

# MILESTONES

The Through Lines

**Oct 27 & 28, 2020**

# Trends in Occupational Licensing: Looking Ahead to 2021

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Questions related to specific materials, methods, and services will be addressed at the conclusion of this presentation.

# Course Description

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In this session we will review the role of the state licensing boards, the role regulations play to protect the public, and how upcoming legislative trends can dilute the important role of state boards & the licensing process.

# Learning Objectives

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## **Learning Objective #1**

To learn the important role of state licensing boards in regulating the practice of architecture.

## **Learning Objective #2**

To learn about the important role an architectural license plays in protecting the public.

## **Learning Objective #3**

To learn about current legislative trends that could endanger the public at large.

## **Learning Objective #4**

To look ahead at future legislative issues and policies that could have unintended consequences for the public regarding licensure and regulation.

# What are we discussing this Morning?

Architect Licensing  
Boards: What is their  
role & responsibility?

Upcoming Legislative  
Trends

**Bonus Item!** Resources &  
Research to help with  
advocacy efforts



# The Beginning of Regulation

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## A State's Right to Regulate

States are granted the power to individually regulate the protection of the public under the tenth amendment of the U.S. Constitution.

In 1889, the U.S. Supreme Court ruled that:

**“the power of the State to provide for the general welfare of its people authorizes it to prescribe all such regulations as, in its judgement, will secure them against the consequences of ignorance and incapacity as well as deception and fraud.”**

*Dent v West Virginia, 129 U.S. 114, 122 (1889)*



# Role of State Licensing Boards

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## **Protect public's health, safety, and welfare**

Boards ensure that the public is protected from the unauthorized, unqualified, and improper practice of architecture.

As an arm of state government, boards enforce the laws and regulations of jurisdictions' and investigate bad actors and hold professionals accountable.

Architect regulatory boards serve on behalf of the public and consumer; their purpose is not to protect the profession.

Important to note the work of state licensing boards given today's regulatory and political environment

# 2021 Occupational Licensing Legislative Trends

## Universal Licensure

- AZ HB 2569 (2019)
- Broad Brush Legislation
- Residency requirement
- “Substantially Similar”
- **2020 KS HB2506/SB366**

## Board Composition

- AZ SB 1274 (2020)
- Increase Public Members
- Six additional public members on Arizona Board of Technical Registration; 5 professional members
- Increased scrutiny of *active market participation*

# **Universal Licensure & Architecture**

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## **Principles of Successful Interstate Practice for Legislators to Keep in Mind**

1. Recognize mobility & reciprocity systems that work
2. Recognize substantially equivalent requirements for the “Three E’s”
3. Understand uniform standards and model laws already in place
4. Ensure adequate public protection

# Universal Licensure & Architecture

## Pitfalls for Legislators to Avoid

1. Forcing acceptance of out-of-state licenses, with no assurance of minimum qualifications
2. Duplicating mobility laws and pathways
3. Creating new barriers to interstate practice
4. Unintended consequences



## Key Points to Remember

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**The regulation of Architecture is 100 years old and the model for mobility works well**

1. Look to existing models as examples of interstate practice systems that work and are lauded for their success
2. Work in conjunction with the architect's state licensing board who already have clearly defined enforcement and oversight functions regarding reciprocity & the issuance of licenses
3. Remind legislators to establish minimum requirements that adequately protect the public -- and to curtail any incentives that lead individuals exploring back door options.

# Coalition Resource: ARPL Information

Full report available on  
[www.responsiblelicensing.org](http://www.responsiblelicensing.org)

One-pager to share with lawmakers to help them understand the principles, pitfalls and recommendations

Talking points and FAQs to help enhance discussions with lawmakers

**ARPL** Alliance for Responsible Professional Licensing

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

“THERE'S 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 2567, the nation's first universal recognition licensing legislation.

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.<sup>1</sup> The marketing of Arizona House Bill 2567 as a “universal” pathway to deliver greater economic choice and liberty is undoubtedly attractive, with multiple motivating factors contributing to its appeal:

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

- 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

<sup>1</sup>In 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.



