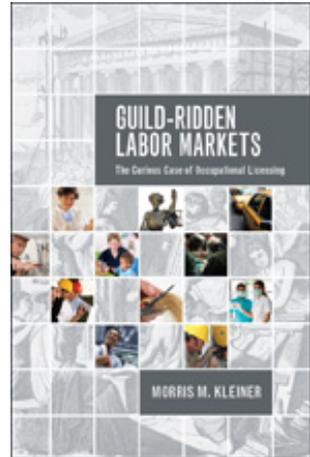


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Anatomy of Occupational Licensing

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Guild-Ridden Labor Markets: The Curious Case of Occupational Licensing

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Chapter 1

Anatomy of Occupational Licensing

Dentists, doctors, lawyers, hair braiders, tour guides, upholsterers, and horse tooth filers are now licensed occupations in either all or some U.S. states. In states where occupations are licensed, the rationale for meeting the requirements is sometimes inconsistent. For example, in Minnesota, it usually takes more direct classroom time hours to become a cosmetologist than a lawyer. In other states, it takes twice as many hours of training to become a manicurist than a paramedic (Dranias 2007). In Louisiana, the only state in the country that requires licenses for florists, monks were until recently forbidden to sell coffins because they were not licensed funeral directors (Carpenter et al. 2012). Nationally, in the 1990s, one could become a physical therapist with just a bachelor's degree, but by 2016, in order to become a fully licensed physical therapist in most states, a practitioner must have a doctor of physical therapy degree, which requires a four-year college degree plus three years of graduate training and work.

These regulations are not just unusual cases of state laws run amok. Instead they reflect policies deriving from one of the fastest growing labor market institutions in the United States—the government licensing of jobs and work tasks. This form of regulation, largely established by state governments and implemented through their licensing boards, is often referred to as “the right to practice.” Under these laws, working for pay in a licensed occupation is illegal without first meeting government standards. Certification, another form of government regulation, provides a “right to title” and does not forbid others from providing the service.

In the 1970s, about 10 percent of individuals who worked for pay required licenses, but by 2008, that number rose to almost 30 percent (Kleiner and Krueger 2013). By the turn of the century, more than 800 occupations, including shampoo specialists and professional wres-

tlers, in addition to the occupations mentioned above, were licensed in at least one state (Carpenter et al. 2012). More workers are directly impacted by occupational licensing than the minimum wage or unionization (Kleiner and Krueger 2010).

Occupational licensing has had a curious and unusual history in the United States and in other countries. During some periods it all but disappeared, but now in the United States it is a rapidly growing labor market institution. For some occupations, such as physicians, it has dominated the labor market and its effects on consumers. For others, such as interior designers, occupational licensing has been limited to a small number of U.S. states. This book addresses several questions regarding how and why some occupations became heavily regulated while others did not. Why do some countries have lots of occupations that are licensed and others a relatively small number? Why has occupational licensing grown over the past 50 years and unions have declined? What are its economic effects on mobility, wage determination, prices, and the quality of services delivered? Occupational licensing, in spite of its growth, size, and economic impact, has been a stealth form of regulation. In this book, I examine why the institution of occupational licensing has had such a curious evolution and influence in the United States, the European Union, and China, and I discuss the many similarities it has to guilds.

With growth of licensing laws has come a national patchwork of stealth regulation that has, among other things, restricted labor markets, innovation, and worker mobility. There is little reason, for example—political, economic, or safety related—for math teachers to be relicensed every time they move from one state to another. These requirements put additional burdens on teachers who are moving across state lines, such as more course work, state residency requirements, and often additional exams, all of which reduce the ability of good teachers to find work faster and students to have high-quality instructors.

Having more flexible reciprocity between states for occupations such as teachers, physicians, or dentists would allow these profes-

sionals to move to jobs more efficiently. But perhaps even better would be for states to certify jobs that are currently licensed—such as tour guides, hair braiders, travel agents, or locksmiths—jobs that pose minimal risk of harm to the public and that could better serve customers with a lesser form of regulation.

The political economy of occupational licensing has evolved so that both liberals and conservatives have come to oppose certain elements of it. Many on the left are concerned about individuals raising prices for the essential services of licensed plumbers or electricians and the availability of essential services for those in or near poverty. Many licensed professions are relatively low-skilled jobs, such as barbers, manicurists, nurse's aides, and cosmetologists. The social costs of a bad haircut may be negligible, but the social costs of creating additional employment barriers for disadvantaged populations are not. Many education requirements, continuing education courses, and residency requirements restrict entry into occupations that are the most accessible for low-income individuals. Licensure laws often exclude ex-felons—defensible in many professions but not in all—and such prohibitions make it extremely difficult for ex-offenders to find postprison employment, thereby contributing to America's high recidivism rate (Raphael 2014). On the right, public interest groups such as the Institute for Justice have opposed occupational licensing based on economic liberty arguments, arguing that it reduces economic efficiency and retards economic growth (Carpenter et al. 2012).

There is good reason for workers in licensed fields to push for licensing laws. More occupations in a service-oriented economy are likely to be licensed than in manufacturing. With the shift to more service jobs from 40 percent in 1950 to more than 60 percent in 2007, occupational licensing has grown (Edlin and Haw 2014). As I found when I examined these issues with Princeton economist Alan Krueger, former treasury official and head of President Obama's Council of Economic Advisers, occupational licensing raises wages by 10 to 18 percent (even controlling for factors such as age, education, and other market variables) and raises benefits for licensed workers (Gittleman,

Klee, and Kleiner 2015; Kleiner and Krueger 2013). This is largely due to the ability of regulated professions working through state legislators and regulatory boards to limit the supply of practitioners and eventually drive up costs to consumers.¹

For more necessary services, such as dentistry, less competition brought about by licensure may drive prices beyond the means of individuals with low incomes. Consumers who cannot afford licensed professionals may do the work themselves. For example, David Kruithoff, a farmhand in Michigan, gave himself a root canal because he said he could not afford a licensed dentist (Kleiner 2006).

