

 Council on Licensure,  
Enforcement and Regulation



2012 Annual Educational Conference - September 6-8  
**San Francisco, California**

**PUBLICATION:  
TRANSPARENCY VS.  
PRIVACY**

Presenter: Debbie Tarshis, WeirFoulds LLP

*Promoting Regulatory Excellence*

---

---

---

---

---

---

---

---

CLEAR 2012  
Annual Conference  September 6-8  
San Francisco, California

**AGENDA**

- review typical regulatory processes set out in legislation governing regulator
- analysis of recent trends toward transparency and openness
  - Ontario's *Regulated Health Professions Act* (2009)
  - LeSage Report re: Ontario College of Teachers (May 2012)

2

---

---

---


---

---

---

---

---

CLEAR 2012  
Annual Conference  September 6-8  
San Francisco, California

**PROFESSIONAL SELF-REGULATION**

- purpose of legislative grant of self-regulation to professional body: to protect the public interest

The granting of self-government is a delegation of legislative and judicial functions and can only be justified as a safeguard to the public interest. The power is not conferred to give or reinforce a professional or occupational status...<sup>1</sup>

<sup>1</sup> Ontario, Royal Commission, *Inquiry into Civil Rights*, Report No. 1, Vol. 3 (Toronto: Queen's Printer, 1968-1971). The Honourable James C. McRuer, Commissioner at 1162

3

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### PROFESSIONAL SELF-REGULATION

- risks of self-regulation

The traditional justification for giving powers of self-regulation to any body is that the members of the body are best qualified to ensure that proper standards of competence and ethics are set and maintained. There is a clear public interest in the creation and observance of such standards. ..., but there is a real risk that the power may be exercised in the interests of the profession or occupation rather than in that of the public. This risk requires adequate safeguards to ensure that injury to the public interest does not arise.<sup>2</sup>

<sup>2</sup> Ontario, Royal Commission, *Inquiry into Civil Rights*, Report No. 1, Vol. 3 (Toronto: Queen's Printer, 1968-1971). The Honourable James C. McRuer, Commissioner at 1166

4

---

---

---

---

---

---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### CHALLENGE FOR REGULATOR

- achieve and maintain public confidence
- fairness to members

5

---

---

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### REGULATORY PROCESSES SET OUT IN LEGISLATION: COMPLAINTS

- process to receive and investigate complaints against members of the regulator (the College)
- screening body (e.g. complaints committee) investigates complaint
- screening body determines whether matter should be referred to Discipline Committee for a hearing

6

---

---

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### REGULATORY PROCESSES SET OUT IN LEGISLATION: MANDATORY REPORTS

- legislation may require persons to report to College
  - sexual abuse of a patient
  - charge or conviction under Criminal Code involving sexual conduct
  - termination of employment for reason of professional misconduct, incompetence or incapacity
- investigation conducted by College
- screening body (e.g. Executive Committee, Inquiries, Complaints and Reports Committee) determines whether matter should be referred to Discipline Committee for a hearing

7

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### REGULATORY PROCESSES SET OUT IN LEGISLATION: DISCIPLINE HEARINGS

- Discipline Committee holds a hearing to decide whether member has committed an act of professional misconduct or is incompetent
- hearing open to public
- decisions of Discipline Committee
  - publication
  - with or without member name
  - discretion of Discipline Committee vs. required publication
  - summary vs. full text decision

8

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### REGULATORY PROCESSES SET OUT IN LEGISLATION: REGISTER

- register of members
  - information on register available to public
  - authority for College to add information that is publicly available
  - authority for committees of College to add information that is publicly available
  - removal of information from register
  - process for public to access information from register

9

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### REGULATORY PROCESSES SET OUT IN LEGISLATION: CONFIDENTIALITY

- duty to keep confidential all information and not communicate any information to any other person, subject to exceptions
- exceptions
  - to extent information is available to public under the legislation
  - in connection with the administration of the legislation
  - written consent of person to whom information relates
  - other

10

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S REGULATED HEALTH PROFESSIONS ACT (RHPA)

