WHAT WE KNOW ABOUT LICENSING AND REFORM OPTIONS

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OVERVIEW

- What we know about occupational licensing
- Special considerations in health care
- Licensing burdens for particular groups
- Reform options

Background

Occupational licensing is a core labor market institution that controls access to employment

Defined as a credential that is legally required for one's job,

22 percent of all employed 16+ year old workers in the U.S. are licensed

- Up from about 5 percent in the 1950s
- Most of the growth is due to an increase in the number of occupations that are licensed (White House 2015)
- Licensing is more common at higher education and income levels

Licensed fraction of workers varies across countries but generally has increased

What does licensure do and why does it do it?

- There are two main ways to think about why occupational licensing actually exists (as opposed to why it *should* exist)
  - Public interest
  - Public choice
- Public interest account: licensure is designed to protect public health and safety
- Public choice account: licensure is designed to benefit members of the licensed profession (or training providers)
- Goal for policy is to make the public interest account true

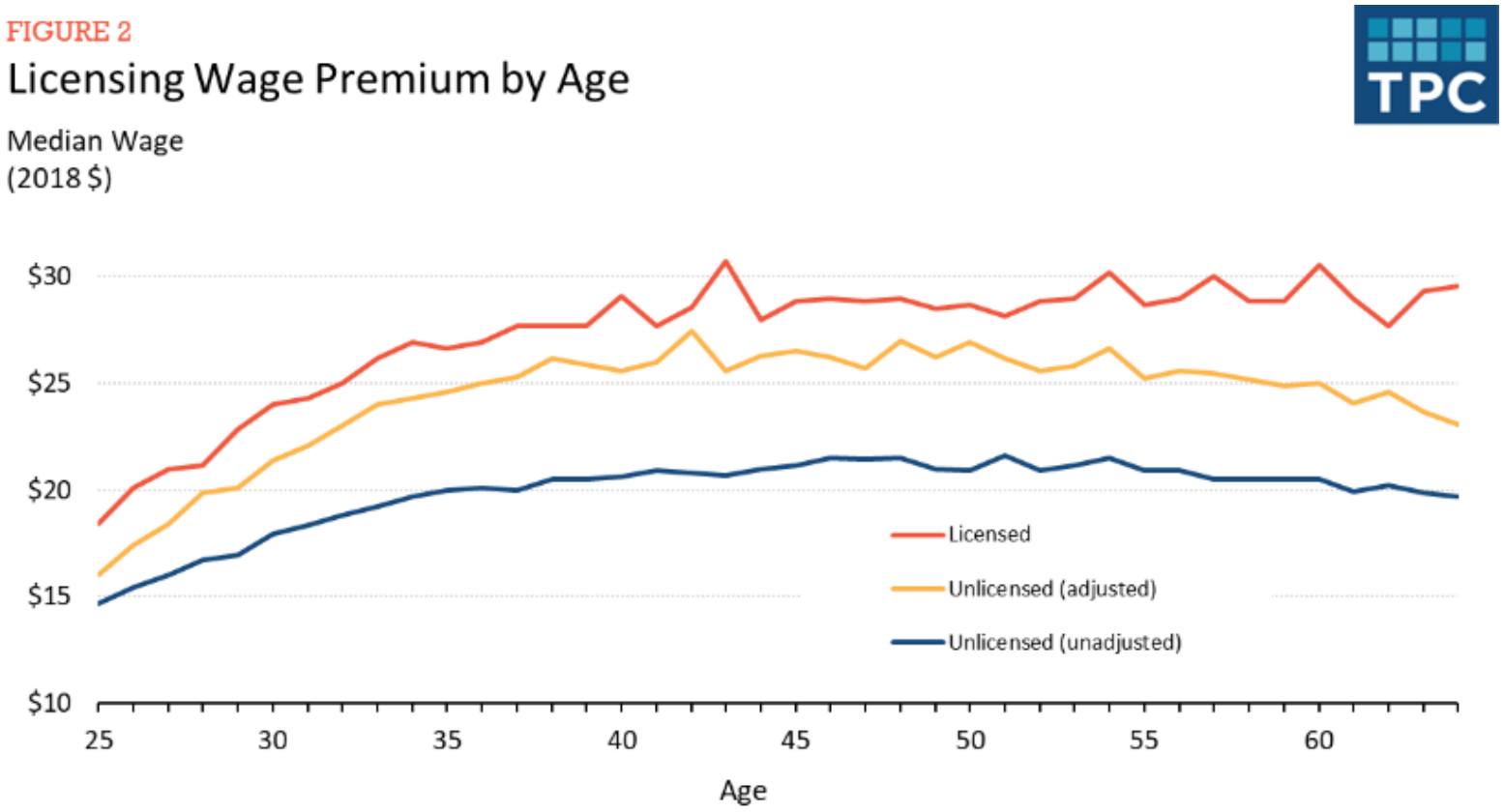
What does licensure do and why does it do it?

- Evidence for the public choice account
  - Licensing burdens
    - Create a wedge between licensed and unlicensed wages
    - Lowers licensed employment
    - Raise prices for consumers
  - Growth in number of licensed professions
  - Substantial variation across states in the strictness of licensing rules
  - Licensure usually requested by practitioners rather than consumers
  - Many licensing requirements not plausibly linked to health and safety concerns

Wage gaps persist throughout careers

FIGURE 2

Licensing Wage Premium by Age



Source: Current Population Survey, Bureau of Labor Statistics 2016-18 and author's calculations.
Note: Estimates for the "unlicensed (adjusted)" series are derived from a DiNardo, Fortin, and Lemieux reweighting with controls consisting of gender, race, quadratic expressions of both age and years of education, union coverage, self-employment status, region, and public sector status. Sample weights are used throughout. The sample consists of 25-64 year old employed workers with wages between $5 and $100 per hour, excluding observations with Census-allocated wage and earnings. Earnings are deflated using the CPI-U-RS.

