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Within You Without You: Undocumented Lawyers, DACA, and Occupational Licensing

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JUSTICE ROBERT D. RUCKER LECTURE

WITHIN YOU WITHOUT YOU:†

UNDOCUMENTED LAWYERS, DACA, AND OCCUPATIONAL LICENSING

Michael A. Olivas*

This essay is an early reflection upon several intersecting narratives, ones that exist in several dimensions, rather like the iconic Star Trek chess game that added depth and competing chess boards layered on top of each other.¹ Or, in a more earthly sense, I situate several legal narrative flows that exist in a tectonic fashion, cruising by each other to contain the Earth's magma core, but occasionally and spectacularly colliding and bumping up against each other, leaving fresh landscapes and jagged oceanic scars. How else can observers understand and reconcile the different stories of complex immigration categories, the architecture of occupational licensing, and the intersecting state and federal dimensions that form this Joycean novel? Who would have ever thought that an undocumented immigrant, without legal status in the U.S., could be practicing law with the support and accommodation by the California state bar licensing authority, the California Legislature, the State's Governor, and the

† "We were talking about the space between us all/and the people who hide themselves behind a wall of illusion" George Harrison, "Within You Without You," (Produced by George Martin) from The Beatles, Sgt. Pepper's Lonely Hearts Club Band (Capitol Records, 1967, 4CL-2653). The data in this article were collected through Summer, 2017. A number of the working assumptions about DACA shifted when President Trump and Attorney General Sessions announced the end of the program, contingent upon Congress acting to enact a form of relief for the DACA recipients. See, e.g., Jeremy W. Peters, *On the Right, Anger and Bewilderment*, N. Y. TIMES, September 15, 2017, at A1. As of this printing, SCOTUS had scheduled arguments on the complex travel ban, for October 2017, but withdrew the grant of certiorari. Daniel M. Kowalski, *Travel Ban 3.0—Presidential Proclamation* (Sept. 24, 2017)—UPDATED, LexisNexis Legal Newsroom Immigration Law, <https://shar.es/1VCIRQ>.

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¹ See Andrew Bartmess, *3D Chess from Star Trek*, CHESS VARIANTS, <http://www.chessvariants.com/3d.dir/startrek.html> [<https://perma.cc/MV9M-P4TK>] (last visited May 18, 2017) (demonstrating the unique design of the chessboard). Enter this universe at some risk.

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California Supreme Court?² Or that President Barack Obama's Department of Justice would argue against the move?³ And who could have predicted the fertile Obama use in 2012 of Deferred Action for Childhood Arrivals (DACA), broadening the traditional narrow scope of discretionary administrative enforcement authority, with the effect of transforming over three quarters of a million undocumented youth into DACAmented youth⁴—after many years of record immigration enforcement, deportations, and removals of unauthorized adults and children?⁵

I write to frame a multi-year research project that I have fit into a full scholarly agenda, working with legions of law and graduate students to gather for the first time, basic immigration eligibility information that serves as statutory, administrative, common law, and local prerequisites for entering licensed professions, high and low. The framework sets out national data across all United States jurisdictions, with the admissions standards and citizenship/immigration status required for entry into medicine, nursing, attorney, and K-12 teaching professions, and drills down on several large state jurisdictions in detailed case studies across dozens of licensed occupations in California, Texas, Illinois, and New York.⁶ My research has not revealed any national studies—and I have looked everywhere and shagged any number of false leads—and the sheer size of such an enterprise has likely precluded others from this snipe hunt.

But once the data are assembled and reviewed, fascinating trends emerged. As befits a multi-jurisdictional dataset, there are major

² See Jordan Fabian, *Sergio Garcia: USA's First Undocumented Lawyer*, ATLANTIC (Jan. 6, 2014), <https://www.theatlantic.com/politics/archive/2014/01/sergio-garcia-usas-first-undocumented-lawyer/430509/> [<https://perma.cc/49P8-YZZ8>] (providing a brief history of Garcia's case and final ruling).

³ See *In re Garcia*, 315 P.3d 117, 119, 123 (Cal. 2014) (recognizing the Department of Justice's amicus curiae brief opposing Garcia's motion for California bar admission). See also Maura Dolan, *Feds Deal a Blow to Would-Be Attorney*, L.A. TIMES, Aug. 13, 2012, at LATExtra 1, <https://pqasb.pqarchiver.com/latimes/doc/1033221508.html?FMT=ABS&FMTS=ABS:F&T&type=current&date=Aug+13%2C+2012&author=Dolan%2C+Maura&pub=Los+Angeles+Times&edition=&startpage=AA.1&desc=Feds+deal+a+blow+to+would-be+attorney> [<https://perma.cc/BH93-BVKP>] (reporting the administration's failure to support Garcia's efforts to gain bar admission).

⁴ See Michael A. Olivas, *Dreams Deferred: Deferred Action, Discretion, and the Vexing Case(s) of DREAM Act Students*, 21 WM. & MARY BILL RTS. J. 463, 491, n.131 (2012) (breaking down annual statistics regarding DACAmented youth).

⁵ See, e.g., Ryan Schultheis & Ariel G. Ruiz Soto, *A Revolving Door No More? A Statistical Profile of Mexican Adults Repatriated from the United States* (2017), <http://www.migrationpolicy.org/research/revolving-door-no-more-statistical-profile-mexican-adults-repatriated-united-states> [<https://perma.cc/28ZU-FB26>] (providing statistics from the Migration Policy Institute).

⁶ See *infra* Appendix I (providing a state-by-state breakdown of Professional License Eligibility Requirements for physicians, nurses, attorneys, and educators).

inconsistencies, gaps, and mistakes in regards to state occupational licensing laws, and virtually every state has multiple examples.⁷ While no one could have anticipated the explosive growth occasioned by DACA and its unique vectors implicating occupational licensing, it is growing clear that most licensure or certification authorities have not thought through immigration and citizenship requirements for their professions in any systematic fashion.⁸ Virtually all have some form of formal or informal citizenship admissions criteria, but as DACA and case law have revealed, this tectonic plate is shifting and disturbing other plates.⁹ In geology, the earth's lithosphere—sub-layers of the crust—moves in regular and punctuated fashion, creating continental drift, faults, and trenches across the globe.¹⁰ Its counterpart in immigration and licensing law is the changing and moving universe of immigration law and the growing state regulation of labor and employment, necessitating special tools of legal analysis.¹¹ In this vein, I offer preliminary thoughts about the various immigration classifications implicated by business and occupational licensing.¹² Then, I set out to briefly describe the overall architectural features of licensing in U.S. society, revealing multidimensional forces at play, both at the state and federal levels.¹³ Finally, I will situate the data, pointing out both intuitive issues and a number of counter-intuitive considerations that make a unified occupational licensing field-theory virtually impossible.¹⁴ As a result, many jurisdictions will continue to muddle along, deciding challenges and mounting reforms on a case-by-case basis. Each of these areas has its own narrative flow, and the overall effect is confusing and ineffective.

⁷ See *infra* Appendix II (detailing the differences between state occupational licensing laws that require varying statuses of citizenship).

⁸ See *infra* Appendix II (noting the substantial differences entangled between state occupational licensing laws and citizenship status).

⁹ See *infra* Appendix II (reporting differences between state occupational licensing and citizenship requirements for funeral directors, massage therapists, temporary agency workers, occupational therapists, optometrists, pharmacists, physical therapists, private investigators, and real estate agents and brokers).

¹⁰ See David K. Lynch, *Tectonics* (2010), <http://www.sanandreasfault.org/Tectonics.html> [<https://perma.cc/BPG2-Y3DV>] (describing how the lithosphere creates continental drifts).

¹¹ See *infra* Appendix II (noting the extravagant state statutory differences between certain occupational licensing requirements relevant to citizenship).

¹² See *infra* Part I (discussing how occupational licensing requirements depend on contrasting immigration classifications that are far from uniform).

¹³ See *infra* Part I (homing in on differences in occupational licensing requirements and immigration classifications between state and federal jurisdictions). See also *infra* Part II–III (providing samples of specific state occupational licensing requirements).

¹⁴ See *infra* Appendix I–II (differentiating the varying state approaches for immigration citizenship requirements within specific occupations).

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Even so, these data will assist all serious scholars, elected officials, and professional license authorities.

I. IMMIGRATION NARRATIVE FACILITATING LABOR AND EMPLOYMENT

Setting aside refugee and asylum matters recently in the news,¹⁵ United States immigration policies and procedures break the world down into two large admissibility categories: family-related relationships spanning all dimensions of this comprehensive subject, and employment-based regimes, which govern the importation of labor and work-eligibility.¹⁶ Although these are obviously intertwined in many respects, the family and employment bases are parallel universes, almost Manichean in their ways.¹⁷ Being a United States citizen, whether by birthright or by naturalization, entitles that person to work at any job that is offered to her and for which she is eligible. (And that relationship to employment is in turn regulated by a myriad of labor, civil rights, and employment features.)¹⁸ At the opposite end of the spectrum, a transient passing through the United States on a common carrier passenger laying over at the airport during a flight across the world would not earn employment authorization, any more than if booking passage on a train

¹⁵ See SELA COWGER, JESSICA BOLTER & SARAH PIERCE, *THE FIRST 100 DAYS: SUMMARY OF MAJOR IMMIGRATION ACTIONS TAKEN BY THE TRUMP ADMINISTRATION* (2017) (offering general policy background). See also Eleanor Acer & Olga Byrne, *How the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Has Undermined U.S. Refugee Protection Obligations and Wasted Government Resources*, 5 J. MIGRATION & HUM. SECURITY 356, 356–57 (2017) <http://www.migrationpolicy.org/research/revolving-door-no-more-statistical-profile-mexican-adults-repatriated-united-states> [https://perma.cc/HX37-NKKZ] (stating recent record highs in backlogged immigration cases and refugee numbers).

¹⁶ See *How The United States Immigration System Works*, AM. IMMIGR. COUNCIL, (Aug. 12, 2016), <https://www.americanimmigrationcouncil.org/research/how-united-states-immigration-system-works> [https://perma.cc/ZL4K-P3PF] (teasing the United States immigration system into categories, including family-based and employment-based). Compare 8 U.S.C. § 1153(a) (2012) (describing “[p]reference allocation for family-sponsored immigrants”) with 8 U.S.C. § 1153(b) (outlining “[p]reference allocation for employment-based immigrants”).

¹⁷ See *How The United States Immigration System Works*, *supra* note 16 (detailing the family- and employment-based immigration regimes). See, e.g., 8 U.S.C. § 1151(a)(1)–(2) (2012) (allowing similar numbers of immigrant visas for “family-sponsored immigrants” as visas issued to “employment-based immigrants”). See also *Manichean*, VOCABULARY.COM, <https://www.vocabulary.com/dictionary/Manichean> [https://perma.cc/S8EH-3ASP] (last visited Sept. 13, 2017) (“If you believe in the Manichean idea of dualism, you tend to look at things as having two sides that are opposed. To Manicheans, life can be divided neatly between good or evil, light or dark, or love and hate. When you see *Manichean*, think ‘two.’”).

¹⁸ See *Regulations, Guidance & MOUs*, EEOC, <https://www.eeoc.gov/laws/other.cfm> [https://perma.cc/M6S7-Y826] (last visited Sept. 13, 2017) (detailing specific statutory rights granted to employees working in the United States).

that on its course, traversed United States and Canadian or Mexican borders.

But it is the many places across this possible spectrum of employment authorization, manifested in an Employment Authorization Document (an EAD, in the immigration argot),¹⁹ that predominate in this narrative. Most naturalized citizens move from Legal Permanent Resident status (LPR) to citizenship, which can be derived from either a family-based or employment-based relationship, and LPRs are eligible for virtually all employment opportunities and licenses, save a few outdated anomalies, such as being an optometrist in Puerto Rico,²⁰ to possible security-related employment on classified job sites, where U.S. citizenship may be a prerequisite.²¹ In an increasingly complex and accommodating world,

¹⁹ See Press Release, U.S. Citizenship & Immigration Servs., USCIS Will Issue Redesigned Green Cards and Employment Authorization Documents (Apr. 19, 2017), https://www.uscis.gov/news/news-releases/uscis-will-issue-redesigned-green-cards-and-employment-authorization-documents?utm_source=greencardpagerightrail&utm_campaign=gcredesign [<https://perma.cc/6LWQ-W5LC>] (abbreviating Employment Authorization Documents). See also Maria Linda Ontiveros, *Immigrant Workers and Workplace Discrimination: Overturning the Missed Opportunity of Title VII Under Espinoza v. Farah*, BERK. J. EMPL. & LABOR L. (forthcoming 2017) (arguing case law should be overruled to be more useful for immigrant workers); *Immigrants' Employment Rights Under Federal Anti-Discrimination Laws*, U.S. EQUAL EMP. OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/publications/immigrants-facts.cfm> [<https://perma.cc/SV26-C62N>] (last visited Feb. 15, 2017) [hereinafter *Employment Rights of Immigrants*] (providing examples of prohibited discrimination).

²⁰ See, e.g., *Bernal v. Fainter*, 467 U.S. 216, 220, 227–28 (1984) (discussing the Supreme Court decision striking down citizen requirements for public notaries); *C.D.R. Enters., Ltd. v. Bd. of Educ.*, 412 F. Supp. 1164, 1172–73 (E.D.N.Y. 1976) (benefits and occupational licensing), *aff'd sub nom. Lefkowitz v. C.D.R. Enters., Ltd.*, 429 U.S. 1031 (1977) (public work construction); *Examining Bd. of Eng'rs, Architects & Surveyors v. Flores de Otero*, 426 U.S. 572, 601–02, 604–05 (1976) (civil engineers); *Ind. Real Estate Comm'n v. Satoskar*, 417 U.S. 938 (1974) (real estate license); *Sugarman v. Dougall*, 413 U.S. 634, 642–43, 646–47 (1973) (various civil service positions); *In re Griffiths*, 413 U.S. 717, 726, 729 (1973) (law practice). See generally Jenessa Calvo-Friedman, Note, *The Uncertain Terrain of State Occupational Licensing Laws for Noncitizens: A Preemption Analysis*, 102 GEO. L.J. 1597 (2014). Compare *Dandamudi v. Tisch*, 686 F.3d 66, 72, 79–80 (2d Cir. 2012) (striking down various New York state laws requiring citizenship) with *LeClerc v. Webb*, 419 F.3d 405, 410–12, 415, 422–26 (5th Cir. 2005) (upholding a Louisiana Supreme Court rule that limited membership to the bar to U.S. citizens or legal permanent residents—not to nonimmigrants with H-1B or J-1 exchange student visas, even though one was a foreign lawyer and another had graduated from a law school in the state). See also U.S. Dep't of Defense, Defense Security Clearance, *Security Assurances for Cleared Individuals and Facilities* (last visited May 18, 2017), <http://www.dss.mil/isp/international/laa.html> [<https://perma.cc/P3KS-6PY9>] (listing issues of citizenship requirements and exceptions for security-classified employment).

²¹ See U.S. Dep't of Defense, Defense Security Clearance, *Security Assurances for Cleared Individuals and Facilities* (last visited May 18, 2017), <http://www.dss.mil/isp/international/laa.html> [<https://perma.cc/P3KS-6PY9>] (describing exceptions to the general rule that non-citizens cannot gain security clearance).

many persons also can, depending upon their eligibility and resources, maintain multiple citizenships or nationalities, or can choose not to become Citizens, even if eligible to do so.²² In *Mauclet*, for example, the U.S. Supreme Court held that important college financial aid benefits could not be withheld from LPRs who had not chosen to invoke U.S. citizenship,²³ inasmuch as they are allowed to remain permanently in the country and participate in almost all civic activities, save voting in federal elections, holding certain office, and the like.²⁴

In addition, anyone admitted to the United States as an immigrant earns LPR status, whether they are admitted by the employment or family-based routes.²⁵ In turn, as LPRs, they are eligible for employment and most licensing.²⁶ Notwithstanding this constitutional equivalence between eligibility for citizens and permanent residents, a large number of occupational licensing requirements cite U.S. citizenship as a prerequisite.²⁷ States that appear to limit occupational licensing to U.S. citizens are ripe targets for an admissions case challenging the citizenship

²² See, e.g., *Nyquist v. Mauclet*, 432 U.S. 1, 3–5, 11–12 (1977) (holding a New York statute unconstitutional for requiring state residents seeking financial aid benefits to be U.S. citizens or declare intent to become U.S. citizens because permanent non-citizen residents, *inter alia*, pay taxes on benefits and should not be required to become citizens even if eligible to do so).

²³ See *id.* at 11–12 (finding a violation of constitutional rights of permanent New York residents denied financial aid for not declaring intent to become United States citizens by wishing to retain citizenship in foreign countries). The Department of Justice also polices inappropriate EAD practices, such as when employers require certain paperwork of LPRs, but not citizens, even though both are authorized for employment. See also Press Release, Dep't of Justice, Justice Department Settles Immigration-Related Discrimination Claims Against 121 Residency Programs and American Association of Colleges of Podiatric Medicine (June 20, 2016) <https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claims-against-121-residency> [<https://perma.cc/X55A-VXJZ>] (explaining settlement over podiatric residency policies). See, e.g., Press Release, Dep't of Justice, Justice Department Settles Immigration-Related Discrimination Claim Against Florida Roadside Assistance Services Company (Apr. 6, 2017), <https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claim-against-florida-roadside> [<https://perma.cc/2EQA-SKTQ>] (highlighting discriminatory policies in the field of podiatry that occurred between 2013 and 2015).

²⁴ See *Nyquist*, 432 U.S. at 12 (finding that a non-citizen may become a leader in the community without having any political involvement).

²⁵ See AMERICAN IMMIGRATION COUNCIL, HOW THE UNITED STATES IMMIGRATION SYSTEM WORKS (Aug. 12, 2016), <https://www.americanimmigrationcouncil.org/research/how-united-states-immigration-system-works> [<https://perma.cc/ZL4K-P3PF>] (providing more information on numbers of recipients of LPR status, including family-based and employment-based statistics). See, e.g., 8 U.S.C. § 1151(a)(1)–(2) (2012) (granting visas to immigrants or LPRs regardless of family or employment-based categories).

²⁶ See *Nyquist*, 432 U.S. at 12 (reporting that LPRs may apply for almost any job).

²⁷ See *infra* Appendix II (listing state statutes that require varying levels of citizenship to obtain specific occupational licenses).

prerequisite.²⁸ Yet the data I present in the body of this study are riddled with such occupational admissions criteria, waiting to be discovered by an otherwise-eligible non-citizen applicant who would bring a legal challenge. These occupational admissions criteria revealed the parallel issue that a number of states are inconsistent in their formal application of state law, either by requiring immigration information not necessitated by operating statutes, or by using inconsistent immigration categories across multiple licensing criteria.²⁹

The next category would be the millions of persons who enter the country annually as non-immigrants, temporarily admitted for temporary purposes, with alphabetical categories from A to V.³⁰ These categories include a number of employment-related occupational authorizations, but many of the largest categories do not allow employment.³¹ Some small categories of non-immigrant visas allow no employment or U.S.-derived salary, save traditional benefits and small intermittent stipends, such as a European or Latin American academic on a tourist visa, who would give a series of lectures in United States colleges and lecture halls, occasioning travel support, honoraria, and meals.³² A number of entertainers are allowed to enter the U.S. for festivals or concerts where they are not paid, but only receive travel-related support, such as music groups attending the annual South by Southwest music festival in Austin, Texas.³³ This

²⁸ See *infra* Appendix II (noting at least fourteen state statutes that specifically require nothing short of U.S. citizenship for at least one occupation).

²⁹ See, e.g., *infra* Appendix II (finding that Pennsylvania statutes require applicants wishing to become practical nurses to merely declare intent to become a U.S. citizen, whereas private detective applicants must be citizens of the United States).

³⁰ See U.S. CITIZENSHIP & IMMIGRATION SERVS., TEMPORARY (NONIMMIGRANT) WORKERS (Sept. 7, 2011), <https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers> [<https://perma.cc/SUQ2-Y4SB>] (describing the process for a temporary worker to enter the country).

³¹ See U.S. CITIZENSHIP & IMMIGRATION SERVS., I-9, EMPLOYMENT ELIGIBILITY VERIFICATION (Jan. 23, 2017), <https://www.uscis.gov/i-9> [<https://perma.cc/HG4Y-PSGX>] (outlining the occupational authorization procedure and purposes).

³² See generally DAN H. BERGER & RITA SOSTRIN, IMMIGRATION OPTIONS FOR ACADEMICS AND RESEARCHERS (2d ed. 2011) (noting various retention options for university-affiliated immigrants). Notwithstanding the disruptions of student flows, the year 2017 reveals a very large number of international students enrolled in U.S. colleges, and a substantial percentage of them using the provisions to remain in the country to work after the completion of their degrees. See also Neil G. Ruiz, *More Foreign Grads of U.S. Colleges Are Staying in the Country to Work*, PEW RES. (May 18, 2017), <http://pewrsr.ch/2qA0foh> [<https://perma.cc/9H2B-SZWK>] (showing methods for foreign graduates to remain in the country and recent statistics).

³³ See Chris Cooke, *U.S. Border Control Says Performance Visas Required Even for Free Shows*, COMPLETEMUSICUPDATE.COM (Mar. 15, 2017), <http://www.completemusicupdate.com/article/us-border-control-says-performance-visas-required-even-for-free-shows/> [<https://perma.cc/4DYG-LDTT>] (describing different standards of entry for performers based on how they are paid).

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arrangement was intersected by the 2017 Trump Administration's travel ban, which disrupted the longstanding arrangements, and left the affected groups with last-minute cancellations, even though their time in the country was donated and not paid for by stipends or salaries; they were not only denied permission to perform, but even to enter the country on non-immigrant visas.³⁴

Given the many millions who enter the country each year on non-employment non-immigrant visas, most cannot work or be employed by U.S. employers while in the country, such as categories of tourists or certain family members, who are not extended employment authorization.³⁵ In most instances, the Department of Homeland Security (DHS) is required to determine whether a non-immigrant admitted into the country may be employed, self-employed, or ineligible to work.³⁶ Certain non-immigrants will have employment authorization in their DHS-assigned class of admission (such as performers, free in most instances to strike deals with entertainment venues), while other non-immigrants may have employment authorization but only with specific employers (such as religious organization workers), with no freelancing; if they were to lose their position, they would be removable.³⁷ Although

³⁴ See Yeganeh Torbati, *Number of U.S. Visas to Citizens of Trump Travel Ban Nations Drops*, REUTERS, (Apr. 27, 2017), <http://www.reuters.com/article/us-usa-immigration-visas-analysis-idUSKBN17T34G> [<https://perma.cc/5AVR-G4FU>] (finding that travel visa numbers dropped by nearly half since 2015); Cooke, *supra* note 33 (illustrating how the ban affected the annual South by Southwest festival by tying up participants and exacting more immigration-related inspections); Alana Durkin Richer, *Q&A: Trump's New Travel Ban Faces Key Test in Appeals Court*, ASSOCIATED PRESS (May 6, 2017), <https://www.usnews.com/news/us/articles/2017-05-06/q-a-trumps-new-travel-ban-faces-key-test-in-appeals-court> [<https://perma.cc/M9KJ-ML2Q>] (explaining that the general travel ban(s) are under review by a variety of federal courts).

³⁵ See, e.g., U.S. CITIZENSHIP AND IMMIGRATION SERVICES, Q CULTURAL EXCHANGE (July 14, 2015), <https://www.uscis.gov/working-united-states/temporary-workers/q-cultural-exchange> [<https://perma.cc/3DED-4J2P>]. As an example, dependents of Q-1 visa holders (persons participating in an international cultural exchange program for the purpose of providing practical training, employment, and to share the history, culture, and traditions of the alien's home country) are ineligible for derivative EAD. *Id.* The Immigration and Nationality Act (INA) does not provide any specific nonimmigrant classification for dependents of Q-1 nonimmigrants, but this does not preclude the spouse or child of a Q-1 from entering the U.S. in another nonimmigrant classification, based on their own unique and separate qualifications and eligibility. *Id.*

³⁶ See U.S. CITIZENSHIP & IMMIGRATION SERVS., TEMPORARY (NONIMMIGRANT) WORKERS, *supra* note 30 (providing descriptions and classifications of employment eligibility for non-immigrant workers).

³⁷ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, R-1 TEMPORARY NONIMMIGRANT RELIGIOUS WORKERS (Sept. 11, 2015) <https://www.uscis.gov/working-united-states/temporary-workers/r-1-temporary-religious-workers/r-1-temporary-nonimmigrant-religious-workers#Notification> [<https://perma.cc/5UBJ-3GW7>] ("The petitioner must

all are technically “temporary,” their eligibility to work can last for many years and decades, as long as the terms are properly maintained and the requirements are adhered to.³⁸ Almost all these employment relationships exist in a zone maintained and administered by the DHS and the Department of Labor (DOL).³⁹ As noted, some non-immigrants may not be employed and cannot apply for employment authorization while in the U.S., such as tourists or crew members.⁴⁰

While there is much more to fill in about how this vast array operates, I am sketching these to show the overall mechanics and why occupational licensing matters.⁴¹ There are additional categories that involve and can enable such non-citizen-status persons to hold employment.⁴² A variety of loosely-connected status and inchoate categories could be set out as ones with PRUCOL (permanently residing under color of law) characteristics.⁴³ Although the formal category was abolished by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), it still remains in play through its functional equivalent of

notify USCIS within 14 days of any change in the nonimmigrant religious worker’s employment. The petitioner must also notify USCIS when the employment is terminated”).

³⁸ See *id.* (stating that R-1 status can be granted initially for 30 months, but then extended to 60 months).

