

- Emily Woods: Hello, and welcome to General Disclosure, the podcast by the State Authorization Network. Today is Friday, August 27th, 2021. My name is Emily Woods and I am the Lead on the State Authorization Network Professional Licensure Special Interest Team and a distance learning compliance coordinator at the University of Kentucky.
- Emily Woods: I am joined today by my compliance colleague, Erika Swain, who is the Assistant Director for Compliance and Authorization at the University of Colorado in Boulder. Erika, would you like to say hello?
- Erika Swain: Hi, glad to be here.
- Emily Woods: Glad you're here too. Today, I'm pleased to be your guest host and am honored to be joined by an esteemed group of post-secondary compliance professionals to talk about the changing landscape, critical importance and observations in the field pertaining to professional licensing regulation.
- Emily Woods: So I would like to welcome the experts. First off we have Cheryl Dowd, who is the senior director for policy innovations with WCET's State Authorization Network. Cheryl leads a team which supports 800 plus member institutions and their compliance efforts, including disclosure practice pertaining to professional licensure. Hey, Cheryl, how are you?
- Cheryl Dowd: Hi, Emily, thank you very much for coordinating this. You all have done a really good job as a team pulling this together, looking forward to this conversation.
- Emily Woods: Thanks, Cheryl, me too. We then have Shari Miller, who is the lead consultant with institutional compliance matters, and she provides consulting services to a number of educational organizations. She's led distance learning and licensing compliance efforts at both state and institution levels, and is a former attorney who practiced healthcare law. Welcome Shari. Thanks for joining us today.
- Emily Woods: And then we have Jeannie Yockey-Fine, who is the general counsel for the National Council for State Authorization Reciprocity Agreements. In former roles, she has served as a state regulator, advisor, and attorney, counseling many on educational regulatory practices. Jeannie contributes to SAN special interest team as a consultant and is a tremendous resource. Jeannie, welcome back to General Disclosure.
- Jeannie Yockey-....: Thanks Emily, it's great to hang out with all of you. It's going to be fun to actually get to ask some questions today too.
- Emily Woods: Yeah, I'm really excited about this conversation. So I am actually first going to throw it over to Erika, who is just going to kind of reflect on the last two years of the regulations.

Erika Swain: Thanks so much, Emily. And again, thank you everybody for being here today. We were looking back at the last couple of years and thinking about all the work we've done, and thinking ahead a little bit, and we'll get to that at the end, but thinking on these regulations and all of the items surrounding professional licensure disclosures, what do you all think we've learned?

Cheryl Dowd: This is Cheryl. I think it's unmuted, sorry, technical difficulties there. I think one of the things that we've learned is that we still need to engage more of the key stakeholders, and by that I mean the professional boards themselves, and maybe programmatic accreditors, to help with the transparency, to find the appropriate requirements to be able to manage the research that goes into providing these disclosures.

Cheryl Dowd: I think there are a lot of institutions that are doing a very good job, but it's still a big challenge. And so there are a number of institutions that don't have the staff manpower to be able to do this in an enriched way. So if we had, we need to continue the communications with these other stakeholders to ensure that this research can be done efficiently. Yeah. What do you think Shari?

Shari Miller: Well, I totally appreciate that comment, but I also think just in general terms, we have to recognize that governing is a slow process, and institutions are so anxious for guidance and information, as we all are, and being patient is really hard, I think, for institutions to accept just the slow process. And then with the pandemic throwing in timing was not the best in that regard. So I agree that institutions that I've come in contact with, the vast majority of them really are trying to do the right thing and to be compliant. And hopefully, with some collaboration from the different agencies, that would be really great and would be very helpful.

Cheryl Dowd: I just want to underscore what Shari said about the pandemic, because as everyone will remember, these federal regulations became effective July 1st, 2020, right smack dab in the middle of chaos in terms of managing the different requirements that institutions were having to address, and the professional licensing boards were having to address to accommodate a distance learning look, a remote look for education for a period of time, because there couldn't be face-to-face interaction. So I think that put these kinds of requirements, these kinds of concerns at a lower priority, because they obviously had a very high priority to keep education moving forward. So it's hopeful that as we start to transition, hopefully post COVID in the next year that we can make sure that the lens comes back on, how can we get the key stakeholders looking at this to help support the institutions work?

