



NCSBN
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2018 International Nurse Regulator Collaborative Symposium - Roundtable
Discussion: Regulators in the Spotlight Video Transcript
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Event

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Presenter

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- [Anne] Donnie, thank you very much, you have set the stage very nicely for our next topic, which is Regulators in the Spotlight. And we've had an excellent example of how we can all very quickly find ourselves in that spotlight. The spotlight occurs because of the context in which we work every day. There are changing public expectations for transparency, increased media scrutiny, and we also know that governments are continually asking questions about the value that regulation presents.

So, we're working in an increasingly complex environment, and that creates challenges in terms of how we stay focused on our critical mandate of public safety. I think it requires thoughtful reflection and debate, and this forum in a way is a luxury.

We have the time to stop and think about these critical questions, we have the opportunity to benefit from the shared knowledge of colleagues from around the world, and we have a safe environment to challenge each other in, to ask some probing questions and perhaps some provocative ones. So, for the next hour we have six scenarios that we want you to think about and discuss at your tables.

In the middle of your table is the scenario that's been assigned to your group. And three tables each have the same scenario. There's a very brief description and a question for you to consider. We're going to take about 30 minutes for you to have those discussions at your table, and then I will ask for the 3 tables that have each of the 6 topics to provide some highlights of the discussion that occurred at your table.

So, be thinking about sharing with your wider group of colleagues what your insights are into the particular spotlight that has been shone on your organization as a result of the specific scenario. So, enjoy. We're going to start with a scenario related to evidence-based practice.

A member of another profession wrote to the minister of health to raise concerns about an education course promoted to nurses on reflexology. The course mentions that it can be counted for continuing

professional development points. The minister forwards the letter to the board and asks for a response to assure that nurses only undertake CPD that uses evidence.

So, which tables looked at this scenario? Okay. Here I come. Thanks. -

[Maureen] Thank you. So, in our scenario we were looking at a request for continuing ed on reflexology. And the question, of course, was evidence-based, so what we really discussed is that if you had requirements in your state for continuing ed for nurses and it would be hoped that if you have those continuing ed requirements you also had what would constitute an approved type of experience or from where.

Then a subject like reflexology could potentially crossover. We looked at states and we saw some states that had a definite sort of nursing approved, but a lot of them had languages that board-approved CE. And our concern was that if you were going to look at your own processes, you'd have to make sure that you were applying this approval of a program fairly, and consistently.

So, if it was that it had to be, you know, accredited by ANCC or something, that's one thing. If the contention is that well maybe this isn't evidence-based, then I think you'd have to look at whether everything that you do sits in that evidence-based, or, I mean, it's just a matter of internal consistency, I hope, in applying that.

- Thanks Maureen. Now, who else? Which other tables had this scenario? There are two others. Hands up.

- I will attempt it. Our discussion based on the reflexology, we discussed it, yes there should be evidence based with whatever we do.

However, there are some areas that we practice and that evidence-based is not always we can see it. And I know in my area of practice that evidence-based doesn't always rely or produce what I need to give to my client. At the end of the day it is my own patient that I'm caring for, and so for us, if I'm speaking correctly, we do not base everything on the evidence base.

Such as off-label medication usage, there's not evidence-based. But as one of us spoke about, the pharmacies are not going to sit and put money into an awful label usage, the physicians are going to prescribe anyway regardless of whether there's evidence base there. And so for us it is not all 100% evidence-based.

- Thank you. And the third table? Nobody...or maybe it was this table. Okay, we're going to move on. Technology and cybersecurity.

A staff member receives an email from your council chair that includes an attachment, it appears to be authentic. Once opened, the attachment launches a program that infiltrates your system resulting in the compromise of your registrant database. The outcome is that nurses' information, including their username, password and email address used for your online portal that allows nurses to renew their license and update their personal information is being sold online and used to blackmail nurses into paying a fee to a criminal syndicate.

