

The Fable of the Donkey



An old fable recounts how a father and son, taking a donkey to market, try to please every critical villager they meet. Their efforts to follow every piece of advice end absurdly and tragically, with them carrying the beast of burden themselves, ultimately causing its death.



Like the villagers' advice, regulations are well-intentioned. But programs that try to follow every single rule to the letter may find themselves too weighed down to achieve what they set out to do.

The Compliance Paradox



For four decades, a consistent pattern has emerged in childcare regulation:

Perfectly Compliant Programs: Staff spend an inordinate amount of time dotting i's and crossing t's on paperwork, leaving little time for improving classroom instruction.

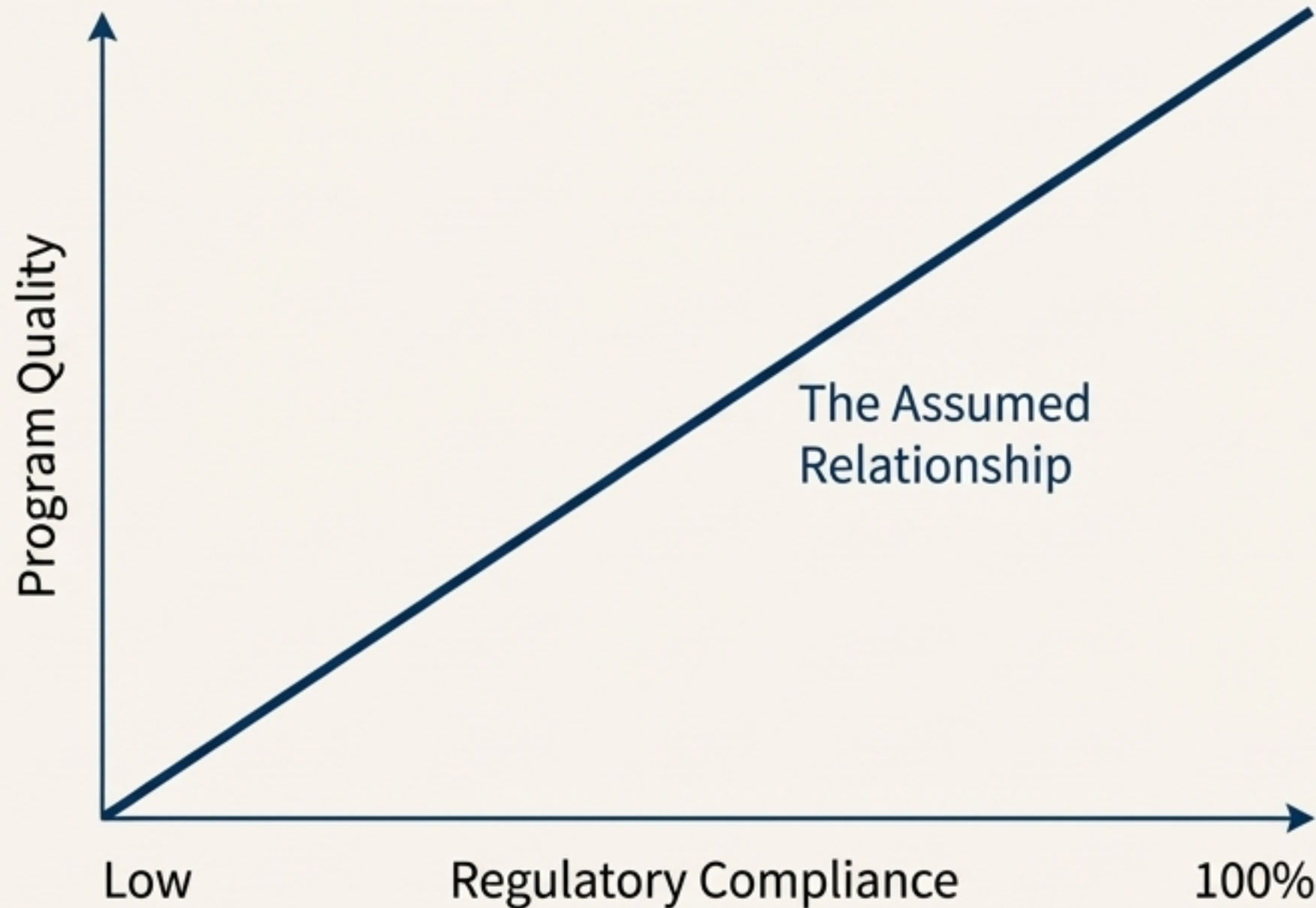


Substantially Compliant Programs:

Staff, while still careful about rules, fuss less with paperwork and work more with teachers on improving skills and curriculum.