Erika Swain: Thank you. And I believe Jeanie, would you like to jump in here?

Jeannie Yockey-....: The only thing I would add is I'm going to go back to a word that Shari used a couple of times, and that's process. And what I would say about process is one of the things that we try to do when we talk with institutions is, and we've all

done this, it's reminding the institutions that compliance, whether it's state authorization, whether it's professional licensure, is a process, and not letting the compliance team get overwhelmed by thinking every single thing has to be straight. Every single program has to have a perfectly written disclosure. It's all about building on what you have and moving forward, not sitting and waiting for something to happen, but moving forward.

Jeannie Yockey-...: So if you have everything straight on nursing, then moving to your teacher education programs. And again, remembering that it's a process. So it looks similar to how it looked back in state authorization days, and for most institutions that actually get to participate in SARA, they don't have to deal with that anymore, where it was state by state, by state, watching the states go from red to green, which was a good thing on everyone's maps back in the day. And so it's the same with professional licensure disclosures, working toward turning those programs green instead of red and remembering that it will happen.

Emily Woods: That's a good point, Jeannie.

Jeannie Yockey-...: All right. I think now that we've covered just a little general overview there, we'll get into some very specific questions and I'll start that off with Cheryl and Shari. What kind of pushback have you been seeing or hearing from institutions?

Cheryl Dowd: Well, what I'm seeing from some institutions is the misinformation about what is required. So in some institutions, the interaction with other staff members at their institution, they believe that the requirements look different than they actually do. So I know, Jeannie, Shari, and I, have shoot for not just this, but for other aspects of state authorization, indicated that it's really important that people read the regulation specifically, not just rely on hearsay about what's required. So I think that is where pushback has really come back, because people don't necessarily believe that the regulations say exactly what they do, and when I say that, I'm talking about that the public disclosures have to do with all states and territories.

Cheryl Dowd: And people are just really surprised by that, or they're surprised that it's for all modalities, because those that have been following the history of this will recall the 2016 regulations that were effective for half a minute, were only about distance and solely online programs, is the way the regulation read. So this is all modalities, and so people are just surprised by that if they haven't read the regulations specifically.

Shari Miller: Good points Cheryl. When I worked at an institution I described the whole compliance process as kind of the stages of grief, which I think actually now is more of a spectrum of grief, but yeah, usually the first thing is denial. And then, you go through a process, and as Jeannie's mentioned, it definitely is a process, and then eventually, hopefully the institution gets to acceptance, but it sure varies by institutions. And I know with some of the groups that I work with in the SAN mentor program, it's frustrating for the people who are trying to do the

right thing in the compliance positions, and they may not have the support at the higher levels of the institution. And there have been a lot of personnel changes and that's affected a lot of things as well, so I think that the push back, it's not from the compliance people, it's maybe from higher up in the institution.

Shari Miller: And again, I think, as Cheryl mentioned, the pushback may be more related to just bigger fires or bigger fish to fry right now, especially as the semester is just starting. But as those of us in compliance know, we want to get moving. We want to get this done. We want the institution to be in a good place where it's taking good care of its students, and sometimes that's not the same listing on the to-do list for the leaders of the institution. So it's just, again not giving up, it's a process, keep working on something. If you hit a brick wall because of one person, find a way around the wall.

Jeannie Yockey-...: Cheryl, to Shari's point about sometimes it's difficult for the compliance team to do what they need to do to get that buy-in, how have you seen that impact the ability of the institution to actually meet the regulations?

Cheryl Dowd: Hmm. Well, I think as Shari pointed out, sometimes they don't have someone of authority to have as an advocate. We often indicate with the institutions is this has to be a cross institutional collaboration, and also finding yourself an advocate at a higher level than you, who can try to open doors. The other point that we try to raise, is reaching out to the financial aid office, since these are related to title four, so compliance is tied to the ability to provide federal financial aid. So we have absolutely when they hit a wall, given institutions some places where they should start trying to have conversations to see if they can move forward. Shari, do you have any other ideas on that?

