

LICENSED TO MOVE: Pathways, principles, and pitfalls for interstate practice

“THERES DIGNITY IN
ALL WORK. AND
WE KNOW THAT
WHETHER YOU
MAKE YOUR LIVING
AS A PLUMBER, A BARBER, A
NURSE, OR ANYTHING ELSE, YOU
DON'T LOSE YOUR SKILLS SIMPLY
BECAUSE YOU MOVED HERE.

Arizona Gov. Doug Ducey, upon signing
AZ House Bill 2569, the nation's first
universal recognition licensing legislation.

Gov. Ducey is correct that individuals do not lose valuable knowledge or expertise simply by moving across state lines. However, the public's trust in rigorous standards that lead to consumer health, safety, and welfare could be lost if interstate licensing is not designed correctly.

The Alliance for Responsible Professional Licensing (ARPL) supports policies and legislative initiatives that seek to build pathways to interstate practice for professionals in highly technical professions. ARPL represents professions and licensing boards that have more than 100 years of combined experience in creating greater flexibility for professionals and is uniquely positioned to offer best practices

that could be helpful as lawmakers work to achieve interstate practice for a broader mix of professions and occupations. This paper explores several examples of how states can responsibly accomplish flexibility and mobility.

ONE GOAL, THREE PRINCIPLES

The demand for enhancing interstate practice is readily apparent and evidenced by a surge of legislative proposals during the past two years.¹ The marketing of Arizona House Bill 2569 as a “universal” pathway to deliver greater economic choice and liberty is undoubtedly attractive, with multiple motivating factors contributing to its appeal:

- a) Economic (e.g., ensuring an adequate supply of workers or meeting consumer demand for services);
- b) Ideological (e.g., a belief in limiting the encroachment of government); or
- c) Political (e.g., supporting certain constituencies such as military spouses or members of underserved communities).

However, underpinning this drive to “universality” is the application of a “one-size-fits-all” solution across myriad professions and occupations. This is not an indictment of the desire for uniformity. Uniformity is necessary to enhance

¹In 2019 and 2020, 90 bills to create or expand reciprocal licensing were introduced across 33 states. Of these, only 20 passed, and the vast majority were applicable only to active duty U.S. military and their spouses.

interstate practice. **The problem is that applying a solution without first acknowledging the diversity between, and within, occupations and professions compromises time-tested models, frustrating, instead of enhancing, interstate practice goals.** The question at hand is how to avoid the unintended consequences of overly broad reform models. The first step is selecting an appropriate and suitable model.

There are several models available, depending upon the policy priorities a state is trying to achieve. For example, is the priority to construct an interstate mobility system that recognizes licensees from states with substantially similar requirements? Or, is it to facilitate reciprocity by requiring out-of-state individuals to obtain a new license through an expedited application process? Either model can create an occupation- or profession-appropriate model.

Three guiding principles provide a simple roadmap for interstate practice reform:

- 1) Recognize mobility and reciprocity systems that work
- 2) Develop substantially equivalent requirements for education, examination, and experience — the “three Es”
- 3) Provide adequate public protection

By embracing these principles, states will have more predictable, implementable and sustainable interstate practice systems that benefit the public and the professions or the occupations being reformed. These guiding principles provide a framework for policies to support professional growth and mobility, and to ensure public health, safety, and welfare.

PRINCIPLE NO. 1 **RECOGNIZE MOBILITY AND** **RECIPROCITY SYSTEMS** **THAT WORK**

Both mobility and reciprocity are built upon state-based licensing. Either will accelerate interstate practice, but each is unique and may have varying costs and benefits, depending on the occupation or profession. The fact that these terms often are used interchangeably in proposals and testimony suggests there is confusion in the policy goals. Clearing up confusion on the front end helps to ensure clarity in the result.

All ARPL member professions (architects, Certified Public Accountants, professional surveyors, landscape architects and professional engineers) have clearly defined interstate practice systems in place. Professionals can obtain reciprocal licenses or have mobility



Mobility
(also known as portability) allows licensees to practice their profession or perform duties in a different state without acquiring an additional license (e.g., CPAs use a mobility model).