- June 2009 - Amendments to RHPA made by *Health System Improvements Act, 2007, S.O. 2007, c.10* came into force
- extensive changes made to
  - information required to be publicly available on register
  - access to information by public
  - removal of information from register
- impact on publication of decisions

11

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA

- Information required to be publicly available on register pre-June 2009
  - result of every disciplinary and incapacity proceeding completed within last 6 years
    - revocation, suspension, terms, conditions or limitations
    - fine, reprimand, suspended order where directed by Discipline or Fitness to Practise Committee
  - result of disciplinary proceeding where finding of sexual abuse (physical sexual relations or touching of sexual nature)

12

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA**

- Information required to be publicly available on register post-June 2009
  - result, including a synopsis of decision, of every disciplinary and incapacity proceeding
  - pardon-like process for removal of finding of professional misconduct only where reprimand or fine ordered (or finding of incapacity) and six years have passed

13

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA**

- Additional information required to be publicly available on register post-June 2009
  - notation of every matter referred by Inquiries, Complaints and Reports Committee (ICR Committee) to Discipline Committee until matter has been resolved
  - notation of every finding of professional negligence or malpractice made against the member
  - notation of resignation of member and agreement where member has resigned and agreed never to practise again in Ontario

14

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA**

- Public access to information on register pre-June 2009
  - Registrar to provide, upon payment of a reasonable charge, a copy of any publicly available information in the register during normal business hours
- Public access to information on register post-June 2009
  - all of publicly available information in the register must be posted on College's website in a manner that is accessible to the public

15

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA**

- Removal of information from the register from public access pre-June 2009
  - except for sexual abuse, removed after six year period
- Removal of information from the register from public access post-June 2009
  - no removal unless only reprimand or fine ordered
  - pardon-like process after six year period where reprimand or fine ordered

16

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**RECENT TRENDS TOWARD TRANSPARENCY AND OPENNESS: AMENDMENTS TO ONTARIO'S RHPA**

- Publication of decisions of Discipline Committee
  - requirement to publish panel's decision and its reasons, or a summary of its reasons, in its annual report
  - may publish decision and reasons or summary in any other publication of College
- Member's name must be published if results of proceeding may be obtained by a person from register
- Post-June 2009
  - member's name will always be published unless no finding of professional misconduct
  - removed discretion of Discipline Committee that member's name not be published where fine, reprimand or suspended order

17

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)**

- August 2011, Honourable Patrick LeSage retained by Ontario College of Teachers
  - to review its Intake, Investigation and Discipline Procedures and Outcomes and its Dispute Resolution Program
  - to consider whether they protect the public interest

18

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)

- September/October 2011 media reports related to investigations and discipline hearings at Ontario College of Teachers

19

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)

- 49 recommendations to the Ontario College of Teachers
  - overall objective - to have transparency and efficiency become a focus for the Ontario College of Teachers

20

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)

- Recommendations regarding register
  - that *Ontario College of Teachers Act* (OCT Act) be amended to require that register be posted on College's website
  - that OCT Act or College's by-laws be amended to require that the register contain a reference to a Notice of Hearing once Notice has been issued

21

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)**

- Recommendations regarding register
  - that OCT Act or College's by-laws be amended to allow for placement on register of undertakings and information about results of relevant criminal proceedings involving the member
  - College's by-laws be amended to provide at least three years must elapse before a finding is removed where penalty is reprimand, admonishment, counselling or fine. Suspensions and revocations to remain on register

22

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**LESAGE REPORT: REVIEW OF ONTARIO COLLEGE OF TEACHERS INTAKE, INVESTIGATION AND DISCIPLINE PROCEDURES AND OUTCOMES, AND THE DISPUTE RESOLUTION PROGRAM (MAY 31, 2012)**

- Recommendations regarding publication of decisions of Discipline Committee
  - OCT Act should be amended to remove Discipline Committee's power to make orders restricting publication of decisions (other than publication ban)
  - Decisions, including those that flow from Dispute Resolution agreements of Discipline Committee, must be published and available on the website and name of member must be included

23

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**ISSUES**

- What information about members should be available to the public?
- To what extent should a regulatory body have discretion to add or remove information about members from the register?
- How long should a member's discipline history be available to the public?
- Should Discipline Committee have any discretion about publication of decisions with or without member's name?

