

OCCUPATIONAL LICENSING ON CHILDCARE

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US House of Representatives, Committee on Small Business, Subcommittee on Rural Development, Agriculture, Trade, and Entrepreneurship

Taking Care of Business: How Childcare can Support Regional Economies

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Chairwoman Finkenauer, Ranking Member Joyce, and members of the subcommittee, thank you for the opportunity to testify on this important topic today. My name is Veronique de Rugy, and I am a senior research fellow at the Mercatus Center at George Mason University.

Today, I offer these main points:

1. However well-intentioned, the imposition of strict licensing actually makes childcare harder for families by raising prices.
2. This increase in cost is not accompanied by a commensurate increase in quality or safety.
3. Strict licensing requirements raise barriers to jobs for childcare workers.

Reforming occupational licensing can play a significant role in increasing the supply of affordable childcare.

THE ECONOMICS OF OCCUPATIONAL LICENSING

Occupational licensing is the practice of requiring government approval before individuals can legally earn a living in a particular profession. Individuals often must pay high fees, undergo many days of training or experience, or earn arbitrary certifications before receiving the privilege from their local or state governments of being allowed to work.

Economists have shown that occupational licensing raises barriers between workers and better job markets and it raises prices for consumers. In the case of childcare, occupational licensing raises the cost of being a provider, reducing the supply. In turn, that reduction in supply increases prices for consumers.

Today, one out of every three US workers is currently required to comply with occupational licensing requirements, an increase from one out of every 20 workers in the 1950s.¹ In the past, license requirements generally applied to high-risk—and often high-income—professions such as surgery and

1. Morris M. Kleiner and Alan B. Krueger, “The Prevalence and Effects of Occupational Licensing” (NBER Working Paper No. 14308, National Bureau of Economic Research, Cambridge, MA, September 2008).

dentistry, but newer burdens are shouldered by poorer Americans.² Many of the jobs performed by poorer Americans, such as hairdresser, transit driver, or skilled technician, have traditionally provided a ladder to self-sufficiency and upward mobility.³

By effectively restricting access to some jobs, these requirements drive down employment in licensed industries and make it more difficult for low-income Americans to reach the first rung in their climb out of poverty.⁴ Licenses also operate as a substantial barrier to interstate mobility, as the licensing requirements vary between states and can be transferred between only a very limited number of states. For workers in a licensed industry, moving from one state to another requires costly courses, tests, and training.⁵ Even when the tests are the same, states often require different scores to pass, making it difficult to transfer licenses.⁶

These requirements are also a terrible burden on workers who move often, since a hairdressing license in New York may not be honored in California, preventing workers from accessing better labor markets. The cost of renewing one's license in a different state creates substantial barriers to entry for many classes of workers, hence limiting interstate mobility.⁷ Economists Janna E. Johnson and Morris Kleiner find that interstate migration rates are 36 percent less for individuals whose occupations have licensing exams and requirements than those without such restrictions.⁸

By restricting competition between providers and by restricting the supply of workers and businesses, occupational licensing also increases the prices of goods and services for consumers.⁹ This places a disparate burden on lower-income consumers.

Finally, licensing requirements are often justified on the grounds of consumer protection and public safety.¹⁰ However, the data show very little evidence to support for these claims.¹¹

CHILDCARE REGULATIONS

The cost of childcare has a huge range across states, with infant care matching college costs in some cases. The Cato Institute's Ryan Bourne writes, "According to 2016 data compiled by Child Care Aware,

2. About two-thirds of this increase is the result of states adding licensing requirements for a variety of professions. The rest is owing to increased participation in regulated industries. David Schleicher, "The City as a Law and Economic Subject," *University of Illinois Law Review* 2010, no. 5 (2010): 1511-12.

3. John Blevins, "License to Uber: Using Administrative Law to Fix Occupational Licensing," *UCLA Law Review* 64, no. 4 (2017): 844, 852-59; Paul J. Larkin Jr., "Public Choice Theory and Occupational Licensing," *Harvard Journal of Law and Public Policy* 38, no. 1 (2016): 209, 212, 216-18, 230.

