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Volume I

No. 1

February 1984

Chairman's Column

Clear News is Born

by James H. Douglas, Vermont Secretary of State

The world of professional licensing today is far more complex and sophisticated than it was just a few short years ago. Issues such as administrative rule-making, reciprocity, alternatives to individual licensure, sunset, consumer members on licensing boards, and antitrust have developed rapidly as matters which affect us greatly. All these things have become integral parts of the lives of those of us who deal in professional regulation on a day-to-day basis.

It becomes critically important, then, that we communicate regularly to share our ideas and experiences and to learn from each other's successes and disappointments. It is in this spirit that the National Clearinghouse on Licensure, Enforcement and Regulation inaugurates this newsletter, which we sincerely hope will bring our community of professional regulators even closer together.

The newsletter will augment C.L.E.A.R.'s growing program of conferences, publications and other special projects. Please let us have your suggestions for making the newsletter the useful tool which it is intended to be. We will welcome your contributions of news and information, and we invite you to share it with others who are not yet familiar with C.L.E.A.R.

Being involved with professional regulation can be tough sometimes. We hope that the sharing of ideas and information through this newsletter will make the job just a little easier.

Committees Plan 1984 Conference

Twenty-eight members of C.L.E.A.R.'s five standing committees met in Lexington, Kentucky, December 6 and 7. The Committee meetings were held in conjunction with the Council of State Government's 50th Anniversary Celebration, and Committee members joined nearly 500 state and private sector representatives attending sessions on: The States and the Changing Economy, The States as Future Service Providers, and The States and the Political Arena.

Speakers included Gov. Richard Snelling, VT; Gov. John Y. Brown, Jr., KY; Senator David Durenberger, MN; Lt. Gov. William Scranton, PA; Lt. Gov. Martha Layne Collins, KY; Charles Osgood; and Neal Peirce. C.L.E.A.R. Chairman, James Douglas (VT Sec. of State) briefed the Council of State Governments' Governing Board on C.L.E.A.R. and its current projects.

Topping the agenda for the C.L.E.A.R. Program Committee was planning for the 1984 C.L.E.A.R. conference to be held in San Francisco, CA, September 5-8 at the Sheraton Palace Hotel. (Details on the conference and the initial program agenda are contained in another article in this issue). Orlando, FL, was approved as the site of the 1985 C.L.E.A.R. conference. Florida's Department of Professional Regulation will host the 1985 conference.

The National Disciplinary Information System Advisory Committee approved a subscription letter to send to state licensing boards and enforcement agencies which was mailed in mid-December. Final decisions on subscription fees, disciplinary action codes, and data submission forms were made. Initial plans for an NDIS evaluation session at the annual con-

See '84 Conference, page 8



C.L.E.A.R. Committee members gathered prior to a luncheon for a group pose. From right to left: Bernard Henderson, VA; Marvin Gregerson, ID; Eugenia Carpenter, MI; William Wood, NY; Roger Hernandez, TX; Rep. Sara Townsend, NH; Charles Barner, FL; James Douglas, VT: Wellington Webb, CO; Michael Greer, KY; Tom Douglas, AZ; Robert Nebiker, VA; Fran Berry, C.L.E.A.R. staff; Gary Clark, MO; and Ellen Hume, C.L.E.A.R. staff.

1984 C.L.E.A.R. Conference Set for San Francisco

The Fourth National C.L.E.A.R. conference is scheduled for San Francisco, Sept. 5-8 at the Sheraton-Palace Hotel. C.L.E.A.R.'s committees will meet Tuesday, Sept. 4, and the conference sessions will begin Wednesday, Sept. 5. California's Department of Consumer Affairs is serving as the host state agency for the annual event. Conference attendees will include legislators, legislative staff, licensing board members, central agency administrators and staff, assistant attornies general, licensing board administrators, consumer protection administrators, educators, federal government officials, representatives from professional associations, and others in the occupational and professional licensing community. Over 390 people met in Chicago for the 1983 C.L.E.A.R. conference.

