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# Wisconsin Legislative Council

## STAFF BRIEF

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### STUDY COMMITTEE ON OCCUPATIONAL LICENSES

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The Wisconsin Legislative Council is a nonpartisan legislative service agency. Among other services provided to the Wisconsin Legislature, staff of the Wisconsin Legislative Council conduct study committees under the direction of the Joint Legislative Council.

Established in 1947, the Joint Legislative Council directs study committees to study and recommend legislation regarding major policy questions facing the state. Study committee members are selected by the Joint Legislative Council and include both legislators and citizen members who are knowledgeable about a study committee's topic.

This staff brief was prepared by the Wisconsin Legislative Council staff as an introduction for study committee members to the study committee's topic.

# INTRODUCTION

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The Study Committee on Occupational Licenses is directed to review the current occupational licensing system administered by the Department of Safety and Professional Services (DSPS), including prior recommendations made by DSPS for eliminating current occupational credentials, systems of review to determine the necessity of both new and current occupational credentials, and access to reciprocal credentials for individuals from other states. As part of its review, the study committee is tasked with recommending legislation on the current credentials that may be eliminated, on systems of review of new and existing occupational credentials, and on the issuance of reciprocal credentials.

Currently, DSPS and the attached credentialing boards administer over 200 licenses. While occupational licenses have been regulated in the state since 1882, the number of regulated occupations has risen over the last few decades. Some observers have noted that there are not specialized processes in place to fully evaluate the need for licensure and any costs or barriers that may be imposed by the licensure.

The COVID-19 pandemic also highlighted Wisconsin's growing workforce shortage. Although the labor force may not be growing, the state has been adding jobs and that trend is expected to continue.<sup>1</sup> For workers, occupational licensing can be a pathway to skilled positions and higher pay, but also may act to exclude certain workers within a state and reduce portability for workers to move between states.<sup>2</sup>

Given that context, the regulation of occupational licenses is subject to the sometimes competing goals of protecting consumers, increasing professionalization, and reducing barriers to economic opportunities for workers.

This staff brief provides background information to assist the study committee as it carries out its charge. More specifically, the staff brief includes the following parts:

- **Part I** provides an overview of occupational licensing in Wisconsin.
- **Part II** summarizes the analysis and prior recommendations made by DSPS for eliminating certain current occupational credentials.
- **Part III** describes the state's current processes for reviewing occupational credentials and summarizes selected other states' approaches.
- **Part IV** provides an overview of the state's current approaches to reciprocal credentialing and details other potential approaches.

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<sup>1</sup> Wisconsin Department of Workforce Development, [Understanding Wisconsin's Job Outlook](#) (July 2021).

<sup>2</sup> The White House, [Occupational Licensing: A Framework for Policymakers](#) (July 2015).

## PART I | OCCUPATIONAL LICENSING BACKGROUND

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Occupational licensing in Wisconsin is largely administered by DSPS, although some additional licenses are issued through other state and federal agencies. This part provides a brief overview of occupational licensing in the state, including the origins of licensing, the types of credentials, and the governing bodies that administer the credentials.

### WHAT IS OCCUPATIONAL LICENSING?

#### Origins and Purpose

The first consideration of occupational license regulation related to physicians. Early in statehood, Wisconsin had more doctors per capita than the national average, and admission to practice medicine only required that a candidate be approved by one of the county medical societies. The societies' standards in that era have been described as relatively low. Therefore, medical practitioners included physicians with diplomas along with practitioners without diplomas, including allopaths, homeopaths, hydropaths, botanics, and eclectics. In response to competition to provide services, physicians with diplomas sought strict standards on the practice of medicine and enforcement from the state. In 1861, the Legislature considered a regulatory bill addressing the concerns of the physicians but ultimately rejected it on the basis that the state should not protect the practice of medicine by physicians with diplomas or protect the public who may employ both trained and untrained physicians.<sup>3</sup>

Twenty years later, Wisconsin first began regulating occupational licenses with the creation of the Pharmacy Examining Board in 1882.<sup>4</sup> This board was created shortly after the creation of the Wisconsin Pharmaceutical Association, which housed a committee that worked to pass the pharmacy law in Wisconsin. Since then, the state has made over 200 professions subject to occupational licensing.

The Wisconsin Supreme Court has stated that occupational licensing is “founded in the police power of the state to protect the public welfare and to safeguard the life, health and property of its citizens.” Notably, the Court has stated that the purpose of occupational licensing is not to benefit licensed persons. Instead, when a license is issued, “the state assures the public of the competence of that person.” [*Stringez v. Dep’t of Reg. & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287 (1981).]

#### History of DSPS, Former Agencies

The Department of Regulation and Licensing (DRL) was the precursor to DSPS. DRL was created in the mid-1960s and provided centralized administrative services to existing independent credentialing boards and councils. Over the next four decades, DRL gained more administrative functions. In particular, the occupational licensing process was further centralized by moving additional regulatory boards and councils to DRL and using DRL employees to staff the individual boards and councils. The 2011-13 Biennial Budget Act created DSPS by merging DRL with the Division of Safety and Buildings (now the Division of Industry Services) that was previously housed in the Department of Commerce.<sup>5</sup> [2011 Wisconsin Act 32.]

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<sup>3</sup> Alice E. Smith, *The History of Wisconsin: Volume I: From Exploration to Statehood* (1973), at 185.

<sup>4</sup> DSPS, [Recent Accomplishments and Economic Footprint Report](#), p. 10 (September 2013).

<sup>5</sup> For more information, see Legislative Fiscal Bureau (LFB), [Regulation of Professional Occupations by the Department of Safety and Professional Services](#), Informational Paper 98 (January 2013).

## OCCUPATIONS LICENSED THROUGH DSPS

### Business, Health, and Trades Professions

DSPS and the attached credentialing boards administer over 200 licenses, which generally fall into three categories: (a) business professions; (b) health professions; and (c) trades professions.<sup>6</sup>

Examples of **business professions** include real estate brokers, real estate business entities, accountants, engineers, home inspectors, private detectives, private security persons, barbers, cosmetologists, cemetery salespersons, and funeral directors. DSPS identifies 68 business professions that are currently subject to licensing.

Examples of **health professions** include physicians, nurses, dentists, audiologists, chiropractors, chiropractic technicians, dance therapists, drug or device manufacturers, midwives, and dietitians. DSPS identifies 69 health professions that are currently subject to licensing.<sup>7</sup>

Examples of **trades professions** include electricians, plumbers, dwelling contractors, elevator contractors, welders, fireworks manufacturers, and soil erosion inspectors. DSPS identifies 73 trades professions that are currently subject to licensing.

In addition, there are approximately 12 licenses categorized as unarmed combat sports, and four licenses categorized as manufactured homes.

