



Regulation Matters: a CLEAR conversation

Episode 75: The Legislative Rundown – What’s Happening in 2024

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Line Dempsey: Welcome back to our podcast, Regulation Matters: a CLEAR conversation. Once again, I'm your host, Line Dempsey. I am currently the chief compliance officer with Ricobenne Associates Family Dentistry here in North Carolina, South Carolina, and Virginia. I've also been a board member and past president of CLEAR.

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 a chance for you to hear about important topics in our regulatory community.

Today, we're going to be discussing the legislative rundown, what's happening in 2024. Joining us today we have Nicole Livanos, Director of State Affairs for the National Council of State Boards of Nursing, John Bremer, who is the Director of State Legislation and Policy with the Federation of State Medical Boards, and Kelly Parker, Director of External Affairs and Government Relations with Propelus, developers of the continuing education compliance platform, CE Broker. So again, CLEAR thanks CE Broker for being our Premier Education Partner this year, and we're glad to have you all with us today.

John Bremer: Thanks. Glad to be here.

Kelly Parker: Thank you. Happy to be here.

Line: So, tracking legislation, forecasting policy trends across all 50 states can be, dare I say, challenging. However, there are a number of similar themes and issues impacting occupational licensing.

In 2024, 46 state legislations are in session. Texas, Montana, Nevada, and North Dakota will not reconvene until 2025. So today, we will chat about some things that we are seeing in the 2024 legislative cycle, and we'll discuss some familiar issues and also discuss some new trending topics. So let's kick it off with telling me some of the hottest topics where you're seeing in state legislatures that may impact professional regulation this season, or this session. So let me first ask that to John. Tell us

what's going on.

John: Thanks, Line. It's been an extremely busy start to the year for legislatures. FSMB's currently tracking more than 800 bills for this session, including more than just 300 introduced since the start of the year. Some of the biggest topics we're tracking are telemedicine and license portability, especially as states continue to navigate the post COVID-19 pandemic, including expanding modalities and exceptions to licensure for interstate practice of medicine, assistant or associate physicians, which is a category of licensure for individuals who have not completed postgraduate training or USMLE step 3 and third IMGs, especially examining ways to ease requirements for licensure.

Line: That's a lot right there. Nicole, what about on your front?

Nicole Livanos: Thanks. So, John, I think between both of our organizations, we may be tracking all of the bills out there right now on the nursing regulatory side. We're noticing and watching for bills that address the nursing workforce shortage. With the 2022 National Nursing Workforce Survey finding that 800,000 registered nurses and 184,000 licensed practical nurses have indicated an intent to leave the nursing workforce by 2027, we're seeing state lawmakers look to solutions that range from strengthening the pipeline into the nursing profession, but also addressing current pressure points for nurses that are out there in the field. The pipeline legislation we're seeing includes creating loan forgiveness programs for students who commit to practicing in rural and underserved areas. There's a bill out there right now in Oregon that tasked the Center for Nursing to work with education programs to recruit and retain nursing educators. And another bill in Oklahoma would provide incentives for faculty preceptors of nursing students. So really looking to strengthen that pipeline.

We also continue to see workplace violence mitigation efforts, with a bill right now in Hawaii to raise the penalty for assault against healthcare workers.

And we're also seeing a lot of nurse-staff ratio related bills that are pending in many jurisdictions. They look to create nurse-to-patient ratios based on patient units or acuity standards or create staffing committees.

Line: Awesome. How about you, Kelly?

Kelly: I am also tracking for a large number of bills similar to what John and Nicole already mentioned. Everything from compacts to new licensure types and requirements, along with some state technology-related bills. For me, especially as a former regulator, I find it very exciting to see legislators continuing to push for the modernization of government services and innovation at state agencies. You know, licensed professionals these days expect government services to keep pace with the speed of business. And if they don't - well, who gets that call? It's the state Representative or state Senator's office. Therefore, legislators are continuing to proactively get involved, as we are seeing this session. A couple of examples of this are Illinois House Bill 2394, which requires the Illinois Department of Regulation to modernize their licensing system. Also similar to bills we've seen in the

past in Florida, Michigan, and Texas, the Georgia General Assembly is considering House Bill 1096, which requires the transformation of continuing education processes for 41 licensure boards, including healthcare and trade professionals, under the authority of the Georgia Secretary of State.