Initial planning for the program agenda has been completed. Session topics are likely to include: (1) Legal Challenges Facing Boards/Agencies in the 1980's; (2) Role of the State in the Accreditation Process; (3) Avoiding Test Development Pitfalls; (4) How to Conduct Board Meetings and Hearings; (5) How to Write a Policy Procedural Manual; (6) Are States Receiving Full Value from National Exams? (7) Development of Systems for Periodic Licensure Assessment; (8) Impaired Professionals: Profiles, State Structures; (9) Development and Use of Formal Guidelines for Disciplinary Actions; (10) Distinctive Features of California System Exams; (11) Licensure Restoration Process; (12) Unlicensed Activities: How States Handle Them; (13) Defining Scope of Practice (Title, Protection); (14) How to Effect Change in Legislation; (15) How Legislative Staff Can Work with Board Members/Professional Associations; (l6) Responding to Performance Audits; (17) Anti-trust Issues/Board Member Liability; (18) Getting Your Budget Through The Legislature; (19) Data Needs for Policy Development; (20) Regulation of Architects, Engineers & Landscape Architects: Its Effect on Practice Acts and Construction; and (21) Ways to Get Consumer Input.

Session formats will include debates, panel presentations, workshops and small round tables. As at past conferences, there will be sessions developed especially to meet the training needs of licensing board members and administrators, enforcement and investigation staff, data processing staff, and legislative staff.

If you are interested in volunteering to serve as a session coordinator or in some other capacity, please contact Fran Berry.



Sheraton-Palace Hotel

Conveniently located in downtown San Francisco, next to a B.A.R.T. station and cable-car line, the Sheraton-Palace is an elegant turn-of-the century hotel. Completely refurbished during the 1970's, its meeting and sleeping rooms are attractive and spacious. C.L.E.A.R. conference attendees are receiving an excellent room value of \$71 single/\$88 double.

Plan to spend the long Labor Day weekend in San Francisco, and vou will receive the low conference room rates all week-end! The cable-cars will be on the streets and running again and there is so much to partake of in San Francisco. Walk along the wharves; window shop in chinatown; visit Ghiridelli's Square--an old chocolate factory now chock full of specialty shops; spend an afternoon in the aquarium and DeYoung Art Museum. San Francisco's restaurants are world renowned, and the variety is endless. San Francisco in early September is an ideal place for a mini-vacation.

NDIS Underway

In December C.L.E.A.R. staff sent subscription letters to state boards and agencies concerning participation in the National Disciplinary Information System (NDIS), an interstate disciplinary information service soon to begin operation. The NDIS reports on disciplinary cases taken against licensed professionals in a number of professional disciplines. Many professionals have multiple state licenses and often in diverse professions. Therefore, information on actions taken will be recorded in one report so that boards can check their licensee names against the licensees disciplined in other states and by other professional boards.

If, for some reason, your state board or agency did not receive an NDIS subscription letter, please write or call Ellen Hume at the Council of State Governments. Our first report is scheduled to be mailed in April. For more information on the NDIS, call Ellen Hume or Fran Berry at (606) 252-2291, or write them at the Council of State Governments.

Regional Training

Commissioner Mary Heslin (CT Department of Consumer Protection) will host a C.L.E.A.R.-sponsored Northeastern regional training seminar for board members and administrators. The one-day educational program is scheduled for May 5 in Hartford, CT. Board members and administrators from New York, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Pennsylvania, New Jersey and Connecticut are invited to attend this special session.

While the agenda is not final, session topics will cover state-of-the-art practices in enforcement, testing, legislative relations, rulemaking, and licensing board accountability to consumers. Complete information on the agenda and registration will be available by March 1 and will be sent to licensing board members and administrators in the northeastern states.

C.L.E.A.R. ALERTI

An Alexandria, Virginia man was convicted of mail fraud and conspiracy January 27, 1983, for providing bogus medical degrees and records to at least 97 people. Pedro de Mesones, 58, operated Medical Education Placement, Inc., out of his home from January 1982 to August 1983. During this time, 165 individuals paid de Mesones fees ranging from \$5,225 to \$27,000 for fraudulent documents, including transcripts, clinical rotation evaluations and medical degrees. The degrees were obtained by de Mesones from two university medical schools in the Dominican Republic—CETEC University (Universidad Centro de Estudios Tecnologicos) and CIFAF University (Universidad Centro de Investigacion, Formacion y Assistencia Social). Apparently only one of the 165 degrees were obtained from CIFAF University. The other degrees were obtained from CETEC University.

At least 13 of the individuals with bogus degrees obtained medical licenses in the U.S. and at least 36 were working in hospital residency programs when they were discovered by investigators, according to a Washington Post story January 28. Prosecutors in the case told the Post reporter that they do not know how many, if any, of de Mesones' clients may be practicing medicine. Investigators apparently have not learned of any injuries or deaths resulting from the scheme which is still under investigation by a federal grand jury in Alexandria and the U.S. Postal Service.

