LICENSING AND PHYSICIAN MENTAL HEALTH: PROBLEMS AND POSSIBILITIES

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ABSTRACT

A number of factors appear to discourage physicians from seeking help for mental illness. This reluctance may be exacerbated by fears – well-founded or imagined – that by seeking help, physicians may put their medical license in jeopardy. To examine this risk, an analysis of all state medical board (SMB) license applications was followed by a seven-item survey mailed to SMB executive directors, and 70 percent responded. Follow up interviews were conducted with a sample of those not responding and also with a small group of directors whose responses were problematic. Thirteen of the 35 SMBs responding indicated that the diagnosis of mental illness by itself was sufficient for sanctioning physicians. The same states indicated that they treat physicians receiving psychiatric care differently than they do physicians receiving medical care. In follow-up interviews all 13 indicated that without evidence of impairment or misrepresentation any such sanctioning was likely to be temporary. A significant percentage (37 percent) of states sanction or have the ability to sanction physicians on the basis of information revealed on the licensing application about the presence of a psychiatric condition rather than on the basis of impairment. The same percentage state they treat physicians receiving psychiatric care differently than they do those receiving medical care. Physicians' perceptions of this apparent discrimination is likely to play a role in their reluctance to seek help for mental health-related conditions. Suggestions are made for how SMBs and state physician health programs and state and county medical societies might collaborate in ways that while protecting patients decreases barriers to physicians help seeking.

The culture of medicine has placed a low priority on physicians' mental health. Until recently, the mental health of physicians has concerned the medical profession primarily when the behavior of physicians called into question their ability to treat patients or work with colleagues. The absence of a public health approach stressing prevention and early treatment has burdened physicians with a dilemma. In some hospitals and medical centers, appropriate concerns about protecting patients from impaired physicians have inadvertently created a climate in which unimpaired physicians needing help such for conditions as depression fear damage to their academic and career prospects if they seek the treatment that might prevent impairment from developing.[1] Such fears appear exacerbated by some reports that by seeking help, physicians may put their medical license in jeopardy.[2,3]

Physician suicide dramatizes the problem. Physicians' deaths by suicide are disproportionately high compared to the general population and other professionals.[4,5,6] Although untreated or inadequately treated depression has been shown to be a major cause of suicide, the majority of physicians who committed suicide were not in psychiatric treatment at the time of their death.[7] Untreated depression can also lead to disruptive behavior and substance abuse, problems that have brought physicians to the attention of their hospital administrators and the state medical boards concerned with licensing them.[8]

The mission of state medical boards (SMBs), which have licensing authority over physicians in each state, is to protect the public by ensuring the quality, integrity and safety of health care provided by physicians. Because of the way licensing procedures and policies are written and structured, many physicians perceive SMBs as indifferent to their welfare — of being too focused on protecting the public from physicians impaired by mental illness to support preventive measures, such as treatment for depression, which may lead to impairment. SMB interests are represented by the Federation of State Medical Boards (FSMB), a voluntary association that has no formal authority over the boards.

The health of physicians, although of growing concern to the medical profession, has been the province of state physician health programs, also represented by a voluntary association, the Federation of State Physician Health Programs (FSPHP). Forty-eight states have physician health programs that provide assistance or referrals to physicians with physical or mental illness. Physicians can either be referred to these programs by their SMB or self-refer for confidential treatment. Although the mental health programs have generally focused on physicians with substance abuse problems, some states are now broadening the scope of their concerns.

Experts from leading health care organizations who studied the problem had recommended: "Decisions about professional licensing and credentials should be based on professional performance, not psychiatric diagnosis or treatment."[9] The House of Delegates of the American Medical Association subsequently resolved that: "Physicians who have major depression and seek treatment not have their medical licenses and credentials routinely challenged but instead have decisions about their licensure and credentialing and recredentialing based on professional performance."[10] Little was actually known, however, about the extent to which SMBs do or do not base decisions on professional performance.

ANALYSIS OF SMB LICENSE APPLICATIONS

To increase our knowledge, representatives of the organizations participating in this project examined SMB licensing applications for all 50 states to assess their potential influence upon physician help-seeking for mental illness. Forty state physician license applications ask directly about mental illness; 20 asked about impairment due to mental illness and 20 asked about diagnosis, treatment, admission to a treatment facility or a combination of these.

