

Occupational Licensing Policy Learning Consortium

Notes from Multi-state Meeting on November 27-28, 2018

Report Out on work thus far:

From the 11 consortium states, there were 83 passed bills related to occupational licensing. Passage rate among consortium states was 54%; vs. 37% in non-consortium states. (Additional funding was available, so more states are now included in this project, starting this year).

Related DOL activities (reported by Pam Frugoli): www.veterans.gov/milspouses (shows legislation in each state pertaining to military spouses). They are also working on public workforce system for messaging to veterans/military spouses that might go to American Job Centers for employment assistance. They are working also on bridge curriculum for veterans to civilian employment.

Report Out from States:

Arkansas

- Successes:
 - o buy-in from executive and legislative branches
 - o “Red Tape Reduction Working Group”
- Challenges:
 - o Accuracy of data for licensed occupations
 - o Difficulty differentiating between registrations/certifications/licensing
- Looking to learn:
 - o Best practices in sunrise/sunset
 - o Standardized use of licensing/certification/registration

Colorado:

- Successes:
 - o Established policy committees to research/analyze/obtain guidance on policies
 - Immigrant Gap Analysis
 - Collateral Consequences
 - Veterans
 - o They did a baseline analysis of occupations
- Challenges:
 - o Opportunities for bipartisan support for statutory changes
 - o Messaging licensing requirements while preserving public safety/health/welfare
 - o Identifying competency-based testing mechanisms for entry
 - o Overlapping regulatory authority over rules and policies between agencies that provide unnecessary burden
 - o Obtaining key stakeholder feedback from select population groups
- Looking to learn:
 - o Other states’ legislation/reform
 - o Research from other states use of temporary license
 - o Cross-walks for veterans (MOSs to KSAs)

Connecticut

- Successes:
 - o Passage of state legislation – seven relevant bills

- Reciprocity improvement
- Exploration of eNLC
- New LENS – when people say they need a license, they discuss it and see if that is truly necessary/required
- Same team – no turnover
- Challenges:
 - Revenue loss from possible de-licensure
 - Administration change
 - Confusion on how interstate licensure compacts relate to discipline across state lines
 - Professions reluctant to ease regulatory burdens on their professions
 - Concept that licensure is necessary for third party reimbursement
- Looking to learn:
 - Generational divide – how other states change long-held occ licensing practices
 - Which occupations have other states had success in de-licensing
 - How do we keep support of certain groups and constituencies that may perceive or measure OCL changes in practice as losses or failures in power/control
 - Promoting decreasing requirements in no value of public health/safety/competence
 - Do exam requirements add any true value for the public
 - Alternatives to licensure that do not prohibit appropriately trained individuals from being reimbursed

Delaware

- Successes:
 - Lowering barriers to licensure for persons with felony convictions
 - Expanding lowering of barriers to additional license types
- Challenges:
 - Large number of boards
 - legislative oversight/sunset committee is looking to streamline boards
 - little data/unusable data
 - inconsistent training requirements with contiguous states
- Looking to learn:
 - Effectively align training requirements to be consistent with other states
 - States creating tax incentives to hire justice involved people

Idaho

- Successes:
 - Created occupational licensing interim study committee
 - Executive order for Licensing Freedom Act
 - Agencies have done internal reviews with over 250 recommendations for occ. licensing
- Challenges:
 - Complexity of system
 - Stakeholder opposition/pushback, protectionism
- Looking to learn:
 - Sunrise/sunset
 - Where to house
 - what other states are doing with endorsement/reciprocity/provisional licenses and substantial equivalent

Illinois

- Successes:
 - o Expedited licensing (for Occupational therapists & physical therapists)
 - o Sunrise review legislation (did not pass out of both chambers but inspired productive conversation)
 - o Community outreach and increased interest in the program
- Challenges:
 - o Industry push back to reform efforts
 - o Engaging lawmakers
 - o Misconceptions about the “goal” of the program (i.e. reform vs. de-regulation)
- Looking to learn:
 - o Successful strategies from other states

Indiana

- Successes:
 - o HEA 1245 – listing disqualifying crimes
 - o Expedited review for veterans/military spouses
 - o Informal sunrise process for Certified Community Health Workers
 - o Licensure Compact Learning Lab (December 11th)
- Challenges:
 - o Competing priorities for the workforce/stakeholders
 - o Complexities associated with the health sector
- Looking to learn:
 - o Sunrise information
 - o Compacts

Kentucky

- Successes:
 - o HB 319 – reciprocity for active military/retired
 - o Received licensing grants from DOL
 - o Partnering with outside stakeholders
 - o Public Protection Cabinet – their independent boards have voluntarily began migrating to this Cabinet
- Challenges:
 - o Misinformation among licensing boards
 - o Resistance by independent licensing boards
- Looking to learn:
 - o Clearinghouse/landing page for all professional/occupational licensing boards
 - o Looking to create a Central licensing system/platform

