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November 2023 State Authorization Updates & Information (part I) [1]

November 1, 2023 by erika.swain@cu.edu [2]

Hi everyone,

Let's get the niceties out of the way—NOLA was great! Such a beautiful, historic city with an amazing food scene.

On Tuesday, October 24th, the ED released (in draft form) the final set of regulations stemming from their extensive proposals back in May. As anticipated, this set includes new regulations affecting state authorization and programs that lead to professional licensure. While other items are in this batch, I'll focus in this and another email later this week on those directly impacting our work in this area. It's important to note that while I and others are working with SAN and WCET to submit official questions to the ED for clarification, these regulations are considered final and will go into effect on July 1, 2024.

There are two main areas we'll need to address: Professional Licensure programs and State Authorization. While related, it's helpful to split them into two emails. So, in today's update, let's look at what's new for professional licensure programs. You can review the federal register and the final rules here.

Breaking down the new rules for professional licensure programs.

For professional licensure programs (i.e., programs designed or advertised as leading to licensure or certification in fields where state law requires a license or certification):

- The program must be accredited if required by the state where the institution or student is located, or where the student attests they intend to become licensed.
- The institution must publish a list of all states where it has determined the program does and does not meet licensure requirements.
- For prospective students, the institution must directly notify them if the program's curriculum does not meet educational requirements for licensure in their state or if a determination has not been made.
- For current students, the institution must notify them within 14 days if the curriculum no longer meets licensure requirements in their state due to changes in the student's location or state requirements.

You may already see some contradictions and an interesting new aspect.

The good: We already have (or should have) a way to determine a student's location before enrollment and after. Most, if not all, of our licensure programs are programmatically accredited. We are also (or should be) notifying students when their location or state

requirements change, affecting licensure compatibility.

The bad: There's a contradiction between having a public webpage stating where we do and don't meet requirements versus notifying prospective students if we "don't meet" or "cannot determine" requirements. Notably, in the public notifications, "unable to determine" is no longer allowed. In public notifications, we must make a determination. So, no more using "unable" for states where information is incomplete. Oddly, though, we can still use it when informing prospective students. This was a hot topic last week, with discussions noting that this is 1) potentially misleading, 2) confusing to administer, and 3) frustrating.

> **What you need to do right now:** At a campus-wide (not program or college) level, decide how to approach this. Will you exclude states where you haven't made a determination from public notifications? Or will you treat "unable to determine" as "does not meet"? For Boulder, there are very few states/programs labeled as "unable to determine." I'll make one last attempt to obtain the information or reach an agreement with the program, and we'll stop using "unable" entirely by 7/1/24. All professional licensure programs and states will be labeled as either "meets" or "does not meet."

The "what in the world...": Did you notice the mention of students "attesting" where they intend to seek employment? While the ED still assumes that students will work in the same state where they study, they acknowledged concerns raised in May about students moving temporarily or planning to work elsewhere. The final regulations allow us to collect (and retain) an attestation from the student if they're located in a state where the program doesn't meet licensure requirements but plan to work in a different state where it does meet the requirements. Students in states where licensure requirements aren't met will need to complete an attestation before we can admit them to the program and disburse federal aid.

We recognized last week that this could go terribly wrong—students might provide false attestations just to receive federal aid, or staff might feel pressured to encourage students to sign simply to boost enrollment. But, of course, that wouldn't happen, would it?

> **What you need to do right now:** Right now? Nothing. Don't panic. Over the next few weeks, I'll be discussing with UIS how we might use Campus Solutions to manage this. Since a form element will likely be needed, it may need automation for students who change locations mid-year/program, and we'll need to retain this documentation properly (I am a librarian, after all). I'll look into a system-wide solution that can make this process easier.

Another new & important consideration: Professional licensure programs and some state authorization requirements are now part of 668.14 Program Participation Agreements, which means coordination with the Office of Financial Aid is necessary. They will start reporting on our compliance, and noncompliance could endanger the institution's access to federal financial aid. Whereas previously we could keep OFA informed without much overlap, as of July 1, 2024, we'll be working closely with them to ensure they understand our processes for determining student location, affected programs, etc., in order to accurately report compliance.

> **What (else) you need to do right now:** As discussed earlier—where are your students located, and which professional licensure programs are offered online? For which states/programs have you used "unable to determine," and why? Are you recruiting in

these states, and what might happen if that becomes impossible?

Stay tuned for tomorrow's email, where we'll cover the third new part in 668.14(b)(32) regarding state authorization, including some curious language and the new 45-day time frame in 668.16 for "geographically accessible" experiential learning placements required for licensure programs.

Want to read more? Cheryl Dowd and the WCET & SAN team have written a detailed analysis of these regulations—grab your drink of choice and enjoy: WCET & SAN Analysis [3]

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