

# 2009 CLEAR Annual Conference Agenda

Thursday, September 10

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## **"Setting a Vision for Regulatory Agencies"**

1:00 - 2:00 p.m. Opening Session

Welcome: Rosemary McCool, CLEAR President, Division Director, Division of Registrations, Colorado Department of Regulatory Agencies

Opening Address: D. Rico Munn, Esq., Director of the Colorado Department of Regulatory Agencies  
When appointed by the Governor of Colorado to lead Colorado's Department of Regulatory Agencies (DORA), Executive Director Rico Munn was given the charge to be the chief protector of the public interest. In order to lead an organization with nine diverse divisions with distinct statutory objectives, it is important to set a clear vision of a common purpose and then help all employees and the general public see the connection to that purpose. DORA's purpose is consumer protection. This session will highlight how to set a vision for your organizations; communicate it to employees and external audiences; and align strategic plans, performance plans, budgeting, and legislation to carry out the vision in every aspect of the agency's operations. As the host state for CLEAR's 2009 annual conference, we would very much like to show how DORA is becoming the "go to" resource for consumers where we can help build their confidence, which will only strengthen Colorado's marketplace. Setting and communicating a sustainable vision that becomes part of the lasting culture of an organization will lead to an enhanced reputation with those you strive to protect.

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**2:30 - 3:30 p.m. Concurrent Sessions**

### **Identification of Fraudulent SSNs and Immigration Documents**

Is the documentation valid? With most states requiring professional/occupational licensees to provide proof of legal presence in the United States, the concern is how to ensure the documentation is valid. This presentation and hands-on training will identify tips on how to tell fraudulent social security numbers and cards from those that are valid, as well as fraudulent from valid immigration documentation.

Coordinator: Kennetha Julien, Director, Office of Expedited Settlement, Division of Registrations, Colorado Department of Regulatory Agencies

Moderator: Kennetha Julien

Speaker: Linda R. Volz, Program Director, Office of Investigations, Division of Registrations, Colorado Department of Regulatory Agencies

### **Global Service Provision and Implications for Regulators**

Over the past decade, regulators have been responding to the challenges associated with increased mobility of professionals. The new trend in clients seeking services from outside their own jurisdiction presents new questions to consider. Medical tourism and e-pharmacy are just two examples of professional services being offered to clients choosing to access services away from home. In the absence of global standards, what are the regulatory implications of these practices? How does society balance client choice with public protection? This session will explore the regulatory issues associated with global service provision and promote discussion of options for assuring quality without presenting barriers to client access and choice.

Coordinator: Anne Coghlan, Executive Director, College of Nurses of Ontario

Moderator: Anne Coghlan

Speakers: Rocco Gerace, Registrar, College of Physicians and Surgeons of Ontario  
Dale Atkinson, Attorney, Atkinson & Atkinson, LLC

### **What Is Moral Turpitude? When Is the Licensee or Applicant Rehabilitated?**

What constitutes a crime of "moral turpitude"? Discussion will include suggested factors for the regulator to consider in determining the following: is the crime one of moral turpitude; has the licensee or applicant been rehabilitated. The discussion will also focus on whether discipline or denial of licensure is appropriate and recent trends in administrative decisions in Colorado.

Coordinator: Roxane Baca, Senior Assistant Attorney General, Denver, Colorado  
Moderator: Claudia Brett Goldin, First Assistant Attorney General, Denver, Colorado  
Speakers: Roxane Baca  
Terry Hugar, General Counsel to the Colorado Real Estate Commission  
Pam Jackson, Assistant Attorney General, Denver, Colorado

#### **4:00 - 5:00 p.m. Concurrent Sessions**

##### **Outsourcing of Credentialing and Licensing Functions**

With decreasing budgets and reduced staff levels, many regulatory agencies have turned to outsourcing some credentialing and licensing functions to contractors. The session will present three regulatory success stories of outsourcing, including a license management system paid with NO state funds, administrative licensing activities combined with testing programs, and a credentialing program to issue pocket licenses to over 350,000 licensees. The session will also include an interactive demonstration of a licensee lifecycle. Attendees will learn creative methods for increasing service with lower budgets and less staff.