Maryland

- Successes:
- Challenges:
 - o Getting board member buy in
 - o Engaging legislators before the legislation lands on their desk
- Looking to learn:
 - o From other states

Nevada

- Successes:
 - o Focused on identifying and implementing best practices to achieve skilled workforce and removed barriers
 - o Expanded endorsement recognition for additional states
 - o State Board of Nursing: Career pipeline for CNAs and LPNs (starting LPN during high school)
 - o Simplified application process for licensees (eliminated unnecessary wording)
- Challenges:
 - o Inconsistent data collection – they are working on a bill to address this
 - o Non-streamlined application process
- Looking to learn:
 - o Compacts
 - Nursing
 - Physical therapy
 - o Collaboration with their Governor's Office of Workforce Innovation
 - o Increasing scope of project to include bachelor's entry (especially for health occupations)

New Hampshire

- Successes:
 - o Reducing barriers
 - o Interstate portability (they do currently have the eNLC)
 - o Regulation review
- Challenges:
 - o Geographic density of new England
 - o Independent licensing boards (they currently have an umbrella agency structure but it is recent)
 - o Large legislature (425 members)
 - o Interstate cooperation/competition
- Looking to learn:
 - o Interstate compacts
 - o Best practices for veterans/military spouses & people with criminal records

North Dakota

- Successes:
 - o Secured a \$450,000 grant
 - o Compared their state with that of contiguous states in terms of educational requirements/testing/CE/etc.
- Challenges:
 - o Managing and researching scope of practice issues
 - o Timing of legislative session
 - o Accuracy of data and information
 - o Managing perceptions
- Looking to learn:

Utah

- Successes:
 - o Conducted licensure overviews with departments that issue occupational licenses
 - o Reduced requirements for certain license that they identified no additional protection given for them
 - o Waiving licensing fees for active duty
 - o Made a handout for legislature on how licensing works
- Challenges:
- Looking to learn:

Vermont

- Successes:
 - o Conversion from “Board” model to “advisor” model (where the state agency actually makes the decision but they receive advisory from board)
 - o Veto override ability from umbrella agency
- Challenges:
- Looking to learn:

Wisconsin

- Successes:
 - o 15 pieces of legislation in 2017-2018 session
- Challenges:
 - o Scheduling of first in-state meeting
 - o Timing of legislative session
- Looking to learn:
 - o Sunrise/sunset reporting

General Session: Nebraska

Nebraska adopted a uniform process for licensing.

- Political environment: Nebraska is unicameral (one chamber) and nonpartisan. They also have a filibuster

Legislative bill 299 – occupational board reform act. (link:

https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=31200)

- Informed by the Institute of Justice
- Bill content:
 - o All licenses are reviewed every 5 years (sunset) by the legislature
 - (the legislature plans to propose expansion in 2019 for this process to apply to sunrise as well).
 - o During the interim time between sessions:
 - Those seeking regulation submit a proposal to legislature
 - The legislature then reviews and applies to a hierarchy of options for occupational regulation (inverted pyramid)
- Insights from bill introduction to passage:
 - o The bill was filibuster-ed. There were amendments that helped it to pass.
 - Initially, the unions were in opposition due to job protectionism. Additionally, there was pushback from regulatory establishment and active licensees.
 - o Question from contenders: how does this fit in with the 407 process (credentialing process specifically for health professionals)?
 - Advocates' response: they went line-by-line in the bill and ensured alignment between the 407 process and the proposed bill

Nonpartisan Consensus building:

- What worked for Nebraska?
 - o Getting interest groups on both sides, not necessarily for the same reasons

Professional Certification Coalition

General Session: Licensure Mobility and Portability Presentation – 11/29/18

Variations in vocabulary:

- Reciprocity: recognition or agreement
- Endorsement

Compacts

Federal licensure

Associations of Boards

Other

National Council of State Boards of Nursing

- Future challenges – telehealth

National Center for Interstate Compacts – Rick Masters

What is an interstate compact?

