



Association of Test Publishers

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[Home](#) |
 [Organization](#) |
 [Membership](#) |
 [Publications](#) |
 [Members](#) |
 [Testing](#) |
 [Links](#) |
 [Search](#)

[Winter 1997](#)
[Summer 1998](#)
[Fall 1998](#)
[Spring 1999](#)
[Winter 2000](#)
[Spring 2001](#)
[Fall 2001](#)
[Spring 2002](#)
[Fall 2002](#)

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Inside this issue	
Palm Springs, CA site of ATP's fifth annual conference.	HIPAA -- Not Just a Healthcare Issue
Technology in Testing: Advancements and Best Practices	VP/GM of Pearson Assessments to lead ATP
Association Notebook	Have you seen this ad?
ATP FOCUS ON... Secure Computerized Testing	Florida Decision Favorable to Test Publishers
Clifford's Notes from the Field... Another Perspective on Computer Based Testing	

Palm Springs, CA site of ATP's fifth annual conference Technology in Testing: Advancements and Best Practices

Even Ronald McDonald takes tests! -- That's according to Ralph Alvarez, Chief Operating Officer of McDonalds USA, who will provide the opening keynote address for the Association of Test Publishers' fifth annual conference, Technology in Testing: Advancements and Best Practices. The conference will be held February 2 - 4, 2004 at the Renaissance Esmeralda Resort located in Palm Springs, California.



"Alvarez will cover the importance of using tests to qualify employment, verify job knowledge, and assess job readiness in one of the world's most highly-recognized, fast-paced companies" said ATP Conference Chair William Cramer of Edverify, Inc.

"This year's conference promises to be an exciting, informative program which will facilitate the exchange of ideas across the many segments of our society in which testing is useful and important -- including industry, education, certification/licensure and clinical environments. From workshops to keynote addresses to information-filled breakout sessions and poster sessions, this conference will offer the depth attendees need to stay abreast of the fast-paced changes taking place in the testing field," said Cramer.

Another keynote speaker at this year's conference will be Marten Roorda, Chief Executive Officer of CITO (or Citogroep, as it is

known in the Netherlands). CITO is one of the world's leading institutes for testing and educational measurement. It has many clients among schools, government bodies, private organizations and companies in Europe and in the U.S. CITO also performs projects for the World Bank and has partnerships with Pearson, the Educational Testing Service ("ETS") and other international companies and organizations.

Sessions for this year's conference have been sponsored by all four of ATP's divisions (Certification, Clinical, Educational, Industrial/Organizational) and will answer such questions as: What are the leaders in testing doing? What is the latest in innovative item types? What is the latest in test security? How long does it take to recover your investment in a new certification program? What impact will No Child Left Behind Act have on the educational testing arena? and How do I get a certification program started?

ATP Chair, Carol Watson of Pearson Assessments, announced that the 2004 Career Achievement Award in Computer-Based Testing will be awarded to David Weiss, Ph.D., Professor of Psychology at the University of Minnesota.

"Professor Weiss has been a pioneer in the area of Computer Adaptive Testing ("CAT"), which is the tailoring of computer administered tests for individual test takers. Dr. Weiss has been an innovative leader in this fast-growing area of testing and he is the founder of Assessment Systems Corporation, a world leader in computerized testing," Watson said.

More than 600 individuals are expected to attend the 2004 ATP conference. Watson urged individuals interested in the conference to register early in order to avoid being shut out. Registration and information is available on line at www.testpublishers.org.

HIPAA -- Not Just a Healthcare Issue

The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") is most often thought of as a health care issue -- but test publishers are responding to a new set of HIPAA privacy regulations that went into effect on April 14 of this year.

Briefly, HIPAA provides guidance to those organizations covered by the regulations as to how to receive, store and manage what the regulations call "protected health information" (PHI) -- which is individually identifiable health information that is used to make decisions about an individual and is maintained in a designated set of records. Further, the regulations provide many individuals with a relatively unlimited right of access to inspect and copy their protected health information, and the right to receive an account of all PHI disclosures. Individuals also have the right to report any concerns and complaints about the way their PHI is being managed to federal regulatory agencies.

These new regulations, and the interpretation of them, is being closely monitored by test publishers, who are concerned about the impact on the psychological tests which often contain Protected Health Information.

