

## The Rationale for State-Based Professional Licensure

The U.S. Constitution's Commerce Clause grants Congress the ability to regulate interstate commerce. It also indirectly informs the scope of state authority over intrastate matters. In the context of the regulation of professional licensure, the Commerce Clause operates in two related principles:

- It limits federal authority to activities that substantially affect interstate commerce. Professional licensure, including requirements governing the licensure of CPAs, typically constitute intrastate economic activity.

Because these professional activities generally do not constitute interstate commerce in the constitutional sense, they fall outside the direct regulatory reach of Congress unless Congress enacts specific legislation preempting state law.

For example, through the Sarbanes-Oxley Act, Congress established the Public Company Accounting Oversight Board (PCAOB) to provide independent oversight of auditors and audits of public companies.

- The Tenth Amendment reserves powers not delegated to the federal government to the states. These reserved powers include those impacting public health, safety, and welfare. As a result, occupational licensure and regulation fall within the states' traditional police powers to protect public health, safety, and welfare. This is why the regulation of most occupations remains primarily a state responsibility.

The U.S. Supreme Court affirmed states' ability to regulate professions in *Dent v. West Virginia*. In its decision, the Court held that states can set reasonable licensing qualifications for professions and that professions can be regulated when they impact public health, safety, and welfare