

***Presentation at the Federal Trade Commission***

***March 20<sup>th</sup> 2014***

***Examining Health Care Competition***

***Washington, D.C.***

***Occupational Regulation  
and Health Care***

**Morris M. Kleiner**

# History of Occupational Regulation is a Key Element in the Evolution of Economics

- The patrimony of a poor man lies in the strength and dexterity of his hands; and to hinder him from employing this strength and dexterity in what manner he thinks proper without injury to his neighbor is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman, and of those who might be disposed to employ him (Smith, 1776)

# Robert H. Jackson

U.S. Supreme Court Justice 1941-54,  
U.S Attorney General 1940-41, and  
American Chief of Counsel, War Trials at Nuremberg 1945,  
in *Thomas v. Collins*, 323 U.S. 516, 545 (1945).



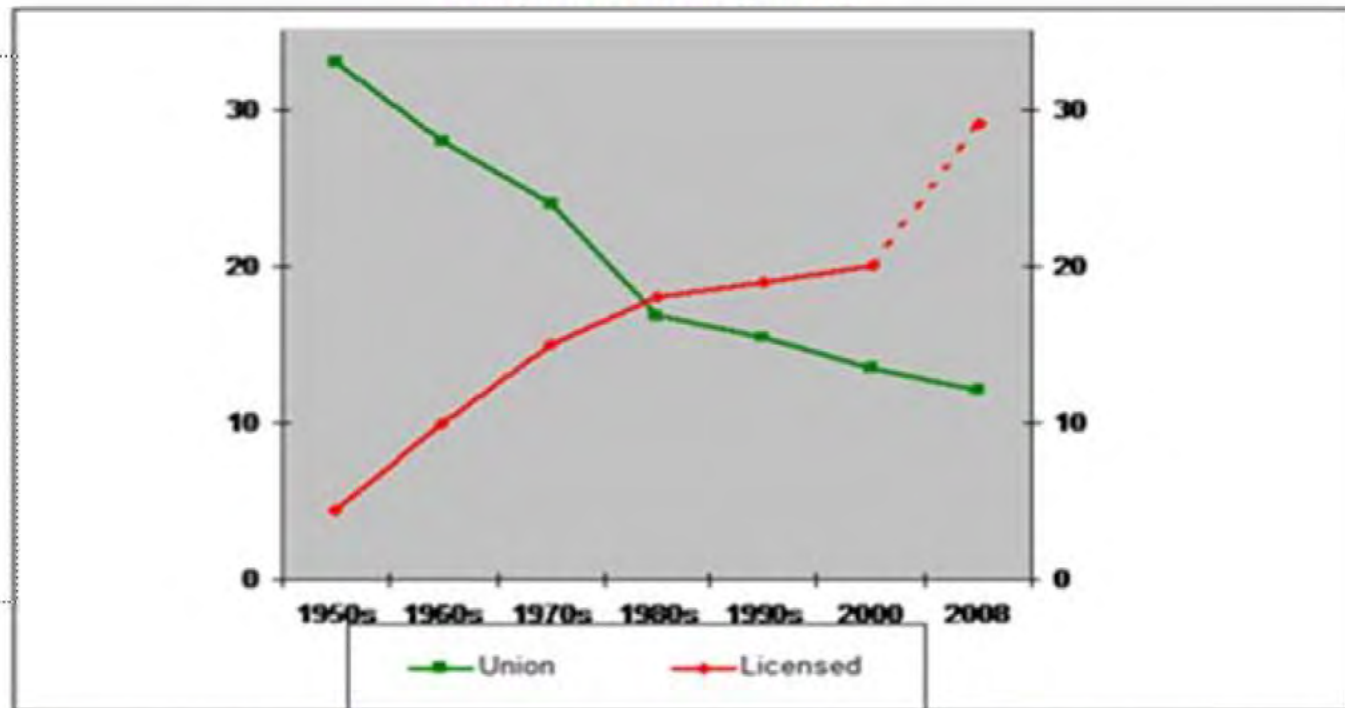
# Milton Friedman,

Nobel Laureate Economist, in *Capitalism and Freedom*, 1962.



Who is Licensed?

