



"Watch-List" Bills 2019; updated as of 1/28/2019					
State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
AZ	H.B. 2231	1/16/2019	Introduced	<ul style="list-style-type: none"> Amends existing law to provide that the committees established by the legislature to issue sunset review reports on regulatory agencies must consider the extent to which an occupational regulation meets the requirements under the law for regulating non-health professions and occupations. Provides that "there is a rebuttable presumption that the public is sufficiently protected from unregulated practice by market competition and private remedies, including third-party or consumer-created ratings and reviews of private certification." Provides that the state shall regulate a profession or occupation only if "there is credible empirical evidence of present, significant and substantiated harm that the unregulated practice threatens the public health, safety or welfare" in the state, that the "actual or anticipated public benefit of the regulation clearly exceeds the costs imposed on consumers, businesses and individuals," that "the public needs and can reasonably be expected to benefit from government regulation," and that "the public cannot be effectively protected by less restrictive regulations." States that certain requirements of the section "do not preempt federal regulations or require a private certification organization to grant or deny private certification to an individual." Adds that "an individual may use the title 'certified' as allowed by a private organization that grants private certification." 	<ul style="list-style-type: none"> The definition in Section 41-3501(8) should be revised to state that "Private Certification' means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a specified level of knowledge and skill required to meet standards in the profession, as established by the private organization." Section 51-3502(D) should be revised to add that "nothing in this Article is intended to restrict an agency from requiring, as a condition of licensure, that an individual's personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation."
CA	A.B. 193	1/10/19	Read first time	<ul style="list-style-type: none"> Requires the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, beginning in 2021, conduct a comprehensive review of all occupational licensing requirements and identify unnecessary licensing 	<ul style="list-style-type: none"> Current version does not warrant intervention. The bill provides no parameters to define the criteria on which the department "shall identify unnecessary licensing requirements that cannot be



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				<p>requirements that "cannot be adequately justified".</p> <ul style="list-style-type: none"> • Requires the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department's progress, and requires the department to issue a final report to the Legislature no later than January 1, 2033. • Requires the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided 	adequately justified." As such, the bill requires a purely procedural review process
CO	H.B. 19-1117	2/4/2019	First Reading	<ul style="list-style-type: none"> • Current law requires the department of regulatory agencies ("department") to analyze whether to begin or continue the regulation of a profession or occupation based on several factors. • In conducting a review of a regulation, the department must "rebuttably presume that consumers are sufficiently protected by market competition and private remedies." • Requires the department to find a present, significant, and substantiated harm to consumers before recommending regulation; the department must recommend only the "least restrictive occupational regulation that addresses the harm." • Provides guidelines for the "least restrictive" regulation required, including that if "a consumer's limited knowledge about the good or service relative to the seller's greater knowledge, the department may recommend the enactment of a voluntary private or government certification." • "Private certification" is listed as the third least restrictive form of regulation. • Requires the department to review regulatory agencies and functions for repeal, continuation, or reestablishment. 	<ul style="list-style-type: none"> • Section 24-34-104.1(G) should be revised to state: "A consumer's limited knowledge about the good or service relative to the seller's greater knowledge, the department may recommend the enactment of government certification unless suitable, private certification for the relevant occupation is available. As used in this section, "suitable" means widely recognized as reflecting established standards of competency, skill, or knowledge in the field." • Section 24-34-104. (a.5)(I) should be revised to state: "In conducting the analysis and evaluation of the need for the continued existence of an occupational regulation in accordance with this section, the department of regulatory agencies shall rebuttably presume that consumers are sufficiently protected by market competition and private remedies. For purposes of this Chapter,



