



# Professional Licensure: Notifications and Disclosures

CAAHEP - October 6, 2020



**National Council for  
State Authorization  
Reciprocity Agreements**

MHEC • NEBHE • SREB • WICHE

# Presenters

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General Counsel

NC-SARA

# Agenda

- When & What is Required for New Federal Regulations for Professional Licensure Notifications?
- Institutional Project Strategy
- Notifications and Disclosures for SARA Institutions

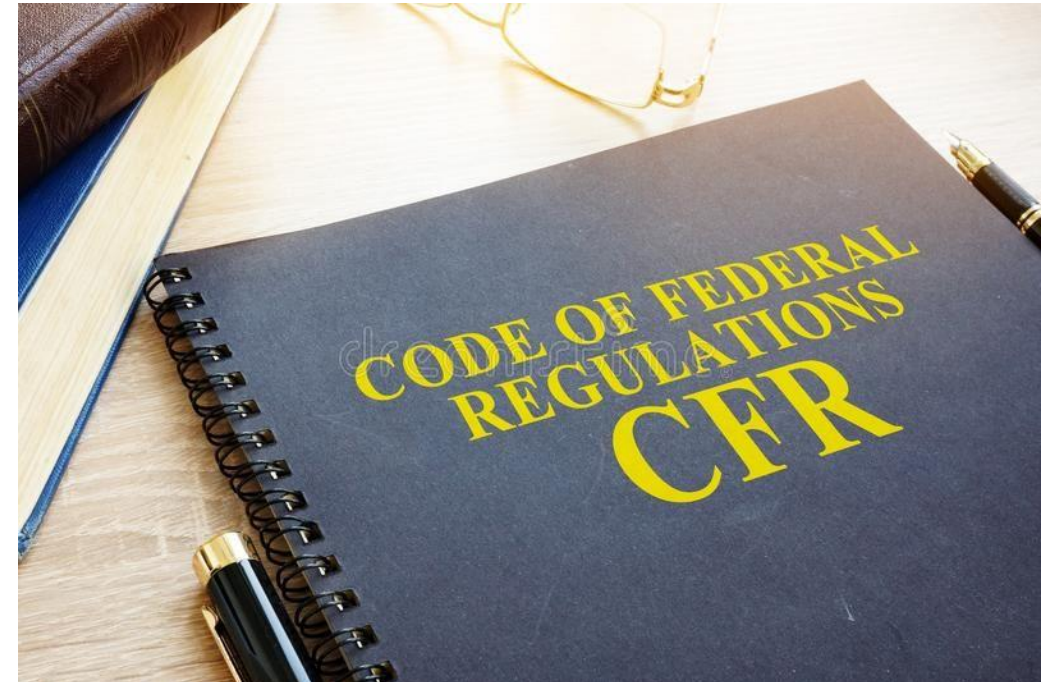
# When & What is Required for New Federal Regulations for Professional Licensure Notifications?

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# Key Elements

## New Federal Regulations – effective 7/1/20



- 1.Regulations address all modalities (includes Face to Face and Online)
- 2.Importantly to understand the type of Educational Program subject to notifications.
- 3.Importantly to know the information to be provided for public notifications.
- 4.Importantly to know what and when information is to be provided for direct/individualized notification.



- 1. December 2016:** Department of Education released regulations written by the Department including distance education notifications.
- 2. July 2018:** on eve of effective date, the Department delayed the effective date of the regulations for purpose of review and revision.
- 3. April 3, 2019:** consensus reached in the Department's negotiated rulemaking process with a revision to the regulations regarding notifications.
- 4. May 26, 2019:** previously delayed regulations became effective due to U.S. District Court decision to vacate the delay.
- 5. November 1, 2019:** final regulations released directing professional licensure notifications for prospective and enrolled students regardless of modality.
- 6. July 1, 2020:** new regulations replace the previous regulations, so now professional licensure notifications are for face to face and online programs leading to professional licensure or certification.



