



**Regulation Matters:  
a CLEAR conversation**

## **Episode 7: Breaking Down Licensing Barriers While Ensuring Public Protection During a Disaster** **August 28, 2018**

**Line Dempsey:** Welcome back to our podcast, Regulation Matters: a CLEAR conversation. Once again I'm your host, Line Dempsey. I'm the senior investigator with the North Carolina Dental Board and I'm the current chair of the National Certified Investigator Training committee with CLEAR. For those of you who are not familiar with CLEAR, it is the Council on Licensure, Enforcement and Regulation, which is an association of individuals, agencies, and organizations that comprise the international community of professional and occupational regulation. Our podcast is a way to give back to the community and give you an opportunity to hear about what is the latest and greatest that's affecting regulation. This episode is actually a lead up to a conference session that is being presented in the entry to practice and beyond track at CLEAR's 2018 annual educational conference, which will be held in Philadelphia this September. Today I'm joined by Ronne Hines, director with the Division of Professions and Occupations, Colorado Department of regulatory Agencies. Welcome.

**Ronne Hines:** Thank you, Line. I'm happy to be here.

**Line:** Well, I really am excited about having you join us today and, and I know about the topic, urgent care: breaking down licensing barriers while ensuring public protection during a disaster. Obviously this is quite topical. I guess as we get started, could you give us a bit of a background on the topic regulating in disasters and what we might expect in the full session in September?

**Ronne:** Sure, I think you'll find it an interesting session. It'll provide some specific examples from three different state perspectives, including Virginia, Colorado, and Hawaii, obviously each with really different geographical and regulatory licensing issues. The takeaways for our attendees should be not only to apply the case studies that we'll provide to their own regulatory models and issues when they're facing natural or other local disasters, but also in the face of health care and other localized emergencies. The session was proposed given, as you mentioned, the obvious impacts of disasters and emergencies. For example, in 2017, at least five states suffered natural disasters or public health emergencies. In Colorado, we've also seen local emergencies be quite impactful as well, and in responding to a disaster, it can be at best sometimes orchestrated chaos. The chaos is compounded by the hodgepodge approach to licensure, to regulation, to license portability.

You know, we see the model acts, the compacts, the state licensure laws are just a patchwork regulation that really impacts when you need cooperation across state lines and really requires coordinated efforts across multiple agencies at the local level, at the state level, and at the federal level. The result is that regulators are faced with challenges, and they need to ensure adequate workforce to address the needs of the response and even to ensure sufficient care for those sick or injured, while also ensuring consumer protection. Disasters in public health or localized emergencies really require regulators to coordinate among a variety of agencies. Some of those might be pre-established relationships and some might be entirely new. Some are impacted by the interplay of license portability laws, regulation of an out-of-state workforce, emergent health needs, and the hurdles encountered while regulating during a disaster or health emergency.

**Line:** Well great, I guess what kind of disasters and emergencies are you talking about where it would actually affect an agency like this?

**Ronne:** Sure. So one of the most recent examples where we were heavily involved included the floods that Colorado experienced about five years ago with widespread impacts across a large portion of northern Colorado and in fact the largest disaster Colorado has likely endured. The floods reached a staggering \$4,000,000,000 in damage, washing away roads, seeping into homes. Ten people died as a result of the floods; more than a thousand had to be evacuated by helicopter. And in fact more than 28,000 homes were damaged or destroyed and 500 miles of roads closed, so impacting not just the damage to the citizens, but how the response would take place. Colorado had to jump into action. It included reaching many rural and mountain communities. And the result was a span across 21 counties in Colorado. So we took a multipronged approach. We coordinated our efforts not only for the accessibility of health care workers, but also in the rebuilding efforts.

And I think in some ways - as you know we're an umbrella agency that houses 50 professions and we're also housed in a larger department that includes real estate, banking, financial services - the division was really well positioned in this instance to aid in a meaningful way. And we utilized those best lessons learned even now as the state is faced with many really crippling wildfires across other parts of the state. In the case of the floods in 2013, we, as I mentioned, took a multipronged approach. We wanted to address the destruction faced by the homeowners and businesses, and we coordinated first an effort with our state electrical and plumbing boards to help inform and protect consumers. We've had to really utilize our key stakeholders and sister agencies. We had to work with adjacent states and we even utilized relationships with national associations. And in doing that, we were able to educate victims of the floods.

We were able to send our inspectors out to help do assessments. We worked with local governments and contractors, and the approach really utilized these experts and key partnerships to avoid some of the mistakes during a rebuilding phase that we knew plagued several similar disaster recovery efforts in other states. We've supplemented those efforts by taking steps to protect the public from unscrupulous activity by contractors and storm chasers, which I'm sure you've seen in your state when

you experienced a disaster.