Each license is subject to occupation-specific professional standards and qualifications. Generally, the business and health professions are subject to a similar set of statutory requirements in chs. 440 to 480, Stats. The trades professions are subject to chs. 101, 145, and 167, Stats.

### TYPES OF CREDENTIALING

Wisconsin regulates occupational licenses, certificates, permits, and registrations that are issued to individuals and certain business entities. This staff brief generally uses the term “license” or “credential” interchangeably to refer to all of these types of credentials.<sup>8</sup>

The following list describes the general characteristics of each type of licensure:

- **License** – Licenses are the most restrictive type of credential. Qualification typically requires an examination, specialized education, and often specific work experience. Examples of occupations that require formal licensure to practice in Wisconsin include cosmetologists, physicians, and occupational therapists.
- **Certificate** – Certificates are comparable to licenses and commonly provide special recognition to individuals who satisfy required qualifications for a profession, such as the completion of an examination. Depending on the title protections for a particular

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<sup>6</sup> A list of DSPS’s categorization for each license is available at: <http://dsps.wi.gov>.

<sup>7</sup> This does not include certain professions added in the 2021-22 Legislative Session, including pharmacy technicians, genetic counselors, naturopathic doctors, and expanded function dental auxiliaries, for which regulatory oversight is not yet in place.

<sup>8</sup> Although commonly used interchangeably, the statutes define an “occupational license” as an approval to engage in trades occupations regulated under chs. 101 and 145, and s. 167.10 (6m), Stats., and define a “credential” as an approval to engage in health and business professions regulated under chs. 440 to 480, Stats. [ss. 101.02 (1) (a) 2. and 440.01 (2) (a), Stats.]

occupation, typically a person without certification may hold themselves out as a practitioner, but only those with a certificate may describe themselves as “certified” in the occupation. Examples of occupations that require state certification include dietitians, acupuncturists, and substance abuse counselors.

- **Permit** – Permits are often used as a training credential but may also be used as a primary credential. Examples of occupations that require a permit are limited x-ray machine operators, private security persons, and hearing instrument specialists.
- **Registration** – Registration is typically the least restrictive type of credential. It requires an individual to submit the person’s name, address, and registration fee payment to DSPS, and in some cases may require additional qualifications. Registration may limit the use of a professional title. Examples of occupations that allow or require registration include interior designers, art therapists, and investment advisors.

For additional background regarding the types of licensure, see DSPS, [Wisconsin Occupational Licensing Study](#) (December 2018), and LFB, [Regulation of Occupations by DSPS](#), Informational Paper #96 (January 2021).

## ADMINISTRATION OF LICENSING THROUGH DSPS AND BOARDS

Although some of the licenses described above are administered exclusively by DSPS, many are jointly administered by DSPS and one of the nearly 100 boards, councils, and advisory committees that are attached to the agency.<sup>9</sup> These credentialing bodies, though attached to DSPS, are separate legal entities created by statute, and play a large role in creating and administering professional standards for many of the licenses issued through DSPS. [ss. 15.405 to 15.407, and 440.042, Stats.]

### Types of Licensing Bodies Within DSPS

DSPS’s attached credentialing bodies each have their own itemized powers and duties. However, the general characteristics of each type of body are defined in the statutes as follows:

- **Board** – A board is a part-time body functioning as the policymaking unit for DSPS with regard to the credentials it regulates. The specific role of each board is set out separately in statute. [s. 15.01 (1r), Stats.]
- **Examining Board** – The statutes distinguish *examining* boards from other boards. By statute, an examining board does all of the following: (a) sets standards of professional competence and conduct for the profession under its supervision; (b) prepares, conducts, and grades examinations; (c) grants licenses; (d) investigates complaints of alleged unprofessional conduct; and (e) performs other functions assigned by law. [s. 15.01 (7), Stats.]
- **Affiliated Credentialing Board** – Six affiliated credentialing boards are attached to the Medical Examining Board to oversee the following professions: athletic trainers, dietitians, massage and bodywork therapists, occupational therapists, physician assistants, and podiatrists. The affiliated credentialing boards set standards of competence and conduct for licensed persons, review license applications, take disciplinary actions, and perform other functions, with the advice of the Medical Examining Board. [s. 15.01 (1g), Stats.]

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<sup>9</sup> A list of DSPS’s current boards, councils, and advisory committees is available at: <https://dsps.wi.gov/Pages/BoardsCouncils/Default.aspx>.

- **Council** – A council functions on a continuing basis to study a particular problem, and recommend solutions and policy alternatives. Councils do not generally have final decision-making authority. Some councils are affiliated with a board, and others are attached directly to DSPS. [s. 15.01 (4), Stats.]
- **Advisory Committee** – The DSPS Secretary is authorized to appoint an advisory committee to advise DSPS or any board, examining board, or affiliated credentialing board on matters related to the occupations regulated. For some professions, advisory committees are also specifically required by statute. An advisory committee does not have final decision-making authority. [s. 440.042, Stats.]

In addition to some of the more commonly recognized boards such as the Medical Examining Board and the Real Estate Examining Board, DSPS also houses other credentialing bodies such as the Accounting Examining Board, Cosmetology Examining Board, and Hearing and Speech Examining Board. Typically, a majority of the members on each board are people who actively practice in the occupations they regulate, and can provide technical expertise in the subject area.<sup>10</sup>

In practice, most DSPS boards are associated with the business and health professions, whereas the trades professions are more often connected with a council or advisory committee.

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<sup>10</sup> The composition of each board and council is identified in ss. 15.405 to 15.407, Stats.

## PART II | CREDENTIALS IDENTIFIED FOR ELIMINATION

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The first item for the committee's consideration is a review of prior recommendations made by DSPS regarding any current laws requiring occupational credentials that may be eliminated without clearly harming or endangering the health, safety, or welfare of the public. This part lists the occupational credentials identified in a DSPS report completed in 2018.

### REQUIREMENT TO PREPARE REPORT

A provision in the 2017-19 Biennial Budget Act required DSPS to submit a report to the Governor and the Legislature by December 31, 2018, with recommendations for elimination of existing occupational licenses. The recommendations were to be based on a list of factors, including public safety considerations, other states' laws, financial burdens from the licensure requirements, and barriers to obtaining the license. [2017 Wisconsin Act 59, SEC. 9139 (17w).]

The biennial budget act required DSPS to base its recommendations to eliminate credentials on all of the following:

- The department's evaluation of whether the unregulated practice of the profession, occupation, or trade can clearly harm or endanger the health, safety, or welfare of the public, and whether the potential for the harm is recognizable and not remote or speculative.
- The department's evaluation of whether the public reasonably benefits from the occupational license requirement.
- The department's evaluation of whether the public can be effectively protected by any means other than requiring an occupational license.
- The department's analysis of whether licensure requirements for the regulated profession, occupation, or trade exist in other states.
- The department's estimate of the number of individuals or entities that are affected by the occupational license requirement.
- The department's estimate of the total financial burden imposed on individuals or entities as a result of the occupational licensure requirement, including education or training costs, examination fees, private credential fees, occupational license fees imposed by the state, and other costs individuals or entities incur in order to obtain the required occupational license.
- Any statement or analysis provided by the agency or board administering the occupational license.
- The department's evaluation of the tangible or intangible barriers people may face in obtaining an occupational license.

