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VIEWPOINT

Regulating healthcare professions in Libya: A viewpoint

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Abstract
Regulating the licensing and practice of healthcare professions is an essential first step for reforming the Libyan healthcare system. In this article, we identify the overarching principles that should guide any efforts targeted at reforming the regulation of healthcare professions in Libya, and to summarize the perspective of the Libyan Healthcare Society-USA (LHS-USA) on these issues. Our aim is *not* to advocate for the adoption of a specific regulatory model. Instead, we hope to stimulate debate about the principles of professional regulation, and over the process needed to develop consensus on the final shape of the Libyan regulatory model.

Key words: Healthcare, Libya, Licencing, Profession, Regulating.

Introduction
Of the many challenges that face post-revolutionary Libya, the challenge of providing safe, effective and accessible healthcare services to all its citizens is an urgent and important one. Various aspects of the healthcare system, including its governance, finance and delivery mechanisms, are in need of urgent reforms to meet the healthcare needs and improve health outcome indicators. A capable, proficient and motivated workforce is essential for success of these reforms. Consequently, the training and regulation of healthcare professionals, including physicians, nurses, pharmacists, dentists and other “allied” healthcare professionals, are among the highest priorities of the reform agenda. In this article, we focus on regulating healthcare professionals. We will discuss the equally important issues of training and credentialing in a future article.

Models for regulating healthcare professionals vary greatly between countries and among professions (1,2). Developing consensus on a model that is appropriate for the Libyan context is unlikely to be an easy task. Historically,

different types of healthcare professionals were regulated differently in Libya. For instance, the Libyan Medical Syndicate, essentially a physicians' union, at least in theory, regulated physicians. However, the role of the Syndicate was largely limited to issuing licenses permitting the practice in Libyan hospitals and clinics. Other important regulatory functions, e.g., setting and enforcing ethical and professional standards of care and encouraging continuing medical education, were undeveloped. The development of more effective regulatory approaches was hindered by the lack of public awareness of the important issues for patient safety and rights, and by the lack of debate on the principles underlying the regulation of healthcare professions such as balancing considerations of professional autonomy and patient safety. We believe that having an open and frank discussion to clarify these principles is an essential first step in any reform process to ensure public and professional buy-in and therefore, the long-term success of the process.

The objectives of this article are to identify the overarching principles that should guide any efforts targeted at reforming the regulation of healthcare professions in Libya, and to summarize the perspective of the Libyan Healthcare Society-USA (LHS-USA) on these issues. Our aim is *not* to advocate for the adoption of a specific regulatory model such as the ones used in the USA, Canada, the United Kingdom or any other jurisdiction. Instead, we hope that this paper will stimulate debate over the principles of professional regulation, and about the process needed in developing consensus on the final shape of the Libyan regulatory model.

Definition of profession

First, we think it is important to have a clear definition and well-defined criteria for what should be considered a healthcare profession for the purpose of discussion and any future legislation. This stems from our belief that professionals should be regulated differently than non-professionals for reasons that will become obvious from this discussion.

Our position is that a profession, generally speaking, is an occupation that has all the following characteristics (3). First, it requires that its practitioners possess a specific body of specialized knowledge and skills that is both *common* and *unique* to its members. Acquiring such knowledge and skills occurs through a lengthy period of specialized training. Second, professionals often have a *fiduciary responsibility* to their clients, built on trust and confidence. Professionals are obliged to help their clients make informed decisions, and, in certain situations, make decisions on their behalf. These decisions should always be made to serve the client's interests and meet his or her needs. The interests of the professional, or any third party, take a second place to the client's interest. Finally, professionals possess a large degree of *autonomy* and independence in decision-making. Because of the specialized knowledge that professionals possess, their clients and other members of society are not usually in a position to judge whether the professional is providing the best advice or making the best decisions under the circumstances. Typically, only other professionals in the same field are able to judge the quality of the services provided.

We believe that physicians, regardless of their speciality, should be considered to be professionals because their practice meets the above criteria. We recommend that a discussion of these criteria is considered in future legislation/regulations and that other healthcare occupations in Libya are assessed using these, or similar, criteria to determine whether they should be regulated as professions. The lack of professional label does not imply an inferior status; only that approaches to regulation might be different.

Objectives of regulating healthcare professions

We believe that the *primary* objective of regulating health professions is to protect public safety by ensuring that only competent and properly vetted professionals are permitted to practice, and by setting and enforcing technical standards and ethical guidelines. However, we also believe that protecting public safety must be balanced against other important objectives of the healthcare system. Examples of these objectives include: providing equitable access to healthcare by ensuring appropriate supply and distribution of physicians (e.g. ensuring that a sufficient number of physicians is available to practice in rural and remote areas), controlling healthcare costs (e.g., by preventing physician oversupply), and ensuring that healthcare professionals are treated fairly and are able to practice without undue outside interference. At times, efforts to achieve one objective may hamper the achievement of another. For instance, very strict licensing standards (e.g., requiring that every physician has undergone postgraduate clinical training as is the case in several Western countries) may reduce the supply of health professionals. So, it is important that future licensing legislation/regulations are designed to strike the right balance between these objectives.

Role of professionals in regulating their own professions

In principle, we believe that professionals should regulate their own profession. Consequently, we will limit the rest of this article to the profession that most of our members belong to: the medical profession. Based on our own survey (conducted in May of 2013), the majority of Libyan physicians prefer a "self-regulation" model for the medical profession (4). This makes sense given Libya's recent history of political interference, which tended to corrupt various aspects of public life, including professional training and regulation. In a free democratic society, bottom-up models of governance are preferred to top-down models with their tendency to concentrate power in one government branch, even if that branch is an elected parliament. Besides, it is consistent with regulations and practices in developed countries and with the abovementioned principles of professionalism (fiduciary responsibility, autonomy).

