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Regulation through titling laws: A case study of occupational regulation

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Abstract
This case study examines a form of occupational regulation infrequently examined in academic literature – titling laws. These laws regulate who may legally use a phrase, or title, to describe their work to the public. Focusing on the interior design industry, this article demonstrates how industry leaders use titling laws as the first step in a push for full occupational licensure. In so doing, they allege a need for regulation out of concern for public health and safety, but as data in this case study indicate, there appears to be no threat to public health and safety from unregulated interior designers. Instead, designers advocate for increased regulation of their own industry, through the evolution of titling laws to full licensure, due to the benefits it affords them.

Keywords: case study, interior design, occupational licensure, occupational regulation, titling laws.

Introduction

By recent estimates, 20% of US workers practice in regulated occupations (Kleiner 2006). Such regulation is commonly conceptualized as licensure, which restricts the ability to practice only to those who complete state mandated requirements. There are, however, other forms of occupational regulation that receive comparably minor treatment in the academic literature. The most significant of these is titling laws, which regulate who may use a specific title in a particular occupation or profession. Theoretically these laws protect public safety and the economic interests of consumers, but critics charge that they are anti-competitive barriers benefiting those already practicing. This case study examines titling laws, using the interior design industry as the focus, to illustrate what these regulations are and how they function.

Background and relevant literature

Titling laws often represent the first step in the better known process of occupational licensing, the latter of which sociologists identify as a part of professionalization of an occupation (Larson 1977; Abel 1979; Abbott 1988). Professionalization is the organized

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effort of an occupational group to pursue higher economic and social status and the right to determine conditions of occupational practice (Larson 1977; Weisz 1983; Abel 1986). According to Abel (1979), this professionalization tends to share several closely related elements – differentiation and standardization of services, persuasion of the public that they need services that only professionals can provide, formalization of the conditions for entry into the occupation or profession, and state protection of the market from those who lack required qualifications and from competing occupations.

Beginning with differentiation and standardization of services, professions are often created from existing occupational practices when practitioners attempt to differentiate themselves from occupational peers (Abbott 1988). This differentiation creates "jurisdictions," or areas of knowledge and practice identified as the exclusive domain of those working in the new profession. Once so identified, knowledge and practice grow more standardized.

Professional aspirants attempt to define jurisdictions to the larger public, commonly by emphasizing new, complex, or abstract knowledge as unique to its practitioners (Abel 1979; Abbott 1988). A particularly persuasive approach is when "the [aspiring] profession claims unique responsibility for some aspect of the public good" (Elliott 1972, p. 147) with appeals to the public interest and implied confidence in the aspiring profession's objective stance (Peterson 2001). Protecting public health or safety is a common petition. Another method of creating jurisdiction, standardizing practice, and signaling to the public is through the formation of professional associations that grant credentials to practitioners who successfully demonstrate the required knowledge, skills, or education (Freidson 1986). As these associations work to define the aspiring profession, they also begin the process of formalizing conditions of entry through credentialing.

Similarly, signaling, standardization, and formalization of entry occur through training institutions, usually colleges and universities (Larson 1977). As Abel (1979), Abbott (1988), and Friedson (2001) assert, practitioners in the aspiring profession must be adequately trained and socialized to provide recognizably differentiated and standardized services, and college and university programs validate to the public the profession's knowledge claims and socialize future practitioners (Larson 1984). Formalization of entry also occurs as a way to constrain supply through the "production of producers" (Larson 1977; Abel 1986). However, as Freidson (1986) acknowledges, credentialing and education only weakly formalize entry into the occupation, necessitating state regulation to codify jurisdiction.

By now, the striving of occupations and professions for a century or more for monopoly over work jurisdiction, or "rent seeking" (Tullock 1967), has been well documented in numerous sectors and countries (Freidson 1970; Johnson 1972; Berlant 1976; Larson 1977; Abel 1979; Dingwall & Fenn 1987; Halliday 1987; Abbott 1988; Brain 1991). In the US, that monopoly has been achieved principally through cooptation of government through the political activities of professional associations in individual states (Freidson 1986; Halliday 1987). In countries with more centralized governments, the dynamic of monopolization looks somewhat different (Abbott 1988). Those differences and implications are addressed in the discussion section.

The pattern of cooptation in the US appears quite consistent:

> [L]eaders of a professional association seek a legislative sponsor in the state capital for a bill establishing the credential and work at "educating" members of the

> legislature so as to gain their support or at least weaken their opposition. (Freidson 1986, pp. 187–188)

Part of that "education" is informing legislators of jurisdictional knowledge and skill and the public good served by monopolization through occupational licensing (Hartle 1983), although research appears decidedly inconclusive about the relationship between licensure and quality (Maurizi 1980; Carroll & Gaston 1981; Shapiro 1986; Kleiner & Petree 1988; Kleiner & Kudrle 2000). The effects of occupational licensing do not end there. Economists recognize that licensing restricts the number of new entrants into an occupation, resulting in an increase in the price of labor and services rendered (Shepard 1978; Rottenberg 1980; Haas-Wilson 1986; Cox & Foster 1990; Kleiner & Kudrle 2000). Industry insiders recognize this and pursue licensing to realize greater economic benefits (Pfeffer 1974; Paul 1984; Wheelan 2005; Kleiner 2006), while "signaling" to consumers and policymakers the assurance of quality and safety associated with licensure (Spence 1973).

