



U.S. Federal Trade Commission focuses scrutiny on state-based licensure



By Jayne Wood, ASWB director of communications and marketing

In February, Maureen Olhausen was appointed acting chair of the Federal Trade Commission (FTC). Her signature initiative was to establish the Economic Liberty Task Force, which is charged with advancing occupational licensing reform in cooperation with state and local governments. The task force held its first public event in July: a roundtable titled [Economic Opportunity Across State Lines: Enhancing Occupational License Portability](#). I attended the event and Jennifer Henkel, ASWB director of member services, participated remotely. ASWB submitted [comments](#) under ASWB CEO Mary Jo Monahan's signature. [FARB](#) and other FARB governing members also submitted comments.

The purpose of this roundtable was to provide information about the efforts of four regulated professions (medicine, nursing, education, and accounting) to develop expedited licensing for their practitioners. Completing the panel were representatives from the National Center for Interstate Compacts (NCIC) and the Department of Defense (DOD) State Liaison Office. Summaries of each panelist's presentation follow.

NCIC: The special counsel to the NCIC provided an overview and

history of the use of compacts, which he defined as simple, proven tools that provide collective governance. They are statute and contractual in form to accomplish uniformity without federal intervention. Compacts are authorized in the U.S. Constitution. They maintain collective sovereignty, and they are fully within the regulatory regime of all states. The panelist stressed that the practice act is not impacted when compacts are used.

Medicine: The chairman of the Interstate Medical Licensure Compact Commission began his remarks noting that while there is nothing wrong with a national license, it adds another layer of bureaucracy. In regulating the medical profession, reciprocity will not work because a state needs to add on a license if it is going to be able to take action on a physician. The state medical boards' decision: Issue licenses but expedite the process via compact. The value to this approach: Only one application/fee is required, creating efficiencies within the compact states because the information is gathered once and the applicant's eligibility is vetted once by the "principal state of license." When a qualified applicant wants a license in additional states, the applicant



Panelists discussed license portability models at the first FTC Economic Liberty Roundtable in July.

pays each state’s licensing fee. The state boards also decided to set multi-licensure standards higher than the standards that all compact states currently had, to ensure that all states could agree. In addition, transparency was very important to ensure that a practitioner was not practicing below standards in one state without other states’ knowledge. Within the compact, all complaints are shared and all states can participate and contribute to an investigation of a practitioner. The biggest challenge: working through legislative changes in four states to comply with FBI requirements to share criminal background check information.

Education: To facilitate mobility, teachers have an interstate agreement that establishes minimum requirements for teacher certification. The agreement has been signed by all but four states and the District of Columbia, Guam,

the Mariana Islands, and the DOD schools. The executive director/CEO of the National Association of State Directors of Teacher Education and Certification emphasized that the agreement is not a compact and it does not develop reciprocity. One of the challenges: Some teachers have difficulty meeting the minimum experience requirement, either because they are new to teaching or they do not stay in one state long enough (e.g., military spouses). Another challenge: None of the state certification systems talk to each other; there is no way to know when teachers are teaching across state lines. A prototype to allow alignment of state systems, called MELS (for multistate educator lookup system), is in development.

Nursing: The executive director of the Texas Board of Nursing and president of NCSBN (National Council of State Boards of

Nursing) explained that the interstate compact used by nursing is built on a mutual recognition model: the home state issues the license and other compact states grant a privilege to practice. Licensees pay for their license in the home state only. Telehealth technology practice is permitted within the compact. A revised compact was introduced in 2015 and has been adopted by 26 states so far. Uniform license requirements were the barrier in previous compact; now there is a central rule-making authority for operational process only—not the practice act. Nursing is now working on an APRN compact; they need 10 states to sign on, and they have three so far.

Accounting: The assistant general counsel for the Association of International Certified Professional Accountants began his presentation noting that mobility

efforts began in 1997. CPAs can practice within those states that sign the Uniform Accountancy Act (UAA). The UAA includes a minimum qualifications set and provision for substantial equivalency. This is a practice privilege model: The licensee is licensed in the home state but agrees to be bound by laws of privilege states. The home state must investigate complaint(s) and can sanction for violation of privilege states' laws. If the principal place of residence changes, the licensee must get relicensed. The practice privilege statute has been enacted in 53 jurisdictions. They are working on UAA for firm mobility. Currently 21 jurisdictions have signed on. The organization offers a national qualifications appraisal service that verifies whether a candidate meets standards of the UAA so that the jurisdictions can expedite the processing of the license or granting privilege to practice.

DOD: Currently, 90,000 military spouses are licensed professionals according to the director of the Defense State Liaison Office. The purpose of the state liaison office is to reduce barriers to licensure when the reality of military life means a move every two to four years. The DOD looked at ways to work with states to expedite licensing via: making endorsement available and attainable; providing temporary licensing for trailing spouses

who can't get endorsement; and expediting the process of getting licensed. The panelist noted that 56 percent of states have done all three processes, and all states did something in terms of statutory requirements. New research is under way to determine how the changes are being implemented and find ways to improve the process.

My Takeaways:

- Medicine, nursing, and accounting use some kind of central database for managing records of licensed practitioners to expedite the licensing process (similar to ASWB's Social Work Registry). Education is in the process of building a prototype system.
- All professions maintain a clearinghouse or other method for reporting/checking discipline within the compact (similar to ASWB's Public Protection Database).
- Education and accounting have a laws/regs database for checking licensure requirements (similar to ASWB's laws/regs database); medicine is just beginning to talk about developing a database. Nursing did not comment.
- Compacts do not need to open the state practice act to be implemented; however, they

often are torpedoed by legislative changes (e.g., teachers compact and No Child Left Behind Act).

- Requirement for uniform standards can create barriers; compacts may consider setting higher multi-licensure standards to avoid concern of "lowest common denominator" effect.
- Licensees who don't meet the compact requirements or otherwise qualify to be licensed in multiple states can still apply for single-state licensure.

With regulation coming under increased scrutiny and occupational licensing being viewed as a barrier to a mobile workforce, the threat of an imposed "one size fits all" solution reinforces the work of the Mobility Task Force to develop a Mobility Strategy that works for social work regulation. Whether describing compacts or model law-based mobility initiatives, the panelists at this roundtable shed light on ways that ASWB's Mobility Task Force is making sound recommendations to help ASWB members achieve social work practice mobility. The Mobility Strategy framework, based in the model law, offers a commonsense approach.