³⁹ See U.S. CUSTOMS & IMMIGRATION SERVS., HANDBOOK FOR EMPLOYERS: GUIDANCE FOR COMPLETING FORM I-9 EMPLOYMENT ELIGIBILITY VERIFICATION FORM (last updated Jan. 22, 2017), <https://www.uscis.gov/sites/default/files/files/form/m-274.pdf> [<https://perma.cc/DQ57-H9RF>] (providing a helpful, detailed, and comprehensive handbook). This footnote could include volumes on each of the several overlapping jurisdictions. See also EEOC, *Employment Rights of Immigrants Under Federal Anti-Discrimination Laws*, (last visited May 15, 2017), <http://www.eeoc.gov/eeoc/publications/immigrants-facts.cfm> [<https://perma.cc/H2A8-XCDA>] [hereinafter *Employment Rights of Immigrants*] (explaining immigrant rights). Many instructional resources also exist, covering this large terrain. See, e.g., T. ALEXANDER ALENIKOFF ET AL., IMMIGRATION AND CITIZENSHIP: PROCESS AND POL’Y 269–70, 380–81, 444–45 (8th ed. 2016) (providing detailed instruction on immigration, generally).

⁴⁰ See Immigration and Nationality Act 8 U.S.C. § 1101(a)(15)(B) (2012) (referencing temporary business or pleasure visitors).

⁴¹ See DEPT. OF THE TREASURY OFF. OF ECON. POL’Y, COUNS. OF ECON. ADVISERS & THE DEPT. OF LAB., *Occupational Licensing: A Framework for Policymakers* (July 2015), https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf [<https://perma.cc/55TG-S7RY>] (explaining that occupational licensing “plays an important role in protecting consumers and ensuring quality”).

⁴² See U.S. CITIZENSHIP & IMMIGRATION SERVICES, PERMANENT WORKERS, (July 15, 2015), <https://www.uscis.gov/working-united-states/permanent-workers> [<https://perma.cc/ZP5J-WL4T>] (setting out the preference categories enabling non-citizens to obtain employment based visas).

⁴³ See SOC. SECURITY ADMIN., PROG. OPERATIONS MANUAL SYSTEM, SI 00501.420(B)(2)–(3), PERMANENT RESIDENCE UNDER COLOR OF LAW (PRUCOL) PRE-1996 LEGISLATION (May 5, 2012), <https://secure.ssa.gov/poms.nsf/lnx/0500501420> [<https://perma.cc/4CTM-PWXP>] [hereinafter PRUCOL] (providing a full manual on PRUCOL and relevant legislation).

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“qualified aliens,” such as those in the country as refugees before their LPR status is accorded, after the requisite waiting period, or as asylum-seekers, whose cases are being determined.⁴⁴ These PRUCOL non-citizens are allowed to remain in the United States until their cases are resolved, usually with EAD during the pendency of the determination, and after resolution of the matter.⁴⁵ Inherent in these determinations is that the person is “known to the government,” and some are otherwise eligible for public benefits, sometimes including “lawful presence,” an important category that suspends their deportation until after a formal process that can take many years and which, in effect, freezes their illegality and removability.⁴⁶

It is exactly at this point that DACA figures into the picture, and “on the thirtieth anniversary of *Plyler v. Doe*—the 1982 case in which the U.S. Supreme Court ruled that states could not [charge tuition] for the education of schoolchildren of unauthorized immigrants—[President Obama in 2012] announced a halt to the deportation of some undocumented immigrants who came to the United States as children and ha[d] graduated from high school.”⁴⁷ Unfortunately, it was not the stalled DREAM Act, which would have created a path to citizenship for some immigrants who came to the United States as children and have been admitted to college or registered under the Selective Service Act.⁴⁸ The

⁴⁴ See *id.* at SI 00501.420(B)(2)(j) (“Aliens admitted to the United States pursuant to section 203(a)(7) of the Immigration and Nationality Act (INA) are treated as if they are ‘conditional entrants,’” in a liminal status of permanently residing under color of law. In 1980, “Section 203(a) (7) of the INA was made obsolete by the Refugee Act of 1980 (Public Law (P.L.) 96-212) and replaced by section 207 of the INA, effective April 1, 1980”).

⁴⁵ See *id.* at SI 00501.420(D)(2) (stating that under PRUCOL, non-citizens may temporarily remain and work in the United States).

⁴⁶ See *id.* at SI 00501.420(A)(1). The Social Security Administration, for example, defines PRUCOL as those permanently residing under color of law. *Id.* PRUCOL is not an alien status; it is a term used to define the eligibility of certain aliens for certain Federal benefits (i.e., SSI, AFDC, Medicaid, unemployment insurance). *Id.* It includes any alien who is residing in the U.S. with the knowledge and permission of DHS, and whose departure from the U.S. DHS does not contemplate enforcing. *Id.*

⁴⁷ Olivas, *supra* note 4, at 542; Rose Cuison Villazor, *The Undocumented Closet*, 92 N.C. L. REV. 1, 47–48, 64–65 (2013) (finding that many consider college degrees out of reach). See generally Vasanthi Venkatesh, *Mobilizing Under ‘Illegality’: The Arizona Immigrant Rights Movement’s Engagement with the Law*, 19 HARV. LATINO L. REV., 165 (2016) (covering Arizona immigration movements); Atheendar S. Venkataramani, et al., *Health Consequences of the U.S. Deferred Action for Childhood Arrivals (DACA) Immigration Programme: A Quasi-Experimental Study*, 2 LANCET PUB. HEALTH e175 (Apr. 2017), [http://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(17\)30047-6/abstract](http://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(17)30047-6/abstract) [<https://perma.cc/JWY2-DUAF>] (issuing results of health consequences study).

⁴⁸ See *Dream Act: Summary*, NAT’L IMMIGRATION L. CTR., (May 2011), <https://www.nilc.org/issues/immigration-reform-and-executive-actions/dreamact/dreamsummary/> [<https://perma.cc/8DMS-QCC9>] (outlining the paths to citizenship under the DREAM Act).

President's decision to fashion DACA, which used existing powers of prosecutorial discretion, reaching back to the earlier John Lennon case, was old wine in a new wineskin, one that became surprisingly resilient and transformative.⁴⁹ The policy did not create a pathway to LPR or citizenship, as the DREAM Act would have done, but deferred deportation for renewable two-year periods, and more to the points under discussion, gave the recipients several important benefits: EAD, a Social Security Number (SSN), and "lawful presence," such as had existed with a number of the PRUCOL non-citizens.⁵⁰

The FAQ section of DACA's policies and procedures clearly states:

Although action on your case has been deferred and you do not accrue unlawful presence (for admissibility purposes) during the period of deferred action, deferred action does not confer any lawful status.⁵¹

The fact that you are not accruing unlawful presence does not change whether you are in lawful status while you remain in the United States.⁵² However, although deferred action does not confer a lawful immigration status, your period of stay is authorized by the Department of Homeland Security while your deferred action is in effect and, for admissibility purposes, you are

⁴⁹ See Olivas, *supra* note 4, at 475–78 (role of Lennon v. United States); Leon Wildes, *All You Need Is Love – and a Good Jewish Lawyer*, N.J. JEWISH STANDARD (Dec. 10, 2010), http://www.jstandard.com/index.php/content/item/all_you_need_is_love_and_a_good_jewish_lawyer/ [<https://perma.cc/RM3F-HUBB>] (providing a first-person account of the litigation in the Lennon immigration matter from the perspective of his attorney). See also JON WIENER, *COME TOGETHER: JOHN LENNON IN HIS TIME* 225–80 (1984) (detailing more background on the Lennon immigration); JON WIENER, *GIMME SOME TRUTH: THE JOHN LENNON FBI FILES* 107–09, 194–95 (2000) (providing documentation showing U.S. government involvement with Lennon's deportation). For the details of the underlying child custody dispute and family court matter, much of which occurred in Houston, Texas, see Mark Davidson, *I Really Want to See You!*, 49 HOUS. LAW., Oct. 2011, at 24, 25–26; *Cox v. Lennon*, 457 F.2d 1190, 1193–94, 1198 (3d Cir. 1972) (ordering custody to Ono); SHOBA SIVAPRASAD WADHIA, *BEYOND DEPORTATION: THE ROLE OF PROSECUTORIAL DISCRETION IN IMMIGRATION CASES* (2015) (explaining President Obama's use of prosecutorial discretion).

⁵⁰ See FAQ: U.S. CUSTOMS & IMMIGRATION SERVS., FREQUENTLY ASKED QUESTIONS (Apr. 25, 2017), <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions> [<https://perma.cc/NL7R-4WWZ>] [hereinafter FAQ] (offering instructive guidance on DACA and answering various questions). USCIS maintained an excellent and helpful website, with program information, application protocols, and an informative and updated FAQ. *Id.* For the several years of DACA's early existence, there was almost not a day when I did not either employ the FAQ and tabular data, or recommend that some colleague or DREAMer do so.

⁵¹ *Id.*

⁵² *Id.*

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considered to be lawfully present in the United States during that time.⁵³ *Individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S.*⁵⁴

Apart from the immigration laws, “lawful presence,” “lawful status” and similar terms are used in various other federal and state laws.⁵⁵

Within the first week of the DACA program application, which began August 15, 2012, tens of thousands of these students surfaced, and by the end of the Obama Administration in 2017, more than three quarters of a million DACA recipients had been screened and admitted into being “DACAmended,” with virtually all renewing after the two-year period.⁵⁶ A number of court challenges followed, beginning within six months, when disgruntled ICE employees filed suit in federal court, and lost.⁵⁷ Also, in a complex series of cases concerning second-round extensions, there were no successful substantive challenges to DACA or the President’s discretionary immigration authority.⁵⁸

Undocumented immigrants eligible for DACA flocked to its programs, triggering a number of issues having to do with the EAD authority.⁵⁹ These issues include challenges from immigrant rights groups, such as the Mexican American Legal Defense and Educational

⁵³ *Id.*

⁵⁴ *Id.* (emphasis added).

⁵⁵ See, e.g., 8 U.S.C. § 1621(d) (“A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.”); TEX. DEP’T OF PUBLIC SAFETY, U.S. CITIZENSHIP OR LAWFUL PRESENCE REQUIREMENT, (last visited May 19, 2017), <https://www.dps.texas.gov/DriverLicense/LawfulStatusDLID.htm> [<https://perma.cc/JJ63-8YUV>] (requiring “lawful presence” as a precondition for a Texas driver’s license).

⁵⁶ See generally U.S. Customs and Immigration Servs., Number of I-821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012–2016 (Mar. 2016), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/I821d_performancedata_fy2016_qtr2.pdf [<https://perma.cc/FX4U-5JWV>] (archiving the most current USCIS DACA data).

⁵⁷ See *Crane v. Napolitano*, 920 F. Supp. 2d 724, 736, 738, 742–43, 745–46 (N.D. Tex. 2013) (dismissing challenge to DACA under Civil Service Reform Act (CSRA)), *aff’d*, 783 F.3d 244, 247, 252–53, 255 (5th Cir. 2015) (affirming the district court’s dismissal of plaintiff’s challenge to DACA under CSRA).

⁵⁸ See *id.* (referencing all DACA cases).

⁵⁹ See *Ariz. Dream Act Coal. v. Brewer*, 855 F.3d 957, 968 (9th Cir. 2017) (finding that DACA recipients are similar to those relying on EAD status). See also Tania P. Linares Garcia, Note, *Protecting a Dream: Analyzing the Level of Review Applicable to DACA Recipients in Equal Protection Cases*, 39 S. ILL. L.J. 105, 116 (2014) (discussing Arizona’s disparate treatment of DACA recipients as EAD holders).

Fund (MALDEF) challenging Nationwide Insurance, a major national insurance services company, when it would not admit DACA recipients into its management program, even with EAD, on the grounds that such work authorization was of limited duration and contingent.⁶⁰ In an important settlement, Nationwide agreed to admit otherwise-qualified DACA recipients to apply and be considered for the management trainee program.⁶¹ This signaled to other would-be or hesitant employers that they were not violating federal law by hiring such employees, but rather, they were violating law by NOT considering for employment fully qualified individuals with full permission to work in the United States.⁶²

Building upon the 2012 success, in November 2014, President Obama set out the Immigration Accountability Executive Action, which would have widened DACA and expanded the program from two years to three years, and also the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) initiative for the parents of U.S citizens and lawful permanent residents who met certain criteria.⁶³ As unpopular as the successful DACA program had proven to opponents, it had been tested several times and had been found to be legal by almost every court that reviewed the issue, including collateral DACA-related benefits such

⁶⁰ See *Juarez v. Nw. Mut. Life Ins. Co.*, 14-CV-5107 KBF, 69 F. Supp. 3d 364, 365, 370–74 (S.D.N.Y. 2014), *appeal filed*, No. 15-790 (2d Cir. Mar. 17, 2015) (finding allegations of refusal to recognize EAD for hiring sufficient to state § 1981 claim).

⁶¹ See Kelly Knaub, *Northwestern Escapes DACA Bias Class Action*, LAW360 (May 27, 2015), <http://www.law360.com/immigration/articles/660123> [<https://perma.cc/2C6E-EY8G>] (detailing dismissal of the lawsuit); Mandate, *Juarez v. Northwestern Mutual Life Ins. Co.*, No. 1:14-cv-05107 (S.D.N.Y. June 24, 2015), ECF No. 70 (noting the parties settled and the case closed).

⁶² See *Juarez*, 69 F. Supp. 3d at 368–69 (finding it discriminatory to not hire lawfully present aliens just because they do not have a green card).

⁶³ See generally Am. Immigration Council, *Defending DAPA and Expanded DACA Before the Supreme Court: A Guide to United States v. Texas* (Apr. 11, 2016), https://www.americanimmigrationcouncil.org/sites/default/files/research/defending_dapa_and_expanded_daca_before_sctus.pdf [<https://perma.cc/G3YS-N6MG>] [hereinafter Am. Immigration Council] (providing thoughtful and detailed coverage of the volumes of DAPA—*United States v. Texas* issues); Patricia L. Bellia, *Faithful Execution and Enforcement Discretion*, 164 U. PENN. L. REV. 1753, 1754–56 (2016) (explaining the policy’s executive genesis and its transition into the judicial sentence); Marisa Bono, *When a Rose is not a Rose: DACA, the DREAM Act, and the Need for More Comprehensive Immigration Reform*, 40 T. MARSHALL L. REV. 193, 194–96 (2015) [hereinafter Bono] (detailing the DACA controversy and critics).

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as resident college tuition⁶⁴ and driver's licenses to DACA recipients.⁶⁵ But behind *Plyler* and DACA was a narrative that innocent children should not be punished for actions undertaken by their parents, and, in such a narrative, parents morphed into lawbreakers and villains, resulting in an all-out war upon DAPA when attempting to give them any DACA-like relief.⁶⁶

Almost immediately, restrictionist Maricopa County, Arizona Sheriff Joe Arpaio sued in a Washington, D.C. federal court to enjoin the DACA extension and the DAPA program,⁶⁷ and twenty-six state attorneys general filed a similar case in the Brownsville, Texas federal court.⁶⁸ Sheriff Arpaio's lawsuit was dismissed, and upon appeal, the dismissal was upheld by a three-judge panel of the D.C. Circuit Court of Appeals. SCOTUS denied certiorari on the Sheriff's appeal, ending the matter.⁶⁹

However, the Texas federal court preliminarily enjoined both initiatives (not the original DACA, but its expansion and extension to three years upon renewal), as well as DAPA.⁷⁰ The Department of Justice appealed,⁷¹ and the Fifth Circuit Court of Appeals panel upheld Judge Andrew Hanen's ruling in a 2-1 decision.⁷² The U.S. Supreme Court—

⁶⁴ See *Rivera Hernandez v. Alford*, No. 2016-CV-274418 (Ga. Super. Ct. Dec. 30, 2016) (issuing a final order); Charles Kuck, *When Can A DACA Student Pay In-State Tuition In Georgia? Now!*, MUSINGS ON IMMIGRATION (Jan. 2017), <http://musingsonimmigration.blogspot.com/2017/01/when-can-daca-student-pay-in-state.html> [<https://perma.cc/3MDA-JM2U>] (allowing DACA students to obtain in-state tuition); *Arizona ex. rel. Brnovich v. Maricopa Cty. Cmty. Coll. Dist. Bd.*, No. 2013-009093 (Ariz. Super. Ct. May 5, 2015), *rev'd*, 395 P.3d 714, 719-24, 728-29 (Ariz. App. Ct. June 20, 2017) (reversing superior court ruling on, *inter alia*, lack of congressional intent to support finding benefits applied).

⁶⁵ See Bono, *supra* note 63, at 214-18 (covering state drivers' licenses). See also *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1067-69 (9th Cir. 2015), *cert. denied*, 135 S. Ct. 889 (Dec. 17, 2014) (holding that Arizona's policy of denying drivers' licenses to DACA recipients violates the Equal Protection Clause).

⁶⁶ See Josh Blackman, *Gridlock*, 130 HARV. L. REV. 241, 278-304 (2016) (critiquing *United States v. Texas*, 136 S. Ct. 2271 (2016)). Although I disagree with virtually every point made by Professor Josh Blackman in his *Gridlock* article, it is a good specimen of principled objections to DAPA, and to a lesser extent, DACA and its extension.

⁶⁷ See *Arpaio v. Obama*, 27 F. Supp. 3d 185, 211 (D.D.C. 2014) (striking down an Arizona Sheriff's challenge to DACA), *aff'd* 797 F.3d 11, 25 (D.C. Cir. 2015); 136 S. Ct. 900 (2016) (denying certiorari).

⁶⁸ See *Texas v. United States*, 86 F. Supp. 3d 591, 676 (S.D. Tex. 2015) (issuing preliminary injunction).

⁶⁹ See *Arpaio v. Obama*, 136 S. Ct. 900 (2016) (denying certiorari).

⁷⁰ See *Texas*, 86 F. Supp. 3d at 676 (issuing preliminary injunction).

⁷¹ See *Texas v. United States*, 787 F.3d 733, 743 (5th Cir. 2015) (denying stay of injunction); *Texas v. United States*, 809 F.3d 134, 188 (5th Cir. 2015) (affirming preliminary injunction).

⁷² See *Texas*, 787 F.3d at 743 (denying stay of injunction); *Texas*, 809 F.3d at 188 (affirming preliminary injunction). See generally Am. Immigration Council, *supra* note 63 (finding that Texas has standing to bring lawsuit and would "likely prevail" on APA claim).

absent the recently-deceased Justice Antonin Scalia – tied 4-4, upholding the District Court’s original Temporary Restraining Order and returning the case to Brownsville.⁷³ When the Trump Administration took office in January 2017, there was no actual ruling on the constitutionality of DACA, its extension to three years, or DAPA.⁷⁴ The *status quo ante* set in, with no further formal action taken by the Trump Administration on DACA, despite confusing developments that led to the removal of one DACA recipient and the accusation that another was ineligible.⁷⁵

After a flurry of cases concerning DACA, the question became: how are the hundreds of thousands of DACAmented students to be treated, as their new benefits rendered them eligible to remain in college, and to move into licensed occupations and other employment?⁷⁶ In addition, there were still many college students who were undocumented and ineligible for DACA due to a variety of reasons, such as age, inability to meet the criminal tests, or inability to be admitted into or afford college,

⁷³ See *United States v. Texas*, 136 S. Ct. 2271, 2272 (2016) (affirming the temporary enjoinder). An equally divided (4-4) Court affirmed, by per curiam opinion, the judgment of the appeals court below. The Fifth Circuit had temporarily enjoined DAPA and the extension of DACA, resulting in the remand back to the federal district court to determine whether the discretionary actions should be permanently enjoined.

⁷⁴ See Dana Goodyear, *Defiance and Anxiety Among Undocumented Youth in Trump’s America*, NEW YORKER (Nov. 11, 2016), <http://www.newyorker.com/news/news-desk/defiance-and-anxiety-among-undocumented-youth-in-trumps-america> [<https://perma.cc/S9C6-BVN5>] (discussing President Trump’s campaign promise to eliminate DACA); Priscilla Alvarez, *Trump’s Quiet Reversal on Deporting Young Undocumented Immigrants*, ATLANTIC (April 2017), <https://www.theatlantic.com/politics/archive/2017/04/trumps-quiet-reversal-on-deporting-young-undocumented-immigrants/524367/> [<https://perma.cc/7R4K-GJBX>] (examining DACA’s bleak future under the Trump Administration). The uncertainty of the Administration’s policy intentions added to the *in terrorem* effect upon DACA recipients, especially when a handful were deported for confusing reasons. See, e.g., Samantha Schmidt & Peter Holley, *A ‘dreamer’ claims he was secretly deported. The government claims it never happened*, WASH. POST (Apr. 19, 2017), http://wapo.st/2orwIdH?tid=ss_mail [<https://perma.cc/QRE8-2J7T>] (highlighting the secret deportation of a DACA recipient).

⁷⁵ As of this printing, SCOTUS had scheduled arguments on the complex travel ban, for October 2017. Daniel M. Kowalski, *Travel Ban 3.0 - Presidential Proclamation* (Sept. 24, 2017) – UPDATED, LexisNexis Legal Newsroom Immigration Law, <https://shar.es/1VCIRQ>. The Trump Administration’s proposed travel ban officially expired on October 24, 2017, and the U.S. Supreme Court withdrew its grant of certiorari, accordingly. The issue is still wending its way throughout various federal courts. See also *6 States Seek to Intervene in Hawaii’s Travel Ban Challenge*, US NEWS (Oct. 30, 2017), <https://www.usnews.com/news/best-states/hawaii/articles/2017-10-30/6-states-seek-to-intervene-in-hawaiis-travel-ban-challenge> [<https://perma.cc/ZF7V-97R9>].

⁷⁶ See Angela D. Adams, *Deferred Action for ‘Dreamers’: Advising DACA Students About Affording College*, NAT’L ASS’N OF STUDENT FIN. AID ADMIN. (Dec. 6, 2012), https://www.nasfaa.org/news-item/1899/Deferred_Action_for_Dreamers_Advising_DACA_Students_About_Affording_College [<https://perma.cc/SR2N-8NP5>] (discussing considerations for students right after the DACA program was instituted).

the pathway to DACA.⁷⁷ These undocumented students or undocumented persons were unable to navigate DACA, hence they were unauthorized to receive employment authorization, SSNs, or the other collateral benefits of DACA, such as “lawful presence.”⁷⁸ They were, in effect, removable once they were known to the government or came into governmental sights.⁷⁹ Of all the immigration categories, individuals with similar circumstances as these students might find work, but have no legal status, no lawful presence, and no prospects of ever being able to adjust their liminal illegality into a pathway to citizenship, or even to the safer confines of DACA.⁸⁰

⁷⁷ See *id.* (outlining the requirements for qualifying under DACA and the issues arising with DACA qualified students paying for school).

⁷⁸ See FAQ, *supra* note 50 (discussing the benefits conferred by deferred action for DACA recipients).

⁷⁹ See *id.* (explaining that if deferred status is not conferred under DACA, removal proceedings can be instituted).

⁸⁰ Literally dozens of stories in the various social media have addressed the fear and liminality of non-citizen students, whether undocumented, DACAmented, or legally enrolled as non-immigrants in student status. See generally Katherine Mangan, *DACA Remains Intact for Now, but Students Without It Are More Fearful Than Ever*, CHRON. HIGHER EDUC. (Mar. 1, 2017), <http://www.chronicle.com/article/DACA-Remains-Intact-for-Now/239344> [<https://perma.cc/HL8K-RFJL>] (discussing DACA recipients fear of getting deported); Stephanie Saul, *Amid ‘Trump Effect’ Fear, 40% of Colleges See Dip in Foreign Applicants*, N.Y. TIMES (Mar. 16, 2017), <https://www.nytimes.com/2017/03/16/us/international-students-us-colleges-trump.html> [<https://perma.cc/K2QW-29RW>] (demonstrating international students’ persistence in college applications despite President Trump’s immigration policies); Sameer M. Ashar et al., *Navigating Liminal Legalties Along Pathways To Citizenship: Immigrant Vulnerability and the Role of Mediating Institutions*, LEGAL STUD. RES. PAPER SERIES NO. 2016-05 (Feb. 17, 2016) [hereinafter *Navigating Liminal Legalties*], https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2733860 [<https://perma.cc/43KK-8QVG>] (exploring the personal and legal barriers of gaining legal status in the United States); Leisy J. Abrego & Sarah M. Lakhani, *Incomplete Inclusion: Legal Violence and Immigrants in Liminal Legal Statuses*, 37 L. & POL’Y 265–93 (2015) (focusing on social problems encountered by immigrants with temporary legal status).

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Within You Without You

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Table One: DACA Data (through 2016)

Period	Requests by Intake, Biometrics and Case Status								
	Intake ¹				Biometrics ⁶		Case Review ⁸		
	Requests Accepted ²	Requests Rejected ³	Total Requests Received ⁴	Average Accepted/Day ⁵	Biometrics Scheduled ⁷	Requests Under Review ⁹	Approved ¹⁰	Denied ¹¹	Pending ¹²
Fiscal Year - Total									
2012	152,431	5,395	157,826	4,763	124,055	38,024	1,684	-	150,747
2013	427,614	16,352	443,966	1,704	445,013	75,901	472,133	11,036	95,192
2014	238,896	24,827	263,723	952	209,670	99,739	158,526	21,164	154,398
2014 Initial	122,423	19,064	141,487	488	N/A	N/A	136,275	21,161	60,179
2014 Renewal	116,473	5,763	122,236	1,370	N/A	N/A	22,251	0	94,219
2015	448,405	35,175	483,580	1,786	525,499	45,087	511,623	21,557	69,623
2015 Initial	84,879	7,161	92,040	388	N/A	N/A	91,131	19,261	34,666
2015 Renewal	363,526	28,014	391,540	1,448	N/A	N/A	420,492	2,296	34,957
2016	91,174	3,493	94,667	735	68,796	37,161	95,438	7,491	57,868
2016 Initial	32,165	1,131	33,296	259	N/A	N/A	27,062	5,810	33,959
2016 Renewal	59,009	2,362	61,371	476	N/A	N/A	68,376	1,681	23,909
Total Cumulative	1,358,520	85,242	1,443,762	1,495	1,373,033	37,161	1,239,404	61,248	57,868
Total Cumulative Initial	819,512	49,103	868,615	902	N/A	N/A	728,285	57,268	33,959
Total Cumulative Renewal	539,008	36,139	575,147	1,172	N/A	N/A	511,119	3,980	23,909

Fiscal Year 2016 by Quarter¹³									
Q1. October - December	47,383	2,814	50,197	764	53,009	33,034	55,907	4,154	56,945
Q1. October - December Initial	17,670	896	18,566	285	N/A	N/A	13,522	3,239	35,575
Q1. October - December Renewal	29,713	1,918	31,631	479	N/A	N/A	42,385	915	21,370
Q2. January - March	43,791	679	44,470	706	15,787	37,161	39,531	3,337	57,868
Q2. January - March Initial	14,495	235	14,730	234	N/A	N/A	13,540	2,571	33,959
Q2. January - March Renewal	29,296	444	29,740	473	N/A	N/A	25,991	766	23,909
Q3. April - June									
Q3. April - June Initial									
Q3. April - June Renewal									
Q4. July - September									
Q3. July - September Initial									
Q3. July - September Renewal									

D Data withheld to protect requestors' privacy.

