Realigning Professional Licensure within the 21st Century

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Unprecedented Times 2020-2022

• COVID
  • 1.6 million missing from the full-time workforce due to COVID and long-haulers (Picchi, 2022).

• Retirement (of baby boomers)
• The Great Resignation
  • 4.5 million in November, 2021 (Tappe, 2022, Rosenberg, 2022).
United States Labor Shortage

• 10.9 million job vacancies in December of 2021 (Yellin, 2021).

• The U.S. is 2.2 million short of its pre-pandemic workforce size (Pichhi, 2022).
Benefits of Licensure and Certification

• Implementing high standards for specific professions that are assessed based on education, training, and examination.

• Protecting the public by:
  • Identifying the type of conduct that requires disciplinary action
  • Establishing guidelines that support consistency and fairness in the practice of a profession across a state

• Higher wages are also achieved for those licensed (Tabriz, 2019).
Different Pathways to Licensure

- Initial Licensure
- Transfer Licensure
- Alternate Licensure
- Reciprocity
- Occupational Licensure Interstate Compacts
- License Portability
- Universal Licensing
Despite belonging to a reciprocity agreement that includes members throughout the country, a state may elect to only offer reciprocity for 1 or 2 states.
Occupational Licensure Compacts

- Advanced Practice Registered Nurse (APRN) Compact
- Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC)
- Counseling Compact
- EMS Compact
- Interstate Medical Licensure Compact (IMLC)
- Nurse Licensure Compact (NLC)
- Occupational Therapy Licensure Compact (OT Compact)
- Physical Therapy Licensure Compact (PT Compact)
- Physician Associates Compact (PA Compact)- covers physician assistants/physician associates
- Psychology Interjurisdictional Compact (PSYPACT)
License portability for military spouses

• 38 states offer this special type of reciprocity that only applies to military spouses, ranging from
  • full recognition
  • recognize some professions
  • recognition only if equivalent training
  • election of whether or not to recognize license

(Education Commission of the States, 2020)
License Portability for Dependents and Spouses of Medical Professionals

For example, Louisiana grants both dependents and spouses of medical professionals the ability to become licensed without going through each step of obtaining a new license.

(State Policy Network, 2021).
Increased Pattern of Mobility

• In 2019, 7,398,337 people migrated to another state
• “Over 20% more Americans moved in 2021 compared to 2020”
• With remote work increasing, “14 to 23 million Americans relocated in 2021”
What are the consequences of creating barriers to interstate mobility?

• Interstate migration provides individuals with:
  • economic mobility
  • labor market efficiency

• Barriers “impede interstate mobility” by adversely affecting the economy which creates a labor market incapable of adjusting to shocks thereby increasing downturns and extending economic recovery time. (Karahn & Li, 2016; National Conference of State Legislatures, 2020, para. 5).

• A 2017 study illustrated that in many professions (including lawyers, social workers, electricians, and real estate appraisers) lower rates of between-state migrations occur (Johnson & Kleiner, 2017).

“The ability of workers to move to different labor markets without restriction ... [is] fundamental to the efficient functioning of those markets” (Smith, 1776; Friedman, 1962)
We Need Your Help

Image attribution to https://me.me/i/if-everyone-is-thinking-alike-then-somebody-isnt-thinking-george-4877941

If everyone is thinking alike, then somebody isn't thinking.

George S. Patton
What we want to learn

What is the average amount of time your institution spent on initial research of a single Professional Licensure program?
Where did Occupational Licensing come from?

Dent v. West Virginia, 129 U.S. 114 (1889)

US Supreme Court established that a state may establish physician licensing to protect public health and safety.
A Rise in Occupational Licensure

1950
In 1950, only 5% of professions led to licensure thereby requiring 1 in 20 workers to become licensed to work.

2010
Data shows 25% of professions required licensure.

2018
43 million people held a professional certification or license.

2021
1 in 3 or 33.3% of all professions require licensure.
Occupational Licensing in the US

- 1950: 5% of workforce
- 2021: 33% of workforce

560% increase in the number of positions subject to a licensing requirement
Occupational Licensing Run Amok
"About the only people who are unlicensed in California are clergymen and university professors, apparently because no one takes them seriously."

Widely divergent state requirements

- Create barriers to mobility
- Restrict new technology (ex. Telework)
- Reduce Employment Opportunities
- Increase costs for consumers
- Hamper distance education opportunities
Occupational Licensing: The Economists Weigh In

- Disproportionately affect certain populations
  - Military Spouses
  - Immigrants
  - Criminal Backgrounds
- Low-income and first-generation
MULTI-STATE OCCUPATIONAL LICENSING LEARNING POLICY CONSORTIUM

Arkansas
Colorado
Connecticut
Delaware
Illinois
Indiana
Kentucky
Maryland
Nevada
Wisconsin
Utah

Image Attribution: https://www.ncsl.org/research/labor-and-employment/request-for-applications.aspx
Don’t Talk About Universal Licensure Recognition

Just another name for Interstate Licensure Compacts and Universal Licensure Recognition
Universal Licensure: Healthcare Interstate Licensure Compacts

