Anti-Regulation & ARPL

The Fight Continues

Executive Directors, Board Staff, Legal Counsel and State CPA Society CEOs
Virtual Conference

March 31, 2020

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Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses —

“Institute for Justice

“Fifty years ago, one in 20 Americans needed a license to work – Today, that number is closer to one in three”

Institute for Justice

Half Told Truths!
37 State Boards of Accountancy have been in existence for more than 100 years – Beginning with the New York Board in 1896!

37 State Boards of Accountancy have been in existence – prior to 1950!

State Boards of Accountancy Beginnings

<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>1919</td>
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<tr>
<td>Alaska</td>
<td>1960</td>
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<tr>
<td>Arizona</td>
<td>1919</td>
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<td>Arkansas</td>
<td>1915</td>
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<td>California</td>
<td>1901</td>
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<td>Colorado</td>
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<td>Commonwealth of the Northern Mariana Islands</td>
<td>2003</td>
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<td>Connecticut</td>
<td>1907</td>
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<td>Delaware</td>
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<td>Florida</td>
<td>1905</td>
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<td>Georgia</td>
<td>1908</td>
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<tr>
<td>Guam</td>
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<td>Hawaii</td>
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<td>Idaho</td>
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<td>Illinois</td>
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<td>Indiana</td>
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<td>Iowa</td>
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<td>Kansas</td>
<td>1915</td>
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<td>Kentucky</td>
<td>1916</td>
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<td>Louisiana</td>
<td>1908</td>
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<td>Maine</td>
<td>1967</td>
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<td>Maryland</td>
<td>1900</td>
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<td>Massachusetts</td>
<td>1909</td>
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<td>Michigan</td>
<td>1905</td>
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<td>Minnesota</td>
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<td>Mississippi</td>
<td>1920</td>
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<td>Missouri</td>
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<tr>
<td>Montana</td>
<td>1947</td>
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<td>Nebraska</td>
<td>1957</td>
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<td>Nevada</td>
<td>1913</td>
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<tr>
<td>New Hampshire</td>
<td>1921</td>
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<td>New Jersey</td>
<td>1904</td>
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<td>New Mexico</td>
<td>1947</td>
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<td>New York</td>
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<td>North Carolina</td>
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<td>North Dakota</td>
<td>1913</td>
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<td>Ohio</td>
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<td>Oklahoma</td>
<td>1917</td>
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<td>Oregon</td>
<td>1913</td>
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<tr>
<td>Pennsylvania</td>
<td>1947</td>
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<tr>
<td>Puerto Rico</td>
<td>1945</td>
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<tr>
<td>Rhode Island</td>
<td>1906</td>
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<td>South Carolina</td>
<td>1915</td>
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<tr>
<td>South Dakota</td>
<td>1917</td>
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<tr>
<td>Tennessee</td>
<td>1940</td>
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<tr>
<td>Texas</td>
<td>1915</td>
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<tr>
<td>Utah</td>
<td>1959</td>
</tr>
<tr>
<td>Vermont</td>
<td>1912</td>
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<tr>
<td>Virgin Islands</td>
<td>1957</td>
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<td>Virginia</td>
<td>1910</td>
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<tr>
<td>Washington</td>
<td>1903</td>
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<tr>
<td>Washington, DC</td>
<td>1981</td>
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<tr>
<td>West Virginia</td>
<td>1959</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>1913</td>
</tr>
<tr>
<td>Wyoming</td>
<td>1911</td>
</tr>
</tbody>
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Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses — Institute for Justice

“Fifty years ago, one in 20 Americans needed a license to work – Today, that number is one in three”
Institute for Justice

“Market competition encourages innovation and job growth – not Occupational Licensing.”
Lee McGrath – Institute for Justice

