

OCCUPATIONAL LICENSING AND WOMEN ENTREPRENEURS IN MISSOURI

A REPORT TO THE WOMEN'S FOUNDATION

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WOMEN'S FOUNDATION



Institute of Public Policy
Harry S Truman School of Public Affairs
University of Missouri

Occupational Licensing and Women Entrepreneurs in Missouri

A Report to the Women's Foundation

Prepared by the Institute of Public Policy, Truman School of Public Affairs, University of Missouri

Lead Author: Emily Johnson

Contributing Authors: Smita Aggarwal, Sam Bezjak, Darima Butitova, Muhammad Muinul Islam, Hari Poudel

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Occupational Licensing and Women Entrepreneurs in Missouri

EXECUTIVE SUMMARY

About one-third of all businesses in Missouri and the United States are owned by women. Research indicates that women-owned businesses provide valuable services to consumers, create opportunities for women, expand markets, and add economic and social value to the community.

Occupational licensing requirements, imposed by state licensing boards, can present a barrier to entry into some entrepreneurial endeavors for both men and women. Occupational licensing and professional registration requirements are designed to protect the public's safety and well-being by mandating training and experience for certain professional practices. This research analyzes occupational licensing in Missouri and identifies remedies that could be implemented by the community, administration, or legislature to reduce the barriers without sacrificing safety.

The Institute of Public Policy has produced this comprehensive policy report which provides:

- 1) a look at women in the workforce and women entrepreneurs in the US and Missouri;
- 2) an overview of occupational licensing in Missouri, including an in-depth analysis of several licensing boards and commissions;
- 3) a comparison of Missouri's licensing requirements and regulations to five neighboring states;
- 4) a discussion of the impact of occupational licensing on entrepreneurs and the economy in Missouri and the US; and
- 5) potential policy considerations for Missouri, including a policy brief on sunrise provisions which require a cost-benefits analysis and a policy brief on sunset provisions which require a review a periodic review to determine if the legislation is still necessary. (*Forthcoming*)

Table 1 summarizes the key findings of this comprehensive report.

Table 1. Key Findings	
Women Entrepreneurs in Missouri	<ul style="list-style-type: none"> • In 2012, there were 162,616 women-owned firms in Missouri, up 24.4% since 2007. There were nearly 9.9 million women-owned firms in the US in 2012.¹ • Women-owned businesses in Missouri accounted for approximately \$24 billion in sales in 2012.²
Occupational Licensing in Missouri	<ul style="list-style-type: none"> • In the US, in 2015, employed women were more likely to hold a certification or license than employed men (28.1 percent and 23.2 percent, respectively).³ • 455,693 Missouri individuals and businesses were registered with the Missouri Division of Professional Registration in June, 2015.⁴ • There are 40 regulatory boards which license 55 professions in the state.⁵ • Approximately 133 board members on occupational licensing boards and commissions are serving expired terms and more than 38 board seats are currently vacant.⁶ • Missouri ranked 35th in 2012 in the percentage of low-income occupations the state licensed. (1st – most licensed, 50th – least licensed)⁷ • Missouri licensing fees and average education requirements are some of the lowest in the nation.⁸
Reentry and Relicensing in Missouri	<ul style="list-style-type: none"> • A person who leaves the profession for maternity leave, long-term caregiving or other reasons must revert her license to “in-active” status, pay applicable fees on an on-going basis, and complete all continued training requirements before reentering the profession.⁹
Economic Impact of Occupational Licensing	<ul style="list-style-type: none"> • People with a certification or license earned about 1/3 more than those without these credentials.¹⁰ • Employed people were more likely to hold an active certification or license (25.5 percent) in 2015 than the unemployed (12.7 percent) or those who were not in the labor force (6.1 percent).¹¹
Barriers to Entrepreneurship Created by Occupational Licensing	<ul style="list-style-type: none"> • Research indicates that some licensing requirements can present a barrier to entry into a regulated profession and can reduce total employment in that profession. As a consequence, economic and income inequality is created.¹²
Occupational Licensing Process Issues	<ul style="list-style-type: none"> • Missouri has no requirement for an initial cost-benefit analysis to be conducted to determine the need for the creation of new occupational licensing boards. • Many industry insiders and associations lobby for the creation of professional licensing boards, are appointed to the boards, and control the rules that restrict entry into the profession. • Reciprocity among other states is available for some boards; however, requirements and fees vary greatly. • Demographic data is not systematically collected and there is no review to measure performance or identify trends in data.

POLICY AND PRACTICE CONSIDERATIONS

This report highlights several policy and practice considerations that could address some of the barriers associated with occupational licensing and women entrepreneurs in Missouri. Table 2 summarizes these considerations.

Table 2. Policy and Practice Considerations	
Policy and Practice Considerations	<ul style="list-style-type: none"> • Community – <ul style="list-style-type: none"> ○ Provide mentoring to women entrepreneurs ○ Community members apply for board positions and supported in their appointments through programs like the Women’s Foundation Appointments Project. ○ Provide public comment to boards • Administration – (Licensing boards and Division of Professional Registration) <ul style="list-style-type: none"> ○ Propose new rules or changes to existing rules ○ Collect data to analyze trends and measure performance ○ Set performance benchmarks ○ Standardize all board and commission websites • Legislature – <ul style="list-style-type: none"> ○ Establish periodic review – Sunset or sunrise provisions ○ Revise statute to allow for broader reciprocity ○ Revise statute to require registration only ○ Revise statute to deregulate existing occupational licensing boards

INTRODUCTION

In June 2015, the Women’s Foundation contracted with the Institute of Public Policy at the University of Missouri to conduct research related to occupational licensing and women’s entrepreneurship in Missouri.

Specifically, the Women’s Foundation is interested in the following research questions,

- 1) What role does occupational licensing play in the upward mobility of entrepreneurs, especially women entrepreneurs, in Missouri?
- 2) What are the barriers to occupational reentry or re-licensure, especially for women who are reentering the workforce in Missouri?

The Institute used existing literature on licensing in Missouri and other states; information and data provided by the Missouri Division of Professional Registration (pr.mo.gov), which provides administrative support and oversight to Missouri’s professional licensing boards and commissions; and interviews with relevant stakeholders to produce this policy brief.

The research team would like to express their gratitude to the many Republican and Democratic policymakers who provided feedback on the report findings. A special thanks to the Director of the Missouri Division of Professional Registration, Katie Steele-Danner, and Emily Carroll, Executive Director of the Board of Cosmetology and Barber Examiners, who provided important information and context to this report.

WOMEN AND THE WORKFORCE IN MISSOURI

In 2014, 53.5 percent of women sixteen and older in the US were employed in the civilian labor force. In Missouri, about 55 percent of women, more than 1.35 million are employed.¹³ These women are working in a variety of professions and industries. Some are in historically women-dominated occupations such as preschool and kindergarten teachers (97% women), secretaries and administrative assistants (96%) and registered nurses (89%). Much smaller percentages are in traditionally male-dominated fields such as law enforcement (18%), grounds maintenance (5%) and construction labors (3%).¹⁴ In Missouri, women who work full-time year-round earn \$35,311 on average, compared to \$45,611 for men.¹⁵

As in the rest of the United States, some women in Missouri seek to improve financial circumstances for themselves and their families' by opening their own business. Research indicates that entrepreneurs can achieve a higher wealth to income ratio than other workers across all classes.¹⁶

WOMEN ENTREPRENEURS IN MISSOURI

Women across the country, including in Missouri, are becoming increasingly more involved in entrepreneurship. In 2012, there were 162,616 women-owned firms in Missouri, up 24.4 percent since 2007. These businesses accounted for more than \$24 billion in sales. There were nearly 9.9 million women-owned firms in the US in 2012. About one-third of all businesses in Missouri and the US are women-owned.¹⁷ Women-owned business is an indicator of increased entrepreneurship by women in the state.

In 2012, women-owned firms in Missouri had grown by 24% since 2007 and accounted for more than \$24 billion in sales.

While women entrepreneurship may be on the rise in the US and Missouri, women still often face barriers to starting their own businesses. Women specifically face unique barriers to entrepreneurship such as access to capital, lack of support and training, institutional barriers, and unfriendly business environments. A 2014 disparity study conducted by the State of Missouri Office of Administration found that even with preference points awarded to Minority and Women Owned Businesses in contracting with the state, there continues to be evidence that discrimination exists on the basis of race and gender in their utilization on state contracts.¹⁸

The next section of this report will look at occupational licensing in Missouri and determine if licensing requirements present a barrier to entrepreneurs and specifically for women entrepreneurs.

OCCUPATIONAL LICENSING IN MISSOURI

Occupational licensing is a form of government regulation that requires licensure for particular careers and vocations. In Missouri, this allows professionals and businesses to conduct their operations in a manner that has been evaluated by the government as satisfactory and not harmful to the public. The Missouri Division of Professional Registration is the overarching administrative body that provides occupational licensure to qualified professionals in Missouri. Some municipalities have developed requirements for business and occupational licenses and permits to which business owners are required to comply. This research focuses only on state requirements for occupational licensing and professional registration and does not examine separate city or county requirements. Research on additional municipal, county, or other state licensing requirements and their economic impact on women entrepreneurs warrants further analysis.