# How We Got To Notifications for all Modalities!

# What Types of Educational Programs require notifications??

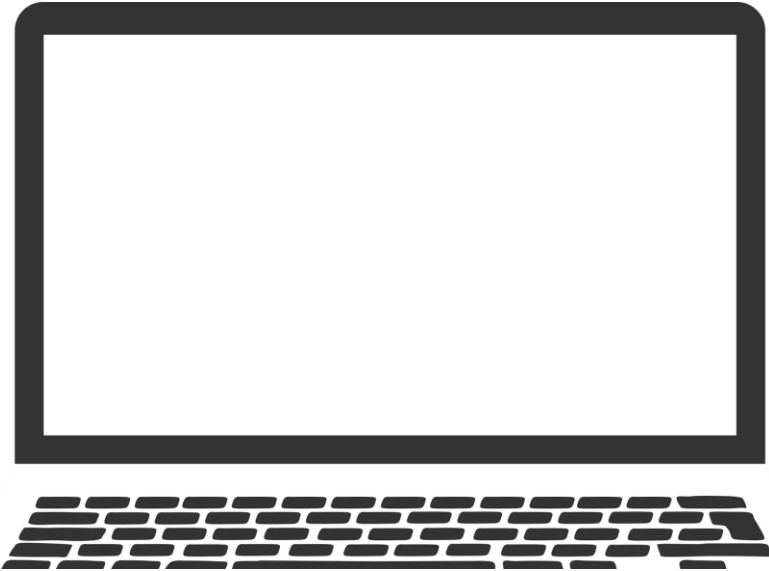
34 CFR 668.43(a)(5)(v)

## Educational Programs

- **Designed** to meet educational requirements
  - for a **specific professional** license or certification that is
  - **required for employment** in an occupation, or
- **Advertised** as meeting such requirement.
- Information regarding whether **completion of that program** would be sufficient to **meet licensure requirements in a State** for that occupation.

# What must the Public notification include?

34 CFR 668.43(a)(5)(v)



Institutions will place each state and territory in one of these categories:

- A list of states for which the institution has determined that the curriculum meets licensure requirements.
- A list of states for which the institution has determined that the curriculum does not meet licensure requirements.
- A list of states for which the institution has not made a determination whether the curriculum meets licensure requirements.

The CFR indicates that public notifications may be on internet website.  
The CFR indicates that states means States and Territories.



# Direct/Individualized Disclosures

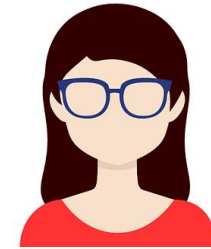
## 34 CFR 668.43(c)

### **The Prospective Student:**

- if the institution indicates that the curriculum DOES NOT meet state educational requirements where the prospective student is located; or
- NO DETERMINATION where the prospective student is located,
- a notice to that effect must go to the student for the state where they are located prior to enrollment in the program.
- Prior to enrollment in the program = prior to a financial commitment.

### **The Enrolled Student:**

- if the institution indicates DOES NOT meet the state educational requirements
- in the location where the student is currently enrolled in the program,
- the notice to that effect must be provided
- within 14 calendar days of the institution making that determination.





## How Can CAAHEP and other Programmatic Accreditors Help with Compliance?

- Programmatic Accreditors can be the bridge between higher ed and licensing boards.
- Programmatic Accreditors can help direct institutions to licensing requirements.
- Programmatic Accreditors can leverage their relationships with professions to help persuade the licensing boards, as subject matter experts, to coordinate and make more clearly available the state educational requirements.

# Resources:

- [Professional Licensure Disclosures: Implementation Handbook for Institutional Compliance with the 2019 Federal Regulations.](#) Includes Flowchart! Author: Shari Miller
- [State Authorization and Crossing State Borders, Part 2: Additional Approvals and Professional Licensure](#) July 22, 2020; SHEEO; Cheryl Dowd & Russ Poulin
- [Webcast: Professional Licensure Notifications Now Required](#); webpage includes recording, transcript, and topic-based summary of the webcast.
- [Board of Nursing Professional Licensure Requirements](#) - by state - prepared by National Council State Boards of Nursing (NCSBN)
- [Professional Licensure Directory](#) (contact information in each state for state boards of Counseling, Nursing, Psychology, Social Work, Teacher Education); NC-SARA
- [Licensed Professions per State with Board links](#) Updated April 2020 (requires SAN Member login)
- [National Associations for State Licensure Boards Weblinks:](#) Updated October 2020 (requires SAN Member login)

# Institutional Project Strategy

**Institutional Approach to Federal Professional Licensure Disclosure Requirements**

**Handbook – Professional Licensure Disclosures? Implementation Handbook for Institutional Compliance with the 2019 Federal Regulations (in resources section at end of Cheryl’s presentation)**

# Institutional Project Strategy

- Why is compliance important?
  - It's the law
  - Student as consumer
  - Institution's moral obligation
  - Marketing advantage
- Unique institutions
  - Risk tolerance
- Defensible policies



