

CANADA'S BROKEN COMPULSORY TRADES SYSTEM

No. 176 | SEPTEMBER 2015



Ideas that change your world | www.fcpp.org

BY BRIANNA HEINRICHS



Disclaimer:

The opinions expressed in this paper are exclusively those of the independent author(s) and do not reflect the opinions of the Frontier Centre for Public Policy, its Board of Directors, staff and/or donors.

ISSN # 1491-78 ©2015

Research conducted by the Frontier Centre for Public Policy is conducted under the highest ethical and academic standards. Research subjects are determined through an ongoing needs assessment survey of private and public sector policymakers. Research is conducted independent of Frontier Centre donors and Board of Directors and is subject to double-blind peer review prior to publication.

ABOUT THE FRONTIER CENTRE FOR PUBLIC POLICY

The Frontier Centre for Public Policy is an innovative research and education charity registered in both Canada and the United States.

Founded in 1999 by philanthropic foundations seeking to help voters and policy makers improve their understanding of the economy and public policy, our mission is to develop the ideas that change the world.

Innovative thought, boldly imagined. Rigorously researched by the most credible experts in their field. Strenuously peer reviewed. Clearly and aggressively communicated to voters and policy makers through the press and popular dialogue.

That is how the Frontier Centre for Public Policy achieves its mission.



BRIANNA HEINRICHS

Brianna Heinrichs has been with the Frontier Centre for Public Policy since 2012. She is a master's candidate in Political Science at the University of Calgary, where her research focuses on federalism and constitutional law, and she obtained a BA (Honours) in Political Science from the same institution. Heinrichs enjoys attending conferences throughout Canada and the United States to study economics, and her op-eds on a variety of public policy issues have appeared in numerous Canadian newspapers.

TABLE OF CONTENTS

5	Executive Summary
6	Introduction
7	Potential Benefits and Consequences of Compulsory Trades
7	<i>Registration Rates</i>
8	<i>Completion Rates</i>
8	<i>Worker Safety</i>
9	<i>Economic Impact</i>
9	<i>Consumer Protection</i>
11	<i>Overview</i>
12	Motivations behind Compulsory Trades
12	<i>Two Hypotheses</i>
12	<i>Examples of Occupational Licensing Gone Wrong</i>
14	<i>Canada vs. United States</i>
15	Voluntary Certification
16	<i>U.S. Case Study</i>
17	<i>Analysis</i>
18	Provincial Summaries
18	<i>British Columbia</i>
18	<i>Alberta</i>
19	<i>Saskatchewan</i>
20	<i>Manitoba</i>
20	<i>Quebec</i>
21	<i>New Brunswick</i>
21	<i>Prince Edward Island</i>
21	<i>Nova Scotia</i>
22	<i>Newfoundland and Labrador</i>
22	<i>The Territories</i>
22	<i>Ontario</i>
25	Regulation of the Cosmetology Industry
26	Recommendations
27	Endnotes
32	Bibliography

EXECUTIVE SUMMARY

- If a trade is compulsory, a person cannot legally work in the trade unless he or she carries a certificate of qualification or is registered in an apprenticeship program. If a trade is voluntary, a person can seek certification if desired, but he or she can also legally work without it.
- Compulsory trades are thought by some to enhance consumer protection and worker safety. Some people also advocate for compulsory certification in an attempt to raise the prestige of a trade.
- Compulsory certification of trades can have negative, unintended consequences, particularly, fewer workers or providers of a service and more-expensive services or products.
- Evidence is lacking to demonstrate that compulsory trades increase safety and enhance consumer protection. Policies that unnecessarily restrict the supply of workers are undesirable, especially if governments and employers are concerned about a shortage of skilled trade workers.
- The problems compulsory certification are meant to mitigate can often be addressed through alternative measures such as voluntary certification, health and safety legislation or technological innovations that allow buyers to communicate with each other about the quality of work that companies or people provide.
- In the United States, occupational licensing has resulted in anti-competitive behaviour on the part of many licensing boards. Workers tend to face more mobility restrictions in the United States than in Canada.
- Provinces have varying numbers of compulsory trades and choose different trades to designate as compulsory. A lack of consistent policies across the country might be an indication that the policies are a result of lobbying efforts rather than public safety concerns.
- The regulatory regimes for the cosmetology industry in some provinces are cause for concern, as licensing boards with a potential conflict of interest charge ongoing fees for authorization or a licence to work.
- If provinces keep or continue to designate trades as compulsory, they need to be transparent about the procedures used to determine if a trade will be compulsory and upfront about requirements to legally work in a trade.

INTRODUCTION

Skilled trades play an important role in Canada. Skilled trade workers build infrastructure and the homes in which people live, maintain electrical systems, fix cars and much more.

Governments in Canada and employers are concerned about a potential shortage of skilled trade workers, especially as the current workforce retires. The vitality of the skilled trades is a critical policy issue in Canada. The focus of this report is the effects of designating trades as compulsory.

If a trade is compulsory, a person cannot legally work in that trade regardless of skill, experience or knowledge unless the person has a certificate of qualification from the corresponding regulatory body or registers in an apprenticeship program. If a trade is voluntary (sometimes referred to as "optional"), a person can seek certification if desired but can also legally work without it. Whether a trade is compulsory or voluntary or is even designated as a trade at all is up to each province. More than two dozen trades are compulsory in at least one province, and some provinces have a significantly higher number of compulsory trades than others do.

As is the case with most public policies, there are both staunch supporters of compulsory certification in the skilled trades and staunch opponents of the practice. The debate in Canada is ongoing, but compulsory certification or "occupational licensing" – a term more commonly used in the United States – has been around for decades.¹

The purpose of this study is to inform readers of the arguments on both sides of the debate and make them aware of their own province's approach. One of the most common arguments in favour of compulsory certification is that unqualified workers can present a danger to the public, and mandatory certification ensures that workers are qualified. Another argument is that making a trade

compulsory might raise the prestige of the trade and attract more workers. Some people, however, including this author, think compulsory trades have negative consequences that outweigh any benefits to the public.

The study begins by discussing the suggested benefits and potential downfalls of compulsory trades. It considers the motivations behind the compulsory designation of trades as well as whether voluntary certification can suitably address the problems that compulsory certification is meant to mitigate. Then the paper lists the compulsory trades in each province, and it concludes with recommendations.

POTENTIAL BENEFITS AND CONSEQUENCES OF COMPULSORY TRADES

Canadian provinces have varying approaches to compulsory trades. British Columbia is the only province that does not have any compulsory trades. The B.C. government abolished them when it established the Industry Training Authority (ITA) in 2003.² Ontario, on the other hand, established the Ontario College of Trades (OCOT) in 2009,³ which is expected to increase the number of compulsory trades in the province. The ITA and OCOT, specifically, will be discussed toward the end of this paper, but reports leading up to the establishment of these two institutions are discussed below.

The Ontario Ministry of Training, Colleges and Universities commissioned Tim Armstrong to conduct a study on compulsory certification, which he completed in 2008. It addresses the most commonly suggested benefits of compulsory trades: improved consumer protection, enhanced health and safety, increased registration and completion rates and a positive economic impact.⁴ Armstrong did not suggest that all trades should be made compulsory, but he was generally in favour of compulsory trades and recommended the creation of an “all-trades governance institution” to deal with applications to designate trades as compulsory.⁵

Years before, in 2001, Gary Johncox completed a review of the compulsory certification of trades in British Columbia upon the request of the Business Council of British Columbia and the Coalition of BC Businesses. He was more concerned than Armstrong was about the potential negative effects of compulsory certification.⁶

While those opposed to compulsory certification are not necessarily opposed to the government taking measures to protect consumers, enhance health and safety or encourage registration in apprenticeship programs, they question

whether such benefits are realized or whether compulsory certification has the opposite effect of what was intended. Compulsory certification might decrease rather than increase the number of available workers by barring some would-be workers from performing tasks at which they are competent, and it might mean consumers end up receiving lower quality goods and services. Furthermore, compulsory trades might harm the economy by making it more difficult and more expensive for companies to compete, which can mean consumers pay more and have fewer options. Opponents think the harm or risk of harm outweighs the benefits or potential benefits of compulsory trades.

This paper examines the suggested benefits that Armstrong addresses as well as some potential negative, unintended consequences of compulsory trades, many of which Johncox mentions.

Registration Rates

Some groups advocate for compulsory certification out of a desire to enhance the prestige or status of a trade. Governments would favour this result because they are concerned about a shortage of skilled trade workers, as indicated by statements in the press and the introduction of tax incentives, grants, and other programs to encourage enrollment in trade programs.⁷ Employers are trying to overcome a stigma surrounding the trades as a career choice.⁸

Armstrong writes that a journey person's certificate in a compulsory trade is seen as a ‘badge of honour’ akin to a university or college degree and that it can help young people and their parents view trades training as a respected career choice. He recognizes the frustrations of apprentices who work alongside non-apprentices who perform identical work and sometimes receive higher wages. Workers want

recognition for their efforts to go through training and to develop their skills. This is not an issue if all workers doing a certain type of work must be apprentices or certified. However, based on empirical evidence, Armstrong could not firmly conclude that compulsory trades actually increase registration rates in the trades.⁹

Armstrong points out that a relatively small percentage of the workforce in voluntary trades opts to obtain certification. He notes that only 18.9 per cent of cooks have certification, and only 6.3 per cent of bakers have certification.¹⁰ While advocates of compulsory certification reason that a mandatory certification program will add value and prestige to occupations and in turn increase enrollment, Brian Dijkema and Michael Van Pelt are not as sure. They suggest that since many trade workers already have the option to increase their prestige by obtaining a certificate of qualification but choose not to, forcing them to acquire one could actually be a disincentive to enter that trade.¹¹

Armstrong claims that he received no evidence that mandatory apprenticeship courses would discourage people from entering into a trade.¹² However, U.S. studies, some of which are discussed below, provide evidence that restricting entry into an occupation does reduce the supply or availability of workers. Rather than asking whether occupational licensing laws increase or decrease the supply of workers, some researchers focus on studying the impacts of fewer workers.¹³

Completion Rates

Along with seeing more people register in apprenticeship programs, governments and employers wish to see more apprentices actually complete their programs and become journeypersons. Some stakeholders assert that compulsory trades encourage completion, but Armstrong finds that the available data is inadequate to allow him to come to a firm conclusion either way.¹⁴ Other stakeholders suggest that compulsory trades do not provide workers with an incentive to complete their apprenticeship, since they are legally

only required to register as apprentices in order to do the work.¹⁵ Based on the experience of people who work in and with the trades and who made submissions for his report, Armstrong decided to conclude that completion rates are higher in compulsory trades than in voluntary trades.¹⁶

In 2010, Kristal Hurrell used the 2007 National Apprenticeship Survey to examine whether the designation of a trade as compulsory has an impact on apprenticeship completion. Her results suggested that completion is more likely in compulsory trades but that people in compulsory trades tend to take longer to complete their program than do those in voluntary trades.¹⁷

Worker Safety

Advocates of compulsory trades purport that mandatory certification helps prevent workers from harming themselves or others due to inadequate training.

Despite assertions from several stakeholders that Workplace Safety and Insurance Board statistics show that less time is lost due to injury among workers in the compulsory trades than among those in voluntary trades, Armstrong found that they did not show evidence of this. Similarly, an analysis of an Injury Atlas maintained by the Construction Safety Association of Ontario did not permit any conclusions about health and safety records in compulsory versus voluntary trades.¹⁸

Armstrong writes:

I have examined the health and safety standards in the apprenticeship programs ... for both compulsory and voluntary trades. I can find no material distinction between the two sets of standards, either in scope or substance The health and safety training of workers in a voluntary trade that was being converted to compulsory would only be enhanced to the extent that compulsory certification resulted in increased registration in completions in the converted trade.¹⁹

In other words, it is not a question of whether the trade is compulsory or voluntary but whether there are workers in a voluntary trade outside of the apprenticeship system who are not being properly trained or supervised.