“When you’re up to your behind in alligators, it’s hard to remember that you set out to drain the swamp.” - Richard Fiene

The Common-Sense Assumption That Led Us Astray



For decades, regulatory policy was built on a logical, philosophical assumption: fuller regulatory compliance would produce, linearly, better quality across programs.

- As compliance goes up, quality goes up.
- Therefore, the ultimate goal should be 100% compliance with every rule.

From a public policy standpoint, this notion sounds aspirational and sensible. **But what does the empirical data actually say?**

The Data Revealed a Surprising Truth

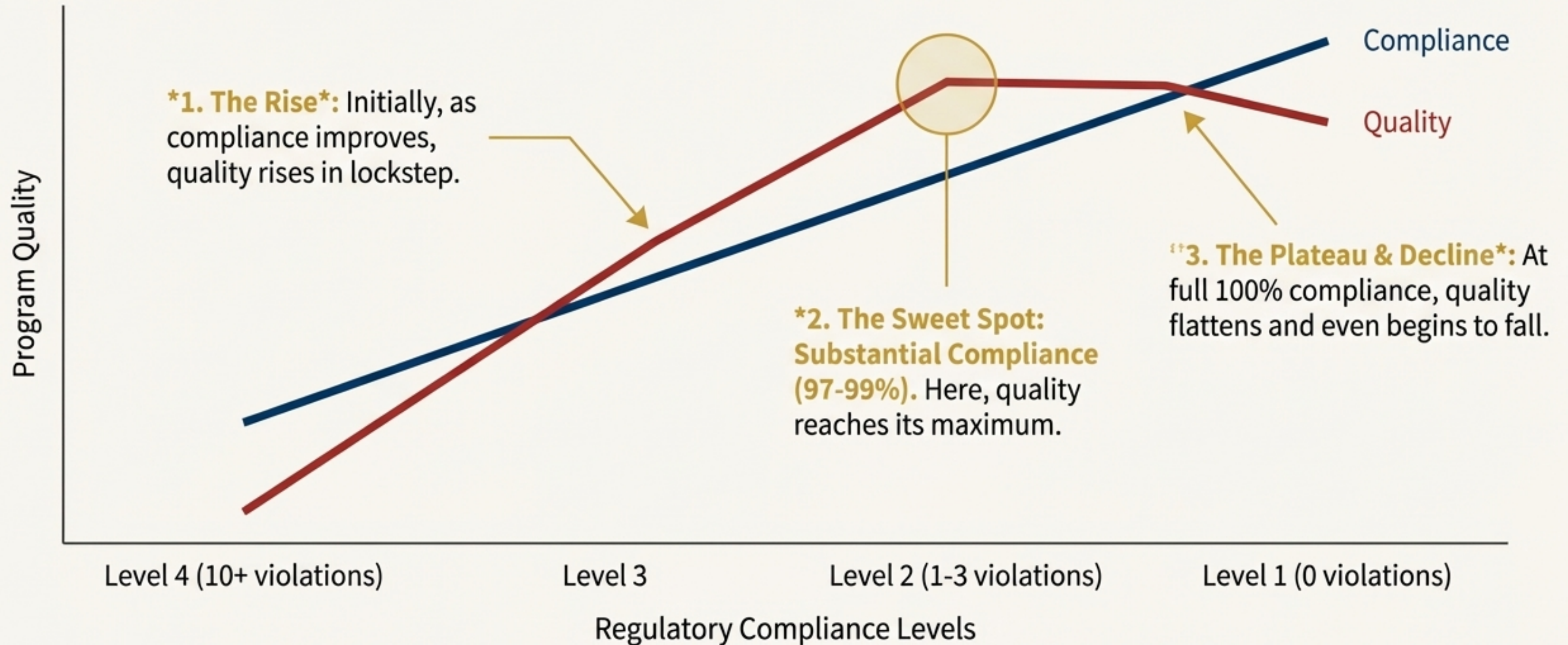


As computing power increased in the 1980s, researchers could finally analyze large datasets from state licensing agencies. When they compared regulatory violations to program quality, they found something unexpected.