Assistant U.S. Attorney Theodore Greenberg told the *Washington Post* reporter that de Mesones used \$300,000 of the \$1.5 million he raised for bribe payments, kept \$500,000 for himself and used the remainder to pay for tuition costs to the schools.

U.S. District Judge Richard L. Williams sentenced de Mesones to three years in federal prison and to three years probation, including 300 hours of community service. De Mesones faced a maximum penalty of 15 years imprisonment and a fine of \$12,000.

The ongoing federal investigation includes CETEC students who have worked in clinical clerkships in several states as part of their medical education.

In May, 1983, the California Board of Medical Quality Assurance turned down the licensure applications of over 200 graduates of CETEC. According to a *Washington Post* story on December 13, 1983, Board officials said the applications were rejected because the graduates had misrepresented their educational experiences and the school had routinely granted medical degrees to some individuals who had never attended the school.

The California Board of Medical Quality Assurance adopted guidelines in August 1983 that required graduates of all medical schools to prove they have completed a valid educational program before they are allowed to take the licensure exams. Only two of approximately l35 CETEC graduates who have applied to take the California exams have been able to meet those criteria, Board officials told the *Post* reporter.

C.L.E.A.R. Chairman-elect William Wood Jr. (Exec. Dir., NY Office of Professional Discipline) met with David Cyr, U.S. Postal Service, on January 30, 1984 to discuss the de Mesones case. C.L.E.A.R. has offered to play a clearinghouse role for state enforcement agencies which would keep state officials informed about the ongoing federal investigation, and state efforts to determine if and where the fraudulent medical doctors are practicing medicine.

C.L.E.A.R. will continue to publish new developments on the de Mesones case in the upcoming months.

State enforcement officials are encouraged to keep C.L.E.A.R. advised about the steps they are taking to ensure that none of de Mesones' clients are practicing medicine in the states. For further information or to report state activities, contact Fran Berry.



"Fail the Bar, Sue the Examiners" by Graeme Brown, American Bar Association Journal. Nov. 1983.

This article, describes the background of and issues involved in Hoover vs. Ronwin, currently on the docket of the U.S. Supreme Court. The case involved Edward Ronwin who took Arizona's bar exam and failed it. He then sued the bar examiners charging that the grading practices for the bar exam illegally restricted competition in violation of Section 1 of the Sherman Anti-trust Act by predetermining the number of applicants to be admitted to the bar and setting the passing score accordingly. The article reviews past court cases involving the "state action" exemption from federal anti-trust laws, issues in scoring exams and determining cut-off scores, and an overview of the probable implications of the Supreme Court's decision.

C.L.E.A.R. NEWS

Vol. I

No.

Published by the National Clearinghouse on Licensure and Regulation, Iron Works Pike, P.O. Box 11910, Lexington, Kentucky 40578, (606) 252-2291.

Fran Berry, Program Manager Licensure and Regulation

Ellen Hume, Administrative Assistant Licensure and Regulation



In cooperation with the Council of State Governments.

"Professional Licensure—One Diagnosis, Two Cures", Regulation Sept/Oct 1983.

This brief article summarizes the empirical research published in Law and Human Behavior (Sept. 1983) on the impact of occupational licensing. The research findings are reported in three general areas: (1)quality of service, (2) entry, and (3) policing existing practitioners. While most of the research concurs that occupational licensure has functioned as an anticompetitive barrier to entry in the licensed occupations, the research conclusions reported demonstrated two factions in the regulatory reform movement 'between what Jonathan Rose describes as its 'control' and 'antigovernment' wings-between those who want to harness regulatory power and those who want to end it. The two sides agree that selfregulation in professions has harmed consumers, but the former group would replace self-regulation with regulation by outside parties acting in the name of the public interest, while the latter would remove most regulations entirely in the name of consumer sovereignty.

Innovations Transfer Program

The Innovations Transfer Program seeks to identify innovative programs which have been successfully implemented by individual state governments and which have the potential for use in other states. Of particular interest are programs that have not already been widely considered in other states. In order to qualify a program must have been in successful operation for three years. Programs from a wide variety of disciplines are accepted. If your state has an innovative program, please bring it to our attention. Contact Fran Berry or Keon Chi at the Council of State Governments, P.O. Box 11910. Iron Works Pike, Lexington, KY 40578, (606) 252-2291.

