

Megan Raymond: You have found your way to today's WCET and State Authorization Network webinar. It is exclusive to our members. Waze to find the detours and fast lanes to understand new US Department of Education guidance and regulations. My name is Megan Raymond and I'm the Senior Director for Membership and Programs here at WCET. As we go through the conversation today, you can access the slides. Kim will be sharing that link in chat. And we anticipate a lot of questions and comments, so please make sure to put your questions in the Q and A box, and your chat in the chat. If we mix those up, we will likely lose parts of the conversation or your valuable question. If you'd like to follow along on X, the feed through the hashtag is #WCETwebcast. This is being recorded and we'll make sure to share resources, a link to the recording and the slides to all registered attendees. Today's moderator is my friend Jana Walser-Smith. She's the director for Interstate Compliance and SAN Member Outreach. Please welcome Jana.

Jana Walser-Smi...: Hello everyone and welcome. Megan, thanks for that introduction. Again, I am Jana Walser-Smith, director of Interstate Compliance and Member Outreach for the State Authorization Network, or SAN as we are affectionately known. As Megan alluded to, today's session, we'll focus on updates as they relate to the release of the new regulations from the US Department of Education. We'll start off by having a brief update on the new rules, and I stress the word brief because we, of course, want to save time for your questions. Today's discussion will focus on professional licensure and certification, state closure regulations and the impact on reciprocity. On October 31st, we'll remind you that we released two blog posts with extensive background on these issues. My colleague, Kim, will share those links for you now in the chat. The one is titled Professional Licensure Certification, the other one, closure Laws and the Impact on State Authorization Agreements.

All right, before we go on, I do want to address our Waze metaphor. So unlike everybody else, I was probably the last one to get it. The Waze metaphor is the driving app and that app identifies objects in your path and advises you about options on how to move forward legally. We believe that it is our responsibility to follow the laws and the regulations, and our goal here is just simply to help you understand and navigate those laws. Again, we'll take questions at the end, but please don't hesitate to put your questions in the Q and A box. There's also a feature that is an up voting feature. We encourage you to use that because this feature will help us to better understand and better prioritize which questions that we answer during this live session. So without further ado, I would like to introduce my colleagues, Cheryl Dowd, or have them to introduce themselves. Cheryl Dowd and Russ Poulin. And Cheryl, will you go first please?

Cheryl Dowd: Sure. Hi, I am Cheryl Dowd. I'm the Senior Director for the State Authorization Network and WCET Policy Innovations. Thank you for setting it all up, Jana. Russ?

- Russ Poulin: And Jana. Yes. Yeah, thank you for getting this going and Megan and the crew. I'm glad to see so many people on board with this. Again, I'm Russ Poulin, executive director of WCET, the WICHE Cooperative for Educational Technologies. And hello from lovely and warm Boulder, Colorado.
- Jana Walser-Smi...: Thank you for that. Just as a little bit of background, these new rules came out from the US Department of Education's negotiated rulemaking process. It's a complex process that is meant to ensure that due consideration of any rules or any change will be carefully considered by the department. To help the audience, can we talk a little bit, Russ, about the background? What is the rulemaking process?
- Russ Poulin: Yes. Yeah, I can get into that. And with the rulemaking, what they do is that there are laws that are passed by Congress and that they give, of course, what it is that you're supposed to do to be in compliance with that laws. But through the political process, they don't always get to all the details about how each of the parts of the federal government are supposed to implement those rules. And so there's a need to get more details about how to administer those laws. And so there's this process called negotiated rulemaking that the Department of Education uses. It's different for other parts of the federal government, but the Department of Education, what they'll do is that they'll announce, "Hey, we're going to look at this set of issues." And as part of that, that they'll also ask for negotiators to be part of a panel to discuss those issues and what regulations in terms of how the department is going to enforce compliance with those laws, that they'll do that, and they'll ask for negotiators that have experience around the issues that are up for consideration.
- And then typically what they've been doing lately is that over about a three-month period, they'll have three extended several day sessions where they meet and talk through proposals that come from the department or come from the negotiators on those rules. The proposed rule is then, what comes out of that is then published for comment publicly, and then people can comment, and we'll talk a little bit more about that commenting, and what we did on this particular rule. And then they take those comments and respond to them and might make some changes at the end. And then if the final rule is published by November 1st, then it goes into effect on July 1st of the following year. And that's what we have here is that we have some final rules that came out that'll go into effect next July, and we'll be talking about those.
- Jana Walser-Smi...: And colleagues and friends, I would be remiss if I didn't let you know that Russ has served on several of those rulemaking panels, so you're getting this process from a true authority. All right. So let's talk about historically how these things, how these issues have come about. So Cheryl, I know that this has been a lengthy process for these rules, and we want to discuss how they've come to completion. Can you give us an update on the timeline for this process and really how we got there?

