

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 289**

**Representatives Hood, McColley**

**Cosponsors: Representatives Brenner, Thompson, Becker, Brinkman, Riedel,  
Dean, Goodman, Keller, Lipps**

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**A BILL**

To enact sections 101.62, 101.63, 101.64, 101.65, 1  
103.26, 103.27, 107.56, 4798.01, 4798.02, and 2  
4798.03 of the Revised Code to establish a 3  
statewide policy on occupational regulation, to 4  
require standing committees of the General 5  
Assembly to periodically review occupational 6  
licensing boards regarding their sunset, to 7  
require the Common Sense Initiative Office to 8  
review certain actions taken by occupational 9  
licensing boards, and to require the Legislative 10  
Service Commission to perform assessments of 11  
occupational licensing bills and state 12  
regulation of occupations. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 101.62, 101.63, 101.64, 101.65, 14  
103.26, 103.27, 107.56, 4798.01, 4798.02, and 4798.03 of the 15  
Revised Code be enacted to read as follows: 16

**Sec. 101.62.** (A) As used in sections 101.62 to 101.65 of 17  
the Revised Code, "least restrictive regulation," "occupational 18

license," and "occupational licensing board" have the meanings 19  
defined in section 4798.01 of the Revised Code. 20

(B) An occupational licensing board shall expire at the 21  
end of the thirty-first day of December of the fifth year after 22  
it was created or last renewed, or on December 31, 2023, 23  
whichever is later. The expiration of an occupational licensing 24  
board under this section emancipates a person to lawfully engage 25  
in the profession, occupation, or occupational activity, which 26  
has been previously licensed by that board, without an 27  
occupational license, notwithstanding any law of the state that 28  
requires a person to possess a license to lawfully engage in 29  
that profession, occupation, or occupational activity. 30

(C) The director of budget and management shall not 31  
authorize the expenditure of any moneys for an occupational 32  
licensing board on or after the date of its expiration. 33

(D) The general assembly may provide by law for the 34  
orderly, efficient, and expeditious conclusion of an 35  
occupational licensing board's business and operation. The 36  
orders, licenses, contracts, and other actions made, taken, 37  
granted, or performed by the board continue in effect according 38  
to their terms notwithstanding the board's abolition, unless the 39  
general assembly provides otherwise by law. The general assembly 40  
may provide by law for the temporary or permanent transfer of 41  
some or all of an expired or abolished board's functions and 42  
personnel to a successor agency, board, or officer. 43

The expiration or abolition of a board does not cause the 44  
termination or dismissal of any claim pending against the board 45  
by any person, or any claim pending against any person by the 46  
board. Unless the general assembly provides otherwise by law for 47  
the substitution of parties, the attorney general shall succeed 48

the board with reference to any pending claim. 49

(E) An occupational licensing board may be renewed by 50  
enactment of a law that continues the statutes creating, 51  
empowering, governing, or regulating the board. The amendment of 52  
a statute creating, empowering, governing, or regulating a 53  
board, between the time the board was last reviewed and the time 54  
it is next scheduled to be reviewed does not change the next 55  
scheduled review date of the board. The next scheduled review 56  
date changes only if the amendment expressly so provides. 57

**Sec. 101.63.** (A) (1) Not later than the first day of March 58  
of a calender year during which an occupational licensing board 59  
is scheduled to expire under section 101.62 of the Revised Code, 60  
the president of the senate and the speaker of the house of 61  
representatives each shall direct a standing committee of the 62  
senate and of the house of representatives, respectively, to 63  
hold hearings to receive the testimony of the public and of the 64  
chief executive officer of the board, and otherwise to review, 65  
consider, and evaluate the usefulness, performance, and 66  
effectiveness of the board. 67

(2) The president of the senate and the speaker of the 68  
house of representatives may, in the same manner as described in 69  
division (A) (1) of this section, direct a standing committee to 70  
review an occupational licensing board for which the director of 71  
the legislative service commission, under section 103.27 of the 72  
Revised Code, has performed a review. 73

(3) The president of the senate and the speaker of the 74  
house of representatives shall direct standing committees to 75  
review approximately twenty per cent of the occupational 76  
licensing boards each year. All occupational licensing boards 77  
shall be reviewed over a five-year period including calendar 78

years 2019 through 2023, and also during each subsequent five- 79  
year period. 80