Notably, people are free to do many tasks falling under compulsory trades if compensation is not involved. For example, people can purchase chemicals at a drugstore and have a friend dye their hair for them, or people can attempt to fix their own cars and leaky faucets. Some people may suggest that workers are more likely to risk doing something harmful if they will receive compensation. However, forbidding anyone without certification from doing tasks for work when they are permitted to do the tasks without supervision in their spare time is going over-board.

Economic Impact

Armstrong thinks there is likely a substantial net benefit to employers who train apprentices to completion. He bases this on a Canadian Apprenticeship Forum (CAF) study that suggests that employers receive, on average, a benefit of \$1.38 for every dollar spent on apprenticeship training (\$1.44 if eligible tax credits are included),²⁰ Armstrong states that while costs associated with certification would increase for the government if trades become compulsory, the long-term benefits to industry and the public justify these increases.²¹

If the bottom lines of businesses improve when their employees enroll in apprenticeship programs, it is not clear why governments need to force businesses to engage in these programs. Johncox explains how different types of businesses have different needs, and he thinks compulsory certification benefits some sectors of the economy to the detriment of others.²² He writes:

A blanket requirement that all work – regardless of the business endeavour – should fall under a uniform compulsory trade designation is unduly restrictive The one-size-fits-all rules embedded in compulsory

trades certification do not jibe with the diverse needs of business...²³

Indeed, the researchers for the CAF study had written, "It should be emphasized that organizational and regional differences will influence an employer's point of view regarding the validity of the cost-benefit results."²⁴

Johncox finds that light manufacturing businesses (such as furniture), employers in "heavy" industries (such as pulp and paper, mining, ship yards and others) and open or merit shop contractors, for the most part, are opposed to compulsory trades. They rely on workers with diverse skill sets who can be deployed flexibly or on other categories of workers for low skill trade work. Small, entrepreneurial firms reportedly thrive on in-house led skill development. Heavy industries in particular already deal with various safety and regulatory acts, and they are highly critical of "overly prescriptive" involvement.²⁵ Building-trade craft unions appear to champion compulsory trades, and "over time, the substantive outcome of [their] model has been to restrict the price and supply of labour ..."²⁶

When an employee's role or job description is inflexible, there is an increased risk of inefficiency, which harms a company's ability to compete both domestically and internationally. This means companies are paying more than they would if they did not have to adhere to the specific employee roles mandated by compulsory trades. Because of their increased costs, companies are likely to pass on these costs to consumers of the good or service. A considerable number of U.S. studies have documented that occupational licensing leads to higher costs for consumers.²⁷ Compulsory trades can also give rise to jurisdictional conflicts when it is difficult to determine the rigid boundaries of a specific trade (i.e., which task a trade falls under).²⁸

Consumer Protection

Advocates of compulsory trades claim that mandatory certification prevents unqualified workers from providing a

service or product of substandard quality and thereby harming consumers or the public. This is perhaps the most commonly touted benefit of compulsory certification. For example, an incorrectly wired building is a fire hazard, or a hairdresser can cause a chemical burn on a client's scalp. However, while compulsory certification may not be needed to prevent unqualified workers from harming others, it can reduce the availability and affordability of a service. In some cases, the quality might even degrade due to compulsory certification.

Consider that certified workers may be hindered from specializing or improving at specific things when they are busy performing tasks for which they are overtrained, because people who lack certification or are not officially an apprentice are prohibited from performing them.²⁹ While there may be an increase in the general skill level of the overall workforce in a compulsory trade, not all duties that fall under a compulsory trade require a worker to have all the skills that a tradesperson would have in order to work safely and efficiently.

For example, while automotive service technicians (mechanics) sometimes do oil changes, people with less automotive knowledge can do oil changes competently. Johncox provides the examples of paralegals, paramedics and teaching assistants who are involved in licensed professions, and "no one doubts their value in a hierarchy of skills."³⁰

Compulsory trades have the potential to push lower-skilled workers out of jobs, even if they bring value and are competent at doing particular tasks. These workers may not be able to get into an apprenticeship program for various reasons, such as their level of education, mandated journey person-apprentice ratios, or they may not wish to commit to such a program. Sometimes the law uses exemptions to recognize the value of lower-skilled workers and sometimes it does not. Some advocates of compulsory trades disapprove of most exemptions.³¹ However, for reasons separate from consumer protection but also important, society has an interest in seeing these lower-skilled or less knowledgeable workers employed. These people should be allowed to perform tasks without learning every task that falls under a particular trade.

Both skill level and quantity of service play a role in quality. Even if regulations result in a more-skilled workforce, a smaller workforce can be damaging. Less available and less affordable service can encourage some consumers to turn to substitutes such as themselves (do-it-yourself), or they simply do not receive the service. Either of these might be more harmful than receiving a service from a worker who does not meet the certification requirements but nonetheless has some training or experience.³² Although medical practitioner is not considered a trade, it provides a good example: The quality of health care a person receives relies both on the skill of the practitioner and the practitioner's availability. Fewer consultations with a highly skilled practitioner may not have better results than several consultations with a less skilled practitioner.³³

Sidney L. Carroll and Robert J. Gaston carried out an empirical study to see whether occupational licensing results in superior or inferior overall outcomes. While it is difficult to quantify quality, they attempted to measure it using several proxies, including substitutes for licensed services and the duration or frequency of a service per capita. They examined the following occupations: electrician, dentist, plumber, real estate agent, optometrist, sanitation worker and veterinarian.

With regard to electricians, evidence indicated that more-strict regulations were associated with significant decreases in the number of electricians per capita in the same jurisdiction, which in turn was associated with an increase in accidental electrocutions in the jurisdiction (presumably because people tried to do the work themselves). With regard to plumbers, more-restrictive entry into plumbing meant a lower number of plumbers in a region and a larger number of retail sales of plumbing supplies. (The notion being that people who work as plumbers will purchase their supplies wholesale, and people who attempt to do their own plumbing will not.) The story was similar with the other occupations they studied, which left the researchers to conclude that evidence indicated that restrictive licensing lowers the supply of services to the public as well as lowers the quality of the outcomes. The researchers knew of no contrary findings.³⁴

Other researchers studied the impact of licensing regulations in the cosmetology industry and concluded that the more-stringent a state's laws were concerning the licensing of cosmetologists, the fewer services received and the higher the average price of services for consumers.³⁵

While these studies were carried out in the U.S., Canadians should contemplate the notion that the more difficult it is to enter an occupation, the fewer people will enter it, even if the people who do become certified carry with them more prestige. Additionally, the more prestigious the job, the more likely that the worker will charge higher prices.

Advocates and opponents of compulsory trades have differing views on the merits of competition. One view is that mandatory certification or licensing might encourage greater investment in worker training and professional development because a business is not concerned about needing to compete with lower quality, less expensive competition.³⁶ Workers who are fully trained occasionally express concerns about workers with less training making services less expensive, as consumers are unable to tell the difference in quality and, therefore, risk being harmed by going with the cheaper option. These less expensive workers are said to provide unfair competition.³⁷

However, others argue that forcing all companies to follow the same prescriptive path can hinder the kind of competition that works to protect and benefit consumers.³⁸ Cheaper options are sometimes desirable. Consumers could benefit if would-be entrepreneurs could focus on meeting the needs of their businesses and customers through innovative business models, services and products rather than focusing their resources on meeting certification or licensing requirements.³⁹

Despite observing a lack of available data to indicate whether consumers are better protected when trades are compulsory instead of voluntary, Armstrong concludes that workers in compulsory trades who complete their training programs are less likely to give rise to complaints and

that compulsory trades enhance consumer protection.⁴⁰ No explanation is given regarding why tradespeople in compulsory trades are less likely to give rise to complaints than are tradespeople in voluntary trades who have completed their training courses. It is a curious omission, given that shortly before, Armstrong notes the key difference with regard to worker health and safety is whether people working in the voluntary trade do register in an apprenticeship program or not. Also, one can still be trained and supervised at work if they are not officially part of an apprenticeship program.

Curiously, in an article advocating compulsory certification, Jennifer Wilson provides anecdotes of harm caused by incompetence or lack of skill, but the lack of a compulsory designation is not necessarily to blame for the examples she provides. The writer brings up the water contamination tragedy in Walkerton, Ontario, in 2000, which resulted in deaths and numerous illnesses. Two brothers had failed to properly dechlorinate, monitor, sample and test the water supply; they forged daily operating sheets and failed to notify authorities about the contaminated water upon discovery.⁴¹ While this is a tragedy, mandatory certification is not a safeguard against people forging documents and not following protocol. Compulsory certification is not a panacea.

Overview

The discussion above provides insight into the reasons some people advocate for compulsory trades and why some people oppose them. People are reasonably concerned about harm that can result from work performed by unqualified workers, and they want to see more people registering in trade programs. However, evidence indicating that compulsory trades enhance worker and public safety is lacking. U.S. evidence does show, however, that restricting entry into a trade or occupation tends to decrease the number of available workers. This can make a service less available and more expensive for consumers. Strict regulations can hinder innovation and competition in the long term to the detriment of consumer protection and satisfaction.

MOTIVATIONS BEHIND COMPULSORY TRADES

Why do governments make trades compulsory or require licences for some occupations? Some legislators might think compulsory trades are a good preventative measure for harm. Another theory is that economic actors lobby the government for policies that limit or control their competition in the marketplace. Special interest groups have an incentive to lobby the government for policies that will benefit them, but people do not have the resources or the same incentive to fight back whenever interest groups make a demand of government. Often, the public is not even aware of the actions of interest groups.⁴² This is the concept of concentrated benefits and dispersed costs.

Two Hypotheses

Marc T. Law and Sukkoo Kim examine the introduction of occupational licensing laws in the United States in the early 1900s, exploring two hypotheses for why the government enacted them. One hypothesis is that they enacted licensing to limit competition in the marketplace; the second is that the laws were presented to reduce problems associated with information asymmetry.⁴³ Asymmetric information is the concept that one party in a market transaction has more information than the other does. A seller typically has more knowledge about an item's quality than the buyer does and can take advantage of the party with less information. For example, how does a consumer know whether the person installing an air conditioner is competent? Governments might mitigate this problem by regulating who is allowed to offer services to a consumer.

Law and Kim conclude that the more prevalent motivation for the introduction of the laws was to eliminate true "charlatans and quacks" and not to keep out fair competition. As people moved from the countryside to urban areas, local reputations became a less effective means of ensuring quality, and exchanges in the market became more impersonal and anonymous. In addition, as

science advanced, consumers knew less about the goods and services offered to them. The researchers found that occupational licensing legislation was adopted sooner and was more restrictive for professions where the practitioners could do greater harm.⁴⁴

It is plausible that some licensing laws were introduced with noble intentions and fair justification (with some exceptions, such as the regulation of florists, which is discussed below), but they have since become an outdated policy solution.

