



The Balance Between Public Protection and the Right to Earn a Living




2013 Annual Educational Conference
Hyatt Regency at the Arch | St. Louis
Oct. 3-5, 2013




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Occupational Licensing


Dick M. Carpenter II, Ph.D., Institute for Justice



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• What we studied

- Occupations: 102 low- and moderate-income.
- Data collected: fees, time spent in education/experience, number of exams, minimum age, minimum grade level.
- Ranked states and occupations by difficulty of entering occupations due to licensing requirements.



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- What we found
 - Licenses require of aspiring workers, on average, \$209 in fees, one exam and about nine months of education and training.
 - Thirty-five occupations require more than a year of education and training, on average.
 - At least one exam is required for 79 of the occupations.
 - Interior design is the most difficult to enter.

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- What we found
 - Licensing requirements appear arbitrary.
 - Only 15 are licensed in 40 states or more, and on average, the 102 occupations are licensed in just 22 states.
 - Licensure requirements vary considerably across states. E.g., 10 states require four months or more of training for manicurists, Alaska demands only about three days and Iowa about nine days.

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- What we found
 - Licensing requirements appear arbitrary.
 - The difficulty of entering an occupation often does not line up with the public health or safety risk it poses.
 - E.g., 66 occupations have greater average licensure burdens than emergency medical technicians. The average cosmetologist spends 372 days in training; the average EMT, only 33.

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• Implications: Five Key Questions


1. Why are we licensing these occupations?
2. How do our requirements compare to other states?
3. How do the requirements of occupations compare to each other?
4. Can the goal of licensure requirements be met less restrictively?
5. How should the answers to 1-4 influence how your board interprets and enforces licensing laws (or some derivation)?


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David E. Harrington, Kenyon College




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“The most significant progress in deregulating funeral markets had been accomplished by the *Institute for Justice*” Harrington (2007). 

<i>Case</i>	<i>Challenged</i>	<i>Outcome</i>
<i>Charles Brown v. David Hovatter, President of the Maryland State Board of Morticians</i>	~ only funeral directors may own funeral homes	Won in Fed District Court Lost in 4 th Circuit

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<i>Case</i>	<i>Challenged</i>	<i>Outcome</i>
<i>St. Joseph Abbey v. Castille</i>	Only funeral directors may sell caskets in LA	Won in 5 th Circuit Court of Appeals

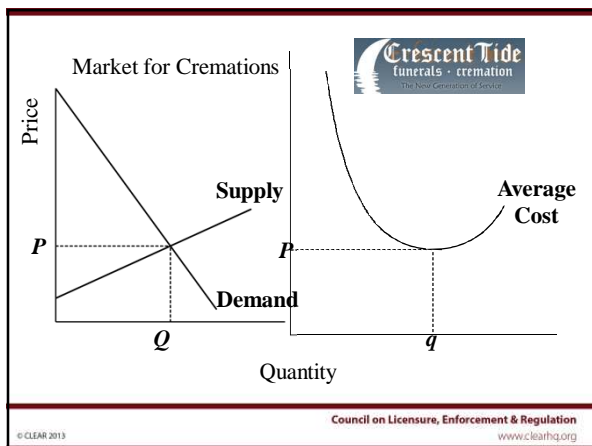


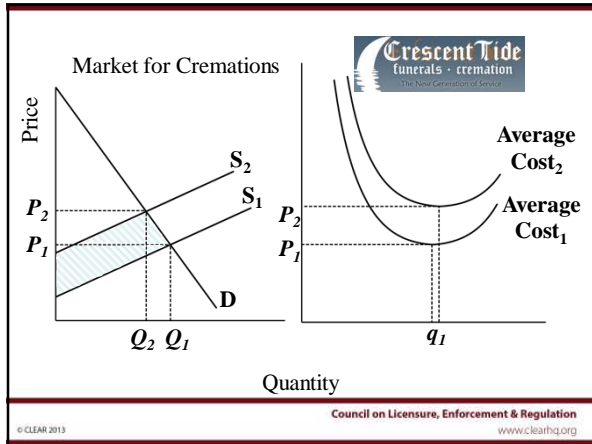
“Celebrate! Read the story and buy a casket!”

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<i>Case</i>	<i>Challenged</i>	<i>Outcome</i>
<i>Ernest F. Heffner, et. al, v. Donald J. Murphy, et. al</i>	PA's Funeral Director Law	Sweeping Win in Fed District Court; Currently in 3 rd Circuit
<i>Verlin Stoll, et al. v. Minnesota Department of Health, Mortuary Science Section</i>	All funeral establishments must have preparation rooms	Awaiting decision of Ramsey County Court

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Speaker Contact Information

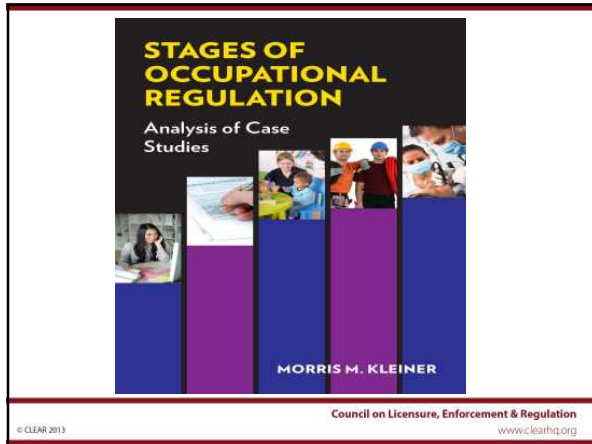
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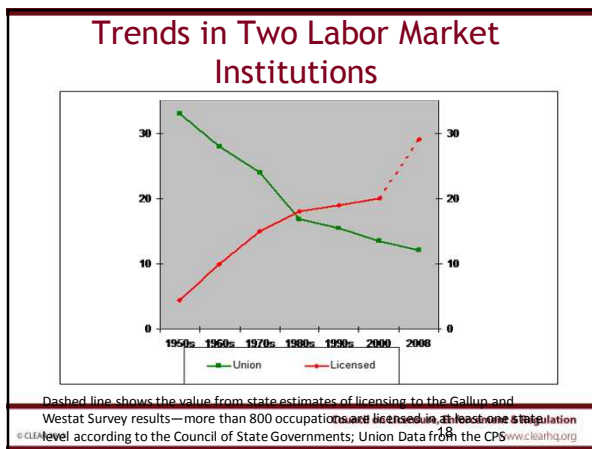
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Origins of Issue

