

State regulatory and legislative **outlook**

2022



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Introduction

As we wrap up the 2021 calendar year and look to the year ahead, the AICPA State Regulatory and Legislative Team compiled this briefing of six priority issues for key stakeholders to consider in 2022. For a more detailed account of all policy items and a rundown of 2021 sessions, please review the [**2021 AICPA Mid-Year State Legislative Session Summary**](#).

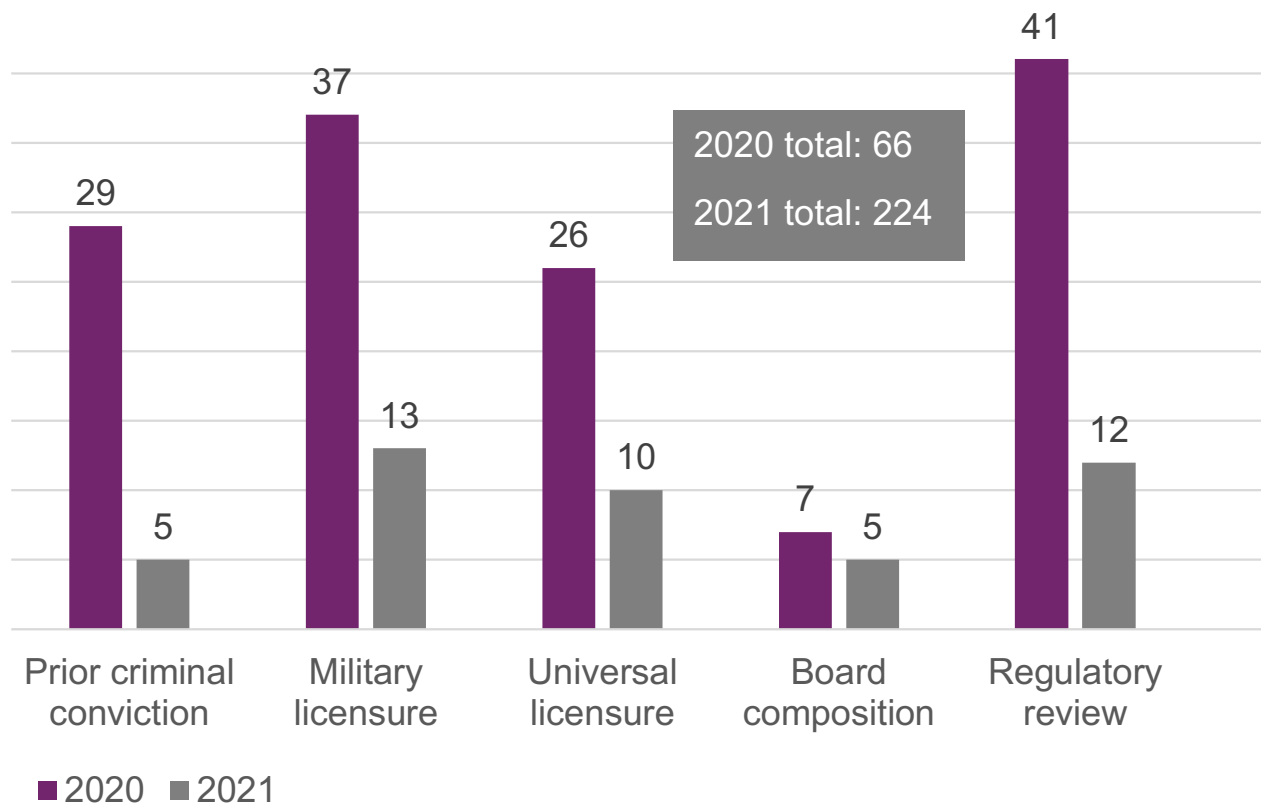
We hope this document provides a helpful context as we head into new legislative sessions and navigate both old and new issues.

Occupational licensing

Occupational licensing continues to be at the forefront of state-level policy and legislative issues affecting the CPA profession. This year, the number of occupational licensing bills tripled, and almost every jurisdiction considered a bill. The top issues to monitor in the licensing space include bills labeled “least restrictive” and “universal licensure.” These two issues create an environment detrimental to the consumer and underscores the need for reasonable regulation.