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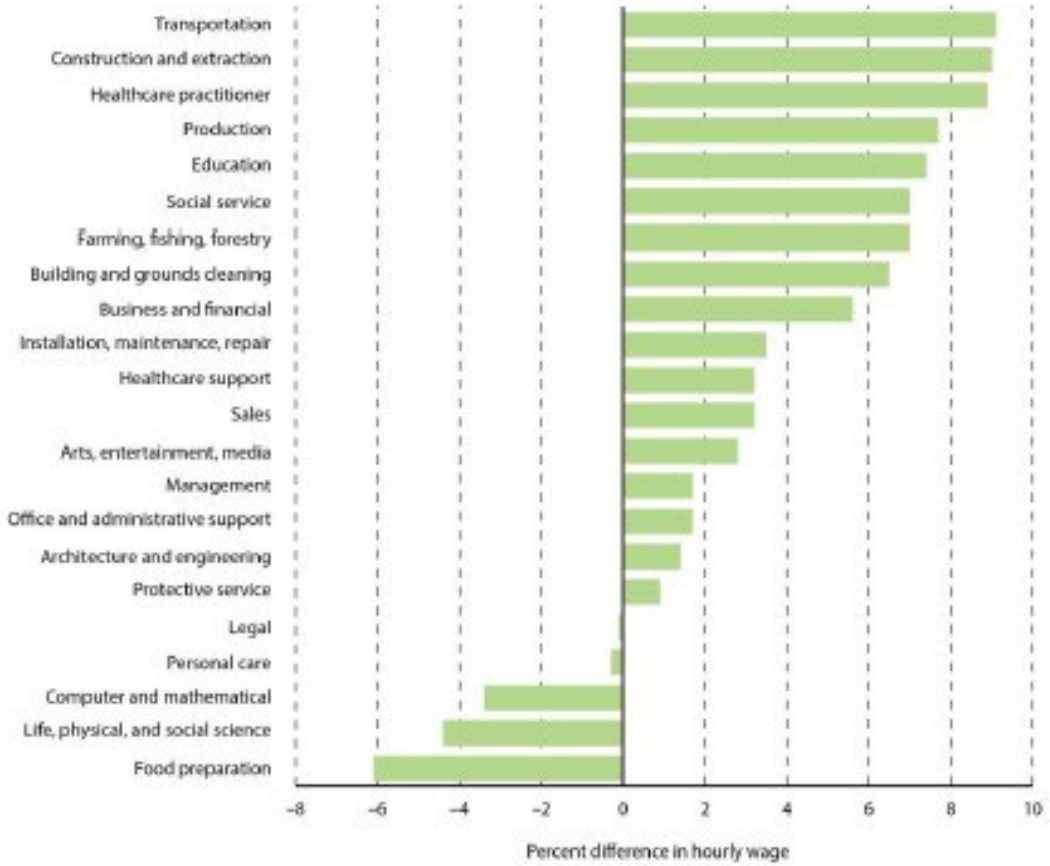
Source: Nunn, *How Occupational Licensing Matters for Wages and Careers* (2018).

Wage gaps exist in most fields

FIGURE 2.

Differences in Wages of Licensed and Unlicensed Workers, by Occupation



Source: Current Population Survey; authors' calculations. Estimates adjust for work experience, detailed occupation, education, gender, and race. Sample is restricted to workers age 25 to 64.

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Source: Nunn, *Occupational Licensing and American Workers* (2016).

Licensing tends to reduce employment

Total employment tends to be lower when licensing exists (or is more stringent)

- Blair and Chung (2018) find 17-27% lower labor supply on licensed side of state borders
  - This is the strongest comprehensive evidence we have on employment effects
  - They find that prior studies were underestimating employment losses
- Other studies have found negative employment effects of licensure or licensure rule changes
  - Manicurists in Federman, Harrington, and Krynski (2006)
  - Nurse practitioners in Xue et al. (2018)

Licensing raises prices for consumers

Consumer price effects are hard to measure comprehensively, but can be observed for particular licensing rule variations

- Limitations on nurse practitioner scope of practice lead to higher costs (Kleiner et al. 2016; Spetz et al. 2013)
- Stricter dentist licensing leads to higher prices (Kleiner and Kudrle 2000)
- Stricter mortgage broker licensing leads to higher prices (Kleiner and Todd 2009)

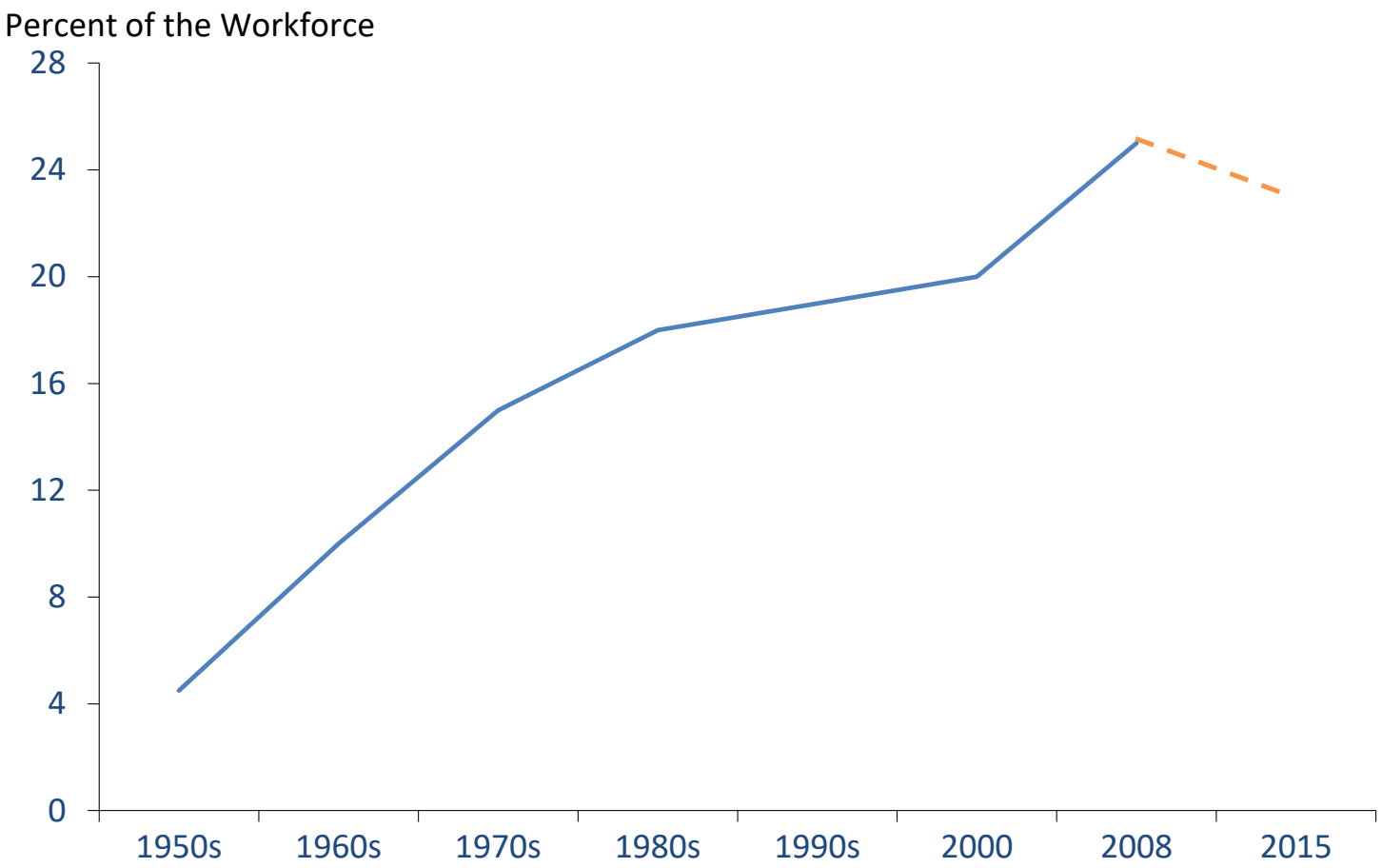
Important question, though, is whether higher prices reflect higher quality: more to come