Shari Miller: Well, I just think that we all know compliance is a huge undertaking, and so there's never just one thing on our to-do list. And if I agree that those are all excellent areas, or people to contact and I can't stress enough the importance of collaboration and relationship building across the institution. But I think the thing to remember is, okay, maybe what you wanted to do today isn't what's going to get done today, but you have plenty of other things that still need to be done as far as achieving compliance for the institution. So just maybe pick another one to work on until you can make some headway on the one that you're interested in completing.

Jeannie Yockey-...: Cheryl mentioned title four, and that can definitely be a winning argument for how to convince the institution, especially those outside the compliance team who already understand the importance of it, how to convince them why it's important to get into compliance. Do either of you have another fallback besides title four that you can say, "Hey, this is the best argument you can make with your administration on why compliance is so important with this."

Shari Miller: Well, I found with an accreditation review, you can get a lot of things accomplished because the language in the, we had an HLC review, and the

language said that the institution had to be in compliance with all federal and state laws and regulations. And so that gave me an opportunity to make progress in a whole bunch of areas that had been a little more challenging in the earlier days.

Cheryl Dowd: That's a good point. And the other aspect, and I think there's more of a spotlight it right now, and I think that's an important spotlight, is to talk about the consumer protection aspect. And so you may find some advocates on your campus in leadership positions that, being able to share with them the important value of this consumer protection to support students, considering the growth across United States participation in programs that lead to a license. So it's definitely appealing to them about the consumer protection and the equity aspects of this, that are supported by having strong consumer protection processes in place.

Jeannie Yockey-...: I think that what I would add to that, and this is definitely one of my go-to's is don't forget the student in this directly. It's going to be, if the student can not use their degree in the program in the way that they intended it, in the state where they want to be, obviously you've done a huge disservice to the student, but you've also done a disservice to your institution, because that student can then litigate. So sometimes litigation will get administration to listen as well, as if T4 is not enough, then the half of that can sometimes put the cherry on top. I'm going to go to one more question, before I hand it off to Erika to ask some questions, in the interest of time, we want to keep moving. It'd be awesome to be able to talk to all of you for several hours, but we don't have that. How have you been seeing state regulators and accreditors respond to these regulations?

Cheryl Dowd: Well, I think Shari covered the accreditors, and I think that that's from a, if I understand correctly what you're talking about Shari, more specifically, is the formerly known as regional accreditors, the institutional accreditors. Am I right?

Shari Miller: That's correct.

Cheryl Dowd: Yep. So I would like to see programmatic accreditors take more of a role, but state regulators, they play important roles, state regulators and state portal entity people, play an important role in the oversight of the institution activity. Some of them are taking on the extra role of trying to be an advocate for their institutions to try to get them access to things. But I think it's even... My goal is to elevate this so that we have the SHEEOs even bringing it forward to talk with other state entities, so that at a higher level there are communications about how there needs to be some discussion, about how our professional boards are managed and their information shared.

Cheryl Dowd: I've talked about this a couple of times lately, and I'm going a little bit off track, but just to point out that there was an executive order signed early in July about removing barriers for the transport of a license, but what we're talking about is post licensure, in that situation. So I'm hoping that we can talk more about pre-

licensure. Can states understand that there needs to be understanding of what requirements are, so that students are able to take their education across state lines? So I'm hoping we can jump on that bandwagon.

Jeannie Yockey-...: I like that. That would be great. I'm going to hand over to Erika now.

Erika Swain: All right. So I'm actually going to kind of shift it to institutions, because we've touched on how institutions are starting to apply these regulations, and it's actually been impressive to see institutions really step up in some creative ways. So I'm curious, what are some of the most creative ways and responses you've seen from institutions? Maybe some really great or maybe some unusual ways institutions have successfully tried to be in compliance with these regulations.

Shari Miller: Well, I can't say that I have any one strategy that I've seen institutions use, other than that they are taking it seriously. And I think what I have seen, and I think Cheryl, even you did something similar to this when you were at Sinclair, people really love maps on the websites, where you can click on the map, and it will bring up all of the information. So I have seen some institutions do a really, really nice job, and I think somebody was telling me that they've used Tableau, I guess Tableau is pretty robust in this area.