The AICPA® is a member of the Alliance for Responsible Professional Licensing (ARPL), a coalition of like-minded organizations that are working at the state level alongside state CPA societies to combat egregious anti-licensing legislation. In its fourth year, ARPL will further push the urgency and assistance on occupational licensing issues via intelligence gathering, a more assertive voice in the media, and partnering with state stakeholders to support reasonable regulation.

Occupational licensing bills



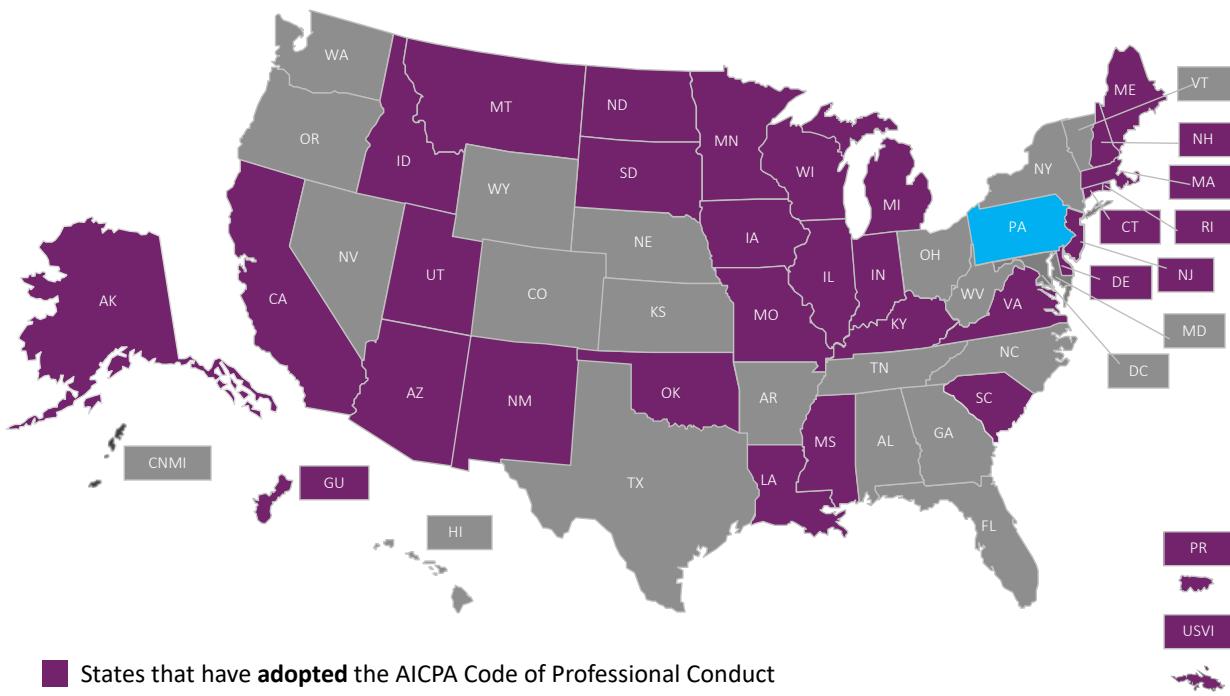
The number of bills introduced in state legislators during 2020 and 2021.

Uniform Accountancy Act (UAA)

Uniformity of state accountancy laws and regulations ensures consistency in compliance and the protection of the public. To facilitate this consistency, the AICPA and the National Association of State Boards of Accountancy (NASBA) developed the Uniform Accountancy Act (UAA), an evergreen model bill for the CPA profession. Whenever possible, state profession leaders are encouraged to update their state statutes to streamline and conform to the model act. In January 2018, the AICPA and NASBA released the eighth edition of the UAA, which contains important provisions regarding the definitions of compilation, the preparation of financial statements, and CPA firm mobility for attest services.

State profession leaders are considering the adoption of major initiatives, such as CPA firm mobility for attest services, the AICPA Code of Professional Conduct and CPE reciprocity. These initiatives strengthen the profession's system of cross-border practice that state-level occupational licensing reform efforts threaten. UAA provisions concerning CPA firm mobility allow CPA firms to perform attest services and issue reports in states where they do not have a physical presence, without registering the firm or paying new fees, if they meet the peer review requirements and non-CPA ownership requirements of that state. Under firm mobility, CPA firms follow a similar model for individual CPA mobility, operating under "no notice, no fee and no escape."

