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Navigating Professional Licensure Requirements in Distance Education



- Brandon Sherman
- Counsel
- Saul Ewing LLP

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Agenda

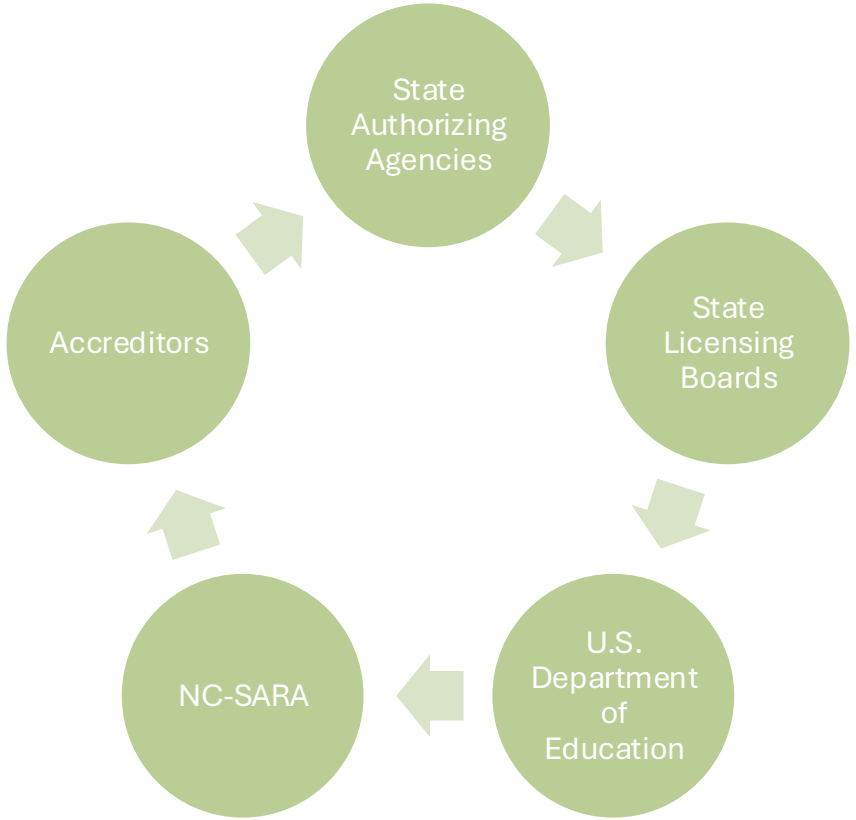
1. Background
2. Certification Requirements
3. Disclosures and Notifications
4. Detailed Requirements and Department Guidance
5. Implementation and Best Practices
6. Q&A

Background

Why This Matters?

- Required for participation in Title IV federal student aid programs
- Direct impact on a student's ability to obtain licensure and employment
- Legal risks
- Reputational harm

Professional Licensure & TRIAD



Regulatory Timeline

- Pre-2010: Professional licensure oversight was handled primarily by states
- 2010: The Department establishes state authorization requirements
- 2016: BDR regulations introduce licensure-related disclosure obligations
- 2016-2019: Implementation delayed due to litigation (*National Education Association v. DeVos*)
- 2022: Certification and disclosure obligations expanded

State Authorization Requirements

- To participate in Title IV, an institution must:
  - Be legally authorized by a state to provide a postsecondary education program in that state
- To be considered legally authorized:
    - The State must authorize the institution to operate postsecondary educational programs; and
    - The State must have a process to review and act on complaints concerning the institution.
  - Exception- Religious institutions that are exempt under state law.
- Evidence of state authorization is required for certification/recertification and for changes in ownership.

Title IV Requirements

Certifications and Disclosures

Program Participation Agreement

- An institution must certify that it:
  - Is programmatically accredited if the State or a Federal agency requires such accreditation, including as a condition for employment in the occupation for which the program prepares the student, and
  - Satisfies the applicable educational requirements for professional licensure or certification requirements in the State so that a student who enrolls in the program, and seeks employment in that State after completing the program, qualifies to take any licensure or certification exam that is needed for the student to practice or find employment in an occupation that the program prepares students to enter.

