

State authorization and Professional Licensure

The Intersection of State Authorization Agencies and Professional Licensing Boards

Introduction

As the awareness of state authorization of higher education institutions has increased, so has the realization of the relationships between state authorization entities and professional licensing boards. This paper deals with those intersections as well as issues institutions need to address when offering programs that lead to a professional license or certification. A subsequent paper addresses the state, SARA, and federal requirements for disclosing professional licensure information not only to students, but the general public.

Much unawareness and/or confusion lies with an institution's responsibility to know and disclose if its programs meet certification or licensure requirements in states other than where it is physically located; or, if its graduates are eligible for licensure in another state.

Background

State authorization is a formal determination by a higher education agency (commonly a higher education board or commission) that allows an institution to conduct certain activities within its borders. Examples of these activities (often called "triggers") include online students taking courses while in a particular state, face-to-face recruiting or targeted advertising, internships or other supervised field experiences, hiring a faculty member who resides in a certain state, or having a branch campus in another state. Institutions are responsible to know the triggers in each state and U.S. territory, and either not commence the activity that triggers the need for authorization or apply for and obtain state authorization, which gives permission to conduct activities in the state. Every state is different. Triggers vary from state-to-state. The cost and time to obtain authorization also varies widely.

For the purposes of this paper, "state authorization" is the general term used for what some states call registration, certification, accreditation, license to operate, etc.

Some states authorize the institution as a whole while others, like Arkansas and North Carolina, authorize on a program-by-program basis. It is important to understand that program-by-program authorization is not the same as program approval by a state professional licensing board.

Each state has different standards for occupations that require a professional license or certification. Some examples include P-12 teacher, school administrator, school counselor, school psychologist, mental health counselor, family therapist, social worker, psychologist, nurse, CPA, etc. The licensing boards have standards an academic program must meet in order for a graduate to be eligible for a license or certification, and also publishes criteria an individual graduate must meet to be eligible for a license. It is the responsibility of institutions to know both sides of the professional licensing standards for each state where their graduates may seek a license or certification.



When distance education first broke on the horizon, neither state regulators nor professional licensing boards were prepared for the issues it would uncover. Historically, institutions' graduates earned their degrees on a campus located in one state and the institutions needed only to be concerned about graduates' eligibility for a professional license in that state. The state authorization entities were seldom, if ever, in contact with the professional licensing boards, and the professional licensing boards often didn't know there was a state authorization entity within its own state. Distance education changed that.

Because distance education allows a student taking courses in one state to earn a degree from an institution located in another state, the state authorization entities have become very concerned that licensure-track programs meet professional licensure requirements in their state. Professional licensing boards now sometimes require an institution to have state authorization before they will review and determine if the programs meet their licensing requirements.

The purpose is consumer protection. In the past few years a number of lawsuits have been filed against institutions because their graduates (in another state) thought they would be eligible for a professional license in their home state, only to find out that wasn't the case. So, these graduates spent thousands of dollars and a great deal of time and effort (which cannot be redeemed) to earn a degree, only to find out the degree did not meet the standards for them to be eligible for a professional license or certification in the state where they intended to practice.

Professional Licensing Boards

Listed earlier were some occupations for which a professional license or certification is required. States typically have many different professional licensing boards ranging from medical examiners, to social work examiners, to public accountancy and education. Washington State has an extensive list of professional licenses (<http://www.dol.wa.gov/business/professionals.html?menu>). Although a number of the licenses listed do not relate to an individual's academic training, many of them do, and that list does not include teacher or school administrator licenses. See the tables for specific examples; a list of licensing boards in Minnesota and a list of licensed professions in Colorado.

Institutions continue to expand campus-based programs to online delivery or add new online program offerings. Although that program may not lead to a license, endorsement, or certification in the state where the institution is located, that same program may lead (or students may expect to them lead) to a professional license or certification in another state.

For example, an institution may decide to offer a graduate program in reading and literacy without intending it to lead to a license or endorsement – and it may not in the state where the institution is located. However, another state may have a reading endorsement available for teachers with a graduate degree in reading and literacy. The institution needs to be aware of these differences so it can clearly disclose where a program does or does not lead to a license or endorsement. If the institution is offering programs via distance education and it wishes to enroll students in any state or U.S. territory, it needs to do the necessary research and disclose to prospective and current students on an ongoing basis the states where its programs meet (or don't meet) licensure or endorsement requirements, and in which states its graduates are eligible (or not eligible) for a license or certification. (The topic of disclosures is covered in a subsequent paper.)

