

## Overview: Variability of state professional licensing landscape and its impact on “assurances” to students

### **Background and context**

Regulation of education and licensing is a function of consumer protection, for current students and the public. Compliance with a patchwork of state rules is a necessary task assumed by institutions as they offer education to students located in multiple U.S. States. This multistate delivery increases options to a variety of student demographics, including adult learners, veterans, formerly incarcerated persons, student parents, or working students, who seek flexibility and specific training opportunities in a competitive, modern, and mobile economy.

### **Current Title IV HEA eligibility is tied to State institution approval**

Institutions of higher education who participate in Title IV HEA programming must hold appropriate state authorization where they enroll students.

Additionally, in July 2020, federal rules requiring disclosures for programs leading to a professional license came into effect. The following bullets outline key elements of these regulations discussed during the 2019 negotiated rulemaking proceedings:

- Disclosures encompass programs in ALL modalities.
- Public Notification ([34 CFR 668.43\(a\)\(5\)\(v\)](#)): Institutions must publish information whether completion of a program would be sufficient to meet licensure requirements in state under three categories:
  - A. list of all states for which the institution has affirmed it meets requirements;
  - B. list of all states for which the institution has determined that it does NOT meet requirements; and
  - C. list of all states for which the institution has not made a determination that it meets requirements.
- Individualized and direct notifications ([34 CFR 668.43\(c\)](#)): Programs which do not meet *or* a determination has not been made, require a specific written notice, to that effect, sent to prospective and currently enrolled students.
- Change in location: A determination and appropriate disclosure is issued at the time of the student’s initial enrollment and revised as the institution becomes aware of a change in the student’s location. Should the institution find that a program no longer meets requirements, it must then issue a direct disclosure to the student.

### **The state and scale of licensing in the U.S. is complex and extensive**

Approximately 25% of the workforce requires a license to work<sup>1</sup>. A White House report estimated that over 1,100 occupations are licensed in at least one state and 60 are licensed in every other state<sup>2</sup>. Furthermore, the specificity of licensure qualifications and procedures to obtain a license vary drastically state to state.

Despite this complexity, state authorization and professional licensing regulation serve a critical consumer and student protection function. Compliance ensures those choosing to practice have been trained, meet minimum qualifications, and continue to provide high quality and safe services to the public. Institutions who offer programs to aspiring professionals carefully and strategically manage a maze of state and federal regulations, including disclosures, to support transparency, informed student choice, and access to education.

---

<sup>1</sup> <https://www.nber.org/papers/w24107>

<sup>2</sup> [https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf)

## Mobility is a student and workforce issue

The specificity of licensure qualifications and procedures vary drastically by state. These variations can restrict mobility from state to state and may unintentionally:

- inhibit the ability of practitioners to take advantage of job opportunities, limiting wage growth.
- require active licensees and students to abandon years of education and/or practice.
- result in additional education or certification costs.
- disrupt a course of study or access to federal funding for students who have no choice but to relocate mid-program.

These challenges are particularly acute for military connected students, who according to the USO, may relocate every two to three years<sup>3</sup>. Impact can also be observed in high-need professions such as teaching or nursing, or services which frequently cross state lines such as telehealth and accounting.

Compact agreements<sup>4</sup> have been arranged for specific professions and may help to address portability across state lines for post-licensure scenarios. However, these options do not extend to the education and pre-licensure requirements of states.

## Considerations on this topic presented in 2022 Negotiated Rulemaking

[Issue Paper 6: Certification Procedures](#) - Proposal to “ensure” that education may result in a license

Current proposed language suggests that institutions “ensure” the program will satisfy applicable prerequisites for licensure or certification requirements in a state. The current state regulatory landscape, unfortunately, does not always permit the institution to make a clear and definitive statement. Thus, to “ensure” creates a complex and troubling scenario for the institution to manage and, **importantly**, restricts availability of options to students nationwide.

Samples of existing scenarios and barriers to “ensure” education results in a license:

**States may stipulate distinct curriculum requirements to obtain a license.** Institutions may not be able to offer these specific elements or make guarantees regarding the student’s outcome.