Cheryl Dowd: Sure. Could we go to the next slide please? So what we have listed here are the last of five issues that were addressed by the Department of Education from a rulemaking that began back in the spring of 2021. That seems like forever ago, but that's when the department first released their intention to have a rulemaking. And it included these five issues, but several more, including borrowed defense to repayment 90/10 rule. And let's see what else. There were several. And so here we are with the final five, if you will. And these final five were the ones that still needed to get over the final line. And so the other regulations that were addressed during winter of 2021, excuse me, fall of 2021 and winter of 2022, have already reached the final line and they are effective regulations as of last July. However, these five were left. And these five were released as proposed regulations last May.

And so the department, moving forward with these after they were in proposed regulations, accepted the public comment, as Russ is saying, and were to release them as final. They move forward on gainful employment first and release that earlier in the fall. And then a few weeks later release the final four. We're not talking basketball, but we are talking about some excitement. And these final four were released. And the one that we focused the most on from our community was certification procedures. And I want to share a little bit about certification procedures, but I will tell you that when it was first released, we thought we were going to be bystanders to this negotiated rulemaking. It didn't appear that issues of state authorization, distance education, et cetera would come up within these issues. However, when it went into rulemaking, we found out that there were several issues that we would be addressing within the certification procedure structure. May we move to the next slide please.

So the certification procedures issue is around the idea of the agreement that is between the Department of Education and the institution in order to participate in Title IV HEA programs. It's an agreement. This agreement is called a program participation agreement or a PPA. And so what it is, as I said, it's an agreement, has a list of things for which the institution will certify that they are doing, and also about specific signatories to the agreement so that it holds responsibility from the institution in order to serve students within the Title IV program. So what happened was within this certification procedures issues list of things that an institution must do were these sub-issues that we're addressing today and they were added during the rulemaking.

And so we'll talk about that more in a second. But I want to share with you that the Department of Education, when they release the regulations and final form in the federal register, they release a contact person for which you can ask your questions. And so for each of the remaining issues, those four issues I mentioned before, they indicated a specific person so that if you have questions, you may reach out to this specific person around certification procedures, that's Vanessa Gomez, her phone number's there, and vanessa.gomez@ed.gov. And so that's available for you as an opportunity to

reach out and ask your questions. So at this point I think there are some more ideas we want to bounce around there, right, Jana?

Jana Walser-Smi...: Sure. So when we think about this entire process, I want to really focus on what WCET and SAN contributed. So Russ, Cheryl, can you guys tag team this and let everyone have the opportunity to understand how our input affected this rulemaking process? What did we do on behalf of our members?

Russ Poulin: Happy to do that. And that's really at that on behalf of our members in the higher education community, we really did participate greatly in this. And I'll talk about what we did during the rulemaking process. And as Cheryl said, we were surprised that these rules were on there. And one of the things that we worried about was that since they weren't announced previously as being on there, was that the negotiators themselves, they had no negotiators who had experience with several of these proposed rules. And so we saw that as a problem. And so we had to pay double close attention and get more involved. And so one of the things we did is that Cheryl provided a testimony, you have the opportunity to provide testimony at the end of each session that they have, and that she talked about professional licensure and the rules around that, and suggested that the Department of Education actually talk to state professional licensure regulators to know what they do.

And we actually put that in our comment later. And then during the negotiations we contacted several negotiators, both individually, and then we also held calls with subgroups of them to talk about the issues that were proposed. We also worked with the two negotiators who introduced the professional licensure proposed regulation. And what we tried to do was develop a good compromise language. That was really quite fruitful that we tried to come up with something. Unfortunately, the department didn't go with that at that time, and since then have taken some of those suggestions and put them in, but it's negotiations. So you want to work with them to come up with the best thing that meets the needs of students and and is actually doable in that. Cheryl... So that's what happened during the negotiations. Could you take it from there about what we did after the negotiating sessions were done?

Cheryl Dowd: Of course. Thank you, Russ. So during the public comment period, so that happens when the department releases the rules, they release the rules, gives us an opportunity to review the rules, and they typically offer about lately 30 days to provide a public comment. So what we did was quickly move ahead to create a WCET Frontiers post that provided some analysis of what was released as proposed rules and give some direction to our members to be able to provide public comment, pointing out to them to consider what this would mean for serving students. How would your students be impacted by these new rules? And so after that post, we created our own public comments in regard to... We actually submitted two public comments, two separate ones, one related to professional licensure and then a completely separate one related to the issues

that were addressing consumer protection laws that could impact reciprocity. So we provided those at that time.