34 CFR 668.14(b)(32)(ii)

Program Participation Agreement

- **In each State which:**
  - The institution is **located**
  - Students enrolled by the institution **in distance education or correspondence courses** are located, as determined at the time of initial enrollment, or
  - **Attests** that they intend to seek employment
- For each student who enrolls in a program on or after July 1, 2024

34 CFR 668.14(b)(32)(ii).

Program Participation Agreement

- Enrollment Restrictions
  - An institution cannot enroll a student if:
    - The program does not meet licensure requirements in the student's state, or
    - No determination has been made
  - Exception: Written student attestation of intent to work in another state

Disclosures and Notifications

- Disclosures for educational programs that are:
  - **Designed** to meet educational requirements for a specific license or certification that is **required for employment** in an occupation, or
  - **Advertised** as meeting professional licensure educational requirements

Public Disclosures

- Information that the institution must make readily available to enrolled and prospective students:
  - A **list of all States where the institution has determined**, including as part of the institution's obligation under § 668.14(b)(32), that the program **does and does not** meet such requirements.

34 CFR § 668.43

Individual Student Notifications

- Prospective Students:
  - If the curriculum does not meet state requirements, or
  - If no determination is made where the student is located prior to enrollment in the program
- Enrolled Students:
  - If the institution makes a determination that the curriculum does not meet state educational requirements where the student is located –
    - 14 calendar days from the date of that determination to notify the students
    - Format: directly to the student in writing, which may include email or other electronic communication
    - Verbal notification is not sufficient

Detailed Requirements and Department Guidance

Determining Student Location

- Any program that leads to licensure or certification would be subject to the disclosure requirements (all modalities)
- An institution is not responsible for updating a disclosure to a student or ensuring its program meets licensure requirements in a State that the student moves to after initial enrollment
  - Unless the institution has a formal policy requiring students to notify the institution of a relocation
- Institutions have the flexibility to determine how to structure their location policy

Professional Licensure

- The term “licensure” generally refers to an official process, administered by a state-level authority, that is required by law in order for an individual to practice a regulated profession
- The term “certification” generally refers to a function administered by a nongovernmental organization, which is intended to further recognize professional competence based on having met the quality standards of the organization
- The prevalence and relevance of certification vary by profession

Professional Licensure Programs

- No federal definition of a “professional licensure or certification program
- These requirements don’t apply if a State does not have a licensure requirement or is not advertising as meeting such requirements
- “ [I]f only one or a small number of States in which the institution operates requires a CPA for an individual to become employed as an accountant, the requirements would apply.” (Department Q&A)

Professions Requiring Licensure

Most States:

- Dental Hygiene
- Nursing
- Barbers and Cosmetology

Varies:

- Interior Design
- Florists
- Private Investigators

Military and International Students

- **Military-Connected Students:** “An institution can consider the State a student is in at their time of initial enrollment, or the State identified in an attestation from a student where they intend to stay.”
- **International students:** “The certification requirements apply to students taking distance education or correspondence courses while located in U.S. States and territories, not to students located in other countries.”

Non-Title IV Students

- “Disclosure requirements apply regardless of whether the student enrolled in the program receives Title IV funds.”
- “If the student is enrolled via distance education or correspondence courses, the [certification] requirements also apply regardless of whether a student is a Title IV recipient.”
- “[A] school cannot circumvent these regulations by setting up an ineligible Title IV program.”

Department Q&A

Question: If a student who enrolls in a program leading to licensure or certification takes **an online general education** course at the time of initial enrollment in the program **but takes the certification courses all in-person,** would that student be considered a distance education student?

Answer: If there is any period of time during the first payment period when the student initially enrolls in the program, and the student will be living in another State via **distance education for any portion** of the program, the **student would be considered a distance education student** for purposes of this requirement

Department Q&A

Question: If the new State "does not meet" the requirements for licensure or certification, what are the obligations of the institution beyond individual direct disclosure?

