Voluntary professions are those professions for which individuals do not need to be a member of the professional regulatory body to practice the profession or to carry out activities that fall within the ambit of the profession. Licensed professions are those professions for which individuals do need to be authorized by a professional regulatory body to practice the profession or to carry out activities that are prohibited to all except those authorized by a professional regulatory body to do so.

Licensure removes the element of choice. Practitioners have no choice but to be licensed if they want to practice the profession or carry out authorized acts, and consumers have no choice but to hire or engage licensed professionals to provide services retracted to licensed professionals.

Regulation, however, is a different matter. A profession is regulated when there exists a body that has been given a mandate by statute to govern and regulate its members in the public interest. All licensed professions are regulated, but not all regulated professions are licensed.

What we are talking about here are the professions that are regulated but not licensed. The professional regulatory bodies for professions that are regulated but not licensed have some unique challenges that professional regulatory bodies for licensed professions do not have.

The tricky part is that the professional regulatory bodies for professions that are regulated but not licensed have the same statutory duties and obligations as professional regulatory bodies in licensed professions, but don’t quite have the same leverage.

In licensed professions, professionals do not have a choice of being members of the professional regulatory body, but in voluntary professions they do. The concern of professional regulatory bodies for
voluntary professions is that, should the duties and obligations of being a member become too onerous, members will simply drop out.

But this is where the professional regulatory bodies for voluntary professions are in somewhat of a bind—there is nothing in the statutes that establish professional regulatory bodies for voluntary professions that allow the professional statutory body to ‘go soft’ on regulating their members for fear of alienating them.

Now, this could be decried as a ‘bad deal’ for professional regulatory bodies for voluntary professions, but that is the way it is.

The primary duty and mandate of professional regulatory bodies, whether in voluntary or licensed professions, is to promote and protect the public interest by governing and regulating their members. There is no difference here. To do their job well, professional regulatory bodies in voluntary professions must impose the same kind of obligations and restrictions on their members that professional regulatory bodies in licensed professions do. Simply put, professional regulation is pretty much the same regardless of whether the profession is voluntary or licensed.

Professional regulatory bodies for voluntary professions are not entirely without leverage—the professional regulatory bodies do control the professional titles. Professional regulatory bodies for voluntary professions also offer intangible rewards such as the sense of belonging to a true profession. But for some, the benefits of having the professional title or being a member of the professional regulatory body are simply not worth the burdens of being a member of a professional regulatory body. If this attitude is or becomes prevalent, the viability of the professional regulatory body will be in question.

A simple solution would be to increase the value of membership for members or to reduce the burden of regulation or both. But there are problems with both of these.

Professional regulatory bodies in voluntary professions cannot ‘tone down’ their regulatory mandate to make membership more palatable to the professionals they are mandated to govern and regulate.

“Professional regulatory bodies in voluntary professions cannot ‘tone down’ their regulatory mandate to make membership more palatable to the professionals they are mandated to govern and regulate.”

Professional regulatory bodies in voluntary professions are not entirely without leverage—the professional regulatory bodies do control the professional titles. Professional regulatory bodies for voluntary professions also offer intangible rewards such as the sense of belonging to a true profession. But for some, the benefits of having the professional title or being a member of the professional regulatory body are simply not worth the burdens of being a member of a professional regulatory body. If this attitude is or becomes prevalent, the viability of the professional regulatory body will be in question.

A simple solution would be to increase the value of membership for members or to reduce the burden of regulation or both. But there are problems with both of these.

Professional regulatory bodies in voluntary professions cannot ‘tone down’ their regulatory mandate to make membership more palatable to the professionals they are mandated to govern and regulate—to do this would be a derogation of statutory duties. Professional regulatory bodies, whether in voluntary or licensed professions, are mandated to do what they can to promote and protect the public interest. The public is already skeptical of professional regulatory bodies, believing that many are predisposed to ‘going soft on their members.’ Toning down regulatory activities to make membership more palatable would simply feed into this skepticism and could lead the professional regulatory body to get in trouble with the government.

On the other side of the equation, increasing the value of membership for professionals is also fraught with difficulties. It depends of course what is meant by increasing the value of membership for members. Professional regulatory bodies are not empowered to create value for their members as a
matter of intent. Now, creating such value can be a side-effect of certain actions taken in service of the promotion and protection of the public interest. For instance, initiatives that explain the value of regulated professionals as compared to unregulated professionals are of value to the public as well as to the professionals, but engaging in activities for which the primary intent is to create value for members is not appropriate for professional regulatory bodies.

The only sustainable approach is for professional regulatory bodies of voluntary professions, to get the professionals they regulate to see value in the regulatory mandate. As noted above, there are initiatives that although primarily undertaken to promote and protect the public interest will also be of benefit to the members. Without losing sight that these initiatives are undertaken to promote and protect the public interest, there is nothing wrong is pointing out the beneficial impact on the members. Then there is the ‘enlightened self-interest’ argument. The idea that by fully engaging in self-regulation, the confidence of the public in the profession is increased, the status of the profession is enhanced, and that such collective ‘goodwill’ has benefits for all members.

It should be noted that licensure does not necessarily eliminate all such issues. There are many licensed professions which have exceptions or narrow authorized acts such that the practice of many professionals within the profession falls in areas that do not require licensure. The professional regulatory bodies in these professions face similar issues as voluntary professional regulatory bodies, although perhaps not to the same degree.

The idea is that the key is to get professionals under voluntary regulation to change their appreciation of the value proposition. Of course, for many professionals, this value proposition will be anchored in the desirability of the professional designation, but this appreciation needs to go beyond just the designation to sustain compliance with the duties and obligations that come with being a member of a professional regulatory body.

It should also be noted that the situation can be even more challenging for professions that are new to regulation. These are professions that are transitioning from being unregulated professions to being regulated professions and the understanding of the value proposition of being a regulated profession cannot be taken for granted.