



Barriers to Braiding

How Job-Killing Licensing Laws
Tangle Natural Hair Care in Needless Red Tape



By Angela C. Erickson
July 2016



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Executive Summary

African-style hair braiding is a traditional art and a time-tested way of caring for tightly coiled Afro-textured hair naturally, without scissors, heat or chemicals. Yet, in most states, people who wish to braid for a living must first obtain a government permission slip—an occupational license requiring up to 2,100 hours of training. This study investigates whether the natural craft of braiding poses risks that justify occupational licensing and whether braiding licenses create barriers that keep people out of work.

This report finds:

Braiding is safe—in states with strict licensing and in states without.

- Complaints against braiders are extremely rare. Licensing boards in nine states and the District of Columbia turned up just 130 complaints in seven years—and the vast majority concerned whether braiders were properly licensed, not health or safety. Only six complaints raised questions of consumer harm, none of them verified by boards.
- Complaints against braiders are so rare that a person is 2.5 times more likely to get audited by the IRS (8.6 in 1,000) than a licensed or registered braider is to receive a complaint of any kind (3.4 in 1,000). Receiving a complaint filed by a consumer is even rarer (0.035 in 1,000).
- Most states that provided data saw no complaints concerning health or safety, despite training requirements that varied widely—from zero to 600 hours.

Stricter licensing means fewer braiders.

- States that demanded more training hours had fewer licensed or registered braiders relative to their black populations than states with lighter requirements, according to data from 12 states and D.C. Most of these differences were statistically significant.
- In 2012, Mississippi, which requires zero hours of training, had over 1,200 registered braiders. Neighboring Louisiana, which requires 500 hours, had only 32 licensed braiders—despite its larger black population.

These results add to a growing body of evidence suggesting that the costs of occupational licenses outweigh the benefits. For hair braiding, as for many other occupations, licensing appears to do little more than prevent some people from earning an honest living in the occupation of their choice. To expand opportunity and choice, policymakers should free braiders and other American workers and entrepreneurs from this tangle of needless red tape.

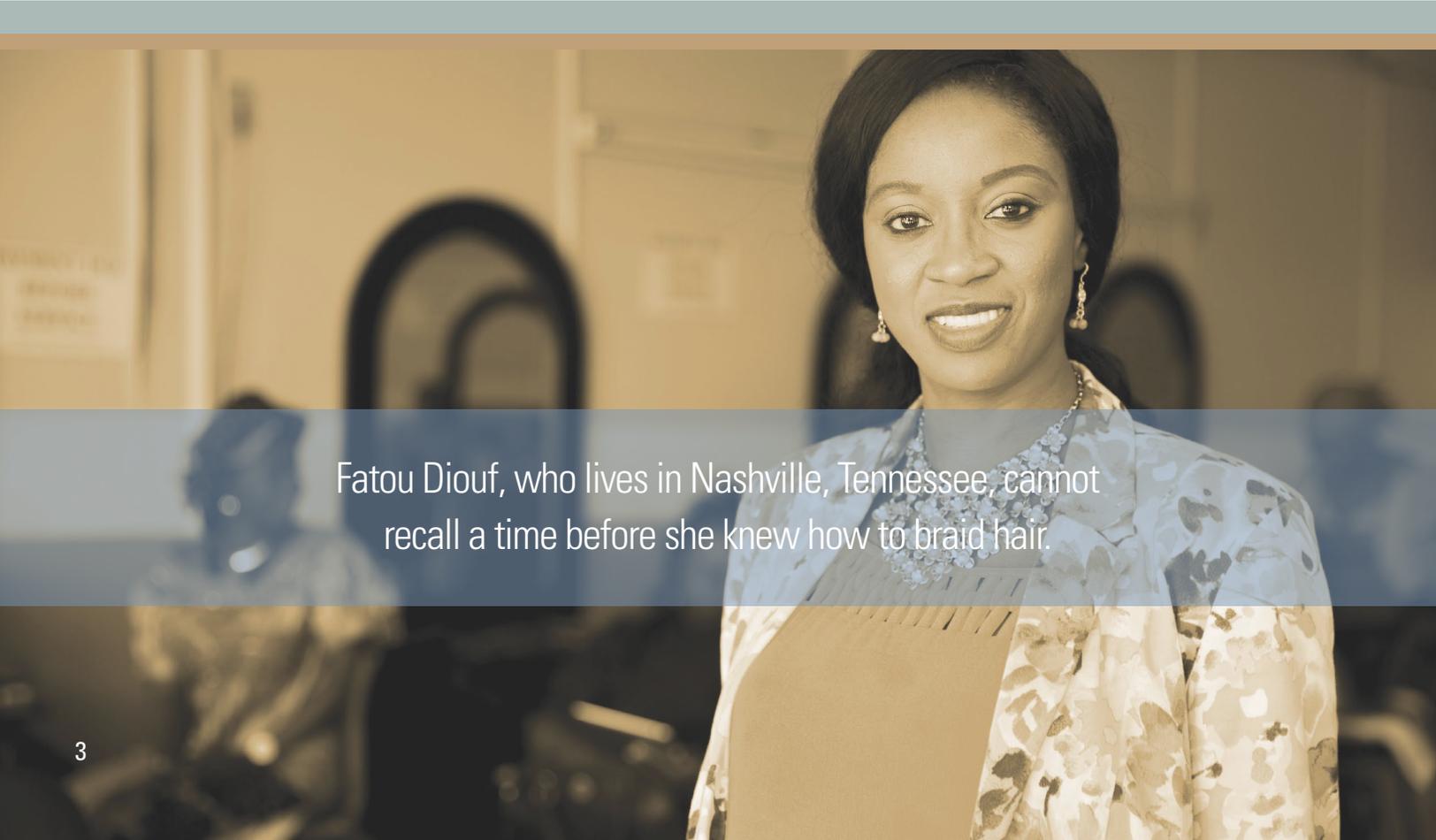
Introduction

The art of hair braiding extends back thousands of years in West Africa. Traditionally, a person's hairstyle might reflect anything from their tribal membership to their social rank to their marital status. And because hairstyles were of such social significance and could take hours to achieve, the act of creating them was also woven with meaning. In some African societies, only family members could braid one another's hair; in others, a person wishing to befriend someone would offer to braid that person's hair. In still others, a community or family hairdresser would braid everyone's hair, often becoming the most trusted member of that society.¹ Thus, just as one's hairstyle reflected one's community, braiding itself helped build and sustain communities. Even now, hair grooming and styling is, for many Africans, an important social ritual.

In the United States, slavery disrupted the transmission and practice of braiding traditions.² Not only did most slaves have their hair forcibly shaved when they were captured, but the conditions of slavery made elaborate hairdressing impractical, if not impossible. In addition, slaves found themselves in a society that prized smooth Caucasian-type hair over tightly coiled Afro-textured hair. They were expected to adopt a "neat" appearance,

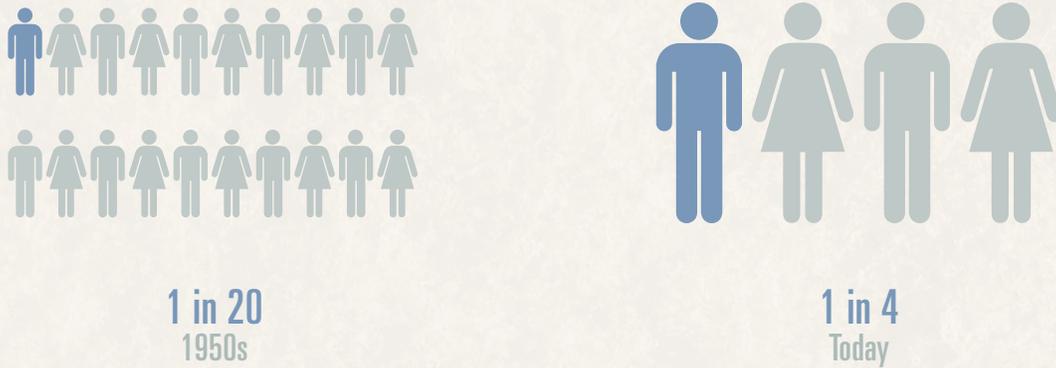
which often meant keeping their natural hair cropped or covered. Even after emancipation, African-Americans who fought their natural hair texture to conform to the dominant beauty standard often found it easier to obtain work and rise in society. They used caustic chemicals and heat to straighten their tightly coiled hair into submission, often at great cost to the health of their hair and scalp. In the 1960s, many African-Americans sought different ways to care for their natural hair texture. In African traditions, they found a wealth of techniques for grooming and styling Afro-textured hair naturally—no chemicals or heat required—leading to renewed interest in braids as well as other styles such as dreadlocks, cornrows and afros.³ Demand for these styles has only grown since, a trend that has not been overlooked by government regulators.

Today, thousands of professional hair braiders practice the artistic and individualized craft of twisting, braiding, weaving and locking natural hair. Often learned in childhood and honed over years of practice, braiding is time tested and all natural. In fact, it is typically categorized as "natural hair care" because it involves no cutting, dyeing, application of heat or use of caustic chemicals. Yet, in most states, braiders must obtain a government permission slip—in the shape of a license requiring as many as 2,100 hours of training—before they can earn



Fatou Diouf, who lives in Nashville, Tennessee, cannot recall a time before she knew how to braid hair.

Figure 1: Workers Who Need a License to Work, 1950s vs. Today



a living doing something that many have been doing all their lives.

Fatou Diouf’s story is illustrative. Fatou, who lives in Nashville, Tennessee, cannot recall a time before she knew how to braid hair. In her native Senegal, girls learn to braid hair at age two or three, when they get their first dolls. They learn by watching mothers, aunts and sisters braid one another’s hair and helping when needed. As they get older, they braid the hair of friends, sisters and nieces. “It’s an everyday thing,” Fatou says of braiding in Senegal. When she came to America in the late 1990s to attend the University of Tennessee, Knoxville, Fatou immediately started braiding hair to help pay for her studies. She found her passion and calling for braiding in the joyful faces of her customers after she had transformed their hair. “To put a smile on somebody’s face, it’s beautiful,” she says. That passion can keep Fatou braiding a single client’s hair anywhere from two to 16 hours, sometimes until 2:00 or 3:00 in the morning.

But despite Fatou’s happy customers and lifetime of experience, Tennessee considered her braiding activity illegal. Consequently, two years after moving to the United States, Fatou was forced to stop her university studies and enroll in cosmetology school to get a license and “to be legal.” She had to spend 300 hours in training and take a written exam. Because Fatou already knew how to braid, those 300 hours were mostly a waste of her time. Nevertheless, attending cosmetology school set her back \$4,000—an amount that does not take into account the cost of her time and income forgone. In addition, Fatou—already a professional—was occasionally enlisted to provide braiding services to clients of the school’s salon. The school charged for these services, but Fatou was not entitled to any payment.

