

BARBER LICENSING IN ARKANSAS: PUBLIC HEALTH OR PRIVATE GAIN?

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In Arkansas, the barber profession has been regulated and licensed for more than 80 years, and until recently, the issue was mostly absent from the political debate. During a regular session of Arkansas's 92nd General Assembly in 2019, however, state Sen. John Cooper presented a bill to “repeal the [1937] Arkansas Barber Law” and to “abolish the State Board of Barber Examiners” (Briggs 2019). The average Arkansan probably was not aware of the bill, but occupational licensing reformers saw this as a great opportunity for Arkansas to pave the way for other states to reform their own license laws. If Cooper's bill had passed, Arkansas's economy would have likely benefited (Timmons and Thornton 2010, 2018). By removing restrictive requirements to becoming a barber, the bill would have allowed more Arkansans to enter the profession. This reform would have

Cato Journal, Vol. 41, No. 1 (Winter 2021). Copyright © Cato Institute. All rights reserved. DOI:10.36009/CJ.41.1.6.

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provided people with more economic opportunities, increased competition, and benefited consumers.¹

Although the bill ultimately failed, it forced the Board of Barber Examiners to justify its existence. The board denounced the bill as a mistake. In a hearing hosted by the Board of Barber Examiners, the director used the history of the board's creation to justify opposing the bill. The director proclaimed that "the State Board of Barber Examiners was founded 82 years ago to prevent unlicensed barbers from coming to Arkansas and working in unclean and unsanitary conditions. The minutes of that first meeting indicate it was out of control" (Arkansas Board of Barber Examiners 2019).

The board presented a story in which a public health crisis made licensing regulations necessary to ensure that Arkansans got a safe shave. The minutes from the first meetings of the board, however, do not support that claim. Indeed, the minutes consist of mundane items and certainly nothing that indicated the profession was "out of control." Modern-day justifications for the existence of the board rest on its protection of public health. But the origin of the Board of Barber Examiners is much more complicated and less noble than the director wanted Arkansans to believe.

Much work has been done in recent years on occupational licensing and its effects on the economy (Timmons and Konieczny 2018; Thornton and Timmons 2015; Zapletal 2019). The commonly held view in the literature is that occupational licensing limits the number of people who can participate in an occupation, thus restricting supply and raising the cost for consumers. Moreover, the regulatory apparatus that is created by licensing laws often leads to rent seeking and sometimes to capture by the industry (Kleiner 2000). Scholars also argue that restrictive occupational licensing disproportionately

¹ Although scholars disagree about the effects of delicensing barbers, we believe the economic impact would be positive. In support of our position, Hall and Pokharel (2016) demonstrate that the number of exams required for barber licensure negatively correlates with the number of barbershops in a state. Deyo (2017) finds that states with licensing exams have less competition, diminishing returns from licensure, and overall lower quality of service. Likewise, Carrol and Gaston (1983) demonstrate a strong negative association between occupational licensing and quality of service. Plemmons (2019) demonstrates that states with strict occupational licensing requirements have less employment and fewer firms. Although they examine cosmetology and not barbering, Adams, Jackson, and Ekelund (2002) find that increases in licensing regulations result in a smaller workforce, wage gains for those who are licensed, and deadweight losses.

harms minorities who are denied access to labor markets (Bernstein 1994; Klein, Powell, and Vorotnikov 2012). As more and more occupations have become licensed in America, the negative effects of licensure have become more evident and important (Kleiner 2000). While most of the research on occupational licensing focuses on its effects on the modern economy, very little work has emphasized how these regulations came about in the first place. Indeed, this may be the first article to examine the origins of barber licensure in any state. By looking at a specific industry in a specific state, we uncover the tactics of barbers and unions in seeking licensing laws.

Arkansas adopted regulations licensing the barber industry in 1937 and was one of the last states to adopt such regulations. Accordingly, the tactics used by the Journeyman Barber International Union of America (JBIUA) to lobby for licensing were well developed by the time the union came to Arkansas in the hope of achieving legislative reforms. After a couple years of organizing, and in the midst of the Great Depression, the Board of Barber Examiners was created and given the task of enforcing licensure laws on all of the barbers in the state. Not long after the formation of the board, letters came pouring in from local barbers and others who had campaigned for the regulations and were seeking the enforcement positions created by the new law. In this sense, the story of the origin of barber licensure in Arkansas resembles many other stories in which an entrenched interest lobbies the government to create a regulatory framework to exclude potential competitors. Once that framework has been created, it is often the established professionals that capture the regulatory body and use it to perpetuate their market share (Downs 1957; Olson 1965; Stigler 1971; Hilton 1972; Posner 1974; Peltzman 1976; McChesney 1987; Leaver 2009).²