### RECOMMENDATIONS IN 2018 DSPS REPORT TO ELIMINATE CREDENTIALS

In December 2018, DSPS issued its Legislative Report on the [Wisconsin Occupational Licensing Study](#). According to the report, DSPS conducted the statewide occupational licensure study using DSPS's own data, comparative data from other states, information from news articles, trade and professional organizations, state and national research organizations, a survey of credential holders and stakeholders, and other sources. The report notes that there was much variation in availability and reliability of data sources, and in states' definitions for each occupation.



The report focused on whether or not other states require a license for a comparable occupation. Because information on licensing requirements, such as fees and educational requirements, were not consistently available from all sources, the report did not include a comparison of that information. The report also noted that cross-comparisons were difficult due to whether or not specializations are categorized. The report noted, for example, that Wisconsin issues licenses for seven classifications of blasters, while several states issue only one umbrella license for all blaster classifications.

Based upon its analysis of the factors required in the biennial budget act and other input, DSPS recommended elimination of the following occupational licenses that are administered by DSPS or a credentialing board:<sup>11</sup>

- Cosmetology temporary permit. [Report, Appendix C, p. 52; s. [454.06 \(10\)](#), Stats.]
- Cosmetology training permit. [Report, Appendix C, p. 52; s. [454.06 \(9\)](#), Stats.]
- Designer of engineering systems permit. [Report, Appendix C, p. 53; s. [443.07](#), Stats.]
- Music, art, and dance therapist registrations.<sup>12</sup> [Report, Appendix C, pp. 53 to 54; s. [440.03 \(14\) \(a\)](#) 1. to 3., Stats.]
- Blaster license classes 2 to 7, with consolidation into one class. [Report, Appendix C, p. 54; s. [SPS 305.20, Wis. Adm. Code.](#)]
- Intermediate clinical supervisor license. [Report, Appendix C, p. 54; s. [440.88 \(3\) \(a\) 5.](#), Stats.]
- Interior designer registration.<sup>13</sup> [Report, Appendix C, p. 54; s. [443.075](#), Stats.<sup>14</sup>]

In making its recommendations, DSPS considered the following:

- Health, safety, and welfare of the public.
- Benefits to the public.
- Other regulatory options.
- Other states' licensed professions.
- Total persons affected by the license requirement.
- Financial burden of license requirement.
- Licensing agency or board perspective.
- Barriers to obtaining license.

<sup>11</sup> DSPS reviewed occupational licenses issued by all state agencies, including the Departments of Agriculture, Trade and Consumer Protection and Children and Families, among others. Because the study committee is directed to review occupational licenses administered by DSPS and its affiliated credentialing boards, this staff brief focuses on those licenses.

<sup>12</sup> The music, art, and dance therapist registration requirements may originally have been established to address a separate provision in state law that generally requires health insurance policies to provide coverage for services performed by licensed health care professionals (unless coverage is explicitly excluded by the policy). Without licensure, an insurance policy is not required to provide coverage for services performed by those professionals. [s. [632.87 \(1\)](#), Stats.] Regulation of music, art, and dance therapists was established by [1997 Wisconsin Act 261](#).

<sup>13</sup> Under state law, a person may practice and hold themselves out as an interior designer, but may not use the credential title "registered interior designer," unless the person is registered as an interior designer. [s. [443.02 \(5\)](#), Stats.; formerly s. [440.961, 2017-18](#) Stats.]

<sup>14</sup> Formerly s. [440.962, 2017-18](#) Stats. Regulation of registered interior designers has since been modified, in [2021 Wisconsin Act 195](#). A registered interior designer may seal or stamp technical submissions for public records and related documents.

## PART III | SYSTEM FOR REVIEW OF NEW AND EXISTING OCCUPATIONAL CREDENTIALS

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The second item for the committee’s consideration is whether it is necessary to implement systems of review both to determine the necessity of legislative proposals for new occupational credentials, and to periodically review the appropriateness of maintaining current occupational credential requirements. Sometimes referred to as “sunrise” and “sunset” reviews, such processes can help legislators consider the merits of licensure for an occupation before legislation is enacted, as a “sunrise” review, and to conduct a periodic review of the benefits of continuing licensure for an occupation, as a “sunset” review.

According to the National Conference of State Legislatures (NCSL), 14 states have active, formal sunrise review processes, and 36 states have some form of sunset review processes.<sup>15</sup> Wisconsin does not have formal sunrise and sunset review processes that are tailored to the consideration of occupational licensure, but it does have general processes that provide gatekeeping and review functions. Those general processes apply to the enactment of any legislation, promulgation of administrative rules, and audits of state programs.

This part provides an overview of the state’s current general processes; a brief description of sunrise and sunset programs from selected other states; and a listing of proposed legislation on this topic since 2017.

### CURRENT REQUIREMENTS TO CREATE OR REVIEW OCCUPATIONAL LICENSES

Under current Wisconsin law, occupational licenses may be created or amended through the enactment of legislation and sometimes through the promulgation of an administrative rule. Each step in lawmaking and rulemaking provides legislators the opportunity to review relevant information and to advance changes to the law or maintain current law. Audits of state programs provide legislators a detailed and independent review of a program’s performance with recommendations for improvement that may be effected through the lawmaking or administrative rule process.

#### Legislative Process, Fiscal Estimates

To briefly recap the legislative process, in order to enact a law in Wisconsin, a legislator must introduce a bill, and a standing committee in the legislator’s house may hold a public hearing on the bill and may hold a vote on whether or not to recommend passage of the bill by the full house. If passed by one house, the bill must then be passed by the other house, generally with another public hearing and vote by a standing committee in that house, before it is submitted to the Governor to sign or veto.

#### Bill Author Must Explain the Need for Proposed Legislation

Informally, a legislator who is considering whether to introduce a bill may first choose to circulate the bill among other legislators for cosponsorship. When circulated, a legislator generally explains the need for the bill and how the approach taken in the bill would be the best approach to address the issue.

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<sup>15</sup> Iris Hentze, [Improving Occupational Licensing with Sunrise and Sunset Reviews](#), NCSL Legisbriefs, Vol. 26, No. 25 (July 2018).

The bill author must generally continue to explain the need for the bill and why the bill is the best approach to address the issues, at each stage of the process, in order to advance the bill. When introduced, a bill is referred to a standing committee with subject-matter jurisdiction in the bill author's house. A chairperson for a standing committee is not required to schedule any formal committee action on a bill, and may choose which bills referred to the committee will receive a public hearing, and may further choose whether or not any bills that received a public hearing will also be voted on for a recommendation by the committee. If a committee recommends passage of a bill to the full house, the house's committee on organization determines whether to schedule the bill for a vote by the full house.