Reciprocity
(also known as comity or endorsement) allows states to grant a license based on all or portions of an applicant's qualifications used for initial licensure in another state (e.g., all five professions ARPL represents use reciprocity).



options, giving them the freedom to practice their profession anywhere in the country. For example, the standards for a uniform licensing system are already in place for engineering, surveying, and landscape architecture.

ARPL MEMBER MODEL LAW EXAMPLES

Model laws can create specific statutory or administrative guidelines necessary to support a well-crafted interstate program beyond initial licensure. ARPL members employ model laws as the legal framework to implement uniform licensing requirements across all 50 states and territories.

National Council of Examiners for Engineering and Surveying

The National Council of Examiners for Engineering and Surveying (NCEES) has been providing the Model Law as a resource for member boards and state legislators since 1932, updating it as needed to align with current practices. The Model Law reflects best practices as determined by the NCEES member boards and serves as a model for individual state or territorial practice legislation to promote uniformity and simplify interstate licensure for professional engineers and surveyors.

Changes to the Model Law typically go through a two-year process of committee study before being presented for debate and adoption by the full Council membership, which consists of engineering and surveying licensing boards in all U.S. states and territories. A majority of state licensing boards expedite the comity licensure process for engineers and surveyors who meet the Model Law requirements for education, experience and examination. In most of these cases, a license to practice in an additional state can be issued within only a few days.

Additionally, NCEES offers Model Rules, which complement the Model Law by explaining broad provisions stated in the Model Law and offering the details from an administrative

perspective. NCEES Model Rules are designed to assist member licensing boards, board counsel, and board administrators in preparing and updating board rules.

Council of Landscape Architectural Registration Boards

Council of Landscape Architectural Registration Boards (CLARB) Model Law and Regulations are a resource for legislatures and licensing boards addressing a range of issues, from public protection to reciprocity. Similar to the NCEES Model Law, the CLARB Model Law promotes uniformity in licensing laws (affording predictability, commercial efficiency, and enhanced trust in the profession), establishes minimal standards of competence, and facilitates professional reciprocity.

Additionally, CLARB Certification facilitates interstate practice by expediting reciprocal licensure across the United States and Canada. CLARB Certification is a distinction that signifies an applicant has met broadly accepted professional standards that are based on state licensure requirements. CLARB Certification carries a recommendation that the applicant is granted licensure without further review. This industry-recognized tool enables licensing boards to fast track reciprocity and is used in almost every jurisdiction. CLARB Certification expedites the licensing process by verifying an applicant's credentials for meeting licensure requirements and reduces steps within the process.

RECOMMENDATION

Lawmakers should look to the previously outlined models as examples of interstate practice systems that work and are lauded for their success. Legislators should also work with professional associations and state licensing boards to familiarize themselves with existing model laws, including interstate practice systems.

PRINCIPLE NO. 2
DEVELOP SUBSTANTIALLY
EQUIVALENT REQUIREMENTS
FOR EDUCATION, EXAMINATION,
AND EXPERIENCE — THE
“THREE Es”

A high-functioning, interstate practice system depends upon “substantially equivalent” requirements and qualifications for initial licensing between states. Substantial equivalency is commonly described as jurisdictions requiring comparable amounts of education, the passage of a uniform national exam, and experience, the “three Es.”

Substantial equivalency helps ensure all professionals are licensed and regulated equally, regardless of where they practice or who employs them. Substantial equivalency signals the completion of minimal qualifications to boards and the public. In the CPA profession, the Uniform Accountancy Act houses the initial licensure requirements under substantial equivalency:

- 150 hours of education
- Passing the Uniform CPA Examination
- One year of work experience

ACHIEVING THE THREE Es
THROUGH MODEL LAWS

Through model law recommendations, boards assist legislatures to establish the standards for the Three Es. In 1970, the National Council of Architectural Registration Boards (NCARB) published *NCARB Model Law and Regulations*. The document offers a guide for draft statutory and regulatory language and is a national model for architectural regulation. The NCARB Model Law and Regulations help the NCARB’s Member Boards carry out their mission to protect the public, by regulating the practice of architecture, and is a resource for jurisdictions as they update their practice.

