Regulatory Theory & Global Implications

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Regulatory Theory and Licensing

Objectives

- ✓ Introduce the theories driving licensing policies across the globe
- ✓ Learn how rules shape our economic behavior
- ✓ Discuss current trends and driving forces within the shifting landscape

"Before we get into global examples, I want to briefly ground us in the big picture—what regulatory theory is, and why licensing sits at the center of it."
Regulatory theory helps us understand **why governments regulate**, how systems are designed, and what they're actually trying to accomplish. At its core, it asks a few practical questions:

What risks are we managing?
Who are we protecting?
And how much oversight is enough to prevent harm without creating new problems?

Licensing is one of the most powerful tools we use to answer those questions. It acts as a **gatekeeping mechanism**—allowing people or organizations to operate only if they meet defined standards. In human services, those decisions directly affect children, families, and vulnerable populations, which makes licensing both a safety tool and a statement of public values.
What's important to remember is that **regulatory theory isn't abstract**. It shapes how inspections are carried out, how discretion is used, how providers experience oversight, and ultimately how effective licensing is at preventing

harm.

“So as we move forward, I invite you to think like system designers—considering not just what the rules say, but how they actually function in practice.”

Theoretical Background

Transition Slide

What is Regulatory Theory

- **Examines how rules and standards are:**
  - Designed
  - Implemented
  - Enforced
- **Aims to manage:**
  - Market behavior
  - Social risk
  - Public welfare

At its most basic level, regulatory theory looks at how rules actually shape behavior." It examines three core things: How rules are **designed**, How they are **implemented**, And how they are **enforced**.
The goal of regulation isn't control for its own sake. It's about managing **risk**, influencing **market and organizational behavior**, and protecting **public welfare**—especially where harm is hard for consumers to see or measure on their own.

Regulatory theory helps explain *why* regulators intervene in certain spaces and *how* they decide what level of oversight is appropriate. It also helps us understand why the same rule can work well in one context and fail in another.
"So regulatory theory gives us a lens—not just for what the rules say, but for how regulatory systems actually function in practice."
This sets up why licensing, in particular, plays such a central role.

Licensing as a Regulatory Tool

- ✓Grants permission to operate
- ✓Requires meeting defined standards
- ✓Functions as a:
  - Quality assurance mechanism
  - Risk control tool
  - Barrier or filter for market entry

"Licensing is one of the most direct tools regulators use to shape behavior." At its most basic level, licensing **grants permission to operate**, but only after defined standards are met. That allows governments to set minimum expectations around **safety, competence, and quality** before harm occurs. Functionally, licensing does three things at once.

It serves as a **quality assurance mechanism**, signaling to the public that minimum standards are in place.
It operates as a **risk control tool**, limiting who can provide services where harm would be difficult for consumers to detect on their own.
And it acts as a **filter or barrier to market entry**, shaping who is allowed to participate in a field.

That last point matters. Licensing doesn't just protect—it also **structures markets and systems**. The way standards are written and enforced influences access, workforce supply, innovation, and equity. *"So licensing is never neutral."* It reflects judgments about acceptable risk, public protection, and how much oversight is appropriate. Understanding licensing as a regulatory tool—rather than just a checklist—is key to understanding why different systems succeed or

struggle.

Public Interest Theory

The Public Interest Theory emphasizes licensing for quality control, preventing negligence, and guaranteeing competent care in sensitive areas like elder care, mental health, and child care.

➢ *Purpose of Licensing*

- Protect consumers
- Ensure safety and quality

➢ *Common Risks*

- May oversimplify political and social complexity
- Can overlook diversity and individual needs

➢ Underlying Assumption

- Consumers lack the information to assess quality
- Regulators act as neutral guardians of the public good

"Historically, much of licensing in human services has been grounded in what's called Public Interest Theory." Public Interest Theory views licensing primarily as a **protective measure**. The core idea is that markets alone can't always ensure safety or quality—especially in settings where consumers lack the information or expertise to evaluate risk on their own. Under this theory, licensing is used to:

- Protect consumers
- Ensure baseline safety and quality
- Prevent harm in high-stakes environments like child care, healthcare, and social services

The underlying assumption is that **consumers can't easily assess quality**, so regulators step in as neutral guardians of the public good. Licensing helps reduce information asymmetry by assuring the public that minimum standards are met before services are delivered. This framework has been especially influential in human services, where the people affected—children, older adults, individuals with disabilities—often can't advocate for themselves.

However, Public Interest Theory also has limitations. It can oversimplify how rules are made and enforced, overlook political and organizational incentives,

and assume that one set of standards works equally well for all communities and providers. *“That doesn’t make the theory wrong—but it does make it incomplete.”*
Over time, scholars and policymakers began asking a different question:
What happens when regulatory systems are shaped not just by public need, but by **incentives, politics, and professional self-interest**? That question leads us directly into **Public Choice Theory**, which offers a more critical lens on how licensing systems actually evolve—and who they may end up serving. *“So next, we’ll look at what Public Choice Theory adds to this conversation, and why it has become increasingly influential in modern licensing debates.”*

Public Choice Theory

The Public Choice Theory focuses on the "rent-seeking" behavior, arguing that rigorous licensing acts primarily as a barrier to competition rather than a safeguard for the public.

➢ *Purpose of Licensing*

- Rules may prioritize Licensees over consumers
- Regulation can become a tool for economic protectionism

➢ *Common Risks*

- Influenced by incumbent professionals
- Reduced competition and innovation

➢ Underlying Assumption

Regulators and professionals respond to incentives, just like market actors

The 2020s have seen a significant rise in **Public Choice** perspectives, leading to the following global trends: *"Public Choice Theory offers a more critical way of looking at licensing systems."*

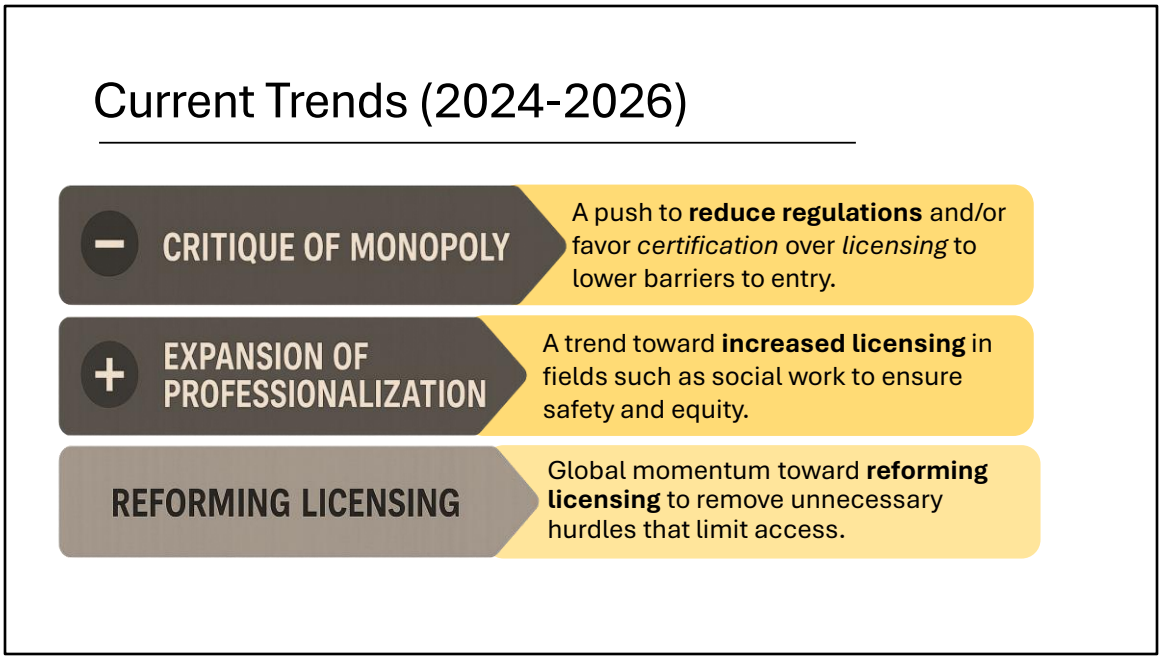
Where Public Interest Theory focuses on protection, Public Choice Theory asks us to look closely at **incentives**. It starts from a simple assumption: regulators, professionals, and policymakers respond to incentives—just like everyone else. From this perspective, licensing doesn't always serve consumers first. Instead, rules can be shaped by **incumbent professionals** who benefit from limiting competition. Higher standards may raise quality in some cases—but they can also function as **barriers to entry**, reducing access, innovation, and workforce supply. Public Choice theory highlights several common risks:

- Regulation influenced by existing providers
- Reduced competition and innovation
- Higher costs or wages without clear quality gains

In this view, licensing can become a form of **economic protectionism**, where rules protect providers more than the public. That critique has become increasingly influential—especially in lower-risk service sectors and in recent debates about occupational licensing, child care access, and workforce

shortages in the U.S.

“Public Choice Theory doesn’t argue that regulation is unnecessary—but it asks us to be honest about who benefits from the rules we maintain.” This lens helps explain why we’ve seen growing pressure to reform, streamline, or replace some licensing systems—and it sets up the central question we’ll explore next: **If both protection and incentives matter, how should licensing systems actually be designed and administered in practice?**



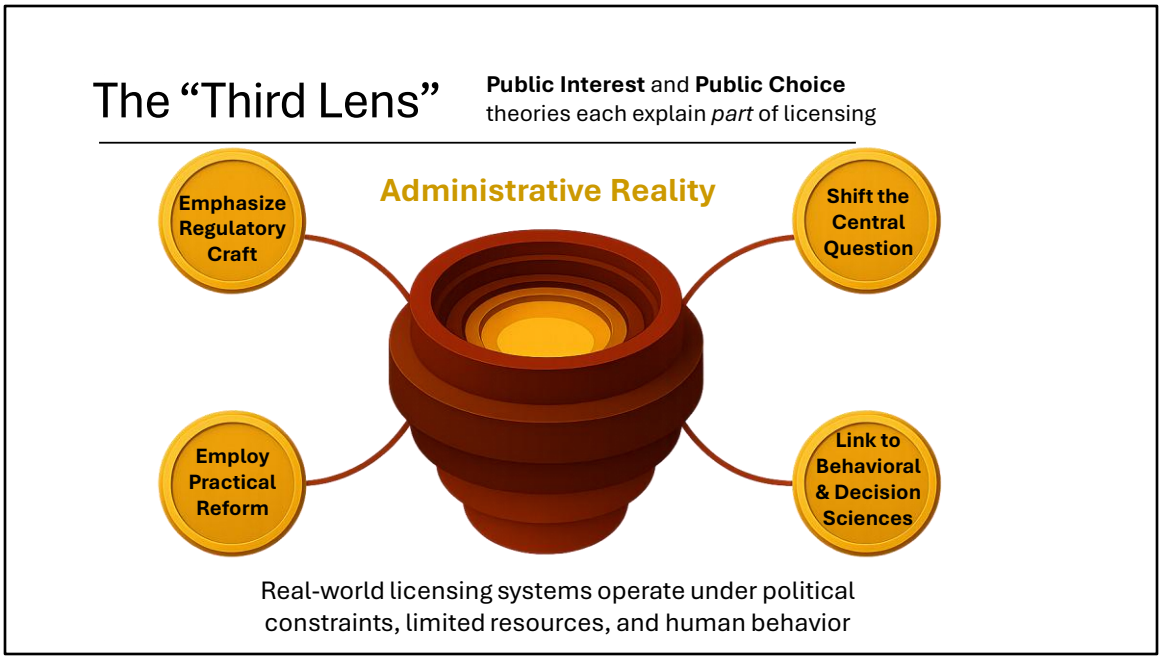
"So when we look at current licensing trends—both in the U.S. and globally—we see these theories playing out very clearly in practice." Across jurisdictions, there is growing momentum toward **reforming licensing systems** to remove unnecessary hurdles that limit access—especially in lower-risk service areas. In many cases, this has meant **reducing regulation** or shifting from mandatory licensing to **certification**, with the goal of lowering barriers to entry and addressing workforce shortages. This trend reflects strong **Public Choice influence**. Critics argue that some licensing requirements are driven more by incumbent professionals than by demonstrable risk, and that overly rigid systems can reduce competition and access without clear gains in quality.

At the same time, there is a **counter-trend** that's just as important. In higher-risk or rapidly evolving fields—such as social work and other human services—we're actually seeing **expanded licensing and professionalization**. Here, the emphasis is on ensuring safety, equity, and accountability in complex environments. So the overall direction isn't simply deregulation. It's **recalibration**.

"Globally, licensing systems are being redesigned—not to do less, but to do

better." The focus is shifting toward more flexible, risk-based frameworks, greater attention to access and workforce supply and, ongoing attempts to balance public protection with efficiency and innovation. This tension—between reducing unnecessary burden and strengthening protections where risk is real—sets the stage for the next question we'll explore:

If both critiques and protections are valid, how should licensing systems actually be designed and administered in practice



Modern regulatory scholars argue that Public Interest and Public Choice theories each explain *part* of licensing—but neither fully captures how regulation actually works in practice. Real-world licensing systems operate under political constraints, limited resources, and human behavior, requiring pragmatic compromise rather.

Let's explore the administrative reality:

First, we have seen a significant shift in the Central Question. The policy debate has shifted from: "Should licensing exist?" to "How should licensing be designed and administered?"
Focus is placed on implementation quality, not merely regulatory intent.

Next, there has been an increased Emphasis on Regulatory Craft. This means attention has moved to rule clarity and usability, Proportional enforcement, Administrative discretion and Consistency and fairness in inspections. Each of these Recognizes that *poorly administered* rules can undermine even well-intentioned policy goals.

Practical Reform Encourages a move to systems with risk-based oversight, targeted enforcement, outcome-focused standards and continuous regulatory learning and adjustment. It also supports incremental reform rather than large scale deregulation or expansion. We will talk more in-depth on this a bit later in the presentation.

Finally, we are seeing an increased link to behavioral & decision sciences. This aligns with behavioral compliance models and prospect theory that acknowledges that provider behavior is shaped by Perceptions of legitimacy, Clarity of expectations and Fear of loss vs. motivation to improve. If you are interested in this aspect, I will be doing another session specifically on this [fill in when] so we won't spend time here going over it.

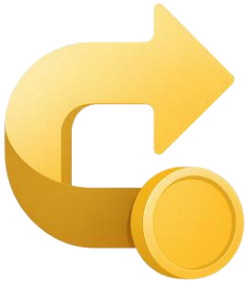
Bottom Line
Administrative Reality reframes licensing as a living system, not a static rulebook, finite statistical findings or software systems: Ultimately, effectiveness depends on *how* rules are applied. Smart regulation balances safety, feasibility, and trust while the regulator's role shifts from enforcer to risk manager and system steward.