Shari Miller: And so for general disclosures, you can click on the state map and it will bring up the relevant information as far as programs, and their status, and those types of things, contact information, and that's one really pretty way and efficient way to present it. But institutions don't have to do that. You don't have to think that, oh, I can't put anything up because I can't do that. No. A simple spreadsheet is very, very effective as well. And will make sure your institution is in compliance until, or if, you ever get to the point where you have the resources to do an elaborate technological approach. I think Cheryl, you were going to say something on that.

Cheryl Dowd: Oh no, I love that you said that, and I think you're right. Some have been very tech savvy, and then I've seen others that just within their program listing, this is for the general disclosure, the more public one, the make available one, that just per program, will just have a list of... They'll say "States for which our curriculum meets state educational requirements." And then there'll be a list of the abbreviations of the states for which they do. And then the second line, because it'll be in a very small piece on the page, but then the next line is "States for which our institution's curriculum does not meet state educational requirements." And it'll have a list of abbreviations. And then of course, finally the last one, "States for which we've not made a determination." And then it'll have a list of abbreviations.

Cheryl Dowd: And I thought, well, that's very succinct. It doesn't take up a great deal of room on the page, but it certainly provides with the institutional information about the curriculum that was on the program page. And we've seen people have either program pages where they offer this information, or a general

compliance page where they provide it. So there isn't instruction as to which is the more proper way, as long as it's available.

Cheryl Dowd: One of the things that I really thought was interesting with the direct disclosure, was a NACUA discussion. So the NACUA is the national association of college and university attorneys, and there was a recent conversation on their message board where one institution threw out the idea, "Hey, we do this." Because you remember for perspective students it's prior to enrollment in the program, and so at time of registration, the student enters their information and they get a popup.

Cheryl Dowd: Well, the attorneys were going back and forth from a couple of different institutions talking about how, "Okay, if it came to it, you could probably get somebody on the witness stand." You don't want to have to have anybody on a witness stand. Who is going to talk about the coding that's involved in that. But what another attorney said is not only the pop-up, which is prior to enrollment in the program, but it also triggers an email that goes to the student, so it confirms that they have something in hand that's directly to them, so that they can have... Because if you all recall, this set of regulations did not require an acknowledgement by the student, so you can at least show it was sent. And so you have specific evidence of that. So it's interesting how the institutions are figuring out what's the best way to be efficiently providing this directly to the student.

Erika Swain: Yeah, absolutely.

Shari Miller: The key is they just need to be doing something.

Cheryl Dowd: Right. Exactly. Exactly.

Erika Swain: Yeah. That's really good. Have you seen any actions maybe early in the process where institutions we're trying to be compliant, but maybe failed to meet the mark?

Cheryl Dowd: Well, there were institutions, and I think certainly not in the state authorization network because we've informed them well, but there are some institutions who have put out just a list of where you can find the links to different programs, and call it done. So they haven't made a determination in one of those three required areas, making lists as per the regulation. They've just put direct links to the state licensing board, which, great that you provide links to state licensing boards, however, you need to make an assessment of what your curriculum is per the state educational requirements in that state.

Shari Miller: And one of the things just to jump in quickly that I have heard about from a couple of different people is that a small number of institutions are using kind of unique ways to determine that their programs meet licensure requirements, not necessarily based on confirmation from the state agencies, but more based on

an outcomes approach that if X number of students are able to achieve licensure in that state, then the institution is satisfying the requirements. And while that's an interesting way of looking at it, we always go back to your policy needs to be defensible, and is that something that you can replicate, or is it just based on the individual traits of the students who have actually achieved licensure in those states? So I always want to beat that drum about creating a defensible policy that applies across all students.

Erika Swain: Good point, Shari.

Emily Woods: Yeah, this is great. All right, I am going to pass it along to Erika to talk about kind of the future of these regulations. So Erika.

Erika Swain: Sure. So looking back at previous administrations and previous iterations of the department of education, we go in these weird ebb and flows of heavy regulation and deregulation. What do you see with the current Biden administration and this iteration of the department of education? Do you think that there's going to be an even louder call for transparency when it comes to these types of programs and professional licensure?