And finally, for me, we are also seeing the state legislatures put up guard rails as well around technology. There are numerous bills that restrict the state agencies’ use of AI or establish the formation of commissions and/or other groups to set guidelines for the appropriate use in the future.

Line: That's awesome. Well, I know, most of you all mentioned licensing compacts at some point in time. So that's something I'd like to hear a little bit more about. Are we seeing any new professional compacts and/or continued growth with other compacts? And let me start that with Nicole, then.

Nicole: Yeah, thanks, Line. So there continues to be immense growth with respect to interstate licensure compacts, including the two compacts that mobilize nurses, which are the Nurse Licensure Compact for registered nurses and licensed practical nurses and the APRN Compact for advanced practice registered nurses.

Both of these compacts follow a mutual recognition model. So, a nurse must hold one license issued by the primary state of residence, and with that one license they have what’s called the privilege to practice in all states party to the compact. The Nurse Licensure Compact, or NLC, has 41 member jurisdictions, including 39 states and the US territories of Guam and the Virgin Islands. And this session already there are 10 jurisdictions with pending NLC legislation. That includes an introduction in Connecticut. This is the first time the NLC has been introduced in that state, so very exciting to see, and also pending legislation in Hawaii that has already moved quickly through several committees this year.

Unlike the NLC that has been operational for - and it's crazy to say it - nearly 25 years, the APRN compact is a relatively new compact, having its language finalized in August of 2020, when we saw that COVID-19 really stressed the need for mobilizing individuals. And the compact has been enacted so far in four states, including most recently in February in South Dakota. Seven states are needed for that compact to come off the ground, and we really look forward to that date hopefully being soon.

Line: Well, I know, Kelly, one of the first things you mentioned was compacts. Tell us more.

Kelly: Absolutely, and I think I have the joke, and people who know me well can hear me commonly say, ‘if you've seen one compact piece of legislation, you've only seen one.’ They all might look a little different sometimes, and the one that I see popping up the most this session is the social worker compact. It's new legislation that is currently been filed in over 20 states. The legislation requires passage in just five states, and then the Compact Commission will be able to establish requirements for social workers to apply for a compact license. So far, Missouri and South Dakota have joined the compact.

I also wanna mention a couple of others quickly. The Dental and Dental Hygienist Compact. Now it is especially interesting because there are two different versions circulating in the 2024 session. However, the compact version that is championed by the American Dental Association and other similar groups is making the most continued progress, since it is already enacted with the minimum number of states.

I think the Counseling Compact already gained another state thus far this session. I believe they are officially at around 32 participating states. And finally I should note, we are also seeing compacts for teachers as well as cosmetologists and barbers this session.

Line: Awesome! And John?

John: Well, as Kelly and Nicole both said, you know there's more than a dozen compacts for healthcare professionals. And on our front, there's the Interstate Medical Licensure Compact and the PA Compact. The IMLC, which is an expedited license model, has been enacted in 39 states, D.C., and Guam. There are four states with pending legislation this year, including Florida, where the governor actually has the compact on his desk for signature. The IMLC continues to be highly successful and utilized. Since 2017, more than 90,000 licenses have been issued by member states through the compact process.

Separately, the PA compact's one of the newer compacts. The PA compact is different from the IMLC, as it is a privilege to practice model. The model legislation was finalized in fall of 2022, and last year, during the first year of it being available for legislative consideration, the PA compact was enacted in three states - Delaware, Utah, and Wisconsin. This year the legislation is pending in 15 states, and of those 15, four have already passed the PA compact through one of their legislative chambers. The compact won't become effective, though, until seven states enact the legislation.

Line: Awesome. Thank you very much, John. So, another trend is license process reform. I think you guys mentioned that, too, before. Reciprocity and universal licensure. Tell me what we are seeing nationwide this season. Then I'll go back to you, John, on this to start.