Fatou’s story is not unique. Melony Armstrong, of Tupelo, Mississippi, picked up braiding a little later in life, but she took to it with no less enthusiasm. She threw herself into hours of workshops, classes and practice, soon becoming a master braider. But Melony wanted to do more than just braid; she wanted to teach braiding and business skills to other African-American women. However, under Mississippi law at the time, Melony would have needed to become a licensed cosmetologist, then to become a licensed cosmetology instructor, and finally to obtain a cosmetology school license. This would have entailed a combined total of 3,200 curriculum hours—on top of the 300 she had already completed in order to open her own salon—none of which had anything to do with braiding.⁴

Melony and Fatou are only two examples of braiders caught up in licensing rules. And braiding is only one of many occupations to which government restricts entry through licensing—one of the fastest growing barriers to entry for workers in the United States. Today, about one in four workers needs a license to work.⁵ In the 1950s, that figure stood at only one in 20 (see Figure 1).⁶ To get a license, workers may be required to complete hours of education or training, pay fees, pass exams, or meet other qualifications such as reaching a minimum age, becoming bonded or passing a background check.⁷ Such requirements are particularly burdensome for lower-income and less-educated individuals, minorities, immigrants and others trying to gain a foothold on the economic ladder.⁸

More often than not, these occupational licenses are lobbied for by industry insiders,⁹ who typically stand to gain from them. Many existing practitioners and their associations, for instance, welcome the chance to block new entrants as less competition leads to more demand

for their services, allowing them to charge higher prices.¹⁰ Moreover, existing practitioners are often grandfathered in—that is, allowed to continue practicing without completing the new requirements.¹¹ Other insiders, like occupational schools and their own associations, also benefit from licensing as it allows them to force would-be practitioners to participate in their programs, often at great expense.¹²

Cosmetology licensing regimes such as the one Melony got tangled up with emerged in just this way. When short bobs came into fashion in the 1920s, more women began seeing hairdressers. But only barbers were licensed to cut hair at that time, and they sought to protect their privilege by sweeping hairdressers into their domain.¹³ Hairdressers and their associations organized and, in the 1930s, they obtained a separate cosmetology licensing regime that allowed them to cut, color and style hair, as well as provide some other cosmetic services.¹⁴ Much like barbers before them, hairdressers were motivated by the desire to shut out new competition since the increase in demand for their services was supposedly “attracting many unskilled practitioners.”¹⁵

Once a licensing scheme is in place, occupational insiders may try to expand the boundaries of their empire to gobble up even more activities, including ones only tangentially related to their own. Because the state boards set up to oversee licensed occupations typically comprise members of the occupation, licensing can give current practitioners the power to push such boundaries, thereby absorbing—or fencing out—competition. This can be thought of as “license creep,” and it has fenced out operators of teeth-whitening kiosks accused of practicing dentistry without a license and eyebrow threaders grouped with cosmetologists.¹⁶ Like threading—another ancient and all-natural craft—braiding has been a target for cosmetology license creep. Today, cosmetology insiders use their government-enforced cartel to require hair braiders in many states to obtain a full cosmetology license—even though cosmetology was not developed with braiders or

Afro-textured hair in mind and traditionally cosmetology programs have rarely taught braiding.¹⁷ In other states, instead of the requirements for a full cosmetology license, braiders must complete a curriculum specific to braiding in order to obtain a “specialty license.” Most often, these licenses are administered by the state cosmetology board.

Proponents of licensing attempt to justify it by arguing that licensing is necessary to protect public health and safety from unskilled or untrained practitioners.¹⁸ However, there is little evidence that occupational licensing, in general, successfully protects the health and safety of consumers or licensees.¹⁹ Additionally, the wide variation in licensing regimes for braiders nationwide—ranging from no licensing to specialty braiding licenses that require anywhere from zero to 600 training hours to cosmetology licenses requiring thousands of training hours—appears irrational. There is no logical reason why some states demand hundreds or thousands of training hours for braiders while others require none at all.

To assess whether hair braiding poses health and safety risks that might justify licensing, this study reviews complaints against braiders submitted to cosmetology licensing boards in nine states and the District of Columbia, all jurisdictions with specialty braiding licenses or mandatory registration. It finds that true health and safety concerns are extremely rare—so rare that a taxpayer is over 2.5 times more likely to be audited by the IRS as a licensed or registered braider is to have any complaint filed against them, let alone a complaint in which health or safety issues are implicated. It is even less likely—nearly 100 times less likely—to have a complaint come from a consumer. Braiding, in short, is safe. This study also finds, in line with previous research on occupational licensing, that higher barriers to entry may constrain opportunity, as most states that require more hours of training have fewer braiders in proportion to their black immigrant and African-American populations. These findings add to mounting evidence that the costs of burdensome occupational licenses may outweigh purported benefits.



Barriers to a Traditional Art

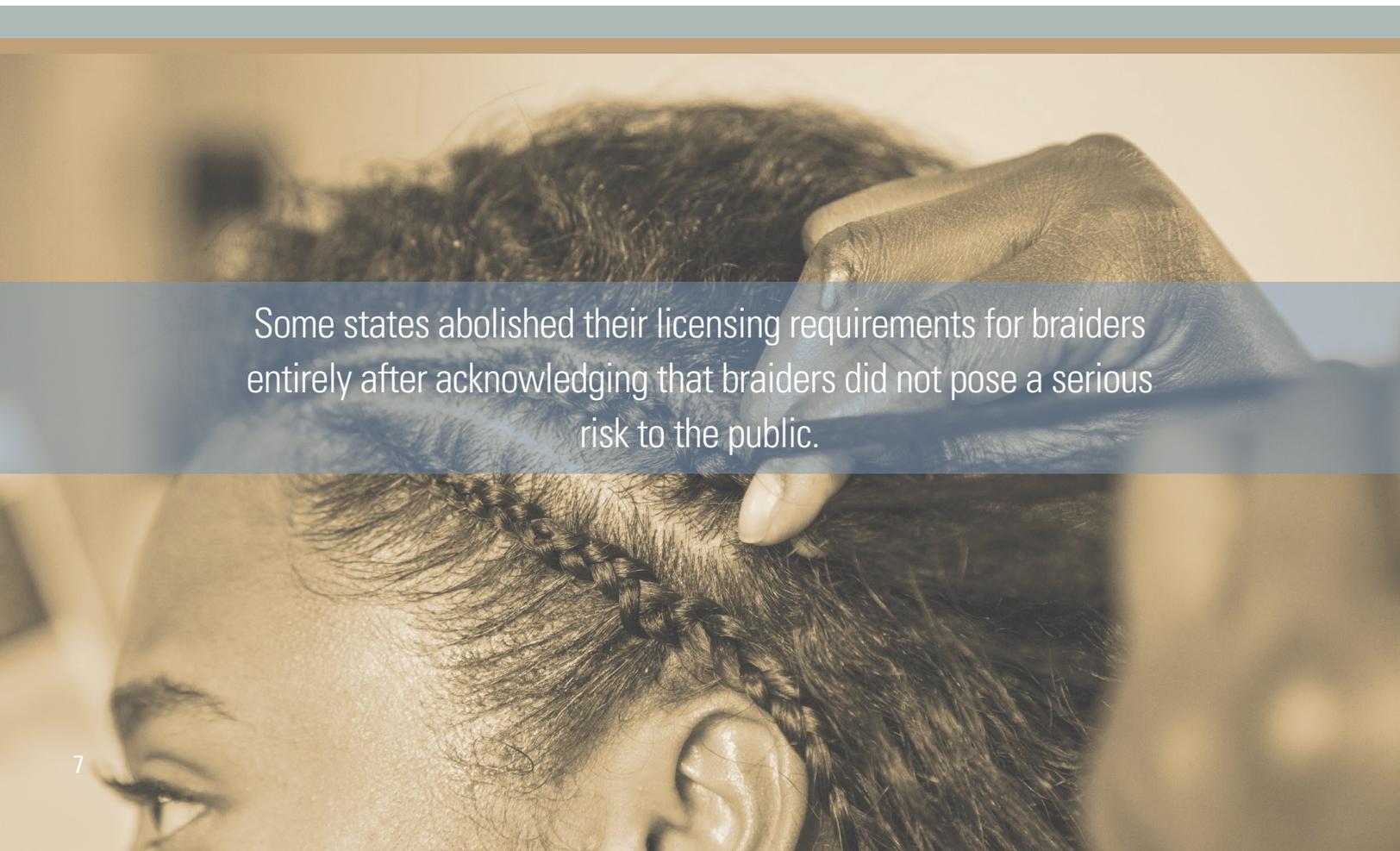
The art of braiding has been passed down from generation to generation, learned by many, like Fatou, as children and by others, like Melony, through dedicated study and practice as adults. Yet some states bar the paid practice of braiding until braiders have spent hundreds or even thousands of hours in classes that may not even teach braiding—thus preventing them from doing something that they already know how to do and that involves no dangerous tools, heat or chemicals. Meanwhile, numerous other states do not license braiding at all.

In fact, as of July 2016, 18 states do not require braiders to be licensed or registered.²⁰ Though most of these states licensed braiders at one time or another, they removed their barriers in the face of growing opposition from hair braiders and a lack of evidence regarding safety concerns. Virginia’s Department of Professional and Occupational Regulation, for example, found that “no evidence of public harm supported the continued regulation of hair braiding” and ended its regime in 2012.²¹ Colorado previously forced braiders to become licensed under the state’s cosmetology regime, an arrangement the state Department of Regulatory Agencies (DORA)

called “cumbersome” in 2008 after it found only three complaints against braiders between 2000 and 2008.²² DORA recommended an exemption for braiders, and in 2015 the Colorado Legislature obliged.

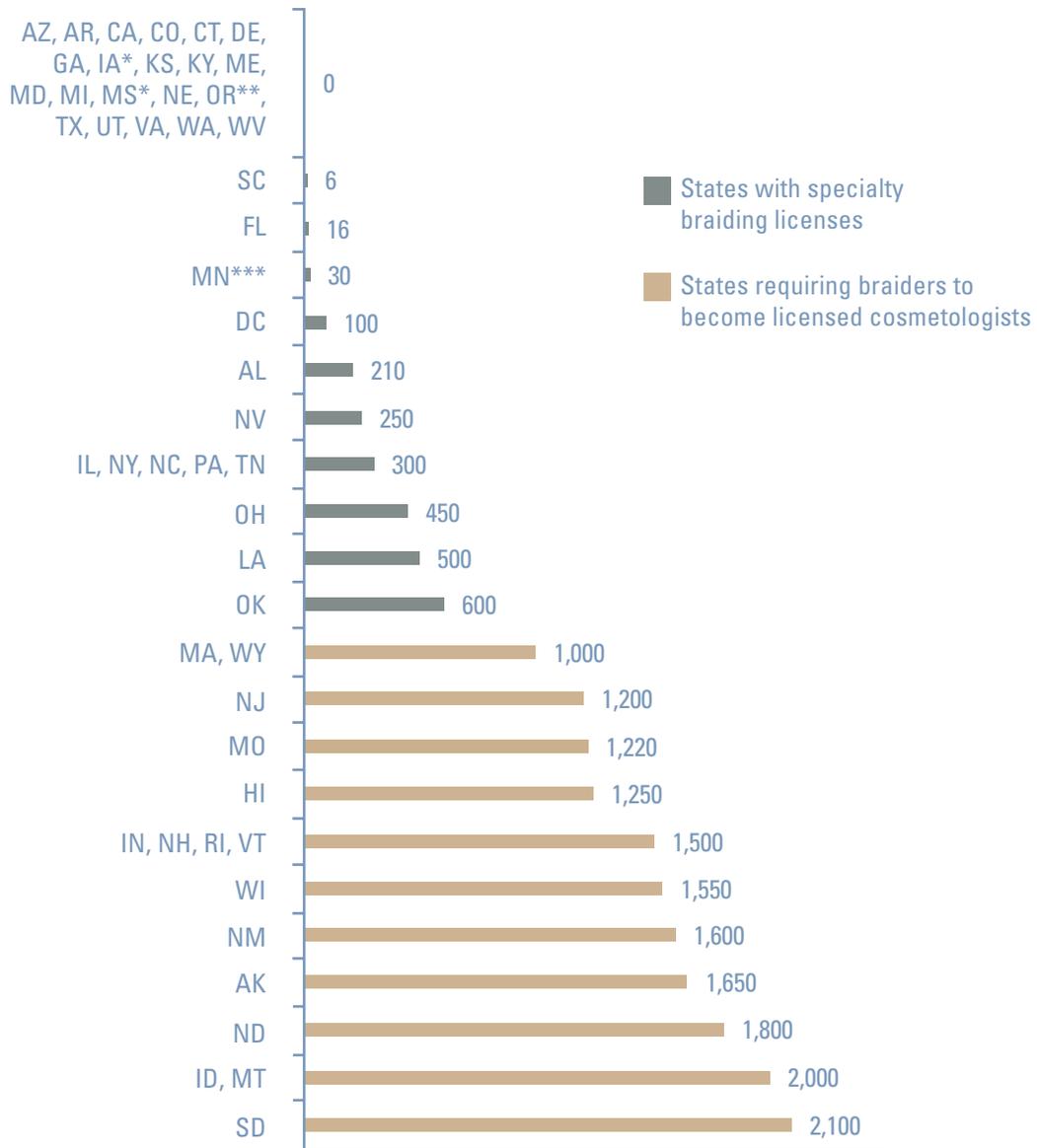
On the other end of the spectrum, 16 states require hair braiders to get cosmetology licenses.²³ In cosmetology programs, braiders spend between 1,000 and 2,100 hours in training, depending on the state, and thousands of dollars on tuition. They learn how to use chemicals, cut hair and provide other services that are entirely unrelated to hair braiding and even antithetical to the ethos of natural hair care—but not necessarily how to braid hair.

