Policy Benchmark

- Put resources (land, labor, capital) to their highest valued use

Economic Arguments AGAINST Licensing

1. Antitrust
2. Lobbying involves resources
3. Unnecessary investments in human capital
4. Constrains innovation
5. A barrier to productive labor market matches
6. Limits access to jobs and business formation

- “No overall quality benefit…”
- 1990 to 2000: Licensing slows growth in licensed occupations
- “…enhances the hourly earnings of the regulated occupations by about 10%.”

Gains from Deregulation are not Trivial

1. Independent practice for CA nurse practitioners - $1.8 billion (10 years)
2. Liberalizing immigration restrictions for foreign-trained physicians 1966-1971 - Physician earnings would have been 11% higher by 1971 without immigration


- Examines the burden on workers
- Finds no logic in cross-state differences
- Recommends less licensing to help people find work
2014 Texas Sunset Advisory Commission explains why there is licensing:

1. “…the...interest of the regulated community to be regulated and to exert control…”
2. “the public’s lack of awareness…”
3. “…the budgetary impact to the state” (fee revenue > cost of operations)


Licensing Eclipses Unionization
Source: Kleiner and Kruger

The traditional argument for consumer protection: Asymmetric Information
Where Does Consumer Protection Come From?

1. Brand name/reputation
2. Private certification
3. Private credentialing
4. Liability

1. Brand Name and Reputation Protect Consumers

Is this how you check your food?

Brand Name and Reputation Protect Consumers
Clear Annual Educational Conference
Opening Keynote: Licensing: A Different Perspective

New Orleans, Louisiana
Sept. 11-13, 2014

Council on Licensure, Enforcement & Regulation
www.cleashq.org

NOTICE TO CONSUMERS
Medical doctors are licensed and regulated by the Medical Board of California
(800) 633-2322
www.mbc.ca.gov

NOTIFICATION TO CONSUMERS
Physician assistants are licensed and regulated by the Physician Assistant Committee
(916) 501-4780
www.pac.ca.gov

What information is here?

Kingman Regional Medical Center, Kingman, AZ

KRMC and Mayo Clinic.
Working together. Working for you.

Council on Licensure, Enforcement & Regulation
www.cleashq.org
Information is Here:

2. Private Certification Offers Information & Protection

Private Certification vs. Licensing

- Consumers get information
- Allows/encourages innovation and competition
- No state apparatus to use to limit entry
3. Private Credentialing
(Companies check service providers’ credentials.)

- Hospitals
  - Also “Privilege”
- Dental Clinics
- Insurance companies (service providers)
- Health maintenance organizations

Example: Credentialing at Aetna
http://www.aetna.com/docfind/cms/assets/pdf/MedicalCredentialing.pdf

- Before contracting for services, Aetna checks
  1. Education/training/certification
  2. Employment history
  3. Malpractice coverage
  4. Malpractice claims history
  5. Hospital privileges (lost or limited?)

4. Liability Protects Consumers

- Liability is a powerful source of financial incentives to protect consumers from bad outcomes
  - Motivates oversight
Medical Professional Liability Insurance Oversight

- Annual evaluation
- Information and incentives to reduce practice risk
- Oversight of new medical procedures and high-risk physicians

Who is protecting health care consumers?

- According to med mal insurers
  - Most “hard-to-place” physicians have never been sanctioned by the state
  - Most are identified by valid claims and hospital sanctions
- State boards allow sanctioned physicians to practice

Brand Name & Liability Protect
Stated Goals of Licensing

1. To inform consumers
2. To penalize negligence or substandard services

Options

1. To inform consumers
   - State licensing
   - Certification
   - Private credentialing/certification
   - Brand name (reputation)
   - Consumers’ own experience (Yelp!)

   These don’t restrict entry

Options

2. To penalize negligence or substandard services
   - Loss of license
   - Liability
   - Loss of reputation (repeat business)
   - Loss of private bond
   - Criminal justice system

   These don’t restrict entry
Quotes opposing occupational licensure:
1. “A lot of people coming out of prison have a hard time obtaining occupational licenses.”
2. “Removing licensing creates jobs.”
3. “People want to earn a living.”

Fast Action by Audiologists?

- 2004-6: Last 2 states license audiologists (MI, ID)
- Late 2006: ASHA accrediting requires Au.D.
  >> 2007: not one masters degree program in the U.S.

Source: Academy of Doctors of Audiology Timeline

American Academy of Audiology Legislative Action Center

- July 2014: “Urge your Members of Congress to Oppose Expansion of VA Hearing Aid Benefits by Hearing Instrument Specialists”
1. “Are there significant and non-speculative consumer health and safety issues, or other legitimate public policy purposes...?”
2. Are the conditions or restrictions imposed...” likely to have a significant adverse effect on competition and consumers?”

3. Will the specific conditions or restrictions “protect against demonstrable harms or risks?” Are there other “demonstrated or likely consumer benefits, such as reducing information or transaction costs...?”
4. “Are the regulations narrowly tailored” to avoid restricting competition?

**MY TAKE**

“FTC staff have not questioned state interests in establishing licensure requirements for... health professionals in the interest of public safety.”

Why not?
Conclusion

- Consumer protection comes from
  1. Brand name
  2. Liability
  3. Private certification
  4. Private credentialing
  5. Consumers can judge quality (as with barbers)

Baby Steps

1. Push back on license creep and scope-of-practice restrictions
2. Oppose accreditation requirements that raise the cost of entry
3. Embrace reciprocity/endorsement
4. Shift from licensing to certification

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