Questions regarding diagnosis, treatment and/or admission to a treatment facility usually take the form of: "Have you (within a certain amount of time) been diagnosed, treated or admitted to a treatment facility for a mental illness or disease?" Impairment questions were usually stated as follows: "Do you have a mental condition that in any way impairs your ability to practice medicine?" Terms such as "interferes," "limits," "hinders" or "adversely affects," were also used. Most mental health questions were time-specific. Eleven applications asked if the condition was current, three applications were limited to the preceding two years, one to three years, 12 to five years, one to seven years, three to 10 years and nine had no time limit. If an applicant responded "Yes" to any mental health question, additional information was usually requested. Twenty-six states requested a written explanation, but did not specify what information was required. Five states requested the address and phone number of current or past treating psychiatrists or inpatient facilities where the applicant has been treated. Five states requested a letter from the treating physician detailing diagnosis, treatment, prognosis and further recommendations for treatment and supervision. Three states asked the applicant to provide medical records (inpatient/outpatient records, discharge summaries and consultation reports); and three states requested authorization for access to medical records.

SURVEY OF SMB POLICIES REGARDING MENTAL ILLNESS

Based on this examination of SMB licensing applications we developed a seven-item questionnaire to address specific issues regarding physician licensure and policies not found on the websites. The questionnaire requesting information on policies regarding physician mental illness and related issues was mailed by the Federation of State Medical Boards to executive directors of each SMB. A representative sample of states that did not reply were called and gave administrative reasons for not doing so. None raised any objection to replying and three responded subsequently. Thirty-five SMBs returned a completed survey. The survey questions are listed below in bold followed by a summary of responses to each of them (see also Table 1).

Is the diagnosis of mental illness sufficient for sanctioning? Thirteen of the 35 SMBs (37 percent) responding indicated that the diagnosis of mental illness by itself was sufficient for sanctioning a physician. Only nine of these (26 percent), however, had questions on their licensing application inquiring about mental illness. Four who replied affirmatively to the sanctioning question had no such question.

Is the diagnosis of substance abuse alone sufficient for sanctioning by the SMB? Fourteen of the SMBs responding indicated that the diagnosis of substance abuse was sufficient for sanctioning a physician. Twelve of these (35 percent) had questions on their licensing application inquiring about substance abuse. Two who replied affirmatively to the sanctioning question had no such question.

Is the board required to sanction a physician who is diagnosed with a mental illness? Thirty-four of the 35 (97 percent) said they were not. One said it depended on the circumstances. The same question regarding substance abuse elicited the same response from the same states.

Table 1. Responses to Survey Questions (n = 35)

Question	Response Frequency (%) Yes	No	Other
Is the diagnosis of mental illness sufficient for sanctioning by the board?	13[1] (.37)	21 (.60)	1 (.03)
Is the SMB required to sanction physicians who are diagnosed with a mental illness?	0 (.00)	34 (.97)	1 (.03)
Is a diagnosis of substance abuse alone sufficient for sanctioning by the board?	14[2] (.40)	19 (.54)	2 (.06)
Is the SMB required to sanction physicians who are diagnosed with a substance abuse?	0 (.00)	34 (.97)	1 (.03)
If a physician is deemed mentally impaired, what can the consequences be?			
Revocation or restriction of license	32 (.91)	1 (.03)	2 (.06)
Probation	32 (.91)	1 (.03)	2 (.06)
Satisfactory completion of treatment program	31 (.89)	2 (.06)	2 (.06)
Is the board mandated to publicly release information during the course of an investigation prior to a final resolution?	1 (.03)	33 (.94)	1 (.03)
Does the SMB deal differently with physicians receiving psychiatric care v. medical care?	13[1] (.37)	21(.60)	1 (.03)

[1]Four of the 13 states had no questions about mental health on their licensing application.
[2]Two of the 14 states had no questions about mental health on their licensing application.