Licensing lowers social welfare (on the margin)

- In standard economic models, knowing how licensing affects wages and employment is enough to know how it affects overall social welfare (Kleiner and Soltas 2019)
  - To the extent licensing raises quality / lowers risks to public, this raises consumer demand, which raises employment and wages
  - Kleiner and Soltas find, like others, that licensing (on the margin) lowers employment dramatically (by nearly 1/3)
  - Labor market barrier is outweighing any quality/safety benefits
  - Perhaps surprisingly, they see workers bearing 2/3 of the social welfare loss from licensing
- **Important caveat**: this says nothing about universally licensed occupations
  - This approach doesn't capture benefits of licensing (e.g.) physicians vs. not licensing them at all
  - More on this in a few slides

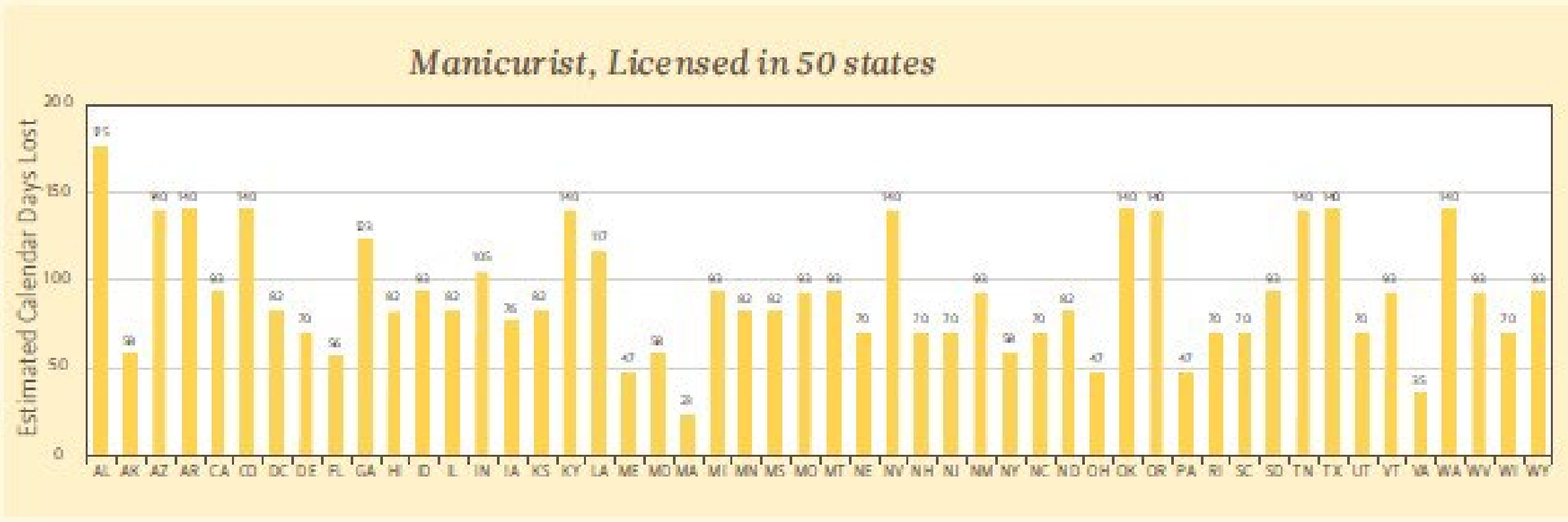
Licensing has grown dramatically

Share of Workers with an Occupational License



Source: The Council of State Governments (1952); Greene (1969); Kleiner (1990); Kleiner(2006); and Kleiner and Krueger (2013), Westat data; CEA Calculations; Bureau of Labor Statistics.
Note: Estimates for 1950-2008 are for workers with State licenses; estimates for 2015 include State, Federal and local licenses.

Licensing requirements vary widely across states



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Source: Dick M. Carpenter II et al., *License to Work: 2nd Edition* (2017).