24

---

---

---

---


---

---

---


---



CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**SPEAKER CONTACT INFORMATION**

- Thank you
- Debbie Tarshis [dtarshis@weirfoulds.com](mailto:dtarshis@weirfoulds.com)



25

---

---

---


---


---

---

---

---

 Council on Licensure, Enforcement and Regulation

 2012 Annual Educational Conference - September 6-8  
**San Francisco, California**

**PUBLICATION:  
TRANSPARENCY VS.  
PRIVACY**

Presenter: Jill Dougherty, WeirFoulds LLP

*Promoting Regulatory Excellence*

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**NOTICE OF HEARING AND  
THE OPEN COURT PRINCIPLE**

- Discipline hearings are public, subject to limited statutory discretion to close hearing.
- “Open court” principle: court proceedings should be a matter of public record so that justice is done and seen to be done.
- Applies to courts and, to some extent, to administrative tribunals.

27

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**NOTICE OF HEARING AND PUBLIC PARTICIPATION**

- Public access (subject to defined exceptions) is required to ensure fairness and transparency of process and public confidence in regulatory body.
- Posting of notice of hearings required to give effect to right of public access to hearing.

28

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**FUNCTIONS OF NOTICE OF HEARING**

- Serves various functions:
  - Notify members of allegations
  - Provide framework for discipline hearing (defines and limits scope)
  - Notify public of date and nature of hearing

29

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**FUNCTIONS OF NOTICE OF HEARING (cont'd)**

- Tension between different functions: notice to member/hearing framework functions require particularity in fairness to member.
- Notifications to public suggests less particularity because allegations are unproven and may later be determined to be unfounded.

30

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### POSSIBLE SOLUTIONS RE PUBLICATION OF NOTICE OF HEARING

- “Better” referrals to minimize possibility of publishing allegations that are later withdrawn/not proven.
- Prosecutorial viability assessments pre-referral
- Draft (and perform legal review of) specific allegations to be included in Notice of Hearing before final referral, for review and approval by screening body.

31

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### POSSIBLE SOLUTIONS ... (cont'd)

- Availability options depend on statutory framework.
- Posting of a summary of the allegations referred rather than full Notice of Hearing (on Register and website).
- Consider limiting detail in Notice of Hearing if actual Notice to be posted:
  - Must contain material facts and allegations (but not evidence)
  - May necessitate preparation of additional statement of particulars for use of member (but not for posting)

32

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### LIMITING PUBLIC ACCESS TO HEARINGS

- Limited statutory discretion to close hearings (in full or in part) to avoid:
  - disclosure of matters involving public security
  - disclosure of sensitive personal/ financial/ other matters (where desirability of avoiding disclosure outweighs desirability of public hearing)
  - jeopardizing criminal/civil proceedings or person’s safety

33

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### CLOSING HEARINGS

- LeSage Report recommends narrowing and defining circumstances in which hearings may be closed.
- Recommends that regulatory hearings be governed by same principles as courts and closed only in rare and exceptional circumstances.

34

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### PUBLICATION BANS

- Requires express statutory authority.
- Some regulatory bodies have statutory authority to ban publication/broadcast of certain matters arising from a hearing, in circumstances where it may order the hearing closed (in full or part).
- Some statutes (e.g., RHPA) provide for a publication ban (upon request) re identity of a witness who testifies to allegations of a member's sexual misconduct involving that witness.

35

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### PUBLIC ACCESS TO EXHIBITS

- Right of public access to hearing may extend to right to obtain exhibits.
- Generally addressed by the Discipline Committee in its procedural rules and requested by motion to Committee.
- May permit/ limit/ refuse access to exhibits or redact information (based on reasons similar to reasons for closing hearing/ banning publication).

36

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PUBLICATION OF DECISIONS**

- RHPA requires publication of decision and reasons (or summary) in annual report - may also be published in other College publications.
- Name of member must be included if results of proceeding could be obtained from register.

