

Chair Schuring, Vice-Chair Rulli, Ranking Member O'Brien, and members of the Senate General Government and Agency Review Committee, thank you for the opportunity to submit this written testimony as a proponent of S.B. 246, which would provide universal licensure reciprocity in Ohio.

My name is Drew Snyder and I am a licensed physical therapist and third year law student at Case Western Reserve University. I graduated with my Doctor of Physical Therapy (DPT) degree from Youngstown State University in 2017. I had always been told that occupational licensure was needed to protect the public. However, during my time in physical therapy school, I noticed some of the numerous ways that occupational licensure hurt the public, especially when it came to the way we license healthcare professionals. So, after seven years of higher education, and attaining my DPT degree, I decided to go to law school to learn how to better advocate for licensure reform.

The first medical licensing laws in America were passed in New York in 1760 and New Jersey in 1772. However these laws were rarely enforced.¹ In fact, many of the earliest licensing statutes did not forbid the unlicensed practice of medicine,² as early Americans perceived medical licensure as a threat to an individual's "traditional freedom to choose from among a broad range of healers."³ Despite America's early misgivings of licensing health care professionals, states in Colonial America passed health regulations that allowed them to regulate vaccination, quarantine, and isolation hospitals.⁴ These statutes addressed a legitimate concern for the protection of public health and safety by attempting to control the spread of communicable diseases, and brought the regulation of health care professionals within the scope of a state's police powers.⁵

Licensing of health care professionals began to expand as orthodox medical professionals became more organized, through the formation of medical societies at the beginning of the 19th century.⁶ However, skepticism of licensing medical professionals remained through the middle of the 19th century, as Americans continued to view licensure as a means to create professional monopolies.⁷ Despite this skepticism, following the Civil War, health care professionals would gain licensure in all 50 states.⁸ While early licensure laws were designed as a form of societal self-defense against harmful communicable diseases,⁹ the beginning of the 20th century saw a rapid growth of licensure restrictions.¹⁰ Unfortunately, the restrictive licensing restrictions of health care professionals in place today rarely protects the public. In fact, many of our current occupational licensing restrictions of health care professionals serve to limit

¹ Maxwell J. Mehlman, Professional Power and the Standard of Care in Medicine, 44 *Ariz. St. L.J.* 1165 (2012)

² See Footnote 1

³ Lewis A. Grossman, The Origins of American Health Libertarianism, 13 *"Yale J. Health Policy, L. & Ethics"* 76 (2013) (quoting James H. Cassedy, *Medicine in America: A Short History* (1991).)

⁴ See Footnote 1

⁵ Edward P. Richards, The Police Power and the Regulation of Medical Practice: A Historical Review and Guide for Medical Licensing Board Regulation of Physicians in ERISA-Qualified Managed Care Organizations, 8 *Annals Health L.* 201 (1999)

⁶ See Footnote 3

⁷ See Footnote 1

⁸ Barbara J. Safriet, Closing the Gap Between Can and May in Health-Care Providers' Scopes of Practice: A Primer for Policymakers, 19 *Yale J. on Reg.* 301 (2002)

⁹ See Footnote 5

¹⁰ Blevins, Sue A. The medical monopoly: protecting consumers or limiting competition?. Cato Institute, 1995; from <https://www.cato.org/sites/cato.org/files/pubs/pdf/pa246.pdf> last retrieved on 11/8/2019

competition¹¹ by decreasing the number of competent providers able to provide health care services.¹² These licensing restrictions effectively increase the cost of care while decreasing access to health care services, all while providing limited to no evidence of improving the health care consumer's quality of care.¹³ It appears that the concerns that licensing medical professionals would lead to the creation of professional monopolies has materialized. This data is supported by a recent economic analysis published by Professor Jonathan Berk and Professor Jules van Binbergen which investigated the effects of licensing high-skill occupations, including physicians.¹⁴ As one summary of the study's findings noted, "licenses enrich the incumbent providers of a service and hurt consumers – not sometimes or in certain scenarios, but every time."¹⁵