Represents zero

¹ Refers to a request for USCIS to consider deferred removal action for an individual based on guidelines described in the Secretary of Homeland Security's memorandum issued June 15, 2012. Each request is considered on a case-by-case basis. See <http://www.uscis.gov/childhoodarrivals> [<https://perma.cc/LU3F-D5JW>].

² The number of new requests accepted at a Lockbox during the reporting period.

³ The number of requests rejected at a Lockbox during the reporting period.

⁴ The number of requests that were received at a Lockbox during the reporting period.

⁵ The number of requests accepted per day at a Lockbox as of the end of the reporting period. Also note the average accepted per day for initial plus renewal will not equal the total average.

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⁶ Refers to capture of requestors' biometrics

⁷ The number of appointments scheduled to capture requestors' biometrics during the reporting period.

⁸ Refers to consideration of deferring action on a case-by-case basis during the reporting period.

⁹ The number of new requests received and entered into a case-tracking system during the reporting period.

¹⁰ The number of requests approved during the reporting period.

¹¹ The number of requests that were denied, terminated, or withdrawn during the reporting period.

¹² The number of requests awaiting a decision as of the end of the reporting period.

¹³ Data on biometrics scheduled is not available past 01/31/2016. Totals reflect up to 1/31/2016.

NOTE: 1) Some requests approved or denied may have been received in previous reporting periods.

2) The report reflects the most up-to-date estimate available at the time the report is generated.

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Biometrics Capture Systems, CIS Consolidated Operational Repository (CISCOR), March 2016

A. *Federal and State Jurisdictions and Occupational Licensing Governance – California Lawyers as a Case Study*

This brief review masks many important features that matter, but are required to situate the data at the heart of this project.⁸¹ The complex worlds of occupational licensing have many features in common, but each specific area has its own top-to-bottom features, grounded in state statutes, regulations, common law, and trade practices.⁸² For example, lawyer licensing is usually the domain of state statute, but in a number of states, the details are determined by a state bar, a separate licensing authority (such as a state board of law examiners or bar examiners), or the state's supreme court, or an amalgam of the various decision makers.⁸³ A longstanding tradition of self-governance within law licensure has given much discretion to the final arbiter in each state to determine who may join the profession and have permission to practice law in that jurisdiction,

⁸¹ See *infra* Part I.A (conceding that the brief review of the article masks important features of this project).

⁸² See Paul J. Larkin, Jr., *Public Choice Theory and Occupational Licensing*, 39 HARV. L.J. & PUB. POL'Y 209, 212–13 (2016) (discussing the history of occupational licensing). Cf. Walter Gellhorn, *The Abuse of Occupational Licensing*, 44 U. CHI. L. REV. 6, 6 (1976) (pointing out that the commonality in over hundreds of professions is requiring occupational licenses).

⁸³ See generally Russell G. Pearce et al., *A Taxonomy of Lawyer Regulation: How Contrasting Theories of Regulation Explain the Divergent Regulatory Regimes in Australia, England/Wales, and North America*, 16 LEGAL ETHICS 258 (2013) (discussing the North American approach to legal services regulation); Nicola Persico, *The Political Economy of Occupational Licensing Associations*, 31 J. L. ECON. & ORGS. 213 (2014) (examining the political economy of licensure expansion).

making it a very complicated pathway and journey, made all the more difficult by the reciprocal effect of bar admissions across state borders, where sophisticated legal practices often require multi-state licensing and federal and state eligibility to try complex cases or negotiate transactions.⁸⁴ In addition, some fields of specialized law are predominantly federal, such as in the fields of immigration law and patent law, and therefore these federal practice areas will implicate certain federal bar admissions requirements.⁸⁵

This is evident in the largest state, California, where there is a state statute that sets out provisions for the state bar, governed by a Board of Trustees.⁸⁶ Its provisions include: Title 1. Global Provisions, Title 2. Rights and Responsibilities of Members, Title 3. Programs and Services, Title 4. Admissions and Educational Standards, Title 5. Discipline, Title 6. Governance, Title 7. Miscellaneous Provisions, and the California Rules of Professional Conduct.⁸⁷ The State Bar Act is set out by the California *Business & Professions Code Div. 3—Professions and Vocations Generally, Ch. 4—Attorneys*, and codifies the practice of law in California.⁸⁸ The state bar exam and admissions procedures are administered by its Committee of Bar Examiners.⁸⁹ (I include this outline in some detail, so as to give a sense of how complex the overall licensure and maintenance of licenses can be. The actual topics run over a dozen pages, simply outlining the subject matter.)⁹⁰

This is just one occupational licensing architecture, albeit a highly regulated arrangement and, in some respects, a protectionist scheme, designed to limit the important medallion to a limited number of

⁸⁴ See Pamela A. McManus, *Have Law License: Will Travel*, 15 GEO. J. LEGAL ETHICS 527, 528–30 (2002) (explaining complex issues related to law licensure). In this article, McManus explores the history of the State’s power to regulate lawyers through licensure and advocates for the need of a multijurisdictional law practice (MJPOL) that would allow lawyers to service clients in a state other than where the lawyer has been licensed. *Id.* See also Trippe S. Fried, *Licensing Lawyers in the Modern Economy*, 31 CAMPBELL L. REV. 51, 52–53 (2008) (outlining the need for businesses to hire multijurisdictional lawyers to negotiate business transactions).

⁸⁵ See generally Nicholas Matich, *Patent Office Practice after the America Invents Act*, 23 FED. CIR. B.J. 225, 244 (2013); Ken Port et al., *Where Have All the Patent Lawyers Gone: Long Time Passing*, 97 J. PAT. & TRADEMARK OFF. SOC’Y 193, 198 (2015).

⁸⁶ See CAL. R. STATE BAR.

⁸⁷ CAL. R. STATE BAR tit. 1 *et seq.*

⁸⁸ CAL. BUS. & PROF. CODE § 6000 (West, Westlaw through Ch. 248 of 2017 Reg. Sess.) (stating that this is the chapter on attorney’s and “may be cited as the State Bar Act”). Chapter four of California’s Business and Professions Code comprises sixteen articles which govern attorneys in the state. *Id.*

⁸⁹ See *id.* § 6046 (West, Westlaw through Ch. 179 of 2017 Sess.) (showing powers of California’s examining committee).

⁹⁰ See Larry E. Ribstein, *Lawyers as Lawmakers: A Theory of Lawyer Licensing*, 69 MO. L. REV. 299, 303–04 (2004) (outlining the costs and risks of licensure for lawyers).

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seekers.⁹¹ In this welter of complex governance in California law admissions, there had been no reference to or requirement of immigration status or citizenship until 2008, in effect, allowing undocumented students to take and pass the bar and truthfully answer all the questions posed for admission and membership.⁹² If and when they met all the eligibility criteria, they were admitted, in small numbers, and formed a Dream Bar Association.⁹³ Discussions with California scholars and bar admissions personnel have estimated that between one and two dozen such undocumented lawyers had been licensed in the state, prior to the case of Sergio Garcia, who was born in 1977 in Mexico, of Mexican parents.⁹⁴

Garcia was residing in California without legal status, although he had lived in the United States almost all his life, and continuously since 1994.⁹⁵ Due to the complexities of U.S. immigration law, his undocumented father had earned LPR status, and eventually became a U.S. Citizen, but due to long queues in lines for Mexican dependents, his son Sergio had been waiting for nearly twenty years for an adjustment of status.⁹⁶ This PRUCOL-like limbo is indicative of the often-cruel and senseless nature of immigration, especially in its slow crawl for would-be beneficiaries from over-subscribed countries such as Mexico.⁹⁷

When DACA was enacted in 2012, Garcia was too old to apply, but he received his law degree from Cal Northern School of Law in May 2009, and took and passed the July 2009 California bar examination, a year after the Committee of Bar Examiners began asking for immigration information on its application. As the California Supreme Court summarized:

the Committee ‘has submitted the name of Sergio C. Garcia (hereafter Garcia or applicant) for admission to the

⁹¹ See *id.* at 301 (“[L]icensing of lawyers . . . accomplishes little other than keeping the price of legal services and lawyers’ wages high by restricting entry into the profession.”).

⁹² See Jordan Fabian, *Sergio Garcia: USA’s First Undocumented Lawyer*, ATLANTIC (Jan. 6, 2014), <https://www.theatlantic.com/politics/archive/2014/01/sergio-garcia-usas-first-undocumented-lawyer/430509/> [<https://perma.cc/N7MR-TSAF>] (discussing the case of Sergio Garcia, a law school graduate who passed the bar exam but was denied admission to California’s bar).

⁹³ See Nat’l Bar Ass’n for Undocumented Laws. & L. Students, *Mission Statement*, DREAM BAR ASS’N, <https://dreambarassociation.wordpress.com/mission-statement/> [<https://perma.cc/3SQG-J9YH>] (setting out the membership and purpose of the Dream Bar Association).

⁹⁴ See *In re Garcia*, 315 P.3d 117, 121 (Cal. 2014) (highlighting the entrance of Sergio Garcia to the United States from Mexico).

⁹⁵ See *id.* (describing Garcia’s residency history in the United States).

⁹⁶ See *id.* at 121–22 (explaining the path to legal status for Sergio Garcia’s father as compared to Sergio’s long wait for status adjustment).

⁹⁷ See *id.* at 121 (acknowledging the backlog of visas available for Mexican immigrants).

State Bar. In conjunction with its certification, the Committee has brought to the court's attention the fact that Garcia's current immigration status is that of an undocumented immigrant, and has noted that the question whether an undocumented immigrant may be admitted to the State Bar is an issue that has not previously been addressed or decided by this court. We issued an order to show cause in this matter to address the question.⁹⁸

Our order to show cause requested briefing on a number of issues raised by the Committee's motion to admit Garcia to the State Bar, including the proper interpretation of a federal statute — section 1621 of title 8 of the United States Code (hereafter section 1621) — that generally restricts an undocumented immigrant's eligibility to obtain a professional license but that also contains a subsection expressly authorizing a state to render an undocumented immigrant eligible to obtain such a professional license through the enactment of a state law meeting specified requirements.⁹⁹ Very shortly after we held oral argument in this matter, the California Legislature enacted a statute that was intended to satisfy this aspect of section 1621 and the Governor signed that legislation into law. (Bus. & Prof. Code, § 6064, subd. (b); Stats. 2013, ch. 573, § 1, enacting Assem. Bill No. 1024 (2013–2014 Reg. Sess.) as amended Sept. 6, 2013.) The new legislation became effective on January 1, 2014.¹⁰⁰

In light of the recently enacted state legislation, we conclude that the Committee's motion to admit Garcia to the State Bar should be granted."¹⁰¹

The new statute provided in Section 6064:

- (a) Upon certification by the examining committee that the applicant has fulfilled the requirements for admission to practice law, the Supreme Court may admit the applicant as an attorney at law in all the courts of this state and may direct an order to be

⁹⁸ *Id.* at 120–21.

⁹⁹ *In re Garcia*, 315 P.3d at 121.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* (granting Sergio Garcia admittance to the State Bar of California).

entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court.¹⁰²

- (b) Upon certification by the examining committee that an applicant who is not lawfully present in the United States has fulfilled the requirements for admission to practice law, the Supreme Court may admit that applicant as an attorney at law in all the courts of this state and may direct an order to be entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court. (*Amended by Stats. 2013, Ch. 573, Sec. 1. Effective January 1, 2014.*)¹⁰³

It is a fascinating narrative, and makes California the first State to affirmatively grant authorization for an undocumented person (one “who is not lawfully present in the United States”) to be licensed to practice law.¹⁰⁴ Florida has passed a similar law, but it is limited to applicants – like those with DACA – who are “lawfully present,”¹⁰⁵ not

¹⁰² CAL. BUS. & PROF. CODE § 6064 (West, Westlaw through Ch. 179 of 2017 Reg. Sess.).

¹⁰³ *Id.* § 6064 (West, Westlaw through Ch. 179 of 2017 Sess.); *In re Garcia*, 315 P.3d at 121 (discussing the legislative enactment of Section 6064).

¹⁰⁴ Andre Byik, *Formerly Undocumented Chico Lawyer Sergio Garcia Pays Taxes with a Smile*, CHICO ENTERPRISE-RECORD (Feb. 23, 2016, 7:16 PM), <http://www.chicoer.com/article/NA/20160223/NEWS/160229897#.WP0S78yYa2g> [<https://perma.cc/ER4K-EFKZ>] (noting Sergio Garcia’s admittance to the California State Bar as an undocumented immigrant).

¹⁰⁵ Florida’s statute regarding requirements for bar admission states:

Upon certification by the Florida Board of Bar Examiners that an applicant who is an unauthorized immigrant who was brought to the United States as a minor; has been present in the United States for more than 10 years; has received documented employment authorization from the United States Citizenship and Immigration Services (USCIS); has been issued a social security number; if a male, has registered with the Selective Service System if required to do so under the Military Selective Service Act, 50 U.S.C. App. 453; and has fulfilled all requirements for admission to practice law in this state, the Supreme Court of Florida may admit that applicant as an attorney at law authorized to practice in this state and may direct an order be entered upon the court’s records to that effect.

FLA. STAT. ANN. § 454.021(3) (West 2014). *See generally* Marianela Toledo, *Illegal Immigrants Can Practice Law in Florida*, HUMAN EVENTS (May 22, 2014, 6:00 AM), <http://humanevents.com/2014/05/22/illegal-immigrants-can-practice-law-in-florida/> [<https://perma.cc/2RWJ-WCQY>] (highlighting the new Florida law allowing illegal immigrants to practice law in the state). A fascinating case study of Jose Manuel Godinez Samperio’s case has been published by his FSU law professor. *See also* Wendi Adelson, *Lawfully Present Lawyers*, 18 CHAPMAN L. REV. 387, 387–89 (2015) (recounting the experiences

undocumented, and New York has had similar administrative law actions to allow DACA recipients to practice law in that State.¹⁰⁶ And, as becomes evident in the study data, some states are like pre-2008 California and ask no immigration questions.¹⁰⁷ Hence, there can be no immigration lies or equivocations. Given the rising costs of legal education and other forms of professional education, the uncertainties of DACA, the tantalizing reach of comprehensive immigration reform, and the continuing refinement of collateral legal issues, it is not clear how these issues will play out, but it is clear that some number of law students, medical students, and others with post-baccalaureate qualifications will come forth in jurisdictions that have immigration policies and practices that will have to be clarified or modified in the case of these nascent professionals.¹⁰⁸

of an undocumented individual and the hurdles he faced trying to obtain a license to practice law). It also has a comprehensive review of lawyer licensing in its Appendix, at 400–418. *Id.*

¹⁰⁶ Cesar Vargas entered the country from Mexico without authorization when he was five years old, and has resided continuously since then. He was sworn into the New York state bar in 2016 at the age of thirty-two. He graduated from law school and passed the New York State bar exam in 2011. He applied for admission to the bar in 2012, but was denied by the Committee on Character and Fitness because he lacked legal status. While he received DACA in 2013, his case was referred to the Appellate Division of State Supreme Court, which voted to admit him, pending resolution of an ill-advised 2015 arrest record for political protest. After six months of probation, he was able to expunge his record and his admission was granted. He was not the first lawyer in New York without legal status, but the bar had not inquired into immigration status before his case. See Kirk Semple, *Bar Exam Passed, Immigrant Still Can't Practice Law*, N.Y. TIMES (Dec. 3, 2013), <http://www.nytimes.com/2013/12/04/nyregion/for-immigrant-passing-the-bar-exam-wasnt-enough.html> [<https://perma.cc/S6FD-V9HU>] (examining the denial of Cesar Vargas to the New York bar); Liz Robbins, *An Immigrant's Four-Year Fight to Become a Lawyer Ends in Celebrations*, N.Y. TIMES (Feb. 3, 2016), <https://www.nytimes.com/2016/02/04/nyregion/immigrants-4-year-legal-fight-to-become-a-lawyer-ends-in-celebration.html> [<https://perma.cc/U7UB-BC3M>] (outlining Cesar Vargas' recent win and admission to the New York Bar).

¹⁰⁷ See Stephane Mahe, *American Bar Association to Allow Illegal Immigrants to Become Lawyers*, RT NEWS (Aug. 15, 2017), <https://www.rt.com/usa/399713-us-bar-opens-access-undocumented/> [<https://perma.cc/WP4J-25LU>] (revealing that prior to California allowing illegal immigrants to become lawyers, seven states were already allowing them to become lawyers).

¹⁰⁸ In Texas, for example, a 2016 news story revealed that only one state medical school admitted DACA students to study, even though the state legislature has provisions for certain undocumented students to receive resident tuition and state financial assistance. See, e.g., Reynaldo Leonos, Jr., *Immigration Status is Keeping Students Out of Medical School*, TEX. STANDARD (May 24, 2016, 9:30 AM), <http://www.texasstandard.org/stories/students-in-immigration-status-limbo-lack-medical-school-options/> [<https://perma.cc/Y2VP-BA2D>] (indicating that only the University of North Texas admits DACA recipients to its medical school). Inasmuch as the state provides resident tuition even for undocumented college students (without reference to undergraduate or graduate level), Texas is a ripe target for challenges both to its medical and law licensing practices, especially when the attorney requirements appear to envision DACAmented applicants. Rule II provides: “applicants must (5) qualify under one of the following categories: (D) be otherwise authorized to work lawfully in the United States, including in a period of Optional Practical Training.” TEX. B.

And it is not too early to anticipate some second-order issues that likely might arise, even once admissions may be granted.¹⁰⁹ For example, the comity arrangement of reciprocity that has arisen for multi-state law practice will bog down if no other state accepts such members whose immigration status is not the same as the reciprocal state's requirements – even with reciprocity language on the books.¹¹⁰ If they are undocumented attorneys, they will not have work authorization, and so being hired may place them and employers at risk, thus leaving them with a restricted number of employment opportunities outside the solo practice of law.¹¹¹ There are sometimes additional filters required for a comprehensive practice, such as permission to practice before a federal tribunal or entity.¹¹² In Garcia's case, the Department of Justice entered into the *amicus* fray,¹¹³ and argued that he should not be admitted to the state

ADMISSIONS RULE II (2014). See generally Jeremy Raff, *What Will Happen to Undocumented Doctors?*, ATLANTIC (Feb. 2, 2017), <https://www.theatlantic.com/video/index/515466/what-will-happen-to-undocumented-doctors/> [<https://perma.cc/SYZ8-9653>] (discussing the uncertain fate of undocumented physicians). A list of Admissions Policies of Medical Schools Open to undocumented and DACA Applicants is maintained, but the number of undocumented and DACAmented medical students is apparently small. <https://www.pomona.edu/sites/default/files/daca-medschools-accepting.pdf> [<https://perma.cc/2XTZ-J87J>]. See also Mina Kim, *UCSF's First Undocumented Medical Student Begins Training*, KQED STATE OF HEALTH (Sept. 8, 2014), <http://www.kqed.org/stateofhealth/2014/09/08/ucsfs-first-undocumented-medical-student-begins-training/> [<https://perma.cc/T6Y4-D6LA>] (highlighting the first undocumented medical student at UCSF).

¹⁰⁹ See, e.g., Jennifer Medina, *Allowed to Join the Bar, but Not to Take a Job*, N.Y. TIMES (Jan. 3, 2014), <https://www.nytimes.com/2014/01/03/us/immigrant-in-us-illegally-may-practice-law-california-court-rules.html> [<https://perma.cc/EGW3-M6KK>] (discussing that even after admission to the state bar, under federal law an illegal immigrant cannot be legally hired).

¹¹⁰ See U.S. LEGAL, RECIPROCITY, <https://attorneys.uslegal.com/licensing-of-attorneys/reciprocity/> [<https://perma.cc/WT64-USQS>] (last visited Sept. 21, 2017) (containing a look at the reciprocity agreements for all the states). Reciprocity agreements are entered into, and the terms decided, independently by the individual states. States could therefore require immigration status concurrent with their laws as a condition to reciprocity. *Id.*

¹¹¹ See, e.g., Medina, *supra* note 109 (outlining Sergio Garcia's acceptance to the California State Bar, but stating that his employment opportunities are limited).

¹¹² See Dan Cadman, *Illegal Aliens Practicing Law*, CTR. FOR IMMIGRATION STUDIES (July 19, 2017), <https://cis.org/Cadman/Illegal-Aliens-Practicing-Law> [<https://perma.cc/4N96-SKBM>] (noting that it would "defy logic" for federal immigration courts to give undocumented immigrants the ability to practice before the Executive Office for Immigration Review).

¹¹³ The DOJ brief argued that Sec. 1621 preempted the California Supreme Court from adjudicating the matter, and that anyone such as Garcia who was not authorized to work could not fully serve as a lawyer. See Brief for the United States, at 5–6 as Amicus Curiae Supporting Applicant, *In re Garcia*, 315 P.3d 117 (Cal. 2014) (No. S202512) (arguing that Section 1621 preempted California law and prohibited the admission of Sergio Garcia to the California State Bar).

practice based upon their reading of Section 1621, on which the California Supreme Court ruled – notwithstanding the exceptions spelled out in some detail:

§ 1621. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits

(a) In general

(b) Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not--

(1) a qualified alien (as defined in section 1641 of this title),

(2) a nonimmigrant under the Immigration and Nationality Act, or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year, is not eligible for any State or local public benefit (as defined in subsection (c) of this section). . .

(c) “State or local public benefit” defined

(1) Except as provided in paragraphs (2) and (3), for purposes of this subchapter the term “State or local public benefit” means--

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; . . .

(d) State authority to provide for eligibility of illegal aliens for State and local public benefits

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.¹¹⁴

Inasmuch as California did just this for lawyers, a “professional license . . . provided by an agency of a State or local government or by

¹¹⁴ 8 U.S.C. § 1621 (1998). I have written about this provision in some detail in the context of state postsecondary residency requirements. See, e.g., Michael A. Olivas, *IIRIRA, The DREAM Act, and Undocumented College Student Residency*, 30 J. OF COLL. & UNIV. L. 435, 450–455 (2004).

appropriated funds of a State or local government” triggers the exception to the federal prohibition.¹¹⁵ And because DACA provides “lawful presence” to its recipients, this provision is not even applicable for the undocumented, the provision to allow licenses could be triggered by any state that enacts state law, whether by statute or other operation of law, for the undocumented (without lawful presence) or the DACAmented (with lawful presence).¹¹⁶ This reveals the extent to which federal and state law interact in licensing and immigration governance, and in very a complicated fashion regarding DACA.¹¹⁷

II. SAMPLING OF OTHER STATES’ ATTORNEY LICENSING

Parsing these high-caste occupational law licensing immigration criteria would require book-length observations, but selecting several examples here from Appendix I will suffice to make the point that this is a rich diet, with many tasty morsels evident and larders full of ripe fruit.¹¹⁸ To continue the theme of attorney licensing, see the first four alphabetical states:

Alabama: “Only a person who is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, may be licensed to practice law in this state.” This broad categorization could include many non-immigrants who were “legally present,” and DACA provides the requisite “lawful presence,” technically making it possible in theory for the DACAmented and others with a variety of immigration categorizations to become licensed.¹¹⁹

¹¹⁵ 8 U.S.C. § 1621(c) (2000).

¹¹⁶ This was essentially the position cited by DOJ in opposition to the Sergio Garcia bar admission matter. See Brief for the United States, *supra* note 113, at 5–6.

¹¹⁷ See Tal Kopan, *States Try to Force Trump’s Hand on DACA*, CNN (July 1, 2017, 1:16 P.M.), <http://www.cnn.com/2017/06/30/politics/trump-daca-bind/index.html> [<https://perma.cc/VRE6-LLLV>] (detailing several states’ threat to challenge DACA in court if President Trump refuses to end the program). See generally Jennifer Chacon, *Who is Responsible for U.S. Immigration Policy?*, INSIGHTS ON L. & SOC’Y (2014), https://www.americanbar.org/publications/insights_on_law_and_society/14/spring-2014/who-is-responsible-for-u-s-immigration-policy.html [<https://perma.cc/8VTV-ZM9Q>] (discussing the interaction between the federal and state governments concerning immigration law).

¹¹⁸ See *infra* Appendix I: Professional License Eligibility Requirements (Physicians, Nurses, Attorneys, Teachers/Educators) (illustrating that the high-caste occupational law licensing immigration criteria is unpredictable).

¹¹⁹ ALA. CODE § 34-3-6(d) (2017).

