Nursing Regulation: Global Patient Protection

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National Council of State Boards of Nursing
Outline

- Historical Context and Personal Interest
- The Evolving Nature of Regulation
  - Changing Face of Service
  - Defining Today’s Regulation
- Bringing About Change
  - Collaboration, Performance Measurement, Governance, & Data
  - A Global View
  - Increasing Accountability & Performance
- A Future Orientated Regulatory Agenda
In the Words of Nightingale:

The very first element of having control over others is, of course, having control over ourselves. If I cannot take charge of myself how can I take charge of others?

First Formal Letter to the Nurses, 1872
Florence Nightingale
Industrial Era to Digital World
The Changing Face of Services

- Geared towards acute condition
- Hospital centred
- Doctor dependent
- Episodic care
- Disjointed care
- Reactive care
- Patient as passive recipient
- Self care infrequent
- Carers undervalued
- Low technology

- Geared towards long-term conditions
- Embedded in communities
- Team based
- Continuous care
- Integrated care
- Preventative care
- Patient as partner
- Self care encouraged and facilitated
- Carers supported as partners
- High technology
Regulation Fit for the Future

Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

Executive Order 13563, Federal Register 76, no. 11 (2011)

President
Barack
Obama

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Defining Regulation

**Purpose**
Inherent in any profession is a set of values and standards that the individual will adhere to. This means the competent and autonomous registered nurse will deliver consistently the required level of practice. Professional regulation provides the framework to promote and secure these values and by so doing helps create the identity of the profession through the behaviour and actions of individual practitioners. It is this order and consistency of practice that provides the benchmark against which the individual is held to account thereby providing the basis of the social contract between the nurse and citizen.

**Subjects**
These are the focus of the regulatory bodies activity the individual nurse or in some cases a range of different practitioners including licensed practical nurses, registered or licensed nurse, advanced practice nurses and in some cases support workers.

**Means**
A wide range of means elaborated by government, regulatory bodies, professional associations and private as well as public employers may individually or acting in concert, be used to regulate the nurse. These means can include setting educational and practice standards, specifying and enforcing ethical and conduct codes, providing guidance and advice, having mandatory relicensure processes that specify continuing professional development; minimum practice hours and/or evidencing continuing competence; specification of scopes of practice; in some cases limitation of certain acts or practices to those practitioners who meet or have completed required training and assessment.

**Mechanisms**
The purpose of regulation can be achieved through either legally enforced or voluntary approaches such as credentialing. Increasingly the range of legally enforced approaches is becoming more extensive going well beyond simply removal of the license to practice but may include, sanctions, suspensions, retraining etc.

**Outcomes**
These are the desired results of the regulatory process and are increasingly explicitly stated in the establishing legislation of any regulatory body. The first point is almost self-evident but was not in early acts and laws clearly and explicitly stated. This outcome should be at the heart of regulatory body activities. The second point acknowledges that nurse migration has increased and there is now a need to have efficient systems capable of scrutinising the migrant nurse’s credentials and suitability to practice. Delays, particularly when there is a shortage of nurses in a country or during times of disaster may inadvertently result in reduced patient safety due to lack of nurses. However, it is important that as well as being efficient the system is effective. Identifying those nurses who are not competent to practice, do not meet the required educational standards or whose behaviour and conduct places patients at risk and consequently refusing such individuals a licence to practice. The final point focuses on the requirement for regulators to be externally focused. Ensuring that practice standards and ethical behaviour keeps pace with evolving health systems as well as better educated and informed citizens who may have changing societal values and norms.

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Understanding the Regulatory Landscape

Wider Socio-economic & Policy Environment
Regulation Per Se
Occupational Licensure
Professions Licensure
Health Care
Professions Licensure
Individual Discipline Licensure