4. US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework for Policymakers*, July 2015.

5. Morris M. Kleiner, "Guild-Ridden Labor Markets: The Curious Case of Occupational Licensing" (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2015); Dick M. Carpenter II et al., *License to Work: A National Study of Burdens from Occupational Licensing* (Arlington, VA: Institute for Justice, 2012); Morris M. Kleiner, "Border Battles: The Influence of Occupational Licensing on Interstate Migration," *Employment Research Newsletter* 22, no. 4 (2015): 4-6; Morris M. Kleiner, *Reforming Occupational Licensing Policies* (Washington, DC: The Hamilton Project at the Brookings Institution, 2015); Morris M. Kleiner and Alan B. Krueger, "Analyzing the Extent and Influence of Occupational Licensing on the Labor Market" (NBER Working Paper No. 14979, National Bureau of Economic Research, Cambridge, MA, May 2009).

6. Carolyn Cox and Susan Foster, *The Costs and Benefits of Occupational Licensing* (Washington, DC: Federal Trade Commission, 1990). Morris M. Kleiner, *Licensing Occupations: Ensuring Quality or Restricting Competition?* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2006).

7. Janna E. Johnson and Morris M. Kleiner, "Is Occupational Licensing a Barrier to Interstate Migration?" (NBER Working Paper No. 24107, National Bureau of Economic Research, Cambridge, MA, December 2017).

8. Johnson and Kleiner, "Is Occupational Licensing a Barrier to Interstate Migration?"

9. Veronique de Rugy, "Occupational Licensing: Bad for Competition, Bad for Low-Income Workers," Mercatus Center at George Mason University, March 25, 2014.

10. Morris M. Kleiner, "A License for Protection," *Regulation*, Fall 2006.

11. Morris M. Kleiner, "Occupational Licensing: Protecting the Public Interest or Protectionism?" (Policy Paper No. 2011-009, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI, July 1, 2011).

the average annual cost of full-time center-based infant care varies dramatically nationwide, from \$5,178 in Mississippi to \$23,089 in the District of Columbia. That amounts to 27.2 percent of median single-parent family income in Mississippi and fully 89.1 percent in D.C.”¹²

According to a report by the Institute for Justice,¹³ which looked at 102 low- to moderate-income occupations in all 50 states and the District of Columbia, 44 states require a license for childcare providers, making it illegal to run unlicensed childcare operations (except operations involving the care of a few children in a home setting).¹⁴

These rules effectively protect current workers from competition in the childcare industry by increasing the cost of entering the childcare market, thereby reducing the supply of childcare. These fees can reach up to \$300 and the amount of time to attain a license can be more than a year (see figures 1 through 3 in the appendix). Twenty-four states require a high school diploma or higher (see figure 4 in the appendix).

While advocates for these rules argue that licenses and rules to work are needed to protect consumers (parents and children) and increase quality, the economic literature show that licensing does not fulfil this need.

This impact is visible with various and popular childcare rules. For instance, tightening the staff-to-child ratio by one child reduces the number of childcare centers in an average area by 10 percent with no apparent impact on quality.¹⁵ Increasing the average required years of education for center directors by one year has modest positive effects on quality, but likewise reduces the number of centers by between 3.2 percent and 3.8 percent.¹⁶

Relaxing the staff-to-child ratios would increase supply and lower cost without affecting quality.¹⁷ A study from the Mercatus Center finds that loosening ratios by just one child across all age groups results in prices falling by 9 percent or more, thereby decreasing the annual cost for a family using full-time infant-center care in Washington, DC, by \$2,000.¹⁸ Meanwhile, requiring lead teachers to have high-school diplomas likewise raises prices by between 25 percent and 46 percent.

