The National Council of State Boards of Nursing (NCSBN) is the professional organization for Boards of Nursing in the U.S. and U.S. territories. About half of the nursing licensure boards are umbrella boards (part of a larger agency) such as Nebraska is, and the other half are independent boards, such as the Nebraska Board of Nursing was until 1981. NCSBN has completed an analysis comparing the performance of umbrella and independent boards of nursing. The analysis demonstrated that independent boards perform better than their umbrella counterparts. (NCSBN, 2016). Article is attached.

Comparing Performance of Umbrella and Independent Nursing Boards: An Initial Review

David Benton, RGN, PhD, FFNF, FRCN, FAAN; Shirley A. Brekken, MS, RN; Joey Ridenour, RN, MN, FAAN; and Katherine Thomas, MN, RN, FAAN

Introduction: There have been increased calls to examine the performance of nursing regulatory bodies. Despite this, few studies have been conducted. This article aims to identify potential measures that differentiate the performance or characteristics of umbrella and independent nursing boards. **Method:** A secondary analysis of data gathered to characterize the nature of nursing boards was conducted to identify any measures or characteristics that could be used to differentiate aspects of the performance of umbrella and independent boards so as to inform regulatory body model design. **Results:** Data from 26 umbrella and 24 independent boards were obtained. Seven boards did not provide data (four umbrella boards and three independent boards) resulting in an 87.7% response rate. Chi-square test of association identified nine measures that reached a statistically significant (i.e., $p \le .05$) level of association. The nine measures were categorized under three headings: governance, autonomy and information. **Conclusions:** A number of measures have been identified that do demonstrate differences between umbrella and independent boards. Umbrella boards are more frequently subjected to critical review through the sunset review process. Independent boards are more communicative with their stakeholders and have greater autonomy. However, more financial and workforce data are required to provide a more comprehensive analysis of this important subject.

Researchers, governments and intergovernmental agencies have noted that there is a need to assess the performance of regulatory agencies and boards (Radaelli & Fritsch 2012; Benton et al. 2013b; Clarke et al. 2016; Australian National Audit Office 2014; Organisation for Economic Co-operation and Development 2014). While any attempt to systematically and repeatedly measure performance of an individual board is welcome in terms of identifying opportunities to track improvements, longitudinal and overtime comparative data is often more useful if breakthrough or quantum improvements are to be made (Ng, 2012).

The National Council of State Boards of Nursing (NCSBN) realized the power of gathering comparative data from its members more than a decade ago (NCSBN, 2004). These data are collected, aggregated, and then fed back to the boards so the boards can examine performance relative to boards of a similar size, structure, and governance and to provide a means of monitoring change over time (NCSBN, 2004, 2015). The data published as the Commitment to Ongoing Regulatory Excellence (CORE) reports provide boards with a means of looking at their performance over time. In addition, NCSBN also compiles data describing the structure, processes, and to some degree the outputs of the boards via a regular member profile survey. The profile survey

was not intended as a measure of performance, but the authors decided to examine this data to see if it could provide insights into performance. This report reexamines available data and focuses on a comparative analysis of umbrella and independent boards by examination of data collected in relation to the the 2014 NCSBN Member Board Profiles (https://mbprofiles.ncsbn.org/HomePage.aspx). Independent boards are bodies that are not attached to a larger agency and have control over staffing and licensing and disciplinary activities. Umbrella boards are more consolidated entities that are located in a larger, overarching organization that share staff and resources and can require standardization of processes across regulated disciplines.