Arkansas did not lack regulations governing barbers prior to the creation of the board, although it did lack licensing. As early as 1913, Arkansas introduced sanitation codes that covered various trades, including barbers. Act No. 96, introduced in 1913, gave the State Board of Health the power to introduce sanitation regulations that

²There are also a good number of historical examples. Gabriel Kolko (1963) argues that many of the regulatory reforms in the Progressive Era were sought by the very corporations that were to be regulated and that the corporations were able to stamp out free competition through those reforms. See also High and Coppin (1988), Mahony (2001), and Bluestone (1991).

mirrored the regulations advocated in 1937. The purpose of the 1913 act was to prevent the spread of disease in unsanitary barber-shops (Arkansas State Board 1913). Despite the existence of these sanitary regulations, barbers lobbied for a barber board that would impose licensing requirements. It seems clear that sanitation was not the sole—and perhaps not the primary—motivating factor for such lobbying.

During the 1930s, Arkansas barbers cited public health as their main justification for the creation of a barber board. In reality, they also had a powerful private interest in creating a regulatory apparatus that would give barbers more control of the profession. To push for licensure laws, barbers created a local Journeyman Barber Union that fell under the umbrella of the JBIUA (*Hope Star* 1936: 1; *Northwest Arkansas Times* 1938: 1). While motivations for wanting to become licensed may have varied from barber to barber, the union presented some common reasons. If we look at the history of the international union, it becomes clear that the barbers used long-standing tactics to capture the regulatory apparatus through creating a board run by them.

The story of barber licensure in Arkansas is a story full of rent seeking. In establishing licensing laws, barbers were motivated by the prospects of limiting competition and increasing their wages. Perhaps unsurprisingly, after the Board of Barber Examiners was created, many barbers sought jobs on the board and favors from it. Rent seeking occurs when a private interest seeks favorable legislation from the government to increase its wages and exclude competition (Tullock 1967; Krueger 1974; Tullock 1993; Tullock, Seldon, and Brady 2002). Although most of the General Assembly in Arkansas supported the law creating the board, enforcing the new rules was not smooth sailing. In fact, some barbers opposed the law, and organizing such a large industry was difficult. Most importantly, perhaps, the creation of the board placed new power in the hands of the few men in charge. Employment on the Board of Barber Examiners was widely sought, especially given that the board was created during the Great Depression. The opportunity for nepotism and corruption arose, and some barbers attempted to use their political leverage to become part of the new regulatory apparatus. Perhaps unsurprisingly to public choice economists, once the board was created and the license law went into effect, many barbers sought even more regulation and further restrictions

to entering the profession. As happens with most regulatory frameworks, once in place, the regulatory framework governing barbers expanded and became more burdensome.

Finally, underlying the motivations for the Arkansas Barber License Law was a Progressive Era (1890–1920) desire to professionalize the industry.³ Most barber license laws in the United States were enacted during the Progressive Era. Though Arkansas lagged behind most states, the law followed a similar pattern to the previous ones. Like other professions, such as doctors and lawyers, barbers thought of themselves as highly professional and skilled laborers. Barbers wanted the same respect as other highly professional laborers and adhered to the idea that not just anyone could be a barber. Barbers in Arkansas wanted only skilled professionals to work in barbershops, and by establishing examinations and other barriers to entry, they hoped to restrict barbering to respectable professionals. As is often the case, the new barriers to entry empowered men with racist attitudes, who used their newfound power to limit racial minorities' entry into the profession.⁴

History of Barber Licensing

The fight to professionalize barbers and pass legislation regulating the industry began long before the 1937 law (Act 313) passed the General Assembly. In fact, in a letter to the governor of Arkansas, one barber, Carl Bailey, boasted that “we have been trying for fifteen years to get this measure passed but have been unable to do so until Arkansas was blessed with having you as our Governor” (Owen 1937). It is likely that barbers in Arkansas wanted licensing requirements earlier, but the issue gained traction during the 1930s.