Shifting the Central Question

➢ **From "Should?" → to "How?"**
- Licensing is no longer debated primarily as an idea
- The focus is now on design, implementation, and administration

➢ **Implementation Quality Matters**
- Clarity
- Consistency
- Proportionality
- Administrative capacity

➢ **Design Questions Now Dominate**
- What level of risk warrants regulation?
- Which rules predict safety and quality?
- How should oversight differ by provider performance?



Licensing effectiveness is increasingly judged by how it works, not by theory alone.

For much of the 20th century, licensing debates centered on a binary question: *Should licensing exist at all?* Public Interest Theory answered "yes" to protect consumers. Public Choice Theory pushed back, highlighting barriers to entry and rent-seeking.

What has changed over the past two decades is that this debate is largely settled in most human services contexts. Licensing **does exist**, and the more pressing question has become:

How should licensing actually function in the real world? This represents a fundamental shift:

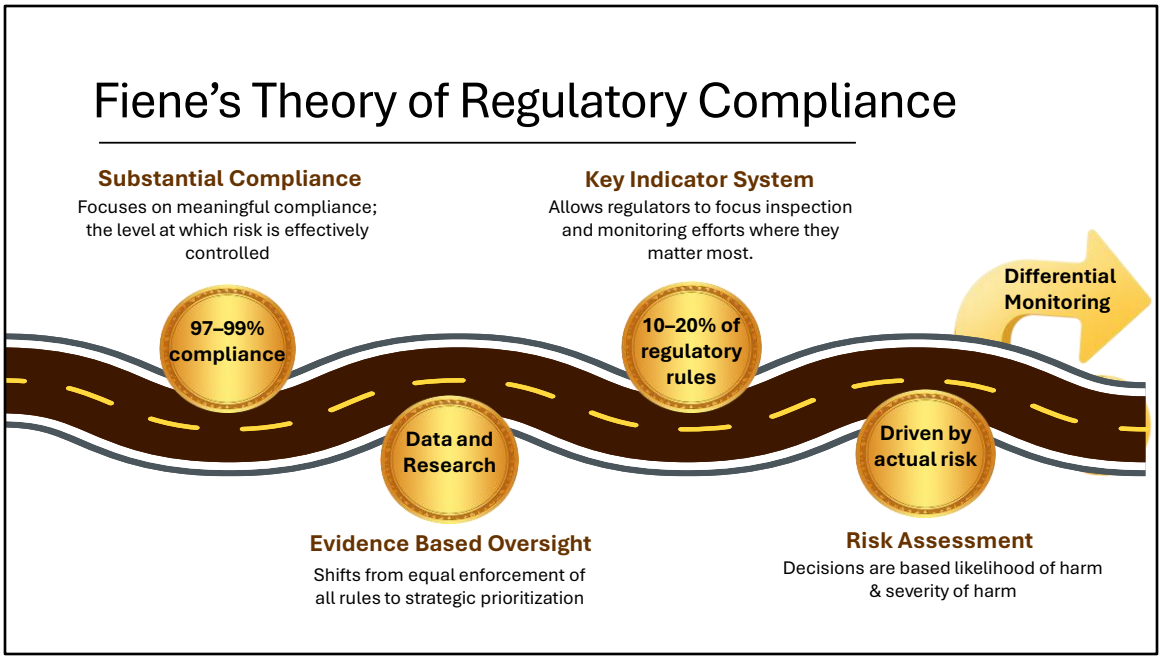
- From **policy justification** → to **policy execution**
- From ideology → to operations
- From rule creation → to rule administration

The focus is now on **implementation quality**: Poorly designed or inconsistently enforced rules can cause harm—even if the intent is sound. Well-designed systems can achieve safety with fewer rules if those rules are targeted and meaningful.

Regulators increasingly ask practical design questions:

- Are we regulating *risk* or *formality*?
- Do all providers need the same level of scrutiny?
- Which rules meaningfully predict harm or safety?

Once the central question becomes "how," attention naturally turns to how regulation is actually practiced.



"This slide introduces Fiene's Theory of Regulatory Compliance, which represents a major shift in how we think about effective regulation."
Let me start with the **core idea**: Fiene's work challenges the traditional assumption that **100% compliance is always the goal**. Instead, the theory asks a more practical question:
How do we maximize safety with the resources we actually have?

Substantial Compliance
(gesture to first node)
The model begins with **Substantial Compliance**.
Research shows that reaching about **97–99% compliance** captures nearly all meaningful safety gains. Beyond that, additional enforcement produces **diminishing returns** while consuming disproportionate regulatory effort. This means there is no gain to health or safety with additional findings.
So rather than chasing perfection, this approach focuses on **meaningful compliance**—the level at which risk is effectively controlled.

Evidence-Based Oversight

(move to center node)
From there, the model emphasizes **Evidence-Based Oversight**.
This means regulatory decisions are guided by **data and research**, not intuition or tradition.
Oversight becomes smarter by asking: Which rules actually predict harm? Which compliance failures matter most?
This is a shift from equal enforcement of all rules to **strategic prioritization**.

Key Indicator Systems
(gesture to Key Indicator node)
That leads directly to **Key Indicator Systems**, one of the most important aspects of Fiene's theory. A core feature of Fiene's theory is the use of Key Indicator Systems—a small subset of rules that statistically predict overall compliance. Research suggests that reaching 97 to 99 percent compliance maximizes safety. Beyond this point, additional enforcement yields minimal benefit while consuming significant resources. Differential monitoring allows regulators to reward high performers with lighter oversight while targeting poor performers more intensively. What this does is focus on the oversight where risk is highest. It responds to the pacing problem when social change outpaces the process of lawmaking and uses common tools often found in risk stratification through data driven inspections.

Research consistently shows that **10–20% of regulatory rules predict overall compliance**.
These key indicators act as early warning signals—if a provider is compliant in these areas, they are statistically likely to be compliant overall.
This allows regulators to **focus inspection and monitoring efforts** where they matter most.

Risk Assessment
(move upward to Risk Assessment node)
Once key indicators are identified, regulators apply **Risk Assessment**.
Here, decisions are based on:
Likelihood of harm
Severity of harm
This ensures oversight intensity is driven by **actual risk**, not uniformly applied standards or administrative convenience.

Differential Monitoring

(end at arrow node)
Finally, the model results in **Differential Monitoring**—the operational payoff of the entire system.
High-performing providers receive lighter, abbreviated oversight
Lower-performing or higher-risk providers receive more intensive monitoring
This creates a system that is:
Fairer
More efficient
More effective at preventing harm

Closing Line / Transition
"In short, Fiene's theory reframes regulation as a targeted, evidence-driven system—one that allocates attention where risk is greatest, rather than enforcing uniform compliance for its own sake."
This sets the foundation for understanding **risk-based regulation** and **regulatory craft**, which we'll explore next.

Emphasis on Regulatory Craft

Rule Clarity and Usability
- Clear, understandable rules improve compliance
- Reduces unintentional violations and confusion

Proportional Enforcement
- Regulatory responses align with severity of risk
- Distinguishes technical errors from meaningful harm

Administrative Discretion
- Judgment is guided within structured boundaries
- Balances flexibility with accountability

Consistency and Fairness in Inspections
- Shared standards and calibrated inspectors
- Builds legitimacy and trust in the system

Well-designed policies succeed or fail based on how they are administered.