Alaska: “The application shall be made under oath and contain such information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board”; however, the application must contain the applicant's social security number. This state is silent on required immigration status, provided the applicant has a SSN—available to DACA recipients; it is not clear if an Individual Taxpayer Identification Number (ITIN) could suffice.¹²⁰

Arizona: “If a US citizen, a copy [is required] of your birth certificate, passport information page, valid driver’s license, completed I-9, or certificate of naturalization (copies allowed). If not a citizen of the USA, copies of official documentation of immigration status.” This is a particularly inconsistent requirement in a state that has been an active litigant on both sides of benefits-eligibility in the immigration and especially the DACA context. But the technical eligibility language (“If not a citizen of the USA, copies of official documentation of immigration status”) covers a number of immigration categories, and is unclear on its reach. As just one pertinent example, any non-immigrant student or tourist could provide such documentation.¹²¹

Arkansas: “Candidates may be a United States citizen, an alien lawfully admitted for permanent residence, or an alien otherwise authorized to work or study lawfully in the United States.” This requirement appears to cover the waterfront, but the last phrase (“or an alien otherwise authorized to work or study lawfully in the United States”) would appear to enable licensing for both DACA recipients, who are “authorized to work,” or some F-1 students. Even the seemingly-straightforward language of being “authorized to . . . study lawfully in the United States” is not definitive, as many categories of non-

¹²⁰ ALASKA ST. B. RULE 44.1 (2014); Internal Revenue Serv., *Individual Taxpayer Identification Number*, <https://www.irs.gov/individuals/individual-taxpayer-identification-number-itin#.WNgShh6wj2g.mailto> [<https://perma.cc/L4RV-T4GU>] (last updated Apr. 20, 2017) (explaining the use of Individual Taxpayer Identification Numbers).

¹²¹ U.S. Dep’t of State, Bureau of Consular Affairs, *Student Visa*, <https://travel.state.gov/content/visas/en/study-exchange/student.html> [<https://perma.cc/N3UV-553Z>] (last visited May 25, 2017).

immigrants may enroll to study, not only the two most common F-1 or M-1 visa categories.¹²²

There are more landmines dotting this field, inasmuch as states deploy proxy measures as substitutes or elaborations for immigration status requirements, not always anticipating how the measures can change over time (such as DACA, or collateral legislation), or how imperfect or imprecise terminology are, such as “students,” “SSN holders,” or “lawful presence.”¹²³ Again, DACA became the perfect vehicle for broad eligibility, as states likely had no intent or plans to admit DACA recipients, inasmuch as the program began in 2012, and no one could have predicted the growth or even understood that Sergio Garcia could arise and challenge the complex and intricate pathways, much less that the country’s largest state would act in private relief-fashion to accommodate his application through legislation in the midst of a state court trial on that very matter of eligibility.¹²⁴ Given the large political divide over immigration-related employment, it is unlikely that Alabama intended for the DACAmended or even other non-citizens, save LPRs, to become licensed attorneys in the state.¹²⁵ After all, Alabama was embroiled in substantial litigation about college tuition for undocumented residents, and the state’s ethos has unlikely changed since that litigation.¹²⁶

¹²² ARK. B. RULE 12 (2005). See U.S. Dep’t of State, Bureau of Consular Affairs, *Student Visa*, <https://travel.state.gov/content/visas/en/study-exchange/student.html> [<https://perma.cc/N3UV-553Z>] (last visited May 25, 2017).

¹²³ See *infra* Appendix II (revealing the lack of uniformity in occupational licensing laws which illustrates that there can be no prediction or anticipation of how these laws may change or will be applied).

¹²⁴ Ironically, after the trial and Garcia’s bar admission drama were completed, his long time in the fourth preference queue as his U.S. Citizen father’s dependent was rewarded, enabling him to move from undocumented PRUCOL-ly status to an LPR. See Paul Elias, *Chico Lawyer Undocumented No More: Sergio Garcia Gets his Green Card*, CHICO ENTERPRISE-RECORD (June 4, 2015), <http://www.chicoer.com/article/NA/20150604/NEWS/150609901#.WP0SagdNNdw> [<https://perma.cc/D9X4-NFW5>] (highlighting Sergio Garcia’s obtainment of a visa).

¹²⁵ See ALA. CODE § 34-3-6(d) (2017) (recognizing that, in Alabama it is unlikely that those that who are covered under DACA will become licensed attorneys within their state).

¹²⁶ See Elise Foley, *Alabama Immigration Law Asks Doctors for Their Papers*, HUFFINGTON POST (May 18, 2013, 2:01 AM), http://www.huffingtonpost.com/2013/05/18/alabama-immigration-law_n_3295255.html [<https://perma.cc/HM57-ZNRJ>]. Indeed, the state enacted a draconian measure that, in effect, required all licensed medical personnel to prove their citizenship status:

Already-licensed physicians and physician assistants now have only two weeks to get their information to the Medical Licensure Commission. Those applying for a license for the first time will be required to either demonstrate they are in the country legally or sign a

In this vein, the Alaska requirement that would-be lawyers present SSNs pre-dated DACA and its provisions for SSNs, but a variety of tax and employment transactions require either a SSN or an Individual Taxpayer Identification Number (ITIN), which is a tax-processing number issued by the Internal Revenue Service (IRS).¹²⁷ The IRS uses ITINs for persons who are required to have a U.S. taxpayer identification number but are ineligible to obtain an SSN.¹²⁸ ITINs are issued to all non-LPR/US Citizen comers, no matter their immigration status, because even the undocumented or certain non-citizens have filing or reporting obligations under the Internal Revenue Code.¹²⁹ Technically, they have a limited purpose of tax reporting and they do not provide EAD, Social Security or other benefits, or eligibility for Earned Income Tax Credits.¹³⁰ At the same time, both are an unlikely and imprecise measure of immigration licensing eligibility.¹³¹

III. OTHER STATES AND OTHER LICENSED OCCUPATIONS

Of course, the practice of law is not alone in its high status, detailed educational, and other licensing criteria.¹³² Becoming a licensed physician is, in many respects, even more fraught with immigration implications, due to the large number of foreign-trained physicians (both United States citizens, LPRs, and international scholars).¹³³ Thus, there is a very exacting

declaration of U.S. citizenship and give proof, according to the letter. If they don't provide the information, they will not be able to receive or renew their licenses.

Id.

¹²⁷ See Internal Revenue Serv., *supra* note 120 (discussing the differences between Individual Taxpayer Identification Numbers and Social Security numbers).

¹²⁸ See Internal Revenue Serv., *supra* note 120 (noting what ITINs are used for).

¹²⁹ See Francine J. Lipman, *The 'Illegal' Tax*, 11 CONN. PUBL. INTEREST L. J. 93, 97-98 (2011) (explaining ITINs and non-citizens' filing or reporting obligations). See also Francine J. Lipman, *I've Got ITINs on My Mind*, SURLY SUBGROUP (Sept. 24, 2016), <https://surlysubgroup.com/2016/09/24/ive-got-itins-on-my-mind/> [<https://perma.cc/YC78-N3BQ>] (discussing ITINs being issued).

¹³⁰ See Internal Revenue Serv., *supra* note 120 (articulating that ITINs do not authorize individuals to work in the United States, do not provide eligibility for Social Security, and do not qualify as a dependent for Earned Income Tax Credit Purposes).

¹³¹ See *id.* (illustrating the gap in ITINs for immigration licensing eligibility because holding an ITIN does not necessarily authorize the individual to work in the United States).

¹³² See, e.g., *What Education or Type of Degree Is Needed to be a Lawyer*, STUDY.COM (last viewed on Sept. 24, 2017), http://study.com/education_needed_to_be_a_lawyer [<https://perma.cc/92AY-HSYR>] (highlighting the educational and licensing requirements needed to become a lawyer).

¹³³ See Morris M. Kleiner, *Guild-Ridden Labor Markets: The Curious Case of Occupational Licensing*, UPJOHN.ORG (2015), <http://www.upjohn.org/sites/default/files/WEfocus/guild-ridden-labor-markets.pdf> [<https://perma.cc/V7MS-MCF7>] (describing one of the more useful and detailed studies of labor markets and occupational licensing and

immigration-related series of federal licensing requirements built into the medical practice, but a review of the statutory M.D. eligibility and admissions criteria reveals similar confusion and imprecision,¹³⁴ resulting in a comprehensive architecture that is both too-much and too-little with regard to citizenship criteria.

Here, I cite the last four jurisdictions in the alphabet, from Appendix I, and their immigration categorizations for admission into the medical field:

West Virginia: “In order to comply with federal law, the West Virginia Board of Medicine is obligated to inform each applicant or licensee from whom it requests a Social Security Number that disclosing such number is MANDATORY in order for this Board to comply with the requirements of the federal National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank. If this Board should be required to make a report about one of its applicants or licensees to either of these data banks, it must report that individual’s Social Security Number.”¹³⁵

certification issues which does not venture into citizenship criteria, in an otherwise comprehensive study). It is the immigration dog that does not bark, even as he discusses comparative policies. *Id.* See, e.g., Patricia Cohen, *Moving to Arizona Soon? You Might Need a License*, N.Y. TIMES (June 17, 2016), at B1 <https://www.nytimes.com/2016/06/18/business/economy/job-licenses.html> [<https://perma.cc/D36B-E47A>] (analyzing that a variety of challenges to the world of occupational licensing have arisen, with an unusual alliance of libertarians who think the labor markets are too restrictive and progressives who feel they are too punitive, such as with rules against felons). Space limitations have precluded any detailed analysis of teacher certification, although I have reported the state requirements, which suffer from the same over-inclusiveness and under-inclusive issues as the other baccalaureate-requiring professions. Interestingly, virtually no scholar in the voluminous teacher and alternative certification field has noted these issues, providing yet another dog that has not barked. *Id.* See, e.g., Alexandra L. Klein, *The Freedom to Pursue a Common Calling: Applying Intermediate Scrutiny to Occupational Licensing Statutes*, 73 WASH. & LEE L. REV. 411, 455–56 (2016) (applying the intermediate scrutiny test to Occupational Licensing Statutes); Tim R. Sass, *Licensure and Worker Quality: A Comparison of Alternative Routes to Teaching*, 58 J.L. & ECON. 1, 10 (2015) (arguing the differences between the alternative routes needed to get a teaching license); E. Frank Stephenson and Erin E. Wendt, *Occupational Licensing: Scant Treatment in Labor Texts*, 6 ECON J. WATCH 181, 186 (2009) (analyzing the occupational licensing scant treatment in labor texts).

¹³⁴ See Jeremy Raff, *What Will Happen to Undocumented Doctors?*, ATLANTIC (Feb. 2, 2017), <https://www.theatlantic.com/video/index/515466/what-will-happen-to-undocumented-doctors/> [<https://perma.cc/U7N7-W7AT>] (analyzing the confusion around statutory M.D. eligibility and admissions criteria).

¹³⁵ State of West Virginia, *Overview*, WEST VIRGINIA BOARD OF MEDICINE (2017), <https://wvbom.wv.gov/practitioners/MD/index.asp> [<https://perma.cc/YD8V-2NZA>] (summarizing West Virginia Code § 30-3-10).

Wisconsin: There is no specific immigration status indicated, but a SSN or Employer Identification Number is required in the Application Form. If the SSN is not provided, form 1051, an Affidavit, is required to explain why the SSN was not provided on the application. Applicants must answer a question about immigration status in the application form: "CERTIFICATION OF LEGAL STATUS: I declare under penalty of law that I am (check one): A citizen or national of the United States, or, A qualified alien or nonimmigrant lawfully present in the United States who is eligible to receive this professional license or credential as defined in the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, as codified in 8 U.S.C. § 1601 et. Seq. (PRWORA) . . . Should my legal status change during the application process or after a credential is granted, I understand that I must report this change to the Wisconsin Department of Safety and Professional Services immediately."¹³⁶

Wyoming: "Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, permit or license application requirements for any profession or occupation regulated under this title shall require applicants for new licenses, certificates of registration or renewals of licenses or certificates to include the applicant's social security number on the application form."¹³⁷

Washington, D.C.: SSN is required on the application form, but the statute has no specific required immigration status.¹³⁸

As was evident in the lawyer-licensing world, similar nomenclature and proxy issues arise in the M.D. context.¹³⁹ Wisconsin has unusually

¹³⁶ Wisconsin Department of Safety And Professional Services, APPLICATION FOR DENTAL HYGIENE CERTIFICATE TO ADMINISTER LOCAL ANESTHESIA, DENTISTRY EXAMINING BOARD (Dec. 2016), <http://dsps.wi.gov/Documents/Credentialing%20Forms/Health%20Application%20Forms/fm2455.pdf> [https://perma.cc/Z7CM-SLRY].

¹³⁷ WYO. STAT. ANN. § 31-1-114 (West, Westlaw through the 2017 General Session of the Wyoming Legislature).

¹³⁸ D.C. CODE. § 3-1205.05 (2009) (illustrating that there is no specific required immigration status in order to get your M.D. license in Washington, D.C.).

¹³⁹ See *infra* Appendix I (illustrating the gaps and inconsistencies in the lawyering and M.D. licensing administering).

detailed immigration language, but its fulcrum is the SSN, and adds the Employer Identification Number (EIN), usually issued by the IRS for limited tax administration purposes associated with principal businesses in the United States.¹⁴⁰ Because the EIN is available to a wide range of individuals with a variety of immigration categories,¹⁴¹ the State's detailed immigration requirement is rendered less-restricted than it seems on its face.

To license an applicant to the practice of nursing, the neighboring states of Alabama, Mississippi, and Arkansas vary from high to low.¹⁴² Alabama has among the strictest immigration criteria: "An alien who is not lawfully present in the United States and who is not defined as an alien eligible for public benefits under 8 U.S.C. § 1621(a) or 8 U.S.C. § 1641 shall not receive any state or local public benefits."¹⁴³ Public Benefits is defined as including professional licenses . . . "An applicant for a license . . . a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government."¹⁴⁴ DACA would meet this requirement, as would a number of other immigrant and non-immigrant classifications. Mississippi statutorily requires the applicant to have an SSN, while Arkansas has no immigration criteria.¹⁴⁵ Nonetheless, the entrance to Arkansas' nursing practice at the LPN and RN levels is administered by a uniform application bank process—a commercial service deceptively named "easyNCLEX.com"—that requires a "valid Social Security Number," even if the Arkansas nursing eligibility statute

¹⁴⁰ See Lipman, *The 'Illegal' Tax*, *supra* note 129, at 108 (discussing ITINs and non-citizens filing or reporting obligations).

¹⁴¹ See *id.* (outlining ITINs and filing or reporting obligations for non-citizens).

¹⁴² See ALA. CODE § 31-13-7(b) (indicating that Alabama is among the strictest immigration criteria); See also Mississippi Nursing Act, 1991 Miss. Laws Ch. 465 (S.B. 2205), *codified as amended at* MISS. CODE ANN. § 73-15-19(10), <http://www.msbn.ms.gov/Documents/NursingPracticeAct.pdf> [<https://perma.cc/F3J8-J8P7>] (stating that Mississippi requires applicant to have a SSN); Arkansas State Board of Nursing Rules (2014), Chapter 2, Section 1, http://www.sos.arkansas.gov/rulesRegs/Arkansas%20Register/2001/oct_2001/067.00.01-001.pdf [<https://perma.cc/G7AB-TDQE>] (recognizing that Arkansas has no immigration criteria whatsoever).

¹⁴³ ALA. CODE § 31-13-7(b) (West, Westlaw through the end of the 2017 Regular Session).

¹⁴⁴ See *id.*; ALA. CODE § 34-21-21(a) (West, Westlaw through the end of the 2017 Regular Session).

¹⁴⁵ See Mississippi Nursing Act, 1991 Miss. Laws Ch. 465 (S.B. 2205), *codified as amended at* MISS. CODE ANN. § 73-15-19(10), <http://www.msbn.ms.gov/Documents/NursingPracticeAct.pdf> [<https://perma.cc/F3J8-J8P7>] (discussing the requirement under the Mississippi Nursing Act). See also Arkansas State Board of Nursing Rules (2014), Chapter 2, Section 1, *supra* note 142 (analyzing the Arkansas State Board of Nursing Rules).

specifies no such requirement.¹⁴⁶ Again, these examples show the as-applied differences between the actual authorization language and the practical gatekeeping form passageways.¹⁴⁷

IV. CASE STUDY: A NEW YORK STATE OF MIND

New York, like many other states, has a widespread and detailed administrative scheme for its many hundreds of occupational licenses, and an unusually decentralized form of governance, including several domains within the Current Licenses, available through the comprehensive NYS License Center Portal.¹⁴⁸ This online portal aggregates many licenses in Agriculture, Forestry and Fisheries, Construction, Education, Finance and Insurance, Food Service and Processing, Health Care, Manufacturing, One-Time Permits, Real Estate, Recreation, Retail, Services, Transportation and Public Utilities, and Wholesale, as well as additional permits and licenses for over a hundred agencies, from Adirondack Park Agency to the Workman's Compensation Board.¹⁴⁹

Furthermore, the New York Department of State governs another roster of occupations:

¹⁴⁶ Compare Arkansas State Board of Nursing Rules (2014), Chapter 2, Section 1, *supra* note 142 (articulating that the entrance to Arkansas nursing practice, at LPN and RN levels, does not require a valid SSN) with NCLEX Prep and Exam info, EASTYNCLEX.COM (2017), <http://easynclex.com/> [<https://perma.cc/CCM2-9ZAK>] (explaining the Arkansas application process and requiring individuals applying to enter a valid SSN to continue with the uniform application process).

¹⁴⁷ See *supra* note 146 (exemplifying the significant differences between the licensing language and the application of the licensing language).

¹⁴⁸ See New York Office of Information Technology Services, *New York Business Express*, N.Y. ST. (last visited May 25, 2017), <https://its.ny.gov/nys-license-center-business-wizard> [<https://perma.cc/X7UZ-WR3E>] (illustrating the NYS License Center Portal to be comprehensive and detailed).

¹⁴⁹ See New York Business Express, *Profession Licenses*, <https://tinyurl.com/yar4vh82> [<https://perma.cc/G8VE-FSE4>] (last visited May 26, 2017) (outlining the aggregate variety of the different Professional Licenses that are available through New York's online portal).

Table Two: NY Department of State Division of Licensing Services: Index of Licensees and Registrants¹⁵⁰

Searches are currently available for the following types of licenses/registrations: *

Alarm Installer	Apartment Information Vendor
Apartment Sharing Agent	Armored Car Carrier
Armored Car Guard	Athlete Agents
Bail Enforcement Agent	Bedding
Central Dispatch Facility	Document Destruction Contractor
Document Destruction Contractor Branch Office	Hearing Aid Dispenser
Hearing Aid Dispenser Business	Home Inspection
Notary Public	Private Investigator
Proprietary Employer Of Security Guards	Real Estate Appraiser
Security Guard	Telemarketer Business
Ticket Reseller	Ticket Reseller Branch Office
Watch Guard And Patrol Agency	

In addition, the New York State Department of Education governs hundreds more permits, some of which are episodic or recreational (Seven-Day Fishing License or One-Day Fishing License, or Aircraft One Time), but which also include licenses by which residents can make their living, such as Lifetime Licenses for hunting & fishing, trapping, bow hunting, and even muzzle loading privileges.¹⁵¹ The issuing agencies involve the Departments of Agriculture and Markets, Department of Environmental Conservation, State of New York, Taxation and Finance, and Motor Vehicles, among others.¹⁵²

¹⁵⁰ *Index of Licenses and Registrants*, Department of State Division of Licensing and Registrants, New York State, https://appext20.dos.ny.gov/lcns_public/chk_load [<https://perma.cc/6489-3J6K>].

¹⁵¹ See New York State Office of the Professions, *The Licensed Professions in New York State*, N.Y. STATE, <http://www.op.nysed.gov/> [<https://897perma.cc/D6PN-VGGW>] (last updated Mar. 24, 2017) (discussing the State Education Department, under Regents' direction, administers professional regulation through its Office of the Professions, in conjunction with the various State Boards for the Professions).

¹⁵² See *Security Dealers, Brokers and Salesperson Designation – State Notice*, N.Y. BUS. EXPRESS, <https://www.businessexpress.ny.gov/app/index/st/4/c/133/page/1>

Some of the sample occupational licenses include: Milk Dealer; Bulk and Package Hauler; Appearance Enhancement Natural Hair Stylist; Brewer Tasting; and Special Entertainer's Permit (for Minors).¹⁵³ In a 2015 study, Janet M. Calvo found almost thirty occupations governed by New York Education Law and the Department of Education that had no statutory immigration limitations among the many hundreds of such licensed occupations.¹⁵⁴ As she noted:

Title VIII of the New York Education Law does not require citizenship or immigration category for twenty-nine professions. Therefore, New York State law does not require that an individual be in any particular immigration category to obtain a license for the following listed professions. Even with these omissions, she found widespread "as-applied" *de facto* requirements, either by the actual application forms that asked for immigration status or through the website portal's stated citizenship restrictions: Yet, the application forms published on the New York State Department of Education's website

[<https://perma.cc/DQR5-RMXJ>] (last visited May 26, 2017) (illustrating the issuing agencies in New York).

¹⁵³ I selected several at random, to show the extraordinary range of licenses, certificates, and permits: See N.Y. State, *Milk Dealer License – Distributor (DISPS-7)*, N.Y. BUS. EXPRESS, https://www.businessexpress.ny.gov/app/answers/cms/a_id/2499/kw/milk%20dealer [<https://perma.cc/87QC-X5FP>] (discussing license requirements for a milk dealer); N.Y. State, *Milk Dealer License – Milk Hauler (DISPS-7)*, N.Y. BUS. EXPRESS, <https://tinyurl.com/ya9dguh4> [<https://perma.cc/C6XH-K524>] (conveying license requirements for a milk hauler). See also N.Y. State, *Appearance Enhancement – Business License (DOS-0035-a)*, N.Y. BUS. EXPRESS, <https://tinyurl.com/ybfqyhvu> [<https://perma.cc/V54V-7WBN>] (listing license requirements for Appearance Enhancement); N.Y. State, *Brewer Tasting (Annual) Permit*, N.Y. BUS. EXPRESS, <https://tinyurl.com/ybkuc5e7> [<https://perma.cc/NR4A-NZ8H>] (describing license requirements for brewer tasting); N.Y. State, *Special Entertainer's Permit (Minor)*, N.Y. BUS. EXPRESS, <https://tinyurl.com/y76ue9u3> [<https://perma.cc/CX22-AV7R>] (outlining license requirements for special entertainer's permit for minors).

¹⁵⁴ See New York State Education Department, *U.S. Court of Appeals Decision on Litigation Involving 13 Professions that Require U.S. Citizenship or Permanent Lawful Residence for Licensure*, <http://www.op.nysed.gov/news/advisory-notices.html#appeals> [<https://perma.cc/9XNX-2VAN>] (last updated Mar. 24, 2017) (listing the professions that no longer require citizenship in New York, including dentistry, medicine, and professional engineering). I am indebted to the careful research and advocacy of Professor Janet Calvo, who, with her law students, prepared many careful tables to assist the N.Y. Attorney General in addressing licensing issues. Janet M. Calvo, *Professional Licensing and Teacher Certification for Non-Citizens: Federalism, Equal Protection and a State's Socio-Economic Interests*, 8 COLUM. J. RACE & L. 33-1212 (2017) [hereinafter Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*].

restrict licensing applications to limited categories of non-citizens.¹⁵⁵

Table Three:

Immigration-related Issues NY State Education Department Licenses

NO STATUTORY LIMITATIONS BASED ON IMMIGRATION CATEGORY	SPECIFIC LANGUAGE THAT CITIZENSHIP IS NOT A REQUIREMENT AND NO IMMIGRATION RELATED CRITERIA	LIMITING LICENSES FOR PROFESSIONS DECLARED UNCONSTITUTIONAL
Acupuncturist: N.Y. Educ. Law § 8214 (McKinney) http://www.op.nysed.gov/prof/acu/acu1.pdf	Interior Design: N.Y. Educ. Law § 7304 (McKinney) http://www.op.nysed.gov/prof/id/intdesform1.pdf	Chiropractor: N.Y. Educ. Law § 7504 (McKinney) http://www.op.nysed.gov/prof/chiro/chiro1.pdf
Athletic Trainer: N.Y. Educ. Law § 8355 (McKinney) http://www.op.nysed.gov/prof/at/at1.pdf	Architect: N.Y. Educ. Law § 7904 (McKinney) http://www.op.nysed.gov/prof/arch/arch1.pdf	Certified Shorthand Reporter: N.Y. Educ. Law § 6604 (McKinney) http://www.op.nysed.gov/prof/csr/csr1.pdf
Audiologist: N.Y. Educ. Law § 8206 (McKinney) http://www.op.nysed.gov/prof/slp/sla1.pdf	Occupational Therapist: N.Y. Educ. Law § 7904 (McKinney) http://www.op.nysed.gov/prof/ot/ot1.pdf	Dentist: N.Y. Educ. Law § 6609 (McKinney) http://www.op.nysed.gov/prof/dent/dent1.pdf
Clinical Laboratory Technologist: N.Y. Educ. Law § 8605 (McKinney) http://www.op.nysed.gov/prof/clt/clt1.pdf	Occupational Therapist Assistant: N.Y. Educ. Law § 7124 (McKinney) http://www.op.nysed.gov/prof/ot/ot1.pdf	Dental Hygienist: N.Y. Educ. Law § 7206 (McKinney) http://www.op.nysed.gov/prof/dent/dh1.pdf
Cytotechnologist: N.Y. Educ. Law § 8605 (McKinney) http://www.op.nysed.gov/prof/clt/clt1.pdf	Ophthalmic Dispensing: N.Y. Educ. Law § 7104 (McKinney) http://www.op.nysed.gov/prof/od/od1.pdf	Engineer: N.Y. Educ. Law § 7206-a (McKinney) http://www.op.nysed.gov/prof/pels/pe1.pdf
Clinical Laboratory/ Histological Technician: N.Y. Educ. Law § § 8606, 8606-a (McKinney) http://www.op.nysed.gov/prof/clt/cyt1.pdf	Optometrist: N.Y. Educ. Law § 7004 (McKinney) http://www.op.nysed.gov/prof/optom/opt1.pdf	Land Surveyor: N.Y. Educ. Law § 7324 (McKinney) http://www.op.nysed.gov/prof/pels/lurv1.pdf
Dental Assistant: N.Y. Educ. Law § 8004 (McKinney) http://www.op.nysed.gov/prof/dent/dent-rdfl1.pdf	Podiatrist: N.Y. Educ. Law § 7603 (McKinney) http://www.op.nysed.gov/prof/pod/pod1.pdf	Landscape Architect: N.Y. Educ. Law § 7804 (McKinney) http://www.op.nysed.gov/prof/larch/landarch1.pdf
Dietitian/Nutritionist: N.Y. Educ. Law § 8705 (McKinney)	Psychologist: N.Y. Educ. Law § 7404 (McKinney)	Massage Therapist: N.Y. Educ. Law § 6524 (McKinney)

¹⁵⁵ Janet Calvo, *Letter to Board of Regents on Behalf of Latino Justice*, LATINO JUSTICE (2017), http://latinojustice.org/civil_rights/Letter_to_Board_of_Regents_on_Behalf_of_LatinoJustice_AALDEF_CLORE_and_NYIC.pdf [https://perma.cc/R8S5-6WYB].