Although the adoption of barber licensing laws took place later in Arkansas, it followed the pattern of professionalization and reform adopted in most other states during the Progressive Era. In Lawrence Friedman's “Freedom of Contract and Occupational Licensing 1890–1910: A Legal and Social Study,” he analyzes the

³No single volume has been published on the rise of professionalism during the Progressive Era, but it is discussed in numerous books, including Wiebe (1967), Hofstadter (1955), Burrow (1977), Bledstein (1978), Geison (1983), Chandler (1977), Furner (1975), Haskell (2000), and Leonard (2016).

⁴Although we find no explicit evidence of this in newspapers from the time, Quincy T. Mills (2013) details the struggles of black barbers.

period in which occupational licensing laws came into effect and how those laws survived challenges in the courts. According to Friedman, it was from 1890 to 1910 that “occupational licensing first achieved a firm foothold in the statute books of most American states” (Friedman 1965: 489). Other occupations for skilled laborers were licensed well before this period, including plumbers, doctors, barbers, and funeral directors. In general, occupational licensing laws during the Progressive Era were met with indifference. Courts and the public tended to regard occupational licensing law, unlike other areas of notable labor law, as “a quieter, blander area of constitutional law” (Friedman 1965: 489). Not all occupations found it easy to achieve their own license laws. For instance, horseshoers sought licensing, but it was to no avail because “the distinction between a doctor and the horseshoer was that the doctors were professional men” while the horseshoers were an “ordinary trade” (Friedman 1965: 493). Various occupations sought licensing during this period, but some sense of professionalism and a need to protect the public was needed for the courts to acquiesce.

The occupations that wanted license laws tended to already be organized and sometimes faced no opposition in pursuing their goal. In fact, “the success of the licensing movement depended in part on the absence of a strong and coherent pressure group of employers united in opposition” (Friedman 1965: 487). Most barbers were self-employed and for that reason faced little opposition. The barbers organized in the form of unions and sought to regulate the trade through unionization. Many unions found, however, that organizing had its limits and that the enforcement mechanisms of the state government were needed for them to fully achieve their goals. As in many other occupations, “licensing was an attempt to enforce, through legal mechanisms, goals which the trade or professional association was unable to carry through completely on its own” (Friedman 1965: 503).

In the early 1930s, Arkansan barbers suffered from the economic ramifications of other states passing barber license laws. Barbers in Hope, Arkansas, complained that “there are twice as many barber-shops and nearly twice as many individual barbers in Hope today as there were when business was at its peak” (Washburn 1934). By requiring examinations and adding other barriers to entry, other states had effectively cut out labor and forced many barbers to close

up shop and move where they could legally work. In the early 1930s, that was Arkansas. In supporting Act 313 of 1937, Rep. Rupert Condrey of Sebastian, Arkansas, argued that because Arkansas had no barber licensure law, it had become “the dumping ground for all barbers in the middle west who [moved] because they are suffering from disease that would prevent their practicing the trade in other states” (*Camden Times* 1937: 1). Although we have not been able to substantiate the claim that disease led to barber migration, it is likely that some barbers moved to the state in search of a less regulated market. The increase of barbers in Arkansas expanded the number of providers and likely lowered their profits. Arkansas barbers responded by attempting to capture the market as their neighbor states had, driving down the supply of barbers, and increasing their own wages and profits in the process.⁵

When John B. Robinson, vice president of the JBIUA, met with a local union in Arkansas, he informed the barbers that “Arkansas, South Carolina, and Virginia are the only Southern States that have no law requiring barbers to be licensed” (*Hope Star* 1937: 1). Robinson may have used this fact to urge Arkansans to adopt a barber licensure law, although the historical record is not clear. Regardless, Arkansas barbers followed suit shortly after his visit. Historian Scott Hall documented the effect that licensing laws had on the supply of barbers in his report on the international union. Hall (1936: 87) found that “the license laws have also reduced the number of barbers” and that license requirements can “keep a number who would normally complete their training from doing so and eliminate a few already in the trade.” Occupational licensing laws, by creating barriers in the form of lengthy training and expensive fees, disincentivized potential barbers from entering into the profession. Those Arkansans who could afford to complete the training and pay the fees necessary to become barbers were only affected in that it took them longer to become barbers. Those who could not afford to meet the regulatory standards, however, were less likely to enter the profession and were forced to look for employment elsewhere.

⁵Arkansas barbers had good reason to believe that licensing their profession would increase wages. Kleiner (2017), Kleiner and Vorotnikov (2017), Pfeffer (2014), and Timmons and Thornton (2010) confirm that licensing had that effect.

