Tackling Legislative Trends

John W. Johnson
Director of Legislative & Governmental Affairs, NASBA
NASHVILLE, TN (May 9, 2012) — The National Association of State Boards of Accountancy (NASBA), an association dedicated to enhancing the effectiveness of the 55 state boards of accountancy, is pleased to announce... a new position aimed at serving the legislative and regulatory needs of its member boards.

MISSION DRIVEN – MEMBER FOCUSED
Discussion

• Anti-Regulation

What's up in 2019

• Uniform Accountancy Act

Key Adoptions in 2018

• NC Dental Decision

Federal Legislation
– H.R. 6515
– S 3598
PARTICIPATE IN POLLING QUESTIONS

- Open the NASBA app
- Upper left – click on MENU
- Scroll down to “Polls and Surveys”
- Click on Tackling Legislative Trends
Polling

Question: What year was the 1st Edition of the Joint UAA released:

a. 1916  
b. 1949  
c. 1984  
d. 1992
Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses —

Institute for Justice
Eleven States Chosen for Occupational Licensing Policy Study

In a joint project between the National Conference of State Legislatures, National Governors Association, and the Council of State Governments, 11 states were selected to participate in a peer learning consortium focused on occupational licensing policy.

The 11 states (Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Nevada, Wisconsin, and Utah) will become familiar with occupational licensing policy in their own state, learn about occupational licensing best practices in other states, and begin implementing actions to remove barriers to labor market entry and improve portability and reciprocity.

Learn More about the Consortium
<table>
<thead>
<tr>
<th>LIST OF TARGET OCCUPATIONS</th>
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<tbody>
<tr>
<td>Barbers</td>
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<tr>
<td>Pharmacy Technicians</td>
</tr>
<tr>
<td>Bus Driver (City/Transit)</td>
</tr>
<tr>
<td>Physical Therapy Assistants</td>
</tr>
<tr>
<td>Bus Drivers, School or Special Client</td>
</tr>
<tr>
<td>Pipefitters and Steamfitters</td>
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<tr>
<td>Construction Managers</td>
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<tr>
<td>Plumbers</td>
</tr>
<tr>
<td>Construction and Building Inspectors</td>
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<tr>
<td>Preschool Teachers, Except Special Education</td>
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<tr>
<td>Dental Hygienists</td>
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<tr>
<td>Private Detectives and Investigators</td>
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<tr>
<td>Electricians</td>
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<tr>
<td>Radiologic Technologists</td>
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<tr>
<td>Emergency Medical Technicians and Paramedics</td>
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<tr>
<td>Real Estate Appraisers</td>
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<tr>
<td>Hairdressers, Hairstylists and Cosmetologists</td>
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<tr>
<td>Real Estate Sales Agents</td>
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<tr>
<td>Heating, Air Conditioning, and Refrigeration Mechanics and Installers</td>
</tr>
<tr>
<td>Respiratory Therapists</td>
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<tr>
<td>Heavy and Tractor-Trailer Truck Drivers</td>
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<tr>
<td>Security and Fire Alarm Systems Installers</td>
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<tr>
<td>Insurance Sales Agents</td>
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<tr>
<td>Security Guards</td>
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<tr>
<td>Licensed Practical and Licensed Vocational Nurses</td>
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<tr>
<td>Skin care Specialists</td>
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<tr>
<td>Manicurists and Pedicurists</td>
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<tr>
<td>Teacher Assistants</td>
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<tr>
<td>Massage Therapists</td>
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<tr>
<td>Veterinary Technologists and Technicians</td>
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<tr>
<td>Nursing Assistants</td>
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<tr>
<td>Vocational Education Teachers, Postsecondary</td>
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<tr>
<td>Occupational Therapy Assistants</td>
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<tr>
<td>Water and Wastewater Treatment Plant and System Operators</td>
</tr>
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In 1998, to eliminate “artificial barriers to the interstate practice and mobility of certified public accountants” arising from differing state requirements for licensing, the American Institute of Certified Public Accountants (“AICPA”) and the National Association of State Boards of Accountancy (“NASBA”) added provisions to enhance interstate mobility to the Uniform Accountancy Act (“UAA”). These provisions, which are based on the substantial equivalency of state licensing standards for individuals, have been adopted by 55 jurisdictions, including 50 states, the District of Columbia, and four U.S. territories. The high level of adoption reflects technological advances that have allowed accountants to provide services across state lines electronically, as well as sustained support from the AICPA and NASBA. In 2014, building on the popularity of the individual mobility initiative, the two organizations added provisions for firm license mobility to the UAA; these have been adopted by 21 states.
Comprehensive Definition of Attest

- Adopted the Updated Attest Definition
- Active Attest Legislation Filed in 2018
- Active Attest Legislation filed in 2017 - Carried Over to the 2018 Session
- 2014 Pre-Attest Language
- Partial Adoption of Updated Attest Definition

- Recently Signed Into Law
- Signed Into Law in 2018
Firm Mobility

- States Requiring Firm Registration Under Mobility
- States Not Requiring Firm Registration Under Mobility

Firm Mobility Legislation Filed in 2018

- Recently Signed Into Law
- Signed Into Law in 2018

Legislation as of 10/9/18:
- Active Legislation as of 10/9/18
- Carried Over to the 2018 Session
A non-resident licensee seeking renewal of a certificate in this state shall be determined to have met the CPE requirement (including the requirements of Rule 6-4 (a)) of this rule by meeting the CPE requirements for renewal of a certificate in the state in which the licensee’s principal place of business is located.