# Institutional Challenges

- Institutional leadership
  - Juggling many priorities
  - General counsel concern re: liability
  - Commitment to ongoing compliance responsibility
  - Policies and practices
    - DOE latitude
- Other staff
  - Faculty pushback
  - Disclosures may be contrary to marketing dept's goals
  - Understanding compacts
    - Post rather than pre-licensure

# Institutional Challenges, cont.

- Compliance staff
  - Project management plus leadership skills
  - Access to information
    - Subject matter experts
    - Data
      - Student location
      - Program content
  - Disclosure content and logistics

# External Challenges

- Licensing Boards not part of the development of the notification requirements
- Disconnect between higher education and licensing boards
- State licensing boards often do not have the staff to respond to inquiries
  - The importance of a well drafted email!

# Foundation of a Compliance Plan

- Data must be solid
  - Student location
  - Curriculum content
- Verify applicability of assumptions used in existing reports
- Develop a Program List for those that are ***Designed to meet*** or are ***Marketed as meeting educational requirements***
- Broad swath to avoid liability
  - Face to face and distance ed
  - State definitions of licensed professions vary greatly
  - Eventually all 50 states
- Documentation is critical

# Foundation of a Compliance Plan

- State regulatory requirements
  - Requirements for student to be licensed
  - Curriculum requirements – need approval?
  - Encourage thorough research first before contacting professional board
    - Good starting point is the national association for the profession
- Create matrix of Program List and compare institutional offerings to requirements for general disclosures – Meets, Doesn't Meet, No Determination
- Direct disclosures tailored to student and state for Doesn't Meet and No Determination
  - Timing for enrolled students



# Student Location Key Points

- The institution must have a policy for determining student location
- The institution must have a policy for being notified when a student has relocated
- The policies must be consistently applied across groups
- The data needs to be accessible for compliance reporting
- The practice across the institution **MUST** match the policy
  - If not, make revisions so that they align
- There are plenty of resources available to help institutions create these policies
- Not knowing where the students are located is not an option



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# **Notifications and Disclosures for SARA Institutions**

**Jeannie Yockey-Fine  
General Counsel, NC-SARA**

# Modifications to Align with Federal Regulations

## *NEW Language*

### 5.2 Programs leading to Professional Licensure

SARA has no effect on State professional licensing requirements. Any Institution approved to participate in SARA that offers courses or programs designed to lead to Professional Licensure or certification or advertised as leading to Licensure must satisfy all federal requirements for disclosures regarding such Professional Licensure programs under 34 §C.F.R. 668.43. For SARA purposes, these requirements will also apply to non-Title IV institutions.

For SARA purposes, institutions that are unable, **after all reasonable efforts**, to determine whether a program will meet state professional licensure requirements shall provide the student or applicant with current contact information for any applicable licensing boards, and advise the student or applicant to determine whether the program meets requirements for Licensure in the State where the student or applicant is located.

# Impact on SARA

For all SARA institutions (Title IV and non-Title IV):

- **General** disclosures are now required.
- **Direct** disclosures are required when an institution knows that the program will not meet licensing requirements and when it does not know.
- Institutions are required to provide **contact information** for professional licensing boards when the institution cannot determine, after all reasonable efforts, whether their course or program will meet the licensing requirements.



# Professional Licensure Directory

NC-SARA has worked with the SARA State Portal Entities (SPEs) and regional compacts to create the Professional Licensure Directory, which provides contact information for five programs that lead to a professional license.

This resource will NOT house regulations or requirements. It is exclusively general contact information. We will update the contact information twice annually.

Title	Last Updated	Description
1 <a href="#">Counseling</a>	04/17/20	Click this link to be directed to the "Counseling" Professional Licensure spreadsheet.
2 <a href="#">Nursing</a>	04/17/20	Click this link to be directed to the "Nursing" Professional Licensure spreadsheet.
3 <a href="#">Psychology</a>	04/17/20	Click this link to be directed to the "Psychology" Professional Licensure spreadsheet.
4 <a href="#">Social Work</a>	04/17/20	Click this link to be directed to the "Social Work" Professional Licensure spreadsheet.
5 <a href="#">Teacher Education</a>	04/17/20	Click this link to be directed to the "Teacher Education" Professional Licensure spreadsheet.

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<https://publish.smartsheet.com/6e3fb27658f443588ff16ad36ccf5a94>



# Questions & Discussion



# Thank You!



**For questions please email:**

**[Info@nc-sara.org](mailto:Info@nc-sara.org)**

**NC-SARA Website:**

**[www.nc-sara.org](http://www.nc-sara.org)**