Assessing Regulatory Board Performance

There has been an increasing interest in assessing the performance of regulatory bodies reaching back over several decades (Organization for Economic Co-operation and Development [OECD] 1980; Graddy & Nichol, 1990). Pearson (2005), Cutcliffe & Forester (2010) and Cutcliffe et al (2011) have suggested that, with regard to nursing regulatory bodies, this interest has been driven by a general awareness of an increase in the number of professional misconduct cases and an often perceived or actual

variability in the way that such complaints are addressed across jurisdictions. These variations, coupled with high-profile adverse media coverage of often unique cases, have been instrumental in raising questions on how the performance of regulatory bodies can be measured (Tee & Jowett, 2009). Despite these concerns, not all assessments have been driven by specific or perceived problems. In some countries such as the United States, some jurisdictions mandate state-based agencies to be reviewed on a regular basis by the legislature pursuant to a "sunset" review process. The sunset review is an evaluation of the need for the continued existence of the agency. The process provides for an assessment of the efficacy and performance of a board and, as a result, recommendations as to whether the agency should continue, be modified, or sunsetted are made. Additionally, if there is an intention to establish a new agency, a systematic examination of the advantages, disadvantages, and impact of the creation of such an entity may be required under the "sunrise" process. These processes are governed by what are commonly known as sunset or sunrise laws.

In the United Kingdom, similar reviews can take place but these are not normally on such a precise and regular timescale, and can often be triggered by specific and/or perceived short comings in the performance of the regulatory body or, as has been the case in the past, an ideological desire to reduce the burdens of regulation through such means as the "bonfire of the quangos." During the 2010 United Kingdom general election, the conservative party announced that if they won the election they would seek to curb spending and reduce the burdens of bureaucracy through the abolition of quangos (**qu**asi-**a**utonomous **n**on-**g**overnmental **o**rganizations) (Skelcher et al 2013).

In the United States, the exact focus of sunset reviews can vary significantly. Sometimes the review may be all-encompassing, covering all aspects of the board's responsibilities and functions. The review may be focused upon a single board or may be comparative, for example, as in the case of Joint Legislative Audit and Review Commission of the Virginia General Assembly (1999) when the performance of a number of health regulatory boards were compared and contrasted. In other cases, only certain aspects of the board's activity are considered in detail or alternatively may be subject to a phased evaluation approach. For example, the review may examine rule-making and licensing, or it may look at governance performance focusing on the structure and composition of the board and its financial viability. Furthermore, reviews may look at key metrics associated with the time taken to deal with discipline cases or other core functions such as initial or re-licensure. Despite all this activity, major questions remain unanswered.

More than 20 years ago, Rachlis and Kushner (1994) noted that there have been few scientifically robust evaluations of umbrella-based approaches as compared to stand-alone or independent-based models. Nevertheless, some individual state-based evaluations have taken place and in general these suggest that more independent structures perform better across a range of measures (Auditor General, 1995; Office of the Legislative Auditor of State of Minnesota, 1999; Washington State Nursing Care Quality Assurance Commission, 2012; North Carolina General Assembly, 2014; Texas Health Professions Council, 2016). Additionally, Benton et al (2013b) as part of their global study to identify regulatory board metrics, attempted to differentiate the performance of umbrella and independent boards. The outcome was that experts who participated in the study only offered superficial insights. Accordingly, it is suggested that this study is long overdue. The purpose of the present study was to identify potential measures that differentiate the performance or characteristics of umbrella and independent nursing boards.

Method

This study is based on a secondary analysis of data from the 2014 NCSBN Member Board Profiles. Data were examined using a chi-square test of association to identify potential measures that could do the following:

- Assist in differentiating between umbrella and independent board performance and/or characteristics;
- Offer an opportunity to identify potential areas for performance improvement; and
- Provide initial evidence relative to the optimal design of regulatory models.

The Member Board Profiles survey offers a means of examining a range of features associated with the various boards. Full or customized reports can be generated and can provide numerical, tabular, and graphical or map-based data. In this case, tabular data were generated by obtaining frequency counts against the categorical responses to the various questions posed by the survey and cross-tabulated by the type of board.