## Some Bills Require Formal Reports

The statutes also contain a formal requirement for the preparation of a fiscal estimate if a bill makes an appropriation, increases or decreases an existing appropriation, or has other potential fiscal impacts. A bill that is identified as requiring a fiscal estimate must have a publicly available fiscal estimate before the bill may receive a public hearing, committee vote, or vote by the full house. [s. [13.093 \(2\)](#), Stats.]

DSPS or a credentialing board is typically required to prepare a fiscal estimate for the Legislature's consideration of a bill that establishes new occupational licensure. See, for example, the fiscal estimates provided for [2021 Senate Bill 259](#), enacted as 2021 Wisconsin Act 251, requiring licensure for genetic counselors, and for [2021 Senate Bill 300](#), enacted as 2021 Wisconsin Act 100, requiring registration for pharmacy technicians.

Bills on certain identified topics also require specific reports to aid in the Legislature's consideration of the proposal. The required contents of a report range from: (a) providing an agency or council's opinion on the effect and desirability of legislation as a matter of public policy; or (b) assessing and providing findings on statutorily identified factors.<sup>16</sup>

## Administrative Rules

### Steps to Promulgate an Administrative Rule

In some cases, where general authorization is given by statute, DSPS or a credentialing board may identify required credentials through administrative rules. State agencies promulgate administrative rules pursuant to rulemaking authority conferred by the Legislature. The Legislature retains oversight of the rulemaking process through the review of proposed rules by the Legislative Council's Administrative Rules Clearinghouse (Rules Clearinghouse), legislative standing committees in each house, and the Joint Committee for Review of Administrative Rules (commonly referred to as JCRAR).

Steps in the process to promulgate a permanent rule include preparation and approval of a scope statement about the intended rulemaking, preparation of an initial rule draft, preparation

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<sup>16</sup> See, for example, the required reports for a bill that does any of the following:

- Establishes an exception to the state's vehicle weight limits. [s. [13.096](#), Stats.]
- Revokes a person's operating privileges upon conviction for any offense. [s. [13.0965](#), Stats.]
- Establishes a health insurance mandate. [ss. [13.0966](#) and [601.423](#), Stats.]
- Conveys a lake bed area. [s. [13.097](#), Stats.]
- Probably impacts the cost or reliability of electricity generation, transmission, or distribution, or of fuels used in generating electricity. [s. [13.0975](#), Stats.]
- Relates to alcohol or other drug abuse policies, programs, or services. [s. [13.098](#), Stats.]
- Increases or decreases the cost or availability of housing. [s. [13.099](#), Stats.]

of an economic impact analysis, review by the Rules Clearinghouse, a public hearing held by the agency, and the legislative committee review process. [subch. II, ch. 227, Stats.]

That process requires an economic impact analysis, which must include information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. It must also explain all of the following:

- The policy problem the rule is intended to address.
- The approach to the problem the rule takes.
- A comparison to approaches taken by the federal government and by Wisconsin's neighboring states, Illinois, Iowa, Michigan, and Minnesota.
- Any reasons for the agency choosing a different approach.

[s. [227.137](#), Stats.]

If a proposed rule will have any effect on small business, the agency must prepare an initial regulatory flexibility analysis that describes its impacts. Also, if the rule may have an economic impact on small business, the agency must submit the rule to the Small Business Regulatory Review Board<sup>17</sup> (SBRRB) on the same day the rule is submitted to the Rules Clearinghouse. The SBRRB must determine whether the rule will have a significant economic impact on a substantial number of small businesses. [s. [227.14 \(2g\)](#), Stats.]

Next, when submitting a proposed rule to the Legislature for review, an agency must submit a report that contains a number of items, including a detailed statement explaining the basis and purpose of the proposed rule and how the proposed rule advances relevant statutory goals or purposes, among other items. [s. [227.19 \(3\)](#), Stats.]

During the legislative committee review process, a rule is first referred to a standing committee with subject-matter jurisdiction in each house. A standing committee may take a number of actions, including holding a public hearing, requesting modifications, or objecting to a proposed rule for specified reasons.<sup>18</sup> When the standing committees' review period ends, the rule is referred to JCRAR, which may take similar actions. [s. [227.19 \(4\)](#) and (5), Stats.]

## Review of Existing Rules

After a rule has been promulgated, JCRAR continues to have oversight of a rule that is in effect, and may suspend a rule for any of the same reasons that it may object to a rule during the rule promulgation process. [s. [227.26](#), Stats.] JCRAR may also direct an agency to prepare a retrospective economic impact analysis for an existing rule. [s. [227.138](#), Stats.]

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<sup>17</sup> The Small Business Regulatory Review Board is attached to the Department of Administration (DOA) and consists of seven representatives of small business and the chairpersons of the Senate and Assembly standing committees concerned with small businesses. [s. [15.105 \(33\)](#), Stats.] The [board's website](#) states that it assists state agencies in promulgating rules that are realistic to reduce red tape, lessen the compliance burden, and improve the business climate in Wisconsin to foster economic expansion and job growth.

<sup>18</sup> A committee may object to all or part of a rule for one or more of the following reasons: absence of statutory authority; an emergency relating to public health, safety, or welfare; failure to comply with legislative intent; conflict with state law; change in circumstances since enactment of the earliest law on which the proposed rule is based; arbitrariness or capriciousness, or imposition of an undue hardship; or, for a proposed rule by DSPS establishing standards for dwelling construction, that the rule would increase the cost of constructing or remodeling a dwelling by more than \$1,000. [s. [227.19 \(4\) \(d\)](#), Stats.]

Agencies themselves must conduct ongoing review of rules that are in effect. Agencies must submit biennial reports to JCRAR that identify unauthorized, restricted, obsolete, and duplicative rules, as well as rules that are in conflict with other rules, statutes, federal statutes or regulations, or judicial rulings. In addition to identification of such rules, each agency must describe the actions taken to address the rules identified by the report. [s. [227.29](#), Stats.]

Lastly, SBRRB is authorized to review any current administrative rule to determine whether it places an unnecessary burden on small businesses. If the board so determines, it must submit a report and recommendations regarding the rule to JCRAR. JCRAR may review the rule or refer the report to the presiding officer of each house of the Legislature for referral to the standing committees.

When reviewing a report from SBRRB, JCRAR must consider all of the following:

- The continued need for the rule.
- The nature of the complaints and comments received from the public regarding the rule.
- The complexity of the rule.
- The extent to which the rule overlaps, duplicates, or conflicts with federal regulations, other state rules, or local ordinances.
- The length of time since the rule has been evaluated.
- The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule since it was promulgated.