What would you do? Who's got this one? - [Female 1] Well, we wanted to go to the prevention to begin with, then we just want to do what he does, and then...but actually I think a good point is that we wanted to go and live in Singapore because they got a great system, so if we all went and lived in Singapore, they've got to a no-risk system and it shifts the risk.

But, in fact, what we would do is virtually try to follow the steps that we learnt of before and reflect on, is that you'd have some kind of triage system with your CEO, media, legal, etc., assess the risk from an IT point of view and sort of the consequence of it. And obviously, notifying the legislation piece, that would relate to wherever you lived or wherever you were working from.

You'd have all the communications strategies in place. Actually, the thing is the immediacy of it, the agency of actually undertaking all of these activities, act on the plan, alert the nurse, and then make sure there's further prevention. The thing is, Lynnette, of course, we would have a 24-hour telephone service for support for the nurse, because given...

I think the thing is being sold online and it being used to blackmail nurses, that would be very distressing for the system, but for the nurse involved or the nurses involved. And so, you'd actually have that support, and what does it mean for the nurse? If you get a nasty email that starts to come, and you have not had your cyber security education or the other preventative strategies in your workplace, or support from, if it's the regulator in this case, to say what she should do, people would think they could be...we said a criminal syndicate, what does that mean?

What does that look like? How far would that spread? How could the data be used or manipulated, or it could be used for fraudulent activities with other regulators, in fact, or there's lots of possibilities that could happen. But we wanted to prevent it in the first place so that it doesn't happen.

But we've been told now it is going to happen or is happening, and we just don't know about it. And anybody else who want to add to that? - [Male 1] Well done.

- Thanks.

- Thank you. And who else? - [Male 2] So, the first admission is that we actually didn't follow the task, we actually had a wider discussion on this issue. And that actually led us to the fact that we are now operating in network structures, and therefore the need to think about where the vulnerability points might be, and Maximo said that, you know, as soon as he goes back to Spain, he's actually going to bring together his provincial colleagues to have a discussion whilst the council hires those systems employee, the provincial colleges don't, and therefore how does that compromise the entire system?

We also talked a little bit about, one of the slides that Donnie put up where he was identifying the changing nature of risk as we move from servers based in our own buildings to the use of the cloud. And the potential of not investing in our IT staff to enable them to make the switch as part of that process, to enable them to configure things correctly, because from the image that Donnie showed us, that is clearly a point of vulnerability, and therefore

[inaudible] and I will be having the discussion about this. And the other thing that came from Donnie's presentation was the analysis that was done about trying to attack a third target through our systems. And again, one of the issues that we've been doing is we've been marketing the use of something called e-Notify which starts to give us much more information relating to where people are working, and therefore the cyber threat across that.

And just for sake of argument let's just say that we have information from the White House, which says, whether this particular nurse is actually part of the team that responds to the president, well that kind of information could be very, very interested in terms of targeting. So, that was something. And the one thing that the scenario did trigger was really, we really need to look very carefully about the use of personal or state-based emails addresses for central purposes and therefore making sure that we issue, in our case, NCSBN email addresses to all of our board of directors to actually up the security factors around that.

- Thank you. - [Female 2] Thank you. So, like everybody else we wanted to thank Donnie for giving us the roadmap for what to look out for something like this. We don't have a lot to add, we certainly had very similar discussions to the other two tables.

I think a couple of things that did jump out for us that of course the need for our insurer to be involved in anything moving forward on this, and a reemphasis on staff education, that would need to be sort of an iterative process coming out of this. Anything else, anybody? No? Okay, that's it for us.

- Thank you. So, on to our next scenario, you have... Did I miss somebody? No. You've commenced an investigation into an allegation of sexual misconduct against a practitioner. The complainant feels the investigation is taking too long and goes to the media, complains about the complaints process, and outs the nurse.

As a result you receive complaints of a similar nature from seven other patients. How do you respond as the regulator?

- Here. Okay. - [Inaudible] use this. - [Female 3]

Sure. Okay. So, what our table discussed was the process that we would go through, and we divided it into the internal and the external approach. So, internally, I think first we'd have to confirm that the process was in fact followed. So, did the...has the complaint taken too long?