So then after that... Russ, if you don't mind, I'm going to go ahead and tell them what we did while we waited in the next part. Okay, so we released those... So those public comments were released and the department posted about half of them. For some reason we haven't figured out, the department posts the public comments, and in this situation they only posted half of them. And so we don't know what happened to the rest of them. They do have the discretion to hold back comments that are duplicative or are spam. We get that, but half of them. So we still don't know what happened there. The department did refer to the fact that they received 7,500 or so comments, yet only half of those had been released. So moving forward. So as we learned that the department was going to be able to move forward with these regulations in time for November one, the final stop of final rules is the office of Management and Budget.

And what it is within the Office of Management and Budget is the Office of Information and Regulatory Affairs that provides a review for purposes of economic impact, federalism, and also addressing the administration's goals. Does it provide to meet those goals? So we had never done one of those before. And we had sought some advice from several people that we knew had provided them in the past and we decided that we would submit one, we created our comments, it's a 30-minute opportunity. We created our comments around the idea of federalism because we were very concerned about the impact of states, because these two issues have a lot of state involvement. And so it really was concerning what this would do as far as state oversight and what the implications would be. So we provided an issue of federalism. We considered the issue of state burden, and with the professional licensure we also added that it seemed to be contrary to an executive order by President Biden from the summer of 2021.

So we provided that public testimony in that meeting. And we had been advised that it's like talking to the abyss. So you go on the call for 30 minutes and nobody asks a question, and you just speak and then they're polite and thank you. Well, we were interrupted from the very beginning and were asked questions, because we were addressing these issues of federalism about programs leading to a license. And so they thanked us for our very specific comments and addressing specific types of issues, and also addressing specific statutes in regard to state oversight for institutional approvals for distance education. So we felt that it was a fruitful meeting in appreciated the opportunity.

Jana Walser-Smi...: Perfect, perfect. I appreciate that thorough explanation. So let's just get into the crux of what people want to hear. As it relates to professional licensure as it relates to certificate programs, let's talk about the new regulation. And Cheryl, I'm going to direct this to you. Let's talk about what's going on with the states. We know that states have different ideas of what it takes to have a professional

license or to sit for a license. So what's new with the regulations that were just released.

Cheryl Dowd:

So we believe that there are four important things to know right up front. So right from the very beginning, the first item is that the responsibilities of the institution have increased when serving students into programs leading to a license or certification. So these responsibilities are above the notifications. So consider that this is a new responsibility above a notification when you're serving students in programs leading to a license. So now the institution must satisfy the educational requirements where the student is located in order to offer the program. In the past, you'll remember, that we were simply focused on notifications and that it was a matter of sharing, being transparent of whether the program met requirements or not, or you haven't made a determination. But now in order to serve the student, you must satisfy the educational requirements where the student is located. You are certifying that back in that PPA that we were talking about.

So the other option, and this is new, so the other option is that you could satisfy the agreement, the requirements rather, where the student attests they intend to seek employment. So what we have here is an option two. So we have must satisfy where the student is located, but the new option that says if the student attests they intend to seek employment. So we're looking for some sort of attestation from the student, and the institution can meet the state requirements where that student attests they will seek employment, then that will satisfy this requirement. And then notifications are still required, and they've made only some slight modifications to what's required in notification. Can we go to the next slide please?

So here we have the language. So you'll see, and Russ will be using some of the same language, it's all found in the same subsection. So subsection 32 is where we find three items. The romanettes if you will. The first romanette had to do with accreditation, for programmatic accreditation. It wasn't a lot of controversy there. There's pre accreditation and programmatic accreditation. The pre accreditation, when you're waiting in time to complete items for programmatic accreditation, and that must be followed. Then the romanette two had to do with professional licensure and Russ will follow up with the romanette three that has to do with closure rules. But the romanette two, what we have here is that the institution has responsibility to meet state educational requirements where the institution is located, where the student's located in a distance education or correspondence course, as determined at time of initial enrollment per the regulation we're already familiar with about state authorization of distance education, we have to have a tracking mechanism.

And then we have this or, or when the student attests that they intend to seek employment. So that gives us another option. And I also want to point out here, and we'll talk about it again, for each student who enrolls in a program on or before July 1, 2024. Remember that, we'll talk about that in a minute. But the

bottom line is satisfying applicable educational requirements. So either where all of these places where the institution is located, where the student is located at time of initial enrollment, or where they attest they will seek employment. Can we go to the next slide please? There we go. So what's new? So we were concerned about the insure language that was batted around during rulemaking and also in the proposed rules. They were talking about ensuring that the program meets the state. Educational prerequisites was the term they moved it to requirements. But what's new here is a focus on distance education programs and correspondence courses. When we're talking about the student that's located out of state, we are supposed to recall that we are to meet the state educational requirements where the institution is located.

