Breaking Down Barriers

How Occupational Licensing Reform Can Improve The Insurance Markets, Benefit Consumers, and Expand Job Opportunities

Wayne Winegarden, Ph.D.
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The purpose of this paper is to review the economic costs created by licensing regulations as it pertains to one specific state licensed occupation: insurance claims adjusters. Further, the paper discusses how an oft-proposed reform (e.g. licensing reciprocity across the states) can reduce the costs created by state licensing regulations by providing a streamlined methodology to obtain state licensing in multiple states. Insurance claims adjusters are an excellent case study for reciprocity because insurance is a national (global) market. Claims operations require a geographically flexible workforce across the national market in response to day to day insurance claims. Due to the risks created by natural disasters, insurance claims are subject to sudden shifts in consumer demand that are confined to specific geographic localities.

The lack of effective reciprocity across the states, when coupled with the high entry barriers created by the need to obtain occupational licenses, often leads to long delays and higher costs for consumers. The consequences from this regulatory-created market rigidity are particularly obvious following costly natural disasters when large numbers of people need the insurance market to be working as efficiently as possible.

Executive Summary

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**Introduction**

Burdensome regulations have become a substantial drag on economic growth. Perry and Hemphill (2016), summarizing the findings of a Mercatus Center study, noted that “in a 22-industry study released in April by the Mercatus Center at George Mason University, a group of researchers found that federal regulations created an economic drag on the U.S. economy amounting to an average annual reduction in GDP growth of 0.8 percent. What is unique about this study is that it evaluates the cumulative costs of regulation over a long-time period...”\(^1\)

While all businesses are burdened by the higher costs created by excessive regulations, complex regulations harm small businesses to a much greater extent than their larger, more established, competitors.

It also follows that within the community of small businesses, the smaller the business, the larger the burden that excessive regulations impose. Since there is no business smaller than a start-up, it follows that excessive regulations are a particularly large obstacle for start-ups. Figure 1 provides evidence that this logical relationship holds in practice.

Figure 1 compares the change in the size of the Code of Federal Regulations, or the compilation of all rules and regulations promulgated by federal agencies, to the number of jobs created by new business start-ups. As Figure 1 illustrates there is a strong correlation between the growth in the number of regulations and a decline in the number of jobs created by new small businesses. For example, between 1995 and 2000, the regulatory burden was declining as demonstrated by the diminishing size of the *Federal Register*. During this period, about 1.2 million jobs at new businesses were created annually – the highest average job growth over this 20-year period.
Since 2000, the number of jobs created at new businesses has steadily declined while the number of new regulations that businesses must comply with has steadily grown. Many other factors are, of course, relevant. However, the strong correlation between the rising regulatory burden and the declining growth in employment at new businesses, when coupled with the survey data indicating that regulations are a significant obstacle for small businesses, show that the growing regulatory burden is sapping the entrepreneurial spirit of the U.S. economy. Reigniting the entrepreneurial spirit requires significant regulatory reforms, at both the federal and state levels.

While invaluable for the small business sector, regulatory reforms are also necessary in order to improve the efficiency of large businesses. Such reforms will enable large businesses to provide customers with better customer service at lower costs.

Of course, comprehensive regulatory reform is a long and difficult process. It requires detailed assessments of specific regulations that identify: the specific public good the regulation is designed to achieve; whether the regulation is achieving its designed goal; the economic costs imposed by the regulation relative to the public good; and, whether regulatory reform (or repeal) is appropriate.
Toward this goal, state occupational licensing regulations impose particularly onerous, and unnecessary, costs on businesses, large and small. Additionally, these cost burdens, along with the variation in occupational licensing regulations that restrict entry across the states, often lead to negative impacts on consumers, who are the very group the regulations are supposed to help. Consequently, these regulations are ripe for reform.

The purpose of this paper is to review the economic costs created by licensing regulations as they are applied to insurance claims adjusters. The paper then discusses how one specific regulatory reform (e.g. licensing reciprocity across the states) reduces the costs created by state licensing regulations by providing a streamlined methodology to obtain state licensing in multiple states. Insurance claims adjusters are an excellent case study for reciprocity because insurance is a national (global) market; claims operations require a geographically flexible workforce across the national market in response to day to day insurance claims. Due to the risks created by natural disasters, insurance claims are subject to sudden shifts in consumer demand that are confined to specific geographic localities.