In the middle are the 14 states²⁴ and the District of Columbia that require a specialized license for hair braiders and Mississippi and Iowa, which stopped licensing braiders in 2005 and 2016, respectively, and now require braiders like Melony to register with the state. The requirements for specialty licenses, such as the one Fatou had to earn, range from a single exam to 600 hours of training and two exams. Figure 2 (p. 8) shows the variation in hours of training required to work as a braider across all 50 states and D.C. (see Appendix A for citations). Specialty licenses also vary in terms of how much time their curriculums devote to teaching safety.



Some states abolished their licensing requirements for braiders entirely after acknowledging that braiders did not pose a serious risk to the public.

Figure 2: Variation in Training Hours Required to Work as a Braider, July 2016



* Iowa and Mississippi require registration only.

** Oregon's specialty braiding license requires only completion of an online module and a written exam.

*** The Minnesota cosmetology board claims to have no enforcement authority over the specialty braiding license in its statutes.

Some specialty braiding licenses only cover such topics in their exams, while others require from six to upwards of 175 hours of instruction on scalp disorders or sanitation²⁵ (see Appendix B for greater detail). Additionally, tuition, licensing and exam fees can run into the thousands of dollars.

Not only is there wide variation in how and whether braiders are licensed across states, but within states the requirements for braiders often appear out of sync with the health and safety risks they pose. For example, emergency medical technicians hold people's lives in their hands, and yet 10 specialty states and D.C. require more hours of training to braid hair than they do to become an EMT. In fact, Oklahoma requires nearly four times as many hours to braid hair as it does to become an EMT. And in the states that license braiders as cosmetologists, the differences are even starker—such states require that braiders complete between three and 19 times more training hours than EMTs.²⁶

Such inconsistencies in licensing regimes across and between states are not unique to braiding. In 2012's *License to Work*, the Institute for Justice found a difference of more than 1,000 days between the minimum and maximum education and experience requirements for licensure for 39 of the 102 low- and moderate-income occupations profiled. Another 23 occupations had differences of more than 700 days—or approximately 3,000 hours.²⁷

Such striking disparities call into question whether higher barriers to entry serve to protect the health and

safety of consumers. After all, the 18 states that do not license braiders—and Mississippi, which has required simple registration since 2005—do not appear to be suffering any ill effects as a result. And some of them abolished their licensing requirements for braiders entirely after acknowledging that braiders did not pose a serious risk to the public. Do braiders in other states really pose such a risk that they require up to 2,100 hours of training?

This study aims to determine how great a risk hair braiders pose to public health and safety by analyzing complaint data collected by state licensing boards. It also aims to determine whether there is a relationship between the number of training hours a state requires for a braiding license or registration and the number of licensed or registered braiders in that state. Taken together, these questions indicate whether licensing generates any public benefits given the potential costs of fewer job opportunities.

This study examines these questions by focusing on states with specialty licenses or registration for braiders. These states identify braiders as a separate category from cosmetologists, allowing for a unique opportunity to obtain data specifically about braiders. Such data are impossible to collect from states where braiders are treated like cosmetologists because braiders and complaints against braiders cannot be distinguished from cosmetologists and complaints against cosmetologists. And states that do not license or register braiders collect neither lists of their braiders nor complaints against them.

Methods

This study investigates two key questions: What types of complaints are made against braiders and how frequently? And is there a relationship between licensing burden and the number of licensed braiders in a state? To determine the issues that may arise for consumers getting their hair professionally braided, this report relies on complaints submitted to cosmetology licensing boards in nine states—Florida, Louisiana, Mississippi, Nevada, New York, Ohio, Oklahoma, Tennessee and Texas—and the District of Columbia.²⁸ The Institute for Justice requested complaint files going back to 2006, except in Nevada, where there was no specialty license until 2011. Data were collected through 2012. Each file included the date of the complaint, the reason or reasons for the complaint (issue), the complainant (consumer, board, licensee, other), who the complaint is against, and any actions taken by the board (fines, cease-and-desist letters, follow-up inspections, other).

The complaint files were categorized based on the types of issues in the complaint file: unlicensed braiding, unlicensed cosmetology, health and safety, and other. Unlicensed braiding or cosmetology occurs when a person engages in conduct that fits under the scope of a state's definition of braiding or cosmetology but does not have a license to do so. Unlicensed braiding, in other words, is someone braiding hair without a braiding license. And unlicensed cosmetology is someone shampooing hair, cutting hair, braiding extensions into hair (in Florida's case), or doing any other activity defined as cosmetology without a cosmetology license. Health and safety refers to complaints related to sanitation or practices that threaten the health of a customer's scalp. Other is a catchall for any complaints not about licensing or health and safety, such as any about business practices.

What types of complaints are made against braiders and how frequently? And is there a relationship between licensing burden and the number of licensed braiders in a state?

To examine how frequently health and safety issues arose among braiders, this report compares complaint data to the populations of licensed or registered braiders collected from the licensing agencies in these states. The data show that between 2006 and 2012, the nine states that provided complaint files and D.C. had 9,731 licensed or registered braiders (see Table 1, p. 11). In all, IJ found and reviewed 130 complaint files, of which 103 were for licensed hair braiders. To calculate the probability that a licensed or registered braider had a complaint file opened against them, IJ divided the total number of licensed or registered braiders with a complaint file by the total number of braiders each year.²⁹

The other 27 complaints were for unlicensed braiders. This report uses the term “unlicensed” to refer to braiders operating illegally in states that require a specialty license or registration. In other words, these are braiders who lack a required specialty license or proper registration and must therefore operate underground, or in what is called the informal economy. It is impossible to determine the frequency of complaints against unlicensed braiders because the number of such braiders is unknown. Additionally, it should be noted that these braiders are not “unlicensed” in the same sense as braiders

working in the 18 states that do not require a license for braiding. In those states, braiders are free to operate legally and in the open, or the formal economy, where it is easier to find stable employment, open store fronts and access capital. And without fearing detection by authorities, braiders in the formal economy have greater opportunity and incentive to establish and maintain a professional reputation. Thus, although both groups are “unlicensed,” they likely differ such that it would be inappropriate to draw inferences from one group to the other.

To compare the number of braiders licensed under each regime, this report uses the lists of licensed or registered hair braiders from 12 states and D.C.—the nine states above plus Illinois, Pennsylvania and South

Carolina. These 13 jurisdictions reported a total of 13,733 licensed or registered braiders between 2006 and 2012 (see Table 1). To compare across states, IJ used a generalized least squares (GLS) time-series analysis to control for the black population and year—factors that may influence the number of licensed or registered braiders in a state. This provided the number of braiders per 10,000 black immigrants or African-Americans in each state’s population. Further details about the analysis and the full regression results can be found in Appendix C.

Table 1: Licensed/Registered Braiders, 12 States and D.C., 2006–2012

State	Year Specialty License Created	Hours Required	Braiders
States with Complaint Data			
District of Columbia	1992	100	77
Florida	1994	16	6,097
Louisiana	2003	500	47
Mississippi	2005*	0	1,245
Nevada	2011	250	13
New York	1994	300	108
Ohio	1999	450	60
Oklahoma	1999	600	4
Tennessee	1996	300	137
Texas	2006**	35	1,943
Subtotal			9,731
States without Complaint Data			
Illinois	2011	300	307
Pennsylvania	2006	300	11
South Carolina	2005	6	3,684
Total			13,733

* Mississippi requires registration, not a license.

** Texas stopped licensing hair braiders in 2015.



Results

From 2006 to 2012, the overwhelming majority of licensed or registered braiders never received a complaint, regardless of their state and how many training hours it required for licensure. Among the more than 9,700 licensed or registered braiders in the nine states and D.C., just 95 had a complaint file,³⁰ the vast majority of them in Florida. Only one braider had a complaint filed against them by an actual consumer. In addition, the nine states and D.C. received only 27 complaints regarding unlicensed braiders during the seven-year period. For both licensed and unlicensed braiders, most complaints were about licensure status, not health or safety. Further, states with more onerous requirements for licensure do not appear to offer any public safety advantage over states with less onerous requirements. However, they do tend to have fewer licensed braiders.

Licensed/Registered Braiders

Between 2006 and 2012, a total of 103 complaints were filed—only one of them by a consumer—against any of the 9,731 licensed or registered braiders in the nine states and D.C. This puts a licensed or registered braider’s probability of receiving a complaint at just 0.34% (see Table 2).³¹ A licensed or registered braider’s probability of receiving a complaint from a consumer is even lower at 0.0035%.

Table 2: Licensed/Registered Braider’s Probability of a Complaint File by Complainant Type

Complainant	Complaint File
Consumer	0.0035%
Other	0.0035%
Licensee	0.0840%
Board	0.2696%
All	0.34%

Table 3 (p. 14) disaggregates complaints against licensed or registered braiders by state and complainant and the issue or issues reported in the initial complaint or in a subsequent board follow-up. It shows that almost three-quarters of complaints against licensed braiders (77 of 103) came directly from cosmetology boards, with the next largest share by a wide margin coming from the boards’ licensees.³² Figure 3 shows the proportion of complaint files for licensed or registered braiders received from each complainant type. Ninety-nine of the complaints were from Florida, with 80% of those originating with the Florida Board of Cosmetology.³³ The four remaining complaints were split between Ohio (2), Mississippi (1) and New York (1). The other five states and D.C. reported zero complaints.

Figure 3: Complaint Files of Licensed/Registered Braiders By Complainant Type, Nine States and D.C., 2006–2012

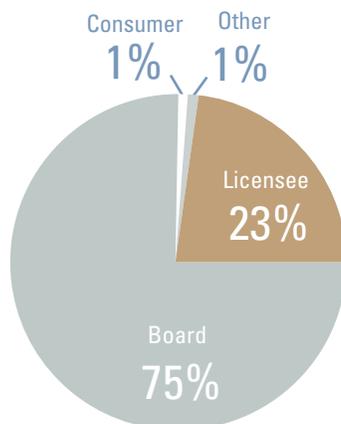


Figure 4: Issues in Complaint Files of Licensed/Registered Braiders, Nine States and D.C., 2006–2012

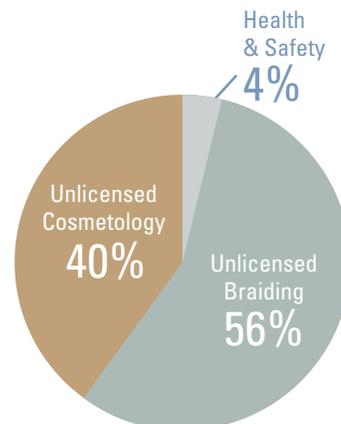


Table 3: Issues in Complaint Files of Licensed/Registered Braiders,
Nine States and D.C., 2006–2012

	Issues				Total Complaint Files*
	Health and Safety	Unlicensed Braiding**	Unlicensed Cosmetology	Other	
Complainant					
Consumer	1	1	0	0	1
Other	0	0	1	0	1
Licensee	0	23	1	0	24
Board	3	37	41	0	77
State (training hours required)					
District of Columbia (100)	0	0	0	0	0
Florida (16)	3	59	40	0	99
Louisiana (500)	0	0	0	0	0
Mississippi (0)	0	0	1	0	1
Nevada (250)***	0	0	0	0	0
New York (300)	0	0	1	0	1
Ohio (450)	1	2	1	0	2
Oklahoma (600)	0	0	0	0	0
Tennessee (300)	0	0	0	0	0
Texas (35)****	0	0	0	0	0
Total	4	61	43	0	103

* A complaint file may have multiple issues.

