

ILLINOIS STATE MEDICAL SOCIETY

**Resolution 09.2022-17
(A-23)**

Introduced by: Barbara Jericho, MD, ISMS Member

Subject: Physician Medical Conditions and Questions on Applications for
Medical Licensure, Specialty Boards, and Institutional Privileges

Referred to: Council on Education & Health Workforce

1 Whereas, there is an increasing number of physicians experiencing burnout, a
2 potential factor in the increased rates of physicians having depression and committing
3 suicide; and
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5 Whereas, physicians who have or have had mental health concerns may be
6 reluctant to seek treatment as it may cause difficulty in obtaining and/or renewing a
7 medical license as well as obtaining institutional privileges; and
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9 Whereas, physicians not receiving treatment for mental health issues may pose
10 harm to patients and can contribute to untreated burnout, depression as well as increased
11 rates of suicide; and
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13 Whereas, physicians have the right to obtain the same care as patients without
14 retribution and with respect of the privacy of physicians' protected health information;
15 and
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17 Whereas, the American Psychiatric Association has found no evidence that a
18 physician who has been treated for a mental illness is any more likely to harm a patient
19 than a physician with no mental health issues; and
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21 Whereas, the Americans with Disabilities Act of 1990 states that employers can't
22 discriminate against employees based on mental or physical health; and
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24 Whereas, the 2018 American Psychiatric Association Position Statement on
25 Inquiries About Diagnosis and Treatment of Mental Disorders in Connection with
26 Professional Credentialing and Licensing recommends that medical license bodies not
27 inquire of applicants about prior diagnosis and treatment of mental health disorders; and

28 Whereas, per the 2018 American Psychiatric Association Position Statement on
29 Inquiries About Diagnosis and Treatment of Mental Disorders in Connection with
30 Professional Credentialing and Licensing “Medical or hospital records requested shall
31 be by way of narrowly tailored requests and releases that provide access only to
32 information that is reasonably needed to assess the applicant’s fitness to practice. All
33 personal or health-related information shall be kept strictly confidential and shall be
34 accessed only by individuals with a legitimate need for such access...Personal health
35 information collected by the board should be kept confidential and should be destroyed
36 after a reasonable period of time”; and

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38 Whereas, many initial and renewal applications for medical licenses and
39 associated applications and application reference forms, medical specialty boards, and
40 institutional privilege and credential applications continue to include questions about
41 physicians’ mental health and physicians who disclose a current or past mental health
42 condition may be investigated or sanctioned; and

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44 Whereas, those applications that continue to make inquiries about a physician’s
45 mental health should use language consistent with Americans with Disabilities Act,
46 which limit questions to whether the individual has a medical condition that *currently*
47 impacts his or her ability to practice medicine; and

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49 Whereas, in an analysis of state medical board applications and a survey of state
50 medical board executives, 97% of the executives responded that the board was not
51 required to sanction a physician who is diagnosed with a medical illness, yet 37%
52 responded that a mental illness diagnosis alone was sufficient for sanctioning
53 physicians; and

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55 Whereas, AMA Policy H-275.970 addresses issues of potential discrimination
56 and confidentiality violations in the licensing, privileging and credentialing processes;
57 therefore, be it

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59 RESOLVED, that the ISMS delegation to the AMA submit a resolution to the
60 AMA requesting that Policy H-275.970, *Licensure Confidentiality*, be amended as
61 follows:

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63 1. The AMA (a) encourages specialty boards, hospitals, and other organizations
64 involved in credentialing and/or privileging, as well as state licensing boards, to take all
65 necessary steps to assure the confidentiality of information contained on application
66 forms for credentials; (b) encourages ~~boards~~ these entities to include in application
67 forms only requests for information that can reasonably be related to medical practice;
68 (c) encourages state licensing boards, specialty boards, hospitals and other organizations
69 involved in credentialing and/or privileging to exclude from license application forms

70 and associated application forms including credentialing/privileging application forms
71 information that refers to psychoanalysis, counseling, or psychotherapy required or
72 undertaken as part of medical training; (d) encourages state medical societies and
73 specialty societies to join with the AMA in efforts to change statutes and regulations to
74 provide needed confidentiality for information collected by licensing boards and related
75 organizations; and (e) encourages state licensing boards, specialty boards, hospitals and
76 other organizations involved in credentialing and/or privileging to require disclosure of
77 physical or mental health conditions only when a physician is suffering from any
78 condition that currently impairs his/her judgment or that would otherwise adversely
79 affect his/her ability to practice medicine in a competent, ethical, and professional
80 manner, or when the physician presents a public health danger.

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82 2. Our AMA ~~will encourage~~ will verify that, by 2024, those state medical boards,
83 specialty boards, hospitals, and other organizations involved in credentialing/privileging
84 that wish to retain questions about the health of applicants on medical licensing
85 applications use language consistent with that recommended by the Federation of State
86 Medical Boards, which reads, “Are you currently suffering from any condition for which
87 you are not being appropriately treated that impairs your judgment or that would
88 otherwise adversely affect your ability to practice medicine in a competent, ethical and
89 professional manner? (Yes/No).”

