

ARC Issue Brief: Campaign to support medical student, resident and physician health and wellbeing*

The AMA has worked directly with more than 100 state medical boards, hospitals and health systems to advocate for and recommend changes to remove stigmatizing language from applications to support medical students, residents and practicing physicians. The AMA strongly urges all licensing boards, hospitals, health systems and credentialing bodies to follow the recommendations contained in this issue brief to remove inappropriate questions about mental health care and substance use disorder (SUD) treatment.

Identifying whether an applicant has a current impairment—whether physical, psychological or behavioral—is of paramount importance to ensure patient safety. Inquiries about past diagnosis or treatment, however, have little or no bearing on current fitness to practice medicine. The key inquiry on all credentialing, licensing, peer reference forms and other applications should be whether the impairment represents a current concern for patient safety and the physician’s ability to provide competent, professional care. The AMA supports the following language:

Are you currently suffering from any condition that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No).

This question was first recommended by the [Federation of State Medical Boards](#) (FSMB) and subsequently adopted as policy by the AMA. It also is supported by the [Dr. Lorna Breen Heroes’ Foundation](#) (DLBHF), [The Joint Commission](#), [National Association of Medical Staff Services](#), the [National Institute for Occupational Safety and Health](#) at the Centers for Disease Control and Prevention, nearly all hospitals in the [Commonwealth of Massachusetts](#), and the [Federation of State Physician Health Programs](#). (See detailed descriptions below)

Leading health systems that have removed stigmatizing language include HCA Healthcare; Geisinger; Envision Healthcare; 75 percent of Virginia hospitals; Northwell Health; Henry Ford Health; Pacific Source; Northeastern Vermont Regional Hospital; UC (CO) Health; GoHealth Urgent Care; and more. The process of removing stigmatizing language from credentialing applications is also a criterion in [AMA’s Joy in Medicine™ Health System Recognition Program](#).

There are multiple reasons these groups and many others have removed stigmatizing language:

- Inquiries about past diagnosis of mental health care and SUD treatment are not a reliable indicator of [current fitness to practice medicine](#).
- More than 40 percent of medical students, residents and practicing physicians say that [fear of disclosure](#) of past mental health care or SUD treatment is a key reason [why they do not seek treatment](#).
- Treating mental health or SUD conditions early help prevent more acute and chronic disease.
- Inquiries about past treatment and diagnosis of mental health care and SUD treatment perpetuates stigma and are among the [top reasons](#) why medical students and physicians do not seek care.
- Inquiries about past diagnosis or treatment also [may violate](#) the Americans with Disabilities Act (ADA).
- It is more important than ever to support care for health and wellbeing given [increasing rates of physician burnout](#): 62.8 percent of U.S. physicians exhibited at least one symptom of burnout in 2021, compared with 38.2 percent in 2020, 43.9 percent in 2017, 54.4 percent in 2014, and 45.5 percent in 2011.

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Take action to audit, change and communicate

The AMA strongly urges all licensing boards, hospitals, health systems and credentialing bodies to follow the recommendations of the [Dr. Lorna Breen Heroes' Foundation](#):

1. **Audit all applications** used for credentialing and licensing—including peer review forms, addendums and accessory or auxiliary forms—to identify where inappropriate inquiries may exist.
2. Once identified, the AMA urges that the organization **revise all inappropriate, stigmatizing language** in its applications to remove inquiries about past diagnosis or treatment of mental health care or SUD treatment and focus only on whether a current impairment exists that would constitute a threat to patient safety or an applicant's ability to safely and competently practice medicine.
3. Then, the AMA encourages the organization to **communicate the changes broadly** across the organization and undertake initiatives to ensure that all healthcare professionals are aware of the changes.

