Regulatory Board Governance Toolkit

International Council of Nurses
Conseil International des Infirmières · Consejo Internacional de Enfermeras
International Council of Nurses

ICN Regulation Series

Regulatory Board Governance Toolkit

developed by

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for the

International Council of Nurses

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About the Author

Jean Barry is a ICN consultant in nursing and health policy whose area of responsibility includes the development and management of ICN's regulation programme. Jean specialises in regulation, education and women and children's health. Her role includes the Credentialing and Regulators Forum, the Observatory on Licensure and Registration and managing the International Continuing Nursing Education Credits (ICNECs) programme. She is also the staff support to a number of ICN networks including the Regulation Network. Jean acts in an expert advisory capacity related to regulation, education and women and children's health initiatives for the World Health Organization and other international organisations and undertakes workshops and consultancies in countries to support regulatory system development. Jean has experience in nursing practice in a number of Canadian provinces and worked for over a decade in one of Canada's provincial nursing regulatory authorities. Prior to coming to ICN, she held the position of Director of Regulatory Policy at the Canadian Nurses Association.

Introduction

The International Council of Nurses (ICN) has held a clear position about the importance of regulation in assuring safe and competent nursing practice in order to protect the public since its inception more than 100 years ago. ICN recognises that the regulation of nurses is carried out to ensure that the public receives safe and ethical nursing care from competent nurses.

Regulation is one of ICN's three key programme areas and ICN supports nursing regulation globally in a number of ways. These include facilitating networking and information sharing among regulators through:
- The annual Credentialing and Regulators Forum
- The biennial Triad meeting of Regulators, national nurses' association representatives and Chief Nursing and Midwifery Officers, which is held in collaboration with the World Health Organization and the International Confederation of Midwives
- The Regulation Network, which provides opportunity for global dialogue on regulatory issues including an online discussion forum: www.icn.ch/forum/
- The regulatory stream of presentations at the ICN conference or congress every two years
- The Global Database of Regulators, which provides contact and other information about the regulatory authority as well as some basic information on the health care system in 175 jurisdictions.
- The Observatory on Licensure and Regulation, which consists of a small, invited cross-sectional group established to provide ICN with advice on emerging and future trends in regulation, strategic initiatives to be undertaken and policy stances ICN should consider
- Facilitating dialogue among regulators to share processes and expertise including twinning relationships.

ICN also supports regulatory leadership development through providing the opportunity for regulators to participate in the annual Global Nursing Leadership Institute in Geneva and in the Leadership for Change Programme in place in 60 countries. In addition, ICN provides opportunities for nurses to demonstrate their continuous professional development through the provision of ICN International Continuing Nursing Education Credits (ICNECs). ICNECs are provided for ICN approved continuing education activities that have met the criteria for recognition as furthering nurses' learning and enhancing professional competencies.

ICN also provides regulatory support to countries and regions often in partnerships with other national or international organisations through such activities as reviewing legislation, offering workshops, and other activities to strengthen nursing education and regulation. In addition, ICN provides a series of publications and other documents related to nursing education and regulation such as fact sheets, position statements, competency lists, and monographs.

Information on ICN regulatory publications can be found at www.icn.ch/pillarsprograms/publications-related-to-regulation/. ICN also provides a set of toolkits, such as this one, which address specific aspects of key importance to regulators. Toolkits in the ICN regulation series include:

- Model Nursing Act
- Trade Agreements and Mutual Resonation Agreements (MRAs)

- Scope of Practice and Decision Making Framework
- Complaints Management.

Readers may wish to access ICN's other regulatory publications as they build on and complement each other and collectively address key aspects related to nursing regulation.

This toolkit, Regulatory Board Governance, is the latest in ICN's regulation toolkit series. In recent years there have been many high profile cases in the media of failures in healthcare delivery also calling in to question the performance of healthcare regulatory authorities (ICN, 2009). It is very important at this time for regulatory authorities to be able to communicate their efficiency and effectiveness as well as their impartiality and integrity to governments, registrants, other health professionals, the media and most importantly to the public whom they serve.

Regulatory authorities for nursing are referred to differently around the world. Frequently used terms are Nursing Boards, Councils, Colleges, Orders or Chambers. For the purpose of this toolkit we will use the term Nursing Boards and refer to Board governance. The information included in this toolkit is not meant to be exhaustive but illustrative particularly in the area of Regulatory Board governance. Users of this toolkit will need to apply and adapt the information included to fit their particular context including their regulatory structure and available human and financial resources.

Throughout this toolkit a standard approach is used to help you navigate around the resources that are available. Text that explains the issue appears in the main column.

Questions or exercises appear in a box next to the symbol: **?**

Key points to consider appear in a box next to the symbol: **!**

Structure of the toolkit

There are two parts to the toolkit: (1) this workbook; and (2) an accompanying PowerPoint presentation. The purpose of the PowerPoint is to support exploration of content with local groups and Boards.

The module content

There are nine chapters covering the following:
1. Overview of regulation and regulatory principles
2. High performing regulatory authorities
3. Regulatory Board governance - role of Board members, committees and the Chair
4. Board composition
5. Board member skills and competencies
6. Codes of conduct and conflict of interest
7. Induction/orientation and continuous development of Board
8. Board meetings
9. Measuring and monitoring Board performance

A number of important features of the system for regulation including practices around Board governance described in this toolkit may not currently be in place in some countries or may be in need of updating due to regulation in the early stages of development, inadequate legislative frameworks or limited financial and human resources.

This toolkit is meant to provide a foundation for those starting to develop effective regulatory frameworks and Board governance structures and to facilitate improvement in all regulatory frameworks by seeking to identify well-functioning models of regulation and Regulatory Board governance. It is designed to provide information and promote discussion and self-assessment for regulatory structures in all stages of development.

Providing feedback

ICN believes that regulation is extremely important in terms of the care and services that nurses deliver to the public and the way nurses practise. Health and social systems are constantly changing and, as a result, regulation and regulatory practices must also change. ICN welcomes feedback on how useful you find this material and any suggestions you may have for improvement.

Chapter 1: Overview Regulation and Regulatory Principles

The prime purpose of the regulation of health professionals is to protect the public. Laws governing nursing practice are put in place by governments and enforced by regulators to provide mechanisms to ensure, as much as possible, that practitioners are safe and competent to practice. The regulatory authority establishes, promotes and enforces standards for education and practice and by doing so demonstrates to the public, government, employers and other stakeholders that the profession is committed to retaining the public's trust and delivering quality services. Regulation advances public safety and protection through promoting the delivery of safe, ethical and competent care by nurses. The International Council of Nurses (ICN) believes that profession-led nursing regulation promotes public protection and quality patient outcomes.

> **!** The prime purpose of regulation of any profession is to protect the public. A comprehensive regulatory framework is key to maintaining the public's trust in the nursing profession and optimising the quality of service delivery.

Systems of professional regulation are influenced and shaped by the legislative, political, environmental, social, cultural and professional context in which they are developed. Some form of nursing regulation is in place in much of the world although not in all countries or regions. In some countries, there is no regulation of professional practice; others have only minimal regulatory structures or are just commencing creating regulatory mechanisms; and in some countries there may be long-standing regulatory systems but not all of these are up to date with contemporary practice and thinking.

Depending on the specific context of each country, the nurse regulatory authority may take different forms with multiple models in existence. The models exist along a continuum from those that are profession driven and organised to others that are state-embedded or controlled (ICN 2009). As noted above, there are countries where there is little or no regulation; countries where the regulatory function is administered fully within the Ministry of Health or some other government ministry such as education, labour or possibly even trade; countries where regulation is carried out within the auspices of the national nurses' association and still other countries where there are arms'-length bodies enabled by government legislation (e.g. Nursing Boards or Councils). Also, more recently we are seeing regulation occurring under multi-profession or umbrella legislation. In this situation, the nurse regulatory authority may remain as an independent entity or be part of an umbrella agency of multiple professions sharing regulatory functions. Also, in some countries regulation occurs not at the country level but at the sub-national level such as in Canada, the United States, and in some European countries. There may also be a division of power between federal and sub-national organisations such as in some Asian and Latin American countries.

Some of the more prevalent models are described in more detail below (ICN 2009):

Professionally Established Model – Pure self-regulation exists where any direct control on members of an occupation is voluntarily imposed and administered by practitioners themselves.

It is entirely a private matter, without government authority, and of itself confers no legal status or liability. The traditional model consists of a representative occupational/professional association that applies criteria, develops and determines standards of training and practice and promulgates a code of ethics to which members voluntarily adhere and administer complaint handling procedures. Disciplinary procedures may follow, but without the sanctions of the state. This model evolved from that of the professional guilds. Regulation of the nursing profession has rarely existed in the pure guild form and is usually an initial step to more state authorised models. However, in those jurisdictions where it does exist, it is usually a professionally established model regulating specialist/advanced practice nurses rather than entry to practice.

Professionally Led Model – This model is sometimes referred to as a co-regulatory model where an arms'-length body is established by the state usually through legislation. The body may be given broad based powers to govern its own interests and establish and enforce standards. The governing body of the council is either elected by the members of the profession or appointed by government. In addition, the body may also have government appointed lay and other professional members. These other members may come from other health professions, represent legal or financial expertise or be there to ensure that the lay public, the recipient of care, is represented. This model is often referred to as a self-regulatory model but, in reality, it is a co-regulation model as the body can only exercise those powers granted to it by government.

State Led Model Arms'-Length Body Model - In this model, it is often the health ministry which acts as the interface with the body and it is the health minister who appoints the members of the governing body. The body may have powers to appoint its own staff and have significant autonomy, provided it fulfils its core responsibilities. The composition of the governing body is likely to have a mix of appointed lay and professional members. The minister for health often retains the power to intervene should (s)he deem it necessary and usually on the basis of the body's failure to meet its core mandate.

Part of Health Ministry Model – The health ministry may develop a section to exercise its duty to protect the interests of the public. The government thus takes responsibility for care delivery and clinical standards through imposing administrative control over the professionals through licensure and associated processes. The state may recruit experts to provide support in developing standards and may consult with the public and professional organisations in the process. The professional head of the section on regulation is often the most highly placed professional being regulated. In the case of nursing, this is usually the Government's Chief Nursing Officer.

By virtue of the fact that these models lie on a continuum, many other regulatory models exist alongside them, reflecting different examples of the above described characteristics. For example, the Board Chair may be elected by the profession, but the appointment requires ministerial approval. Some Board memberships are wholly appointed by the minister through a competency based process while in other cases, it is a mix of ministerial appointments and elected members. Chapter Four of this toolkit will address Board composition in more detail.

Regulatory frameworks

Whatever the regulatory model, a comprehensive regulatory framework enables the regulatory authority to establish and enforce requirements and standards that promote safe, competent

and ethical pracitioners and is key to maintaining the public's trust in the nursing profession. In a well-developed regulatory framework a nurse regulatory authority[1] can be expected to fulfil a number of core and secondary functions as summarised below.

The core functions of a regulatory authority are:
- **Issuing licences to qualified individuals to practice the profession**: This involves establishing a process to assess eligibility of nurses educated within the jurisdiction and those educated in other jurisdictions to be placed on a register of qualified individuals. Requirements may address education, passing licensure exams, good character or fitness to practice and, for those educated in other jurisdictions, such issues as licensure in good standing, recency of practice and language competency.

- **Requiring periodic renewal (e.g. annual, biennial, etc.) of licences to ensure registrants are maintaining competence and are otherwise fit to practice**: There can be specific requirements to be eligible for renewal (e.g. recency of practice, completion of continuing education and/or demonstration of continuing competence). Registrants can also be required to disclose any other circumstance which might be relevant to their fitness to practice such as any health concerns or criminal convictions.

- **Establishing standards for education**: Education standards are necessary to ensure that nurses entering the workforce are adequately prepared to provide safe, competent and ethical care. This frequently includes approving or recognising nursing education programmes for entry to practice the profession with periodic re-approval. This re-approval process is in place to ensure standards continue to be met by the programme and to ensure that education is keeping up with the needs of the ever-changing context of practice.

- **Establishing standards of practice including codes of conduct and/or ethics**: Practice standards represent the criteria against which the practice of nurses is measured by the public, clients, employers, colleagues and themselves and therefore are key documents to both guide practice and to inform the complaints management or professional conduct review processes.

- **Establishing and articulating the scope of practice**: Nurses, other healthcare practitioners and the public need to be able to clearly understand what is or what is not within the scope of practice of the nurse. Scopes of practice are often defined in legislation but need to be clearly articulated by the regulatory authority. Also, the context of practice and healthcare is constantly evolving so scopes of practice need to be periodically reviewed to determine if they are meeting the needs of the public.