For the purpose of this analysis, all boards of nursing (BONs) were allocated to either the umbrella or the independent board model category. An independent board refers to a regulatory body that functions within jurisdictional government with varying degrees of autonomy for administration, licensure, and discipline functions, decision making, and policy making. Those fees that are collected by an independent board are generally retained by the board for their operations. In the case of umbrella boards, the regulatory body functions within a larger jurisdictional agency that consolidates services for administration, licensure, and investigations. Those fees collected are often deposited in the jurisdiction's general fund and an allocation is made to the board for their operations. It is acknowledged that even within these two broad classifications there are variations necessitating consideration when interpreting the results.

The OECD (2014) publication on the governance of regulators identified that when assessing the performance of regulatory bodies two distinct although related perspectives could be taken. Either an external perspective where the roles, relationships, and distribution of powers and responsibilities could be

considered or an internal perspective that focused on standards, business processes, and financial and other performance. It is the first of these dimensions that the data from the NCSBN Member Board Profiles. The internal dimension analysis will be the subject of a subsequent study.

Results

The NCSBN Member Board Profiles gathers and reports data on nursing boards across 13 dimensions: terminology, agency type, composition of board members, board member requirements, appointment/election of board members, board member terms, power and duties of the board, board meetings and committees, sunrise/sunset laws, budget, revenue, newsletter, and annual report. Data from 26 umbrella and 24 independent boards were obtained. Seven boards did not provide data (four umbrella boards and three independent boards). This very high response rate, 87.7%, and the fact that the non-respondents were not biased to any extent towards either umbrella or independent boards would suggest that the findings are likely to be useful to all boards of nursing in the United States of America.

A total of 44 possible associations between the measures and the regulatory board models were explored. The vast majority of these failed to indicate a statistically significant association, that is, $p > 0.05$. Not all boards provided responses to all questions, therefore some variables were rejected on the basis that there were insufficient data to conduct a reliable and/or valid analysis. Set out below are those cross-tabulations where a statistically significant association between the type of board (umbrella or independent) and the other variable were identified.

Unfortunately, data reported with regards to revenue and expenditure breakdown were incomplete and as a result it was not possible to analyze these dimensions. In addition, although the data in relation to powers and duties did not show any statistical association, independent boards were more frequently given the authority to set fees and were also able to propose legislation. Perhaps not surprisingly, independent boards were far more frequently able to make and approve policies relating to operations and personnel matters.

Discussion

When looking at the results obtained, the statistical associations documented in Table 1 can be classified as falling into three categories: governance, autonomy, and information.

Governance

In terms of governance, a mixed position emerges. Umbrella boards are more likely to have board term limits. This may be explained by the fact that the legislation associated with the creation of umbrella structures tends to be more recent than that relating to independent boards (Brinegar, 2005). While there is still an active debate as to the value of term limits, it is worthy of closer examination (Peregrine, 2011). It is therefore recommended that boards critically examine the provisions for term limits in statute and where necessary amend these to come in line with contemporary governance practices (Deloitte, 2014). Deloitte (2014) also notes that care needs to be taken to ensure that there is sufficient turnover to bring new perspectives to bear but also avoid the wholescale loss of corporate memory by having all members turnover at the same time.

In terms of governance oversight, umbrella boards are more likely to be subject to sunset law reviews. Sunset laws provide an opportunity for a critical analysis of performance in three areas.

- First, is the board compliant with the legislative intent?
- Second, is the board operating in an efficient and effective manner with adequate and appropriate controls in place.?
- Third, is the board reaching expected performance measurement goals and targets in relation to core programs of licensing, discipline and nursing educational programs.?

The fact that umbrella boards are more likely to be subject to such reviews provides them the opportunity to obtain constructive feedback on performance. Such reviews can often reveal both promising practices that can be shared across the sub-divisions of the umbrella structures and poor performance that can compromise the core responsibilities such as protecting the public. However, the nature of the independent boards along with the need for routine audit activity means that independent boards are nonetheless subject to a different type of routine scrutiny.