Coordinator: Tadas Dabsys, Vice President, PSI Services LLC  
Moderator: Tadas Dabsys  
Speakers: Kate Baca, Deputy Director/Counsel, New Mexico Regulation and Licensing Department, Construction Industries Division  
Foye Longworth, Departmental Analyst, Michigan Department of Energy, Labor and Economic Growth, Bureau of Commercial Services, Administrative Services Division, Testing, Education and Program Services  
Zachary Urban, Director of Education and Outreach, Colorado Department of Regulatory Agencies, Division of Real Estate  
Charlie Koop, Director of Information Technology, PSI Services LLC

##### **Staying in the Good Graces of Your Legislature**

All regulatory agencies must follow the laws passed by their legislatures. There are agencies that are ordered to testify at legislative hearings, others are encouraged, while others are specifically prohibited. Legislation affecting boards can be introduced at the request of the board (we ask), opponents of the board (end run), and the legislators themselves (they impose). The speakers will present from the agency and legislative perspectives giving suggestions on how to present your arguments while not sounding as if you are only serving as a protectionist to the professions regulated and how to establish a better dialogue with your legislative body.

Coordinator: Regina Dinger, Executive Director, Alabama Board of Licensure for Professional Engineers and Land Surveyors  
Moderator: Jonathan Bracken, Legal Adviser, Health Professions Council, United Kingdom  
Speakers: Regina Dinger  
Laurel Brunke, Registrar/CEO, College of Registered Nurses of British Columbia  
Anne McGihon, Former Representative, Colorado General Assembly, Partner, McGihon & Oh-Willeke, LLC

##### **Expedited Settlement - How an Alternative to Litigation Can Save Time and Money**

The State of Colorado Department of Regulatory Agencies' mission is consumer protection. The Division of Registrations promotes that mission with the Office of Expedited Settlement (ESP), an internal dispute resolution office. When the increasing number of complaints referred for disciplinary action outpaced the funds for legal services, ESP was created to expedite the resolution of disciplinary actions and minimize the legal costs of settling these actions. Alternative dispute resolution and mediation are methods used throughout the judicial process. See one of the successes within the administrative process.

Coordinator: Linda R. Volz, Program Director, Office of Investigations, Colorado Department of Regulatory Agencies, Division of Registrations  
Moderator: Linda R. Volz  
Speakers: Kennetha Julien, Director, Office of Expedited Settlement, Division of Registrations, Colorado Department of Regulatory Agencies  
Ilene Wolf-Moore, Assistant Attorney General, Denver, Colorado  
O. C. "Chet" Robbins, Executive Director, Texas Funeral Service Commission

**Friday, September 11**

**8:30 - 10:00 a.m. Concurrent Sessions**

### **Assessing Your Program Through Standards**

This panel session provides regulators, board members, committee volunteers, and Subject Matter Experts who may not be testing experts with the necessary tools to audit and evaluate their own testing programs. Attendees will learn about the use of industry standards (AERA/APA/NCME) and accreditor standards (ANSI/NCCA/ISO) to assess their programs, request vital documentation and deliverables, and direct their administrative and oversight activities. Attendees will leave the session with references and resources that they can use immediately to enhance their programs.

**Coordinator:** Sandra Greenberg, Vice President for Research and Development, Professional Examination Service  
**Moderator:** Sandra Greenberg  
**Speakers:** Cynthia Woodley, Vice President, Professional Testing Inc.  
Steve Nettles, Senior Vice President, Psychometrics, Applied Measurement Professionals  
Della Croteau, Director of Professional Development, Ontario College of Pharmacists

### **Risk Management: The Known and Unknown**

Risk management has become an essential part of strategic planning, continuity of operations, and project management. Anticipating and planning for risk management is often the difference in the success or failure of a licensing program. This workshop covers the steps in constructing a risk management program. The workshop includes an introduction to the concept of risk management (in non-technical terms), then guides attendees through the development of a risk management program. Topics include: techniques of risk identification, assessment tools, analysis methodology, response alternatives, and development and monitoring of mitigating strategies. Participants can participate in risk identification, assessment, and risk response exercises. A current licensing software development project in the Commonwealth of Virginia offers real world meaning to the explanation of each step. The workshop will conclude with a question and answer period for this current hot topic, which has international applicability.