"Once we understand that regulation is about how systems work in practice, attention naturally shifts to something called regulatory craft."

Regulatory craft refers to **how rules are written, applied, interpreted, and enforced on the ground**. It recognizes that even well-designed policies can fail if they are implemented poorly.
This is where regulation moves from theory into **administrative reality**.

Rule Clarity and Usability
The first element of regulatory craft is **clarity**. Rules must be understandable not just to lawyers or regulators, but to the providers expected to comply with them.
Ambiguous or overly complex rules increase:
- Unintentional non-compliance
- Inconsistent enforcement
- Perceptions of unfairness

Clear, usable rules improve compliance **without increasing enforcement pressure**.

Proportional Enforcement
Next is **proportional enforcement**. Not all violations pose the same level of risk, and regulatory responses should reflect that. Regulatory craft asks:
- Is the response aligned with the severity of harm?
- Does enforcement distinguish between technical errors and meaningful risk?

This aligns closely with risk-based regulation and avoids "checklist enforcement" that focuses on form rather than safety.

Administrative Discretion
Another critical component is **administrative discretion**. Front-line inspectors and regulators inevitably exercise judgment. Regulatory craft does not eliminate discretion—it **guides and structures it**. Well-designed systems:
- Set clear boundaries for discretion
- Support decision-making with data and guidance
- Reduce variability while allowing flexibility in complex cases

Poorly designed systems either over-constrain staff or leave too much interpretation, leading to inconsistency.

Consistency and Fairness in Inspections
Consistency is central to legitimacy. When similar providers receive very different outcomes for similar conditions, trust erodes—both among providers and the public. Regulatory craft emphasizes:
- Shared standards
- Training and calibration of inspectors
- Documentation of decision logic

This does not mean identical outcomes, but **defensible, explainable decisions**.

Why Regulatory Craft Matters
This slide underscores a key insight: Poorly administered rules can undermine even well-intentioned policy goals. You can have:
- Strong public interest objectives
- Evidence-based standards
- Sophisticated risk models

But if the regulatory system lacks craft—clarity, proportionality, fairness—it will fail to achieve its purpose.

Transition to the Next Section
"Regulatory craft is where policy effectiveness is either realized or lost."
This emphasis on craft sets up the next discussion on **risk-based regulation in practice**, where we see how these principles are operationalized in real systems.

Rule Clarity and Usability
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Reduces unintentional violations and confusion
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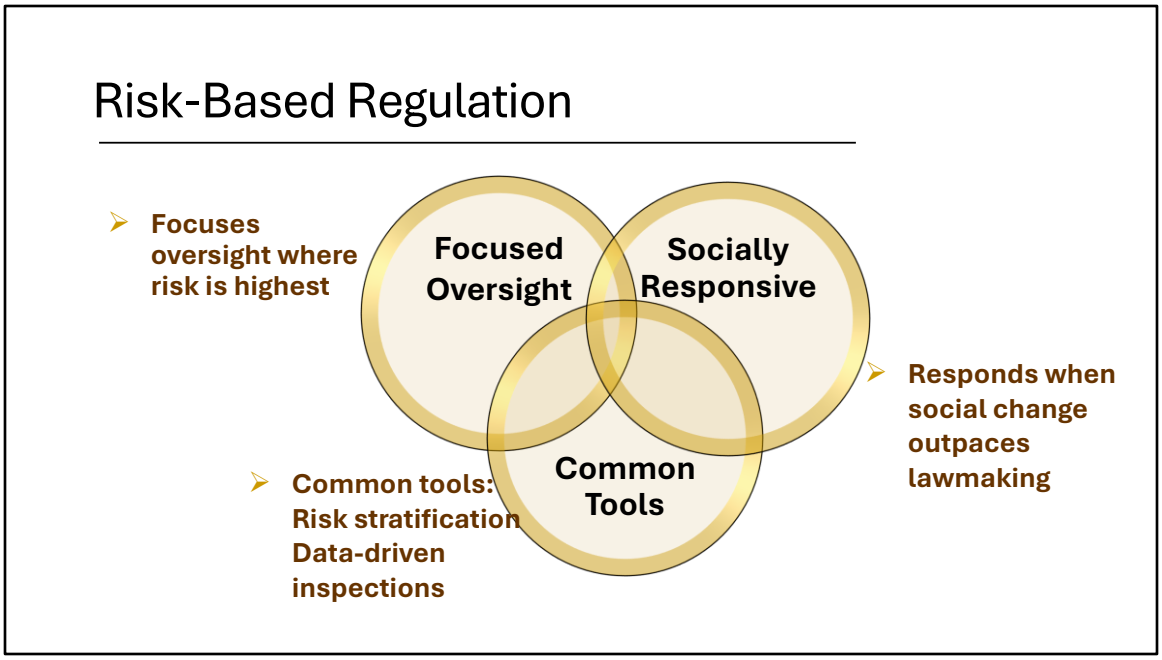


"Now that we've talked about regulatory craft—how rules are designed and applied—we can see how those principles come together in something called risk-based regulation."

Risk-based regulation shifts oversight away from treating all providers the same and instead focuses attention **where harm is most likely and most severe**.

The central idea is simple:

Regulatory resources are limited, so they should be used where they make the greatest difference.

Focuses Oversight Where Risk Is Highest

In traditional regulatory systems, enforcement often aims for uniform coverage—everyone receives the same inspection intensity, the same timelines, and the same scrutiny.

Risk-based regulation challenges that approach.

Instead of asking, *"Are we enforcing every rule equally?"*, it asks:

"Where is the real risk?"

This allows regulators to:

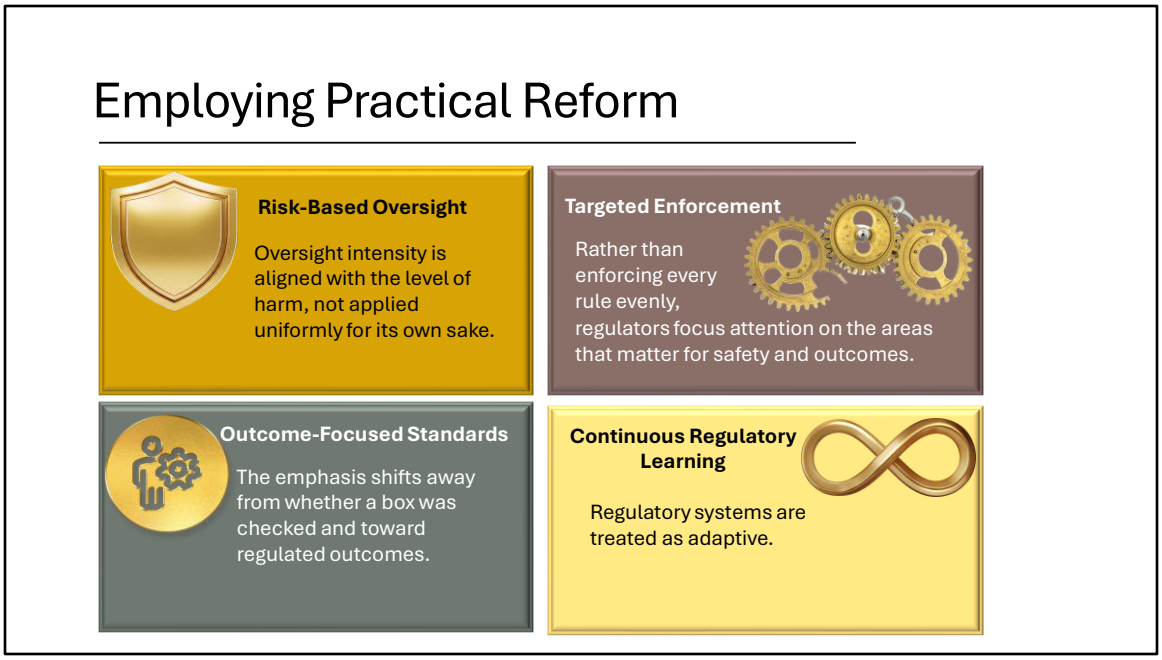
Spend more time on high-risk providers

Reduce unnecessary oversight for consistently strong performers
Allocate limited staff and funding more strategically
The goal is **harm prevention**, not rule accumulation.

