



**Regulation Matters:
a CLEAR conversation**

Episode 52: CSG Survey of Universal Licensing Recognition Laws April 12, 2022

Line Dempsey: Welcome back once again to our podcast, Regulation Matters: a CLEAR conversation. I'm your host, Line Dempsey. I'm currently the chief compliance officer with Riccobene Associates Family Dentistry here in North Carolina, and I'm also CLEAR's president-elect.

As many of you are aware, the Council on Licensure, Enforcement and Regulation, or CLEAR, is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation. This podcast is an opportunity for you to hear about important topics in our regulatory community.

Our guest today is Adam Diersing. He is the policy analyst for the Center of Innovation with the Council of State Governments. So, we're very glad to have you with us today; welcome.

Adam Diersing: Thank you. I'm happy to be here.

Line: Well, we are certainly happy to speak to you and also let me thank our listeners for joining us today. So, on today's podcast we're talking with the CSG about their 2021 survey of universal license recognition laws. Before we dive completely into that, Adam, could you give us kind of a quick introduction to the CGS and the Center of Innovation?

Adam: Sure, yeah! the Council of State Governments was founded in 1933. We're a nonprofit membership organization, the only organization of our type serving all three branches of state government.

We focus on nonpartisan, research-based and region-based forums that foster exchanges of data, insights and ideas to help state officials shape public policy. We focus a lot on policy research, convenings of stakeholders, and leadership development for policy leaders across the country and across all branches of state government and focus very closely on that nonpartisan aspect to provide data driven solutions and research to policymakers.

The Center of Innovation within CSG is located in our headquarters in Lexington, Kentucky. And it's the

policy shop of CSG where we focus a lot on ad hoc research requests from policymakers and executive committee members and state government as well as working on a suite of policy portfolios, including workforce development, interstate compacts, disability inclusion, and election law. So, that is the Center of Innovation. And the work that we did on universal licensure was part of our occupational licensing grant from the Department of Labor.

Line: Well, that's excellent, Adam. Thank you for that background. Now, the survey that the CSG conducted is about universal license recognition, or I guess the term is ULR, and their law. So to start off, can you maybe give a definition of the ULR or the universal license recognition and then, what do you mean when you talk about ULR law, and how does that differ from maybe other examples of licensure portability?

Adam: Sure, so reciprocity, or licensing by endorsement state to state, is not a new trend, but what we saw starting to come to a lot of states around 2018 was these universal license recognition laws, or ULR, that create systems of license reciprocity or licensure by endorsement for all professions licensed in the state in one fell swoop through one piece of legislation.

So, this allows boards to, or mandates boards to, create paths of endorsement from every state for any licensed practitioner in those states moving into a state with the ULR policy, allowing a licensee to gain a license in that state as long as they hold a license usually with some level of substantial equivalence in requirements from another state that licenses that profession.

This looks pretty different than previous reciprocity agreements, as those were mostly handled by boards of one profession and only covered one profession, or they could be population specific. So, we've seen reciprocity laws that are exclusive to military spouses, recent immigrants (those happen occasionally as well).

So, ULR laws are mostly different in their breadth of what occupations are covered, what licenses are covered, and what states those licenses will be accepted from. We saw previously lots of two-state reciprocity agreements specifically between border states where licensees in each state could practice in the other or gain a license in the other, and ULR really expands that to the whole country.

Also, they are notably different from interstate compacts, which are agreements negotiated between states that cover a single profession. Those allow for reciprocity, or in some ways a more seamless endorsement process, that is only allowed for members of the compact.

Line: Now things like medicine, I can see how that might be very easy to do. Did you run into any problems when you're dealing with your licenses that maybe don't match up on skill level between two different states that described that particular person as this particular entity or licensee.

And then also, what about. . . and I know in dentistry in North Carolina you know, one of the chief requirements is a live patient exam, and there's a lot of states that maybe don't have that. And

obviously COVID kind of changed that mapping, if you would for a lot of different states and licensing. Do you see those things as potential hurdles, or how do you overcome those things?

Adam: Definitely yeah. One of the major findings from the survey that we conducted on universal licensing is exactly what you mentioned— that the more standardized the profession is across the country. Medicine is a great example where licensing of doctors is essentially more or less the same state to state. Similar with nurses and lots of health care professions that have very similar licensing requirements.