These higher costs are, unsurprisingly, particularly hard on poorer people and single mothers. Additionally, there is evidence that parents are not willing to pay the full increased cost caused by the additional required training, driving down the wages of people working in childcare.¹⁹ These rules also

12. Ryan Bourne, “Making It More Affordable to Raise a Family” (Testimony before the Joint Economic Committee, Cato Institute, Washington DC, September 10, 2019); Patrick A. McLaughlin, Matthew D. Mitchell, and Anne Philpot, “The Effects of Occupational Licensure on Competition, Consumers, and the Workforce” (Mercatus on Policy, Mercatus Center at George Mason University, Arlington, VA, November 2017); US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework*, 13; Patrick A. McLaughlin, Jerry Ellig, and Dima Yazji Shamoun, “Regulatory Reform in Florida: An Opportunity for Greater Competitiveness and Economic Efficiency,” *Florida State University Business Review* 13, no. 1 (2014): 95-130

13. Carpenter II et al., *License to Work*, 10-11.

14. Dick M. Carpenter II et al., “Child Care Home, Family,” Institute for Justice, November 2017, <https://ij.org/report/license-work-2/tw-occupation-profiles/tw2-child-care-home-family/>.

15. V. Joseph Hotz and Mo Xiao, “The Impact of Regulations on the Supply and Quality of Care in Child Care Markets,” *American Economic Review* 101, no. 5 (2011): 1775-1805.

16. Hotz and Xiao, “The Impact of Regulations.”

17. Matthew D. Mitchell, “Occupational Licensing and the Poor and Disadvantaged” (Mercatus Policy Spotlight, Mercatus Center at George Mason University, Arlington, VA, September 2017).

18. Diana W. Thomas and Devon Gorry, “Regulation and the Cost of Child Care” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, August 2015).

19. Thomas and Gorry, “Regulation and the Cost of Child Care.”

Minorities are put disproportionately at a disadvantage, as they are much less likely to hold college degrees or to have mastered English, which some licenses require. Licensing might also be disqualifying for immigrants who have not lived long enough in a state.