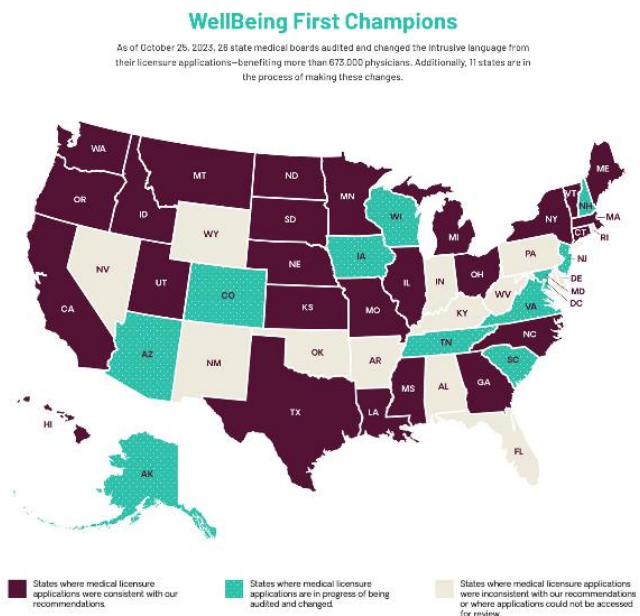
Intrusive questions about past diagnosis or treatment and the ADA

Intrusive questions on medical licensing and credentialing applications may run afoul of the Americans with Disabilities Act (ADA).

- A 2014 settlement agreement between the U.S. Department of Justice (DOJ) and State Bar of Louisiana required the State Bar to remove intrusive questions about past mental health diagnosis and focus instead on whether there is current problematic conduct.
- The DOJ reiterated the key provisions of the 2014 agreement in a June 26, 2023 letter to several U.S. Senators, stating:

“It is clear that intrusive inquiries regarding an applicant’s mental health history run afoul of the ADA to the extent that state medical boards use them as eligibility criteria to screen out applicants with disabilities and such inquiries are not necessary to determine whether an applicant is fit to practice medicine.”

~ June 26, 2023 U.S. Department of Justice. Letter available upon request.



A majority of states have taken action or are working on improvements to their licensing applications. While more than half of the states have taken this positive step, more than 20 states still mandate disclosure of information that deters physicians from seeking care—putting their health and wellbeing at greater risk. While the DOJ's analysis was specific to licensing boards, the same analysis is relevant to hospitals, health systems and credentialing bodies.

Select examples of state medical boards that focus on “current” impairment rather than “past” diagnosis or treatment

- [Washington state](#) does not require disclosure about any social, behavioral, physiological or psychological condition or disorder unless it limits or impairs an applicant’s ability to practice medicine safely.
- [Kansas asks](#), “Do you have any physical or mental health condition (including alcohol or substance use) that currently impairs your ability to practice your profession in a competent, ethical, and professional manner?”
- [Texas asks](#), “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?”
- [Idaho requires](#) applicants to, “Disclose on the application form any condition that impairs your judgment or that would otherwise adversely affect your ability to practice your medical profession with reasonable skill or safety? Please note - If you are receiving appropriate treatment that allows you to practice safely and without impairment, you may answer No.”
- [Maine asks](#), “a. Do you have a medical condition that currently impairs your ability to safely and competently practice medicine? b. Do you currently use any chemical substance(s), including alcohol, which in any way impairs or limits your ability to practice your profession with reasonable skill and safety?”

Minnesota Board of Medical Practice	
Before	After
MN previously required release of medical records for “Applicants who have 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 must have their treating physician complete this form.”	As of Jan. 1, 2022, MN 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?”

Georgia Composite Medical Board	
Before	After
“During the last 7 years, have you suffered from any physical, psychiatric, or substance use disorder that could impair or require limitations on your functioning as a professional or has resulted in the inability to practice medicine for more than 30 days, or required court-ordered treatment or hospitalization? (If yes, provide treatment history documentation to include diagnosis, treatment regimen, hospitalization, and ongoing treatment/ medication to the Board. NOTE: If you are currently enrolled in GAPHP, you may check NO.”	As of Feb. 2, 2023, the question now 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? NOTE: If you are currently enrolled in Georgia PHP, you may answer NO.”