Benton et al, 2018

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<table>
<thead>
<tr>
<th>Regulatory Model</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
</table>
| Professionally Established | • Guidance more likely to be ‘owned’ and followed by registrants  
• Can go into greater detail due to readily available expertise  
• Strong sense of professional identity  
• Focus on prevention and practice improvement  
• Capable of acting independently of Government  
• Free to form alliances with stakeholders with mandate of acting in public interest  
• Standardization of processes across practice  
• Economies of scale | • Limited range of sanctions  
• Only binding on those that are ‘members’  
• Can result in multiple and competing organisations  
• Turf protection  
• Conflict of interest between profession and public interest aims  
• Lack of accountability to the public  
| Professionally Led | • Organisation can be established relatively quickly  
• Can change policy and issue guidance quickly  
• Can set aspirational standards  
• Amenable to innovation  
• Independence from government  
• Can stifle competition due to restrictions on entry into practice and limits set through prescribed acts  
• Can give the impression that central government is small due to ‘off-shoring’ the work  
• Political interference  
• Cost to the state  
• Unlikely to have access to necessary expertise  
• Not amenable to direct public involvement  
• Micro-management by government officials  
• Minister takes risk for system failures  
• Lack of transparency  
• Lack of coherence and consistency  
• Inability to monitor the implementation of the act in any detail | • Need to wait for legislative time if primary and secondary legislation is required to effect change  
• Lack of coordination between different state sanctioned bodies (Education, Health, Trade, etc.)  
• Can be slow to attract component board members  
• Adjudications and action can be seen as being tainted by government priorities of the day |
<table>
<thead>
<tr>
<th>Category</th>
<th>Theme</th>
<th>Early</th>
<th>Consolidated</th>
<th>Early 21st Century</th>
<th>Emergent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness for Practice</td>
<td>Fit person</td>
<td>Not considered</td>
<td>Self-declared</td>
<td>Self-declared with sign-off by responsible other</td>
<td>Ongoing process with criminal background and wrap-back</td>
</tr>
<tr>
<td></td>
<td>Dealing with Complaints</td>
<td>Judged by peers in secret</td>
<td>Judged by peers with formal reporting</td>
<td>Judge by mix of peers and lay members</td>
<td>Clear separation of investigation, judgement and determination of outcome</td>
</tr>
<tr>
<td></td>
<td>Conduct sanctions</td>
<td>Poor conduct ignored</td>
<td>Rigid rules applied</td>
<td>Separation of health, conduct and competence issues</td>
<td>Risk-based response and wider range of sanctions</td>
</tr>
<tr>
<td></td>
<td>Entry to practice</td>
<td>Completion of an apprenticeship</td>
<td>Completion of program, paper and pencil exam.</td>
<td>Completion of accredited program and computer adapted testing exam</td>
<td>Application of knowledge with judgement and decision making assessment based on standardized adaptive exam(s)</td>
</tr>
<tr>
<td>Technology and Information</td>
<td>Data production &amp; Storage</td>
<td>Ledgers – pen and paper</td>
<td>Paper based typed and written documents</td>
<td>Digital documents with limited interoperability and query capacity</td>
<td>Cloud based document storage; trans-jurisdictional interoperability and dynamic search capability</td>
</tr>
<tr>
<td></td>
<td>Data Access</td>
<td>No access</td>
<td>Physical access of registers by visiting the board or reading the once a year published list of registrants</td>
<td>Web-based access</td>
<td>Real time updates and multi-platform access</td>
</tr>
<tr>
<td></td>
<td>Re-licensure</td>
<td>Did not exist</td>
<td>Three to five year cycle of postal based completion and return</td>
<td>Annual process using web-technology &amp; direct debit payments</td>
<td>Smart phone completion platforms with digital payment</td>
</tr>
</tbody>
</table>

Category, cluster of the themes into grouping of related concepts

Theme, identified from the bibliometric analysis

How the particular theme developed over time

Focus for the development of consequence map
Regulation 2030
25 Trends with 7 Domains of Evolution

- Technology and Information
- Governance
- Purpose and Processes
- Licensees and Registrants
- Workforce
- Education
- Fitness for Practice
Governance – Nature of the Regulator

1. Guilds
   - Early Time-Frame

2. Autonomous Bodies & Ministerial Departments
   - Consolidated Time-Frame

3. Accountable Bodies (Individual & Umbrella Structures)
   - Early 21st Century Time-Frame

4. Performance-Managed Bodies with Independent Oversight
   - Emergent Trend

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Leading Regulatory Excellence
Generating Consequence Maps
This consequence map explores one of the four trends identified under the heading Purpose and Processes and in particular looks at the evolution of ORGANIZATIONAL DRIVE.
Overarching Focusing Concepts