Some licensing requirements not linked to safety

Self-evidently, in some cases:

- Eyebrow threaders being required to obtain esthetician licenses in some states
- Florist licensure in Louisiana

Research suggests no quality/outcome effects in many (but not all) instances:

- Dentistry (Kleiner and Kudrle 2000)
- Real estate (Powell and Vorotnikov 2012)
- Teachers (Angrist and Guryan 2007; Kane, Rockoff, and Staiger 2008)
- Nurse practitioners (Perloff et al. 2017; Kleiner et al. 2016)
- Certified nurse midwives (Markowitz et al. 2017; Yang et al. 2016)
  - Quality actually higher with less-restrictive licensure for CNMs

- Note that these studies look at variation in strictness, not existence, of licensure

Some licensing is not valued by consumers

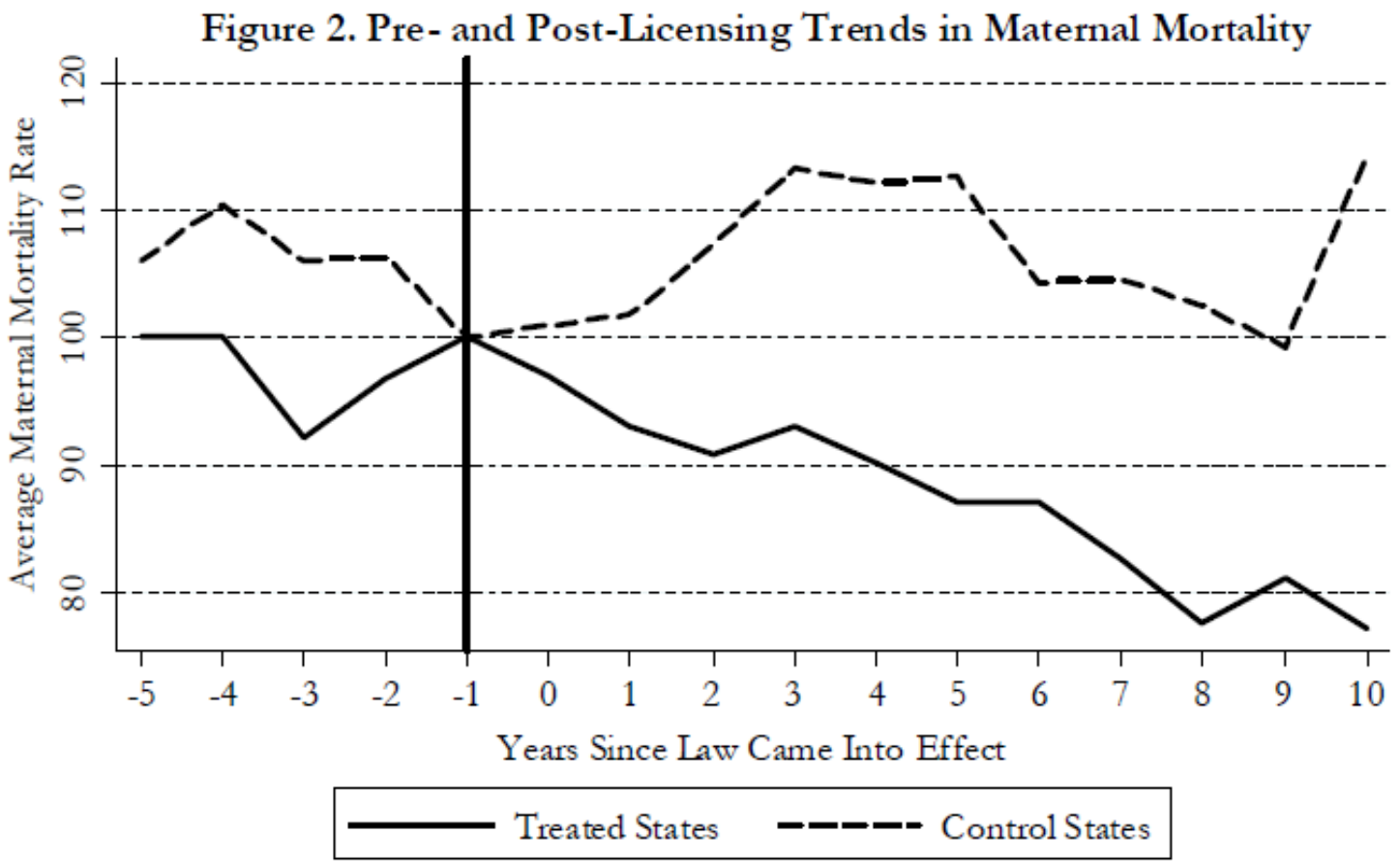
- Users of online consumer platforms tend to value professional reputation rather than licensure
- Two recent papers look at residential home services licensure on online platforms
- Farronato et al. (2020) find that licensing is ignored by consumers, who focus instead on providers' reputation (from other customer reviews)
- Blair and Fischer (2022) find that licensing of platform workers:
  - Lowers labor supply
  - Does not affect consumer demand

But interpretation of quality/safety studies is tricky

- Most empirical studies focus on incremental changes in licensing rules or variation across states in whether an occupation is licensed
- The few studies that focus on the initial adoption of licensing laws (now universal across states) find that it has led to quality improvements

→ The body of evidence does *not* support the notion that abolishing licensing would leave quality unaffected

Some evidence of quality benefits from early licensure that is now universal



Based on annual data from *Mortality Statistics*, published by the U.S. Census Bureau. On the horizontal axis, 0 represents the year in which midwifery became a licensed profession. It was randomly assigned to states with unregulated midwifery during the period under study. Maternal mortality rates are expressed relative to year -1.

Source: Anderson, Mark; Ryan Brown; Kerwin Charles; and Daniel Rees. *The Effect of Occupational Licensing on Consumer Welfare: Early Midwifery Laws and Maternal Mortality*, NBER Working Paper #22456 (2016).

