

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 is the first of two dealing with those intersections as well as issues institutions need to address when offering programs that lead to a professional license. The second paper will describe the state and federal requirements for disclosing professional licensure information not only to students, but the general public.

Much of the unawareness and/or confusion lies with an institution's responsibility to know and disclose if its programs meet 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 residing in a state, face-to-face recruiting or targeted advertising, internships or other supervised field experiences, hiring a faculty member who resides in a particular 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.

It is the responsibility of institutions to know the professional licensing standards in each state where they are service students.

Some states authorize the institution as a whole while others, like Arkansas, authorize (or certify) 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. 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 that an academic program must meet in order for a graduate to be eligible for a license and also 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.

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 in the state where they reside.

PROFESSIONAL LICENSING BOARDS

Listed earlier were some occupations for which a professional license is required. States typically have many different professional licensing boards. In the state of Alabama, there are as many as nineteen licensing boards. They range from medical examiners, to social work examiners, to public accountancy and education. Washington State has an

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

extensive list of professional licenses (<http://www.dol.wa.gov/listoflicenses.html>). 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; the list of licensing boards in Minnesota and the list of licensed professions in Colorado.

Institutions may decide to expand campus-based programs to online delivery or add new online program offerings that may not lead to a license, endorsement, or certification in

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.

<http://dora.colorado.gov/professions>
<http://www.cde.state.co.us/cdeprof>



their home state. But those same programs may lead (or students may expect to them lead) to a professional license 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 should 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. (The topic of disclosures will be 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 also have those programs approved by the professional licensing boards. Some states even require approval for 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 in the state in which they reside. On the surface, this is logical and could appear to be straightforward. However, it is very complicated. As an example, see the sidebar for a description of processes in Kentucky.

Using Kentucky as an example, it isn't difficult to see how complicated it can be to navigate between the state authorization entities and professional licensing boards. Multiply this by 49 other states, U.S. territories, and the multitude of professional licensing boards in each state.

Another example involves 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 indicates they do not approve programs.

Kentucky and South Carolina are just two examples of how complicated it can be for out-of-state institutions offering licensure track programs. The end result as things currently exist in states like these is that institutions either cannot offer certain programs in some states due to the cyclical approvals required but are impossible to obtain or they may be required to publish disclaimers that are in reality, false.

STATE RECIPROCITY

As most are aware, the State Authorization Reciprocity Agreement (SARA) is advancing 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. As advantageous as SARA is, and will continue to be, it does

EXAMPLE: KENTUCKY

Out-of-state institutions may enroll Kentucky residents into their online programs without state authorization. However, if any of their programs include an internship, clinical, or other field experience, then the institutions do need to be authorized. Institutions therefore have a choice. They may seek authorization for all programs except those that include a field experience (and not accept students into those programs), or they apply for authorization for all programs.

Then it gets complicated. If an institution offers a program that leads to an educator license (teacher, principal, etc.), that program must first be approved by the Kentucky Education Professional Standards Board (EPSB) before the Kentucky Council on Postsecondary Education (CPE) licenses (authorizes) the institution. However, the EPSB website says its Board "cannot 'pre-approve' the use of an out-of-state online program for use by Kentucky's educators. ... No online programs located outside of Kentucky are currently accredited {by EPSB} to offer education programs in Kentucky." (www.epsb.ky.gov/certification/outofstate.asp)

This means an out-of-state institution cannot offer any online program leading to an educator license to residents of Kentucky. The CPE says that the program must be approved by the EPSB first, but the EPSB does not approve out-of-state online P-12 programs.



not automatically cover the requirement (in some states) for institutions to have licensure-track program approval by state professional licensing boards.

So, while SARA provides reciprocity for state authorization, it does not provide reciprocity or automatic approval for licensure-track programs by 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 receive 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 a new agreement that has many similarities 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 recently wrote an informative blog post regarding this agreement. It can be accessed at <http://wcetblog.wordpress.com/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/34.htm>). As of the date of this paper, there are 24 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 they will be fully licensed in another. He or she may need to complete additional licensure requirements like coursework, assessments, or classroom experience before receiving a full license in another state.

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 residents of their state are eligible for a license upon graduation. However, if there are additional licensure requirements, the institution should 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. 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.). 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.
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 programs may emerge from the new state authorization regulations expected to be released by the U.S. Department of Education in the first half of 2015.

4. Institutions should be aware of state requirements for faculty teaching in professional licensure programs. For example, the Minnesota Board of Nursing requires all faculty members teaching in any nursing program (including online from out-of-state institutions) to be a registered nurse in Minnesota. And the Minnesota Office of Higher Education requires the Minnesota Board of Nursing to approve nursing programs prior to authorization (registration) being granted.
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 issues is often more than a full-time job, and especially if they offer licensure-track programs. Yet there are many institutions that are either 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. States have increased their enforcement of state authorization regulations and the federal government is contemplating some significant changes in oversight that will likely more tightly connect state authorization and increase 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 of the SAN Coordinators 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 don't always update their information in a timely manner. 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.

Many national conferences now include presentations on state authorization. Institutions sending representatives to conferences would be wise to encourage attendance at these sessions. Conferences with state authorization presentations also provide great networking opportunities and face-to-face interaction with individuals who have experience with state authorization.

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 that the program be “state-approved”, but that can mean it will accept another state's board of education 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.

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 Thompson has gained expertise in higher education regulatory affairs and compliance for over a decade. She is now an independent consultant, assisting institutions with all phases of state authorization and regulatory compliance, including initial strategic planning, research, training, presenting, and completion of applications.