We shouldn't take that for granted. But also where the student is located at time of initial enrollment. The regulation also expressly indicates students entering programs on or before July 1, 2024. Why is that important? Because there's not retroactive implementation. So your students who are in a program, the department is sensitive to that. They've already moved forward in this program and they do not mean to cause a barrier to them to be able to progress in that program due to this new regulation. So it's students entering programs on or before July 1, 2024. And then finally this new attestation option, to satisfy requirements where the student is located. So the institution will obtain an attestation from the student that they intend to seek employment in this other state, and they will indicate that they can meet the state educational requirements where that student has attested they will be seeking employment. And so that is built into the new regulation. So then could we move to the next slide?

Thank you. Something built into the guidance. So we call it the preamble, it's that many hundreds of pages that come along with the announcement when they share the new regulations. So when you look at the language in those several hundreds of pages that precede the actual regulations, we see that the department is recognizing that there are professional multi-state agreements, there are professional compacts and other types of reciprocity among states in regard to licensure for the purpose of licensure mobility. The department indicated in the preamble that they consider those as forms of licensure, so felt that it did not need to be put into the regulation itself. And so what we see here is the ability to rely upon the use of compacts if the states are members to the compact. And we are also able to look at multi-state agreements. An example of which would be our friends with teacher education.

NASDTEC has the multi-state agreement structure and the new teacher mobility compact. Those have different rules and so it will be incumbent upon the institution to be well aware of the structures of these agreements and compacts to see if you can connect the dots for the student from the ability to participate in the program to be able to get to employment. Because we know the underlying reason for this, is this department is very concerned about what they indicate are worthless credentials, worthless degrees. Because they're not

leading to employment. And so what I want to point out too is that there isn't to be some sort of waiting period. So I know in some agreements if you have experience for X number of years, then you can bring your license to another state. This is supposed to be more of a direct line to a new license or a new ability for employment in the other state. So I say this is a possibility and I say that it is to be used with caution. Can we move to the next slide please?

So our old friends, the notifications. So the notifications didn't go away. So the department considers these to be complementary to the new idea of the PPA. So first we have that requirement for the purposes of the PPA, the program participation agreement, and then we go back to our old friend the notifications. So I have it listed in bullets here. That's not the way the language is provided in the regulation. I put it in bullets for purposes of a checklist, but that is the language of the regulation. So we indicate here ,just as before, an educational program is designed to meet educational requirements for a specific professional license or certification required for an employment in an occupation or advertise as such. So here's where we're going to get to some different kind of language, a list of all states where the institution has determined, including, in addition to, part of the institution's obligation under that PPA regulation is what that is right there.

And that the program does and does not meet such requirements. So what we have here is a removal of the no determination made. So the public notification is to include where the institution has determined it does and does not meet such requirements. You remember back to the PPA, you're only serving them if it does meet the requirements at time of initial enrollment. So this is informing institutions or it's the institutions informing students if there is a change through this public notification. And I'd like to point out to you that the language gives no indication that they are moving off of the notion of all modalities are included, because they specifically focus upon all types of education. They did not bring it down to a specific pointing to distance education. It's still very broad as it was originally as meeting the public notifications being for all modalities for the public notifications. So moving forward to the next slide please.

So what we have here is those direct notifications. Again, not a big change, mostly just to meet the harmonization of the rules that have already been released, other than to add at the very bottom there in accordance with, and that again is pointing to the regulation for the program participation agreement. So right here we have the prospective student that we're talking about. And what we're talking about is if the response in the public notification was that you don't meet or you have on your silent list have not made a determination, then you owe that student the direct notification. What I'm still going to inquire about is whether this is applicable for the student who is a face-to-face student, intending to come to a state from another state. So we're talking about student is in state A going to state B for the in-person program.

Is that still a part of this? We believe that there could be some... The conservative side of me says yes it does. However, I'm also twisting on this word in accordance with, and I'm wondering if there could be efficacy in focusing just on the online student in regard to a prospective student where they're located. So we will follow up on that. But for right now the conservative side says consider all students regardless of modality and we will get that cleared up at the end part about whether we're talking about just distance education perspective students. And then finally we have the enrolled student, and that's when there's a change. So if the institution has determined that it no longer meets the state educational requirements, then they owe the student the direct notification within 14 calendar days of making such determination. And I would say that that means that you would also be changing your public notifications if you have moved to a does not meet.