- **Managing complaints**: Through responding to, assessing and investigating complaints about nurses and their practice, and taking appropriate action the regulatory body upholds professional standards and contributes to maintaining public confidence in the profession and the integrity of the register.

- **Maintenance of the public register**: This register is a representation by the regulator to the public at large that any person holding a licence is competent and fit to practice. It is critical that this register be updated regularly to ensure its accuracy as the public, employers and

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[1] The term 'nurse regulatory authority', 'regulatory authority', 'regulatory body' or 'regulator' will be used in this toolkit to describe the body with responsibility for the licensing/registration of nurses.

other stakeholders in the profession should be able to place reliance on the register. Information in the register must be in a format that is, as much as possible, easily accessible (e.g. web-based information or by telephone).

Beyond the core functions of the regulatory authority, there are also other functions which support patient safety and public protection. These include:

- Responding to consultations by government, other health professions and other stakeholders regarding issues related to regulation and health care delivery;
- Working in partnership with the public, government and a range of other groups at the sub-regional, national and international levels;
- Advocating with government and others for quality health care and healthy public policy in the public interest;
- Supporting a stable supply of nurses by informing health human resource planning with data collected through licensure regarding age, gender, level of education and demographics of nurses;
- Representing the profession of nursing nationally and internationally both on regulatory and patient safety issues.

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Core functions of the regulatory authority:

- Issuing licences to practice the profession for those educated within or outside the jurisdiction including establishing criteria for eligibility and assessment of applicants;
- Periodic renewal (e.g. annual, bi-annual, etc.) of licences often with specific requirements to be eligible for renewal which may include demonstrating continuing competence;
- Establishing standards for education and practice and codes of ethics or conduct;
- Establishing and articulating scopes of practice;
- Upholding professional standards and maintaining public confidence in the profession and the integrity of the register through responding to, assessing and investigating complaints, and taking appropriate action;
- Maintaining the public register.

Other functions supporting patient safety and public protection may include:

- Responding to consultations by government, other health professions and other stakeholders;
- Working in partnership with the public, government and a range of other groups at the sub-regional, national and international levels;
- Advocating for quality health care and healthy public policy in the public interest;
- Supporting a stable supply of nurses by informing health human resource planning with data collected through licensure;
- Representing the profession of nurses nationally and internationally on regulatory or patient safety issues (ICN 2012).

It must be noted, however, that a number of the concepts discussed in this paper including the regulatory functions described above have their origins in common law which is the governing law in countries or regions such as the United Kingdom, United States, Canada (except Quebec), most Anglophone African countries, Australia and New Zealand. Different laws in other parts of the world include civil law (common in most European countries, Latin American countries and parts of Asia) and Sharia or Islamic law. The governing law of a country will have an influence on professional regulatory frameworks and on how they enact these frameworks (ICN 2012).

Regulators as they develop, establish and maintain regulatory structures and address governance of the regulatory authority will need to be familiar with the legal system in place in their country and establish their structure within that system.

> **?**
> - Who regulates nursing in your country?
> - Identify the regulators' powers available in your country: What are the key roles of the regulator?
> - What is regulated - title of nurse, scope of practice, nursing education, conduct of nurses, continuing competence of nurses?
> - What are the actions being taken by the regulator to uphold professional standards and maintain public confidence in the profession?

ICN Principles of Professional Regulation

Regulatory authorities must ensure that their core functions are carried out in an open, transparent, efficient, effective, proportionate and fair manner. In order to assist regulators with this work ICN has developed and updated a set of principles related to regulation. In 1986, ICN, through the work of Styles and Affara, first published a set of principles on nursing regulation. These principles offered an approach to regulation in very diverse legal, cultural and developmental settings. The principles have been reviewed and updated from time to time with the latest update in 2013 being informed by the extensive body of regulatory research completed by Benton et al (2013b) and in particular the structured policy review of the principles of self-regulation.

The revised principles as approved by the ICN Board in 2013 are as follows:

1. **Principle of purposefulness**: Regulation should be directed toward an explicit purpose that reflects a focus on initial and on-going safe, competent and ethical practice.

2. **Principle of definition:** Regulatory standards should be based upon clear definitions of professional scope and accountability.

3. **Principle of professional ultimacy**: Regulatory definitions and standards should promote the fullest development of the profession commensurate with its potential social contribution.

4. **Principle of collaboration**: Regulatory systems should recognise the legitimate roles and responsibilities of interested parties – public, profession and its members, government, employers and other professions – consult with these parties, and incorporate their perspectives in aspects of standard-setting and administration.

5. **Principle of representational balance:** The design of the regulatory system should acknowledge and appropriately balance interdependent interests.

6. **Principle of optimacy**: Regulatory systems should provide and be limited to those proportionate controls and restrictions necessary to achieve their objectives.

7. **Principle of flexibility**: Standards and processes of regulation should be sufficiently broad, flexible and permissive to achieve their objectives while at the same time permitting freedom for innovation, growth, and change.

8. **Principle of efficiency :** Regulatory systems should operate in the most efficient manner ensuring coherence and coordination among their parts so as to be sustainable and optimise resources used to achieve the stated explicit purpose.

9. **Principle of universality**: Regulatory systems should promote universal standards of performance and foster professional identity and mobility to the fullest extent compatible with local needs and circumstances.

10. **Principle of natural justice**: Regulatory processes should provide just and honest treatment for all parties involved.

11. **Principle of transparency**: Regulatory agencies must be open and transparent in their processes and communicate using clear language, support lay involvement and make the maximum amount of information publicly available so all interested parties can make informed choices.

12. **Principle of accountability**: Regulatory agencies and those they regulate must be accountable for their actions and be open to scrutiny and challenge.

13. **Principle of effectiveness**: In order to maintain public, governmental and professional trust regulatory systems must be effective (ICN 2013).

A number of other organisations have developed overarching sets of principles around regulation. Included below are just a few examples:

The International Confederation of Midwives (ICM 2011) identifies the following principles of good regulation for midwives available at:
www.internationalmidwives.org/assets/uploads/documents/Global%20Standards%20Comptencies%20Tools/English/GLOBAL%20STANDARDS%20FOR%20MIDWIFERY%20REGULATION%20ENG.pdf

- Necessity - is the regulation necessary? Are current rules and structures that govern this area still valid? Is the legislation purposeful?

- Effectiveness - Is the regulation properly targeted? Can it be properly enforced and complied with? Is it flexible and enabling?
- Flexibility - is the legalisation sufficiently flexible to be enabling rather than too prescriptive?
- Proportionality - do the advantages outweigh the disadvantages? Can the same goal be achieved better in another way?
- Transparency - is the regulation clear and accessible to all? Have stakeholders been involved in development?
- Accountability - is it clear who is responsible to whom and for what? Is there an effective appeals process?
- Consistency - will the regulation give rise to anomalies and inconsistencies given the other regulations already in place for this area? Are best practice principles being applied?

Another organisation, the National Council of State Boards of Nursing (NCSBN) in the United States has developed the following set of Guiding Principles of Nursing Regulation (NCSBN 2007) available at: www.ncsbn.org/Guiding_Principles.pdf

Protection of the public:
- Nursing regulation exists to protect the health, safety and welfare of the public in their receipt of nursing services.
- Involvement of nurses in nursing regulation is critical to public protection.

Competence of all practitioners regulated by the Board of Nursing:
- Nursing regulation is responsible for upholding licensure requirements for competence of the various levels of nursing practice.
- Competence is assessed at initial licensure/entry and during the career life of all practitioners.

Due process and ethical decision making:
- Nursing regulation ensures due process rights for practitioners.
- Boards of Nursing hold practitioners accountable for conduct based on legal, ethical and professional standards.

Shared accountability:
- Nursing regulation requires shared accountability for enhancing safe patient care.

Strategic collaboration:
- Nursing regulation requires collaboration with individuals and agencies in the interest of public protection, patient safety and the education of nurses.

Evidenced-based regulation:
- Nursing regulation uses evidenced-based standards of practice, advances in technology, and demographic and social research in its mission to protect the public.

Response to the marketplace and health care environment:
- Nursing regulation requires timely and thoughtful responsiveness to the evolving marketplace.
- Scope of practice clarity and congruence with the community needs for nursing care are essential.

Globalisation of nursing.
- Nursing regulation occurs at the state level and concurrently works to standardize regulations and access to licensure.
- Nursing regulation requires fair and ethical practices and policies to address the social, political and fiscal challenges of globalisation.

Policy objectives derived from ICN's and other sets of principles related to regulation offer guidance in developing and evaluating regulatory systems including Board governance systems. The principles could be used to develop an assessment framework against which regulators could conduct self-assessments or as a framework that could be used by external evaluators of regulatory performance (Benton et al, 2013a).

? Reflect on how the sets of ICN and other principles above apply in your regulatory context:
- Are any of these sets of principles a good fit in terms of your context and current practices?
- Are there any that you see do not apply; if so reflect on why that is the case?
- Are there any principles that you adhere to that are not covered here? Reflect on why are they important in your jurisdiction?
- How can you use these principles to benchmark and enhance your regulatory and Board performance?

Chapter 2: High Performing Regulatory Authorities

The Governing Board of a regulatory authority is in place to ensure that the organisation is meeting its mandate and performing well. Therefore, before moving more specifically into the functioning of the actual Governing Board, we will briefly explore some of the concepts of a high performing regulatory authority.

Governments are accountable to the public and have an obligation to ensure regulatory practices that are objective, impartial, fair, proportionate and transparent. Therefore regulators who have been delegated the authority to regulate the profession by government need to be able to provide sound reasoning from a public safety perspective for the regulatory structures that they have in place and to be able to demonstrate efficiency, accountability, fairness and transparency in regulatory practices.

Nursing regulators are committed to having viable, responsive and appropriate regulatory mechanisms, policies and practices. However, in recent years, there have been highly publicised cases in some countries of criminal actions and professional misconduct which have brought much focus on professional regulation and, although localised, have had a ripple effect on regulation in many parts of the world (ICN 2012).

Globally, there is a trend of increased external scrutiny of regulation of the professions. This includes heightened government oversight and intervention in regulatory practices. There have also been multiple commissions and studies exploring the functioning of regulatory authorities that have had a significant impact on regulation and regulatory practices globally.

In the United Kingdom, for example, there have been a number of inquiries or reviews generated by actions by health professionals such as the Shipman and Ayling, Neale and Kerr/Haslam Inquiries (Secretary of State for Health 2007a) or by system failures such as the recent Mid-Staffordshire Inquiry (Mid-Staffordshire NHS Foundation Trust Public Inquiry 2013) which have brought attention to regulatory systems. There have also been externally funded reviews of health care delivery and systems that included recommendations related to professional regulation such as the Pew Health Professions Commission in the United States (1995). In addition, there have been studies specific to regulation (Conference Board of Canada 2007; Better Regulation Taskforce 2005; Secretary of State for Health 2007b; Professional Standards Authority for Health and Social Care 2013b; Ineson 2008). These are just some of the studies, enquires and reports that have addressed professional regulation and made recommendations regarding the need for greater efficiency, transparency and accountability by regulatory authorities among other recommendations.

Increasingly, as well, there are now external oversight mechanisms put in place to whom regulatory authorities report and are held accountable. Some examples include the sunset provisions in acts governing nursing regulation in many US states. In these cases, the regulatory authority must receive a recommendation for continuance by an organisation such as a Sunset Commission in order to in continue their role after a certain date. In addition, these commissions often make recommendations regarding improvements and enhancements required by the regulatory authority as part of their review. In the United Kingdom there is the Professional Standard Authority for Health and Social Care (PSA), formerly the Commission on Health Regulatory Excellence (CHRE), which is responsible for overseeing the UK's nine health and social care professional regulatory bodies (PSA 2010). The PSA carries out annual

reviews of the performance of the regulatory authorities it oversees including making recommendations for changes if the need is identified. There are also some forms of external oversight bodies in place in a number of Canadian provinces and in New Zealand that address certain aspects of regulation such as disciplinary decisions or assessment of applicants educated in other countries (Lahey 2011).

The mandates and degree of authority of these organisations vary but they are generally in place to provide external expertise and oversight as well as ensure transparency and accountability of the regulator and to increase consistencies across professions.