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Within You Without You

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http://www.op.nysed.gov/prof/diet/diet1.pdf	http://www.op.nysed.gov/prof/psych/psych1.pdf	http://www.op.nysed.gov/prof/mt/mt1.pdf
Medical Physicist: N.Y. Educ. Law § 6541 (McKinney) http://www.op.nysed.gov/prof/medphys/mp1.pdf	Certified Public Accountant: N.Y. Educ. Law § 6554 (McKinney) http://www.op.nysed.gov/prof/cpa/cpa1.pdf	Physician: N.Y. Educ. Law § 6955 (McKinney) http://www.op.nysed.gov/prof/med/med1.pdf
Physician Assistant: N.Y. Educ. Law § 6541 (McKinney) http://www.op.nysed.gov/prof/med/pa1.pdf		Midwife: N.Y. Educ. Law § 6704, 6711 (McKinney) http://www.op.nysed.gov/prof/midwife/mid1.pdf
Specialist Assistant: N.Y. Educ. Law § 8403 (McKinney) http://www.op.nysed.gov/prof/med/sa1.pdf		Pharmacist: N.Y. Educ. Law § 6711 (McKinney) http://www.op.nysed.gov/prof/pharm/pharm1.pdf
Mental Health Practitioner: N.Y. Educ. Law § 8403 (McKinney) http://www.op.nysed.gov/prof/mhp/mft1.pdf		
Family Therapist: N.Y. Educ. Law § 8404 (McKinney) http://www.op.nysed.gov/prof/mhp/mft1.pdf		
Creative Arts Therapist: N.Y. Educ. Law § 8405 (McKinney) http://www.op.nysed.gov/prof/mhp/cat1.pdf		
Psychoanalyst: N.Y. Educ. Law § 6905 (McKinney) http://www.op.nysed.gov/prof/mhp/psyan1.pdf		
Registered Nurse: N.Y. Educ. Law § 6905 (McKinney) http://www.op.nysed.gov/prof/nurse/nurse1.pdf		
Licensed Practical Nurse: N.Y. Educ. Law § 6910, 6911 (McKinney) http://www.op.nysed.gov/prof/nurse/nurse1.pdf		
Certification for Nurse Practitioners and Clinical Nurse Specialists: N.Y. Educ. Law § 8609 (9) (McKinney) http://www.op.nysed.gov/prof/nurse/np1.pdf ; http://www.op.nysed.gov/prof/nurse/cns1.pdf		
Perfusionist permit: N.Y. Educ. Law § 6734 (McKinney) http://www.op.nysed.gov/prof/perfusion/perf5.pdf		
Physical Therapist: N.Y. Educ. Law § 6734 (McKinney) http://www.op.nysed.gov/prof/pt/pt1.pdf		
Physical Therapist Assistant: N.Y. Educ. Law § 8505 (McKinney)		

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http://www.op.nysed.gov/prof/pt/pt1.pdf		
Polysomnographic Technologist (authorization): N.Y. Educ. Law § 8504 (McKinney) http://www.op.nysed.gov/prof/polysom/polysom1.pdf		
Respiratory Therapist: N.Y. Educ. Law § 8504 (McKinney) http://www.op.nysed.gov/prof/rt/rt1.pdf		
Respiratory Technician: N.Y. Educ. Law § 7704 (McKinney) http://www.op.n.gov/prof/rt/rt1.pdf		
Social Worker Master: N.Y. Educ. Law § 7704 (McKinney) http://www.op.nysed.gov/prof/sw/lmsw1.pdf		
Clinical Social Worker: N.Y. Educ. Law § 8206 (McKinney) http://www.op.nysed.gov/prof/sw/lcsw1.pdf		
Speech Pathologist/Audiologist: N.Y. Educ. Law § 8804 (2) (McKinney) http://www.op.nysed.gov/prof/slpa/sla1.pdf		
Licensed Behavior Analyst: N.Y. Educ. Law § 8804 (1) (McKinney) http://www.op.nysed.gov/prof/aba/aba1.pdf		
Certified Behavior Analyst Assistant: N.Y. Educ. Law § 8305 (McKinney) http://www.op.nysed.gov/prof/aba/aba1.pdf		

Her findings corroborated the data I examined above, and had she detailed all the State's occupations and licenses, she would have elaborated upon more than the twenty-nine she listed from the single agency.¹⁵⁶ While not every state or jurisdiction is as large and decentralized as New York's statutory and administrative regimes, the outlines and patterns are evident at every layer, across all fields, high and low.¹⁵⁷ Put starkly, the actual technical details of implementation do not

¹⁵⁶ See Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*, *supra* note 155 (illustrating that Janet Calvo only analyzed twenty-nine occupational and licensing agencies).

¹⁵⁷ See *id.* (stating that there have been evident administrative regimes instilled in New York and that New York has one of the largest immigration populations).

often track the legal underpinnings; indeed, there is a substantial slip between the authorizing cup and the as-applied lip.¹⁵⁸

Over the years, New York has prompted several important immigration cases involving licensure and benefit eligibility, including the DACA bar admissions matter, allowing Cesar Vargas to obtain a license to practice law;¹⁵⁹ Mauclet;¹⁶⁰ and Dandamudi.¹⁶¹ Tracking these cases and their implementation, she also documented that Title VIII of the New York Education Law does not require any citizenship or immigration category for an additional nine professions.¹⁶² The statutes regarding the following professions specifically state that an individual does not require U.S. Citizenship and do not include an immigration category requirement.¹⁶³ However, the application forms published on the New York State Department of Education's website restrict licensing applications for these nine occupations from limited categories of non-citizens.¹⁶⁴

Finally, her analysis of thirteen New York Education Law Title VIII occupations noted that licenses were restricted to citizens and legal permanent residents, even after the immigration requirements were struck down as unenforceable under the terms of the Dandamudi

¹⁵⁸ See *infra* Appendix I (illustrating the lack of cohesiveness between the technical details of implementation and the legal underpinnings in the occupational licensing in New York).

¹⁵⁹ See Liz Robbins, *An Immigrant's Four-Year Fight to Become a Lawyer Ends in Celebrations*, N.Y. TIMES (Feb. 4, 2016), <https://www.nytimes.com/2016/02/04/nyregion/immigrants-4-year-legal-fight-to-become-a-lawyer-ends-in-celebration.html> [<https://perma.cc/UEP5-HBY2>] (articulating that the DACA bar admissions allowed Cesar Vargas to obtain a license to practice law).

¹⁶⁰ See *Nyquist v. Mauclet*, 432 U.S. 1, 5 (1977) (striking down the New York statute that barred resident aliens from receiving state college financial assistance).

¹⁶¹ See *Dandamudi v. Tisch*, 686 F.3d 66, 69–70 (2d Cir. 2012) (striking down New York Education Law § 6805 (1), (6) requirement that only U.S. Citizens or Legal Permanent Residents are eligible to obtain a pharmacist's license); Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*, *supra* note 155 (emphasizing that the Second Circuit court held unconstitutional a New York Education law which required that an applicant to be a citizen or a legal permanent resident).

¹⁶² See Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*, *supra* note 155 (stating that there are nine professions that do not require any citizenship or immigration criteria under the New York Education Law).

¹⁶³ See Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*, *supra* note 155 (stating that there are nine occupations under the New York Education Law that does not have any immigration category requirement).

¹⁶⁴ See Office of the Professions, *Education Law*, NYSED.GOV (Oct. 3, 2017), <http://www.op.nysed.gov/prof/med/article131.htm> [<https://perma.cc/ZS38-MX5N>] (outlining the New York online licensing application website to require some form of citizenship criteria, even though the New York Education law has nine occupations with no such requirement).

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litigation.¹⁶⁵ Even though there are no enforceable immigration-based legislative restrictions on these professions, “the application forms published on the New York State Department of Education’s website restrict licensing applications to limited categories of non-citizens.”¹⁶⁶ Having immersed myself in these data and these literatures, I moved from a sense of satisfaction in gathering the information to a sense of growing dread, as I began to delve into the various inconsistencies, mistakes, gaps, and confusion—both in the actual governance language and the as-applied administration of immigration eligibility across occupational licensing in many fields, elite or accessible.¹⁶⁷

V. PRELIMINARY THOUGHTS AND EARLY CONCLUSIONS

The dread enveloped me as I began to recognize how difficult it would be to theorize on these admissions requirements and how complex a project this will be.¹⁶⁸ Of course, I knew it would not be easy, but I assumed that more thoughtful attention and precision in eligibility requirements would have developed over time, in part because of my own deep dives into legal education and eligibility for my own profession of law.¹⁶⁹ I have been involved in law school accreditation, law licensure, and assessments of moral character and fitness for bar eligibility, and in some detail as New York, California, and Florida, dealt with undocumented and DACAmented applicants.¹⁷⁰ Even so, I was

¹⁶⁵ See Calvo, *Professional Licensing and Teacher Certification for Non-Citizens*, *supra* note 155 (analyzing that for thirteen professional licenses there is a legal permanent residence requirement, even though the court in the Second Circuit held that it was unconstitutional to require a licensing applicant to be a citizen or a legal permanent resident).

¹⁶⁶ Janet Calvo, *Letter to Board of Regents on Behalf of Latino Justice*, LATINO JUSTICE (2017), http://latinojustice.org/civil_rights/Letter_to_Board_of_Regents_on_Behalf_of_LatinoJustice_AALDEF_CLORE_and_NYIC.pdf [<https://perma.cc/R8S5-6WYB>].

¹⁶⁷ See *infra* Appendix I (illustrating the gaps and inconsistencies related to immigration eligibility across occupational licensing in many different fields). See also *supra* Part II (sampling four states, Alabama, Alaska, Arizona, and Arkansas, licensing requirement for attorneys); *supra* Part III (illustrating other state-specific occupational licensing requirements).

¹⁶⁸ See, e.g., Heidi Jauregui & Ann Morse, *Professional and Occupational Licenses for Immigrants*, NAT’L CONF. OF ST. LEGISLATURES, <http://www.ncsl.org/research/immigration/professional-and-occupational-licenses-for-immigrants.aspx> [<https://perma.cc/8CDL-W3WN>] (recognizing the different admissions requirements for California, Florida, Illinois, Minnesota, Nebraska, Nevada, South Dakota, Utah, West Virginia, and Wyoming, which illustrates the difficulty in theorizing about these requirements because of the stark differences between those different states’ requirements).

¹⁶⁹ See *id.* (discussing the various requirements to be eligible for the profession of law).

¹⁷⁰ See Michael A. Olivas, *Drafting Justice: Statutory Language, Public Policy, and Legislative Reform*, U. HOUS. L. CNTR. (2014), <http://www.law.uh.edu/ihehg/monograph/13-11.pdf> [<https://perma.cc/GNR9-KKTR>] (describing experience in residency issues).

unprepared for the actual requirements I unearthed, and so have my students and various educators and licensing professionals with whom I have discussed these matters on my way to gathering the data. There are almost as many needed footnotes as there are categories. I have been shocked at the unanticipated absence of immigration criteria in a substantial number of professions, and in a number of jurisdictions, as well as the multiple ways in which the formal requirements do not mesh with the actual implementation.¹⁷¹ It will require more detailed, almost anthropological case studies in hundreds of data cells to reconcile the formal criteria with the data routinely required. What passes for quotidian applications forms, such as immigration status questions or SSNs, can pose formidable barriers to non-citizens.¹⁷²

The uncertainty over immigration reform and fate of DREAMers, as well as the tightened immigration scrutiny practiced since January 2017, have made the entire process more complex and uncertain, more than the usual presidential transitions.¹⁷³ With regard to immigration, there is more instability in the system, more litigation in the courts, and more polarization in the polity, further contributing to the confusion and apprehension.¹⁷⁴ I suspect that additional attention will be paid to these crucial intersections, and that changes will occur both at the state and federal level, to the higher- and lower-caste professions.¹⁷⁵ By the time the dust settles, there will be over three quarters of a million DACA recipients making their intrepid way through the occupational pathways available

¹⁷¹ See *infra* Appendix I (outlining national examples of occupational licensing laws across dozens of fields and states, which illustrates that the formal requirements do not match up with the actual implementation of the laws).

¹⁷² See *Navigating Liminal Legalities*, *supra* note 80, at 32–34 (exploring the personal and legal barriers of gaining legal status in the United States).

¹⁷³ See Jenny Jarvie, *President Trump Signs an Executive Order in January on Border Security and Immigration Enforcement*, L.A. TIMES (Apr. 19, 2017), <http://www.latimes.com/nation/la-na-daca-deportations-20170419-story.html> [<https://perma.cc/52SN-AK94>] (discussing DACA recipients in removal proceedings); Allissa Wickham, *Well-Known DACA Recipient Sues Over Revoked Status*, LAW360 (May 11, 2017), <https://www.law360.com/immigration/articles/922976> [<https://perma.cc/JT5A-L68K>]. See also Kate Morrissey, *ICE Will No Longer Delay Deportations for Those with ‘Private Bills’ Pending*, SAN DIEGO UNION-TRIB. (May 9, 2017), <http://www.sandiegouniontribune.com/news/immigration/sd-me-private-bills-20170509-story.html> [<https://perma.cc/ZQQ7-MN2J>].

¹⁷⁴ See, e.g., Appendix I (illustrating the differences and instabilities between state professional license eligibility requirements for physicians, nurses, attorneys, and teachers); Appendix II (revealing the differences and instabilities between the examples of different state occupational licensing laws requiring certain immigration status).

¹⁷⁵ See *supra* Part III (demonstrating crucial intersections between West Virginia, Wisconsin, Wyoming, and Washington D.C.’s immigration categorizations for admissions in to the medical field).

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to them, and their progress will be punctuated and uncertain.¹⁷⁶ As has been shown with the examples of bar membership in three of the largest states, the progress could be a regression to the mean of restrictionism, but could as easily turn towards accommodation and incorporation, recouping the investment occasioned by Plyler's promise.¹⁷⁷

Appendix II reveals national examples of occupational licensing laws across dozens of fields and states, nearly all of which appear to require U.S. citizenship, notwithstanding federal and state litigation that has struck down such a high entry bar.¹⁷⁸ In other words, there has been a widespread failure to enact statutes or practices that conform to the broader eligibility requirements at play in the employment field.¹⁷⁹ At the least, various accreditation and licensing authorities or legislatures have not done the necessary work to smooth out the inconsistencies or to regularize the various anomalies.¹⁸⁰

Observers are left with the clear impression of the need for recodification or restatements, profession by profession, especially as employment and immigration law continue to slide along tectonic plates, causing gaps and ridges.¹⁸¹ One of the glories of the U.S. immigration

¹⁷⁶ See Caitlin Dickerson, *Immigration Arrests Rise Sharply as Agents Carry Out a Trump Mandate*, N.Y. TIMES (May 17, 2017), <https://www.nytimes.com/2017/05/17/us/immigration-enforcement-ice-arrests.html> [<https://perma.cc/BA8M-AAFU>] (illustrating that there is already about a quarter of a million individuals who have benefited from DACA and although Trump has illustrated that he wants to crack down on illegal immigration, but will not focus on DACA); Miriam Jordan, *7 Years After and Outcry, Young Woman Again Faces Deportation* [<https://perma.cc/236A-QXZ4>], N.Y. TIMES, (May 11, 2017), at A10 (discussing DACA recipient in removal proceedings); Marcela Valdes, *Staying Power*, N.Y. TIMES MAG., May 28, 2017, at MM50 (analyzing legal tactics to slow deportations and removals). See also Amanda E. Lopez, *Still Dreaming: The Plight of the Undocumented Immigrant Student in the Professional World*, 18 SCHOLAR: ST. MARY'S L. REV RACE & SOC. J. 451, 453 (2016) (discussing a good gauge of the punctuated pathways of state legislation is regularly made available); National Conference of State Legislators: *Professional Licenses for Immigrants* (Jan. 2017), <http://www.ncsl.org/research/immigration/professional-and-occupational-licenses-for-immigrants.aspx> [<https://perma.cc/P7TU-VKCL>] (discussing the recent year's change in the barriers for immigrants to obtain professional license).

¹⁷⁷ See *Plyler v. Doe*, 457 U.S. 202, 253–54 (1982) (holding that states could not charge tuition for the education of schoolchildren of unauthorized immigrants).

¹⁷⁸ See *infra* Appendix I (outlining the national examples of occupational licensing laws across several different states and fields).

¹⁷⁹ See *id.* (presenting different occupational licensing laws across all different states and occupational fields).

¹⁸⁰ See, e.g., *infra* Appendix I (providing a state-by-state breakdown of Professional License Eligibility Requirements for physicians, nurses, attorneys, and educators, which illustrates the discrepancies between the different professional license immigration requirements and the fact that these professions have not smoothed out these discrepancies).

¹⁸¹ See *infra* Appendix II (detailing the differences between state occupational licensing laws that require varying statuses of citizenship and illustrating the gaps and ridges in employment and immigration law).

system is not that it breaks down or is unfair—both of which are demonstrably accurate—but that it works well most of the time. Given the early returns on occupational licensing and its intersection with immigration, there is reason to hope.¹⁸² There surely is reason to improve.¹⁸³

¹⁸² See *infra* Appendix I (illustrating that the earlier occupational licensing requirements relating to immigration is at a forefront of many statutes thereby making it hopeful that the gaps and ridges in these requirements will continue to be addressed).

¹⁸³ Given the nature of the pending cases, this footnote is of a journalistic nature, with stories and narratives on DACA and professions. See Erica L. Green, *Protected For Now, Teachers Await Fate*, N. Y. TIMES (Feb. 2, 2018), at A14 (uncertainty over teacher licensing); Maria Sacchetti, *With Three Months Left in Medical School, Her Career May be Slipping Away*, WASH. POST (Feb. 22, 2018), http://wapo.st/2CBQuKR?tid=ss_mail&utm_term=.b2835e7fe5e9 [<https://perma.cc/NTA6-PBNG>] (immigration eligibility for medical doctors); Jan Hefler, N.J.'s Gurbir Grewal, *The Nation's First Sikh Attorney General, Says American Dream is Alive and Well*, THE INQUIRER (Mar. 1, 2018), http://www.philly.com/philly/news/new_jersey/gurbir-grewal-sikh-attorney-general-new-jersey-dreamers-20180302.html [<https://perma.cc/D829-VGNV>] (New Jersey swears in DACAmented lawyer). Indiana also has broadened its eligibility for immigration criteria. See, e.g., Kevin Penton, *New Indiana Law Allows Pro Licenses For Certain Immigrants*, LAW360 (Mar. 22, 2018), <https://www.law360.com/immigration/articles/1025109/new-indiana-law-allows-pro-licenses-for-certain-immigrants> [<https://perma.cc/C7TL-3EWH>] (allowing DACAmented professionals to apply for Indiana licenses); *Senate Enrolled Act No. 419*, <https://iga.in.gov/static-documents/3/5/f/f/35ff8b3b/SB0419.05.ENRH.pdf> [<https://perma.cc/N8ZW-GKUC>] (providing statutory details).

Notwithstanding these hopeful stories, DACA itself is in peril, buoyed by federal judges in several states that have extended its life for those already enrolled. See, e.g., Mike DeBonis & Josh Dawsey, *Trump is Open to Short-term DACA Deal, White House Tells GOP Leaders*, WASH. POST (Mar. 14, 2018), http://wapo.st/2IqLP2z?tid=ss_mail&utm_term=.1b8414d9a442 [<https://perma.cc/R2JV-7MYC>]. As of March, 2018, the DACA case is wending its way through Circuit courts, and the U.S. Supreme Court denied *certiorari* for an expedited hearing.

APPENDIX I: PROFESSIONAL LICENSE ELIGIBILITY REQUIREMENTS (PHYSICIANS, NURSES, ATTORNEYS, TEACHERS/EDUCATORS)

Professional License Eligibility Requirements

Medical:

State	Medical License	Statute	Source	Application Form
Alabama	"Each applicant for a certificate of qualification shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government."	Ala. Code § 31-13-7 (New: AL Code § 34-24-70(g) (2014))	http://alisondb.legislature.state.al.us/alison/co doofalabama/1975/coatoc.htm	http://www.albme.org/app sphys.html#Physician_initial_license
Alaska	SSN: "[A] license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department."	§ 08.01.060(b)	http://to uchngo.com/lglcntr /akstats/Statutes/Title08/Chapter01/Section060.htm	https://www.commerce.alaska.gov/web/c bpl/ProfessionalLicensing/StateMedicalBoard.aspx
Arizona	Documentation "indicating that the individual's presence in the United States is authorized under federal law" is required under 41-1080.	A.R.S. 41-1080 (August 21, 2013)	http://www.azleg.gov/ars/41/01080.htm	https://www.azmd.gov/PhysicianCenter/MDLicenseApp.aspx
Arkansas	Nothing in the Arkansas State Medical Board, Arkansas Medical Practices Acts and Regulations, "Sub-Chapter 4 -- Licensing" requires any proof of immigration status. But Application form requires submission of proof of citizenship, naturalization, visa or work permit. Also required are SSN and driver's license.	Ark. State Medical Board, Ark. Medical Practices Acts and Regulations, Sub-Chapter 4	https://www.arkmedicalboard.org/Professionals/pdf/mpa.pdf	http://www.arkmedicalboard.org/Professionals/pdf/MD_AppPack.pdf
California	SSN required by the statute.	Section 30 of the Business and Professions Code and Public Law 94-455	http://www.mbc.ca.gov/applicant/application_international.pdf	http://www.mbc.ca.gov/Forms/Applications/application_us-canada.pdf

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Colorado	Requires “lawful status,” includes all status that are mentioned in the INA -- Requires all applicants to submit an Affidavit of Eligibility to certify that the applicant is either a US citizen or otherwise lawfully present in the US and authorized to the employed in the US.	HB 06S-1009; C.R.S. 24-34-107	https://media.nasba.org/files/2011/02/Eligibility_Colorado.pdf	https://www.colorado.gov/pacific/dora/Medical_Board
Connecticut	SSN: “Pursuant to Connecticut General Statutes, Section 17b-137a(a)(1), disclosure of the social security number is mandatory.”	GS 17B-137a	http://www.ct.gov/dph/cwp/view.asp?a=3121&q=389534	http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/plis/p_hysician/md_app_only.pdf
Delaware	No mention of immigration status requirements in Title 24, Chapter 17 Medical Practice Act. Application form requires SSN but can request for an exemption by filling out a form.	Medical Practice Act	http://delcode.delaware.gov/title24/c017/sc03/index.shtml	http://dpr.delaware.gov/boards/medicalpractice/documents/Physician_Application_Complete.pdf
Florida	SSN required unless not a citizen or resident, then temporary license may be issued for 30 days after which SSN still required.	§ 456.013	http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=456.013&URL=0400-0499/0456/Sections/0456.013.html	http://flboardofmedicine.gov/apps/medical-doctor-app.pdf
Georgia	USC, LPR, or qualified “alien under the Federal INA.”	Rule 360-2-01	http://rules.sos.state.ga.us/gac/360-2-01	http://medicalboard.georgia.gov/sites/medicalboard.georgia.gov/files/1104InitialAppv0713.pdf

Hawaii	<p>§ 436B-10(4) "The applicant's social security number . . ."</p> <p>§ 436B-10(6) "Proof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States[.]"</p>	Professional and Vocational Licensing § 436B-10	http://files.hawaii.gov/dcca/pvl/programs/hrs/hrs_pvl_436b.pdf	http://cca.hawaii.gov/pvl/files/2013/06/Require-Instruct-App-for-Physician_10.14R.pdf
Idaho	"[M]ust be legally able to work and live in the United States . . . [D]ocumentation of lawful presence" required.	IDAPA 22.050.01	http://adminrules.idaho.gov/rules/current/22/0101.pdf	http://www.fsmb.org/licensure/uniform-application/
Illinois	SSN required by the statute.	ILCS 100/ 10-65(c)	http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=000501000K10-65	https://www.idfpr.com/renewals/apply/forms/md-ac-end.pdf
Indiana	SSN required by the statute.	IC25-1-5-11	http://www.in.gov/pla/files/Microsoft_Word_-_Medical_Licensing_Board.2012.pdf	http://www.in.gov/pla/3067.htm
Iowa	<p>The "Application Addendum--Application Part 2" requires that a "Visa Type or Alien Registration Number" be provided if he applicant is not a U.S. citizen.</p> <p>https://medicalboard.iowa.gov/images/pdf/Iowa%20Paper%20Addendum%208-15.pdf</p>	Medicine Board	https://www.legis.iowa.gov/DOCS/ACO/IAC/LINC/10-16-2013.Agency.653.pdf	https://medicalboard.iowa.gov/services/forms.html
Kansas	SSN is required on the application form.	Article 28, 65-2801 to 65-28, 132	http://www.kslegislature.org/li_2012/b2011_12/statute/065_000_0000_chapter/065_028_0000_article/	http://www.ksbha.org/forms/md_do_app_nonfill.pdf

