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Neo-Weberianism, Professional Formation and the State: Inside the Black Box

Abstract: This paper outlines a neo-Weberian approach to state-sponsored social closure in professional formation. Despite its advantages, state decision-making is not typically well-defined or examined in neo-Weberian analyses. Neo-Weberianism is differentiated from Max Weber's own work on social action and rationality, which generally provides a more subtle interpretation of state socio-political processes. The paper explores how policy formation can be more incisively analyzed inside the black box of state decision-making from a Weberian perspective. This is exemplified by the passage of the 1858 Medical Act in the United Kingdom establishing the state-supported medical profession. While further work is necessary in filling in the black box, this paper charts an important future path for neo-Weberian analyses of professions, and their relationship with the state.

Keywords: Neo-Weberianism, professional formation, social closure, the state, medical profession

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Social scientists debate the most appropriate macro-theoretical approach to understand professional formation in modern Western societies. This article briefly reviews the main theories accounting for professional ascendance, before focusing on the currently dominant neo-Weberian approach (Saks, 2016). It argues that—for all its virtues—this needs further enhancement in analyzing the role of the state in the professionalizing process since, as with other macro-theorizing on the professions, it is all too often represented as a black box.

In the 1950s and 1960s the then dominant taxonomic approach viewed professionalization in terms of the positive uniqueness of professional groups in the division of labour (Saks, 2012). Trait writers saw professions as occupations possessing key characteristics such as higher education qualifications and a formal ethical code (Hickson & Thomas, 1969). This led to claims that there was a “natural history” of professionalization, with a series of stages resulting in fully-fledged professionalism (Wilensky, 1964). Functionalists argued for a more refined theoretical trade-off between professions and society. They believed that these occupations used non-exploitationally esoteric knowledge of great significance to society in exchange for socio-economic privileges (Barber, 1963). Crucially, the state was seen as underwriting professional privileges as part of a consensually-oriented social system.

However, this approach to professional formation was criticized with the attack on professions in the 1960s/70s counter culture (Roszak, 1995). It was argued that

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the trait and functionalist schools had all too readily accepted the benevolent ideologies of professional groups and a less glossy interpretation of their emergence and ascendance was required (Roth, 1974). More challenging macro-theoretical perspectives on the formation of professional groups were therefore developed, in which the state was central—notably, the Marxist approach and Foucauldianism.

The Marxist approach to professionalization sees professions in terms of the class divisions of capitalism, as opposed to a meritocratic industrial society. However, there are disputes amongst Marxists over where professions reside in relation to the class divide (Carchedi, 1977). Whilst some Marxists see professions as being proletarianized in the labour process under capitalism (Braverman, 1998), many view them as having gained their lofty position from either acting as agents of social control for the capitalist class (Esland, 1980) or being part of the capitalist class itself (Navarro, 1986). Whilst there are more subtle versions of this approach, a number can be challenged because the privileges of occupations like the clergy arose before capitalism (Portwood & Fielding, 1981) and the state is seen as tautologically serving the long-term interests of capital (Saunders, 2007)—resulting in claims about professions immune from counterfactual analysis (Saks, 1995).

Parallel issues afflict some Foucauldian views of professional groups. These are centred on seeing the rise of professions as part of the growing ethos of governmentality based on the institutionalization of expertise in the normalization, legitimation and regulation process in rendering populations governable (Foucault, 1991). On this basis, the rationality of scientific progress linked to professions was critiqued in areas from dentistry (Nettleton, 1992) to geriatric medicine (Pickard, 2010). Johnson (1993, p. 142) argues from a Foucauldian perspective that “the institutionalization of expertise in the form of independent professions was integral to the emergence of the modern state”, where the state is defined as a cluster of institutions, procedures, tactics, calculations, knowledge, and technologies related to governance (Johnson, 1995). However, such work has been challenged for being too abstracted and insufficiently empirically supported (Macdonald, 1995). Moreover, viewing professions as an integral part of the state limits understanding of the complexity of state-profession relations (Saks, 2015). Foucauldians are also not always successful in offering cogent explanations of the success of particular groups in professionalizing—it seems more applicable to professions like law than less centrally state-linked groups like architects and osteopaths.