“What drives consumer protection is competition, reputation and legal remedies, not regulatory oversight.”
Lee McGrath – Institute for Justice
<table>
<thead>
<tr>
<th><strong>The American Legislative Exchange Council</strong> is America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of <strong>limited government, free markets and federalism</strong></th>
</tr>
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<tbody>
<tr>
<td><strong>The Goldwater Institute</strong> is a national leader for constitutionally respected by the left and right for its adherence to principle and real-world impact</td>
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<tr>
<td><strong>The Cato Institute</strong> is a public policy research organization – a think tank – dedicated to the principles of individual liberty, <strong>limited government, free markets</strong> and peace</td>
</tr>
<tr>
<td><strong>Americans for Prosperity</strong> exists to recruit, educate, and mobilize citizens in support of the <strong>policies and goals of a free society at the local, state, and federal level</strong>, helping every American live their dream – especially the least fortunate</td>
</tr>
<tr>
<td><strong>The Mercatus Center</strong> mission is to generate knowledge and understanding of the institutions that affect the freedom to prosper, and to find sustainable solutions that overcome the barriers preventing individuals from living free.</td>
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CLEARING THE HURDLES TO ATTAIN A LICENSE

To practice in a field that requires a license, applicants must complete some combination of the following:

- Pay initial licensing fees, which can exceed $500
- Pass one or more exams that confirm applicant quality
- Be of good moral character and in good legal standing
- Engage in continuing education and pay renewal fees to maintain license

Source: Kauffman Foundation Policy Digest on Occupational Licensing
2019 Criminal Conviction Legislation

- **NV - AB 319** – Occupational Regulation; Criminal History Signed into Law 6/10/19
- **AZ - HB 2660** – Occupational Regulation; prior conviction Signed into Law 5/3/19
- **TX – SB 1217** – Certain arrests in determining occupational license Signed into Law 5/15/19
- **OK – HB 1373** – Criminal Records that Disqualify Signed into Law 5/14/19
- **MS – SB 2781** – Fresh Start Act Signed into Law 4/16/19
- **MD - HB 22** – Criminal Conviction Signed into Law 5/25/19

*Removes Good Moral Character*
2020 Criminal Conviction Legislation

Washington:
- HB 2356 – Reducing barriers to professional licensure for individuals with previous criminal convictions. Filed 1/10/2020

Missouri:

Mississippi:
- HB 986 – Fresh Start Act of 2020. Filed 2/14/2020

West Virginia:
- HB 2352 – Reducing barriers to professional licensing. Filed 2/14/2020

Wisconsin:
- AB 30 – Persons convicted of a crime. Filed 2/14/2020

Arizona:
- HB 2359 – License denial prohibited.Filed 1/21/2020

Rhode Island:
- S 2484 – Public Accountancy – Removes Moral Turpitude. Filed 1/30/2020

Idaho:
- S 1351 – Occupational Licensing. Filed 2/21/2020

California:
- AB 1616 – Expunged Convictions. Filed 2/14/2020

Iowa:
- SF 2392 – Granting of Professional License. Filed 2/24/2020

Virginia:
- HB 7359 – Regulation of Occupations. Filed 1/30/2020

West Virginia:
- HB 2352 Reducing barriers to Professional licensing. Filed 2/14/2020

RI S 2484 – Public Accountancy – Removes Moral Turpitude. Filed 1/30/2020

Carried-over from 2019

Filed in 2020
Licensing Scheme Reform – Primary Tools

Licensure Elimination
- Complete De-Regulation
- Replacing Occupational Licensure with a less stringent form of oversight

Manage Existing Schemes
- Eliminate Barriers to Entry
- Least Restrict Means of Regulation

Sunset Review Process
- Complete De-Regulation
- Least Restrict Means of Regulation

Sunrise
- Prevent new occupations from being regulated
- Prevent existing occupations from expanding their regulatory oversight

Deregulation Tools

- **Licensure Elimination**
  - Study bills - commission, task forces

- **Sunset Review Process**
  - Complete De-Regulation
  - Least Restrict Means of Regulation

- **Sunrise New Schemes**
  - Freedom to Prosper Act
  - Occupational Board Reform Act

- **Manage Existing Schemes**
  - Occupational Licensing Relief & Job Creation Act
  - Occupational Board Reform Act
  - Right to Earn A Living Act

- **Sunset Existing Schemes**
  - Right to Earn A Living Act
  - Occupational Board Reform Act
## HIERARCHY OF OCCUPATIONAL REGULATION OPTIONS