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Kentucky	SSN is required on the application form.	§ 311.571	http://www.lrc.ky.gov/statutes/statute.aspx?id=44609	http://kbml.ky.gov/physician/Pages/Apply%20For%20A%20License.aspx
Louisiana	"be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR)"	LA Administrative Code Title 46 XLV Medical Professions, § 311; La Revised Statute Title 37, § 1272	http://www.lsbme.la.gov/sites/default/files/documents/Rules/Individual%20Rules/Physicians.pdf	http://www.lsbme.la.gov/licensure/physicians
Maine	SSN is required on the application form.	Maine Revised Statutes, Title 32, § 3271	http://www.maine.gov/legis/statutes/32/title32sec3271.html	http://www.maine.gov/md/licensure/html
Maryland	"Maryland law requires that the Board of Physicians obtain the U.S. Social Security number of any person applying for a professional license or certificate. Disclosure of your Social Security number is mandatory." SSN is required on the application form.	Code of Maryland Regulations 10.32.01.03	http://www.dsd.state.md.us/comar/comarhtml/10/10.32.01.03.htm	https://www.mbp.state.md.us/forms/dr_initial.pdf
Massachusetts	SSN is required on the application form. "Each applicant is required to provide the Board with a United States Social Security Number pursuant to M.G.L. c. 30A, § 13A."	Code of Massachusetts Regulations 243	http://www.mass.gov/eohhs/docs/boards/boards/243-cmr-2.pdf	http://www.mass.gov/eohhs/docs/boards/boards/kits/full-license-kit.pdf

Michigan	SSN is required on the application form.	Michigan Public Health Code § 333.17011	http://www.legislature.mi.gov/(S(arrowhz4xkxnyblwqas3p0mhs))/mileg.aspx?page=getObject&objectName=mc1-333-17011	http://www.michigan.gov/lara/0,4601,7-154-63294_27529_27541--,00.html
Minnesota	Application requires SSN and notarized copy of driver's license. "Minn. Stat. § 147.091 Subd. 7(d) requires all applicants to provide their social security number on their license application for the administration of the state tax code. Your social security number is private. Your social security number is also required to facilitate reporting of the DataBank and for accurate identification under the federal and state child support enforcement law."	Minnesota Statute 147.02	https://www.revisor.mn.gov/statutes/?id=147.02	https://mn.gov/boards/medical-practice/applicants/apply/
Mississippi	SSN required by both the statute and the application form.	Mississippi State Admin Code of Medical Licensure Chapter 2 § 2601	https://www.msblml.ms.gov/msbml/web.nsf/webpages/Regulations_Exambook/\$FILE/Jurisprudence_Exam_Book.pdf?OpenElement	https://www.ms.gov/medical_licensure/renewal/applicantLogin.jsp
Missouri	Copy of SSN card required for application but "[a] citizen of an international country" is permitted to "submit his/her Visa or Passport" instead.	Missouri Revised Statutes § 334.035	http://www.moga.mo.gov/mostatutes/stathtml/33400000351.html	http://pr.mo.gov/boards/healtharts/375-0457.pdf

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Montana	On the application form, SSN asked for but not required. Foreign ID also acceptable.	Montana Code Annotated § 37-3-305	http://leg.mt.gov/bills/mca/37/37-3-305.htm	http://b.bsd.dli.mt.gov/license/bsd_boards/medical_board/board_page.asp
Nebraska	SSN; Neb. Rev. Stat. § 38-123 mandates disclosure of your social security number to DHHS.	Professional and Occupational Licensure Title 172, Chapter 88 § 88-003.001	http://www.sos.state.ne.us/rules-and-regs/regsearch/Rule s/Health_ and_Human_Service s_System/ Title- 172/Chapt er-088.pdf	http://dhhs.ne.gov/publichealth/Licensure/Documents/FullMedicalApplication.pdf
Nevada	US citizen or “lawfully entitled to . . . work in the United States[.]”	NRS 630.160 (2)(a)	http://leg.state.nv.us/NRS/NRS-630.html#NRS630Sec160	http://medboard.nv.gov/Licenses/LA_Main/
New Hampshire	SSN required. See: http://www.nh.gov/medicine/physicians/documents/physician_online_instructions.pdf	MED 301.03	http://www.gencourt.state.nh.us/rules/state_agencies/med100-600.html	http://www.nh.gov/medicine/physicians/
New Jersey	USC or “has declared his intention to become” a USC. --New Jersey Statute, 45:9-6 Documentation verifying legal status and SSN are both required on application. “N.J.S.A. 54:50-25 of the New Jersey Taxation law, and Section 1128E(b)(2)A of the Social Security Act, the Board is required to obtain your Social Security number.”	New Jersey Statutes, 45:9-6	http://www.njconsumeraffairs.gov/Statutes/medicalexaminerslaw.pdf	http://www.njconsumeraffairs.gov/bme/Pages/application.aspx

New Mexico	<p>“[P]roof of compliance with immigration laws” is required on the application.</p> <p>USC or proof that “in compliance with US immigration laws”.</p> <p>Exact wording: “A graduate of a board-approved medical school located outside the United States or Canada may be granted a license to practice medicine in New Mexico, provided the applicant presents evidence to the board that the applicant is a person of good moral character and is in compliance with the United States immigration laws “ -- NMSA 61-6-11</p>	NMSA 61-6-11 (repealed effective July 1, 2016).	http://www.nmlegis.gov/sessions/05%20Regular/financial/SB0297.html	http://www.nmmb.state.nm.us/licensing_info/physician_licenses.html
New York	<p>Advisory Notice: U.S. Court of Appeals Decision on Litigation Involving 13 Professions that Require U.S. Citizenship or Permanent Lawful Residence for Licensure Please be advised that in accordance with the decision of the United States Court of Appeals, Second Circuit, in <i>Dandamudi v Tisch</i>, No. 10-4397-CV, 2012 WL 2763281 (July 10, 2012), we will consider applications for licenses from individuals who would otherwise be barred from licensure by statutory requirements of citizenship or permanent residency, in one the following professions: Certified Shorthand Reporting; Chiropractic; Dentistry; Dental Hygiene; Landscape Architecture; Land Surveying; Massage Therapy; Medicine; Midwifery; Pharmacy; Professional Engineering; Veterinary Medicine; Veterinary Technology</p> <p>If you believe you meet these requirements, please submit an application for licensure to the Department and we will process your application accordingly.</p> <p>http://www.op.nysed.gov/news/advisory-notices.html#appeals</p> <p>SSN is optional on Application Form</p>	Article 131 § 6524 (6) Education Code	http://www.op.nysed.gov/prof/med/article131.htm	http://www.op.nysed.gov/prof/med/med1.pdf

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North Carolina	Documentation providing lawful immigration and work status.	21 NCAC 32W .0102	http://reports.oah.state.nc.us/ncac/title%2021%20-%20occupational%20licensing%20boards%20and%20commissions/chapter%2032%20-%20north%20carolina%20medical%20board/subchapter%20w/21%20ncac%2032w%20.0102.pdf	http://www.ncmedboard.org/licensure/licensing/physicians/full-application
North Dakota	SSN is required on the application form.	North Dakota Century Code 43-17-18	http://www.legis.nd.gov/cencode/t43c17.pdf?20131027202641	https://www.ndbomex.org/practitioners/physicians/newapp/appPg1.asp
Ohio	USC, LPR or “filed an application for naturalization and that such application has not been rejected or withdrawn, or if not yet eligible to file an application for naturalization, he has filed a declaration of intention to become a citizen of the United States in an appropriate court of record.”	OAC 4731.292	http://codes.ohio.gov/orc/4731	http://med.ohio.gov/Portals/0/DNN/PDF-FOLDERS/Applicant/PhysicianLicensureApplication.pdf

Oklahoma	SSN required by the statute.	Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act Title 59 O.S. § 493.1 (A)(1)	http://www.okmedicalboard.org/download/268/MDLAW.pdf	https://www.ok.gov/medlicensing/app/login.php?lt=90
Oregon	SSN required. Oregon Health Licensing Agency, Oregon Administrative Rules, Chapter 331, Divisions 001-030 “Applicants must list their Social Security or Individual Taxpayer Identification number on a form prescribed by the agency at the time of initial application and renewal for certification, licensure, permit or registration. The authority for this requirement is ORS 25.785, 305.385, 42 USC Sec. 405(c)(2)(C)(i), and 42 USC Sec. 666(a)(13).” http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_331/331_030.html	ORS 677.100	https://www.oregonlegislature.gov/bills_laws/ors/ors677.html	https://techmedweb.omb.state.or.us/Client/s/ORMB/Private/OnlineServices/Login.aspx
Pennsylvania	SSN is required on the application form.	PA Code § 16.12	http://www.pacode.com/secure/data/049/chapter16/s16.12.html	https://www.mylicense.state.pa.us/PersonSearchResults.aspx
Rhode Island	X	Rhode Island General Laws § 5-37-2	http://med.brown.edu/cme/brouchure/7669.pdf	http://www.fsmb.org/licensure/fcvs/

South Carolina	"Pursuant to Section 8-29-10, et seq. of the South Carolina Code of Laws (1976, as amended), the Department of Labor, Licensing and Regulation must verify that any person who applies for a South Carolina license is lawfully present in the United States."	Section 8-29-10, et seq. of the South Carolina Code of Laws (1976, as amended); § 40-47-32	http://www.llr.state.sc.us/pol/medical/PDF/Laws/MPACHapt47.pdf	http://www.llr.state.sc.us/Pol/Medical/Pdf/ApplicationsForms/MDDOPermLic.pdf
South Dakota	SSN is required on the application form.	South Dakota Codified Laws § 36-4-11	http://legis.sd.gov/statutes/DisplayStatute.aspx?Type=Statute&Statute=36-4-11	http://www.sdbmo.gov/content/physician-license-mddo
Tennessee	USC, LPR, EAD, or otherwise legally entitled to work.	TBME 0880-02-03 (6)	https://tn.gov/assets/entities/health/attachments/0880-02.20091221.pdf	https://www.tn.gov/health/article/ME-applications
Texas	SSN required on the application form.	Occupations Code Chapter 155, Subchapter A	http://www.statutes.legis.state.tx.us/Docs/OC/pdf/OC.155.pdf	http://www.tmb.state.tx.us/idl/EE8639CC-3E23-15CC-876A-452F265297CD
Utah	Application form requires either a Driver's License, State ID or "a legible copy of your current and valid government issued document(s) showing evidence of authorization to work in the United States." It also asks for SSN and legal status.	Utah Code 58-67-302	http://legis.utah.gov/xcode/Title58/Chapter67/58-67-302.html?v=C58-67-302_1800010118000101	http://www.dopl.utah.gov/apps/MD.pdf
Vermont	SSN is required on the application form.	Vermont Statute Title 26, Chapter 023, Subchapter 003, § 1391	http://legislature.vermont.gov/statutes/section/26/023/01391	http://healthvermont.gov/hc/med_board/documents/InitialForms5-24-13.pdf

Virginia	SSN is required on the application form.	Code of Virginia § 54.1-2930	http://law.lis.virginia.gov/vacode/title54.1/chapter29/section54.1-2930/	https://www.license.dhp.virginia.gov/apply/
Washington	SSN is required on the application form. ITIN or Canadian SIN not accepted.	RCW 18.71.050	http://apps.leg.wa.gov/RCW/default.aspx?cite=18.71.050	http://www.doh.wa.gov/Portals/1/Documents/Pubs/657079.pdf
West Virginia	SSN required: “In order to comply with federal law, the West Virginia Board of Medicine is obligated to inform each applicant or licensee from whom it requests a Social Security Number that disclosing such number is MANDATORY in order for this Board to comply with the requirements of the federal National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank. If this Board should be required to make a report about one of its applicants or licensees to either of these data banks, it must report that individual’s Social Security Number.” https://wvbom.wv.gov/MD_Applications.asp	West Virginia Code § 30-3-10	http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=30&art=3#03	https://wvbom.wv.gov/MD_Application.s.asp
Wisconsin	SSN or Employer Identification Number Required in Application Form found here: http://165.189.64.111/Documents/Credentialing%20Forms/Health%20Application%20Forms/fm570.pdf If SSN not provided, form 1051, Affidavit is required to explain why SSN was not provided on the application: http://dps.wi.gov/Documents/Credentialing%20Forms/Business%20Application%20Forms/fm1051.pdf	Wisconsin Statute § 448.05	http://docs.legis.wisconsin.gov/statutes/statutes/448.pdf	http://165.189.64.111/Documents/Credentialing%20Forms/Health%20Application%20Forms/fm570.pdf

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Wyoming	<p>Question about immigration status in Application form:</p> <p>CERTIFICATION OF LEGAL STATUS: I declare under penalty of law that I am (check one): A citizen or national of the United States, or A qualified alien or nonimmigrant lawfully present in the United States who is eligible to receive this professional license or credential as defined in the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, as codified in 8 U.S.C. § 1601 et. Seq. (PRWORA) . . . Should my legal status change during the application process or after a credential is granted, I understand that I must report this change to the Wisconsin Department of Safety and Professional Services immediately.</p> <p>SSN required on the application form: 33-1-114 "Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, permit or license application requirements for any profession or occupation regulated under this title shall require applicants for new licenses, certificates of registration or renewals of licenses or certificates to include the applicant's social security number on the application form."</p>	Wyoming Statute § 33-26-303	http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title33/T33CH26.htm	https://sites.google.com/a/wyo.gov/wyomedboard/physicians/initial-physician-license-application
Washington D.C.	SSN is required on the application form.	D.C. Municipal Regulations for Medicine	http://doh.dc.gov/node/128972	http://doh.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/2011%20MD-DO%20Application_new.pdf

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Nursing:

State	Nursing License	Statute	Source	Application Form
Alabama	<p>"An alien who is not lawfully present in the United States and who is not defined as an alien eligible for public benefits under 8 U.S.C. § 1621(a) or 8 U.S.C. § 1641 shall not receive any state or local public benefits." <-- General rule. Public Benefits is defined as including professional licenses.</p> <p>Specific to nurses: "An applicant for a license . . . a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government." Section 34-21-21</p>	Ala. Code § 31-13-7(b)/ Section 34-21-21(a)	http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm	https://www.abn.alabama.gov/Content.aspx?id=3
Alaska	Social Security Number: "[A] license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department."	§ 08.01.060 (b)	http://touchngo.com/legcntr/akstats/Statutes/Title08/Chapter01/Section060.htm	https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofNursing.aspx
Arizona	Must provide SSN and have citizenship or alien status as provided for in A.R.S. § 41-1080.	R4-19-301(1)(e), (2); A.R.S. § 41-1080	http://apps.azsos.gov/public_services/Title_04/4-19.pdf ; http://www.azleg.gov/FormatDocument.aspx?inDoc=/ars/41/01080.htm&Title=41&DocType=ARS	https://www.azbn.gov/applications
Arkansas	No mention of any immigration status requirement	Arkansas State Board of Nursing Rules, Chapter 2, Section 1	http://www.arsbn.arkansas.gov/forms/Documents/Rules%20Chapter2-Final%20Effective%202014.pdf	http://www.arsbn.arkansas.gov/forms/Pages/default.aspx

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California	"An applicant who has received his or her training from a school of nursing in a country outside the United States and who has complied with the provisions of subdivision (a), or has completed training equivalent to that required by subdivision (a), shall qualify for licensure by successfully passing the examination prescribed by the board."	Business and Professions Code of California, Chapter 6, Article 2, Section 2736(b)	http://www.rn.ca.gov/regulations/bpc.shtml#2736	http://www.rn.ca.gov/pdfs/applicants/exam-app.pdf
Colorado	Requires "lawful status," includes all status that are mentioned in the INA -- Requires all applicants to submit an Affidavit of Eligibility to certify that the applicant is either a US citizen or otherwise lawfully present in the US and authorized to be employed in the US.	HB 06S-1009; C.R.S. 24-34-107	https://media.nasba.org/files/2011/02/Eligibility_Colorado.pdf	https://www.colorado.gov/pacific/dora/Nursing
Connecticut	X	Nursing Practice Act, Chapter 378, Section 20-93	http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/plis/nursing/chapter_378_nursing.pdf	http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/plis/nursing/rn/rn_app_only.pdf
Delaware	No requirement specified within the statute. SSN is required on the application form but can request for an exemption by filling out a form.	24 Del. C. 1953, § 1910	http://delcode.delaware.gov/title24/c019/index.shtml	http://dpr.delaware.gov/boards/nursing/documents/Nursing_Exam_Application.pdf
Florida	SSN required unless not a citizen or resident, then temporary license may be issued for 30 days after which SSN still required.	456.013	http://www.leg.state.fl.us/statutes/index.cfm?mode=view%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=456.013&URL=0400-0499/0456/Sections/0456.013.html	http://floridasnursing.gov/licensing/licensed-practical-nurse-registered-nurse-by-examination/

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Georgia	SSN is required on the application form.	Georgia Registered Professional Nurse Practice Act § 43-26-7	http://law.justia.com/codes/georgia/2010/title-43/chapter-26/article-1/43-26-7	http://sos.ga.gov/PLB/acrobat/Forms/38%20Application%20-%20Licensure%20by%20Exam%20for%20Graduates%20of%20Approved%20and%20Traditional%20Nursing%20Programs%23.pdf
Hawaii	§ 436B-10(4) "The applicant's social security number . . ." § 436B-10(6) "Proof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States[.]"	Professional and Vocational Licensing Act § 436B-10	http://cca.hawaii.gov/pvl/files/2013/06/Require-App-for-Nursing-without-exam-applying-by-endorsement_10.14R.pdf	http://cca.hawaii.gov/pvl/files/2013/06/Require-App-for-Nursing-without-exam-applying-by-endorsement_10.14R.pdf
Idaho	X	23.01.01 - Rules of the Idaho Board of Nursing	http://adminrules.idaho.gov/rules/current/23/0101.pdf	http://ibn.idaho.gov/IBNPortal/BoardAdditional.aspx?Board=IBON&BureauLinkId=930
Illinois	SSN required but in some circumstances this information does not have to be provided immediately. http://www.idfpr.com/Renewals/apply/FORMS/CGFNS_02.pdf	ILCS 100/ 10-65(c)	http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=000501000K10-65	http://www.idfpr.com/Renewals/apply/forms/rn-ex.pdf
Indiana	SSN required by the statute.	IC 25-1-5-11	http://www.in.gov/pla/files/2013_IPLA_COMPILATION_2.pdf	http://www.in.gov/pla/2507.htm
Iowa	SSN is required on the application form.	Nursing Board[655], Section 11.4(17A,22,147,152,272C)/ 11.4(1)	https://www.legis.iowa.gov/DOCS/ACO/IAC/LINC/10-16-2013.Agency.655.pdf	https://nursing.iowa.gov/sites/default/files/media/Exam%20App%2011%202014%20_0.pdf

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Kansas	SSN and country of citizenship required on the application.	Nurse Practice Act 65-1115	http://www.ksbn.org/npa/npa.pdf	http://www.ksbn.org/forms/Initiallicense.pdf
Kentucky	USC, LPR, or “temporary residency”	201 KAR 20:370	http://www.lrc.state.ky.us/kar/201/020/370.htm	http://kbn.ky.gov/apply/Pages/default.aspx
Louisiana	SSN is requested on the application form.	LA Administrative Code Title 46, Part XLVII, Part 2	http://www.lsb.state.la.us/Portals/1/Documents/rules/fullrules.pdf	http://www.lsb.state.la.us/Portals/1/Documents/Forms/RNExamApplication.pdf
Maine	SSN required on the application form.	Maine Revised Statutes, Title 32, Chapter 31, Subchapter 3, § 2201	http://www.mainelegislature.org/legis/statutes/32/titled32sec2201.html	http://www.maine.gov/boardofnursing/Licensing/RN/App%20for%20exam%20as%20RN.pdf
Maryland	SSN is required on the application form.	Nurse Practice Act	http://mbon.maryland.gov/Pages/nurse-practice-act.aspx	https://license.mdbon.org/nbe/(S(hxrenbfekshztth14ztn0kxj))/frmHome.aspx
Massachusetts	SSN is required on the application form.	M.G.L. c. 112, s. 74 & 74A, and Board regulations at 244 CMR 8.00	http://www.mass.gov/courts/docs/lawlib/230-249cmr/244cmr8.pdf	https://pcshq.com/?page=Jan2015NurseExamApp.pdf

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Michigan	SSN is required on the application form.	Public Health Code, Act 368 of 1978, Section 333.16174	http://www.legislature.mi.gov/(S(e2144at22c hjakmtkvp uqamm))/mileg.aspx?page=getObject&objectName=mcl-333-16174	https://www.michigan.gov/documents/1 ara/RN_Exam_App_437620_7.pdf
Minnesota	X	2014 Minnesota Statutes, Section 148.211	https://www.revisor.mn.gov/statutes/?id=148.211	https://www.hlb.state.mn.us/mbn/Portal/DesktopModules/ServiceForm.aspx?svid=6&mid=78
Mississippi	SSN required by the statute.	Mississippi Nursing Act § 73-15-19 (10)	http://www.msbn.ms.gov/Documents/NursingPracticeAct.pdf	http://www.msbn.ms.gov/Documents/Exam15.pdf
Missouri	Application states that applicants must submit either their SSN or “bias or passport identification number.”	Rules of Department of Insurance, Financial Institutions and Professional Registration Division 2200—State Board of Nursing Chapter 4—General Rules	http://s1.sos.mo.gov/cmsimages/adrules/csr/current/20csr/20c2200-4.pdf	http://pr.mo.gov/boards/nursing/lpnexaminationapp53003.pdf
Montana	SSN is required on the application form.	Rule: 24.159.1222	http://www.mtrules.org/gateway/RuleNo.asp?RN=24%2E159%2E1222	http://b.bsd.dli.mt.gov/license/bsd_boards/nur_board/board_page.asp
Nebraska	Rules do not state immigration status requirements, but application form requires proof of “Lawful Presence in the United States[.]”	Nurse Practice Act, Section 38-2220	http://dhs.ne.gov/publichealth/Licensure/Document/Nursing-NursePracticeAct.pdf	http://dhs.ne.gov/publichealth/Pages/crl_nursing_mlpn_endorsement.aspx

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Nevada	SSN and citizenship information is required on the application form.	NRS 632.140	http://www.leg.state.nv.us/NRS/NRS-632.html#NRS632Sec140	http://nevadanursingboard.org/wp-content/uploads/2015/03/Instructions-for-RN-LPN-application-for-license-by-examination.pdf
New Hampshire	SSN is required on the application form.	RSA 326-B:4, III (Nurse Practice Act); Nur 301.03	http://www.gencourt.state.nh.us/rules/state_agencies/nur100-800.html	http://www.nh.gov/nursing/forms/documents/licensure-examination-rn-lpn.pdf
New Jersey	SSN and legal status required on the application.	New Jersey Board of Nursing Law 45:11-26	http://www.njconsumeraffairs.gov/Statutes/nursinglaw.pdf	http://www.njconsumeraffairs.gov/nur/Pages/applications.aspx
New Mexico	SSN requested on the application form.	New Mexico Nursing Practice Act, Chapter 61	https://www.ncsbn.org/New_Mexico_Nursing_Practice_Act.pdf	http://nmbon.sks.com/Application_for_Licensure.aspx
New York	Question 21 on the application form: "Federal law limits the issuance of professional licenses, registrations and limited permits to United States citizens or qualified aliens. To comply with this Federal law, complete this section of this form and check the appropriate box below which indicates your citizenship/immigration status."	Article 139 Education Code, § 6905 (6)	http://www.op.nysed.gov/prof/nurse/article139.htm	http://www.op.nysed.gov/prof/nurse/nurse1.pdf
North Carolina	X	Nursing Practice Act, § 90-171.29	http://www.ncbon.com/myfiles/downloads/nursing-practice-act.pdf	http://www.ncbon.com/dcp/i/licensurelisting-licensure-by-examination-examination-application
North Dakota	X	Nurse Practices Act, 43-12.1-09	http://www.legis.nd.gov/cencode/t43c12-1.pdf?20131027203032	https://www.ndbon.org/NurseLicensure/InitialEndorse/index.asp

Ohio	SSN is required on the application form.	Ohio Revised Code » Title [47] XLVII Occupations - Professions, 4723.09	http://codes.ohio.gov/orc/4723	http://www.nursing.ohio.gov/PDFS/Forms/Exam/Exam_App_2015.pdf
Oklahoma	SSN is required on the application form.	Oklahoma Nursing Practice Act § 567.5	http://nursing.ok.gov/actwp15.pdf	https://www.ok.gov/nursing/licensing/app/index.php
Oregon	Provide SSN or sign an affidavit stating no SSN.	ORS 851-001-0030	http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_851/851_001.html	http://www.oregon.gov/OSBN/pages/rnlpnlicensure.aspx
Pennsylvania	SSN required on the application form.	Pennsylvania Code § 21.23, 63 P. S. § 215 and 216	http://www.pacode.com/secure/data/049/chapter21/chap21toc.html#21.23	http://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Documents/Applications%20and%20Forms/Online%20Instant%20Grad%20Exam%20GTP.P.pdf ; https://www.mylicense.state.pa.us/PersonSearchResults.aspx
Rhode Island	SSN required on the application form.	Section 5-34-10	http://webserver.rilin.state.ri.us/Statutes/TITLE5/5-34/5-34-10.HTM	http://health.ri.gov/applications/Nursing/RNLPN-Exam.pdf
South Carolina	"Pursuant to Section 8-29-10, et seq. of the South Carolina Code of Laws (1976, as amended), the Department of Labor, Licensing and Regulation must verify that any person who applies for a South Carolina license is lawfully present in the United States."	Nurse Practice Act, Chapter 33 § 40-33-32 (5)	http://www.scstatehouse.gov/code/t40c033.php	http://www.llr.state.sc.us/pol/nursing/index.asp?file=pub.htm#RN