- Physical Therapy Compact (29 states)
- Psychology Interjurisdictional Compact (15 states)
- Audiology And Speech-Language Pathology Compact (6 states)
- Enhanced Nursing Licensure Compact (eNLC) (37 states)
- Interstate Medical Licensure Compact (30 states)
- Emergency Medical Services Personnel Licensure Interstate Compact (21 states)
- Advanced Practice Nursing Compact (7 states)
Universal Licensure:Licensed Professions

• Profession-specific Interstate Practice Systems
  • Professional Engineers
  • Architects
  • Certified Public Accountants
  • Professional Surveyors
Universal Licensure: State Reforms

16 states have enacted universal recognition for out-of-state licensees

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Institute for Justice 2021.
Universal Licensure Advantages

- Allows for expeditious interstate movement of practitioners
- Reduces barriers for out-of-state practitioners aiming to practice within your state
Universal Licensure Applicants

- Submit Licensing Applications
- Pay Fees
- Background Checks
- Some states require a state specific test
- Might require residency
- Quick decisions from licensing boards
Challenges Relative to Providing Disclosures

- Limitations of State-Specific Education Information
- Professionals use many tools to obtain licenses
  - Interstate Compacts, Universal Licensure, and Reciprocity
- Need the flexibility to educate students about these options
We Want Your Help

From chaos, there is opportunity

Influenced by Sun Tzu
What we want to learn

If new regulations from the Department of Education eliminates “cannot determine” as an option, will your institution continue to offer Distance Education courses in all the states you currently serve?
Regulations, What works, What doesn’t

• Federal Regulations
• NC-SARA Regulations
• State by State Regulations

Assumption that if a program meets its home state’s licensing board requirements, and another state accepts that license through a compact or reciprocity, the program logically meets the requirements of the other state.

BUT OUR STANDARD OF REVIEW IS PREMISED UPON ORIGINAL LICENSURE BY STATE
34 CFR 668.43 - Institutional Information Professional Licensure Notifications - 668.43(a)(5)(v) & 668.43(c)

Student Location

Educational programs subject to notifications

Direct/Individual Notification

Regulations address all modalities (includes Face to Face and Online).

Public Notification
NC-SARA 21.1: 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.
SARA GUIDANCE

• Institutions must keep all students, applicants, and potential students informed as to whether such offerings actually meet state licensing requirements.

For the purposes of SARA once a student has provided the institution with the state they wish to practice in, then unless the student notifies the institution of a change in the state, the institution would provide initial written notification.
SARA GUIDANCE

- Follow-up communications should be made if the institution becomes aware of changes that would affect the student’s ability to pursue and/or obtain licensure.

- HOWEVER, that is strictly for the written notification requirement; it does not cover the consumer protection requirements for marketing, website, etc. The institution should be updating and verifying information as circumstances change, and at least yearly as a best practice.
Johnny Isakson and David P. Roe, M.D., Section 1018

21st Century Guidelines

Both require notification to all students that the state in which they “intend” to work has other non-program post-graduation requirements such as professional exams, application fees, work/training minimums, etc.
Johnny Isakson and David P. Roe, M.D.
Section 1018 – Consumer Information Requirements

• Not just educational requirements based upon program of study
• Must also fully disclose conditions or additional requirements, including training, experience, or examination
• I&R also centers around place of intended practice
On the Horizon: 21st Century Guidelines will replace CRAC Guidelines

- Information about professional licensure requirements, where appropriate, and advice on licensing in the state(s) of intended employment.

How do we know state of intended employment?

There is no institutional req for FUTURE PLANS
what does all that mean: DOESN’T WORK

- Coordination in a fragmented environment
- Institutional Resources are limited
- Location is a moving target; our students are mobile

IT DOES NOT WORK LIKE THAT

LEME EXPLAIN
what does all that mean:

Expansive Research really means Expensive to Research
what does all that mean:
It’s all about Perspective

- Cost for initial research 1 PLC Program - $22,000
- Cost for annual research update/program - $11,000

$525 a year per institution
BORAS BORA CONUNDRUM

• Prospective GI Bill student for F2F nursing program
  • located in Kansas, originally from Mississippi
  • applies to a school in Florida
• When asked by the recruiter where they wish to practice, prospect says
  • Bora Bora, or
  • go home to Mississippi.
• What should institution do/disclose to prospect? What about at the time of enrollment?
THERE HAS TO BE AN EASIER WAY

- Licensing Laws and the Boards that enforce them
- Specialized Accreditors are important
- Communication with key stakeholders, we are not alone
What are Model Practice Acts?

- Nursing
- Social Work
- Physical Therapy
- Occupational Therapy
Commonality among the Model Practice Acts

- Protect consumers by establishing standards/best practice
- Align with specialized accreditation
- Enhance mobility of practitioners
Specialized Accreditors

• Identified in model practice acts if present
• Set/Ensure the educational standards of the industry are met
• Programmatic level accreditation, do not confuse with formerly known as regional/institutional
Even worse, there are Research Roadblocks

- Nobody told the licensure Boards this avalanche was coming
- Most licensure boards handle on a case by case basis
- Written confirmation process impracticable: Anecdotal evidence suggests 90% go unresponsive

- Model Practice Acts aren’t so modeled in practice
- Money
By the Way: What Happened to Practice Acts

Many states used them as starting point, but then went and nullified the standardization.