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- Are there any oversight mechanisms in place in your jurisdiction/country?
- If so, which types of mechanisms are in place?
- Reflect on how these mechanisms have evolved. What have been the drivers of change?
- What have been the advantages, challenges and the lessons learned that have come from having these oversight mechanisms in place?

This increased oversight has sometimes been challenging for regulators particularly in relation to multiple reporting requirements. However, as a result of this heightened oversight and analysis, there is now a clearer sense in the literature of what a high performing regulatory body should look like.

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The increased oversight, scrutiny and layers of reporting have sometimes been challenging and difficult for regulators but as a result of this intensive focus, analysis and research, we have more of a clear picture of what a high performing regulatory body should look like and how to measure and monitor performance.

The PSA, which as previously mentioned is the organisation with the oversight responsibility of the nine health professions regulators in the United Kingdom, is promoting the concept of "right-touch regulation".

PSA (2010a) indicates right-touch regulation is the minimum regulatory force required to achieve the desired result and describes the principles of right-touch regulation as regulation that is proportionate, consistent, targeted, transparent, accountable and agile. PSA goes on to indicate "right-touch regulation means always asking what risk we are trying to regulate, being proportionate and targeted in regulating that risk or finding ways other than regulation to promote good practice and high quality healthcare" (PSA 2010a p.14).

PSA (2010a) has identified the following eight elements that sit at the heart of right-touch regulation
- Identify the problem before the solution
- Quantify the risks
- Get as close to the problem as possible

- Focus on the outcome
- Use regulation only when necessary
- Keep it simple
- Check for unintended consequences
- Review and respond to change.

For more information on right-touch regulation see the 2010 PSA publication "Right Touch Regulation" available at www.professionalstandards.org.uk/docs/psa-library/right-touch-regulation.pdf?sfvrsn=0
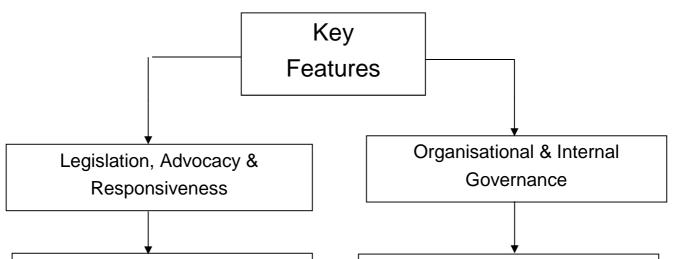
Measuring performance

Benton et al (2013a) recently conducted research using a modified Delphi study that included identifying the key features of a high performing regulatory body. A purposeful sample of expert subjects drawn from different parts of the world participated in the study. They were from jurisdictions with differing legal traditions and a variety of regulatory models and which use a range of approaches to the administration of the legislation thereby providing heterogeneous sources. In addition, differing perspectives were sought, namely: those who are service based (nurse directors); those in charge of the regulatory bodies (registrars); educators of nurses; leaders from national nursing associations; and lay person views (patient representatives and other health related disciplines).

One of the outcomes of this large body of research was the identification of 47 features that met the four inclusion criteria to be considered key features of a high performing regulatory body. These four criteria are desirability, feasibility, importance and confidence. The 47 features could be further grouped into four main themes and 14 subthemes. The four main themes are:
1. Legislation, advocacy and responsiveness
2. Organisational and internal governance
3. External governance and public accountability
4. Responsibilities and functions

See Figure 1 for a full listing and mapping of these features.

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│  Key            │
│  Features       │
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Legislation, Advocacy & Responsiveness

Organisational & Internal Governance

Implementing Legislation
- The regulatory body interprets legislation to facilitate and accommodate changing public protection needs

Advocacy
- The regulatory body routinely provides comments on wider health systems reform and change.
- The regulatory body promotes professional issues that are congruent with protecting the public.

Responsiveness
- The regulatory body has processes that are consistent with those of other disciplines.
- The regulatory body keeps guidance, codes, standards, competencies and rules in-step with changing expectations of the public.
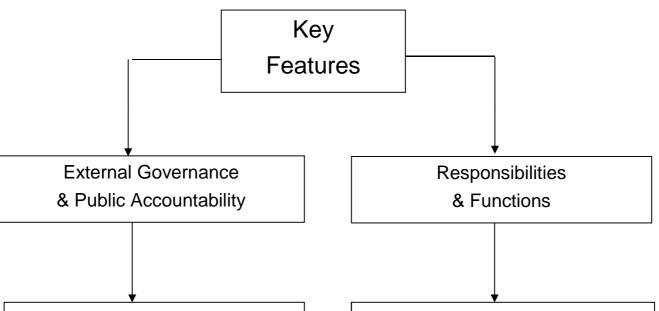

Board Governance
- Board members of the regulatory body are subject to regular performance appraisal
- Clear criteria and the necessary competences for the selection and appointment of senior officials and Board members are available.
- Induction processes are in place for new Board members.

Business Processes
- The regulatory body collaborates with other regulatory agencies to minimise administrative burden and maximise the use and impact of data.
- The regulatory body has mechanisms to align their accreditation systems with other agencies whilst continuing to fulfill their mandate.
- The regulatory body develops guidance and rules that are supportive of health systems change.
- The regulatory body uses new technology to streamline business and regulatory processes.
- The regulatory body has mechanisms in place to detect and deal with fraudulent applications and requests for verification.
- The regulatory body has in place disaster recovery procedures and processes.
- The regulatory body has adequate resources to enable all responsibilities to be fully discharged.
- Reporting lines are clear and reports are comprehensive and timely.
- All committees have explicit, regularly reviewed terms of reference and the activities of the committees are reported regularly to the full regulatory body.

Quality Improvement
- The regulatory body identifies and promotes best regulatory practice.
- The regulatory body has access to relevant expert advice to support its decision-making processes.
- Emergent trends from the outcomes of conduct and competence processes are used to inform revisions of standards and requirements for continuing competence.
- The regulatory body routinely examines a sample of completed continuing competence returns.
- The regulatory body monitors its performance and seeks to continually improve the time taken to deal with fitness to practice allegations.

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                    ┌─────────────────┐
                    │      Key        │
                    │    Features     │
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Key Features

External Governance & Public Accountability

Accountability
- The regulatory body is held to account for its performance.
- The regulatory body has a clear set of performance measures that are reported regularly.
- While there may be multi-stakeholder input to development of standards, codes, scopes of practice policies and procedures, their application is free of inappropriate influence by government, the profession or other interested parties.
- The regulatory body acts in a manner that maintains the confidence of the public, professionals, employers and other key stakeholders.
- The regulatory body has a strategic plan with linked operational objectives that are regularly reviewed and updated.

Transparency
- The regulatory body has a set of clearly defined and publically available operating procedures.
- The regulatory board has a balance between lay and professional members.
- The regulatory body provides clear and succinct information on their responsibilities and process to registrants and the public.
- There are clear appeals processes that can be pursued if the decisions or the actions of the regulatory body are thought to be unsound.
- All decision making is transparent, documented and accessible to the profession and the public.

Collaboration
- The regulatory body engages and consults key stakeholders in the development of policy and standards.

Responsibilities & Functions

Competence & Conduct
- Continuing competence procedures are in place that use data from multiple sources.
- The regulatory body maintains independence in resolving allegations and complaints.
- Clear, accessible and well-publicised complaints procedures are readily available.
- The regulatory body has standards of performance in relation to dealing with the receipt, acknowledgment, investigation and resolution of fitness to practice complaints and allegations.
- The regulatory body has an impartial approach in dealing with allegation both with regard to complainants and registrants.
- An adequate range of meaningful sanctions for non-observance of the standards and non-compliance with codes of conduct is available.

Registry Integrity
- The register is accurate, comprehensive and readily accessible by the public, the registrants, employers and any other interested parties.
- The regulatory body ensures that only persons who meet stipulated criteria for licensure can practice as a professional nurse.
- Registration renewal procedures are efficient and effective.

Ethics & Professional Behaviour
- The regulatory body promotes registrant behaviour that is reflective and self-regulatory.
- The regulatory body develops and promotes sound ethical and conduct codes.

Standards & Education
- The regulatory body ensures educational programmes are aligned with the competences required by registrants for fitness to practice.
- Professional standards and competencies are developed and set in collaboration with educational providers, employers, professional organisations and the public.

Mobility
- Processes relating to nurses wishing to migrate into or migrate from the jurisdiction are efficient and effective.

Benton et al (2013a) also go on to propose illustrative examples of metrics for specific statements suggesting descriptions of performance that can help to differentiate between inadequate performance, adequate performance, superior performance and outstanding performance.

Table 1. Illustrative example of metric for a specific statement

Statement – Continuing competence procedures are in place that use data from multiple sources.

Context – This statement is part of the responsibilities and functions cluster and specifically relates to those measures relating to competence and conduct.

Exclusions – This statement should exclude any actions relating to the assessment of competence associated with initial registration and licensure.

Level of performance	Description of how to score performance
Outstanding performance	• The regulatory body conducts and publishes research on the continuing competence activities of registrants in an aggregated format. • The regulatory body conducts correlation studies with the continuing competence activities used by registrants and their roles and functions. • The regulatory body has examples of best practice that they promote and share with peers, governments and their registrants.

Superior performance	• In addition to meeting the requirements for adequate performance the body also delivers the following:
	  ○ The regulatory body uses the results of competence and conduct cases to issue guidance to registrants on topics that they may wish to consider as part of their continuing competence activities.
	  ○ The regulatory body considers the changing population demographics and strategic health and social policy documents to help shape guidance to registrants on how to meet continuing competence requirements.
	  ○ The continuing competence system is fully computerised with registrants being able to submit and upload their evidence via a web portal that can be reviewed by the registrant via a user name and password feature.

Adequate performance	• Legislation is in place and the regulatory body has developed, implemented and publicised process with which registrants must comply. • The regulatory body is able to identify those nurses that are in compliance with the required legislation. • The regulatory body takes systematic action against those nurses that do not comply with the required process.
Inadequate performance	• The legislation does not currently have provision for continuing competence assessment. • The legislation has provision for continuing competence assessment but this has not been implemented.

Performance Measurement Tools

There has also been much focus recently on the actual measuring of regulatory performance whether it be by the regulators themselves or by an external agency or government authority. A number of organisations have been engaged in developing tools for performance measurement or carrying out reviews of performance of regulatory authorities.

The National Council of State Boards of Nursing (NCSBN) has developed *A Regulatory Performance Measurement System for State and Territorial Boards of Nursing.* The 2004 version can be found at: www.ncsbn.org/Vol8_CORE_revised.pdf

The PSA in the United Kingdom carries out an annual review of the nine health and social care Regulatory Boards or Councils it oversees. PSA has also carried out a review specific to the United Kingdom Nursing and Midwifery Council and was also requested by the Nursing Council of New Zealand and the Medical Council of New Zealand to carry out reviews of their organisations.

The PSA report (2013a) for the nine health professions including nursing can be found at: www.professionalstandards.org.uk/docs/scrutiny-quality/performance-review-report-2012-13.pdf?sfvrsn=0

The report on the Nursing and Midwifery Council in the United Kingdom (2012b) can be found at: www.nmc-uk.org/Documents/120629%20CHRE%20Final%20Report%20for%20NMC%20strategic%20review.pdf

The report related to the Nursing Council of New Zealand (2012a) can be found at: www.professionalstandards.org.uk/docs/special-reviews-and-investigations/final-nursing-council-of-new-zealand-report.pdf?sfvrsn=0

The report related to the Medical Council of New Zealand (2010b) can be found at: www.professionalstandards.org.uk/docs/special-reviews-and-investigations/the-medical-council-of-new-zealand-performance-review-report-%28may-2010%29.pdf?sfvrsn=0

To inform its review process, the PSA (2013b) developed a set of standards in relation to measuring regulatory performance in liaison with the UK health professional regulators and other stakeholders including patients and the public. Standards for good regulation were identified under four broad headings:

• Setting and promoting guidance and standards for the profession(s)
• Setting standards for and quality assuring the provision of education and training
• Maintaining a register of professionals
• Taking action where a professional's fitness to practise may be impaired

Pages 114-124 of the above referenced 2013 PSA review of nine health professions in the UK includes a summary of these four areas as well as a detailed list of evidence that could be provided to inform a review.

The reports of these reviews, although specific to the United Kingdom and New Zealand, may assist in providing a benchmark for other regulators to consider when reviewing their own organisation's performance or when facing review by an external organisation.