- COLLABORATION
- PERFORMANCE MEASUREMENT & METRICS
- GOVERNANCE
- DATA & TECHNOLOGY
Pursuing Regulation 2030

Twenty-Five Regulatory Trends + Four Focusing Concepts = Challenging & Achievable Strategic Initiatives = Regulatory Model Fit For Digital Era

KEY SKILLS
Communication, Change Mgt., Performance Mgt., Quality Improvement, Policy, Board Dev., Strategic Partnering, Data Analytics, Economics

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Global Regulatory Atlas

www.regulatoryatlas.com

DATA FROM
320 JURISDICTIONS

INFORMATION RELATING TO
20,632,184 NURSES

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Leading Regulatory Excellence
## Regulatory Atlas Coverage

<table>
<thead>
<tr>
<th>Region</th>
<th>Jurisdictions</th>
<th>Nurses Covered</th>
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<tr>
<td>Africa</td>
<td>44</td>
<td>622,113</td>
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<tr>
<td>Asia</td>
<td>81</td>
<td>7,130,650</td>
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<tr>
<td>Australia &amp; Oceania</td>
<td>17</td>
<td>411,874</td>
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<tr>
<td>Europe</td>
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<tr>
<td>South America</td>
<td>20</td>
<td>1,022,363</td>
</tr>
</tbody>
</table>

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Leading Regulatory Excellence
From Bad Apples to Shifting the Curve

A

Competency

Nurses

C

B

Competency

Nurses

C

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# Comparing Research Performance

<table>
<thead>
<tr>
<th>Measure</th>
<th>Rank</th>
<th>Overall</th>
<th>Nursing</th>
<th>Law</th>
<th>Economics</th>
<th>Education</th>
<th>Medicine</th>
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<td>70.6</td>
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<td>81.4</td>
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<tr>
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<td>5.9</td>
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<tr>
<td>% Book Chapters</td>
<td></td>
<td>1.4</td>
<td>1.5</td>
<td>2.9</td>
<td>5.1</td>
<td>5.7</td>
<td>0.0</td>
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<tr>
<td>% Conf. Proceedings</td>
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<td>5.1</td>
<td>0.0</td>
<td>4.4</td>
<td>5.1</td>
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<td>0.0</td>
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<tr>
<td>% Editorials</td>
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<td>7.3</td>
<td>10.4</td>
<td>2.9</td>
<td>3.4</td>
<td>0.0</td>
<td>35.3</td>
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<tr>
<td>% Others</td>
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<td>12.0</td>
<td>1.1</td>
<td>1.5</td>
<td>5.0</td>
<td>1.3</td>
<td>35.3</td>
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</table>

A Future Orientated Regulatory Agenda

A Suggested Regulatory Perspective of Regional Nursing and Midwifery Strategies 2020 - 2030

- Workforce Management
  - Computerized register of the competent
  - Continuing Competence Systems
  - Regulating the continuing education of practitioners
  - Criminal Records checks
  - Range of discipline sanctions

- Positive Practice Environments
  - Practice placement accreditation systems
  - Education – Service Links and Preceptors
  - Frequent task analysis to ensure currency of examinations and curricula
  - Modeling excellence in practice to provide a moral compass

- Scaling up Nursing/Midwifery Capacity
  - Return to Practice, Adaptation Programmes, Mutual Recognition & Regional Exam
  - Competence Based, Modularised Programmes (Step on / step off)
  - Tele-nursing
  - Faculty preparation
  - Contemporary Curriculum Design and modern pedagogical approaches
  - Distributed learning models

- Access and Quality of Education
  - Development and revision of legislation
  - Benchmarking to attain best in Region/World
  - Regulatory body staff development

- Strengthen Regulatory Capacity
  - Laws / Decrees -> Rules / Regulations -> Operational Manuals
  - Revision of Scopes of Practice (support worker - advanced practice) and delegation systems
  - Performance evaluation and best practice characteristic regression modeling
References


Benton, D., Thomas, K., Damgaard, G., Masek, S., Brekken, S. (2017) Exploring the differences between regulatory bodies, professional associations and trade unions: An integrative review. *Journal of Nursing Regulation*. 8:3, 4-11


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Thank You & Questions

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