<table>
<thead>
<tr>
<th>PRIVATE GOVERNANCE OPTIONS</th>
<th>Market competition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Third-party or consumer-created ratings and reviews</td>
</tr>
<tr>
<td></td>
<td>Private certification</td>
</tr>
<tr>
<td></td>
<td>Specific private civil cause of action or alternative dispute resolution to remedy consumer harm</td>
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<tr>
<td>PUBLIC REGULATION</td>
<td>Deceptive trade practice act</td>
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<tr>
<td></td>
<td>Regulation of the process of providing the specific goods or services to consumers</td>
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<tr>
<td></td>
<td>Public inspection</td>
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<td></td>
<td>Mandatory bonding or insurance</td>
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<tr>
<td>COMMAND AND CONTROL</td>
<td>Registration</td>
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<td></td>
<td>Government certification</td>
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<td></td>
<td>Specialty occupational license for medical reimbursement</td>
</tr>
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<td>Occupational license</td>
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The Occupational Licensing Relief and Job Creation Act

Summary

Occupational licensing increases unemployment by about 1%, raises prices by about 12%, and offers no additional consumer protection over a competitive market. This Act ensures that an individual may pursue lawful occupation free from unnecessary occupational regulations, and protects against the rise of occupational regulations to reduce competition and increase prices to consumers. When enacting future occupational regulations, the Act requires state legislators to find real harm, and select the least-restrictive regulation to address that harm. The Act also protects entrepreneurs by shifting the burden to the government to show in court and administrative hearings that the enforcing occupational laws for health-and-safety reasons, and not solely as a barrier to entry.

Model Policy

[Title, enacting clause, etc.]

Section 1. (Purpose)

This Act's purpose is to:

(A) Ensure that an individual may pursue a lawful occupation free from unnecessary occupational regulations, and

(B) Protect against the misuse of occupational regulations to reduce competition and increase prices to consumers.

Section 2. (Definitions) The following definitions apply in this Act.

(A) “Business license” means a permit, registration, certification, franchise or other approval required by law for a sole proprietorship, partnership or corporate entity to do business.

(B) “Certification” is a voluntary program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a legislative body (or state). The individual may use “certified” as a designated title or as part of a designated title. A non-certified individual may also perform the lawful occupation for compensation but may not use the title “certified.” Certification is not intended to be synonymous with an “occupational license” in this Act or to prohibit the use of private certification.
Licensing Scheme Reform – Primary Tools

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The Occupational Licensing Consumer Choice Act

The Occupational Licensing Consumer Choice Act ("the Act") is model legislation that provides consumers with the right to choose a worker who best serves their needs irrespective of whether that person holds an occupational license from the state of [STATE]. It provides that business owners, entrepreneurs, and workers in professions otherwise licensed by the state of [STATE] may operate without an occupational license if they disclose that fact to prospective consumers. Workers and entrepreneurs subject to regulatory enforcement may assert such disclosure as a defense to action related to enforcement of occupational licensing laws and regulations.

Section 1. Purpose
The Purpose of the Act is to:
2019 Anti-Regulatory Legislation

Non-Licensed Disclosure Legislation Filed

Study Legislation

Anti-Regulatory Legislation – check IL

Signed into Law

AZ - HB 2569 – Occupational Licensing/Reciprocity Effective 7/1/19
2020 Anti-Regulatory Legislation

Carried-over from 2019
2020 Anti-Regulatory Legislation

Carried-over from 2019

Filed in 2020

Carried-over from 2019

Filed in 2020
2020 Anti-Regulatory Legislation

Carried-over from 2019
Filed in 2020
Universal Licensing Act
Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses — Institute for Justice
Alliance for Responsible Professional Licensing

PROFESSIONAL LICENSING: Rigorous for a reason.

RESPONSIBLE LICENSING MATTERS
WHY A NATIONAL ALLIANCE

Create a unified voice and presence
Drive a proactive, consistent message
Condition the environment to support state efforts

Ultimately – change the narrative
ARPL is a central communications campaign, bringing messaging, tools, and issue expertise to carry the ARPL message nationally and support states.