37

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PUBLICATION OF DECISIONS**

- Open court principle weighs in favour of publishing Discipline Committee decisions.
- Some statutes place discretion with the Discipline Committee re extent and manner of publication of reasons for decision.
- LeSage Report (re OCT) recommends removal of such discretion and publication of all decisions, with member's name, on the website of the regulatory body.

38

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PUBLICATION OF DECISIONS**

- RHPA requires publication of decision and reasons (or summary) in annual report - may also be published in other College publications.
- Name of member must be included if results of proceeding could be obtained from register (i.e. publication with member's name is mandatory under the RHPA unless no finding of misconduct).

39

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### PUBLICATION OF DECISIONS

- Results of discipline proceedings (including synopsis of decision), findings of misconduct and penalty imposed are required to be noted on register under Ontario's RHPA.
- Publicly available information on register must also be posted on website.
- Similar requirements exist under legislation and by-laws of many other professional regulatory bodies.

40

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### IMPLICATIONS OF MANNER OF PUBLICATION

“The “practical obscurity” fostered by paper-based records has meant that records were difficult and costly to obtain, search, and link with other documents. This has meant that purposes unconnected with the accountability of the judicial system, and which could have a serious negative impact on other constitutional values, have largely not been pursued by members of the public. However, the move towards a digital environment brings such possibilities to the fore. Furthermore, the digital environment permits the linking and aggregation of personal information, which can make privacy and security concerns stronger than in a paper-based environment.”

Canadian Judicial Council, “Model Policy for Access to Court Records in Canada” (2003)

41

---

---

---

---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### TREND TOWARD ONLINE PUBLICATION

- Trend (and in some cases statutory obligation) exists for courts, professional regulatory bodies and other administrative tribunals to publish decisions on their websites.
- Promotes transparency and enhances “access to justice” but raises new privacy concerns.

42

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**MANAGING PRIVACY CONCERNS ARISING FROM ONLINE PUBLICATION**

- Courts, professional regulatory bodies and other administrative tribunals have developed protocols for addressing privacy concerns.
- Protocols aim to:
  - ensure compliance with legal requirements
  - foster transparency and accountability
  - protect privacy of participants where appropriate
  - maintain readability of reasons

43

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**CJC PROTOCOL FOR MANAGING PRIVACY CONCERNS RE ONLINE PUBLICATION**

- No mandatory protocols exist in Ontario, where professional regulatory bodies are not subject to general privacy legislation.
- Canadian Judicial Council Protocol for the Use of Personal Information in Judgments has been adopted to varying degrees by Canadian administrative tribunals.

44

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**CJC PROTOCOL FOR MANAGING PRIVACY CONCERNS RE ONLINE PUBLICATION**

- CJC Protocol contemplates removal of certain personal information from decisions where necessary to comply with publication bans or legislative restrictions.
- Protocol also contemplates discretionary removal of certain personal information where appropriate (for example, to remove identifying information regarding victims of sexual assault, exploitation or sexual, physical or mental abuse).

([http://www.cjccm.gc.ca/cmslb/general/news\\_pub\\_techissues\\_UseProtocoL2005\\_en.pdf](http://www.cjccm.gc.ca/cmslb/general/news_pub_techissues_UseProtocoL2005_en.pdf))

45

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PRIVACY COMMISSIONER'S GUIDELINES RE ONLINE PUBLICATION**

- Office of the Privacy Commissioner of Canada has issued guidelines for federal tribunals re electronic disclosure of personal information in decisions of administrative tribunals.
- Not binding on professional regulatory bodies in Ontario, but of assistance in considering privacy issues.

46

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PRIVACY COMMISSIONER'S GUIDELINES RE ONLINE PUBLICATION**

- Privacy Commissioner's Guidelines suggest:
  - Advise the parties of the specific policies, statutes and regulations that govern your tribunal's information-handling rules.
  - Give the parties notice of preliminary processes through which personal information may be identified and protected from disclosure prior to a public hearing.