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South Dakota	SSN requested on the application form.	South Dakota Code 36-9-30	http://legis.sd.gov/statutes/DisplayStatute.aspx?Type=Statute&Statute=36-9-30	https://www.sdbon.org/rm_lpn/exam/
Tennessee	Declaration of citizenship is required with all applications.	Rules of the Tennessee Board of Nursing 1000-01-01	https://www.ncsbn.org/1000-01.20111103.pdf Link to form for declaration of citizenship: http://tn.gov/assets/entities/health/attachments/PH-4183.pdf	http://tn.gov/assets/entities/health/attachments/Examination_Information.pdf
Texas	SSN required on the application form.	Nursing Practice Act, Sec. 301.252	https://www.bon.texas.gov/laws_and_rules_nursing_practice_act_2013.asp#Sec.301.252	https://www.bon.texas.gov/applications_graduates_and_nclex_examinations.asp
Utah	Citizenship and lawful presence declaration required on the application form.	Utah Code Title 58 Chapter 31b Part 3	http://le.utah.gov/xcode/Title58/Chapter31B/58-31b-P3.html?v=C58-31b-P3_1800010118000101	http://www.dopl.utah.gov/licensing/forms/applications/012_RN_LPN.pdf
Vermont	SSN is required on the application form.	Vermont Statute, Title 26, Chapter 28, § 1625	http://legislature.vermont.gov/statutes/fullchapter/26/028	https://www.sec.state.vt.us/media/683216/RN-Examination-Application-2015-0526.pdf
Virginia	X	Code of Virginia § 54.1-3017	http://law.lis.virginia.gov/vacode/title54.1/chapter30/section54.1-3017/	https://www.dhp.virginia.gov/nursing/nursing_forms.htm#LPN
Washington	SSN is required on the application form.	Chapter 246-840 WAC	http://apps.leg.wa.gov/vWAC/default.aspx?cite=246-840	http://www.doh.wa.gov/Portals/1/Documents/Pubs/669242.pdf

West Virginia	X	West Virginia Code, § 30-7-6 & 7	http://www.legis.state.wv.us/WVCODE/code.cfm?chap=30&art=7#1	https://apps.wv.gov/Nursing/OnlineRegistration
Wisconsin	SSN is required on the application form. If SSN not provided, form 1051, Affidavit is required to explain why SSN was not provided in the application: http://dsps.wi.gov/Documents/Credentialing%20Forms/Business%20Application%20Forms/fm1051.pdf	Wisconsin Administration Code N 2.10	http://docs.legis.wisconsin.gov/code/admin_code/n/2	http://dsps.wi.gov/Documents/Credentialing%20Forms/Health%20Application%20Forms/fm739.pdf
Wyoming	SSN Required. See MD No immigration requirement in state nurse licensing law, but application requires proof of lawful presence.	Title 33, Chapter 21, 33-21-127	http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title33/T33CH21.htm	https://nursing-online.state.wy.us/Resources/RN%20LPN%20Exam%20App%203%2013%202014.pdf
Washington D.C.	SSN required on the application form and in accordance to § 1-1205.05, which reads: "The social security number of each applicant for a license issued pursuant to this chapter shall be recorded on the application . . ."	District of Columbia Nurse Practice Act § 3-1205.03-.05	http://doh.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/DC%20Nurse%20Practice%20Act.pdf	http://doh.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/RN%20Examination%20Application%20283%29.pdf

California	<p>BUSINESS AND PROFESSIONS CODE - Article 4, BPC 6064.</p> <p>“(b) Upon certification by the examining committee that an applicant who is not lawfully present in the United States has fulfilled the requirements for admission to practice law, the Supreme Court may admit that applicant as an attorney at law in all the courts of this state and may direct an order to be entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court.” (Amended by Stats. 2013, Ch. 573, Sec. 1. Effective January 1, 2014.)</p> <p>Sergio Garcia case: Undocumented immigrant allowed to practice law in California: http://www.courts.ca.gov/24673.htm</p> <p>“The applicant is required by law either to provide the Committee with a Social Security Number or to request an exemption because of ineligibility for a Social Security Number.” Rule 4.16(B)</p> <p>http://rules.calbar.ca.gov/LinkClick.aspx?fileticket=-2KV5j0w6Cw%3D&tabid=1227</p>	Business and Professions Code – BPC 6064...as amended	https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6064&lawCode=BPC	https://www.calbarxap.com/applications/calbar/California_Bar_Registration/
Colorado	<p>HB 06S-1009: Requires Lawful Presence This bill was enacted into law on July 31, 2006 and applies to all professional licensees: SECTION 1. 24-34-107 (1), Colorado Revised Statutes http://tornado.state.co.us/gov_dir/leg_dir/olls/sl2006b/sl_9.htm</p> <p>SSN and citizenship and immigration status requested on application form.</p>	Section 1. 24-34-107 (1), Colorado Revised Statutes	http://tornado.state.co.us/gov_dir/leg_dir/olls/sl2006b/sl_9.htm	http://www.coloradosupremecourt.com/BLE/Application/OnlineApp/OnlineAppHome.asp
Connecticut	<p>“[A] citizen of the United States or an alien lawfully residing in the United States.”</p>	Section 2-8(1) of the Rules of the Superior Court Regulating Admission to the Bar	https://www.jud.ct.gov/cbec/rules.htm#2-2	http://www.jud.ct.gov/cbec/July15/Form1E.pdf
Delaware	<p>SSN is voluntary. Immigration status is requested on the application form.</p> <p>http://courts.delaware.gov/bbe/docs/2015_Sample_Delaware_Bar_App.pdf</p>	Rules of the Supreme Court of the State of Delaware Rule 52	http://courts.delaware.gov/bbe/docs/2015_Sample_Delaware_Bar_App.pdf	http://courts.delaware.gov/bbe/docs/2015_Sample_Delaware_Bar_App.pdf

Florida	<p>"[A]ll applicants are required to document their citizenship or immigration status. " --Florida Board of Bar Examiners FAQ</p> <p>**New bill Passed that allowed undocumented persons to become lawyers under certain circumstances:</p> <p>H.R. 755, § 454.021, 2014 Leg., Reg. Sess. (Fla. 2014).</p> <p>Title XXXII Chapter 454.021 (3) "Upon certification by the Florida Board of Bar Examiners that an applicant who is an unauthorized immigrant who was brought to the United States as a minor; has been present in the United States for more than 10 years; has received documented employment authorization from the United States Citizenship and Immigration Services (USCIS); has been issued a social security number; if a male, has registered with the Selective Service System if required to do so under the Military Selective Service Act, 50 U.S.C. App. 453; and has fulfilled all requirements for admission to practice law in this state, the Supreme Court of Florida may admit that applicant as an attorney at law authorized to practice in this state and may direct an order be entered upon the court's records to that effect."</p> <p>http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0454/Sections/0454.021.html</p>	Florida Board of Bar Examiners FAQ	<p>https://www.floridabar.org/_85257bfe0055eb2c.nsf/52286ae9ad5d845185257c07005c3fe1/d65e1e8ca3f618eb85257c0d004e20be#2872</p>	<p>https://www.floridabarexam.org/web/website.nsf/52286AE9AD5D845185257C07005C3FE1/A24D73798D500E6D85257C0B006FC042</p>
Georgia	<p>SSN is required on application form.</p> <p>"Applicants who are not U. S. citizens or do not have Permanent Resident status in the U. S. must print, complete, and submit the NonImmigrant Affidavit and required documentation along with the Fitness Application."</p> <p>https://www.gabaradmissions.org/appinfo.action?id=2#citizenship</p>	Supreme Court of Georgia: Rules Governing Admission to the Practice of Law	<p>https://www.gabaradmissions.org/rules-governin-g-admission</p>	<p>https://www.gabaradmissions.org/information-and-applications</p>
Hawaii	<p>Chapter 436B-10(6) Professional and Vocational Licensing Act requires "[p]roof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States"; 436B-10(4) requests a social security number.</p> <p>http://cca.hawaii.gov/pvl/files/2013/08/hrs_pvl_436b.pdf</p>	Rules of the Supreme Court of the State of Hawai'i	<p>http://www.courts.state.hi.us/docs/barapp/paper_bar_application_021313.pdf</p>	<p>http://www.courts.state.hi.us/docs/barapp/paper_bar_application_021313.pdf</p>

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Idaho	"Be lawfully admitted to this country."	Idaho Bar Commission Rule 202	http://www.isb.idaho.gov/admissions/bar_exam/requirements.html	http://www.isb.idaho.gov/admissions/bar_exam/application.html
Illinois	Evidence of citizenship. Rule 712(c)(3) SSN and citizenship information requested on the application form. https://www.ilbaradmissions.org/browsapplication.action?id=1	Rule 712(c)(3)	http://www.state.il.us/court/SupremeCourt/Rules/ArtVII/artVII.htm#Rule701	https://www.ilbaradmissions.org/browsapplication.action?id=1
Indiana	SSN required by the statute.	Indiana Rules of Court: Rules for Admission to the Bar and the Discipline of Attorneys	http://www.in.gov/judiciary/rules/ad_dis/#Toc341254986	https://myble.courts.in.gov/information-and-applications
Iowa	"An applicant shall not be ineligible for registration because of age, citizenship, sex, race, religion, marital status or national origin although the application form may require citizenship information." 2015 Iowa Code/Title XV Judicial Branch and Judicial Procedures/Subtitle 2 Courts/ Chapter 602 Judicial Branch/ 602.10102 Qualifications for admission Citizenship Requested on bar exam Application Form http://www.iowacourts.gov/wfData/files/ProfessionalRegulation/BarExam/Bar%20Application.pdf	2015 Iowa Code/Title XV Judicial Branch and Judicial Procedures/Subtitle 2 Courts/ Chapter 602 Judicial Branch/ 602.10102 Qualifications for admission	https://www.legis.iowa.gov/publications/search/document?fq=id:745539&pdid=714863&q=602.10102#602.10102	http://www.iowacourts.gov/wfData/files/ProfessionalRegulation/BarExam/Bar%20Application.pdf
Kansas	Application form requires SSN and asks for citizenship and immigration status -- required to explain and provide proof of legal status if not a US citizen -- page 4 of application form.	Rule 705 of Rules Adopted by the Supreme Court	http://www.ks.courts.org/rules/Rule-Info.asp?r1=Rules+Relating+to+Admission+of+Attorneys&r2=400	http://www.ks.courts.org/appellate-clerk/Board-of-Law-Examiners/PDF/ApplicationByWrittenExamination.pdf

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Kentucky	<p>"[A]ll applicants are required to document their citizenship or immigration status." http://kyoba.boxlake.com/Views/public/Content.aspx?page_id=292</p> <p>SSN required on the application form.</p>	SCR 2	http://kyoba.boxlake.com/Views/public/Content.aspx?page_id=211	http://kyoba.boxlake.com/Views/public/Content.aspx?page_id=298
Louisiana	<p>"Be a citizen of the United States or an alien lawfully admitted for permanent residence, or an alien otherwise authorized to work lawfully in the United States."</p>	Rule XVII LA Bar Admission Rules, Section 3(B)	http://www.lascba.org/candidate/InstructFirstTime.cfm	https://www.lascba.org/candidate/InstructFirstTime.cfm
Maine	<p>Citizenship and immigration status required on the application.</p>	Main Bar Admission Rule 5	http://www.mainebarexam.org/pages/PDF/MBARAdmissR0112.pdf	http://www.mainebarexam.org/pages/forms.html
Maryland	<p>SSN is required on the application form.</p>	Rules Governing Admission the Bar of Maryland	http://www.mdcourts.gov/ble/pdfs/baradmissionrules.pdf	https://portals.mdcourts.gov/ebareapp/createAccount.do
Massachusetts	<p>SSN is required on the application form.</p>	Rules of the Board of Bar Examiners	http://www.mass.gov/courts/docs/bbe/barrules.pdf	http://www.mass.gov/courts/docs/bbe/barrules.pdf
Michigan	X	Michigan Supreme Court, Board of Law Examiners: Rules, Statute, and Policy Statements	http://courts.mi.gov/Courts/MichiganSupremeCourt/BoardOfLawExaminers/Rule%20Statutes%20andPolicy%20Statements%20July%202014.pdf	http://courts.mi.gov/Courts/MichiganSupremeCourt/BoardOfLawExaminers/Rule%20Statutes%20andPolicy%20Statements%20July%202014.pdf

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Minnesota	X	Minnesota State Board of Law Examiners, Rule 4	https://www.ble.state.mn.us/rules/Rule-4-General-Requirements-for-Admission.aspx	http://www.ble.state.mn.us/file/Bar%20Application%202014%20-%20fill%20in(6).pdf
Mississippi	X	Board of Bar Admission's Rules Governing Admission to the Mississippi Bar	http://courts.ms.gov/rules/msrulesofcourt/rules_admission_msbar.pdf	https://courts.ms.gov/baradmissions/baradmissions_applawstudent.html
Missouri	"Be a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States[.]"	Missouri Board of Law Examiners, Rule 8.03	https://www.mble.org/rules	https://www.mble.org/browseapplication.action?id=1
Montana	X		http://cymcdn.com/sites/www.montanabar.org/resource/resmgr/Admissions/Rules_for_Admission.pdf	http://montanabar.sitemym.com/?page=AdmissionInfo
Nebraska	Supreme Court Rules have no immigration status requirements but application form asks for immigration status and citizenship.	Supreme Court Rules § 3-112/113	https://supremecourt.nebraska.gov/supremecourt-rules/ch3/art1	https://supremecourt.nebraska.gov/sites/supremecourt.ne.gov/files/misc/attr-services/upl/EA_Nebraska.pdf
Nevada	X	Supreme Court Rule 51 and 52	http://www.leg.state.nv.us/courtrules/scr.html	http://www.nvbar.org/content/admissions-online-application

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New Hampshire	Supreme Court Rules have no immigration status requirements but application form asks for immigration status and citizenship.	Supreme Court Rule 42	http://www.courts.state.nh.us/nhbar/petition.pdf	http://www.courts.state.nh.us/nhbar/petition.pdf
New Jersey	Supreme Court Rules have no immigration status requirements but application form asks for immigration status and citizenship.	Rule 1:24/27/29	https://www.njbarexams.org/rules	https://www.njbarexams.org/information-and-applications
New Mexico	"[I]s a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States."	Rule 15-103 (B)(7)	http://nmexam.org/wp-content/uploads/2015/11/NMRA2016_Ruleset15_unannotated.pdf	http://nmexam.org/reciprocity/process-forms/
New York	Application asks for SSN and immigration status. No Immigration status Requirements in Rules, but Cesar Vargas case: http://www.nytimes.com/2013/12/04/nyregion/for-immigrant-passing-the-bar-exam-wasnt-enough.html Vargas case update: Vargas application to practice law granted by the Supreme Court of the State of New York Appellate Division: Second Judicial Department	Rule of the Court 520.1-17	http://www.nybarexam.org/Rules/Rules.htm#520.1	https://www.nybarapply.org/intro.aspx http://www.nybarexam.org/Admission/April2015/Part%20I_Application_04.21.15.pdf
North Carolina	X	Rules Governing the Admission to Practice Law in the State of North Carolina, Section .0500	http://ncble.org/wp-content/uploads/2015/09/rules.pdf	https://ncble.org/application-information/general-applications/instructions/

North Dakota	X	North Dakota Admission to Practice Rules, Rule 1	http://www.ndcourts.gov/rules/Admission/frareset.htm	http://www.ndcourts.gov/court/committees/barbd/information.htm
Ohio	X	Rule I of the Rules for the Government of the Bar	http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf#Rule1	http://www.supremecourt.ohio.gov/Attysvcs/admissions/application/default.asp
Oklahoma	SSN required on the application form.	Rules Governing Admission to the Practice of Law in the State of Oklahoma	http://www.okbba.com/docs/rules_governing_admission.pdf	http://www.okbba.com/applications.aspx
Oregon	SSN required on the application form.	Supreme Court of the State of Oregon Rule 3.05	http://www.osbar.org/_docs/rulesregs/admissions.pdf	http://www.osbar.org/_docs/admissions/ExamApplication.pdf
Pennsylvania	Application form requires citizenship information and immigration status as well as appropriate documentation.	Rule 203/204/205	http://www.pabarexam.org/bar_admission_rules/geninfo.htm	http://www.pabarexam.org
Rhode Island	"He/She is a citizen of the United States or legal resident, of good character[.]"	Supreme Court Rules: Article II, Rule 1(a)	https://www.courts.ri.gov/attorneyresources/baradmission/pdf/admissionbar-articleii.pdf	https://www.courts.ri.gov/AttorneyResources/baradmission/Pages/Admission%20on%20Examination.aspx

South Carolina	"Pursuant to Section 8-29-10, et seq. of the South Carolina Code of Laws (1976, as amended), the Department of Labor, Licensing and Regulation must verify that any person who applies for a South Carolina license is lawfully present in the United States."	Supreme Court Rule 402 (c)	http://www.judicial.state.sc.us/courtRegistryRule.cfm?ruleID=402&subRuleID=&ruleType=APP	http://www.judicial.state.sc.us/bar/
South Dakota	X	Rules and Regulations for Admission to Practice Law in South Dakota, Rule 16-16-2	http://www.ujss.sd.gov/uploads/barexaminers/RReg.pdf	http://www.ujss.sd.gov/Board_of_Bar_Examiners/
Tennessee	X	Supreme Court Rule 7, Article I, Section 1.03	http://tncourts.gov/rules/supremecourt/7	http://www.tsc.state.tn.us/courts/appellate-court-clerks-office/admission-practice-law
Texas	"qualify under one of the following categories: (A) be a United States citizen; (B) be a United States national; (C) be an alien lawfully admitted for permanent residence; (D) be otherwise authorized to work lawfully in the United States, including in a period of Optional Practical Training; or (E) be an Applicant who does not reside in the United States when the Application is submitted"	Supreme Court Rule II	http://www.ble.state.tx.us/rule/newrules/currentrulebook.pdf	http://www.ble.state.tx.us
Utah	X	Rule 14-703	http://www.utahbar.org/admissions/rules-governing-bar-admissions/	http://www.utahbar.org/admissions-application-forms-and-instructions/
Vermont	"An applicant must be a citizen of the United States or an alien lawfully present in the United States[.]"	Supreme Court Rules Section 6 (f)	https://www.vermontjudiciary.org/LC/d-BBELibrary/BBERules.pdf	https://www.vermontjudiciary.org/LC/d-BBELibrary/ExamApplication.pdf

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Virginia	Affidavit of immigration status is required for non-US citizens for the application.	Title 54.1 of the Code of Virginia of 1950, as amended	http://barexam.virginia.gov/pdf/VBBERules.pdf	http://barexam.virginia.gov/bar/barapps.html
Washington	X	Court Rules APR 3	http://www.courts.wa.gov/court_rules/?fa=court_rule&group=ga&set=APR&ruleid=gaapr03	https://admissions.wsba.org
West Virginia	X	Rules for Admission to the Practice of Law, Rule 2.0	http://www.courts.wv.gov/legal-community/rules-for-admission.html#rule2	http://www.courts.wv.gov/legal-community/Board-of-Law/bar-application.html
Wisconsin	Application form requires SSN, citizenship and immigration status.	SCR 40.02	http://www.wicourts.gov/sc/sr/rule/DisplayDocument.pdf?content=pdf&seqNo=85218	http://wicourts.gov/formdisplay/BE-001.pdf?formNumber=BE-001&formType=Form&formatId=2&language=en
Wyoming	X	WYO Stat Ann Section 33-5-105; Rules and Procedures Governing Admission to the Practice of Law, Section IV	https://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title33/T33CH5.htm , http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=72#615	https://www.wyomingbar.org/admissions/frequently-asked-questions/

Washington D.C.	X	Rule 46	http://www.dccourts.gov/internet/documents/rule46b_admission_by_examination_rev.pdf	http://www.dccourts.gov/internet/appellate/admincommittee/main.jsf
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Educator:

State	Educator/Teacher License	Statute	Source	Application Form
Alabama	" . . . the school board is required to verify the immigration status of a newly hired employee (including a substitute employee) as part of the employment process . . . "	Title 31, Chapter 13 of the Code of Alabama 1975	http://www.al.sde.edu/sec/comm/Pages/Everify.aspx	https://ats1.searchsoft.net/ats/app_login.shtml?COMPANY_ID=00008500
Alaska	SSN is required on the application form.	4 AAC 12.305	http://www.legis.state.ak.us/basis/aac.asp#4.12.300	https://education.alaska.gov/TeacherCertification/forms/initial.pdf
Arizona	X	Arizona Revised Statutes and Administrative Code	http://www.azed.gov/education/certification/certification-requirement/	http://www.azed.gov/education/certification/files/2013/11/application-for-certification-checklist-11-18-2013.pdf?201505.05
Arkansas	"The Office of Educator Licensure shall issue a two-year Provisional License to an applicant who holds an out-of-country license or its equivalent and who: . . . Is not a United States citizen and provides evidence satisfactory to the Department that the applicant meets the criteria of an exception under U.S.C. § 1261 for the state to issue a professional license[.]"	Arkansas Department of Education Emergency Rules Governing Educator Licensure, 2-1.07.2	http://www.arkansas.gov/public/userfiles/Legal/Legal-Current%20Rules/ADE317_Educator_Licensure_EMERGENCY_RULE_SBOE_2015_02_12_Approved.pdf	http://www.arkansas.gov/public/userfiles/HR_and_Educator_Effectiveness/HR_Educator_Licensure/Educator_License_Application_revised_071113.pdf

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California	The statute does not specify legal status requirements, but the application asks for either a SSN or Individual Tax ID Number.	5 CCR § 80413	https://govt.westlaw.com/calregs/Document/1CFB34780D48711DEBC02831C6D6C108E7?viewType=FullText&origin=nContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)	http://www.ctc.ca.gov/credentials/leafflets/414.pdf
Colorado	HB 06S-1009: Requires Lawful Presence This bill was enacted into law on July 31, 2006 and applies to all professional licensees: SECTION 1. 24-34-107 (1), Colorado Revised Statutes http://tornado.state.co.us/gov_dir/leg_dir/olls/sl2006b/sl_9.htm The application requires that you “affirm . . . That you are either a United States citizen, a legal permanent resident or that you are otherwise lawfully present in the United States pursuant to federal law.” https://www.cde.state.co.us/cdeprof/verification_lawful_presence	Colorado Educator Licensing Act of 1991, 2.03(3) Section 1. 24-34-107 (1), Colorado Revised Statutes	http://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6250&fileName=1%20CCR%20301-37 http://tornado.state.co.us/gov_dir/leg_dir/olls/sl2006b/sl_9.htm	https://www.cde.state.co.us/cdeprof/checklist-initialteacher
Connecticut	The application requests a SSN.	Regulation of State Board of Education, Sec. 10-145d-400 to 619	http://www.sde.ct.gov/sde/lib/sde/PDF/Cert/regulations/regulations.pdf	http://www.sde.ct.gov/sde/lib/sde/PDF/Cert/certform/ed_170.pdf

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Delaware	The application requests a SSN.	14 Del.C. § 1210	http://regulations.delaware.gov/AdminCode/title14/1500/1510.shtml#TopOfPage	https://deeds.k12.de.us/certificate/deeds_ia_instruct.aspx
Florida	“(a) The State Board of Education may adopt rules for issuing certificates to noncitizens who are needed to teach and who are legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services. The filing of a written oath to uphold the principles of the Constitution of the United States and the Constitution of the State of Florida, required under paragraph (2)(b), does not apply to individuals assigned to teach on an exchange basis. (b) A certificate may not be issued to a citizen of a nation controlled by forces that are antagonistic to democratic forms of government, except to an individual who has been legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services.”	Fla. Stat. § 1012.56(11)(a)–(b)	http://www.flstate.gov/Laws/Statutes/2013/1012.56	http://www.fldoe.org/testing/certification/online-application-status-lookup-site.html
Georgia	“Georgia law, O.C.G.A. 50-36-1, stipulates that ‘every agency or political subdivision shall verify the lawful presence in the United States of any applicant for public benefits.’ Professional licensure is listed within the law as a public benefit. The GaPSC is therefore required to verify the lawful presence in the United States of all applicants for educator certification. No certificate or license may be issued to an applicant who is unable to verify lawful presence in the United States.”	O.C.G.A. 50-36-1	http://www.gapsc.com/Rules/Current/Certification/505-2-27.pdf	http://www.gapsc.com/Certification/Downloads/Initial_Certification_Application.pdf
Hawaii	CHAPTER 436B-10(6) PROFESSIONAL AND VOCATIONAL LICENSING ACT requires “Proof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States”; 436B-10(4) requests a social security number. http://cca.hawaii.gov/pvl/files/2013/08/hrs_pv1_436b.pdf	Hawaii Revised Statute 302A–801–302A–808	http://www.htsb.org/wp-content/uploads/2012/10/Revised_Statute.pdf	http://www.htsb.org/licensing-permits/licensing-permits-overview/
Idaho	X	IDAPA 08.02.02	http://adminrules.idaho.gov/rules/current/08/0202.pdf	http://sde.idaho.gov/cert-psc/cert/