**WHAT ARPL IS DOING**

ARPL will:

- Develop new research to further explore public concerns and rebut arguments to deregulate
- Conduct earned media efforts to insert ARPL voice in the story
- Launch targeted digital advertising to surround legislators and educate them on the issue
- Create content to capture the impact of ARPL professions on public health, safety, and welfare
- Provide messages and tools to help state partners
Professional licensing matters. It is rigorous for a reason.

ARPK

Arkansas Democrat-Gazette Letter to the Editor

A recent opinion piece, ‘40 years of professional licensing,’ discusses the importance of professional licensing and the benefits it provides. Yet, there is a need for a more comprehensive understanding of the role of professional licensing.

1. The role of professional licensing
2. The benefits of professional licensing
3. The future of professional licensing

Professional licensing is critical for ensuring the safety and quality of services and products. Professionals are held to high standards and are required to continue their education and training to maintain their licenses. This ensures that the public receives the best possible care and service.

Key Messages
- Professional licensing is essential for public safety
- Professionals are held to high standards
- Continuing education is required for license renewals

NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS
Arkansas State Special Committee

Protect Obijos by protecting licensing for engineers
By David Martin
The Columbia Dispatch

As instructors in Columbia consider revising state workforce laws in 2020, they would do well to remember that professional licensing for advanced professions like engineers is rigorous for a reason. While unnecessary barriers to entry exist for some occupations in Columbia, policymakers should review and revise these laws carefully. It is crucial to maintain the integrity of licensing requirements for highly skilled professionals.

Arkansas engineers agree that state-sponsor certification requirements for engineers should be maintained or increased.
UNDERSTANDING WHERE WE STAND

• National survey of registered and likely voters as well as opinion elites, conducted to ascertain the state of public opinion on professional licensing and potential reform.

• What does the public think about professional licensing in general?

• What is the level of public support or concern for proposed de-licensing?

• What arguments and messages work for ARPL?

• What are the challenges and opportunities?
THE GOOD NEWS

75% of voters believe that ensuring qualifications for certain professions is important.

71% of voters believe that licensing of certain occupations should be required unless it can be proven that eliminating licensing will not have a negative impact on public health and safety.

67% of voters believe that consumers are best protected by a system that regulates education, examination, and experience standards—all of which are overseen by a professional licensing board.

56% of the public believe it is "extremely important" that licensing boards ensure professionals in certain industries meet minimum qualifications to perform their work.
Q25. Regardless if you were aware or not, the following are different components or pieces of potential legislation that some people have been talking about lately. For each, please indicate if you would support or oppose each measure.

Legislation establishing that if regulation of an industry is determined to be necessary, the regulation must be the least restrictive approach possible, with licensing being the most restrictive and last approach to adopt

Legislation that would allow state legislatures to determine if the licensure process in place is necessary or not

Legislation that would require regulators to first demonstrate that licensure is necessary for the health and safety of the public in order for them to require professionals to obtain licensure to work in the field. This would mean the industry would have to prove to the state that regulation is needed

Legislation that would establish temporary occupational and professional licenses through agreements between states which often supersede existing licensing laws, rules and procedures facilitated by regulatory boards. This would allow professionals to operate across state lines, even if they are technically not 'licensed' in a state, given the state's rules for licensing

Legislation establishing that if regulation of an industry is determined to be necessary, the regulation must be the least restrictive approach possible, with licensing being the most restrictive and last approach to adopt
Among Total Voters

- **Support**: 39
- **Oppose**: 18
- **Don't Know**: 43

"Switchers" - initially don’t know if they support or oppose potential legislation to change professional licensing, but after seeing the potential legislation and ARPL’s potential messaging, say they oppose these measures.

Major opportunity, as this accounts for 21% of Total Voters.
KEY SURVEY TAKEAWAYS

• Voters recognize the importance and benefits of regulation, and the need for professional licensing and oversight.

• But voters are largely uninformed when it comes to the nuances of regulation and licensure requirements, and governing boards who oversee these measures; SOME voters believe the market can regulate itself.

• As a result, they are open to discussions around modifications.

• Right now, neither “side” has emphatic support; many voters have yet to form an opinion—We need to engage with them now and ensure the opposition doesn’t control the narrative.