In Ontario, the motivation behind introducing the compulsory certification of some trades may have been more about enticing young people into the apprenticeship system than about keeping out the "charlatans and quacks." In 1963, the Simonett Committee posited that potential workers needed the assurance that they would receive "due and proper recognition" for their training achievements, which could be done through compulsory certification. The Simonett Committee also warned about the potential for compulsory certification to restrict the supply of tradespeople instead.⁴⁵

In 1966, following a General Advisory Committee report, the Ontario government began converting compulsory trades into voluntary trades due to concerns about jurisdictional issues and limited flexibility. In 1973, the government established the Dymond Task Force, which recommended the removal of compulsory certification except for those in the motor vehicle repair trade. This recommendation was based on the belief that compulsory trades resulted in increased costs to consumers and an unjustifiable expansion of trade union jurisdiction.⁴⁶

Examples of Occupational Licensing Gone Wrong

While intentions matter, the actual effects of policies matter more. Not only can compulsory trades or occupational licensing have the unintended consequence of reducing the availability of a service, such policies have been used deliberately in the United States to keep out competition.

The Institute for Justice, a non-profit public interest law firm, has fought against many occupational licensing schemes it deems senseless. The requirements to obtain a license to work legally as a florist in Louisiana are but one example.

The practical component of a test had applicants create four floral arrangements in four hours, which three to six working, licensed florists judged. Therefore, to receive a licence, one must first pass a subjective exam graded by people who have an interest in keeping out competition. Monique Chauvin and Debby Wood tried to get licences. Chauvin's floral arrangements were regularly featured in magazines, yet she was unable to pass the exam. Wood spent \$2,000 on a two-week, 80-hour course and \$150 on a refresher course before the exam and hundreds of hours studying, yet she failed the test.⁴⁷ In 2010, the state finally abolished the practical portion of the floral licensing exam.⁴⁸ Cynthia Joyce writes, "It's hard to say whom Louisiana thought it was protecting when it enacted the florist licensing law in 1939."⁴⁹

In many states, African-style hair braiders need a licence to work.⁵⁰ In Mississippi, for example, hair braiders were prevented from working unless they spent thousands of dollars completing years of training mandated by the Mississippi State Board of Cosmetology (comprised of cosmetologists), despite the fact that the training generally did not even include African-style hair braiding. In 2005, the governor freed them from such licensing requirements. The hair braiders were not a threat to public safety.⁵¹

In Louisiana, in 2007, the monks of Saint Joseph Abbey started building and selling caskets to support themselves financially. The funeral industry tried to shut them down because the monks are not licensed funeral directors. The law required the monks to apprentice at a licensed funeral home for a year to learn unnecessary skills and then take a funeral industry test. No public health or safety rationale exists for these requirements. A casket is not even legally required for burial.⁵² After years of battling in court, the licensing regulations were struck down.⁵³ There are more examples like this.⁵⁴

Morris Kleiner explains that the U.S. requirements to obtain certification to work sometimes involve residency requirements, citizenship, references from current practitioners and achieving a minimum score on specific tests. Pass rates for specific tests are tweaked to reflect supply and demand. That is to say, if a regulatory body perceives an oversupply of workers in an occupation, it raises the test scores required to pass the exams to become licensed.⁵⁵

Therefore, it is not always the case that applicants who fail to pass the exam are less qualified than are workers already in the occupation. Instead, it can be a matter of timing. Residency also has little to do with competence. Either workers know what they are doing or they do not. If the concern is the person's language abilities or knowledge of local laws, a test is a better way to gauge this than residency is.

Choosing the standards to be met in order to become qualified and determining the optimal number of workers in an occupation are particularly problematic when this is done or manipulated by those who already possess a licence or are certified – as is often the case in the United States. It makes some sense that people who are certified influence the certification process, as they understand the skills required to carry out tasks properly. However, this can be a conflict of interest, as they have a financial incentive to keep out legitimate competition. Along with tweaking pass rates, they can impose higher education requirements or implement tougher residency requirements than they themselves experienced.⁵⁶

Cartels are supposedly illegal in the United States, but licensing boards created by states are typically exempt from antitrust scrutiny.⁵⁷ *North Carolina State Board of Dental Commissioners v. Federal Trade Commission [2015]* demonstrates that anti-competitive behaviour among practitioners and licensing board members is indeed seen as a problem by some. The case is about whether the Board

of Dental Commissioners engaged in an unfair method of competition when it sent cease and desist letters to non-dentist manufacturers and distributors of teeth whitening services and products. On February 25, 2015, the Supreme Court of the United States decided that

*because a controlling number of the Board's decisionmakers are active market participants in the occupation the Board regulates, the Board can invoke state-action antitrust immunity only if it was subject to active supervision by the State, and here that requirement is not met.*⁵⁸

Aaron Edlin and Rebecca Haw, both professors of law, argue that occupational licensing boards should be subject to antitrust scrutiny.⁵⁹

Across the states, the occupations with restricted entry and the requirements to obtain authorization to work in these occupations vary substantially.⁶⁰ This arbitrariness makes the necessity of the regulations based on the public interest suspect, as do blatant examples of unreasonable, anti-competitive behaviour on the part of some licensing boards.

Canada vs. United States

While the arbitrariness in the United States regarding which occupations require a licence makes the necessity of the regulations suspect, the same could be said about the trades in Canada, where there is a lack of consistency in which trades are classified as compulsory (as will be shown in the Provincial Summaries later in this paper).

Several provincial governments explicitly state that the request to make a trade compulsory must come from the industry.⁶¹ If the public's safety is at stake, one could reasonably postulate that the government or public would see the need for compulsory certification without submissions from industry representatives.

Milton Friedman writes:

*The justification [for occupational licensing legislation] is always said to be the necessity of protecting the public interest. However, the pressure on the legislature to license an occupation rarely comes from the members of the public who have been mulcted or in other ways abused by members of the occupation. On the contrary, the pressure invariably comes from members of the occupation itself.*⁶²

In Canada, residency appears to be less of an issue than in the United States, as many of the requirements to obtain certificates of qualification are standardized. The Red Seal Program was introduced in Canada in part to address the mobility problems associated with certification. A Red Seal is an endorsement designed to allow tradespeople to practise their trade anywhere in Canada without writing additional examinations when moving from province to province. Typically, to receive one, a worker must obtain a certificate of qualification from a province or territory and then write a Red Seal examination. Red Seals are available for many skilled trades, including trades that are voluntary in all provinces.⁶³

Canada does not appear to have the same blatant examples of anti-competitive behaviour as in the U.S. However, as provinces designate occupations as trades and designate trades as compulsory, Canadians should be vigilant to prevent the same from occurring here. The situation has not been stagnant in the United States; the number of licensed occupations is on the rise.⁶⁴

While the problems of asymmetric information and a potential shortage of skilled tradespeople still exist, there are alternative solutions that are less risky than compulsory certification. Voluntary certification, discussed below, is one alternative.

VOLUNTARY CERTIFICATION

As mentioned, Armstrong observed a lack of available data that would indicate whether consumers are better protected when trades are compulsory instead of voluntary. He points out the difficulty of isolating the single factor of compulsory versus voluntary status when other factors also play a major role in protecting consumers.⁶⁵

Practices and regulations beyond certification protect consumers, and these regulations have become more comprehensive since the introduction of occupational licensing and compulsory certification laws decades ago. Examples include building codes, work supervision procedures and other workplace safety regulations. Johncox questions whether compulsory certification is necessary when the client is “sophisticated,” i.e., businesses routinely dealing with other businesses.⁶⁶ An individual consumer who does not know whether the plumber he or she hired is competent is more likely to be taken advantage of than a business is. If there is no middleman and only two people are involved in a transaction, compulsory certification might be more likely to be justified, but individuals are more likely to seek out references or ask for certification in these circumstances.

Technology and social media have enabled consumers to become more easily informed than they were in the past. The private sector offers review services – consider TripAdvisor or Yelp. Even for occupations where all practitioners have a licence or certificate, people freely consult with others to determine whether they should seek a person’s services. Whether a person passed an examination decades ago or even recently is not enough assurance for some consumers, even if the worker pays an annual fee to keep his or her certification up to date.⁶⁷ Arguments that consumers are too ignorant to make their own decisions about who serves them have the potential to be extremely paternalistic.

When trades are voluntary, it does not imply that unqualified or incompetent workers are typically serving consumers. Employers may choose to hire only applicants with

certification. For example, the Alberta Regional Council of Carpenters and Allied Workers says that while “anyone in Alberta can call themselves a carpenter or scaffolder and go to work ... the Alberta Regional Council of Carpenters has much higher standards than that.”⁶⁸ Armstrong also writes that some “well-known large employers” have explained that their operations were “sufficiently specialized and sophisticated to require trades training programs which exceeded, in content requirements and sophistication, those offered under statutorily-designed apprenticeship programs.”⁶⁹ When customers walk into a salon, there is a tacit understanding that the staff will be competent, or the salon will soon lose business. However, perhaps the salon manager would choose to recognize the skills of a recent immigrant who worked as a stylist in her or his home country but has not yet obtained a certificate of qualification. If the trade were voluntary, the manager would be free to do so. Businesses have incentives unrelated to government policies to hire only competent workers and to train them well.

Still, some businesses and workers do not operate as they should and offer services of poor quality. Due to the underground economy, in the absence of strong enforcement of the laws, consumers are only more protected by compulsory trades if they actually ask workers they encounter to show their certificate of qualification. Simply because it is the law to carry a certificate of qualification does not mean everyone will follow that law, for better or for worse. Johncox notes that a lack of enforcement in British Columbia resulted in competitive advantages for non-complying small automotive repair shops.⁷⁰ Armstrong acknowledges that a requirement for certification will not be fully effective unless comprehensive enforcement mechanisms are accompanied by meaningful sanctions with which to deter contravention.⁷¹ The government should not avoid passing a law simply because some people will refuse to obey the law, but it should consider the cost of enforcement when deciding whether the benefits of an enforced law make the costs worthwhile.

Voluntary certification or accreditation is a good option for workers who want to demonstrate to employers and

clients that they have proper experience and adhere to a specific level of standards. In the case of trades, voluntary certification is usually obtained through the same regulatory body used for compulsory trades, but for other occupations, non-governmental organizations offer accreditation or endorsements. For example, while people can practise public relations without a licence, they might seek membership in the Canadian Public Relations Society, and while photographers or English-as-a-second-language teachers do not need formal education, many will seek accreditation. The Better Business Bureau has been monitoring businesses for decades.⁷²

Practically speaking, a standard must be established for issuing credentials, but the standards are inevitably somewhat arbitrary. For example, why require a minimum of 7,200 hours of on-the-job experience instead of 5,000 hours? Workers, employers and consumers could benefit from competition among regulatory bodies. If an institution that provides certification or accreditation sets the standards too high and begins to demand too much from its members or students, or the reverse, and it fails to hold its members or students to high enough standards, employers should be free to hire workers who are without accreditation or accredited by a different institution.

With compulsory trades, employers and workers are limited to one established process for certification and must keep job roles strictly defined, but some employers seek workers with skills that encompass different trades. At least with voluntary trades, people can stray from the typical route for training and certification if that is in their best interest.

U.S. Case Study

Devastating weather events in the United States put the efficacy of occupational licensing laws under the microscope. David Skarbek studied the effects of easing regulations after Hurricanes Frances and Katrina when Florida temporarily reduced its occupational licensing restrictions in order to increase the number of roofers available to help citizens fix their roofs. (This was an implicit acknowledgement that the laws reduced the supply of available workers.)