Regulating some professions, like dentists, garners little question about the utility of government oversight. Yet others such as casket sellers and florists lack a prima facie need for government regulation. In the latter situation, how do such occupations become licensed? Given the need to convince the majority of US state lawmakers in (typically) two legislative bodies and a governor's office, how do wholly unregulated industries transform themselves into bureaucratically licensed professions? To be sure, in an age of term limits (a common feature of state legislatures in the US, where most occupational regulation occurs), spin doctoring, and incremental growth in government (most state legislatures are part time and have seen increased activity and oversight only within the last few decades), policymakers do not always recognize the machinations of industry lobbyists.

Similarly, titling laws are not widely recognized in occupational licensing, public policy, or regulation research, and in the sociology literature on professions titling is discussed notably less than full licensure. Freidson (1986) contrasts titling with licensure and concludes the former is a weaker form of market control. Abbott (1988) and Abel (1995) briefly reference titling laws while discussing particular professions, such as accountants in the US and England and lawyers in Japan, Germany, and Venezuela. Yet, aside from Abel's (1995) passing mention of their evolutionary function, titling laws as a vehicle for the incremental growth in government regulation of occupations remain largely unexamined in a systematic treatment. In fact, in the aforementioned quote from Freidson (1986, pp. 187–188), titling laws are noticeably absent.

Therefore, in concert with Collins's (1990) call for more research on how the ingredients of market regulating structures operate, this case study examines the passage and evolution of titling laws in one industry in the US – interior design. Consistent with the purpose of case study research, this examination illustrates a larger phenomenon – the genesis and evolution of occupational licensing through the vehicle of titling laws. The advantage of studying interior design is the early stage of its regulation. Unlike long-regulated industries, fewer than half of US states regulate interior designers in any way, and those with such laws have enacted them relatively recently.

This is not, however, an article primarily about the interior design occupation or an application of an established theory (i.e. professionalization or rent seeking) to a particular industry. Rather, this case study illustrates how a largely unacknowledged form of

regulation, titling laws, operates not only as a regulatory end but also as an evolutionary means to an end (i.e. full licensure) in the professionalization or rent seeking process. Its findings also suggest why policymakers' critical appraisal of the need for occupational regulation is likely to begin with the lowest (i.e. least restrictive) forms of regulation, including titling laws, rather than waiting for full licensure to ask such questions. Indeed, given the evolutionary nature of titling laws illustrated in this article, asking questions such as the following can serve as a more efficient and effective way of determining the utility of proposed regulations.

1 Does the unregulated practice clearly harm or endanger the health, safety, or welfare of the public, and is the potential for the harm easily recognizable and not remote or dependent upon tenuous argument?
2 Does the public need an assurance of initial and continuing professional ability and can it reasonably be expected to benefit from such assurances?
3 Can the public be effectively protected by other means in a more cost-beneficial manner?

Methods

This research begins with two primary questions.

1 What are titling laws and what role do they play in occupational licensing?
2 Do data indicate a need for the regulation of the interior design industry?

The first question is examined through a collection and analysis of the legislative history of interior design laws via the following.

- Proposed and enacted interior design legislation at the state level collected through LexisNexis, NetScan, and state legislative websites.
- Legislative records, including committee meeting minutes, transcripts, and recordings; records of floor debates; and legislative reports and analyses obtained through state legislative websites or offices, state archives, or law libraries.
- Media reports on said legislation collected through LexisNexis or other media databases.
- Industry records, such as documents produced by interior design professional associations, state design coalitions, including newsletters, board meeting minutes, proposed legislation, and reports obtained via industry websites or through interior design association offices.

The second question was examined using two types of data – complaint reports from state interior design regulatory boards and complaint reports from the Better Business Bureau (BBB).

State interior design regulatory board complaint data

State interior design regulatory boards oversee the licensure requirements for the interior design industry, respond to consumer complaints, address issues of legal compliance, and mete out disciplinary action against designers who violate licensure regulations or

Table 1 Number of complaints per designer (interior design regulatory boards)

State	1998	1999	2000	2001	2002	2003	2004	2005	2006
Including licensure related complaints									
CT	0	0	0	0	0	0	0	0	0
FL	0	0	0	0.000385	0.004255	0.017782	0.019484	0.02338	0.010956
IA	0	0	0	0	0	0	0	0	0
IL	0	0	0	0	0	0.000448	0	0.00045	0
MD	0	0	0	0	0	0	0	0	0
ME	0	0	0	0	0	0	0	0	0
MN	0	0	0	0	0	0	0	0.00087	0
MO	0	0	0	0	0	0	0	0	0
NV	0	0	0	0	0	0.004348	0.002381	0.011111	0.02
NY	0	0	0	0	0	0	0	0	0
TN	0	0	0	0.001099	0	0	0	0	0
TX	0.004444	0.021978	0.015972	0.012698	0.003871	0.007051	0.004626	0.000319	0.00404
VA	0	0	0	0	0	0	0.000781	0	0.000599
Without licensure related complaints									
CT	0	0	0	0	0	0	0	0	0
FL	0	0	0	0	0.000236	0.000837	0.001643	0.000694	0.000199
IA	0	0	0	0	0	0	0	0	0
IL	0	0	0	0	0	0.000448	0	0.00045	0
MD	0	0	0	0	0	0	0	0	0
ME	0	0	0	0	0	0	0	0	0
MN	0	0	0	0	0	0	0	0.00087	0
MO	0	0	0	0	0	0	0	0	0
NV	0	0	0	0	0	0.004348	0	0	0
NY	0	0	0	0	0	0	0	0	0
TN	0	0	0	0.001099	0	0	0	0	0
TX	0	0	0.001389	0	0	0	0	0	0
VA	0	0	0	0	0	0	0.000781	0	0.000599

commit criminal acts. Data from the state boards were collected via their respective websites, direct contact with board representatives, or through Freedom of Information Act (FOIA) requests. Attempts were made to secure data from all states with regulatory boards; however, some states cited privacy laws in refusing to fulfill the requests, other boards were represented by new staff with no knowledge of such information, and still other state boards simply refused to comply with FOIA requests.