[s. [227.30](#), Stats.]

## **Legislative Audit Bureau Authority to Conduct Performance Evaluations**

The Council on Licensure, Enforcement & Regulation (CLEAR), states that one of the most common methods to address sunset reviews is through periodic examination of agencies through performance audits, sometimes referred to as program evaluations. Wisconsin is among the states that may conduct performance evaluations, as briefly described here.

The Wisconsin Legislative Audit Bureau (Audit Bureau) has a broad mandate to assure that state agency financial transactions have been made in a legal and proper manner, and to further review state agencies' performance and program accomplishments to determine whether an agency carried out the policy of the Legislature and the Governor. [s. [13.94](#) (intro.) and (1) (intro.), Stats.]

The Audit Bureau may engage in an audit or evaluation at the direction of the Joint Legislative Audit Committee or at the State Auditor's discretion. In addition, a number of programs are statutorily identified for evaluation, such as a biennial performance evaluation audit of programs administered by the Wisconsin Economic Development Corporation, and a periodic performance evaluation audit of the Division of Gaming in DOA. [s. [13.94](#) (1) (b), (dr), and (eg), Stats.]

Among reports available beginning in 1996, the Audit Bureau performed an audit of the prior DRL's [Financial Management Practices](#) for fiscal year 1997-98, and issued a review of [Credentialing Fees](#) in July 2004. According to legislative session information beginning in the 2011-12 biennium, the [Joint Legislative Audit Committee](#) has not considered or proposed an evaluation of DSPS or its occupational licensing programs during that timeframe.

## RECOMMENDATIONS AND EXAMPLES FROM OTHER STATES

### White House Report

A 2015 report on [Occupational Licensing: A Framework for Policymakers](#) for the White House suggests that successful sunrise and sunset reviews share a number of common factors. [pp. 42 to 52.] For example, for both sunrise and sunset reviews, the White House Report recommends carrying out a comprehensive cost-benefit assessment that considers criteria such as:

- The presence of legitimate public health and safety concerns or substantial fiduciary responsibilities.
  - Whether existing legal remedies, consumer ratings, and less-restrictive regulatory approaches are adequate to protect consumers.
  - Whether the licensure requirements are well tailored to ensure quality and protect consumers.
  - The effect that the license would have on practitioner supply.
  - The effect that the license would have on the price of services.
  - The administrative cost of enforcing the license.
- Potential features of a review process:
- Who initiates the review process?**
- Legislative committee?
  - Member of the public?
  - Automatic or mandatory?
- Who performs the review?**
- Legislative service agency?
  - Executive branch office?
  - Legislative subcommittee?
- What does the review include?**
- Showing of specific harm?
  - Evaluation of other regulatory options?
  - Public comment?
- What is the effect of the recommendation?**
- To strengthen the reviewing entity's ability to conduct reviews, the White House Report recommends providing the entity with adequate resources to conduct cost-benefit analyses, insulating the review process from political interference, and requiring a minimum number of votes to overrule the entity's recommendation. The report further recommends that the entity be a specialized committee that is responsible for all occupational licensing issues and works with the state agency in charge of conducting the reviews.

### Recommendations from Policy Organizations

Some policy organizations, such as the Badger Institute and the Wisconsin Institute for Law & Liberty (WILL), have suggested that Wisconsin could improve the sunrise and sunset review processes. For example, a joint review by those two organizations recommends that Wisconsin adopt a sunrise review process, conducted by the Audit Bureau, to assess the impact of a proposed occupational license and determine the best form of regulation for the identified public safety risks. The review also recommends that Wisconsin adopt a sunset review process to consider whether less restrictive forms of regulation would meet public safety requirements, and that requires the review to articulate why a recommendation to continue a license is justified. [Julie Grace and Kyle Koenen, [Occupational Licensing in Wisconsin: A Roadmap for Reform](#) (2021).]

At least one policy organization has developed a model act addressing sunrise and sunset review processes. See the Institute for Justice, [Occupational Licensing Review Act](#) (February 23, 2022).

## Selected Examples From Other States

### Arizona

According to the [Handbook on Arizona's Sunset & Sunrise Review](#), Arizona's **sunrise review** process provides a mechanism to request the regulation of a health or nonhealth profession or an expansion in scope of practice for a health profession. The sunrise review process begins with an applicant group presenting a report to the Speaker of the House and President of the Senate. The report must define the problem, explain the need for regulation, discuss the costs, benefits, and negative impact, summarize efforts to address the problem, describe alternatives to regulation, and discuss the maintenance of professional standards. The Speaker and President assign the report to a "committee of reference" for review and recommendation. [A.R.S. ss. [32-3101](#) to 32-3106 and [41-3501](#) to 41-3505.]

According to information compiled by the [Council on Licensure, Enforcement & Regulation](#):

- **12 states** have active sunrise review processes, including neighboring state Minnesota.
- **21 states** have active sunset review processes.
- **12 states** have limited or inactive sunset review processes, including Wisconsin and neighboring states Illinois, Michigan, and Minnesota.

#### Arizona

Summary of sunrise features:

- Initiated by applicant group presenting report.
- Reviewed by legislative committee.
- Must include justification for regulation, cost-benefit analysis, and evaluation of alternative options.

Summary of sunset features:

- Initiated automatically by trigger in authorizing legislation.
- Reviewed by Office of Auditor General or agency itself reporting to legislative committee.
- Must review statutory factors.

Arizona's **sunset review** process requires the legislature to periodically review the purpose and functions of state agencies to determine whether continuation, revision, consolidation, or termination is warranted. Reviews are conducted by the Office of the Auditor General or committees of reference in the House and Senate, as assigned by the Joint Legislative Audit Committee. If assigned to committees of reference, the review is typically a self-audit by the agency, which is asked by the committee to respond to the statutory factors. The schedule for review is determined by the sunset date specified in each agency's authorizing legislation. [A.R.S. ss. [41-2951](#) to 41-2958.]

In both sunrise and sunset reviews, Arizona requires consideration of the impact of regulation on the public, health, safety, and welfare (as identified in four criteria). The reviewing entity must answer questions on the extent to which failure to regulate a profession will result in loss of insurance, an impact on the ability to practice in other states or as required by federal law, an impact on the required licensure or registration with the federal government, and the loss of constitutionally afforded practices.

### Colorado

In Colorado, the [Colorado Office of Policy, Research & Regulatory Reform](#) (COPRRR) in the [Department of Regulatory Agencies](#) (DORA) is responsible for examining any new proposals to regulate a previously unlicensed occupation and conducting sunset reviews to determine whether continued regulation is necessary to protect the public health, safety, and welfare. DORA also administers the state's occupational licensing.