The Missouri Division of Professional Registration, part of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, reports 457,985 Missouri individuals and businesses were registered with the Division as of 2015¹⁹, a slight increase from 424,619 in 2009.²⁰ Missouri Revised State Statutes direct the Division, which is responsible for “protecting consumers by licensing professionals and companies to ensure they meet the requirements of Missouri law.”²¹ The Division primarily plays an administrative role by processing applications, reviewing qualifications and criminal history, conducting investigations of misconduct, and providing support to the 40 boards and commissions that license 55 professions in the state.

In 2015, employed women in the US were more likely to hold a certification or license than employed men (28.1% and 23.2%, respectively).²² The occupations in which workers have the highest likelihood of having a certification or license were healthcare practitioners and technical occupations (76.9 %), legal occupations (68.1 %), and education, training, and library occupations (55.5 %). In most fields, licenses were the predominant credential,²³ and many of these are woman-dominated occupations. Table 3 identifies the percentage of women in specific occupations in Missouri.

Table 3. Women in the Workforce in Missouri, 2014

Occupation	% Female in Missouri
Preschool and kindergarten teachers	97
Secretaries and administrative assistants	96
Child care workers	92
Bookkeeping, accounting, and auditing clerks*	91
Registered nurses*	90
Nursing, psychiatric, and home health aides*	89
Other healthcare support occupations*	88
Personal appearance workers*	88
Occupational and physical therapist assistants and aides*	87
Legal support workers	86
Librarians, curators, and archivists	85
Financial clerks except bookkeeping, accounting, and auditing clerks	85
Therapists*	84
Information and record clerks except customer service representatives	82
Elementary and middle school teachers	82
Other office and administrative support workers	80
Health technologists and technicians*	79
Special education teachers	79
Human resources workers	78
Textile, apparel, and furnishings workers	78
Nurses, all other*	77
Cashiers	77
Other teachers and instructors, education, training, and library occupations	76

Source: American Community Survey 2014

* Occupations licensed by the Missouri Division of Professional Registration

OVERVIEW

Governments began regulating occupations as early as 1870 and by the 1900s most states had laws to regulate medical and dental professions.²⁴ In 1889, the Supreme Court in *Dent v. West Virginia* established the rights of the states to regulate occupational licensing.²⁵ Since then, each state has developed its own system of professional regulation, which requires licensure of a broad range of professions.

Licenses are issued by states as opposed to a professional certification which is typically issued by a non-governmental private or non-profit organization. There has long been discussion regarding the true intent of occupational licensing. While some argue the purpose is to protect the public, others insist the purpose of occupational licensing is to restrict access to the occupation and increase the income of professionals.

**457,985 Missouri individuals
and businesses were
registered with the Missouri
Division of Professional
Registration as of 2015.**

Missouri Statutes

The statutes that allow for occupational licensing in Missouri can be found in Chapter 324 (Occupations and Professions General Services) of the Missouri Revised Statutes²⁶. Chapter 324.001 contains the statutes that give the Division the power to create rules and regulations for the renewal of licenses, establish fees and licensing periods, and for clerical and financial control over general operations²⁷.

Enumerated elsewhere in Section 324.001 are the powers for the Division to issue opinions on qualifications for licenses, appoint members to boards, and impose disciplinary measures on licensees, as well as the statutes of limitations on disciplinary measures²⁸. Additionally, statutes give power to the Division to enforce laws, as well as the power of appeal for applicants denied licensure.

Structure

The Missouri Division of Professional Registration is an arm of the Department of Insurance, Financial Institutions and Professional Registration, or the DIFP. According to the Division's website, it has a staff of 216, which provides administrative support to professional licensing boards²⁹. The 40 boards and commissions housed within the Division of Professional Registration represent a wide variety of businesses and professions in Missouri, for which they are in charge of licensing and discipline. The administrative structure of the Division is led by the Director of Professional Registration. The Director of Professional Registration are the Director of Human Resources, Chief Counsel, Chief Investigator of the Central Investigative Unit, Director of Budget and Legislation, and the Director of Financial Services all report to the Director of Professional Registration.³⁰

Financially, the Division receives its entire budget from licensing fees and is completely independent of general funding³¹. The Division's purpose is to ensure that only the most qualified professionals receive occupational licensure. In doing this, they protect members of the public from unscrupulous business practices, as well as establish quality standards for Missouri's businesses and professionals to ensure they are adhering to Missouri law. According the Director of the Division of Professional Registration, recently the Division and boards have found ways to administer more efficiently and in some cases have reduced the fees collected from professionals. State statute indicates that no board can keep more than the equivalent of three years' operating expenses in reserve.³²

Boards and Commissions

The 40 boards and commissions that oversee occupational licensure in Missouri each report directly to the Division of Professional Registration. They are the administrative bodies largely responsible for issuing licenses, reviewing applications, and conducting investigations on licensed professionals and businesses³³. Table 4 identifies all of the boards and commissions and the number of licensed businesses and professionals in Missouri.

Table 4. All Professionals and Businesses Regulated by Missouri Boards and Commissions, 2015

Profession	Number of all licensed professionals and businesses
Accountants and accountancy firms	21,701
Acupuncturists	131
Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects	26,338
Athlete Agents	46
Athletics	2,081
Behavior Analysts	313
Chiropractors	2,353
Cosmetologists & Barbers	75,030
Counselors, Professional	5,839
Dentists and Dental Hygienists	14,824
Dietitians	2,159
Embalmers & Funeral Directors	6,213
Endowed Care Cemeteries	122
Geologists	868
Healing Arts	44,444
Hearing Instrument Specialists	245
Interior Designers	81
Interpreters	739
Marital & Family Therapists	301
Massage Therapists	6,663
Nurses	136,473
Occupational Therapists	4,977
Optometrists	1,347
Pharmacists, Pharmacies and Pharmacy Technicians	38,527
Podiatrists	375
Private Investigator and Private Fire Investigator	1,006
Psychologists	2,206
Real Estate Appraisers	2,688
Real Estate Agents and Brokers	40,658
Respiratory Care Practitioners	4,617
Social Workers (clinical)	7,933
Tattooing, Body Piercing & Branding	1,394
Veterinarians and Vet Technicians	5,293

Source: DIFP Annual Report 2015

These boards altogether are comprised of a total of 239 board members. Each board contains members that represent different regions in Missouri. The board members are appointed by the Governor and approved by the Senate.³⁴ Board members play a vital role in implementing the statutes and rules that govern occupational licensing in the state.

Board Appointments

In order to be eligible for appointment to a licensing board, the applicant must meet the following criteria:

- 18 years or older
- A citizen of the US
- A resident of Missouri
- Current in payment of all local, state, and federal taxes³⁵

Appointments are made by the Governor and must be approved by the Senate. The following describes the steps for appointment and approval:

- 1) All vacancies and expired term board seats are posted on the Missouri Boards and Commission's website.
- 2) Interested applicants must complete an Application for Gubernatorial Appointment and submit all required documentation.
- 3) The Governor's staff then reviews the application and gathers information regarding professional and personal experience, political affiliation, ethnicity, gender, and geographic location, a background check including tax compliance review, criminal records, and a review of credit history. Additionally, the nominee's sponsoring Senator must submit a letter of support.
- 4) Next, applicants are required to appear before the Senate Gubernatorial Appointments Committee for a hearing to determine if the applicant is qualified and competent. The Committee then votes to send the nomination to the full Senate for approval.
- 5) The full Senate must approve the appointment. If the Senate is in session the applicant must be confirmed before service begins. If the Senate is in recess, service can begin immediately, but will be subject to the confirmation process when the Senate is next in session.³⁶

A review of the Division of Professional Registration website indicates that approximately 133 board members on occupational licensing boards are serving expired terms and more than 38 board seats are currently vacant.³⁷ Appendix A provides a full summary of the expired terms and vacancy data for occupational licensing boards currently available. It is not just licensing boards that have vacancies and expired terms, it is estimated that there are more than 1,300 positions on all of Missouri's 200 boards and commissions with vacancies or individual's serving expired terms.³⁸ It is legal under Missouri statute to allow individuals to continue serving expired terms. Regardless of the status of their term, an individual in an expired term is allowed to fully participate in the decisions of the board or commission.³⁹

Approximately 133 occupational licensing board members are serving expired terms and more than 38 board seats are currently vacant.

In November 2016, a new Governor will be elected in Missouri. All Senate confirmed board members will stay in their appointed positions until his or her term expires. Those individuals that have received an interim appointment will be withdrawn and, if approved by the new Governor, will be re-appointed

in order to continue serving. The Senate must then act within thirty days of the opening of the legislative session to approve the appointment and allow the individual to continue to serve.

