

March 25, 2021

Demystifying Professional Licensure Compliance

Prepared by the
New England Board of Higher Education
& the Connecticut Office of Higher Education



Welcome



www.ctohe.org/SARA/



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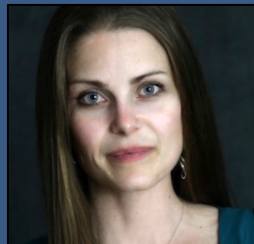
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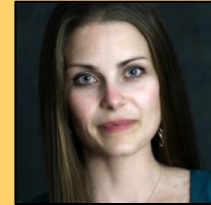
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Agenda & Objectives

Pt. I: Introduction & Overview

- Recap: Compliance for distance education
- What is SARA?
- Connect to federal rules to Professional Licensure compliance practices



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Pt. II: Let's get tactical (and practical).

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



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Agreements (NC-SARA)

Pt. III: Q&A



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STANDARDS

State compliance for distance education

- States have jurisdiction over education within their boundaries, a process called “State Authorization”
- States education regulations vary from state to state, and some choose to regulate certain activities of out-of-state institutions

Activities range from:

Online learning

Experiential placements (internships, clinicals, etc.)

Faculty located in another state

Marketing and/or advertising

Tutoring

More...

- Compliance is not a choice: Function of consumer protection and a condition for participation in Title IV programs

What is SARA?

- The State Authorization Reciprocity Agreements (SARA) establishes national standards for interstate offering of distance-education courses and programs, plus standards for other activities including, but not limited to: experiential learning, recruiting, and marketing in a state other than the home state of the institution.

Important aspects of SARA

- SARA is an agreement among U.S. member states, districts and territories.
- States join through their respective regional education compact.
- Participation is voluntary for states and institutions.
- Institutions operate and annually renew under the purview of their “Home State”.
- SARA provides reciprocity for many out-of-state activities, but not all.



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STANDARDS

State compliance for reciprocity

- SARA State Portal Entity (SPE) assumes the principal responsibility of ensuring that SARA policies are followed by the institutions they approve to participate in SARA.
- Institution participation is contingent upon approval and continued compliance under the agreement overseen by its Home State (SPE).
- An institution's CEO or CAO affirms each section on a standard application, demonstrating readiness and commitment to operate under the established participation criteria and SARA policy.
 - **TIP:** Understanding obligations and limitations of SARA is vital to your institution's overall compliance strategy. Before your institution applies and re-applies (annually), know or review the expectations and how your institution complies.
- Get to know the content housed within NC-SARA's resources before you apply: ***nc-sara.org/resources***
 - **TIP:** Pay particular attention to the SARA Policy Manual, which codifies SARA policy: ***nc-sara.org/resources/guides***

HOW TO APPLY



Submit the standard application

An institution seeking approval to operate under the terms and standards of the State Authorization Reciprocity Network (SARA) must meet the requirements set forth in the application.

Learn more: nc-sara.org/sara-institutions



Annual State Review

After processing applicable state SARA fees, the SARA State Portal Entity (SPE) reviews the institution's application and supplemental documentation. This review includes hyperlinks provided to student complaint procedures and sample professional licensure disclosure.



Annual NC-SARA fees

Upon approval of a renewal application, the institution pays its fee to NC-SARA. Payment may be made through a hyperlink provided to the institution contacts on the SARA application through an electronic notification process.

Unpack: SARA provides reciprocity for many out-of-state activities, *but not all*.

SARA Manual Section 5. Coverage and Limitations



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 is located.

5.11 Supervised Field Experiences

a. If the Host State requires approval of Supervised Field Experiences by agencies or boards responsible for professional requirements in fields requiring Licensure or certification for practice, such professional approval requirements remain in effect.

b. Supervised Field Experiences, except for requirements of professional licensing entities as noted in “a” above, and subject to the following limitations, do not establish a Physical Presence under SARA and are therefore covered by the provisions of SARA governing interstate Distance Education activity, whether the field experience is part of a Distance-Education or campus-based program.