Of 22 states with interior design regulations and boards, only 13 had such data or made it available upon request (see Table 1 for a list of these states). Of those 13, only two require full licensure. This precluded any empirical comparison of states based on regulation type but did enable the use of descriptive statistics. These complaint data also came with reasons for complaints, some indication of disciplinary action, and were disaggregated by year for each state. Descriptive statistics were also used to analyze the reasons for complaints. Although not all states with titling laws are represented, more than half are, and the demographics of these states are quite diverse, including population, region of the country, and socioeconomics. Moreover, most have some of the oldest regulations in the country, meaning regulatory agencies and procedures are well established, and sufficient time has passed for the collection of data that could be considered representative.

These complaint data help to provide a more complete measure of issues of public health and safety and consumer protection, but they come with limitations. Most significantly, consumers may be unaware of interior design regulatory boards and the ability to file a complaint against a designer. Moreover, consumer "noncomplainers" is an established phenomenon (Stephens & Gwinner 1998; Voorhees *et al.* 2006). Therefore, the data may not fully embody the frequency or issues of concern that would generate complaints, but that does not make the data irrelevant. As reported below, state agencies routinely use such data to decide on the initiation of new occupational regulation or to sustain existing ones. Moreover, data from regulatory agencies combined with BBB data represent the two most likely ways consumers would register dissatisfaction. Thus, were there serious problems in the interior design industry, such data would be likely to detect them.

Better Business Bureau data

As a nationwide non-profit, the BBB is a recognized source of consumer information and an "authority" with which to lodge complaints (R. Stacker, personal communication, 14 March 2008). The BBB also represents a measure of consistency when gathering data in multiple states, which is one reason why BBB complaint data represent an often used measure of industry quality by state agencies to determine the need for occupational regulation. BBB complaint data were collected from databases in all 50 states at the company level (n = 5,006). The majority of these data are available online, but some were obtained directly from BBB chapters. The number of complaints reported per company represents 2004 to 2006.

These BBB data are neither comprehensive nor random. The BBB sends out company profiles to businesses in the community and enters the companies into the database when the profile is returned, regardless of BBB membership status. Companies that fail to return the profile are not included in the database. Nevertheless, a sample of more than 5,000 companies, regardless of BBB membership, is substantial. It is important to note there is not necessarily a link between companies that choose not to return the profile survey and complaints. Firms that choose not to reply are more likely to believe that listing with the BBB adds little to their business vitality (R. Stacker, personal communication, 14 March 2008). Such businesses would typically include those with a small or perhaps no percentage of general public customers (i.e. businesses whose customers are other businesses or organizations). Clearly, most interior designers do not fit this profile, as the majority practice residential interior design with general public clients (American Society of Interior Designers [ASID] 2004).

In the analysis, data were aggregated by type of regulation. As described subsequently, there are different types of titling laws across the states, and some states also require a license to practice interior design. We then examined differences in the average number of complaints by type using Analysis of Variance (ANOVA). These analyses indicate the average number of complaints against interior designers over a three-year period and compare the average number of complaints under different regulatory schemes, thus illustrating a need, or lack thereof, for regulation. It is also important to note what is not included in this analysis. First, no effort is made to measure the causal effects of titling laws on outcomes such as wages, prices, or the number of practitioners in a state. Second, no cost–benefit analysis is included that would indicate the "optimal" number of complaints versus costs. Rather, this study seeks to establish what titling laws are, how they

function within the greater professionalization system, and test the claims of occupational practitioners of the need for such laws. The former analyses are simply not within the scope of this treatment. However, subsequent research that builds on the foundation established in this article is underway that will include the former analyses.

Results

According to the US Department of Commerce, an interior designer: "Plans, designs and furnishes interior environments of residential, commercial, and industrial buildings" (National Academy of Sciences Committee on Occupational Classification and Analysis 1981). Estimates put the number of design practitioners in the US at anywhere from 20,000 to 75,000 (ASID 2004). The disparity largely reflects an issue at the center of this case study: What defines an interior designer? In one sense, all who "plan, design, and furnish interior environments" work as interior designers. Yet industry leaders have expended much effort since the 1950s to create and legitimize a jurisdiction beyond just the nature of the work (Havenhand 2004). Through its leading professional association, the ASID, industry leaders seek to establish within the occupation and to various audiences (the public and policymakers): "The professional interior designer is qualified by education, experience, and examination to enhance the function, safety, and quality of interior spaces" (ASID, n.d.-b, para. 1).

Although interior design has been a recognized US industry since the early decades of the 20th century, the first regulation of it did not occur until 1982, when Alabama enacted titling legislation (American Society of Interior Designers 2004). Since that time, almost half of the states have enacted regulations of some kind. As Table 2 indicates, three states and the District of Columbia require licenses to practice. From 2001 to 2004, Alabama also required a license to practice as an interior designer, but the law was struck down as unconstitutional in 2004 (*State v. Lupo*, CV-02-5201-HSL 2004). Eighteen states, through titling laws, regulate how people in the industry may refer to themselves.

