



**NABP**  
National Association of  
Boards of Pharmacy  
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October 31, 2017

Maureen K. Ohlhausen  
Acting Chairman  
Federal Trade Commission—Economic Liberty Task Force  
400 7<sup>th</sup> St, SW  
Washington, DC 20024

Subject: Empirical Research

Dear Ms. Ohlhausen:

On behalf of the National Association of Boards of Pharmacy® (NABP®), this letter is being submitted to the Federal Trade Commission (FTC) and its Economic Liberty Task Force in preparation of its November 7, 2017 meeting in Washington, DC.

NABP is the independent, international, and impartial association that assists its member boards and jurisdictions in developing, implementing, and enforcing uniform standards for the purpose of protecting the public health. NABP is the only professional association that represents the state boards of pharmacy in all 50 United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Bahamas, New Zealand, and ten Canadian provinces. Founded in 1904, NABP aims to ensure the public's health and safety through our pharmacist license transfer and competence assessment programs.

As the FTC's Economic Liberty Task Force prepares for its roundtable discussion on evidence regarding the effects of occupational licensing, NABP wishes to submit the following public comments to the questions to aid in FTC's analysis of the issue of license portability.

***What is the state of empirical knowledge about the extent, growth, and stringency of state licensing requirements? To what extent are such requirements uniform or varied across the states? To what extent do they vary by occupation?***

The boards of pharmacy regulate three primary types of individuals: pharmacists, pharmacist interns and pharmacy technicians. Boards of pharmacy also regulate facilities, including pharmacies and wholesale drug distributors.

*Pharmacists:*

Licensing requirements for pharmacists are long established and are largely uniform. There are three primary components to the initial licensure process:

1. All pharmacists must complete the North American Pharmacist Licensure Examination® (NAPLEX®), which measures a candidate's knowledge of the practice of pharmacy. It is just one component of the licensure processes and is used by all boards of pharmacy as part of their assessment of a candidate's competence to practice as a pharmacist. Via the Score Transfer process, a candidate may transfer their NAPLEX® score to multiple states for purposes of obtaining licensure in multiple states.
2. The Multistate Pharmacy Jurisprudence Examination® (MPJE®) combines federal- and state-specific questions to test the pharmacy jurisprudence knowledge of prospective pharmacists. It serves as the pharmacy law examination in participating jurisdictions and tests a candidate's mastery of pharmacy law. All state boards participate in the MPJE program, except Arkansas, California and Puerto Rico, who manage their own state-specific pharmacy law examinations. All states with the exception of Idaho, require a certain number of hours of practical experience prior to issuing a license to a new pharmacist.
3. All candidates that graduate with an Accreditation Council for Pharmacy Education (ACPE)-accredited PharmD degree after January 1, 2012 are deemed to have met the internship requirements for licensure.

Once licensure is obtained, pharmacists are able to efficiently transfer their license from state to NABP's Electronic Licensure Transfer Program® (e-LTP™), which enables licenses pharmacists to easily transfer their *existing* pharmacist license to one or more states or jurisdictions. NABP facilitates the license transfer process on behalf of its member boards of pharmacy, who ultimately make the licensure decision.

All 50 states, District of Columbia, Guam and Puerto Rico require graduated of pharmacy schools not based in the United States to achieve the Foreign Pharmacy Graduate Examination Committee™ (FPGEC®) Certification before applying for a license from a state boards of pharmacy. The FPGEC reviews the pharmacist's education, licensure and/or registration and also requires that the candidate pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) and the Test of English as a Foreign Language (TOEFL) iBT.

#### *Pharmacist Interns*

While student pharmacists are obtaining their practical experience while in pharmacy school, most boards of pharmacy require that the pharmacist intern registers with the board of pharmacy in the state in which the practical experience is being obtained. The internship registration requirements typically include completion of an application, collection of a few and proof of active enrollment at a school of pharmacy. North Carolina, Tennessee, and Wisconsin do not require intern registration.

#### *Pharmacy Technicians*

45 states currently regulate pharmacy technicians via either licensure, certification or registration. Requirements for obtaining each varies and may include completion of a high school or equivalent

degree, completion of a board approved training and education program or completion of a board approved examination.

#### *Facility regulation*

Board of pharmacy also regulate facilities, including pharmacies, wholesale drug distributors and durable medical equipment providers. The boards will routinely inspect pharmacies based on the size, scope and complexity of the practice taking place in the facility. To build uniformity, NABP's membership also utilizes the NABP Multistate Inspection Blueprint, as well as nationally recognized standards such as United States Pharmacopeia (USP®) Chapter 797 – Pharmaceutical Compounding Sterile Preparations. In both cases, the boards of pharmacy utilize these uniform standards to increase consistency in how inspections are conducted from state to state and also to ensure that these complex compounding methods are performed safely and effectively.