ATP Chair Carol Watson said that there are two major areas of concern to test publishers. The first concern is whether the operations of test publishers are subject to the HIPAA regulations applied to what the regulation calls "Covered Entities" or "Business Associates". If the regulations apply, the publishers take on substantial liabilities (in the thousands of dollars) for each breach of HIPAA regulations. And the second concern is whether the intellectual property of the tests can be effectively protected when individuals exercise their right to request disclosure of their PHI and test materials are disclosed.

"If test items are disclosed to individuals, there is the very real potential for the test integrity to be damaged" explained Watson. She indicated that although many customers have contacted publishers to determine what should and should not be disclosed, given the potential for fines and federal investigations if customers don't follow the regulations, many customers will simply allow patients to copy anything in the file. "Each publisher is going to have to respond in order to continue to protect the value and integrity of the tests," said Watson.

Yvette Beeman, lawyer for Harcourt Assessment agreed. "Allowing individuals to get copies of tests puts the future validity of those tests at risk and is contrary to copyright law," she said. Beeman reported that Harcourt wrote to the U.S. Department of Health and Human Services (HHS) requesting that the Department issue guidance exempting these types of tests from disclosure under the Act. HHS, the agency which enforces the HIPAA regulations, stated that if test publishers consider their tests to be trade secrets or commercially sensitive information, these laws protecting the tests govern, and the tests should not be disclosed. Beeman said that Harcourt has a position statement, essentially saying that "trade secret law trumps the disclosure requirements of HIPAA's Privacy Rule" (See statement below) .

Bridget Herd, Chair of the ATP Clinical Division, reported that the American Psychological Association's ("APA") response to this issue was disappointing. "They (APA) reprinted their ethical guidelines to allow psychologists to adhere to the new HIPAA regulations, but in so doing, they appear to have given psychologists the go ahead to release testing materials without regard to

copyright, trade secrets or the more restrictive definitions contained in the HIPAA regulations," she said.

ATP will continue to monitor this issue.

HIPAA Position Statement (reprinted with permission from Harcourt Corp.)

Many of our customers have inquired regarding Harcourt Assessment's position on whether test record forms must be disclosed to patients in order to comply with the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA). The HIPAA Privacy Rule provides that individuals have a qualified right of access to individually identifiable health information maintained by health care providers covered by HIPAA. The widespread dissemination of record forms (which may disclose test questions and answers) would violate restrictions on providers' use of Harcourt Assessment's materials and would render test instruments invalid and therefore useless to the clinical community and to the public at large. In order to obtain clarification regarding this matter, Harcourt Assessment requested an opinion from the U.S. Department of Health and Human Services (HHS), which is responsible for HIPAA. We received a response from Richard Campanelli, the Director of the Office for Civil Rights at HHS, who stated in response:

"[A]ny requirement for disclosure of protected health information pursuant to the Privacy Rule is subject to Section 1172(e) of HIPAA, 'Protection of Trade Secrets.' As such, we confirm that it would not be a violation of the Privacy Rule for a covered entity to refrain from providing access to an individual's protected health information, to the extent that doing so would result in a disclosure of trade secrets."

Accordingly, as we have done for many years, we will continue to advise our customers that Harcourt Assessment's test instruments are trade secrets and their usefulness and value would be compromised if they were generally available to the public. We have stated this position in correspondence, court cases, news articles and on our website for many years. This position is also consistent with our longstanding practice of ensuring through our terms and conditions of use that all purchasers have the appropriate qualifications to administer and interpret the instruments being purchased and that such purchasers agree to maintain the confidentiality of the instruments.

Given the above-quoted support from HHS, Harcourt Assessment reiterates that customers may not disseminate copies of test record forms or protocols to persons who erroneously claim that they are entitled to copies under HIPAA. As the HHS has now confirmed, HIPAA does not require any person to disclose any trade secret materials, and all restrictions on the dissemination of test record forms and protocols remain in effect.

Vice President/General Manager of Pearson Assessments to lead 2003-2004 ATP Board of Directors



Carol Watson, Vice President and General Manager at Pearson Assessments has been selected as 2003-2004 Chair of the ATP Board of Directors.

Watson is a past chair of the ATP Clinical Division and served on the Program Committee for the 2001 ATP Conference. She has been on the ATP Board of Directors since 2001. As Vice President and General Manager at Pearson Assessments, she brings more than 20 years of experience in the test publishing industry, spanning the Clinical, Education and Industrial markets. She began her career in test publishing in 1981, with Compu-Psych, a pioneering company in computerized psychological assessment. After NCS acquired Compu-Psych in 1983, she held several positions at NCS, until joining American Guidance Service (AGS) in 1990. She rejoined NCS in 1992.