Autonomy

Several of the statistically significant differences between umbrella and independent boards relate to the degree of autonomy that the board can exercise. The independent boards are more autonomous as they tend to have the authority to appoint the executive officer, have more control over the budgeting process, tend to be financially self-sustaining and have fund balances available to them.

These findings were expected and relate to the powers granted to the board in establishing legislation. However, it is important to note that these powers, central to the governance of independent boards, are in line with the best practice principles for regulatory policy as stated by the OECD (2014). Indeed, OECD (2014) noted that "greater scope for regulatory discretion enables regulation to be applied more proportionately and flexibly." The principles articulated by OECD (2014) were distilled from a wide range of regulatory guidance issued by governments, supported by various theoretical and case studies, and drawn from multiple sectors. The principles, based on extensive examination of models from around the world, were only agreed and then published subsequent to a significant consultation process. It is therefore puzzling that these principles are not utilized more extensively in the design and evaluation of regulatory board performance.

TABLE 1

Statistical Associations

Theme	Issue to be compared	Measures	Umbrella Boards	Independent Boards	Statistical Results
	Number of consecutive terms a board member may serve.	1	0	0	$\chi^2 = 7.26$ $df = 2$ $p = .03$
		2	22	14	
		3	0	5	
		Unlimited	3	5	
Governance	Do statutes known as sunset laws exist for the Board of Nursing?	No	10	17	$\chi^2 = 4.705$ $df = 1$ $p = .03$
		Yes	15	7	
	Who appoints/hires the executive officer?	Board Members	5	23	$\chi^2 = 30.5$ $df = 4$ $p < .001$
		Board Members with Governor input	1	1	
		Governor with no board member input	1	0	
		Governor with board member input	1	0	
		Department/division of state agency, no board member input	17	0	
Autonomy	Does the board of nursing draft or approve the budget?	Draft	4	9	$\chi^2 = 25.497$ $df = 3$ $p < .001$
		Approve	1	2	
		Draft & Approve	3	13	
		Not involved in budgeting process	17	0	
	Does the board of nursing have a fund balance?	No	8	2	$\chi^2 = 5.98$ $df = 2$ $p = .05$
		Yes	14	21	
		Does not apply	3	1	
	Is the board of nursing financially self-sustaining?	No	12	1	$\chi^2 = 12.07$ $df = 1$ $p < .001$
		Yes	13	23	
Information	Is there a newsletter published?	No	13	3	$\chi^2 = 8.688$ $df = 1$ $p < .001$
		Yes	12	29	
	Frequency of newsletter production?	1-2 times per year	6	3	$\chi^2 = 4.9$ $df = 1$ $p = .027$
		3-4 times per year	6	18	
		5 times or more	0	0	
	Does the Board produce an annual report?	No	12	5	$\chi^2 = 3.989$ $df = 1$
		Yes	13	19	

Note. df = degrees of freedom.

Information

In today's fast-changing environments, the provision of information is an essential component of protecting the public. To this end, it is noted that independent boards are far more communicative than umbrella boards as they communicate with licensees, employers, and other key stakeholders such as educational institutions on a more regular basis. This is a significant finding since one of the often cited reasons for regulating a profession is based upon the impact that lack of information can have on exposing the patient to risk (Gerber & Teske, 2000). Having identified this finding, it is important to note that current data offers a very high level of analysis and since information can be delivered using an increasing number of media, the topic warrants further and more detailed study.

Limitations

To this point there have been few comprehensive attempts to evaluate whether there are differences between umbrella and independent boards. This study has been able to shine a light on a much neglected area of research; however, this study utilized a secondary analysis of data captured for another purpose and as a result, several potential areas of difference remain uninvestigated. A more comprehensive approach could have used the seven

dimensions of external governance described by OECD (2014): role clarity, preventing undue influence and maintaining trust, decision making and governing body structure for independent regulators, accountability and transparency, engagement, funding, and performance evaluation. In addition, as noted earlier, the classification into two broad categories of umbrella and independent boards may also hide subtler differences that may exist even within these two broad types (Benton, González-Jurado, & Beneit-Montesinos, 2013a).