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Illinois	X	23 Illinois Administrative Code 25	http://www.isbe.net/rules/archive/pdfs/25ark.pdf	http://www.isbe.net/ELIS/default.htm
Indiana	X	IC 20-28	http://iga.in.gov/legislative/laws/2014/ic/titles/020/articles/028/	http://www.doe.in.gov/licensing/state-preparatory-program
Iowa	SSN and citizenship/immigration status questions on the application form.	Iowa Code - 2015, Title VII, Chapter 272C	https://www.legis.iowa.gov/laws/iowa-code/sections?codeChapter=272C&year=2015	http://www.boee.iowa.gov/forms/liciowainst.pdf
Kansas	SSN required on the application form.	K.S.A. 72-1388	http://www.kslegislature.org/li_2014/b2013_14/statute/072_000_0000_chapter/072_013_0000_article/072_013_0088_section/072_013_0088_k/	http://www.ksde.org/Agency/DivisionofLearningServices/TeacherLicensureandAccreditation/LicenseApplication.aspx
Kentucky	SSN required on the application form.	16 KAR 2:010	http://www.lrc.state.ky.us/kar/016/002/010.htm	http://kyepsb.net/documents/Cert/CA-1.pdf

Louisiana	SSN required on the application form.	Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel	https:// www.teachlouisiana.net/Teachers.aspx?PageID=650	https://www.teachlouisiana.net/Teachers.aspx?PageID=1231129
Maine	SSN required on the application form.	MRS Title 20-A, Chapter 501	http:// www.mainelegislature.org/legis/statutes/20-a/title20-Ach501sec0.html	http://www.maine.gov/doe/cert/initial/application/index.html
Maryland	Last four digits of SSN required on the application form.	Code of Maryland Regulations 13A.12.02.02	http:// www.ds.d.state.md.us/COMAR/getfile.aspx?file=13a.12.02.02.htm	http://www.marylandpublicschools.org/msde/divisions/certification/certification_branch/certification_inf/application/overview.html
Massachusetts	SSN is required on the application form.	603 CMR 7.04(c), 7.09, or 7.11	http:// www.doe.mass.edu/lawsregs/603cmr7.html?section=02	http://www.mass.gov/edu/docs/ese/educator-effectiveness/licensing/pk12-application-package.pdf
Michigan	X	The Revised School Code (Excerpt) Act 451 of 1976, Section 380.1531	http:// www.legislature.mi.gov/(S(21suqy0otg3f1yp2pcgis2j4))/mileg.aspx?page=getObject&objectName=mcl-380-1531	https://www.michigan.gov/documents/mde/Facts_About_Teacher_Certification_In_Michigan_230612_7.pdf

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Minnesota	X	Minnesota Administrative Rules, 8710.0300	https://www.revisor.mn.gov/rules/?id=8710.0300	http://education.state.mn.us/MDE/EdExc/Licen/
Mississippi	<p>"Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education."</p>	Miss. Code Ann. § 37-3-2	http://www.mde.k12.ms.us/docs/educator-licensure/enabling-legislation.pdf?sfvrsn=0	http://www.mde.k12.ms.us/docs/educator-licensure/application.pdf?sfvrsn=0
Missouri	SSN required within application materials.	5 CSR 20-400.150	http://s1.sos.mo.gov/cmimages/adrules/csr/priorious/5csr/5csr0614/5c20-400.pdf	https://dese.mo.gov/educator-quality/certification/teacher

Montana	X	ARM Rule: 10.57.201	http://www.mtrules.org/gateway/RuleNo.asp?RN=10%2E57%2E201	http://www.opi.mt.gov/cert/Materials/class2Standard.html
Nebraska	SSN is required on the application form.	Nebraska Admin Code, Title 92, Chapter 21, 005	http://www.sos.ne.gov/rules-and-regs/research/Rules/Education_Dept_of/Title-92/Chapter-21.pdf	http://www.education.ne.gov/tcert/pdfs/Application.pdf
Nevada	<p>"1.Except as otherwise provided in this section and NRS 391.070, it is unlawful for:</p> <p>(a) The Superintendent of Public Instruction to issue a license to, or a board of trustees of a school district or a governing body of a charter school to employ, any teacher, instructor, principal or superintendent of schools who is not a citizen of the United States or a person who has filed a valid declaration to become a citizen or valid petition for naturalization, or who is not a lawful permanent resident of the United States."</p> <p>NRS 391.070 Employment of alien teacher through program of exchange permitted. The board of trustees of a school district or the governing body of a charter school may employ a teacher or instructor authorized to teach in the United States under the teacher exchange programs authorized by laws of the Congress of the United States.</p> <p>* May 15, 2015 update: Nevada Gov. Brian Sandoval (R) signed a state bill this week allowing some undocumented immigrants with temporary work authorization to receive teaching licenses.</p>	NRS 391.060	http://leg.state.nv.us/NRS/NRS-391.html#NRS391Sec060	http://www.doe.nv.gov/Educator_Licensure/Applications_Forms/
New Hampshire	X	Administrative Rules for Education, Chapter Ed 500	http://www.gencourt.state.nh.us/rules/state_agencies/ed500.html	http://education.nh.gov/certification/

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New Jersey	<p>“Every permanent teaching staff member employed in any of the free public schools for nine months or more, in any year shall be a citizen of the United States, except that any citizen of any other country, who has declared his intention of becoming a United States citizen and to whom there has been issued a teaching certificate in accordance with law, may be employed as a teacher so long as he holds a valid teacher's certificate and a teacher of foreign languages who has been a resident of the United States for less than 10 years and who is not a citizen of the United States may be employed in such capacity. The requirement of citizenship shall not be construed to apply to a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program or teacher exchange program.”</p>	N.J.S.18A:26-1	ftp://www.njleg.state.nj.us/2002/2003/P102/9_.PDF	http://www.state.nj.us/education/educators/licensure/tcis/
New Mexico	SSN is required on the application form.	6.61.1 - 12 NMAC	http://164.64.110.239/nmac/_title06/T06C061.htm	http://www.ped.state.nm.us/ped/LicensureDocs/Initial%20Application%20121510.pdf

New York	No person shall be employed or authorized to teach in the public schools of the state who is: [...] . [Until Nov 30, 2017] Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to an alien teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment. The citizenship requirements of this subdivision shall not apply to an alien teacher now or hereafter employed whose immigration status is that of a lawful permanent resident of the United States and who would otherwise be eligible to serve as a teacher, or to apply for or receive permanent certification as a teacher, but for the foregoing requirements of this subdivision.. 3. [Eff Nov 30, 2017] Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to an alien teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment.	EDN Title 4, Article 61, § 3001	http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:	http://www.highered.nysed.gov/tcert/certificate/apply.html
North Carolina	SSN required on the application form.	Chapter 115C	http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bychapter/chapter_115c.html	http://www.ncpublicschools.org/licensure/steps/
North Dakota	X	ND Administrative Code, CHAPTER 67.1-02-02	http://www.legis.nd.gov/information/acdata/pdf/67.1-02-02.pdf?20150628161726	http://www.ncpublicschools.org/licensure/

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Ohio	X	Ohio Administrative Code, Chapter 3301-24	http://codes.ohio.gov/oc/3301-24	http://education.ohio.gov/Topics/Teaching/Educator-Licensure/Apply-for-Certificate-License
Oklahoma	SSN required on the application form.	OAR 210:20-9-91	http://www.our.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00_	http://sde.ok.gov/sde/sites/ok.gov.sde/files/documents/files/OSDE_App_for_OK_School_Certification.pdf
Oregon	SSN is required on the application form.	OAR 584-050-0002	http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_584/584_050.html	http://www.oregon.gov/tspc/Pages/index.aspx

<p>Pennsylvania</p>	<p>“State certificates shall be issued as herein provided. Each such certificate shall set forth the branches which its holder is entitled to teach. No teacher shall teach, in any public school, any branch which he has not been properly certificated to teach.</p> <p>A certificate to teach shall not be granted or issued to any person not a citizen of the United States, except in the case of exchange teachers not permanently employed and teachers employed for the purpose of teaching foreign languages.</p> <p>In the case of a resident foreign national holding an immigrant visa who has declared, in writing, to the Department of Public Instruction the intention of becoming a citizen of the United States, such person shall be eligible for a provisional college certificate.”</p>	<p>24 P.S. § 12-1202</p>	<p>http://www.education.pa.gov/Teachers%20-%20Administrators/Certifications/Pages/default.aspx#.Vs-CWMdlv-Z</p> <p>http://www.pa.code.com/security/data/022/chapter49/cchap49toc.html</p> <p>http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTML&yr=1949&sesInd=0&smthLwInd=0&act=14&chpt=12&sctn=2&subctn=0</p> <p>https://www.mypdeapps.pa.gov/site/minderagent/forms/login.fcgi?TYPE=33554433&REALMOID=06-35084476-a714-4c93-8da5-3f7e353efb0e&GUID=&SMAUTHREASON=0&METHOD=GET&SMAGENTNAME=-SM-HEPg%2fE02qVAHfhAf0KHHnD1%2bZqzwGnnGbQpSZ8e34sL9NNPRjj7QaqHsn3GeVaU&TARGET=-SM-https%3a%2f%2fwwww%2emypdeapps%2epa%2egov%2fLogin%2fwfLogin%2easpx</p>
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Rhode Island	SSN is required on the application form.	State of Rhode Island General Laws § 16-11-1 to 7	http://www.ride.ri.gov/Portals/0/Uploads/Docs/Teachers-and-Administrators-Excellent-Educators/Educator-Certification/Cert-main-page/CertificationRedesign-Regulations-PromulgatedVersion.pdf	http://www.ride.ri.gov/Portals/0/Uploads/Docs/Teachers-and-Administrators-Excellent-Educators/Educator-Certification/Cert-main-page/RI-Certification-AppForm.pdf
South Carolina	SSN is required on the application form. “Pursuant to Section 8-29-10, et seq. of the South Carolina Code of Laws (1976, as amended), the Department of Labor, Licensing and Regulation must verify that any person who applies for a South Carolina license is lawfully present in the United States.”	South Carolina Code of Laws, SECTION 59-25-20	http://www.scstatehouse.gov/code/t59c025.php	http://ed.sc.gov/educators/certification/certification-forms/forms/pdf-application-for-educator-certification-or-student-teaching-clearance/
South Dakota	SSN is required on the application form.	SD Admin Rules, Article 24:15	http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=24:15&cookieCheck=true	https://apps.sd.gov/DE04Public/TeacherCertification/SDDOEOnlineApplications.aspx

Tennessee	SSN is required on the application form.	Rules of the State Board of Education Chapter 0520-02-03	https://www.tn.gov/assets/entities/sbe/attachments/7-24-15-III-C-TeacherLicensureEmergencyRuleAttachmentCleanVersion.pdf	http://www.tn.gov/education/article/apply-for-a-new-teacher-license
Texas	X	Texas Admin Code § 230.11/13	http://texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=5&ti=19&pt=7&ch=230&sch=B&rl=Y	https://secure.sbec.state.tx.us/SBECOnline/login.asp
Utah	Application form requires SSN and contains a question about citizenship and whether visa allows employment.	Utah Admin Code Rule R277-502	http://www.rules.utah.gov/publicat/code/r277/r277-502.htm#T4	http://www.schools.utah.gov/cert/Alternative-Routes-to-Licensure/Application/ARLApplicationForm.aspx
Vermont	SSN is required on the application form.	Vermont Statutes § 1696	http://legislature.vermont.gov/statutes/chapter/16/051	https://alis.edlicensing.vermont.gov/InitialUserRegistration.aspx
Virginia	Application states: "In accordance with § 63.2-1937 of the Code of Virginia, the Virginia Department of Education requires applicants for teacher licensure in Virginia to provide their social security numbers[.]"	8VAC20-22-40	http://law.lis.virginia.gov/admincode/title8/application20/chapter22/section40/	http://www.doe.virginia.gov/teaching/licensure/application.pdf

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Washington	X	WAC 181-79A-150	http://apps.leg.wa.gov/WAC/default.aspx?cite=181-79A-150	http://www.k12.wa.us/certification/Certapp/Instructions.pdf
West Virginia	9.1.a "A license to work in the public schools of West Virginia may be granted to an applicant who is : 1) a United States citizen unless otherwise noted..."	126CSR136-9	http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=26277&Format=PDF	https://wvde.state.wv.us/certification/forms/documents/Form20T.pdf
Wisconsin	X	Wisconsin Admin Code, Chapter PI 34	http://docs.legis.wisconsin.gov/code/admin_code/pi/34/V/17	http://tepd.dpi.wi.gov/licensing/elo-initial-wi-teacher-tips
Wyoming	Application includes SSN request and question regarding eligibility to work in the US.	Wyoming Code, 21-2-802	https://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title21/Title21.htm	http://ptsb.state.wy.us/LinkClick.aspx?fileticket=fC-MAA_FKn0%3d&tabid=94
Washington D.C.	X	Chapter 28A.405 RCW	http://apps.leg.wa.gov/rcw/default.aspx?cite=28A.405&full=true	http://osse.dc.gov/service/teacher-licensure

**APPENDIX II: EXAMPLES OF STATE OCCUPATIONAL LICENSING LAWS
REQUIRING CERTAIN IMMIGRATION STATUS**

Occupation	State	Law	Citizenship/Alienage requirement
Athletic Trainer	Nevada	NEV. REV. STAT. § 640B.310	(b) Be a citizen of the United States or lawfully entitled to remain and work in the United States;
Auctioneer	West Virginia	W. VA. CODE § 19-2C-5	(e) That he or she is a citizen of the United States;
Breeder (game animals or game birds)	Delaware	DEL. CODE ANN. tit. 7, § 543	[S]hall be issued only to citizens of the United States
Broker	Massachusetts	MASS. GEN. LAWS ANN. ch. 112, § 87TT	Every applicant for a license shall furnish evidence that he is a citizen of the United States or shall present to the board a copy of his declaration of intention to become a citizen of the United States, certified by the clerk of the court in which it was filed, or a certificate from the Immigration and Naturalization Service of the United States, showing that, in accordance with law, he has declared his intention to become such citizen
Commercial Fisher	South Carolina	S.C. CODE ANN. § 50-9-30(A)(6)(a)	For purposes of obtaining a commercial license, permit, or tag, "resident" means a United States citizen who has been domiciled in this State for three

hundred sixty-five consecutive days or more immediately preceding the date of application;

Court Reporter	Utah	UTAH CODE ANN. § 58-74-302	(b) [B]e a citizen of the United States;
Day Care Center Operator	Arizona	ARIZ. REV. STAT. ANN. § 36-889	[S]hall be a citizen of the [U]nited [S]tates who is a resident of this state, or a legal resident alien who is a resident of this state.
Dentistry or Dental Hygiene	South Dakota	S.D. CODIFIED LAWS § 36-6A-44	(8) [C]itizen of the United States or lawfully admitted alien, or he shall file an affidavit with the board indicating his intent to become a citizen of the United States. However, if citizenship has not been attained within eight years from the filing of such affidavit, he forfeits the right to be licensed under this chapter.
Employment and Temporary Work Agencies	Arkansas	ARK. CODE ANN. § 11-11-210	(a) To be eligible for application for an employment counselor's license, the applicant shall be: (1) A citizen of the United States;
Employment and Temporary Work Agencies	Minnesota	MINN. STAT. § 184.26	An applicant for an employment agency's license shall be a citizen of the United States or resident alien
Employment and Temporary Work Agencies	West Virginia	W. VA. CODE ANN. § 21-2-8	License to operate as an employment agent shall be issued only to citizens of the United States.

Engineer & Engineer-in- training	District of Columbia	D.C. CODE § 47- 2886.08	(2)(A) To register as a professional engineer any person of good character and repute who is a citizen of the United States (4) [A]ny person who is not a citizen of the United States [can obtain temporary registration] to engage in the practice of engineering only for the duration of and in connection with a specific project for which it was granted, and shall be subject to annual renewal and to suspension or revocation
Funeral Home Director	Alabama	ALA. CODE § 34- 13-72	(1) Is a citizen of the United States or legally present in this state.
Funeral Home Director	Massachusetts	MASS. GEN. LAWS ANN. ch. 112, § 83	[A] citizen of the United States
Funeral Home Director	New Jersey	N.J. STAT. ANN. 45:7-50	(1)(a) He is a citizen of the United States and has been a resident of the State of New Jersey for a period of at least 6 months prior to the date of the examination;
Funeral Home Director	New York	N.Y. PUB. HEALTH LAW § 3421 (McKinney)	(2)(a) [I]s a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;
Funeral Home Director	Oklahoma	OKLA. STAT. tit. 59, § 396.3	(B) [A] citizen or permanent resident of the United States

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Funeral Home Director	Pennsylvania	63 PA. STAT. ANN. § 479.3	(b) Each applicant shall be a citizen of the United States
Funeral Home Director	Rhode Island	R.I. GEN. LAWS § 5-33.2-6	(2) Be a citizen of the United States or have lawful entry into the country;
Funeral Home Director	South Dakota	S.D. CODIFIED LAWS § 36-19-21	[Must] be a citizen of the United States or a resident of South Dakota
Funeral Home Director	Tennessee	TENN. CODE ANN. § 62-5-305	(b)(2) Is a citizen of the United States
Funeral Home Director	West Virginia	W. VA. CODE ANN. § 30-6-8	(a)(3) Is a citizen of the United States or is eligible for employment in the United States;
Homeopathic Medicine	Nevada	NEV. REV. STAT. ANN. § 630A.230	(2)(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
Licensed Practical Nurse	Indiana	IND. CODE ANN. § 25-23-1-4	(a)(1) [B]e a citizen of the United States;
Long-term Care Administrator	Kentucky	KY. REV. STAT. ANN. § 216A.080	(1)(b) He or she is a citizen of the United States or has declared his or her intent to become a citizen of the United States;
Manager of Collection Agency	New Mexico	N.M. STAT. ANN. § 61-18A-11	(A) [B]e a citizen of the United States;
Marine Pilot	Alaska	ALASKA STAT. ANN. § 08.62.100	(a)(1) [I]s a citizen of the United States;

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Marital and Family Therapist	Missouri	MO. ANN. STAT. § 337.715	(1)(5) is a United States citizen or has status as a legal resident alien
Massage Therapist	Texas	TEX. OCC. CODE ANN. § 455.202	(b)(1) a United States citizen or a legal permanent resident with a valid work permit;
Massage Therapist	Georgia	GA. CODE ANN. § 43-24A-8	(b)(3) a citizen of the United States or a permanent resident of the United States;
Massage Therapist	New York	N.Y. EDUC. LAW § 7804	(5) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;
Medication Attendant in Licensed Nursing Homes	Louisiana	LA. REV. STAT. ANN. § 37:1026.7	(1) Be a citizen of the United States, a United States national, or an alien lawfully admitted for permanent residency in the United States.
Midwife	New York	N.Y. EDUC. LAW § 6955	(6) [B]e a United States citizen or an alien lawfully admitted for permanent residence in the United States.
Nursing Home Administrator	Pennsylvania	63 PA. STAT. ANN. § 1106	(a) a citizen of the United States, or that he has duly declared his intention of becoming a citizen of the United States.

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Occupational Therapist	Alabama	ALA. CODE § 34-39-8	[S]hall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation
Occupational Therapist	Alaska	ALASKA STAT. ANN. § 08.84.032	(a)(4) [H]ave met applicable requirements under the federal Immigration and Nationality Act (8 U.S.C. 1101 et seq.), unless a United States citizen;
Operator of a Steam Generator	New Jersey	N.J. STAT. ANN. § 34:7-2	An applicant must be a citizen of the United States or have officially declared his intention of becoming a citizen.
Optician	Nevada	NEV. REV. STAT. ANN. § 637.127	(1)(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
Optometrist	New Mexico	N.M. STAT. ANN. § 61-2-8	(D) [I]s a citizen of the United States or has taken out his first naturalization papers;
Optometrist	Guam	10 GUAM CODE ANN. § 12506	(d) [I]s a citizen of the United States or is a permanent resident of the United States;
Optometrist	New Jersey	N.J. STAT. ANN. § 45:12-7	[A] [C]itizen of the United States, or has declared his intention to become such a citizen
Osteopathic Physician or Surgeon	Arizona	ARIZ. REV. STAT. ANN. § 32-1822	(A)(2) Is a citizen of the United States or a resident alien.

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Pharmacist	Nebraska	NEB. REV. STAT. § 38-2853	A temporary pharmacist license may be granted to persons meeting all of the qualifications for a pharmacist license except the requirement that they be citizens of the United States if the person so licensed has not become a citizen of the United States within five years of the date such temporary license was issued, such license shall terminate and the person so licensed shall have no further right to practice pharmacy in this state.
Pharmacist	Illinois	225 ILL. COMP. STAT. ANN. 85/6	(1) [T]hat he or she is a United States citizen or legally admitted alien;
Pharmacist	Pennsylvania	63 PA. STAT. ANN. § 390-3	(1) citizen of the United States;
Physical Therapist	Alabama	ALA. CODE § 34-24-211	Each applicant shall also be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.
Physical Therapist	Louisiana	LA. REV. STAT. ANN. 37:2409	(2) Be a citizen of the United States or have obtained legal authority to work in the United States, and have proper documentation evidencing this fact.
Physical Therapist	West Virginia	W. VA. CODE § 30-20-11	(a)(6) Is a citizen of the United States or is eligible for employment in the United States;
Physical Therapist	Guam	10 GUAM CODE ANN. § 121506	(2) [B]e a United States citizen or legal alien;

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Podiatry	Nevada	NEV. REV. STAT. ANN. § 635.082	(2)(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.
Polygraph Examiner	South Carolina	S.C. CODE ANN. § 40-53-70	(2) [I]s a citizen of the United States;
Polygraph Examiner	Alabama	ALA. CODE § 34-25-24	(2) He is a citizen of the United States;
Port Watchman	New Jersey	N.J. STAT. ANN. § 32:23-40	(c) The citizenship of the applicant and, if he is a naturalized citizen of the United States, the court and date of his naturalization;
Poultry Technician	Pennsylvania	63 PA. STAT. ANN. § 642	a citizen of the United States, or has legally declared his intention to become such.
Practical Nurse	Pennsylvania	63 PA. STAT. ANN. § 655	is a citizen of the United States or has legally declared intention to become such.
Private Detective	Pennsylvania	22 PA. STAT. ANN. § 14	(a) The application shall state that he is a citizen of the United States.
Private Investigator	South Carolina	S.C. CODE ANN. § 40-18-70	(E)(3) [I]s a citizen of the United States;
Private Investigator	Louisiana	LA. REV. STAT. ANN. § 37:3507	(A)(2) Is a citizen of the United States or a resident alien holding proper documentation to work in the United States.
Private Investigator	Tennessee	TENN. CODE ANN. § 62-26-207	(a)(2) Be a citizen of the United States or a resident alien;
Private Protection Service License	Tennessee	TENN. CODE ANN. § 62-35-106	(2) Be a citizen of the United States or a resident alien;

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Private Security Guard	Virgin Island	V.I. CODE ANN. tit. 23, § 1308	(b)(3) Grounds for denial of license shall be [l]ack of United States citizenship, permanent resident status
Psychologist	Tennessee	TENN. CODE ANN. § 63-11-207	(a)(3)(B) Is a citizen of the United States;
Real Estate Agent or Broker	Alabama	ALA. CODE § 34-27-32	(a)(4) Is a citizen of the United States or is an alien with permanent resident status.
Real Estate Agent or Broker	Hawaii	HAW. REV. STAT. § 467-9.5	(a)(1) A United States citizen, a United States national, or an alien authorized to work in the United States
Real Estate Agent or Broker	Massachusetts	MASS. GEN. LAWS ANN. ch. 112 § 87TT	Every applicant for a license shall furnish evidence that he is a citizen of the United States or shall present to the board a copy of his declaration of intention to become a citizen of the United States, certified by the clerk of the court in which it was filed, or a certificate from the Immigration and Naturalization Service of the United States, showing that, in accordance with law, he has declared his intention to become such citizen.
Real Estate Agent or Broker	Rhode Island	R.I. GEN. LAWS § 5-20.5-3	(c) [B]e a citizen or legal resident of the United States

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Real Estate Agent or Broker	South Dakota	S.D. CODIFIED LAWS § 36-21A-30	No one except a citizen of the United States of America, or resident of South Dakota, is eligible to secure a license as a broker, except as otherwise provided by this chapter.
Real Estate Agent or Broker	Texas	TEX. OCC. CODE ANN. § 1101.354	(1)(B) [B]e a citizen of the United States or a lawfully admitted alien;
Real Estate Agent or Broker	Virgin Islands	V.I. CODE ANN. tit. 27, § 423	(b)(2) [A] citizen of the United States or a permanent resident alien
Real Estate Broker	Guam	21 GUAM CODE ANN. § 104202	The Commissioner shall not grant an original real estate broker's license to any person who is not a citizen of the United States.
Registered Nurse	Indiana	IND. CODE ANN. § 25-23-1-4	(a)(1) [B]e a citizen of the United States;
Ticket Resaler	Pennsylvania	4 PA. STAT. ANN. § 203	(d) If the applicant is an individual, his application shall show that the applicant is a citizen of the United States and has been a resident of this Commonwealth for at least one year immediately preceding his application.
Veterinarian	Tennessee	TENN. CODE ANN. § 63-12-112	(b)(4) Is a citizen of the United States or Canada or legally entitled to live within the United States;
Veterinarian	Nevada	NEV. REV. STAT. ANN. § 638.100	(2)(d) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

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Veterinarian	West Virginia	W. VA. CODE ANN. § 30-10-8	(a)(5) Be a citizen of the United States or be eligible for employment in the United States;
Veterinary technician	Arkansas	ARK. CODE ANN. § 17-101-306	(c)(1)(A) A citizen of the United States or an applicant for citizenship;
Video Lottery Operator's License	West Virginia	W. VA. CODE ANN. § 29-22B-503	(a)(1)(A) If the applicant is an individual, the applicant has been a citizen of the United States and a resident of this State for the four year period immediately preceding the application;
Water Well Contractor's License	Illinois	225 ILL. COMP. STAT. ANN. 345/9	(b) [I]s a citizen of the United States or has declared his intention to become a citizen of the United States

Jennesa Calvo-Friedman, Note: *The Uncertain Terrain of State Occupational Licensing Laws for Noncitizens: A Preemption Analysis*, 102 GEO. L.J. 1597, 1638 (2014) [Appendix 2].