The Sanitation Myth

While many variables were at play in the establishing of the new regulating board, the most notable justification for the new law was the need for better sanitation in barbershops. Barbers claimed that legislation was needed to improve the sanitation practices of their field to ensure public safety. In 1932, just five years before Act 313 came into effect, the *Hope Star*, a local newspaper, noted that “there are three different diseases of the skin which may affect the region of the beard in men, and which are usually picked up in dirty barber shops” (Fishbein 1932: 4). Another article, written in 1937, the same year the law came into effect, suggested that unsanitary barbershops could cause “barber’s itch.” What is most striking about the article is that it ended by claiming that “more and more barbers are dispensing with the unsanitary common shaving brush” (Fishbein 1937: 2). Although sanitation was still a concern in the mid-1930s, barbers were adjusting prior to licensing to make their shops cleaner and more sanitary, likely in response to consumer expectations.

In fact, there is evidence of these efforts well before the 1930s. As far back as 1911, the *Daily Arkansas Gazette* mentioned that “ten years ago it was only the exceptional barber shop that was sanitary. Today it is only the exceptional one that is unsanitary” (*Daily Arkansas Gazette* 1911: 4). Ten years later, another newspaper commented on the improving conditions of barbershops and how they reduced the cases of barber’s itch. In 1921, an article by the *Democrat Gazette* claimed that “barber’s itch is almost as rare nowadays as the proverbial hen’s teeth” and that the reason was that “cleanliness has become a habit” (Copeland 1921: 10). In 1937, those barbers who wanted the establishment of a board pushed the idea that licensure was needed to combat unsanitary barbershops. But the newspapers at the time gave only a minuscule amount of attention to the issue and we have been unable to uncover any cases in which any Arkansan was hurt by an unsanitary barber.

It seems likely that barbers only used the sanitation argument as a means of convincing the public and state government to act. The real goal of barbers was to capture the regulatory apparatus. Barbers wanted licensure, not for the sanitation regulations, but to prohibit laborers from joining the industry, thus keeping the number of barbers down and their wages high.

As is often the case, however, perception was more important than reality. Accordingly, barbers in Arkansas and across the country focused on fostering the perception of a sanitation problem as a means of getting licensing laws on their state books. Indeed, appealing to public health was a longstanding tactic of the JBIUA. In the *Journeyman Barber Journal*, the president of the union, James Shanessy, urged the union to “crystallize public sentiment in favor of the Barber’s License Law” by allowing the delegates to bring the matter before the trades councils and “show them it is a health measure” (Shanessy 1922: 152). To convince state legislatures to acquiesce, barber unions felt that the public had to be convinced that regulation was needed to protect public health.

Although barbers used public safety as the public justification for the law, they had other, private reasons for wanting licensure. One barber, in a letter to Governor Bailey urging him to sign the Barber Bill, praised the governor and the bill his General Assembly was able to draft. While praising the bill, the barber explained how proud the state was that the General Assembly saw “the need of such a protection for the general public as well as the barbers of our proud state” (Owen 1937). The bill was supposed to protect the state, but the barbers were also seeking protections for themselves. Specifically, they wanted to protect their employment and, even more importantly, their wages. Because asking the state legislature for protection of their own industry would look blatantly self-interested, the union and participating barbers focused on the view that unsanitary barber-shops were a threat to the public.

When it came to support for the bill in Arkansas, a majority of the General Assembly was in favor. The bill passed by a vote of 52 to 37 (*Camden Times* 1937: 1). Of the few who opposed the bill, Rep. Sam Cunningham offered a unique argument as to why he was against it. Cunningham contended that the bill’s passage would “prevent farmers from cutting their neighbors hair on Sunday afternoon, a popular past-time in rural districts” (*Camden Times* 1937: 1). While the argument might sound strange, Cunningham touched on a reality about government regulation: requiring a license to do a certain job creates criminals. It might sound irrational to make it illegal for rural farmers to cut their neighbors’ hair, but nonetheless the bill passed.