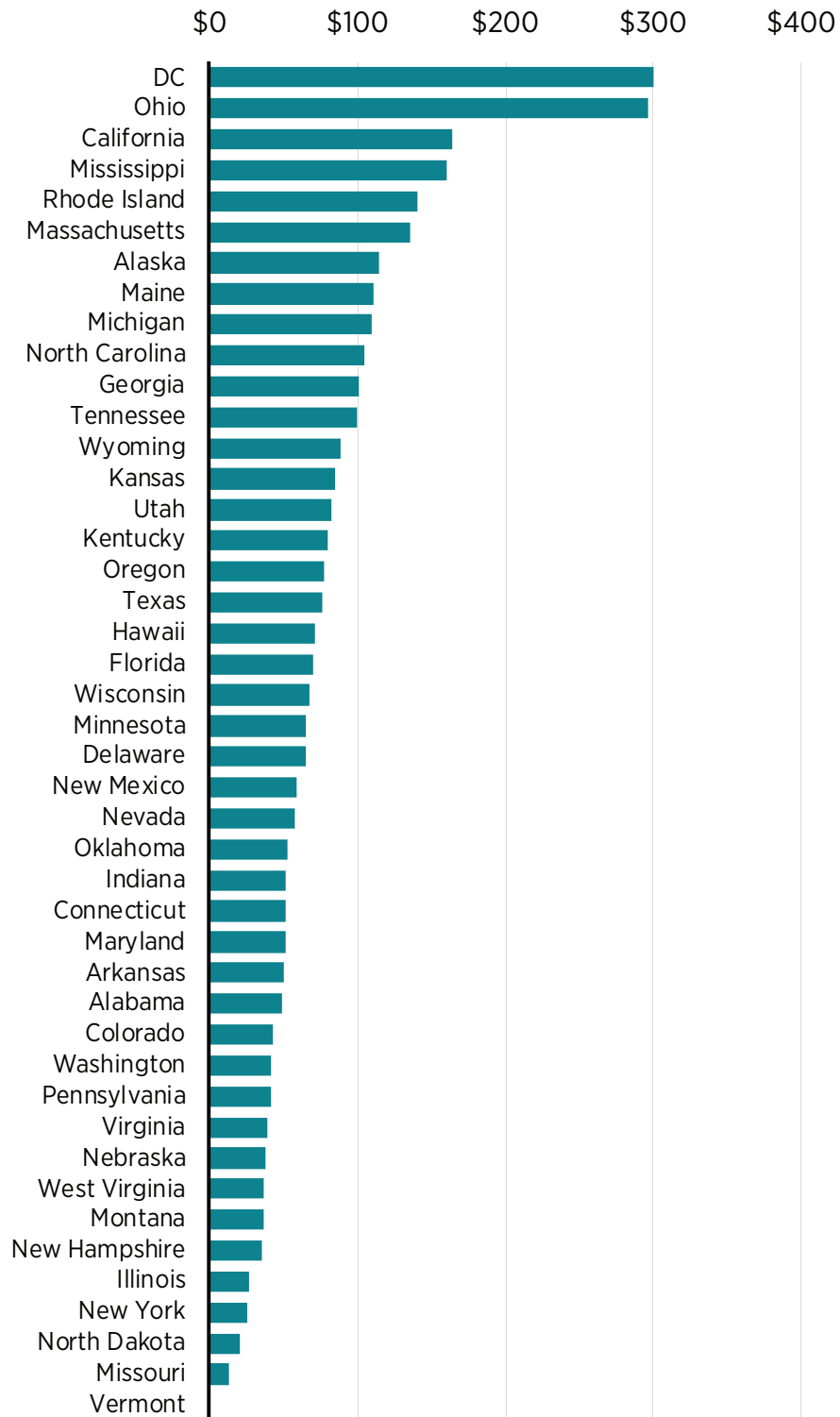
CONCLUSION

The cost of childcare is rightly a matter of concern. However, the academic evidence suggests a solution that should be considered carefully: it is childcare licensing laws that keep these costs of childcare high and the supply of childcare restricted.

I welcome your questions.