Important to keep uncommon jobs in economic perspective

- Examples include horse masseurs, shampooers, egg handlers, and upholstery repairers
- Critics tend to focus on these professions because public safety concerns are the least plausible for these professions
- But many licensed workers are in fields like health care
- They have a stronger justification for being licensed—but poor *design* of licensing regimes in these fields is particularly harmful because of the occupations' economic importance

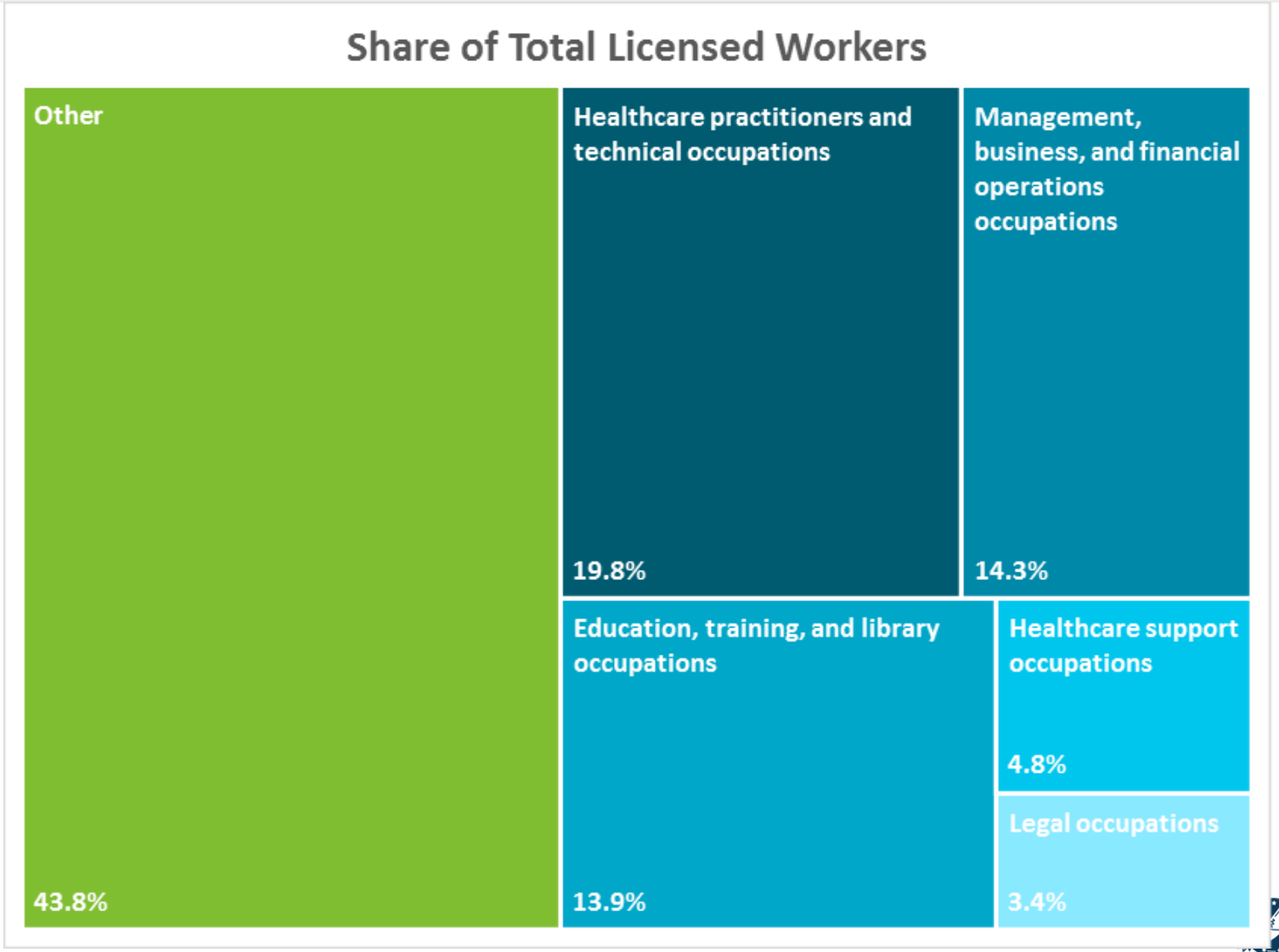
Special considerations in health care

Licensing most common in health care, law, education

Source: BLS 2016–17; authors' calculations.
Note: Sample is restricted to employed workers age 25 to 64. We define workers as licensed only if their government-issued credential is required for their job.

Source: Shambaugh et al., *The State of Competition and Dynamism: Facts about Concentration, Start-Ups, and Related Policies* (2018).

25 percent of licensed workers are in health care



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Source: Ryan Nunn and Gabriel Scheffler, *Occupational Licensing and the Limits of Public Choice Theory*, 4 Administrative Law Review Accord (2019)

Health-care licensure is especially important

U.S. spends almost 20 percent of GDP on health-care services

Both wage premiums and licensing prevalence are high in the health-care sector

It's not just a matter of whether a worker is licensed: health-care workers interact in ways that are constrained by licensure rules

Licensure can restrict access to health care without improving quality

Excessive SoP restrictions prevent health care providers from offering services they are qualified to provide, through:

- Maximum ratios of APRNs or PAs to supervising physicians
- Limitations on prescription authority
- Supervisory requirements and collaborative practice agreements

State-specific licensing requirements make it difficult for health care providers to relocate or conduct telehealth, unless special provisions are made

State medical practice acts deter foreign-trained providers from practicing in the US by requiring them to complete duplicative training