The neo-Weberian approach to professionalization

In considering professional formation with reference to the state, the most helpful macro-perspective is arguably neo-Weberianism. This approach sees professional formation in terms of exclusionary social closure underwritten by the state, based on the interplay of interest groups (Saks, 2010). This conflict-oriented analysis avoids the embedded positivity of trait and functionalist approaches. In addressing the historical and structural aspects of professionalization, it also sidesteps self-fulfilling conceptions of the state intrinsic to many Marxist and Foucauldian analyses. However, as Saks (2016) has highlighted, while neo-Weberianism allows the systematic empirical analysis of professions and professionalization, it has not always been sufficiently evidenced and balanced in its assessment of professional groups. This, though, is not intrinsic to the approach and does not diminish its utility.

Neo-Weberianism of course has theoretical links to the other perspectives considered. This is illustrated by Larson (1977) whose classic neo-Weberian analysis of professional projects owes much to Marxism, while her later discussion of professions is more Foucauldian (Larson, 1990). The neo-Weberian approach, though, is centred on the relations of the market rather than those of production, as in the Marxist perspective (Saks, 2012). Here the focus is on how particular occupations regulate the market in their favour through the state by legally restricting access to socio-

economic opportunities to a limited group of eligibles (Parkin, 1979). The strategy of controlling the supply of entrants to occupations to improve their market value within neo-Weberianism is seen as occurring through direct market control of services by self-governing professional groups (Parry & Parry, 1976). However, sometimes such market control is derivative—from either legitimate organized occupational autonomy (Freidson, 1970) or producers defining the needs of the consumer and their satisfaction (Johnson, 1972).

A key feature of neo-Weberianism is that occupational status groups “mobilize their members” in face of competition to extend and secure their market position with state support (Parkin, 1982). This involves gaining legal privileges restricting access to resources, which enhances the income, status and power of insiders. This approach has been applied to professions ranging from law (Burrage, 2006) to medicine (Saks, 2015) in the Anglo-American context. It has also increasingly encompassed less successful attempts at full professionalization, including those of nurses and teachers based on the concept of “dual closure” outlined by Parkin (1979). The latter covers both state-endorsed exclusionary closure and usurpatory closure based on defensive unionized strategies linked to the working class. More recently, such tensions within professions have been represented in neo-Weberian work by the concept of “hybridization”, reflecting the often contradictory pull of corporatization and professional bodies (Noordegraaf, 2018).

The neo-Weberian approach has yielded many insights into professional formation, including understanding of the interface between different occupational jurisdictions in the system of professions (Abbott, 1988). It has also underlined the importance of gender in professionalization strategies (Witz, 1992) and the subsequent exclusion, segmentation, and stratification of women in professional projects in fields like law, teaching and management (Bolton & Muzio, 2008). Recent neo-Weberian analyses have highlighted international influences on the politics of professionalization, such as the impact of mutual recognition arrangements and transnational migration in the European Union (Olgiati, 2003). This has linked neo-Weberianism with neo-institutional theory, which depicts professions as battling other parties in an ecological system of institutional forms—from professional service firms and global business corporations to transnational governance organizations and the state itself (Suddaby & Muzio, 2015).

Further mention of the state and professional formation—including professional reformation in a fast-changing modern world (Light, 2010)—reveals a weakness in the neo-Weberian approach. This limitation is the relative lack of attention neo-Weberian theorists have given to the state. States ensure selected occupations achieve professional social closure, but the role of state actors passes comparatively undocumented. As Parkin (1982, p. 101) observes, the “state is a shadowy body that hardly intrudes upon the scene.” Consequently, neo-Weberian research on professions frequently minimizes the role of the state—without appropriately theorizing and empirically substantiating its role and that of associated actors. Thus, Gilb (1966) depicts state actors as passively acquiescing to professionals’ demands, while Gorman and Sandefur (2011) illegitimately view professional groups as being serially undermined in neo-liberal societies by increasing corporatization and marketization.