Has the process that we put in place really been followed accurately? And just to verify that the matter is actually being dealt with. We'd review all of the new complaints that have come in to determine if they're similar in nature. So if they are that would give us some reason to potentially apply some kind of interim order.

So, with our legislation in Ontario, whereas our counterparts here are in Ohio and they don't think they had similar ability, but is...we're able to put an interim order in place if they're a significant risk to members of the public. So, we would we would probably do something like that.

And then, we would also address the issue externally. So, we'd connect with our communications team to develop a response to address the issue that we've been hearing about in the media, and then speak to any of the complainants or the representatives about the process, what to expect, what they can anticipate, and if they had further questions, who they could connect with at our organization about their concerns.

I think that was everything.

- Thank you. So, here you go. Thanks. - [Female 4] Thank you Anne. So, we feel that several things need to happen kind of at the same time.

First of all to prevent something like this where the nurse is outed basically, we have to make sure that the very first complainant knows what the process looks like with the investigation, that the investigation is confidential, how long, what timeframe we might be looking at, how it started, how we have to gather evidence, so they know perhaps that it does take a while and they won't think it is taking too long and go to the media.

They need to know what we can look at there. So, we first of all would determine if there's immediate risk to the public and any possible risk to the public. This kind of a complaint would definitely go to a very high priority, would be investigated right away, so we have to make sure the complainant knows about that, that that's going to happen.

If the nurse... if there's evidence, or if we feel there's any danger, that nurse would be suspended immediately while the investigation is going on. We'd also make sure that the public knew that any investigation is confidential, we would not be able to comment on that. And any other investigation that was started, the other seven complaints would be also confidential.

We need to make sure that there's due process for that nurse, because that nurse could be innocent, we don't know until the investigation is completed. So, we'd have to make sure that the first complainant and all the other complainants know that there's due process for the nurse also. We want to encourage all nurses, anybody, the public, everybody, to file a complaint if there is such a complaint.

So, we want to make sure that that's available to the public and to nurses to do that. So, we would immediately inform them of that and want to make sure that those complaints are coming forward, but again to make sure the complaints are confidentially investigated, and we made sure that we had all the evidence, because these kind of complaints could take a long time. And we would want also to make sure that the public and everybody out there, the media knew that there's one person that would be the voice of the board for this kind of an action, that would be our executive director.

The board members would not be commenting on a complaint like this, other people, it would be the one person who's in charge of the agency that would be talking about this with the media if there were questions.

- Thanks very much. Thank you. And one other table? Over here, Phyllis. And Carolyn has the mic for you. - [Phyllis]

Thank you. I think we came up with very similar...our discussion was very similar in that it's not public until those charges have been filed. Fortunately, I don't talk to the media. Fortunately or unfortunately you guys know I like to talk, but I would not be the one to talk to the media, our assistant secretary of state, they would call me and ask me about details and etc, but they're the ones that speak to the media, thank goodness.

But I think our conversation was very similar, we take it very seriously. Usually if there's a complaint like that we...there's a summary suspension that happens very quickly, and then the investigation takes place. So, thank you.

- Great. Thank you very much. So, our next scenario, a public advocacy group has started a campaign for increased transparency of the information regulators hold about individual registrant's or licensees. They insist that the public should know about all complaints and all information reported to the regulator, including employment history throughout a nurse's career, and all actions taken by the regulator.

This information should be permanently available online. How will you respond as the regulator to a request for comment from a prominent journalist? So, who...okay. - [Kathy] Well, this isn't an uncommon kind of request, all media want disclosure of everything, right?

But I think in general the group agreed that this is a good idea that we be transparent, but we would all clarify that law protects certain information, and we must comply with the law. So, if a complaint is confidential in your jurisdiction, then that's an explanation that would have to be shared with the with the media person.

We had an interesting discussion on whether, if we had our way would all of these things be public or transparent? And I think the one thing that stood out among our group was that complaints that do not result in any finding or action are often protected by law and probably should be.