Although title acts do not limit the practice of a profession (as a license does), they prohibit practitioners from advertising or in any other way representing themselves using a specific title, such as "interior designer," unless they meet minimum statutory qualifications concerning education, experience, and examination (ASID 2004). As Table 2 indicates, titling laws come in different variations. The first is the regulation of the title "interior designer." The strictest of the titling laws, this removes a broad descriptive phrase, or title, from the public domain and reserves it only for those who have satisfied certain requirements. Less restrictive laws reserve the titles "certified interior designer" or "registered interior designer." Under the latter, individuals may call themselves interior designers and describe their work as such, but may not refer to themselves as certified or registered.

The distinction between the various forms of titling laws is an important one. Compared with certification or registration, completely setting aside the term "interior designer" imposes a substantively greater restriction on those practicing within the industry. Unlike certification or registration, the stricter titling law means practitioners cannot be listed in telephone books under the interior design heading, cannot advertise themselves as interior designers, cannot use the term on business cards, and cannot be identified as such in interior magazines or other media (such as interior design television shows), all of which carry significant business implications. As the interior design industry

Table 2 Interior design laws

State	Type of law	Minimum post-HS education	Total education plus experience	Year passed
AL	Title†	60 quarter hours or 48 semester credit hours, 4 years for "registered"	6 years	Title Law: 1982, License: 2001 (struck down as unconstitutional)
AR	Title‡	4 years	6 years	1993, amended 1997
CT	Title†	Follows NCIDQ	Follows NCIDQ	1983, amended 1987
DC	Title/License†	2 years	6 years	1986
FL	Title/License†	2 years	6 years	Title Law: 1988, amended 1989, License: 1994
GA	Title‡	4 years or first professional degree	(No experienced specified)	1992, amended 1994
IL	Title†,‡	2 years	6 years	1990, amended 1994
IA	Title‡	2 years	6 years	2005
KY	Title§	Follows NCIDQ	Follows NCIDQ	2002
LA	Title/License‡	2 years	6 years	Title Law: 1984, amended 1990, 1995, 1997 License: 1999
ME	Title§	4 years	6 years	1993
MD	Title§	4 years	6 years	1991, amended 1997, 2002
MN	Title§	Board determines	6 years	1992, amended 1995
MO	Title‡	2 years	6 years	1998, amended 2004
NV	Title/License‡	4 years	6 years	1995
NJ	Title§	2 years	6 years	2002
NM	Title††	2 years	6 years	1989
NY	Title§	2 years	7 years	1990
OK	Title†	2 years	6 years	2006
TN	Title‡	2 years	6 years	1991, amended 1995, 1997
TX	Title†	2 years	6 years	1991
VA	Title§	4 years	6 years	1990, amended 1994
WI	Title¶	2 years	6 years	1996

†"Interior designer."
‡"Registered interior designer."
§"Certified interior designer."
¶"Wisconsin Registered Interior Designer."
††"Licensed interior designer."

also illustrates, titling represents an important first step toward monopolization, a process pursued overwhelmingly by factions within the industry itself (Coplan 1990).

Pushing for regulation from the inside

Some of the earliest organized attempts at regulation began in the late 1970s and early 1980s. In New York in 1979, interior design lobbyists tried unsuccessfully to persuade lawmakers to pass a practice act (McKee 2000), and obtained a titling law in 1990 after

years of vigorous lobbying (Brown 1990). Connecticut designers, too, worked for several years before realizing a titling law in the early 1980s (*Proceedings* 1983c). In the mid-1980s, ASID began a national campaign to regulate the interior design industry, which required persistence. Passing the Texas titling act required a seven-year campaign (Hamm 1993). Missouri attempted licensure in 1994, but passed a titling law in 1998. New Jersey worked for a decade to realize a titling act in 2002. Oklahoma designers attempted licensure in 1992 but did not see fruit from their efforts until 2006 with a titling act.

Given the scope of a national campaign and the number of years often required to realize regulation, representatives from different sectors of the design community work together to press for new or expanded legislation. Consistent with Abel (1979), one sector includes professional associations. For example, Washington, DC's 1986 title and practice law came about after heavy lobbying by ASID and the Institute of Business Designers (IBD) (Gillman 1987; Koncius 1987). Another sector includes state chapters and coalitions comprised of ASID, IBD, and others. A third sector includes interior design professors and students from post-secondary institutions. For instance, the sponsor of Iowa's 2005 titling legislation readily credited professors and students from Iowa State University's College of Design with the bill's success (Kadic 2005). And Connecticut's 1983 titling law enjoyed support from three interior design professors, who, in concert with representatives from interior design associations, pushed for the bill's passage (*Proceedings* 1983c).

The efforts of these groups range from creating sample legislation, to working with licensing boards to amend existing legislation, to lobbying and testifying in committee hearings (Legislative Record 1993). ASID leads this effort by reviewing, tracking, and analyzing bills that affect the interior design profession and advising and educating chapters and coalitions on legislative strategies and specific legislation, including staff and volunteer visits to key states. From 2003 to 2006, ASID completed more than 30 legislative training sessions (ASID 2006). ASID's website enables interior designers to identify and contact their legislators using a template to create a personalized letter on their own letterhead. Finally, ASID resource allocations total more than $5 million to state legislative efforts (ASID 2006), and in 2007 it imposed a mandatory $15 membership payment to support lobbying efforts (Wright 2007).

