

## **Official State Policy on Occupational Regulation:**

Where the state finds it necessary to displace competition, the act requires the state to use the **least restrictive regulation** to protect consumers. The act presumes that the least restrictive regulation is that which relies on market competition and private remedy to protect consumers.

### **Least restrictive regulation**

The act defines "least restrictive regulation" as the public policy of relying on one of the following, listed from the least to the most restrictive, as a means of consumer protection:

- **Market competition**
- **Third-party or consumer-created ratings and reviews**
- **Private certification**
- **Specific private civil cause of action to remedy consumer harm**
- **Actions under the Consumer Sales Practices Law**
- **Regulation of the process of providing the specific goods or services to consumers**
- **Inspection**
- **Bonding or insurance**
- **Registration**
- **Government certification**
- **Specialty occupational license for medical reimbursement**
- **Occupational license**

### **Licensing Board Reports and Questionnaires:**

Each licensing board that appears before the committee must submit a report showing:

- The board's primary purpose, goals, and objectives
- Past and anticipated workload, number of staff required to complete that workload, and the board's total number of staff
- Past and anticipated budgets and funding sources
- Number of members of its governing board or other governing entity and their compensation, if any

The Committee must consider the following factors in determining a board's need for continued existence, revision, or elimination:

1. Whether continuing the board is necessary to protect the public's health, safety, or welfare, and if so, whether the board's authority is narrowly tailored to protect against present, recognizable, and significant harms to the public's health, safety, or welfare;
2. Whether the public could be protected or served in an alternate or less restrictive manner;
3. Whether the board serves a specific private interest

4. Whether the board's rules are consistent with the legislative mandate expressed in the statutes that created and empowered the board
5. The extent to which:
  - The board's jurisdiction and programs overlap or duplicate those of other boards
  - The board coordinates with those other boards
  - The board's programs could be consolidated with the programs of other state departments or boards
6. How many other states regulate the occupation, whether other states require a license, whether the initial licensing and license renewal requirements are substantially equivalent in every state, and the amount of regulation the board exercises compared to other states;
7. The extent to which significant changes in the board's rules could prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining the occupational license in that other jurisdiction;
8. Whether the board recognizes national uniform licensure requirements for the occupation;
9. Whether private contractors could be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform those duties instead of the board;
10. Whether the operation of the board has inhibited economic growth, reduced efficiency, or increased the cost of government;
11. An assessment of the board's authority regarding fees, inspections, enforcement, and penalties;
12. The extent to which the board has permitted qualified applicants to serve the public;
13. The extent to which the board has permitted individuals to practice elements of the occupation without a license;
14. The cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present;
15. Whether the board's continued operation has been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices;
16. Whether the board has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons the board regulates, if any, and whether its recommendations and other policies have been adopted and implemented;
17. Whether the board has required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery;
18. Whether persons the board regulates, if any, have been required to assess problems in their business operations that affect the public;
19. Whether the board has encouraged public participation in its rule-making and decision-making;
20. The efficiency with which formal public complaints filed with the board have been processed to completion;
21. Whether the purpose for which the board was created has been fulfilled, has changed, or no longer exists;
22. Whether federal law requires that the board be renewed in some form;

23. An assessment of the board's administrative hearing process, if the board has one, and whether that hearing process is consistent with due process rights;
24. Whether the requirement for occupational licensure is consistent with the official state policy (see "Official state policy on occupational regulation,"), serves a meaningful, defined public interest, and provides the least restrictive form of regulation that adequately protects the public interest;
25. The extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants, particularly those with moderate or low incomes, seeking to enter the occupation;
26. The extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services; and
27. An assessment of whether changes are needed in the board's enabling laws for it to comply with the criteria suggested by the considerations listed above.

The act establishes that, for the purposes of reviewing a board, a government regulatory requirement protects or serves the public interest if it provides protection from present, significant, and substantiated harms to the health, safety, or welfare of the public.

#### **Committee Report:**

A House or Senate standing committee that has reviewed an occupational licensing board must publish a report of its findings and recommendations. The report may include information for more than one board the committee reviewed. The committee must send a copy of the report to the Senate President, the Speaker of the House, the Governor, and each affected board. The published report also must be made available to the public on the committee's website and in the offices of the Senate President and Speaker of the House during reasonable hours. As part of a report, **a committee may present its recommendations to the General Assembly in bill form.**

If the committee makes recommendations about a board in its report, the recommendations should indicate how the implementation of the recommendations will accomplish each of the following:

- Improving efficiency in the management of state government;
- Improving services rendered to Ohio citizens;
- Simplifying and improving preparation of the state budget;
- Conserving Ohio natural resources;
- Promoting the orderly growth of Ohio and its government;
- Promoting the idea that occupational regulations must be construed and applied to increase economic opportunities, promote competition, and encourage innovation;
- Providing for the least restrictive regulation by repealing the current regulation and replacing it with a less restrictive regulation that is consistent with the state's policies (see "Official state policy on occupational regulation,");

- Improving the effectiveness of the services performed by the service departments of the state;
- Avoiding duplication of effort by state agencies or boards; and
- Improving the organization and coordination of the state government in one or more of the ways listed above.