The Future of Professional Regulation: A Nursing Perspective

Presented by Gloria Damgaard, MS, RN, FRE
Executive Director, South Dakota Board of Nursing
NCSBN Board Member, 2012-2019
“The future depends on what we do in the present.”

— Mahatma Gandhi
Unfolding the Future of Professional Regulation
White House Report: Best Practices

- Limit licensing requirements to address legitimate public health concerns
- Apply cost-benefit assessment of licensing laws
- Enter interstate compacts to increase mobility
- Allow practitioners to practice to full extent
Nurse Licensure Compact (NLC)
Understanding the Value of Regulation

- Standardization of education
- Prevention of fraudulent practitioners entering the practice
- Removal of practitioners for substandard care or conduct
- Licensure
Documentary Analysis: High Level Themes

- Licensure Reform
- Impact of Occupational Associations
- Occupational Licensure Efforts
- Contemporary Issues
Perceived Current Narrative on Occupational Licensure
Desired Future Narrative
Regulatory Foresight

- Not an attempt to predict future
- A set of tools to anticipate, prepare for, and implement regulatory changes

Bibliometric Review: Identifying Evolving and Emergent Regulatory Trends
Progression over Time

<table>
<thead>
<tr>
<th>TABLE 1.2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Identifying the Evolution of Regulatory Trends over Time</strong></td>
</tr>
<tr>
<td>The evolution of regulatory trends identified in the literature across early, consolidated, and early 21st century time frames, and the consequent emergent trends are presented here and are grouped under general category headings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Category</th>
<th>Theme</th>
<th>Early Time Frame</th>
<th>Consolidated Time Frame</th>
<th>Early 21st Century Time Frame</th>
<th>Emergent Trends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governance</td>
<td>Nature of the regulator</td>
<td>Guilds</td>
<td>Autonomous bodies and ministerial departments</td>
<td>Accountable bodies (individual and umbrella-based)</td>
<td>Performance-managed bodies with independent oversight</td>
</tr>
<tr>
<td></td>
<td>Character of the board</td>
<td>Elite—great and the good</td>
<td>Representative and often &quot;tribal&quot;</td>
<td>Transactional—detailed work</td>
<td>Governance-focused with increased accountability and lay membership</td>
</tr>
<tr>
<td></td>
<td>Members of the regulatory board</td>
<td>Good old boys and girls of the profession</td>
<td>Elected representative members</td>
<td>Appointed members</td>
<td>Increasingly competence-assessed and appointed through impartial process</td>
</tr>
<tr>
<td></td>
<td>Accountability</td>
<td>Accountable to the profession</td>
<td>Accountable to profession and ministries</td>
<td>Accountable to oversight bodies</td>
<td>Mixed models of accountability with some form of external oversight</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Purpose and Processes</th>
<th>Decision making</th>
<th>Opaque and haphazard</th>
<th>Systematized but closed</th>
<th>Systematized and open</th>
<th>Principle-based, open decision making with rationale for judgments</th>
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<tr>
<td>Process of regulation</td>
<td>Emergence of processes</td>
<td>Convergence of processes</td>
<td>Standardization of process</td>
<td>Evidence-based processes</td>
<td></td>
</tr>
<tr>
<td>Protecting the public</td>
<td>Monopoly</td>
<td>One among a number of disconnected actors</td>
<td>Complex group of collaborating actors</td>
<td>Complex and dynamic system of coordinated players</td>
<td></td>
</tr>
<tr>
<td>Organizational drive</td>
<td>Enthusiasts and volunteers</td>
<td>Administrators and establishment of processes</td>
<td>Functionaries who religiously apply rules</td>
<td>Leaders and scholars focused on contemporary solutions</td>
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<thead>
<tr>
<th>Licensees/Registrants</th>
<th>Those regulated</th>
<th>Charlatans and elite</th>
<th>Licensed professions</th>
<th>Continuum of practitioners in a discipline</th>
<th>Multidisciplinary teams</th>
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<tr>
<td>The register</td>
<td>List of those who have completed training</td>
<td>Live register of those in practice and those inactive</td>
<td>Register of those who are competent</td>
<td>Transjurisdictional register of the competent</td>
<td></td>
</tr>
<tr>
<td>Types of practitioners</td>
<td>Generalists</td>
<td>Specialization within established disciplines</td>
<td>Articulated progression and evolution of new disciplines</td>
<td>Shared competences across disciplines and team-based models of practice</td>
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<tr>
<th>Workforce</th>
<th>Nature of the workforce</th>
<th>Stable workforce</th>
<th>Casualization introduced</th>
<th>Casualization increases</th>
<th>Multigenerational careers</th>
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<tr>
<td>Workforce and education planning</td>
<td>No workforce planning</td>
<td>Ineffective workforce planning</td>
<td>Coordinated institutional planning</td>
<td>Systems and regional economy planning</td>
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Progression over Time
Category 1: Governance