As mentioned previously, it is not uncommon for a state authorization regulatory entity to require an out-of-state institution offering online programs leading to a professional license to have those programs approved by the professional licensing boards. Some states even require post-licensure nursing programs to go before the state's Board of Nursing for approval – but some boards of nursing do not approve post-licensure programs. In some states, program approval by the professional licensing board must be obtained prior to the institution receiving

state authorization; in other states, state authorization must be obtained first and professional licensing board approval second. Either way, the purpose is to ensure that graduates know in advance (prior to enrollment and throughout the program) if programs meet the requirements for them to obtain a license or certification in the state in which they intend to practice. On the surface, this is logical and could appear to be straightforward. However, in some cases it is very complicated.

Minnesota Professional Licensing Boards	
1	Board of Accountancy
2	Board of Architecture, Engineering, Land Survey, Landscape Architecture, Geoscience, and Interior Design
3	Board of Assessors
4	Board of Behavioral Health and Therapy (LPC licenses)
5	Board of Chiropractic Examiners
6	Board of Cosmetologist Examiners
7	Board of Dentistry
8	Board of Dietetics and Nutrition Practice
9	Board of Emergency Medical Services
10	Board of Examiners for Nursing Home Administrators
11	Board of Marriage and Family Therapy
12	Board of Medical Practice
13	Board of Nursing
14	Board of Optometry
15	Board of Peace Officer Standards and Training
16	Board of Pharmacy
17	Board of Physical Therapy
18	Board of Podiatric Medicine
19	Board of Private Detective and Protective Agent Services
20	Board of Psychology
21	Board of School Administrators
22	Board of Social Work
23	Board of Teaching
24	Board of Veterinary Medicine

One example is South Carolina. The South Carolina Commission on Higher Education requires an institution offering a CACREP/COMAFTE-accredited Master of Science in Marriage and Family Counseling/Therapy to publish a disclaimer that the program does not meet licensure requirements in South Carolina – even though it does. The Commission stated the disclaimer can be removed only after the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists approves the program. However, the professional licensing board does not approve out-of-state programs. This cyclical approval regulations put out-of-state institutions in a very difficult position for compliance. Even though they offer programs that would be approved by the professional licensing board due to the programmatic accreditation, the professional



licensing board does not approve out of state programs. And the Commission then requires the institution to publish what really is a false disclosure saying the program does not meet South Carolina professional licensing requirements, not because the program itself is lacking but instead the professional licensing board won't approve it simply because it is offered from outside the state.

Licensed Professions in Colorado	
Acupuncturists	Addiction Counselors
Advanced Practice Nurses (APN)	Anesthesiologist Assistants
Architects	Athletic Trainers
Audiologists	Barbers
Boxing	Certified Nurse Aides (CNA)
Certified Public Accountants	Chiropractors
Cosmetologists	Dental Hygienists
Dentists	Direct-entry Midwives
Electricians	Engineers
Estheticians	Hairstylists
Hearing Aid Providers	Land Surveyors
Landscape Architects	Licensed Professional Counselors
Manicurists	Marriage and Family Therapists
Massage Therapists	Naturopathic Doctors
Nurses	Nursing Home Administrators
Occupational Therapists	Optometrists
Outfitters	P-12 Administrators*
P-12 Educators*	Pharmacists
Physical Therapist Assistants	Physical Therapists
Physician Assistants	Physicians
Plumbers	Podiatrists
Practical Nurses (LPN)	Private Investigator
Psychiatric Technicians	Psychologists
Registered Nurses (RN)	Registered Psychotherapists
Respiratory Therapists	Social Workers
Speech-Language Pathologists	Surgical Technicians and Assistants
Veterinarians	
*In addition to licensing teacher and administrators, some states also have endorsements that can be added onto a license.	

In the previous edition of this paper, Kentucky was cited as a complicated example. Since that time Kentucky has changed its regulations whereby now out-of-state institutions may submit their education licensing programs to the Kentucky Professional Standards Board approval. This link provides answers to questions about the new Kentucky regulations: <http://kyepsb.ky.gov/certification/certFAQ.asp>.

State Reciprocity

As most are aware, the State Authorization Reciprocity Agreement (SARA) has advanced quickly. This agreement between states allows an institution authorized in its home state to be authorized in all other states that are members of the agreement. This is a huge step forward in reducing costs and duplication of efforts for institutions while at the same time protecting students from fraudulent practices. Currently, 47 states, the Virgin Islands, and Washington, D.C., are members of SARA. As advantageous as SARA is, not automatically cover the requirement (in some states) for institutions to have licensure-track program approval by state professional licensing boards.

Each professional licensing board in every state is autonomous and establishes and governs the standards a program or a graduate must meet in order to earn a license or certification in a professional field. So, while SARA provides reciprocity for state authorization, it does not provide reciprocity or automatic approval for licensure track programs by professional licensing boards.