I think many of our complaints are closed, we don't take any action whatsoever on them. Some of them are vexatious complaints, and so would be prejudicial to the nurse who was complained against. There was a little bit of discussion about whether some action should permanently remain available on the public website in the context of minor, old offenses.

In some jurisdictions the board may have the discretion to remove certain old, minor offenses from the website after a period of time, that's a pretty significant amount of time. But jurisdictions really vary in that regard. And then lastly, that there are implications for making all of this information publicly available on a website that mostly have to do with the cost of both expanding the database that exists and keeping it current on a regular basis.

- Thanks Kathy. And who else had this scenario? - [Female 5] Thank you. We also had this scenario, and agreed with most of the other assessment.

But we also talked about the opportunity to maybe educate on maybe what the process looks like, how the law relates to what you can disclose and what you can't disclose, but also looked at it as an opportunity to sort of discuss the process and how that works.

And other than... was there anything else other than...? - [Female 6] Aggregate.

- Oh, the aggregate data. Yeah, we talked about some of that with, you know, what's available with statistics. As far as employment goes you can get, you know, those kinds of statistics from employment security and labor industry and all of those places, although following a nurse's employment history I think is unreasonable, but mostly if the initiative shows up on the ballot.

- Thank you. And is there one more table? - [inaudible]

- You've done it? - [Female 7] I did two.

- You did two? - [Carolyn] We have one from this table.

- Oh, great. Okay, okay, great. Thanks.

- It's okay. Thanks. - [Male 3] Our thoughts are very similar to the other groups. I think, you know, we really benefit from the clarity of the law in this area. We're all in executive agencies, and our job is to faithfully execute the laws passed by the legislature, not to second guess the wisdom of them.

In all 49 states that aren't Florida I think there's a pretty consistent standard that matches the judicial standard, where, you know, uncharged information about a complaint that is uncharged generally is unavailable, and upon the filing of formal charges the information becomes available. We took some steps in my state of Vermont to make sure that the publicity of information really traces almost exactly the publicity of information in their judicial proceeding.

And we found this very helpful because reporters and activists are accustomed to that, that's the social norm they're used to, they understand it and they don't think it ought to be fought over anymore. And it's very helpful just to be able to point people to a single statute that articulates a clear legislative purpose, and the reason why we keep specious, non-charge complaints private while we publicize charge complaints. And I think most of us have found in our states that people understand that, they understand it intuitively, and, you know, sometimes it helps to provoke them to think about why and what it would mean if you could just have negative inferences made against you as a professional on the basis of the number rather than the quality of accusations against you.

But we, all of a sudden, I think in our day-to-day work encounter this question and address it in just that way, and it seems to work.

- Thank you.

- Thank you very much. So our next scenario, a technology expert has had a bad experience with a family member, and has as a result conducted a systematic examination of the Facebook postings of nurses in your jurisdiction. The media have taken an interest in this and done a front page exposé on a number of nurses that through the analysis of their postings would suggest that they are disrespectful of patients, and in some cases may be delivering substandard care.

The regulatory board is being asked for comment and government is asking what you're going to do about these cases. Who has this scenario? Okay, thanks. - [Female 8] Thank you. Okay, this table had a good discussion on this.

You know, social media is here to stay, I guess, especially with the newer nurses. One of the things we looked at is this being an educational to the public moment, to educate the public on what is the complaint process for our board of nurse, and also the government agency would know that we have a complaint process in place.

Therefore, these technologies could give that complaint back to that regulatory board, because you want to get to the heart of the issue, why did that technology feel like you needed to do this? So, you can reach out to him and get...him or her, you get that information. Another thing was looking at the nurses, where there's an employee or was this already investigated?

You know, are they aware of some of the things that the nurses have reported, and maybe as an employee your issue and that could be handled internally with that organization. It's kind of a hard thing to...you know, because there's no hard evidence with, you know, Facebook, whether or not it was substandard care, whether or not those scenarios were disrespectful.