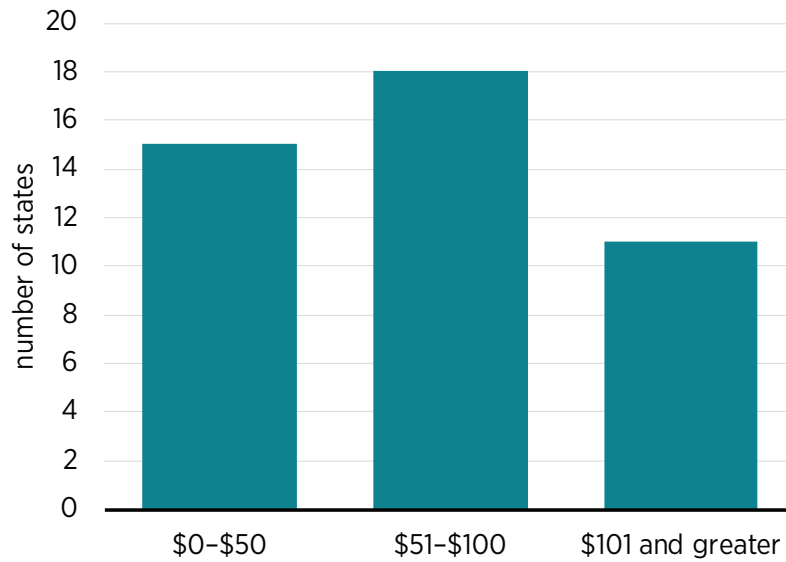
APPENDIX

FIGURE 1. OCCUPATIONAL LICENSING FEES FOR CHILDCARE BY STATE



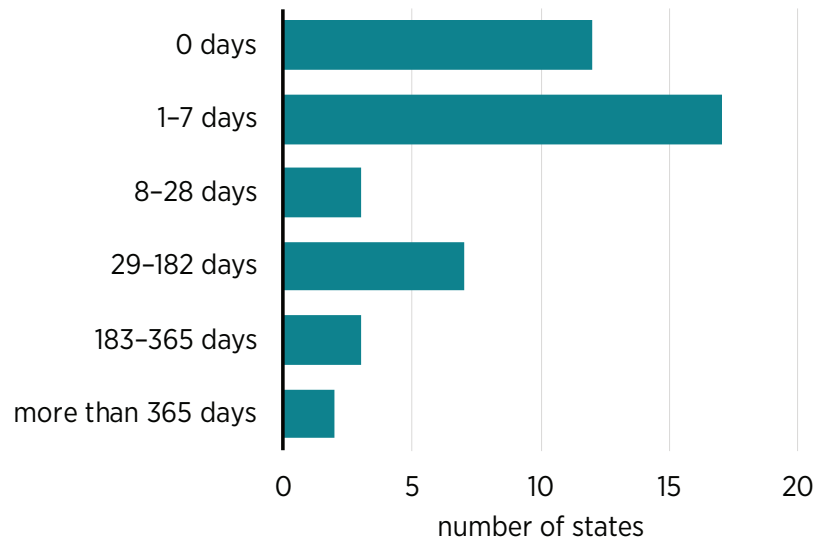
Source: Dick M. Carpenter II et al., "Child Care Home, Family," Institute for Justice, November 2017, <https://ij.org/report/license-work-2/ltw-occupation-profiles/ltw2-child-care-home-family/>.

FIGURE 2. OCCUPATIONAL LICENSING FEES FOR CHILDCARE (GROUPED)



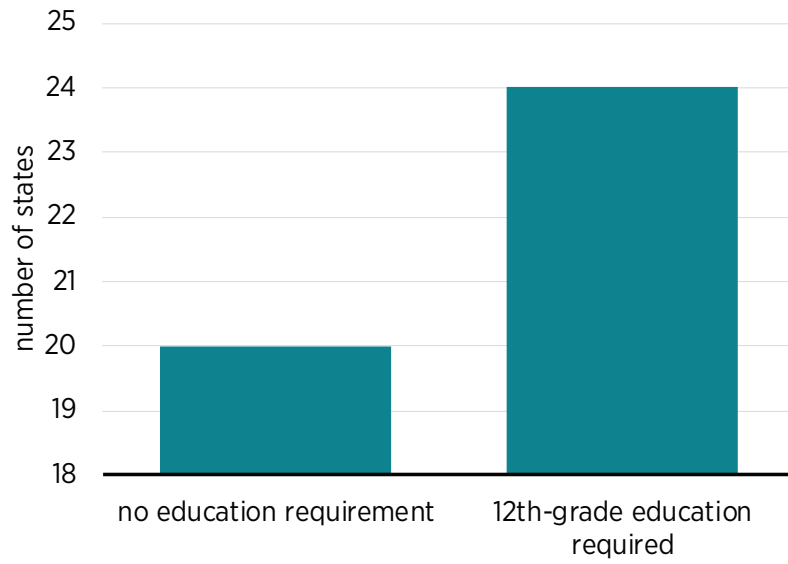
Source: Dick M. Carpenter II et al., “Child Care Home, Family,” Institute for Justice, November 2017, <https://ij.org/report/license-work-2/ltw-occupation-profiles/ltw2-child-care-home-family/>.

FIGURE 3. INSTITUTE FOR JUSTICE'S ESTIMATED TIME REQUIREMENTS FOR CHILDCARE LICENSES



Source: Dick M. Carpenter II et al., “Child Care Home, Family,” Institute for Justice, November 2017, <https://ij.org/report/license-work-2/ltw-occupation-profiles/ltw2-child-care-home-family/>.

FIGURE 4. FIGURE 4. EDUCATION REQUIREMENTS FOR CHILDCARE LICENSES



Source: Dick M. Carpenter II et al., “Child Care Home, Family,” Institute for Justice, November 2017, <https://ij.org/report/license-work-2/ltw-occupation-profiles/ltw2-child-care-home-family/>.