**Coordinator:** Steven L. Arthur, Deputy Director for Administration and Finance, Virginia Department of Professional and Occupational Regulation  
**Moderator:** Kathleen (Kate) R. Nosbisch, Executive Director, Boards for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, Landscape Architects (APELSCIDLA), Auctioneers Board, Boards for Branch Pilots, Soil Scientists and Wetland Professionals and the Board for Professional and Occupational Regulation, Virginia Department of Professional and Occupational Regulation  
**Speakers:** Steven L. Arthur  
Sharon G. Verry, Accounting and Risk Manager, Virginia Department of Professional and Occupational Regulation

### **Challenges of Regulating Internet Professional Practice**

As the utilization of technology allows for an increasing number of healthcare professionals to participate in multi-site practices, the challenge for regulators to provide optimal protection of the public also increases. This session will provide information from two varying perspectives concerning internet pharmacies and the challenges faced by regulators in their charge to ensure public safety. While internet pharmacies provide a valuable service to rural and medically under-served communities, they can also be exploited as a source of diversion and prescription drug abuse.

**Coordinator:** Steve Hart, Pharmacy and Drug Inspector, Kentucky Board of Pharmacy  
**Moderator:** Bruce Matthews, Deputy Registrar, Regulatory Compliance, Professional Engineers Ontario  
**Speakers:** Steve Hart  
Deanna Williams, Registrar, Ontario College of Pharmacists

**10:30 - 11:30 a.m. Concurrent Sessions**

### **Test Administration: Sharing Best Practices**

Despite the increase in computer-based testing, delivery of examinations for many credentialing examinations is still by paper and pencil. This session presents perspectives on addressing the challenges of adequately preparing chief examiners and invigilators to meet the industry's testing standards such as those pertaining to standardized procedures for administration, and one in which reasonable efforts are made to assure the integrity of test scores by eliminating opportunities to attain scores by fraudulent means. This panel will share their combined experiences on how to address some of the more challenging situations encountered in different countries under varying local conditions.

Coordinator: Charles Mayenga, Senior Consultant, Assessment Strategies Inc.  
Moderator: Charles Mayenga  
Speakers: Rachel Buttle, Manager - Testing Services, Assessment Strategies Inc.  
John Schultz, Vice President, Professional Examination Service  
Christine Rieck Buckley, Manager, Regulatory Examinations, Canadian Nurses Association

### **Mortgage Crisis and Professional Regulation**

Abuses in the mortgage broker industry in Colorado resulted in legislation to first, in 2006, require registration of mortgage brokers and then in 2007 the full licensure and regulation of these professionals. With that came the need to promulgate rules and policies to initiate the regulation of the industry and to coordinate among programs related to real estate transaction, such as appraiser licensure, conservation easement oversight, and real estate brokers. Additionally, an understanding of the interplay with state and federal regulation (i.e. the federal S.A.F.E. Act) is key to a successful regulatory program. The initiation of regulatory efforts over the mortgage broker industry has, along with market pressures, resulted in the new schemes and business practices that warrant special scrutiny and flexibility by regulators. These practices include misuse of FHA licenses and loans, foreclosure "rescue" scams, and dodges from regulatory scrutiny. We will identify these practices in more detail and discuss, with audience participation, ways that regulatory efforts may increase public protection.