There are several benefits created by a properly structured regulatory reciprocity regime. First, by creating a more flexible supply of insurance claims adjusters, reciprocity will create a more efficient insurance market on a day-to-day basis. Second, in response to large natural disasters, reciprocity enables the supply of insurance adjusters to respond to the sudden increase in demand quicker, providing direct benefits to consumers. Third, as discussed in greater detail below, effective occupational licensing laws require a careful balance across many competing interests, which include confining the regulations to just those occupations where it is necessary. As with most policies, some states will strike this balance better than others. Further, it is unknown which states might implement regulatory improvements that meaningfully lower the costs of regulations, or improve their effectiveness. Consequently, in the longer-term, regulatory reciprocity enables states to learn from one another, to ensure that the most cost-effective occupational licensing regulatory structures are implemented.
The High Cost of Licensing Regulations

Ostensibly, occupational licensing regulations exist to protect consumers. Specifically, proponents of occupational licensing regulations assert that it is difficult for many consumers to recognize when a professional is qualified to provide the service he or she is selling, and when he/she is unqualified. Occupational licensing regulations create a standard that supposedly solves this problem. By requiring service providers to obtain a state occupational license before they can perform the job, consumers no longer need to worry about whether the professionals they are hiring are qualified to do the job. Instead, service professionals are conveying that they have the requisite qualifications by having the proper state licensing.

All too often, the licensing requirements become an obstacle for qualified professionals to enter or compete in these industries rather than a quality signal to consumers. Compounding this problem are the growing number of jobs that now require state-sanctioned licenses. As the National Conference of State Legislatures (NCSL) noted, based on data from the Bureau of Labor Statistics (BLS), “over the last 60 years, the number of jobs requiring an occupational license, or government approval to practice a profession, has grown from about 1-in-20 to more than 1-in-4.”

Furthermore, the costs to obtain an occupational license are not insignificant. According to a 2017 study by the Institute for Justice, there are 102 occupations that require state licensing. The average fee to obtain a license is $267, however the fees for some licenses can exceed $1,000 (e.g. the average fees to become a licensed interior designer or midwife). The actual license fees can often pale in comparison to the education and experience requirements, which average one year, but can require nearly three years for an HVAC contractor, four years for an athletic trainer, and six years for an interior designer.

The consequences from the growing number of professions that are now subject to costly licensing requirements are higher costs, and fewer choices, for consumers; and, less economic opportunity for service providers. Perhaps worst of all, the lowest income providers are disproportionately harmed because they are less likely to have the ability to devote the time and money necessary to obtain the licenses. As a consequence, licensing regulations are imposing unnecessary obstacles along the pathway that families have traditionally used to obtain a middle-class lifestyle.

Not only is the sheer cost of obtaining these licenses a problem, so is the wide variation of licensing requirements across the states. As the NCSL study noted, “differences and disparities in occupational licensing laws across states can create barriers for those looking to enter the labor market and make it harder for
workers to relocate across state lines. Certain populations—including military spouses and families, immigrants with work authorization, people with criminal records, and unemployed and dislocated workers—are especially affected by the requirements and variances of occupational licensing.\textsuperscript{6}

Echoing the NCSL’s concerns, the Institute for Justice study noted that “licensing laws now guard entry into hundreds of occupations, including jobs that can offer opportunities for upward mobility to those of modest means, such as cosmetologist, auctioneer, athletic trainer, landscape contractor, and massage therapist. The tangle of laws has become so thick that a commission in California recently admitted that the state has no way of knowing how many occupations it licenses.”\textsuperscript{7}

Importantly, these restrictions are having measurable, and negative, economic consequences. For example, Nunn (2016) concluded that “licensing plays an important role in determining workers’ wages, employment, and mobility, as well as the overall health of the labor market. Lower wages and higher unemployment rates for unlicensed workers, as well as reduced migration rates for those with licenses, all suggest that the social costs of licensing are larger than many have previously believed.”\textsuperscript{8}

