

How states can help physicians get confidential care they deserve

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The COVID-19 pandemic has further strained an already overloaded physician workforce and put a spotlight on ensuring that physicians have unimpeded access to the mental health care they need. Indeed, it's more crucial than ever to ensure that federal and state laws guarantee confidential care to support physicians' mental health.

Also critical: That states continue to make sure that licensing, credentialing, employment and other related applications don't contain stigmatizing language that inappropriately asks about past diagnoses rather than a physician's current impairment.

A recently updated AMA issue brief on confidential care to support physician health and wellness (PDF) offers examples of the steps that physicians who are seeking help can take. The brief also outlines the tangible legislative, regulatory and other options for medical societies and other stakeholders to buttress those efforts, in line with AMA policy.

So, what can organized medicine leaders and others do to support physicians?

Ensure that their state's licensing, credentialing, employment and other applications focus only on current impairment.

The Federation of State Medical Boards recommends that "application questions must focus only on current impairment and not on illness diagnosis or previous treatment in order to be compliant with the Americans with Disabilities Act." Some states have made changes to their licensing applications and renewal forms to reflect that.

For example, Minnesota used to—problematically—require that applicants release medical records and complete a form if they had "a medical condition during the last five years which, if untreated, would be likely to impair their ability to practice with reasonable skill and safety."

In a positive change, as of Jan. 1, Minnesota now asks: “Do you currently have any condition that is not being appropriately treated which is likely to impair or adversely affect your ability to practice medicine with reasonable skill and safety in a competent, ethical and professional manner?”

Because a number of state licensing board applications are hidden from public view, it is difficult to calculate the number of states that have problematic questions on applications that include questions about a physician’s past diagnosis. However, there is still much work to do on licensing, credentialing and other applications, according to the AMA.

Enact state legislation providing safe-haven reporting systems and wellness programs for physicians, medical students and others seeking care for burnout and mental health issues. In the last two years, Virginia, South Dakota and Indiana enacted laws that provide a low barrier entry to support confidential physician wellness. The laws also provide qualified immunity for physicians and other health professionals, along with facilities and organizations, that participate in wellness programs. Arizona is considering a similar bill this year. The AMA supports these laws.

The AMA also highlights several successful programs that some county and state medical societies have created to provide confidential support as a member benefit. For example, the Lane County Medical Society in Oregon created a confidential, pre-clinical option for physicians seeking help with managing stressful situations such as workplace conflicts, grief, depression, marital stress and other concerns affecting their personal or professional lives.

Review state physician health program laws and policies to ensure they provide strong confidentiality protections. The AMA and state medical societies support evidence-based, comprehensive state physician health programs (PHPs) as a way to help physicians at risk of potential impairment who may come forward voluntarily or when a colleague, workplace or licensing board refers them. In most states, PHPs can receive reports and help the physician confidentially without revealing the physician’s identity to the disciplinary authority except when required to protect the public safety.

The AMA has model state legislation that, if enacted, ensures that PHP participation is a confidential, therapeutic alternative to discipline.

Support—and help implement provisions in—proposed federal legislation. Congress is considering a bipartisan bill, the Dr. Lorna Breen Health Care Provider Protection Act. The bill is named after a New York City emergency physician who died by suicide during the COVID-19 pandemic and would, among other things, create a national campaign to encourage health professionals to prioritize their mental health and establish grants to train physicians, medical students and other strategies to reduce and prevent suicide, burnout and mental health conditions.