Conclusions

A number of measures have been identified that do demonstrate differences between umbrella and independent boards. With the exception of length of board member terms, where there is no agreed answer as to what is optimal practice, independent boards perform better than their umbrella equivalents. Additionally, independent boards are more communicative with their stakeholders and have greater autonomy. However, umbrella boards are more frequently subjected to external critical review through the sunset review process and accordingly have opportunities to make changes based on the findings of such scrutiny.

Data relating to critical measures of economic and key-responsibility performance were not adequately captured in this data-set and therefore this study should be seen as only the start of a journey that may ultimately lead to a definitive answer as to which model, umbrella or independent, is most efficient and effective in delivering their prime purpose of protecting the public.

NCSBN gathers data from multiple sources and as such it will be important to conduct further studies relating to metrics associated with finances and the use of human resources (board staff) if definitive conclusions on efficiency and effectiveness of the two models are to be determined. To this end, further research is needed that compares and contrasts umbrella and independent boards regarding the time taken to complete core responsibilities, including licensure processes, both initial and renewal; the rigor, accuracy, and timeliness of complaint investigation and resolution; and the relative resources allocated to these functions.

References

Auditor General. (1995). *Special study: The health regulatory system–report #95-13.* Phoenix, AZ. Office of the Auditor General. Retrieved from http://azmemory.azlibrary.gov/cdm/ref/collection/statepubs/id/7410

Australian National Audit Office. (2014). *Administering regulation: Achieving the right balance.* Barton ACT, Commonwealth of Australia. Retrieved from www.anao.gov.au/sites/g/files/net616/f/2014_ANAO%20-%20BPG%20Administering%20Regulation.pdf

Benton, D., González-Jurado, M., & Beneit-Montesinos, J. (2013a). A typology of professional regulatory models and their administration. *Journal of Nursing Regulation, 4*(2), 22–29.

Benton, D., González-Jurado, M., & Beneit-Montesinos, J. (2013b). Defining nurse regulation and regulatory body performance: A policy Delphi study. *International Nursing Review, 60*(3), 303–312. Retrieved from http://dx.doi.org/10.1111/inr.12027

Brinegar, P. (2005). *Professional licensure: The book of the states 2005.* Lexington, KY: The Council of State Governments. Retrieved from www.csg.org/knowledgecenter/docs/BOS2005-Prolicensing.pdf

Clarke, D., Duke, J., Wuliji, T., Smith, A., Phuong, K., & San, U. (2016). Strengthening health professions regulation in Cambodia: A rapid assessment. *Human Resources for Health, 14*(9). Retrieved from http://dx.doi.org/10.1186/s12960-016-0104-0

Cutcliffe, J. R., Bajkay, R., Forster, S., Small, R., & Travale, R. (2011). Nurse migration in an increasingly connected world: The case for internationalization of regulation of nurses and nursing regulatory bodies. *Archives of Psychiatric Nursing, 25*(5), 320–328.

Cutcliffe, J. R., & Forster, S. (2010). Professional regulatory nursing bodies: International variations in the protection of the public. *International Journal of Nursing Studies. 47*(11), 1343–1345.

Deloitte. (2014). *2014 Board Practices Report: Perspectives from the boardroom.* Retrieved from www2.deloitte.com/content/dam/Deloitte/us/Documents/regulatory/us-2014-board-practices-report-final-9274051-12122014.pdf

Gerber, B. J., & Teske, P. (2000). Regulatory policymaking in the American states: A review of theories and evidence. *Political Research Quarterly, 53*(4), 849–886.

Graddy, E., & Nichol, M. B. (1990). Structural reforms and licensing board performance. *American Politics Quarterly, 18*(3), 376–400.