Kleiner (2015) found that “the evidence from the economics literature suggests that licensing has had an important influence on wage determination, benefits, employment, and prices in ways that impose net costs on society with little improvement to service quality, health, and safety.”\textsuperscript{9} Similarly, the Mercatus Center found that “licensing requirements raise costs for consumers. Because many licensed professionals offer products or services that are bought by low-income individuals, licensing laws hit the poor twice – once in the form of limiting job opportunities and then again in the form of higher prices.”\textsuperscript{10}

The takeaway is clear: occupational licensing regulations should be severely limited. Only those occupations where there is a clearly defined need should require licenses; and, it is safe to assume that occupations such as interior designers are not among these occupations.

Further, for those occupations where there is a pressing need, the burden imposed by these licensing regulations should be as small as possible. The goal should be to ensure as robust a competitive landscape as possible to promote low prices for consumers as well as entrepreneurial opportunities for workers, while still providing the quality assurances the licenses are supposed to convey.
State Licensure - The Need for Reciprocity

As identified above, there is an additional complexity and cost imposed on those professions that are licensed at the state level. For such occupations, state licensing regimes create duplicative costs that often restricts mobility across state lines. Consequently, it is more difficult to minimize the burdens of licensure (and therefore promote competition and low prices for consumers, and more opportunity for entrepreneurs) in state-based licensure regimes.

An important reform to help reduce the costs from state occupational licensing regulations is to promote licensing reciprocity and/or recognition across the states that have determined that licensing requirements are appropriate. There are several benefits licensing-reciprocity can create.

Perhaps most important from a short-term perspective, reciprocity enables a more flexible supplier sector. With reciprocity, the suppliers of a licensed service can adjust to changes in demand more quickly, limiting any surges in pricing, or delays in service provision, that could accommodate increases in demand. Furthermore, to the extent that there are currently any supply shortages, which lead to inflated consumer prices, reciprocity would encourage more competitors to enter the state. This would also benefit consumers through lower prices and higher quality.

Reduced licensing regulations can also remove barriers to innovation. As U.S. Secretary of Labor Alex Acosta and South Dakota Governor Dennis Daugaard noted in a Wall Street Journal editorial,

> Excessive licensing creates barriers to competition and the use of new technology. Consider telemedicine. It has helped many Americans, especially in rural and other underserved areas, receive treatment based on phone consultations rather than driving hundreds of miles to a clinic. Allowing licensed medical professionals to serve patients via telemedicine may be a solution for struggling hospitals that need to extend their reach into rural communities.11

In the longer-term, reciprocity and/or recognition of other states’ licenses enables states to learn from one another. Specifically, the competitive process of suppliers from different states competing with one another will enable states to discover how to better implement the desired licensing regulations in a manner that
The competitive process of suppliers from different states competing with one another will enable states to discover how to better implement the desired licensing regulations in a manner that serves its primary function, while imposing the lowest cost-burdens on businesses and consumers as possible; or, if appropriate, eliminate the licensing regulation all together.

Importantly, reciprocity reforms are already in the works. For instance, one reform proposed by Secretary Acosta and Governor Daugaard, would establish a multistate licensing compact. “The compact would allow individuals who have been licensed in any profession or occupation in other participating states to receive, upon request within 30 days, an in-state temporary license. That would allow professionals from compacting states to start work immediately and to pursue a permanent license while already employed.”

Licensing reciprocity will not create net benefits when applied to occupations where a licensing requirement is inappropriate or unnecessary. Therefore, reciprocity should be confined to those occupations where there is a strong rationale for the occupational licensing requirement in the first place. Further, reciprocity is more important for industries that are national in scope rather than local.

Currently, a majority of the states impose a wide array of occupational licensing requirements on the insurance claims adjuster profession. Due to the national scope of the insurance industry, greater licensing reciprocity (or licensing recognition) can address some of the inefficiencies that currently afflict the insurance adjuster market.
Regulatory Burdens Decrease the Flexibility of the Insurance Claims Industry

Following insured events where policyholders have filed insurance claims, insurance adjusters are the professionals responsible for investigating the incidents, inspecting the extent of the covered property damage that has occurred, and determining the payments to policyholders.