(B) Each occupational licensing board that is scheduled to 81  
be reviewed by a standing committee shall submit to the standing 82  
committee a report that contains all of the following 83  
information: 84

(1) The board's primary purpose and its various goals and 85  
objectives; 86

(2) The board's past and anticipated workload, the number 87  
of staff required to complete that workload, and the board's 88  
total number of staff; 89

(3) The board's past and anticipated budgets and its 90  
sources of funding; 91

(4) The number of members of its governing board or other 92  
governing entity and their compensation, if any. 93

(C) Each board shall have the burden of demonstrating to 94  
the standing committee a public need for its continued 95  
existence. In determining whether a board has demonstrated that 96  
need, the standing committee shall consider, as relevant, all of 97  
the following: 98

(1) Whether or not continuation of the board is necessary 99  
to protect the health and safety of the public, and if so, 100  
whether or not the board's authority is narrowly tailored to 101  
protect against present, recognizable, and significant harms to 102  
the health and safety of the public; 103

(2) Whether or not the public could be protected or served 104  
in an alternate or less restrictive manner; 105

(3) Whether or not the board serves a specific private 106

<u>interest;</u>	107
<u>(4) Whether or not rules adopted by the board are</u>	108
<u>consistent with the legislative mandate of the board as</u>	109
<u>expressed in the statutes that created and empowered the board;</u>	110
<u>(5) The extent to which the board's jurisdiction and</u>	111
<u>programs overlap or duplicate those of other boards, the extent</u>	112
<u>to which the board coordinates with those other boards, and the</u>	113
<u>extent to which the board's programs could be consolidated with</u>	114
<u>the programs of other state departments or boards;</u>	115
<u>(6) How many other states regulate the occupation, and the</u>	116
<u>amount of regulation exercised by the board compared to the</u>	117
<u>regulation, if any, in other states;</u>	118
<u>(7) Whether or not private contractors could be used, in</u>	119
<u>an effective and efficient manner, either to assist the board in</u>	120
<u>the performance of its duties or to perform these duties instead</u>	121
<u>of the board;</u>	122
<u>(8) Whether or not the operation of the board has</u>	123
<u>inhibited economic growth, reduced efficiency, or increased the</u>	124
<u>cost of government;</u>	125
<u>(9) An assessment of the authority of the board regarding</u>	126
<u>fees, inspections, enforcement, and penalties;</u>	127
<u>(10) The extent to which the board has permitted qualified</u>	128
<u>applicants to serve the public;</u>	129
<u>(11) The cost-effectiveness of the board in terms of</u>	130
<u>number of employees, services rendered, and administrative costs</u>	131
<u>incurred, both past and present;</u>	132
<u>(12) Whether or not the board's operation has been impeded</u>	133
<u>or enhanced by existing statutes and procedures and by</u>	134

<u>budgetary, resource, and personnel practices;</u>	135
<u>(13) Whether the board has recommended statutory changes</u>	136
<u>to the general assembly that would benefit the public as opposed</u>	137
<u>to the persons regulated by the board, if any, and whether its</u>	138
<u>recommendations and other policies have been adopted and</u>	139
<u>implemented;</u>	140
<u>(14) Whether the board has required any persons it</u>	141
<u>regulates to report to it the impact of board rules and</u>	142
<u>decisions on the public as they affect service costs and service</u>	143
<u>delivery;</u>	144
<u>(15) Whether persons regulated by the board, if any, have</u>	145
<u>been required to assess problems in their business operations</u>	146
<u>that affect the public;</u>	147
<u>(16) Whether the board has encouraged public participation</u>	148
<u>in its rule-making and decision-making;</u>	149
<u>(17) The efficiency with which formal public complaints</u>	150
<u>filed with the board have been processed to completion;</u>	151
<u>(18) Whether the purpose for which the board was created</u>	152
<u>has been fulfilled, has changed, or no longer exists;</u>	153
<u>(19) Whether federal law requires that the board be</u>	154
<u>renewed in some form;</u>	155
<u>(20) An assessment of the administrative hearing process</u>	156
<u>of a board if the board has an administrative hearing process,</u>	157
<u>and whether or not the hearing process is consistent with due</u>	158
<u>process rights;</u>	159
<u>(21) Whether the requirement for the occupational license</u>	160
<u>is consistent with the policies expressed in section 4798.02 of</u>	161
<u>the Revised Code, serves a meaningful, defined public interest,</u>	162

and provides the least restrictive form of regulation that 163  
adequately protects the public interest; 164