John: Sure. So, in addition to licensure compacts, states are looking at other mechanisms to increase license portability. Aside from compacts, 22 states and D.C. employ various mechanisms for permanent interstate telemedicine. Some have created special or telemedicine licenses, some have created registration systems or waivers, and some have regional or proximal reciprocity. For instance, last year the medical boards in D.C., Maryland, and Virginia implemented a regional reciprocity agreement for physicians.

Ten states currently have a registration or waiver system in place for telemedicine as well, and we may see more states do that as well. In 2022, the Uniform Law Commission adopted their Uniform Telehealth Act, which establishes a registration system for out-of-state practitioners not limited to physicians, but all healthcare professionals, so long as they don't have any disciplinary action in the

previous five years. So far this year, we have seen this legislation introduced in at least three states - Colorado, Rhode Island, and Wisconsin.

Line: Great, thank you. Nicole?

Nicole: Yeah. So licensure process reform and mobility has definitely been a hot topic trending for several sessions now, it seems. And as John said, many states are looking at non-compact license portability models, including reciprocity and telehealth waivers. But in addition, we've seen these so-called universal licensure measures pending before several states. Unlike compacts, which are tailored to a single or similar profession, universal licensure laws seek to apply uniform requirements to large groups of dissimilar professions, from engineers to barbers, to nurses, to florists. These one-size-fits-all measures set aside carefully established and tailored occupational licensure requirements of individual professions. So, it's definitely something to watch.

It's also important to note that universal licensure laws are a one-way street, so to speak. We just had a detailed conversation about compacts and how they provide mobility both ways. But universal licensure laws detail a process for accepting professionals into those states but not affording professionals already in that state the same benefits to their cross-border practice.

In addition to the goal of uniformity, other licensure reform bills look to create pathways to licensure for those who might have similar education or experience requirements. Utah House Bill 58, for example, creates a pathway to licensure for those who have similar education and similar experience to a licensed profession in that state and allows the licensing authority to recommend additional education or experience that would assist them to qualify for a license. One could imagine then, that in the healthcare space, the bill as written may result in a professional educated in one healthcare profession might be able to get licensed in the state of Utah in another. So, this will definitely be an interesting bill to watch this session.

Line: Alright, thank you, Nicole. Yeah, I keep looking for someone to give me a law degree or let me pass the bar just by experience. But that's not happening anytime soon. So, Kelly, how about you?

Kelly: Well, I think John and Nicole did a great job at highlighting the trends in this regard. I will say universal licensing reform legislation has been enacted in nearly 25 states for both trades and healthcare professions, as Nicole noted, over the past five years. So therefore, I think it is important to call out and note that with any initiative in this regard, the burden is still on the licensure boards to ensure public protection, regardless the method of licensure.

Line: Awesome! So I know obviously, we've talked about some of these things that are kind of heading towards legislation. Are there some other, maybe interesting bills that have caught your attention? And I'll start right back with Kelly again on that.

Kelly: Great, thanks. The banishment or disbanding of DEI requirements is super interesting. I have

one specific example that quickly comes to mind out of Missouri. It's House Bill 2567. It prohibits healthcare related professional licensing boards from adopting as a condition of obtaining a license or renewing a license, any requirements to undergo any sort of DEI training or education. I've also recently seen similar policy trends in this regard, for instance, state regulations in this regard. And so I think this is interesting, because not so long ago we saw mandated requirements for DEI continuing education and training. Therefore I think it is fair to say that the position on DEI requirements is changing at some regulatory boards.

Line: I wish we had more time. I'd like to dig into that a little bit more. John, your thoughts?

John: Well, yeah. A hot topic we're seeing across the states is the topic of AI. In January, Georgia House Bill 887 was introduced, and if it's enacted it would prohibit healthcare professionals from making decisions or taking action based solely on the results from the use of Artificial Intelligence, requiring results to be meaningfully reviewed. It also requires the Georgia Composite Medical Board to create and establish rules and regulations on standards necessary to implement this, specifically including but not limited to the disciplining of a physician who fails to comply.

