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

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**Welcome back to Fun with Regulations!**

Yesterday, we reviewed changes to our professional licensure programs and what we need to do to be compliant by July 1, 2024. Today, we'll take a (much shorter) look at the regulatory changes concerning state authorization and the new requirement for experiential learning placements, which also go into effect on July 1, 2024.

In 668.14(b)(32) [3], the ED addressed concerns raised by consumer protection groups around State Authorization. While the problematic term "misrepresentation" has been removed (thankfully), some challenges remain. This section states that for each state in which students are located and enrolled in Title IV-eligible programs, we must determine that the program:

> *(iii) Complies with all State laws related to closure, including record retention, teach-out plans or agreements, and tuition recovery funds or surety bonds.* [4]

A few points to consider:

- We already agree to this when renewing our participation in SARA each year. If you recall, #10 on the renewal form specifies that:
- The institution agrees that, in cases where it cannot fully deliver the instruction for which a student has contracted, it will provide a reasonable alternative for delivering the instruction or financial compensation for the education the student did not receive. This may include tuition assurance funds, surety bonds, irrevocable letters of credit, assistance with transfer, teach-out provisions, or other consumer protection practices.
- Typically, "closure" regulations pertain to institutions as a whole, not individual programs. So, the phrase "each program eligible for Title IV…" seems a bit unusual in this context.
- Last week, several of us were questioning whether this could grant states the authority to require institutions operating within their borders (either online or on-ground) to secure a surety bond. If so, would it be based on specific metrics or data, or could it be selectively applied, as with sector-specific regulations in certain states?
- What other state laws apply to "closure," and where can we find all of them?
- Would we need an agreement with each state where we offer education (beyond SARA) to comply with state-specific laws in case of closure?
- And again, is this about individual programs or the institution as a whole?

I anticipate that NC-SARA leadership, WCET, and SAN will provide more information on this topic in the coming months. Hopefully, the ED will issue some clarification before

implementation on July 1.

Another new regulation affects our experiential learning placements required as part of licensure programs, including any practicum or clinical placements.

Under 668.16(r) [5], we are now required to provide students with a "geographically accessible" placement within 45 days of completing their required coursework if said placement is required as part of a licensure program. For example, let's consider Boulder's MA-SLP program. Students in this program must complete a certain number of clinical practicum hours. This regulation requires that we assign them a placement within approximately 45 days of completing their coursework and ensure the placement is reasonably accessible distance.

What is considered "geographically accessible"? The ED declines to provide specific metrics, instead advising institutions to apply a consistent, reasonable approach. For highly specialized degrees, a longer travel distance may be expected, while a one-year training certificate wouldn't typically justify a 100+ mile commute. However, if a student secures their own placement—say, in Philadelphia—that's acceptable as long as the student chooses it voluntarily. In such cases, the institution is not obligated to provide an alternative placement closer to home.

Regarding the new 45-day timeline - the ED does not expect placements to start precisely within that period. The expectation is that students are at the very least assigned a placement within that timeframe, though the start of the experiential learning should not be starting much beyond it. The ED may investigate institutions if there is a pattern of placements starting "well outside reasonable periods," such as offering a clinical spot a year after coursework completion, which would be non-compliant under this regulation.

> **What should you do right now?** Review the processes for assigning students to clinical or practicum placements in your campus's licensure programs. How does the timeframe look? Have there been placements significantly delayed after coursework completion? Do students continue their coursework while participating in placements (which could be a way to comply with the regulation)?

For additional insights, WCET & SAN have published a detailed post on State Closure Laws and the Impact on Reciprocity Agreements.

And two webinars to consider if you have time:

- NC-SARA is hosting a session on **11/7/23** on ED Final Regulations and SARA Leadership.
- WCET and SAN are hosting a session on **11/15/23** titled *"Waze" to Find the Detours and Fast Lanes to Understand New U.S. Department of Education Guidance and Regulations.*

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