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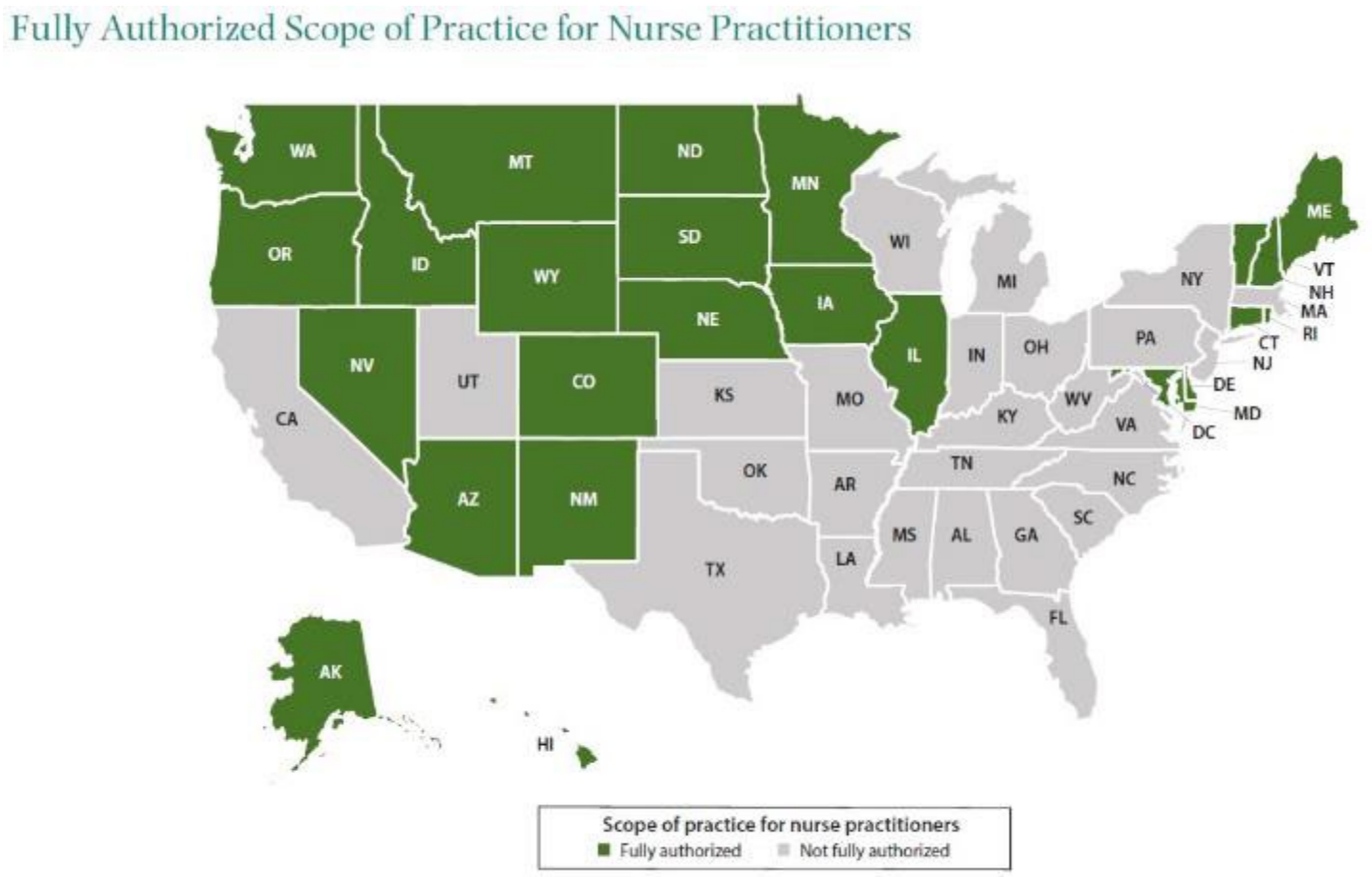
Source: Gabriel Scheffler, *Unlocking Access to Health Care: A Federalist Approach to Reforming Occupational Licensing*, 29 Health Matrix 293 (2019).

Nurse licensure scope of practice is limited



Source: Policy Surveillance Program 2017.

Note: The map shows states with fully authorized SOP for both practice and prescription authority in 2017.

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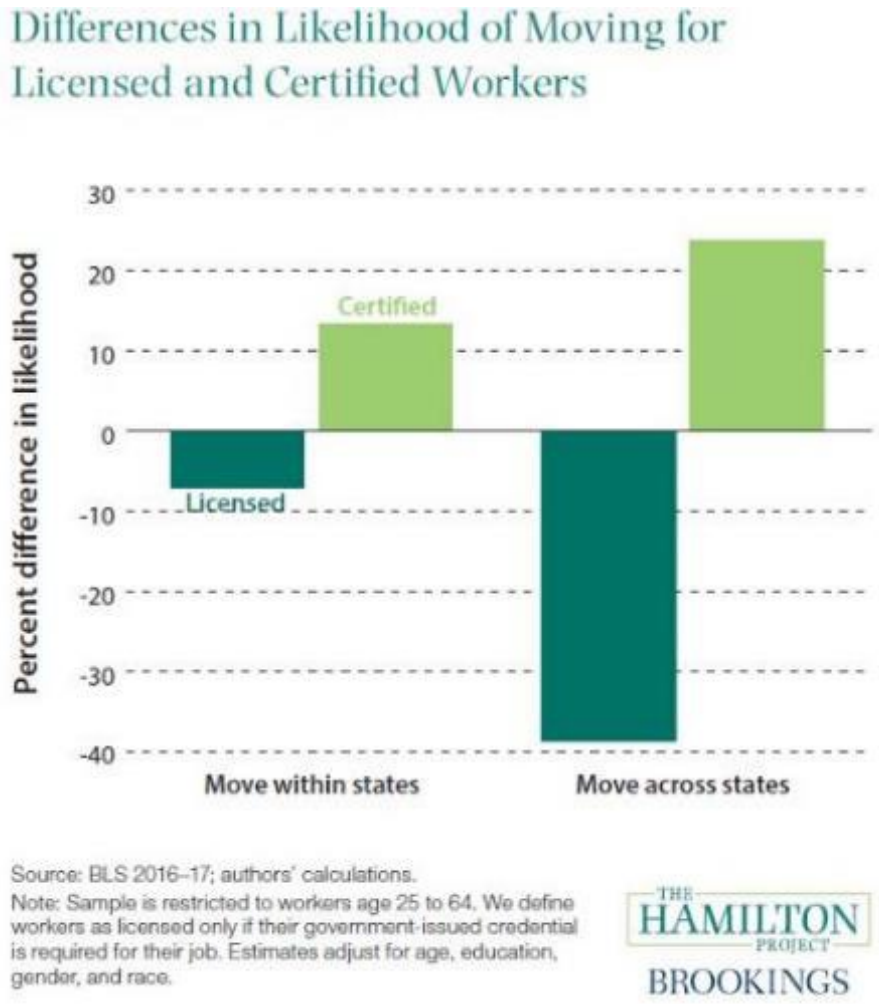
Licensing burdens for particular groups