- A linear relationship did exist, but only up to a certain point.
- After programs reached **substantial regulatory compliance** (98–99%), quality consistently **plateaued**.
- Worse, some replication studies in the 2010s suggested **diminishing returns**—quality actually declined slightly at 100% compliance.

“If, as data suggested, substantially compliant programs provided the same or better care as fully compliant ones, then clearly we needed to rethink our program evaluation strategies.” — Richard Fiene in Source Sans Pro

Visualizing the Plateau Effect



This data, replicated across eight states and three Canadian provinces, called into question the long-held policy of requiring full compliance for licensure. It showed that the pursuit of perfection was not just inefficient, but counterproductive.

A New Paradigm: The Theory of Regulatory Compliance



This new, outcomes-based scientific framework reframes the central question of regulation. The goal is to close the gap between box-checking and genuine program quality. The theory is not about **arguing for** more or fewer rules.

“It is never about more or fewer rules; it is about which rules are really productive and which are not.”

The theory is built on two key pillars: adopting **Substantial Compliance** as the standard and using **Differential Monitoring** to focus resources.

The Strategy: From Uniform to Differential Monitoring

The Old Way: Uniform Monitoring



One-size-fits-all. Every rule is treated equally.
Comprehensive reviews for everyone, every time.

The New Way: Differential Monitoring



A targeted approach. Focuses on rules proven to
be most critical. Allocates resources based on
risk and performance.

Differential monitoring replaces the brute-force approach with an intelligent system built on two powerful analytical tools: **Key Indicators** and **Risk Assessment**.

Component 1: Key Indicators



Definition:

Key Indicators are a small subset of rules that are statistical predictors of overall compliance.

How They Work:

- They are identified through statistical analysis of historical data.
- If a facility follows these specific rules, it strongly suggests they will follow most other rules as well.
- This allows for highly efficient and predictive inspections without needing to review all 200-400 regulations every single time.

Think of them as the '**canary in the coal mine**' for regulatory health.

Component 2: Risk Assessment



Definition:

Risk Assessment focuses on rules and regulations which, when breached, place children at the greatest risk of sickness, injury, or death.

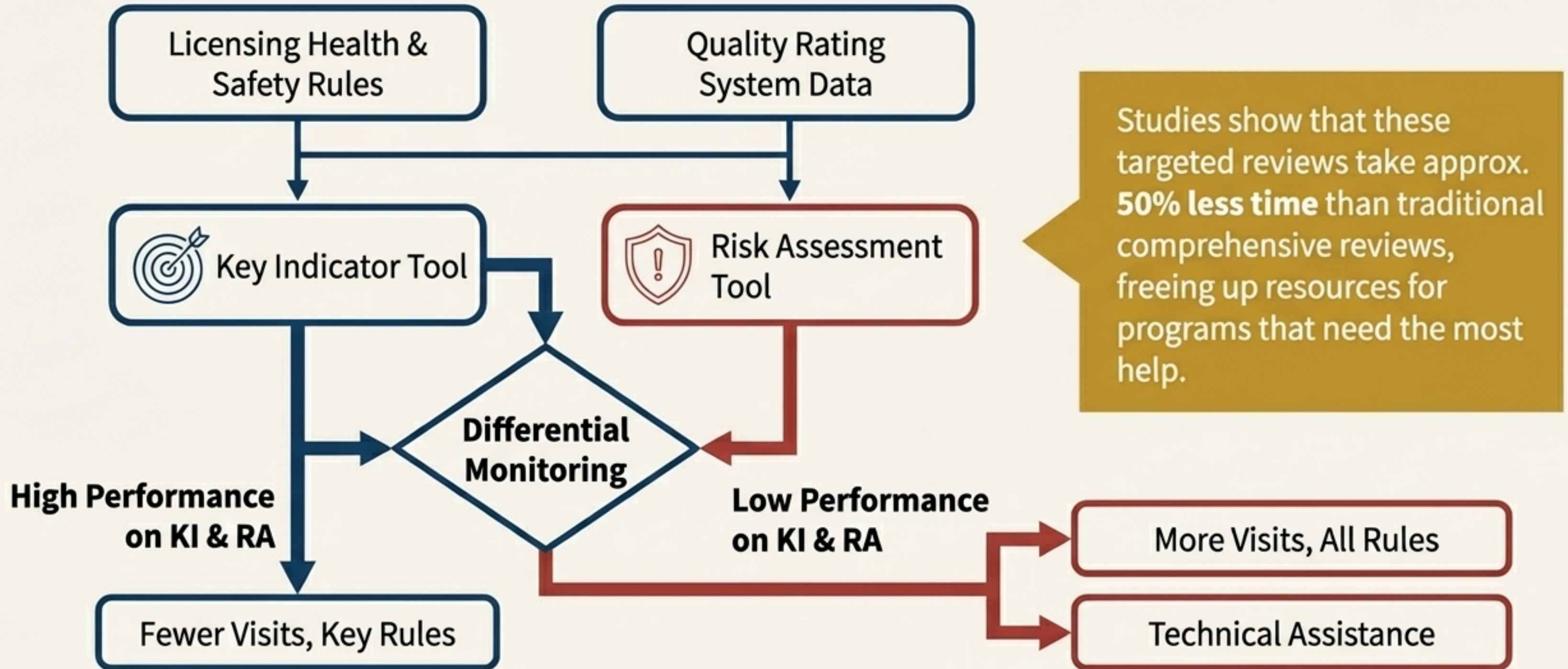
How It Works:

- Stakeholders (providers, parents, licensing staff) collaboratively “weight” each rule’s risk on a scale (typically 1-10).
- Rules with high-risk weights (e.g., related to supervision, hazardous materials) become part of every single differential monitoring review.



While Key Indicators predict broad compliance, Risk Assessment ensures that the most critical health and safety rules are never overlooked.

The Differential Monitoring System in Action

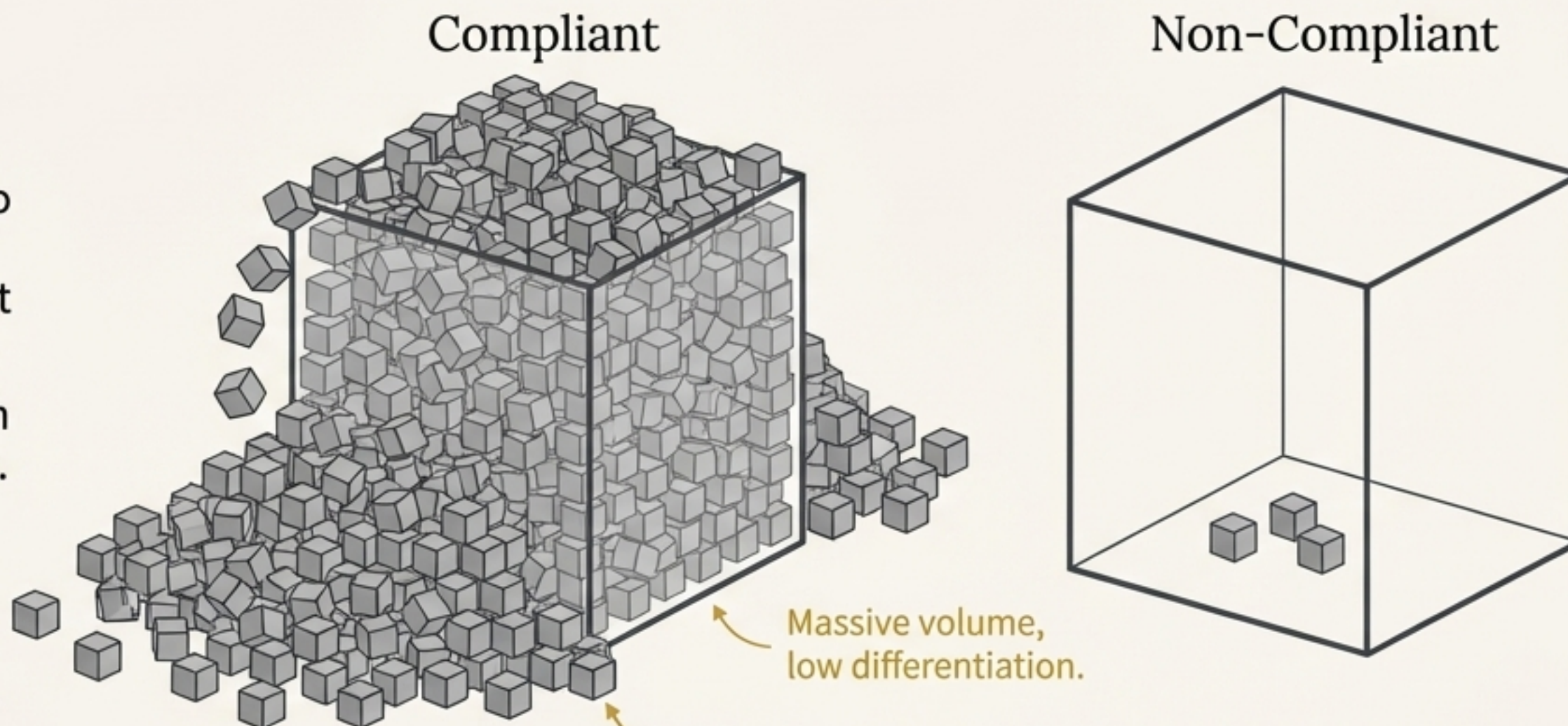


Comprehensive reviews are still required every 3-4 years to validate the predictive power of the Key Indicators and Risk Assessment rules.

A Deeper Problem: The Nature of Licensing Data

The Traditional Approach

