dangerous professional conduct, but we also have an obligation to ensure that hard-working Americans have every opportunity to improve their lives. States must lead the way.

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