As has been seen, this fault is not unique to neo-Weberianism. Marxist writers often do not analyze the inner workings of the capitalist state in examining professional groups in society (Poulantzas, 1975). For Foucauldians too, the governmentality on which the professional ascendance is based may be conceived as a social process independent of the decision-making or intentions of state actors (Johnson, 1993). Thus, the role of state actors in professional formation from both perspectives can remain vague and untheorized. As a result our understanding of profession creation, professional regulation, and profession-state relations may be incomplete. To unlock this, we need to return to Weber’s own theoretical work, recognizing he never wrote directly about professions, as the notion had not yet migrated into German

(Swedberg & Agevall, 2016). Instead, neo-Weberian writers like Parkin (1979) have simply drawn on key concepts from Weber—particularly “social closure”—to analyze the professions. It is now proposed to go back to Weber’s work for a theoretical resolution of state-profession relations and regulatory outcomes.

Drawing on Weber in understanding professions more expansively is not novel (Evetts, 2006). However, neo-Weberian theorists of professions have largely ignored Weber’s work on the state and social action. This paper argues that Weberian conceptualizations of the state, social action and rationality shed light on professional formation, especially state decision-making on professional regulation. Social closure theory illuminates why professions seek market and social privileges, and how they endeavor to obtain these perks. However, effective social closure requires state sanction (Saks, 2015). We cannot understand profession formation and change fully without considering the activity of state actors. In the sections that follow we provide a sketch of Weberian theory on the state and social action, and subsequently highlight its utility by applying it to the case of the 1858 UK Medical Act. We contend this approach—in reaching across the macro, meso and micro levels of analysis—not only helps to illuminate the black box but provides a blueprint for future research into state-profession relations.

Weber and state social action

Weber (1968, p. 54) defined the modern state as “a compulsory political organization with continuous operations ... [whose] staff successfully upholds the claim to the monopoly of the legitimate use of physical force in the enforcement of its order.” Among the state’s key characteristics is the possession of an “administrative and legal order subject to change by legislation, to which the organized activities of the administrative staff are oriented, which are also controlled by regulations” (Weber, 1968, p. 56). Thus, the modern state is highly bureaucratized and dependent on the work and advice of experts.

However, Weber distinguished state bureaucracy from parliament, state leadership and its advisory, collegiate bodies such as the cabinet or privy council. Thus, for Weber, the state is not a single entity, but a complex of institutions and actors (Anter, 2014; Hübinger, 2009). Within these institutions, state actors form political factions, which may have different interests and objectives, and which may be in tension with each other (Dusza, 1989). Actors working within state institutions, and those participating in parliament, are like social actors generally: people with their own interests, values and ideals, which shape their activity. Although the modern state is, at least in part, a product of rationalization, and is heavily rule-driven, values and interests are still very much a part of state activity (Weber 1968). This duality results in tensions (Anter 2014; Hübinger, 2009), which are particularly evident, according to Weber, within state parliaments where values clash but compromises are reached. Through the clash of values, and tensions between various political and state forces, policies and laws are formed.

For Weber, then, political and state activities are generally tied to social action. Thus, to understand state activity, it is helpful to review Weber’s writings on social action. Weber defines social action as behaviour to which actors attach meaning taking into account, and oriented towards, the behaviour of others. For him, the study of social action is the “central subject matter” for sociology (Weber, 1968). Weber’s definition of action is broad, such that even failure to act and passive acquiescence are included. He identifies four non-exhaustive types of action. The first two types are particularly relevant as they capture conscious, goal-oriented activity. Here Weber distinguished instrumentally rational action from value-rational action. Instrumentally rational action is pursued to achieve “calculated ends”. In contrast, value-rational action is “determined by a conscious belief in the value for its own sake of

some ethical, aesthetic, religion, or other form of behavior, independent of its prospects of success” (Weber, 1968, p. 24-25). Value-rational action is therefore tied to values or principles, whereas instrumentally rational action is intended to achieve a specific goal. The other types of action mentioned by Weber are less consciously pursued—*affectual* action that is emotionally based and *traditional* action determined by “ingrained habituation” (Sterling & Moore, 1987).

