Openness and Transparency: How Much is Too Much?

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Setting the Scene

• Nature of professional regulation
• Regulatory “spheres of influence”
• Broad delegation of authority
  - standards of care
  - standards of practice
  - scope of practice

• Separation of powers
• Not “electorally accountable”
• Members of the regulated community serving on the board
• Heightened scrutiny
Setting the Scene
- Presumption
- Public protection
- Regulation in the public interest
- Assure minimum level of competence

Board Actions
- Transparency and openness required to cultivate confidence in the board’s actions
- Current statutory provisions
- Reactive disclosure
- Proactive disclosure

Use of Nonpublic Documents
- Confidential agreements and orders
- Rationale
- Pitfalls
  - Discretion
  - Guidelines
Striking a Balance

- Consumer’s right to know
- Informed choice
- “An informed market requires transparency”

Striking a Balance

- Privacy interests of the regulant
- Proper role of regulatory entity
- Statutory guidance

Agency Perspective

- What’s in it for the regulatory board or agency?
- Levels
- The power of transparency!
Agency Perspective

- Role for private entities?
- Database access
- Examples

QUESTIONS?

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