

*36<sup>th</sup> Annual Conference*  
**NCSB**

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*Esq.*

# LEGISLATIVE & POLICY TRENDS TO WATCH

*Frontrunner*

*Proprietary/Not for dissemination*

- Continued antitrust concerns
- Interstate Compacts and other portability models
- Universal Licensure Recognition laws
- Sunset provisions and reviews
- VAEIE
- DEI
- Covid continuances and repeals

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### **Continued antitrust concerns** from *FTC v. NC Bd. Of Dental Examiners*

“...agencies controlled by market participants are more similar to **private trade associations** vested by States with regulatory authority....”

=Even the “Supremes” distrust our ability to take off our active marketplace participant hats and put on our fair-minded regulator hat and abide by our sworn oath to protect the public. We must prove **ACTIVE STATE SUPERVISION.**

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**Continued antitrust concerns** from *FTC v. NC Bd. Of Dental Examiners (2015)*

- *Board composition*
- *Active State Supervision*
- *Judicial and legislative narrowing of deference to board decisions and immunity of boards*
  - \**Kisor/Auer line of cases*

Executive Order 14036 Promoting Competition in the American Economy

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Executive Order 14036 Promoting Competition in the American Economy

Addresses impediments to worker and economic mobility (ie: overly burdensome, non-uniform occupational licensing requirements)

=*Interstate Compacts and Other Portability Models*

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- Sec. 5. Further Agency Responsibilities.

(a) The heads of all agencies shall consider using their authorities to further the policies set forth in section 1 of this order, with particular attention to: (i) the influence of any of their respective regulations, particularly any licensing regulations, on concentration and competition in the industries under their jurisdiction; and

- (b) The Attorney General, the Chair of the FTC, and the heads of other agencies with authority to enforce the Clayton Act are encouraged to enforce the antitrust laws fairly and vigorously.

[Executive Order 14036](#)

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## Interstate Compacts and other portability models

- 234 pieces of Interstate Compact legislation introduced in 2023
- 57 pieces of Interstate Compact legislation passed/enacted in 2023

ASLP-IC 29	OTC 28	PTC 36	Counseling 29	Psypact 40
NLC 41	APRN 3	IMLC 41	PA 2	EMS 24
Dentistry 3	Social Work 1	Teaching 10	Massage 1	Cosmetology 3

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## What is Universal Licensure Recognition (ULR)?

- Streamlined licensure recognition policy among professions
- Builds off existing out-of-state licensure recognition laws
- May apply to multiple licensed professions
- Usually not limited to specific population groups
- Provides a level of policy consistency across licensing authorities

\* Compliments of Carl Sims, CSG



## What is Universal Licensure Recognition (ULR)?

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## What is ULR not?

- Does not provide for true reciprocity
- May not apply to every profession
- Is not uniform across states
- Does not prevent the need for other licensure recognition policies