Progress to increase inspection uniformity and compounding regulation has increased significantly since 2012, after over 800 individuals were infected and 78 individuals died from a meningitis outbreak as a result of contaminated steroid injections. The boards of pharmacy came together in the aftermath of that outbreak to raise the to a uniform and safe level for regulating such practices. The results in the years since have seen increased levels of compliance by pharmacies and increased and more uniform enforcement efforts at the state level

***What is the state of empirical evidence on the costs and benefits of occupational licensing? What is known about the typical, average, or aggregate effects of licensing restrictions on consumers, workers, competition, and the economy?***

- ***What is known about the effect of these restrictions on entry into, wages for, and mobility of workers in licensed occupations or others in the workforce?***
- ***What is known about the effect of licensing restrictions on price, quality, access, and innovation for services and goods associated with licensed occupations?***
- ***What is known about the connection between labor market research and competition research and, ultimately, the effect of licensure on consumer welfare?***
- ***To what extent do the costs and benefits of licensing vary, and according to what factors? Examples might include the cost of entry requirements, their stringency or duration, the type of occupation, or other factors.***

In general, data exists that addresses these areas, but it is not necessarily housed by one entity. For example, NABP, through our NABP e-Profile, possesses a comprehensive licensing, disciplinary and educational database on the United States' pharmacist population. We do not, however, have the corresponding labor statistics at this time. We would put forward that our NABP e-Profiles and already existing central repository for all licensed pharmacists lay an excellent foundation for such data collection, research and evaluation.

***What are the advantages and disadvantages of studies that examine the general effects of licensing, versus studies of particular occupations or types of licensing restrictions?***

Evaluating all occupational licensing in a vacuum without context on a given occupation's impact on the public interest, or the public health is a dangerous rhetorical approach. Recent media narratives have lumped licensing of hair braiders and florists in with that of pharmacists, physicians and nurses, making little to no distinction to the between. This is being done largely to attack occupational licensing as whole, without proper consideration of the licensing structures that provide needed protections to the public's interest and health.

NABP and its member boards enjoy a great deal of consistency from a licensing and regulatory process. That said, each board of pharmacy has its own unique set of characteristics from ranging from board structure, to human and fiscal resources to regulatory authority. Therefore, despite all being "boards of pharmacy", it can be challenging even within single occupational licenses to draw "apples to apples" comparisons between boards because of these structural differences.

That said, doing so is an critically important exercise in order to evaluate ways to decrease points of friction in state licensing processes, and thereby increase innovation and economic opportunity. With that in mind, NABP, in partnership with its member boards are working on ways to reconcile these differences by reviewing data on how certain board structures perform in handling complaints, investigations, disciplinary cases and in processing licenses. By providing the proper context, NABP and the boards of pharmacy hope to be able to create some recommendations on not only the ideal licensing structures for pharmacy, but also the best regulatory structures and constructs for regulating the practice of pharmacy.

Given the challenges involved even with evaluating a particular occupational license, like pharmacy, we would caution against any generic examination that lumps all occupational licensing into one grouping.

***What is the state of data in the field? Are there new or emerging data sets worth highlighting or developing?***

As noted above, NABP is in the process of studying not only data about its member boards of pharmacy, but also the individual licensing, disciplinary and educational data for the over 800,000 pharmacist and pharmacy technician e-profiles within our e-Profile database. By being able to evaluate licensed professionals within the proper context of their state board's structure and resources, NABP and its member boards will be able to provide strong evidence for the most effective and appropriate occupational licensing structures. The goal of this effort is developing policy recommendations that protect the public's health and interest, while also increasing efficient licensing processes and promoting economic liberty.

***What is the best available evidence upon which policymakers might rely in deciding whether to adopt a new licensing regime? What is the best available evidence upon which policymakers might rely in deciding whether to reform or eliminate an existing licensing regime?***

As risk to the public increases, the need for a uniform licensing structure also increases. Speaking more from the healthcare perspective, direct patient interactions, treatment and access to dangerous medications are all reasons for consideration of a strong licensing process over merely registration or certification. Today boards of pharmacy have varying methods of regulating pharmacy technicians. Within pharmacy, technicians are the highest diverters of controlled substances, thus contributing to the opioid epidemic. Many states have very low thresholds for entry to be able to practice as a pharmacy technician, which makes that profession a prime source of diversion.

As highlighted above, the regulation of pharmacy technicians is in need of a greater level of uniformity across the states, but that uniformity must reflect a level of entry that is commiserate with the risks associated with the profession.

Thank you for your analysis of this issue and consideration of our comments. NABP and our member boards of pharmacy are committed to building the future of pharmacy regulation and doing so in a manner that protects our nation's patients, provides access to safe medications and builds on our existing uniform licensing and regulatory processes. Together, we can achieve these goals by evaluating our licensing, disciplinary and education to ensure that our data as a means to ensuring that our member boards are setup to be successful within their states.

Moving forward, please do not hesitate to use NABP as a resource as the task force continues to explore how to balance state rights, public protection, and economic growth. Please feel free to contact me at [execoffice@nabp.pharmacy](mailto:execoffice@nabp.pharmacy) if NABP can be of additional assistance.

Sincerely,

Carmen A. Catizone, MS, RPh, DPh  
Executive Director/Secretary

cc: NABP Executive Committee