An analysis of the legislative process reveals how instrumental interior design representatives can be. For example, in a 26 February 2002 committee hearing for Kentucky's titling law, bill proponents included representatives from ASID, the Kentucky Interior Designers Legislative Organization, and two dozen interior designers seated in the chambers (*Proceedings* 2002). After testimony, committee members questioned the bill sponsor, Representative Crimm, about specifics of the legislation. Lacking any knowledge of the issues surrounding the bill, or seemingly the bill itself, Crimm called himself a "conduit" for the interior design representatives and referred all questions to them.

The "need" for regulation

Interior designers use health, safety, and welfare language to buttress their push for titling laws, which is consistent with notions of claiming unique responsibility for an aspect of the public good through the occupation's complex, unique, or abstract knowledge (Elliott 1972; Abel 1979; Abbott 1988). An ASID publication on the need for regulation

begins, "Every decision an interior designer makes in one way or another affects the health, safety, and welfare of the public" (ASID, n.d.-a, p. 1). Numerous letters of support, testimony, or letters to the editor in newspapers supporting legislation refer to health, safety, and welfare. Bill sponsors have mentioned these same reasons in support of their legislation (*Proceedings* 1983a,b), and health, safety, and welfare has been cited in legislative intent, such as in Florida's SB 127, which created its 1988 titling law (Hetrick 1988).

Yet the rationale for titling laws has not always proved convincing, either to state leaders or to those in the industry itself, and when pressed for data supporting their claims, proponents often fail to produce much, if any, evidence. To date, the most systematic examinations of such evidence have been "sunrise" reports produced by state agencies. Sunrise laws require that proposed occupational regulations undergo scrutiny by a state agency to determine their need. In the course of these studies, the agencies routinely examine data from multiple sources, including industry associations, BBBs, state law enforcement or consumer affairs divisions, regulatory boards, and reciprocal agencies in other states (Cooke 2000). The studies also typically include hearings with various industry associations and sometimes the public at large. The results are published in sunrise reports and presented to the state legislature.

These reports can (or at least should) be particularly helpful to part-time legislators who are elected to office from widely divergent backgrounds. Few are likely to arrive at their legislative posts with expertise or experience in occupational regulation generally or with detailed knowledge of particular occupations. Term limits also mean legislators who develop such expertise do not remain in the legislature past a few terms (i.e. eight years) and are replaced by novice lawmakers. These dynamics, joined with the near constant campaigning required of many state legislators whose terms span only two years per election cycle and the intensely local nature of state politics in the US, also make legislators comparatively more vulnerable to interest groups and increase the role of state agencies and legislative staff in informing regulatory decisions, such as through sunrise reports.

In the case of interior design, five states (Colorado, Georgia, South Carolina, Virginia, and Washington) have produced such reports. Without exception, every sunrise report on interior design found no sufficient and reliable evidence to suggest harm is occurring as a result of unregulated interior designers. Moreover, when given the chance to produce such evidence for the reports, interior design associations produced none (Roper 1989; Nettles 1991; Cooke 2000), or the complaints they did produce resulted from designers practicing without a license (Washington State Department of Licensing 2005). The reports further found that means were already in place to ensure the quality of interior designers' work and failed to identify any economic benefit to the public from such regulations. Every report recommended against titling laws in their respective states.

Analysis with current and nationwide data

Arguably, a potential shortcoming of these findings is the relative datedness of some of these reports. Three of the five sunrise reports hail from the 1980s or 1990s. Therefore, we replicated a common procedure from the sunrise reports and collected more recent complaint data from interior design regulatory boards, as described in the methods section.

Results indicate that from 1993, the earliest year for which data were available in any of these states, to 2006 the interior design boards reported 507 complaints. Florida and

Table 3 Average number of BBB complaints by regulation type

Regulation type	*N*	*M*	SD	Minimum	Maximum
None	2,149	0.1889	1.27	0.00	46.00
Title: Self-certified	435	0.1701	0.59	0.00	6.00
Title: Certified	611	0.2422	1.02	0.00	18.00
Title: Registered	599	0.2020	1.54	0.00	36.00
Title: Interior designer	727	0.1623	0.78	0.00	13.00
Practice	485	0.3732	2.08	0.00	25.00
Total	5,006	0.2093	1.28	0.00	46.00

Texas accounted for 95% of the total complaints. Six states – Connecticut, Iowa, Maryland, Maine, Missouri, and New York – reported no complaints. Of course, these data should be adjusted for the number of designers per state. Using estimates of the number of interior designers available through the US Census Bureau and the Bureau of Labor Statistics, the top panel of Table 1 provides the number of complaints for any reason per designer in each state since 1998 (the first year of estimates for numbers of designers per state). As indicated, complaints about interior designers are extremely rare. The number of complaints per designer, per state, per year nowhere even approaches one. Expressed as a ratio, since 1998 an average of one designer out of every 289 receives a complaint for any reason.

By disaggregating the data by type, the complaints can be categorized into five categories. The first is "licensing complaints" (94.7% of complaints), such as advertising as interior designers without proper state accreditation. The second category includes designers who performed the work of architects or electricians without the appropriate licenses (3% of complaints). The third type includes those who perpetrated crimes (1% of complaints), and the fourth category includes designers about whom the board received a customer complaint (0.6% of complaints). "Other" represents 0.8% of complaints. When the licensure related complaints are removed from the data, the distribution of complaints per designer, per state, per year shrinks to the tiny fractions reported in the bottom panel of Table 1. Expressed as a ratio, since 1998 an average of one out of every 5,650 designers received a complaint for reasons other than licensure.