** Licensed braiders may have complaints calling them unlicensed. These are most often for braiders who have lapsed licenses or who falsely obtained licenses.

*** Nevada did not have a specialty braiding license until 2011.

**** Texas stopped licensing hair braiders in 2015.

Not only were most complaints against licensed braiders filed by cosmetology insiders, but, as Figure 4 (p. 13) shows, the vast majority of complaints were about the unlicensed practice of braiding or cosmetology. Health and safety issues were implicated in only four of the 103 complaints. Three of these complaints were from the Florida Board of Cosmetology and concerned issues found during routine inspections. One of the Florida complaints was dismissed and one involved two unspecified violations that led to a \$100 fine. The third cited a salon for poor lighting and ventilation and dirty fixtures, in addition to the unlicensed practice of cosmetology, and fined the owner \$500. The fourth and final complaint related to health and safety came from an Ohio consumer who reported a braiding salon for having a hole in the ceiling, water leaks and poor lighting. The state cosmetology board has no records indicating any follow-up actions it may have taken in regard to this complaint.

The existence of so few complaints with health and safety issues suggests that there is little threat to consumers from braiding, whether states require zero training hours for licensure or 600. However, with so few complaints, it is impossible to run a statistical analysis to verify the lack of statistically significant differences between the states.

Unlicensed Braiders

Boards received only 27 complaints against unlicensed braiders during the study period. Unfortunately, because the number of braiders operating without a license is unknown, it is impossible to determine the probability of an unlicensed braider receiving a complaint—or, put differently, how common complaints against unlicensed braiders are. It is likewise impossible to analyze probabilities by type of complaint.

Table 4 (p. 16) disaggregates complaints against unlicensed individuals by state, complainant and the issue or issues reported in the complaint or in a subsequent board follow-up. It shows 27 complaint files between 2006 and 2012, split among five of the states: Ohio (12), New York (7), Florida (5), Oklahoma (2) and Texas (1). The remaining four states and D.C. received no complaints against unlicensed braiders.

As with licensed and registered braiders, most complaints against unlicensed braiders were about their licen-

sure status. Only nine cited health and safety issues, and they came from just two states, Ohio and New York.³⁴ The other seven states and D.C. received no health and safety complaints. The nine complaints with health and safety issues fell evenly into three categories—sanitation, scalp burns and hair loss. Sanitation issues were implicated in three Ohio complaints: a braider washing hair with a bucket of dirty water (consumer), a salon operating without running water (other), and a salon with a carpeted service area and a blow dryer sitting on the floor (board). In each case, the Ohio board sent a cease-and-desist letter demanding a stop to the unlicensed practice of braiding.

Scalp burns featured in three New York complaints. However, two of these were unsubstantiated, opened by the state's Division of Licensing Services (DLS) based on newspaper stories. The DLS was unable to track down the women claiming to have been burned by hot water. The third burn complaint came from a New York consumer who reported that an unlicensed braider had burned her scalp with a handheld dryer—legal for licensed braiders to use in the state. She also reported that the salon lacked hot water and tried to use a dirty bucket to wash her hair. The DLS made no follow-up regarding the burned scalp; however, it did file an administrative complaint for the sanitation issues and unlicensed practice. The owner failed to properly respond to the administrative procedures and was ultimately fined \$3,500 for not responding or paying the initial fine.

Hair loss was the subject of the final three complaints. A New York consumer complained that after three weeks her braids were falling out along with her hair, leaving her with a bald spot. An investigation of the salon found several sanitation issues, including failure to retain invoices for disinfectants and keep material safety data sheets available. Records do not indicate whether the board took any additional action. Two Ohio consumers complained of hair loss, balding or altered hairline after getting their hair braided. Records only indicate one of these businesses received a cease-and-desist letter demanding that it stop practicing braiding without a license. It is unclear whether the individuals complaining of hair loss were ever formally diagnosed with braiding-related hair loss.

In sum, across seven years and 10 jurisdictions, just nine complaints with health and safety issues were

Table 4: Issues in Complaint Files of Unlicensed Braiders,
Nine States and D.C., 2006–2012

	Issues				Total Complaint Files*
	Health and Safety	Unlicensed Braiding	Unlicensed Cosmetology	Other	
Complainant					
Consumer	7	6	5	2	11
Other	1	3	0	1	3
Licensee	0	4	0	0	4
Board	1	9	3	0	9
State (training hours required)					
District of Columbia (100)	0	0	0	0	0
Florida (16)	0	5	2	1	5
Louisiana (500)	0	0	0	0	0
Mississippi (0)	0	0	0	0	0
Nevada (250)**	0	0	0	0	0
New York (300)	4	5	3	0	7
Ohio (450)	5	10	2	1	12
Oklahoma (600)	0	2	0	0	2
Tennessee (300)	0	0	0	0	0
Texas (35)***	0	0	1	1	1
Total	9	22	8	3	27

* A complaint file may have multiple issues.

** Nevada did not have a specialty braiding license until 2011.

*** Texas stopped licensing hair braiders in 2015.

received for unlicensed braiders—just over one per year and just less than one per jurisdiction. Further, none of the complaints alleging consumer harm were verified by licensing boards. And as with licensed and registered braiders, there are too few complaints against unlicensed braiders for a statistical analysis comparing complaints across licensing regimes. Also needed for such an analysis would be the population of unlicensed braiders, which is unknowable. However, only two states, New York and Ohio, reported health and safety complaints against unlicensed braiders, and both have relatively steep licensing burdens. Seven states and D.C. received no complaints against unlicensed braiders involving health or safety.

Licensed Braider Populations

While complaint data fail to show a link between higher licensing burdens and fewer health and safety complaints, the analysis of licensed braider populations does find a link between states that have higher licensing burdens and fewer braiders. For eight states and D.C., it reveals a correlation between the number of braiders per 10,000 black immigrant or African-Americans in the state population and the state. In other words, after taking the black population into account, Florida, Mississippi, South Carolina, Texas and D.C., states that required relatively fewer training hours (100 or less), had more braiders compared to Louisiana, New York, Ohio and Tennessee, states that required 300 hours or more of training.³⁵ See Appendix C for the regression results of the population analysis.



This study finds that complaints against licensed or registered hair braiders like Fatou and Melony are exceedingly rare.

Discussion

Proponents argue that licensure for hair braiders is necessary to protect the public from unclean or unsafe practice.³⁶ This study, however, gives at least five reasons to approach such claims with skepticism. First, complaints against licensed or registered braiders are very rare. Second, most complaints against licensed braiders are lodged by cosmetology boards and licensees, not consumers. Third, for both licensed and unlicensed braiders, most complaints have to do with licensing issues, not health and safety. Fourth, there is no link between licensing burdens and complaints, suggesting that there is no advantage to licenses that require hundreds of hours of education and training. Fifth, there is, however, a disadvantage to states with higher barriers to entry—fewer braiders entering the market.

1. Complaints against licensed/registered braiders are extremely rare

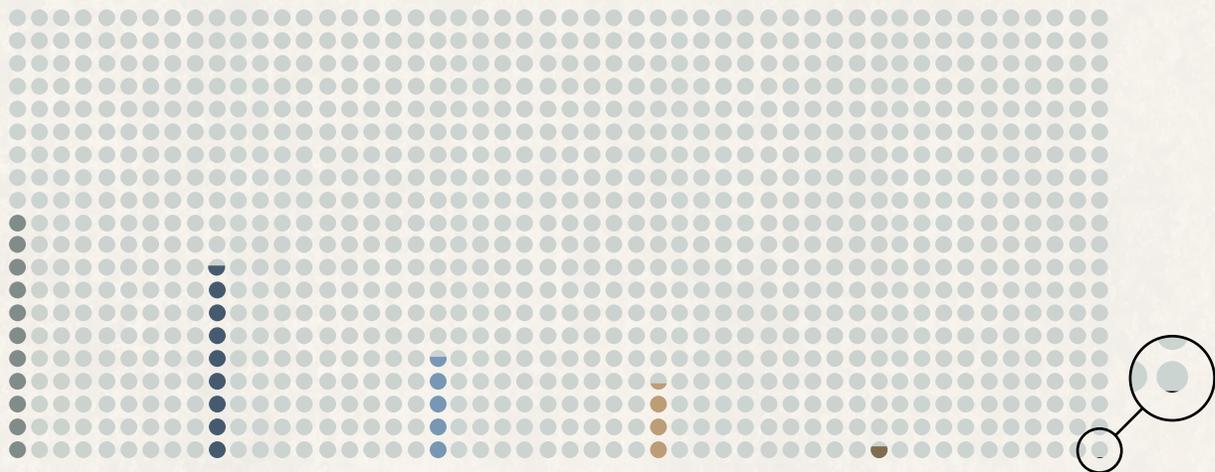
This study finds that complaints against licensed or registered hair braiders like Fatou and Melony are exceedingly rare. Among the more than 9,700 licensed or

registered braiders in the nine specialty braiding license or registration states and D.C., only one-third of one percent had a complaint filed against them between 2006 and 2012. This probability is low, so low in fact that it is more likely for a person to be born a twin (1.1%), to get audited by the IRS (0.86%) or to date a millionaire (0.46%) than it is for a licensed or registered braider to receive a complaint (see *What Is the Likelihood of a Braider Receiving a Complaint?*).³⁷ And during that same seven-year period, only 27 complaints were filed against the untold numbers of unlicensed braiders practicing in those states. Moreover, three states—Louisiana, Nevada and Tennessee—and D.C did not open a single braider complaint file.

Could it be that there are so few complaints because specialty licenses weed out poor-quality practitioners? If that were the case, one would expect to see more complaints from a state like Mississippi with very low barriers to entry for braiders. Instead, Mississippi reported only one complaint against a registered braider—and no complaints against unregistered ones—and that complaint was not about health or safety. The braider in question was cited during a routine inspection for shampooing hair without a cosmetology license.

What Is the Likelihood of a Braider Receiving a Complaint?

Much lower than even these rare events



11 out of 1,000
Chances of being a twin

8.6 out of 1,000
Chances of getting audited by the IRS

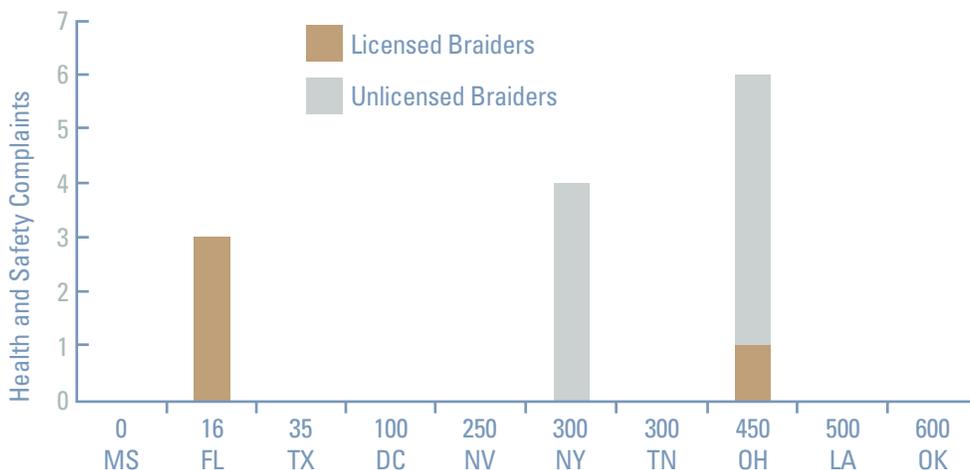
4.6 out of 1,000
Chances of dating a millionaire

3.4 out of 1,000
Chances of licensed/registered braiders receiving a complaint

.77 out of 1,000
Chances of rolling Yahtzee in one roll

.035 out of 1,000
Chances of licensed/registered braiders receiving a consumer complaint

Figure 5: Health and Safety Complaints vs. Training Hours, 2006–2012



Note: Texas stopped licensing hair braiders in 2015.