47

---

---

---

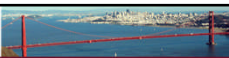
---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**PRIVACY COMMISSIONER'S GUIDELINES RE ONLINE PUBLICATION**

- Publish a written notice that describes your tribunal's practices regarding the publication of personal information online and in reasons for decision. This notice should identify:
  - the type of information that is generally made available to the public via the Internet;
  - how decisions are published electronically;
  - whether and when personal identifiers are included in decisions published on the Internet; and
  - what procedures are available for parties and witnesses to make submissions about the electronic disclosure of personal information of particular concern.
- Develop a policy to guide your tribunal's exercise of discretion concerning the disclosure of personal information in decisions posted on the Internet and maintain a clear record of all decisions made pursuant to this policy.

([http://www.priv.gc.ca/information/pub/gd\\_trib\\_201002\\_e.pdf](http://www.priv.gc.ca/information/pub/gd_trib_201002_e.pdf))

48

---

---

---

---


---

---

---

---



CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### DRAFTING TO SAFEGUARD PRIVACY

- Consider at decision drafting stage whether it is permissible/ necessary to include identifying personal information.
- Must also consider same issues when preparing agreed statements of fact/ joint submissions as to penalty which may be incorporated into decisions.

49

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### DRAFTING TO SAFEGUARD PRIVACY

- Use initials where it is mandatory or desirable to exclude names (for example, the name of a witness/ complainant who was subject to sexual abuse by the member).
- Anonymize other information which may identify witnesses/ complainants (e.g., workplace, school, community, personal data of witness/complainant or family members).
- Names of expert witnesses generally need not be removed.
- Eliminate personal information which is not relevant and necessary to the decision.

50

---

---

---

---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### SPEAKER CONTACT INFORMATION

Thank you

Jill Dougherty  
[jdougherty@weirfoulds.com](mailto:jdougherty@weirfoulds.com)



51

---

---

---


---


---

---

---

---

 Council on Licensure, Enforcement and Regulation



2012 Annual Educational Conference - September 6-8  
**San Francisco, California**

**Publication:  
Transparency v.  
Privacy**

Presenters: Jennifer Gollan  
Reporter  
The Bay Citizen, part of the  
Center for Investigative  
Reporting

*Promoting Regulatory Excellence*

---

---

---

---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**Transparency**

- Regulators are ultimately most accountable to the public. Transparency is imperative, except in the face of matters such as confidentiality, national security or pending lawsuits.

53

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

**What can transparency do for you?**

- With openness and transparency, regulators can show they are committed to good government, protect the public from unscrupulous licensees, and encourage more compliance with the laws enforced by their agency.

54

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### Consumers are your friend

- In an age when governments are collecting and digitizing growing amounts of data, consumers can help ensure regulators are doing a good job, help ward off criticism for making subjective, closed-door decisions. Consumers can also help ensure licensees deliver skilled care or service.

55

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### What are the best ways to improve transparency?

- Post key public documents online, including the agency's policies and procedures, records that detail various citations and disciplinary actions against licensees, licensees' applications and other paperwork detailing their qualifications, programs and services.

56

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### Transparency

- Distribute information to stakeholders, including the public and regulated industries, about upcoming public comment periods and hearings. Post hearing decisions online.
- Disclose: backroom lobbying efforts by industry before the regulatory agency, and regulators' conflicts of interest and gifts over a certain limit.

57

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### Transparency

- Make directories of licensees easily accessible online. Include background documents that detail nature of past enforcement actions against licensees. Include when licensees were granted a license and when those licenses expire.

58

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### Transparency

- Webcast public meetings by regulatory boards. Provide access to live webcasts and archived versions.

59

---

---

---


---

---

---

---

---

CLEAR 2012 Annual Conference  September 6-8 San Francisco, California

### Transparency: Pros v. Cons

- Downsides of transparency? Yes, openness costs time and money. But these costs are offset by the credibility and effectiveness regulatory agencies gain by fostering openness and transparency.

60

---

---

---

---

---

---

---

---

CLEAR 2012 Annual Conference		September 6-8 San Francisco, California
<b>My contact information</b>		
<ul style="list-style-type: none"><li>• Jennifer Gollan: <a href="mailto:jgollan@cionline.org">jgollan@cionline.org</a></li></ul>		
61		

---

---

---

---

---

---

---

---