



How Government:

A Review of Regulatory Frameworks

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11:35am-12:15pm

Levels of Regulation

Level	Type of Regulation	Purpose	Authority
One	<ul style="list-style-type: none"> • Trans-national agreements 	<ul style="list-style-type: none"> • To provide a common legal approach across countries 	<ul style="list-style-type: none"> • Regional Parliament • National Parliaments
Two	<ul style="list-style-type: none"> • Statute • Law • Ordinance • Decree 	<ul style="list-style-type: none"> • To provide statutory authority for the profession 	<ul style="list-style-type: none"> • Parliament • President • Minister • Emir
Three	<ul style="list-style-type: none"> • Rules and Regulations 	<ul style="list-style-type: none"> • To further amplify the law 	<ul style="list-style-type: none"> • Minister • Regulatory Council
Four	<ul style="list-style-type: none"> • Interpretation and Implementation 	<ul style="list-style-type: none"> • To put the content into specific guidelines • To apply the law, rules and regulations 	<ul style="list-style-type: none"> • Regulatory Council • Other delegated authority
Five	<ul style="list-style-type: none"> • Voluntary codes, position statements, standards and competency frameworks 	<ul style="list-style-type: none"> • To give direction and provide a peer agreed benchmark against which the professional can be judged 	<ul style="list-style-type: none"> • Professional associations • Specialist interest groups

Five-Point Continuum of Professional Regulation

No Regulation

- Citizens and consumers are empowered to take full advantage of the services offered and have sufficient information to make informed critical choices that enable them to avoid harm.

Pure Self-Regulation

- Organized professionals set their own standards of conduct and enforce standards without government involvement in drafting, promoting or enforcing them.

Delegated Self-Regulation

- The profession through an autonomous board sanctioned by primary legislation develops and administers a code of conduct and standards of practice and education. Government provides the ability for the board to enforce the code by giving it legislative backing and the power to create rules.

Supervised Self-Regulation

- The profession through an appointed board develops and administers a code of conduct and standards of practice and education. Government approve these devices and provide the ability to enforce the code by giving it legislative backing in some way and having enforcement monitored by a higher power that can intervene under certain circumstances.

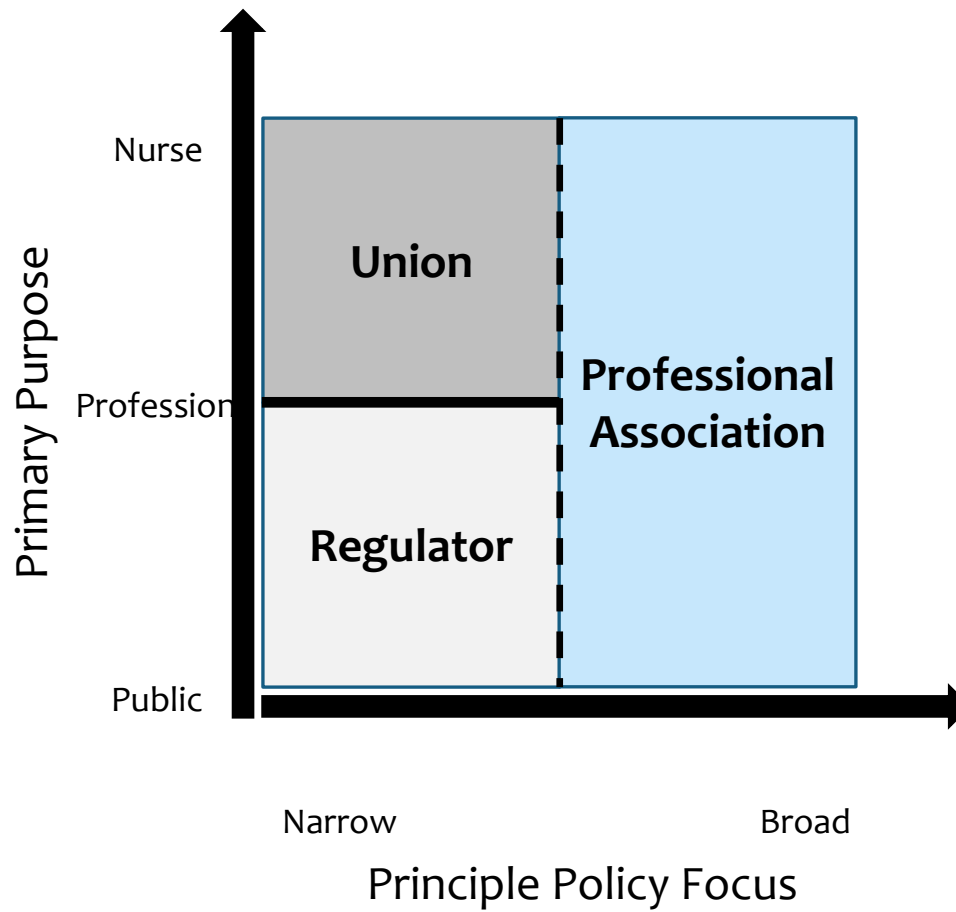
Gov't-Based Regulation

- Regulations, codes and standards are specified, administered and enforced by the government which may directly employ professionals staff who provide the necessary expert advice.

