Regulatory Compliance and Quality: How are They Different?

Richard Fiene, Ph.D.

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This technical research note will delineate the differences between regulatory compliance and quality. It will provide the essential principles and elements that clearly demonstrate the differences and their potential impact on program monitoring.

When we think about regulatory compliance, we are discussing licensing systems. When we think about quality, we are discussing Quality Rating and Improvement Systems (QRIS), accreditation, professional development, or one of the myriad quality assessment tools, such as the CLASS or ERS's. All these systems have been designed to help improve the health and safety of programs (licensing) to building more environmental quality (ERS), positive interactions amongst teachers and children (CLASS), enhancing quality standards (QRIS, accreditation), or enhancing teacher skills (professional development).

There are eight basic principles or elements to be presented (they are presented in a binary fashion demonstrating differences):

1) Do no harm versus Do good.

2) Closed system versus Open system.

3) Standards/Rules versus Indicators.

4) Nominal versus Ordinal measurement.

5) Full versus Partial compliance.

6) Ceiling effect versus No Ceiling effect.

7) Gatekeeper versus Enabler.

8) Risk versus Performance.

First: Let's start with the first principal element, Do No Harm versus Do Good. In licensing, the philosophy is to do no harm, its emphasis is on prevention, to reduce risk to children in a particular setting. There is a good deal of emphasis on health and safety and not so much on developmentally appropriate programming.

In the quality systems, such as QRIS, accreditation, professional development, ERS, CLASS, the philosophy is to do good, its emphasis is looking at all the positive aspects of a setting. There is a good deal of emphasis on improving the programming that the children are exposed to or increasing the skill set of teachers, or improving the overall environment or interaction that children are exposed to.

Second: Closed system versus Open system. Licensing is basically a closed system. It has an upper limit with full compliance (100%) with all standards/rules/regulations. The goal is to have all programs fully comply with all rules. However, the value of this assumption has been challenged over the years with

the introduction of the Regulatory Compliance Theory of Diminishing Returns.

With quality systems, they have a tendency to be more open and far reaching where attaining a perfect score is very difficult to come by. The majority of programs are more normally distributed where with licensing rules the majority of programs are skewed positively in either substantial or full compliance. It is far more difficult to distinguish between the really best programs and the mediocre programs within licensing but more successful in quality systems.

Third: Standards/Rules/Regulations versus Indicators/Best Practices. Licensing systems are based around specific standards/rules/regulations that either are in compliance or out of compliance. It is either a program is in compliance or out of compliance with the specific rule.

With quality systems, there is more emphasis on indicators or best practices that are measured a bit more broadly and deal more with process than structure which is the case with licensing. It is the difference between hard and soft data as many legal counsels term it. There is greater flexibility in quality systems.

Fourth: Nominal versus Ordinal measurement. Licensing systems are nominally based measurement systems. Either you are in compliance or out of compliance. Nothing in-between. It is either a yes or no response for each rule. No maybe or partial compliance.

With quality systems, they are generally measured on an ordinal level or a Likert scale. The may run from 1 to 3, or 1 to 5, or 1 to 7. There is more chances for variability in the data than in licensing which has 1 or 0 response. This increases the robustness of the data distribution with ordinal measurement.

Fifth: Full or None versus Gradients or Gray. Building off of the fourth element, licensing scoring is either full or not. As suggested in the above elements, there is no in-between category, no gradient or gray area.

This is definitely not the case with quality systems in which there are gradients and substantial gray areas. Each best practice can be measured on a Likert scale with subtle gradients in improving the overall practice.

Sixth: Ceiling effect versus No Ceiling. With licensing there is definitely a ceiling effect because of the emphasis on full 100% compliance with all rules. That is the goal of a licensing program, to have full compliance.

With quality systems, it more open ended in which the sky is not a limit. Programs have many ways to attain excellence.

Seventh: Gatekeeper versus Enabler: Licensing has always been called a gatekeeper system. It is the entry way to providing care, to providing services. It is a mandatory system in which all programs need to be licensed to operate.

In Quality systems, these are voluntary systems. A program chooses to participate, there is no mandate to participate. It is more enabling for programs building upon successes. There are enhancements in many cases.

Eight: Risk versus Performance: Licensing systems are based upon mitigating or reducing risks to children when in out of home care.

Quality systems are based upon performance and excellence where this is rewarded in their particular scoring by the addition of a new Star level or a Digital Badge or an Accreditation Certificate.

There has been a great deal of discussion in the early care and education field about the relationship between licensing, accreditation, QRIS, professional development, and technical assistance. It is important as we continue this discussion to pay attention to the key elements and principles in how licensing and these quality systems are the same and different in their emphases and goals.