And so we are to keep the students informed. You will note that the PPA is focused on at time of initial enrollment. When you look within the preamble, the department does give the direction that they understand students move and that the requirements can change, and that they hope that the institution will make efforts to meet. But they did point to a specific point in time for purposes of the PPA to serve them. But they would hope that then, or they would indicate that then the institution is to no longer serve new students in that state where they no longer meet state educational requirements. Could we go to the next slide please? So what should the students do or institutions do? You'll notice at the bottom document, document, document. I'm going to say that on this slide and the next slide. It is so important right now because this is a very tedious situation, because what we're going to talk about is we reviewing and revising your institution's process to determine location.

You'll recall that this has been in place since July 1, 2020, but you might want to review and revise again to make sure that you have got a consistent plan that is used across the institution for the different processes. And so number one then again, revise and the institution's process upon review. Second, the idea of research for state educational requirements is not going away. It actually might elevate. I will tell you that we will continue to be in contact with licensing boards. We have a pretty good relationship now with teacher education and with nursing, and trying to help to find those to be more transparent so that institutions can do the necessary research. I think it is interesting to find in the preamble that the department indicated that they did believe it's a reasonable assumption, that boards are communicating about their state educational requirements. Some are, but as many of you know that are doing this work, sometimes they don't.

So we will hope to try to help build that and bridge that gap. Then third, consider and implement and document the option to seek an attestation from the student. It is going to be very important not only to have a process to seek an attestation, but to be able to explain what you're doing for the student to understand what they are attesting to. The department indicated it's not going

to be enough just to have a document that says that they've checked this box or signed it. You're going to have to be able to show how you shared with the student their options. Can we go to the next slide please? And then the final six, research and analyze the opportunity to perhaps use state licensing agreements or reciprocity and licensing compacts. It will be important to know the variety that's available. The state authorization network website has a page on their website that addresses national associations of state licensing boards for a variety of professions.

In the far right column, we list all of the professional compacts that are currently in existence or in a development stage as based on the council of state government's work, which we follow very closely. So you'll be able to get to what is required there. Then continue to implement the process for public and direct notifications. And then finally, and I think this is really important, something that you may want to consider, you will want to have communication with your senior administration and general counsel because there could be business decisions that need to be made about your institution's priorities to serve certain states and certain professions. So that conversation needs to be had at your institution. Next slide please.

Russ Poulin: And Cheryl, just... Sorry Jana. Cheryl, just before we move on. We had one spot on the slide as we said, this is for students entering programs on or before July 1st, 2024.

Cheryl Dowd: I meant after. My apologies. Thank you for correcting me. I'm sorry about that. It's on or after. That only makes sense. They don't wish to capture those that are currently in programs. It is to be on or after July 1, 2024.

Jana Walser-Smi...: Thank you for that. And Russ, thank you for that correction. We could talk about professional licensure requirements and that kind of thing all day. This is just such a topic of interest, but I do want to switch gears just a little bit and bring Russ in. As we discussed at the top of the hour that we're discussing too issues today. The other issue was the rule that we will begin to talk about is the closure regulations. So Russ, we're talking today about the proposal and how to change reciprocity agreements for the state authorization network. In the end, we thought it was going to be one thing, but now in the end we have a rule that's far different. As the rule has been finalized, it does focus on institutions being required to determine if it meets the closure requirements for a state in which it enrolls students. Can you just shed some light on what happened and what the new rule indicates?

Russ Poulin: I'll do that, and we'll go through this quickly so we can get to questions, because we have a lot of questions out there, the licensure. But for this one, just the brief summary is that institutions are required to comply with all state laws related to closure. And they specifically called out these four things, record retention. So what happens if you close where the records go? Teach out plans, where the students go if you close. And tuition recovery funds or surety bonds,

which are some payments that you might have to make so that if you do close that you help to make students whole on those. And this is for every state where you enroll Title IV students, and it's part of the same language that we saw before that's focused on distance ed, so looking at all the states. Our belief is that this is not above SARA requirements. We'll get into that a little bit more here in a moment. And that really need you to know why are we talking about this if it's just about closure requirements?

This really began as a serious effort to try to limit reciprocity, and we believe that those efforts will continue. And so let's move to the next slide and we'll get a little further into these things. And so the brief history there about which, getting onto that last point, is that where this started was was that there was no mention of closure, no mention of state authorization and what they proposed to talk about in this. So we were really surprised when one of the negotiators proposed a rule that would have severely limited what you could do through SARA or any sort of reciprocity agreement down to just two things that you could get. It would be about the application that you have and any fees. And all other benefits of SARA would go away based upon what they proposed. Well, neither that or any other proposals were agreed to, and the department narrowed it down to just focusing on institutions would have to follow closure recruitment and misrepresentation roles. And now it's even if they're in reciprocity or not, is what it seemed to do.