- Legislatively enacted agreement between states in their sovereign capacity as states
- Simple, versatile and proven means of collective governance by the states through the enactment of a 'statutory contract' between states and recognized under US Constitution
- Retains *collective* state sovereignty

Enacting a compact does not preclude a state from simultaneously offering a single-state license

Compact key policy components:

- Effectiveness and efficiency
- Flexibility and autonomy compared to national policy
- Joint investigations

Approaches to compacts

- Mutual recognition model (1 license issued by home/primary state, other states recognize privilege to practice)

Breakout Session: Sunrise/Sunset

VT – Office of Professional Regulation Sunrise Review (presented by Chris Winters)

OPR – umbrella agency (created in 1989)

Sunrise review in VT was created in 1977 (prior to creation of the umbrella agency)

- Why created? Sunrise was originally conducted by legislative council but they didn't have the staff or expertise.
- OPR was given the power of sunrise review for all new professions

VT Sunrise Review Process:

- They clearly outline when it is appropriate to have regulation
- Professions seeking regulation must apply by July 1 (the reports with recommendation come out in January) (legislature can also request a report)
- They seek public comment and hold public hearings
- They review other states' regulation for that profession
- Ultimately it is the legislature's decision

Keys to success:

- Relationships with legislators and committees of jurisdiction
- Consistent, fair, transparent process
- Thoughtful, realistic recommendations based on input from all stakeholders
- Honest, unbiased conversations

Texas Sunset-

Texas Government Code: Chapter 325

They have model standards for licensing and regulatory agencies.

In Texas, they have no formal distinction between license/certification/registration.

They track the impact of sunset to include: # agencies/programs abolished or consolidated, savings ...

- Would deregulation have little impact on public health or safety?
- Do practitioners operate in a highly regulated environment?
- Is regulation also provided by another state or local regulatory program, or private sector accreditation?
- Does the program generate little regulatory activity?
- Can consumers access enough information to make informed choices regarding the industry?
- Does the program merely prohibit the use of a title, making registration optional?

Process: 2 hearings –

- First hearing is public; anyone can provide written or oral testimony. Then the staff makes a recommendation to the Sunset Commission.
- Second hearing: The Commission then decides what to do and take a vote at second meeting.
- Then the Commission files a bill. Then the legislature acts as the bill goes through the legislative process

Staffing:

- 25 staff (10 of which are attorneys), Additional five administrative staff.

They also do a compliance audit.

General Session: Presentation on Michigan's LARA Professional regulatory agency

(Q&A Panel Session)

Is there one particular stakeholder or group of stakeholders that you found particularly important to get buy-in?

- New legislators – (Michigan is term-limited)
- Industry stakeholders – due to term limitations, these are the more constant voices
- They also say that taking a slower approach likely would've been more successful
- Also, make sure you have all your bases covered in terms of who might be a stakeholder

How has your office approached the continuation of this policy given administrative change/turnover?

- Ensuring the culture is engrained in remaining staff.
- Making sure your values are clear and aligned (i.e. making sure everyone is on the same page with valuing public safety but only minimum necessary)

How do you ensure the administration still sees occupational licensing as relevant?

- Ensuring someone in the legislature is a champion
- Getting key staff to hear the stories from "victims" of licensing

Were there any unintended consequences of the policy?

- Not necessarily, just wish they would have engaged broader from the start

Any pitfalls states should be aware of?

- Don't assume people know things and decide to move quickly – instead, take a slower pace and educate legislative members
- They have similar issues with not enough nurse trainers/faculty and shortage of rural primary physicians

How do you message/get buy in from public and important stakeholders?

- They have a communications team, and do messaging with legislators
- Proactively engaging media

Notes from Indiana Team Meeting

Discussion: sunrise/sunset

History of legislation in Indiana:

- ERASER Committee bill: failed, highly contentious

Vermont does a structure for fee-setting for licensing fees by income potential/ different fee structure for initial license vs. renewal

Concerns w SLRP:

- Governor's office buy-in with increasing license fee

Sunrise review:

- Important to have multi-perspective

Compacts:

- Nursing: Indiana currently has a confidential process for discipline, eNLC does not allow for that

11/29/18 Team Time

Rick Masters (CSG –Interstate Compacts) to provide additional information on the Nurse Licensure Compact

Question posed on data ability for states that participate

- You can obtain information from the nursSYS
- # of licensees with multistate privilege
 - o There has been discussion in the Council about interest in requiring disclosure of states that they practice in
 - o There has also been talk about requiring employers

How are states tracking people that utilize privileges of the compact?

- Short answer: we are not able to track that, as nurses can voluntarily disclose their employment info but there is no requirement

Are there additional costs associated with compact administration?

- Short answer: they basically don't know yet
- Some states charge an additional fee associated with compact

The anecdotal reality is that the compact likely no impact on influx/efflux rates

Benefits for states

- Ability to immediately practice in any participating jurisdiction
- Facilitates telehealth
- Decreases cost for traveling nurses

Rick will get our team an FAQ list for compact

Priorities for action items:

- SLRP
- Sunrise/sunset
- Compacts
- (still working on CHW registration through PLA/ISDH)

David from NCSBN – e-Notify data system

- They push notification to the employer whenever there is a change in license status.
- Employers have to buy-in to upload their nurses
- Public facing website with minimal info but does include whether a person has active license and where they are allowed to practice. (includes any discipline that has been settled)
- Executive officers have access to the private part
 - o Includes any discipline that is in process