There is some good news, however. The National Council of State Boards of Nursing (NCSBN) has formed an agreement similar to SARA. The nursing licensure board in the institution's "home" state approves the distance education nursing program. The home state ensures there will be faculty supervision over clinical students in other states. While the agreement has been approved, states have been asked to make the required changes to implement this approval format by 2020.

Nancy Spector, Director, Regulatory Innovations with the National Council of State Boards of Nursing wrote an informative blog post regarding this agreement. It can be accessed at <https://wcetfrontiers.org/2014/11/14/nursing-regs-for-distance-ed/>. As mentioned in Dr. Spector's blog post, the NCSBN has also formed an APRN Distance Education Committee to draft guidelines for distance education graduate programs.

In addition, the National Council of State Boards of Nursing (NCSBN) has formed a Nurse Licensure Compact (NLC) that will allow graduates of pre-licensure, undergraduate programs to obtain an LPN/VN or RN license in multiple states. This provides the opportunity for them to practice in their home state and all other NLC states (<https://www.ncsbn.org/compacts.htm>). As of the date of this paper, there are 25 states in the NLC with pending legislation in three more states.

Another compact with professional licensing boards is the National Association of State Directors of Teacher Education and Certification (NASDTEC) (<http://www.nasdtec.net>). This compact is more widely known, but often misunderstood. As explained on the NASDTEC website, this agreement is a collection of over 50 individual agreements by states and Canadian provinces. Although it is very helpful for individuals in licensed educator professions, it does not provide for an automatic two-way acceptance between the member states and provinces. There is no guarantee that if State A accepts teaching certificates from State B that State B will accept certificates from State A. Also, there is no guarantee that if someone is a fully licensed teacher in one state he or she will be fully licensed in another. Additional state-specific licensure requirements like coursework, assessments, or classroom experience may be required before receiving a full license in another state. (<https://www.ncsbn.org/contact-bon.htm>).

How do these licensure compacts affect institutions with pre-licensure nursing or educator programs and state authorization? A state authorization entity may accept documentation showing licensure reciprocity as evidence that students in their state are eligible for a license or certification upon graduation. However, if there are additional state-specific licensure requirements, the institution needs to show the state authorization entity how it will equip its students to meet those requirements and how it will disclose that information to its students.



Important Considerations for Institutions

State authorization coupled with professional licensure is very complicated. Below are a few items for institutions to consider.

1. Institutions need to know the professional licensure requirements for states outside their home state, especially if the licensure-track programs are offered online. The reason this knowledge is important is so students don't go through an entire program expecting to be eligible for a license and then after completing a program find out they cannot get a license. As mentioned earlier, there are two sides to that research:
 - a. The programmatic or academic requirements (number of credits, internship or practicum hours, accreditation, coursework requirements, etc.), and
 - b. The criteria an individual must meet to be eligible for a license (type of degree, type of institution, number of contact hours, passing tests, fingerprinting, background checks, etc.).
2. State authorization entities may require post-licensure programs (like post-RN programs) to go through a review by a state's Board of Nursing prior to authorization being granted.
3. An institution should determine the ways and how often it will communicate professional licensure information to its students and prospective students. Some state authorization entities require such notification and the federal government already requires this through the misrepresentation and gainful employment rules and ties compliance with these rules to the institution's Title IV eligibility. More explicit or additional notification requirements for licensure-track programs were published in December 2016 with an effective date of July 1, 2018.
4. Institutions should be aware of state requirements for faculty teaching in professional licensure programs. For example, a state board of nursing may require all faculty members teaching in any nursing program (including online from out-of-state institutions) to be a registered nurse in the state where the student is.
5. Some state professional licensing boards will forego an individual program review if the program is accredited. For example, some states will accept (or require) that a psychology program leading to a license be accredited by the American Psychological Association (APA). For educators it may be CAEP accreditation; counselors, CACREP accreditation, etc.
6. Some state professional licensing boards do not review programs from out-of-state institutions. If that is the case in a state where the state authorization agency requires such program approval as a condition for authorization, the institution will need to communicate with both state entities to find a workable solution.
7. Like state authorization regulations, professional licensing board regulations and standards change. Institutions need to allocate resources for keeping abreast of the changes and build action plans for review and compliance into their regulatory compliance efforts.

How Institutions Should Proceed

Institutions are becoming more aware that overseeing state regulatory compliance is often more than a full-time job, and especially if they offer licensure-track programs. Yet there are many institutions that are either still unaware or have chosen to keep state authorization on the back burner hoping it will go away. It will not go away. These aren't matters to be ignored. The federal government has published some significant changes in higher education oversight that will more tightly connect state authorization and increased requirements for notifications to students in licensure programs with Title IV eligibility. The good news is there are many more informational

resources available today than in years past.