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					"private remedies" shall include the measures listed in subsection 3(a)(iv)(8)(a)-(f). Nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure or renewal of licensure, that an individual's personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation."
IN	SB 384	1/14/2019	First reading: referred to Committee of Commerce and Technology	<ul style="list-style-type: none"> • Provides that a small business ombudsman ("ombudsman") shall review proposed occupational regulations that impose requirements or costs on persons subject to the regulation. • Requires the ombudsman to give a report and approve or deny a regulation after determining if it is the "least restrictive regulation" that would protect consumers from "present, significant, and substantiated harms that threaten public health and safety;" the ombudsman shall presume that market competition and private remedies are sufficient to protect consumer, unless an agency "finds credible empirical evidence of a systemic problem that justifies the adoption of an occupational regulation to protect consumers." • "If the need is to protect consumers against an imbalance of knowledge about the goods or services relative to the seller's knowledge, the ombudsman's comment to the agency must recommend a rule that requires voluntary private or government certification;" "private certification" is listed as the third least restrictive form of regulation. 	<ul style="list-style-type: none"> • See proposed changes offered with respect to Ohio SB 255 and to the IJ/ALEC model bills.



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				<ul style="list-style-type: none"> • Adds throughout that any cost evaluation must include the costs on regulated individuals. 	
IN	H.B. 1271	1/10/2019	Referred to House Committee on Employment, Labor and Pensions	<ul style="list-style-type: none"> • Provides that if an individual is required to have an occupational license to practice, the individual may practice the occupation without an occupational license if the individual provides a signed disclosure with the consumer before entering into a contract and complies with all health, safety, security, confidentiality, reporting, and consumer protection requirements that are imposed on an individual with an occupational license. • Lists affected professions (including CPAs, Professional Engineers, plumbers, home inspectors, barbers, and cosmetologists.); • The term "occupational license" means any requirement to obtain a license, permit, registration, certificate, or other authority issued by a state agency or local unit of government to work in an occupation. 	<ul style="list-style-type: none"> • Sets up a potential slippery slope for traditionally regulated professions. See in-depth Legislative Analysis Memorandum.
IN	S.B. 576	1/14/2019	Referred to Senate Committee on Commerce and Technology	<ul style="list-style-type: none"> • Eliminates the professional licensing agency ("PLA") and establishes the health professions licensing agency ("HPLA") within the state department of health to license health professionals and the workforce licensing agency ("WLA") within the department of workforce development to license occupations that are not health professions. • Calls for regular review and evaluation of occupational licensure boards and of "the necessity, burden, and alternatives to the licenses issued by the board." 	<ul style="list-style-type: none"> • Does not warrant intervention at present.
MD	H.B. 0022	11/19/2018	Hearing 1/22	<ul style="list-style-type: none"> • Current law states that "a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime." • Eliminates the "solely on the basis [of a previous conviction]" language and 	<ul style="list-style-type: none"> • It is unclear whether the department would have to engage in the individualized assessment if a certification program denies or revokes eligibility for certification based on a criminal



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				<p>substitutes a bright-line rule prohibiting denial of a license based on a conviction that occurred more than seven years ago, unless the department determines that there is a direct relationship between the applicant's previous conviction and the specific occupational license and certificate sought, or the issuance of the license or certificate would involve an unreasonable risk to property or to "the safety or welfare of specific individuals or the general public."</p> <ul style="list-style-type: none"> • "Department" means the Department of Agriculture, Department of the Environment, Maryland Department of Health, Department of Human Services, Department of Labor, Licensing, and Regulations, or the Department of Public Safety and Correctional Services. 	<p>conviction, and certification is a precondition for licensure.</p> <ul style="list-style-type: none"> • Add a safe harbor provision: "nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."
MO	H.B. 472	1/08/2019	Referred to House Professional Registration and Licensing Committee	<ul style="list-style-type: none"> • Provides that no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation. • Applies to any profession for which an occupational license is issued in the state, including any new occupational license created by a state licensing authority after August 28, 2019. • States that "notwithstanding any other provision of law, political subdivisions shall be prohibited from creating any new occupational license after August 28, 2019." 	<ul style="list-style-type: none"> • Add a safe harbor provision: "nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."
MO	H.B. 564 and S.B. 251	1/14/2019	H.B. 564: Referred to House Special Committee on Career Readiness	<ul style="list-style-type: none"> • Requires all state licensing authorities to revise existing licensing requirements before January 1, 2020 to explicitly list the specific criminal convictions that could disqualify the applicant from receiving a license. • The licensing authority must use "clear and convincing standard of proof 	<ul style="list-style-type: none"> • The companion bills codify the ALEC/IJ ex-offender related principles. • Add a safe harbor provision: "Nothing in this chapter shall be construed to require a private certification organization