NCARB’s Model Law and Regulations create a legal framework that is flexible, adaptable, and responsive to each jurisdiction’s constitutional authority in determining the appropriate level of protection for its citizens. Not all model language will be — or is expected to be — adopted by all U.S. architectural licensing boards. Instead, the document is designed to be a resource that

THE FIRST MODEL LAW TO
REGULATE THE PRACTICE OF
PUBLIC ACCOUNTANCY WAS
PUBLISHED IN 1916.



provides a national model, which assists boards in navigating challenging areas of architectural regulation, offers consistent licensing and regulatory standards, is easily adapted to fit the diverse needs of NCARB's members, and will serve as the foundation for future enhancements to the reasonable regulation of the profession.

In ARPL's collective experience, model law development is best achieved when professional associations and licensing boards work alongside policymakers.

RECOMMENDATION

We suggest including legislative language such as, "applicant has met standards substantially equivalent to or greater than required in this state" or "compare the authorized scope of practice in the state the applicant is licensed in."

Additionally, we strongly advise states to begin working with neighboring states, or states that might bring in an influx of applicants, when implementing substantial equivalency. This will mitigate the risk for states with more stringent requirements receiving applicants from states that do not have the same requirements.

PRINCIPLE NO. 3 PROVIDE ADEQUATE PUBLIC PROTECTION

Professional licensing statute enforcement is essential to ensure the protection of public health, safety, and welfare. Clearly defined enforcement and oversight functions of licensing boards instill confidence, from both licensed professionals and the public, in a state-sponsored regulatory system. Uniformity and oversight should not end at initial licensure; it should continue throughout the career of professionals.

ROLE FOR PROFESSIONAL LICENSING BOARDS

The public is best served when state regulatory boards, duly constituted under state law, are free to regulate professional licensure on behalf of the public. In addition to public sector participation, boards are generally composed of qualifying individuals who have met appropriate education, experience, and competency standards for licensure and who adhere to the ethical practice of their profession. The public interest also is best served when the judgment of technical qualifications and the evaluation of professional competence is made by licensing boards that include members who are licensed in the profession.

ARPL members have their standards codified into state laws and regulations:



Model law and model regulations

Provide guidelines for establishing and updating laws, rules, and regulations that are common to all jurisdictions and facilitate reciprocity with provisions that allow for consistent requirements throughout all jurisdictions.



Model continuing education standards

Ensure that licensees remain current in the profession and allow them to continue to learn and expand their skills.



Model code of professional conduct

Ensure that licensees will practice in the best interest of the client and the general public.



State licensing boards are critical to maintaining professional accountability and guarding against unscrupulous practices. Boards are provided authority, by law, to investigate complaints, hold administrative hearings ensuring due process, revoke or suspend licenses, initiate actions for injunctions, or bring civil or criminal charges against licensees. These oversight functions are critical for protecting public health, safety, and welfare, not only at initial licensure, but throughout the career of the licensee.

ACCOUNTABILITY GUARANTEED

Under an interstate practice system, licensing boards can exercise jurisdiction over any licensee practicing in their state or territory, regardless of where the license was issued. The licensee is still held accountable and to the same standards. Giving each licensing board automatic jurisdiction over any licensee practicing in their state enhances public protection and minimizes duplicative regulation.

Moreover, any licensee practicing across state lines can do so without being subjected to redundant compliance requirements, such as notices to the incoming state's licensing board and additional fees. For example, a landscape architect who is licensed in one state and practices in another would face disciplinary action for any wrongdoing from the boards of both states.

In a 2018 policy paper released by the Federal Trade Commission (FTC), *Options to Enhance Occupational License Portability*, the FTC recognized the accounting profession for utilizing model laws to achieve an interstate

practice system. These laws gave the state granting practice privileges and the state granting the original license oversight over the licensee.² At the National Association of State Boards of Accountancy's (NASBA) 111th Annual Meeting, Tara Isa Koslov, chief of staff to the Chairman of the FTC stated, "We recognize accountancy as having done mobility and accountability right." Koslov noted, "Importantly, you are providing disciplinary support beyond state lines."