And the problem with that was that those categories are so broad that a state could have said, "Well, all of our roles are about closure recruitment or misrepresentation." And so we made that comment. Let's move on to the next slide. And so with that out there, that what came out at the end. And then that first part of the section 32 is the same as what you saw before, and we have those little romanettes, the little eyes and Cheryl talked about number two and this is number three at the bottom. So again, it's that very plain short language about that institutions have to show that they comply with all the state closure laws and then again repeating the things about retention and teach out plans and all that. So there's the language. Let's move to the next slide.

And looking at this, remember that they started out where it was completely focused on trying to limit what reciprocity we could do. In the final analysis that this is a quote from the department and I thought it was important enough that I copy it verbatim in here and said, "We did not regulate the condition structure or other elements of state reciprocity agreements or the organizations that operate them, nor did we set requirements that states must follow to oversee institutions enrolling students in a state where they have no physical presence." So it was really, they said, this isn't about reciprocity. We didn't talk about that. And they had a lot of deference to state rules and rules in each state.

So again, back to the retention, all that. But again, we don't think this... It's had the roots in reciprocity, but I think from ours and other comments, from thank you all of you for commenting that we don't think this fits reciprocity anymore.

So let's move on to the next slide. So some common questions here. So do SARA participating institutions need to comply with this new closure regulation? Yes they do. Okay. What's Russ saying there? Well, every institution has to comply with these regulations. We just believe that the institutions through SARA, that SARA's a state to state agreement, and then as long as you're meeting the SARA requirements that you're meeting all the requirements of the state. And so you do not have to go out. And then if you're part of SARA, this is our belief, that you do not have to go and pay a tuition recovery fee or a bond on top of that.

But not everyone agrees with that interpretation. In fact, we've seen some writings that say just the opposite of that, and we need clarification from the department. Let's move on to the next slide. What should institutions be doing? Well, you should be looking at those who aren't in reciprocity need to be looking at those closure requirements. Those within reciprocity probably should throw an eye to them as well. And you may need to be thinking about what are the costs and benefits if you do have to meet those rules in some of the... Very few states have those bonding and tuition recovery funds. Let's move to the next slide. And where do I get information about these? Well be watching, this is a coming attractions things. I like movies. And so this is that watch for this state SAN approval quick chart and then we'll get that into the chat there as well.

But we're looking for that. We don't have all the information there yet, but Cheryl and her team are working on that. And also want to throw out a shout-out to Molly Hall Martin with the [inaudible 00:41:19] SARA who's looking at all the rules about are states when they join SARA, are they explicit in their language about whether what rules apply and do not apply? And so we'll be watching for that as well. Let's move on to the next slide. And then what's next for this rule? We might see some states try to challenge this and say, "Oh yes, you do have to comply with our closure requirements." We could see lawsuits, we could see it's going to be part of the upcoming negotiated rulemaking where they explicitly said that it's going to be state authorization, and we'll need your help on that to be watching that and to be commenting on that. And again, it goes into effect on or after July 1st, 2024. So with that, let's move on and I wonder if we should probably, given the time, if we should start going towards questions [inaudible 00:42:19]

Jana Walser-Smi...: Sure, Russ, while I'm looking through the chat and trying to get some of these keyed up. Just quickly, do you or Cheryl have any indication of what's to come? What do we anticipate?

Cheryl Dowd: Want me to jump in? You got it?

Russ Poulin: Yep, go ahead.

Cheryl Dowd: Well, just that the department indicated throughout the preamble that they were not regulating reciprocity, they weren't indicating anything about what

states must do in regard to state authorization of distance education, but they did point to another rulemaking. We know that in the spring of 2022, 23, spring of 2023, they released the intention to have another rulemaking, as Russ indicated, with several issues. And one of them is state authorization. So we know the department does want to go in there and look at it. It's just whether they have the bandwidth given all the other priorities that they have at this time.

Jana Walser-Smi...: Perfect, perfect. So I'm going through some of the questions. Heidi made a comment about the romanettes. Let's see. "In the open forum yesterday someone mentioned that professional licensure disclosure now only applies to online or distance ed programs. Is that accurate?"

Cheryl Dowd: I think that's a turn on it, shall we say. Let's tweak that. The public notifications, the way that it's written seems to point squarely at maintaining all modalities. The question remains about the prospective students. That's the question mark that I still have given the goals of the department. So that one remains to be seen in my opinion. So I want... That's something I'm reaching out to the department about.