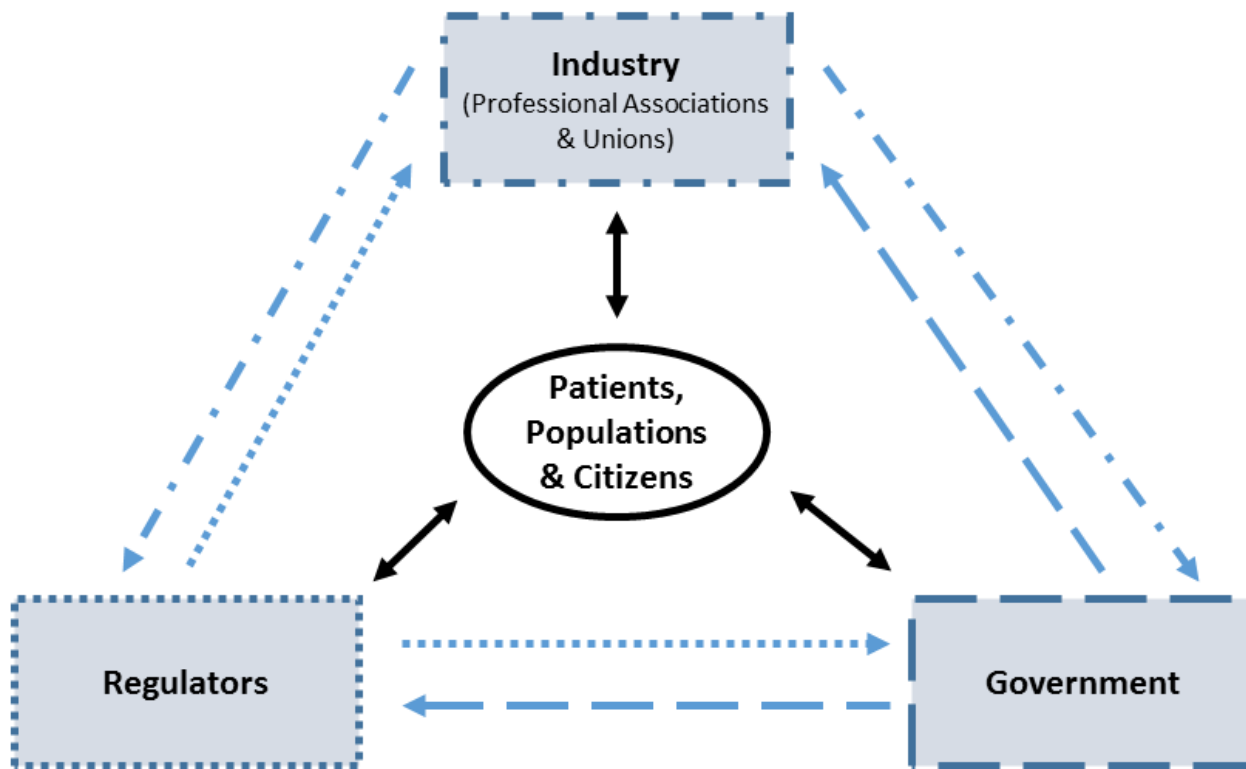
Typology of Administrative Approaches

Outline	Explanation
Multidisciplinary single board umbrella model.	Umbrella legislation covering multiple disciplines with a single governance board that may or may not have individual discipline based advisory structures.
Multidisciplinary model with individual discipline based boards with shared services.	Umbrella legislation covering multiple disciplines with delegated authority to multiple profession-specific boards that can make policy in a range of areas but share services or accommodation.
Multidisciplinary model with individual boards each with autonomy	Umbrella legislation covering multiple disciplines with delegated authority to multiple autonomous profession-specific boards each with control over its own resources.
Single Board legislative model	Profession-specific legislation for each discipline having its own “Act” that delegates power to a single profession-based board that controls its own resources.
Regulatory Unit Model	Regulatory processes are managed by a unit or as part of a government entity, such as the department of health established through broader legislation or as the result of a ministerial decree.
Division of Powers Model	Division of powers among federal and state/provincial structures or different entities where some regulatory powers are exercised at the different levels or across different parts of government e.g. education; labour; or health