In 34 states, an insurance adjuster must obtain a state license in order to practice in the state – even if he/she is already licensed in their home (or designated home) state. Several states have limited reciprocity laws recognizing (on a reciprocal basis) licenses in different states. However, the reciprocity laws are inconsistent and not pervasive. Additionally, the licensing reciprocity between states is not universal. Where reciprocity does exist, adjusters must still comply with the license application procedures of the non-home state(s) where they hope to conduct business.

Furthermore, each state’s regulations can vary significantly from one another. According to the Association of Claims Professionals, the “patchwork of conflicting state laws frustrates interstate claims adjusting and prevents efficient, timely, and cost-effective customer service, whether for workers’ compensation, property and casualty, disability, residential, auto, or other claims.”

Consequently, insurance claims adjusters can face high costs and long time-delays before they can service customers from other states, sometimes even in states that have a reciprocity agreement with their home state. Such costs make it difficult for the national supply of insurance adjusters to be more efficiently allocated to accommodate: sudden spikes in local demand following natural disasters (such as Hurricanes Harvey and Irma, and wildfires in California); the needs of employers in the cases of industrial accidents; or the needs of individual policy holders filing claims in a more predictable manner.

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The “patchwork” of state regulations is also problematic because, although occupational licensing regulations are established at the state level, the insurance markets are national in scope. Natural disasters rarely respect state boundaries. A tornado that impacts Texas can just as easily impact both Texas and Oklahoma. Therefore, the industry works more efficiently when claims professionals can work seamlessly across a national market, enabling the firms to serve customers regardless of which side of an arbitrary state boundary they may live.

The market rigidities that are created by the vast array of state licensing regulations impose costly burdens on the insurance adjuster market. The additional costs imposed by these regulations reduce competition by keeping new entrants out of the market; and harm consumers by increasing the costs of insurance, creating delays in settlements, and reducing the quality of the services consumers receive. From an insurance claims professional perspective, the regulations impose unnecessary costs that either reduce their incomes for those who can least afford the costs, or can even deny them of the ability to work altogether.

Due to the proliferation of state licensing requirements, on average, each insurance claims adjuster currently holds licenses in approximately 10 different states.\textsuperscript{14} Responding to this duplication, the Association of Claims Professionals noted that this represents “an unnecessary amount of duplication and burdensome regulation for individual adjusters and their employees alike.”\textsuperscript{15}

Quantifying these costs, according to Carpenter et al. (2017), the average estimated expenditure for an occupational license is $267 per license.\textsuperscript{16} Based on the average number of licenses held by an adjuster (9.8),\textsuperscript{17} the current array of state regulations imposes a cost of $2,617 on the average insurance adjuster. Based on the estimated number of adjusters in the U.S. of more than 125,000, this implies a total annual licensing cost of $327.1 million.\textsuperscript{18} Table 1 summarizes these costs.
TABLE 1
Estimated Costs on Insurance Adjusters Due to the Need to Obtain Multiple Occupational Licenses

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<tr>
<td>Average Cost per license</td>
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<tr>
<td>* Average Number of Licenses Held per Adjuster</td>
<td>9.80</td>
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<td>= Average License Costs per Adjuster</td>
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<td>* Total Number of Licensed Adjusters</td>
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<tr>
<td>= Total License Costs</td>
<td>$327,075,000+</td>
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The U.S. Treasury concurs with this assessment that the inadequate regulatory reciprocity across the states is imposing costs on consumers and businesses alike:

Consumers are detrimentally affected by the absence of uniformity and reciprocity in producer licensing. For example, in an increasingly mobile society, many consumers who move across state lines may prefer to maintain a relationship with a producer based in another state. The National Association of Insurance and Financial Advisors reported, however, that 80 percent of its surveyed members were unable to serve a client who moved to another state, and 12 percent of its members were unable to serve 50 or more clients who had moved to a state in which the producer was unlicensed.