- New Mexico | Social Work ([16.63.3.8\(l\)](#)): Stipulates three credit hours on New Mexico cultures course per the candidate’s transcript, a board approved course, workshop or seminar in New Mexico cultures, proof of passing the New Mexico cultural examination.
- California | Social Work ([BBS Guide to LCSW Out-of-state applicant requirements](#)): Prescribed coursework and length specified in link. Courses include CA Law and Ethics, CA Cultures and the Social and Psychological Implications of Socioeconomic Position, Child Abuse Assessment and Reporting in CA, Suicide Risk Assessment and Intervention.

**States may not pre-determine outcomes for an out-of-state program.** Regardless of whether an out-of-state program would meet state educational prerequisites, an institution may be limited in providing assurances to students without confirmation from the applicable state professional licensing agency.

- New York | Teacher Education ([NYSED weblink](#)): “The Office of Teaching Initiatives cannot determine eligibility for certification until an application has been submitted, and a review of your credentials has been completed. New York State does not pre-approve teacher preparation programs completed in other U.S. States or Territories.”

**State review procedures may be subjective in nature** and focus on **alignment of specific elements** of the candidates’ institutional curriculum verses that of the State. Thus, a program may meet the educational prerequisites for licensure in a state, but the institution would be unable to provide assurance to an individual student.

<sup>3</sup> <https://www.uso.org/stories/2277-5-things-to-know-about-military-families#:~:text=Most%20military%20families%20move%20every,what%20happens%20in%20the%20military.>

<sup>4</sup> <https://licensing.csg.org/compacts/>

- Wisconsin | Teacher Education ([WI Department of Public Instruction FAQ](#)): “We review each candidate’s preparation program transcripts to determine the **equivalent** Wisconsin license.”
- Texas | Educator Certification ([TEA out-of-state certification link](#)): “Individuals who hold a standard certificate to teach in another state or territory, seeking certification in Texas must first **apply for a review of credentials**. A standard certificate is defined in TAC §230.111(c).”
- Oregon | Teaching ([ORS 584-210-0060](#)): A “Reciprocal Teaching License” may be issued to teachers who have completed an educator preparation program and hold an active and valid non-provisional teaching license from another state. At the end of one-year, the teacher must meet requirements of the Oregon Preliminary Teaching License or another non-Provisional Oregon license.

**States may have separate requirements to qualify for a licensure examination and to obtain the license or certification itself.** Clarity is needed in the final regulatory language to confirm institutional expectations.

- Alaska | Accounting ([Sec. 08.04.150 & Sec. 08.04.120](#)) – Candidate’s baccalaureate program must encompass a threshold of credit hours to sit for the CPA examination, however the requirements to obtain a license or certificate may differ. (Note: this is common for the field of accounting in many states.)

#### **Additional complexities of the regulatory landscape preventing “assurances” to students:**

- New and emerging specializations such as *Music Therapy*<sup>5</sup> or *Applied Behavior Analysis*<sup>6</sup> may not currently be regulated consistently by a specific state.
- Additionally, varying state boards in one locality may have conflicting expectations. For example, a student may not need an approval to practice, however may be subject to other state oversight to fulfill business functions (Ex. Medicaid billing<sup>7</sup>).
- States may not offer readily available or transparent regulatory citations. The State Authorization Network member institutions have identified American Samoa, Guam, USVI, CNMI, Palau, or Micronesia as territories who may not actively post contact information, regulatory requirements, or procedural information regarding their oversight of licensed professions. For example, the National Council of State Boards of Nursing website [states](#) that “no official versions of the American Samoa Nurse Practice Act are available online.”
- Students may pursue education, but never intend to seek a license to practice. For example, accountants may pursue several career paths, such as a staff accountant and accounts payable or receivable specialist, without being required or intending to become a certified public accountant.

This document was created by [WCET State Authorization Network \(SAN\)](#) staff Kathryn Kerensky, Director for Digital Learning Policy and Compliance and Rachael Stachowiak, Director of Interstate Policy and Compliance.

Note: Information presented in this document represents research captured in February in 2022. Regulatory language and references are subject to change. The information should not be considered legal advice. Legal questions should be directed to legal counsel.

<sup>5</sup> [https://www.musictherapy.org/assets/1/7/National\\_Overview\\_February\\_2021.pdf](https://www.musictherapy.org/assets/1/7/National_Overview_February_2021.pdf)

<sup>6</sup> <https://www.bacb.com/u-s-licensure-of-behavior-analysts/>

<sup>7</sup> <https://www.appliedbehavioranalysis.edu/state-by-state-guide-to-aba-licensing/#legislation-proposed-license-requirement>