

Guest Editorial

Forced Charity: The Increasing Use of Licensing Regulations to Accomplish Government Objectives

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Licensing regulations somewhat similar to those of today have existed at least since 1200. Licensing is a growing civil governmental activity that restricts the practice of an occupation to individuals approved by the state. Others practicing the occupation outside the scope of government approval may be punished by fines and/or jail sentences. Licensing is different than registration or certification procedures that are less restrictive and frequently administered by private organizations.

Licensing is almost invariably sought by the occupational groups themselves "for the public welfare." However, since the middle of this century it has become increasingly clear that licensing advances not the general populace, but the establishment of the professional group being licensed. Licensing has been criticized for the following reasons:

1. Economic Limitations: Licensing regulations restrict the right of individuals to make a living.

People with little or no economic resources are less likely to be able to meet licensing requirements. Further, licensing increases the fees for services, generally making services less available for purchase. Since licensing functionally provides a monopoly for individuals in the licensed occupations, groups as diverse as physicians, lawyers, photographers, barbers, psychologists and house painters have all sought to be licensed by the state.

2. Mediocrity: Licensing procedures effectively encourage a state-enforced, institutionalized mediocrity. Detailed standards are set by older, powerful members of an occupational group and imposed upon those entering the profession. Diversity decreases as new

entrants seek to conform and go about the business of earning a living for themselves and their families.

3. Ineffectiveness: Licensing regulations are not even effective at doing what they are purportedly designed to do, "protect the public."

Licensing as a measure of competence does not correlate with actual professional performance. The state may occasionally remove an incompetent practitioner. However, studies fail to find any general beneficial effect on performance for the public regardless of the occupational group.

4. Unbiblical Principles: Licensing exists because we tolerate the application of unbiblical principles in such areas as free market honesty, contract making, and equality of opportunity.

Licensing serves to increase the power of the state at the cost of individual freedom. The state becomes a false god bestowing rewards and punishments as it seeks obedience to its humanistic objectives. Proverbs 13:15 clearly warns Christians and the societies in which we live that "the way of the unfaithful is hard."

H.M. Holzer's following paper does a wonderful job of expanding these criticisms to the area of current government health policy. In America, licensing regulations have repeatedly been used to enforce political policy. Evangelist Samuel A. Worcester and others were imprisoned for over a year when they refused in the 1830's to stop unlicensed preaching to the Cherokees as the state of Georgia sought to gain jurisdiction over Cherokee territory. Licensing regulations were used earlier this century to enforce various loyalty or non-communist political stances. Such

licensing restrictions have largely been eliminated. Holzer now raises the specter of licensing restrictions being used to enforce conformity to governmental political policy in another area, health care objectives.

Increasing health care expenses and demands place overwhelming burdens on already strained government health programs. Holzer focuses on such health care issues and several recent West Virginia and Massachusetts court decisions. For example, physicians in Massachusetts who treat Medicare patients are not allowed to bill the patient for the difference between what the government pays and what the service is worth. Physicians who do not accept such conditions may lose their licenses. Thus, the licensing standard has shifted from purported "fitness" requirements to the willingness to perform services in accordance with state health-care cost containment policies. This forced, unbiblical "charity" was justified, in part, by the fact that licensing is a state-granted monopoly given to physicians and thus service conditions may be regulated by the government. According to such a principle, there is no reason to think that any licensed health care providers could not be forced to meet other state-perceived "needs" (e.g., working in the state national guard, performing surgery on HIV-positive patients) or risk losing their licenses. Professor Holzer has done an outstanding job of describing this alarming abuse of state power.

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