Staffing

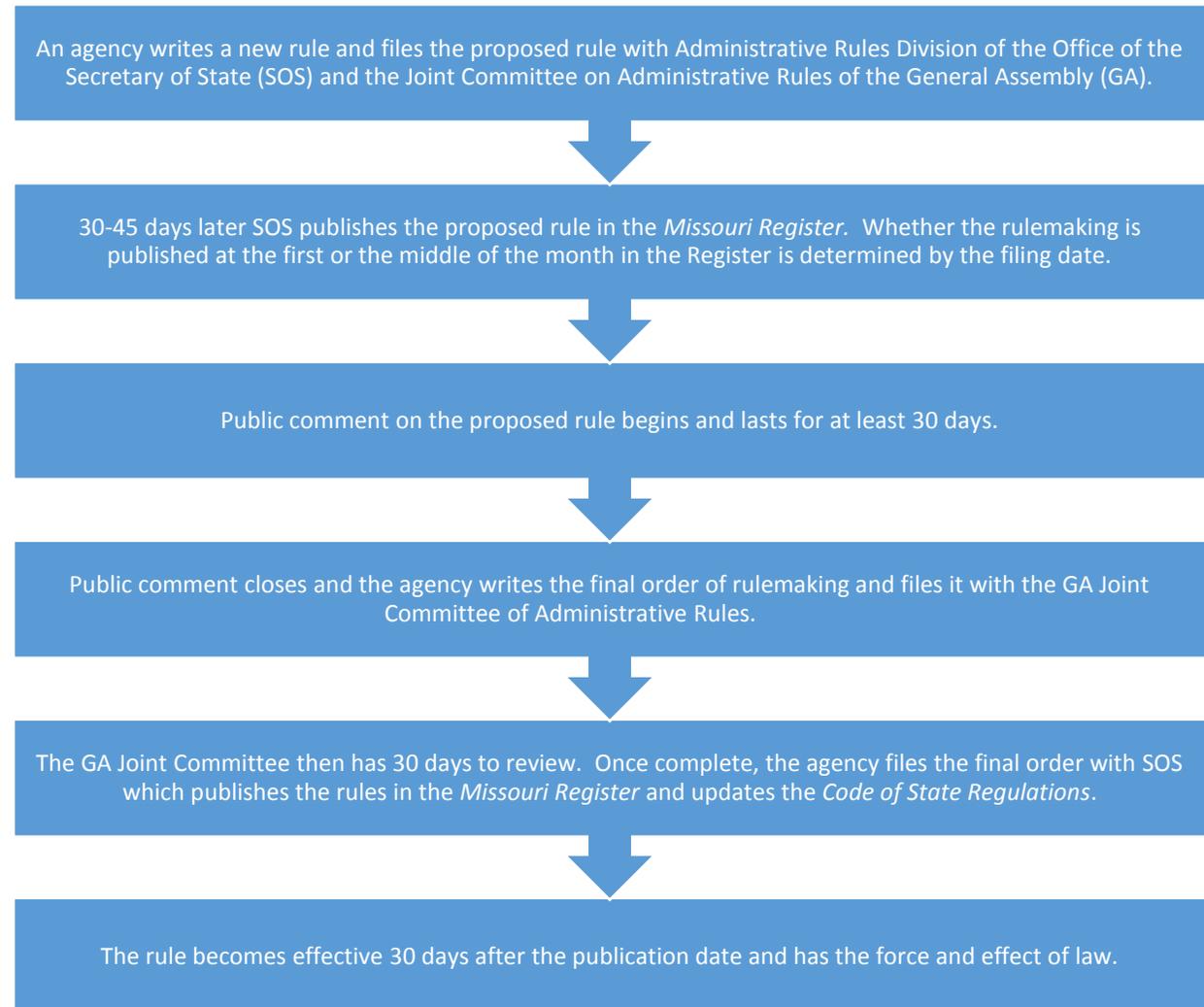
Most boards and commissions have an administrative staff ranging from two to eight people, of which one is an executive director and at least one is a processing technician. One of the primary roles is to address complaints and check for compliance. Some of the boards have their own dedicated investigators and inspectors, while others rely on the Central Investigative Unit of the Division to accomplish this⁴⁰. The boards have the power to revoke and suspend licenses if the board has filed a complaint with the Administrative Hearing Commission and they have found cause for discipline. In the case where cause for discipline is found, in addition to the authority to suspend and revoke licenses, boards can censor, reprimand, or put a licensee on probation.⁴¹

The boards are reviewed by the state Auditor's Office, which examines adherence to statutes and regulations as well as implementing sound practices. The Auditor's Office evaluates each board as either excellent, good, fair or poor. The audits determine whether the board is performing the role it is designed to perform, if the board is operating at an optimal level of efficiency, and also evaluates financial records and budgets when applicable. The three main issues addressed in the audits are deficiencies in internal control, significant noncompliance in legal provisions, and significant deficiencies in management procedures and practices.⁴²

Audits are conducted in accordance to the standards applicable to performance audits found in *Government Auditing Standards*. In cases when the auditor finds significant issues with how the board operates, they will make recommendations for how the board can improve and achieve their stated goals more effectively. All audits are available for citizen review on the state auditor's website: (<http://app.auditor.mo.gov/AuditReports/AudRpt2.aspx?id=1>).⁴³

RULE MAKING PROCESS FOR BOARDS AND COMMISSIONS

Boards and commissions are allowed to create the rules which guide the implementation of state statute. Through the rule making process boards set licensing requirements such as educational and experience requirements, fees, and reciprocity. Rulemaking is an essential function of the boards and commissions. The flow chart below describes the process of rulemaking as defined by the Missouri Secretary of State.⁴⁴



CROSS-SECTION BOARD ANALYSIS

To gain a better understanding of the occupational licensing requirements for some professions in Missouri the research team selected a cross-section of the existing licensing boards to profile. The following criteria was used to identify eight professional boards which are highlighted in this section.

- 1) These boards oversee professions that tend to have more opportunities for entrepreneurship. All health professions were excluded because they are not generally viewed as entrepreneurial in nature.
- 2) These boards represent a cross-section of occupations; some requiring high skill and extensive education, others with lower skills requirements and requiring less formal education.
- 3) Two boards, Board of Cosmetology and Barber Examiners and the Interior Design Council were selected because their profiles provide an in-depth look at two substantially different occupations in Missouri and how regulation impacts each.

These boards include:

- Board of Cosmetology and Barber Examiners
- Board of Private Investigators and Private Fire Investigator Examiners
- Board of Therapeutic Massage
- Committee of Psychologists
- Interior Design Council
- Real Estate Appraisers
- Real Estate Commission
- Office of Tattooing, Body Piercing and Branding

Profiles for six of these boards can be found highlighted throughout this document in featured boxes, like the one located on the right. Each profile contains information on the purpose of the board, the number of people licensed in Missouri, the licensing fee, renewal fee, requirements, and when available the pass rate for exams administered in 2015. (Available data is presented, some data represents national pass rates, state pass rates, or individual institution pass rates).

Data for each of the profiles was collected from the individual websites of each licensing board. There is very little consistency among the board websites and information is not necessarily reported in a uniform way. Navigating the websites of each board can be cumbersome and time consuming for those seeking detailed information. This makes data collection and analysis difficult and can also be a barrier to members of the public seeking detailed information about licensing requirements. Creating a

Occupational Licensing Profile

Committee of Psychologists

Purpose: To serve and protect the public by providing an accessible, responsible, and accountable regulatory system that: licenses qualified professionals, appropriately enforces standards, and maintains an open communication network.

No. Licensed: 2,206*

License Fee: \$150

Renewal Fee: \$150

Requirements: A doctoral degree and one year of experience or a master degree and 3 years of experience. 1500 additional hours of supervised professional experience.

Exam Pass Rate: EPPP Pass Rate: 77% (American Psychological Association)

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

uniform template for each board website with consistent and detailed information could provide easier access for the public.

Two of the licensing boards: the Board of Cosmetology and Barber Examiners and the Interior Design Council have been selected for further analysis.

BOARD OF COSMETOLOGY AND BARBER EXAMINERS OVERVIEW

The Board of Cosmetology and Barber Examiners was selected for further analysis because there are opportunities for entrepreneurship in the profession and Missouri licenses a lot of individuals and businesses (75,030), second only to nursing (136,473).⁴⁵ About 88 percent of personal appearance workers in Missouri are women.⁴⁶ There is also interest in further examining this board because of controversy that has developed regarding African hair braiding and licensing requirements.