Occupational Licensing as a topic in economics dates to the comments by Adam Smith that trades conspire to reduce the availability of “skilled craftsmen” in order to raise wages (Smith, 1776, reprinted 1936).

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Update of “Licensing Occupations: Ensuring Quality or Restricting Competition?”

- Review and Update
- Key findings—Overview of Occupational Licensing—Big Picture
- Unanswered questions—What happens within occupations to workers and consumers?—It develops a rationale for this new Volume.

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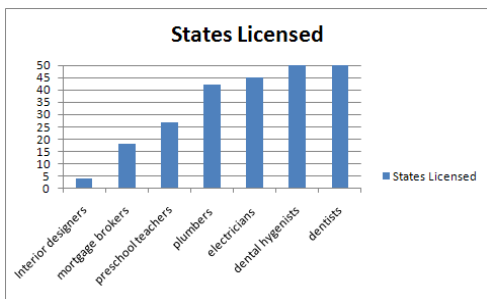
Stages of Growth and Licensing

- 1) Use of terminology from W.W. Rostow “Stages of Economic Growth”
- 2) Model Development—How Do Occupations evolve from low regulation to universal licensing?
- 3) Outcomes for the persons in the occupation and consumers.

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What Are the Stages of State Regulation for the Occupations that I Analyze?



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Table 7.1 Summary of Key Findings in the Volume

Occupation	level of occupational regulation	labor market effects	Other
Interior Designers	Low	None to Modest wage and employment effects	State efforts to become universally licensed
Mortgage Brokers	Low to moderate	Modest wage and employment effects	Recent moves to gain universal licensing, more regulation has murky effects on consumers
Pre-school Instructors and related assistants	moderate	Modest to no wage effects	Movement to universal licensing, little evidence of major influences on academic performance
Electricians and Plumbers	High	Moderate wage effects	Movement to make regulations more stringent, little evidence of any influence on worker safety
Dentists and Dental Hygienists	Universal	Moderate to high wage effects	Relaxed regulations result in gains for Hygienists at the expense of Dentists

Lessons from an analysis of case studies

- Individuals in *Licensed Occupations* gain more the longer the occupation is highly regulated
- *Attainment of a license matters* rather than being in an occupation that has some regulation or *is covered* by a licensing law (lawyers v. engineers)

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Lessons for Policy Makers

- What are the appropriate policies and enforcement mechanisms at various stages of occupational regulation? (none to all?)
- Gains to members of the occupation from regulation include wages, employment, and control over entry
- Are there stages of regulation where workers and consumers gain?

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Occupational Licensing Reforms

Lee McGrath, Legislative Counsel, Institute for Justice



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Licensing is big.

Biggest issue in labor economics today.

Licensing	29% of all workers
Unionism	11% of all workers
Minimum wage	5% of hourly-paid workers

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Licensing is costly.

- Increases unemployment by 0.5% - 1.0%
- Increases consumer prices by 15% or more

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Offers few benefits to consumers.

- Licensing offers no incremental consumer economic protection over a competitive labor market.
 - Real consumer protection comes from reputation, competition, legal remedies, and intermediaries.
- Does little to improve health and safety.

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Regulatory problems:

- Licensing is anti-competitive.
 - Trade groups lobby for licensing to benefit members.
 - They often also want grandfathering.
- Licensing boards are often captured.
 - Licensees often control boards.
 - Board's funding often comes from license fees.
 - Boards rarely revoke licenses.
- Licensing laws are often arbitrary.

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Summary:

- Occupational licensing produces (intended) bad outcomes:
 - Less opportunity and higher unemployment.
 - Less competition and higher prices.
 - Limited protection of public health and safety.
 - No incremental consumer economic protection.

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Opportunities:

- Increase jobs
 - Reforms could help lower unemployment rate.
- Increase prosperity
 - Consumers could save billions through lower prices.

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Alternative Approach:

- Policy makers should use the least restrictive type of occupational regulations to protect consumers.
 - (1) market competition/no regulation;
 - (2) a provision for private civil action;
 - (3) inspections;
 - (4) bonding or insurance;
 - (5) registration;
 - (6) voluntary certification; or
 - (7) occupational license.

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Proposal 1: Reduce, Convert or Repeal.

- Reduce qualifications required to be licensed.
- Convert licenses to a less restrictive type of occupational regulations.
- Repeal licenses for low-to-moderate income occupations.

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Proposal 2: New Legislation.

- Create a statutory right to an occupation.
 - Require legislators to find a real reason before adopting new occupational regulations.
 - Require legislators to use least restrictive type of occupational regulation when adopting new regulations.
 - Shift burden of proof to government in administrative and judicial challenges to existing occupational regulations.

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