**Line:** Of course.

**Ronne:** Yeah, we went out and offered cost-free damage assessments. We were linking industry and consumers, so we played sort of a more in-between role. And we actually completed more than 200 of those damage assessments impacting across those different counties. But we also worked with our governor's office and with that we were able to utilize executive orders to bring workers into the state. So as you can imagine, there are licensing barriers to just having workers come in the state. And with that, the governor was willing and able to issue an executive order that waived particular rules. So that helped with some licensing hurdles, and we were able to bring additional workers into the state, while still ensuring consumer protection. So that was particularly helpful and just with the temporary suspension of those rules, we're able to solve the bottleneck that would have prevented that. Another way that we utilized the executive order was the governor issued an executive order waiving some pharmacy rules. So with the floods wiping out business locations, the pharmacies needed to relocate. There are really restrictive rules around that, so by temporarily waiving those rules, businesses were able to relocate and people were able to get the medications that they really needed.

And then lastly I would mention the fourth prong of what we were able to do is really just to take advantage of existing regulations. So in recovering from the trauma of the flood, obviously we needed sufficient mental health assistance and partnerships with Red Cross and United Way. They were able to bring in mental health workers by taking advantage of an existing regulation. So in our mental health regulations, there is the ability for a licensed mental health worker from another state to come in and work in the state for a short period of time without obtaining licensure here. So that has proven really helpful, not just in this natural disaster but in many others. And then as a result of best lessons learned from that event, our department as a whole started to develop a continuity of operations plan, and that's something that I think will be one of the biggest takeaways from the session is learning how the thoughtful approach and coordination anticipating the disasters is likely one of the biggest needs when considering what you might be dealing with.

**Line:** That's very interesting. Especially with the ability for those practitioners to come in under a limited time period. But what about healthcare emergencies? So other than maybe the psychological stresses, what about healthcare in general? Were things done so that emergency personnel or things like that had license portability to be able to come across as well? You know, cross regulatory issues as well?

**Ronne:** I'm sure we have seen that in different instances. I think in the flood example, definitely where we can utilize those regulations, we have had temporary workers come in, but I think in evaluating a healthcare emergency, it was a little bit different than the flood example, and I think being able to share information is equally important. But one of the examples I would use from Colorado's experience is - a few years removed, but I'm sure you might recall - where the landscape in the

pharmacy world is a difficult one where compounding pharmacies in particular have a wide scope across different states. They'll get licensed in many states, but their impact really can result with misconduct across many states and tying to outbreak for illnesses that are truly harmful. For example, the Food and Drug Administration recorded about 200 adverse events linked to 71 compounded products since 1990.

And so in 2011, our Pharmacy Board dealt with this, and they issued a cease and desist order to a compounding pharmacy that had distributed manufacturer drugs to many hospitals in Colorado. And it was noticed by one of our inspectors who went into the hospital - she found multiple vials without patient specific prescriptions really in violation of both Colorado and the other states' licenses. And in doing that, she flagged that for not only our agency but for the other state's agency, and the Colorado Pharmacy Board issued a cease and desist order. And although the state and federal agencies had received that order, the lack of communication and coordination really resulted in compounded drugs continuing to be in hospitals and healthcare facilities that were causing meningitis to spread across the United States.

**Line:** Wow!

**Ronne:** Yeah, and so in the fall of 2012, the reports of people being injured and dying from the contaminated products became public. And we know that at least 480 patients had become ill nationwide and 33 had died due to the contamination. We also know this wasn't the first issue with this pharmacy and the Health, Education, Labor and Pensions Committee in the Senate found it to have an ongoing troubling record for about 10 years prior. And so how does one state make a difference in all of that? I think that we worked really hard, both with the US congressman that reached out to us and we worked to communicate with the other pharmacy board. But it was really clear that with this kind of example, or I think you've probably even heard of similar events where meningitis cases cropped up in 2002 on the East Coast, 21 polo horses died due to a medication that was mixed incorrectly -- the impacts are so large. And so again, pointing back to having that coordinated effort plan anticipating even in healthcare emergencies what you might want to anticipate. And so here it was actually the national association that was the key. After all of the events that occurred, they coordinated improved sharing of information. I think with the license portability, compounding pharmacies are able to get licenses in multiple states, but there's no real obligation to share that information. So the mobility and jurisdictional issues were huge in driving what we saw actually transpire. And so by having a pharmacy disciplinary clearinghouse now, hopefully it will help the states focus their inspection program and avoid some of those long lasting impacts.

**Line:** That sounds very promising. I guess on that same track, do you think we could still make improvements to how we approach regulatory government actions to minimize the impact of natural disasters or local disasters or public health emergencies like what you described?