The lack of uniformity creates duplicative administrative and regulatory burdens with no corresponding consumer benefit. Small firms (or “agencies”) seeking producer licenses in multiple states confront significant resource demands. The Independent Insurance Agents and Brokers of America reported that more than 1.6 million producers are licensed in more than one state, requiring time and expense to obtain licenses that could otherwise be used to develop and grow the producer’s business portfolio. The resource burden is also felt at large firms. The Council of Insurance Agents and Brokers described one large firm that holds 76,100 licenses nationally for approximately 5,000 licensed individuals, 3,100 of whom are licensed in more than one state. Other firms face similar burdens.19

And, these costs do not include the value of the lost time each adjuster must spend in order to obtain a license across these states. Clearly, these data indicate that the current occupational licensing regulations impose a large cost on the insurance claims adjuster profession.
Reciprocity as a Means to Improve Service Quality and Lower Occupational Licensing Costs

The benefits created by reciprocity can be visualized by examining the benefits for customers from reciprocity following unexpected events, such as the surge in local demand when there are atypically large, and uncontrolled, wildfires in California, major hurricanes in Florida and Texas, or destructive tornadoes in the Mid-West.

These natural disasters create a spike in insured events that results in surges in demand for insurance adjusters. Despite the surge in demand, the supply of insurance adjusters is unnecessarily rigid due to the occupational licensing regulations. This combination leads to delays in service to the detriment of customers, and lost income opportunities for many current (and potential) insurance adjusters. Further, due to the randomness of the natural disasters, these surges will vary widely over time. As such, a flexible insurance adjuster market that faces low regulatory costs is imperative in order to better serve customers following unexpected events.

It is important to note that while the surges associated with natural disasters dramatically exemplify the benefits from reciprocity, which is why this example is used, reciprocity will also improve the market efficiency for insurance claims adjusters when responding to predictable events. Reciprocity will lower the regulatory costs on insurance claim adjusters and will, consequently, improve the cost and quality of services policy holders receive when filing these more predictable claims.

Figure 2 illustrates the widely varying costs created by natural disasters by presenting the total costs to the U.S. economy from disasters that imposed at least $1 billion in damages between 2010 and 2017.
Figure 2 includes the costs from all disasters such as wildfires, droughts, and hurricanes. It illustrates that the costs from these events vary significantly over time—a direct result of the variation in the number and intensity of natural disasters. In some years, the total costs will be relatively small, such as the $18.3 billion in costs imposed on the U.S. economy in 2014. In other years the costs will be relatively high, such as the $306.7 billion in costs estimated to have been imposed on the U.S. economy in 2017.

With respect to insurance adjusters, the surge in demand for insurance adjuster services is not spread out evenly across the country, but is concentrated in the location of the disasters during a concentrated period of time. For example, with respect to the particularly costly 2017 hurricane season,

the loss estimates from Hurricane Irma have ranged between $25 billion to $65 billion by catastrophe modelers. The Florida Office of Insurance Regulation (OIR) reported total estimated insured losses at more than $5.8 billion as of Nov. 13, with more than 689,000 residential property claims and 51,396 commercial property claims. Business interruption claims reached more than 3,700 as of Nov. 3.

In the immediate aftermath of the storm, 6.7 million homes and businesses — about 65 percent of the state — were without power.21

The problem is that the typical supply of insurance adjusters will likely be inadequate to meet such spikes in demand. The problems following Hurricane Irma, which was complicated by the costs of Hurricane Harvey, illustrate these constraints.

One of the biggest issues in the aftermath of Irma has been a shortage of claims adjusters. The storm came just two weeks after Hurricane Harvey hit Texas and the industry has scrambled to bring in adjusters, leading to delays in resolving claims.
OIR reported in its Nov. 13 claims data that about 235,759 residential property claims reported to insurers remained open. The percentage of commercial property claims closed was 29.5 percent.

“The biggest challenge is you get a backlog when catastrophes hit like this. [Hurricane Harvey] was so close to what happened in Florida,” said Bobby Raymond, owner of Jacksonville, Fla.-based Bright-way, The Fort Caroline Agency. “There’s a limited pool of claims adjusters in the universe. We’ve warned clients carriers are doing the best they can, but they [could] take a while to get back to you.”