Responds to the Pacing Problem
Risk-based regulation also responds to what scholars call the **pacing problem**—the reality that social, technological, and service delivery changes often happen faster than laws can be updated.
Licensing rules are often static, but:
Service models evolve
Risks shift
New forms of harm emerge
Risk-based systems allow regulators to adapt **without rewriting the entire rulebook** by adjusting oversight intensity based on emerging risk signals.

Common Tools Used in Risk-Based Regulation
In practice, risk-based regulation relies on several operational tools:
First, **risk stratification**.
Providers are grouped by risk level based on factors such as compliance history, complaints, incidents, or key indicator performance.
Second, **data-driven inspections**.
Inspection timing, scope, and depth are informed by evidence—rather than fixed schedules alone.
This creates a feedback loop where:
Data informs oversight
Oversight generates better data
Regulation becomes progressively smarter over time

Why This Matters
Risk-based regulation represents a major cultural shift for regulators.
It moves the system:
From equal treatment → to **equitable attention**
From checklist enforcement → to **risk relevance**
From inspection as punishment → to **inspection as prevention**
Importantly, it does **not** mean deregulation.
It means **intelligent regulation**—maintaining safety while reducing unnecessary burden.



At this point, we move from theory and design into action—how regulatory systems actually evolve in the real world."
This slide is about **practical reform**. Not sweeping deregulation, and not rigid expansion—but **deliberate, evidence-guided adjustment** over time.
Practical reform starts with an important recognition:

Most regulatory systems already exist. The real question is not whether to regulate, but **how to improve what's already in place**. Instead of large-scale overhauls, practical reform emphasizes:

- Testing
- Learning
- Adjusting
- Refining

This mirrors how complex systems actually change.

Practical reform encourages a move toward systems that emphasize four key features.

- First, **risk-based oversight**. Oversight intensity is aligned with the level of harm—not applied uniformly for its own sake. This builds directly on Fiene's

work and risk-based regulation.

- Second, **targeted enforcement**. Rather than enforcing every rule evenly, regulators focus attention on the areas that actually matter for safety and outcomes.
- Third, **outcome-focused standards**. The emphasis shifts away from whether a box was checked and toward whether the **regulated outcome**—such as safety, quality, or equity—was achieved.
- Fourth, **continuous regulatory learning**. Regulatory systems are treated as adaptive:

Data informs oversight - Oversight generates feedback n- Rules and practices are adjusted over time

Why Incremental Reform Matters

A defining feature of practical reform is that it favors **incremental change**, not dramatic swings. Large-scale deregulation or expansion often:

- Triggers resistance
- Creates implementation gaps
- Undermines legitimacy

Incremental reform, by contrast:

- Preserves institutional knowledge
- Allows for course correction
- Builds trust among providers and the public

This approach accepts that regulation operates under political, administrative, and human constraints.

Key Takeaway for the Audience

"Practical reform treats regulation as a living system—one that must be continuously calibrated rather than periodically dismantled or rebuilt." In other words, the goal is not perfect regulation, but **better regulation over time**.

Facilitation Cue (Optional Pause)

At this point, you may want to pause briefly and ask:
Where have you seen incremental changes succeed more than large reforms?
What makes regulatory learning possible—or difficult—in your context?

Transition to the Next Section

"Once we understand how practical reform works, we can see its impact globally—across countries, sectors, and regulatory systems."

Global Trends

Golbal Practices

This approach is not theoretical; it's being actively applied across the globe!

"So far, we've talked about risk-based regulation as a concept. What's important to understand is that this approach is not theoretical—it's being actively applied across different regulatory systems around the world."

United Kingdom

Let's start with the United Kingdom, through the work of the Care Quality Commission, or CQC. The UK uses a risk-responsive inspection model. Rather than inspecting all providers with the same intensity, the CQC targets oversight where risk appears highest—using data such as:

- Complaints
- Incident reports
- Performance indicators

Providers with strong performance may receive reduced inspection frequency, while providers showing risk signals receive earlier or deeper scrutiny. This is a clear example of risk-based regulation paired with regulatory craft—inspection effort is aligned with harm potential rather than applied uniformly.

European Union

Implementation discretion is delegated to national regulators, making regulatory craft essential for consistency and legitimacy

Across the European Union, risk-based regulation is now a foundational principle, especially in sectors such as food safety, environmental regulation, financial supervision, and healthcare.
EU regulatory frameworks commonly:

- Require risk categorization of regulated entities
- Use inspection prioritization based on compliance history and harm potential
- Apply differentiated oversight across member states

Importantly, while the rules are harmonized at the EU level, implementation discretion is delegated to national regulators, making regulatory craft essential for consistency and legitimacy.
This reflects a hybrid system:

- Centralized standards
- Risk-based, differentiated enforcement at the national level

Russia

In Russia, risk-based regulation has been formally adopted across many inspection regimes over the past decade. The Russian approach includes:

- Assigning regulated entities to risk categories
- Linking inspection frequency directly to risk classification
- Reducing inspections for low-risk entities
- Concentrating enforcement on sectors with higher harm potential

While the system is more centralized and compliance-driven, the underlying mechanism mirrors global trends: oversight intensity is adjusted based on assessed risk rather than applied uniformly.

Africa

Risk-based regulation is often applied through sector-specific or development-driven frameworks, rather than comprehensive national systems

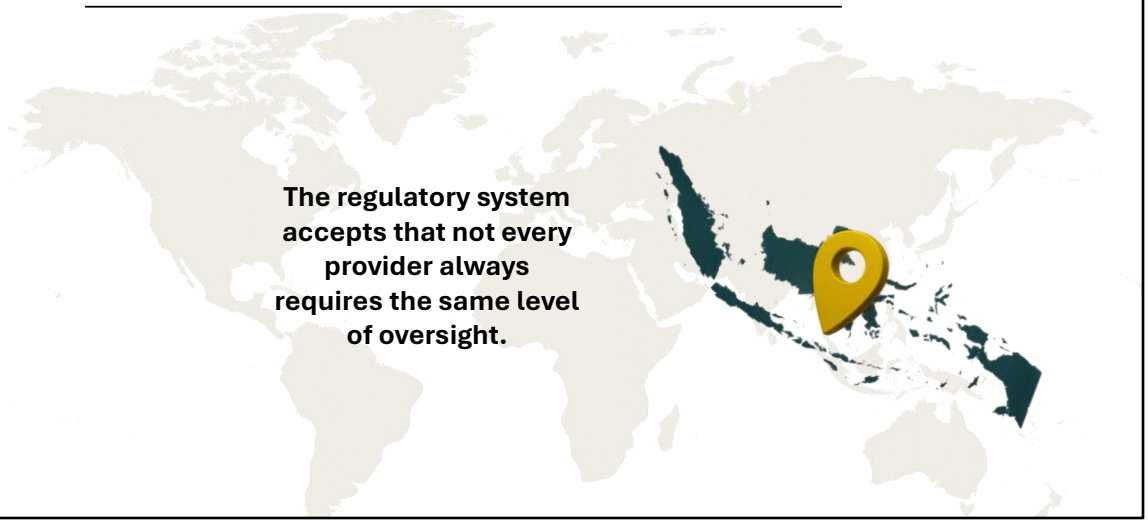
Across Africa, risk-based regulation is often applied through sector-specific or development-driven frameworks, rather than comprehensive national systems.
Examples include:

- Health and humanitarian licensing using risk prioritization
- Financial and micro-enterprise regulation using graduated oversight
- NGO and service-provider systems relying on performance-based monitoring

In many African contexts, risk-based regulation is also a capacity strategy, a way to allocate limited regulatory resources where harm would be greatest.
This results in pragmatic systems that emphasize:

- Differential monitoring
- Targeted inspections
- Adaptive oversight

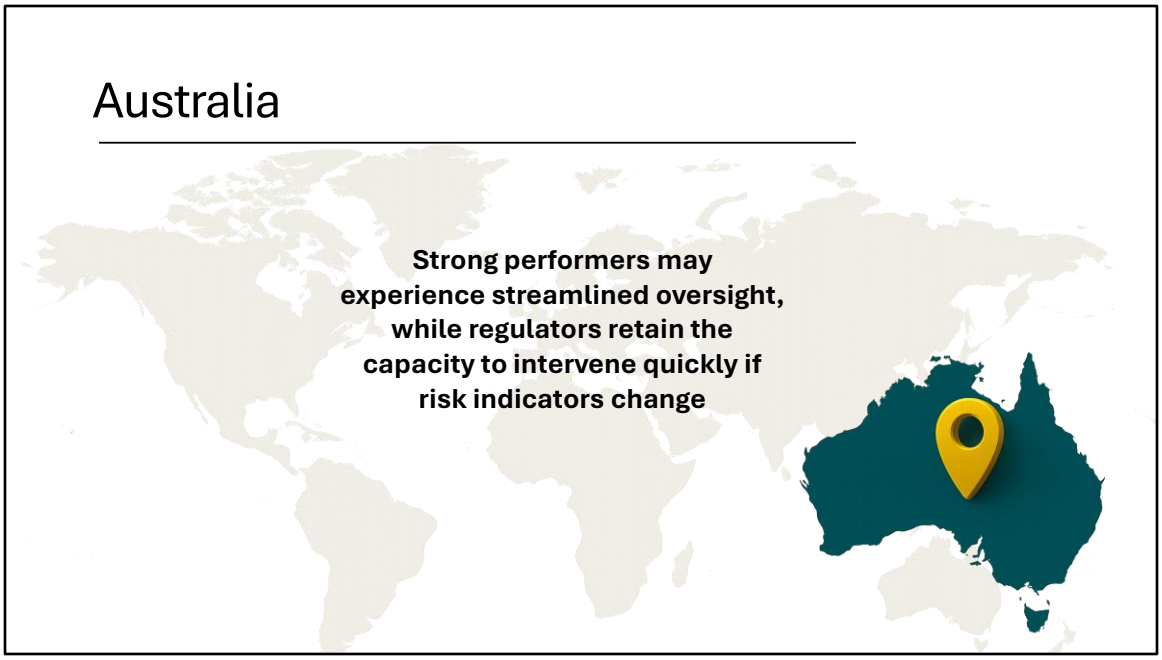
Indonesia



Indonesia – Risk-Determined Oversight Pathways

In Indonesia, risk-based regulation is used to determine the type of oversight a provider receives. Lower-risk providers may rely on self-attestation or simplified reviews, while higher-risk providers are subject to full inspections. What's important here is not just the flexibility—but the intentional prioritization of resources. The regulatory system accepts that not every provider requires the same level of oversight at all times, which reflects both capacity constraints and risk realities.

This aligns closely with Fiene's emphasis on differential monitoring.



Australia – Scaled Oversight and Self-Assessment

Australia applies similar principles, particularly in social and care services. Regulators use risk stratification to decide whether providers need:

- Comprehensive inspections
- Targeted audits
- Or structured self-assessment

Strong performers may experience streamlined oversight, while regulators retain the capacity to intervene quickly if risk indicators change. This demonstrates how risk-based regulation supports adaptability, especially when service models evolve faster than regulatory frameworks.

Canada

Aligns closely with Fiene's model of differential monitoring and practical reform

Canada

Canada uses risk-based regulation extensively, particularly in:

- Health and social services
- Food and drug oversight
- Environmental protection
- Indigenous and community-based programs

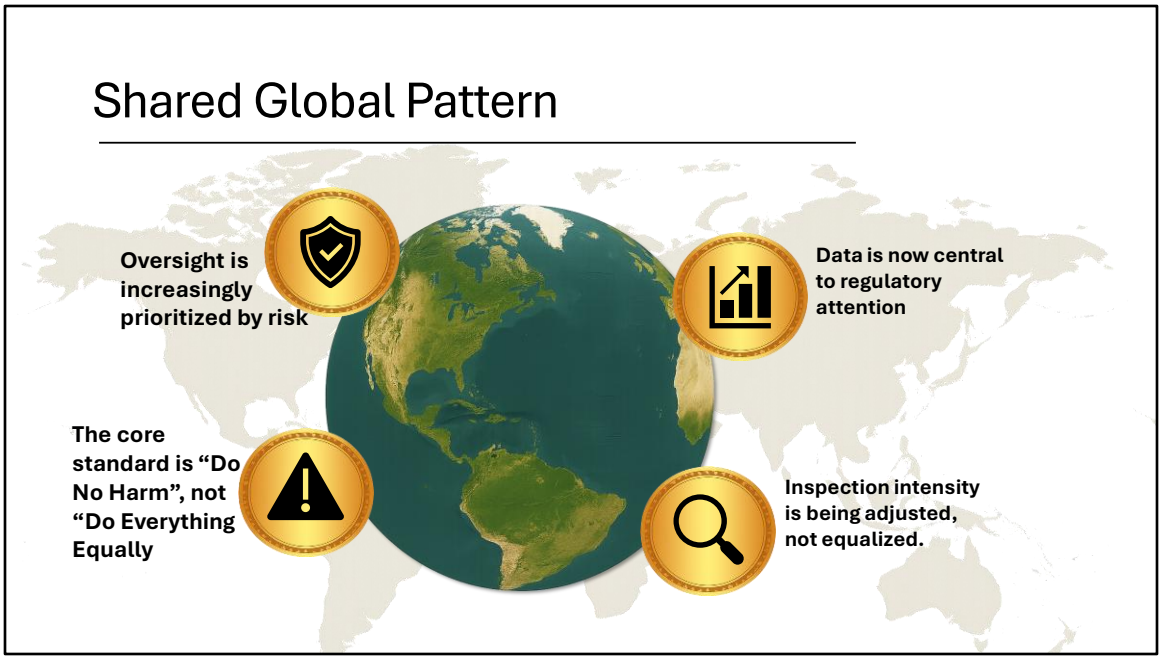
Canadian regulators often apply:

- Risk tiering to determine inspection frequency
- Scaled monitoring for high-performing providers
- Outcome-focused standards rather than prescriptive rules

What stands out in Canada is the explicit effort to balance:

- Safety and quality
- Administrative burden
- Equity and access

This aligns closely with Fiene's model of differential monitoring and practical reform. In fact, in several provinces, notably Saskatchewan, NARA was consulted to help research and develop full differential monitoring systems.