New NCEI Editor

California's Department of Consumer Affairs will sponsor the National Clearinghouse for Examination Information for 1984. Eric Werner, Manager, Central Testing Unit, California Department of Consumer Affairs, assumes the editorship of the NCEI Newsletter, a quarterly publication covering a wide range of examination issues. Kara Schmitt, Director, Office of Testing Services, Michigan Department of Regulation and Licensing, and the Michigan Department of Regulation and Licensing have completed an outstanding year directing the NCEI

NCEI, a C.L.E.A.R. project, was established by Wisconsin's Department of Regulation and Licensing in 1982 to serve as a central clearinghouse for examination information and dissemination, with particular focus on the issues of interest to state agencies responsible for developing or administering licensing examinations. Currently, the newsletter has 75 subscribers in 35 states. The annual subscription cost is \$10 per year, January-December, which covers the cost of printing and mailing the quarterly bulletin. Subscribers include licensing boards, testing administrators, legislative staff, publishers, national associations of boards, and professional associations. To subscribe, contact Ellen Hume, Council of State Governments, P.O. Box 11910, Iron Works Pike, Lexington, Kentucky 40578, or phone (606) 252-2291.

During 1984, the editor's address and "examination hot line" phone number will be: Eric Werner, Manager, Central Testing Unit, Dept. of Consumer Affairs, 1020 N Street, Sacramento, CA 95814. (916) 322-2703

News and comments from readers are welcome and will be included in C.L.E.A.R. News as space permits.

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C.L.E.A.R. COMMITTEES FOR 1983-84

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L.O. Nelson, Pesticide Administrator, Indiana State Chemist Office

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Wellington E. Webb, Executive Director, Colorado Department of Regulatory Agencies Eric Werner, Manager, Central Testing Unit, California Department of Consumer Affairs Omar P. Whisman, Executive Director, Ohio State Dental Board

William L. Wood, Jr., Executive Director, New York Office of Professional Discipline



STATE LINES

COLORADO—The Department of Regulatory Agencies has hired Jack Warner to serve as Examination Specialist for the 26 licensing boards within the Department's Division of Registration.

FLORIDA— Gil Rodriquez, Administrator of the Department of Professional Regulation's Office of Investigative Services, received an award from the U.S. Drug Enforcement Agency for his assistance in a DEA real estate investigation.

MARYLAND—On October 31, Maryland Attorney General Stephen Sachs asked the U.S. Supreme Court to uphold a federal court of appeals ruling that lawyers can be sued for violating the Sherman Antitrust Act when they manipulate grades on a state bar exam to limit competition.

In a brief filed on behalf of Maryland and six other states, including Colorado, Iowa, New York, Tennessee, Texas and Wisconsin, Sachs said, "Strict antitrust compliance by occupational licensing boards is a vital ingredient in any effort to achieve and maintain a higher level of competition among regulated occupations. . . ."

Sachs urged the Supreme Court to rule that licensing boards may restrain competition only if they are clearly directed to do so by the state's legislature or the highest state court.

In the case now before the U.S. Supreme Court (Hoover v. Ronwin),

an Arizona bar applicant, Edward Ronwin, alleges that members of the Arizona Board of Bar Examiners manipulated the objective grades on the bar examination to artificially limit the number of new lawyers admitted to the bar. The bar examiners, who are practicing lawyers nominated to their positions by the state bar association, are alleged to have acted to further their own private interests rather than the interests of the state in ensuring that only competent lawyers are admitted to practice. The alleged conduct by the bar examiners is the equivalent of imposing a quota on the number of new lawyers in the state to avoid increased competition. Sachs said in Maryland's friend of the court brief.

MICHIGAN-The Competency Studies Committee, a committee of the Michigan Health Occupations Council, released a report in November 1983 which reviewed the current status of continued competency efforts by the 12 health profession licensing boards within the Bureau of Health Services, Michigan Department of Licensing and Regulation. Under a revised and consolidated Public Health Code passed by the legislature in 1980, the health profession licensing boards were charged to establish pilot programs for assessing the continued competence of licensees as a condition for the renewal of a license.