Importantly, the problems that some people say should be addressed through occupational licensing (or compulsory certification) are exacerbated in times of crises like these, because market mechanisms that might help to mitigate problems associated with asymmetric information are operating less effectively. Normally, consumers have the opportunity to do research and gather information about different contractors and their reputations. However, in this case, delays could result in greater damage to a house with no roof, and the shortage of roofers gave consumers few options to choose from. The fact that some of the roofers were only allowed to work in Florida temporarily also meant they did not have a long-term incentive to earn a good reputation by doing good work.⁷³

The number of complaints filed for the construction industry that were found to have probable cause, meaning they were determined to possibly involve a legal violation or inadequate workmanship, slightly increased in proportion. Construction industry revenue increased 16.2 per cent while the complaints increased 1.1 per cent. After an initial spike in complaints, the complaints with probable cause leveled off. Skarbek points out that natural disasters do make communities more susceptible to con men, but overall, reducing the licensing requirements and increasing the supply of workers in these crises situations was helpful. He concludes that the government should reduce the regulations in normal times, when market mechanisms that address information asymmetry are working even better.⁷⁴

Analysis

As has been discussed, data limitations make it difficult to prove the effects of compulsory certification in Canada. While there may be some benefits, there are also negative consequences that should be taken into account in a cost-benefit analysis. Compulsory certification can hamper healthy competition and innovation by making firms more inefficient.

U.S. research shows that occupational licensing reduces the labour supply and results in higher costs for consumers. In Canada, support for compulsory certification often appears grounded in a desire to increase the prestige of trades and attract more skilled trade workers. However, governments must seriously consider the possibility that restricting entrance to an occupation will decrease the number of workers instead of increase it. This is a risky gamble to make at a time when there are concerns about a labour shortage.

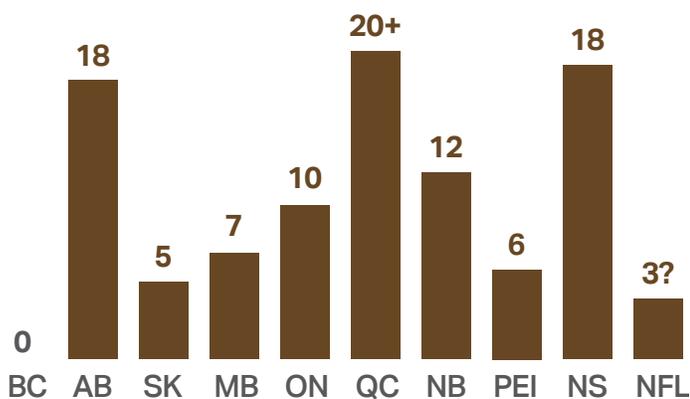
While the benefits of compulsory trades are dubious, people can clearly recognize the abuse that resulted from some occupational licensing schemes in the United States. Certain requirements have no rational connection to safety and do nothing to serve the public interest. The motivation of groups who advocate for compulsory certification should be carefully assessed, as the groups may be seeking policies that benefit them but hurt their competition and are of no benefit to the public.

A common argument in support of compulsory certification is the need to protect consumers from substandard service or quality. In the past, there was a stronger justification for compulsory trades based on this argument. Technology makes the sharing of information about businesses much easier than it used to be, and there are more safety regulations now than in the past.

PROVINCIAL SUMMARIES

This section informs readers about the laws in each province. Direct comparisons among provinces can be difficult due to variances in nomenclature and differing scopes of a given trade. For example, New Brunswick has both the compulsory trade of automotive service technician and the compulsory trade of automotive service technician (steering, suspension and brakes), which requires fewer hours of training. For the purposes of this report, the number of compulsory trades reported in each province is based on how many fall under separate National Occupational Classification (NOC) codes. Human Resources and Skills Development Canada and Statistics Canada jointly developed the NOC system, and it is useful for analysis of the Canadian labour market. It is a nationally accepted taxonomy of occupations.⁷⁵

Number of Compulsory Trades



British Columbia

British Columbia is the only province that does not have any compulsory trades. The B.C. government abolished them when it established the ITA in 2003.⁷⁶ Its purpose is to oversee a flexible and innovative apprenticeship system that is responsive to the needs of trainees and employers as well as to economic change. Industry can propose new training programs to the ITA to address specific shortages, such as the recently introduced residential construction framing technician program.⁷⁷

The abolition of compulsory trades is likely partly attributable to Johncox's review of compulsory trades, which was discussed earlier. Kevin Evans of the ITA explained in the legislature that the province got rid of compulsory trades because it decided that a safety regulator – BC Safety Authority or WorkSafe BC – should regulate trades where safety is a concern. From his perspective, he had not heard or seen “that there has been that race to the bottom that some have feared” because of the abolition of compulsory trades, meaning quality and safety were not compromised because unqualified workers were successfully competing using less expensive services.⁷⁸

Has the ITA been a success? The 2008-2009 Auditor-General's report, *A Major Renovation: Trades Training in British Columbia*, found some issues, such as the ITA did not provide sufficient guidance or direction to its partners and stakeholders or carry out proper consultation. Later, Evans explained that all of the recommendations in the report were implemented either fully or substantially.⁷⁹

A 2014 report following an independent review states that there had been a substantial increase in the number of registered apprentices and the number of credentials issued each year in British Columbia. Pass rates for the Red Seal exam surpassed the national average in many trades. While there was broad support for the continuation of the government's approach, the report did list recommendations for the ITA moving forward, such as targeting measurable outcomes rather than focusing on general objectives and seeking greater involvement from labour organizations.⁸⁰

Alberta

Alberta has 18 compulsory trades that fall under different NOC occupation codes;⁸¹ 17 of which are involved in the Red Seal program (elevator constructor is not).

- Appliance Service Technician
- Auto Body Technician
- Automotive Service Technician
- Boilermaker
- Crane and Hoisting Equipment Operator, including
 - Mobile Crane Operator
 - Tower Crane Operator
- Electrician
- Elevator Constructor
- Gas Fitter
- Hairstylist
- Heavy Equipment Technician
- Ironworker
- Motorcycle Mechanic and Recreational Vehicle Service Technician
- Plumber
- Refrigeration and Air Conditioning Mechanic
- Rig Technician
- Sheet Metal Worker
- Steam Fitter-Pipe Fitter
- Welder

Of the four Western provinces, Alberta has the highest number of compulsory trades.

A 2007 report by the BC Construction Association and the BC & Yukon Committee states, "The Alberta apprenticeship system has long been considered a leader among Canadian jurisdictions, as it produces certified trades people at double the proportion of its general population, compared to the other provinces."⁸²

However, the report authors do not attribute this success to compulsory trades. They write:

The designation of trades has happened sporadically with no real consistency of designating one trade over another. Most designations have been in existence prior to 1992, when there were no established criteria. Most stakeholders agree that the designation occurs due to pressure from the industry, and a government or minister willing to make the designation.⁸³

Saskatchewan

Saskatchewan currently has five compulsory trades that fall under different NOC occupation codes, all of which are Red Seal trades.

- Electrician
- Hairstylist
- Plumber
- Refrigeration and Air Conditioning Mechanic
- Sheet Metal Worker

Saskatchewan Apprenticeship and Trade Certification Committee states that a person may work in a compulsory trade for up to six months before becoming a registered apprentice. It also claims that the province has four compulsory trades, not listing hairstylist.⁸⁴ However, if they do not have a journey person's certificate, prospective hairstylists must complete a 1,500-hour pre-employment program and obtain a learner's certificate before they can legally work in the trade.⁸⁵

Unlike other provinces, Saskatchewan does not consider gas fitter a trade, but gas fitters must be licensed to work in the occupation. The Gas and Electrical Licensing Branch of the Saskatchewan Apprenticeship and Trade Certification Commission issues licences to trainees following training and an examination by the Apprenticeship and Trade Certification Commission.⁸⁶

Manitoba

Manitoba currently has seven compulsory trades that fall under different NOC occupation codes;⁸⁷ six of which are Red Seal trades (esthetician/electrologist is not).

- Crane and Hoisting Equipment Operator, including
 - Mobile Crane Operator
 - Tower Crane Operator
 - Boom Truck Hoist Operator
- Electrician (Construction)
- Electrician (Industrial)
- Electrologist and Esthetician, including
 - Nail Technician
 - Skin Care Technician
- Hairstylist
- Refrigeration and Air Conditioning Mechanic
- Sprinkler System Installer and Steam Fitter-Pipe Fitter

Esthetician (including nail technician and skin technician) and hairstylist are compulsory trades in Manitoba, and workers in these trades must pay \$75 biannually for an authorization to practise.⁸⁸ It is not clear why this fee is required. Many hairstylists also pay a fee to be a member of the Manitoba Hairstylists' Association.

Quebec

The regulation of compulsory trades works differently in Quebec than elsewhere in Canada. Certificates of qualification are issued not by trade but by the type of work and equipment used. The provincial government declares that occupations involving the following are compulsory trades:⁸⁹

- Stationary Engines and Pressure Vessels
- Natural Gas and Propane
- Electricity
- Piping
- Refrigeration Systems
- Halocarbons

- Elevator Mechanics
- Potable Water
- Explosives (Blaster/Shot-firers)

However, many more trades are, in effect, compulsory in Quebec as well. Competency certificates are usually required to participate in Quebec's construction and automotive service industries. Workers obtain competency certificates from the Commission de la construction du Québec or the Parity committee of the automotive services industry, and the workers are subject to collective agreement decrees.⁹⁰

The following trades are effectively compulsory in Quebec, and the list is not necessarily exhaustive.⁹¹

- Auto Body Technician/Motor Vehicle Body Repairer
- Automotive Service Technician
- Boilermaker
- Bricklayer
- Carpenter
- Concrete Finisher
- Crane Operator
- Drywall Finisher and Plasterer and Lather
- Electrician (Construction)
- Electrician (Industrial)
- Floor Covering Installer
- Gas Fitter
- Glazier
- Heavy Equipment Operator
- Heavy Duty Equipment Technician
- Industrial Mechanic (Millwright)
- Insulator (Heat and Frost)
- Ironworker (Reinforcing, Structural/Ornamental)
- Painter and Decorator
- Plumber
- Refrigeration and Air Conditioning Mechanic
- Roofer
- Sheet Metal Worker

- Sprinkler System Installer and Steam Fitter-Pipe Fitter
- Tile Setter

Quebec is perceived to be one of the strictest regimes in Canada when it comes to compulsory certification. Walter Pamic of Merit Ontario and the Ontario Electrical League declares his concern about Ontario potentially going down the same path as Quebec. He points out that renovating a bathroom in Ontario currently takes a plumber, an electrician and a handyman, while in Quebec that handyman is replaced by other tradespeople who have compulsory certification, such as a tile setter, a carpenter and a painter.⁹²

New Brunswick

New Brunswick has 12 compulsory trades that fall under different NOC occupation codes. The subset trade of automotive service technician (steering, suspension and brakes) is not a Red Seal trade.⁹³ They are as follows:

- Automotive Service Technician, including
 - o Automotive Service Technician (Steering, Suspension and Brakes)
- Boilermaker
- Bricklayer
- Esthetician
- Hairstylist
- Mobile Crane Operator, including
 - o Hydraulic
 - o Lattice
- Electrician (Construction)
- Oil Heat System Technician
- Plumber
- Refrigeration and Air Conditioning Mechanic
- Sheet Metal Worker
- Sprinkler System Installer and Steam Fitter-Pipe Fitter

Four of these trades were designated as compulsory in August 2014: Steam Fitter-Pipe Fitter, Construction Boilermaker, Mobile Crane Operator and Sheet Metal Worker.⁹⁴

Curiously, the provincial government's Web site does not list hairstyling or cosmetology as a compulsory trade, but legislation requires any person working in the cosmetology industry to hold a valid licence with the Cosmetology Association of New Brunswick. This includes aestheticians, hairstylists, make-up artists, nail technicians and technical cutting stylists.⁹⁵

Prince Edward Island

Prince Edward Island has six compulsory trades that fall under different NOC occupation codes,⁹⁶ all of which are Red Seal trades.