Jana Walser-Smi...: Perfect. Thank you. And Erica points out. Thank you Erica. "Don't forget, if you are collecting attestations, you will need to retain the documentation. Check your records and management and the plans and policies. So make sure that, again, you're documenting and that you're keeping those documents. Jana, can you please pause for clarification on the date?" I think we clarified the date. Everybody understands that this is July 1st, 2024 and after.

Russ Poulin: Hey Jana, could you look at the Q and A for the questions, and if you click on the Q and A box instead of the chat that you'll see those come up. And then how about if I... I will pick one out of there to ask Cheryl? Is that okay?

Jana Walser-Smi...: Sure. Perfect.

Russ Poulin: Okay.

Jana Walser-Smi...: Go ahead, Russ.

Russ Poulin: And then one that has a lot of thumbs up on that is that... Cheryl, how are colleges gathering student attestations and how often and when can students attest or do you recommend a defined specific timeline for these attestations?

Cheryl Dowd: So this is brand spanking new. So I don't think there's a lot of body of work out there about what these attestations look like at the various institutions. This is something that is going to be a work in progress. However, we do know that it's pointing to a specific point in time at time of initial enrollment. So it's where the student attests that they will seek employment at a certain period of time, at time of initial enrollment. So you're either going to be meeting the educational

requirements where the student is located, or in the alternative, being able to indicate that they attest at time of initial enrollment that they will be seeking employment at another state, and the institution can meet those state educational requirements at that location.

Jana Walser-Smi...: I'll go with one, Cheryl. "I'm worried about our ability to satisfy program requirements across every state. Every territory will, some colleges simply choose not to accept students from certain states. That might seem harsh, but I'm just not sure we have the bandwidth and the power or the people power to do this."

Cheryl Dowd: I think that's spot on. That was part of my, I think it was item number six, that you're going to have to be making some business decisions at your institution. And those of you that did state authorization work prior to reciprocity will remember that institutions were not serving students at all in certain states if they deemed that it was a business decision not to follow the process or the cost to be able to serve students in certain states. So you may see that. And you'll want to see if those alternatives are options, the attestation option or the compact option. So those might help you to get to further states. But the department does indicate that it is far more important that students be able to have access to employment after completing programs of this type, because that's what they invested themselves into when they went into the program.

Jana Walser-Smi...: Perfect. The other question, I think it's really important. "So we no longer have to disclose or satisfy requirements for professional licensure programs that are in person?"

Cheryl Dowd: So as we indicated before, the department brings in the face-to-face type of structure at the beginning of that PPA language. So it says that the institution must meet state educational requirements where the institution is located, and where the student is located at time of initial enrollment, or where they attest. So you are to meet the state educational requirements where the institution is located.

Jana Walser-Smi...: Perfect. "Does seeking employment include certifications that lead to self-employment?"

Cheryl Dowd: So I think the bottom line is this, the department is looking for a student to be able to be employed so that they are not going to have concerns in paying off their loans. Because their concern is that on the other end they're left at a deficit, and they're not able to do the kind of job that they wish to do in order to pay off their loans. And so here we are talking about it, and self-employment, I believe, would be an option.

Jana Walser-Smi...: Perfect. "Does [inaudible 00:48:57] meet the educational requirement of a state really mean that a school cannot offer the program in that state, or that a student from that state cannot be packaged for Title IV funds?"

Cheryl Dowd: So for purposes of Title IV, the program is not approved for a student to participate in that program unless it meets the state educational requirements at time of initial enrollment, or one of those alternate pathways, the attestation or the compact option. So yes, this will be a limitation to institutions as far as how far-reaching their programs can be unless they have found these other ways to connect the dots to employment for the student.

Jana Walser-Smi...: Perfect. "Since the has not been determined category has been eliminated, how do we make disclosures to enroll students if a determination hasn't been made? This would apply to students enrolled prior to July 1, 2024 and students enrolled after if state requirements change. Can we still notify those students that we don't know or we do not have to make a determination and default to no, or is it hard and fast yes?"

Cheryl Dowd: So I think you're making... I think this sounds a little harder than it really needs to be. So you're making the decision meets or does meet, you can keep that list of you've not made a determination for yourselves, or it doesn't indicate that you cannot share that as far as your public notifications. This is what you're required to provide. You're required to provide if it meets or does meet where you've determined, because remember in the language it says as determined, and so it's where you've determined yes or no. And then you may have no determination. And you're going to have that ready available because there are instances where you're going to be providing direct notification based on the idea that you have not made a determination.