The demand spikes for insurance adjuster services exacerbates the costs created by the current occupational licensing regulations, and illustrates the consumer benefits from lowering the occupational licensing regulatory burden and enabling a more competitive, and flexible, insurance claims adjuster market to develop. Reforms are, consequently, needed that reduce the burdens on insurance adjusters created by occupational licensing regulations.

An effective licensing reciprocity regime for insurance adjusters would enable the supply of adjusters to be more responsive to changes in demand, improving the quality of their services to consumers. The higher quality will also be associated with a lower cost structure for independent insurance adjusters, increasing the affordability of insurance for consumers and the entrepreneurial opportunity for independent insurance adjusters.

Previous experience with expanding reciprocity exemplifies the potential benefits that can be gained from enabling reciprocity for insurance adjusters. Specifically, back in 1999, the Gramm–Leach–Bliley Act was passed with the purpose of modernizing the U.S. financial system. This bill was a comprehensive overhaul of the entire financial industry. With respect to the insurance industry, among other reforms, it encouraged greater licensing reciprocity across states with occupational licensing regulations for agents and brokers. These Gramm–Leach–Bliley reciprocity reforms have been linked to meaningful reductions in the time and costs imposed by state licensing regulations on the insurance sector.

Additionally, it is widely held that enabling greater reciprocity for these occupations (agents and brokers) would reduce the burdens imposed by the licensing regulations even more. For instance, the Government Accountability Office (GAO) has linked the need for even more reciprocity in the insurance markets to greater regulatory inefficiency, higher insurance costs, and uneven consumer protection.

Based on the success of enabling reciprocity with respect to the insurance agents and brokers, it follows that enabling a simpler, less costly, reciprocity platform between the states for insurance claims adjusters can improve efficiency, reduce costs, and improve the quality of the services provided by these professionals.

Such an enhanced reciprocity regime would enable qualified, licensed adjusters to have the right to practice in each of the 34 states that require a relevant occupational license. Under such a regime, adjusters would be required to get a license in their home state (or a designated home state if their jurisdiction does not require a license) in order to practice in one of the licensed states. However, reciprocity between states would enable adjusters to work in any state, without having to reapply and go through a whole separate qualification process, letter of recommendation process, application process, fingerprinting process, and testing process. These reforms would be particularly valuable to consumers during times of disaster as it would enable the insurance industry to process damage claims more accurately and faster.

By reducing the costs to engage in the adjusting business, such a reform would also create more opportunities for insurance adjusters, particularly lower-income people, who may be currently constrained from many opportunities due to the higher operating costs imposed by the occupational licensing regulations.
Conclusion – Applying the Lessons More Broadly

As the Institute for Justice argued, “The goal of any reform strategy should be to ensure that occupational regulation is no more burdensome than needed to address present, significant, and substantiated harm. Only by applying the least restrictive regulation necessary can lawmakers ensure that licensing is being used to protect the public rather than to fence out competition.”

Effective reciprocity and/or recognition of other state licenses in those occupations where there is a clear benefit from state licensing can be an important step in this policy reform direction. More broadly, such reforms can be an important step in recognizing the costs imposed by occupational licensing regulations, as well as the need to substantially reduce these costs.
Endnotes


See the Association of Claims Professionals, http://claimsprofession.org/advocacy/.


26 The CLAIM Act, a bipartisan legislation introduced on July 24, 2017 and is currently under consideration in the 115th Congress, would implement reforms in this spirit.

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Dr. Winegarden’s columns have been published in the Wall Street Journal, Chicago Tribune, Investor’s Business Daily, Forbes.com, and Townhall.com. He was previously economics faculty at Marymount University, has testified before the U.S. Congress, has been interviewed and quoted in such media as CNN and Bloomberg Radio, and is asked to present his research findings at policy conferences and meetings. Previously, Dr. Winegarden worked as a business economist in Hong Kong and New York City; and a policy economist for policy and trade associations in Washington D.C. Dr. Winegarden received his Ph.D. in Economics from George Mason University.
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