

Hogan Lovells announces inaugural edition of *Education GOES Professional – Nursing*, a guide to offering online post-licensure nursing education programs in the United States

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Regulatory requirements for offering post-licensure nursing programs are confusing and remain in flux. To help institutions navigate the many pitfalls, we are pleased to confirm the availability of the Hogan Lovells online post-licensure nursing education guide: *Education GOES Professional – Nursing*.

Institutions offering such programs should be aware that:

- Approved State Authorization Reciprocity Agreements (SARA) institutions must separately meet the National Council for State Authorization Reciprocity Agreements (NC-SARA) standards addressing professional licensure.
- Most nursing boards consider any license after the registered nurse (RN) license (what we refer to as post-licensure) to be new, potentially triggering other regulatory requirements related to professional licensure.
- State attorneys general have brought actions against schools under state law for failure to adequately disclose professional licensure requirements.
- Each of the U.S. Department of Education (ED) accrediting agencies and state authorization agencies has rules prohibiting misrepresentation concerning educational programs. ED regulations specifically prohibit institutions from engaging in any misrepresentation about the "nature of its educational program" and the "employability of its graduates" (34 Code of Federal Regulations § 668.71).
- During the Obama administration, ED promulgated regulations that require institutions to provide specific disclosures about the professional or certification prerequisites associated with their online programs (see 81 Fed. Reg. 92,232 (Dec. 19, 2016)). The Trump administration delayed the effective date of these rules to 2020 (see 83 Fed. Reg. 31,296 (July 3, 2018)), but a federal district court has now held that the delay was unlawful; as such, the

Obama-era regulations will likely remain in effect (see Order Granting Plaintiffs' Motion for Summary Judgment and Denying Defendants' Cross-Motion for Summary Judgment, *Nat'l Educ. Ass'n. v. Betsy DeVos*, No. 18-cv-05173-LB (N.D. Cal. Apr. 26, 2019)). It is expected that the Obama-era rules will then be replaced by new disclosure rules (likely effective 2020) that will apply to both online and on-ground programs (see "[state authorization redux](#)").

Our fixed-fee service, announced in 2018, is tailored to institutions with online nursing education projects. The guide assists institutions in conducting their "due diligence" in offering online post-licensure nursing education programs in all domestic jurisdictions.

The service includes:

- A compilation of state-by-state guidance that provides high-level answers to common questions:
 - Do my programs need to be approved by the pertinent state nursing board?
 - What does the approval process entail?
 - What are the requirements for advanced practice registered nursing licensure?
 - What are the faculty licensure requirements?
 - Has the agency shared any additional guidance with Hogan Lovells?
 - If I want to reach the agency directly, who can I contact?
- Follow-up advice from our nursing education team at no additional cost.

For further information or to request an engagement letter, please contact Greg Ferenbach or Jeannie Yockey-Fine.

Thank you again for your interest, and we look forward to assisting you with your online post-licensure nursing education programs.

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