Colorado's **sunrise review** requires anyone proposing to regulate an unregulated occupation to submit a detailed [application](#) to COPRRR. The application must include information such as verifiable examples of the physical, emotional, or financial harm to clients from a failure to provide appropriate or competent service in the occupation, the impact of licensure on the supply of practitioners and on the costs of services, what would be gained through regulation of the occupation, and whether a lack of regulation makes the practitioners ineligible for insurance payments or federal grants. COPRRR then uses statutory criteria to evaluate the proposal and submits its review to the Legislature. Regardless of COPRRR's findings, a person may pursue legislation, and the Legislature makes the final determination. [[C.R.S. s. 24-34-104.1.](#)]

Colorado's **sunset reviews** are conducted by COPRRR according to a statutory review schedule and culminate in the release of a report by October 15 of the year preceding the date established for repeal of a regulated profession. The sunset review criteria were recently modified, and the new criteria will be used for reviews commencing on or after October 16, 2022. A review will generally question the need for regulation to protect the public, but if regulation is determined to be needed, the review will look for the least restrictive level of regulation consistent with the public interest. [[C.R.S. s. 24-34-104.](#)]

Committees of reference are assigned subject-matter jurisdiction to hear any bills based on COPRRR's recommendations. [[C.R.S. s. 2-3-1201.](#)]

## Texas

In Texas, the [Texas Sunset Advisory Commission](#) conducts regular assessments of the continuing need for a state agency or program to exist, including occupational licensing bodies. The Legislature sets a sunset review date in an agency's statute, typically for a 12-year period. The occupational licensing agency review criteria ask whether the agency's occupational licensing program serves a meaningful public interest and provides the least restrictive form of regulation needed to protect the public interest, whether the regulatory objective could be achieved through other means, and other questions. [[TX Gov't Code, ch. 325](#), s. 325.0115 (b).]

The commission is composed of five senators, five representatives, and two public members, and is supported by an executive director and about 30 staff. The sunset commission staff perform the initial research and analysis, and prepare a staff report. The commission then holds a public hearing on the staff report, with opportunities for agency response and public input, before meeting again to consider and vote on recommendations. A sunset bill then must proceed

### Colorado

Summary of sunrise features:

- Initiated by person proposing to regulate an unregulated occupation.
- Reviewed by COPRRR, an executive agency.
- Must include verifiable examples of harm and cost-benefit analysis.
- COPRRR submits advisory review to the Legislature.

Summary of sunset features:

- Initiated automatically by statutory review schedule.
- Reviewed by COPRRR and referred to legislative committee with recommendations.
- Must review specific criteria, need for regulation, and least restrictive means.

### Texas

Summary of sunset features:

- Initiated automatically by sunset review date.
- Reviewed by legislative commission composed of legislators and public members.
- Must review whether program advances public interest in least restrictive way.



through the normal legislative process. [Sunset Advisory Comm'n, [Sunset in Texas](#), 2022-2023, 88<sup>th</sup> Legislature (September 2021).]

## PROPOSED BILLS SINCE 2017

Some recent proposals, not enacted, relating to sunrise and sunset review processes, include the following:

- The 2017-19 Biennial Budget Bill, proposed in companion bills [2017 Assembly Bill 64](#) and [2017 Senate Bill 30](#), included a proposal to create an occupational license review council in DSPS to perform a one-time evaluation of occupational licenses that may be eliminated based on a number of identified factors. The council membership would have been composed of eight members appointed by the Governor and one majority party and one minority party member from each house of the Legislature. The DSPS Secretary or designee would serve as chair, nonvoting except in case of a tie. The proposal was revised in the final biennial budget act to require DSPS to engage in the analysis described in part II, above.<sup>19</sup>
- Companion bills [2019 Assembly Bill 605](#) and [2019 Senate Bill 541](#) would have required DSPS to prepare an occupational license report for any bill that would create a requirement to obtain a license to engage in a profession. The report would have been required within 30 days after the bill being introduced and would have been required to contain a number of specific findings. The Senate passed a substitute amendment that moved the report requirement from DSPS to the Audit Bureau, required the report within 270 days after a bill being introduced, and added certain required findings and recommendations.<sup>20</sup>

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<sup>19</sup> A similar provision was also proposed in companion bills [2017 Assembly Bill 369](#) and [2017 Senate Bill 288](#), with a slightly different proportion of gubernatorial appointees and legislators in the council membership.

<sup>20</sup> After passage as amended by the Senate, the bill was messaged to the other house, but did not receive a vote in the Assembly and accordingly failed to pass the Legislature.

## PART IV | ISSUANCE OF RECIPROCAL CREDENTIALS

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The third item for the committee’s consideration is how to expand access to individuals from other states through a reciprocal credential to practice in Wisconsin. This part details the current methods for the issuance of reciprocal credentials, including general standards, provisional standards, veterans standards, interstate compacts, and model laws. This part also provides other methods of reciprocal credentialing to consider, including universal recognition, and a listing of proposed legislation on reciprocal credentials since 2017.

### CURRENT METHODS FOR ISSUANCE OF RECIPROCAL CREDENTIALS

#### General Standards

In the business and health professions, the statutes define a “reciprocal credential” as a credential granted to an applicant who holds a credential issued by a governmental authority outside this state that authorizes the person to perform acts that are substantially the same as the acts authorized by the Wisconsin credential. [s. 440.01 (2) (d), Stats.]

However, each license is subject to occupation-specific standards to issue a reciprocal credential. Very generally, occupational standards commonly specify that a reciprocal credential will be granted if the other state’s standards are “**substantially equivalent**” to the standards of this state.<sup>21</sup> If standards are substantially equivalent, the education, work experience, and subject-matter examination requirements may be waived, while not waiving fees or examinations related to state law.

Similarly, in the trades professions, the statutes allow DSPS to recognize comparable credentials to perform electrical work if the education, experience, and examination requirements in the other state are at least equivalent to those requirements under state law. [s. 101.874, Stats.]

Another method, used in the barbering and cosmetology professions, allows recognition where another state’s practice is substantially the same as the practice performed in this state, an applicant is in good standing in the other jurisdiction, and the applicant completes a one-hour course on state law or meets the requirements of a reciprocal agreement with the other state. [ss. 454.13 and 454.27, Stats.]

#### Provisional Credential for Out-of-State Health Care Providers

Current law requires DSPS to grant a temporary state credential to a health care provider who is credentialed in good standing in another state or territory.<sup>22</sup> The temporary credential is an alternative to other temporary credentialing options that may be available in a field of practice, such as a visiting physician or locum tenens credential. A temporary credential is granted either as a preliminary credential pending an application for a permanent credential or as a temporary credential for practice during the declared national emergency related to COVID-19.

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<sup>21</sup> See, for example, the recognition for a certified public accountant under s. [442.05](#), Stats., and a licensed psychologist under s. [455.04 \(3\)](#), Stats.