The report found that no board has yet established a pilot program. Instead, the report contained recommendations to the full Council, in-

cluding the following: (1) the limited resources available to the boards and the Department of Licensing and Regulation should be focused on identifying and disciplining incompetent practitioners through a more effective complaint and investigatory process; (2) an effective consumer education and information program to assist consumers should be established; and (3) the boards should review their current continuing education requirements to determine if those requirements are serving a useful purpose in maintaining practice competency.

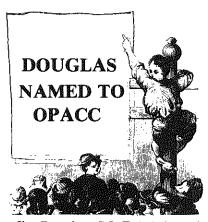
MISSISSIPPI—State Board of Dental Examiners member Dr. Robert Holifield has been appointed to the Nominating Committee of the American Association of Dental Examiners.

NEW HAMPSHIRE—The 1983 Legislature established a Joint Administrative Rules Committee which has the authority to approve or object to a rule. Specifically, the Committee may object if a proposed rule is: (1) beyond the authority of the agency; (2) contrary to the intent of the Legislature; (3) determined not to be in the public interest; or (4) deemed by the Committee to have a substantial impact not recognized in the fiscal impact statement.

TENNEESSEE—State Board of Dispensing Opticians member Charles W. Presley was named 1983 Optician of the Year in Tennessee by the Tennessee Dispensing Opticians Association.



Name	
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☐ Please	send me further information on the NDIS.
□ I want	to subscribe to NCEI for 1984. Please bill me for \$10.
☐ Please	send me more information on joining C.L.E.A.R.
☐ Please	send me information on C.L.E.A.R.'s publications.



Jim Douglas, C.L.E.A.R.'s chairman, has been appointed to the Council of State Governments' Organizational Planning and Coordinating Committee (OPACC) by Carl Stenberg, CSG's Executive Director. Heading the list of OPACC responsibilities is a review of the Council of State Governments' relationship to affiliated organizations. The committee will examine staffing, funding, governance, and representation of affiliated groups on CSG Committees, including the CSG Executive Committee.

C.L.E.A.R. is one of ten organizations of state officials which receives secretariat services from the Council of State Governments. Other organizations include the National Association of Secretaries of State; National Conference of Lieutenant Governors; National Association of State Purchasing Officials; and the National Association of State Auditors, Comptrollers and Treasurers. Currently C.L.E.A.R. does not have formal representation on CSG committees.

C.L.E.A.R. Membership

While all 54 states and territories are members of and participate in The Council of State Governments, currently C.L.E.A.R. has members from 37 states. Primary membership in C.L.E.A.R. is on a state basis. Annual state membership dues in C.L.E.A.R. are \$500 per state, or \$50 per state licensing board. The membership fee can be and has been paid by central licensing agencies, legislative councils, and individual state licensing boards. Membership benefits include reduced conference registration fees, complimentary copies of publications, C.L.E.A.R. News newsletter, reduced publication fees, and participation on C.L.E.A.R. committees.

Associate memberships are available to national associations of state boards, and national and state professional associations. Associate members are eligible for full membership benefits except service on the Steering and Nominating Committees. The Associate membership annual fees are national board associations and national professional associations—\$500; and state professional associations—\$50.

Individual memberships are available for \$15. Benefits include the C.L.E.A.R. News newsletter and service on most C.L.E.A.R. committees.

To join C.L.E.A.R., contact Fran Berry, P.O. Box 11910, Iron Works Pike, Lexington, Kentucky 40578.

Suggested State Legislation

The Council of State Governments' Committee on Suggested State Legislation, chaired by Senator Thomas A. Casey of Louisiana, is seeking exemplary legislation to be considered for inclusion in the 1985 volume of Suggested State Legislation. The Committee is focusing on the following priority topics:

- Educational quality and financing methods
- Health care regulation and cost containment
- Improving government financial management
- Tax collection methods and tax relief

Legislation of particular merit in other substantive areas is also solicited.

Please forward legislation, bill summaries, legislative history, committee reports, and any other supporting documentation to Ed Feigenbaum, Staff Director and Counsel to the SSL Committee, by March 16, 1984.

84' Conference—cont'd from pg. 1 ference were discussed.

The Steering Committee heard the committees' reports, reviewed C.L.E.A.R. projects, and worked on conference planning for 1984 and beyond. Approval was given to a C.L.E.A.R.-sponsored Northeastern Regional Board Members Training Program.

C.L.E.A.R. P.O. Box 11910, Iron Works Pike Lexington, Kentucky 40578

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