AMA recommends revisions to focus on whether a current impairment exists

Mandated disclosure of treatment when there is no impairment <u>does not support</u> health and wellbeing	Language that focuses on <u>current</u> impairment <u>supports</u> safety, health and wellbeing
<ul style="list-style-type: none"> • <i>Have you been treated for or do you have a diagnosis for any mental health or behavioral health condition? (If yes, please ask your treating provider to send a status letter as part of this application)</i> • <i>Do you take any medication or drugs (legal/illegal) which could affect, your ability to perform your duties as a clinical staff or faculty member?</i> 	<ul style="list-style-type: none"> • <i>Are you currently suffering from any condition that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner?</i> • <i>Do you take any medications or drugs (legal/illegal) which adversely affect your ability to perform your duties as a clinical staff or faculty member?</i>

National organizations support removing stigmatizing questions about mental health and wellbeing

[Dr. Lorna Breen Heroes' Foundation](#): Working in partnership with the AMA, through the ALL IN: Wellbeing First for Healthcare coalition, to encourage hospitals, health systems and licensing boards to audit applications, addendums and peer review forms; revise those containing stigmatizing language; and broadly communicate those changes to physicians and other health care professionals. The Foundation's Toolkit provides multiple helpful suggestions and action steps.

[The Joint Commission](#): "The Joint Commission does not require organizations to ask about a clinician's history of mental health conditions or treatment. We strongly encourage organizations to not ask about past history of mental health conditions or treatment. As an alternative, we support the recommendations of the Federation of State Medical Boards and the American Medical Association to limit inquiries to conditions that currently impair the clinicians' ability to perform their job."

[Federation of State Medical Boards](#): The FSMB counsels 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."

[American Osteopathic Association](#): In addition to supporting a focus on "current impairment," the AOA "encourages medical educational and professional entities, as well organizations throughout the medical community, to support and educate students and physicians about confidential treatment and "safe haven non-reporting," to encourage individuals to seek appropriate treatment without fear of documentation, disciplinary action or other repercussions.

[American Hospital Association](#): To address fear of seeking care, the AHA recommends "Eliminate credentialing questions and policies that stigmatize seeking behavioral health treatment or resources."

[Federation of State Physician Health Programs](#): FSPHP supports licensing boards, credentialing agencies, board certification applications and professional liability applications be adjusted to exclude disclosure of potentially impairing conditions when individuals comply with a state-approved PHP.

[National Association of Medical Staff Services](#): Updated 2024 Ideal Credentialing Standard adopts language supported by the AMA and Dr. Lorna Breen Heroes' Foundation to focus questions about mental health and SUD only on whether a current impairment exists.

In its new *Impact Wellbeing* Guide, the [Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health](#) urges removal of intrusive, stigmatizing questions. NIOSH and the Dr. Lorna Breen Heroes' Foundation designed the *Impact Wellbeing* Guide: Taking Action to Improve Healthcare Worker Wellbeing.

[The U.S. Surgeon General](#) further urges medical boards and others to "Examine questions on applications and renewal forms for jobs and hospital credentialing so that health workers are not deterred from seeking mental health and substance use care."

The process of removing stigmatizing language from credentialing applications is also a criterion in [AMA's Joy in Medicine™ Health System Recognition Program](#).

The National Center for Quality Assurance also has said that the following question—which is the same as the question recommended by the AMA and the organizations above—satisfies its requirements:

- **Sufficient question to inquire about practitioner's ability to perform essential functions:**
 - Are you currently suffering from any condition that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No).