Themes:
- Nature of the Regulator
- Character of the Board
- Members of the Regulatory Board
- Accountability
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**Governance**
Authors were pleased that the literature revealed a trend toward increased lay membership.

Intensify outreach to stimulate public awareness and participation in regulatory activities.

Suggestion that enlightened selection criteria for members be developed with training on ongoing support.

Populate regulatory institutions with a broader variety of stakeholders.

May want to experiment with multidisciplinary boards.
CAC Response: Accountability

Licensure restrictions should be based on evidence and deemed necessary for public protection.

Arguments in favor of eliminating burdensome licensing requirements are unlikely to apply to highly skilled, high stakes health care professions but could erode the fringes.

Effective public member representation and independent outside oversight are safeguards against regulation that serves the profession rather than the public.
Question the rationality of a system that permits inconsistent rules and standards from state to state. Standards governing education, fitness to practice bear little relationship to territorial boundaries.

Eliminate variations in scope of practice: What possible justification is there for differences based on jurisdictional boundaries that have no relationship to qualifications?

Reliance on licensure fees is limiting – may need new sources of funding.
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Public demand will increase for disciplinary information and rationale for orders.

Encourage regulators to integrate complainants, especially patients into the disciplinary decision-making process.

Address team practice - move toward a multidisciplinary rather than a silo-based approach to regulation.
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CAC Response: Licensees and Registrants

- Share competencies and allow for overlapping scopes to foster team practice
- Foster close cooperation between regulatory entities for individuals and institutions
- Advocate avoidance of duplicative requirements by working with private institutions that share similar missions
- Increase use of practice remediation programs
- Focus on the most important complaints
### Themes & Emergent Trends

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CAC Response: Workforce

- Suggest future workforce will be influenced by globalization
- Greater willingness of all countries to integrate practitioners educated elsewhere
- Rapid pace of change in healthcare and technology will reduce the demand for highly skilled workers
- Increased demand for caregivers whose strength is providing TLC
- Means constantly rethinking configurations of training and skills and team combinations
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<td>Setting standards</td>
<td>Higher level competencies relating to judgment and decision making</td>
</tr>
<tr>
<td>Curriculum content</td>
<td>Global calibration of differences and harmonization of content</td>
</tr>
<tr>
<td>Accreditation of institutions and programs</td>
<td>Streamlined capture for multiple use</td>
</tr>
<tr>
<td>Learning</td>
<td>Continuing and maintaining competence</td>
</tr>
<tr>
<td>pedagogy</td>
<td>Adult learning, blended simulation, gaming and practice</td>
</tr>
<tr>
<td><strong>Question</strong></td>
<td>Question the emphasis on higher levels of education for entry level practitioners</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Foresee</strong></td>
<td>Foresee a demand for practitioners who do not need a bachelor’s degree</td>
</tr>
<tr>
<td><strong>Suggest</strong></td>
<td>Suggest using the authority for program approval to greater effect</td>
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“The real issue is not how to educate enough people to make up for shortages in various disciplines but whether we can educate the next generation of health professionals with the perspectives, skill, and values to create new models of care”
CAC Response: Highest Priority