2. Most complaints against licensed/registered braiders do not come from consumers

When complaints are filed against licensed braiders, this study finds that the vast majority are from cosmetology boards and their licensees. The chance of a licensed or registered braider receiving a consumer complaint is a miniscule 0.0035%. To put that into perspective, a person playing Yahtzee is 20 times more likely (0.077%) to get Yahtzee—the same number on all five dice—on the first roll than a licensed or registered braider is to receive a consumer complaint.³⁸

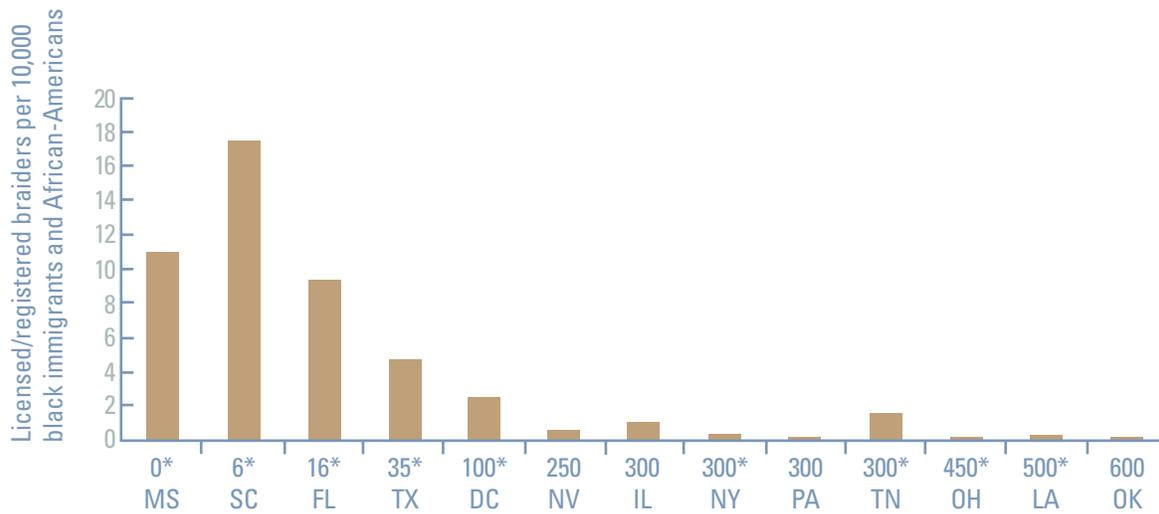
3. Most complaints against licensed/registered and unlicensed braiders are not about health or safety

Most complaints against braiders in both categories are not motivated by health and safety concerns. Rather, 88% of complaints filed were solely about licensure status or unlicensed practice. And the number of complaints alleging health or safety problems is very small—just four filed against all 9,700 licensed or registered braiders and nine filed against untold unlicensed braiders in nine states and D.C. over seven years. During the study period, six states and D.C. saw no health and safety complaints filed against braiders regardless of license or registration status.

Of the 130 complaints, six—or only 4.6%—concerned allegations of consumer harm.³⁹ All of the consumer harm complaints were for unlicensed braiders in New York and Ohio. Two of these were uncorroborated news stories of scalp burns from hot water; the third cited handheld dryer use, which is not forbidden for licensed braiders in New York. The remaining three complaints with health and safety issues, one from New York and two from Ohio, concerned alopecia, the technical term for balding or systemic hair loss. However, it is unclear whether any of the consumers complaining of hair loss ever received a formal diagnosis confirming braiding as the cause of the problem.

Identifying the cause of alopecia is frequently a difficult task because it will affect 85% of men and 50% of women by the age of 50⁴⁰ and has many possible causes, including genetics, postnatal hormonal changes, autoimmune disorders, infectious diseases and malnutrition.⁴¹ Alopecia can also stem from stress: Any treatment or styling of the hair that applies pulling force or friction to the hair follicles carries a small risk of causing a type of hair loss known as traction alopecia. The most common culprits are hairstyles or headgear that involve pulling the hair, attaching weight to it or rubbing against and irritating the scalp—particularly when worn for long periods

Figure 6: Braiders vs. Training Hours, 2012



*Statistically significant results.

Note: Texas stopped licensing hair braiders in 2015.

of time as braided styles often are.⁴² Other examples of hairstyles or headgear that have been linked with traction alopecia include pony tails, man buns, headbands, extensions, weaves, tight clips, hairpieces and headgear worn for sports. Scholarly research has found that traction alopecia is more common among women who relax, or chemically straighten, their hair since the process of doing so renders the follicles more sensitive.⁴³

4. There is no public safety advantage to higher barriers to entry

Not only are complaints against braiders extremely rare, but they are so few that it is impossible to make a statistical determination of whether stricter licensing leads to fewer complaints. However, the raw data suggest that such a result would be unlikely.

Figure 5 (p. 19) compares the number of complaints involving health and safety issues to the training hours required for a braiding license. As Figure 5 shows, there is no clear relationship between health and safety complaints and training hours. Most states saw no health and safety complaints against braiders, whether licensed, registered or unlicensed, despite widely varying training requirements. Just three states had health and safety

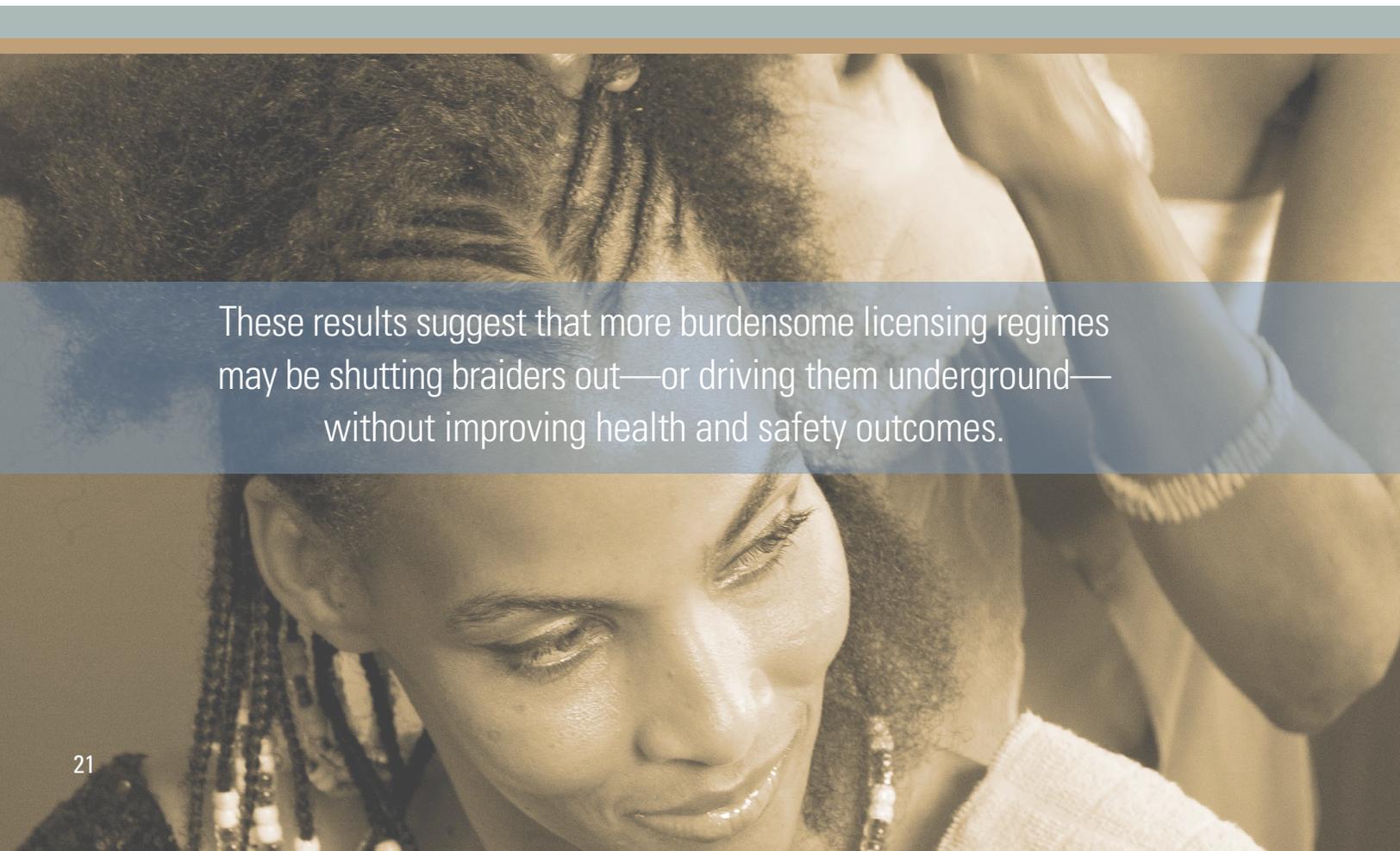
complaints, and their training requirements likewise vary: Florida requires only 16 hours of instruction, while New York and Ohio are among the more burdensome states, demanding 300 and 450 hours, respectively.

These two high-burden states produced most of the safety-related complaints, and all six of the complaints alleging consumer harm, all involving unlicensed braiders. It is possible that New York's and Ohio's onerous requirements push more braiders underground, where fear of detection by authorities suppresses incentives to build and maintain a strong reputation and to invest in professional development.⁴⁴ In fact, those two states have relatively few licensed braiders: New York licensed just 108 braiders from 2006 to 2012, while Ohio licensed a mere 60.⁴⁵ And New York and Ohio saw more complaints for unlicensed braiding filed against unlicensed braiders (five and 10, respectively) during the study period than most states. It is also possible that the six complaints occurred where they did purely by chance and that different licensing regimes have no effect on health or safety. The available data only suggest that more burdensome licenses, such as New York's and Ohio's, offer no public safety advantage over lower barriers to entry.

5. There is a disadvantage to higher barriers to entry—fewer braiders

Higher barriers to entry for braiders bring few benefits to the public, but they do carry costs. States with more onerous licenses tend to have fewer braiders than states with less onerous ones, as Figure 6 (p. 20) shows. Figure 6 compares the number of licensed or registered braiders in 2012 per 10,000 black immigrants and African-Americans to training hours required for a license. The states requiring 100 hours or fewer of training for their specialty licenses or registration had more braiders than the states requiring 300 hours or more—and most of these differences were statistically significant. These results suggest that more burdensome licensing regimes may be shutting braiders out—or driving them underground—without improving health and safety outcomes.

The tiny overall number of complaints with health and safety issues suggests that braiding is not a hazardous practice. Coupled with the observation that states with stricter licensing regimes do not offer a public safety advantage over more lenient ones, the presence of so few consumer harm complaints casts doubt on the necessity of licensing braiders at all, let alone onerously. At the same time, the overwhelming prevalence of complaints about licensure status suggests that licensing braiders is less about protecting the public than it is about fencing out the competition. The analysis comparing states to number of braiders indicates that more burdensome licensing regimes are successful in doing just that.



These results suggest that more burdensome licensing regimes may be shutting braiders out—or driving them underground—without improving health and safety outcomes.