"At this point, I want to step back and look across everything we've just seen—from the UK to the EU, Russia, Africa, Indonesia, Australia, and Canada."
What's striking is not how different these systems are, but how **similar the underlying regulatory logic has become**, even in very different political, legal, and cultural environments.
Across the globe, regulators are converging on a **shared pattern**.

First, **oversight is increasingly prioritized by risk**. No system we examined is attempting to regulate everything equally anymore. Instead, governments are asking a more practical question: *Where is harm most likely, and where would it be most severe if it occurred?* That shift should sound familiar to this audience. It mirrors what many U.S. agencies are already doing—whether in child care, healthcare, environmental regulation, or financial oversight—often out of necessity rather than ideology.

Second, **data is now central to regulatory attention**. Across jurisdictions, regulators are using:

- Compliance history
- Complaint patterns

- Incident data
- Key risk indicators

Not to punish, but to **decide where limited regulatory resources should actually go**. This reflects a global recognition that professional judgment alone isn't enough—and that ignoring data leads to inconsistency, inequity, and lost legitimacy.

Third, inspection intensity is being **adjusted, not equalized**. This is one of the most important takeaways. Equity in regulation is no longer defined as *treating everyone the same*. Instead, it's defined as **giving comparable risk comparable oversight**. High-performing providers are often rewarded with lighter touch monitoring. Providers signaling risk receive earlier, deeper, or more frequent engagement. This is a direct reflection of **differential monitoring**, and it shows up whether the system is centralized like Russia's or federated like Canada's.

Fourth, and this is critical, the **core standard is not "Do Everything Equally."** The core standard has become **"Do No Harm."** Globally, regulators are acknowledging that:

- Over-regulation can cause harm
- Under-regulation causes harm
- And procedural perfection does not equal public safety

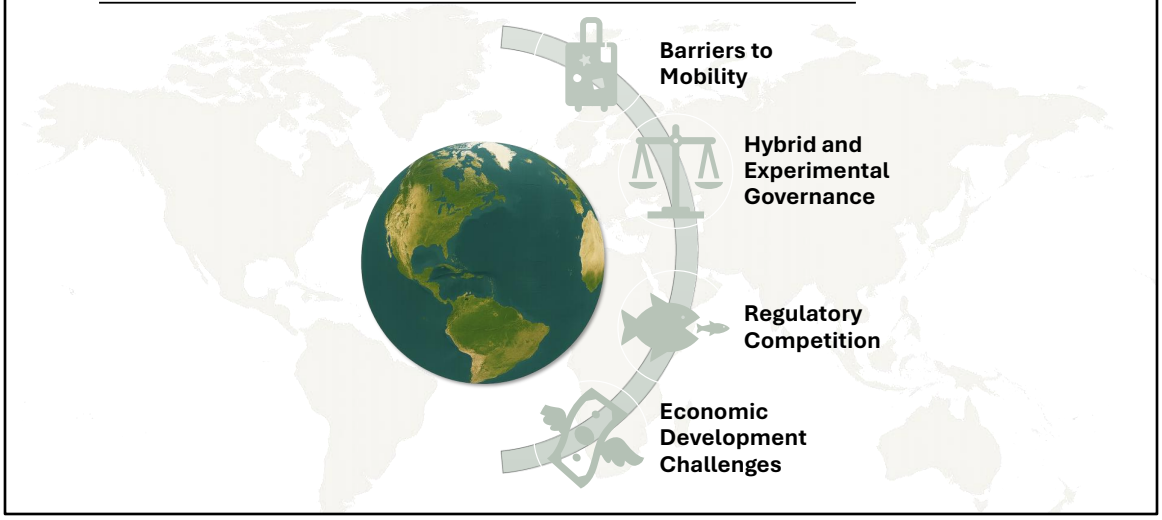
The goal has shifted from checking every box to **preventing real-world harm**, even if that means fewer rules, fewer citations, or less frequent inspections—when risk data supports it.

Taken together, this reflects a move toward what many scholars and practitioners now call **smart regulation**.

Smart regulation doesn't mean deregulation. It doesn't mean ignoring standards. And it certainly doesn't mean abandoning accountability. It means **using the tools we have—data, discretion, and judgment—more deliberately**.

For U.S. regulators, the message here is not that we need to copy any single global model. The lesson is that **we are part of a global shift**—one that recognizes constraints on time, staffing, money, and political capital, and responds by regulating *more intelligently* rather than *more aggressively*. Let's take a pause and hear from you. Where does your licensing agency in your jurisdiction stand? Is it keeping up with global trends – why or why not?

Global Impacts



Licensing has significant global impacts. Differences in requirements across states or countries can prevent professionals from moving freely. At the same time, countries may compete by offering flexible licensing to attract investment. In developing economies, lengthy licensing processes can discourage formal business participation and slow economic growth.

The application of these theories creates several cross-border challenges and trends:

- **Barriers to Mobility:** Varying licensing requirements across different countries (or states) can inhibit the movement of skilled professionals and hinder international labor markets.

- **Hybrid & Experimental Governance:** To manage emerging technologies like AI or the sharing economy, some regions are adopting "experimental governance," using temporary or "pilot" licensing to test new rules before formalizing them. Hybrid or experimental governance models are increasingly used when traditional licensing struggles to keep pace with innovation. Regulators use pilot programs, temporary licenses, or emergency rules to test

new approaches. This has been common in areas like artificial intelligence, the sharing economy, and crisis situations such as the COVID-19 pandemic.

- **Regulatory Competition:** While regulatory competition is less of a global issue (I mean, providers and agency don't cross international boundaries, this can be said between states and jurisdictions. Providers, especially large corporate providers, can and often do, look closely at the licensing environment before investing in an area. It is not uncommon for them to look for more favorable or "flexible" licensing regimes, which can lead to either a "race to the bottom" or more efficient specialized oversight.

- **Economic Development Hurdles:** In developing nations, complex and lengthy licensing procedures can drive businesses into the informal care, stifling broader growth. I wonder, have we seen that here as well?

Taking A Closer Look into Human Services

Transition Slide

Why is Human Care Licensing Different

Unlike other fields like medicine, human services are deeply cultural, social needs evolve faster than laws.

- **Definition of "quality" is subjective**
  - Social Norms
  - Legitimacy
- **Management of "Invisible Risks"**
  - Cultural Safety
  - Health Equity
- **The Role of the Primary Advocate**
  - Parental and Family Rights
  - Language and Communication

In human services, licensing plays a critical protective role because providers work with vulnerable populations. The primary concern is preventing harm, abuse, or neglect. As a result, regulation in these fields increasingly emphasizes outcomes and risk rather than strict rule-following alone. Licensing in the human care industry (child care, elder care, social services) is deeply cultural because it regulates **values-based behaviors** rather than just technical outcomes. Unlike aviation or manufacturing, which focus on physical safety, human care licensing dictates how society believes vulnerable people should be raised, treated, and integrated into a community.
Licensing standards act as a benchmark for "quality," but what one culture considers high-quality care, another may see as harmful.