The statutes regarding the Boards of Cosmetology and Barber Examiners are outlined in the Missouri Revised Statutes section 329. Originally, there were two separate boards for barbering and cosmetology, but the boards were merged into one as outlined in sections 328.020 and 329.023. The board consists of eleven Governor-appointed and Senate-approved members. Of these eleven members, three members are licensed cosmetologists with a Class CA (hairdressing and manicuring) license certification, one accredited cosmetology school owner, one owner of a licensed cosmetology school, three licensed barbers and two voting members. Two of the cosmetologists and two of the barbers are appointed to serve four year terms; two cosmetologists, one barber and one public member are appointed to serve three year terms; and the rest are appointed to serve two year terms. If any one member has served on the board for a total of 12 years, they are no longer eligible for reappointment. The board has the power to appoint within itself a president, vice president and secretary.⁴⁷

Hair Braiding in Missouri and the US

In much of the US and the state of Missouri, hair braiding is interpreted as a type of hair dressing. Missouri does not track separately the number of hair braiding practitioners or hair braiding salons. According to a recent newsletter published by the Missouri Board of Cosmetology and Barber Examiners, there are 41,877 people who have active hairdresser-cosmetologist licenses and 12,531 licensed beauty shops or hair salons in Missouri.⁴⁸ Natural hair braiding requires no chemical application or any other procedures that are traditionally seen to have potential health and safety hazards in the cosmetology field.

Table 5 reports national data on the number of women employed as hairdressers, hairstylists and cosmetologists. Approximately 94 percent of people who are employed in this sector are women.⁴⁹

Table 5. Gender Composition of Barbers and Cosmetologists, 2015

Percent of total employed		
	Total employed (in thousands)	Percent Women
Total, 16 years and over	148,834	46.8
Barbers	116	22.1
Hairdressers, hairstylists, and cosmetologists	707	94.2

Source: Bureau of Labor Statistics, Current Population Survey, 2015

On June 17, 2014, the Institute for Justice filed a lawsuit against the Missouri Board of Cosmetology and Barber Examiners in the United States District Court for the Eastern District of Missouri to end the state's practice of requiring licensing for natural or African hair braiding.⁵⁰

The Institute for Justice contends that Missouri state regulations, which treat natural hair braiders the same as cosmetologists, are irrelevant and unnecessary. To become a licensed cosmetologist in Missouri, one has to complete either 1,500 hours in a school of cosmetology, or 3,000 hours in an apprenticeship program, and pass a written and a practical exam. However, the training and the exams do not cover African hair braiding. For example, the practical cosmetology exam includes skills like: set up and client protection; thermal curling; haircutting; chemical waving; virgin hair lightening application and hair color retouch; virgin relaxer application and relaxer retouch; manicure. In order to obtain a license and be able to practice in Missouri, the existing requirements force hair braiders to be trained in skills that they do not need.

The Institute for Justice argues that this type of licensing requirement is intended to protect existing practitioners and reduce their competition as opposed to protecting the health, safety, or well-being of the public. Additionally, the Institute for Justice argues that many women, especially black women, are forced to operate in an underground economy because of these stringent requirements and therefore are not able to realize their full economic potential.⁵¹

The Missouri Board of Cosmetology takes disciplinary actions against hair braiders who practice without a cosmetologist license. For example, according to information published on the Missouri Board of Cosmetology and Barber Examiners' official website, there are at least 13 cases of disciplinary actions taken by the Board against hair braiding salons which were operating without licenses.⁵² The disciplinary actions resulted in four licenses of hair braiding salons being revoked, five put on probation and four settlement agreements.

Missouri Women Entrepreneurs and Hair Braiding

In its lawsuit, filed in June 2014, the Institute for Justice represents the interests of Joba Niang and Tameka Stigers, two women entrepreneurs required to obtain a cosmetologist license to braid hair.

The defendants in this case are the Missouri government officials: Emily Carroll, Executive Director of the Missouri Board of Cosmetology and Barber Examiners and Wayne Kindle, President of the Missouri Board of Cosmetology and Barber Examiners; and other members of the Board. In September 2016, a federal judge for the Eastern District of Missouri upheld Missouri's licensing requirements for African-style hair braiders. The two entrepreneurs, Niang and Stigers, have said they will appeal.⁵³

Occupational Licensing Profile

Board of Cosmetology and Barber Examiners

Purpose: To protect the public's health, safety and welfare by ensuring that only qualified persons are examined and licensed to practice barbering and cosmetology, as well as to strive to reduce the number of instances of incompetent, negligent, fraudulent or dishonest services provided by licensees. Also conduct inspections of the establishments and schools.

No. Licensed: 75,030*

License Fee: \$100-\$220

Renewal Fee: \$30-\$50

Requirements: 1000 hours of study during the period not less than six months, or 2,000 apprentice hours with a supervisor.

Exam Pass Rate: 98.21%
(Missouri College of Cosmetology)

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

The Missouri General Assembly is considering two bills that propose two different approaches to professional regulation of hair braiders in Missouri.

1. HB 1770 – Hair Braiding Freedom Act (Sponsor: Dogan), filed in December 2015, prohibits licensing of hair braiders and replaces it with a registration of all practicing hair braiders with the State Board of Cosmetology and Barber Examiners and a fee of up to \$25. The purpose of the registration is to maintain a list of individuals who braid hair for compensation. The Board will develop a “brochure containing information regarding infection control techniques which are appropriate for hair braiding in or outside of a salon setting that must contain a self-test with questions.” A hair braider is exempt from licensure if he or she completes a self-test and has it available upon request.⁵⁴
2. HB 2254 – Hair Braiding (Sponsor: Jones), filed in January 2016. This bill establishes requirements for hair braiders to study no less than 500 hours. A student must study a minimum of 50 hours before the student may perform any acts of hair braiding on any patron or customer of a cosmetology school.⁵⁵

Occupational Licensing Profile

Real Estate Commission

Purpose: To ensure all real estate broker or salesperson has procured a license from the Commission. The Commission investigates complaints, conducts investigation audits, and other necessary duties to carry out the provision of the real estate license law.

No. Licensed: 40,658*

License Fee: \$80

Renewal Fee: \$50

Requirements: 48 hour Salesperson Pre-Examination Course, and 24 hour Missouri Real Estate Practice Course.

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

While HB 1770 proposes to only register hair braiders, HB 2254 reduces the training hours from the current requirements of 1,500 hours to 500 hours. It is important to note that both bills were introduced almost at the same time (December 2015 and January 2016) and at the present have been referred to the House Committee of Professional Registration and Licensing.⁵⁶

The Missouri case is one of 11 cases which constitute the Institute of Justice’s National Braiding Initiative. According to the Institute for Justice’s website, it has represented braiders in Washington, D.C., Ohio, California, Arizona, Mississippi, Minnesota, Utah, and Texas. In 2014, the Institute for Justice filed cases against Missouri, Arkansas and Washington state.⁵⁷

Policies in Other States

While Missouri’s legislature is still deciding whether or not to act on the issue of professional regulation of hair braiders, in March 16, 2015 Arkansas passed the Natural Hair Braiding Protection Act. The Act establishes a voluntary certification procedure for hair braiders.⁵⁸ The state of Washington took a different approach and passed the administrative rule WAC 308-20-025: Natural hair braiding—Exemption, which states that nothing in the state regulations prohibits or restricts the practice of natural hair braiding. “Natural hair braiding does not include hair cutting, application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair. Natural hair braiding may involve the use of hair extensions when the extensions are attached only by natural means.” This rule went into effect on April 10, 2015.⁵⁹

Some states, including Texas, deregulated hair braiding entirely. Texas House Bill 2717 was signed into law on June 8, 2015, deregulating natural hair braiding from the Texas barbering and cosmetology professions. This law was effective immediately and individuals and instructors who provide or teach hair braiding no longer need a license to braid hair. Moreover, the Texas Department of Licensing and Regulation offers prorated refunds to license holders.⁶⁰

Some states have chosen to reduce regulations on hair braiding. For example, in 2011 the Illinois Department of Financial and Professional Regulation began issuing hair braiding licenses which require 300 hours of training. The new licensing requirements replaced a cosmetology license that was previously issued to Illinois hair braiders which required 1,500 hours to obtain.⁶¹ The general trend seems to be toward reducing regulation of hair braiders up to complete deregulation.

Occupational Licensing Profile

Tattooing, Body Piercing, & Branding

Purpose: To review applications for licensure to ensure individuals have met the requirements as established in the regulations, to ensure the safety of the public.

No. Licensed: 1,394*

License Fee: \$100

Renewal Fee: \$100

Requirements: 300 documented hours of practical experience that includes a minimum of 25 completed procedures in each area. Completion of blood borne pathogen and CPR training.

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

Occupational Licensing Profile

Interior Design Council

Purpose: The Council will, for the health and welfare of the inhabitants of Missouri, regulate the use of the title, “registered interior designer”; protect against the unlawful use of the title, “registered interior designer”; and implement and sustain a system for the regulation of the use of the title, “registered interior designer.”

