# Regulatory Compliance Measurement & Monitoring Systems: Elements and Dichotomies

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This presentation will provide the basics to regulatory compliance/licensing measurement and program monitoring systems applying regulatory science to the human services regulatory administration arena.
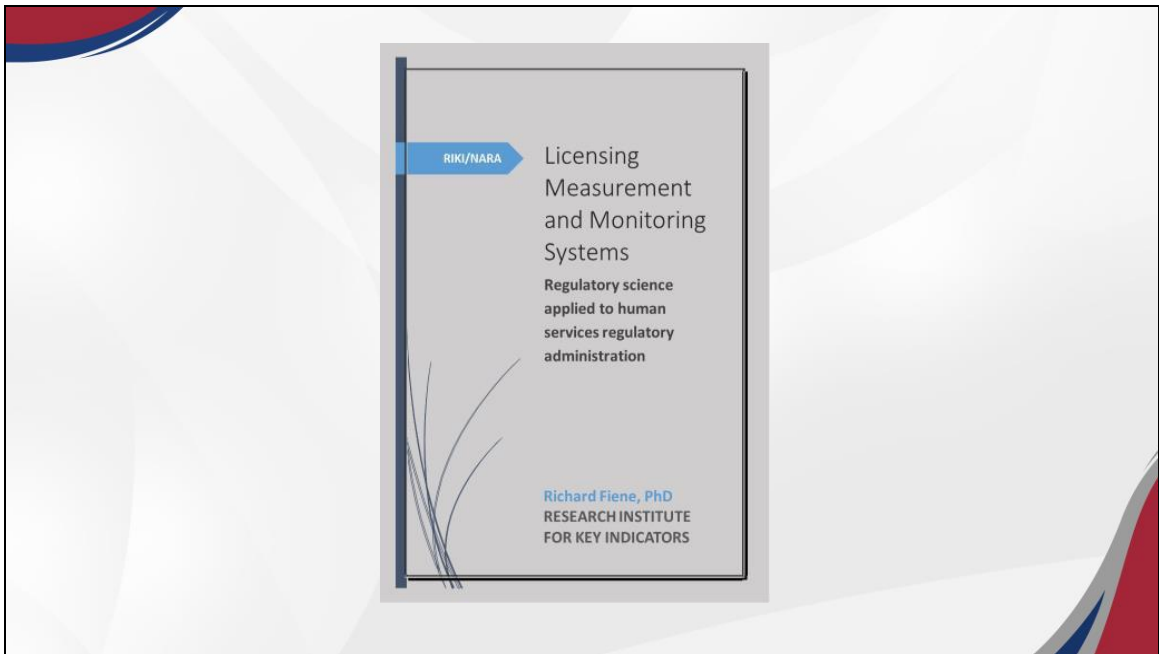
Everything that I will be talking about will be contained in the ehandbook that is available on the RIKI Data Laboratory website listed on the last slide or just go to the NARA: National Association for Regulatory Administration's website for key indicators (https://www.naralicensing.org/key-indicators). Much more detail is presented in the ehandbook.

Regulatory Compliance Measurement Elements

- **Lack of Variance in data distributions. Data tightly grouped at high compliance levels.**
  - **Ceiling/Plateau Effect in data distributions. A diminishing returns effect.**
- **Difficulty distinguishing levels of quality between full and substantial compliance.**
  - **Nominal measurement level: Either In-Compliance or Out-of-Compliance.**
  - **Attempting to move to ordinal measurement level when quality is included.**
  - **Dichotomization of data is warranted because of the data distribution.**
  - **Problem with false negatives and positives, especially false negatives.**
  - **Lack of reliability and validity testing.**
- **Ease in distinguishing levels of quality between low and substantial compliance.**
- **Skewed Data. Majority of programs in substantial or full regulatory compliance.**

Over the past 50 years of regulatory compliance research, these are some of the key findings from this research. Licensing data are like no other social science research data that I have encountered in my 50 years as a research psychologist and regulatory scientist. The data distributions are very skewed, they lack variance with the majority of data being tightly grouped at a very high compliance level.

This is practical terms is a good thing, the regulatory compliance results should be on the high end, if they were not, the licensing agency should be looking at the stringency of the rules and regulations and beefing them up if that were not the case. This result deals with the singular regulatory compliance data, but there was another very significant finding when regulatory compliance data are compared with program quality data, such as the ECERS, ITERS, CLASS. When this occurs a ceiling or diminishing returns effect is very evident in the results.

