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Anchoring Human Care Oversight in Smart (Balanced) Regulation

From deregulation debates to risk-based, responsive, and outcomes-focused licensing.

Executive Summary

The human care sector (adult care, child care, and child welfare) has periodically swung between calls for deregulation (to reduce costs and expand supply) and calls for stricter rules (to improve safety and quality). Modern regulatory practice suggests the need for a more effective path: smart (balanced) regulation, licensing and oversight that are risk-based, responsive, and proportionate, grounded in evidence about harms and benefits, and paired with supportive quality improvement tools. This approach protects people, focuses public resources where risks are highest, and avoids blanket rule-making that burdens low-risk providers without improving outcomes.

Licensing Agencies are increasingly under pressure to change child-care rules to improve access and reduce costs. Rather than a simple "deregulation vs. more regulation" choice, the evidence and regulatory science practice point to smart and balanced regulations. Smart regulation allows agencies to maintain minimum health & safety protections while redesigning monitoring and regulatory structure to be simpler, evidence-driven, and risk-focused. Key components of smart regulation include adoption of the *Caring for Our Children Basics* as a baseline, use of NARA's Differential Monitoring[1] systems to focus oversight resources, align licensing with QRIS and other program rules, invest in monitor training, and careful pilot testing any ratio/qualification innovations (rather than wholesale immediate change). These approaches preserve child safety while reducing provider burden and increasing regulatory efficiency.

Smart regulation applies regulatory science to preserve an evidence-based safety floor…

States face a policy trilemma in early care and education: ensuring quality, accessibility, and affordability. Smart regulation applies regulatory science to preserve an evidence-based safety floor while redesigning monitoring and compliance systems to reduce provider burden, target oversight where risk is greatest, and pilot innovations in staffing and financing. The

[1] Differential monitoring focuses on tailoring monitoring efforts based on individual characteristics, like past compliance history, risk assessments and compliance indicators to guide the frequency and scope of monitoring visits. There are four components of an effective and valid differential monitoring system, and each component is firmly grounded using scientific methodologies. They include compliance indicators, risk assessment, quality indicators and ongoing validation.

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framework below synthesizes leading practice (Caring for Our Children Basics, differential monitoring/key indicators, and recent policy reviews) and proposes a practical implementation pathway including evaluation.

Problem Statement

The human care sector, including child care, child welfare, and adult day services and residential care, has historically swung between extremes; calls for deregulation to reduce costs and calls for increased regulation to enhance safety. Both have limitations. Weakening core protections can heighten risks, while overly complex regulatory frameworks increase costs and reduce access. Layered and inconsistent standards across federal, state, and local levels have produced fragmented oversight systems. Smart Regulation instead applies evidence-based oversight, balancing regulatory intensity with actual risk and aligning with global regulatory practices.

Background: Why the pendulum swing?

Deregulation arguments typically emphasize cost, capacity, and administrative burden. Some analysts claim certain rule sets raise prices without reliably improving measured quality.

Countervailing evidence shows that weakening core protections (e.g., supervision ratios, training, inspection cadence) can increase risk of harm, stress the workforce, and even raise insurance costs, undermining access and safety.

Policymakers, providers, and parents rightly want increased access and affordability, a stable workforce, and safe, quality care environments. However, decades of layered federal, state, and local standards, and separate program rules (e.g., CCDBG, CACFP, state Pre-K, local fire and building codes), have created complex, sometimes conflicting regulatory regimes that increase costs and monitoring burden. Recent state reform efforts (Indiana, Iowa, Georgia, Utah, Missouri) provide practical lessons in how to simultaneously protect children and reduce unnecessary regulatory load.

Audit and incident findings, for example, lapses in adult day oversight in Maryland, illustrate how under-resourced or weakly targeted enforcement can miss serious hazards, with clear implications for safety and compliance credibility.

Neither 'more rules' nor 'fewer rules' is the answer on its own.

Conclusion: Neither 'more rules' nor 'fewer rules' is the answer on its own. The goal is better rules and better regulatory practice tailored to risk and continuously improved with data.