INCENTIVES FOR REGULATION

From the time of medieval guilds, service providers have had strong incentives to create barriers to entry for their professions in order to raise wages (Ogilvie 2014). These guilds offered an effective mechanism where guild members and politicians could collaborate in capturing a larger slice of the economic rents and redistributing it to themselves at the expense of the rest of the economy. As Ogilvie (2014) notes, guilds are not just historical curiosities, they have wider implications for the role of institutions in economic growth.

Dartmouth economist Charles Wheelan's research on licensed and unlicensed professions in Illinois finds that the stronger a profession's political organization, the more likely it is to become licensed (Wheelan 1998). He showed that respiratory therapists who organized themselves, and raised their profession's dues in order to lobby for licensing laws, tended to be more successful in getting these statutes passed.

In contrast, consumers who will be affected by the slightly higher costs of, for example, haircuts, are unorganized and arguably under-represented in the political process. The willingness of a legislature to pass licensure laws without a rigorous analysis of its benefits relative to costs, or the alternatives of less rigorous forms of regulation,

creates the opportunity for well-organized producer groups to lobby for laws that will likely bring them personal gain. The arguments for occupational licensing policies are that purveyors of a service have greater information about the quality of the service and can take advantage of consumers over both price and quality.

Also, all consumers do not demand the same level of quality. When members of the legal profession told the Nobel laureate Milton Friedman that every lawyer should be of Cadillac quality (a high-priced luxury brand car), he famously replied that many people would be better off with a Chevy (a cheaper but clearly functional alternative). If licensure “improves quality” simply by restricting entry into the profession, then some consumers will be forced to pay for more “quality” than they want or need (Friedman 1962).

There have been, however, movements toward stopping or reducing the growth of occupational regulation in the United States. For example, during the 2012–2013 legislative sessions, Iowa Governor Terry Branstad vetoed the licensing of addictive disorder counselors and other related occupations (Branstad 2013). In Indiana, Governor Mike Pence initially vetoed the licensing of diabetes counselors, anesthesiologist assistants, and dietitians but a year later signed similar legislation. In their messages to the legislature (in each case, legislatures were dominated by their own parties), both Branstad and Pence mentioned that this type of regulation would result in economic losses to consumers, higher prices, and less employment (Associated Press 2013). More recently, in Idaho, Governor Butch Otter vetoed the licensing of sign-language interpreters during the 2015 legislative session (Reynolds 2015). In the eyes of these three governors, the promised benefit of potentially better quality and health and safety was, in their view, far smaller than the costs inflicted on the citizens by unneeded regulation.

Unlike the United States, China (along with most other countries), has national licensing for its regulated occupations. An unusual case study is Poland, which is in the process of deregulating many of its national occupational labor markets (Kleiner and Lachowska

2014). In October 2011, Poland's national government presented an ambitious agenda of deregulating entry to many occupations. By late 2015, the government plans to liberalize the access to about 250 out of the 380 currently regulated occupations. The prime minister's office has stated that liberalizing access to occupations is expected to lead to higher employment, higher-quality services, lower prices, and lower governmental administrative costs. The first phase loosened access to 51 professions; it was passed by the Polish Parliament in April 2013 and signed into law in July 2013. The liberalization of access to 33 of these first 51 liberalized occupations went into effect in August 2013. For the remainder, the new legislation went into effect in January 2014. The range of partially or totally deregulated professions is diverse as well as varying in the degree of deregulation. Among professions strongly affected by the liberalization are attorneys, solicitors, notaries, court clerks, realtors, taxi drivers, excursion guides, employment agents, and body guards. The implementation and evaluation of these occupations should be an interesting and informative case study of the influence of the deregulation of occupations.

Some state governors, the Federal Trade Commission, and the Institute for Justice, a public interest nonprofit legal organization that handles legal cases for individuals involved in occupational licensing disputes among other libertarian issues, are naturally wary of producer groups. Organizations such as the American Society of Interior Designers are seeking licensure for interior designers in all states. They are attempting to present evidence on how potentially harmful certain professions are to the public, while simultaneously arguing that all existing practitioners of these potentially dangerous professions be exempted from the proposed licensure requirements.

Given its importance to the economy and labor market, occupational licensing is an institution that has largely been ignored as a factor that may influence employment, wages, prices, innovation, access, and quality. The purpose of this book is to give the public, consumers, and students of the labor market a detailed nontechnical look at and an examination of the curious institution of occupational licensing

in the United States, China, and the European Union. Occupational licensing is rarely discussed and does not receive the media attention that its size and scope warrant. The book will provide an examination of the institution of occupational licensing from a historical perspective, a rationale for the existence of occupational licensing, an international perspective, a view from the perspective of consumers, and finally, some unintended consequences of policies that have occurred to deal with issues that have arisen because of occupational licensing. Readers of this book, be they members of a regulated occupation, consumers, or voters who influence policy, will become more informed about the curious guildlike institution of occupational regulation in the United States and elsewhere.

Note

1. An alternative explanation of this wage growth could be that training and education enhance the value of services provided by regulated practitioners, and as a consequence these individuals may earn more than their unlicensed counterparts.

Guild-Ridden Labor Markets

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