But legislatures aren't the only ones weighing in on AI, though. Several governors in the past few months have issued executive orders establishing task forces to study AI in government. Those states include Alabama, New Jersey, Ohio, Oklahoma, Vermont, Virginia, and Wisconsin, just to name a few of them.

But I would also note that FSMB held an AI symposium in January, and in May, our House of Delegates will be considering a draft policy for adoption, and that's called 'Guidelines and Recommendations to Aid State Medical Boards and Physicians in Navigating the Responsible and Ethical Incorporation of AI into Clinical Practice.'

Line: That's great. Yeah. The AI is definitely here to stay. I think so. How about you, Nicole? Anything interesting? Any bills that you're looking at as well, in addition to what we've talked about?

Nicole: Yeah, definitely all interesting topics out there. I think we are also seeing a continuation of legislation resulting from the Supreme Court's decision in Dobbs. Many states, including several in the northeast, have enacted or are considering now legislation that would shield practitioners from disciplinary action in the state if they are facing discipline or face discipline in another jurisdiction for providing reproductive health care services that would otherwise be authorized in their licensing jurisdiction. An example right now out there is Rhode Island Senate Bill 2262.

And other states, of course in contrast, are considering legislation that creates grounds for discipline for healthcare providers that provide abortion services that might be in addition to, or in other legislation, considering criminal penalties as well. States with similar legislation to this include South Carolina House Bill 3774.

Line: Well, a lot of stuff for us to keep our eyes on. I guess finally, how do we stay informed? And how do you guys stay informed about the latest policy and legislative developments? And let's start right back again with you, Nicole.

Nicole: Yeah. So we utilize a tracking system at NCSBN called StateNet. It's a product of Lexus Nexus. And we have a tool on our website that's accessible, unfortunately, only to NCSBN members, where they can explore and track the legislation that we've identified in our tracking consistently for them. For the public, though, a lot of our nursing regulatory policy issues are on our NCSBN.org website, and it has a lot of information about our policy campaigns, both at the state and the federal level.

Line: Kelly, how about you? What are you guys doing?

Kelly: I track bills and regulations nationwide through the use of our government affairs platform, Politico Pro. It is super helpful with stakeholder management as well, and the monitoring of both federal and state level news articles and publications.

Line: Awesome! And John?

John: Well, at the Federation of State Medical Boards, we utilize a legislative tracking system called GovHawk. We make several of our legislative trackers available to the public on our website, as well as state-by-state comparison charts of key topics, such as telemedicine, continuing medical education, occupational licensure reform, pain management, and prescribing policies. These are available at fsmb.org/policy-clearinghouse.

Line: Awesome! Well, thank you. It's been great to hear about current legislative initiatives and policy trends that are impacting occupational licensure. And again, thank you to CE Broker for being CLEAR's Premier Education Partner this year, and we look forward to CLEAR's continued partnership with CE Broker. So thank you, Kelly, Nicole, and John, for speaking with us today.

Kelly: Thanks for having us.

John: Thank you.

Nicole: Yeah, thanks. This has been fun.

Line: That's great. Well, it's definitely been our pleasure. And I wanted to try to continue this conversation with our members. So, here's some questions for our listeners to think about. Here's one, which of these legislative trends will have the most impact on your regulatory organization? Another one would be, are there specific policy initiatives that you think will be beneficial to your regulatory stakeholders? Or are there specific policy initiatives that are cause for concern for your board?

We greatly appreciate and thank our members for your feedback, and these questions will be posted in the CLEAR Regulatory Network for member discussion. If you haven't already joined the CLEAR Regulatory Network, we invite and encourage you to do so and take time and be a part of this online discussion.

I also wanna thank our listeners for tuning in for this episode. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. And if you're new to the CLEAR podcast, please subscribe to us. You can find us on Podbean or any of your favorite podcast services. And if you've enjoyed this podcast episode, please leave a rating or comment in the app. Your reviews help us to improve our ranking and make it easier for new listeners to find us. Feel free also to visit our website at www.clearhq.org for additional resources as well as a calendar of upcoming programs and events.

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.

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