- **Nominal Data:** Data is sorted into exclusive categories like “approved” or “denied.” You can’t “do math” on it.
- **Binary Measurement:** A program either follows a rule, or it doesn’t. There are no gray areas.



The Unintended Consequence: Severely Skewed Data

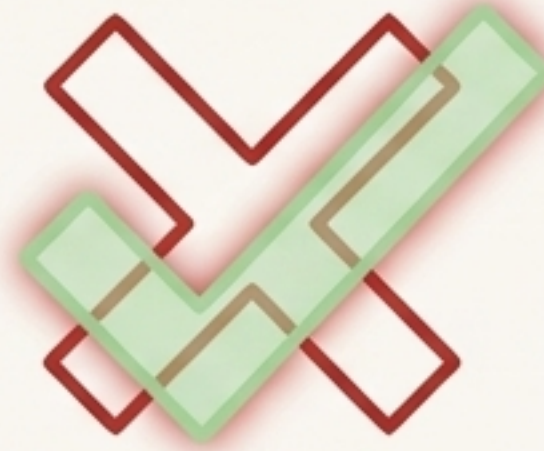
- Because programs must be compliant to operate, nearly all data falls into the “compliant” bucket.
- This makes it incredibly difficult to distinguish between excellent, good, and barely-passing programs.

The Dangers of a Binary System: False Positives & False Negatives



False Positive

An assessor rules a program is non-compliant with a rule it actually follows. This can be frustrating and costly for providers.