(1) Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee’s principal place of business is located by signing a statement to that effect on the renewal application of this state.

(2) If a non-resident licensee’s principal place of business state has no CPE requirements for renewal of a certificate, the non-resident licensee must comply with all CPE requirements for renewal of a certificate in this state.
The Boards have not promulgated any rules to implement the statutory provision. The Board has the authority to determine if the CPE requirements of another state are equivalent to the Board’s requirements. The Georgia Board is in the process of having to promulgate rules under its new statute. Rhode Island and Virginia have full CPE reciprocity for states with an ethics requirement; this excludes AL, GA, ND, SD, UT and WI.
Question: Does your State Board and/or State Society plan on filing UAA related legislation in 2019?

a. Yes
b. No
c. I Don’t Know
Overview of Supreme Court Ruling

6-3 decision (Alito, Scalia and Thomas dissenting)

Majority’s Conclusion: Because a “controlling number” of the Board’s decision makers are “active market participants in the occupation the Board regulates,” the Board is treated as a private actor and must show active supervision by the State.
North Carolina Dental Case

The Supreme Court’s 2015 decision in N.C. State Board of Dental Examiners v. Federal Trade Commission (‘NC Dental Board’) now requires that license-controlled State Boards be “actively supervised” by a neutral state entity in order to enjoy immunity from federal antitrust law.

The Supreme Court’s ruling has left state regulators with questions concerning the extent of the decision’s application to Boards of Accountancy. In order to assist State Boards in understanding those potential applications, NASBA is providing the following white paper, which offers an overview of the pre-competitive aspects of accountancy regulation, the history of state licensing boards, and the effects of the Supreme Court’s decision in North Carolina case, and implications for State Boards of Accountancy going forward.

The paper is also intended to be an evergreen document that may be updated as more regulation and state and federal guidance provide greater clarity on the topic. Additional material can be found using the links below.

* North Carolina Dental Case Decision: Implications for State Boards of Accountancy

Federal Antitrust and State Action Immunity – June 1, 2016

Legislative Support Links

North Carolina Dental Case Decision Webinar – December 10, 2015

North Carolina Dental Case Decision: Implications for state boards in

from N.C. State Board of Dental Examiners, Federal Trade Commission, June 9, 2015

Summary of Legislation Filed

Legislation Filed in Response to NC Dental Decision

NC Dental Board Fallout Cases

Legislative Support Links

North Carolina Dental Case
H.R. 6515 – Occupational Licensing Board Antitrust Damages Relief and Reform Act of 2018

Congressman Mike Conaway (R-Texas) has introduced the “Occupational Licensing Board Antitrust Damages Relief and Reform Act” (H.R. 6515). The purpose of this important legislation is to address the practical antitrust law implications for state professional and occupational licensing boards affected by the Supreme Court’s 2015 decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission.

We need your help to raise awareness of this bill and to encourage members of Congress to support it as we move forward in this Congress and if necessary the next.

The bill would shield state boards, board members and their staff members from damage awards stemming from private antitrust litigation. It would also allow both government enforcers and private plaintiffs to continue to sue for injunctive relief (and potentially recover attorneys’ fees if successful). However, in order for a particular board to obtain the liability relief, the bill states that certain criteria must be met:

- For a new occupational licensing board, the board must have undergone a sunrise review.

Congressman Mike Conaway, CPA

- Former member of the Texas State Board of Public Accountancy
- Former NASBA Chair
“What the legislature ‘give’ in one year can be taken away — or altered — the next year”
### Licensing Requirements

Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses — Institute for Justice
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Institute for Justice
Better position the licensing of CPAs in the eyes of policy-makers and key influencers through the development of a robust communications platform that details the rich history of the accounting profession, articulates the importance of remaining a state-regulated profession, explains the tremendous strides made to reduce barriers as the profession has evolved, and advocates for the profession’s continued strength and integrity by preserving the licensing requirements set forth in the Uniform Accountancy Act.
Accountancy Stakeholders Working Group

- James Corley – Arkansas State Board of Accountancy
- Ronald Gitz – Society of Louisiana CPAs
- Nicola Neilon – Nevada State Board of Accountancy
- Tammy Velasquez (E&Y) – The Accountants Coalition
- Emily Walker – Virginia Society of CPAs
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Discussion and Questions

MISSION DRIVEN – MEMBER FOCUSED