Coordinator: Eric Maxfield, First Assistant Attorney General, Denver, Colorado  
Moderator: Ilene Wolf-Moore, First Assistant Attorney General, Denver, Colorado  
Speakers: Eric Maxfield  
Lisa Brenner Freimann, Assistant Attorney General, Denver, Colorado

### **Understanding "Standard of Proof" - Is It a Moving Target?**

A common understanding of the "standard of proof" is essential for the fair and consistent adjudication of discipline matters. It is generally accepted that discipline hearings are civil proceedings, but efforts have been made over the years to refine and better define the standard of proof beyond the simple concept of "balance of probabilities." This session will provide both U.S. and Canadian perspectives on the evolution of the understanding of the standard of proof in professional discipline. The session will also address methods of educating discipline adjudicators with regard to standard of proof issues.

Coordinator: Bruce Matthews, Deputy Registrar, Regulatory Compliance, Professional Engineers Ontario  
Moderator: Lori Long, Manager, Complaints/Investigations/Hearings, Royal College of Dental Surgeons of Ontario  
Speakers: Patricia (Patti) Latsch, Director of Investigations, Washington Department of Health  
Bonni Ellis, Lawyer, Steinecke Maciura LeBlanc  
Bruce Matthews

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## **2009 CLEAR Awards Presentation, Luncheon and General Session, including "From State-Based Regulation to a Federal System" Noon - 2:00 p.m.**

Keynote address: Leslyanne Hawthorne, Associate Dean International and Director, Faculty International Unit, Faculty of Medicine, Dentistry and Health Sciences, University of Melbourne, will provide attendees with updates about her research into regulation issues from a global perspective, as well as Australia's transition to a federal system of regulation.

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### **2:30 - 4:00 p.m. Concurrent Sessions**

#### **Test Accommodations Under the New Amendments to the ADA**

The 2008 ADA Amendments Act (ADAAA) is now law. Congress expressed its intent to broaden interpretation of the ADA to be more inclusive, yet left unanswered many key questions. Programs accustomed to reviewing requests and providing test accommodations before the ADAAA must now grapple with these questions. Come hear from panelists with legal and operational experience representing a range of examination programs who are also dealing with these challenges. Using hypothetical cases, the panelists will help you come away with a practical understanding of the breadth of the changes, effect on test accommodation activity, and implications for processes.

**Coordinator:** Elizabeth D. Azari, Associate Vice President, Examinee Support Services, National Board of Medical Examiners  
**Moderator:** Elizabeth D. Azari  
**Speakers:** Fae H. Mellichamp, Psychometric Director, Professional Testing  
Loring Brinckerhoff, Director, Office of Disability Policy, Educational Testing Service  
Catherine Farmer, Manager, Disability Services and ADA Compliance Officer, Testing Programs, National Board of Medical Examiners  
Janet D. Carson, Legal Counsel for United States Medical Licensure Examination Programs, National Board of Medical Examiners

### **The Value of Self Assessment**

Many professional regulatory organizations require members to self-reflect or self-assess as part of a continuous professional development cycle. Current literature challenges the assumption that health professionals are able to accurately self assess and therefore casts doubt on quality assurance mechanisms that rely solely on an independent self-assessment approach to identifying learning opportunities. This session will offer principles to be considered when developing a practice reflection or self assessment program, provide an example of a regulatory organization that has used this evidence to further develop its self reflection program, and facilitate group discussion of the notion that self assessment should not be done independently or without guidance.

**Coordinator:** Jan Robinson, Registrar and CEO, College of Physiotherapists of Ontario  
**Moderator:** Anita Ashton, Director Professional Conduct, College of Physiotherapists of Ontario  
**Speakers:** Glenn Regehr, Professor and Associate Director, Centre for Health Education Scholarship, Faculty of Medicine, University of British Columbia  
Jan Robinson

### **Evidence-Based Research on Professional Discipline**

Discipline and remediation have been playing an important role in healthcare regulation. Following the initial phase I study, "Uncover the Risk Factors for Recidivism," presented at the 2007 CLEAR Conference, the National Council of State Boards of Nursing continued the Phase II study to explore effectiveness of remediation programs and the characteristics of violations and recidivism. The data revealed that a high recidivism rate may not be caused by the insufficiency of remediation programs. For example, 34% of the nurses who were disciplined for documentation errors recidivated within 5 years. However, less than 3% of them were disciplined for additional documentation errors. The College of Nurses of Ontario conducted a similar study to analyze possible risk factors associated with nurses referred to the College's Discipline Committee. The presenters will discuss these research findings and how this information can benefit professional regulators.