# Trends in Two Labor Market Institutions



Dashed line shows the value from state estimates of licensing to the Gallup and Westat Survey results—more than 800 occupations are licensed in at least one state level according to the Council of State Governments; Union Data from the CPS

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13



# Health Care Specific Issues

- **Increasing number of licensed occupations & increasing requirements**
- **74% of non physician healthcare occupations are licensed**
- **Physicians are universally licensed**

Source PDII, 2008

How did we get here?



# The Case of Physicians



# Case Study of Medicine

**MEDICAL EDUCATION  
IN THE  
UNITED STATES AND CANADA**

**A REPORT TO  
THE CARNEGIE FOUNDATION  
FOR THE ADVANCEMENT OF TEACHING**

**BY  
ABRAHAM FLEXNER**

**WITH AN INTRODUCTION BY  
HENRY S. PRITCHETT  
PRESIDENT OF THE FOUNDATION**

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# Nurses



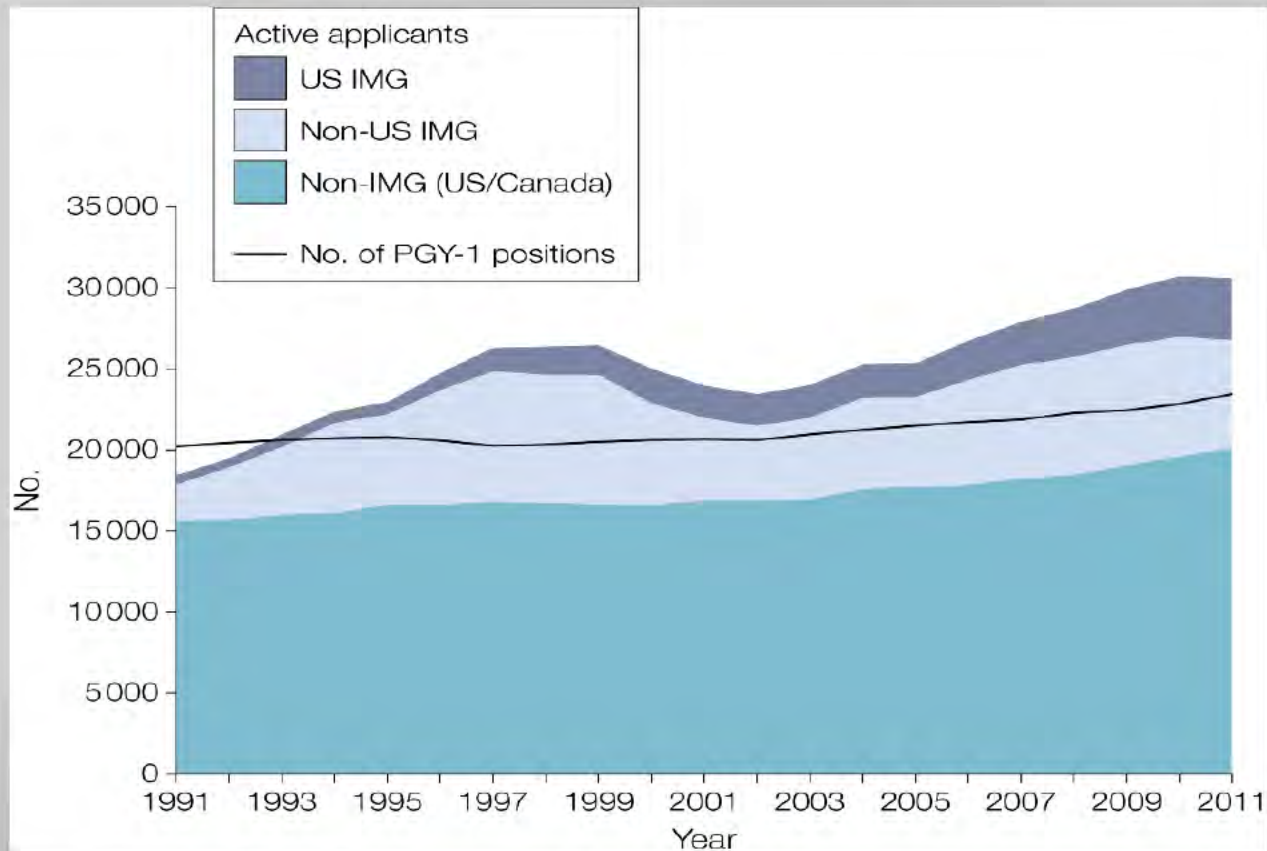
*Backlash by the Courts:  
Goldfarb v. Virginia*