No. Licensed: 81*

License Fee: \$100

Biennial Renewal Fee: \$100

Requirements: Graduate of a four or five – year interior design program and at least two years of experience. Examination by National Council for Interior Design Qualification

Exam Pass Rates: 57%
(NCIDQ Exam)

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

INTERIOR DESIGN COUNCIL OVERVIEW

The Missouri Interior Design Council was also selected for further analysis because of the entrepreneurial nature of the profession and the ongoing debate of whether the public’s safety or well-being is protected by the regulations. In Missouri, a person who claims to be a registered interior designer must be licensed by the Interior Design Council. According to the Council’s website the purpose is that the Council will, for the health, safety and welfare of the inhabitants of Missouri, regulate the use of the title, “registered interior designer”; protect against the unlawful use of the title “registered interior designer”; and implement and sustain a system for the regulation of the use of the title “registered interior designer.”⁶²

The application for registration includes a rigorous process of screening of applicants. The Council verifies a person’s academic and work experience in order to maintain quality and standards of profession. In order to become a registered interior designer, an applicant must possess six years of education and professional experience and pay a fee of \$100.

The board for Interior Design in Missouri, called the Interior Design Council, is detailed in Section 324.406.1 of the Missouri Revised Statutes. The Council is to be made up of four interior designers and one public member to be appointed by the Governor and approved by the Senate. Each

member may serve no more than two terms. State statute gives members of the Interior Design Council the authority to recommend prosecutions for violations against the council, including but not limited to disciplinary measures against unlicensed practitioners. The Council also is given the authority in this section to promulgate rules and regulations to facilitate this process. Once appointed, the council has the authority to appoint a chairperson and a vice-chairperson who shall preside over the meetings.

Supporters contend that regulation is necessary for public safety related to selecting appropriate and safe materials and complying with ADA regulations. Critics argue that building and fire codes are already in place to provide that protection.

Additionally, critics of regulation of interior design argue that legislation that creates licensing requirements is often forced by associations and industry insiders interested in reducing competition, protecting existing businesses, and creating an unfair business advantage.⁶³ The Washington State Department of Licensing conducted a sunrise review of interior design regulations to determine if a need for licensing existed. The Department reviewed cases of harm compiled by the National Council of

Interior Design and determined the overwhelming majority of cases filed were for practicing without a license. The Department concluded that, “these cases may hurt the industry but did not appear to harm the public.”⁶⁴

REENTRY AND RELICENSING

In Missouri, the process and requirements for re-entry into and relicensing within the profession vary from one regulating board to another. Most of the regulatory boards have a provision for ‘inactive status’ for a licensee. The provision prohibits the licensee from practicing the profession for the duration of ‘inactive status’. In most cases, the inactive status has to be renewed each renewal period. Some boards allow inactive status for only a few years before the license expires and the individual has to take the license examination again.⁶⁵ Once the license holder decides to reactivate her license, she has to complete the continuing training requirements and pay any fees if applicable. If she fails to pay the inactive status fee and her license expires, a late fee may be charged, additional training may be required, or some may insist on a new application, depending on the board.⁶⁶

If a license holder does not obtain ‘inactive’ status and her license expires, she has to follow the process set by the Board. This may include submitting a late fee, providing proof of continuing education, or having to apply for a new license.

The process for license renewal after a license expires, or the license holder reactivates her status, can place additional financial and regulatory burdens on women who are seeking to re-enter the profession after a hiatus. In certain circumstances as explained above, they may have to retake the license examination or complete additional training requirements. If a woman were to return to the workforce after taking family leave, the requirements alone may impose a barrier to re-entry. Additional training requirements or taking the licensing exam again can be problematic for parents. Studies have cited distance from the course site, means of travel, and lack of access to adequate child care as potential barriers.⁶⁷ In certain circumstances, women may not find the schedules for course offerings appropriate to coordinate with the schedules of their other responsibilities. The cost of the re-entry training program itself may present an obstacle for women to re-enter the workforce.⁶⁸

Veterans

Veterans face unique obstacles in their efforts to transition back to the civilian workforce. In fact, as many as 60 percent of veterans report they have a difficult transition back to civilian life and many name “finding a job” as the

Occupational Licensing Profile

Board of Private Investigators and Private Fire Investigators

Purpose: To protect the property of the residents from damage or destruction through the dangerous, dishonest, incompetent, or unlawful practice of private investigating and private fire investigating; and to implement and sustain a system for the examination and regulation.

No. Licensed: 1,006*

License Fee: \$500

Renewal Fee: \$300

Requirements: Private investigators – no training required, must maintain continuing education.

Private fire investigators- Must maintain certification issued by the Missouri Division of Fire Safety.

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

greatest challenge.⁶⁹ Efforts are in place across the country to help ease the transition. The Department of Defense has established the Military Credentialing and Licensing Task Force to assist former service members with obtaining occupational licenses.⁷⁰ Supporting veterans as they seek occupational licensing and employment could help ease some of the challenges of transition.

RECIPROCITY

A professional holding a license from another state may be eligible to practice his or her profession in Missouri under certain circumstances depending on the occupation. Some boards allow for reciprocity under certain circumstances and will waive the examination requirements. However, there may be potential barriers for professionals wishing to practice in the state under reciprocity rules. For example, the Board of Cosmetology and Barber Examiners offer reciprocity to barber license holders from other states only if the license is 'current', training requirements of the other state are equal or more than Missouri's and the license holder has practiced in the other state for at least two years.⁷¹

Reciprocity statutes are sometimes open to interpretation by the board. For example, according to the Interior Design Council Rules-Reciprocity: A person licensed in another state/country can apply for registration without examination if they supply the following:

- 2 Client References
- Business/Employment Verifications
- 3 Industry References
- Transcripts from accrediting institutions
- Letter from the licensing authority
- Verification from the NCIQQ

However, the Interior Design Council website states, "Unfortunately, Missouri does not have a true reciprocity statute. Therefore, applicants must complete the entire application process, including submission of transcripts and letters of reference."⁷²

Missouri and many other states have passed legislation that makes exceptions to the varied reciprocity requirements for military spouses. In 2011, Missouri passed a bill allowing for "courtesy professional licenses for nonresident military spouses." This law allows the nonresident spouse of any active duty member of the military to practice his/her profession in the state of Missouri by obtaining a temporary courtesy license. A temporary courtesy license is valid for 180 days and can be extended for up to one year.

For active duty military in Missouri, professional license holders do not have to attend continuing education or training to maintain the license or certification during the time of active duty. License

Occupational Licensing Profile

Board of Real Estate Appraisers

Purpose: To protect the public interest through examining candidates, issuing certificates, approving qualifying and continuing education courses, investigating complaints, and administering disciplinary actions to persons in violation of rules, statutes, and uniform standards.

No. Licensed: 2,688*

License Fee: \$300

Renewal Fee: \$300

Requirements: 2,000 hours of appraisal experience obtained over a period of no less than 12 months under the supervision of a state-certified real estate appraiser.

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

holders also do not have to retake any training or education upon returning back from military service in Missouri.

OCCUPATIONAL LICENSING IN NEIGHBORING STATES

Each state has the responsibility to determine which professions are required to be licensed and what the licensing requirements look like. The state systems vary, not only by the number of occupations licensed, but also by the system of licensure administration and the specific requirements for licensing, including education and training. This part of the report provides a general description of the occupational licensing in five states neighboring Missouri, which are Arkansas, Illinois, Iowa, Kansas, and Nebraska. The overview illustrates the diversity of the occupational regulation in different states and compares these states with the practice of occupational licensure in Missouri.

Some states, like Missouri, have a specific state agency responsible for professional regulation, including registration, certification and licensing. For example, the Illinois Administrative Code states that the Department of Financial and Professional Regulation is the state agency responsible for professional regulation. This state agency coordinates the work of the 45 professional boards⁷³, which administer the licensure of specific professions.

In contrast to Illinois and Missouri, Iowa does not have a single state agency responsible for professional regulation. Instead, several state agencies regulate different professions. The Iowa Professional Licensing Bureau oversees seven licensing boards⁷⁴, while the Iowa Department of Public Health coordinates the work of 19 professional boards. Along with these two state agencies there are four professional boards (Medicine, Nursing, Pharmacy and Dental) which have a status of independent state agencies⁷⁵ responsible for licensure of the corresponding occupations.

In Kansas and Arkansas the work of professional boards is even more decentralized than in Iowa. Each board works as an independent state agency responsible for a specific occupation. The Kansas government website lists 16 professional boards,⁷⁶ while the Arkansas government website lists 72 boards among other state agencies and commissions.⁷⁷ The administrative structure of occupational licensing in Nebraska is quite similar to Kansas and Arkansas where professional boards work as independent state agencies and are responsible for licensure of a specific occupation. The official website of Nebraska lists state agencies, including nine boards which regulate specific professions.⁷⁸ For example, the Nebraska Board of Barber Examiners issues rules and regulations concerning the licensure of barbers in the state of Nebraska.⁷⁹

Missouri and its neighboring states regulate many of the same occupations. Table 6 details the eight cross-section boards and regulations among the comparison states.