Having performance indicators and measuring regulatory authority performance allows for national and international benchmarking and the tracking of performance over time. It is very important at this time for regulatory authorities to be able to communicate their effectiveness and efficiency and well as their impartiality to governments, media and the public. Abiding by a set of regulatory principles such as those discussed in Chapter One and having measurement, tracking and reporting systems in place as discussed in this chapter are ways to effectively demonstrate the regulatory authority's commitment to transparency, efficiency, fairness and accountability.

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- What evidence can your organisation provide to show you are meeting your objectives?
- Do you have a regulatory performance system in place?
- Which of the above dimensions are covered?
- How are they used?
- Use the information included in Chapter One and this chapter to develop a system or the review of performance measures you have in place for your regulatory organisation:
- Make a list of:
  - what you should measure;
  - how you should measure it (what data you will collect and use);
  - how often you should carry out measurement.
- Identify how will you analyse and use the data to benchmark and improve your organisation's performance.
- Identify your opportunities for improvement of your regulatory authority performance in the future.

Chapter 3: Regulatory Board Governance

Regulatory authorities are public organisations and instruments of government that have been given the privilege to regulate the profession in the interest of the public and are accountable to government and the public. This privilege can be taken away; therefore the governance, policy direction and performance of these organisations is extremely important.

In nursing regulation, governance systems will vary with the regulatory model being used including the degree of independence from government. The powers of the governance board of the regulatory authority will be determined by a variety of mechanisms and particularly by the enabling legislation. As well, regulatory governance systems evolve over time based on such factors as changing public priorities, external influences and other strategic choices.

In the preceding chapters we have spoken more broadly about regulation and high performing regulatory authorities but we will now move more specifically into discussing regulatory board governance. Although it is recognised that regulation occurs through many mechanisms including fully government-based regulation, the focus of the remaining chapters is more toward regulatory organisations that have been delegated the authority by government to carry out regulation and have a Board or Council in place to oversee and guide the fulfilment of their regulatory mandate. In these situations, Board members may either be elected or appointed or a combination of the two. The Board membership may consist totally of members of the profession or contain a mix of professional and public (lay) members but the key point is there is a Governing Board in place. For the purpose of this toolkit we will use the term 'Board members' but recognise that the stewards of the regulatory organisation may also be referred to as Council members or by a variety of other terms.

Governance is the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation's objectives are set, and provides the means of attaining those objectives and monitoring performance. Importantly, it defines where accountability lies throughout the organisation (H.M Treasury 2011, p. 9).

Good governance, which is central to the success of any organisation and essential to any high performing regulatory authority, has several characteristics. According to Oulton (2011) in a document developed for ICN on Board member competencies, good Board governance involves:
1. *Strategic Intent*
   - ✓ Being mission focused at all times
   - ✓ Governing and managing strategically, efficiently and effectively
   - ✓ Setting a clear long term financial strategy
   - ✓ Building strategic partnerships
   - ✓ Continuous development of the Board and staff

2. *Policy and Decision-making*
   - ✓ Participatory decision–making
   - ✓ Functioning as a team within the Board and with staff
   - ✓ Being results oriented and policy directed
   - ✓ Transparency in decision-making and implementing actions

3. *Communication and Accountability*
   - ✓ Being accountable for decisions and actions
   - ✓ Striving for consensus and speaking with one voice
   - ✓ Open communication and information sharing
   - ✓ Timely responsiveness to members
   - ✓ Able to recognise actual and perceived conflict of interests

4. *Evaluation and Improvement*
   - ✓ Ensuring compliance with all laws
   - ✓ Ensuring financial, human and material resources are sufficient and used appropriately
   - ✓ Having a workable structure in place
   - ✓ Regular monitoring and evaluation

5. *Personal Commitment and Ethical Behaviour, possessing the competencies required to fulfil the role of Board member*
   - ✓ Disclosing any actual or potential conflicts of interest
   - ✓ Actively identifying any knowledge gaps in governance or policy processes and seeking to remedy these.

Another organisation, Board Source (2005) which is focused on non-profit governance, identifies the following 12 principles of governance that power exceptional Boards:

1. Constructive Partnerships – building a partnership with the Chief Executive through trust, candour, respect and honest communication
2. Mission Driven – treating questions of mission, vision and core values not as exercises to be done once but as statements of crucial importance to be drilled down and folded into deliberations
3. Strategic Thinking - continuously engaging in strategic thinking
4. Culture of Inquiry – institutionalising a culture of enquiry, mutual respect and constructive debate
5. Independent Mindedness – applying rigorous conflict of interest policies
6. Ethos of Transparency – providing access to appropriate and accurate information regarding finances, operations and results
7. Compliance with Integrity – promoting strong ethical values and establishing active mechanisms for oversight
8. Sustaining Resources – linking budgeting to strategic planning, approving activities that can realistically be financed with existing or attainable resources
9. Results Oriented – measuring progress and gauging efficiency, effectiveness and impact while also assessing the quality of services
10. Intentional Board Practices - investing in structure and practices that can be thoughtfully adapted to changing circumstances
11. Continuous Learning – embedding learning opportunities into routine governance work
12. Revitalisation – planned turnover, thoughtful recruitment

It is important to note that Regulatory Boards have two main roles, a corporate role shared by all Boards and a role specific to professional regulation (Jhpiego n.d.a). In addition to their corporate responsibilities, Regulatory Boards are accountable for fulfilling their regulatory mandate related to public protection. Regulatory Boards establish and enforce requirements

and standards for the education, licensure and ongoing practice of nurses and take action when nurses are not meeting standards so they have significant responsibility and impact.

> **!** Regulatory Boards have two main roles, a corporate role shared by all Boards and a role specific to professional regulation and public protection. Decisions by the Regulatory Board affect individual nurses, the profession and the public.

The Board, which is charged with the stewardship of the regulatory authority, needs to ensure the organisation is effective, efficient, fair and transparent and protects the public.. In order to do this, it is important that Board members have the necessary skill, expertise, knowledge and commitment and that the Board as a whole has the necessary skill, diversity and experience to make effective policy decisions and to steward the organisation responsibly.

As identified by ICN (2012), a Regulatory Board at all times needs to:

Act honestly and in good faith
This duty requires a member of a regulatory authority to act in the best interests of the authority having regard to the authority's objectives which invariably will be to protect the public and maintain the good standing of the profession. The duty also requires that the member act honestly at all times.

Exercise powers for proper purpose
Members must exercise the powers of the nurse regulatory authority for the purpose intended by the enabling legislation or the constitution of the authority and not be motivated by any ulterior purpose.

Do not misuse information or position
Members must not misuse their position, nor make improper use of information acquired in the capacity as a representative of the regulatory authority to gain, either directly or indirectly, an advantage for themselves or any other person or to take away from the authority achieving its stated objectives.

Exercise care and diligence
Members must exercise the degree of care and diligence that a reasonable person in a like position would exercise with a view to achieving the authority's objectives. This requires each member to become familiar with the powers and functions of the authority including all policies publicly put forward by the authority.

Disclose conflicts of interest
A member of a nurse regulatory authority should be vigilant in ensuring that any decision in which they participate is one in which they do not have either a direct or indirect interest, whether financial or otherwise, or may be perceived to have such a conflict of interest. If any such conflict arises, the member should disclose the nature of the interest, absent themselves during any deliberation and not take part in any decision in relation to the matter. The minutes of meeting of the nurse regulatory authority should reflect this process. See Chapter Six for more information on conflict of interest.

When considering Regulatory Boards in particular, the principles of accountability and transparency need to be highlighted. The goals of regulatory accountability must be connected to the overarching objective of public protection. In being accountable, regulatory authorities are answerable to the public for professional standards and ethics. Accountability is therefore a core principle of Regulatory Board governance and without clear accountability good governance is impossible.

Regulatory Boards are accountable to many players: they are accountable to government and sometimes to oversight bodies; they are accountable to registrants; and, most importantly, they are accountable to the public. As well, they are often held publicly accountable and frequently commented on by the media.

In addition to accountability, the organisation should be committed to openness and transparency and should communicate clearly with stakeholders in plain language, making information widely available and consulting thoroughly. As statutory bodies working in the public interest, Regulatory Boards should strive for exemplary transparency. Increasingly, with Regulatory Boards, we are seeing open Board meetings as well as publication of decisions and meeting minutes in the interest of transparency.

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- Do you have a list of expectations of the Board as a whole, and individual Board members, in place?
- If so, compare and contrast it to the elements described above - Are there gaps? Are there additional expectations/competencies required of Board members in your organisation that are not covered in the above?

Role of Board, Committees and Chair

The Board plays a key role in:
- Setting strategy and policy for the organisation
- Ensuring the organisation fulfils its statutory duties and complies with relevant legislation
- Providing organisational oversight including regarding its financial health
- Ensuring adequate reporting systems, internal controls and risk management
- Ensuring a high performing Chief Executive[2] if there is a Chief Executive in place

The College of Registered Nurses in British Columbia, Canada (n.d) identifies the functions of the Board fall under three areas, statutory, governance and financial as follows:

Statutory
Under the Health Professions Act, the Board governs, controls and administers the affairs of the College. The Act also provides for the Board to establish bylaws.

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[2] The Chief Executive of a regulatory organisation may also be referred to as the Registrar, Chief Executive Officer (CEO), Executive Director or by other terms. In some cases the person carries the two titles of Chief Executive and Registrar. For the purpose of this toolkit the term Chief Executive will be used.

The College Bylaws require:
- o The Board to annually approve an operating expense and revenue budget, appoint the auditor and hold an annual general meeting to report on the financial statements; present the report of the Board; and the report of the auditor, if any.
- o Board member involvement in many of the College's statutory committees.

Governance

There are three main areas of activity for the Board in the context of its governance function:
- o Strategic planning;
- o Making decisions at a policy or direction-setting level; and
- o Monitoring the progress of Board-approved decisions.

Financial
- o Exercising appropriate care.
- o Allocation of resources through financial planning, budgeting and management.
- o Reviewing the financial statements at Board meetings.

CRNBC goes on to identify, that the Board has a fiduciary duty to registrants to use their money responsibly and wisely in carrying out the functions of profession-led regulation.
CRNBC: www.crnbc.ca/CRNBC/Board/Pages/Default.aspx

In addition to the functions described above, Boards may have varying degrees of engagement in the regulatory decisions about individual registrants or educational programme approval. They may carry out this role as a whole or often they delegate this work to committees that report to the Board.

Related Board responsibilities could include:
- Decision making on disciplinary action
- Approval of education programmes
- Deciding matters of eligibility for licensure
- Recommending changes to practice acts and enacting rules and polices
- Selecting individuals to participate in statutory committees
- Review of other key reports related to their regulatory mandate.

It is important that Board members have a clear understanding of their roles and responsibilities and personal accountability. They should understand what they are required to achieve, have the capacity to achieve it and be held accountable for their performance. Board members need to be transparent, objective, impartial and fair in their deliberations and actions. They need to speak with one voice and vision and be aligned with the public interest.

The public interest can be a slippery concept, and can be used to justify decisions where, consciously or not, other motivations and interests are at play. The Board should regularly review the way that the public interest is used to justify decision-making in its own work and be clear about what it understands to be its public interest purpose (PSA 2013b).

It is recognised that some regulatory authorities are run entirely on volunteers due to early stages of development or lack of financing and resources. However, in more developed and better-resourced regulatory frameworks, the regulatory authority will also have a Chief Executive or Registrar and staff to carry out the direction of the Board. In this case, it also needs to be clear that there is a difference between the functions undertaken by the Board and

by management in an organisation. In nursing regulation it is the function of the Board that determines its form, not the function of the regulator, which may vary according to the details of its legislation (PSA 2011). The Board's role is to ask the "what" and "why" questions and not the "how". It is the Chief Executive's and staff's responsibility to set the "how" agenda. The Board sets the strategic plan with a clear set of objectives. It is the Chief Executive and staff's responsibility to enact the strategic plan, set up systems to meet the objectives and carry out the day-to-day functions of the regulatory authority.

Committees
Committees are a useful mechanism for the Board to enhance its effectiveness. A committee is often put in place to do pre-work for or make recommendations to the Board. A Board may delegate certain aspects of its authority to committees but the Board itself is ultimately responsible for maintaining the corporate functioning of the regulatory authority and upholding its regulatory mandate.

There may be statutory and/or non-statutory committees. Whether statutory or not, committees should have Terms of Reference and clear written guidelines on how they will report to the Board and interact with staff. It also needs to be clear for the committee and others, including the Board, whether the committee has the power to make decisions and approve proposals or whether its role is to report to and make recommendations to the Board.