Cheryl Dowd: I think, yes. I think that what we're seeing, not only with the department, but also states. I think it's getting more complicated out there to be quite frank. I talked the other day on the coordinator call about the new Oregon requirement that will be in place, I believe it's in another year that they have, but the Oregon public institutions are going to have to provide what the costs are, in addition to tuition for the course. So if it has extra tools and books, et cetera, the students will have that knowledge prior to the course. But I mean, I think back on my college days and law school days, I mean, we just knew we had a book, and we knew books range in this period, this area of cost. And so, there really weren't hidden costs, and I think there are more things that students need to be aware of that, especially for consumer protection purposes, we want to protect those students, and make sure that they know what they're getting themselves into as they are pursuing their interested in the program and courses that they're taking.

Shari Miller: And I'd also like to add too, when you look at the composition of the leadership of the department and the backgrounds of the people from their previous positions, it's a group of people that do favor transparency and consumer protection, which is great. So I think like Cheryl says, we'll be seeing more of that. The other thing is that some states like to follow the federal lead, other states like California, like to be ahead of it. But so I think we will be seeing additional changes on the state level as well. And so it's like stay tuned. There's more to come.

Erika Swain: Wonderful. And I have to admit, even on my own campus when these regulations came out, as I told the leadership, I'm not mad about them. It's just hard work. But at the end of the day, it's not about me. It's about the students

that we're serving. So that really helped kind of push it along. Shari, I have one final question for you. Looking back at your wonderful guide, are there areas or points that maybe in hindsight you think maybe we should have given more emphasis to?

Shari Miller: I would love to be able to update it, because guidance has come out. I just keep thinking, oh, any day, maybe we'll get some good guidance so I can update it. Just like any of us when we write something, every time you go back, it's like, oh, I should've done this, or I should've done that, but there are a couple of things I probably would focus on. Number one is I would focus more on the relationship building in the beginning of the guide and just stress the importance of having good contacts across the institution. And Cheryl referenced the financial aid folks, definitely, and there are just so many. I do have a list, but I don't think I really stressed that enough, because this is not work that you can do in a bubble.

Shari Miller: I think the other issue, probably the biggest thing when I went back and looked at it recently, is that I would put more content around the time of enrollment, because I don't even think I really referenced financial commitment. So that would be something I would definitely do. I would maybe add a couple of charts, maybe, when direct disclosures should be used. It might be easier to have a visual for people.

Shari Miller: So I think those are kind of the areas that... Oh, and then the other thing I definitely would add would be a list for direct disclosures, a list of sample content. On the SAN website, there are just really great examples that various institutions have supplied of their disclosure, their direct disclosures. And so I went back, and I looked at those, and I kind of distilled them into what are the topic areas. And that would be something that I would think would be helpful because institutions are always asking, "Oh, can you give us samples?" And none of us know, it's something that your institution has to do, but to give ideas of topics or content that should be in a direct disclosure. I think that would be helpful.

Cheryl Dowd: Well, Shari, if you ever want to revise that, I kind of know the person who would be happy to contract with you to do a 2022 edition, if you would like, we can talk about that on another day.

Jeannie Yockey-...: You heard it here first.

Emily Woods: Well, this conversation has been absolutely terrific. I appreciate the three of you just kind of giving the 30,000 foot view of the last two years, and just everything from just general application to what you've seen institutions do, and and kind of the future of the regulations. And Shari, I'm also looking forward to that 2022 revised version. So-

Shari Miller: Well as soon as we get guidance.

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Emily Woods: Yeah, as soon as we get guidance.

Shari Miller: And we could, we could.

Emily Woods: Yes, I love it. Yeah. All right. And so I just want to thank our guests today, again for their insights. And thank you so much to our listeners. If this topic is of interest and you're seeking additional resources, be sure to visit SAN online at wcetsan.wiche.edu, to view the professional licensure, special interest teams resources, and research regarding this topic, or you can access our other General Disclosure podcasts, and we hope you all have a wonderful day. Thanks.