The two types of rational action are shaped by rationalization processes. Weber (1968) identified four different types of rationality: practical, theoretical, substantive and formal. By rationality, Weberians refer to the “means-ends calculations that determine how decisions are made” (Geva, 2015, p. 172). Unfortunately, Weber never elaborated his discussion of rationality; devoting most attention to formal rationality, rather than the other forms (Levine, 1981; Sterling & Moore, 1987). Subsequently, scholars have relied on scattered discussions of rationality in Weber’s work to produce a more coherent theory (Brubaker, 1984; Kalberg, 1980; Levine, 1981). As Weber used the term “rational” in numerous ways, there are varying interpretations (Eisen, 1978). The meanings attached to “substantive rationality” are particularly controversial. Here much reliance is placed on the Kalberg (1980) interpretation, but there is significant accord with other Weberian scholars drawing on these concepts (Geva, 2015; Levine, 1981; Ritzer & Walczak, 1988; Sterling & Moore, 1987).

According to Kalberg (1980, p. 1152), practical rationality involves the pursuit of interests in given social circumstances—thus “a practical rational way of life accepts given realities and calculates the most expedient means of dealing with the difficulties they present” (see also Levine, 1981). In contrast, theoretical rationality is less directly tied to action as it is centred on abstract concepts. It involves the search for meaning in life and may shape action indirectly, insofar as philosophical beliefs can mould goals and behaviour. On the other hand, substantive rationality orders action in accordance with social values or clusters of values—as exemplified by loyalty, ethics and religious beliefs. It has also been tied to broader societal beliefs about “what ought to be”, including principles of social justice and gender norms (Geva, 2015; Sterling & Moore, 1987). Individuals acting in accord with value-rationality may do so, even at personal cost, because they “act to put into practice their convictions of what seems to them to be required by duty, honor ... or the importance of some ‘cause’ no matter what it consists” (Weber 1968, p. 25). For Weber, substantive rationality was subject to a “radical perspectivism” (Brubaker, 1984) as what appears proper to some, may seem irrational and improper to others. Kalberg (1980, p. 1156) illustrates this with reference to professions: “From the point of view of efficiency and productivity in the economic realm ... all status monopolies, since they restrict the expansion of the free market, are ‘irrational’.” Finally, formal rationality is guided by rules, laws or regulations. It is most associated, in Weber’s work, with bureaucratic domination in modern societies. The rise of bureaucracy, however, does not eliminate other forms of rational action, which can mutually co-exist.

For Weber (1968), then, social action is tied to different types of rationality, with practical, formal and substantive rationality directly related to action. Practical and formal rationality are linked to actors’ means-end calculations: practical rationality is directly tied to interests, while formal rationality is directly tied to rules, laws, and regulations. In contrast, substantive rationality is linked with values. Individuals may adhere to their values, and act in a manner they believe is proper or just, even if they do not think it will serve their interests or conform to other rules. Individuals may face conflicting ends and goals, and must choose which one to pursue. The different types of rationality may inform each other. So, individuals pursuing their interests, or acting according to their values and beliefs, may shape policy in establishing formal rules (Geva, 2015; Kalberg, 1980). Thus, value-rational action may lead to formal rationality; however, formal and instrumental forms of rationality tend to cast value-rationality as irrational (Brubaker, 1984).

Research drawing on Weber’s forms of rationality has focused especially on

the tensions and conflicts between formal and substantive rationality (Sterling & Moore, 1987). For instance, Geva (2015, p. 175) has shown how those working in bureaucratic settings may be given instructions and expected to follow guidelines, but may “interpret and manoeuvre within broad guidelines” to pursue their own interests, or uphold personal values. Ritzer and Walczak (1988, p. 4) have examined the interplay between formal and substantive rationality within professions, arguing that “the spread of formal rationalization is tending to overwhelm substantive rationality”, thereby transforming professional work. The drive for efficiency, combined with changing rules and regulations, threaten to undermine traditional professional values of public service and autonomy. The authors predict that the spread of formal rationality will undermine professionalism, but admit this is not the only potential outcome. Indeed, although Weber highlighted the emergence of formal rationality in many spheres of life (Kalberg, 1980; Sterling & Moore, 1987), he did not predict that it would undermine all other forms of rationality (Anter, 2015; Hübinger, 2009). Rather, Weber believed that social action would continue to be shaped by multiple forms of rationality.