**Coordinator:** Elizabeth H. Zhong, Research Associate, National Council of State Boards of Nursing  
**Moderator:** Donna Mooney, Manager, Discipline Programs, North Carolina Board of Nursing  
**Speakers:** Elizabeth H. Zhong  
Kevin Kenward, Director of Research, National Council of State Boards of Nursing  
Karen McGovern, Director, Professional Conduct, College of Nurses of Ontario

### **Cross-Cultural Testing Issues and Practice**

As labor markets become increasingly diverse and multilingual, assessment programs face a growing demand to accommodate candidates for whom English is a second language (ESL), and to provide translated versions of assessment instruments for non-English speakers. In this session, presenters representing major assessment firms will discuss real world issues raised by multilingual examinee populations and the development of assessment programs to accommodate them. The session will examine considerations and best practices for the assessment of ESL candidates, methods for adapting assessments and ensuring their equivalence across cultures, and challenges that practitioners face in meeting professional and legal standards and guidelines pertaining to assessment across languages and cultures.

**Coordinator:** John Weiner, Vice President and Chief Science Officer, PSI Services LLC  
**Moderator:** Tadas Dabsys, Vice President, PSI Services LLC  
**Speakers:** John Weiner  
Ron Rodgers, Director of Measurement Services, Continental Testing Services  
Lisa Incremona, Manager, Regulatory Content Development, Pearson VUE  
Linda Waters, Vice President, Professional Associations, Prometric

**Saturday, September 12**

**8:30 - 10:00 a.m. Concurrent Sessions**

### **Getting It Right: Implementing Innovative Item Types**

In recent years, the advent of computer-based testing (CBT) has included the development and use of many innovative item types. Innovative items often incorporate features and functions such as multimedia, interactivity, or novel methods for examinees to record their answers. While innovative item types show great promise, thoughtful and deliberate design is needed to fully realize this potential. This session will introduce a six-step design process that can improve the quality of innovative item types within any exam program. The steps in this model are: 1.) analyze the exam program's construct needs, 2.) select specific innovations for consideration, 3.) design initial prototypes for internal discussion, 4.) iteratively refine the item type designs, 5.) conduct a pilot test of the innovative item types, and 6.) produce final materials. This full approach is intended to help exam programs add innovative items that are of high measurement quality, logistically practical, and acceptably affordable.

Coordinator: Lynn C. Webb, Testing Consultant  
Moderator: Jeff Kenney, Executive Director, National Council for Interior Design Qualification  
Speakers: Cynthia Parshall, Measurement Consultant  
Lynn C. Webb

### **From Pen and Paper to Point and Click: Paperless Board Meetings**

Typical Board meetings include review and approval of a vast number of documents. Over the past several years, records management has seen a need to shift from manual administrative techniques to more efficient computer-aided processes. Two new, paperless records management systems were recently adopted by the District of Columbia's Occupational and Professional Licensing Division and the South Carolina Department of Labor, Licensing and Regulation. Not only did these online systems enhance the licensure process, they also impacted how Board meetings were conducted. With paper file folders no longer available, new methodologies were implemented to accommodate for a paperless licensing process.

Coordinator: Staci Mason, Program Analyst, Occupational and Professional Licensing Division, DC Department of Consumer and Regulatory Affairs  
Moderator: Staci Mason  
Speakers: Clifford Cooks, Program Manager, Occupational and Professional Licensing Administration, DC Department of Consumer and Regulatory Affairs  
Tina Montoya, Business Development Director, Pearson VUE  
David Christian, Assistant Deputy Director, South Carolina Division of Professional and Occupational Licensure, Office of Licensure and Compliance