- Automotive Service Technician
- Electrician (Construction)
- Electrician (Industrial)
- Hairstylist
- Plumber
- Steam Fitter-Pipe Fitter

The government does not list hairstylist as a compulsory trade, but it appears to be effectively compulsory. To legally be a hairdresser, one must be licensed by the Prince Edward Island Hairdressers' Association.⁹⁷

Nova Scotia

Nova Scotia has 18 compulsory trades that fall under different NOC occupation codes. Blaster, communications technician and power engineer are not Red Seal trades.⁹⁸

- Automotive Service Technician, including:
 - o Service Station Mechanic
 - o Truck and Transport Mechanic
- Blaster
- Boilermaker
- Bricklayer
- Communications Technician
- Electrician (Construction)
- Esthetician

- Gas Fitter
- Hairstylist
- Crane Operator, including
 - o Mobile Crane
 - o Mobile Crane (Hydraulic)
 - o Tower Crane
- Motor Vehicle Body Repairer (Metal and Paint)
- Oil Heat System Technician
- Plumber
- Power/Stationary Engineer
- Refrigeration and Air Conditioning Mechanic
- Sheet Metal Worker
- Sprinkler System Installer and Steam Fitter-Pipe Fitter
- Welder (High Pressure Welding only)

Esthetician or cosmetologist are not on the Government of Nova Scotia's list of trades, but no person may practice cosmetology unless she or he is licensed to do so, and all licensed cosmetologists must be a member of the Cosmetology Association of Nova Scotia.⁹⁹

Newfoundland and Labrador

It is not clear which trades are compulsory in Newfoundland and Labrador. The Ellis Chart, a Web site by Employment and Social Development Canada and the Canadian Council of Directors of Apprenticeship, lists the following trades as compulsory.¹⁰⁰ Construction electrician and crane operator are Red Seal trades.

- Blaster
- Electrician (Construction and Residential)
- Crane Operator, including
 - o Mobile Crane
 - o Tower Crane
 - o Boom Truck

On the other hand, Johncox lists auto body technician, automotive service technician and heavy duty mechanic as compulsory trades in Newfoundland-Labrador.¹⁰¹

The Territories

There appears to be no discussion of compulsory trades on any of the government Web sites for the Yukon, Northwest Territories or Nunavut. While apprenticeship programs are promoted, certification does not appear to be mandatory to legally perform (for compensation) tasks falling under the trades.¹⁰²

Yet, Nunavut's *Consolidation of Apprenticeship, Trade and Occupations Certification Act* does allow for the designation of trades as compulsory, and Armstrong reports that construction electrician and gas fitter are compulsory trades in Nunavut.¹⁰³ Contradictorily, the Ellis Chart lists construction electrician as a voluntary trade in Nunavut.¹⁰⁴

Armstrong also notes that gas fitters and electrical contractors must be licensed through safety legislation in the Yukon and the Northwest Territories,¹⁰⁵ and Hurrell reports construction and industrial electricians as compulsory trades in the Yukon.¹⁰⁶ The Ellis Chart lists construction and industrial electricians as voluntary in the Yukon.¹⁰⁷ If compulsory trades exist in the Territories, the government should do a better job of making people aware of the rules, especially if the regulations are enforced.

Ontario

Ontario has 10 compulsory trades that fall under different NOC occupation codes. The province identifies the following as compulsory trades.¹⁰⁸ Red Seals are not available for some of the trade subsets.

- Automotive Service Technician, including
 - o Alignment and Brakes Technician
 - o Automotive Electronic Accessory Technician
 - o Fuel and Electrical Systems Technician
 - o Transmission Technician
 - o Truck and Coach Technician

- o Truck-Trailer Service Technician
- Auto Body and Collision Damage Repairer and Auto Body Repairer
- Electrician (Construction, Maintenance, Domestic and Rural)
- Hairstylist
- Hoisting Engineer, including
 - o Mobile Crane 1 and 2
 - o Tower Crane
- Motorcycle Technician
- Plumber
- Refrigeration and Air Conditioning Systems Mechanic and Residential Air Conditioning Systems Mechanic
- Sheet Metal Worker and Residential (Low Rise) Sheet Metal Installer
- Steamfitter

The trades listed above are now under the regulatory oversight of the OCOT. After Armstrong's report was written, discussed earlier, Kevin Whitaker was commissioned to develop a blueprint for the OCOT, which was submitted to the government in May 2009.¹⁰⁹

Cardus, a Canadian think-tank, published two damning reports on the OCOT.¹¹⁰ Some of Dijkema and Van Pelt's concerns are based on the OCOT's complexity, non-representativeness and lack of transparency. They note that 157 unique trades or skill sets in the construction, motive power, service and industrial sectors fall under the OCOT's jurisdiction. The OCOT has a mandate to determine the scope of trades, regulate them, enforce the rules and finance its own operations. The authors do not know how the OCOT has the capacity to regulate such a wide variety of trades adequately.

Notably, the OCOT is to sustain itself primarily through membership fees. Due to its broad mandate, the authors suspect the OCOT will need substantial funding for research, administration and enforcement of by-laws, among other things. To address a funding shortfall, the OCOT might significantly increase the fees for current

members to maintain their certificates of qualification or expand their fee base by getting more members (or both). It has the legislative authority to determine who must become a member as well as the authority to determine the fees the member must pay. Dijkema and Van Pelt write:

Given the low rates of registration for non-compulsory trades, and the virtual impossibility of maintaining a register of those workers and employers who work outside of the apprenticeship system, it is plausible to suggest that the College has a financial interest in expanding the number of compulsory trades.¹¹¹ [Authors' emphasis]

Therefore, "the College contains a structural conflict of interest which will have a direct impact on its judgment of the key question of compulsory status for certain trades."¹¹²

Dijkema and Van Pelt's concerns about the OCOT do not end here. They explain how some trades will be better represented than others in the governance structure of the OCOT, how the OCOT has not been transparent and how a significant portion of the mandate given to the College is already taken up by other organizations that have not been accounted for in discussions.

Since the publication of these Cardus reports in 2011, the OCOT has reportedly been requested to review the classification of several trades. Among them are sprinkler fitter, construction millwright, carpenter and drywaller, concrete erector/finisher, power line technician and acoustic and lathing applicator.¹¹³ The OCOT already reclassified sprinkler fitter as a compulsory trade, and lawyer Sherrard Kuzz published an overview of the OCOT's review process leading to this reclassification.¹¹⁴

Kuzz writes that oral hearings were temporarily adjourned when one of the parties asked the panel to consider whether it should hear the matter in light of an allegation of reasonable apprehension of bias. The chair of the panel had previously represented one of the parties making submissions to the

panel. Still, the panel proceeded to hear the case, and a 2-1 vote meant the sprinkler fitter trade would be reclassified as compulsory. The panel acknowledged the troubling lack of evidence to support making the trade compulsory:

As noted before, the adequacy or sufficiency of evidence is a problem and a theme that recurs throughout this trade classification review. It was the thrust of the objections of the Skilled Trades Alliance, CLAC, the Home Builders Association throughout – that the reviews were intended to be evidence-based, and the proponents of change have failed (miserably in their view) to place adequate evidence before us to justify any change. ... Quite bluntly, there is much to be said for these arguments. It may be that future trade classification review panels will reject requests where the evidence is insufficient ...¹¹⁵

Furthermore, Kuzz criticizes the panel for hypocritically chastising the parties against compulsory certification for not providing evidence that making the trade compulsory would cause harm. The panel reversed the onus of proof.¹¹⁶

On October 23, 2014, the government of Ontario announced that Tony Dean would lead an independent review of the OCOT, including the process for classifying trades as compulsory versus voluntary. In the meantime, trade classification reviews are on pause.¹¹⁷

REGULATION OF THE COSMETOLOGY INDUSTRY

An assessment of each individual province raises concerns with the cosmetology industry in Canada. In Alberta, Manitoba, Ontario and Nova Scotia, the government lists hairstyling as a compulsory trade, but hairstyling is effectively compulsory in other provinces as well. In fact, in some provinces that do not list hairstyling as a compulsory trade, hairstylists must continually pay licensing fees in order to work legally. One might speculate that by listing a trade as voluntary on a Web site when it is de facto compulsory, the government is not very concerned about people gaining the mandatory credentials. It could mean the government is not actually worried that unlicensed workers in the cosmetology industry pose a threat to public safety.

Some cosmetologists in Canada are part of a system that resembles the problematic occupational licensing schemes in the United States. That is, hairstylists and cosmetologists must receive a licence from a non-governmental body comprised of competitors who inevitably set arbitrary standards and determine fees.

In New Brunswick, the fee for certification is \$55. Hairstylists must obtain at least 1,600 hours of training in no less than 43 weeks at a licensed school in order to qualify for a licence.¹¹⁸ In Nova Scotia, the fee for an annual licence is \$65 to \$70, and hairdressers must have completed at least 1,500 hours of theory and practical training.¹¹⁹ In Prince Edward Island, it is \$40 to \$80 for an annual membership. Before an apprenticeship can commence in Prince Edward Island, potential hairdressers must complete a 1,250-hour training program and obtain at least 75 per cent on a theory and practical examination.¹²⁰ In Manitoba, hairstylists must pay \$75 every two years for an authorization to practice.¹²¹ The institutions in these provinces charge varying fees for student registrations, examinations, credential reviews of out-of-province hairstylists and so on. In Alberta, where the government lists hairstylist as a compulsory trade, hairstylists do not need to pay annual fees to work legally.

The question of whether the cosmetology licensing board in Nova Scotia is subject to freedom of information legislation was brought before the Courts. In *Iannetti v. Cosmetology Association of Nova Scotia (2000)*, the Supreme Court of Nova Scotia determined the Association was not a “public body” and therefore was not subject to the *Freedom of Information and Protection of Privacy Act*.¹²² The court case was a result of someone asking the Association to provide him with records, notes and materials pertaining to the activities of the Examining and Licensing Committee, and he was denied. One can accept the Court’s decision that the Association is not a public body and still question the appropriateness of the government handing to such an organization a monopoly over entry into a trade.

The trade of barber is a source of contention that is also worth mentioning. Barbers claim the skills they need and the tasks they do are quite different from that of hairstylists, but governments often lump them into the same group. Barbers in Ontario were dismayed when they thought they would be required to go back to school to learn women’s styling techniques, since hairstyling and barbering officially are the same trade, and hairstyling was recently confirmed to be a compulsory trade.¹²³

Sean Gibson, president of the Ontario Barber Association, interviewed Sean Murphy about government regulation of barbering. Murphy, technically a licensed hairstylist, remarked that he does not know what to tell people who want to learn barbering specifically. They essentially need to spend thousands of hours learning the trade of hairstyling before they can learn what they want to learn, similar to the plight of African-style hair braiders in the United States.¹²⁴ In 2013, the OCOT launched a consultation to consider making barber a separate trade.¹²⁵

RECOMMENDATIONS

Canada should not go the way of the United States and make it increasingly difficult for workers to gain entry into occupations. Instead, it should be flexible and encourage innovation in the workforce.

Compulsory designation should not be viewed as a first resort to address safety concerns, due to the availability of alternative solutions and the potential negative, unintended consequences that are associated with compulsory trades. Existing safety regulations could perhaps be clarified and better enforced if compulsory trades were done away with, but the current state of safety regulations and their effectiveness were not part of this study.

Similarly, before making trades compulsory, alternative means to raise the status and prestige of the trades should be fully explored. Evidence indicates that restricting entry into an occupation tends to decrease the number of workers rather than increase supply, and governments in Canada want to increase participation in the trades.