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			S.B. 561: First Read	<p>in examining the factors to determine whether an applicant with a criminal conviction" will be denied a license.</p> <ul style="list-style-type: none"> • A disqualification from receiving a license due to criminal conviction shall not last longer than five years from the date of the conviction provided that the conviction is not for a crime that is violent or sexual in nature and the individual has not been convicted of any other crime during the five-year disqualification period. • Permits "an individual with a criminal record" to "petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license." 	to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."
MS	H.B. 898	1/21/2019	Referred to House Committee on Accountability, Efficiency, Transparency	<ul style="list-style-type: none"> • Requires the Mississippi Joint Committee on Performance Evaluation and Expenditure Review ("PEER") to establish an accountability review schedule of all state agencies. • Requires PEER to provide a comprehensive written report annually which details its review of the agencies designate d for review that year and addresses the review criteria outlined in the bill; agencies may submit relevant information to PEER. • Establishes criteria for PEER's review of state agencies, including "an identification of the mission, goals and objectives intended for the agency and of the problem or need that the agency was intended to address and the extent to which the mission, goals and objectives have been achieved and the problem or need has been addressed." • Provides that all rules adopted under the Act shall automatically repeal on December 31 of the fifth year following the rule's initial adoption unless the rule has been readopted at least 60 days before its scheduled repeal. • Provides that by January 15 of each year, each agency shall provide a list 	<ul style="list-style-type: none"> • Does not warrant intervention at present.



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				and summary of each rule scheduled to expire that year to the chairs of the appropriate standing committees of the legislature.	
MS	H.B. 375	1/8/2019	Referred to House Judiciary Committee	<ul style="list-style-type: none"> Requires that all rules adopted under the provisions of The Administrative Procedures Act shall automatically repeal on December 31 of the fifth year following the rule's initial adoption (if adopted after July 1, 2019) or on December 31, 2024 (if adopted before July 1, 2019), unless the rule has been readopted at least sixty days before its scheduled repeal. Requires that by January 15 of each year, each agency provides a list and summary of each rule scheduled to expire that year to the chairs of the appropriate standing committees of the legislature. 	<ul style="list-style-type: none"> Does not warrant intervention at present.
MI	S.B. 0040	1/22/2019	Referred to Senate Committee on Regulatory Reform	<ul style="list-style-type: none"> Requires the Michigan Law Revision Commission ("Commission") to review new legislation to determine whether the legislation uses the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harms that threaten public health and safety; the Commission may require the legislation's proponents to submit "evidence of present, significant, and substantiated harms to consumers in the state," along with "information from other individuals who are knowledgeable about the occupation, labor economics, and other relevant factors." Requires the Commission to complete a report to the committee to which the legislation was referred. Requires the Commission to review annually (beginning January 1, 2020) the occupational regulations of approximately 20% of the occupations that are subject to state regulation, and over each 5-year period review all occupational regulations that are subject to state regulation; to evaluate whether those regulations "use the least 	<ul style="list-style-type: none"> Section 404(3)(E) should be revised to state: "Asymmetrical information between a seller and a buyer, by enacting government certification unless suitable, private certification for the relevant occupation is available. As used in this section, "suitable" means widely recognized as reflecting established standards of competency, skill, or knowledge in the field." Section 404(3) should be revised to state: "In its analysis under subsections (1) and (2), the Commission shall employ a rebuttable presumption that market competition and private remedies are sufficient to protect consumers; For purposes of this Chapter, "private remedies" shall