Self-regulation is also the most practical model. Self-regulation puts the onus on the physicians themselves to implement and enforce standards of practice and is therefore, more likely to inspire compliance with these standards. It also ensures effective participation of physicians in the development, monitoring and enforcement of professional standards and ethical guidelines.

We are aware that self-regulation has some potential drawbacks. These may include: lack of transparency, conflict of interest (where financial or other interests may surpass patient safety), and the potential for introducing monopolistic or discriminatory policies against certain groups (e.g., foreign-trained physicians, other healthcare professionals, etc.). Nonetheless, we believe that these drawbacks can be effectively avoided or mitigated by legislation (e.g., laws to protect patient rights or enforce transparency), by including representatives of all stakeholders, including the public, in the governance structure of the regulating body, and by providing avenues for appealing its decisions (e.g., in the courts).

It is important to note that self-regulation does not mean that a doctors' union or syndicate is put in charge of regulating the licensing and practice of its members. In the self-regulation model, physicians have their own union or syndicate that advocates for their interests. The regulating body is an entirely separate organization with its own separate governance structure (e.g., all stakeholders are represented and not just physicians), funding stream and enabling legislations and regulations. It is in the interest of the physicians to ensure that regulating body maintains an objective unbiased stance focusing on patient safety and not become entangled with the interests of individual physicians or groups.

Role of the executive branch of government (e.g., Ministry of Health)

We believe that physicians should be responsible and accountable to the wider society for regulating their profession. Naturally, this will limit the role of the executive branch in this aspect of the healthcare system. While this might pose challenges, e.g., in coordinating human resources policies, we believe that this arrangement is optimal as it isolates the regulators from political interference. Moreover, it provides for more stability and continuity (compared to a situation where the regulators are political appointees) and avoids perceptions of bias and partisanship (e.g., a physician is denied licensure or suspended because of his/her political views).

We also believe that the nature of the relationship between the executive branch and the regulating body should be clarified in the enabling legislation. Legislations and regulations should be enacted to encourage collaboration between the two entities and define a mechanism for mediation and conflict resolution. Furthermore, certain powers, e.g., setting a ceiling on the number of physicians licensed every year, might be entrusted to the executive branch in such legislation.

Role of other branches of government (e.g., legislature, courts) and of the wider public

For similar reasons, we believe that the legislative branch should not regulate the medical profession either. However, the Health Committee of the Parliament, or its equivalent, should have the power to investigate the regulating body, request regular reporting on its activities and recommend remediating actions if necessary. In case of disagreement, Parliament should have the power to request a binding referendum by the entire professional body (all physicians) on the issue. The nature of the relationship with Parliament, including funding arrangements, should be clarified in the enabling act of the regulating body.

The regulating body must be required by law to report regularly to the public using an appropriate medium (Website, periodicals, etc.) on its activities (e.g., licenses given, list of licensed physicians), on results of disciplinary proceedings (e.g., censure or suspension), and on its

financial status. Lay members of the public (non-healthcare professionals) should be represented in all levels of governance, including all task groups and subcommittees.

The regulating body must be representative of the profession and the entire society

For consistency with the abovementioned principles, the governing structure of the regulating body must be representative of the entire profession and of society at large. Representatives of the medical profession should be elected by their peers using a system of geographic weighting. Additional physician representatives should be appointed by medical schools and professional societies. A consideration may be given to include representatives from minority groups (e.g., foreign physicians). A certain proportion of the membership (e.g., one-third of the governing council) should be non-physicians and should be appointed by Parliament. All members should serve no more than two terms of 3-5 years each. All major decisions should be made with a simple majority.

We believe that this system, along with a legislated system of appeal processes and court challenges, will minimize the risk of corruption and abuse of power. Furthermore, it provides appropriate oversight over the direction and implementation of policies, and ensures fairness to the regulated physicians (e.g., reduce the risk of denial or suspension of the license due to political motives or personal vendetta).

Potential challenges

Although well-established in most developed countries, professional self-regulation remains a novel concept in Libya. That is true for both the public and for many healthcare professionals. The results of our recent survey showed that the majority of non-physician respondents did not favor the concept of self-regulation (4). On the other hand, physicians were generally supportive, especially those who practiced outside Libya. These findings may reflect the lack of familiarity with this approach and possibly a concern about the role of doctors' unions in regulating the medical profession. As previously mentioned, self-regulation does not mean that the doctors' union regulates licensing and professional practice, and entrusting a government body to regulate physicians has many drawbacks.

On the other hand, healthcare professionals may feel threatened by the emergence of a new entity that oversees their professional practice and can potentially impose disciplinary actions on them. However, most professionals want the best for their patients and the presence of clear rules governing licensing and professional practice will only serve to help them deliver safe and appropriate care to their patients. We think it is very important that both physicians and the public at large are engaged in the debate about these important issues. Information about different regulatory models should be provided in an objective manner to facilitate the discussion.

Finally, given the lack of experience with effective healthcare regulations in Libya and the complexity of the current situation, a gradual approach to regulating healthcare professions might be more likely to succeed than a potentially overambitious effort to regulate all existing healthcare professions at once or under the same umbrella organization. A transition plan, with a well-defined roadmap and a clear time-line for consultations with all healthcare professionals and other stakeholders is needed to ensure the emergence of consensus on needed reforms which we hope will facilitate the implementation of the reforms for the benefits of all healthcare professionals and the entire Libyan society.

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