Medical boards and health systems can use an “attestation” model to support physician health and wellbeing

In addition to removing questions about diagnosis and treatment of mental health and SUD when there is no current impairment, including an attestation on the application has multiple benefits, including clearly signaling to physicians and other health care professionals that seeking care for health and wellbeing is encouraged and will be supported. An attestation also provides an opportunity to promote the use of state physician health programs and other confidential treatment options that may be available in a state. Examples include:

Mississippi Board of Medical Licensure ([read more here](#))

Before	After newly-adopted language
<p>An applicant submitting an initial licensing application was met with the question of “<i>Have you ever been diagnosed as having, or have you ever been treated for, pedophilia, exhibitionism, or voyeurism, bipolar disorder, sexual disorder, schizophrenia, paranoia or other psychiatric disorder?</i>” If a physician had sought any treatments for mental health issues, an answer of yes quite possibly could have drawn attention to their application.</p> <p>For a renewal application, the original question was, “<i>From July 1, 2015, to the present, have you received treatment for psychiatric, addiction, or substance use related issues NOT known to the MPHP? (If you are an anonymous participant in the MPHP and are in compliance with your contract, you may answer NO to this question).</i>”</p>	<p>The edited language is responsive to the current needs of our practitioners and is as follows:</p> <p><i>“The Board recognizes that licensees may suffer from potentially impairing health conditions, just like their patients, including psychiatric or physical illnesses which may impact cognition, and substance use disorders. The Board expects its licensees to properly address their health concerns, both physical and mental, in a timely manner to ensure patient safety and to maintain the ability to meet the needs of patients. Licensees should seek appropriate medical care and should limit their medical practice when appropriate and as needed. The Board encourages licensees to utilize the services of the Mississippi Physician Health Program, a confidential resource which provides advocacy for licensees who may suffer from potentially impairing illnesses. The failure of a licensee to adequately address any health conditions which may impair their ability to practice medicine with reasonable skill and safety to patients, will likely result in the board acting against the licensee to practice medicine.”</i></p>

North Carolina Medical Board

Important: “The Board recognizes that licensees encounter health conditions, including those involving mental health and substance use disorders, just as their patients and other healthcare providers do. The Board expects its licensees to address their health concerns and ensure patient safety. Options include seeking medical care, self-limiting the licensee’s medical practice, and anonymously self-referring to the NC Physicians Health Program, a physician advocacy organization dedicated to improving the health and wellness of medical professionals in a confidential manner. The failure to adequately address a health condition, where the licensee is unable to practice medicine within reasonable skill and safety to patients, can result in the Board taking action against the license to practice medicine.”

Oregon Medical Board and Oregon Health Authority

The Oregon Medical Board and Oregon Health Authority recently updated and adopted changes, including using an attestation model, to their respective initial and renewal applications for medical licensure, credentialing and recredentialing. [Read more here.](#)

State legislation on medical licensing and credentialing

The AMA has proudly supported legislative efforts led by our state medical society partners. Best practices include:

Requirements for medical and other regulatory boards: Virginia Senate Bill 970

- An Act to direct health regulatory boards within the Department of Health Professions to amend language related to mental health conditions and impairment in licensure, certification, and registration applications; emergency. Approved March 16, 2023
- § 1. That each health regulatory board within the Department of Health Professions shall amend its licensure, certification, and registration applications to remove any existing questions pertaining to mental health conditions and impairment and to include the following questions: (i) Do you have any reason to believe that you would pose a risk to the safety or well-being of your patients or clients? and (ii) Are you able to perform the essential functions of a practitioner in your area of practice with or without reasonable accommodation?
- § 2. That an emergency exists and this act is in force from its passage.

Requirements for entities that credential physicians: Minnesota Senate File 3531

Sec. 32. Minnesota Statutes 2022, section 62Q.097, is amended by adding a subdivision to read:

Subd. 3. **Prohibited application questions.**

An application for provider credentialing must not:

- (1) require the provider to disclose past health conditions;
- (2) require the provider to disclose current health conditions, if the provider is being treated so that the condition does not affect the provider's ability to practice medicine; or
- (3) require the disclosure of any health conditions that would not affect the provider's ability to practice medicine in a competent, safe, and ethical manner.