But we do see that there have been issues with implementing that, usually what they call it is a substantially equivalent licensing process or licensing set of requirements. So, in a lot of cases that's up to board determination if other states have substantially similar licensing requirements. And you're exactly right that doctors and nurses and many healthcare professions have much more standardized licensing requirements state to state.

In terms of overcoming it, a lot of that is up to board discretion, the work of members of the board and staff of the boards to go state to state and discover if licensing requirements are substantially equivalent.

Line: Yeah, and sometimes it's not as simple as changing a rule; sometimes it's a general statute, something that deeply embedded that requires an act of Congress (no pun intended) to kind of open those things. Well, let me ask you this—Can you talk a little bit more about why CSG decided to conduct a survey and, ultimately, what did you hope to learn from it?

Adam: Sure, yeah. So, we are consistently tracking trends in occupational licensure. It's a mainstay of our work. And when we started seeing these ULR laws crop up a lot the last couple of years, we knew that we would be able to eventually gather data on licensee numbers that are using universal licensing, and potentially there might be data eventually around impacts of that licensing.

But we were really curious about implementation and what lessons can be learned from states that have gone through this implementation process and shared to states that are considering passing a ULR law or have recently passed a ULR law and what we can help their boards and board staffs learn from potential past mistakes or past hurdles that other boards had to go through to implement the universal license recognition.

Line: So kind of touching base back to what the question I asked or kind of probed on just a moment ago - obviously there's going to be some variation amongst laws in these states and especially what you surveyed. So what are some of the requirements and provisions in the laws?

Adam: So, a lot of these laws function, you know, pretty similarly in process, but we definitely saw a couple of variations. One of the major ones that came up from respondents several times was residency requirements. So, some of these ULR laws require that the practitioner that wishes to gain a

license based on a previously held license in another state must already be a resident of the state that they're trying to gain the license in. And we can talk a little bit about why that was a hurdle for some practitioners and some boards, but that was a variation that we saw state to state.

Another is that substantially equivalent piece. Those function somewhat differently state to state and even board to board within the state. Most of that is due to interpretation, but we have seen some examples where a state doesn't have an explicit substantial equivalency requirement in their ULR law.

Another notable difference is whether or not they explicitly exempt compacts or professions where the state is a member of the compact from the ULR law. This mostly just creates confusion for practitioners that might be in a profession where that profession has a compact and the state that they're moving to as a member of the compact. Which pathway to go down can create some confusion, so we've seen some states just exempt compact professions or future compact professions from the ULR law. And some states have not. So we'll see probably in the next couple of years what that impact will be state to state.

And then one notable difference in I think only one case—in Missouri's ULR law—is that they used ULR as a pathway for an omnibus bill of several other licensing reforms. So we saw them implement some what we call “fair chance licensing” as a portion of their ULR bills, so creating ULR through an omnibus bill of licensing reforms.

Line: It's interesting you mentioned the residency thing—you know I've certainly seen it before when we looked at maybe establishing a practice, maybe not necessarily residency as far as moving there and that can certainly be challenging for these bordering towns that are just across the state line from another neighboring community that maybe needs access to care that they just don't actually have because it's a remote area. And I think anytime we can remove those barriers to improve access to care is always a good thing.

Well, let's dig into the survey a bit now. From what I understand the survey included mostly open ended questions asking about experiences with implementing ULR policy, the challenges and benefits to those things as well. I think this kind of information is really beneficial to CLEAR's listeners because we're getting a perspective of the people who are doing the regulatory work and directly dealing with these policies and their impact. So, what are those experiences, challenges, and benefits that respondents specifically identified?

Adam: Yeah, that's a great question. So I want to start off by saying that a majority of our respondents either had a strong or at the very least a neutral response to the ULR policy being a benefit to their state's workforce. Several states noted that it made the licensing process more efficient or that average licensing times have decreased since the passage of the ULR law.

On the other hand, we had many respondents say that they just didn't see it as that useful yet, that potentially there's some lag time in how much usefulness we can get from the ULR law until it's being

widely used by practitioners.