<sup>22</sup> For the temporary credential, a health care provider includes any of the following: acupuncturist, athletic trainer, audiologist, chiropractor, clinical substance abuse counselor, dentist, dietitian, marriage and family therapist, massage therapist or bodywork therapist, nurse, occupational therapist, occupational therapy assistant, optometrist, perfusionist, pharmacist, physical therapist, physical therapy assistant, physician, physician assistant, podiatrist, professional counselor, psychologist, respiratory care practitioner, social worker, or speech-language pathologist.

A provider must apply for the temporary credential within 30 days of first providing services in Wisconsin. The health care provider must also apply for a permanent credential and attest in the application for the temporary credential that the person has applied for a permanent credential.

In addition, the health care provider's employer must notify DSPS within 10 days of the date on which the health care provider begins providing health care services in this state, unless services are provided only through telehealth. The employer must attest that the provider's credential and standing have been confirmed to a reasonable degree of certainty.<sup>23</sup>

Summary of temporary credential requirements:

- Health care practitioner is in good standing, with no active investigations, in another state.
- Practitioner applies for a permanent credential within 30 days.
- Employer attests that credential and standing have been confirmed.

While practicing under the temporary credential, a health care provider is subject to all responsibilities and limitations in the applicable practice, including any malpractice insurance requirements. A temporary credential is effective from the date that services are first provided in the state, as identified in the provider's application for the temporary credential, and expires on the date that DSPS or a credentialing board grants or denies the application for a permanent credential.

For a temporary credential for practice during the COVID-19 national emergency declared by the U.S. President, the health care provider does not need to apply for a permanent credential. The provider's temporary credential expires 30 days after the end of the declared national emergency.<sup>24</sup>

## Veterans Standards

Current law authorizes reciprocal credentials for service members, former service members, and spouses of service members or former service members, and requires DSPS or a credentialing board to expedite the issuance of the credential. [s. [440.09](#), Stats.]

DSPS or a credentialing board must grant a reciprocal credential under this provision if the person pays a fee and satisfies all of the following requirements:

- Resides in Wisconsin.
- Holds a license, certification, registration, or permit granted by a different jurisdiction that qualifies the person to perform the acts authorized under the credential for which the person is applying.
- Is in good standing in every other jurisdiction in which the person holds the license, certification, registration, or permit upon which reciprocity is based.

A reciprocal credential for a service member or spouse expires on the next applicable renewal date for the credential, unless the renewal date is within 180 days after a reciprocal license is

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<sup>23</sup> To be in good standing, the provider must hold a valid, unexpired credential, and must not be under investigation or have any active restrictions or limitations on the person's credential.

<sup>24</sup> The President's proclamation declaring a national emergency concerning COVID-19 was first issued on March 13, 2020, and was retroactive to March 1, 2020. A national emergency under that authority is in place for one year from the date of the declaration, unless extended by the President or shortened by a joint resolution of Congress. [50 U.S.C. s. 1622.] The proclamation was last renewed on February 18, 2022. [87 F.R. 10289.]

granted. Renewal is subject to any fees and other requirements that apply for renewing the credential.

Current law also requires DSPS and a credentialing board to count any relevant instruction that an applicant obtained in connection with the person's military service. The instruction may satisfy any instruction requirements for the credential, if the person demonstrates to DSPS or the credentialing board's satisfaction that the instruction, education, training, or other experience obtained in connection with the military service is substantially equivalent to the instruction required for the credential.<sup>25</sup> [s. [440.075](#), Stats.]

## Interstate Compacts

Generally, an interstate compact is an agreement, or contract, between at least two states that addresses a particular policy issue in a unified way. An interstate compact may be used to address a variety of policy challenges, including those presented by occupational licenses. An interstate compact in the occupational licenses context typically operates either through mutual recognition or through expedited licensure. Mutual recognition allows a person to practice in any of the compact states after receiving a license from the person's home state. Expedited licensure allows a person to efficiently apply for licensure in multiple compact states.

The process of developing an interstate compact typically involves discussions among government officials and stakeholders to determine the general framework for addressing the policy challenge, the drafting of specific language within that general framework, a comment and revision period, and a finalized agreement that state officials are able to introduce into their lawmaking processes. In most cases, a compact does not go into effect until a certain number of states have adopted the compact. Once the compact is in effect, the administrative structure created by the compact is created, which may take 12 to 18 months.

The administrative structure for a compact generally provides member states equal representation on the compact's commission (usually one or two members per member state). The commission oversees the administration and enforcement of the compact, including adopting bylaws, promulgating binding rules, and establishing and electing an executive committee.

Notably, the laws and regulations of each member state, including the ability to investigate and discipline practitioners, continue to apply to all practitioners providing a service within the respective member state.

Wisconsin is currently a member of five compacts relevant to DSPS and its affiliated boards: Enhanced Nurse Licensure Compact, Interstate Medical Licensure Compact, Occupational Therapy Licensure Compact, Physical Therapy Compact, and Psychology Interjurisdictional Compact.

Interstate compacts relevant to DSPS and affiliated boards that Wisconsin could join:

- [Advanced Practice Registered Nurses](#)
- [Audiology and Speech-Language Pathology](#)
- [Licensed Professional Counselor](#)

Interstate compacts in development:

- [Cosmetology](#)
- [Dentistry & Dental Hygiene](#)
- [Massage Therapy](#)
- [Physician's Assistant/Associate](#)
- [Social Work](#)

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<sup>25</sup> DSPS has a webpage that identifies [Military Benefits Related to Licensure](#), including the provisions described above, and other military benefits related to fees and renewals.

## **Enhanced Nurse Licensure Compact**

The Enhanced Nurse Licensure Compact allows a registered nurse or a licensed practical nurse who is licensed in a member state to practice in any other member state. The compact specifies uniform licensure criteria for all members, including graduation from an approved education program, successful completion of a national nursing exam, evidence of not being subject to active discipline in another state, and successful completion of a background check. [s. [441.51](#), Stats.]

## **Interstate Medical Licensure Compact**

The Interstate Medical Licensure Compact creates a streamlined process for physicians to become licensed in multiple states. A physician who is licensed in one member state may become licensed in other member states without needing to verify static qualifications in each state, such as medical education, graduate medical education, and medical or licensing examination results. [s. [448.980](#), Stats.]

## **Occupational Therapy Licensure Compact**

The Occupational Therapy Licensure Compact allows a person who is licensed as an occupational therapist or occupational therapy assistant in a compact member state to practice in another member state under a “compact privilege” without obtaining a license to practice in the other state. A compact privilege is granted if the person is in good standing in the person’s home state and the home state’s licensure requirements meet certain minimum standards, including exam requirements for initial licensure and continuing education requirements for license renewal. [s. [448.987](#), Stats.]

## **Physical Therapy Licensure Compact**

The Physical Therapy Licensure Compact allows a physical therapist or physical therapist assistant licensed in one member state to obtain a “compact privilege” to practice in another member state without obtaining a license in that member state. [s. [448.985](#), Stats.]