(22) The extent to which licensing ensures that 165  
practitioners have occupational skill sets or competencies that 166  
are substantially related to protecting consumers from present, 167  
significant, and substantiated harms that threaten public health 168  
and safety, and the impact that those criteria have on 169  
applicants for a license, particularly those with moderate or 170  
low incomes, seeking to enter the occupation or profession; 171

(23) The extent to which the requirement for the 172  
occupational license stimulates or restricts competition, 173  
affects consumer choice, and affects the cost of services; 174

(24) An assessment of whether or not changes are needed in 175  
the enabling laws of the board in order for it to comply with 176  
the criteria suggested by the considerations listed in divisions 177  
(C) (1) to (23) of this section. 178

For division (C) of this section, a government regulatory 179  
requirement protects or serves the public interest if it 180  
provides protection from present, significant, and substantiated 181  
harms to the health and safety of the public. 182

**Sec. 101.64.** The president of the senate and the speaker 183  
of the house of representatives shall notify the chief of the 184  
common sense initiative office, established under section 107.61 185  
of the Revised Code, when a board is identified to be reviewed 186  
by a standing committee under section 101.63 of the Revised 187  
Code. The chief or the chief's designee shall appear and testify 188  
before the standing committee, with respect to the board, and 189  
shall testify on at least all of the following: 190

(A) Whether or not the common sense initiative office has, 191

within the previous five years, received commentary related to 192  
the board through the comment system established under section 193  
107.62 of the Revised Code; 194

(B) Whether or not the common sense initiative office has, 195  
within the previous five years, received advice from the small 196  
business advisory council with respect to rules of the board; 197

(C) Any other information the chief believes will 198  
elucidate the effectiveness and efficiency of the board and in 199  
particular the quality of customer service provided by the 200  
board. 201

**Sec. 101.65.** (A) After the completion of the review of a 202  
board under section 101.63 of the Revised Code, the standing 203  
committee that conducted the review may prepare and publish a 204  
report of its findings and recommendations. A standing committee 205  
may include in a single report its findings and recommendations 206  
regarding more than one board. If the standing committee 207  
prepares and publishes a report, the committee shall furnish a 208  
copy of the report to the president of the senate, the speaker 209  
of the house of representatives, the governor, and each affected 210  
board. Any published report shall be made available to the 211  
public in the offices of the house of representatives and senate 212  
clerks during reasonable hours. As part of a report, the 213  
standing committee may present its recommendations to the 214  
general assembly in bill form. 215

(B) Recommendations made by the standing committee shall 216  
indicate how or whether their implementation will do each of the 217  
following: 218

(1) Improve efficiency in the management of state 219  
government; 220

<u>(2) Improve services rendered to citizens of the state;</u>	221
<u>(3) Simplify and improve preparation of the state budget;</u>	222
<u>(4) Conserve the natural resources of the state;</u>	223
<u>(5) Promote the orderly growth of the state and its</u> <u>government;</u>	224 225
<u>(6) Promote that occupational regulations shall be</u> <u>construed and applied to increase economic opportunities,</u> <u>promote competition, and encourage innovation;</u>	226 227 228
<u>(7) Provide for the least restrictive regulation by</u> <u>repealing the current regulation and replacing it with a less</u> <u>restrictive regulation that is consistent with the policies</u> <u>expressed in section 4798.02 of the Revised Code;</u>	229 230 231 232
<u>(8) Improve the effectiveness of the services performed by</u> <u>the service departments of the state;</u>	233 234
<u>(9) Avoid duplication of effort by state agencies or</u> <u>boards;</u>	235 236
<u>(10) Improve the organization and coordination of the</u> <u>state government in one or more of the ways listed in divisions</u> <u>(B)(1) to (9) of this section.</u>	237 238 239
<b><u>Sec. 103.26. (A) As used in this section and section</u></b> <b><u>103.27 of the Revised Code:</u></b>	240 241
<u>"Least restrictive regulation" has the meaning defined in</u> <u>section 4798.01 of the Revised Code.</u>	242 243
<u>"Occupational regulation" means a statute or rule that</u> <u>controls an individual's practice of a trade or profession.</u>	244 245
<u>(B) With respect to legislation that has been introduced</u> <u>in the house of representatives or in the senate, which proposes</u>	246 247

to substantially change or enact an occupational regulation, the 248  
director of the legislative service commission shall perform an 249  
assessment of the legislation. The assessment shall attempt to 250  
ascertain whether or not the regulatory scheme proposed in the 251  
legislation is consistent with the policies expressed in section 252  
4798.02 of the Revised Code with respect to proposing the least 253  
restrictive regulation to protect consumers from present, 254  
significant, and substantiated harms that threaten public health 255  
and safety. The director shall issue a report of the assessment, 256  
to the general assembly, in a timely manner. 257