Implications

These results add to a growing body of research that calls into question the link between licensing and quality or consumer protection. Research on other occupations, such as teeth whitening and interior design, has also found that the vast majority of complaints come from insiders and are about licensing itself, not safety. The rare safety issues identified were temporary and reversible.⁴⁶ Even government-produced sunrise reports for various occupations have found no or only minimal safety issues,⁴⁷ much like Virginia and Colorado did when reviewing hair braiders.⁴⁸ And there is little evidence that stricter licensing requirements improve consumer outcomes: A study of dentists, for example, found no improvements in dental health outcomes in states with tougher licensing standards⁴⁹

Burdensome licensing regimes may not protect the public, but they do impose heavy costs on both workers and consumers. Licensing makes it more difficult and costly, in terms of both money and time, to enter an occupation. The Institute for Justice's 2012 study of 102 low-and moderate-income occupations found that, on average, it costs workers in those occupations nine months of their time for education or training, one test and \$209 in licensing fees.⁵⁰ And that does not take into account various other costs that will arise, such as tuition and income forgone while in school.

These increased costs of entry can make finding a foothold on the economic ladder more difficult for those with less economic, educational and social capital, such as low-skilled immigrants.⁵¹ For example, Fatou Diouf came to America already knowing English, but others in Nashville's African immigrant community did not. Those who would like to legally braid for a living will not be able to take Tennessee's braiding exam until they first learn how

to read English—something that will likely add a great deal of time and expense to their training. Individuals shut out by onerous licensing regimes like Tennessee's specialty braiding license may feel they have no other choice than to operate without a license⁵²—a decision that also carries costs as it limits prospects for growing their business and puts them at risk of government fines. Or they may choose not to practice at all.⁵³

Evidence from this study suggests that braiders in more onerously licensed states may, indeed, be opting out or working underground. It finds that many states requiring more hours to become a licensed or registered hair braider have fewer licensed or registered braiders than states requiring fewer hours or simple registration. For instance, Mississippi, with its registration system, requires zero hours of training, while its neighbor Louisiana requires 500, putting it second only to Oklahoma among specialty states. In 2012, Mississippi had 1,245 registered braiders and Louisiana only 32—despite the latter's larger black population. By May 2016, Mississippi's population of registered braiders had blossomed to 2,659.

In restricting the number of people who can legally work in an occupation, licensing raises wages for the licensed.⁵⁴ With fewer people entering an occupation, licensees are able to charge more because they serve a larger share of the market. A 2002 study of the cosmetology industry estimated that increased earnings due to licensing totaled \$1.7 billion for the industry per year.⁵⁵ These pecuniary benefits of licensure could help explain why so many of the braiding complaints reviewed for this study came from cosmetology boards and licensees and were about licensure status: Wishing to preserve these benefits, insiders police their occupations.⁵⁶ Illustrating this point vividly is a note Ohio State Board of Cosmetology staff made about a person who called in a complaint: "She is upset that they can operate without a license. She feels they are taking income from those that are licensed. 'It's not fair.'"⁵⁷

The costs of licensure, in terms of fewer practitioners and more expensive services, get passed on to consumers.⁵⁸ Studies of several industries—including dentistry, optometry and cosmetology—have found increases in prices associated with licensing.⁵⁹ The 2002 study of the cosmetology industry estimated that licensing increased the costs of services by almost \$3 and, with these increased costs, reduced services sought by roughly 14% a year.⁶⁰ For braiding consumers, licenses may mean longer wait times and higher prices to see one of the licensed hair braiders operating in their area—if there are any. More likely, they will have to acquire braiding services on the black market from braiders operating underground, travel long distances or across state lines to find a braider, or substitute braiding with other, less-preferred hair-care techniques.

Taken together, these costs in the form of reduced opportunity, constrained choice and inflated prices, are high—likely too high given that the need to license braiders and many other occupations is far from established. But these costs can be minimized or eliminated—without sacrificing safety—through policies that carefully target regulation toward demonstrated risks and favor the least burdensome options.⁶¹ Before adopting new licenses or when contemplating whether to keep existing licenses, policymakers should first investigate whether a problem exists and, if so, whether licensure is an appropriate solution. They may find, as states have for various occupations,⁶² that a particular license was a solution in search of a problem and, on that basis, decide to get rid of that license altogether.



Since 2012, when Virginia determined braiding was safe and removed its licensing requirement and a federal court struck down Utah's regime,⁶³ momentum has grown to eliminate licensing for braiders (see Momentum for Braiding Licensure Reform). In 2015, the legislatures of Arkansas, Colorado, Maine and Texas each decided that braiders did not need to be licensed.⁶⁴ In the cases of Arkansas and Texas, the reforms came in response to lawsuits brought by braiders. And as of July 2016, the legislatures of Delaware, Kentucky, Nebraska and West Virginia also ended the licensing of braiders entirely, while Iowa scrapped its requirement that braiders become licensed cosmetologists in favor of simple registration.⁶⁵ These states—and the nine others that do not license braiders—show that it is possible for states to free braiders to practice their craft without apparently becoming hotbeds of braiding-related ills.⁶⁶

Mississippi's experience provides a view of what eliminating onerous licensing rules for braiders can mean for a state. Until 2005, Mississippi braiders needed to become licensed wigologists or cosmetologists, requiring 300 or 1,500 hours of education, respectively. Melony Armstrong obtained a wigology license in order to braid and open her salon, but the requirement never sat right with her. When she learned she would need to spend another 3,200 hours in cosmetology school before she could teach

braiding to girls and women in her community,⁶⁷ Melony knew she had to do something.

In 2004, Melony took her fight to the courts and to the state Legislature. In response to her lawsuit and energetic advocacy, the Mississippi Legislature in 2005 exempted braiders from the state's cosmetology regime, requiring only that braiders register with the state, pay a \$25 fee, post basic health and sanitation guidelines in their places of business and complete a self-test on that information.⁶⁸ More than 2,600 braiders subsequently registered with the state—some of them young women trained by Melony—starting new businesses and bringing existing ones out of the shadows. And Mississippi did not receive a single complaint involving health or safety issues during the period IJ studied.

Melony has welcomed the competition that this expansion of opportunity has brought. It has allowed her to grow her business by hiring more braiders. More than that, it has given her the satisfaction of seeing her community strengthened as her protégées get jobs and, in some cases, follow in her footsteps as entrepreneurs. Her experience vividly illustrates the benefits—job growth, entrepreneurship and stronger communities—that can come from freeing occupations from needless red tape. More states can realize such benefits by removing barriers to entry that do little more than prevent people from earning an honest living.

Momentum for Braiding Licensure Reform

Since 2004, 15 states have eliminated licensing for braiders, 13 through legislative reform. Braiders in Washington were declared exempt from licensing by the Department of Licensing. Utah's scheme was struck down by a federal court.



* Mississippi and Iowa require registration only.

Appendix A: Training Hour Requirement Citations

State	Hours Requirement	Citations
Alabama	210	Ala. Code § 34-7B-20(a)(3).
Alaska	1,650	Avelar, P., & Sibilla, N. (2014). <i>Untangling regulations: Natural hair braiders fight against irrational licensing</i> . Arlington, VA: Institute for Justice; Alaska Admin. Code tit. 12, § 09.090(a)(1).
Arizona	0	Ariz. Rev. Stat. § 32-506(10).
Arkansas	0	Ark. Code Ann. § 17-26-504.
California	0	Cal. Bus. & Prof. Code § 7316(d)(2).
Colorado	0	Colo. Rev. Stat. § 12-8-121(1)(d).
Connecticut	0	Conn. Gen. Stat. § 20-250(4).
Delaware	0	24 Del. Code Ann. § 5103(c)(8) (as added by H.B. 346, § 3 (2016)).
District of Columbia	100	D.C. Mun. Regs. tit. 17, § 3703.9.
Florida	16	Fla. Stat. § 477.0132(1)(a).
Georgia	0	Ga. Code Ann. § 43-10-1.
Hawaii	1,250	Avelar and Sibilla, 2014; Haw. Rev. Stat. § 439-12(c)(2).
Idaho	2,000	Avelar and Sibilla, 2014; Idaho Code § 54-805(1).
Illinois	300	225 Ill. Comp. Stat. § 410/3E-2(a)(3).
Indiana	1,500	Avelar and Sibilla, 2014; 820 Ind. Admin. Code 4-4-4(a).
Iowa	0	Iowa Code Ann. § 135.37A.
Kansas	0	Kan. Stat. Ann. § 65-1901(d)(2).
Kentucky	0	Ky. Rev. Stat. Ann. § 317A.020(1)(d).
Louisiana	500	La. Admin. Code tit. 46, § XXXI.1107.
Maine	0	Me. Stat. tit. 32, § 14203(3).
Maryland	0	Md. Code Bus. Occ. & Prof. § 5-101(l)(2)(iii).
Massachusetts	1,000 & two-year apprenticeship	Avelar and Sibilla, 2014; 240 Code Mass. Regs. § 2.01(1)-(2).
Michigan	0	Mich. Comp. Laws § 339.1210a(3).
Minnesota	30	Minn. Stat. § 155A.28(3). The Minnesota cosmetology board claims to have no enforcement authority over the specialty braiding license in its statutes. Fast, G. S. (2014, December 9). RE: MGDPA Request [Email to the Institute for Justice].

State	Hours Requirement	Citations
Mississippi	0	Miss. Code Ann. § 73-7-71(2).
Missouri	1,220	Mo. Rev. Stat. § 329.050(1)(3); <i>State Bd. of Cosmetology & Barber Examiners v. Adzoh</i> , No. 10-1753 CB, 2011 WL 2150701, at *4 (Mo. Admin. Hrg. Comm'n April 29, 2011).
Montana	2,000	Mont. Code Ann. § 37-31-304(3)(a); Mont. Admin. R. 24.121.301(23).
Nebraska	0	Neb. Rev. Stat. § 38-1075(3).
Nevada	250	Nev. Rev. Stat. § 644.208(1)(c)(1).
New Hampshire	1,500	Avelar and Sibilla, 2014; N.H. Rev. Stat. Ann. § 313-A:11(I)(c)(1).
New Jersey	1,200	Avelar and Sibilla, 2014; N.J. Stat. Ann. § 45:5B-17(b).
New Mexico	1,600	Avelar and Sibilla, 2014; N.M. Code R. § 16.34.5.10(A)(2).
New York	300	N.Y. Comp. Codes R. & Regs. tit. 19, § 162.3(a).
North Carolina	300	N.C. Gen. Stat. § 88B-10.1(1).
North Dakota	1,800	Avelar and Sibilla, 2014; N.D. Cent. §§ Code 43-11-16(2), 43-11-19(3), 43-11-21(1).
Ohio	450	Ohio Rev. Code Ann. § 4713.28(J).
Oklahoma	600	Okla. Admin. Code § 175:10-3-43(b).
Oregon	online module	Or. Admin. R. 817-030-0028(3).
Pennsylvania	300	63 Pa. Stat. and Cons. Stat. Ann. § 511(b)(3)(i).
Rhode Island	1,500	Avelar and Sibilla, 2014; 5 R.I. Gen. Laws Ann. § 5-10-9(1).
South Carolina	6	S.C. Code Ann. § 40-7-255(C)(2).
South Dakota	2,100	Avelar and Sibilla, 2014; S.D. Codified Laws § 36-15-17(2).
Tennessee	300	Tenn. Code Ann. § 62-4-110(f)(2).
Texas	0	Tex. Occ. Code § 1602.003(b)(8).
Utah	0	Utah Code Ann. § 58-11a-304(12).
Vermont	1,500	Avelar and Sibilla, 2014; Vt. Stat. Ann. tit. 26, §278(1).
Virginia	0	Va. Code Ann. § 54.1-700.
Washington	0	Wash. Admin. Code § 308-20-025.
West Virginia	0	W. Va. Code § 30-27-3(gg).
Wisconsin	1,550	Avelar and Sibilla, 2014; Wis. Stat. Ann. § 454.06(2)(b).
Wyoming	1,000	006-033-006 Wyo. Code R. § 2(a)(i)(C)(VII)(3).