As with licensing health care providers specifically, occupational licensing outside the health care system has grown out of control. In 1950, roughly 5% of Americans needed a license to do their job. That number rose to nearly 29% by 2008 according to national data.¹⁶ On their own, these numbers do not mean much. However, occupational licensure requirements have been found to be more likely to decrease employment and increase the price of goods than to improve the quality and services offered by licensed workers.¹⁷ Furthermore, restrictive occupational licensure laws limit the interstate mobility of licensed workers.¹⁸ Fortunately, the adoption of policies recognizing licensure reciprocity between states has shown the potential to increase interstate movement of licensed professionals.¹⁹ This means that adoption of SB 246 could serve as an important piece of legislation to attract skilled workers to our great state of Ohio. The addition of more skilled workers only serves to benefit Ohioans. An increased number of skilled workers available to provide services will serve to increase competition, which can raise the quality of services while lowering the cost.

As a physical therapist, I am part of a profession that evaluates and manages "an individual's movement system across the lifespan to... provide interventions targeted at preventing or ameliorating activity limitations and participation restrictions."²⁰ I chose to become a physical therapist because I wanted to

¹¹ Aaron Edlin & Rebecca Haw, Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?, 162 U. Pa. L. Rev. 1093 (2014); Svorny, Shirley V. (2015) "Beyond medical licensure," <https://www.cato.org/sites/cato.org/files/serials/files/regulation/2015/3/regulation-v38n1-6.pdf>; and Christopher Ogolla, Litigating Hypocrisy: Turf Wars Between Health Care Professionals Regarding Diagnosis, Evaluation, and Treatment, 50 U. Toledo L. Rev. 67, 90 (2018)

¹² Andrew I. Gavil & Tara Isa Koslov, A Flexible Health Care Workforce Requires A Flexible Regulatory Environment: Promoting Health Care Competition Through Regulatory Reform, 91 Wash. L. Rev. 147 (2016)

¹³ Gabriel Scheffler, Unlocking Access to Health Care: A Federalist Approach to Reforming Occupational Licensing, 29 Health Matrix 293 (2019)

¹⁴ Berk, Jonathan B., and Jules H. Van Binsbergen. Regulation of charlatans in high-skill professions. No. w23696. National Bureau of Economic Research, 2017.

¹⁵ <https://www.gsb.stanford.edu/insights/should-we-stop-licensing-doctors-lawyers?fbclid=IwAR3lrqWwGBti-1fFJEKfVGuvICdU54D0huDVFpMmq3Shpkwd3SmbSsqUN4>

¹⁶ Kleiner, Morris M.. (2015). Reforming Occupational Licensing Policies. Retrieved from the University of Minnesota Digital Conservancy, <http://hdl.handle.net/11299/190817>

¹⁷ See Footnote 16

¹⁸ Johnson, Janna E., and Morris M. Kleiner. Is Occupational Licensing a Barrier to Interstate Migration?. No. w24107. National Bureau of Economic Research, 2017.

¹⁹ See Footnote 18

²⁰ Physical Therapist Practice and the Human Movement System. An American Physical Therapy Association White Paper. Alexandria, VA: American Physical Therapy Association; 2015.

help people move better so that they could return to doing the activities that they love to do; including returning to work. I believe that work is critical to our “right to pursue happiness.” To quote Arthur Brooks, “[w]ork can bring happiness by marrying our passions to our skills, empowering us to create value in our lives and in the lives of others.”²¹ As a physical therapist, I have found a profession that brings me a great deal of happiness and an occupation that plays a central role in my identity. It allowed me to become an expert in human movement so that I could help people return to work. While occupational licensure serves as a barrier to human movement and restricts an individual’s ability to return to work, it is not a condition that I can address in the clinic. That is why I am asking you to please pass S.B. 246 so that Ohio can attract some of the best and brightest workers to our state. But more importantly, pass S.B. 246 so that Ohio can be a leader in promoting licensure reciprocity so that more individuals have the freedom to move and pursue their occupational calling without needless regulatory hurdles restricting their ability serve others.

Thank you for your time and for all the hard work that you do to make Ohio a better place to call home.

²¹ Brooks, Arthur C. "A formula for happiness." New York Times 14 (2013).
<https://www.nytimes.com/2013/12/15/opinion/sunday/a-formula-for-happiness.html>