Joint Legislative Audit and Review Commission of the Virginia General Assembly. (1999). *Final report: Review of the health regulatory boards.* House Document No. 5. Richmond, VA: Author. Retrieved from http://jlarc.virginia.gov/pdfs/reports/Rpt233.pdf

National Council of State Boards of Nursing. (2004). *Evidence-based regulation: A regulatory performance measurement system.* Chicago, IL: Author.

National Council of State Boards of Nursing. (2015). *Commitment to ongoing regulatory excellence (CORE): Aggregate report FY2014.* Chicago, IL: Author.

Ng, K. S. (2012). *Quality management and practices.* Rijeka, Croatia: InTech. Retrieved from http://dx.doi.org/10.5772/36671

North Carolina General Assembly. (2014). *Occupational licensing agencies should not be centralized, but stronger oversight is needed. Final report to the Joint Legislative Program Evaluation Oversight Committee.* Raleigh, NC: Program Evaluation Division of the North Carolina General Assembly. Retrieved from www.ncleg.net/PED/Reports/documents/OccLic/OccLic_Report.pdf

Office of the Legislative Auditor, State of Minnesota. (1999). *Occupational regulation: A program evaluation report.* St Paul, MN: Author. Retrieved from www.auditor.leg.state.mn.us/ped/pedrep/9905-all.pdf

Organisation for Economic Co-operation and Development. (2014). *OECD best practice principles for regulatory policy: The governance of regulators.* Paris: Author. Retrieved from www.oecd.org/gov/regulatory-policy/the-governance-of-regulators-9789264209015-en.htm

Pearson, A. (2005). Registration, regulation and competence in nursing. *International Journal of Nursing Practice, 11*(5), 191–192.

Peregrine, M. W. (2011). Revisiting term limits: To limit or not to limit—that is the (term) question? *Boardroom Press, 22*(1), 1–2. Retrieved from http://mweinfofiles.azurewebsites.net/info/pubs/BRP_2011_2.pdf

Rachlis, M., & Kushner, C. (1994). *Strong medicine: How to save Canada's health care system.* Toronto: Harper Collins.

Radaelli, C., & Fritsch, O. (2012). *Measuring regulatory performance: Evaluating regulatory management tools and programmes: Expert paper 2.* Paris: Organisation for Economic Co-operation and Development. Retrieved from www.oecd.org/gov/regulatory-policy/2_Radaelli%20web.pdf

Skelcher, C., Flinders, M., Tonkiss, K., & Dommett, K. (2013). *Public bodies reform by the UK Government 2010–2013: Initial findings: Shrinking the state research paper 1.* Edgbaston: University of Birmingham Institute of Local Government Studies. Retrieved from www.sheffield.ac.uk/polopoly_fs/1.284208!/file/report.pdf

Tee, S. R., & Jowett, R. (2009). Achieving fitness to practice: Contributing to public and patient protection in nurse education. *Nurse Education Today, 29*(4), 439–447.

Texas Health Professions Council. (2016). *Health Professions Council annual report.* Retrieved from www.hpc.texas.gov/wp-content/uploads/HPCDocs/2015_HPC_Annual_Report.pdf

Washington State Nursing Care Quality Assurance Commission. (2012). *1103 Report comparison of performance outcomes.* Olympia, WA: Author. Retrieved from www.doh.wa.gov/Portals/1/Documents/Pubs/631041NCQAC.pdf

David Benton, RGN, PhD, FFNF, FRCN, FAAN, is Chief Executive Officer of National Council of State Boards of Nursing. **Shirley A. Brekken, MS, RN,** is the Executive Director of the Minnesota Board of Nursing, Minneapolis. **Joey Ridenour, RN, MN, FAAN,** is the Executive Director of the Arizona State Board of Nursing, Phoenix. **Katherine Thomas, MN, RN, FAAN,** is the Executive Director of the Texas Board of Nursing, Austin.