Answer: An institution is not responsible for updating a disclosure to a student or ensuring its program meets licensure requirements in a State that the student moves to after initial enrollment unless the institution has a formal policy requiring students to notify the institution of a relocation. In that case, the institution would be required to make a new determination based on the student's new location, according to its procedures.

Department Q&A

Question: ”If an institution modifies its current program to meet licensure requirements for distance education students located in a State that requires State-specific courses, are we permitted to only require students in that State to adhere to those additional requirements?”

Answer: **“**Institutions may choose to create a version of the program that meets specific State requirements. Having two (or more) versions of the program would allow an institution to enroll students in the program most applicable to them (the program that includes State specific courses vs. the program that does not include the State specific courses).”

U.S. Department of Education

- Borrower Defense to Repayment - Examples of Borrower Relief) 34 CFR 34 CFR 685 Appendix A to Subpart B of Part Appendix A to Subpart B)
  - A school represents to prospective students, in widely disseminated materials, that its educational program will lead to employment in an occupation that requires State licensure
  - The program does not in fact meet minimum education requirements to enable its graduates to sit for the exam necessary for them to obtain licensure
  - As a result of the schools' misrepresentation, the borrowers cannot work in the occupation in which they reasonably expected to work when they enrolled
- Misrepresentation- Nature of educational program or institution 34 CFR § 668.72 (Any matters required to be disclosed to prospective students").

State Licensure Compacts

- In order for r**eciprocity to meet the requirement** for a program to satisfy the applicable educational requirements for licensure, **the completion of the program must qualify** the student to sit for a required **licensure or certification exam or find employment** in an occupation **immediately** upon completion of the program
- NC-SARA does not cover professional licensure
- Profession-specific licensure compacts
  - Example: Nurse Licensure Compact

NC-SARA

- NC-SARA Policy 5.2:
- Programs leading to professional licensure
  - SARA has no effect on state professional licensing requirements.
  - Institutions must satisfy all federal requirements for disclosures regarding such professional licensure programs.
  - For SARA purposes, these requirements will also apply to non-Title IV institutions and programs

Implementation and Best Practices

Research, Compliance Monitoring, and Procedures

Implementation Roadmap

- Identify all programs potentially leading to licensure
- Map applicable states for each program
- Research state-specific requirements
- Confirm understanding of State requirements
- Align curriculum and marketing
- Establish a monitoring process