“Regulators, educators, delivery institutions and professional associations work together to make demonstrating current competence not only required but expected and accepted as a condition for maintaining the privilege to practice.”
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<td>Fit person</td>
<td>Ongoing process with criminal background checks and rapback</td>
</tr>
<tr>
<td>Dealing with complaints</td>
<td>Clear separation of investigation, judgment and outcomes</td>
</tr>
<tr>
<td>Conduct Sanctions</td>
<td>Risk-based response and wider range of sanctions</td>
</tr>
<tr>
<td>Entry to Practice</td>
<td>Application of knowledge with judgment and decision-making assessment based on standardized adaptive exams</td>
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Determining fitness to practice is primary responsibility of the regulator. 

Regulators are the only ones empowered to remove practitioners from practice if determined to be unfit. 

Regulators need to ask if they are sharing enough fitness to practice information with the public.
## Technology and Information

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<tbody>
<tr>
<td>Data Production and Storage</td>
<td>Cloud-based document storage; trans-jurisdictional inter-operability and dynamic search capability</td>
</tr>
<tr>
<td>Data Access</td>
<td>Real time updates and multi-platform access</td>
</tr>
<tr>
<td>Re-licensure</td>
<td>Smart phone completion platforms with digital payment</td>
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</table>
Regulatory processes will be more automated and efficient

Artificial intelligence will pose a challenge as to how and by whom this is regulated

Social media may impact the public’s attitude toward the utility of regulation

Technology may make re-licensure easier and demonstration of continued competence more effective
Capturing the Essence:
Development of Regulatory Concept Maps
Regulation 2030
Expert Participants

• Eighty individuals from 8 countries including:
  • 17 U.S. States
  • DC
  • 2 U.S. Territories
Organization Representatives

- American Nurses Association
- American Association of Colleges of Nursing
- National League for Nursing
- Organization of Associate Degree Nursing
- Federation of State Boards of Physical Therapy
- Federation of State Medical Boards
- Federal Trade Commission
- Organization for Economic Cooperation and Development
Analysis and Priorities: Developing a Modern, Effective, Regulatory Framework
Cluster Analysis

- Gp1: Multigenerational Careers
  - Global calibration and harmonization of content
  - Regional and Economy Planning
  - Application of Knowledge with Judgment
  - Higher-level competencies

- Gp2: Leadership & scholarship
  - Shared Competencies with a Continuum & Team-Based Models of Care
  - Team-Based Regulation
  - Continuing Competence

- Gp3: Adult Learning & Blended Simulation, Gaming & Practice
  - Smart Phone Completion
  - Criminal background checks & rapback
  - Complex Dynamic System of Coordinated Actors
    - Cloud-based data storage
    - Transjurisdictional Register
    - Real-time updates & multiplatform access
    - Streamlined Capture Once Use Many Times

- Gp4: Evidence-Based Processes
  - Risk-Based Response & Wider Range of Sanctions
    - Mixed Models of Accountability
    - Performance-Managed Bodies with Independent Oversight
      - Governance & Public Authority
        - Increasingly Competence-Assessed & Appointed Through Impartial Process
        - Principle-Based Decision Making
        - Separation of Investigation Outcomes & Determination of Judgments
Word Clouds
Focusing on the Future – Major Concepts

- Collaboration
- Performance measures and metrics
- Governance
- Data and Technology
Regulation 2030
Completed and Continued Work

Four Focusing Concepts
- Collaboration
- Performance Measures & Metrics
- Governance
- Data & Technology

Twenty-Five Regulatory Trends + Challenging & Achievable Strategic Initiatives = Regulatory Model Fit for Digital Era

Key Skills
- Communication
- Change Management
- Performance Management
- Quality Improvement
- Policy
- Board Development
- Strategic Partnering
- Data Analytics
- Economics
CAC  
Additional Trends

• Patient Engagement and Empowerment  
• Financing Health Care

• Incorporate patient engagement into standards of practice  
• Redouble efforts to educate the public  
• Cultivate positive relations with the media  
• Engage the public in rulemaking  
• Use advisory committees
On Predicting the Future

“The Best Way to Predict the Future is to Create It”