RECOMMENDATION

In a state-sponsored regulatory system, states should have clearly defined enforcement and oversight functions. Licensing boards instill confidence, from both licensed professionals and the public. Uniformity and oversight should not end at initial licensure; it should continue throughout the career of all professionals.



Common pitfalls to avoid

Without careful attention to avoiding the most common pitfalls, poorly designed systems can fail the professionals they are intended to help and the public that trusts licensing to create minimum qualifications. Well-intentioned proposals to create interstate practice can easily go awry and cause more harm than good.

² Goldman, K. "Policy Perspective: Options to Enhance Occupational License Portability." The Federal Trade Commission, September 2018. www.ftc.gov/system/files/documents/reports/options-enhance-occupational-license-portability/license_portability_policy_paper_0.pdf



COMMON PITFALLS TO AVOID

PITFALL NO. 1 **FORCING ACCEPTANCE OF** **OUT OF STATE LICENSES, WITH** **NO ASSURANCE OF MINIMUM** **QUALIFICATIONS**

Well-functioning interstate practice models are built upon a foundation of substantially equivalent licensing requirements between jurisdictions. These requirements establish the minimum qualifications and competency to practice and are critical to protecting public health and safety. Confidence in the minimum level of qualification allows states to trust licenses from other states, which is an essential requirement for interstate practice.

For professions and occupations without uniform standards, minimum qualifications can vary significantly from state to state. In the absence of consistent, high standards, lawmakers risk creating a system in which their state must recognize out-of-state licenses without any assurance that the license qualifications are on par with their state's requirements. States have no assurance that license holders from other states have met a minimum level of competency. Moreover, the system lends itself to abuse by enabling someone to get licensed in a state with less stringent requirements, then use that license to practice in a state in which they otherwise would not be qualified.

RECOMMENDATION

Model laws, such as those written by ARPL members, allow out-of-state applicants to complete necessary education, experience, and examination requirements and signal that all licensee who meet the requirements are minimally competent to provide professional services and protect public health and safety. If model language is not readily available, states should work with neighboring states to establish minimum requirements that adequately protect the public and to curtail the perverse incentive that leads some individuals to seek out states with low licensure standards.

PITFALL NO. 2 **CREATING NEW BARRIERS TO** **INTERSTATE PRACTICE**

A well-crafted policy should align with the stated objective of the policymaker. Or more simply put, licensing reform to encourage greater mobility should not create barriers that make mobility more difficult.

To illustrate, one-year residency requirements are being inserted into many of the "universal" recognition bills. It is unclear why the residency requirement exists, but it is particularly unnecessary when applied to highly technical

professions that have already solved the issue of uniform competency. For example, a licensed landscape architect, in good standing, can easily obtain a reciprocal license in other states without the residency requirement. More than half of landscape architects already practice in multiple jurisdictions. By instituting residency requirements, newly licensed landscape architects would encounter a barrier that precludes them from bidding on out-of-state projects.

RECOMMENDATION

A better approach is to have minimum substantially equivalent requirements — such as one year of experience — a license in good standing, and no pending disciplinary actions, which help to ensure the public is adequately protected. Additional requirements, such as a residency requirement, unrelated to the health, safety, and welfare of the public, greatly hinders the existing mobility of out-of-state professionals and should not be included in legislation.

CONCLUSION

The highly technical and complex professions the ARPL represents have created and refined systems to provide for mobility in all 50 states and territories, while protecting the health, safety, and welfare of the public. The systems these professions have in place and the lessons ARPL has learned apply to other occupations. Policymakers should leverage the years of combined experience and expertise ARPL has acquired and used some of the best practice guidelines ARPL members produce.

The principles and recommendations outlined in this document provide a clear path to interstate practice. States can establish licensing systems that work for everyone by enacting responsible reform that recognizes proven mobility and reciprocity systems that work; developing substantially equivalent requirements for education, examination, and experience; and providing adequate public protection.

States can support employment growth and encourage consumer choice by establishing interstate practice systems that allow state licensing boards to grant licenses quickly to out-of-state applicants. For licensees, a well-designed interstate practice system allows an individual to seek out additional opportunities in a new location and to get to work more quickly.