Still, these data arguably use an incomplete database; the reports and the analysis above use data from regulated states. Absent are other states with no regulation, which may have greater numbers of complaints given the lack of regulation. Examining BBB data facilitates an examination of a more complete database. However, the latter results also appear to undermine the need for increased regulation. As Table 3 demonstrates, the average number of complaints to the BBB about interior designers, over a three-year period, is close to zero. When disaggregating the averages by type of regulation, the data indicate the highest average number of complaints ($M = 0.3732$) under practice laws, while the smallest average ($M = 0.1701$) appears under self-certification titling laws (only in California). Notably, the next smallest average is when no regulation is present ($M = 0.1889$). When tested using ANOVA, results indicate no significant difference based on type or amount of regulation, $F(5, 5{,}006) = 2.04$, $P = 0.07$.

Such results would not surprise some industry practitioners and state leaders opposed to titling laws. In her 26 February 2002 testimony before the Kentucky Senate Committee on Licensing and Occupations regarding a proposed titling law, interior designer Beverly Dalton stated:

> The bill does nothing to achieve its purported purpose of safeguarding the public health, safety, and welfare. Its sole purpose is to protect the interests of a select few within the interior design industry and in no way promotes nor advances any rational, justifiable, or necessary public policy. (Senate Committee on Licensing and Occupations 2002).

Similarly, when interior designers proposed a titling law in Wisconsin, the state's Department of Regulation and Licensing opposed it, arguing that proponents had not shown a substantial danger to the public from unregulated interior designers (Callender 1995). Licensing department staffers testified in committee hearings that consumers were sufficiently able to judge for themselves whether or not designers were competent, and suggested the designers were pursuing the title law as a first step toward total licensing (Callender 1995). An examination of both the history of titling and practice acts and contemporary efforts by designers confirms this suggestion.

From titling to licensure

As Table 2 indicates, three of the four states that currently restrict the practice of interior design began with titling laws. Of those, Louisiana gradually amended its way into a practice act from the title law. After the 1984 titling law, successive amendments increased restrictions on interior designers culminating with full licensure in 1999. The 1999 amendment faced little resistance (*Minutes of meeting* 1999), probably because most designers were unaware of the pending legislation (Foster 1999).

Alabama's route from a title law to licensure began in 1996, with an annual series of House and Senate bills to license interior designers. It was not until 2001 that the title law became a practice act, and only after a legislative battle that lasted 20 hours (Legislative Briefs 2001). After years of fruitless efforts, interior designers hired one of Alabama's most powerful lobbying firms and found a champion in Senator Jim Prueitt – chair of the agenda setting Senate Rules Committee. During the last full week of the regular session, Prueitt refused to allow anything to pass through his committee unless the interior design bill was approved (White 2001). The practice act remained law until 2004, when the Circuit Court of Jefferson County found that it was unconstitutional (*State v. Lupo*, CV-02-5201-HSL 2004), a decision that the Alabama Supreme Court upheld in 2007 (*State v. Lupo*, No. 1050224 2007). However, as of this writing the titling law remained in effect through a revival of the original 1982 titling act.

Table 4 indicates states with titling laws that have seen recent attempts to move toward licensure but have failed thus far. New York interior designers began moving toward licensure shortly after their title law passed. According to Lawrence (1991), designers wanted "more than the right to add 'certified' to their names. They want[ed] their profession to require a license to practice, like a doctor or an architect" (p. 82). During the early 2000s, interior designers drafted bills and lobbied in Albany, and their efforts paid off in 2004 and 2005 with bills to restrict the title law from "certified interior designer" to "interior designer," but both attempts were vetoed by Governor Pataki (Anonymous 2005, p. 28). Nevertheless, the 2007 New York Legislature once again considered bills to amend the current title act from "certified interior designer" to "interior designer."

The early 2000s also saw an effort on the part of the Texas Association for Interior Design (TAID) to push that state's title law into a practice act. In 2003 and 2005 (the

Table 4 Titling and practice legislation, 2005, 2006, and 2007

State	Act	Type	Title
2005			
IA†	SB 405/HB 714	Title	Registered interior designer
IN	HB 1434	Title	Registered interior designer
MA	HB 2592/SB189	Practice/Title	Registered interior designer
MI	HB 4311, HB 4312, HB 4262	Practice/Title	Interior designer
MN‡	SB 263/HB 1277	Practice/Title	Licensed interior designer
NY‡	SB 2514/AB 5630	Title	Certified interior designer
OH	SB 25	Title	Certified interior designer
OK	SB 623	Title	Registered interior designer
RI	SB 102	Title	Registered interior designer
TX‡	SB 339/HB 1649	Practice/Title	Registered interior designer
WA	SB 5754/HB 1878	Title	Registered interior designer
2006			
IN	HB 1063	Title	Registered interior designer
MA	SB 189	Practice/Title	Registered interior designer
MI	HB 4311, HB 4312, HB 4263	Practice/Title	Interior designer
MN‡	SB 263/HB 1277	Practice/Title	Licensed interior designer
NE	LB 1245	Title	Registered interior designer
OH	SB 26	Title	Certified interior designer
OK†	SB 1991	Title	Registered interior designer
RI	SB 103	Title	Registered interior designer
SC	HB 4989	Practice/Title	Registered interior designer
TN‡	SB 3715/HB 3830	Practice/Title	Interior designer
WA	SB 5754/HB 1879	Title	Registered interior designer
2007			
IN§	SB 490	Title	Registered interior designer
MA	HB341, SB 178	Practice/Title	Registered interior designer
MI	HB 4770, 4771, 4772	Practice/Title	Licensed interior designer, interior designer
MN‡	SB 799/HB 991	Practice/Title	Licensed interior designer
MS	HB 1294, SB 3032, SB 3033	Practice/Title	Registered interior designer
NH	HB 881	Practice/Title	Interior designer
NY‡	HB 6534, SB 3659	Title	Interior designer
OH	HB 340	Title	Certified interior designer
PA	HB 807	Practice/Title	Interior designer, registered interior designer, registered design professional
SC	HB 3918	Title	Registered interior designer
TN‡	HB 84, SB 210	Practice/Title	Interior designer
TX‡	HB 1985, SB 832	Practice/Title	Interior designer

†Legislation enacted.
‡Titling laws already in effect.
§Legislation vetoed by the governor.