## **Psychology Interjurisdictional Compact System**

2021 Wisconsin Act 131 ratified and entered Wisconsin into the Psychology Interjurisdictional Compact. This compact allows a psychologist and patient who are located in different compact member states to participate in telehealth services under an “authorization to practice interjurisdictional telepsychology.” A person must apply for an “E.Passport” certificate from the Association of State and Provincial Psychology Boards (ASPPB). The application requires the person to be in good standing in the person’s home state, to hold a graduate degree in psychology from a program that meets certain academic and practicum requirements, and to make certain attestations regarding the person’s intended practice area, competence, criminal background, and compliance with the legal requirements of relevant states.

The compact also allows a psychologist to provide in-person, face-to-face psychological services in a compact member state for up to 30 days in a calendar year under a “temporary authorization to practice.” The process for obtaining this authorization is very similar to the process for obtaining an E.Passport. [s. [455.50](#), Stats.]

## **Model Laws Within a Profession**

In addition to the interstate compacts, described above, a 2018 report from the Federal Trade Commission (FTC) on [Options to Enhance Occupational License Portability](#) identified another

initiative to improve license portability between states: model laws that allow for similar practice and portability standards within a profession, in each state that enacts the model law.

Examples of model laws identified in the FTC report include the Uniform Accountancy Act (enacted in Wisconsin), the Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy (enacted in Wisconsin), and the model law programs by the National Council of Examiners for Engineering and Surveying, among others.

The report noted that, as with interstate compacts, model laws may operate by either mutual recognition or expedited licensure. Under a mutual recognition method, an applicant who meets certain criteria applies in only a single state, and generally no additional fees or review are required to practice in another state, although a new application may be required if a person moves to another state. Under an expedited licensure method, a central database is used to confirm an applicant's qualifications.

The report also noted that a state may only revoke or take disciplinary action against a license that it issued. Accordingly, portability measures generally include procedures to bring adverse actions both in the state where the violation occurred and against the out-of-state practitioner's license.

## OTHER METHODS: UNIVERSAL RECOGNITION

The newest initiative for portability, first enacted by Arizona in 2019, is commonly referred to as "universal recognition." Under this approach, a state may recognize a person's licensure from another state. The recognition process is not automatic, and does not allow a person to begin providing services in the state based solely on the authority of licensure from another state. In states that have adopted a universal recognition process, an application is required, and there are differences in state requirements for the recognition.

According to [NCSL](#), some common aspects of universal recognition can include any of the following:

- Qualification requirements, such as a substantially similar scope of practice, a minimum length of time an applicant has had the license, current status in good standing with no active disciplinary proceedings or complaints, and passage of a state exam.
- Application procedures, such as submitting an application and fee.
- Passage of a background check.

For example, Arizona's universal recognition allows a license to be issued to an applicant who pays all applicable fees, is a resident of the state or is an accompanying family member of an active duty service member, is currently licensed in the same profession at the same practice level, has the license in good standing with no pending complaints or

According to information compiled by the [Institute for Justice](#):

- **5 states** have universal recognition for out-of-state licenses for residents of the state, including neighboring state Iowa.
- **13 states** have universal recognition for out-of-state licenses without a residency requirement.

Among the 18 states that have universal recognition:

- **7 states** require the out-of-state license to have a similar scope of practice or practice at the same level, including neighboring state Iowa.
- **10 states** require the out-of-state license to have substantially equivalent education, experience, or training requirements.
- **3 states** allow an applicant from a state without a licensing requirement for the occupation to instead show at least three years of experience in the occupation, including neighboring state Iowa.

investigations, has been licensed for at least one year, and does not have a disqualifying criminal conviction history. [[A.R.S. s. 32-4302.](#)]

## RECOMMENDATIONS FROM POLICY ORGANIZATIONS

As with sunrise and sunset review processes, some policy organizations, such as the Badger Institute and WILL, have suggested that Wisconsin could improve the process for recognition of a license granted in another state. For example, the previously mentioned joint review by those two organizations recommends that Wisconsin adopt universal license recognition, expanding on the recognition already allowed for military service members and spouses and the temporary measures in place for the COVID-19 pandemic, described above. [Julie Grace and Kyle Koenen, [Occupational Licensing in Wisconsin: A Roadmap for Reform](#) (2021).]

Another organization, the Alliance for Responsible Professional Licensing (ARPL), suggests three principles to guide a consideration of interstate practice reform: (a) recognize mobility and reciprocity systems that work; (b) develop substantially equivalent requirements for education, examination, and experience; and (c) provide adequate public protection. The organization also cautions against two “pitfalls” of interstate practice reform, including an acceptance of out-of-state licenses without assurance of minimum qualifications, and creating new barriers, such as residency requirements, that are unrelated to protecting the health, safety, and welfare of the public. [ARPL, *Licensed to Move: A Guide to Interstate Practice*, [info sheet](#), [full report](#) (2020).]

At least one policy organization has a model act addressing reciprocity. See the Institute for Justice, [Universal Recognition of Occupational Licenses Act](#) (June 24, 2022).

## PROPOSED BILLS SINCE 2017

[2019 Wisconsin Act 143](#) expanded the temporary reciprocal credential that had previously been available only for an active service member’s spouse who resided temporarily in the state because of the service member’s service. Current law, as modified by this act, is described above.

[2021 Wisconsin Act 10](#) created a process for DSPS to issue a temporary credential for a health care provider from out-of-state to begin practicing in Wisconsin, pending an application for a permanent credential, as described above. A similar provision for temporary practice was provided during the state’s declared public health emergency under [2019 Wisconsin Act 185](#).<sup>26</sup>

Other recent proposals, not enacted, relating to authorizations to practice in Wisconsin by a person who is already credentialed in another jurisdiction, include the following:

- Companion bills 2021 Assembly Bill 217 and [2021 Senate Bill 232](#) would have required DSPS to create a process to issue a provisional state credential for a person who has applied for an initial or reciprocal credential.<sup>27</sup> A similar provision was proposed in companion bills 2019 Assembly Bill 815 and [2019 Senate Bill 747](#).
- Companion bills 2021 Assembly Bill 902 and [2021 Senate Bill 469](#) would have required DSPS to grant a reciprocal credential to a person who resides in Wisconsin, has a credential from another state that qualifies the person to perform the acts under Wisconsin licensure, has held the license for at least one year, and meets specific good-standing requirements. A similar provision was proposed in [2019 Senate Bill 915](#).

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<sup>26</sup> Similar or related provisions were also proposed in 2021 Assembly Bill 1, 2021 Senate Bill 137, and 2019 Senate Bill 928.

<sup>27</sup> The Senate passed the bill with some amendments and messaged it to the other house, but the bill did not receive a vote in the Assembly and accordingly failed to pass the Legislature.