In terms of challenges we've seen, you know, again, some people say that it's simply too early to tell. Some of the states that we surveyed had very recently passed the ULR law and were still working on implementation or had just recently finished implementation. But there were several, I suppose, procedural or technological challenges to the implementation. We saw mentions of rules needing to be re-promulgated after the passage of ULR, new licensing systems to be created, or online capacity to be expanded based on out-of-state traffic that they hadn't previously seen.

And then, in terms of that substantially similar piece that we discussed earlier, there were several concerns about determining substantial equivalency, how forthcoming states were with what their requirements were, and how equivalent those requirements could be to the state passing that ULR law.

And we also saw several examples of existing reciprocity agreements creating confusion between ULR law and how those existing reciprocity agreements will function between the two.

But there are also several benefits that people saw. We saw that, you know, people believe that this can help facilitate fixing workforce shortages and workforce gaps, especially in health care professions.

We asked specifically if, during the pandemic, if the ULR law had been beneficial with filling healthcare shortages. And while we didn't get a strong reaction to that, we did have some practitioners or licensees say that the policy enabled more practitioners to provide health care services during the pandemic.

I'll briefly plug another CSG publication that we worked on last year. We did a lot of work around temporary actions especially by governors during the pandemic. Most respondents to the survey said that those were much more effective at filling health care gaps during the pandemic, but with ULR passing and in many states, we could see you know, in the event of future emergencies where we have the need for increased healthcare capacity, ULR laws could potentially be a benefit there.

We also saw several people say that they've seen this policy be effective at helping specific populations, notably military spouses and veterans that are moving state to state at a much higher frequency than other practitioners.

Line: Excellent! Well, for other states that may be considering you know this pathway, ULR law, what can these survey results tell them? Ultimately, what's the takeaway from this?

Adam: Sure! First I'll preface this all with saying that CSG doesn't advocate for specific policies, but we did pull some lessons learned that we think could be helpful for states that are potentially considering a ULR law, which we know that many states are right now.

But we did see that licensing bodies that were able to easily interpret substantial similar requirements had completed this work before the ULR had been in place, whether it was for other reciprocity agreements or if there was some sort of mandate that mandated boards to do this research in advance. So those states were much more quickly able to implement and just know that the substantial equivalency from each state.

We also saw that stakeholder engagement from licensing bodies can help legislature's with crafting ULR laws that support boards and give them clear guidance in implementing the policy, especially when it comes to the substantially equivalent requirements.

Many respondents also mentioned the challenge of making a new application for out-of-state residents utilizing the ULR policy. We've done lots of work in the OL [occupational licensing] project on digital licensing, and it seemed like states with robust digital licensing systems and IT systems were better able to implement the procedural portion of the ULR policy. So that's a potential lesson learned, and building those systems in advance of passing a law could be a benefit there.

And then, lastly, to bring it back to the conflict with other reciprocity agreements, making sure that it's clear in the policy what those policies are and how the ULR doctrine will interact with other reciprocity agreements or interstate compacts.

Line: Well, great! I think this has been a fantastic conversation. So again, thank you, Adam, for joining us today.

Adam: Thank you so much for having me. And the ULR report is published at licensing.csg.org, so there's a lot more detail in there if anyone's interested in digging in.

Line: Fantastic! Well, it's certainly been our pleasure to speak with you today. I also want to thank our listeners for tuning in for this episode. As you mentioned, the full report of CSG's 2021 survey of universal license recognition laws can be found on the CSG website, and again that's licensing.csg.org/publications.

CLEAR has also included a link to the survey report in our regulatory news blog. We invite you to also continue this conversation throughout the CLEAR discussion forum. This podcast episode will be posted in CLEAR Communities, and members can reply to the post with your comments or reaction. Both CLEAR and the Federation of Associations of Regulatory Boards, or FRAB, provided a statement on ULR laws for the survey report, so we invite you to read those and offer your own comments. We'd love to continue this discussion in CLEAR Communities.

And we'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. If you're new to this CLEAR podcast, please subscribe to us. You can find it on Podbean or any of your favorite podcast services.

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Finally, I'd like to thank our CLEAR staff, specifically Stephanie Thompson; she is our content coordinator and editor for this program. Once again, I'm Line Dempsey and I hope to be speaking to you again very soon.

The audio version of this podcast episode is available at https://podcast.clearhq.org/e/ULR_survey.