Table 6. Cross-Section Board Analysis and Neighboring States, 2016

Occupational Licensing Comparison					
Missouri	Arkansas	Illinois	Iowa	Kansas	Nebraska
Board of Cosmetology and Barber Examiner	X	X	X	X	X
Board of Therapeutic Massage	X	X	X		X
Board of Private and Fire Investigators	X	X	X	X	X
Committee on Psychologists	X	X	X	X	X
Interior Design Council	X	X	X		
Real Estate Appraisers	X	X	X	X	X
Real Estate Commission	X	X	X	X	X
Office of Tattooing, Body Piercing, and Branding	X	X	X	X	X

Source: State Licensing Board website, retrieved September 2016

The composition of professional boards is similar across the states, including Missouri, with a typical board consisting of seven to eight members, five experienced practitioners, and two public members. Board members are appointed by a governor for 3 to 5 years, and based on their experience and knowledge of the profession, are responsible for licensure of a certain occupation. The public members of the board represent the interests of the public and consumers.

Missouri ranked 35th in the number of low-income occupations licensed.

(1st – most licensed, 50th – least licensed.)

In 2012, the Institute for Justice released a detailed examination of the burdens and barriers that result from occupational licensing requirements by state. The Institute for Justice’s mission is to, “litigate to limit the size and scope of government power and to ensure that all Americans have the right to control their own destinies as free and responsible members of society.”⁸⁰ The Institute for Justice has brought several lawsuits, including one in Missouri, to limit states’ reach related to occupational licensing.

The study looked specifically at 102 lower-income occupations and which occupations required licensing. Missouri ranked 35th (1st – most licensed, 50th – least licensed) in the number of low-income occupations licensed, with approximately 30% of their lower-incomes occupations requiring licenses. Overall, Missouri ranked 47th for the number of lower-income occupations licensed and the average burden of the licensing requirements. In Missouri, average fees are \$100 and average education or experience requirements are 220 days. Louisiana requires licenses for the greatest number of low-income occupations at 71 and Wyoming requires the least with 24. Hawaii is considered the most burdensome with fees averaging \$367 and 724 days of required experience. Pennsylvania is considered the least burdensome with fees averaging \$176 and 113 required days of experience.⁸¹ Compared to other states, Missouri generally requires fewer licenses and has less burdensome requirements.

Table 7 details the rankings for Missouri and the five comparison states regarding low-income occupations.

Table 7. Missouri Rankings Compared to Neighboring States

States	MO	IL	IA	KS	AR	NE
Number of low-income occupations licensed out of 102	31	40	54	34	52	45
Ranking by average burden among low-income occupations	35	31	46	44	2	20
Ranking by number and average burden of requirements	47	40	20	46	5	31

Source: Institute for Justice (1 – most licensed, 50 – least licensed), 2012

Other studies designed to rank the burden of occupational licensing among states have found similar results. In January 2015, the Current Population Survey (CPS) conducted by the U.S. Census Bureau for the Bureau of Labor Statistics began asking questions related to job certification and licensing. Early data from the CPS, released in 2016, analyzed and reported by the Heritage Foundation, found that Missouri ranked 33 on licensure rates among employed workers.⁸²

In July 2015, the Pacific Research Institute (PRI) released research on small business regulation in all 50 states. The Pacific Research Institute’s mission is to “champion freedom, opportunity, and personal responsibility by advancing free-market policy solutions.”⁸³ PRI looked at data regarding licensing and certification regulations and found that Missouri ranked only 6th (1st-least burdensome, 50th-most burdensome), indicating a very low licensing burden compared to other states.⁸⁴

While the number of occupations that require a license is a good indicator of the scope of licensure in the state, another important dimension is the number of people who need a license in order to work. The studies which looked at the dynamics of occupational licensing found that overall the percentage of workforce in licensed occupations increased from 5% in the 1950s to 25% in 2008.⁸⁵ A more recent study by Kleiner & Vorotnikov found that among the adjacent states, Kansas (14.9%) and Arkansas (20.2%) have the lowest percentage of licensed workers, while in Missouri 21.3% of the employed workforce over 18 years old is licensed.⁸⁶

Professional boards, as well as state agencies which oversee the boards, are funded by license fees paid by regulated professionals. According to the Missouri Department of Insurance, Financial Institutions and Professional Registration, Missouri collected \$18.5 million as licensing fees in 2014.⁸⁷ At the same time the Illinois Division of Professional Regulation accounted for \$76.6 million of the \$119.1 million in total receipts of the Department of Financial and Professional Regulation.⁸⁸ State statute indicates that no board can keep more than the equivalent of three years’ operating expenses in reserve.⁸⁹

NORTH CAROLINA BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION: A CASE STUDY

North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S. Ct. 1101 (2014)

Holding: When a controlling number of the decision makers on a state licensing board are active participants in the occupation the board regulates, the board can invoke state-action immunity only if it is subject to active supervision by the state.

Judgement: Affirmed, 6-3, in an opinion by Justice Kennedy on February 25, 2015. Alito filed a dissenting opinion, in which Justices Scalia and Thomas joined.

In 2003, the North Carolina Board of Dental Examiners learned of teeth whitening services being performed by non-dentists at salons and kiosks at significantly lower rates than dentists. Following an initial investigation, the Board sent cease-and-desist letters to 29 non-dentist teeth-whitening service providers. The action effectively shut down all non-dentist teeth whitening service providers in the state.

In 2010, the Federal Trade Commission (FTC) brought an administrative action against the Board. The FTC said that the Board engaged in “unfair methods of competition,” violating the FTC Act. However, the Board dismissed the action and claimed that as a state agency, it was protected by state-action antitrust immunity.

The court rejected the Board’s plea and endorsed FTC’s view that state agencies will be considered “private actors” when operated by market participants who are elected by other market participants; and when Boards are not “actively supervised” by the state. The Board failed to show it was actively supervised by North Carolina, therefore, the court held that the Board violated the FTC Act. The Supreme Court also upheld this decision, and further declined to apply protections under the state-action antitrust immunity to the Board’s cease-and-desist notices to non-dentists. It further held that notwithstanding the Board’s formal designation as a state agency, it must be treated like a private actor since a “controlling number of decision makers are active market participants in the occupation the board regulates.”

The implications for the current study: This decision had the potential for immense nationwide impact on occupational licensing. However, because board members in Missouri are appointed by the governor and approved by the Senate it is considered actively supervised by the state of Missouri and therefore not subject to the same ruling.

Sources:

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<http://harvardlawreview.org/2015/11/north-carolina-state-board-of-dental-examiners-v-ftc-2/>
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OCCUPATIONAL LICENSING AND THE ECONOMY

It should be noted that recent data indicates that individuals who have a license or active certification are more likely to be employed and experience higher earnings than those without a license. While those without a license or certification may face income inequity compared to their licensed peers, the economic impact for workers with licenses is substantial. Among the civilian, non-institutionalized population 16 years and over, 17.8 percent held an active certification or license. Employed people were more likely to hold an active certification or license (25.5 percent) in 2015 than the unemployed (12.7 percent) or those who were not in the labor force (6.1 percent). The majority of people with credentials had a license. Among the employed, 22.4 percent had a license and 3.1 percent had a certification, but no license.⁹⁰ Table 8 below shows this:

Table 8: Certification and licensing status of the civilian non-institutional population 16 years and over by employment status, 2015 annual averages

Employment status	Number of persons (thousands)				
	Total Number	With a certification or license			% Without a certification or license
		Total Percentage	% With a certification, but no license	% With a license	
Civilian non-institutional population	250,801	17.8	2.2	15.6	82.2
Civilian labor force	157,130	24.8	3.0	21.8	75.2
Employed	148,834	25.5	3.1	22.4	74.5
Usually work full time	121,492	26.9	3.3	23.5	73.1
Usually work part time	27,341	19.4	2.0	17.4	80.6
Unemployed	8,296	12.7	2.0	10.7	87.3
Not in the labor force	93,671	6.1	0.8	5.3	93.9

Source: Bureau of Labor Statistics, April 15, 2016

Income & Earnings

People with a certification or license earned about 1/3 more than those without these credentials. Among full-time wage and salary workers in 2015, the median usual weekly earnings of workers with a certification or license (\$1,004) were 34 percent higher than earnings for workers without a certification or license (\$747). People who held a certification or license generally had higher earnings than those of similar age, sex, or race, who did not have credentials.⁹¹

The median weekly earnings of workers with a certification or license were 34 percent higher than earnings for those without.

However not all licensed professions are experiencing what could be considered high earnings. In order to obtain the appropriate license or credential, specific education and training is required. A report from the Brookings Institute found that of the 671 cosmetology programs in the country only six of the schools graduated workers who averaged more than \$20,000 per year.⁹²

The median earnings of the occupations included in the cross-sectional board analysis show a range of hourly wages, annual salaries, and starting salaries. This data provides a sense of what an individual seeking employment in one of these licensed fields can expect in earnings, see Table 9.