...

5.11 Supervised Field Experiences

...

d. A contract for Supervised Field Experiences to be covered by SARA is limited as follows. Such a contract:

- 1. Cannot provide for the placement of more than 10 students from an individual academic program placed simultaneously at one clinical or practicum site, unless approval for a larger number is provided by the Host State SARA Portal Entity.*
- 2. May be objected to by the Host State Portal Entity on grounds that the Institution has: i. A demonstrable failure to achieve an acceptable professional licensing rate in the Host State if the program customarily leads to licensure, provided that the acceptable rate is not higher than the lower of (a) the lowest rate of a Host State based Institution in good standing or (b) the average State licensure rate, or ii. An unreasonable number of valid, documented Complaints about program operation or quality which have not been adequately resolved by the Institution.*
- 3. If a Host State objects to a Supervised Field Experience or clinical placement under SARA on the grounds set forth in subsection “2” above, the affected Regional Compact(s) shall determine whether the placement is allowable under SARA, using procedures to be developed for that purpose.*



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STANDARDS

Distance Education Compliance Connection

- US Department of Education certifies and ensures compliance with administrative and fiscal rules according to the Higher Education Act (HEA). Key provisions for purposes of distance education include:
 - 34 CFR 600.2 State Authorization Reciprocity Agreement
 - 34 CFR 600.9(c) State Authorization for distance education
 - • 34 CFR 668.43(a)(5)(v) General, public disclosure
 - • 34 CFR 668.43(c) Individualized notifications
- NC-SARA's policy aligns with federal requirements for licensure disclosures and preserves state authority:
 - All SARA institutions, regardless of title IV participation, comply with the federal procedure to make disclosures relevant to programs and certifications which are advertised/or lead to licensure or certification.
 - SARA does not supersede state level procedures!
 - It does not provide reciprocity for professional licensure.
 - SARA's function streamlines procedures relevant to the degree authorization for distance education programs.

Unpack: Federal rule



How the federal disclosure rule evolved

A Brief History

December 2016

USED releases regulations, including distance education notifications.

July 2018

USED delayed the effective date of the regulations for purpose of review and revision

April 3, 2019

Consensus reached in USED's negotiated rulemaking process with a revision to the regulations regarding notifications.

May 26, 2019

Previously delayed regulations became effective due to U.S. District Court decision to vacate the delay.

November 1, 2019

Final regulations released directing professional licensure notifications for prospective and enrolled students regardless of modality.

July 1, 2020

New regulations replace the previous regulations: notifications are now required for face-to-face and online programs which lead to licensure/certification.



For an in-depth timeline & analysis:
<https://wcetsan.wiche.edu/resources/history>



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STANDARDS

Institutional Information § 668.43

Cost of attending
Refund policies
Withdrawal procedures
Academic programs
Accreditation information
State licensing information
Disability services and policies
Title IV policy for study abroad
Copyright infringement policy
Student complaint process
Transfer of credit policy
Written arrangements with other institutions
Demographic data for student body
Placement rate information
Graduate and professional education outcomes
Fire safety report
Retention rate
Vaccination policy
Teach-out plans
General and direct disclosures for licensure determinations
Summary of R2T4 requirements



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STANDARDS

General Disclosure § 668.43(a)(5)(v)

(a) Institutional information that the institution must make readily available to enrolled and prospective students under this subpart includes, but is not limited to—

(5) The academic program of the institution, including—

(v) If an educational program is **designed** to meet educational requirements for a specific professional **license or certification** that is required for employment in an occupation, or is **advertised** as meeting such requirements, information regarding whether completion of that program would be sufficient to meet licensure requirements in a State for that occupation, including—

(A) A list of all States for which the institution has determined that its curriculum meets the State educational requirements for licensure or certification;

(B) A list of all States for which the institution has determined that its curriculum does not meet the State educational requirements for licensure or certification; and

(C) A list of all States for which the institution has not made a determination that its curriculum meets the State educational requirements for licensure or certification;



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STANDARDS

Direct Disclosure § 668.43(c)

(c)(1) If the institution has made a determination under paragraph (a)(5)(v) of this section that the program's curriculum **does not meet** the State educational requirements for licensure or certification in the State in which a prospective student is located, **or if the institution has not made a determination** regarding whether the program's curriculum meets the State educational requirements for licensure or certification, the institution **must provide notice** to that effect to the student **prior** to the student's enrollment in the program.