Effective Date. This section applies to applications for provider credentialing submitted to a health plan company on or after January 1, 2025.

SafeHaven laws and confidential care for physician wellbeing

Legislative or regulatory changes can be made to create legal protections through which physicians and other health care professionals can obtain confidential counseling, peer coaching and medical treatment without fear of losing their medical license. This umbrella of psychological safety is paramount for solving the physician burnout crisis. Likewise, legislative and regulatory changes may also require that medical licensing and credentialing applications inquire only about *current* impairment and not about past impairment or even current behavior health diagnosis absent of impairment.

Several states have enacted laws specifically intended to protect physicians seeking help with career fatigue and wellbeing. [Virginia](#) led the way by enacting H.B. 115 in 2020. In 2021, [Indiana](#) and [South Dakota](#) followed in 2021 by passing S.B. 365 and H.B. 1179, respectively. [Arizona](#) enacted H.B. 2429 in 2022. [Georgia](#) enacted HB 455 in 2023. Provisions of [Minnesota](#) S.F. 3531 were enacted in 2024. Key elements of the laws:

- Enables physicians and other health care professionals to seek professional support to address career fatigue, burnout and behavioral health concerns with confidentiality and civil immunity protections.
- Supports physicians (and other health care professionals) to obtain confidential care and provides protections against disclosure to the medical board and others when there is no threat to patient safety
- Focuses on “career fatigue and wellness” rather than “burnout.”
- Provides qualified immunity for wellness programs and persons, facilities, and organizations participating in wellness programs.

Virginia’s H.B. 115 expanded the civil immunity that currently exists for physicians serving as members of, or

consultants to, entities that function primarily to review, evaluate, or make recommendations related to health care services, to include physicians serving as members of, or consultants to, entities that function primarily to address issues related to physician career fatigue and wellness.

Like H.B. 115, South Dakota’s H.B. 1179 gives civil immunity to any person or facility participating in a wellness program if they act in good faith. Indiana’s S.B. 365 provides states that wellness programs and their participants may not be named in a civil lawsuit if they acted in good faith and in furthering the work of the wellness program.

Several SafeHaven laws balance public safety with supportive care for wellbeing

- Virginia’s H.B. 115 clarified that, absent evidence indicating a reasonable probability that a physician who is a participant in a PHP addressing issues related to career fatigue or wellness is not competent to continue in practice or is a danger to himself or herself, his or her patients, or the public, participation in such a PHP does not trigger the requirement that the physician be reported to the state, e.g., the state medical board.
- Under Indiana’s S.B. 365 no person participating in a wellness program may reveal the content of any wellness program communication; record; or determination to any person or entity outside of the wellness program, and a physician’s participation in a wellness program does not require reporting the physician to the board.
- South Dakota’s H.B. 1179 states that any record of a person’s participation in a physician wellness program is confidential unless the physician voluntarily provides for written release of the information or the disclosure is required to meet the physician’s obligation to report a criminal charge or action, unprofessional or dishonorable conduct.
- Arizona’s H.B. 2429 provides that “a record of a health professional’s participation in a health professional wellness program is confidential and not subject to discovery, subpoena or a reporting requirement to the applicable health profession regulatory board, unless either:
 1. The health professional voluntarily provides for written release of the information.
 2. The disclosure is required to meet a person’s obligation:
 - (a) to report criminal conduct.
 - (b) to report an act of unprofessional conduct.
 - (c) to report that the health professional is not able to safely practice.
 - (d) to warn an individual of an imminent threat of harm.
- Georgia’s H.B. 350 provides that “No person or entity shall be obligated to report information regarding a healthcare professional who is a participant in a professional program to his or her respective licensing board unless the person or entity has determined that there is reasonable probability that such participant is not competent to continue in practice or is a danger to himself or herself or to the health and welfare of his or her patients or the public, unless such person or entity is otherwise under a duty to report such information”
- Virginia’s H.B. 115 exists in addition to the Virginia PHP, which remains a trusted source to help physicians in need of support. The [South Dakota State Medical Association](#) identifies a number of wellness program physicians. The [Indiana State Medical Association](#) Physician Assistance Program provides physicians with consultation, screening, referral and case management, as needed, for substance use and mental health disorders, behavioral issues, and physical illnesses.
- Minnesota’s law contains a provision that defines a “physician wellness program” as “a program of evaluation, counseling, or other modality to address an issue related to career fatigue or wellness related to work stress for physicians ... administered by a statewide association that is exempt from taxation under United States Code, title 26, section 501(c)(6), and that primarily represents physicians and osteopaths of multiple specialties. The term does not include the provision of services intended to monitor for impairment.”