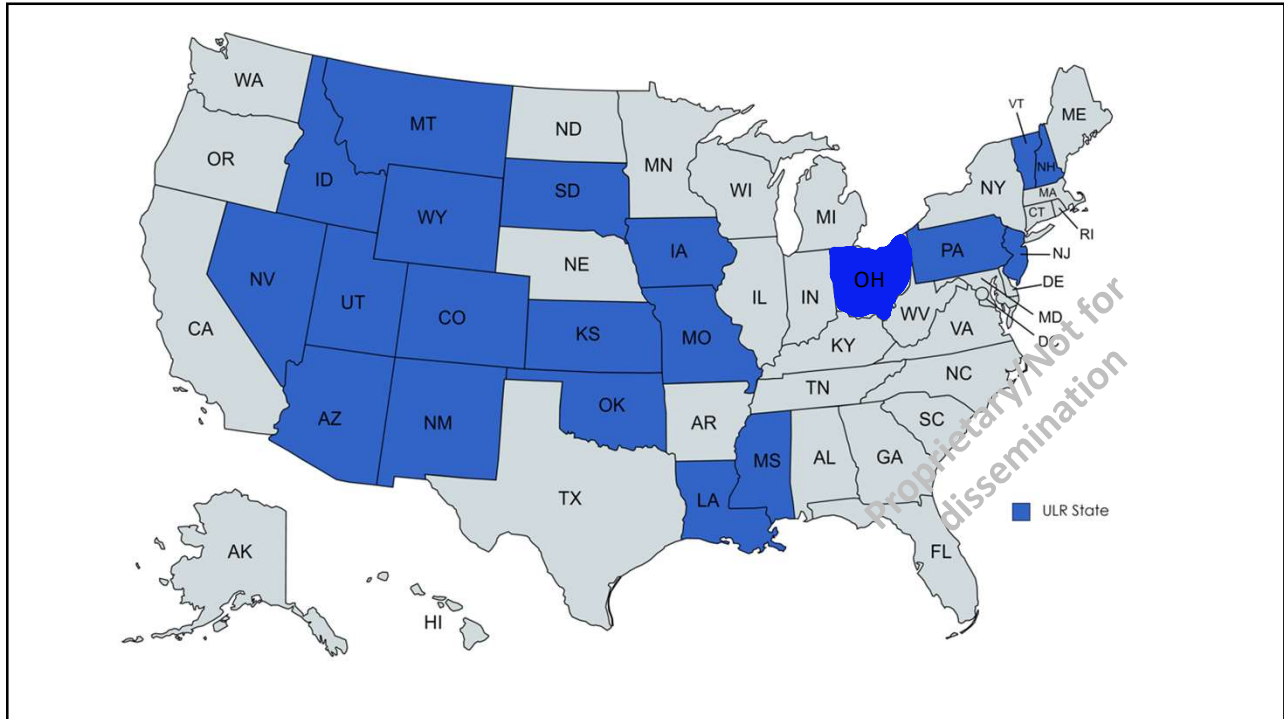


## Complementing Policies

Universal licensure laws can be used in conjunction with other policies:

- Interstate compacts
- Reciprocity laws for military families
- Bilateral reciprocity agreements





## Common Policy Features

- ✓ Shall Clause
- ✓ Scope of Practice and Practice Levels
- ✓ Equal/Substantially Equal
- ✓ Additional Required Examination
- ✓ Applicable Occupations/Professions
- ✓ Residency Requirement



## Shall Clause

Determines if the licensing board/authority “shall” issue a license under the ULR policy.

### Conditional Examples:

- Recent experience
- Minimum experience requirements

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## Scope of Practice

Specifies that the license held by an out-of-state applicant be equivalent in the level of practice and/or scope of practice.

### Conditional Example

- Limited Licenses

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## Equal/Substantially Equal Requirement

Stipulates the requirements for licensure in the applicant's originating state must be equal/substantially equal to the "destination" state's

Discretion for what constitutes "equal or substantially equal" may be left to the licensing board/authority.



## Additional Required Examination

Allows licensing authorities to require additional examination before a license is granted (ex. Jurisprudence exam)



## Applicable Occupations/Professions

ULR policies may be specific to certain occupations/professions

### Conditional Example

- Existing reciprocity agreements
- Interstate compacts

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## Residency Requirement

Requirement that an out-of-state licensee establish residence in the new state to receive licensure.

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CRITERIA	UNIVERSAL LICENSURE RECOGNITION LAWS	INTERSTATE LICENSURE COMPACTS
Requires practitioners to abide by the scope of practice of the state in which they are practicing	✓	✓
Allows for expeditious interstate movement of practitioners during emergencies	✓	✓
Reduces barriers for out-of-state practitioners aiming to practice within a state	✓ <sup>1</sup>	✓
Reduces barriers for in-state practitioners intending to practice in other state(s)	✗	✓
Allows military spouses to maintain a single home state license for the duration of the service member's active duty, regardless of relocations, without submitting a separate application to each state's licensure board	✗	✓ <sup>2</sup>
Allows practitioners to work in multiple states, both in person and via telehealth/telework, without submitting a separate application to each state's licensure board, requiring verification of the current license or obtaining a new background check	✗	✓
Brings together a coalition of states to establish consistent and enforceable interstate licensure standards tailored to the public protection requirements of a given profession	✗	✓
Enhances public protection by creating a multistate database of licensure information to facilitate collaboration on license verification and investigations of potential misconduct	✗	✓
Allows multistate practice without requiring practitioners to change state of residence	Sometimes <sup>1</sup>	✓ <sup>3</sup>
Allows practitioners to work in multiple states while adhering to only one state's continuing education requirements and license renewal schedule	✗	✓

<sup>1</sup> Some states—such as Arizona and Iowa—have universal licensure recognition laws that require practitioners to reside in the state, while others—such as Colorado and Idaho—do not.

<sup>2</sup> This is true only if practitioners relocate to a compact member state. License verification is based on practitioners complying with compact criteria for privilege to practice in another member state.

<sup>3</sup> This is applicable when practitioners travel from one compact member state to another.