Important to examine burdens licensure places on specific groups

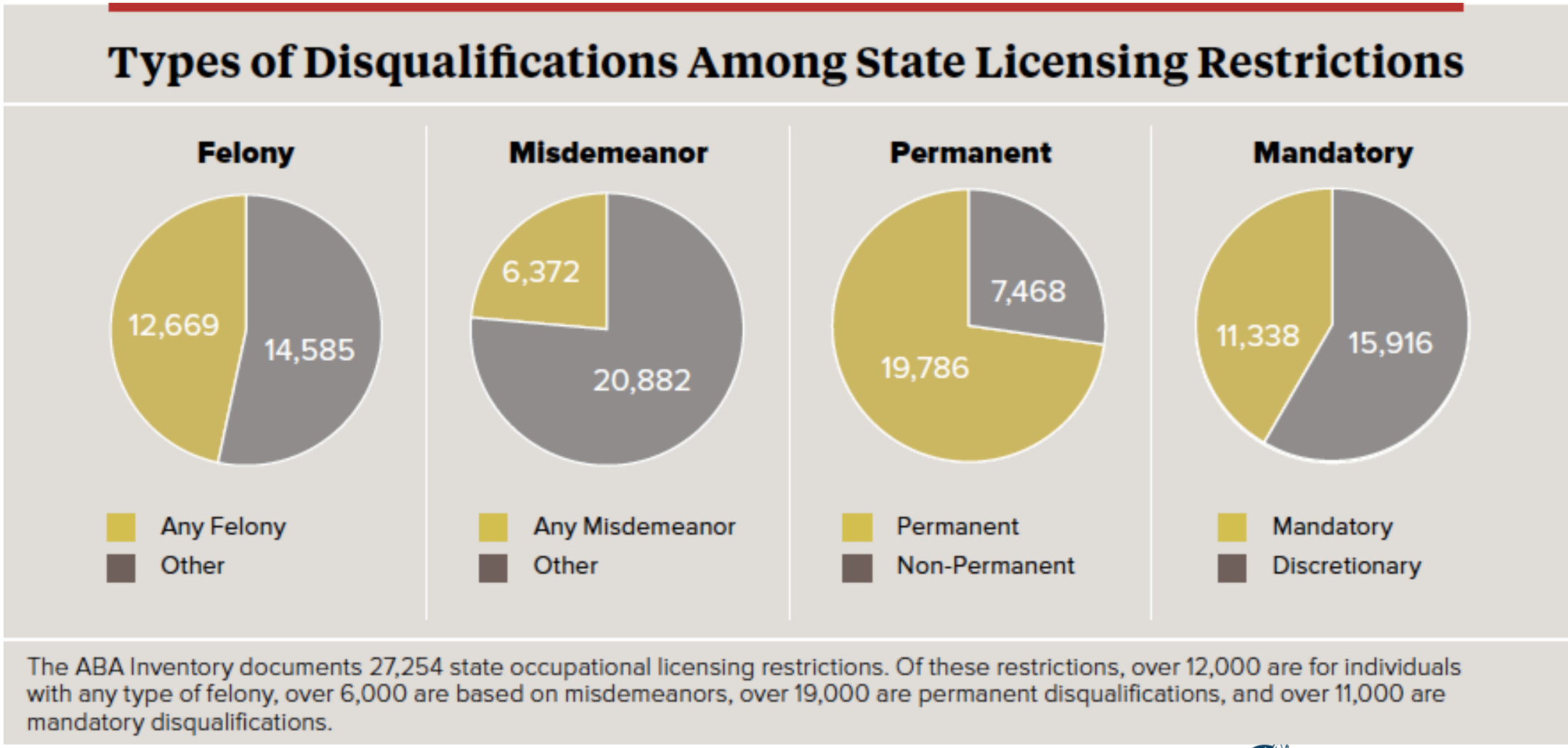
- Many of the costs of licensing depend on how specific licensing requirements are structured
- Examples:
  - Workers in occupations that have state-specific licensing exams are less likely to move across states
  - Licensing restrictions disqualify individuals with criminal records, often when there is no clear link between an offense and the licensed work
  - Licensing barriers for immigrants are often substantial

Differences in state requirements reduce mobility



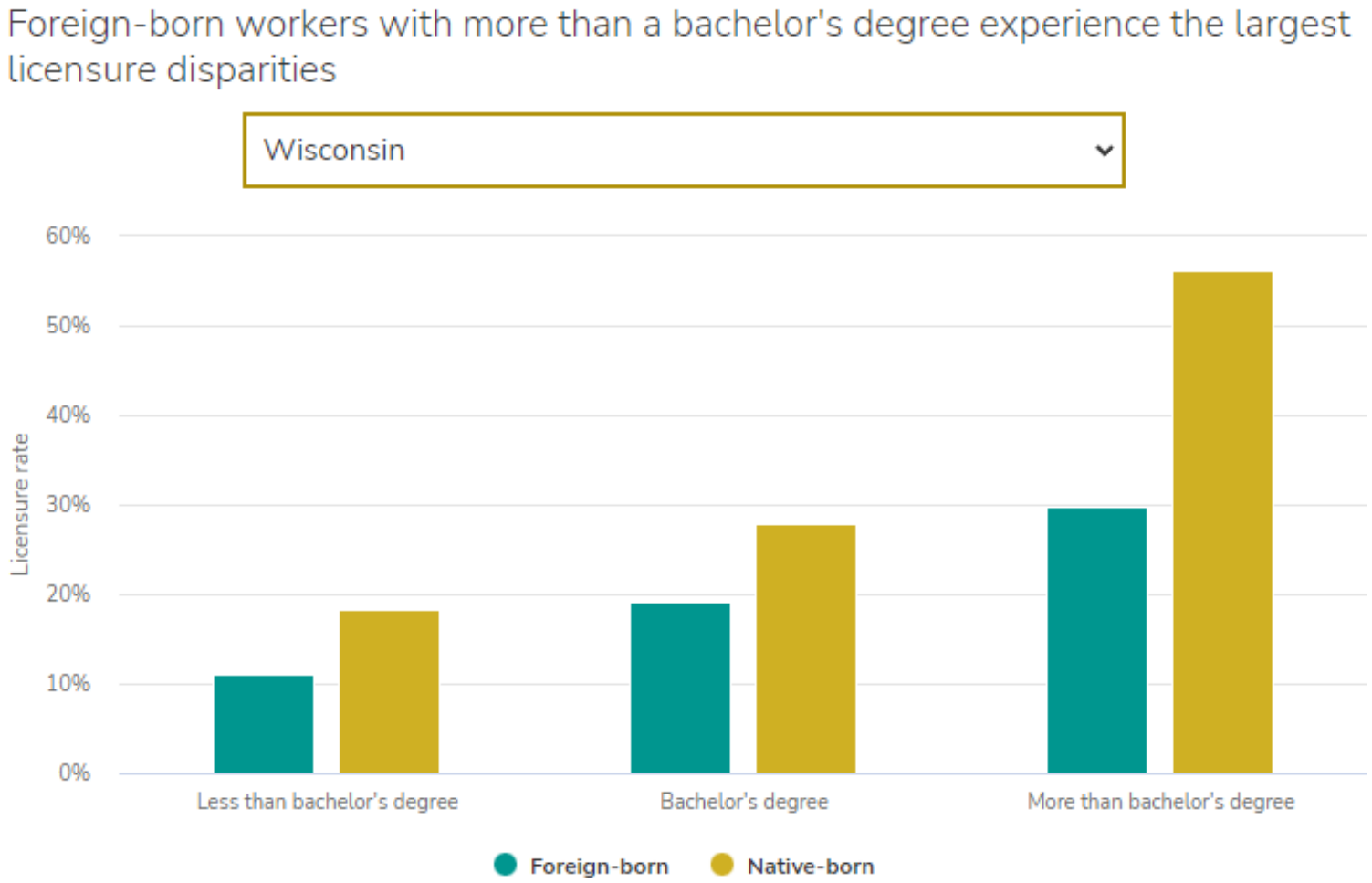
- Johnson and Kleiner (2017) find that interstate migration ↓ when licensing exam requirements vary across states
- Deyo and Plemmons (2022) find that unilateral recognition laws ↑ migration

