Commentary

The Changing Dynamics of Professional Regulation: A Perspective from Medicine, Nursing and Pharmacy

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"COOPERATION AMONG CLINICIANS IS A PRIORITY. HEALTH PROFESSIONALS SHOULD ACTIVELY COLLABORATE AND COMMUNICATE TO ENSURE AN APPROPRIATE EXCHANGE OF INFORMATION AND COORDINATION OF CARE."

—*Crossing the Quality Chasm: A New Health System for the 21st Century,* 2001

An extensive scholarly literature supports the value of interdisciplinary health care teams and interprofessional collaboration. From multiple Institute of Medicine reports[1,2] dating to the early 1970s to a broad array of literature on team-based care and interprofessional education[3], there is virtual consensus on the importance of these concepts as core competencies critical to multiple health care professions.

In recent years, the Federation of State Medical Boards (FSMB), the National Association of Boards of Pharmacy (NABP) and the National Council of State Boards of Nursing (NCSBN) have contributed to this dialogue through several invitational symposia for the membership of their respective organizations. Beginning with an inaugural symposium in the fall of 2012, these gatherings have continued every other year, spurred by the desire of all three organizations to explore topics of mutual interest,

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such as opioid abuse, competency assessment and health care workforce trends. Equally important has been the realization that the regulatory systems encompassing the more than five million U.S. pharmacists, physicians, physician assistants and nurses share increasingly similar challenges.

The second Tri-Regulator Symposium, held in the fall of 2015, explored the possibilities and challenges of team-based care and collaborative regulation. Over the course of two days, regulators from medicine, nursing and pharmacy discussed

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the culture of modern health care as well as the various socio-economic and legal forces that shape and transform it. To many attendees, it seemed clear that the traditional demarcations between medical professionals seem increasingly out of step with the realities of 21st century health care. The result is a tension between the hierarchical structure that has long dominated health care and the modern ethos of a more collaborative, partnership-oriented structure among and between the professionals and regulators. Such interprofessional relationships hold the potential for positively reshaping authority in health care so as to be less an exercise in "power over" than in sharing "power with" allied professionals.[4] Perhaps the best example of a positively reshaped relationship are the collaborative agreements involving medicine and pharmacy common to most states.[5]

The momentum developed in the first two meetings hosted by the FSMB, NABP and NCSBN continued with a third symposium in the summer of 2017. With millions of pharmacists, physicians and nurses on the front lines of the nation's opioid crisis, participants at the event received updates from national policy leaders and discussed ways the three organizations can work together to provide creative and collaborative leadership aimed at reducing harm in opioid prescribing.

While the three symposia have done much to foster creative thinking and new perspectives, traditional attitudes and their applications to regulation remain strongly embedded. As a popular business aphorism puts it: "Culture eats strategy for breakfast." Interprofessional dialogue among regulators provides a critical opportunity for sharing best practices and exerting positive "influence" beyond the confines of explicit individual and/or organizational authority.[6] The very act of convening a large number of professionals from multiple professions carries the potential for a salutary exercise in the "swarm" intelligence posited by policy analyst Leonard Marcus.[7]

New realities and joint concerns

One commonality of the regulatory framework behind all three professions is their origins in the late 19th and early 20th centuries. This represents more than historical trivia. From basic elements of board composition and appointive processes, the regulatory infrastructure remains, in some ways, reflective of the hierarchical and "siloed" nature of medicine, nursing and pharmacy regulation that dates from those early days. Yet today, there is an increasing appreciation among regulators of the changes in health care delivery in the 21st century; changes reflecting a health care environment that

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blurs traditional, functional and geographic borders within and between the professions. The interest and focus on issues like telemedicine, opioid prescribing, social media and licensing compacts are just a few examples of this evolving environment. The 2015 U.S. Supreme Court decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* added to the list of common challenges and complementary interests behind state-based professional regulation. Specifically, this case placed the onus on all regulatory boards to develop clearly articulated policies and demonstrate "active supervision" when their decisions and/or actions impact the marketplace.

More recently, the Tri-Regulator Collaborative addressed two policy topics that impact regulation across the disciplines of medicine, nursing and pharmacy by drafting and approving two position statements in September 2017 that highlight the organizations' shared commitment to protecting public health.

The first statement, titled "Tri-Regulator Collaborative Position Statement on Electronic Health Records" (EHRs), calls for improving interoperability and uniformity of use, declaring that the seamless transfer of this data is essential to the delivery of high-quality health care and to patient safety.