Weber is clear that state institutions are mutable, and characterized by “a complex of joint [social] action” (Anter, 2014, p. 86). The modern state is profoundly influenced by formal rationality and trends in rationalization; however, other rationalities and irrationalities are present. As Anter (2014, p. 193) argues, “the state can only be as rational as the action and thought of the humans who staff it and with which it deals.” State activity, in this sense, is the product of the activity of the individuals within it. Weber (1968, p. 14) was explicit in this regard:

For sociological purposes there is no such thing as a collective personality which “acts”. When reference is made in a sociological context to a state, a nation, a corporation, a family, or an army corps, or to similar collectivities, what is meant is, on the contrary, only a certain kind of development of actual or possible social actions of individual persons.

To the extent that individual action is shaped by a multiplicity of values, the same is true for the actions or activities of collective actors. For Weber, associations, like professions, usually pursue their members’ interests and/or are motivated by their “adherence to a set of common values” (Weber, 1968, p. 41). Nevertheless, individuals within these collectivities will differ. Political social action is similar. Weber (1968, p. 55) distinguished political action—the “actual organized action of political groups”—from “politically-oriented” action, which was organized social action aimed at “exerting influence on the government of a political organization, especially at the appropriation, expropriation, redistribution or allocation of the powers of the government” (Weber, 1968, p. 54). Therefore when a professional group lobbies the state for regulatory privileges it is engaged in politically-oriented action. When state actors respond, they are engaged in political action. In character, both types of action are similar—shaped by rationality and guided by values, interests, and goals.

Weber’s ideas on the state, action, and rationality can be brought together to inform our understanding of professional projects, state activity, and state-profession relations. Neo-Weberian accounts of the creation of professions have focused on professions’ efforts to obtain social closure to improve their market share and increase their incomes. Adopting the social action approach of Weber (1968) provides a more fulsome view of professional projects as activity shaped by practical rationality (means-ends calculations), formal rationality (guided by rules and law), and value rationality (including ideals of public service, honour and prestige, ethics, and the value of science), as well as interests and other factors. Profession creation reflects a variety of rationalities and values, as well as formal rationality.

When state actors pass legislation regulating professions, they are not simply responding to a request from professionals. Neither is it necessarily the case that they do so to pursue their own governmentality projects (as Foucauldian explanations

frequently contend), or seek to protect the interests of capital (on more Marxist lines). Rather, when state actors legislate in favour of, or against, professional groups they may be influenced by the lobby of politically-oriented groups, as well as practical, substantive, and formal rationality. That is, state actors may see personal or political gain in regulating a profession. Conversely, they may wish to regulate a profession because of value-rational principles such as access to justice and the broader public interest. In addition, state actor decision-making may be influenced by factors like formal rationality, including legal precedent based on existing regulation. When professionals mobilize to lobby legislatures for regulatory privileges, they face a complex environment where other groups may be making different claims. Thus, a variety of interests and values combine to shape the process of professional formation.

Adopting an enhanced neo-Weberian approach also highlights the social-historical context since values and interests vary across time and place. Thus, one would expect regulatory outcomes to vary as well. To understand these variations in professional regulation and state-profession relations better, research should seek to identify precisely what values, interests and rationalities appear to shape state actor decision-making in given socio-historical contexts, as well as how other politically-oriented groups shape parliamentary debates and tensions. In this manner, extending the neo-Weberian approach to professions to encompass Weber's views of the state, social action, and rationality promises not only to enhance our theoretical understanding of profession-state relations, professional regulation, and variations across time and place, but also to inform empirical research on regulation as well.

To summarize, through an enhanced neo-Weberian approach, researchers can move beyond social closure to consider complex rationalities shaping the actions of professional and state actors. The state is no longer a "shadowy" entity, but is comprised of actors in a formal-rational, bureaucratic context, whose decisions and activities are shaped by practical, substantive and formal rationality. To understand professional regulatory outcomes, researchers should therefore explore theoretically and evidentially the interests, values, and formal constraints and considerations shaping state actor activity, and consider when—and the extent to which—the interests and values of state actors coincide with professional groups in policy-making. This kind of analysis is facilitated by some neo-Weberian writers—not least Saks (1995) who has empirically operationalized key concepts such as "self-interests" and the "public interest" in professional decision-making. We now illustrate the value of an enhanced neo-Weberian approach by examining the classic case of the 1858 Medical Act in the United Kingdom.