Committee membership usually includes some members from the Board itself and often others with skills and expertise in the area of focus of the committee. When appointing Board members to committees, there should be a solid match between the interests, skills and preferences of the individual Board member and the requirements and challenges of the committee they join (The Center for Public Skills Training n.d.). Some committees, for example those addressing professional conduct review or eligibility for licensure, may require significant time commitment both in relation to volume of meeting materials to review in advance and frequency and length of meetings. Therefore, availability for active participation in the committee needs to be given consideration before deciding on the appropriate Board members for each committee.

!	• A Board may delegate certain aspects of its authority to committees but the Board is ultimately responsible for the corporate functioning of the regulatory authority and ensuring it is upholding its regulatory mandate. • Committees are a useful mechanism for the Board to enhance its effectiveness. Committees can do pre-work or make recommendations to the Board. • When appointing Board members to committees, there should be a solid match between the interests, skills and preferences of the individual Board member and the requirements and challenges of the committee they join.

Committees usually address specific areas of the regulatory authority's work. Some committees are more general in nature such as Executive Committee or Finance and Budget Committee and others address the regulatory mandate of the organisation such as aspects related to registration, education programme approval or professional conduct review.

For example, the South African Nursing Council has the following committees in place:
www.sanc.co.za/aboutmem.htm#Office%20Bearers

- Executive Committee
- Accreditation Committee
- Communication and Liaison Committee
- Education Committee
- Finance Committee
- Human Resources Committee
- Impairment Committee
- Laws, Practise and Standards Committee
- Preliminary Investigating Committee
- Professional Conduct Committee

The College of Nurses of Ontario in Canada has the following statutory committees in place:
www.cno.org/en/what-is-cno/councils-and-committees/committee/
- Discipline Committee
- Executive Committee
- Finance Committee
- Fitness to Practise Committee
- Inquiries, Complaints and Reports Committee
- Quality Assurance Committee

Committees can assist the Board by more in-depthly exploring an issue and reporting or making recommendations to the Board thus minimising the time the full Board must devote to the issue and maximising the effectiveness of the full Board (Thornton n.d.).

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- Carry out a mapping of the committees your organisation has in place.
- Do they have clear Terms of Reference and guidelines and is there consistency across committees?
- How are Board members selected to participate in committees?
- What mechanisms are in place for reporting back to the Board?

Role of Chair[3]
All Board members have a key role to play in the stewardship of the organisation. However the Board Chair has additional roles and responsibilities related to facilitating Board processes including setting strategic direction for the organisation, working closely with the Chief Executive and being the spokesperson for the organisation. In addition, the Chair of a regulatory authority also has an important part to play in ensuring that the Board is clear about what it means to be working in the public interest.

The Chair leads the Board in deciding the long term strategic goals for the organisation. The Chair sets the agenda and leads the debate in Board meetings so as to ensure that decisions are made effectively and on the basis of thorough and well-reasoned information and dialogue. Responsibilities of the Chair include making sure Board members comply with any Code of

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[3] The leader of the Regulatory Board or Council may also hold the title and be referred to as the President, particularly if this is an elected role by registrants of the regulatory authority. There may also be other terms used for this role. For the purpose of the toolkit we will use the term Board Chair or Chair.

Conduct that is in place (see Chapter Six) and ensuring the efficient and orderly conduct of the meetings. This includes, if necessary, deciding whether a Board member who is behaving improperly or obstructing the conduct of the business of the meeting must withdraw from the meeting. Another key role of the Chair is enabling all Board members to play an active role in Board deliberations and ensuring the Board works effectively as a team.

Importantly as well, the Chair is usually the spokesperson for the organisation and represents the organisation with other stakeholders in the country and internationally, including members of the public, nurses, government, educators and with the media. The Chair should also be working to build strong relationships with other regulatory authorities within the country and internationally. As the spokesperson in the public arena, the person in the Chair role therefore must possess the personal credibility, leadership behaviours, competencies and communication skills necessary to effectively fulfil the role.

In summary, the duties and functions of the Chair usually are to:
- chair all meetings of the Board
- encourage open, informed and respectful debate amongst Board members
- ensure that the Board is open and transparent in its dealings and accountable for its decisions
- monitor and develop Board members' performance
- lead the communication of the Board's strategy to the registrants and to the public
- be responsible, with the Chief Executive, for the good governance of the organisation
- preside at all general assembly meetings of the regulatory authority
- represent the views of the organisation at meetings with governments, leaders of other professions, other stakeholders and with the media
- represent the organisation at other external meetings, including internationally.

The Chair may be voted in by registrants or selected from within the Board by Board members. However the Chair is selected, there should be clear policies and procedures in place which address all aspects of selection of the person to fill this key role. Although common practice is for the Chair to be a member of the profession, this is not always the case. We are now sometimes seeing public representatives assuming the Chair role. Whether the Chair is a member of the profession or a public representative there are certain competencies, skills and traits required to fulfil this role.

The PSA (2012) in its review of the Nursing and Midwifery Council (NMC) of the United Kingdom identifies that the Chair of the NMC should possess:
- Strategic vision and understanding
- Intellect and analytic thinking
- Highly effective interpersonal skills
- Good skills in communicating, listening and responding
- Good standing and personal authority
- Diplomacy and political awareness
- The ability to be an effective Chair of meetings
- The ability to hold the Chief Executive Officer (CEO) to account
- The ability to support and to guide the Council.

Relationship of Board members with the Chief Executive and staff

As previously noted, due to early stages of development or insufficient resources, not all regulatory authorities with an independent Board will have staff, including a Chief Executive to manage the affairs of the regulator authority. However, when there are staff in place, it needs to be clear that the Board is responsible for organisational oversight and policy setting, and should delegate to the Chief Executive responsibility for managing operations, resources and staff.

The effectiveness of the Board, the Chair and the Chief Executive are interdependent. The Chief Executive may be hired by the Board itself, or in the case where regulatory authority is either directly situated within government or has close linkages with and oversight by government, the Chief Executive may be appointed directly by government. Whether the Chief Executive is a Board or government employee, the Board needs to have a role in his/her performance review and monitoring (Jhpiego n.d.b).

The relationship between the Chair, Board and Chief Executive is fundamental to success. All need good interpersonal skills, to appreciate each other's roles and to work in partnership. The Chair needs to lead and develop the Board in forming the organisation's strategic direction, prioritising the organisation's resources and enabling a culture in which the Chief Executive and staff can succeed. The Chief Executive needs to lead and develop the staff team. They have a shared responsibility for the performance of the organisation (PSA, 2013b, p. 6).

The Chief Executive plays a key role as chief advisor to the Chair and the Board and manages the affairs of the regulatory authority on its behalf. The Chief Executive, along with the Chair, is normally an official spokesperson for the Regulatory Authority (Jhpiego n.d.b).

The Chief Executive hires the staff who work under his/her direction. The staff make sure the board has the information needed to fulfil its mandate. The staff carry out the day-to-day work of the regulatory authority with respect to the regulation of the profession following the guidelines and policy set by the Board and legal requirements. Staff are also the daily link to nurses and other stakeholders (Jhpiego,n.d.b).

Chapter 4: Board Composition

The success of an organisation and its mission is inextricably tied to the strength of its leadership and leadership resources (NCSBN 2011). It is essential to ensure that Board members have the appropriate knowledge and skills for their roles and that the Board as a whole has the necessary skills and experience to carry out its responsibilities. When considering who should be on a Board the focus should be on the competencies required for that Board while also recognising that diversity in the Board expands the thinking as well as the options and solutions put forward.

This chapter will explore such issues as composition of the Board in terms of professional and public members, tenure and Board size.

Composition of Board

As previously noted Regulatory Boards may consist entirely of members of the profession or contain a mix of registrant and public members. Board members can either be elected by the members of the profession or selected through a process of nomination and government appointment. Often public members are appointed by government and registrant members are elected although this is not always the case, as in some cases, all Regulatory Board members are appointed by government. For example, the United Kingdom has chosen to have fully appointed Councils or Boards for both public and professional members of the health professions. Reasons given are to ensure the independence of Council/Board members and that the Council/Board as a whole has the skill set for effective governance (PSA 2011).

Traditionally, most nursing Regulatory Boards consisted primarily of members of the profession and, in addition, could include representatives from government ministries or other health care professions such as physicians. The addition of public members to Boards in recent decades came in response to increasing public concerns that Boards composed entirely of members of the profession may be more attuned to the interests of the profession than to those of the public.

Public members, it was widely felt, would increase public confidence in the Boards, would affirm the Board's focus on public protection and would ensure openness and transparency. As well, they could add additional expertise that may not be found in registrant Board members such as legal, financial or business expertise (Citizen Advocacy Center [CAC] 2009.). In recent years, public members compose a greater percentage of Regulatory Boards with some Boards now being 50% or more public representatives.

Registrant and public members come to a Board with different preparation and life experiences. Their contributions to the Board's deliberations are complementary. Registrant members bring to their role knowledge of the technical and clinical issues related to the profession, are attuned to the dynamics of professional practice and to issues of special concern to the profession and they draw on this expertise in various ways when they perform their Board roles (CAC 2009).

Public members contribute a broader consumer perspective and sensitivity to the implications of Board decisions for members of the public, including members of culturally diverse

communities. By injecting a consumer or client perspective into the conversation, public members can help registrant members appreciate the issues, concerns and sensitivities of the broader public and help keep the Board's focus on its statutory mission. As well, by their very presence, public members help the public gain confidence that the Regulatory Board is focused on the people's business rather than the interests of the profession being regulated so therefore can enhance public confidence in the Board and in the regulatory process (CAC, 2009)

Tenure

Terms of office should be specified for both registrant and public members including any specifications regarding eligibility for reappointment or re-election. Currently on Regulatory Boards, there is significant variety in Board terms including in relation to options for serving more than one term of office.

When deciding on the tenure of Board members, it is important to balance the benefits of continuity and experience of the Board, particularly in situations where there are no or few staff for the regulatory authority, against the opportunity to enhance performance through the introduction of greater experience, diversity and new thinking. Staggered terms avoiding all Board members leaving the Board at once is often a valuable practice as it allows for continuity within the Board as a whole and results in a combination of experienced and new Board members on each Board.

Board Size

There is a general trend in both the public and private sectors to reduce Board size with many moving toward between 8 to 12 member Boards. Although many nursing Regulatory Boards continue to be large and representational (representing specific regions of the country and/or different areas of practice), there is also a trend in nursing regulation to move toward smaller Boards. According to the Secretary of State United Kingdom (2007) there is a move away from the model of large representative bodies that seek to include all possible professional, clinical, trades union, lay, educational, employer and geographical interests in Regulatory Boards.

For example, the Nursing and Midwifery Council of Ghana is moving from a Council of 21 to 11. They are also introducing public representatives and removing the positions of physician representatives from the Council. The fairly recently formed United Arab Emirates Nursing and Midwifery Council has just 12 Council members and the Nursing and Midwifery Board of Australia which was formed in 2010, when national versus state-based registration was introduced in that country, has 13 Council members.

There are varying opinions in relation to optimal Board size but, as previously noted, many are leaning toward smaller Boards. The Secretary of State United Kingdom (2007) in the white paper "Trust Assurance and Safety" recommended between 9 to15 members for Regulatory Boards or Councils. In 2011, the PSA carried out a review of the literature and current practices as part of an exploration of Board size and effectiveness and put forward that 8-12 members could be associated with greater effectiveness. They indicated that too large Boards can make decision making unwieldy and can be less effective than smaller ones because they suffer from co-ordination, communication and motivation problems. They also found that it appears that smaller sized groups are able to communicate more effectively and reach

decisions more quickly than larger ones. In addition, they found that smaller Boards are less likely to suffer from fragmentation and clique-formation and more likely to develop a culture of inclusiveness than their larger counterparts. Finally, since smaller Boards are challenged to involve themselves in issues that should be delegated to the Executive, a smaller size helps them to focus their efforts on core governance issues (PSA 2011, p. 10).

Smaller Board sizes are more easily able to create an environment with active participation in meetings. However too small Boards may cause challenges in being able to meet the Board's mandate due to workload issues and lack of breadth of views. When considering Board size, it is best to determine and adjust the optimal Board size by assessing their responsibilities and organisational needs. It is important to ensure that there are sufficient competencies and skill mix collectively within the Board while not having a Board so large that it is ineffective.

? What is the Board size of your organisation?
- Do you feel it is optimal, too large or too small?
- If the Board size needs adjusting, what are the steps that need to be put in place?
- Are legislative changes required?
- Will there be challenges in changing Board size, particularly if you are moving from a larger representational Board of regions or areas of practice to a smaller Board and if so, how will you address them?