What this means is that an agency will not be able to truly get at program quality via

rules and regulations. Quality elements of each rule needs to be infused into the regulatory process, this will have implications later when we considered program monitoring approaches. It is very difficult distinguishing levels of quality between full and substantial compliant programs. Not so with distinguishing levels of quality between low and substantial levels of compliance, that is relatively easy to do.

But keep in mind that rules are measured at a nominal level which means either the rule is in compliance or not. No middle ground is determined unless a quality element is infused into the regulatory process. If we were to follow this infusion process the measurement strategy would be moving from nominal to ordinal rule metrics.

And then there are just problems when it comes to analyzing the data because of the lack of reliability and validity testing; something that agencies need to put on a front burner.

Along with dichotomizing data in which high compliant programs are compared to the poor rule performers and the mediocre performers are not used. When this occurs and is utilized, the problem of false negatives will essentially be diminished or go away entirely.

Monitoring Systems Dichotomies

- Substantial versus Monolithic
- Differential Monitoring versus "One size fits all"
- Not all standards are created equal vs All standards are created equal
- "Do things well" versus "Do no harm"
- Strength based versus Deficit based
- Formative versus Summative. Integrative Monitoring
- Program Quality versus Program Compliance
- "100-0" scoring versus "100" or "0" scoring
- QRIS versus Licensing compliance with health and safety
- Non-Linear versus Linear relationships
- Effectiveness versus Efficiency
- Anecdotal versus Instrument-Based
- Coordinated Monitoring versus Silo Approach

We talked about findings in the measurement domain, now we want to turn our attention to the dichotomies related to program monitoring and after we do this we will focus on the impact related to the program quality continuum and where regulatory compliance fits into the equation of building a high quality program. These dichotomies are presented for licensing administrators to think about.

They are the parameters to be engaged when you are thinking about designing your monitoring system. For example, the differences between a substantial versus a monolithic or differential monitoring vs one size fits all approach has tremendous bearing on how you approach programs, do you allow abbreviated inspections based upon a positive compliance history. Do you look at regulatory compliance history or is it a blank slate approach and you have no pre-conceived notions about programs.

How do you look at the rules/regulations/standards, are they created equal or

not? This can have a tremendous impact on which ones you spend more time monitoring and the consequences of non-compliance with these respective rules. Weighting of each rule/regulation/standard can come into play here. And then there is the philosophical bent of doing things well versus doing no harm.

This overiding vision can influence your total enterprise and determine what is emphasized related to rule formulation. It also leads you to the following dichotomies of strength based versus deficit based and formative versus summative approaches and your relative emphasis on quality versus compliance which can lead to an integrative approach where quality is infused into all rules and regulations. It can also determine your potential scoring of individual standards as well as aggregate scoring where it is nominally (100 or 0) based or ordinally (100-0) based.

The roles that QRIS versus licensing compliance will play and the weight of each system in determining where programs fall on a quality scale. And finally, there are the measurement and results side of program monitoring, such as: linear versus non-linear relationships, effectiveness versus efficiency, how much data collection is anecdotal versus instrument-based, and lastly, do you employ a coordinated versus silo approach.

Program Quality Continuum Dichotomies

- **"Do no harm" versus "Do good"**
- **Closed system versus Open system**
- **Rules versus Indicators**
- **Nominal versus Ordinal measurement**
- **Full versus Partial compliance**
- **Ceiling effect versus No Ceiling effect/Open-ended**
- **Gatekeeper versus Enabler**
- **Risk versus Performance**
- **Structural versus Process Quality**
- **Hard versus Soft Data**

This final set of dichotomies will have a great deal of overlap with the previous slide. The program quality continuum however is probably the most important in that this is our ultimate goal, improving quality. The overall goal of doing no harm versus doing good is where we start because this philosophical dichotomy kicks everything off for us.

It was important in our program monitoring dichotomy and is even more important here. It leads us to looking at either a closed versus open system. Rules versus indicators. It helps us with the flexibility we will build into the overall system. And as we saw with program monitoring and the licensing measurement slides, nominal versus ordinal measurement and full versus partial regulatory compliance are major considerations.

Based upon how open the system is do we still see a ceiling effect or is there more of a linear relationship now between regulatory compliance and quality. Are we going to be a gatekeeper versus enabler of services. What role will risk aversion versus performance play? What emphasis will be place on structural versus process quality and/or hard versus soft data.

For Additional Information:

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Go to the RIKI website for additional resources that I have mentioned in this talk (https://www.naralicensing.org/key-indicators).