Applying the neo-Weberian perspective to professional regulation: A case study opening up the black box

The events leading to the landmark *Act to Regulate the Qualifications of Practitioners in Medicine and Surgery* in 1858 in the United Kingdom resulting in a state-supported medical profession have been considered from various macro-theoretical perspectives—including the Foucauldian and Marxist schools that have been critiqued. Foucauldians see this mid-nineteenth century medical legislation as embodying the institutionalization of expertise to support modern governance and extend governmentality (Johnson, 1995). Marxist writers like Navarro (1978) view the emergence of the medical profession as reflecting capitalist class relations, given its contribution to capital accumulation by the bourgeoisie in addressing the disease and diswelfare generated by capitalism. However, both these approaches are flawed. While Foucauldians highlight the interests of state actors, they are limited in ascribing to them simply one driver—the use of expertise to enhance governance. Marxist writers similarly are too fixated on the influence of the dominant interests of the bourgeoisie over the state under capitalism to the exclusion of other parties. Some neo-Weberian contributors, though, have focused on the wider patterns of agency

involved.

For neo-Weberian scholars the 1858 Medical Act represents a successful collective mobility project in which medical practitioners—including apothecaries, surgeons, and physicians—pursued and organized social closure to reduce competition in the crowded marketplace for medical services in a modernizing industrial society. This was largely focused on enhancing their income, status, and power, with a successful outcome after many years of lobbying the state (Parry & Parry, 1976). For other related contributors, such as Berman (2006), a neo-institutionalist, this case shows how different interest groups organized themselves sufficiently coherently to accomplish professional projects. She argues that, to understand how medicine obtained regulatory legislation after numerous attempts, we must consider the structural locations and organizational acumen of the medical groups involved. On their own, however, these neo-Weberian and interlinked neo-institutionalist perspectives are not able to fully account for the 1858 Medical Act. Neo-Weberians tend to focus on how professional actors positioned themselves to obtain regulatory legislation, paying less attention to the state actors who passed that legislation. Drawing on Weber's theories of rationality and social action, we argue that wider interests shape state and professional activity.

The drivers of the medical profession in seeking regulatory legislation in the mid-nineteenth century are well-documented in historical and sociological literature (Saks, 2015; Waddington, 1984). Closer examination of the parliamentary legislative debates surrounding the 1858 Act, however, provides a broader neo-Weberian perspective on the range of interests involved, particularly of state actors—and allows a more penetrating look inside the black box. When members of the Houses of Commons and Lords discussed medical legislation in 1858, they displayed a plethora of values and principles, practical concerns, and formal-rational considerations influencing regulatory outcomes, in terms of Weber's work. The final legislation was not simply the product of the medical profession's demands, or even state actors' political goals, but rather a range of principles and interests, from substantive-rational concerns for public well-being to formal-rational concerns for standardization and practical concerns about expediency and cost in a developing liberal democracy. It is only by examining all these interests, and the interplay between them, that regulatory outcomes can be understood.

When members of the House of Commons debated medical legislation in 1858, they were wary. Bills to regulate medicine had been proposed on eight previous occasions from 1841 without success (Parry & Parry, 1976). As Abbott (2005) argues, the Act of 1858 was partly politically motivated. The provision of medical services had become a state concern, because various state initiatives involved medical doctors. During the 1858 session, state legislators also discussed amendments to public health legislation, university reform, the health of the armed forces, public sanitation, and the expense of public medical officers. These all referenced the medical profession. Establishing a uniform system of qualification was a concern for the state. That the major medical colleges, associations, and universities shared an interest in regulatory legislation, provided an opportunity for state actors to seize the moment.

When introducing the bill in 1858, William F. Cowper clarified its aims. It sought to establish one qualification across the United Kingdom, to enable the public—and the state when granting public offices—to distinguish the medically qualified from the unqualified. Medically qualified practitioners would be named on a national register maintained by a council containing representation from different medical colleges, associations, and universities. The bill was said to serve the interests of the medical profession, the public, and the state. The medical profession “would derive the benefit of an organization [the Medical Council] which it never had before” (Cowper, 1858, p. 651), while the public—particularly the “less educated portion of the community”—could “ascertain what practitioners were really qualified, and in what the nature and extent of their qualification consisted” (Cowper, 1858, p. 648). Cowper offered two advantages for the state. First, it would facilitate governance as

“there were a dozen Acts of Parliament concerning the medical profession always referring to qualified persons, but none settling what the qualification should be” (Cowper, 1858, p. 649). Second, since medical doctors filled appointments “connected with the army, navy, friendly societies, or other institutions,” clear qualifications were needed to prevent the appointment of unqualified persons (Cowper, 1858, p. 648-649).