Table 9. Hourly Wages, salary, and employment for cross section of occupations in Missouri, 2015

Occupation	Median Hourly Wage	Annual Salary	Average Starting Salary	Employment per 1000
Barber	\$11.86	\$29,320	\$27,040	No estimate
Cosmetology	\$11.13	\$27,150	\$16,811	2.378
Interior Design	\$22.87	\$53,940	\$25,830	0.44
Massage Therapists	\$11.64	\$31,440	\$18,860	0.0403
Psychologists	\$37.87	\$77,335	\$38,440	0.567
Private Investigators	\$22.00	\$51,680	\$26,920	0.182
Private Fire Investigators	\$23.95	\$50,880	\$34,260	0.108
Real Estate Agents	\$18.41	\$53,360	Commission	0.805
Real Estate Appraisers	\$25.10	\$57,020	\$27,040	0.611
Real Estate Brokers	\$9.22	\$37,510	Commission	0.202

Source: Bureau of Labor Statistics, 2015.⁹³

Occupational Licensing Profile

Board of Therapeutic Massage

Purpose: Protects the public from incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty; licenses only “qualified” professionals by examination and evaluation of minimum competency; enforces standards by implementing legislation and administrative rules.

No. Licensed: 6,663*

License Fee: \$125

Renewal Fee: \$100

Requirements: 500 clock hours of supervised instruction. Must be at least 18 years old.

Website: <http://pr.mo.gov/pi.asp>

*As of December, 2015

Education and Training

Each licensing board requires specific education or training as part of the licensure requirement. In order to reach the education requirements, some individuals enroll in proprietary schools. Proprietary schools are largely private postsecondary educational institutions that are operated for profit.⁹⁴ Private vocational schools and private schools or colleges that offer college-level instructional programs are considered proprietary schools. Critics of proprietary schools argue that they exist solely to take advantage of the federal student loan money available to their students. Proponents argue that they are providing education to a non-traditional and underserved populations that would otherwise not have access to the same educational opportunities.⁹⁵

Between 2000 and 2010 the share of federal student aid paid to proprietary colleges rose from \$4.6 billion to \$26 billion.⁹⁶ Unfortunately, many of the colleges fail to deliver on promises of quality training and job placement, and students are left with enormous debt.⁹⁷ The U.S. Department of Education reports that in 2013 at proprietary schools, the student loan default rate was 15 percent compared to a default rate of 11.3 percent for public schools and 7 percent for

private schools.⁹⁸ This financial burden can present an additional barrier to women and others attempting to enter a licensed profession.

The economic impact of occupational licensing is complex, while some individuals with professional licenses can benefit from higher earnings and job placement, others find obtaining the required training and associated fees a barrier to those benefits. While not discussed in detail in this report, the impact of occupational licensing on job creation and economic growth and the impact on Missouri entrepreneurs and industries is a topic that warrants further exploration.

BARRIERS

Research indicates that professional registration requirements often limit access to the profession, especially for immigrants and those with past criminal convictions.⁹⁹ A 2016 study by Klein states, “Occupational licensing statutes primarily harm individuals who have the greatest need for economic opportunity: minorities, poor workers, the less-educated, and people re-entering the workforce.”¹⁰⁰ The research does not indicate that the barrier is significantly different for men and women, but does indicate that women are more likely to work in an occupation that requires a license and are more likely to hold a license than men.¹⁰¹

There are opportunities for increased earnings and employment for those with a license or certification, however in some cases, licensing requirements can lead to lower employment in a specific profession, and have a negative economic impact on non-license holders. While the economic benefits for license holders is significant, research suggests that licensing regulations “may cause greater income inequality because entrepreneurs at the bottom rungs of the income distribution may have relatively greater difficulty surmounting costly barriers to entry.”¹⁰²

ADMINISTRATIVE BARRIERS

The administration of occupational licensing in Missouri currently has policies and practices which could be improved to decrease the barriers associated with licensing. These include:

- 1) *No Cost-benefit Analysis* – There is not a process in place, either through legislation or administrative avenues that requires a cost-benefit analysis to be conducted prior to the formation of a new board.¹⁰³
- 2) *Industry Control* – In Missouri, as in the rest of the U.S., industry insiders and associations have significant influence that can lead legislators to pass legislation to form new occupational licensing boards. Once boards are created by statute, they are usually comprised almost entirely of practitioners with few avenues for outsiders to impact process or rule-making.¹⁰⁴
- 3) *No Systematic Data Collection or Measure of Performance* – Data, such as demographic information, are not consistently collected by all boards or by the Division. Data could be used to identify trends and set benchmarks related to performance measurement.¹⁰⁵ Individual board and commission websites are not standardized and consistent information is difficult to access. By standardizing each website data and information would be more accessible to the public.

POLICY AND PRACTICE CONSIDERATIONS

A licensing structure that provides adequate protection to the public and allows for professionals to pursue their careers and provide for their families is ideal. This report identifies several actions that could be considered to address or reduce the barriers to women entrepreneurs and address issues created by professional registration. These actions can be undertaken by three different sets of actors:

- 1) Community – Individuals, non-profit, private, or advocacy organizations
- 2) Administration – Board members, Division of Professional Registration staff and administrators
- 3) Legislature – Member of the Missouri House of Representatives and/or Missouri Senate

Appendix B provides a complete overview of possible policy and practice actions for consideration. The Attachment also indicates the area of impact – individual, procedure, or policy and describes the potential impact.

COMMUNITY

The community can play an active role in the effort to address barriers created by occupational licensing and support women entrepreneurs.

- 1) *Develop mentoring programs designed to provide technical assistance to prospective women entrepreneurs.* This technical assistance could focus on a variety of issues, including any licensing requirements, and could provide the support and encouragement women need to start their own business.
- 2) *Community members can apply for board positions.* Each licensing board is required to include community members who are not practitioners to represent the interests of consumers. Board members are vital to implementing the rules and statutes that govern licensing boards. Innovative programs like the Women’s Foundation Appointments Project can help provide support to these applicants seeking important positions on boards and commissions.
- 3) *Provide public comments to licensing boards.* Once a new rule has been written, the state requires a period of community comment on the new rule. Community members and organizations can submit public comment to the board for further consideration.

ADMINISTRATION

- 1) *Propose new rules or changes to existing rules.* Board members can propose new rules or suggest changes to existing rules to address identified barriers.
- 2) *Collect data, analyze for trends, and conduct audits to measure performance.* The Division or individual boards could adopt policies and procedures that require data collection and analysis for trends to measure performance.
- 3) *Set performance benchmarks.* Once systematic data collection is underway the Division or individual boards can set performance benchmarks and track progress on an ongoing basis.
- 4) *Standardize all board and commission websites.* By creating a uniform and standard website for each of the boards and commissions, the public will have easier access to important information and data regarding licensing.

LEGISLATIVE

- 1) *Establish periodic review – Sunrise provisions.* See below for additional details.
- 2) *Establish periodic review – Sunset provision.* See below for additional details.
- 3) *Revise statute – Increase reciprocity.* The Missouri legislature could revise existing statute and broaden reciprocity provisions to all licensed professions.
- 4) *Revise statute – Require certification or registration only.* See below for additional details.
- 5) *Revise statute – Deregulate.* The Missouri legislature could make the decision and pass legislation to deregulate an existing licensing board.

SUNRISE AND SUNSET LAWS

One of the ways to control a growing number of regulated occupations is through the establishment of sunrise and sunset laws. Sunrise and sunset laws differ from state to state and can be separate acts or provisions of state statutes.

Sunrise laws are designed to determine if the need exists for a new board or state agency. In the case of occupational licensing, a sunrise review would consist of a thorough investigation to determine the risk to public health and wellness if the occupation were to go unregulated and a cost-benefit analysis of introducing the regulation. Sunset laws require state agencies, boards, and commissions to undergo a periodic review to determine if a continued need for their function exists. An important feature is the inclusion of a clause that automatically terminates state agencies or boards unless they are reauthorized by the legislature. For licensing boards, a sunset review would determine if there continues to be a need for the board as a regulatory body.

It is important to note that sunrise and sunset reviews were established as a response to the growing number of government agencies and functions. The first Sunset Law was passed in 1976 by the Colorado General Assembly. In 1985, the Assembly passed the Sunrise Law as a complement to the Sunset Law¹⁰⁶. According to the Council on Licensure, Enforcement and Regulation, 36 states have adopted sunset regulation, and 14 states have adopted sunrise regulation requiring a cost-benefit analysis of proposals to license new occupations, Missouri is not one of them.¹⁰⁷

Cost-Benefit Analysis

One of the integral components of sunrise regulations is the provision for a cost-benefit analysis. This type of analysis should provide an objective review to determine if the benefits of the proposed regulation outweigh the costs. Of the 14 states that have adopted sunrise regulations, there is significant variation in the level of formality and consistency in the cost-benefit review process. Generally, laws allow for any interested party to submit an application or proposal to the appropriate administrative body for consideration.¹⁰⁸ Minnesota's sunrise review must determine "whether the overall cost effectiveness and economic impact would be positive for citizens of the state."¹⁰⁹ Hawaii's regulation states, "Regulation should be avoided if it artificially increases the costs of goods and services to the consumer, unless the cost is exceeded by potential dangers to the consumer."¹¹⁰ Few details are available on exactly how the cost-benefit analysis within these states are conducted. In the 14 states with sunrise provisions there are three general types of administration of the process:

- 1) Legislative Committee – In five states, proposals to license a new occupation are considered by an appropriate legislative committee as part of a regular legislative process.
- 2) Executive Offices – In six states, specific executive agencies such as the Auditor's Office or Office of Regulatory Report are responsible for the sunrise review.