If provinces keep or continue to make trades compulsory, they need to be upfront about all trades that are designated compulsory and the requirements to gain certification. Inconsistent information about trade regulations abound on the Internet.¹²⁶ Provincial governments also must be transparent about the procedures used to determine if a trade will be designated compulsory. These provinces should remain transparent throughout that process; the public should be aware of trades being reviewed for reclassification as it happens.

If any trades are to be designated as compulsory, they should be those where the legitimate safety of the workers, consumers or the public is compromised due to inadequate supervision or training. The actual threat to safety or the public that can result from workers lacking certification should be stated clearly. Compulsory certification for safety reasons is more likely justified where there is no middleman

involved as another quality check, such as a hair salon or construction company.

Once trades are compulsory, the authority to grant certification and approve programs should belong to a neutral, authoritative body that does not have a financial incentive to keep out competition. Freedom of information legislation should apply to this regulatory body.

Both British Columbia and Ontario recently overhauled their approaches to the regulation of skilled trades. British Columbia moved away from compulsory trades, while Ontario sought to centralize the regulation of trades under one college that sustains itself financially. Researchers and the public should keep an eye on the outcomes of both systems.

ENDNOTES

¹Generally, the term occupational licensing in the U.S. pertains to both occupations that are considered trades in Canada as well as what are considered professions, such as dentistry and medicine. While some findings in this report might also apply to professions in Canada, this report focuses on skilled trades such as electrician, plumber and automotive mechanic.

²*Industry Training Authority Act*, SBC 2003, c. 34. Available online at http://www.bclaws.ca/Recon/document/ID/freeside/00_03034_01.

³*Ontario College of Trades and Apprenticeship Act*, 2009, S.O. 2009, c. 22. Available online at <http://www.ontario.ca/laws/statute/09o22>.

⁴Armstrong, T.E., "Compulsory Certification Project," T.E. Armstrong Consulting, April 28, 2008. Available online at <http://tcu.gov.on.ca/eng/ccr/report.pdf>.

⁵*Ibid.*, pp. 99-110.

⁶Gary Johncox, *Compulsory Certification in Selected Trades: Where to from Here in B.C.?* Coalition of BC Businesses, 2001. Available online at http://www.coalitionbcbusiness.ca/pdf/CompCertification_Johncox.pdf.

⁷Wendy Pyper, "Skilled trades employment," *Perspectives on Labour and Income* 20 no. 4 (2008); Clare Clancy, "Canada's coming economic headache: A serious shortage of skilled workers," *Financial Post*, June 25, 2014. Available online at <http://business.financialpost.com/news/economy/jason-kenney-canada-skilled-workers>.

⁸Genna Buck, "The tricks – and the stigma – of the trades," *Macleans*'s, October 6, 2014. Available online at <http://www.macleans.ca/education/college/jobs-report-the-tricks-of-the-trades/>; Armstrong, "Compulsory Certification Project," p. 70, p. 94.

⁹Armstrong, "Compulsory Certification Project," p. 70, pp. 93-94.

¹⁰*Ibid.*, p. 71.

¹¹Brian Dijkema and Michael Van Pelt, *College of Trades: An Impossible Institution*, Cardus, 2011: 17.

¹²Armstrong, "Compulsory Certification Project," p. 94.

¹³Morris M. Kleiner, *Licensing Occupations: Ensuring Quality or Restricting Competition?* W.E. Upjohn Institute for Employment Research, 2006.

¹⁴*Ibid.*, p. 70.

¹⁵BC Construction Association and BC & Yukon Territory Building & Construction Trades Council Human Resources Development Committee, *Overview of the Alberta Apprenticeship System (2007)*: 26. Available online at <http://www.bccasn.com/BCCA%20Archives/Reports%20Archive/2007,%20February%20-%20Alberta%20Apprenticeship%20System%20Overview.pdf>.

¹⁶Armstrong, "Compulsory Certification Project," p. 95.

¹⁷Kristal Hurrell, *National Apprenticeship Survey, 2007: The Impact of Compulsory Certification on Apprenticeship in Canada*, Canadian Council of Directors of Apprenticeship (2010): 37. Available online at http://www.red-seal.ca/images/NAS_Regulation_En.pdf.

¹⁸Armstrong, "Compulsory Certification Project," pp. 59-61, p. 92.

¹⁹*Ibid.*, pp. 92-93.

²⁰*Ibid.*, p. 82.

²¹*Ibid.*, p. 95.

²²Johncox, "Compulsory Certification in Selected Trades," ii.

²³*Ibid.*

²⁴Canadian Apprenticeship Forum, *Apprenticeship – Building a skilled workforce for a strong bottom line (2006)*: 36.

²⁵Johncox, "Compulsory Certification in Selected Trades," p. 7-9.

²⁶*Ibid.*, p. 5.

- ²⁷Kleiner, Morris M., *Occupational Licensing: Protecting the Public Interest or Protectionism?* W.E. Upjohn Institute for Employment Research, 2011.
- ²⁸Armstrong, "Compulsory Certification Project," p. 15, p. 134; Johncox, "Compulsory Certification in the Trades," p. 15.
- ²⁹Sidney L. Carroll and Robert J. Gaston, "Occupational Restrictions and the Quality of Service Received: Some Evidence," *Southern Economic Journal* 47 no. 4 (1981): 960, summarizing Milton Friedman.
- ³⁰Johncox, "Compulsory Certification in the Trades," p. 12.
- ³¹Jennifer Wilson, "Compulsory Certification Review," *Ontario Electrical Contractor* 46, no. 2 (2008): 21.
- ³²Carroll and Gaston, "Occupational Restrictions and the Quality of Service Received," summarizing Milton Friedman.
- ³³*Ibid.*, p. 960.
- ³⁴*Ibid.*, p. 973.
- ³⁵A. Frank Adams, John D. Jackson and Robert B. Ekelund, "Occupational Licensing in a 'Competitive' Labor Market: The Case of Cosmetology," *Journal of Labor Research* 23 no. 2 (2002).
- ³⁶Kleiner, *Protecting the Public Interest or Protectionism*, p. 4.
- ³⁷Armstrong, "Compulsory Certification Project," p. 134.
- ³⁸*Ibid.*, p. 133.
- ³⁹Kent Hoover, "Are Occupational Licensing Requirements Stifling Entrepreneurship?" *The Business Journals*, August 20, 2014. Available online at <http://www.bizjournals.com/bizjournals/washingtonbureau/2014/08/are-occupational-licensing-requirements-stifling.html?page=all>.
- ⁴⁰Armstrong, "Compulsory Certification Project," pp. 71- 77, pp. 96-97.
- ⁴¹Jennifer Wilson, "Compulsory Certification Review."
- ⁴²Mancur Olson, Jr., *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge: Harvard University Press, 1971).
- ⁴³Marc T. Law and Sukkoo Kim, "Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation," *Journal of Economic History* 65, no. 3 (2005).
- ⁴⁴*Ibid.*
- ⁴⁵Armstrong, "Compulsory Certification Project," p. 14.
- ⁴⁶*Ibid.*, pp. 15-16.
- ⁴⁷Institute for Justice, *Freeing Louisiana Florists: Licensing Law is Blooming Nonsense*, Litigation backgrounder. <http://www.ij.org/freeing-louisiana-florists-licensing-law-is-blooming-nonsense>.
- ⁴⁸Institute for Justice, *Victory for Louisiana Florists*, Web release, July 12, 2010. Available online at <http://www.ij.org/victory-for-louisiana-florists>.
- ⁴⁹Cynthia Joyce, "An Illegal Arrangement," *Legal Affairs*, May/June 2004. Available online at http://www.legalaffairs.org/issues/May-June-2004/scene_joyce_mayjun04.msp.
- ⁵⁰Braiding Freedom. Available online at <http://braidingfreedom.com/>.
- ⁵¹Institute for Justice, *Challenging Barriers to Economic Opportunity*, Litigation backgrounder. Available online at <http://www.ij.org/mississippi-hairbraiding-background>.
- ⁵²Institute for Justice, *Free the Monks and Free Enterprise*, Litigation backgrounder. Available online at <http://www.ij.org/louisiana-caskets-background-2>.
- ⁵³Institute for Justice, *Victory is Now Final for Louisiana Monks*, Web release, October 15, 2013. Available online at <http://www.ij.org/louisiana-caskets-release-10-15-13>.
- ⁵⁴Dick M. Carpenter II, Lisa Knepp, Angela C. Erickson, John K. Ross, *License to Work: A National Study of Burdens from Occupational Licensing*, Institute for Justice, 2012.
- ⁵⁵Morris Kleiner, "Occupational Licensing," *Journal of Economic Perspectives* 14, no. 4 (2000): 197.

⁵⁶Ibid., p. 192.

⁵⁷Aaron Edlin and Rebecca Haw, "Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?" *University of Pennsylvania Law Review* 162 (2013-14).

⁵⁸*North Carolina State Board of Dental Examiners v. Federal Trade Commission*. Available online at http://www.supremecourt.gov/opinions/14pdf/13-534_19m2.pdf.

⁵⁹Aaron Edlin and Rebecca Haw, "Cartels by Another Name."

⁶⁰Carpenter II, et al., National Study of Burdens, Institute for Justice.

⁶¹See, for example, Manitoba, Understanding Compulsory Trades, <http://www.gov.mb.ca/wdis/apprenticeship/discover/mbtrades/compulsarytrades.html>; Newfoundland and Labrador, Designation of Occupations, <http://www.aes.gov.nl.ca/app/publications/Procedure13PR-ADesignation.pdf>; Prince Edward Island, Frequently Asked Questions about Designated Trades, <http://www.gov.pe.ca/ial/index.php3?number=1034026>.

⁶²Milton Friedman, "Chapter IX: Occupational Licensure," in *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), p. 117.

⁶³Red Seal program. Available online at <http://www.red-seal.ca/>.

⁶⁴Stephanie Simon, "A License to Shampoo: Jobs Needing State Approval Rise," *Wall Street Journal*, February 7, 2011. Available online at <http://www.wsj.com/articles/SB10001424052748703445904576118030935929752>.

⁶⁵Armstrong, "Compulsory Certification Project," pp. 71-72.

⁶⁶Johncox, "Compulsory Certification in Selected Trades."

⁶⁷Friedman, "Occupational Licensure," p. 131.

⁶⁸Alberta Regional Council of Carpenters and Allied Workers, Careers in Our Trades. Available online at <http://www.albertacarpenters.com/careers>.

⁶⁹Armstrong, "Compulsory Certification Project," p. 41.

⁷⁰Johncox, "Compulsory Certification in Selected Trades," pp. 9-11.

⁷¹Armstrong, "Compulsory Certification Project," p. 51.

⁷²About Your BBB, Better Business Bureau. Available online at <https://www.bbb.org/council/about/>.

⁷³David Skarbek, "Occupational Licensing and Asymmetric Information: Post-hurricane Evidence from Florida," *Cato Journal* 28, no. 1 (2008).

⁷⁴Ibid.

⁷⁵Welcome to the National Occupational Classification 2011, Government of Canada. Available online at <http://www5.hrsdc.gc.ca/NOC/English/NOC/2011/Welcome.aspx>.

⁷⁶*Industry Training Authority Act*, SBC 2003, c. 34.

⁷⁷Hansard, British Columbia Legislative Assembly, 37th Parliament, 6th Session, 27 no. 7, February 15, 2005: 11876. Available online at <http://www.leg.bc.ca/hansard/37th6th/h50215a.htm>.

⁷⁸Select Standing Committee on Public Accounts, Legislative Assembly of British Columbia, November 17, 2010. Available online at <http://www.leg.bc.ca/cmt/39thparl/session-2/pac/hansard/P01117a.htm#12:1005>.