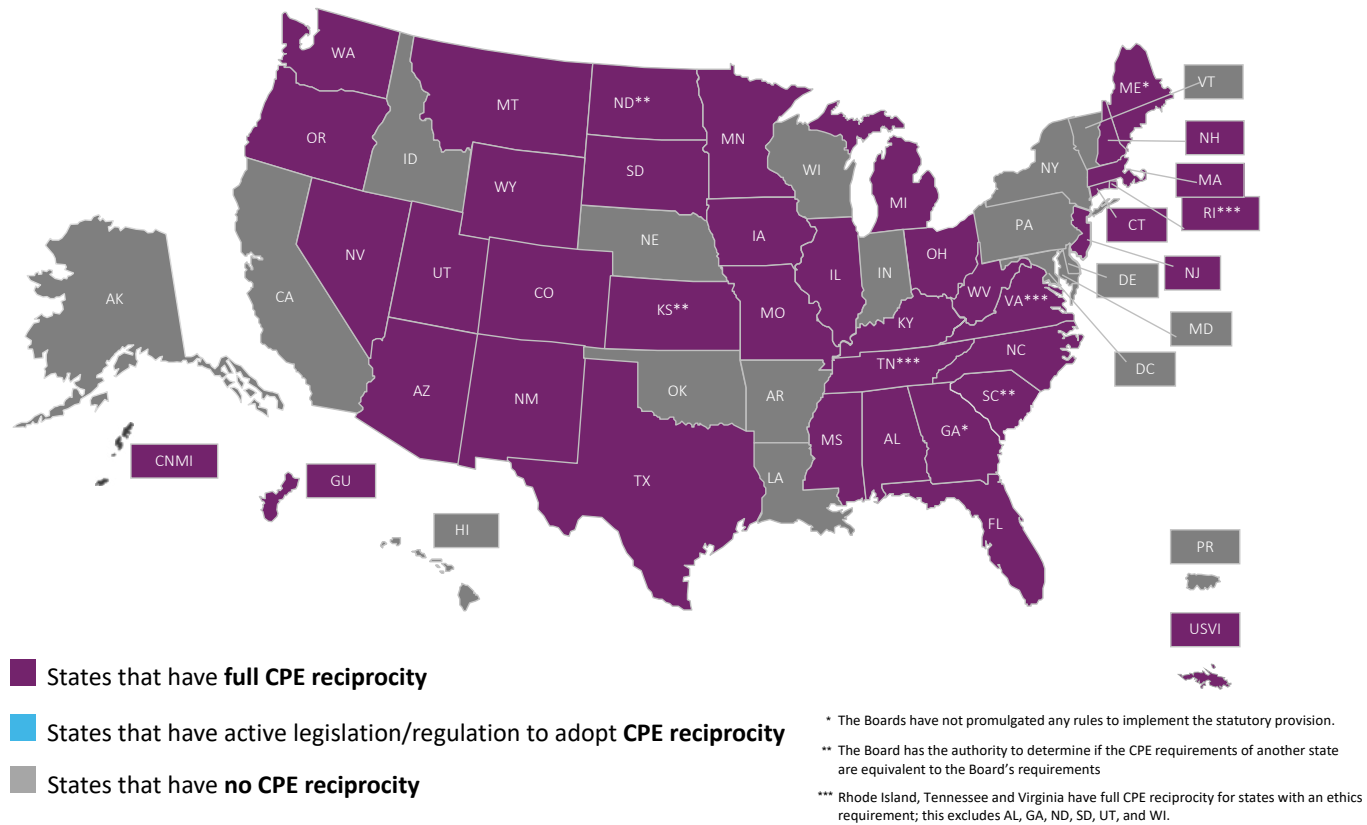
AICPA Code of Professional Conduct adoption



The successful implementation of individual CPA mobility allowed many CPAs to give up holding multiple reciprocal licenses in various jurisdictions. However, in certain circumstances, a CPA may need to maintain multiple licenses especially in those jurisdictions that require licensure to perform certain types of attest engagements

(e.g., gaming industry engagements). The UAA Model Rules provide reasonable accommodation regarding multiple license holders' continuing professional education (CPE) requirements across state lines. Thirty-eight jurisdictions have adopted CPE reciprocity with Florida's Governor Ron DeSantis signing legislation this year.