In addition to the political and governance goals of the state, the 1858 Act was advocated on the formal-rational grounds of standardization and efficiency in Weber’s terms. One priority for state actors was to supersede the inefficient and confusing situation in the United Kingdom: in England the criteria to practise in London differed from the countryside; licensing power was held by colleges in some areas and universities in others; and licensing practices differed between England, Scotland, and Ireland. The existing laws were, therefore “in many respects obsolete” producing “anomalies” and even “absurdities—with regard to the privileges conferred” (Walpole, 1858, p. 1411). Standardization was lauded as the solution based on countrywide criteria and qualifications for entry to practice. This argument was advanced on value-rational and rational-legal grounds, as existing statutes—in some cases dating back to Henry VII and Henry VIII—were deemed outdated and “inapplicable to the times in which [they] lived” (p. 1411). Some legislators saw these statutes as historically valuable (Cowper, 1858, p. 649), while others dismissed them as “a nuisance to everybody in London and seven miles around it” (Duncombe, 1858, p. 1419). Most legislators agreed, however, that medical legislation needed regularizing and updating.

Practical-rational concerns were also clear from a Weberian perspective in legislative debates about the medical bill. Given that prevailing regulation was not working, one solution was to start again—eliminating existing colleges, and the infighting between them, and establishing a new, more efficient, regulatory system. Cowper (1858, p. 650), however, rejected a radical approach as he thought it would be “wise to make the least amount of change that was necessary”. He argued that previous legislative attempts had failed due to their complexity and challenge to existing practices. Therefore, Cowper (1858, p. 650) claimed that:

The best course would be to leave the examination to be conducted by the present licensing bodies, under the general control and supervision of a general council, to whom power should be given to decide upon what examination should be required, or what certificates should be produced before any person could be placed upon the register.

Most Members of Parliament (MPs) speaking on the bill felt it was more practical to work with existing institutions, and implement incremental change to appease medical associations and universities, and to minimize public confusion. Legislators also demonstrated practical interests in debates around the cost of regulation. MPs saw the 1858 Medical Act as the most expedient, low-cost, solution.

Substantive-rational considerations are also evident in legislative debate on the 1858 Medical Act. Various principles and considerations of fairness were raised by MPs in an emerging liberal democratic society. In its second reading in the House of Commons the Home Secretary, Spencer Horatio Walpole (1858, pp 1414-1415), summarized the government’s view that successful medical legislation had to meet three principles—“reciprocity of practice, a register of ascertained duly qualified practitioners, and a supervising council”—if it was to “accomplish their object without causing a great disturbance in the profession.”

Following these principles, Walpole felt it would meet other goals, including minimizing conflict within the profession and giving more confidence to the public. He explained that even this minor reform would “elevate the profession, give satisfaction to the public, would be a safe and prudent step to take, and would not introduce any serious impediment in the way of any further legislation which it might be

found necessary to adopt” (Walpole, 1858, p. 1417).

From a Weberian perspective, other principles related to those outlined by Walpole underlining the substantive rationality of the state are evident in legislative debates on the medical bill. Walpole, Cowper, and many other MPs argued that the public in a liberal democracy should have the ability, indeed the right, to know who was and was not qualified to practice medicine. At the same time, the public should be free to choose practitioners. In the words of Cowper (1858, p. 648), it was important “to guard the right of private individuals to consult whomsoever they pleased, whether they happened to be learned or unlearned.” Legislators also discussed the standard of services provided where the need for modernization was also expressed: new standards should be “maintained up to the standard of modern science and practice” (Cowper, 1858, p. 648). There was concern that prevailing standards were too low, and it was suggested legislative change could result in “more skilful treatment” and “reducing the competition of those who underbid one another from the want of remunerative practice” (Cowper, 1858, p. 650). Many legislators agreed with the goal to “elevate the profession and secure a more efficient body of practitioners” (Brady, 1858, p. 1410), but not all MPs were convinced the proposed bill would be successful in practice (Black, 1858; Walpole, 1858). Nonetheless, the principles of public choice and access to high-quality services were often raised in, and shaped, legislative debates on the bill.