Texas legislature meets every other year), bills were unsuccessfully introduced to push the titling law into a practice act. The 2007 session saw intensified lobbying efforts (Roberts 2007), but only one bill made it out of committee and died on the House floor.

The effort to transform Minnesota's title law into full licensure began in 2003 and continued into 2005, 2006, and 2007 with proposed legislation drafted, endorsed, and proposed by the Minnesota Interior Design Legislative Action Committee (MIDLAC; 2003). With a $5,000 grant from the national ASID, $8,000 from the Minnesota chapter of ASID, and an undisclosed sum from the International Interior Design Association, MIDLAC lobbied legislators and instituted a letter writing campaign on behalf of the bills (Birnbaum 2006). The legislation, however, languished because the chairs of both committees did not see a need for licensing (Mustonen 2005), and the bills died in committee.

The Tennessee chapter of ASID, through the Tennessee Interior Design Coalition (TIDC), unsuccessfully pushed for the conversion of its titling law to a practice act in 2006 and 2007. To support those efforts, TIDC produced an infomercial about the pending legislation to distribute throughout the state and requested that members of the Tennessee chapter of ASID "make a personal check to TIDPAC representing a minimum of one hour's consulting fee from each designer to support ongoing legislative efforts" (ASID Tennessee Chapter 2006, p. 1).

Finally, as Table 4 also indicates, the 2005, 2006, and 2007 legislative sessions saw attempts to pass titling laws and practice acts in 13 states without any current interior design regulation. In only three cases were new laws passed – Iowa, Oklahoma, and Indiana – all titling laws, but Indiana's was vetoed by the governor. In all states, legislative efforts were coordinated through interior design coalitions or associations.

Of course, the efforts of interior design groups represent only one element in the rent seeking context. As Larson (1977), Abbott (1988), and others assert, it is also important to consider the environment in which professionalization occurs. As demonstrated above, in the US occupational licensing has overwhelmingly been left to the individual states (Freidson 1986; Teske 2003). This means that a number of state-level circumstances come into play in the initiation of regulation (Freidson 1986). Based on the work of Hartle (1983) and Smith (1982), the present study examined the passage of titling laws based on state population size, income per capita, legislative majority party concentration, legislative and gubernatorial party control, legislative session length, size of the legislature, and region.

From a look just at titling laws that have passed, as listed in Table 2, partisan control of state government appears to be one of the most important elements of successful rent seeking. In those states that passed titling laws, more than 75% were in Democratic controlled legislatures (with around 60% of seats controlled by the majority), and more than 70% had Democratic governors. Other variables showed no definitive trends.

If one compares titling bills that passed with those that did not, as listed in Table 4, partisan control, again, appears to be an important element. Those bills that failed did so in states under Republican majority control in both the legislature and the governorship. However, most bills that passed also did so under Republican legislative control, with Democratic governors. Results in the other variables showed no clear trends. These comparisons should be considered with some caution, of course, since the number of bills considered is small. More telling are the results from titling acts taken from Table 2.

Discussion

This case study illustrates, using the interior design industry, how titling laws serve as a vehicle for occupational insiders to professionalize their trade by regulating who may use a title. Once ensconced, such laws make for a point of evolution toward full occupational licensing, as evident in states with current interior design practice acts and other states with titling laws where attempts have been made to cartelize the design industry. Such efforts align with Hartle's (1983) description of one expectation of rent seeking where occupational coalitions attempt to maximize the benefits of earlier policies that created non-exclusive rights, such as titling laws. For as Friedson (2001) concludes, titling laws provide an advantage in the marketplace, but not to the degree that practitioners enjoy with full occupational licensure. Therefore, occupational leaders see titling laws as an evolutionary tool toward licensure.

And the process is not by chance. For example, in 2007, the New Hampshire Interior Design Coalition (NHIDC) actively sought a bill to license interior designers. When the legislation died in committee, the president of the coalition wrote to her members:

> Most at the meeting agreed that a practice act as our bill is written is the one to pursue. However, since NH isn't the most agreeable state toward licensure, it was added that we may want to begin with a title act and move *inconspicuously* toward a practice act within a few years. (Perron 2007, p. 3; emphasis added)

Given the concerted efforts of interior design coalitions, an inevitable question is: Why aren't there more states with interior design titling laws? Based on Freidson's (1986) notion of jurisdictional infringement, this is likely to reflect occupational overlap between interior designers and other design professions, particularly architects. That is, where regulations do not encroach on the jurisdiction of established professions, "they stand a fair chance of passage by state legislatures" (Freidson 1986, p. 188). Yet interior designers and architects have fought a decades long "border war" over jurisdiction (McKee 2000; Weigand 2006), slowing the realization of interior design regulation.