Jana Walser-Smi...: Perfect. Okay. This one question applies for teacher ed particularly. "Many of those reciprocity type agreements are not necessarily dual reciprocity. Also, they often may still include additional coursework tests a teacher would have to take in a new state. Would we be able to say that our program meets the requirement through reciprocity but indicate that there are additional requirements?"

Cheryl Dowd: So what we have here is the department, in the preamble, indicated about a provisional license. And so if the agreement provides that the person can get a provisional license to be able to be employed while they are completing those one or two extra history of, culture of, et cetera, of a particular state, then that would be sufficient, if it provides that pathway to be able to work. Because that's the goal for all of those. And so you will notice on the teacher mobility website that there are 10 states now, which makes it an effective compact. But the compact also has legislation, I believe, seven or eight other states. So that is a rapidly growing compact that just began less than a year ago. So it is a fast moving compact. I believe there's about 26 on the nursing compact, or maybe it's 28, but it's in that area.

Jana Walser-Smi...: Okay, perfect. There's another question. "Is there any clarification on 'advertising'?" I'm giving you air quotes, "as being required for employment in an occupation, especially consider the emphasis on talking about careers after

programs and gainful employment. It feels like this could expand the concern over what is being advertised."

Cheryl Dowd: You have a point there. That is a very good point. So here's the situation. Sometimes these programs at an institution were not designed to meet the state educational requirements to be able to sit for a license to become employed in a program. But the marketing people got excited and said this is going to lead you to this kind of career. So it's causing the institution to have to be very careful in how they are sharing what their programs can offer, what does it actually do, so that they're not misrepresenting what the program outcomes will be. And that misrepresentation issue comes up in other federal regulations as well. So an institution needs to be careful about how they share about their programs.

Russ Poulin: Yeah, that's a really big point, Cheryl, is that when you get into an audit that they'll look at what you say about your program and now you start getting into misrepresentation.

Jana Walser-Smi...: Perfect. We've got just a little bit of time left. Maybe a couple more questions. "If a state is not a member of a compact but still offers a path to licensure through reciprocity, is that covered under these rules?"

Cheryl Dowd: Well, and that's what the department indicated within the... Okay, so I want to say this again, is a part of the preamble, which is considered guidance. They didn't build it into regulation. So this is what the department, today's department, feels about how the language is for regulation. So they have, through guidance, which is not legally binding, indicated that this could be an appropriate pathway. But the idea, the public policy reasoning behind the rule, is to reach the ability for employment. And so these kinds of structures are important to analyze carefully in order to see that your student has a path to be able to be employed if it's between some sort of an agreement with a state, they've made that determination. But that's something that has to be determined at time of initial enrollment, that you're relying upon these other pathways to be able to meet state educational requirements to certify that you meet that requirement of the regulation.

Jana Walser-Smi...: Perfect. I'm going to take this one last question. Russ, this is probably going to be better for you to respond to. "Does closure pertain to institutional closure or also closure of programs in states, either in person or via distance education, such as if we determine that we can no longer offer a program to students in certain states due to the previously discussed federal regulations?"

Russ Poulin: Hey, you all are going to like this answer. It depends. It took us this long to get to that in this webinar, because we're now back to their relying on the state rules for the closure. So one state may be closure, might be institutional closure, another state might have closure of a program. So not only are you going to

have to know what the closure laws, you're going to have to know whether it's by program or by institution. So there you go. Another gem for you.

Jana Walser-Smi...: Perfect. We have lots of questions that we weren't able to get to just in the allotted time, but Cheryl has proposed a remedy for this. Do you want to discuss your remedy, Cheryl?

Cheryl Dowd: Well, this is a little bit of deja vu from a few years ago when we first were addressing programs leading to a license, and we had a lot of extra questions. I'm very happy to look at these questions and we'll talk about them and provide some answers and we'll post them. So it'll go for the WCET website, it'll be posted there, for the SAN website, it'll be posted there, for our members to be able to have access to the themes that are being provided within these questions.

Jana Walser-Smi...: Perfect. Well, we are almost at the top of the hour. I want to encourage individuals whose questions didn't get answered to know that we are taking note of those. If you have incremental questions, please feel welcome to reach out to anyone on the SAN team, anyone on the WCET team, and we'll funnel those questions to the appropriate people. Megan, I'm going to turn it back over to you. Thanks.

Megan Raymond: Great, thank you so much Jana. Thank you everyone for your active participation in the discussion and the questions. It was great to see so many new names and people that I haven't chatted with in years. So thank you for being part of this WCET and SAN member webcast. I just want to quickly acknowledge our annual sponsors that help make this happen and are supporting members. And with that, we are on time and out of time. So thank you again, everybody. Enjoy your afternoon.