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				<p>restrictive regulation "necessary to protect consumers from present, significant, and substantiated harms that threaten public health and safety," and to submit a report with recommendations to the legislature to not enact new legislation or enact legislation that repeals, rescinds, or modifies the regulation.</p> <ul style="list-style-type: none"> • The Commission shall "employ a rebuttable presumption that market competition and private remedies are sufficient to protect consumers." • "Private certification" is listed as the third least restrictive form of regulation. • Defines "Certification" as "a voluntary program in which a private organization or the government of this state grants nontransferable recognition to an individual who meets personal qualifications established by the private organization or the government of this state." • Defines "Registration" as registering with the state and provides that "a nonregistered individual may not perform the occupation for compensation or use "registered" as a designated title." 	<p>include the measures listed in subsection 404(5)(c)(i-v). Nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure or renewal of licensure, that an individual's personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation."</p> <ul style="list-style-type: none"> • In Section 404(5)(G), change all "Registered" in all instances to "government registered" so as not to ban use of the title "registered" that is conferred by private certification organizations.
MT	L.C. 2298	12/5/2018	Draft on Hold	<ul style="list-style-type: none"> • "Generally, revise professions and occupations licensing laws." 	<ul style="list-style-type: none"> • No text is available.
MT	L.C. 3214	1/22/2019	Draft Request Received	<ul style="list-style-type: none"> • "Generally Revise Occupational and Licensing Boards." 	<ul style="list-style-type: none"> • No text available.
ND	S.B. 2353	1/21/2019	Committee Hearing to be held at 2:30 p.m. on 1/31/2019	<ul style="list-style-type: none"> • States that "notwithstanding law to the contrary, a board shall issue a license to an applicant who is a foreign practitioner, unless the board determines the issuance of the license would jeopardize the health and safety of the residents of this state. If the board determines licensure under this section would jeopardize the health and safety of the residents of this state, the board may deny the application or may issue a provisional license, issue a restricted license, or otherwise authorize limited 	<ul style="list-style-type: none"> • Definition of "foreign practitioner" broad enough to include practitioners holding authorization to practice from outside the U.S. • Warrants further consideration as to whether language should be tightened to specify only U.S. jurisdictions, if there are concerns about lax requirements in non-U.S. jurisdictions.



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				<p>practice to protect the health and safety of the residents of this state."</p> <ul style="list-style-type: none"> • Defines "Board" as "a board, commission, or other agency of state government created or identified in this title to regulate an occupation or profession;" establishes process for governor appointment of Board members. • Provides that a Board must "establish and implement a strategic plan to regulate occupations and professions in the least restrictive manner appropriate to promote public health and safety." • Provides the terms of licensure and establishes a renewal process. • Provides for Board training, grievance procedure, and disciplinary proceedings. 	
ND	H.B. 1253	1/03/2019	Committee Hearing on 1/15/2019	<ul style="list-style-type: none"> • Amends the section of the code that lists exceptions to the provision that prior conviction of a crime is not a bar to state licensures. • Adds that an individual may petition a state agency, board, commission, department, or other licensing entity at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining state licensure. • Lists the information that must be included in the petition and facts that may not be considered by the state agency, board, commission, department, or other licensing entity. • The state agency, board, commission, department, or other licensing entity may not find an individual's criminal record disqualifies the individual from state licensure, unless it determines that the state's interest in protecting public safety is superior to the individual's fundamental right to pursue a lawful occupation and it establishes by clear and convincing evidence that the individual was convicted of a relevant felony or violent misdemeanor and that the license will put the individual in a 	<ul style="list-style-type: none"> • Safe harbor provision should go further: "this section may not be construed to require a private certification organization to grant or deny a private certification to an individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."