To the extent possible with readily available or 258  
obtainable information, the assessment shall consider the 259  
potential consequences of the legislation with respect to: 260

(1) Opportunities for employment within the occupation; 261

(2) Consumer choices and costs; 262

(3) Market competition; 263

(4) Cost to government. 264

(C) The assessment performed under division (B) of this 265  
section may include a comparison of the regulatory scheme put 266  
forth in the legislation with the current regulatory scheme in 267  
other similar states for the same occupation. 268

(D) The sponsor of a bill, in order to assist the director 269  
of the legislative service commission with the director's duties 270  
under division (B) of this section, may submit to the director 271  
any relevant information, including the following: 272

(1) Evidence of present, significant, and substantiated 273  
harms to consumers in the state; 274

(2) An explanation of why existing civil or criminal laws 275

<u>or procedures are inadequate to prevent or remedy any harm to</u>	276
<u>the public;</u>	277
<u>(3) An explanation of why a less restrictive regulation,</u>	278
<u>that is consistent with the policies expressed in section</u>	279
<u>4798.02 of the Revised Code, is not proposed;</u>	280
<u>(4) The names of associations, organizations, or other</u>	281
<u>groups representing the occupation seeking regulation and the</u>	282
<u>approximate number of members in each in this state;</u>	283
<u>(5) The functions typically performed by members of this</u>	284
<u>occupation and whether they are identical or similar to those</u>	285
<u>performed by another occupation;</u>	286
<u>(6) Whether specialized training, education, or experience</u>	287
<u>is required to engage in the occupation and, if so, how current</u>	288
<u>practitioners acquired that training, education, or experience;</u>	289
<u>(7) Whether or not the proposed regulation would change</u>	290
<u>the way practitioners of the occupation acquire any necessary</u>	291
<u>specialized training, education, or experience and, if so, why;</u>	292
<u>(8) Whether or not any current practitioners of the</u>	293
<u>occupation in this state lack whatever specialized training,</u>	294
<u>education, or experience might be required to engage in the</u>	295
<u>occupation and, if so, how the proposed regulation would address</u>	296
<u>that deficiency;</u>	297
<u>(9) Whether or not new entrants into the occupation would</u>	298
<u>be required to provide evidence of any necessary training,</u>	299
<u>education, or experience, or to pass an examination, or both;</u>	300
<u>(10) Whether or not current practitioners would be</u>	301
<u>required to provide evidence of any necessary training,</u>	302
<u>education, or experience, or to pass an examination, and, if</u>	303

not, why not; 304

(11) The expected impact of the proposed regulation on the 305  
supply of practitioners of the occupation and on the cost of 306  
services or goods provided by the occupation; 307

(12) Information from others knowledgeable about the 308  
occupation, and the related economic factors. 309

(E) A bill which proposes to substantially change or enact 310  
an occupational regulation shall not be favorably reported out 311  
of committee until after the committee members have received and 312  
considered the assessment provided under division (B) of this 313  
section, unless two-thirds of the members of the committee vote 314  
in the affirmative to favorably report the bill. 315

**Sec. 103.27.** (A) Each calender year, beginning in 2018, 316  
the director of the legislative service commission shall perform 317  
an assessment of approximately twenty per cent of occupations 318  
subject to regulation by the state. The assessment shall attempt 319  
to ascertain whether or not the current regulatory scheme being 320  
utilized in this state is consistent with the policies expressed 321  
in section 4798.02 of the Revised Code. 322

The director shall issue a report of the assessments 323  
performed during a calendar year, not later than the first day 324  
of December of that year, to the general assembly and to the 325  
attorney general. The report shall include instructions, as 326  
necessary, which describe how the current regulatory scheme may 327  
be amended to improve consistency with the policies expressed in 328  
section 4798.02 of the Revised Code. 329

The director may require that information be submitted by 330  
any department or board that regulates the occupation. 331