Although the barbers in Arkansas were overwhelmingly in favor of a license law, not all were on board. One barber, H. C. Beaty, was so opposed to the law that he filed a lawsuit in his local court (Pulaski’s

chancery court) that eventually made its way to Arkansas's supreme court. Beaty found fault with many of the specifics outlined by Act 313. Beaty contended that the law would result in a "confiscation of private property without due process of law; and a duplication of State Agencies, having power to prescribe sanitary regulations for the operation of Barber Shops." Beaty believed that requiring a license to become a barber was unconstitutional in that it could result in confiscation of private property and that it "is a burden on the right of a free man, to the pursuit [of] a vocation." More practically, Beaty pointed out that the barber profession in Arkansas was already regulated for health and safety (*Beaty v. Humphrey et al.* 1937).⁶

In 1933 the State Board of Health had reemphasized its regulations of the barber profession, in which sanitation had always been central. The provisions provided by the State Board of Health stated that "combs and brushes shall be thoroughly sterilized after each separate use" and that "every barber shop shall be kept well ventilated and provided with hot and cold water." In fact, one of the only differences between the regulations on the books and those put forward by Act 313 in 1937 was the new requirement to obtain a license in order to be a barber. While Beaty focused on the 1933 codes, in reality, the codes were simply a reaffirmation of the same codes introduced in 1913 by the State Board of Health (Act No. 96 1913: 42). During the trial, Beaty's counsel questioned the president of the Board of Barber Examiners about the additional costs barbers would have to bear in meeting the new standards set by Act 313. Unfortunately, Beaty's counsel did not question the need for the act despite there already being sanitation regulations for the barber industry. Accordingly, the board did not have to explain the need for a duplication of regulations, the answer to which seemingly should have been critical to determining the necessity of the new license law (*Beaty v. Humphrey et al.* 1937).

Beaty's case was dismissed by Pulaski's chancery court but was then granted an appeal to the Supreme Court of Arkansas. When the case came before the Supreme Court, the Arkansas justices came to their conclusion mostly through precedent. The court argued that Arkansas's Barber License Law was "almost an exact copy of the

⁶For an analysis of the legal justifications for occupational licensing and the criticisms, consult Larkin (2016).

Texas Barber Law.” Furthermore, the court argued that 46 states had adopted a barber law and that “without exception wherever the constitutionality of such laws have been brought in question, they have been sustained” (*Beaty v. Humphrey* 1938).

Beaty ultimately lost his case, but he emphasized that if the concern was sanitation, then Act 313 was not necessary as sanitation regulations were already in place. Despite Act 313’s claim that “the barbering profession in this state is utterly without regulation,” sanitation regulations had been on the books in Arkansas since 1913 (Act 313, Section 25). In truth, the new provisions in Act 313 did little to extend those measures. If there was a public health crisis in 1937 despite the existence of regulations, why did Act 313 not place greater emphasis on sanitation? Instead of presenting new measures to ensure safe practices, the 1937 legislation mandated that only licensed barbers could practice. Perhaps the reason barbers thought Act 313 would be more effective is that they believed that only those within the profession (and especially union barbers) had the intimate knowledge necessary to regulate it. Or perhaps they simply wanted to restrict the number of people entering their profession. While those who were currently barbers were grandfathered in, Act 313 required new entrants to the profession to attend a certified barber school for 1,000 hours, among other things, to acquire a license (Act 313 1937). It is hard to understand how such a grandfather clause makes sense if the real reason for the regulation was public health. Beyond putting the barbers in charge of regulating sanitation in their own shops, the 1937 act gave barbers control over who could become a barber, thus granting the union barbers the victory they had long desired.

Board of Barber Examiners

The Barber License Law established a new government board to oversee and regulate the industry. The board was tasked with organizing barbers and enforcing licensure. Beyond simply growing the government in size and scope, the law created the opportunity for corruption and nepotism. When it came time to appoint members of the new board, countless barbers from all across Arkansas sent in their applications. The legislation outlined that the board was supposed to consist only of Arkansas barbers who had worked at least five years in the state. This wisdom of appointing only members from

the industry being regulated later came under criticism and reforms were made.⁷ After the establishment of the board, one barber with the hope of being appointed inspector was told that “there is [sic] others in your section of the state using quite a bit of political influence to get a place as inspector” (Callahan 1937). The result of this was countless appeals for political favors in the form of a job on the Board of Barber Examiners.

Other barbers pointed to their previous political support as reason for their appointment to one of the newly created positions. In a letter to Governor Bailey, Harvey Booth offered loyalty to the cause of licensing as an explanation of why his friend Claud Marsh should be an inspector for the board. Booth contended that “Claud Marsh did a good piece of work for us last summer in White County and deserves a lot of consideration for it. I know that he was more than willing to do anything I suggested to him” (Booth 1937). It is unclear what became of Booth’s recommendation, but the door was open for potential abuse and nepotism. Indeed, members were appointed by the governor himself, and it appears evident that to get a seat, one had to have some strong connections (Act 313, Section 15). Rent-seeking barbers attempted to use their political clout to get a seat on the board and left out any claims to expertise on public health in the barber profession. If the board was created with the sole purpose of protecting public health, the appointing process should have sought out those who understood public health in barbering rather than those with political power.

