Principles for Occupational Licensing Legislation

1. Professional certification criteria used in non-governmental programs reflect the field’s own measurements of knowledge, competence and skills of professionals and are established by consensus among subject matter experts.

- Self-regulation is more effective and efficient than government regulation; states should not interfere with, or seek to supplant, voluntary, private certification programs.

- For some professions, it is appropriate to protect the public from unqualified practitioners by incorporating private certification standards into licensure regulations.
  
  o These decisions should be made by the state legislature and/or regulatory agency, after input from relevant stakeholders, and should not be driven solely by economic factors.

  o Commissions or other entities may make recommendations derived from economic and competitive concerns, but those recommendations should not supplant or override the lawmaking process for determining whether a specific licensure requirement is needed to protect the public.

2. State government occupational licensure requirements should balance protection of the public with the interests of lowering costs, promoting market competition, and reducing barriers to entry to an occupation.

- The determination of how to strike that balance should be evidence-based.

  o Information relating to all the relevant interests should be considered and assessed, rather than excluding information about certain factors from consideration.

  o The evidentiary standard should be realistic (e.g., not require data on present harms, if that data is unavailable because current regulatory requirements protect against those harms).

- Foreseeable potential harms are relevant to the analysis.

- Protection of the public encompasses health, safety, welfare and economic well-being.

3. Individuals have a First Amendment right to use titles they have in fact earned (e.g., certified or registered), even if not bestowed by the government.

- Because the titles “certified” and “registered” are often awarded by private professional certification organizations, occupational licensure reform legislation should not bar those uses.

- More broadly, clear distinctions should be maintained between voluntary, private professional certification and mandatory, government-imposed occupational licensing.