Appendix B: Health and Safety Curriculum or Exam Topics for Braiding Specialty Licenses/Registration, 16 States and D.C.

State	Curriculum or Exam Topics*	Topic Hours ⁶⁹	Total Hours
Alabama	Written exam covers hair and scalp disorders and sanitation	0	210
District of Columbia	Scalp disorders and diseases, bacteriology, sanitation, safety, health and D.C. law	28	100
Florida	Scalp disorders and diseases, sanitation, sterilization and communicable diseases	14	16
Illinois	Hair and scalp disorders and diseases, bacteriology, personal hygiene, public health, sanitation, OSHA standards, hair analysis, scalp care, history of braiding and technical procedures	35	300
Iowa	N/A	N/A	0
Louisiana	Scalp disorders and diseases, bacteriology and sanitation	Unspecified	500
Minnesota**	Health, safety, sanitation and state laws	30	30
Mississippi	N/A	N/A	0
Nevada	Health of the scalp and skin and sanitation	150	250
New York	Hair and scalp disorders and diseases, safety and health	30	300
North Carolina	Hair and scalp disorders, sanitation, bacteriology, disinfection and first aid	Unspecified	300
Ohio	25 of 60 multiple-choice questions on “principles of infection”	0	450
Oklahoma	Hair and scalp disorders, sanitation, bacteriology, shampooing and chemistry	100	600
Oregon	Online module covers hair and scalp disorders and sanitation	0	0
Pennsylvania	Scalp care, sanitation, anatomy, sciences and professional practices	175	300
South Carolina	Scalp disorders and diseases, sanitation, sterilization and state law	6	6
Tennessee	Hair and scalp disorders, sanitation, sterilization, bacteriology, shampooing, draping, state law and salon management	120	300

* Exam topics are included only where there are no explicit curriculum requirements for health and safety.

** The Minnesota cosmetology board claims to have no enforcement authority over the specialty braiding license in its statutes.

Appendix C: Methodology and Regression Output

To compare the number of licensed or registered hair braiders per 10,000 black immigrant or African-Americans among the states, this analysis measures differences using a time-series GLS regression with robust standard errors. The number of braiders per 10,000 black immigrant or African-Americans (γ) was regressed on state (β_x) and year (θ) dummy variables, which control for state- and year-based effects on the number of licensed braiders. The following is the model used:

$$\gamma = \beta_0 + \beta_x (\text{States}) + \theta + \varepsilon$$

Table C1 provides the results of the equation. Oklahoma (600 hours) is the control state and 2006 the control year.

Table C1: Regression Output of Braider Population Analysis

	Coefficient	Robust SE	<i>p</i>
State (hours)			
Louisiana (500)	0.119	0.000	0.00
Ohio (450)	0.174	0.000	0.00
Illinois (300)	-0.189	0.543	0.73
New York (300)	0.101	0.000	0.00
Pennsylvania (300)	-0.739	0.391	0.06
Tennessee (300)	0.801	0.000	0.00
Nevada (250)	-0.607	0.543	0.26
District of Columbia (100)	1.935	0.000	0.00
Texas (35)*	2.890	0.000	0.00
Florida (16)	7.825	0.000	0.00
South Carolina (6)	12.313	0.000	0.00
Mississippi (0)	5.614	0.000	0.00
Year			
2007	0.786	0.516	0.13
2008	1.370	0.947	0.15
2009	1.724	1.076	0.11
2010	2.355	1.455	0.11
2011	2.417	1.320	0.07
2012	3.091	1.644	0.06
Intercept	-1.614	0.979	0.10
sigma_u	0.000		
sigma_e	1.650		
rho	0.0000		

* Texas stopped licensing hair braiders in 2015.

Endnotes

- 1 Byrd, A. D., & Tharps, L. L. (2001). *Hair story: Untangling the roots of black hair in America*. New York, NY: St. Martin's Press.
- 2 Braiding did not die out entirely, but it persisted primarily in utilitarian forms. Byrd and Tharps, 2001.
- 3 Byrd and Tharps, 2001.
- 4 Carpenter, D. M., & Ross, J. K. (2009). *The power of one entrepreneur: Melony Armstrong, African hairbraider*. Arlington, VA: Institute for Justice.
- 5 Department of the Treasury Office of Economic Policy, Council of Economic Advisors, & Department of Labor. (2015). *Occupational licensing: A framework for policymakers*. Washington, DC: White House.
- 6 Kleiner, M. M., & Krueger, A. B. (2013). Analyzing the extent and influence of occupational licensing on the labor market. *Journal of Labor Economics*, 31(2), 173–202.
- 7 Carpenter, D. M., Knepper, L., Erickson, A. C., & Ross, J. K. (2015). Regulating work: Measuring the scope and burden of occupational licensure among low- and moderate-income occupations in the United States. *Economic Affairs*, 35(1), 3–20.
- 8 Carpenter et al., 2015; Dorsey, S. (1983). Occupational licensing and minorities. *Law and Human Behavior*, 7(2–3), 171–181; Federman, M. N., Harrington, D. E., & Krynski, K. J. (2006). The impact of state licensing regulations on low-skilled immigrants: The case of Vietnamese manicurists. *American Economic Review*, 96(2), 237–241; Hazlett, T. W., & Fearing, J. L. (1998). Occupational licensing and the transition from welfare to work. *Journal of Labor Research*, 19(2), 277–294.
- 9 Carpenter, D. M. (2008). Regulation through titling laws: A case study of occupational regulation. *Regulation and Governance*, 2, 340–359; Young, S. D. (1991). Interest group politics and the licensing of public accountants. *Accounting Review*, 66(4), 809–817.
- 10 Adams, A. F., Jackson, J. D., & Ekelund, R. B. (2002). Occupational licensing in a “competitive” labor market: The case of cosmetology. *Journal of Labor Research*, 23(2), 261–278; Carpenter, 2008; Kleiner, M. M., & Kudrle, R. T. (2000). Does regulation affect economic outcomes? The case of dentistry. *Journal of Law and Economics*, 43(2), 547–582; Maurizi, A. (1974). Occupational licensing and the public interest. *Journal of Political Economy*, 82(2), 399–413; Pfeffer, J. (1976). Some evidence on occupation licensing and occupational incomes. *Social Forces*, 53(1), 102–111; Shepard, L. (1978). Licensing restrictions and the cost of dental care. *Journal of Law and Economics*, 21(1), 187–201.
- 11 Dorsey, S. (1980). The occupational licensing queue. *Journal of Human Resources*, 15(3): 424–434.
- 12 Dorsey, 1980; Pfeffer, 1976.
- 13 Wynne, J. R., & Levinger, I. D. (1995). *NCA's diamond jubilee years*. Korea: National Cosmetology Association.
- 14 Wynne and Levinger, 1995.
- 15 Wynne and Levinger, 1995, p. 4.
- 16 Carpenter, D. M., Knepper, L., Erickson, A. C., & Ross, J. K. (2012). *License to work: A national study of burdens from occupational licensing*. Arlington, VA: Institute for Justice; Erickson, A. C. (2013). *White out: How dental industry insiders thwart competition from teeth-whitening entrepreneurs*. Arlington, VA: Institute for Justice.
- 17 Hearings before the Wisconsin Assembly Committee on Consumer Affairs, 1998 (Uqdah Testimony), p. 8. To adapt to the changing landscape, cosmetology textbooks have started to include more discussion of braiding of straight, curly and textured hair. The newest edition of *Milady Standard Cosmetology*, the standard textbook for cosmetology programs, expanded its “Braiding and Braid Extensions” chapter by 12 pages for the 2016 edition. The chapter now makes up 44 pages of the 1,129-page book. *Milady standard cosmetology*. (2014). 2016 ed. Boston, MA: Cengage Learning, pp. 526–569; *Milady standard cosmetology*. (2012). 2012 ed. Clifton Park, NY: Cengage Learning, pp. 506–537.
- 18 Carpenter, 2008; Cox, C., & Foster, S. (1990). *The costs and benefits of occupational regulation*. Washington, DC: Federal Trade Commission; Erickson, 2013; Kleiner and Krueger, 2013.
- 19 Carpenter, 2008; Department of the Treasury Office of Economic Policy et al., 2015; Erickson, 2013; Kleiner and Kudrle, 2000.
- 20 Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Kansas, Kentucky, Maine, Maryland, Michigan, Nebraska, Texas, Utah, Virginia, Washington and West Virginia.
- 21 Virginia Department of Professional and Occupational Regulation. (n.d.). *Hair braiding de-regulation FAQs*. Retrieved from http://www.dpor.virginia.gov/BarberCosmo/Hair_Braiding_Deregulation/

- 22 The complaints were all for braiders practicing without a license and two of them included unspecified sanitation issues. Colorado Department of Regulatory Agencies, Office of Policy, Research and Regulatory Reform. (2008). *2008 sunshine review: Hair braiders/natural hair stylists*.
- 23 Alaska, Hawaii, Idaho, Indiana, Massachusetts, Missouri, Montana, New Hampshire, New Jersey, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, Wisconsin and Wyoming.
- 24 Alabama, Florida, Illinois, Louisiana, Minnesota, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina and Tennessee.
- 25 The 175 hours also includes other topics—anatomy, sciences and professional practices.
- 26 Institute for Justice. (2012). *Emergency medical technician*. Retrieved from <http://licensetowork.ij.org/26>
- 27 Carpenter et al., 2012.
- 28 IJ attempted to acquire all complaints against licensed and unlicensed hair braiders from all of the specialty-license states. However, Alabama and Oregon adopted their specialty licenses after data collection began. Pennsylvania exempts the release of complaints through public records requests, and Illinois claimed the same exemption without having that exemption on the books (IJ is currently in litigation for the release of these documents). North Carolina and South Carolina provided data that were either incomplete or could not be linked to the licensed braiders. And Minnesota claims to have no enforcement authority over hair braiders and therefore does not collect complaints.
- 29 Unfortunately, because there were so few complaints, it is impossible to control for various factors that may account for the differences in the number of complaints in each state.
- 30 A few braiders had multiple complaint files.
- 31 A 2008 study found a similar result for interior designers: In 13 states between 1998 and 2006, an interior designer's probability of receiving a complaint was 0.35%. Carpenter, D. M. (2007). *Designing cartels: How industry insiders cut out competition*. Arlington, VA: Institute for Justice.
- 32 A licensed Florida braider operating a braiding school submitted 23 complaints regarding braiders who may have illegally obtained credentials from her school through an ex-employee.
- 33 Florida appears to heavily cite its licensees for violations compared to the other states in this study. The state's specialty braiding license does not allow braiders to use extensions or wefts—things that are often used when braiding African hair. The use of extensions accounts for 18 of the unlicensed cosmetology complaints in Florida. However, even taking those complaints into account, Florida is an outlier. The state was also an outlier for the number of complaints in a study of interior designers. Carpenter, 2008. Florida may simply have more aggressive licensing enforcement than other states.
- 34 It is tempting to compare the share of complaints against unlicensed braiders that involve health and safety issues (nine out of 27) to the same figure for licensed and registered braiders (four out of 103) and conclude that unlicensed braiding is less safe, but this would be inappropriate because these figures do not measure risk to consumers. The risk a consumer faces of encountering a health and safety problem is indicated by the likelihood that a given braider, whether licensed or not, receives a health and safety complaint and it is impossible to calculate that probability without knowing how many unlicensed braiders there are. Additionally, even if a comparison of consumer risk between licensed/registered and unlicensed braiders were possible, it would not be an indication of the risk posed by braiders in the 18 states that do not license braiding at all. As discussed in the text, braiders in those states are free to operate legally and in the open, while braiders in specialty-license or registration states must operate illegally and underground if they cannot secure a license or properly register. There are likely to be important differences between these two groups of “unlicensed” braiders and their working conditions that make drawing inferences from one group to the other problematic.
- 35 Illinois, Nevada, Oklahoma and Pennsylvania were not statistically significant.
- 36 Corsey, G. (2016). Cosmetology association threatens lawsuit over Kentucky's new “hair braiding bill.” *WDRB.com*. Retrieved from <http://www.wdrb.com/story/31716196/cosmetology-association-threatens-lawsuit-over-kentuckys-new-hair-braiding-bill>
- 37 Bush, M. C., & Pernoll, M. L. (2007). Multiple pregnancy. In Decherney, A. H., et al. (Eds.), *Current diagnosis and treatment: Obstetrics and gynecology* (10th ed., 301–310). New York, NY: McGraw Hill Professional; McCormally, K. (2015, May 26). What are the odds the IRS will audit your tax return? And what should you do if it does? *Kiplinger*. Retrieved from <http://www.kiplinger.com/article/taxes/T056-C005-S001-what-to-do-if-the-irs-audits-your-tax-return.html>; Rocheleau, M. (2016, January 8). You're more likely to experience many things—like sainthood—than to win the Powerball jackpot.