If a physician is deemed mentally impaired, what are the possible consequences? Ninety-one percent of SMBs responded that physicians could have their license revoked, suspended, restricted or in some way limited, or be placed on probation, if they were deemed mentally impaired. A variety of other consequences were also reported by SMBs. These included referral to and supervision by a treatment program, different types of "monitoring," fines and other actions "deemed necessary." Almost all SMBs first initiate an examination. Examinations are often performed by a physicians' health committee that reports its findings to the board. Most SMBs reserve the right to temporarily suspend an applicant's license (prior to a hearing) if that applicant is thought to represent an imminent danger to others.

Does the SMB deal with a physician receiving psychiatric care differently than they do a physician receiving medical care? Thirty-seven percent of SMBs responded that they deal differently with physicians who are receiving psychiatric care as opposed to medical care.

Is the SMB mandated to release information during the course of an investigation prior to final resolution? Only one SMB responded that it was required to release such information.

For physicians sanctioned for mental illness, what demographic information is available? Almost half of SMBs responded that they make age, gender and type of practice information available, but several SMBs did not answer the question or were unsure. The same question was then asked about substance abuse and elicited identical responses as those for mental illness.

FOLLOW-UP CALLS

We made follow-up calls to the directors of the four SMBs that responded "Yes" to the question of whether physicians who were diagnosed with mental illness or substance abuse could be sanctioned on that basis alone, but had no question on the licensing examination inquiring about mental illness, substance abuse or both. They explained that they relied on information supplied to them about the physician from patients or colleagues or in some cases volunteered by the physician. They would seek confirmation before contacting the physician, relying on such sources as the national databases that supply information about physicians who have previously been sanctioned.

We also telephoned the directors of those SMBs that reported that they could sanction on the basis of an affirmative reply about a psychiatric diagnosis. In most cases, the directors minimized their survey response and indicated that, in practice, physicians rarely faced sanctions for indicating they had a past history of mental illness or substance abuse unless it was accompanied by a history of current impairment.

PHYSICIANS' CONCERNS ABOUT QUESTIONS

It is understandable that physicians can perceive as intrusive, questions about whether they are in psychiatric treat-

ment independent of whether there is any evidence that that they are impaired. Moreover they may be fearful that their answers may lead to sanctions being imposed. The fact that states are not required to sanction physicians for indicating they are in treatment for mental illness or substance abuse is less reassuring than it might otherwise appear since all states that ask the question follow it with inquiries that mandate a response. Regardless of whether the mandated request for further information as a condition of licensing is considered a "sanction," and most executive directors do not regard it as such, it constitutes a stressful additional burden on the physician.[3]

Moreover, the presence on a licensing application of a question about being in psychiatric treatment affects physicians' perceptions of the possible consequences of being so. SMBs report asking physicians who report they are in psychiatric treatment to provide the name of their treating psychiatrist who is then asked to provide records. There is private, personal information in these records and there is potential for harm if the information is not carefully protected. Physicians consider such requests by SMBs as compromising the privacy of the patient-psychiatrist relationship. Although in some states, psychiatrists are not required to reply to such questions, physician patients can feel that they are under pressure to request their psychiatrists to do so.

ADDRESSING PSYCHIATRIC CONDITIONS DIFFERENTLY

The problem is further complicated when SMBs evaluate psychiatric conditions differently than other medical conditions; for example, by asking physicians about being in treatment for a psychiatric condition when, as in many states, there is no question about other conditions that might lead to impairment. Furthermore, a question about current impairment is categorically different from a question that could be perceived as a threat of sanction by a physician who may have been treated successfully for a mental illness or substance abuse years earlier.

What about the four states that replied they can sanction a physician on the basis of a diagnosis of mental illness, but ask no question about it on their licensing applications, rely on information supplied by physician colleagues or the public and seek confirmatory information before contacting a physician? SMBs are expected or required to investigate such complaints and physicians usually expect them to do so. Physicians may be asked to respond to a complaint, particularly if the SMB has confirmatory evidence of its validity. The states with this policy were aware of the large number of such complaints without merit and seemed more than ordinarily protective of physicians' privacy concerns. Of course if physicians refused to respond to inquiries they could be sanctioned, but the context is different and physicians are more likely to resent the complainant than to see the SMB as unfairly intrusive.