Pearson acquired NCS in 2000. She graduated with honors from William Jewell College and completed the Minnesota Executive Program at the University of Minnesota.

Have you seen this ad?

The ATP Clinical Division ran a series of ads in summer and fall issues of *The Communique*, *The National Psychologist* and *The Monitor*. "The ads were intended to educate the readers of these publications about copyright and also to raise awareness about intellectual property issues," said ATP Clinical Chair Bridget Herd.

The ad series is comprised of five separate ads, each with a message, others use them as flyers for their customers and so far we've even had a request to translate the ads into Swedish," Herd reported. The ads are available for downloading on the ATP website at www.testpublishers.org

Association Notebook

ATP Welcomes as Members....**Caveon, Galileo Systems, HZ Assessments, KT Connor Associates, LLC, Manna Distribution Services, QualityMetric, Inc., Schroeder Measurement Technologies and Waterford Institute.**

Next Board Meeting... February 5, at The Renaissance Esmeralda Resort, Palm Springs, CA.. Members can have business placed on the agenda by emailing the ATP Board of Directors c/o LScheibatATP@aol.com

Next ATP Conference...The 2004 ATP Conference will be held February 2-4, at the Renaissance Esmeralda Resort in Palm Springs, CA. Register on line.

Florida Decision Favorable to Test Publishers

“A win in Florida!” -- That’s how a recent decision by the Florida State Court of Appeals (1st District), reversing a lower court decision and supporting the confidentiality of a test instrument, is being hailed by test publisher advocates.

In the case, the legal guardian of a student who took the Florida Comprehensive Achievement Test (FCAT) sought access to the test under the Florida student record law.

“The Association of Test Publishers became involved in this case because of the continuing threat posed by state court interpretations of Public Records Acts, or similar laws, requiring that copies of secure tests be disclosed. Although this case did not involve a public records act, and only a statute covering student records, we felt that there was sufficient similarity to warrant participating in the case,” said ATP Legislative Counsel Alan Thiemann.

ATP filed as an amicus curiae, along with Harcourt Assessment, in support of the Florida Department of Education (DOE) in its appeal of a trial court decision holding that the DOE is required to grant a parent “meaningful access” to the Florida Comprehensive Achievement Test..

In early November a decision was made that was favorable to DOE’s appeal.

“All three judges on the panel agreed that test booklets and questions are not ‘student records’ as defined by Florida’s Student Records Act, and therefore copies do not need to be given to parents upon request,” reported Harcourt Assessment’s lawyer Yvette Beeman. However, she did caution that the decision is not final until the time expires to file a motion for a rehearing. But, she added, “the decision is well reasoned and very encouraging.”

Thiemann also noted, “the decision is so crystal clear that it does not even venture into a discussion of the effect on testing in Florida if secure tests were required to be released to parents or students.”

ATP will continue to monitor the case and report back to members on any further actions taken.

Editor’s note: To read the decision go to <http://www.1dca.org/opinion/archiveframe.htm>. Select November 6, 2003 and select case 02-4040

ATP FOCUS ON...

Secure Computerized Testing

They don’t provide bricks and mortar or proctors – and yet they offer customers “the ability to deploy assessments in a secure environment.” They are a growing number of computerized test delivery vendors that are establishing their own niche in the testing market by offering what they say are cost-effective, secure tests. The Test Publisher interviewed Eric Shepherd, President of Questionmark, an ATP member and a test delivery vendor, about the issues and agendas of his company and other similar vendors.

Q: Environments for delivering computerized assessments have changed -- where did they start, what are they now and where are they going?

One of the earliest systems, dating back to the 60s and 70s, was the Plato System – but it required the support of a big mainframe,

and the cost of doing a test was, of course, very high. But since the 80s there have been drastic changes in costs for both hardware and software. Today computer assessment centers come in various guises from your professionally controlled center, used for very high-stakes tests such as nursing and medical exams, to your franchised centers, higher education centers and corporate centers – all the way down to assessments delivered to an unsupervised home computer or to a public place, such as a library.

Q: And where do companies such as Questionmark come in – do you promote yourselves to the “high-stakes” testing market?

Not as a general rule... but we can deliver high-stakes tests securely for small groups of people if you don't mind providing proctors. If you want to do really high stakes testing for a lot of people, we may not be the people for you. But there is a whole spectrum of useful tests that can be given in a less expensive, and yet still secure, environment. For example, not all tests need to be proctored. And for those that do, thanks to such technologies as a secure browser, all proctors don't need to be specially trained or computer experts. A secure browser will actually lock down a computer so that the test taker cannot have access to the Internet – just the online test. So the proctor does not need to be looking over the test taker's shoulder or have special computer skills.