Chapter 5: Board Member Skills and Competencies

Cornforth, as cited by PSA (2011), examined the contribution that various aspects of Board structure, processes and inputs make to the effectiveness of Boards and found that one of the most important variables was whether Boards had the right mix of skills, experience and competencies. Recognising the importance of recruiting Board members who collectively display the right mix of skills and competencies, PSA points out that many governing bodies and their nominations committees are choosing to draw up a Board member skills matrix. They match existing Board members against a list of required competencies and thereby identify any gaps or weaknesses that need to be filled (PSA 2011).

What are the right skill sets or competencies for Board members? The following list of core competencies and behaviours have been adapted from those used in relation to the ICN Board (Oulton 2011).

Characteristic	Personal Competency
Accountability	• Demonstrates accountability in actions and decisions. • Prepares in advance for meetings.
Integrity	• Complies with Board Code of Conduct policy and informs the President or CEO of any personal or other activity that could be called into question. • Maintains confidentiality as and when required. • Acts ethically and honestly.
Collaboration	• Works collaboratively with Board, staff and others. • Treats Board members, staff and stakeholders with respect. • Shares personal expertise. • Networks.
Commitment	• Participates fully in discussions and decision–making, presenting opinions clearly and constructively. • Makes self available for organisation work outside of planned meetings. • Attends Board and committee meetings regularly.
Decision making and judgment	• Demonstrates well-developed conceptual thinking and problem-solving skills and sound decision-making. • Ably identifies, synthesizes and presents evidence.
Personal Development	• Takes responsibility for own development and assists others. • Participates in planned educational and special activities. • Employs effective interpersonal and communication skills in all interactions.
Communication and interpersonal relations	• Is culturally competent and enjoys working with diverse cultures.

Characteristic	Governance Competency
Strategic	• Understands, supports and provides input concerning the organisation's mission, vision and strategic directions. • Keeps up to date on trends that might affect the organisation and regulation of the profession. • Focuses on vision and results rather than process and detail.
Informed	• Understands the difference between the role of management and governance. • Is familiar with organisation's basic governance documents.
Stewardship	• Understands and fully supports organisation's policy and programmes. • Understands members' fiduciary duties, including risk protection. • Is familiar with resource development and utilisation and with organisational risk management.
Team Player	• Understands and accepts that the Board speaks with one voice. • Seeks consensus and works well in coalitions.
Advocate	• Ably represents the organisation on request and in general serves as an ambassador and advocate of the organisation.

There are other sets of Board competencies which have been developed. For example, the following are the essential competencies that NCSBN identified for its Board members (2011):

Essential Competencies

Self-knowledge
- Honesty, integrity and courage
- Ability to deal with ambiguity and complexity
- Flexibility and adaptability
- Cultural competence: the ability to work effectively cross culturally
- Interpersonal and communication effectiveness

Governance Leadership
- Stewardship, selecting service to the greater good over self-interest
- Strategic and futuristic thinking
- Fiduciary knowledge
- Evidence-based decision making
- Consensus building through strategic alliances, networks and partnerships
- Effective change and risk management, including accountability and transparency
- Diplomatic and politically savvy relationship building
- Creativity and innovation

There are additional competencies and requirements for the Chair of the Board. These include:

- Being able to take responsibility for the good governance of the Board
- Skills in strategic thinking, policy development, advocacy, long term planning and priority setting
- Being an experienced and skilled Chair of meetings which includes encouraging active participation of all Board members and managing time effectively
- Ensuring that appropriate induction and mentoring of newly elected/appointed members of the Board are in place
- Keeping the discussion on topic and ensuring decisions of the Board are clear
- Possessing strong facilitation, conflict resolution and consensus building skills
- Capacity to be articulate, confident and competent in presentations and working with the media
- Creating a climate where feedback on performance is given and received so as to continually improve personal, Board and organisational performance
- An ability to promote effective working relationships between the Board and staff.

Other factors, in addition to experience and competencies, need to be considered in relation to Board appointments. For example, a potential Board member may possess the experience and skill set that could contribute to the Board work, however, the possibility of over-commitment to numerous Board and panel memberships also needs to be considered. Those considering nominations or appointing Board members need to be careful about putting forward or appointing members who have multiple Board responsibilities as, in these situations, there is a risk of these individuals not being able to participate regularly in Board meetings or contribute diligently to the processes of scrutiny and decision making. There is also the potential that time will be wasted in meetings bringing members up to date with the issue in hand (PSA 2013b).

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- Do you have an agreed set of competencies for your Board?
- If you do, review those competencies against the content of this chapter and consider if any revisions are required.
- If you do not have a set of competencies in place, develop a list of Board competencies considering the context in your jurisdiction and what will be required of individual Board members and the Board as a whole to meet your regulatory mandate and efficiently govern your organisation.

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Chapter 6: Codes of Conduct and Conflict of Interest

The prime purpose of the regulation of health professionals is to protect the public. It is clear therefore that Regulatory Boards, as the governing bodies of professional regulatory authorities, have an important role to play in public protection. Therefore it is good practice to establish and enforce clearly articulated Codes of Conduct and Conflict of Interest policies for Board members for a number of reasons. Board members when performing their roles must act in the public interest at all times versus the professional or personal interest. In addition, Board members engage in challenging and often contentious decision making in Board meetings. Therefore clear guidelines about acceptable and unacceptable behaviour and practices are useful to have in place.

As well, Board members often have access to confidential and sensitive information. Any expectations around confidentiality related to materials and information received in carrying out Board duties need to be clearly articulated. Organisational expectations around confidentiality and/or around openness and transparency can differ depending on the context and culture of the organisation, jurisdiction or country and need to be made very clear to Board members. There may also be legal requirements of which they need to be aware in relation to confidentiality of information on registrants and/or members of the public or related to public access to information. Board members need to have full and detailed information and guidelines on these requirements and expectations regarding conduct, confidentiality and conflict of interest.

Codes of Conduct

Many Boards, in order to make more clear the expectations of conduct of Board members both inside and outside of Board meetings, are creating Codes of Conduct that may nor may not include Conflict of Interest polices. In some situations, due to the specific and important nature of addressing conflict of interest, policies related to this area are addressed separately from the Code of Conduct.

It is the duty of each Board member to be familiar with the Code of Conduct and the rules on handling conflicts of interests that the Board has in place. These are key documents in relation to ensuring the efficiency, integrity and transparency of the Board and in promoting a high functioning Board. It may be useful to have Board members sign that they agree to uphold the Code of Conduct and Conflict of Interest Policy.

Codes of Conduct for Regulatory Boards usually address:
- Expectations regarding upholding the public interest and not professional or personal interest
- Explicitly pointing out that even if Board members are elected that they are not representing their region or area of practice but at all times are expected to be acting in the interest of the public
- The expected behaviours of Board members both inside and outside Board meetings such as being prepared, respectful, attentive, objective and speaking with one voice which includes accepting and upholding decisions made by the Board
- Guidelines around confidentiality or public access to Board materials, discussions, voting and decision making

- Expectations around attendance at Board and committee meetings including whether replacements are allowed
- Expectations regarding external engagements, engaging with media and with social media
- Conflict of interest either in the Code of Conduct or by making reference to a separate policy addressing actual, perceived or potential conflict of interest
- Repercussions for breaches of the Code which could include up to suspension or removal from the Board.

The Nursing and Midwifery Council in the United Kingdom has a Code of Conduct available at the following website:

www.nmc-uk.org/Documents/CouncilPapersAndDocuments/Council2012/Code%20of%20conduct%20for%20members%20of%20Council%202012.pdf

This Code addresses such points as corporate responsibilities; the duties of individual members; the principles of public life which Council members are expected to uphold; and the repercussions of breaches of the Code.

The College of Registered Nurses of Nova Scotia also has a Code of Conduct posted on their website: http://crnns.ca/documents/CouncilCodeofConductPolicy3_13.pdf

This Code addresses such points as conflict of interest, maintaining Council decision integrity, confidentiality and expectations for preparation of and attendance at meetings.

Conflict of Interest

Conflict of interest inevitably arises from time to time. Conflicts of interests can be real, perceived or potential and can be related to professional, personal or financial matters. Real, perceived or potential conflicts of interest can and should be identified by the Board members themselves. However, they may also be noted by another Board member or someone external to the Board. No matter what the source of the identification, in order to maintain the integrity and transparency of the Board, conflicts of interest must be disclosed and dealt with.

A member of a Board of a nurse regulatory authority should be vigilant in ensuring that any decision in which they participate is one in which they do not have either a direct or indirect interest, whether financial or otherwise, or that may be perceived to have such a conflict of interest. Where genuine doubt exists regarding whether there may be a conflict of interest, individuals should err on the side of caution and declare a potential conflict of interest.

As noted, if any such potential conflict arises, the member should disclose the nature of the interest, and if deemed appropriate, absent themselves during any deliberation and not take part in any decision in relation to the matter. The minutes of meeting of the nurse regulatory authority should reflect this process (ICN 2012).

An example of how a conflict of interest can be declared in the minutes is as follows:
The following conflict of interest was declared:
(subject)

… declared a conflict of interest and did not participate in discussion and/or voting on this matter.

A Board member of a nurse regulatory authority may be appointed through a nursing organisation of which they are also a member. They may also be in a leadership capacity in another organisation with interests that may conflict in general or with respect to a specific issue or policy of the regulatory authority (NCSBN n.d.). A Conflict of Interest policy should clearly state that a member of a nurse regulatory authority has an overriding and predominate duty to serve, on every occasion upon which a conflict may arise, the interest of the authority and not the organisation which nominated the member. If the Board member considers they are unable to properly fulfil this duty in relation to any matter that comes before the nurse regulatory authority, then the member should disqualify themselves from any participation in the decision making process regarding that matter.

Barnes (2012) identified that there are two different types of conflict of interest - duty versus interest and duty versus duty. These are further elaborated on below.

Duty versus interest
- The Board member cannot allow personal interests to interfere with exercise of duties.
- The Board member must disclose financial, professional or personal interests, other employment, business interests, professional associations, family relationships that may be potential, perceived or real conflicts of interest.
- Disclosures should be recorded in the minutes of meeting.
- **Examples:**
  (1) Not decide on action regarding a registrant known to the person.
  (2) Not decide on contract to be awarded where he/she has a pecuniary interest.

Duty versus duty
- The Board member must not use his/her position to serve the group that elected the person.
- Constant vigilance is required to ensure that there is no compromise of the integrity and independence necessary to fulfil his/her duties as a Board member.
- The Board member must not allow himself/herself to be compromised by looking to the interests of the group which appointed him or her rather than to the interests for which the Board exists.

Establishing and adhering to Conflict of Interest policies is a key part of a Board's commitment to acting in the public interest. In the interest of transparency and maintaining and enhancing public confidence, it is increasingly common to make a register of any interests declared publicly available.

> **!** Any breaches related to conflict of interest can severely impact public confidence in the Board, the regulatory authority and the profession.

Chapter 7: Induction/Orientation and Continuous Development of Board

Boards play a pivotal role in the functioning of a regulatory authority; therefore it is important to invest time and resources in Board development. Good Boards don't just happen. They take care, thought, planning and development. Board development includes identifying knowledge/expertise gaps in the Board, carrying out effective recruitment, providing induction and continuing education, conducting regular evaluation and rotating members of the Board (Jhpiego n.d.c). Chapters Four and Five addressed aspects related to Board recruitment and rotation and this chapter will address induction and continuous development of the Board.

> **!** Boards play a pivotal role in the functioning of a regulatory authority; therefore it is important to invest time and resources in Board development.

A sound and effective induction or orientation process is invaluable and ultimately cost-effective as it helps lead to a high functioning Board. Providing Board members with appropriate induction is a fundamental service as it prepares Board members for the work ahead and sends a message that support is available. It also is a good team building activity and ensures that Board members are operating from the same page.

Providing Board members with the information they need to execute their duties is essential to fostering an environment where Board members can effectively represent the public interest and be of most value to the organisation. Board members need to be well grounded in why the public requires protection and have an understanding of the inherent vulnerability and power differentials of patients and health care professionals.

Before commencing an induction programme, it is important to determine the essential requirements to enable a new Board member to function effectively and efficiently. It takes time and effort to plan and conduct a quality Board member induction programme and the induction requires repeating every time a new Board member arrives. It is often useful to include all Board members, even experienced Board members, in the induction as it reinforces key points required for their role.