The level of nepotism in Arkansas is hard to pinpoint, but evidence from other states implies that it played some role. Scott Hall (1936: 85) found that “it has been said the board members are incompetent political henchmen, that they have failed to draw up adequate sanitary and other rules.” He concluded, however, that “it appears that on the whole the board have enforced the acts, although frequently not to the degree the union desires” (Hall 1936: 85). Arkansas’s Board of Barber Examiners and other states’ barber boards erected barriers to the barber profession but usually not to the extent that union barbers wanted.

⁷There is growing recognition that public officials not aligned with the industry being regulated should have a seat on these licensing boards (Lauterbach 2020). Arkansas is somewhat peculiar because it requires that a senior citizen (someone over the age of 65) sit on the board.

Act 313 made barber licensing the law, but the legislation was not executed seamlessly. On August 14, 1939, just two weeks before the deadline, the secretary of the board warned the barbers that they must renew their license by September 1 and that “only a few had been paid to date” (*Courier News* 1939: 1). Enforcing such a new law could not have been easy, and it appears barbers were often confused about the contents of the law itself. One barber, while recommending his friend for the position of board member, admitted to the governor that he had “not had the opportunity of reading the act and am not familiar with its contents” (Walls 1937). In this way, the new regulation would have made the practice of barbering and the cost of a shave even more expensive. Rather than focusing on improving their services, barbers had to dedicate time and effort to understanding Act 313 and how to comply with the new licensing regulations.

Even worse, the rules governing the profession frequently changed. Barbers not only had to familiarize themselves with Act 313 but were also forced to keep up with the changes in the law. It is likely that Arkansas’s General Assembly did not consider how much further the Board of Barber Examiners would go beyond the initial scope of the law. The minimum requirements established with the original law of 1937 might not have caused much contention, but boards tended to grow in requirements and regulations. In Hall’s report on the JBIUA, he found that “an effort is also made to secure amendments to strengthen the law” (Hall 1936: 88). In Arkansas, this again proved true. In an article written in 1944, just seven years after the passing of the original bill, barbers argued that the fees were too low. The board adopted a resolution to double the fees so they could put two full-time inspectors on the road (*Courier News* 1944: 5).

To this day, the board continues to grow in scope and requirements. When Act 313 passed in the General Assembly, it stipulated that those seeking a license must log 1,000 hours at a certified barber school and also be of “good moral character and temperate habits.” Of course, what is considered “good moral character” was subjective, which certainly created the opportunity for abuse of power. Over 80 years later, the board and licensure law are practically the same but the required hours from a barber school has increased to 1,500 hours.

After 1937, the members of the board controlled the industry, but barbers were in some cases willing to work the system. In a report to the *Journeyman Barber Journal*, one journeyman complained that

“some of these birds have secured their license by false affidavit” and that barbers would pay a “stiff” to take their examination for them (Ackerman 1922). Apparently, some entrepreneurial barbers spent time and money to find ways around the existing regulatory apparatus.

It is also important to note that the barbers who were already well established were exempted from examinations by the 1937 legislation. Act 313 stipulated that any barber having worked in the barbering profession in Arkansas for the past six months would be grandfathered in and given a license without examination (Act 313, Section 8). In this way, Act 313 immediately put those already barbering in Arkansas at an advantage over those looking to enter the profession.

Union Influence

The Journeyman Barber Union deserves much of the credit—or blame—for getting the 1937 Barber License Law enacted in Arkansas. The international union and the local union in Arkansas were the main advocates for the law and had a vested interest in seeing it pass. While unions were always trying to get benefits for their workers, the journeymen saw a unique opportunity in occupational licensure. The JBIUA had experienced minute victories and losses, but licensure was seen as an end to all troubles. Unions quickly discovered that a license law could effectively put into practice what they had wanted all along: higher wages, less competition, and control of the profession. The union realized that if it could harness the power of the state, it could obtain new regulations and potentially get control over the regulatory process.