- Regulation and Barriers to Medical Licensing

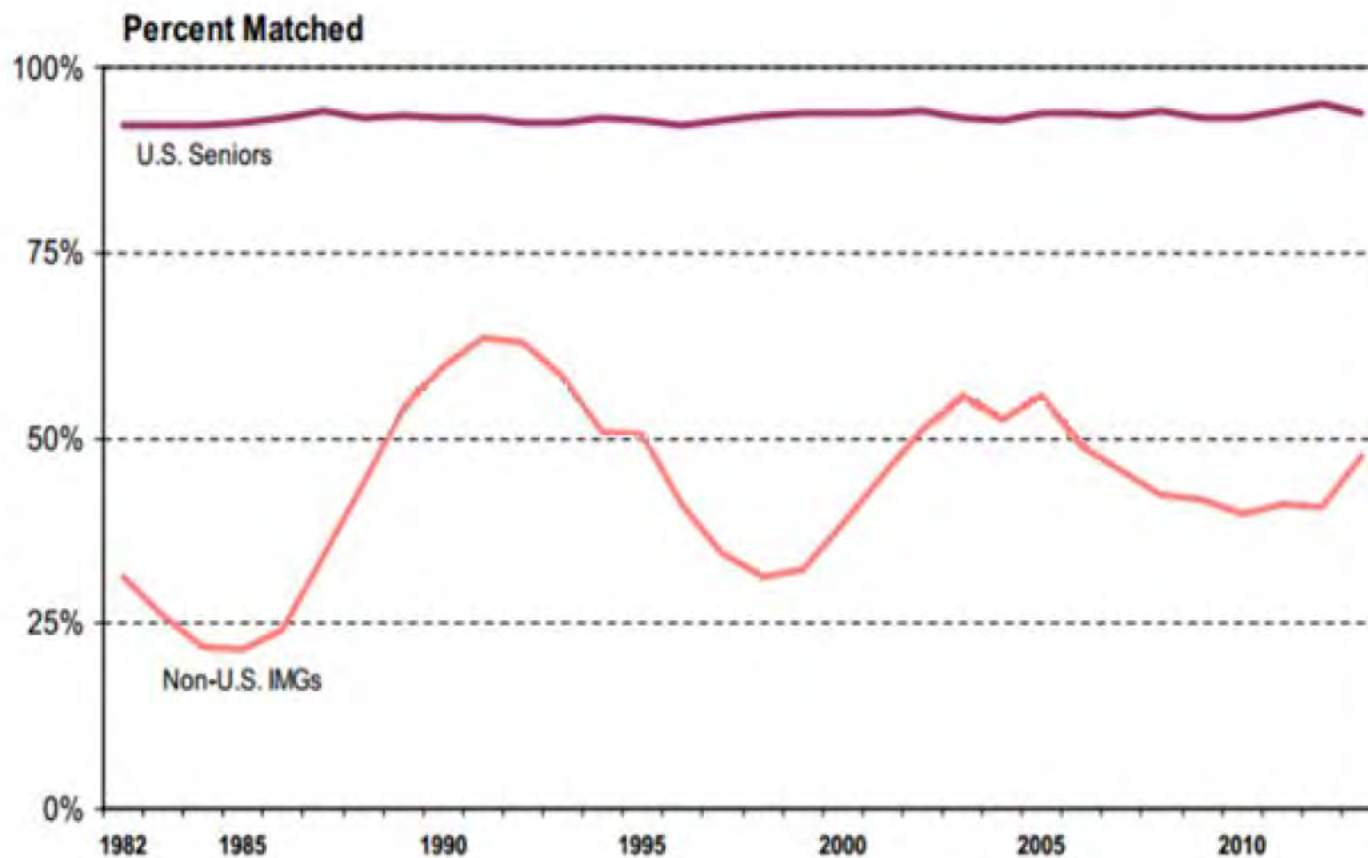
# Issues with Immigrant Doctors

## Post Graduate Year 1 Applications (PGY-1) by Applicant Type, 1991-2011



Source: National Residency Match Program, 2013

## PGY-1 Match Rates by Applicant Type, 1982-2013

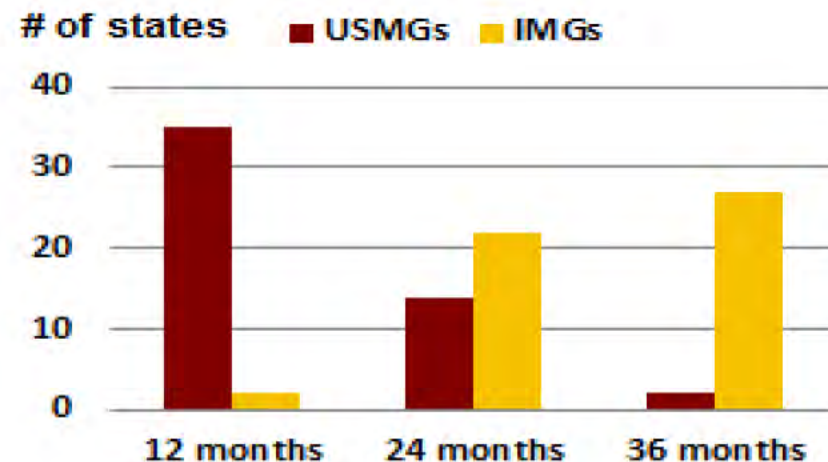


Source: National Residency Match Program, 2013

# Barriers to Entry for Foreign Doctors

## State Residency Requirements

- Longer residencies for IMGs result in fewer IMGs





# The Battle Within and Among Licensed Occupations

■ ACCESS

v.

■ QUALITY

# Access

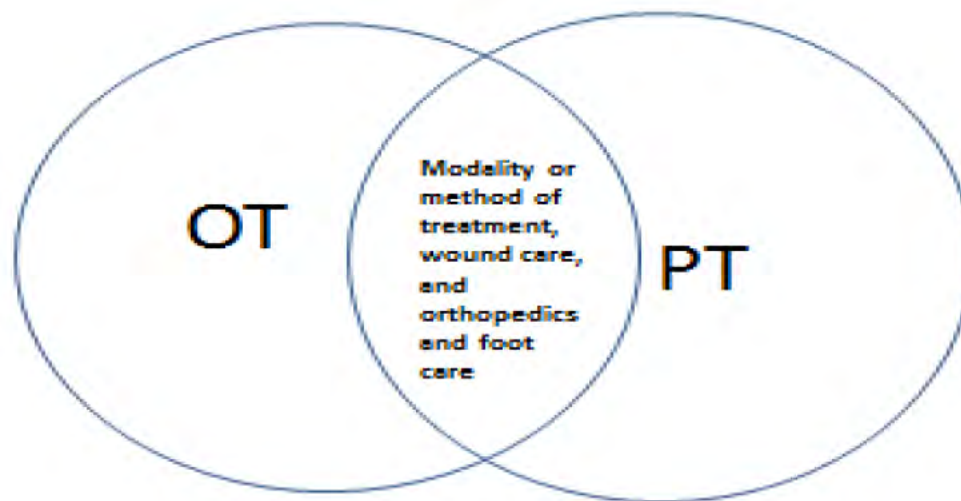
## Battles Among Universally Licensed Occupations: Comment on California Law allowing Hygienists to Open Independent Clinics

“Whether or not a dental hygiene clinic can be a successful business model is none of a dentist’s business. The free market system will determine that, not a dentist. Most dentists are notoriously very poor business men/women.”



# Disputes Over Scope of Practice Between Occupational Therapy (OT) and Physical Therapy (PT)

## Venn Diagram of the Tasks of OT and PT



Quality

# Health Care



WHAT MATTERS FOR POLICY?

## Potential Reversal of Trends or Anomalies in Licensing?

- During the 2012-13 legislative sessions, two governors - one from Iowa and the other from Indiana - vetoed legislation from their own party's dominated legislature that would have licensed several new occupations.



## Trends in Licensing

- In Iowa Governor Terry Branstad *vetoed* the licensing of addictive disorder counselors and other related occupations.
- In Indiana, Governor Mike Pence *vetoed* the licensing of diabetes counselors and anesthesiologist assistants and dietitians.

# Conclusions

- Thank you for your attention!
- Questions