Built in some state protection

Require their own specific licensure for Program Directors, preceptors, instructors….

Programs “Approved by this Board”
Institutional Financial Burdens

• FTE’s
  Math for most institutions to perform exhaustive determination for all of its programs = Cost prohibitive.

• State Specific Curriculum would defy logic
  Not going to happen, just imagine a Mississippi institution teaching about Texas History…
  Cowboy hats and rattlesnakes

Cost to create
Here’s some Interesting State Level Licensure Language - So Much Variability

• **MLS in Tennessee**: Prerequisite course work includes Sixteen (16) semester hours or twenty-four (24) quarter hours of chemistry, a high number for admission purposes.

• **Alabama nursing** requires that clinical coordinators/preceptors have an unencumbered Alabama nursing license.

• **CPA licensure** in nearly every US State requires 150 hours of postsecondary education. Do undergraduate accounting programs require students earn 150 hours?
Florida statute requires masters-level mental health counselors to have "a course in human sexuality and a course in substance abuse" as a part of their degree program.

South Carolina statute requires mental health counselors to have "coursework content providing an understanding of career development theories" as part of their graduate studies.

Arkansas statute requires mental health counselors to have at least one graduate credit in "Technology Assisted Counseling."
MORE Federal Rulemaking Aimed at Reciprocity This Time

Our concerns:

Reciprocity could maintain a uniform application and uniform fee, but the institution would be subject to any consumer protection laws (including state refund policies, reporting, surety bonds etc.) as designated by the state.
MORE Federal Rulemaking Aimed at Reciprocity This Time

A Major Change to Professional Licensure Requirements

the institution must ENSURE that each program SATISFIES state educational requirements for programs leading to a professional license or certification where the student is located

The proposed language would remove the “no determination made” option
Has the department given any consideration to the cost of this change? I realize their previous estimates in the last regulation change were far below the actual work time required, I would hope there has been some discussion about this additional workload.

What does the department expect to happen for students who were initially enrolled under 'meeting a state's educational requirements' but then the state changes? I know the current regs say that we have a finite amount of time to inform the student, but these proposed regs don't seem to cover that scenario.

Who is responsible for the repayment of Title IV funds for a mid-term move? The institution (even though the disbursement date has passed) or the student? Either way, the institution, and student have incurred the cost of the education, but now repayment is expected?

What happens when a licensing board changes requirements mid-educational term?

What will it mean to ensure? What kind of documentation will be enough? Will it require an affirmative statement from the state licensing board? Will a list of their published requirements and our documented assessment that we meet them be enough if we can prove we tried to get an affirmative decision?
There is the completely separate issue that is still hanging out there about prospective students for direct notifications for purposes of 34 CFR 668.43(c) which causes the institution to address location "prior to enrollment". We don't know how the Department will try to harmonize this regulation with new proposed language.

I would also love to see professional boards be more active in informing the Department about the various ways states approve, review, or offer multiple paths to certification. We suggested to the Department, in our comment the first week of rulemaking in January, that they communicate with state licensing boards to learn of the various processes for professions and states.

For the language that was last put up in front of the negotiators, no provision for a waiver was included. We need to be vocal that such an option is needed to best serve student needs.

For teacher education, and many other professions, we feel the lack of a waiver will add to the shortage of professionals in those fields.
Identified options for meeting the existing disclosure requirements in a changing professional licensure landscape

• Specialized Accreditors as Defining Gateway—Medicine (LCME), Dentistry (CODA), Occupational Therapy (ACOTE), Physical Therapy (CAPTE)

• National Boards

• Multistate licensure/Reciprocity
  • example, National Licensure Consortium (NLC) The NLC increases access to care while maintaining public protection at the state level. Under the NLC, nurses can practice in other NLC states, without having to obtain additional licenses.

• State by state – not preferred. Burdensome survey.
Next Steps for Professional Licensure Disclosures

Communication is critical
Who should you communicate with?

- Internal champions
- Impactful stakeholders
- Government Relations
- Accreditors
- Legislators (State & Federal)
- WCET/State Authorization Network
- Institutional Counsel
- NC-SARA
How to increase the impact of your ideas and, ultimately, your comment?

Join together with like minded individuals
• By geography
• By institutional specialty
• Peer institutions
How do you formulate a comment?

• Understand how to formulate a comment
• Outline/Topical Headers for Ease of Reader
• Must be a value-add comment
• Highlight the problem
• Identify a solution
Complete our Survey

https://bit.ly/3Rd0WQj

• Provide your insight.
• Help build a repository of data that illustrates the challenges higher educational institutions are facing in trying to comply with current disclosures and the impact of proposed regulatory changes.
• Make your voice be heard by filling out our anonymous survey:
  • Interested in accessing the data.
    • Provide your contact information in a separate form to obtain the survey results to inform your stakeholders and to support your future comment.
Thank You!

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Recordings and Resources will be posted and available in the conference hub for up to 30 days after the conference.