- The Boston Globe*. Retrieved from <https://www.bostonglobe.com/metro/2016/01/08/you-more-likely-experience-many-things-like-sainthood-than-win-powerball-jackpot/othvqBur-W7DnG6bkz4W1yH/story.html>
- 38 DataGenetics. (2012, January 4). Yahtzee probability [Web log post]. Retrieved from <http://www.datagenetics.com/blog/january42012/>
- 39 That percentage is similar to what a similar study found for complaints against retail teeth whiteners (4.1%). Erickson, 2013.
- 40 American Hair Loss Association. (n.d.). *Men's hair loss: Introduction*. Retrieved from http://www.americanhairloss.org/men_hair_loss/introduction.asp; Olsen, E. A., (n.d.). *Female pattern hair loss*. North American Hair Research Society. Retrieved from [http://www.nahrs.org/PatientInformation\(FAQs\)/FemalePatternHairLoss\(FAQ\).aspx](http://www.nahrs.org/PatientInformation(FAQs)/FemalePatternHairLoss(FAQ).aspx); see also Dinh, Q. Q., & Sinclair, R. (2007). Female pattern hair loss: Current treatment concepts. *Clinical Interventions in Aging*, 2(2), 189–199.
- 41 Many other factors can also contribute to alopecia, including thyroid issues, physical or psychological trauma, diabetes, medications and even a childhood history of traumatic styling. Barahmani, N., Schabath, M. B., & Duvic, M. (2009). History of atopy or autoimmunity increases risk of alopecia areata. *Journal of the American Academy of Dermatology*, 61(4), 581–591; Cotsarelis, G., & Millar, S. E. (2001). Towards a molecular understanding of hair loss and its treatment. *TRENDS in Molecular Medicine*, 7(7), 293–301; Sperling, L. C. (1996). Evaluation of hair loss. *Current Problems in Dermatology*, 8(3), 101–136; Tosti, A., & Piraccini, B. M. (1999). Androgenetic alopecia. *International Journal of Dermatology*, 38(Suppl. 1), 1–7.
- 42 The risk of braiding-related alopecia can be mitigated by ensuring that braids are not uncomfortably tight and that braiding is not done in conjunction with heat or chemicals. Khumalo, N. P. (2012). The “fringe sign” for public education on traction alopecia. *Dermatology Online Journal*, 18(9), 16. Additionally, cosmetology textbooks spend very little time on alopecia and even less time on traction alopecia. *Milady* spends one full page on the causes of alopecia without even mentioning traction alopecia and nowhere provides a substantive discussion of the condition. *Milady standard cosmetology*, 2014, pp. 235–236. Pivot Point's *Salon Fundamentals*, the other leading cosmetology textbook, has five pages on hair loss including five sentences about traction alopecia. *Salon fundamentals: A resource for your cosmetology career*. (2010). 2nd ed. Evanston, IL: Pivot Point International, 191–196.
- 43 Fu, J. M., & Price, V. H. (2009). Approach to hair loss in women of color. *Seminars in Cutaneous Medicine and Surgery*, 28, 109–114; Khumalo, N. P., Jessop, S., Gumedze, F., & Ehrlich, R. (2008). Determinants of marginal traction alopecia in African girls and women. *Journal of the American Academy of Dermatology*, 59(3), 432–438; Khumalo, N. P., Jessop, S., Gumedze, F., & Ehrlich, R. (2007). Hairdressing and the prevalence of scalp disease in African adults. *British Journal of Dermatology*, 157, 981–988.
- 44 Some people move into the informal economy when regulations make it difficult to enter the formal economy. Schneider, F., & Enste, D. H. (2000). Shadow economies: Size, causes, and consequences. *Journal of Economic Literature*, 38, 77–114. However, working in the informal economy comes with costs, including irregular or uncertain income and fear of being caught. Moving from the informal to the formal economy allows people to advertise their services, create an open network of associates and clientele, and establish a professional reputation. This can mean earning more, maintaining a steady income and becoming a business owner. Consumers also benefit from greater choice. Carpenter and Ross, 2009.
- 45 In the entire state of Ohio, there is only one school licensed to teach braiding. And in New York, the state cosmetology board does not even know how many beauty schools teach the required braiding curriculum. Avelar, P., & Sibilla, N. (2014). *Untangling regulations: Natural hair braiders fight against irrational licensing*. Arlington, VA: Institute for Justice.
- 46 Carpenter, 2008; Erickson, 2013.
- 47 Carpenter, 2008; Vermont Secretary of State Office of Professional Regulation. (2016). *Preliminary sunrise assessment: Massage therapy (2015/16)*. Retrieved from <https://www.sec.state.vt.us/media/733234/mt-sunrise-report-opr-2016-1-5.pdf>; Vermont Secretary of State Office of Professional Regulation. (2015a). *Behavior analysts: sunrise application review*. Retrieved from <https://www.sec.state.vt.us/media/664173/Behavior-Analyst-Sunrise-Report-2015-0109.pdf>; Vermont Secretary of State Office of Professional Regulation. (2015b). *Art therapists: Sunrise application review*. Retrieved from <https://www.sec.state.vt.us/media/664176/Art-Therapist-Sunrise-Report-2015-0109.pdf>; State of Hawaii Auditor. (2014a). *Sunrise analysis: Regulation of herbal therapists*. Retrieved from <http://files.hawaii.gov/auditor/Reports/2014/14-14.pdf>; State of Hawaii Auditor. (2014b). *Sunrise analysis: Regulation of veterinary technicians*. Retrieved from <http://files.hawaii.gov/auditor/Reports/2014/14-15.pdf>
- 48 Colorado Department of Regulatory Agencies, Office of Policy, Research and Regulatory Reform, 2008; Virginia Department of Professional and Occupational Regulation, n.d.
- 49 Kleiner and Kudrle, 2000.

- 50 Carpenter et al., 2015.
- 51 Federman et al., 2006; Hazlett and Fearing, 1998.
- 52 Bell, M. C. (2007). The braiding cases, cultural deference, and the inadequate protection of black women consumers. *Yale Journal of Law and Feminism*, 19(1), 125–153.
- 53 Federman et al., 2006.
- 54 Cox and Foster, 1990; Erickson, 2013; Friedman, M., & Kuznets, S. (1945). *Income from independent professional practice*. New York, NY: National Bureau of Economic Research; Kleiner, M. M. (2000). Occupational licensing. *Journal of Economic Perspectives*, 14(4), 189–202; Kleiner and Kudrle, 2000; Stigler, G. J. (1971). The theory of economic regulation. *Bell Journal of Economic and Management Science*, 2(1), 3–21.
- 55 Adams et al., 2002.
- 56 Carpenter, 2008; Erickson, 2013.
- 57 Alpetter, M. (2011). Complaint form for complaint # 11-0194.
- 58 Cox and Foster, 1990; Kleiner and Kudrle, 2000.
- 59 Cox and Foster, 1990; Adams et al., 2002; Haas-Wilson, D. (1986). The effect of commercial practice restrictions: The case of optometry. *Journal of Law and Economics*, 29(1), 165–186; Kleiner and Kudrle, 2000.
- 60 Adams et al., 2002.
- 61 Johnson, R. E. (2015). *Boards behaving badly: How states can prevent licensing boards from restraining competition, harming consumers, and generating legal liability under North Carolina State Board of Dental Examiners v. FTC*. Arlington, VA: Institute for Justice. Retrieved from <http://ij.org/report/boards-behaving-badly/#1>; Carpenter, D. M., & McGrath, L. (2014). *The balance between public protection and the right to earn a living* [Resource brief]. Lexington, KY: Council on Licensure, Enforcement and Regulation.
- 62 Carpenter, 2008; Vermont Secretary of State Office of Professional Regulation, 2016; Vermont Secretary of State Office of Professional Regulation, 2015a; Vermont Secretary of State Office of Professional Regulation, 2015b; State of Hawaii Auditor, 2014a; State of Hawaii Auditor, 2014b.
- 63 Va. Code Ann. § 54.1-700; *Clayton v. Steinagel*, 885 F. Supp. 2d 1212, 1215–16 (D. Utah 2012).
- 64 Ark. Code Ann. § 17-26-504; Colo. Rev. Stat. § 12-8-121(1)(d); Me. Rev. Stat. tit. 32, § 14203(3); Tex. Occ. Code 1602.003(b)(8).
- 65 24 Del. Code Ann. § 5103(c)(8) (as added by H.B. 346, § 3 (2016)); Ky. Rev. Stat. Ann. § 317A.020(1)(d); Neb. Rev. Stat. § 38-1075(3); W. Va. Code § 30-27-3(gg); Iowa Code Ann. § 135.37A.
- 66 Additionally, a current lawsuit brought by IJ on behalf of hair braiders in Missouri is challenging Missouri’s requirement that braiders obtain a cosmetology license. For more information, see <http://ij.org/case/missouri-hair-braiding/>
- 67 1,200 hours for a cosmetology license and 2,000 for a cosmetology school license. Carpenter and Ross, 2009.
- 68 Miss. Code Ann. § 73-7-71.
- 69 National-Interstate Council of State Boards of Cosmetology, Inc. (2011). *National natural hair styling written examination: Candidate information bulletin*. Retrieved from <http://www.aboc.state.al.us/pdfs/exams/HairExam10-16-14.pdf>; D.C. Mun. Regs. tit. 17, § 3703.9(a); Fla. Stat. Ann. § 477.0132(1)(a); 225 Ill. Comp. Stat. Ann. 410/3E-2(a)(3); Ill. Admin. Code tit. 68, § 1175.1535; Iowa Code Ann. § 135.37A; La. Admin. Code. tit. 46, pt. XXXI, §§ 301, 1107; Minn. Stat. Ann. § 155A.28; Miss. Code Ann. § 73-7-71; Nev. Rev. Stat. Ann. § 644.208(1)(e)(1)(II)–(III); N.Y. Comp. Codes R. & Regs. tit. 19, § 162.3(a); 21 N.C. Admin. Code 14T.0606(a); Ohio State Board of Cosmetology. (2014). *Testing information packet (TIP): Natural hair theory*. Retrieved from <http://cos.ohio.gov/Portals/0/Uploads/File/nhs%20theory%20tip.pdf>; Okla. Admin. Code 175:10-3-43(b)(1); Oregon Health Licensing Agency. (n.d.). *Board of Cosmetology: Natural hair care training module* [PowerPoint slides]. Retrieved from <http://www.oregon.gov/oha/hlo/Documents/Natural-Hair-Care-Training-Module.ppt>; 49 Pa. Code § 7.129(a); S.C. Code Ann. § 40-7-255; Tenn. Comp. R. & Regs. 0440-01-.03(3)(e)(2).



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