



**Regulation Matters:
a CLEAR conversation**

Episode 14: Perspectives on Practitioner Substance Abuse and Regulation **March 12, 2019**

Line Dempsey: Welcome to our podcast once again, Regulation Matters: a CLEAR conversation. I'm your host, Line Dempsey. For those that don't know me, I'm a senior investigator with the North Carolina Dental Board. I'm on the CLEAR board of directors, as well as the current chair of the National Certified Investigator Training Committee and Vice Chair for the annual conference program committee with CLEAR. As many of you may know, the Council on Licensure, Enforcement and Regulation, or CLEAR, is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation. Our podcast is a chance for you to hear about the latest and greatest in our community today. I'm joined by Donna Mooney Haywood, retired manager of regulatory affairs for the North Carolina Board of Nursing. I've known Donna for many years, and she's also an instructor with CLEAR's NCIT programs as well as Board Member Training. Welcome.

Donna Mooney Haywood: Thank you; it's good to be here with you today.

Line: Great! Well, as I said, I've known you for many years, worked with you on NCIT as an instructor, as well. A lot of our visitors and listeners may not know you, so if you would, tell me about your background and what you're doing now?

Donna: Okay. My background, I graduated from Western Carolina University, several years ago with a BS in Nursing, and so my background is in healthcare primarily. That's kinda how I got to the Nursing Board. I did clinical practice for a number of years before being recruited by the North Carolina State Bureau of Investigation to come to work on one of their white collar crime units. It was then called the drug diversion unit; it's now drug diversion and environmental crimes unit. But it was there that I got my first introduction, really, to regulation, not just the criminal aspects of behaviors but to regulation because we were investigating healthcare professionals that abused their privilege in handling control substances. After working with them for three years, I went to work with the Board of Nursing and as you said, ended up with seven titles over that period of time, the last one being manager of regulatory affairs.

The thing that used to bug me the most was that, being a nurse and coming from that background of nurses and healthcare professionals, licensees are held to a higher standard than the public at large. I was always disheartened to see the number of drug cases that came before us. I looked at our investigative load - probably about half of what we investigated had to do with drugs, whether alcohol, diversion or misuse of prescription drugs, and there was no end to it.

Actually, it was a stigma to it. Then we went through phases over the years where alternative programs were developed and we went through the phases where healthcare professionals were taken out in handcuffs and it was more criminalized. And yet, here we are, for me 30 plus years from when I began this, and we still have the same problems and they're not being addressed. And now it seems that it's even spread beyond just licensees into the general public, and we're not doing something right. We've got to find a way to deal with these problems.

Line: So that is an absolutely great introduction to what we're gonna talk about today. There is a drug crisis, and how it affects regulation is very important. Obviously, it's a timely topic as regulatory boards try to both react and be proactive in dealing with this issue. Obviously, it has interest to you from the start. I guess what are your concerns right now?

Donna: Well, they are growing. My concerns first have to do with the licensees themselves. Obviously, we all hear we're there to protect the public, and the public needs to be in that equation. But we seem to be sending a message that it's okay, that drug use is okay. I know many of the folks listening will probably remember, Donna was never a big friend of alternative programs. I understand why they are there. We have invested a lot of money, a lot of time into licensees, but then we put them right back into the same environment and we aren't - I don't wanna use the word "cure" because we all know there is no cure to substance abuse; it's a lifelong process - but we aren't making an impact. If I look back over my tenure with the Board, I can remember people coming to it for the third and the fourth time.

You go through lose your license, you go through rehab, you come back, you have a clean period for a while, you get back to work, you relapse. And just watching that cycle go on and on - it's not good for the profession; it's not good for the public.

Line: Well clearly, at least I feel that, licensees should be held to a higher standard. How do you think that should be as far as, should it be more stringent for licensees and members than the public at large as far as repercussions to this?

Donna: Yes, I do believe it should be more stringent for licensees. We are there to protect people. If I'm high, I can't do my job effectively and I'm not safe to be taking care of you or anybody else at that point.

An example I often used when I was doing programs related to substance abuse is that if I was a bank teller and I stole money, embezzled money from the bank, they're gonna arrest me, I'm gonna do jail

time, I'm eventually gonna get out, but I'm never gonna work in the banking industry again. But we take health care professionals (and I'm not talking just about nursing; I'm talking about physicians, I'm talking about dentists, I'm talking about all of the helping professions that have access to prescription drugs), we take that person and we say, 'admit to us you have a problem,' and they do, and we do wanna help, but that help may or may not have actually affected their license. And as a member of the public, who I think I have the right to know who my practitioners are, I don't get access to that information. I cannot make an informed decision as to whether or not I really want this anesthesiologist to give me anesthesia tomorrow or this nurse anesthetist to give me anesthesia, because I don't really have access to what occurred there. But if I go to a contractors board and wanna find out what's happened, I've got their history, not only from their board but from the Better Business Bureau. I don't think we're equitable there, and I think that we should do something so that the public feel they're getting the information they need and they're safe, and that we're putting safe practitioners out there that could reasonably be monitored.