⁷⁹Ibid.

⁸⁰Jessica L. McDonald, The Industry Training Authority and Trades Training in BC: Recalibrating for High Performance, Report of the Independent Review Lead, February 2014. Available online at http://www.jtst.gov.bc.ca/ITA_Review/docs/ITA_Review_Final_Report.pdf.

⁸¹List of Compulsory and Optional Certification Trades, Alberta Government, December 20, 2014. Available online at http://tradesecrets.alberta.ca/sources//pdfs/designated_trades_certification.pdf.

⁸²BC Construction Association and BC & Yukon Committee, Alberta Apprenticeship System, 2007: iv.

⁸³Ibid., 26.

⁸⁴Frequently Asked Questions, Saskatchewan Apprenticeship and Trade Certification Commission. Available online at <http://www.saskapprenticeship.ca/faqs/>.

- ⁸⁵In an e-mail to the author dated June 23, 2015, the Saskatchewan Apprenticeship and Trade Certification Commission confirmed that a person must carry a learner's certificate or journey person's certificate to work legally in the hairstylist trade. See: Hairstylist Certificate, Saskatchewan Polytechnic. Available online at <http://saskpolytech.ca/programs-and-courses/programs/Hairstylist.aspx>; National Occupational Classification (NOC) 2011: 6341 Hairstylists and Barbers, Statistics Canada. Available online at <http://www23.statcan.gc.ca/imdb/p3VD.pl?Function=getVD&TVD=122372&CVD=122376&CPV=6341&CST=01012011&CLV=3&MLV=4>; Hairstylist, Ellis Chart: Comparative Chart of Apprentice Training Programs. Available online at <http://www.ellischart.ca/tr.1d.2ch.1rt@-eng.jsp?tid=98>.
- ⁸⁶Gasfitter (Not a Designated Trade in Saskatchewan – Read More), Saskatchewan Apprenticeship and Trade Certification Commission. Available online at <http://www.saskapprenticeship.ca/designated-trades/gasfitter/>; Getting Licenced, Government of Saskatchewan. Available online at <http://www.saskatchewan.ca/work/working-jobs-and-pensions/getting-licenced>.
- ⁸⁷Manitoba Trades, Government of Manitoba. Available online at <http://www.gov.mb.ca/wdis/apprenticeship/discover/mbtrades/index.html>.
- ⁸⁸Esthetician, Manitoba Trades. Available online at <http://www.gov.mb.ca/wdis/apprenticeship/discover/mbtrades/esthetician.html>.
- ⁸⁹Compulsory Qualification: Developing Your Skills and Having Them Recognized, Emploi-Québec. Available online at http://www.emploiuebec.gouv.qc.ca/fileadmin/fichiers/pdf/Guide-qualif/depliant_individus_DQR_en.pdf.
- ⁹⁰Competency Certificates, Commission de la construction du Québec. Available online at http://www.ccq.org/E_CertificatsCompetence.aspx?sc_lang=en&profil=DevenirTravailleur; Parity committee of the automotive services industry, Information. Available online at <http://www.cpamontreal.ca/en/qualification/information/>.
- ⁹¹Ellis Chart: Comparative Chart of Apprentice Training Programs. Available online at <http://www.ellischart.ca/h.4m.2@-eng.jsp>.
- ⁹²"Carpenters Union Seeks Compulsory Trade Certification, Setting the Stage for Jurisdictional Challenges," *GTA Construction Report*, April 16, 2014. Available online at <http://www.gtaconstructionreport.com/carpenters-union-seeks-compulsory-trade-certification-setting-the-stage-for-jurisdictional-challenges/>; Tony Spears, "Ottawa South By-election Candidates Warned to Leave College of Trades Alone," *Ottawa Sun*, July 24, 2013. Available online at http://www.ottawasun.com/2013/07/24/ottawa-south-byelection-candidates-warned-to-leave-college-of-trades-alone&override=template=SUN_BLOCK_QuickRead.
- ⁹³Designated Occupations in New Brunswick, Government of New Brunswick. Available online at http://www2.gnb.ca/content/gnb/en/departments/post-secondary_education_training_and_labour/Skills/content/ApprenticeshipAndTrades/DesignatedOccupations.html.
- ⁹⁴Government of New Brunswick, "Four Skilled Trades Given Compulsory Designation, News release, August 18, 2014. Available online at http://www2.gnb.ca/content/gnb/en/news/news_release.2014.08.1084.html.
- ⁹⁵Act & By-laws, Cosmetology Association of New Brunswick. Available online at <http://www.canb.ca/actandbylaw.htm>; Important Notice Concerning the Cosmetology Act. Available on <http://www.canb.ca/homepage.htm>.
- ⁹⁶Designated Trades, Government of Prince Edward Island. Available online <http://www.gov.pe.ca/ial/index.php3?number=1033227>.
- ⁹⁷Licensing, Prince Edward Island Hairdressers' Association. Available online at <http://peihda.com/licensing/>.
- ⁹⁸Trades, Nova Scotia Apprenticeship Agency. Available online at <http://nsapprenticeship.ca/trades>.
- ⁹⁹Nova Scotia License Holders, Cosmetology Association of Nova Scotia. Available online at <http://www.nscosmetology.ca/nova-scotia-license-holders.php>.
- ¹⁰⁰The Government of Newfoundland and Labrador's Web site does not appear to contain this information, but these trades are listed as compulsory on the Ellis Chart: Comparative Chart of Apprentice Training Programs. Available online at <http://www.ellischart.ca/h.4m.2@-eng.jsp>. Attempts to obtain clarification or confirmation from Newfoundland Apprenticeship and Trades Certification Division were unsuccessful.
- ¹⁰¹Johncox, "Compulsory Certification in Selected Trades," p. 4.
- ¹⁰²Attempts to obtain clarification or confirmation from authorities in the Yukon, Northwest Territories and Nunavut were unsuccessful.
- ¹⁰³Armstrong, "Compulsory Certification Project," p. 35.
- ¹⁰⁴Construction Electrician, Ellis Chart: Comparative Chart of Apprentice Training Programs.
- ¹⁰⁵Armstrong, "Compulsory Certification Project," pp. 35-36.
- ¹⁰⁶Hurrell, "Impact of Compulsory Certification," p. 8.
- ¹⁰⁷Construction Electrician and Industrial Electrician, Ellis Chart: Comparative Chart of Apprentice Training Programs.
- ¹⁰⁸Trades in Ontario, Ontario College of Trades. Available online at <http://www.collegeoftrades.ca/about/trades-in-ontario>.

¹⁰⁹Kevin Whitaker, College of Trades, Report of the Advisor to the Minister of Training, Colleges and Universities, May 1, 2009. Available online at <http://www.collegeoftrades.ca/docs/whitaker%20report.pdf>.

¹¹⁰Where is the Research? An Uneasy Case for Moving Trades from Voluntary to Compulsory Certification, Cardus (2011), and Dijkema and Van Pelt, Impossible Institution.

¹¹¹Dijkema and Van Pelt, Impossible Institution, p. 24.

¹¹²Ibid., p. 5.

¹¹³Trades under Review, Ontario College of Trades. Available online at <http://www.collegeoftrades.ca/about/review-panels/trade-classification/10661-2>; Steve Payne, "Ontario College of Trades Puts Compulsory Certification of Carpenters and Drywallers on Hold," *Canadian Contractor*, April 24, 2014. Available online at <http://www.canadiancontractor.ca/canadian-contractor/ontario-college-of-trades-backs-down-for-now-on-compulsory-certification-of-carpenters-and-drywallers/9666/>.

¹¹⁴Sherrard Kuzz, LLP, "Overview of Compulsory Certification Review Process," *Ontario Sewer and Watermain Construction Association*, May 12, 2014. Available online at https://www.oswca.org/public/news_and_information/news/?item=286.

¹¹⁵Panel decision quoted in Kuzz, "Overview of Compulsory Certification Review Process."

¹¹⁶Kuzz, "Overview of Compulsory Certification Review Process."

¹¹⁷Government of Ontario, Supporting Skilled Trades in Ontario: Ontario Appoints Reviewer for the Ontario College of Trades, News release, October 23, 2014. Available online at http://news.ontario.ca/tcu/en/2014/10/supporting-skilled-trades-in-ontario.html?utm_source=ondemand&utm_medium=email&utm_campaign=p.

¹¹⁸Steps to Achieve Certification and Examination Requirements, Cosmetology Association of New Brunswick. Available online at <http://www.canb.ca/Students.htm>.

¹¹⁹Nova Scotia License Holders, Cosmetology Association of Nova Scotia.

¹²⁰Licensing, Prince Edward Island Hairdressers' Association.

¹²¹Hairstylists, Manitoba Trades. Available online at <http://www.gov.mb.ca/wdis/apprenticeship/discover/mbtrades/hairstylist.html>.

¹²²*Jannetti v. Cosmetology Association of Nova Scotia*, 2000 CanLII 5614 (NS SC).

¹²³Ontario Barbers Forced to Learn Women's Styling Techniques, CBC News, November 2, 2013. Available online at <http://www.cbc.ca/news/canada/ottawa/ontario-barbers-forced-to-learn-women-s-styling-techniques-1.2326264>.

¹²⁴How the Ministry Does Not Recognize Barbering as a Trade..! w/Sean Murphy, YouTube, August 21, 2014. Available online at <https://www.youtube.com/watch?v=swGauSz58VQ>; The Barber Centre. Available online at <http://thebarbercentre.ca/site/>.

¹²⁵Public Consultation, Ontario College of Trades, November 20, 2013. Available online at <http://www.collegeoftrades.ca/news/public-consultation>.

¹²⁶When possible, the author relied primarily on provincial governments' Web sites to learn which trades are compulsory. If the information was not available on a government Web site, the author utilized the Ellis Chart, other written reports on the subject and industry Web sites, but the findings were inconsistent. In some cases of uncertainty, the author could find legislation or contact a government office to confirm that a trade is compulsory. The author also discovered instances where a trade is essentially compulsory even if it is not listed as such on a government's Web site. (Hairstylists and gas fitters require training and licences in some provinces and territories where they are not considered compulsory trades.) There may be more trades that are de facto compulsory but not listed as such on government Web sites and therefore not listed as compulsory in this report. The information in this report is for general information only. All workers have the responsibility to ensure that they are following the necessary regulations to work legally in their field.