### **Impaired Practitioner Programs**

Alternative disciplinary programs, i.e., impaired practitioner programs, take many forms and approaches. Some are administered "in-house," while others are handled by outside vendors. Some programs cover a broad range of professions, while others are limited to a single profession. Additionally, some programs focus on compliance with monitoring requirements, while others may expand into intervention and treatment. This session will provide insight regarding best practices in selecting and administering an alternative disciplinary program. Topics examined will include criteria to evaluate the need for an impaired practitioner program, suggested cost-benefit analysis when setting up or selecting a program, and models in selected states and provinces. The discussion will also focus on development of evidence-based measurement of the effectiveness of alternative disciplinary programs that may inform the future course of these types of programs. The model and criteria used by the Virginia Department of Health Professions' Impaired Practitioner Program, as well as several other jurisdictions, will be explored.

Coordinator: Faye Lemon, Director of Enforcement, Virginia Department of Health Professions  
Moderator: Faye Lemon  
Speakers: Sandra Whitley Ryals, Director, Virginia Department of Health Professions  
Rebecca Heck, Program Director, Nursing Peer Health Assistance Program, Peer Assistance Services, Inc.  
Kay McMullan, Associate Executive Director of Programs, North Carolina Board of Nursing

**10:30 a.m. - noon Concurrent Sessions**

### **Perceptions of Fair Testing: What Do Candidates Think?**

This session will present results and observations from a comprehensive survey conducted on candidates who are in the pipeline to take, or have taken, certification or licensing exams. Candidates were asked a number of questions regarding

their perceptions of the fairness of many practices and issues in the testing industry. The results from this comprehensive survey will be presented and discussed in this session. The information in this session could be used by organizations to discover the spill-over effect of using certain assessment techniques or approaches and how these impact candidate satisfaction, motivation, frustration, performance, and likelihood to appeal.

Coordinator: **Greg Pope**, Analytics and Psychometrics Manager, Questionmark  
Moderator: **Linda Waters**, Vice President, Consulting Services, Prometric  
Speakers: **Greg Pope**  
**Bruno D. Zumbo**, Professor of Measurement and Statistics, The University of British Columbia

### **Quality Improvement Process: North Carolina Board of Nursing Voyage**

The North Carolina Board of Nursing (NCBON) embarked on a journey to identify opportunities for improving regulatory initiatives as well as creating a system for measuring progress and growth. As a result of their efforts, the NCBON received recognition by the North Carolina Awards for Excellence (NCAfE) which is based upon the Malcolm Baldrige National Quality Award criteria. The NCBON was the first regulatory licensing agency to achieve this recognition. Session leaders will discuss the applicability of the NCBON quality improvement process and facilitate discussion on how the model can assist national and international organizations in promoting regulatory excellence in ever-changing environments.

Coordinator: **Donna Mooney**, Manager, Disciplinary Proceedings, North Carolina Board of Nursing  
Moderator: **Donna Mooney**  
Speakers: **Melissa McDonald**, Discipline Proceedings Coordinator, North Carolina Board of Nursing  
**Angela Ellis**, Executive Assistant, North Carolina Board of Nursing  
**Gail Marshall**, Senior System Analyst, North Carolina Board of Nursing

### **Coloring Between the Lines - Weaving Together the Investigation and the Prosecution**

With many investigations it becomes obvious at some point that a case will be on its way to a hearing. Prosecutors and investigators often look at cases through different lenses. The investigator works with a view of neutrality to seek out and obtain all evidence, both inculpatory and exculpatory. The prosecutor's view shifts the focus to using the evidence at hand to successfully prosecute the case. This session looks at these differences and the considerations for creating a cohesive approach that will lead to a successful collaboration between the investigator and the prosecutor. As we identify how the two can work together while ensuring that each stays within the lines of their individual roles, we will examine several key areas of the process including investigative approaches, investigative techniques, reports and disclosure, and introduction of evidence at hearings.

Coordinator: **Mary Lou Gignac**, Registrar, College of Dietitians of Ontario  
Moderator: **Caroline MacIsaac-Power**, Registrar, College of Opticians of Ontario  
Speakers: **Dean Benard**, President, Benard + Associates  
**Peter Osborne**, Partner, Lenczner Slaght Royce Smith Griffin LLP