Line: Well, that brings us back to something that you mentioned earlier and you're maybe not a huge fan of, but alternative to discipline programs. Here at the Dental Board, we have the caring dental profession, where it's an opportunity for them to seek treatment and maybe at least on our end, it's not necessarily avoiding discipline. There's usually some discipline that's tied in and requirements, and they're more of the monitoring side of things. But I guess what is your thought about these alternative discipline programs and helping in the drug crisis, and if they are or not, why not?

Donna: I think they do; I think there's value to them. This is to give somebody that first chance. Drug and substance abuse is usually a choice. There are people that get backed into it, and I recognize you got that over-prescribing physician; you have people that have that personality that may tend to abuse things that they receive legitimately. But it's still a choice whether or not I take that pill, whether I smoke the marijuana or whether I go out on the street and buy the drug. So for me, I would give them the opportunity first. Okay, you made a mistake, maybe your judgment was impaired that caused you to get into problems. Maybe there's some underlying causes that need to be dealt with rather than just putting you in a program. But after that first time, as far as I'm concerned, I think that ought to be disciplined, and it needs to be public so that people understand there are consequences to your actions.

Line: That makes great sense. So, one of the things that we're dealing with now, and I know Canada passed legislation concerning marijuana - should there be different approaches? And I'm not talking about legal versus illegal in that way, but should it be different approaches depending on the type of drug that's being used and we'll call that recreational versus a diverted medication.

Donna: Yes, but I don't have the answers as to what I really think that should look like. I think that the prescription drug misuse often is a choice, as I said, about whether you take the pill or not, but that there may be other things there. There may be legitimate pain that's causing this... It's causing you to take the medication that causes you to want to be pain free. So if your ordered one every four hours, but I'm gonna take two because I really feel better with the two. So I can see how people can get into

issues on their own. But when I go out on street and buy marijuana, or when I go to that shop now that you can go to and get marijuana or on the street, it's meth, it's cocaine, whatever the drug is, the resurgence with heroin - that is truly a choice; it may be about pain, but it's not about... It's not the same thing in my way of thinking.

Line: Right, so do you think that those practitioners should be disciplined differently?

Donna: Yes.

Line: How so?

Donna: I could see taking more harsh action with that crowd because usually that is into legal activity as well. We're not just talking your misuse of your own prescriptions even though you might have legally obtained the prescription, done a little doctor shopping along the way. But it's not the same. And that involves criminal. And when we're getting into those criminal elements, I think we need to be more cautious because people that are willing to make those choices are probably not gonna make good decisions as practitioners as well. Just about all of us in our practice have something that speaks to criminal convictions, felonies and misdemeanors. I'm not sure we ought to be, well I am pretty sure - I don't think we ought to be giving a free ride to somebody who has committed a felony, whether convicted or not, that has committed a felonious act just because they have a substance abuse problem.

Line: Gotcha. Now, I guess one last thing - looking at a practitioner that maybe is either utilizing street drugs versus prescription medication and has a moment of clarity, seeks help before the licensing agency knows about this, and goes through maybe one of the programs, the alternative to discipline programs, I guess you can call it that, although nobody knows about it except for him and the program or her and the program - when they relapse, and heaven forbid that they do, but studies show specifically with your experience in the nursing board there's been a lot of relapse, but when they relapse are they held as this is the first strike or is that the second strike? How would you handle that?

Donna: So that's interesting, I would probably count that as the first strike because they made that decision themselves. It wasn't that they waited until they were caught or anything. They recognized there was a problem. They had the mature judgment to try to find a way to deal with it. They dealt with it, they went to the appropriate people, they followed the program. I would count that if they relapse, they come back, this is their first strike.

Line: Great, well, I think we could go on and on for hours. It's been a pleasure to have you here. It's always good to sit down and chat with you. I also wanna thank our listeners for being a part of this program today. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. Please subscribe to our podcast. We have it available in a lot of different mediums. It's available on Podbean, iTunes, Apple Podcasts, Google Podcasts, Google Play, Stitcher, Spotify and TuneIn. If you've enjoyed this podcast, please leave a rating and a comment in the app. It always helpful for us,

and your reviews help us improve our ranking and make it easy for new listeners to find us. Feel free to visit our website, www.clearhq.org, for additional resources and a calendar of upcoming training programs and events. Finally I'd like to thank our CLEAR staff, specifically Stephanie Thompson, our contact coordinator and editor for our program. I'm Line Dempsey and I hope to be speaking with you very soon. And again, I hope you enjoyed this podcast, one of the rare times when we actually get to sit down face-to-face, so the sound may not be as good as our normal quality, but I appreciate you enjoying it, and we'll hopefully talk to you soon.

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