Additionally, despite the coordinated efforts of national and state design associations, there is no unanimity among interior design practitioners concerning the need for or desirability of titling laws. The divisions among interior designers have recently been manifest in state coalitions formed for the purpose of opposing pro-regulatory efforts, and their successes have been evident in Pennsylvania and New Hampshire in 2007 (prompting the aforementioned email from the NHIDC president) and in Minnesota and Washington state in 2008. Thus, despite the dramatic increase in the number of occupational licenses across sectors in recent decades (Freidson 1986; Kleiner 2006), the creation of interior design regulation has been a slow and uneven process.

For practitioners opposed to titling laws, the primary concern is the anti-competitive effects of regulation in the market. But a larger related issue is the relationship between occupations or professions and the state. As Abbott (1988), Friedson (2001), and others note, the dynamics of this relationship depend heavily on the prevailing ideology of governance. For example, the prevailing ideology in Europe has been for strong centralized governments and the welfare state (Abbott 1988; Botelho 1990; Lindbeck 1997; Freidson 2001). Therefore, "[t]he driving force for the development of continental professions was primarily the growth of the state" (Collins 1990, p. 16),

which means that occupations attempt to regulate by means of political struggle for control of positions within a state controlled bureaucratic hierarchy (Bertilsson 1990; Collins 1990).

The prevailing ideology in the US has been one of free markets and decentralized governance (Light 1995). Consequently, occupations seeking monopolization struggle to form quasi-private governments within occupations backed by the delegation of state powers to regulate a market (Bertilsson 1990; Collins 1990). For decades, this has led theorists and empirical researchers alike to debate the legitimacy of imposing state power on free markets.

Freidson (2001), for one, advocates for the legitimacy of monopolization because it governs specialized knowledge (such as medicine) that society values enough to want advanced and applied in socially useful ways. But monopolization also grants protected practitioners extraordinary authority over laypersons (Abel 1979). As captured by the old cliché, knowledge is power – not only in its application to particular decisions in the workplace, but in influence over the social structure that defines and regulates the environment in which that work is accomplished (Peterson 2001). According to Larson (1984), the expansion of this power shrinks the areas of common sense and squeezes citizens out of decision making in their own lives.

Given such consequences, the legitimacy Freidson advocates remains debatable in industries like interior design, where, as demonstrated above, the benefit of or need for state regulation is unsubstantiated. Also debatable is whether the degree of specialization in occupations like interior design aligns with Freidson's construction. The proliferation of interior design magazines targeting general audiences, popular interior design television programs, and various other "how-to" design resources challenge the notion of highly specialized, esoteric, or abstract knowledge befitting regulated professions (Light 1995), as does research on how interior design is portrayed and perceived in design publications (Drab 2002, 2008) or by the public (Smith & Whitefield 2005; Whitefield & Smith 2003).

Yet this is not to say some form of title through voluntary certification is without value. There may be benefit to the practitioner and the consumer alike from the ability to distinguish oneself with certification, and professional associations can easily serve as vehicles for voluntary self-certification. To use interior design as an example, there are several national and international design associations whose membership requirements typically include a combination of education, experience, and examination similar to state titling laws. Designers who wish to benefit from certification can do so without the creation of government regulations. Another option for self-certification comes from California in the form of the non-profit, non-state affiliated California Council for Interior Design Certification (CCIDC). Designers who receive CCIDC certification do so voluntarily, and those who choose not to may still use interior design titles in the course of their work, although they may not represent themselves as CCIDC certified.

Outside of the design industry, an analogous non-profit certification is Automotive Service Excellence (ASE) for US auto mechanics through the National Institute for Automotive Service Excellence. Presently, about 400,000 mechanics hold ASE certifications, and it is an appellation widely recognized and valued in the industry. ASE certified professionals usually wear ASE insignia and carry credentials listing their exact areas of expertise, while employers display their technicians' credentials in

customer waiting areas. Such signaling (Spence 1973) benefits both practitioners and customers in a free market system without creating new regulatory agencies and adding further oversight and enforcement responsibilities to an overburdened state (Halliday 1987).

In conclusion, this case study indicates that policymakers considering titling laws in any sector, including interior design, which remains largely unregulated outside of the US (Whitefield & Smith 2003), would be best advised to examine the need for such regulation prior to approval. Questions that guide sunrise processes can act as a useful guide:

1 Does the unregulated practice clearly harm or endanger the health, safety, or welfare of the public, and is the potential for the harm easily recognizable and not remote or dependent upon tenuous argument?
2 Does the public need an assurance of initial and continuing professional ability and can it reasonably be expected to benefit from such assurances?
3 Can the public be effectively protected in a more cost-beneficial manner?

These same questions, indeed, the entire sunrise review procedure, would also be valuable for developing countries pursuing democratic, free market institutions. Policymakers in such states might view titling as a way to confer privileges to interest groups at minimal cost, but as this study demonstrates, occupational interest groups are likely not to be satisfied with only some of the benefits of a partial cartel (Freidson 1986) and use titling to pursue full licensure, the latter of which comes at a real cost (Kleiner 2006).

For policy leaders in states with adolescent occupations or professions enjoying the benefits of titling laws, or established occupations or professions early in the rent seeking process, this study demonstrates why leaders should be aware of the evolutionary nature of such regulation, and consider repealing such laws that fail to show utility as per the aforementioned questions. Incrementalism as a policy tool has long been discussed among researchers (Kuhlman 1964; Swank 1983; Jones & True 2001; Vladeck 2001; Sparer 2004). This study demonstrates how titling laws provide a first step in the incremental process toward occupational licensure.

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