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				<p>position where the individual is more likely to reoffend and cause harm.</p> <ul style="list-style-type: none"> Includes that "this section may not be construed to require a private certification organization to grant or deny a private certification to an individual." 	
NH	H.B. 662	1/16/2019	Introduced 01/03/2019 and referred to House Committee on Executive Departments and Administration	<ul style="list-style-type: none"> Establishes a commission to study "possibilities for reforming the state's occupational licensing requirements and procedures to reduce barriers to licensure and to increase New Hampshire's economic competitiveness." 	<ul style="list-style-type: none"> The commission appears to have a balanced membership and does not seem to be pushing an ideological agenda; the focus is on portability, reciprocity, and standardization of vocabulary. We do not view this bill as concerning to the PCC membership.
NH	L.S.R. 0824	12/4/2018	Pre-filed	<ul style="list-style-type: none"> Establishing a Committee to Study Occupational Licensing Reforms 	<ul style="list-style-type: none"> No text is available.
NJ	A.3872	5/7/2018	Referred to Assembly Regulated Professions Committee	<ul style="list-style-type: none"> Provides that no person shall be disqualified from holding any certificate, registration or license solely because of a prior conviction of a crime, unless the crime directly relates to the profession or occupation. Requires a board to consider the following when determining if a conviction directly relates to the profession or occupation: (1) "the nature and seriousness of the crime and the passage of time since its commission; (2) "the relationship of the crime to the purposes of regulating the profession or occupation," (3) "any evidence of rehabilitation of the person in the period of time following the prior conviction," and the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the board." Requires that the board provide notice to an applicant of its intent to reject the applicant because of the applicant's prior conviction of a crime; the applicant must 	<ul style="list-style-type: none"> Add a safe harbor provision: "Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."



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				have a reasonable opportunity to be heard before the board prior to the board making a final decision.	
OK	H.B. 1373	1/16/2019	First reading	<ul style="list-style-type: none"> Requires all state entities that are charged with oversight of occupational licenses to explicitly list the specific criminal records that are "directly related to the duties and responsibilities for the licensed occupation" that would disqualify an applicant from receiving certification. Provides that "if an individual has a valid criminal conviction for a crime that would disqualify the individual from receiving a license, the disqualification shall not last longer than five (5) years from the date of conviction, provided that the conviction is not for a crime that is violent or sexual in nature and the individual has not been convicted of any other crime during the five-year disqualification period." Permits "an individual with a criminal record" to "petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license." Includes provisions specific to particular practice acts. 	<ul style="list-style-type: none"> Add a safe harbor provision: "Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."
OK	H.B. 2134	2/4/2019 (pre-filed)	First reading	<ul style="list-style-type: none"> Provides that no person may be "disqualified from pursuing, practicing or engaging in any occupation for which a license is required solely or in part because of a prior conviction, unless it is a conviction directly related to the occupation for which the license is sought," unless there is a constitutional or statutory provision explicitly stating that certain convictions are automatic bars to licensing. Requires that the licensing authority consider the following when determining if a conviction directly relates to the position or the occupation for which the license is sought: (1) "Whether the conviction is directly related to the duties 	<ul style="list-style-type: none"> Add a safe harbor provision: "Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."



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				<p>and responsibilities of the occupation," (2) "whether the occupation offers the opportunity for the same or a similar offense to occur," and (3) "the length of time since the offense occurred."</p> <ul style="list-style-type: none"> Requires the licensing authority to provide notice to an applicant of its intent to reject the applicant solely or in part because of the applicant's prior conviction; an applicant may not be rejected "if the applicant can provide evidence of mitigation or rehabilitation and present fitness to perform the duties of the occupation for which the license is sought." 	
OK	S.B. 651	2/4/2019 (pre-filed)	First reading	<ul style="list-style-type: none"> Called the "Right To Earn A Living Act" Requires every agency to conduct a comprehensive review of all occupational regulations and occupational licenses within their jurisdiction, and (1) "articulate with specificity the public health, safety, or welfare objective(s) served by the regulation, (2) "articulate the reasons why the regulation is necessary to serve the specified objectives," (3) analyze, where information is readily available, the effects of regulation on opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs and other effects; and (4) "compare the regulation to whether and how other states regulate the business or profession." Provides that "all occupational regulations shall be limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety or welfare objectives." If an agency determines that this standard is not met, it must repeal or modify the regulation or recommend that the legislature take action giving authority to the agency to repeal or modify the regulation. 	<ul style="list-style-type: none"> This bill is a more direct threat to occupational licensing. Unlike other bills calling for a commission or a report, this bill mandates that agencies repeal regulations that do not meet the designated evidentiary standards. It also allows a private cause of action for individuals to challenge occupational licensing regulations. Efforts to broaden the kinds of information agency must consider may be advisable, as well as broadening the definition of public welfare an agency or a court may consider. The bill invites expensive litigation over regulations. Safe harbors should be added to protect both regulatory recognition of private certifications and statutory prohibitions on deceptive trade practices.