BIBLIOGRAPHY

- Adams, A. Frank, III, John D. Jackson and Robert B. Ekelund, Jr. "Occupational Licensing in a 'Competitive' Labor Market: The Case of Cosmetology." *Journal of Labor Research* 23 no. 2 (2002): 201-278
- Alberta Government. List of Compulsory and Optional Certification Trades. https://tradesecrets.alberta.ca/SOURCES//PDFS/DESIGNATED_TRADES_CERTIFICATION.PDF.
- Alberta Regional Council of Carpenters and Allied Workers. Careers in Our Trades. <http://www.albertacarpenters.com/careers>.
- Armstrong, T.E. "Compulsory Certification Project." T.E. Armstrong Consulting. April 28, 2008. <http://tcu.gov.on.ca/eng/ccr/report.pdf>.
- BC Construction Association and BC & Yukon Territory Building & Construction Trades Council Human Resources Development Committee. Overview of the Alberta Apprenticeship System. February 2007. <http://www.bccassn.com/BCCA%20Archives/Reports%20Archive/2007,%20February%20-%20Alberta%20Apprenticeship%20System%20Overview.pdf>.
- Better Business Bureau, About Your BBB. <https://www.bbb.org/council/about/>.
- Braiding Freedom. <http://braidingfreedom.com/>.
- British Columbia Legislative Assembly. 37th Parliament, 6th Session, 27 no. 7 (February 15, 2005). <http://www.leg.bc.ca/hansard/37th6th/h50215a.htm>.
- — —. Select Standing Committee on Public Accounts. November 17, 2010. <http://www.leg.bc.ca/cmt/39thparl/session-2/pac/hansard/P01117a.htm#12:1005>.
- Buck, Genna. "The tricks – and the stigma – of the trades." *Maclean's*, October 6, 2014. <http://www.macleans.ca/education/college/jobs-report-the-tricks-of-the-trades/>.
- Canadian Apprenticeship Forum. Apprenticeship – Building a skilled workforce for a strong bottom line. June 2006.
- Cardus. Where is the Research? An Uneasy Case for Moving Trades from Voluntary to Compulsory Certification. 2011.
- Carpenter, Dick M. II, Lisa Knepper, Angela C. Erickson and John K. Ross. May 2012. License to Work: A National Study of Burdens from Occupational Licensing. Institute for Justice. <https://www.ij.org/licensetowork>.
- Carroll, Sidney L. and Robert J. Gaston. 1981. "Occupational Restrictions and the Quality of Service Received: Some Evidence." *Southern Economic Journal* 47(4): 959-76.
- CBC News. Ontario Barbers Forced to Learn Women's Styling Techniques. November 2, 2013. <http://www.cbc.ca/news/canada/ottawa/ontario-barbers-forced-to-learn-women-s-styling-techniques-1.2326264>.
- Clancy, Clare. "Canada's coming economic headache: A serious shortage of skilled workers," *Financial Post*, June 25, 2014. Available online at <http://business.financialpost.com/news/economy/jason-kenney-canada-skilled-workers>.
- Commission de la construction du Québec. Competency Certificates. http://www.ccq.org/E_CertificatsCompetence.aspx?sc_lang=en&profil=DevenirTravailleur.
- Cosmetology Association of New Brunswick. Act & By-laws. <http://www.canb.ca/actandbylaw.htm>.
- — —. Important Notice Concerning the Cosmetology Act. <http://www.canb.ca/homepage.htm>.
- — —. Steps to Achieve Certification and Examination Requirements. <http://www.canb.ca/Students.htm>.
- Cosmetology Association of Nova Scotia. Nova Scotia License Holders. <http://www.nscosmetology.ca/nova-scotia-license-holders.php>.
- Dijkema, Brian and Michael Van Pelt. College of Trades: An Impossible Institution. Cardus 2011.
- Edlin, Aaron and Rebecca Haw. "Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?" *University of Pennsylvania Law Review* 162 (2013-2014): 1093-1164.
- Ellis Chart: Comparative Chart of Apprentice Training Programs. <http://www.ellischart.ca/>.
- Emploi-Québec. Compulsory Qualification: Developing Your Skills and Having Them Recognized. http://www.emploi Quebec.gouv.qc.ca/fileadmin/fichiers/pdf/Guide-qualif/depliant_individus_DQR_en.pdf.
- Friedman, Milton. "Chapter IX: Occupational Licensure." In *Capitalism and Freedom*. Chicago: University of Chicago Press, 1962.
- Government of Canada. Welcome to the National Occupational Classification 2011. <http://www5.hrsdc.gc.ca/NOC/English/NOC/2011/Welcome.aspx>.
- Government of Manitoba. Manitoba Trades. <http://www.gov.mb.ca/wdis/apprenticeship/discover/mbrades/index.html>.

Government of New Brunswick. Designated Occupations in New Brunswick. http://www2.gnb.ca/content/gnb/en/departments/post-secondary_education_training_and_labour/Skills/content/ApprenticeshipAndTrades/DesignatedOccupations.html.

— — —. Four Skilled Trades Given Compulsory Designation. News release. August 18, 2014. http://www2.gnb.ca/content/gnb/en/news/news_release.2014.08.1084.html.

Government of Newfoundland and Labrador, Department of Advanced Education and Skills. Designated Trades. <http://www.aes.gov.nl.ca/app/trades.html>.

Government of Ontario. Supporting Skilled Trades in Ontario: Ontario Appoints Reviewer for the Ontario College of Trades. News release. October 23, 2014. http://news.ontario.ca/tcu/en/2014/10/supporting-skilled-trades-in-ontario.html?utm_source=ondemand&utm_medium=email&utm_campaign=p.

Government of Prince Edward Island, Department of Innovation and Advanced Learning. Designated Trades. <http://www.gov.pe.ca/ial/index.php3?number=1033227>.

GTA Construction Report. Carpenters Unions Seeks Compulsory Trade Certification, Setting the Stage for Jurisdictional Challenges. April 16, 2014. <http://www.gtaconstructionreport.com/carpenters-union-seeks-compulsory-trade-certification-setting-the-stage-for-jurisdictional-challenges/>.

Hoover, Kent. "Are Occupational Licensing Requirements Stifling Entrepreneurship?" *The Business Journals*. August 20, 2014. <http://www.bizjournals.com/bizjournals/washingtonbureau/2014/08/are-occupational-licensing-requirements-stifling.html?page=all>.

Hurrell, Kristal. National Apprenticeship Survey, 2007: The Impact of Compulsory Certification on Apprenticeship in Canada. Canadian Council of Directors of Apprenticeship 2010. http://www.red-seal.ca/images/NAS_Regulation_En.pdf.

Iannetti v. Cosmetology Association of Nova Scotia, 2000 CanLII 5614 (NS SC).

Industry Training Authority Act. SBC 2003, c. 34. http://www.bclaws.ca/Recon/document/ID/freeside/00_03034_01.

Institute for Justice. Challenging Barriers to Economic Opportunity. Litigation backgrounder. <http://www.ij.org/mississippi-hairbraiding-background>.

— — —. Free the Monks and Free Enterprise. Litigation backgrounder. <http://www.ij.org/louisiana-caskets-background-2>.

— — —. Freeing Louisiana Florists: Licensing Law is Blooming Nonsense. Litigation backgrounder. <http://www.ij.org/freeing-louisiana-florists-licensing-law-is-blooming-nonsense>.

— — —. Victory for Louisiana Florists. July 12, 2010. <http://www.ij.org/victory-for-louisiana-florists>.

— — —. Victory is Now Final for Louisiana Monks. October 15, 2013. <http://www.ij.org/louisiana-caskets-release-10-15-13>.

Joyce, Cynthia. "An Illegal Arrangement." *Legal Affairs*. May/June 2004. http://www.legalaffairs.org/issues/May-June-2004/scene_joyce_mayjun04.msp.

Johncox, Gary. Compulsory Certification in Selected Trades: Where to from Here in B.C.? Coalition of BC Businesses. 2001. http://www.coalitionbcbusiness.ca/pdf/CompCertification_Johncox.pdf.

Kleiner, Morris M. Licensing Occupations: Ensuring Quality or Restricting Competition? Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2006.

— — —. "Occupational Licensing." *Journal of Economics Perspectives* 14 no. 4 (2000): 189-202.

— — —. Occupational Licensing: Protecting the Public Interest or Protectionism? Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2011.

Kuzz, Sherrard. Overview of Compulsory Certification Review Process. *Ontario Sewer and Watermain Construction Association*. May 12, 2014. https://www.oswca.org/public/news_and_information/news/?item=286.

Law, Marc T. and Sukkoo Kim. "Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation." *Journal of Economic History* 65 no. 3 (2005): 723-756.

Legislative Assembly of British Columbia. Hansard Services. <http://www.leg.bc.ca/hansard/index.htm>.

McDonald, Jessica L. The Industry Training Authority and Trades Training in BC: Recalibrating for High Performance. Report of the Independent Review Lead. February 2014. http://www.jtst.gov.bc.ca/ITA_Review/docs/ITA_Review_Final_Report.pdf.

North Carolina State Board of Dental Commissioners v. Federal Trade Commission. Supreme Court of the United States. http://www.supremecourt.gov/opinions/14pdf/13-534_19m2.pdf.

Nova Scotia Apprenticeship Agency. Trades. <http://nsapprenticeship.ca/trades>.

Olson, Mancur. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge: Harvard University Press, 1971.

Ontario College of Trades. Public Consultation. November 20, 2013. <http://www.collegeoftrades.ca/news/public-consultation>.

— — —. Trades in Ontario. <http://www.collegeoftrades.ca/about/trades-in-ontario>.

— — —. Trades under Review. <http://www.collegeoftrades.ca/about/review-panels/trade-classification/10661-2>.

Ontario College of Trades and Apprenticeship Act, 2009. S.O. 2009. c. 22. <http://www.ontario.ca/laws/statute/09o22>.

Parity committee of the automotive services industry. Information. <http://www.cpamontreal.ca/en/qualification/information/>.

Payne, Steve. "Ontario College of Trades Puts Compulsory Certification of Carpenters and Drywallers on Hold." *Canadian Contractor*. April 24, 2014. <http://www.canadiancontractor.ca/canadian-contractor/ontario-college-of-trades-backs-down-for-now-on-compulsory-certification-of-carpenters-and-drywallers/9666/>.

Prince Edward Island Hairdressers' Association. Licensing. http://peihda.com/?page_id=7.

Pyper, Wendy. "Skilled trades employment." *Perspectives on Labour and Income* 20 no. 4 (2008): 17-26.

Red Seal program. <http://www.red-seal.ca/>.

Saskatchewan Apprenticeship and Trade Certification Commission. Frequently Asked Questions. <http://www.saskapprenticeship.ca/faqs/>.

— — —. Gasfitter (Not a Designated Trade in Saskatchewan – Read More). <http://www.saskapprenticeship.ca/designated-trades/gasfitter/>.

Government of Saskatchewan. Getting Licenced. <http://www.saskatchewan.ca/work/working-jobs-and-pensions/getting-licenced>.

Saskatchewan Polytechnic. Hairstylist: Certificate. <http://saskpolytech.ca/programs-and-courses/programs/Hairstylist.aspx>.

Simon, Stephanie. "A License to Shampoo: Jobs Needing State Approval Rise." *Wall Street Journal*. February 7, 2011. <http://www.wsj.com/articles/SB10001424052748703445904576118030935929752>.

Skarbek, David. "Occupational Licensing and Asymmetric Information: Post-hurricane Evidence from Florida." *Cato Journal* 28, no. 1 (2008): 73-82. <http://object.cato.org/sites/cato.org/files/serials/files/cato-journal/2008/1/cj28n1-5.pdf>.

Spears, Tony. "Ottawa South By-election Candidates Warned to Leave College of Trades Alone." *Ottawa Sun*, July 24, 2013. http://www.ottawasun.com/2013/07/24/ottawa-south-byelection-candidates-warned-to-leave-college-of-trades-alone&override=template=SUN_BLOCK_QuickRead.

Statistics Canada. National Occupational Classification (NOC) 2011. <http://www23.statcan.gc.ca/imdb/p3VD.pl?Function=getVD&TVD=122372&CVD=122376&CPV=6341&CST=01012011&CLV=3&MLV=4>.

Whitaker, Kevin. College of Trades. Report of the Advisor to the Minister of Training, Colleges and Universities. May 1, 2009. <http://www.collegeoftrades.ca/docs/whitaker%20report.pdf>.

Wilson, Jennifer. "Compulsory Certification Review." *Ontario Electrical Contractor* 46, no. 2 (2008): 18-21. <http://www.ecao.org/news/Vol46No2.pdf>.

Wilson, Sean. How the Ministry Does Not Recognize Barbering as a Trade..! w/Sean Murphy. YouTube, August 21, 2014. <https://www.youtube.com/watch?v=swGauSz58VQ>.