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**EXAMPLE STATUTORY LANGUAGE EXEMPTION INTERSTATE LICENSURE COMPACTS FROM UNIVERSAL LICENSURE RECOGNITION LAWS**

**ARIZONA STAT. 32-4302(E), (F)**

F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.

**NEW HAMPSHIRE STAT. 332-G:14 (I)**

I. Any board or commission regulating an occupation or profession which is a member of an interstate licensure compact, or which has, in statute or by administrative rules, a procedure for reciprocity or temporary licensure for individuals from other states, need not comply with this section for any license or certificate issued by the board or commission.

**UTAH CODE § 58-1-302(5)**

In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

*Information shared courtesy of NCIC-CSG*

**COLORADO HB 20-1326 (2020) SEC. 4(C)**

(c) An applicant is not entitled to licensure, certification, registration, or enrollment pursuant to this subsection (3) if approving the licensure, certification, registration, or enrollment would violate an existing compact or reciprocity agreement [...]

**IDAHO STAT. 67-9409(7)**

(7) This section shall not restrict a person who is a member of a profession or occupation covered by an applicable interstate licensure compact or applicable reciprocity agreement from seeking licensure pursuant to this section. In such a situation, a person may apply for universal licensure under this section or may apply for licensure pursuant to the terms of the applicable licensure compact or reciprocity agreement. A licensing authority may promulgate applicable rules if necessary to implement the provisions of this section.

**INDIANA CODE 25-1-17-8(F)**

[note: universal recognition for mill/ or spouses only]  
(f) This section does not apply to a license that is established by or recognized through an interstate compact, a reciprocity agreement, or a comity agreement that is established by a board or a law.

**IOWA STAT. 272C.12(3)**

3. This section does not apply to any of the following:  
b. Criteria for a license, certificate, or registration that is established by an interstate compact.

**GEORGIA HB 773 (2019-2020) [NOTE: BILL FAILED]**

(f) This Code section shall not apply to:  
(1) Criteria for a license that is issued pursuant to a license of eligibility that is established by an interstate compact [...]  
(g) A license issued pursuant to this Code section shall be valid only in this state and shall not make the licensed individual eligible to be part of an interstate compact. A regulating entity in this state may determine eligibility for an applicant to be licensed pursuant to this Code section if the applicant is not part of an interstate compact.

**MISSOURI STAT. 324.009(10), (11)**

10. The provisions of this section shall not apply to an oversight body that has entered into a licensing compact with another state for the regulation of practice under the oversight body's jurisdiction. The provisions of this section shall not be construed to alter the authority granted by, or any requirements promulgated pursuant to, any interjurisdictional or interstate compacts adopted by Missouri statute or any reciprocity agreements with other states in effect on August 28, 2018, and whenever possible this section shall be interpreted so as to imply no conflict between it and any compact, or any reciprocity agreements with other states in effect on August 28, 2018.  
11. Notwithstanding any other provision of law, a license issued under this section shall be valid only in this state and shall not make a licensee eligible to be part of an interstate compact. An applicant who is licensed in another state pursuant to an interstate compact shall not be eligible for licensure by an oversight body under the provisions of this section.

State	Residency Requirement	Substantial Equivalency Requirement	Similar Scope of Practice Requirement	Recognition of Experience in Lieu of Licensure	Allow Internationally Trained Licensees
Arizona	Yes	No	Yes	No	No
Colorado	No	Yes	No	No	No
Idaho	No	No	Yes	No	No
Iowa	Yes	No	Yes	Yes	No
Kansas	Yes	No	Yes	Yes	No
Mississippi	Yes	No	Yes	Yes	No
Missouri	No	No	Yes	No	No
Montana	No	Yes	No	No	No
Nevada	No	Yes	No	No	No
New Hampshire	No	Yes	No	No	No
New Jersey	No	Yes	No	No	No
New Mexico	No	Yes	No	No	No
Ohio	No	Yes	No	Yes	No
Oklahoma	Yes	Yes	No	No	No
Pennsylvania	No	Yes	No	No	Yes
South Dakota	No	Yes	No	No	No
Utah	No	No	Yes	No	Yes
Vermont	No	Yes	No	No	No
Virginia	No	No	Yes	Yes	No
Wyoming	No	Yes	No	No	No

[2022 Occupational Licensing Trends \(ncsl.org\)](https://www.ncsl.org)

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- VAEIE
- DEI =disproportionate effect on entry

*Do your eligibility requirements, educational requirements (only traditional pathways?), hard to secure supervision requirements, serve a valid purpose?*

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Thank you for listening!

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