Social Norms: Regulations are often built on **injunctive norms**—what a society approves of. For example, some cultures value collective, multi-generational care (kinship), while Western licensing models often prioritize individualized, professionalized care in separate facilities.

Legitimacy: Licensure often reflects **European or colonial roots**, emphasizing occupational standardization that can sometimes exclude culturally responsive

practitioners, like Indigenous healers or community-based midwives, who don't fit traditional regulatory molds.
Washington State Department of Children, Youth, and Families (.gov) +3

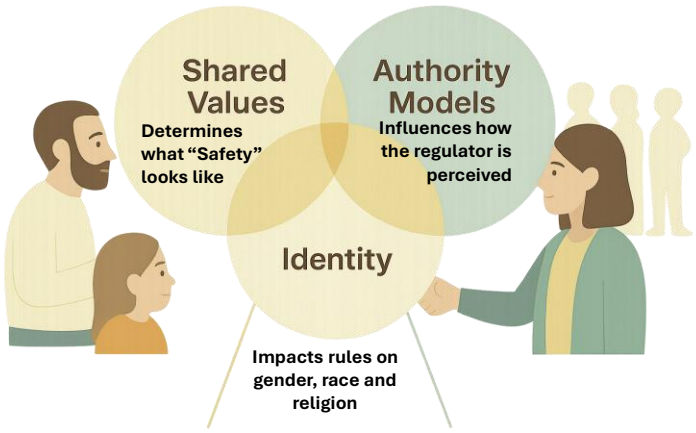
2. Management of "Invisible" Risks
Regulatory compliance in this field is often about managing **human decision-making** and social interactions rather than machinery.
Medium

- **Cultural Safety**: Effective care requires "cultural competence"—the ability to respect a patient's or child's background. Failure to include these in licensing can lead to **mistrust and non-compliance** by providers or families who feel the rules don't align with their beliefs.
- **Health Equity**: Licensing can inadvertently reinforce inequities if it ignores **social determinants of health** (like housing or religious food preferences) that differ across cultural groups.

National Institutes of Health (.gov) +4

3. The Role of the "Primary Advocate"
Licensing often balances the authority of the state with the rights of the family.
Parental Rights: Many licensing frameworks, such as those in Washington State, explicitly recognize **parents as a child's primary teacher**. How much a regulator "interferes" in the family's preferred care methods is a sensitive cultural and political boundary.
Language and Communication: Rules around documentation and interaction are heavily influenced by the dominant language. This can create barriers for providers who deliver excellent care but struggle with the specific linguistic "professional culture" required by regulators.

Behavioral Compliance Theories



"To understand why human services licensing works the way it does, or doesn't, we have to move beyond rules and talk about behavior." Modern regulatory theory increasingly shows that **compliance is not just a technical act**. It's a *human behavior*. In human services, providers don't comply simply because a rule exists; they comply because of how they **experience** that rule and the system enforcing it.

Behavioral compliance theories help explain **what 'safety' actually looks like in practice**, and why the same rule can produce very different outcomes across communities.
First, these theories remind us that **definitions of safety are socially constructed**. In human care settings, safety isn't just physical, it's emotional, psychological, relational, and often cultural. What one community sees as safe, another may experience as harmful or intrusive. Licensing rules inevitably reflect those value judgments, whether we acknowledge them or not.

Second, behavioral theory highlights that **how regulators are perceived matters**. Providers are far more likely to comply when they see regulators as: Legitimate, Fair, Consistent and Focused on outcomes rather than punishment.

When regulators are perceived primarily as punitive or disconnected from real-world practice, compliance becomes defensive, minimal, or performative. We get box-checking instead of safer care.

Third, compliance is strongly influenced by **identity and belonging**. Rules intersect with issues of culture, language, gender roles, religion, and family structure—especially in human services. When licensing frameworks fail to account for those dimensions, they can unintentionally silence legitimate care practices, exclude culturally responsive providers or reinforce inequities rather than address them. From a behavioral lens, resistance or non-compliance is often not defiance—it's a signal that **rules are misaligned with lived reality**. This is why modern compliance models, including Fiene's work, emphasize legitimacy, clarity, and proportionality. People are more likely to comply when expectations are understandable, enforcement is risk-focused and oversight feels reasonable and justified. This is not about being "soft" on standards. It's about being **strategic**. Behavioral compliance theories ask regulators to design systems that support *willing compliance*, not just enforce minimum adherence.

For U.S. regulators, this matters deeply because:
- Human services are delivered in culturally diverse contexts
- Providers operate under stress, workforce shortages, and resource constraints
- And public trust in government systems cannot be taken for granted

The takeaway from this slide is simple but powerful: **Compliance improves when regulation aligns with how people actually make decisions—not how we assume they do.**
Behavioral compliance theories don't replace rules. They strengthen them by helping regulators design oversight systems that people understand, trust, and engage with.

And that brings us to the core challenge in human services licensing: **How do we protect vulnerable populations while regulating human behavior in all its complexity?** As we move into the final slide, I want you to listen for three things:
- What today's regulatory evidence tells us to **stop doing**
- What effective systems are **doing differently**
- And where U.S. regulators have the greatest opportunity to improve outcomes without increasing burden

"The key takeaways aren't theoretical. They're practical. And most of them are already within reach of existing licensing systems."

Key Takeaways

Licensing reflects competing regulatory theories

- Modern trend:
  - Risk-based
  - Evidence-driven
  - Flexible oversight
  - Focused on harm prevention
- Goal:
  - Better regulation
  - Balance public protection with efficiency and innovation

As we close, I want to bring everything we've covered today into focus."

Licensing is not a neutral or purely technical tool. It reflects **competing regulatory theories**, political choices, administrative capacity, and assumptions about how people behave. Whether we acknowledge it or not, every licensing system embeds values about risk, trust, and responsibility. The dominant global trend today is clear. Modern licensing systems are becoming:

- **Risk-based**
- **Evidence-driven**
- **Flexible in oversight**
- And **focused on harm prevention rather than procedural perfection**

Across countries and sectors, regulators are moving away from uniform enforcement and toward **differentiated oversight**—allocating attention where it matters most, and easing burden where risk is demonstrably low. The goal is not deregulation. The goal is **better regulation**. What we've seen globally is that compliance improves when:

- Oversight targets **actual risk**
- Rules are **clear and usable**

- Enforcement is **proportional**
- And regulators are perceived as **legitimate risk managers**, not box-checkers

That last point is especially important in human services. When regulation aligns with how providers actually make decisions—under real-world constraints—compliance shifts from defensive to meaningful. Safety improves not because rules are harsher, but because they are **smarter**. For U.S. regulators, this creates both a challenge and an opportunity.

The challenge is resisting the pull toward:

- Rule accumulation
- Uniform enforcement for its own sake
- And compliance metrics that don't predict harm
- The opportunity is this:

Most of the improvements we've discussed today do **not** require new statutes, massive restructures, or increased enforcement budgets.

- They are fundamentally about **design and administration**:
- How we prioritize risk
- How we use data
- How we communicate expectations
- How we exercise discretion

"The evidence is clear: effective licensing systems protect the public best when they focus on harm, behavior, and risk—not when they attempt to do everything equally." As regulators, the work ahead is not about choosing between safety and flexibility. It's about **building systems that achieve both**—systems that are credible, adaptive, and worthy of public trust.

That is the real measure of modern regulatory effectiveness.

Questions

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