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The multiple systems that comprise today's health care network provide little or no interoperability and present serious concerns for practitioners and regulators. The Collaborative is urging that steps be taken by all stakeholders to bring uniformity and interoperability to EHRs across all practice settings.

The second statement, titled the "Tri-Regulator Collaborative Position Statement on Practitioner Wellness," affirms that practitioner wellness is a patient-safety issue and is increasingly affecting practitioners across health disciplines. The statement expresses the Tri-Regulator Collaborative's commitment to identifying and preventing practitioner burnout, recognizing that knowledge overload, numerous technology innovations, social media pressures, and a rapidly changing practice environment are creating numerous challenges. The

Collaborative believes that more needs to be done to provide practitioners with the wellness strategies and assistance they need to deal with the stress of these challenges.

Looking forward

On a fundamental level, the politico-legal environment of regulation in general is shifting, which has produced increasing scrutiny of occupational licensing. In part, this stems from the fact that an estimated 29% of the U.S. workforce now works in a licensed field.[8] Strong assertions of free market and/or libertarian economic philosophy are challenging long-accepted notions of regulation as being anti-competitive and inimical to capitalism. This issue has even drawn the attention of the White House, leading to the 2015 report, *Occupational Licensing: A Framework for Policymakers.* While the focus of the report and the cautionary tales arising from it do not center upon health care fields such as medicine, nursing or pharmacy, there are important lessons to be taken from this new regulatory climate. Regulators should be seeking to "harmonize" their requirements across jurisdictions and promote or refine interstate compacts where appropriate. The report also encouraged licensing boards to "allow practitioners to offer services to the full extent of their current competency."[9] It will be increasingly important in the current environment for regulatory bodies in all three professions to exercise thoughtful, deliberate decision making when they establish any board policies or regulations touching upon the marketplace.

Like it or not, there is an inescapable connection between licensing boards and professional marketplaces simply as a result of requiring qualifications for entry. In the case of all three disciplines, the responsible state licensing authorities have a clear interest in — though not a formal directive to address — workforce needs and demographics. This constitutes another area meriting careful consideration going forward. Workforce projections in all three fields have been somewhat contentious, though usually erring on the side of addressing a potential shortfall in the number of practitioners. Allopathic medical schools in the United States increased in total numbers (now 145 LCME-accredited institutions) and in matriculants (up 18% since 2006).[10] Increases on the osteopathic side have been equally profound, with a nearly 18% increase in matriculants from 2011 to 2016[11] and the addition of 11 new or branch campuses over this same period.[12]

Demographic projections in the field of nursing have reflected a degree of uncertainty. A notable increase in RNs by the time of the 2007–2008 economic downturn in the U.S. economy appeared to create a salutary "bubble" in the workforce. But scholars examining the data more closely have cautioned against being lulled into complacency. Looking forward, they see a more moderate growth rate in the number of nurses — which, if borne out, means the profession will likely fail to keep up with increased demand. One set of scholars now predicts a sharp rise in the number of states with a nursing shortage by 2030.[13]

By contrast, pharmacy may have been too effective in addressing long-standing shortages in the field toward the end of the 20th century. The number of pharmacy schools has nearly doubled since 1987 (72 schools then, 130 in 2017), creating a different kind of bubble — one in which concerns for a shortage of pharmacists have been replaced by a dearth of jobs available to new graduates.[14]

For medical regulators, these varying demographic realities pose challenges. How can regulators contribute meaningfully to addressing workforce issues in a state-based system that, by its very nature, is not designed to address national trends? Regulators must remain attuned to the demographic trends in their field for the simple reason that inevitable market responses to supply and demand often become explicit through challenges to the existing scope of practice of the profession. These can manifest in many forms, e.g., legislative attempts to expand an allied profession's practice; attempts to "soften" regulation in one area or shift the locus of accountability from one group to another. These challenges to the status quo are not all negative and should not be automatically dismissed out of hand. It is critical, however, that purely market-driven decisions are balanced with accountability and responsiveness to the public interest.

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Finally, it is clear that challenges arising from technological innovations in health care will continue to confront all three professions. Regulators will have to engage in a balancing act. This will require them to recognize and act appropriately to accommodate potential newer evidence-based

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models for health care delivery without abandoning their core responsibility to regulate with the best interests of the public in mind. Regulators must demonstrate an ability to be nimble, whether in working with legislators to facilitate interstate operability among prescription monitoring programs or providing interprofessional education on opioid prescribing or pursuing/enhancing license portability initiatives. ■

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