CPE reciprocity adoption



State taxes

In 2022, taxes on professional services legislation will once again be at the forefront of many lawmakers' minds as they are left to balance budgets and grapple with tax reform. Not all states are expected to make changes; however, lawmakers in several states will consider tax reform changes specifically related to employment nexus, digital taxation and 30-day extensions. Additionally, previously seen issues, such as electronic signatures and partnership audits, will likely be on lawmakers' agendas.

In previous years, several states introduced legislation that would tax CPA services, all of which failed because of state CPA societies' efforts. As with past years, this year will likely be no exception as states will likely continue to look at ways to fill their coffers and "Rainy Day" funds. Electronic signatures and electronic documents will also remain an issue for CPAs that continue working from home during the COVID pandemic. Many states have been leaders in allowing electronic documentation and state taxing authorities must continue to accept these documents.

Cannabis

To date, 16 states have legalized cannabis for adult use (both recreational and medicinal), while 22 states have legalized it for medicinal use only. In 2021, New York, New Mexico and Virginia enacted adult-use cannabis laws. As more states continue to look at legalizing cannabis, federal law still prohibits its production, sale and consumption. Despite this dichotomy, cannabis-related businesses are increasingly requesting services from CPA firms (e.g., tax, audits, advisory and consulting services). Several states that legalized cannabis also mandated that retailers undergo an annual

audit, which poses unique challenges for CPAs. CPAs must weigh the benefits and drawbacks of providing such services to firms that are operating legally within state laws but face uncertainty under federal law. To support those CPA licensees practicing in this space, 13 state boards of accountancy have issued guidance. States, including California and Washington, are enacting safe harbor provisions for businesses that support the cannabis industry and these provisions include CPAs.

Ban on non-competes

Over the last two years, banning the use of non-compete agreements by employers has gained lawmakers' attention. The rhetoric surrounding occupational licensing matches the tone regarding non-competes. Both issues are seen as barriers to employment for the American workforce. Earlier in 2021 President Joe Biden issued the "Promoting Competition in the American Economy" executive order, which was designed to improve workers' opportunities in the economy, increase chances of employment and generate competition among employers. Part of the order urged the Federal Trade Commission (FTC) to review and amend its regulations regarding non-compete agreements; specifically, to amend Section 5(g) in the FTC's regulatory authority to "curtail the unfair use of non-compete clauses or agreements that may unfairly limit worker mobility."

As states look at possible non-compete legislation, key questions to keep in mind include:

- Does the proposed legislation align with the best practices of jurisdictions with similar statutes?

- Does the proposed legislation ensure employers can comply with existing state and federal laws and regulations?
- Does the proposed legislation protect bona fide business complexities and interests?
- Does the proposed legislation provide employers the flexibility to navigate conflicts of interest when necessary?
- Does the proposed legislation include provisions for professions who must abide by ethical standards to practice within the jurisdiction?

As a result of President Biden's executive order, 2022 will be an active year for federal and state reviews of statutes and regulations surrounding this issue of non-competes. Given that the FTC has now been tasked with the power and responsibility to review non-compete policies, the AICPA will carefully monitor the FTC's activities. The commission will hold public hearings, expert panels and offer engagement from various industries, and AICPA will engage often and consistently.



Political environment in 2022

In 2022, it is shaping up to be an election year that will provide a challenging political roadmap, which could further increase tensions between state and federal governments. With strongly opinionated governors, a U.S. Congress and U.S. Supreme Court that are divided and a new U.S. president, the simmering tension between the branches and the states may reach its boiling point.

There will be 36 gubernatorial races in 2022. Of those 36 elections, seven governors in key states have been term-limited. Those states include Arizona, Arkansas, Hawaii, Maryland, Nebraska, Oregon and Rhode Island. The 2022 election mid-term elections will take place as redistricting efforts start because of the recent release of census data and an ongoing global pandemic.

In November 2022, 88 of the country's 99 state legislative chambers will hold regularly scheduled elections. The elections in those 88 chambers represent 6,166 of the country's 7,383 state legislative seats (84%).

With mid-term elections so close, the political environment will provide challenges to gaining the attention of governors and legislators on key issues. Policymakers may see the year as an opportunity to push agendas that would otherwise be too controversial, such as income tax reform. For those running for election or re-election, a cautious agenda will be a priority to get through November 2022. As states continue to deal with COVID-related policy and tax issues, the CPA profession will need to cut through the noise and educate lawmakers on the important role CPAs play in financial infrastructure.

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