Licensure is restrictive for those with criminal records



Source: Michelle Natividad Rodriguez and Beth Avery, *Unlicensed and Untapped: Removing Barriers to State Occupational Licenses for People with Records*, National Employment Law Project (2016).

Barriers for immigrants are especially large



Reform options

Overview Of The Current Policy Discussion

- Increasing understanding that licensing affects groups differently:
  - For example, people with criminal records, workers with foreign credentials, military veterans and spouses, etc.
- Robust discussion of licensing in context of antitrust and competition policy
  - Currently centering on scope of practice reform in the health-care sector
- Ongoing efforts to enhance interstate reciprocity or otherwise lower barriers to interstate migration and work
- Ongoing efforts to identify and eliminate or prevent unnecessary licensure rules

Best practices from 2015 White House report

- Limit licensing requirements to those that are necessary for protection of public health and safety
  - Consider alternative regulatory mechanisms in situations where they would be adequate to protect the public
  - Minimize procedural burdens of acquiring a license
  - Maximize scope of practice, consistent with competency and training
  - Remove unnecessary burdens for specific groups like those with criminal records
- Apply rigorous cost-benefit analysis to all licensing provisions
- Harmonize licensing requirements across states to the extent possible and reduce burdens for licensed workers who move across state lines

How can sunrise & sunset review work well?

- Key is to conduct rigorous cost-benefit analysis of proposed (sunrise) and existing (sunset) licensure
  - What are the demonstrable health and safety benefits?
  - What are the costs?
    - Reduced labor supply
    - Higher consumer prices
    - Administrative enforcement costs
- Are there alternative, less-restrictive remedies that would still achieve public objectives?
  - For example, voluntary certification can sometimes substitute for licensure
- Are there less-restrictive versions of *licensure* that would still achieve public objectives, e.g., licensure with fewer hours of required training?

How can sunrise & sunset review work well?

- Detailed, reliable assessments of costs and benefits can be difficult to obtain
- Important to have unbiased assessments by state rather than industry
- Off-the-shelf licensing research has imperfect coverage of the rule changes contemplated in sunrise/sunset review
  - Can extrapolate from existing research on adjacent questions
  - Can conduct new analysis – which takes time and staff
- Bottom line: sunrise/sunset work best when licensure is held to high standards by objective reviewers

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Employment and Earnings

Study	Findings
McMichael (2017); Xue et al. (2018)	Reduced SoP restrictions → **nurse practitioners** employment ↑
Kleiner et al. (2016)	• Independent prescription authority → hours worked for **nurse practitioners** ↑ • Independent practice authority → **nurse practitioner** earnings ↑ and physician earnings ↓
Markowitz et al. (2017); McMichael (2017)	No evidence that full SoP affects employment of **certified nurse midwives** or **physician assistants**

Prices

Study	Findings
Kleiner et al. (2016)	Independent SoP for **nurse practitioners** → child well-care visit price ↓
Timmons (2017)	Prescription authority for **physician assistants** → Medicaid claims cost ↓
Spetz et al. (2013)	Independent SoP for **nurse practitioners** → total payments in retail clinics ↓ though prescription payments ↑
Stange (2014)	**Nurse practitioners** and **physician assistant** prescription authority has no effect on prices of office visits

Health-Care Access

Study	Findings
Traczynski and Udalova (2018)	**Nurse practitioner** independence → routine check-up ↑ and usual source of care ↑, along with ↓ probability of emergency department visits
Stange (2014)	**Nurse practitioner** prescription authority → office-based visits ↑
Xue et al. (2016)	Less restrictive SoP → more **nurse practitioners** in rural counties
Kurtzman et al. (2017)	Less restrictive **nurse practitioner** SoP has no effect on physical examinations, imaging, and return visits

Quality, Health, and Safety

Study	Findings
Kleiner et al. (2016)	**Nurse practitioner** prescription authority has no effects
Markowitz et al. (2017); Yang et al. (2016)	Independent SoP for **certified nurse midwives** → probability of labor induction and C-section delivery ↓ and infant health ↑
Perloff et al. (2017); Kurtzman et al. (2017)	**Nurse practitioner** SoP has no effects on a variety of outcomes