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				<ul style="list-style-type: none"> • Provides that the term "Welfare" shall be narrowly construed to encompass protection of members of the public against fraud or harm." • Requires each agency to report to the legislature on all actions taken to conform with the Act. • Provides that any person may petition any agency to repeal or modify any occupational regulation or file an action in court to challenge an occupational regulation. • Provides that a court can enjoin enforcement of a regulation and award attorney's fees as costs to the petitioner if the court determines that the agency has failed to prove by "a preponderance of evidence that the challenged occupational regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety or welfare objectives" or "where the challenged occupational regulation is necessary to the legitimate public health, safety or welfare objectives, such objectives can be effectively served by using a less restrictive regulation." • "Private certification" is listed as the third least restrictive form of regulation. 	
OK	S.B. 101	2/4/2019 (pre-filed)	Referred to Senate Business, Commerce and Tourism Committee	<ul style="list-style-type: none"> • Amends the causes for the suspension, revocation, or refusal of renewal for architects licensed under the State Architectural and Registered Interior Designers Act, barbers under the Oklahoma Cosmetology and Barbering Act, professionals whose licenses are issued by the Oklahoma Funeral Board, and engineers or land surveyors. • Provides that no felony conviction shall operate to deny the issuance or reinstatement of licenses or registrations for these professions after ten years from the date of such conviction, unless the conviction continues to pose a reasonable threat to public safety or continued education or other requirements have not been met. 	<ul style="list-style-type: none"> • Add a safe harbor provision: "nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."



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				<ul style="list-style-type: none"> • Provides that all state entities that are charged with oversight of occupational licenses shall establish procedures by which individuals who were convicted of a felony or misdemeanor offense, and thereby lost an occupational license, may appeal or apply to have such license reinstated in the event such conviction is subsequently reclassified or decriminalized by the Legislature or by the vote of the people. • After ten years from the date that a conviction or plea was entered, where the underlying cause of the crime was substance abuse or mental illness, a revoked occupational license shall be reinstated unless the conviction or underlying conduct continues to pose a reasonable threat to public safety or the person is deemed unqualified to practice the occupation for failure to complete continued education requirements or failure to address the underlying alcohol, drug or mental illness that resulted in loss of licensure or certification in the occupation. 	
OR	S.B. 502	1/14/2019	Referred to Senate Business and General Government Committee	<ul style="list-style-type: none"> • Abolishes state agencies in accordance with a provided schedule; requires agencies subject to abolition to make a report to the Sunset Advisory Committee. • Creates the Sunset Advisory Committee. • Requires the Sunset Advisory Committee to conduct a performance evaluation of agencies based on specified criteria, including "whether there are less restrictive or alternative methods of regulation that could adequately protect the public." • Sunset Advisory Committee must conduct public hearings and make recommendations to the Governor and Legislative Assembly relating to abolition, continuation or reorganization of agencies and other matters. 	<ul style="list-style-type: none"> • The automatic and presumptive abolition of state agencies is concerning, and the bill provides little guidance on how the Sunset Advisory Committee will determine whether regulation are "the least restrictive form of regulation that will adequately protect the public."



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State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
SC	H.B. 3163	12/18/2018	Referred to Committee on Labor, Commerce and Industry	<ul style="list-style-type: none"> Provides that no person may be disqualified from public employment, nor may a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which he was convicted directly relates to the position of employment sought or the occupation for which the license is sought. A person who has been convicted of a crime that directly relates to the public employment sought or to the occupation for which a license is sought must not be disqualified from the employment or occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought. "License" means all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the state before a person can pursue, practice, or engage in any occupation. 	<ul style="list-style-type: none"> The "in part because" language would seem to include disqualification for lack of a required certification, if loss of eligibility for certification stemmed from a criminal conviction. Add a safe harbor provision: "nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."
SC	S.B. 0330	1/18/2019	Referred to Committee on Labor, Commerce and Industry	<ul style="list-style-type: none"> Enacts the "Occupational Licensure and Reform Act." Accelerates the Department of Labor, Licensing, and Regulation's review cycle of all regulations from every five years to every two years. Requires a Senate Committee to "identify whether present, significant, or substantiated harms [justify the regulation and] consider alternative provisions that would be the least restrictive." 	<ul style="list-style-type: none"> Add a safe harbor provision, as in Ohio SB 255 – "nothing in this chapter is intended to restrict an occupational licensing board from requiring, as a condition of licensure or renewal of licensure, that an individual's personal qualifications include obtaining or maintaining certification from a private organization that credentials individuals in the relevant occupation, field, or industry;" or Modify the "present, significant, or substantiated harms" language.