Providing necessary Board induction can be particularly challenging for low resourced regulatory authorities that are fully or primarily run by volunteers. It may also be challenging for well-resourced organisations that may not have the required in-house expertise to develop and provide a quality, accurate and complete induction programme.

The induction session is meant to cover, as much as possible, everything a new Board member needs to know about serving the organisation. The Chair and the Chief Executive typically facilitate the induction session and it is an excellent opportunity for the Chair and Chief Executive to display leadership. By chairing the induction session, the Chair brings clarity to his/her role and authority. The Chief Executive knows the organisation best so is usually the

most suitable person to introduce the organisation and provide an overview of its purpose, mandate and mission and structure.
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The induction usually includes:
- a formal welcome to the new Board members
- an overview of the organisation, including its mandate, mission and values
- information on current strategies and priorities
- information on Board governance policies and Board meeting procedures
- information on the workload and expectations of Board members including attendance at meetings
- an overview of the role and function of the Board including an explanation of the Board's jurisdiction, powers and functions and duties
- an overview of the Board Resource Manual (see below)
- information on how to get items on the Board meeting agenda
- information on key performance indicators for Board members if in place
- an overview of the Board Code of Conduct and Conflict of Interest policy if in place.

In addition for a Regulatory Board, information needs to be provided on:

- the responsibilities of individual Board members and the Board as a whole in meeting the regulatory mandate of the organisation
- legal issues, applicable laws and statutory responsibility
- participation in statutory committees
- any specifics regarding the role Board members play in decision making related to eligibility for licensure, discipline decisions, approval of education programmes, recommending changes to regulations and practice acts and any other key regulatory activities.

It needs to be recognised that induction programmes cannot be one size fits all for all Board members and that there may be specific informational needs based on the background of the Board members. For example, public representatives may need more information to better understand the profession and expectations of professional nursing practice whereas nurse members may not have had previous experience on Boards and may need more information on roles and expectations of Board members, Board functioning, how Board meetings are carried out (e.g. any rules of order).

It is advisable and good practice for Board members to be provided with a detailed Board Resource Manual that can be used as an initial and long term reference that clearly articulates in writing the expectations of them as Board members and the rules by which they need to abide. Board resource manuals enhance effectiveness of Board members. A Board Resource Manual should include at least the following documents:

- Information on the regulatory role of the Board members, their obligation to act at all times in the public interest and their legal authority and responsibility
- Overview of constitution, by-laws and any relevant legislation to carrying out the Board role
- Copy of any policies that address governance issues and ground rules such as duties of Board members, Codes of Conduct, Conflict of Interest polices, procedural policies and information on Board performance management

- A thorough description of the organisation's mission, goals, values, programmes and services
- Copy of the organisation's strategic plan
- Copy of the most recent report from the Organisation/Board, e.g. annual report.
- Fiduciary responsibilities of Board members including polices re per diems and other forms of compensation
- The current budget and last audited financial statements for the organisation
- Current Board profile – who is on the Board and brief information on their background to provide an overview of individual and collective skills on the Board
- Information on committees, and expectations and opportunities for Board participation
- Copies of recent Board agendas and minutes
- Information on upcoming Board meeting schedule, administrative procedures, financial information and how to get matters on the agenda at Board meetings.

In addition to the Board induction process and the Board Resource Manual, it may be useful to consider assigning an experienced Board member to act as a "mentor" to help orient and foster development of a new Board member. It is also useful to involve new members in Board activities such as committees as soon as possible by asking new members to put their names forward for committee membership.

It is necessary to recognise as well that the induction is not just a one-time event. At each meeting the Chair needs to reinforce the Board's role and responsibilities and to continually support them in providing effective governance. It may also be useful to carry out a regular educational assessment to determine the information needs of both individual Board members and the Board as a whole and organise educational sessions to meet these needs.

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- Do you have a Board induction programme in place? If so, does it address the contents noted above, re what to include in an induction programme? Consider if there are any gaps in your induction programmes and how you would best address them.
- Do you do an assessment in advance of the induction to assess learning needs?
- Do you reinforce learning by including new and continuing Board members in the induction programme? If not, consider whether this may be a good practice to introduce a mechanism to reinforce learning and understanding of roles among all Board members.
- Review the Terms of Reference and guidelines regarding committee participation to determine if they are clear and if there is consistency across committees.
- If not already in place, design and plan an induction programmes for Board members including providing a resource manual addressing the above and any other learning needs identified.

Chapter 8: Board Meetings

Although Board members contribute to the work of the regulatory authority throughout the year, Board meetings are critical times when the Board collectively carries out strategic thinking and deals with the important business at hand for the organisation. The strategic thinking, which should not just occur when developing an organisation's strategic plan but at every Board meeting, should ensure the regulatory authority is future focused as well as proactive and responsive to its current environment.

Board meetings provide a time for Board members to meet, to engage with each other and to actively discuss and debate key issues. Usually Board meetings are held face to face. However, as technology continues to advance and in efforts to reduce costs and travel time for members, we are seeing an increasing interest in holding at least some meetings in the form of teleconferencing or using other mechanisms of remote conferencing.

Given the importance of the work carried out at Board meetings it is essential that there is proper notice of meetings, that the materials are provided sufficiently in advance and that the necessary administrative support to the meetings is in place. There also needs to be effective leadership and chairing during the meetings. Importantly, there also needs to be proper recording of the decision making in the meeting in the form of meeting minutes.

Prior to the meeting

Board meetings need to be scheduled well in advance and Board members should be provided with the schedule for the upcoming year or longer if at all possible. Having the dates of the meeting known well in advance will facilitate Board members being able to factor in the necessary preparation time and plan for their attendance at the meeting. Proper notice of upcoming meetings encourages maximum Board member participation and helps to avoid any quorum challenges.

The frequency of meetings needs to be determined by the work to be carried out by the Board, the required immediacy of decisions in which the Board needs to participate and the capacity for interim decision-making by other means, such as electronically. Regulatory Boards often meet from three to six times a year but, if there are not staff or committees available to inform decision making in advance or enact the Board's decisions, the Board may need to meet more frequently to deal with the more day-to-day functions of the regulatory authority.

Prior to the Board meeting, it is important that Board members are properly prepared to discuss and debate the matters that will be addressed. Therefore it is essential that they be provided with meeting materials that contain the necessary information to make decisions, including detail on what will be required actions at the Board meeting, and that these materials are provided in sufficient time prior to the meeting. Board meeting materials can be quite dense and complex and therefore Board members require adequate time to review and carefully consider these materials.

It may be useful to provide a framework for Board materials that addresses items of key strategic significance. For example the New Zealand Nursing Council uses the following regulatory impact/risk assessment framework which includes an assessment under each of the below headings:

- Public safety implications
- Consultation undertaken with stakeholders
- Political risk
- Legal risk
- Administrative impact

Providing meeting material information in a consistent framework can provide focus, draw attention to key factors to consider and facilitate decision making at Board meetings.

Observer status

Decisions also need to be made about observer status at Board meetings. More frequently now, in the spirit of transparency and public accountability, we are seeing Board meetings of regulatory authorities being opened up to registrants and members of the public to attend as observers. In these cases, it is recognised that there may be continued need to have closed or "in camera" sessions to deal with confidential matters related to such areas as Chief Executive performance, staff compensation and issues identifying registrants, but closed session will usually be limited in number and made clear on the agenda prior to the meeting.

When having observers, it is often advisable to set up pre-registration or required notice so that numbers can be planned for and space limitations addressed. Also it is useful to make publicly available in advance of the meetings specific guidelines for observers to make sure that it is clear what observers can and cannot do during the meetings.

Below are some examples of observer guidelines. In the first example observers may speak only at the invitation of the Chair. In the second, Board meetings include an open forum session where observers may engage with and ask question of Board members:

Health and Social Care Professions Council
www.hpc-uk.org/aboutus/council/attendingmeetings/

Guidance for non-members attending HCPC meetings
- Non-members should aim to arrive for the beginning of the meeting and remain until the end to avoid disturbing discussion.
- Non-members may only address the meeting on the specific invitation of the Chair, in which case they may be invited to sit at the meeting table. In the event of an address being made without permission, the Chair may order the offending individual to be removed from the meeting or may order that part of the room which is open to the public be cleared.
- All meetings are open to the public. The meeting will move into private session (non-members will be asked to leave the room) when the business under consideration concerns:
  - information relating to a registrant, former registrant or application for registration
  - information relating to an employee or office holder, former employee or applicant for any post or office
  - the terms of, or expenditure under, a tender or contract for the purchase or supply of goods or services or the acquisition or disposal of property
  - negotiations or consultation concerning labour relations between the Council and its employees;

- any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- action being taken to prevent or detect crime or to prosecute offenders;
- the source of information given to the Council or Committee in confidence; any other matter which, in the opinion of the Council Chair (or the Committee Chair) is confidential or the public disclosure of which would prejudice the effective discharge of the Council's (or Committee's) functions.

In order that members are able to speak freely, photography or recording of HCPC meetings, other than written notes, is prohibited.

College and Association of Registered Nurse of Alberta
www.nurses.ab.ca/Carna/index.aspx?WebStructureID=5980

Observer participation
Observers are not to interfere with the Council Meeting, engage in debate or make public statements during the Council meeting, except during Open Forum sessions. These sessions are an opportunity for observers to:
- ask questions of Council or staff
- comment on current issues or experiences
- provide feedback on the meeting

During the Open Forum you will be given an opportunity to go to the microphone and address the Council. Please introduce yourself and speak clearly and directly into the microphone.

At the meeting

It is important that Board meetings are productive and efficient and that the collective expertise of members is well utilised. It is also important that that there is time for big picture deliberations, therefore, as previously noted, the role of the Chair in ensuring the flow of the meeting is crucial.

Board meetings can be subject to group and internal dynamics and Board members need to understand their roles and recognise, as previously noted, that they need to put the public and the organisation's interests first.

The right to represent dissenting views during Board discussions needs to be valued and encouraged but differences of style or approach need to be managed constructively. Board members need to be able to communicate effectively, but above all take responsibility for their own behaviour. In this way, any difficulties can be resolved and managed internally and at an early stage.

The Chair needs to create a culture where it is safe to be curious, to question and to disagree recognising that when dealing with important and challenging issues dissent is inevitable. It is the Chair's role to steer the Board through disagreements; ensuring different sides to an argument are explored and examined and that business disagreements do not become personal conflicts (PSA 2013b).

There are many sets of guidelines for procedural process for Board meetings that are used with perhaps one of the more well-known being Robert's Rules of Order - information on which can be found in the following website: www.robertsrules.com/.

These rules or other similar guidelines can be used and adapted to guide the Chair and Board members in agenda setting, decision making and procedural process in Board meetings.

Meeting minutes or other reporting

A record should be kept of the meeting in the form of meeting minutes. The minutes should provide a correct record of the meeting including Board members in attendance. They should be sufficiently detailed to provide an audit trail of issues discussed and the decisions taken.

As discussed in Chapter Six, declared conflicts of interest should be recorded in the minutes including actions taken such as not participating in discussion or leaving the room while discussion is on. It is common as well that the minutes of the previous meeting are confirmed or confirmed as amended at the meeting.

In the spirit of transparency, in addition to holding public meetings with observers present, it is also becoming increasingly common to have Board meeting minutes made publicly available and posted on websites. The following websites provide links to publicly available minutes

Nursing and Midwifery Council, United Kingdom: www.nmc-uk.org/About-us/The-Council/Meetings-of-the-Council/

College of Nurses of Ontario, Canada:
www.cno.org/en/what-is-cno/councils-and-committees/council/council-meetings/

Some organisations do not publish minutes but instead publish Board Meeting Updates or Newsletters informing of the items discussed at the Board meeting and the outcomes of decisions.

In general, as noted, there is a move toward greater transparency and better communication with registrants and the public by regulatory authorities both with respect to the outcomes of the deliberations at Board meetings and in relation to other activities/functions of the regulatory authority in general.

Meeting evaluation and debrief

A valuable way to ensure the quality of future Board meetings is to conduct a written evaluation at the end of each Board meeting which could include feedback on:
  •   The timing of meeting materials
  •   Whether the right amount of information was provided and whether it was in a useful format
  •   The logistics for the meeting – accommodation, meals, parking, etc.
  •   The meeting agenda and timing
  •   Staff support.

Perhaps an even more valuable exercise is to allow time at the end of the meeting for open, frank and respectful dialogue about what went right and what went wrong at each Board meeting. This type of dialogue when encouraged and when members feel safe to contribute to

openly can help to inform regarding what is working and what is not. It can lead to more effective and efficient meetings in the future.