• Growing awareness of independent regulatory boards is just one piece of the puzzle – Communications need to demonstrate the benefits of what we do – and why – in order to build credibility and resonate with Voters.
WE CAN WIN...IF WE GET OUR MESSAGE OUT

- Complexity of what we do requires rigor
- Unintended consequences if deregulated
- Public support for professional licensing backed up with data
- Research-based arguments to counter inaccurate opposition populist appeals
QUESTIONS?

Thank You!

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Skip Braziel, AICPA Vice President
State Regulatory & Legislative Affairs
Skip.braziel@aicpa-cima.com
Break

Next Session

Non-Deregulation
Legislative Update
Non-Deregulation
Legislative Update
March 31, 2020

Joint Virtual Session
Executive Directors and Board Staff
Board Legal Counsel
State Society Executives

John W. Johnson, Director
Legislative and Governmental Affairs
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615.880.4232
2020 Legislature Convene Month

- Convene in January
- Convene in February
- Convened on March 9, 2020
- Convenes on April 8, 2020
- Do NOT Convene in 2020

Scheduled to Adjourn by March 31st
Carryover Legislatures

- **2-Year Carryover**
  - From odd to even year
  - From even to odd year

- **4-Year Carryover**

- **No Carryover**

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**MA S 150 – An Act to modernize Public Accountancy**

Filed 1/22/2019
Firm Mobility

- **States Requiring Firm Registration Under Mobility**
- **States Not Requiring Firm Registration Under Mobility**
- **2020 Active Legislation**
- **Anticipate 2020 Legislation to be Filed**

MAP: States requiring firm registration under mobility, with updates as of 2020. Some states have active legislation or anticipation for filing new legislation in 2020.

- **ACS 150 – An Act to modernize Public Accountancy Filed 1/22/2019**

Legend:
- WA ‘16
- MT ‘17
- WY ‘19
- IA ‘17
- IL ‘17
- MO ‘17
- KY ‘18
- IL ‘17
- TX ‘19
- LA ‘16
- FL ‘17
- MA S 150 – An Act to modernize Public Accountancy Filed 1/22/2019

MAP: States requiring firm registration under mobility, with updates as of 2020. Some states have active legislation or anticipation for filing new legislation in 2020.
Carryover Legislatures

- **2-Year Carryover**
  - From odd to even year
- **2-Year Carryover**
  - From even to odd year
- **4-Year Carryover**
- **No Carryover**

**2-Year Carryover**

- HI HB 1109 – Relating to Public Accountancy
  - Filed 1/23/2019

**4-Year Carryover**

- MA S 150 – An Act to modernize Public Accountancy
  - Filed 1/22/2019
Live with Individual Mobility

2020 Active Legislation

No Mobility

Language Drafted for CNMI
Comprehensive Definition of Attest

Adopted the Updated Attest Definition

2014 Pre-Attest Language

Language Drafted for CNMI

2020 Active Legislation

HI HB 1109 – Relating to Public Accountancy
Filed 1/23/2019
Carryover Legislatures

- **2-Year Carryover**
  - From odd to even year

- **2-Year Carryover**
  - From even to odd year

- **4-Year Carryover**

- **No Carryover**

**HI HB 1109 – Relating to Public Accountancy**
Filed 1/23/2019

**MA S 150 – An Act to modernize Public Accountancy**
Filed 1/22/2019

**PA HB 64 – Bureau of Professional & Occupational Affairs**
Filed 1/28/2019
Legislation Filed in 2020

- HI HB 1109 – Relating to Public Accountancy
  Filed 1/23/2019
- MA S 150 – An Act to modernize Public Accountancy
  Filed 1/22/2019
- FL HB 867 – Public Accountancy
  Filed 12/5/2019

- Do NOT Convene in 2020

- Filed in 2019 – Carryover
- Filed in 2020
States that have Full CPE Reciprocity

Rhode Island and Virginia have full CPE reciprocity for states with an ethics requirement; this excludes AL, GA, ND, SD, UT and WI.

CPE and CPE Reciprocity Legislation signed into law 11/20/17 (Effective 12/15/21)

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.

Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses —

Institute for Justice
Legislation Filed in 2020

- **WA SB 5767 – Concerning Public Accounting Services** Filed 12/31/2019
- **CA AB 2267 – Accountancy: licensure; examination** Filed 1/14/2020
- **HI HB 1109 – Relating to Public Accountancy** Filed 1/23/2019
- **MO HB 1417 – Relating to the Peer Review of CPAs** Filed 12/5/2019
- **NY – Gov Budget – Firm Ownership**
- **AZ SB 1131 – Certified Public Accountants** Filed 1/16/2020
- **NM HB 106 – Public Accounting Testing** Filed 1/6/2020 Signed into law 3/4/20
- **IN HB 1148 – Board of Accountancy** Filed 2/14/2020 – Signed into Law on 3/18/20
- **MA S 150 – An Act to modernize Public Accountancy** Filed 1/22/2019
- **WA SB 5767 – Concerning Public Accounting Services** Filed 12/31/2019
- **AZ SB 1131 – Certified Public Accountants** Filed 1/16/2020
- **MO HB 1417 – Relating to the Peer Review of CPAs** Filed 12/5/2019
- **NY – Gov Budget – Firm Ownership**
- **WI – Gov Budget – Firm Ownership**
- **PR – Governor’s Budget – Firm Ownership**
- **FL – Governor’s Budget – Firm Ownership**
- **AK – Governor’s Budget – Firm Ownership**
- **HI – Governor’s Budget – Firm Ownership**
- **GU – Governor’s Budget – Firm Ownership**
- **AM – Governor’s Budget – Firm Ownership**
- **VI – Governor’s Budget – Firm Ownership**
- **BOA Has no access to Peer Review**
- **BOA Sunset Extension**

Legend:
- **Green**: Filed in 2019 – Carryover
- **Gray**: Filed in 2020
- **Orange**: BOA Has no access to Peer Review
- **Purple**: BOA Sunset Extension
- **Red**: Do NOT Convene in 2020
Adopted a Simple Majority of CPA ownership

2020 Active Legislation

Have NOT adopted a Simple Majority of CPA ownership
Legislation Filed in 2020

- **File in 2019 – Carryover:**
  - WA SB 5767 – Concerning Public Accounting Services Filed 12/31/2019
  - CA AB 867 – Accountancy: licensure; examination Filed 1/14/2020
  - MA S 150 – An Act to modernize Public Accountancy Filed 1/22/2019
  - HI HB 1109 – Relating to Public Accountancy Filed 1/23/2019
  - AK SB 241 - Public health disaster emergency in response to the COVID-19 Filed 3/22/20
- **Filed in 2020:**
  - IN HB 1148 – Board of Accountancy Filed 2/14/2020
  - WA SB 5767 – Concerning Public Accounting Services Filed 12/31/2019
  - AZ SB 1131 – Certified Public Accountants Filed 1/16/2020
  - NM HB 106 – Public Accounting Testing Filed 1/6/2020
  - MO HB 1417 – Relating to the Peer Review of CPAs Filed 12/5/2019
  - FL HB 867 – Public Accountancy Filed 12/5/2019
  - NY – Gov Budget – Firm Ownership
  - WV HB 4949 – Occupational Board Reform Filed 02/11/2020
  - TN HB 2117 – Licensing Innovation Act Filed 12/5/2019
- **BOA Has no access to Peer Review:**
  - MO
  - MA
- **BOA Sunset Extension:**
  - AK SB 241 - Public health disaster emergency in response to the COVID-19 Filed 3/22/20
Military Licensure Legislation

Waive Application/License Fees
- Spouse or State-Registered Domestic Partners
- Immediate Family Members
- Veterans

Licensure
- Expedite License by Endorsement
- Grant Automatic Reciprocal Licensure
- Waiver of licensure if licensee in good standing in another jurisdiction (GA OK)
Legislative Bill Tracking

Select a state to filter by legislature

Select an issue to filter by state
- Regulation of Accounting Profession
- Deregulation of Occupations and Professions
- Other Professions
- Marijuana
- Digital Currencies
- Tax Preparers
- Other
- Active Supervision

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