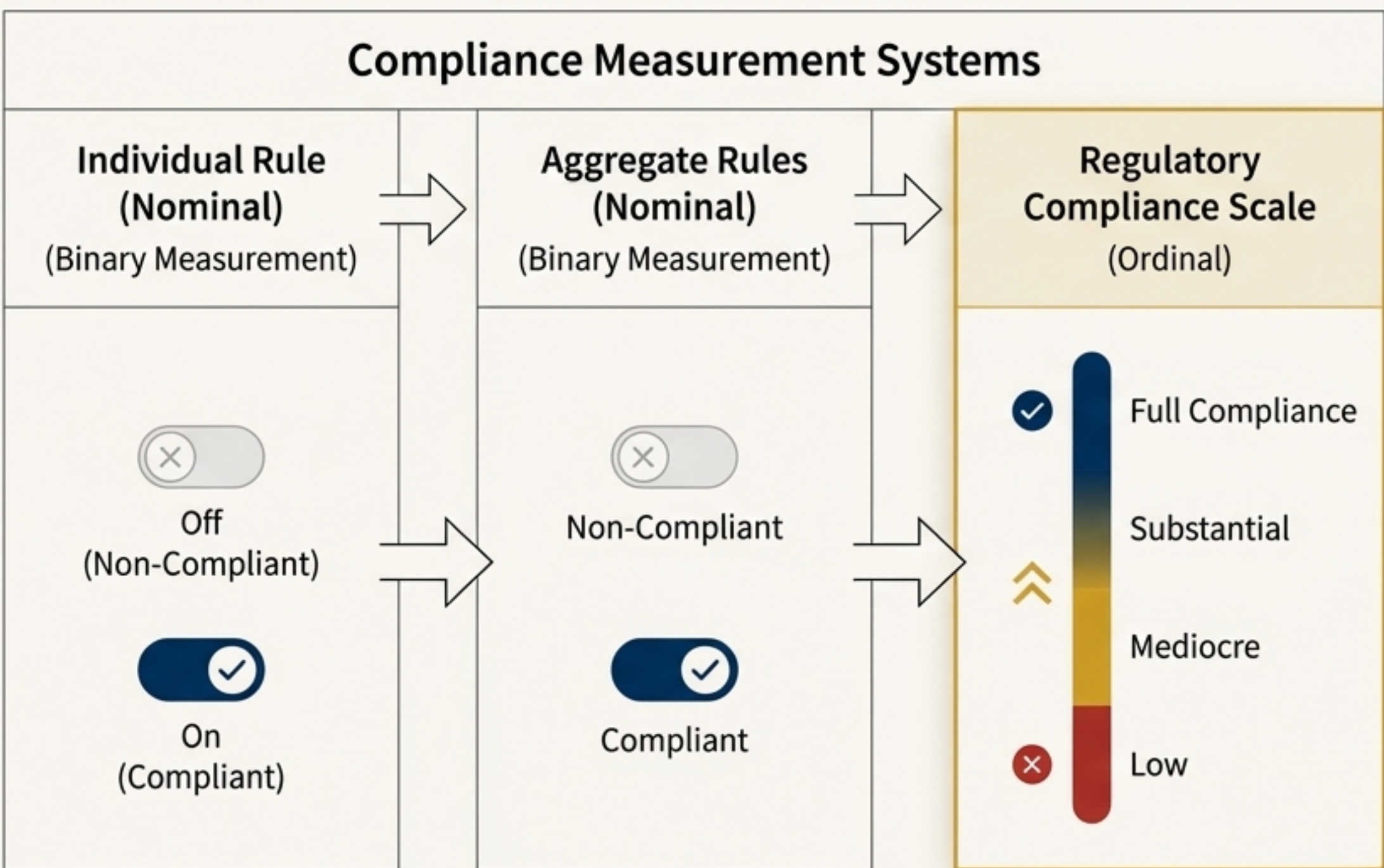


False Negative

An evaluator says a program complies with a rule that it actually breaches. **This is the far more dangerous error, as it places children at risk.**

“The **all-or-nothing** approach fails as a standard because it generates skewed data, raises the risks of false negatives and false positives, and springs from the false assumption that program quality increases in step with 100 percent compliance.”

The Solution: Evolving from a Binary Switch to a Graded Scale



Inspired by the 1-7 Likert scales already used in quality measurement, a new Regulatory Compliance Scale is being developed. This transforms licensing data from a simple violation tally into a more useful and intuitive scale. It allows us to see the difference between “excellent,” “good,” and “mediocre” compliance, aligning the data with real-world quality.

The Future: Toward Integrative Monitoring and Smarter Regulation



The Next Frontier

The ultimate goal is **Integrative Monitoring**, a system that:

- Fully incorporates **program quality** elements into the rules themselves.
- Evolves Key Indicators from predicting mere *compliance* to forecasting true program *quality*.

The Challenge Ahead

Regulatory scientists must untangle the relationship between compliance and quality (a non-linear curve) and compliance and safety (where full compliance remains the linear goal). This requires breaking down silos between licensing, accreditation, and quality rating systems.

A Broader Application

These principles—of challenging assumptions, focusing on key drivers, and improving measurement—can be applied to other human service sectors, such as foster care and adult residential care, to achieve better outcomes with limited resources.