(2) If the institution makes a determination under paragraph (a)(5)(v)(B) of this section that a program's curriculum **does not meet** the State educational requirements for licensure or certification in a State in which a student who is **currently enrolled** in such program is located, the institution **must provide notice** to that effect to the student **within 14 calendar** days of making such determination.

(3)(i) Disclosures under paragraphs (c)(1) and (2) of this section must be made **directly to the student in writing**, which may include through email or other electronic communication.



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STANDARDS

RELATED QUESTIONS

- *What does “location” mean in the context of distance education?*
- *Who at my institution is doing this work?*
- *Do I know which programs lead to licensure or certification?*
- *Do I possess the requisite information to make a disclosure?*
- *What are the acceptable ways to disseminate a direct disclosure? How do I know if the student received the notice?*
- *Do I know where my student intends to practice? Does that matter?*

...Where do we go from here?

Pt. II:

Let's get tactical (and practical).



**Shari Miller, Consultant
Institutional Compliance MATTERS**



**Marianne Boeke, Senior Director for
Research and State Support
National Council for State Authorization
Reciprocity Agreements (NC-SARA)**



Institutional Approach to Federal Professional Licensure Disclosure Requirements

Handbook – Professional Licensure Disclosures? Implementation

Handbook for Institutional Compliance with the 2019 Federal Regulations

Institutional Project Strategy

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
 - Where does the function reside?
 - 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, cont.

- 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
 - Options (but the key is **Documentation**)

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

Your Compliance Plan





National Council for
State Authorization
Reciprocity Agreements

Notifications and Disclosures for SARA Institutions

Marianne Boeke

Senior Director for Research and State Support

NC-SARA

Modifications to Align with Federal Regulations

NEW Language

5.2 Programs leading to Professional Licensure

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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.

Professional Licensure Directory		
Title	Last Updated	Description
1 Counseling	04/17/20	Click this link to be directed to the "Counseling" Professional Licensure spreadsheet.
2 Nursing	04/17/20	Click this link to be directed to the "Nursing" Professional Licensure spreadsheet.
3 Psychology	04/17/20	Click this link to be directed to the "Psychology" Professional Licensure spreadsheet.
4 Social Work	04/17/20	Click this link to be directed to the "Social Work" Professional Licensure spreadsheet.
5 Teacher Education	04/17/20	Click this link to be directed to the "Teacher Education" Professional Licensure spreadsheet.
Collaboration powered by Smartsheet Report Abuse		

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



CT OHE Review: SARA institutional application

- **Question 9:** *Agree to professional licensure disclosures*

The institution agrees to provide notifications to students related to professional licensure. 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 is located. An email dedicated solely to this purpose and sent to the student's best known email address meets this requirement. The institution should use other additional means to notify the student, if needed.

- State Addendum: Starting July 1, 2021, OHE will ask for supplementation information on Licensure Disclosure from Connecticut Institutions when they apply to NC-SARA.



CT OHE Review: SARA institutional application

Section 2: Changes to CT OHE NC-SARA application process starting July 1, 2021

Three questions will be asked in an addendum to the NC-SARA Application:

1. Please provide a sample disclosure currently being sent to students by your institution to fulfill the licensure disclosure requirement.
2. Please provide the link to the licensure disclosure information currently on your institution's website.
3. Please provide contact information (name, email, phone number) for the faculty who are implementing licensure disclosure.

Please remember that Emily Bjornberg is a resource for you as you work through upcoming applications. Please feel free to reach out to her early and often!

E: Emily.Bjornberg@ct.gov

P: (860) 947-1824

www.ctohe.org/SARA/

Thank you!