So...- Okay, thank you. Okay, this table.

- Thanks Carolyn.

- Thank you. - [Female 9] Thank you. And we had a similar discussion, and we saw this as being riddled with opportunity as well to...first off we have to look at it, we looked at it as, what are we going to do first, you know, secondary and onward? And really we need to recognize the magnitude of the situation and really assess the risk.

And there's risk organizationally, there's risk to the public. And this also has to be balanced with some of the expectations of the public, of the government, and these things have to be assessed. Our next opportunity would be to come out in formal communications to the public, help them understand what we do, and as you mentioned, some of the processes in which we do that in conduct.

And also to point out that there is a formal process for this, so it's an opportunity to utilize that formal process in the conduct area. The important thing too with the public is we really have to look at the communications for our public safety, because that, you know, they start to lose confidence in what we do and how we're doing that.

So, our communications really have to be targeted in that area. There's also an opportunity to bring that reminder of professional conduct to a member while we're doing an investigation, because it's our obligation to investigate, and each would be investigated on an independent basis. So, bring back those framework of practice, any policies that are required in order to enhance that professional practice and maintain it, and in the social media, because as you said, it's here to stay.

And then we also have a responsibility to follow up with our public and ensure that they are remaining safe, and they're safe in the care we provide.

- Thank you. Is there another table that has this one? Thanks. - [Female 10] Thank you. We talked about many of the same issues and topics, the opportunity for educating the registrants and the public.

We also talked about the risk to the reputation of the regulator in cases where you're disconnected from social media, and you're always responding to it rather than sometimes being aware of and ahead of it. So, we talked a little bit about how much time or effort we put into monitoring social media, whether or not we have our own Facebook page.

And that if that Facebook page is a public page, how we respond to complaints that may be posted on our Facebook page. I don't know how many of you have had that experience, but we sure have. And as much as it requires a resource, it also is an opportunity for education and for reframing issues when those issues are being misinterpreted or spread as misinformation.

So, we do, in our experience, have a staff person who monitors social media, it's a lot of work. And again, we talked about the need for a response, that is, "This is the process, please follow the process." A quick response to the minister's office or politician's office would be, "We'll look into it," and then managed from there with the process we have.

- Thank you. All right, I think we're moving on to our last scenario. Your government has noticed a trend occurring in health profession regulation. They cite changes in Australia, one organization that regulates all professions with the support of professional councils, and the United Kingdom, several professions are regulated under one organization, and there is an oversight body called the Professional Standards Authority that assesses the performance of regulators and reports directly to parliament.

As a result of these trends, your government is considering a change to the regulatory scheme in your jurisdiction. What opportunities or challenges can you see ahead for your organization? What unintended consequences might result from a change?

Okay, which tables have this scenario? Great, thanks. - [Female 11] So, in regards to the first part of the question, what opportunities or challenges, I think everybody at all of the boards would want to know, "Am I losing my job? How is my job going to change? Does that model fit the organization's mission?"

And then there would also probably have to be changes in statute which is not a fast process for a lot of government agencies. There's also unintended consequences, positive and negative, we said it could save money by standardizing some of the processes, standardizing some of the application process.

It can also create an overwhelming amount of work, and we would be afraid of losing expertise, focus or representation from the different entities that are being incorporated.

- Okay, thank you. And who else? I can't see. Which other tables... Oh great, thanks. - [Female 12] Good afternoon, everybody.

So, we spoke about the opportunities as potentially being financial. Also some efficiency gains, some collaboration, easier for the public and the fact that we would have a single point of access, or the ability

to standardize potentially some codes of conduct and other practice standards, and some consistency for decision making.

We also saw some potential, unintended consequences and threats, and that might be, that actually the efficiencies that we thought we would gain may, in fact, be inefficient, and often the financial gains they gain from the cross-subsidization from the larger regulators.

They potentially can lose that professional context or the profession being regulated. And of course there's always other ways to gain collaboration rather than a mandated way.