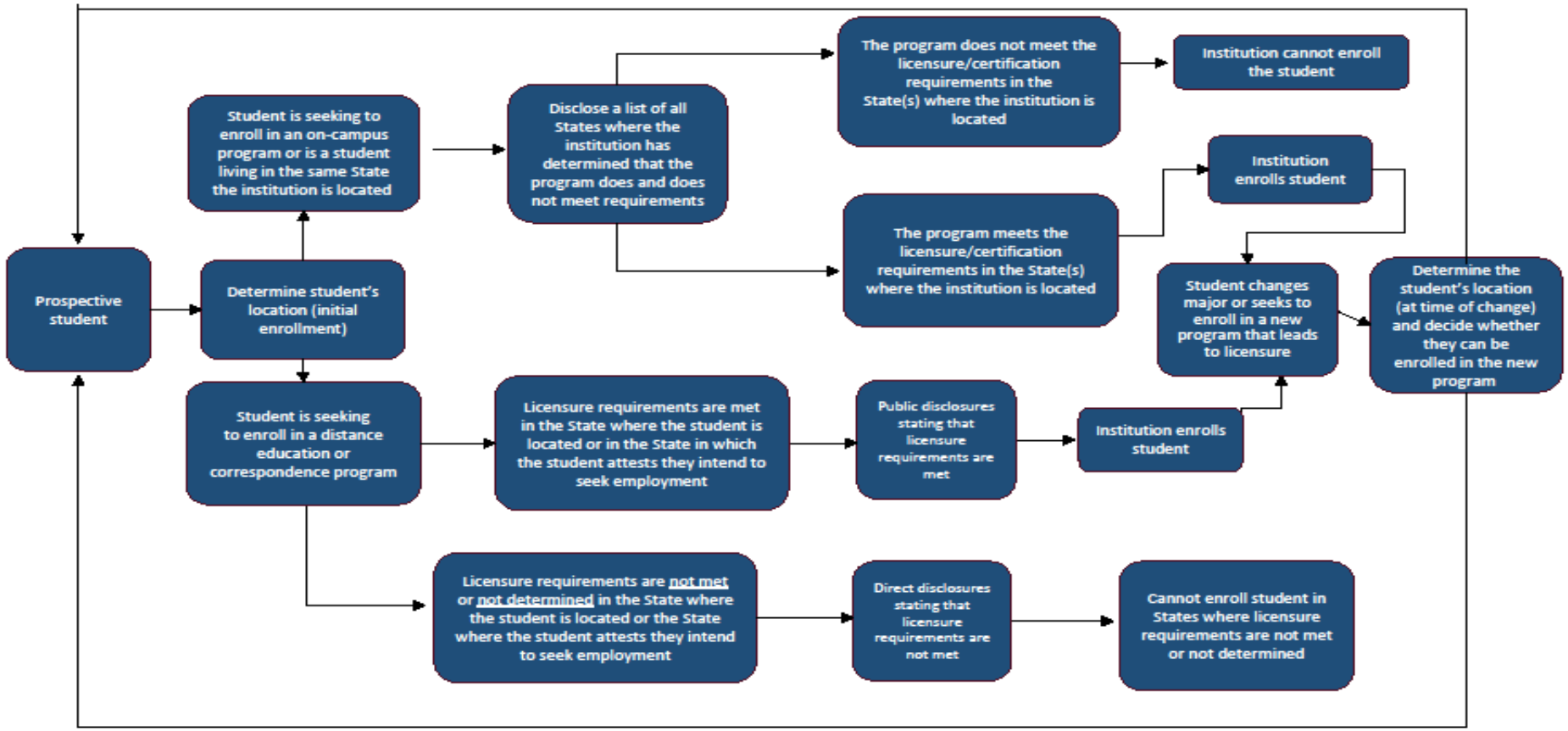
Best Practices

- Regularly review marketing materials
- Maintain documentation of determinations
- Train staff on requirements
- Establish clear policies and procedures
- Monitor regulatory changes

State Research

- Sources of information: website, meeting minutes, meeting agendas, and official polices
  - State laws can change **without notice**
  - **Attend Board meetings** and
  - **Develop relationships with Board members and staff**

States	Require License for Employment	Accreditor	Alternative Standards	Internships/Clinicals	Distance Education	Board
Virginia	Yes	Holds a doctorate from an accredited program or from a program that is substantially equivalent	• At least two academic years of full-time graduate study or the equivalent • Organized sequence of study • Minimum of three academic years of full-time graduate studies	An internship in a program that is either accredited by APA or CPA, or is a member of APPICE, or the Association of State and Provincial, or one that meets equivalent standards.	Doesn't specify	Virginia Board of Psychology psy@dhp.virginia.gov


Prospective student
Determine student's location (initial enrollment)
Student is seeking to enroll in an on-campus program or is a student living in the same State the institution is located
Disclose a list of all States where the institution has determined that the program does and does not meet requirements
The program does not meet the licensure/certification requirements in the State(s) where the institution is located
Institution cannot enroll the student
The program meets the licensure/certification requirements in the State(s) where the institution is located
Institution enrolls student
Student changes major or seeks to enroll in a new program that leads to licensure
Determine the student's location (at time of change) and decide whether they can be enrolled in the new program
Student is seeking to enroll in a distance education or correspondence program
Licensure requirements are met in the State where the student is located or in the State in which the student attests they intend to seek employment
Public disclosures stating that licensure requirements are met
Institution enrolls student
Licensure requirements are not met or not determined in the State where the student is located or the State where the student attests they intend to seek employment
Direct disclosures stating that licensure requirements are not met
Cannot enroll student in States where licensure requirements are not met or not determined



Resources

- Certification Procedures - Questions and Answers
- FSA Handbook
- State Authorization Network

Brandon Sherman
Counsel, Higher Education
Saul Ewing LLP
P: 202-295-6691
E: Brandon.Sherman@saul.com