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91 3. Our AMA will work with the Federation of State Medical Boards, the
92 American Hospital Association, the American Board of Medical Specialties, and state
93 medical societies to develop policies and strategies to ensure that by 2024 all new and
94 renewal medical licensure and associated applications and application reference forms,
95 privileging, credentialing and related applications and documentation will request or
96 disclose only information that is reasonably needed to address the applicant’s current
97 fitness to practice medicine and respect the privacy of physician’s protected health
98 information.

References:

1. American Psychiatric Association: APA official action: position statement on inquiries about diagnosis and treatment of mental disorders in connection with professional credentialing and licensing, 2018. Approved by the Board of Trustees, July 2018. Approved by the assembly, May 2018. <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2018-Inquiries-about-Diagnosis-and-Treatment-of-Mental-Disorders-in-Connection-with-Professional-Credentialing-and-Licensing.pdf>
2. Federation of State Medical Boards Physician Wellness and Burnout. Report and recommendations of the Workgroup on Physician Wellness and Burnout. Adopted

as policy by the Federation of State Medical Boards April 2018.
<https://www.fsmb.org/siteassets/advocacy/policies/policy-on-wellness-and-burnout.pdf>

3. Americans With Disabilities Act (ADA), 42 U.S.C. Sections 12101-12213.
<https://www.law.cornell.edu/uscode/text/42/12101>

Fiscal Note:

None

Existing ISMS policy related to this issue:

The Illinois State Medical Society encourages specialty boards, hospitals, and other organizations involved in credentialing, as well as state licensing boards, to require disclosure of mental health conditions only when a physician is suffering from a condition that currently impairs his/her ability to practice medicine, consistent with the standards of the Americans with Disabilities Act and recommendation of the Federation of State Medical Boards. (2020 Annual Meeting; BOT 2020-JAN; Last BOT Review 2020)

Board of Trustees adopted Substitute Resolution 12.2019-24 (A-20) Physician Medical Conditions and Questions on Applications for Medical Licensure, Specialty Boards and Institutional Privilege, in lieu of Resolution 12.2019-24 (A-20), as follows: RESOLVED, that the Illinois State Medical Society encourages specialty boards, hospitals, and other organizations involved in credentialing, as well as state licensing boards, to require disclosure of mental health conditions only when a physician is suffering from a condition that currently impairs his/her ability to practice medicine, consistent with the standards of the Americans with Disabilities Act and recommendation of the Federation of State Medical Boards. (BOT - JAN 2020)

Relevant AMA Policy:

Licensure Confidentiality H-275.970

1. The AMA (a) encourages specialty boards, hospitals, and other organizations involved in credentialing, as well as state licensing boards, to take all necessary steps to assure the confidentiality of information contained on application forms for credentials; (b) encourages boards to include in application forms only requests for information that can reasonably be related to medical practice; (c) encourages state licensing boards to exclude from license application forms information that refers to psychoanalysis, counseling, or psychotherapy required or undertaken as part of medical training; (d) encourages state medical societies and specialty societies to join with the AMA in efforts

to change statutes and regulations to provide needed confidentiality for information collected by licensing boards; and (e) encourages state licensing boards to require disclosure of physical or mental health conditions only when a physician is suffering from any condition that currently impairs his/her judgment or that would otherwise adversely affect his/her ability to practice medicine in a competent, ethical, and professional manner, or when the physician presents a public health danger. 2. Our AMA will encourage those state medical boards that wish to retain questions about the health of applicants on medical licensing applications to use the language recommended by the Federation of State Medical Boards that reads, "Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No)."

Self-Incriminating Questions on Applications for Licensure and Specialty Boards H-275.945

The AMA will: (1) encourage the Federation of State Medical Boards and its constituent members to develop uniform definitions and nomenclature for use in licensing and disciplinary proceedings to better facilitate the sharing of information; (2) seek clarification of the application of the Americans with Disabilities Act to the actions of medical licensing and medical specialty boards; and (3) until the applicability and scope of the Americans with Disabilities Act are clarified, will encourage the American Board of Medical Specialties and the Federation of State Medical Boards and their constituent members to advise physicians of the rationale behind inquiries on mental illness, substance abuse or physical disabilities in materials used in the licensure, reregistration, and certification processes when such questions are asked.

Access to Confidential Health Services for Medical Students and Physicians H-295.858

...2. Our AMA will urge state medical boards to refrain from asking applicants about past history of mental health or substance use disorder diagnosis or treatment, and only focus on current impairment by mental illness or addiction, and to accept "safe haven" non-reporting for physicians seeking licensure or relicensure who are undergoing treatment for mental health or addiction issues, to help ensure confidentiality of such treatment for the individual physician while providing assurance of patient safety....

4. Our AMA: (a) encourages state medical boards to consider physical and mental conditions similarly; (b) encourages state medical boards to recognize that the presence of a mental health condition does not necessarily equate with an impaired ability to practice medicine; and (c) encourages state medical societies to advocate that state medical boards not sanction physicians based solely on the presence of a psychiatric disease, irrespective of treatment or behavior....