

Comments Submitted by the National Council of Architectural Registration Boards

for the Federal Trade Commission's

Economic Liberty Task Force – License Portability Roundtable

Thank you for focusing on the importance of occupational licensing and efforts to ensure license portability. As the national non-profit federation of state architectural registration boards, the National Council of Architectural Registration Boards (NCARB) agrees with the goal of facilitating mobility. In fact, that is why NCARB and other similar organizations were founded as a non-profit solution to overcome unnecessary impediments at the state or jurisdictional levels. We believe it is also critical to include in this discussion the primary reason the U.S.

Constitution reserves the authority to license certain professions to state governments – the protection of the public's health, safety and welfare. Through national standards developed and promulgated by NCARB, states have evolved a system of architect regulation – including portability -- that enables public safety and provides economic opportunity.

Overview

NCARB was formed in 1919 with the specific goal of facilitating reciprocal licensing clearly articulated in its charter. Almost 100 years later, the Council's mission statement

To protect the public health, safety, and welfare by leading the regulation of the practice of architecture through the development and application of standards for licensure and credentialing of architects

continues to focus on facilitating the initial licensure, license renewal, and reciprocal licensure of architects across the United States.

Ease of mobility is an essential business requirement for an architect and is of paramount importance to the profession. To ensure the protection of the public, an architect in responsible control of the work is required to be licensed in the jurisdiction where the project is being constructed. Unlike a patient who travels to a doctor, the architect travels to the project. Therefore, it is common for architects to be licensed and pursue work in multiple jurisdictions at the same time. Qualified architects, empowered through the NCARB Certificate, have the assurance that their credentials will be recognized across the United States and the state licensing boards have the peace of mind of knowing that a Certificate holder satisfies their specific jurisdiction's requirements for licensure. Over the course of the last 50 years, the NCARB Certificate has become the recognized standard and the primary vehicle that enables multi-state practice.

Role of Licensing Boards

Architects are responsible for protecting the public health, safety, and welfare within the built environment. All 50 states and each territorial licensing board ensures this protection by establishing the standards necessary for architectural practice within its jurisdiction and licensing only individuals who meet those standards. Although standards vary across jurisdictions, the path to licensure requires a combination of rigorous education, years of practical experience, and professional examination—all vital components of a path designed to prepare architects for the significant responsibilities of the profession. Requiring this expertise of licensed architects creates an essential layer of protection for the public and serves as the foundation of the safe built environment in the United States.

States are granted the power to individually regulate the protection of public health, safety, and welfare under the tenth amendment of the U.S. Constitution. The rationale for including the regulation of professions within this power was established by the U.S. Supreme Court in 1889:

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

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

All U.S. states and territories require a license to practice architecture as a means of ensuring buildings are safe, both for their occupants and those nearby. State licensing boards act on the behalf of the public and the consumer—without the efforts of these boards these groups would be left unprotected.

A Focus on Consistency and Portability

While fully exercising their constitutional authority and duty to protect their citizens, states have also recognized that consistent licensure requirements among individual licensing boards is valuable and depends on each jurisdiction having an efficient and effective regulatory system. That is why professional licensing boards have formed national non-profit organizations to encourage that consistency and to develop mechanisms for the transfer and recognition of licensure credentials across state borders.

NCARB’s members are the architectural licensing/registration boards in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. According to NCARB’s bylaws, the purpose of the nonprofit organization is to work together as a council of Member Boards to safeguard the health, safety, and welfare of the public and to assist Member Boards in carrying out their duties. Therefore, the Council: develops and recommends standards to be required of an applicant for architectural registration; develops and recommends standards regulating the practice of architecture; provides a process for certifying to Member Boards the qualifications of an architect for reciprocal registration; and represents the interests of Member Boards before public and private agencies.

A core part of NCARB's mission has been to foster consistent rules and regulations that facilitate interstate practice. Current regulatory policies in the profession not only ensure public safety and protect the consumer, but also create a more straightforward process for licensed architects to practice in other jurisdictions through the NCARB certification process and for consumers to benefit from their choice of qualified professionals.

Membership in NCARB provides each state's licensing board with a forum to discuss and decide issues of national import related to the qualifications an architect must have to ensure public health, safety and welfare. These issues include the type of education required, the duration and type of supervised experience needed, and the content of the examination administered by NCARB and used by all 54 jurisdictions to establish competency. Model law and model regulations are complementary vehicles adopted by the jurisdictions for encouraging acceptance of these consistent programs and practices across the country.

Certification

The Member Boards of NCARB have also established the requirements for a Certificate offered to those architects who have demonstrated the necessary experience, education and examinations qualifications and have been licensed by one of the jurisdictions in the U.S. This Certificate is not a national license, since the authority to license an individual is reserved to each state and territory. But it is a consensus-driven credential that has been established through debate and discussion by the 54 members of NCARB and it is therefore recognized by them as a sign of an architect's competency. In about half of the states, the NCARB Certificate is sufficient to receive a reciprocal license and in most others, it is a significant factor considered by the Boards through a streamlined and expedited process.

The first NCARB certificate was issued in 1937 and in the years since, state boards have worked through the Council to streamline the licensure process while retaining rigor through several program changes—including the restructuring of the

Architectural Experience Program™ (AXP™), new education and experience alternatives for certification, and launch of the latest version of the Architect Registration Examination® (ARE®), ARE 5.0. These new programs help avoid making the path to licensure restrictive and burdensome and contribute to overall competition.

Impact on the Profession

We have seen the results of these efforts to ensure reasonable regulation in the impact on the profession. There are 109,748 individual registered architects in the United States, according to NCARB's 2016 Survey of Architectural Registration Boards. Architects are increasingly holding licenses in multiple states—U.S. architects now have 126,554 reciprocal (out-of-state) licenses, a 3 percent increase from 2015 alone. Based on our data, the average U.S. architect holds licenses in two jurisdictions. And it is common for architects with national practices to be licensed in 30 or more jurisdictions.

Conclusion

With so many architects practicing, it is vital that the state licensing boards continue to exercise their constitutional authority to oversee the profession and keep their unique communities safe. Models such as our association made up of the state-level architectural licensing boards serve as examples of public/private partnerships structured to respect state authorities, ensure the public health and safety, support the integrity of the profession, and allow for best practices and reciprocity to become well established. The success of this model can be seen in the fact that the U.S. has a safe and secure built environment and a market for the architectural profession that benefits consumers and society as a whole.

We appreciate the opportunity to provide these written comments for your roundtable and look forward to continuing to engage with the Federal Trade Commission as you advocate for a balance between occupational licensing requirements and the protection of public health, safety and welfare. Whether it is

referred to as reciprocity, endorsement, comity, or transfer, through NCARB the jurisdictional architectural licensing boards have successfully developed and implemented a national system of license portability for the architectural profession that remains flexible and viable as we approach our next 100 years of service on behalf of the public.