In New York, one editor for the *Journeyman Barber Journal* gloated at the newly enacted barber license laws: Leon Worthall, a barber in one of the first states to create a barber law, loved the idea that if a shop broke any regulations, the Health Department could “revoke the permit and close the place” (Worthall 1922: 55–56). In the past, unions had tried to use the power of organization to effect change, but strikes did not grant them the power that government had to enforce regulations. The key was ensuring that the barbers themselves were the ones regulating their industry. Barber H. E. Brush demonstrated that he understood this well when he argued that barbers should “wield an influence (if they stood solidly together) equal to a political party. Our State Association should be in power in the state instead of being unknown” (Brush 1922: 167).

Another barber, James Smith, in a report to the *Journeyman Barber Journal*, exclaimed it was “now to make the Barber Union 100 per cent” (Smith 1922: 163). Both barbers understood that their union might have had some incremental success, but to achieve all of the union’s goals, the state was needed.

Although barbers were asking for help from legislatures, they did not trust just anyone to do the regulating. Barbers in Arkansas and across the country believed it was only distinguished barbers who could oversee the profession. One barber, M. H. Whitaker, warned the international union against placing enforcement of the law under the purview of the State Board of Health. Whitaker argued that physicians “only see the need of sanitation to protect the public, and do not take as deep an interest in the protection of the barbers as barbers would” (Whitaker 1922: 310–11). Accordingly, the union worked to convince state legislatures that only barbers had the intimate knowledge to regulate their industry. Like other states, Arkansas decided to give the Board of Barber Examiners the power to enforce the Barber License Law and also appointed barbers to each position of the board. Other states went as far as to require a member of their Journeyman Barber Union to sit on the board.⁸

The local Journeyman Barber Union and JBIUA understood how license laws could benefit them and prioritized such laws, but barbers were not the first profession to realize this. Another writer to the *Journeyman Barber Journal* commented on the new license laws being enacted and pleaded that “other crafts are realizing the importance of legislation of this kind for their protection” (Miller 1922). Members of the international union knew what effect license laws could have on a given occupation, and their number one priority became securing legislation for their own profession. Importantly, the Journeyman Barber Unions’ work did not end after license laws were secured. The main goal for the unions was to enact a license law in each state, but once the law was enacted, efforts to secure amendments and strengthen the law were made (Hall 1936: 88). This held true in Arkansas as the Board of Barber Examiners fought to increase fees and strengthen the 1937 law.

⁸Kentucky still has this requirement (Timmons and Thornton 2010).

Progressivism and Professionalism

Underlying all of the forces that brought about the barber law and Board of Barber Examiners was a Progressive Era attempt to professionalize the trade of barbers. The Progressive Era was marked by the government's attempt to combat the problems that came with industrialization and urbanization, mostly through public health and workplace regulations. The professionalization of the trade of barbering began during the Progressive Era and continued into the 1930s. In another article in the *Journeyman Barber Journal*, a barber argued that barbers should benefit like some of the other "properly regulated callings and professions—for instance, the lawyers, the doctors, the dentist, and many others" (Shanessy 1923: 454). All of the occupations considered very professional enjoyed higher wages and profited from license laws, and the barbers wanted some of the same benefits. The JBIUA made license laws its number one priority but "saw regulation as a central component to their larger vision of professionalizing the trade" (Mills 2013: 127). Beyond just increasing wages, the attempt to professionalize the trade of barbering was also an attempt to control the public sphere and grant barbers the respect they thought they deserved.

By regulating the barbers in Arkansas, the Board of Barber Examiners could exclude laborers it deemed unprofessional, thus making the entire profession respectable. One barber, in a report to the *Journeyman Barber Journal*, argued for license laws so they could "get rid of some scabs" (Ambrey 1922: 20). The same barber reported that a man was using his old barn in Virginia as a barber-shop, where he cut hair for low prices and "work[ed] all day and night and Sundays." What might be considered today as a noble effort by a poor entrepreneurial worker enraged the complaining barber, who finished by insisting that he "would like to see the key turned on them" (Ambrey 1922: 19–20).

Unprofessional and unsanitary barbershops were also seen as a blemish on the noble profession. Members of the JBIUA wanted to "unite in an effort to place the occupation of a barber upon the high plane it justly belongs" (Miller 1922: 100). Barbers in Arkansas, whether they liked it or not, were part of this movement by the international union to define what was a professional barber and keep those unworthy of such a status from sullyng their image. In this way, the barbers had not only the goal of enhancing their wages, but also the goal of elevating their status in society.