Many different views, though, were expressed by MPs during such debates in the House of Commons and the House of Lords. A minority supported a free market in medicine. For example, Thomas Duncombe (1858, p. 1418) argued that MPs “ought to leave the public to take care of themselves in medical matters.” However, most MPs favoured the legislation underpinning the Medical Act, with all of its benefits for the profession, public, and state.

This analysis of the 1858 Medical Act reveals that state actors considered a wide span of concerns and interests when debating the legislation. While these included political issues and governance, as well as the interests of the various medical sub-groups, legislators also had many practical, formal-legal and substantive-rational concerns and interests in Weberian terms that impacted the outcome. The regulatory solution implemented in 1858 sought to meet multiple concerns and values. Its passage cannot, therefore, be fully understood without employing Weber’s theories of the state, social action, and rationality. Notwithstanding the need to avoid the theoretical and methodological bear traps of confusing subjective preferences with objectively defined interests (Saks, 1995), the records of the parliamentary discussion of the 1858 Medical Act indicate the significance of the practical, formal and substantive dimensions of thinking of state actors, in addition to other better documented aspects of the neo-Weberian analysis of professional formation through social closure.

Conclusion

Agreement is lacking on how to theorize professions and professional regulation and all too often accounts of professional formation downplay the importance of state actors. Proponents of neo-Weberian social closure have focused on the efforts of professional groups to restrict access to socio-economic opportunities to outsiders with the assistance of the state. Such accounts, though, risk treating state actors as passive recipients of their claims, rather than actors with their own interests and goals. Some scholars seeking to theorize the state have turned to Foucauldianism, but this does not necessarily capture the complexity of legislators’ interests and activities—nor does the work of many structural Marxists. This paper argues that research into professional formation should follow an enhanced neo-Weberian approach based on the importance of exclusionary social closure, but incorporating a broader under-

standing of social action shaped by formal, substantive and practical rationality, especially for state actors.

We believe this provides a more incisive approach from a neo-Weberian perspective. In our case study, the British Medical Association (BMA) did indeed influence legislative outcomes (Vaughan, 1959; Waddington, 1984). However, medical regulation was not simply the result of such doctors' lobbying as the BMA did not feature directly in official reports of legislative debates about the 1858 Medical Act and many of its proposed reforms were not supported (Parry & Parry, 1976). None of the medical colleges and groups were entirely satisfied with the Act (Berman, 2006). Nevertheless, it protected many of the rights and privileges of existing medical institutions, and secured a privileged market position for doctors through a *de facto* monopoly centred on recognized qualifications, despite calls for a free market in medicine (Berlant, 1975). Here the Act appears to have met key goals and interests of both state actors and medical doctors—and can only be understood as the product of their interplay, informed by seeing state players as agents whose social action is shaped by rational, substantive and practical rationality.

In this paper, state actors—and, to a lesser extent, incipient professions—are seen as key stakeholders in shaping professional regulatory outcomes. However, to fully understand professional formation, other stakeholders must be considered. This is highlighted by the related neo-institutional approach which sees additional parties like consumer groups, business leaders and other occupations and professions influencing the type of regulation put in place (Saks, 2016). Our extended neo-Weberian approach based on Weber's work can be applied to these groups too, allowing us to explore the social values, interests and practical concerns driving their activity in sculpting regulatory arrangements. Attention to the broader socio-political context is also needed in understanding the interplay between stakeholders (Meyer & Jepsen, 2000).

The main point of this paper, though, has been to go beyond the frequent depiction of state actors as passive assessors of professional claims within the neo-Weberian perspective and do greater justice to the complexity of state decision-making. This is vital if the dynamics of professional formation are to be better grasped with deeper penetration into the black box of state sponsorship of professional monopolies. Although more work is required in opening up the black box of state decision-making in particular cases of professional social closure, this paper provides the conceptual tools to take the field forward from a neo-Weberian perspective.

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