## Mini-Break: What state capitol is this? (*Hint: it's south of Kansas*)



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# **New Trend: State Licensing Board Composition**

- NC Dental Supreme Court Case has created ongoing scrutiny regarding market participants on state licensing boards
- In 2020, Arizona Governor Doug Ducey supported legislation to drastically change the composition of state licensing boards
  - Original bill proposed: 3 professional members; 8 public members
  - Final bill included: 5 professional members; 6 public members
  - Bill passed with overwhelming majority during the height of the pandemic



# Key Points to Remember

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- Partnership, dialogue and coordination with the Governor's office is necessary and important
- State licensing boards serve at the pleasure of the Governor; although Architects serve on the board -- regulator "hat" needs be worn at all times
- Subject matter expertise for highly technical profession is imperative as is public engagement
- Proactively regulators should assess board's needs and membership to ensure reasonable and defensible composition

# COVID-19 & 2021 Legislative Session

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- Majority of Governor Executive Orders will continue to focus on healthcare
- As states continue to experience economic turmoil, and workforce issues, proponents of deregulation have encouraged extending *temporary* orders to *permanent* accommodations.
- Sessions will move quick and at an inconsistent rate – especially if State Houses close its doors
- Traditional processes and public engagement opportunities may not be as transparent

# NCARB Research & Data

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## Public Perceptions Survey

- Survey results indicated that respondents are generally in favor of licensing for professionals because it helps ensure that licensees are qualified and adhering to consistent standards.
- Majority of respondents feel that professional licensure for architects is an important factor in protecting the public health, safety, and welfare.
- Respondents also acknowledge, and agree, that architects are responsible for a lot more than just building-aesthetics. In fact, health, safety and welfare aspects are key job descriptions associated with architects.
- For public polling one pagers, fact sheets and additional data resources feel free to contact me

*According to a 2019 study by Benenson Strategy Group.*

This report provides an overview of the progression to licensure for aspiring architects in this jurisdiction during the calendar year 2019.

The report provides insights into the number of candidates working toward completing two of the core requirements for architecture licensure: gaining professional experience and completing the nationally recognized exam. The third core requirement is earning a degree in architecture, typically from a program accredited by the National Architectural Accrediting Board (NAAB). It also provides an overview of their collective progress toward completing these programs.

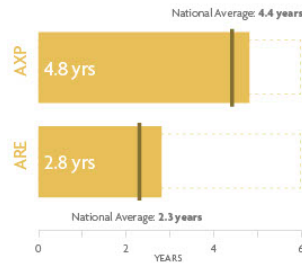
In addition, the report provides insight into the length of time candidates in this jurisdiction typically take to complete the experience and examination requirements, and the total number of licenses issued by the Board in the calendar year. The national averages for these datapoints are provided for reference.

## EXPERIENCE



The AXP provides a framework for candidates to earn professional experience. Candidates are required to record 3,740 hours of experience across six practice areas to complete the AXP.

## COMPLETION TIMELINE



This reflects the median time candidates take to complete each of the two core components for licensure. The ARE and AXP can be taken concurrently.

## EXAMINATION



The ARE is a six division exam required by all 50 states and additional territories as a core component for licensure.

## LICENSURE



The national average is 46% Resident (Applicant's primary residence is within the state), and 54% reciprocal (Applicant's primary residence is out of state).

# 2020 NCARB by the Numbers

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- <https://www.ncarb.org/nbtn2020>
- State of Licensure
- Public Perceptions Data
- Education, Experience and Examination Data
- Demographics
- All Jurisdictional Data



**Last Call! Name that State Capitol! (*Hint: it's pink – seriously*)**



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# Conclusion

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1. It is the state's right and responsibility to protect its citizens; one of those ways is through reasonable regulation
2. Licensing boards are important partners in ensuring there is proper protection of the public's health, safety & welfare
3. Universal licensure & state licensing board composition will be two trends in the occupational licensing arena
4. Current global pandemic will bring its own set of challenges & opportunities
5. Through NCARB & ARPL we are here to help educate, advocate and partner with AIA on these important issues



**Thank you for your time!**

Contact me! [MZaniewski@ncarb.org](mailto:MZaniewski@ncarb.org)

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