Although we have no data evaluating SMB decisions, the interviews with SMB executives suggest that, contrary to what many physicians believe, a physician who is unimpaired will eventually be allowed to have an unrestricted license. SMBs have a great deal of flexibility in what they can do; physician board members are central participants in their decisions. However, the trauma of the process and the cost to the physician of mandated evaluations or an interrupted practice can be considerable. In addition, the possibility that physicians who are not currently impaired could be sanctioned may be a disincentive to physicians seeking help. Such a disincentive endangers physicians by exposing them to the consequences of an untreated condition and, if in time they become impaired, possibly endangers their patients as well.[11]

As they focus on current impairment, more SMBs may recognize that they need to be as concerned with preventing impairment from developing as they are with sanctioning physicians after it occurs. Such a focus may lead them to develop and make available deidentified epidemiological data on physicians who are sanctioned by SMBs. These data will help identify those who are most vulnerable, information necessary for efforts at prevention.

SUGGESTIONS

Protecting patients from the damages caused by impaired physicians is, and should remain, the central aim of licensing procedures for physicians. That goal would be enhanced by embracing a public health approach that includes the prevention of physician impairment. Initiatives that encourage physicians who are not impaired but are seeking help for conditions like depression will only protect patients more effectively. Such initiatives would reduce the level of suspicion and hostility that exists between physicians, medical societies and medical boards.

SMB executives are probably right in claiming that, even in the minority of states that can withhold licenses from physicians pending investigation purely on the basis of their being in psychiatric treatment, unimpaired physicians will eventually be permitted to resume their profes-

sional activities. Nevertheless, SMB policies and procedures that single out physicians for investigation on the basis of their being in psychiatric treatment not only cause distress for those who actually experience unwarranted interruptions in their work, but also diffuse fear of seeking treatment throughout the profession, even in states which have no such policies. The information in the SMB license applications and the survey of SMB executives suggests some approaches that while protecting patients decreases barriers to physician help-seeking.

- Rather than ask about being in treatment for a psychiatric condition, SMB applications could ask if physicians have any physical or mental condition (including alcohol or drug abuse) that is limiting, impairing or may be likely to limit or impair the ability of the physicians to practice their profession. If physicians answer yes, then questions as to whether the limitations or impairments are being addressed by treatment are, and will be perceived, as appropriate.
- SMBs and those who appoint their members could consider having a psychiatrist on or available to the board to assist in resolving licensing issues involving psychiatric conditions.
- If psychiatric evaluations are indicated for physicians who are possibly impaired, independent psychiatric evaluators could be appointed who can review any treating psychiatrist's information rather than having the board do so. Although the evaluator should have access to all information needed, personal details unrelated to the physician's ability to function as a physician need not be communicated to the board.
- State physician health programs that are not already addressing the unique needs of physicians with mental health problems, such as depression, should be encouraged to do so.
- SMBs and state physician health programs, as well as hospitals and physician groups, could develop less punitive and threatening mechanisms for identifying physicians with depression and other mood disorders.
- The Federation of State Physician Health Programs (FSPHP) should encourage county and state medical societies to introduce anonymous, self-evaluation screening on the internet for depression for physicians, recommending that they seek treatment if it is indicated. Hospitals and medical groups should be encouraged to do the same. The Joint Commission should be encouraged to determine how such screening could be made part of the accreditation process.
- The FSMB and the FSPHP should encourage their members to develop and make available deidentified epidemiological data on physicians who are identified as impaired because of mental illness. This should improve identification of those who are most vulnerable, a necessary step in any preventive approach to the problem.
- The FSMB and the FSPHP should work together in developing and recommending to their members policies and procedures that would encourage physicians with depressive disorders to seek help to prevent impairment from developing.
- State and county medical societies should have liaison committees with SMBs to produce information about what actually happens at board meetings. This would help reduce misunderstanding that exists among physicians about how boards operate and permit them to address jointly procedures that arouse concern.

Ameliorating the perception that help seeking could be harmful to professional life and encouraging early treatment of depression would reflect the adoption of a public health approach that would be a significant change in the culture of medicine. It would provide an opportunity to reduce physician impairment. As in all of medicine, an ounce of prevention is worth a pound of cure.

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