"Watch-List" Bills 2019; updated as of 1/28/2019					
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VA	H.B. 2028	1/9/19	Read third time and passed House (90-Y 7-N) 1/25/19	<ul style="list-style-type: none"> Provides that when any legislative bill requiring the Department of Professional and Occupational Regulation to increase or begin regulation of an occupation is filed during any session of the General Assembly, the Board for Professional and Occupational Regulation shall prepare an evaluation of the legislation using criteria outlined in § 54.1-311 that the Board is required to use whenever the Board determines that a particular occupation should be regulated or that a different degree of regulation should be imposed on a currently regulated occupation. 	<ul style="list-style-type: none"> Existing Virginia law – § 54.1-300 and § 54.1-311 - set up the state to compete with private certification; the fourth degree of regulation provides that when "the public requires a substantial basis for relying on the professional services of a practitioner, the Board may implement a system of certification;" "certification" solely refers to government certification. Section § 54.1-300 should be amended to change the defined term "Certification" to "Governmental Certification" and to add the definition: "Private Certification means a voluntary program in which a private organization grants nontransferable recognition to an individual who establishes that the individual possesses personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a specified level of knowledge and skill required to meet standards in the profession, as established by the private organization." Section § 54.1-311(A)(4) should be amended to delete the current text and state "Governmental Certification. -- When the public requires a substantial basis for



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					<p>relying on the professional services of a practitioner, the Board may implement a system of governmental certification, unless suitable, private certification for the relevant occupation is available. As used in this Section, 'suitable' means widely recognized as reflecting established standards of competency, skill, or knowledge in the field."</p> <ul style="list-style-type: none"> Section § 54.1-311 is amended to add a new Section § 54.1-311(C): "Nothing in this chapter is intended to restrict an agency from requiring, as a condition of licensure or renewal of licensure, that an individual's personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation."
VA	S.B. 1751	1/18/2019	Referred to Committee on General Laws and Technology	<ul style="list-style-type: none"> Authorizes the dissemination of criminal history record information to the Department of Professional and Occupational Regulation ("DPOR") for the purpose of investigating individuals for initial licensure, certification, or registration. Under current law, DPOR has that authority only for the initial licensure of real estate brokers and salespersons; this bill permits the Director of DPOR, or his designee, to issue a notice to any person unlawfully engaging in unlicensed practice of an occupation to cease and desist such activity. 	<ul style="list-style-type: none"> Another potential vehicle to fix the problems with existing Virginia law – § 5.4.1-300 and § 54.1-311. See comments on VA H.B. 2028.



"Watch-List" Bills 2019; updated as of 1/28/2019					
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				<ul style="list-style-type: none"> The bill provides for the reduction of certain fees for certification, licensure, registration, or permit and renewal. Requires that when any legislative bill requiring DPOR to increase or begin regulation of an occupation is filed during any session of the General Assembly, the Board for Professional and Occupational Regulation prepare an evaluation of the legislation using criteria outlined in § 54.1-311 that the Board is required to use whenever the Board determines that a particular occupation should be regulated or that a different degree of regulation should be imposed on a currently regulated occupation. 	
UT	H.B. 90	1/9/2019	LFA fiscal note sent to sponsor	<ul style="list-style-type: none"> Provides for an individual with a criminal conviction to apply to the Division of Occupational and Professional Licensing for a determination of whether the individual's criminal history would disqualify the individual from receiving a specific occupational or professional license if all other requirements were met. 	<ul style="list-style-type: none"> Add a safe harbor provision: "nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure."

(Posted: 1/29/2019)