In conjunction with the barbers' efforts to professionalize the industry was the nefarious motivation to exclude racial minorities. Scholars have detailed the racial element of professionalization in the Progressive Era, and the national barber profession has been accused of attempting to keep blacks out of barbering (Bernstein 1994; Klein, Powell, and Vorotnikov 2012). In *Cutting Along the Color-Line: Black Barbers and Barber Shops in America*, Quincy Mills documents the history of black barbershops and analyzes how the industry changed during the Progressive Era. Mills lays out the position that "the entire industry during the Progressive Era assumed a new shape." While the new unions and technological innovations had changed the industry, it was the "emphasis on state regulation and professionalization" that defined who would be a barber. Mills (2013: 109) argues that it was through these efforts that "it became clear that blacks were positioned outside the boundaries" of what white barbers envisioned.

As to what white barbers had in mind, Mills explains that white barbers "envisioned a modern shop with sanitary standards" where "skilled craftsmen performed their artistry on white men in urban America." While various things could threaten a barber's employment and wages, "color-line barbers were targeted as direct competition." As far as how unions went about getting legislation that would exclude black barbers, Mills, like this paper, argued that public health was the main focus. Progressive Era measures to safeguard public health were, in Mills's opinion, "means of establishing order in the public sphere," where "the public" meant "the white public." For Mills, references to public health were the union's way of recruiting Progressive Era reformers, and black barbers believed the entire situation to be "a façade for driving them out of the field" (Mills 2013: 126–27).⁹

While there is little evidence that Arkansas barbers had racial motivations, it seems likely given Arkansas's racial history that some black Arkansans were targeted by the new law. Given that the law was enacted during the height of Jim Crow, the law created opportunities

⁹ Mills's analysis runs counter to the findings of Blair and Chung (2019), who conclude that when a profession is licensed, characteristics such as race and gender have less influence on wages and result in smaller wage gaps than in unlicensed areas. It is possible that this discrepancy is a product of the historical context that Mills is writing about (it was the height of racial discrimination: the Jim Crow Era). For more on black barbers, consult Bristol (2015).

for racial discrimination even if that was not the intention of the drafters of the law. One indication that blacks may have been discriminated against can be found in the board's minutes. The mark "(C)" next to certain barbers' names who had taken an examination indicated that the barbers were "colored."¹⁰ Of course it is also possible that this denotation was simply the product of a segregated society in which public officials had an interest in separating whites and blacks in all things, including professions.

Conclusion

While scholars who research occupational licensing are currently focused on the (often negative) effects that licensing laws have on workers, firms, and consumers, they should also be interested in the origins of these measures. In Arkansas, the Barber License Law was created to respond to what the barbers' international union and the local Journeyman Barber Union called a public health crisis: the law was needed to ensure that barbershops were sanitary. But our story of the origins of the Arkansas Board of Barber Examiners undercuts the current explanation of public health as the primary reason for its existence. The lack of evidence that customers were in any way affected by unsanitary barbers leads us to the conclusion that barbers really sought licensing and the creation of the board as means to seek rents and control the profession. Barbers wanted, and were successful in creating, barriers to entry. The JBIUA and barbers in Arkansas had fought for better wages and more secure employment, but unionization could only do so much. Union barbers across the country and in Arkansas found the solution in their state legislatures. Once the Board of Barber Examiners was created, barbers sought even more rents in the form of jobs on the board (only barbers sat on the board) and as inspectors.

Today, numerous policymakers and analysts have documented the negative effects that occupational licensing has on consumers by restricting competition in the industry. There is also a lively discussion about the potentially negative effects of licensing on minorities in the United States. After all, why should you have to be licensed to braid someone's hair? In fields such as barbers, licens-

¹⁰ Minutes provided by the Arkansas Board of Barber Examiners indicate that this practice continued until 1967.

ing regulations require more training to cut hair than to be a police officer.

While other scholars have investigated the consequences of such legislation, we believe more attention should be paid to the origins of occupational licensing laws. Our case study demonstrates that barbers in Arkansas captured the regulatory apparatus and used it to decrease competition in their profession and raise their wages. They also grandfathered themselves in to avoid the newly established requirements to receive a license. Finally, once the Barber Board was created, only barbers sat on the board and many of them engaged in rent seeking to secure positions both on the board and as inspectors. The creation of barber licensure in Arkansas was not established to protect public health but for private gain. Accordingly, we should be skeptical of occupations today that seek licensing for the “public good.”

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