Implementing SafeHaven laws must involve medical society leadership

Pursuant to H.B. 115, the MSV helped create a program for the entire healthcare team, including physicians, physician assistants, nurses, pharmacists, and students. The program provides a comprehensive set of resources to promote protection, psychological safety and wellbeing to help deal with stress, burnout and the effects of COVID-19, without risk to their licenses or employment. MSV administers the program—called [SafeHaven™](#)—for the state of Virginia and is partnering with state medical societies across the nation to set up SafeHaven™ in their states.

Physician Health Programs can provide evidence-based, confidential care

State physician health programs (PHPs) are an evidence-based, comprehensive system supported by the AMA and state medical societies to help physicians with health conditions that may impact or impair safe practice receive evidence-based care to support safe continuation or return to practice. PHPs have helped thousands of physicians through a highly confidential, therapeutically oriented model that supports illness remission, ongoing health support, and trusted verification of safe practice and advocacy when needed. [PHPs are in almost every state](#) and many offer wellbeing programs and services to refer those in need to professional coaching, therapy and, other support services in a confidential, voluntary, safe manner. Read examples of physicians who have been helped [here](#).

Research shows multiple benefits of PHP participation:

- Nearly 80 percent of physicians with a mental health condition or substance use disorder have [successful outcomes](#) and [safely returning to practice](#) with the help of a PHP.
- PHPs provide a wide range of [support for physicians](#) with co-occurring illnesses.
- [Successful PHPs](#) offer a combination of identification, intervention, formal treatment, professional support, and monitoring to effectively support physicians to safely return to practice.
- [Sustained illness remission](#) following program completion as well as more than three-quarters of participants saying they would recommend the care required under a PHP to other physicians.
- While evaluation, treatment and monitoring is not always reimbursed fully by health insurance, 85 percent of respondents completing a PHP [said](#) the cost was “money well spent.”
- Physicians are most commonly [referred](#) to a PHP via self-referral or a friend or colleague. State medical boards and hospital medical staff also are common sources of referral.
- “Treatment and monitoring is associated with a [lowered risk of malpractice claims](#) and suggests that patient care may be improved by PHP monitoring.

PHPs are organized according to state-specific legislation, regulation, and collaborations; however, the Federation of State Physician Health Programs recommends each state strive towards implementing a codified Triad of Confidentiality:

1. Confidentiality of PHP records encourage self-referrals, and early intervention.
2. Confidential referrals to a PHP increase utilization of their PHP services as an efficacious alternative to discipline.
3. PHP compliance results in non-disclosure of protected health information on licensure/credentialing/insurance and certification applications.

While not all referrals to a PHP result in time of out of practice, there is expertise in place to facilitate a safe return to practice. When time out of practice is indicated, PHPs have a successful track record of working with the physician and his/her treatment provider(s) to focus on how to safely return the physician to care for his/her patients.

For more information

To learn more about how your state, hospital, health system or credentialing body can review, revise and communicate changes to licensing applications, credentialing applications and peer reference forms, as well as further engagement with state PHPs, please contact Daniel Blaney-Koen, JD, Senior Attorney, Advocacy Resource Center, at daniel.blaney-koen@ama-assn.org