The director shall, over a five-year period including 332

calendar years 2018 through 2022, perform assessments of all 333  
occupations subject to regulation by the state. The director's 334  
assessment of an occupation may be scheduled to coincide with, 335  
and be done in conjunction with, the review of an occupational 336  
licensing board being done by a standing committee of the 337  
general assembly under section 101.63 of the Revised Code. 338

**Sec. 107.56.** As used in this section, "board or 339  
commission" means any multi-member body created under state law, 340  
including an occupational licensing board as defined in section 341  
4798.01 of the Revised Code, that licenses or otherwise 342  
regulates an occupation or industry to which one or more members 343  
of the body belong. 344

(B) The common sense initiative office shall review an 345  
action taken or proposed by a board or commission that is 346  
subject to review under this section and that is referred to the 347  
office pursuant to division (C) of this section. 348

(1) The following actions are subject to review under this 349  
section: 350

(a) Any action that directly or indirectly has an effect 351  
of any of the following: 352

(i) Fixing prices, limiting price competition, or 353  
increasing prices in this state for the goods or services that 354  
are provided by the occupation or industry regulated by the 355  
board or commission; 356

(ii) Dividing, allocating, or assigning customers, 357  
potential customers, or geographic markets in this state among 358  
members of the occupation or industry regulated by the board or 359  
commission; 360

(iii) Excluding present or potential competitors from the 361

<u>occupation or industry regulated by the board or commission;</u>	362
<u>(iv) Limiting the output or supply in this state of any</u>	363
<u>good or service provided by the members of the occupation or</u>	364
<u>industry regulated by the board or commission.</u>	365
<u>(b) Any other activity that could be subject to state or</u>	366
<u>federal antitrust law if the action were undertaken by a private</u>	367
<u>person or combination of private persons.</u>	368
<u>(2) Except as provided in division (H) of this section,</u>	369
<u>the following actions are not subject to review under this</u>	370
<u>section:</u>	371
<u>(a) Denying an application to obtain a license because the</u>	372
<u>applicant has violated or has not complied with the Ohio Revised</u>	373
<u>Code or the Ohio Administrative Code;</u>	374
<u>(b) Taking disciplinary action against a person or other</u>	375
<u>entity that is licensed by a board or commission for violations</u>	376
<u>of the Ohio Revised Code or the Ohio Administrative Code.</u>	377
<u>(C) (1) The following boards, commissions, or persons may</u>	378
<u>refer an action to the office for review under this section:</u>	379
<u>(a) A board or commission that has taken or is proposing</u>	380
<u>to take an action;</u>	381
<u>(b) A person who is affected by an action taken by a board</u>	382
<u>or commission or is likely to be affected by an action proposed</u>	383
<u>by a board or commission;</u>	384
<u>(c) A person who has been granted a stay pursuant to</u>	385
<u>division (G) of this section.</u>	386
<u>(2) A board or commission or person who refers an action</u>	387
<u>to the office shall prepare a brief statement explaining the</u>	388

action and its consistency or inconsistency with state or 389  
federal antitrust law, or with the policies expressed in section 390  
4798.01 of the Revised Code, and file the statement with the 391  
office. If the action is in writing, the board or commission or 392  
person shall attach a copy of it to the statement. The person 393  
shall transmit a copy of the statement to the board or 394  
commission. 395

(3) The referral of an action by a board or commission for 396  
review by the office does not constitute an admission that the 397  
action violates any state or federal law. 398

(4) A person who is affected by an action taken by a board 399  
or commission or is likely to be affected by an action proposed 400  
by a board or commission shall refer the action to the office 401  
for review within thirty days after receiving notice of the 402  
action or proposed action. 403

(5) If an ongoing action or an action proposed by a board 404  
or commission is referred to the office for review under this 405  
section, the board or commission shall cease the ongoing action 406  
or not take the proposed action until the office has approved of 407  
the action pursuant to division (E) of this section and prepared 408  
and transmitted the memorandum required under division (F) of 409  
this section. 410

(D) The office shall determine whether an action referred 411  
to the office under this section is supported by, and consistent 412  
with, a clearly articulated state policy as expressed in the 413  
statutes creating the board or commission or the statutes and 414  
rules setting forth the board's or commission's powers, 415  
authority, and duties. If the office finds this to be the case, 416  
the office shall determine whether the clearly articulated state 417  
policy is merely a pretext by which the board or commission 418

enables the members of an occupation or industry the board or 419  
commission regulates to engage in anticompetitive conduct that 420  
could be subject to state or federal antitrust law if the action 421  
were taken by a private person or combination of private 422  
persons. 423