**Ronne:** I really do. I think improvements should be ongoing and consider the reevaluation of processes

similar to the continuity of operations plan that we developed as a department. That can be improved with emergency drills on a local or state level. Additional improvements really include what we know to be true, improved collaboration and communication across state lines and across agencies and across jurisdictions, particularly in healthcare. While we see the impact of compacts, like the nursing compact where bad actors might be more easily tracked with consistent sharing of information, we see impediments across all licensing regulation where the hodgepodge approach to licensing really has impacted states negatively in a disaster on multiple fronts. I think on a larger scale, participation in national associations can be key to ensure communications amongst states. But on a state or local level, I think assessing and taking time to understand the possibilities in advance really allows for quick and more effective action, whether it's understanding the scope of existing regulation to allow mobility into the state for relief efforts, identifying paths for mobility through efforts such as the executive orders we talked about to waive the rules, and evaluate key people and stakeholders to develop a plan that ensures the coordinated approach to the response and knowing what those paths are so you're able to coordinate and not just react.

One shining example of collaboration I'd highlight, which is much different than the other examples we've talked about, is our tramway program. We regulate ski lifts in Colorado, as you can imagine. It's a program that is very interesting. It really relies on self reporting, but it exemplifies to me how the importance of the industry ensures the consumer safety. And although it's a little bit less focused on licensing and mobility, the crisis management plan that that board developed has really been a model for our agency as we developed our continuity of operations plan. The example's a great one for lessons learned. When we see a crisis or an emergency on a ski lift, there could be many unanticipated factors - that can be changing technology. We have to utilize efforts of experts, we have to have a preplanned coordination to shut the lift down, and also working with law enforcement to ensure when a swift investigation needs to happen, that we're meeting the needs of the industry. And although it's often a local disaster, the plan really sets some good protocols that I think people can learn and make improvements for their issues for natural disasters or for even public health emergencies. So the plan includes a simple thing like the crisis management plan that defines the crisis, so they know what the statutory authority is when they really need to elevate it to that level. They have a notification protocol so they know who in the Department or Division to contact. They have names of expert personnel, they've already established who they need to reach out to you and who were the ones that will come help investigate, including a conflict of interest list of our inspectors, ski area addresses and contacts - really trying to anticipate any of the information you would gather when you needed to respond to a crisis. Their guidelines for media inquiries, which we all know are part of our world today and especially when there's large impacts.

Some of the examples where this was really successful included a recent fatality in 2016 where we utilized the combined experience of our engineer experts - and they totaled that at about 250 years - to understand what happens mechanically. So experts, I think, are an important way to improve the way that we handle crises. And that ranges from, we had a gondola accident in '76 where there were four deaths and eight injuries to the Keystone accident in '85 where there were 49 injuries and two

deaths. So I think it's important not just to focus on the natural disasters and the health care crises, but to know that emergencies and crises can be at a very local level, but the impact to the communities are so large. So I think during any emergency, local civic leaders, sheltering organizations, working with us as regulators, we help respond to save lives and preserve the property. And that's only through strategic coordination. But definitely, I think we can continue to improve as we learned from our past efforts.

**Line:** That makes good sense. Well, I guess I don't want to give away your whole talk, but what would you say would be the one takeaway thing that you think the audience in September will value most coming up at the meeting?

**Ronne:** I think the different case studies and lessons learned will be helpful for any regulatory model. I think the issues faced by Colorado are really different probably than from Virginia or, amazingly, Hawaii - where, how do you deal with it, the needs, the workforce needs, when you're in such an isolated place. So I think case studies and that will help us all look at increased mobility for our workforce in the face of disasters.

**Line:** Excellent. Well, thank you, Ronne, for your time and being part of this podcast with CLEAR. You know, I always think it's a great opportunity to be able to share and learn from each other. And I'm excited about hearing you talk on this topic in more depth at our annual educational conference, which will be in Philadelphia in September. So we definitely look forward to hearing from you then, and again thank you for speaking with us today.

And also to our listeners, thank you. We'll be back very soon with another episode of Regulation Matters: a CLEAR conversation. You can subscribe to our podcast on a number of different avenues, Podbean, iTunes, Apple Podcasts, Google Podcast, and Google Play, Stitcher, Spotify, even TuneIn. We have a lot of different avenues that you could find us out as well as on our website at [www.clearhq.org](http://www.clearhq.org), where you can go for additional resources as well as the calendar of upcoming training programs and events. You can leave feedback at any of those apps that I mentioned earlier, and so we certainly encourage that. And, finally, thanks to our CLEAR staff, specifically Stephanie Thompson. She's our content coordinator and editor for our program. And again, I thank you for listening. My name is Line Dempsey, and I hope to be speaking to you again soon.

*The audio version of this podcast episode is available at <https://podcast.clearhq.org/e/breaking-down-licensing-barriers-while-ensuring-public-protection-during-a-disaster>*