Q: So this technology must also translate into cost savings for the test takers?

Definitely, and that's very important. The lower the stakes of a test, the less people are willing to pay a high price to take it. And then of course, there is the educational market, where test takers have historically wanted to pay less.

Q: If a company is considering deploying a computerized assessment, what are the security issues they need to consider?

Well it certainly depends on the type of test and the stakes involved. For higher stakes exams some of the delivery security issues that need to be considered include the motivation to cheat, over exposure of content, authentication of the candidate, the time window allowed, consistency of delivery and, the ability to back up answers, in case of a technical failure. For a survey, which is a different type of assessment of course, you have to consider the danger of ballot rigging, and you have to be able to secure the anonymity of the respondent.

Q: So how do you address some of these security issues?

We provide software features to help people deploy their assessments safely and securely. There are software packages that can prevent printing, capturing assessment content, exiting an exam inappropriately or task switching. Assessments can even be made to open at a specified time, making sure that the candidate cannot get a sneak preview. Software can also be designed to stop tests for poor candidates which prevents exposing more content to a candidate who obviously won't pass.

Q: What are the big challenges right now for companies such as yours?

Availability of computers. For example, our product is used in a lot retail outlets.. These organizations simply don't invest in a lot of computers. So employees have to wait their turn for access – and that slows down the assessment process. But as the costs of technology decline and more and more wireless devices come on the market, we will be able to deploy more tests in the worplace environment.

The other challenge is negativity about tests – but that's a challenge that is across the board for all of us in the testing industry. People need to see the value of tests as useful learning tools. Tests don't have to just measure knowledge for the purpose of documentation – they can also promote learning by asking questions that increase remembering and reduce forgetting. They also provide feedback to a student to correct misconceptions -- or their teacher to allow coaching and mentoring.

Q: Do you think that making tests more accessible through technology will help reduce negativity?

Yes – for several reasons. We're all nervous about taking tests, but if we took them regularly at a low-stakes level, we'd be less nervous about taking high-stakes tests. When kids take practice tests, they get used to it. Another way technology helps is that the testing environment can be more relaxed. Testing centers and proctored environments can be scary and intimidating. Technology is allowing us to deliver tests in more relaxed or familiar settings that can resemble the situation in which you expect people to perform. More and more organizations are being empowered by assessment software to create and run even high-stakes assessments within their own environments. As the quality of software, monitoring and network solutions grow, this trend will certainly continue.

Editor's Note: In addition to his work with Questionmark, Eric Shepherd has been instrumental in the development of the IMS

Learning Consortium's Question and Test Interoperability Standard, which has been embraced by users worldwide to enable them to move questions from one system to another. He has advised many corporations, government departments, universities, and schools on the deployment of computerized assessments. In addition, Eric conducts workshops around the world on secure assessment technology and on the role assessments play in the learning process.

Clifford's Notes from the Field...Another Perspective on Computer Based Testing
By Clifford H. Donath, The Donath Group, Inc.

In today's marketplace, test publishing clients demand the utmost in rapid test development, test security, and test data integration. Understandably, clients want these demands met without sacrificing best practices in test and measurement.

This need for greater efficiency and effectiveness is directing efforts to devise new test development approaches that emphasize the use of web-based tools. One approach submits test items to a web browser format for data processing and uses web-based conferencing tools to conduct technical reviews of the test items. Another approach delivers over the Internet multiple test forms as practice exams to selected groups. The test item performance data from these multiple test forms are then used to construct equivalent exams. Test programs that have used this approach for more than a year report no test security breaches. Evaluation studies of these programs show multiple test forms with means and standard deviations that are within one percentage point of each other.

The demand for quick, accurate, and fair exams that employs innovative item types and are built using generally accepted interoperability standards presents opportunities and challenges to the field of test and measurement. We can expect that in the first decade of the 21st Century test developer and publishers will meet these challenges with innovative and technological solutions.

Editor's Note: Clifford H. Donath, the President of The Donath Group, has over 20 years experience in applied measurement, research design and evaluation methods for business, education, and training organizations. As a psychometrician he provides leadership to help clients design and develop their assessment and certification examinations. His company has extensive experience in computer-based testing and has developed some of the premier certification exams in the IT industry.

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