- 3) Boards or Councils – In three states, special boards or councils have been designed to conduct the sunrise review and report their findings to the General Assembly.

Neighboring States

Among Missouri’s neighbors, Nebraska has a sunrise provision but has repealed their sunset provision. However, Nebraska does allow discretionary use of the sunset provision by allowing sunset clauses to be attached to specific legislation.¹¹¹ Illinois has legislation for both sunrise and sunset provisions. The Illinois Regulatory Sunset Act requires a review of the need for occupational licensure.¹¹² A recent amendment to the act extended the repeal of several licensing boards, including the Board of Dentistry from January 1, 2016 to January 1, 2026 and changed certain licensing procedures.¹¹³ Generally, the sunset reviews are initiated by a legislative committee responsible for government oversight.

The adoption of sunrise/sunset provisions by the states does not automatically guarantee that the licensure burden will be diminished. The application of the sunset/sunrise review can vary from being a pure formality to being an effective tool of eliminating excessive professional regulation. The states’ attempts to de-license occupations are almost uniformly unsuccessful. According to a report released in 2015, in the past 40 years, there have only been eight instances of de-licensing, four of which were followed by attempts to relicense.^{114,115} Thus, once the licensure is established, the stakeholders interested in the status quo join their efforts to extend the practice.

It is important to note that Missouri does not have sunrise or sunset laws. However, there was an unsuccessful attempt to pass a sunrise law in 2014. The house bill, HB1824, which proposed a sunrise review starting January 1, 2015, passed the Missouri House Committee on Professional Registration and Licensing, but failed in the Rules Committee in April 2014.¹¹⁶ Another attempt to deregulate occupational licensing, HB1891 which authorized a person to practice specific professions¹¹⁷ without license if he or she doesn’t claim to be a licensed practitioner also failed in 2014.¹¹⁸

In the past 40 years, only eight instances of de-licensing have been successful, four of which were followed by immediate attempts to relicense.

In May 2016, HB 1466 was introduced in the Missouri House. This bill establishes guidelines for regulation of occupations not currently regulated by the Division of Professional Registration. It would require an applicant group to submit a written report to the legislative committee describing how any continuing education requirements would be effective for regulation of the profession. The bill is currently not on the hearing calendar.¹¹⁹ Further research and analysis conducted by the Institute on Sunrise and Sunset provisions is forthcoming.

CERTIFICATION OR REGISTRATION

Other alternatives to licensing highlighted in a recent report on occupational licensing are in the form of registration, certification, bonding and insurance, and inspection.¹²⁰ These alternatives place varying degrees of burden and in certain cases may be more effective in addressing regulatory hurdles. These options could provide an intermediate choice between no state regulation and mandated licensure.¹²¹ Analysis on each individual occupation would be required to determine if certification or registration provided a cost effective alternative to licensing. This analysis in conjunction with a cost-benefit analysis

as previously described could help identify the ideal of regulation for each occupation in terms of public safety and economic impact.¹²²

Certification

Certification or “right-to-title” provides a less burdensome alternative where the use of a profession’s title is restricted to those who obtain certification.¹²³ However, those without certification are also allowed to perform the duties of the profession. The certifying authority can be private or state. The state can consider a mechanism for withdrawing certification if practitioner does not meet the minimum standards stipulated.

Regulation through certification provides relevant information to the potential consumers about the quality of services, without curbing workers’ access to the profession. Research supports voluntary certification in cases where consequences of low quality services are not severe for the public.¹²⁴

Registration

Registration is the simplest form of regulation requiring individuals to file their name and address with the concerned agency. Typically, it doesn’t require pre-entry screening by a regulatory agency.¹²⁵ It provides a roster of all the practitioners. It is possible to set forth minimum standards to protect consumer interest and address safety concerns without putting additional burdens on potential registrants.

Mandatory Bonding

Mandatory bonding is yet another form of less prohibitive regulation and can exist in two forms namely, with or without insurance. The idea behind this is to provide insurance coverage for bad service to the consumer while reducing the regulatory burden on the worker or business. The worker can maintain a fund against which a consumer can present a claim if provided unsatisfactory or poor service. Alternatively, the worker can buy insurance from an insurance company.¹²⁶

Direct Regulation of Firms and Establishments

Direct regulation refers to periodic inspection of businesses to maintain quality standards without imposing additional burdens on the worker. As a result the enterprise is directly responsible for quality and safety as opposed to the individual worker. The appropriate level of regulation depends upon the administration and enforcement costs and the related public benefits and interests.¹²⁷

CONCLUSION

There continues to be growth in women-owned businesses in Missouri and nationally, an indicator of growing entrepreneurship. Occupational licensing in Missouri and throughout the U.S., which is intended to protect the safety and well-being of the public, can often create barriers for entrepreneurs by restricting entry and re-entry into professions, reducing employment, and creating economic inequity. A licensing structure that provides adequate protection to the public and allows for professionals to pursue their careers and provide for their families is ideal. This report highlights several remedies that could be implemented to alleviate some of the barriers of professional registration to encourage further entrepreneurial growth, without a significant impact on the safety, health, or well-being of Missourians.

Appendix A: Vacancies and Expired Terms for Occupational Licensing Boards and Commissions Only

Name of Board	Total Seats	Serving	Expired Terms	Vacancies
Accountancy	7	7	4	0
Acupuncturists	5	3	3	2
APEPLSPLA	15	15	11	0
Appraisers, Real Estate	7	7	5	1
Athletic Trainers	5	5	0	0
Behavior Analysts	7	5	3	2
Chiropractors	6	5	3	1
Cosmetology/Barber	11	9	6	2
Counselors	6	5	5	1
Dental	7	6	3	1
Dietitians	6	6	3	0
Embalmers and Funeral Directors	6	6	1	0
Geologist	8	6	4	2
Healing Arts	9	8	6	1
Hearing Instrument Specialists	8	5	4	3
Interior Design	5	5	4	0
Marital Family Therapists	6	6	5	0
Massage Therapists	8	5	2	3
Nursing	9	7	5	2
Occupational Therapy	6	4	1	2
Optometry	6	5	5	1
Perfusionists	7	6	6	1
Pharmacists	7	6	3	1
Physical Therapists	5	4	4	1
Physician Assistants	5	3	2	2
Podiatric	5	4	2	1
Private Investigators, Public Fire Investigators	7	5	5	2
Psychologists	8	7	5	1
Real Estate	7	7	6	0
Respiratory Care	7	5	5	2
Sign Language Interpreters	7	6	5	1
Social Workers	10	8	3	2
Speech Language Pathologists & Audiologists	7	7	-	0
Veterinary	6	6	4	0

Source: Data collected from individual board websites, the Missouri Divisions of Professional Registration and Missouri Boards and Commissions website.

Note: The Division regulates four professions that do not operate under the direction of a board, rather report directly to the division director. Those professions are: Office of Athletics, Office of Athlete Agents, Office of Endowed Care Cemeteries, Office of Tattooing, Branding and Body Piercing.

Appendix B: Policy and Practice Considerations

Community	Actions	Areas of Impact			Potential Impact
		Individual	Procedure	Policy	
	1) Provide mentoring to women entrepreneurs	X			Women entrepreneurs are provided technical assistance for entry into the profession
	2) Apply for board positions with support from program like the Appointments Project	X	X		Concerned members of the public hold positions usually held by industry insiders and make rules expanding access
	3) Provide public comment to boards	X	X		Concerned members of the public suggest rules that expand access

Administration	Actions	Areas of Impact			Potential Impact
		Individual	Procedure	Policy	
	1) Propose new rule or changes to existing rules	X	X		Board members suggest rule changes to reduce burdens and expand access
	2) Collect data and analyze for trends and conduct internal audits to measure performance		X		Boards or the Division collect data to analyze trends and measure performance
	3) Set performance benchmarks related to audit findings		X		Boards or the Division set benchmarks to improve performance
	4) Standardize all board and commission websites.				The public will have easier access to important information regarding licensing.

Legislature	Actions	Areas of Impact			Potential Impact
		Individual	Procedure	Policy	
	1) Establish periodic review – Sunrise provisions	X	X	X	Legislators establish a sunrise provision to determine if there is need for new licensing
	2) Establish periodic review – Sunset provisions	X	X	X	Legislators establish a sunset provision to determine need for existing licensing
	3) Revise statute – Increase reciprocity	X	X	X	Legislators allow reciprocity for all professions
	4) Revise statute – Require registration only	X	X	X	Legislators revise statute to allow for certification & registration instead of license
	5) Revise statute- Deregulate	X	X	X	Legislators deregulate licensed professions

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