- Thank you. Have I missed anyone? Back table, Carolyn. Thanks. - [Female 13] I'll have it down here.

So, we also agreed with what everybody else said, but also when you're doing the standardization you can also have a large difference in the number of nurses that you have per state, and the availability of the nursing professionals.

They mentioned the ease for the public, but also probably the ease for nurses by having one licensure under one regulatory, and the cost effectiveness to that.

- Thank you.

- Great, thank you very much. Well, you've all had a great discussion on the spotlight that was illustrated with these scenarios. Does anyone have any final comments or reflections from anything you've heard on the report back? Is there anything that stuck out in terms of an aha or something you want to take back to your organization as you think of some of these scenarios?

- [Lynn] Thank you. Not so much an aha, but I think they were well-written, thought-provoking, gave enough for nuance and it'd be nice to have a copy of those six scenarios so we could possibly take them back and think about them in our own jurisdiction.

- Sure.

- And areas a bit further.

- Great idea, we're happy to share them. Thanks, Lynn. Anyone else? Kevin? - [Kevin] [inaudible] already.

- [Male 4] Go ahead. Go ahead.

- Oh, sorry. Okay, I'll use both, that'll be fun. Thanks. Hello, yeah. It's the scenario...our table didn't have this one, but it was a scenario of the complainant going public with the matter. And I really agree with the observations of the different tables, there was fairness to the member, there was legislative requirements, confidentiality, etc.

But it's really hard not to sort of be aware, and we don't have time to talk about it, but part of that, does it lend itself to the idea that we're protecting the profession, and that it's a little paternalistic or

maternalistic or parental that the regulator has information that I, as a member of the public or a patient, why wouldn't I have that to then decide for myself whether or not I think this practitioner is somebody that I would want to bring my child to, that I would want my mother to receive care from?

So, and the other thing, and I think this has come up in some other presentations, not today but in the past, that, and I don't know this one, I think it's called rate your doctor or rate your teacher, those kinds of applications, that in some respects I'm surprised that this scenario doesn't happen more often, and maybe it does, I just don't know it.

Is, why wouldn't you do that? Why wouldn't you tell the media or whomever this information? And then if that happens, then does that position us in an opportunity? If we're the authoritative source about information and education as other people have suggested, isn't there an argument to be made about really blowing up transparency, because then we, the regulator, the authoritative source can really help articulate what a take-no-action really means for a nurse, or what a discipline finding really means for a nurse.

So, I just sort of was really struck by that, that is it possible we're not actually going to lose control of this, as, I guess, users decide, "What's my information? I'm part of a process. I'm going to tell whoever I want, this information."

- Thanks Kevin. And Phyllis, did you...?

- Here you go.

- Thanks. So, I just...you know when you think about Regulation 2030 and the conversation around, at that conference, and we talked about standards, how can we standardize globally? And what struck me was the different tables, the different organizations and boards of nursing and organizations that were represented, how similar some of our responses really were, that maybe we're...we need to focus on our similarities rather than all of our differences, and maybe that's how we'll listen to each other and standardize things as we look at global regulation.

That just struck me. Thank you, Anne.

- Thank you. And Harry. - [Harry] Thank you. I just wanted to say a couple of things. One is, of course, the last scenario, the correct answer is actually things can only get better.

But the real point I wanted to make comes from Donnie's presentation, but also from the general conversation, the one lesson I take from all of this is that the most important people in terms of the quality of our data security and our cyber security and our ability to handle things when they go wrong is our frontline staff, and particularly is the people who answer the telephones, the people who deal with the complainants at the first moment they complain.

It's all those people who are really in touch with the outside world which many of us as chief executives and senior officers are protected from by our colleagues and by our systems. And so focusing on training, support, valuing, learning from those frontline staff seems to me to be threaded through all the discussion.

- Thank you very much, and thank you, everyone, for your participation. There's this magic clock up here that is a countdown, and we are nine seconds away from the afternoon break. So, enjoy. Thank you very much.