Guiding Principles

- Safety first: Adopt evidence-based minimum health and safety protections as a regulatory floor. Maintain minimum, evidence-based health and safety protections. (Caring for Our Children Basics is an appropriate baseline.) **ACF**
- Simplicity and alignment: Reconcile and consolidate overlapping rules across licensing, QRIS, CCDF, CACFP, Pre-K, and local codes (e.g. fire, health, etc.).
- Risk-based monitoring: Use empirically predictive Compliance Indicators and Weighted Risk Assessments to direct inspection resources (differential monitoring) so inspection resources focus where noncompliance most endangers children.
- Pilot before scale: Trial qualification and compensation models in limited, evaluated pilots before any broad regulatory change.
- Supportive enforcement and transparency: Prioritize technical assistance, clear interpretive guidance, and capacity building for providers and monitors. Shift monitoring toward continuous improvement (technical assistance, clear interpretive guidance, plain-language reports for parents).

The Smart (Balanced) Regulation Framework

NARA proposes this framework to build upon the principles of responsive regulation (Ayres & Braithwaite, 1992), OECD regulatory guidance (OECD, 2010; 2018), and lessons from U.S. states implementing NARA's differential monitoring. It features a risk-based licensing model supported by validated Compliance Indicators, weighted regulations, tiered enforcement emphasizing education first, and continuous improvement through data analysis. The framework aligns oversight intensity with measured risk and leverages outcome-based evaluation to enhance safety and efficiency.

What "Smart (Balanced) Regulation" Looks Like

1. Risk-based standards and monitoring: align standards and inspection frequency with probability and severity of harm.
2. Responsive regulation (the "enforcement pyramid"): begin with education and persuasion; escalate proportionately.
3. Outcome orientation: focus on health, safety, and rights outcomes rather than box-checking.
4. Data and continuous improvement: use inspection, complaint, and incident data to refine risk models.

5. Transparency and engagement: publish plain-language compliance histories and engage families and communities.

Risks of broad deregulation

• Workforce & safety impacts: Relaxing core requirements can increase stress and turnover and raise risk of harm.
• Insurance market response: Some states that loosened ratios saw premium spikes or insurer withdrawals. (Gibbs, 2025)
• Oversight capacity matters: Under-targeted, infrequent, or weak inspections can miss critical hazards.

Policy Recommendations: Shift from "more vs. less" to "fit-for-purpose"

We recommend the child care industry reframe reforms from deregulation to balanced regulation that delivers maximum protection at minimum necessary burden, through:

1. Codify risk-based licensing and differential monitoring in administrative rule.
2. Institutionalize responsive enforcement emphasizing education and technical assistance before penalties.
3. Preserve essential safety protections while eliminating redundant or outdated requirements.
4. Reduce duplication across agencies through data-sharing and coordinated monitoring agreements.
5. Invest in inspector training, competency calibration, and professional development.
6. Enhance transparency via public-facing dashboards and plain-language inspection summaries.
7. Embed continuous improvement and evaluation cycles into oversight practice.

Pilot and Implementation Roadmap

NARA's work, in collaboration with Dr. Rick Fiene, RIKI, with states and Canadian provinces has refined our methodology developing and implementing Differential Monitoring systems. A differential monitoring implementation roadmap involves a phased approach to transition from a uniform (one-size fits all) monitoring system to a tiered, indicator and risk-based model. This strategy shifts resources to focus on entities requiring greater oversight, while rewarding high-performing entities with less frequent or less intrusive monitoring. The roadmap includes four phases:

1. Assessment and planning: Defining the scope, goals, and framework of a differential monitoring program.

2. System development and resource allocation: Building the necessary infrastructure to support the Differential Monitoring framework.
3. Pilot and rollout: Introducing the new system on a small scale to test and refine the processes before a full-scale deployment.
    a. Select a representative sample of entities across different risk tiers to participate in a pilot of the new monitoring system.
    b. Gather feedback from staff and pilot participants to identify challenges and areas for improvement.
    c. Review the data and outcomes from the pilot program to assess the effectiveness of the new monitoring structure.
    d. Make necessary adjustments to the policies, procedures, and training materials based on the evaluation.
    e. Execute full-scale rollout: Officially launch the differential monitoring program across the entire target population.
    f. Ensure a clear and transparent change management and communication plan for all affected entities to explain the new system and what to expect.
4. Ongoing evaluation and adjustment: continuously monitored, validated and improved to ensure its long-term effectiveness.

Conclusion

Smart Regulation provides a balanced, science-based pathway to strengthen oversight while improving affordability and access. By applying risk-based decision frameworks, proportional enforcement, and continuous feedback, states can create durable systems that protect people, sustain workforce quality, and rebuild public confidence in human care oversight.

Balanced regulation is not a compromise on safety; it is the most reliable way to achieve it, by directing attention and resources where they matter most, engaging providers and communities, and learning continuously from data. In adult care, child care, and child welfare, this approach better protects people and sustains a viable provider market.

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