(E) After making the determinations required under 424  
division (D) of this section, the office shall take one of the 425  
following actions: 426

(1) Approve the board or commission action if the office 427  
determines that the action is pursuant to a clearly articulated 428  
state policy and that the policy is not a pretext as described 429  
in division (D) of this section. If the office approves the 430  
board's or commission's action, the board or commission may 431  
proceed to take or may continue the action. 432

(2) Disapprove the board or commission action if the 433  
office determines that the action is not pursuant to a clearly 434  
articulated state policy or that if it is pursuant to a clearly 435  
articulated state policy, that policy is a pretext as described 436  
in division (D) of this section. If the office disapproves the 437  
board's or commission's action, the action is void. 438

(F) The office shall prepare a memorandum that explains 439  
the office's approval or disapproval. The office shall transmit 440  
a copy of the memorandum to the person and the board or 441  
commission or to the board or commission if only the board or 442  
commission is involved. The office shall post the memorandum on 443  
the web site maintained by the office. 444

(G) (1) A person having standing to commence and prosecute 445  
a state or federal antitrust action against a board or 446  
commission shall exhaust the remedies provided by this section 447

before commencing such an action. This division shall not apply 448  
to the attorney general, a county prosecuting attorney, or any 449  
assistant prosecutor designated to assist a county prosecuting 450  
attorney. 451

(2) The state, a board or commission, or a member of a 452  
board or commission in the member's official capacity, may 453  
request a stay of any lawsuit alleging that a board or 454  
commission engaged in anticompetitive conduct by taking an 455  
action described in division (B)(1) or (2) of this section that 456  
has not been previously reviewed by the office under this 457  
section. If the lawsuit was initiated by a person other than the 458  
attorney general, a county prosecuting attorney, or any 459  
assistant prosecutor designated to assist a county prosecuting 460  
attorney, the court shall grant the request. If the lawsuit was 461  
initiated by the attorney general, a county prosecuting 462  
attorney, or any assistant prosecutor designated to assist a 463  
county prosecuting attorney, the court shall deny the request. 464  
Any stay granted under this division will continue in effect 465  
until the office has prepared and transmitted the memorandum 466  
required under division (F) of this section. 467

(H) The office shall review any action referred to the 468  
office by a party who has been granted a stay pursuant to 469  
division (G) of this section. 470

(I) Notwithstanding any provision of this section to the 471  
contrary, an action taken by a board or commission is not 472  
subject to review under this section if the members of the board 473  
or commission who are members of the occupation or industry 474  
affected by the action are prohibited by statute from hearing, 475  
considering, deciding, or otherwise participating in the action. 476

(J) The office shall adopt rules under Chapter 119. of the 477

Revised Code that are necessary for the implementation and 478  
administration of this section. 479

**Sec. 4798.01.** (A) As used in this chapter: 480

"Certification" means a voluntary program in which a 481  
private organization or the state grants nontransferable 482  
recognition to an individual who meets personal qualifications 483  
established by the private organization or state law. 484

"Lawful occupation" means a course of conduct, pursuit, or 485  
profession that includes the sale of goods or services that are 486  
not themselves illegal to sell irrespective of whether the 487  
individual selling the goods or services is subject to an 488  
occupational regulation. 489

"Least restrictive regulation" means the public policy of 490  
relying on one of the following, listed from the least to the 491  
most restrictive, as a means of consumer protection: market 492  
competition; third-party or consumer-created ratings and 493  
reviews; private certification; specific private civil cause of 494  
action to remedy consumer harm; actions under Chapter 1345. of 495  
the Revised Code; regulation of the process of providing the 496  
specific goods or services to consumers; inspection; bonding or 497  
insurance; registration; government certification; specialty 498  
occupational license for medical reimbursement; and occupational 499  
license. 500

"Occupational license" means nontransferable authorization 501  
in law that an individual must possess in order to perform a 502  
lawful occupation for compensation based on meeting personal 503  
qualifications established by statute, or by a rule authorized 504  
by statute. 505

"Occupational licensing board" means any board, 506

commission, committee, or council, or any other similar state 507  
public body, and any administrative department enumerated under 508  
section 121.02 of the Revised Code, and any agency, division, or 509  
office of state government, that issues an occupational license. 510

