Licensing Board Structure

Presentation to the Kentucky Occupational Licensing Policy Learning Consortium

April 30, 2018
Not a new idea...

- 1892 NY places most of its professional regulatory board under a board of regents
- 1917 - Illinois
- 1921 - Washington
- 1923 - Pennsylvania
- 1929 - California
- 1960s - 70s wave of centralization (16 states)
- 1990 - 33 states
Today:

37 Centralized
18 Autonomous
Models of Board Structure

- **Model A:** No central agency, only autonomous boards
- **Model B:** Autonomous boards with a central agency for routine administrative functions
- **Model C:** Autonomous boards and a central agency with authority for functions such as budgetary, personnel and certain disciplinary activities
Models of Board Structure

- **Model D:** Board actions subject to review by a central agency

- **Model E:** Central agency has complete regulatory authority. Boards are advisory only.

- **Note!** Some states centralize certain boards while others remain autonomous
4 Principles of Centralization

- Grouping agencies into broad functional areas
- Establishing relatively few departments to enhance the span of control and pinpoint responsibility to the chief executive and the legislature
- Delineating single lines of authority to the top
- Administering departments by an individual and not by boards or commissions
“At the end of the day, this case is about a state board run by private actors in the marketplace taking action outside of the procedures mandated by state law to expel a competitor from the market,” ~ Judge Shedd
FTC vs. North Carolina Dental Board

- Active supervision by the state
- Boards made up by a controlling number of active market participants
- Possible through centralized and non-centralized models....
Other Reasons to Centralize

- Economies of Scale
- Shared information
- Governance
- One-stop shopping for consumers
- Shared outreach / breadth
- Technology / databases
The grass is not always greener...
Benefits of Independent vs. Central Agencies

**Independent Boards**
- Administrative Efficiency
- Need for professional expertise
- Insulation from political interference
- Accountability

**Central Agencies**
- Coordination
- Administrative Efficiency
- Oversight
- Accountability

*Ultimately reasons to centralize or remain independent are not mutually exclusive.*
Regulatory Models Survey

- Document variety of regulatory structures in the U.S.
- Share information across states
- Track movement and trends

- Authority / Model
- Reach – staff, professions, licensees
- Board Composition
- Fiscal
- Cost
Preliminary Survey Results

- 95 complete responses, representing 33 states and District of Columbia
- Responses received from: AL, AR, AZ, CA, CO, DC, HI, IA, ID, IN, KY, LA, MD, MN, MO, MS, MT, NC, NE, NH, NM, NV, OH, OK, OR, SD, TX, UT, VA, VT, WA, WI, WV, and WY
Preliminary Survey Results

- Model A – 7 states = 20.59%
- Model B – 4 states = 11.76%
- Model C – 6 states = 17.65%
- Model D – 1 state = 2.94%
- Model E – 1 state = 2.94%
- Multiple models in a state – 12 states = 35.29%
- Other model not described above – 3 states = 8.82%
Consider Changing Models?

- Proposed consolidation (4) – impetus: efficiency, free-market support, job creation, NC Dental Board anti-trust concerns, efficiency, cost-savings, reduce bureaucracy, increase efficiency
- Moved from umbrella to more independent – impetus: cost-saving, better customer service
- Change to fully autonomous – impetus: time and cost savings
- Considering Department of Business and Industry having oversight of boards – impetus: small board staff needs more oversight, mismanagement of some boards, lack of education and experience on some boards, efficiency, cost-savings, anti-competitive protections, compliance issues
How many different professions/occupations does your organization regulate?

- More than 20: 15.79% (15)
- 1: 45.26% (43)
- 2: 8.42% (8)
- 3: 10.53% (10)
- 4: 4.21% (4)
- 5: 3.16% (3)
- 6: 3.16% (3)
- 7: 2.11% (2)
- 9: 1.05% (1)
- 10: 2.11% (2)
- 11: 2.11% (2)
- 12: 2.11% (2)
How many staff members does your organization employ?
How many licensees in each profession?
- Organizations regulating 1 profession, range is 67 to 120,000.
- Average is 17,689.

Percentage of Public Members
- Range is 0% to 100%.
- Average is 24.12%
How is your organization primarily funded?

86.46% from the jurisdiction’s general fund
7.29% from licensing/renewal fees
6.25% from other sources
What percentage of the operating budget falls into each of the following categories?
Recent Regulatory Reform Efforts

Model A

Model B

Model C

Model D

Model E
Recent Regulatory Reform Efforts: Michigan

Combine similar occupations under an “umbrella” board. E.g. Barbers and Cosmetologists or Cemeteries, Funeral Directors and Pre-Paid Funeral and Cemetery Contract Providers
Investigate if professions should be deregulated and if boards should be centralized. Recommendation not to centralize but include some deregulation.
Recent Regulatory Reform Efforts: Oklahoma

Require all boards to feed into a centralized licensing database maintained by the Department of Labor.

“The Oklahoma Department of Labor shall become the central coordinating entity for the reporting of occupational licensing information from all state agencies, boards and commissions.”
Create the Occupational Licensing Review Commission comprised of the governor, secretary of state and attorney general, give authority to the commission to review occupational regulations, and emphasize state policy regarding occupational licensing that defines types of occupational regulation, promotes competition, and uses minimal restrictions to protect consumers (active supervision).
Considerations:

- What problem are you trying to solve?
- Performance or consumer safety outcomes?
- Political capital for legislative changes
- Cost / Efficiency
- Degree of centralization and autonomy