- Consider when you provide meeting materials to Board members in advance of the meetings? Are they provided in sufficient time in advance? Ask your Board members what they consider would be the minimum amount of time in advance they would need materials to be sufficiently prepared for meetings.

- Are the meetings closed or open to observers and what is the reason for your decision in this regard?

- Do you publish meeting minutes or a summary of Board decisions? If no, explore your reasoning for this and consider whether it may be useful to introduce some form of post-Board communication in the spirit of transparency and to enhance communication with registrants.

- Do you carry out an evaluation at Board meetings and allow time for debriefing at the end of the meeting? If not, develop a mechanism for evaluating your Board meetings that will allow Board members to be frank about what worked in relation to the meeting and what didn't to inform how both the meeting preparation and the meeting itself can be improved for future meetings.

Chapter 9: Measuring and Monitoring Board Performance

In the second chapter of this toolkit, we focused on features of high performing regulatory authorities and how to measure and monitor the performance of the regulatory authority itself. In this chapter we will focus in more specifically on measuring and monitoring the performance of the Governance Board of the regulatory authority.

Against the on-going background of media attention, external reviews and public concern, it is not surprising that there is a great deal of focus on measuring regulatory performance and in some cases there is a governmental requirement for monitoring of performance and subsequent reporting.

Governing bodies of regulatory authorities therefore need to have mechanisms in place not to just measure how the regulatory authority as a whole is performing but also how the Board itself as a Regulatory Board is performing.

Some ways by which Boards can monitor performance include individual meeting evaluations, peer evaluations, self-evaluations by Board members, annual evaluations and contracting external evaluations.

Some questions that can be considered when monitoring Board performance are:
- Does the Board have appropriate processes in place to develop, debate, agree to, and monitor issues related to nursing regulation?
- Is the Board taking informed, transparent decisions?
- Is the Board demonstrating consistent achievement in timeliness and appropriateness of decision making?
- Are Board decisions consistent and coherent?
- Does the Board involve a broad range of stakeholders when consulting and preparing for decision making?
- Is the Board monitoring and managing risk?
- Does it carry out sound planning and policy formulation?
- In its oversight of the regulatory authority, does the Board ensure due process for the rights of registrants?
- Does it ensure that the public and nurses have access to clear, accurate, and timely information?
- Is there a mix of professional and public members on the Board?
- Does it have mechanisms in place to demonstrate accountability and transparency such as reports on performance, financial reports, annual reports, publicly available meeting reports or minutes that are made available to the nursing community and the public?
- Is the Board promoting values for the whole organisation and demonstrating the values of good governance through behaviour?
- Is it directing regulatory resources where they can have the maximum impact on outcomes?
- Is the Board focused on governance and not the management and operational activities of the regulatory authority?
- Does the Board have a strategic plan that was developed in the last 3-5 years and that is constantly evaluated and updated? Is this document consistently implemented and adhered to and linked with organisational objectives and planning?

- Is there a Code of Conduct in place which addresses expectations of Board members and repercussions if these are not adhered to?
- Are there Conflict of Interest policies in place that are enforced and adhered to?
- Do any committees reporting to the Board have clear Terms of Reference and are their activities regularly reported to the Board?
- Does the Board have standards of attendance and performance for members, including a system of regular performance review?

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- Does your Board or Council conduct regular evaluations?
- Develop a Board performance measurement system or, if you have one in place, evaluate your current system using the questions noted above.
- Outline how you will use your Board performance measurement to improve the efficiency and effectiveness of your Board.

Setting up performance indicators that allow comparisons to actual performance against benchmarks may be useful. Measuring performance against desired outcomes and with defined indicators of success can help to identify strengths and areas of needed improvements. Performance indicators allow Regulatory Boards to compare a measure of actual performance against targets, detect inefficiencies, identify best practices and enable innovation.

To be most effective, this type of monitoring needs to be considered a continuous and dynamic process, be based on consistent and reportable data and be part of a sustainable performance measurement system.

Conclusion

Setting up modern, effective transparent and fair regulatory frameworks for health care professionals is a continuous and dynamic process that can be greatly contributed to by good governance of the regulatory authority.

Effective, transparent and accountable Regulatory Board governance increases the confidence of the public, the nursing profession, employers, government and other stakeholders in the profession's ability to effectively oversee the regulation of nursing in the public interest.

References

Barnes (2012). Regulatory Board Governance. Presentation to the ICN Observatory on Licensure and registration September 2012.

Benton DC, González-Jurado MA and Beneit-Montesinos JV (2013a). Defining nurse regulation and regulatory performance: a policy Delphi Study. International Nursing Review. 60 (3) 302-312.

Benton DC, González-Jurado MA and Beneit-Montesinos JV (2013b). A structured review of the principles of professional self-regulation. International Nursing Review 60 (1), 13-22

Board Source (2005). The Source: 12 Principles of Governance That Power Exceptional Boards. Washington, D.C.

College and Association of Registered Nurses of Alberta (n.d.). Attending a Council Meeting. Accessed 21 October 2013 at www.nurses.ab.ca/Carna/index.aspx?WebStructureID=5980

Center for Public Skills Training (n.d.). Orientation and Training of Board Members. Accessed 20 October 2013 at www.createthefuture.com/Board_orientation.htm

Citizen Advocacy Center (2009). Tapping the Full Potential of Public Members: A Toolkit for Boards of Community-Based Organisations. California. Accessed 4 October 2013 at www.vmb.ca.gov/about_us/agenda_items/vmbagenda_20120424_9.b.1.pdf

College of Nurses of Ontario (n.d.) Committees. Accessed 22 October 2013 at www.cno.org/en/what-is-cno/councils-and-committees/committee/

College of Registered Nurses of British Columbia (n.d). Board Members Duties. Accessed 4 October 2013 at https://crnbc.ca/CRNBC/Board/Pages/Default.aspx

Health Care and Professions Council (n.d.). Attending Meetings. Accessed 22 October 2013 at www.hpc-uk.org/aboutus/council/attendingmeetings/

HM Treasury (2011). Corporate Governance in Central Government Departments: Code of Good Practice. London, Accessed 20 October 2013 at www.gov.uk/government/uploads/system/uploads/attachment_data/file/220645/corporate_governance_good_practice_july2011.pdf

Ineson S. (2008). Issues Paper on International Best Practices in Health Workforce Regulation for the Ministry of Health, New Zealand. Te Haro. New Zealand.

International Confederation of Midwives (2011). Global Standards for Midwifery Regulation. Accessed 20 October 2013 at www.internationalmidwives.org/assets/uploads/documents/Global%20Standards%20Comptencies%20Tools/English/GLOBAL%20STANDARDS%20FOR%20MIDWIFERY%20REGULATION%20ENG.pdf

International Council of Nurses (2009). Regulation 2020: Exploration of the Present; Vision for the future. ICN, Geneva.

International Council of Nurses (2012). Toolkit on Complaints Management. ICN, Geneva.

International Council of Nurses (2013). Position Statement: Nursing Regulation. ICN, Geneva.

Jhpiego. (n.d.a). The Role of the Regulatory Board. Accessed 21 February 2014 at
www.reprolineplus.org/resources/role-board

Jhpiego.(n.d.b). The Role of the Regulatory Staff. Accessed 21 February 2014 at
www.reprolineplus.org/resources/role-regulatory-staff

Jhpiego (n.d.c). Board Development. Accessed 21 February 2014 at
www.reprolineplus.org/resources/role-board

Lahey W (2011). Is self-regulation under threat? The Canadian Nurse. May 2011. Accessed on
21 October 2013 at www.canadian-
nurse.com/index.php?option=com_content&view=article&id=451%3Ais-self-regulation-under-
threat&catid=4%3Aperspectives&Itemid=39&lang=en

Mid Staffordshire NHS Foundation Trust Public Inquiry (2013). Report of the Mid Staffordshire
NHS Foundation Trust Public Inquiry. Accessed 20 October 2013 at
www.midstaffspublicinquiry.com/sites/default/files/report/Executive%20summary.pdf

National Council of State Boards of Nursing (NCSBN) (2004). Evidence-Based Regulation: A
Regulatory Performance Measurement System. Accessed 20 October 2013 at
www.ncsbn.org/Vol8_CORE_revised.pdf

National Council of State Boards of Nursing (n.d.). The Fiduciary Obligations of Directors and
Officers.

National Council of State Boards of Nursing (2007). Guiding Principles of Nursing Regulation.
Accessed 20 October 2013 at /www.ncsbn.org/Guiding_Principles.pdf

National Council of State Boards of Nursing (2011). Essential Competencies for Governance
Leadership. Business Book 2011 Annual Meeting. NCSBN. Chicago. Accessed 20 October
2013 at www.ncsbn.org/Section_I_2011.pdf

Nursing and Midwifery Council (2012). Code of Conduct for Members 2012. Accessed 22
October 2013 at www.nmc-
uk.org/Documents/CouncilPapersAndDocuments/Council2012/Code%20of%20conduct%20for
%20members%20of%20Council%202012.pdf

Oulton J (2011). Board Member Competencies. Unpublished document developed for the
International Council of Nurses.

Pew Health Commission (1995). Reforming Health Workforce Regulation: Policy
Considerations for the 21st Century. Accessed 20 October 2013 at
www.futurehealth.ucsf.edu/Content/29/1995-
12_Reforming_Health_Care_Workforce_Regulation_Policy_Considerations_for_the_21st_Cent
ury.pdf

Professional Standards Authority for Health and Social Care (2010a). Right-Touch Regulation.
Accessed 20 October 3013 at www.professionalstandards.org.uk/docs/psa-library/right-touch-
regulation.pdf?sfvrsn=0

Professional Standards Authority for Health and Social Care. (2010b). Performance Review of
the Medical Council of New Zealand: Promoting Improvement in regulation through
International Collaboration. Accessed 20 October 3013 at
www.professionalstandards.org.uk/docs/special-reviews-and-investigations/the-medical-
council-of-new-zealand-performance-review-report-%28may-2010%29.pdf?sfvrsn=0

Professional Standards Authority for Health and Social Care (2011). Board Size and Effectiveness: Advice to the Department of Health regarding Professional Regulators. Accessed 20 October 2013 at www.professionalstandards.org.uk/docs/psa-library/september-2011---Board-size-and-effectiveness.pdf?sfvrsn=0

Professional Standards Authority for Health and Social Care (2012a). A Review Conducted for the Nursing Council of New Zealand. Accessed 22 October 2013 at www.professionalstandards.org.uk/docs/special-reviews-and-investigations/final-nursing-council-of-new-zealand-report.pdf?sfvrsn=0

Professional Standards Authority for Health and Social Care (2012b). Strategic Review of the Nursing and Midwifery Council: Final Report. Accessed 20 October 2013 at www.nmc-uk.org/Documents/120629%20CHRE%20Final%20Report%20for%20NMC%20strategic%20review.pdf

Professional Standards Authority for Health and Social Care (2013a). Annual Report and Accounts and Performance Review Report 2012-13: Volume I Annual Report and Accounts 2012-13. Accessed 22 October 3013 at www.official-documents.gov.uk/document/hc1314/hc03/0305/0305.pdf

Professional Standards Authority for Health and Social Care. (2013b) Fit and Proper? Governance in the Public interest. Accessed 20 October 2013 at www.professionalstandards.org.uk/docs/scrutiny-quality/130307-fit-and-proper-governance-in-the-public-interest.pdf?sfvrsn=0

Secretary of State for Health (2007a). Safeguarding Patients: The Government's Response to the Recommendations of the Shipman Inquiry's fifth report and to the Recommendations of the Ayling, Neale and Kerr/Haslam Inquiries. Accessed 20 October 2013 at www.official-documents.gov.uk/document/cm70/7015/7015.pdf

Secretary of State for Health (2007b). Trust, Assurance and Safety –The Regulation of Health Professionals in the 21st Century. Accessed 20 October 2013 at www.official-documents.gov.uk/document/cm70/7013/7013.pdf

South Africa Nursing Council (n.d.). Committee Members. Accessed 24 October 2013 at www.sanc.co.za/aboutmem.htm#Office%20Bearers

Thorton G. (n.d.) Not for Profit Board Member Handbook. Accessed 20 October 2013 at www.grantthornton.com/staticfiles/GTCom/Not-for-profit%20organizations/Board%20member%20handbooks/NFP%20booklet%20-%20FINAL.pdf