"Occupational regulation" means a statute, policy, rule, 511  
adjudication order, practice, or other state law requiring an 512  
individual to possess certain personal qualifications to use an 513  
occupational title or work in a lawful occupation. "Occupational 514  
regulation" includes registration, certification, and 515  
occupational license. "Occupational regulation" excludes a 516  
business license, facility license, building permit, or zoning 517  
and land use regulation, except to the extent those laws 518  
regulate an individual's personal qualifications to perform a 519  
lawful occupation. 520

"Personal qualifications" mean criteria related to an 521  
individual's personal background and characteristics including 522  
completion of an approved educational program, satisfactory 523  
performance on an examination, work experience, other evidence 524  
of attainment of requisite skills or knowledge, moral standing, 525  
criminal history, and completion of continuing education. 526

"Registration" means a requirement to give notice to the 527  
government that may include the individual's name and address, 528  
the individual's agent for service of process, the location of 529  
the activity to be performed, and a description of the service 530  
the individual provides. "Registration" does not include 531  
personal qualifications but may require a bond or insurance. 532

"Specialty occupational license for medical reimbursement" 533  
is a nontransferable authorization in law for an individual to 534  
qualify for payment or reimbursement from a government agency, 535  
for providing identified medical services, based on meeting 536

personal qualifications established in law, which may be 537  
recognized by a private company. 538

(B) For purposes of this chapter: 539

(1) The terms "certification" and "registration" are not 540  
synonymous with "occupational license." 541

(2) The use of the words "certification" and "certified" 542  
in other statutes to mean requiring an individual to meet 543  
certain personal qualifications to work legally shall be 544  
interpreted for the purposes of this chapter as requiring an 545  
individual to meet the requirements of an "occupational 546  
license." 547

(3) The use of the words "registration" and "registered" 548  
in other statutes to mean requiring an individual to meet 549  
certain personal qualifications to work legally shall be 550  
interpreted for the purposes of this chapter as requiring an 551  
individual to meet the requirements of an "occupational 552  
license." 553

**Sec. 4798.02.** With respect to occupational regulation, all 554  
of the following are the policy of the state: 555

(A) Occupational regulations shall be construed and 556  
applied to increase economic opportunities, promote competition, 557  
and encourage innovation. 558

(B) Where the state finds it is necessary to displace 559  
competition, the state will use the least restrictive regulation 560  
to protect consumers from present, significant, and 561  
substantiated harms that threaten public health and safety. The 562  
policy of employing the least restrictive regulation shall 563  
presume that market competition and private remedies are 564  
sufficient to protect consumers. Where needed, regulations shall 565

be tailored to meet the predominate identified need to protect consumers, as follows: 566  
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(1) If regulations are intended to protect consumers against fraud, the appropriate state action shall be to strengthen powers under deceptive trade practices acts. 568  
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(2) If regulations are intended to protect consumers against unsanitary facilities and general health and safety concerns, the appropriate state action shall be to require periodic inspections. 571  
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(3) If regulations are intended to protect consumers against potential damages to third parties who are not party to a contract between the seller and buyer, and other types of externalities, the appropriate state action shall be to require bonding or insurance. 575  
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(4) If regulations are intended to protect consumers against potential damages by transient providers, the appropriate state action shall be to require registration with the secretary of state. 580  
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(5) If regulations are intended to protect consumers against asymmetrical information between the seller and buyer, the appropriate state action shall be to offer voluntary certification. 584  
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(6) If regulations are intended to facilitate governmental reimbursement for providing medical services for an emerging medical specialty, the appropriate state action shall be to require a specialty occupational license for medical reimbursement. 588  
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(C) An occupational regulation may be enforced against an individual only to the extent the individual sells goods and 593  
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services that are included explicitly in the statute that 595  
defines the occupation's scope of practice. 596

By establishing and executing the policies in this 597  
section, in concert with section 107.56 of the Revised Code, the 598  
state intends to ensure that occupational licensing boards and 599  
board members will avoid liability under federal antitrust laws. 600

**Sec. 4798.03.** This chapter preempts any ordinance or other 601  
local law or regulation, which conflicts with or is inconsistent 602  
with any policy of the state expressed in this chapter, by any 603  
political subdivision that regulates an occupation that is also 604  
regulated by the state. 605