Regulatory Model		Advantages		Disadvantages		
Profession Based	Professionally Established	<ul style="list-style-type: none"> Public protected from unscrupulous, incompetent and unethical practitioners Offer assurance that the regulated individual is competent to provide certain services in a safe and effective manner 	<ul style="list-style-type: none"> 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 Normative influence on practice 	<ul style="list-style-type: none"> Organisation can be established relatively quickly Can change policy and issue guidance quickly Can set aspirational standards Amenability to innovation Independence from government 	<ul style="list-style-type: none"> Cost to the registrant 	<ul style="list-style-type: none"> 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
	Arms Length Body established through statute	<ul style="list-style-type: none"> Provide a means by which individuals who fail to comply with the profession's standards can be disciplined, including the revocation of their license 	<ul style="list-style-type: none"> Policy can be changed through non-legislative means Protection of title Focus on performance against standards Explicit legislative influence on practice 	<ul style="list-style-type: none"> Capable of acting independently of Government Free to form alliances with stakeholders with mandate of acting in public interest 		<ul style="list-style-type: none"> Can stifle competition due to restrictions on entry into practice and limits set through prescribed acts Need to wait for legislative time if primary and or secondary legislation is required to effect change Lack of coordination between different state sanctioned bodies (Education, Health, Trade etc.)
State Based	State Led	<ul style="list-style-type: none"> Increase in public recognition and associated social status of the nurse 	<ul style="list-style-type: none"> Standardization of processes across professional groups Economies of scale 	<ul style="list-style-type: none"> Capable of adjudication, policy making and enforcement Early access to information on wider policy change Accountability to parliament Can give the impression that central government is small due to 'off-shoring' the work 	<ul style="list-style-type: none"> Political interference Cost to the state. Unlikely to have access to necessary expertise 	<ul style="list-style-type: none"> Adjudications and action can be seen as being tainted by government priorities of the day
	Part of Health Ministry			<ul style="list-style-type: none"> Ensuring accountability to the various stakeholders can be complex Can be mixed messages between regulator and other nurse leadership bodies 		<ul style="list-style-type: none"> Not amenable to direct public involvement Micro-management by government officials Minister takes flak for system failures Lack of transparency Lack of coherence and consistency Inability to monitor the implementation of the act in any detail



Benton et al (2017)



Interactions and Relationships between Actors [Modified from OECD (2017)]

Theme	Regulatory	Professional Organization	Trade Union
Primary Purpose	To protect the public	To advance the profession	To advocate for the nurse (member).
Organizational Nomenclature	Board, Body, Chamber, College, Commission, Council, Division, Order, Orderm.	Academy, Association, Body, College, Guild, Society.	Union, Syndicate, Society
Membership Status	Predominantly mandatory	Predominantly voluntary	Predominantly voluntary.
Individual Designation	Licensee, Registrant	Member	Member
Coverage	All those who authorized to practice and use the protected title.	Principally those that have affiliated with the association but often seeks to speak for the profession as a whole.	Those that have affiliated with the union.
Cultural alignment	Impartial and evidentiary approach empowered by legal & societal mandate	Advocate and promote profession	Represent and defend the nurse
Rights and Responsibilities	Curtailed to public protection	Broadly based and self-determined	Generally, curtailed to labor issues and employment matters.
Typical Activities	Set minimum licensure, practice, education and discipline standards, maintain register, enforce discipline.	Advocate for the profession, set aspirational standards, offer advanced credentials	Negotiate terms and conditions, promote positive work environments, protect and defend member rights.
Principle Policy Focus	Regulatory policy	Professional & health policy	Labour policy
Source of Power	Statute/Legislation	Numbers, Visibility, Influence, Position statements.	Numbers, Influence, collective bargaining, withdrawal of labor.
Political Partisanship	No	Sometimes	Usually
Methods of advocacy	Often indirect or alternatively through formal consultative processes and limited to mandate.	Mostly direct and broadly based advocacy and uses a wide range of mobilization techniques.	Mostly direct, focused on benefits, worker's rights and conditions of service, use a wide range of mobilization techniques.
Board Composition	Primarily appointed	Elected	Elected
Accountability	To public via legislative/governmental structures	To members	To members
Continuing Professional Development Purpose	Continuing competence of the practitioner	Career progression and professional development	Benefit to the employee
Continuing Professional Development Role	Validate participation in approved offerings ensure licensee meet requirements.	Provide learning content/opportunities and offer accreditation of learning.	Provide Learning content/opportunities