Resources for State Authorization

Institutions can always go to the individual state websites for information on state authorization. Many state websites have links to regulations along with contact names, phone numbers, and/or email addresses to field questions. Professional licensing boards have websites as well. After reading the regulations and standards, institutions can then contact the state with specific questions. Phone calls are good, but emails are often more effective and they provide a means for saving copies of the correspondence for future reference.

WCET has been a leader in providing information to institutions regarding state authorization. They have a special interest group, the State Authorization Network (SAN) that has a virtual meeting each month and a face-to-face meeting twice a year. These meetings are a great help to institutions. WCET has also hosted webinars with presentations by experienced professionals in the field.

Another resource available is a survey through the State Higher Education Executive Officers Association (SHEEO). The SHEEO website, http://sheeo.org/sheeo_surveys, contains the results of this survey of state authorization regulatory agencies. Each state agency is listed separately along with the triggers for state authorization, links to websites and regulations, application processes, and contact information. This survey is a good place to start, although states haven't always updated their information in a timely manner. There are some initiatives being considered to bring this resource up-to-date. It is always advisable to contact the state authorization entity to gain or confirm understanding of regulations and/or requirements.

There are some paid services available. Cooley, LLP publishes a quarterly report showing each state's requirements, regulations, costs, and links to applications, etc., along with any changes that have taken place.

Institutions that have been approved to participate in SARA have the SARA Policy and Operations Manual as a resource. This can be accessed at www.nc-sara.org.

Resources for Professional Licensure

There is no one source to go to for information on professional licensure. For example, some states have more than one licensing board for professional counselors, depending on the specific field. A state may have a licensing board for mental health counselors and another for family therapists, and perhaps others for different counseling fields. Also, it is not easy to find the two (or more) sets of regulations regarding licensure – those showing the standards for academic programs and those describing what individuals must attain or do to be licensed or to transfer a license.

There are websites that provide information on professional licensure. For example, the American Mental Health Counselors Association (AMHCA) website lists the state counselor licensure and certification boards. The problem is, it was last updated in 2012 (<http://www.amhca.org/about/related.aspx>). There is a website where individuals wanting to become a licensed marriage and family therapist can look up their state's requirements (<http://www.mft-license.com>). The Association of Social Work Boards (ASWB) has a website with useful information for individuals and institutions (<https://www.aswb.org/public/>) regarding the social work profession. An Internet search can lead to other website resources as well.

Educator licensing across the states is complex. Individual state boards of education have standards both for individuals and programs that lead to a direct license. However, there are a number of ways to obtain an educator license and there are many different endorsements that can be added to a teaching license. Some states require that a program be approved by that state in order for graduates to be eligible for a license. Other states require the



program be “state-approved”, which can mean it will accept another state’s board of education’s approval. Some states require that a program be CAEP-accredited, while others require that the program meet CAEP’s standards. Another path to licensure in some states is graduating from an approved Master of Arts in Teaching (MAT) program.

As mentioned earlier, the NASDTEC website is a good resource for finding the contact information for each state educator licensing board and it provides information on the reciprocity of educator licenses.

There are some paid services available. For example, Cooley, LLP publishes information on nursing and educator licensing programs across the United States. Some higher education consultants also provide research on state professional licensing requirements. If an institution chooses to outsource this research, it should be confident of the experience and expertise of the researcher, as it is not as easy as some may portray it is.

Conclusion

This has been an overview of the cross section between state authorization and professional licensure. There are many details and nuances involved for compliance with the multiple regulations and standards. Although it is complicated, it is doable for institutions to manage these activities as long as they are willing to provide the human and financial resources necessary. The most important point is – don’t ignore state authorization and don’t ignore what needs to be done pertaining to licensure-track programs offered across state lines.



Sharyl J. Thompson, CEO Higher Education Regulatory (HER) Consulting
sharyl@herconsultingllc.com
www.herconsultingllc.com

Sharyl Thompson is the CEO of HER Consulting located in Minneapolis, MN. Sharyl started her career in higher education regulatory affairs over 15 years ago. She was a member of the original Drafting Team that laid the groundwork for the current SARA. She has written a number of articles, presented at numerous conferences, and most recently contributed to the authorship of “State Authorization of Colleges and Universities”, now available on Amazon. Sharyl currently consults with institutions in all sectors in matters concerning state

authorization, professional licensure, state-by-state research, and accreditation.

State Authorization Network

WCET - WICHE Cooperative for Educational Technologies

<http://wcet.wiche.edu/initiatives/state-authorization-network> | 303.541.0231



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