Requiring physicians to disclose mental illness regardless of current impairment is discriminatory and dangerous

BY JENNIFER ZICK, PHD, BRIANNA ENGELSON AND SAMEENA AHMED-BUEHLER

Stepping to the microphone, a brave resident looked out at the room full of physicians from around the state. We had just introduced a resolution that asked the Minnesota Academy of Family Physicians (MAFP) to advocate for a change in mental health disclosure questions on credentialing and licensing applications, and the floor was open for testimony.

Dr. A. stood up in front of his colleagues and supervisors to share a secret: during his third year of medical school, he suffered alone while fearing that seeking treatment for his medical condition would interfere with his ability to find a job. In the audience, heads were lifted, and phones were set down. Dr. A. said he eventually sought treatment and his health improved, but he felt the same fear when he applied for his medical license in residency.

Unfortunately, Dr. A.'s story is familiar to many. More than a quarter of medical students and residents screen positively for depression—between two and five times the rate in the general population. More than one physician dies by suicide every day, a rate of 28 to 40 per 100,000. That's at least twice the rate of the general population.

Structural barriers

Despite familiarity with the diagnosis and treatment of psychiatric conditions, many physicians are reluctant to seek out the same resources they would recommend for their patients. Of medical students who screen positive for depression, only one in six seek treatment. This pattern appears to be similar in practicing physicians. When physicians do seek treatment, they often take additional steps to maintain confidentiality that are inconvenient, costly and potentially dangerous. For example, 20 percent of depressed physicians in one study reported traveling outside their own medical community to receive treatment and/or paying for services with cash to avoid billing insurance. Ten percent reported having prescribed antidepressant medications for themselves.

Some of the reasons physicians avoid treatment parallel those of individuals in the general population, such as cultural stigma or a belief that treatment is not needed. However, physicians also frequently cite concerns related to confidentiality, professional reputation and the potential loss of medical licenses or staff privileges as major factors. Many state boards and credentialing departments require physicians to disclose their mental health history, sometimes requiring extensive and burdensome documentation. Others require participation in remediation programs, regardless of the physician's current level of function. In a convenience sample of 2,000 female physicians, 75 percent agreed that these requirements impact physicians' decisions about seeking treatment, and 44 percent of those who had personally met criteria for a psychiatric diagnosis avoided seeking treatment in order to prevent having to report such treatment to their state medical board or hospital.

Currently, the Minnesota Board of Medical Practice Physicians License Application asks, "Have you within the past five years been advised by your treating physician that you have a mental, physical, or emotional condition, which, if untreated, would be likely to impair your ability to practice medicine with reasonable skill and safety?" Additionally, most clinics and hospitals in Minnesota require further disclosure of personal mental health illness and treatment; many even require that physicians who recommend credentialing for others attest that they are unaware of any mental illness in the applicant.

The intended goal of asking broad questions like this is to protect patients. However, there is no convincing evidence that they have the intended effect. When considering the most common mental illnesses, such as anxiety and depression, a past episode does not necessarily predict current functioning or risk, especially if the individual has succeeded in overcoming systemic barriers and received appropriate treatment. Current function is more relevant than health history. Furthermore, because physicians' own health impacts their health and prevention counseling, untreated depression in physicians has the potential to limit effective treatment for patients.

In addition to being a barrier to seeking mental health treatment, disclosure requirements often invade the privacy of individuals. Many institutions require that applicants release their entire medical record if they attest to a history of treatment, including a release of all liability if the records are not stored securely. As far back as 1984, the American Psychiatric Association published a statement that read, in part, "no convincing argument has been advanced to show that a patient should be deprived of the right to the privacy of his or her medical record simply because he or she has chosen to study or practice medicine." However, such disclosure continues to be required for credentialing and licensing in Minnesota.

Some current disclosure requirements may also be illegal. A review of state licensing applications by legal counsel in 2005

found that 69 percent of applications contained "likely impermissible" or "impermissible" questions under the ADA. Minnesota's application had two "likely impermissible" questions. Additionally, the seemingly benign placement of mental health history and criminal history disclosure questions in similar location on applications can give the perception that punitive measures will be taken against physicians with mental illness, potentially exacerbating the already problematic stigma around mental illness in the medical field.

With a paucity of evidence that the current disclosure requirements for licensing and credentialing is protective of patients and clear demonstration that they are discriminatory and harmful to providers, it is difficult to justify leaving them in place.

Proposed solutions

The Federation of State Medical Boards released a report in 2016 that became policy in 2018. It states that "the duty of state medical boards to protect the public includes a responsibility to ensure physician wellness and to work to minimize the impact of policies and procedures that impact negatively on the wellness of licensees, both prospective and current." They recommend focusing health disclosure questions on current functional impairment instead of diagnostic or treatment history. The report argues that state medical boards have an opportunity to "declare, directly or indirectly, that it is not only normal but anticipated and acceptable for a physician to feel overwhelmed from time to time and to seek help when appropriate."

To further ensure that physicians and other health care professionals are not discouraged from seeking treatment, the FSMB also recommends that hospitals/employers revise their credentialing questions and that insurance carriers revise their professional liability insurance questions according to these recommendations. The AMA adopted a similar set of policies and recommendations in 2018.

As we progress through training in this profession, we sometimes see our mentors and peers suffering. This matters to us. We are writing resolutions, providing testimony, and submitting op-eds and commentaries. We are reaching out to our networks, advocating for a change. We are doing what we can. Now, we look to you. We hope you will consider the individual stories, data, and recommendations made by local and national physician organizations—just as you would when managing any medical condition in the course of your practice. Please do what you can do to make health care a safer place for us.

> "Is it an impairment to say, something is wrong and I need help? Is it an impairment to then seek out help? If anything, caring for patients kept me grounded. It was the anxiety around losing that, losing what I enjoyed doing, that gave me the most difficulties."
>
> Physician who experienced mental health problems during medical school

As medical students, we are requesting that you:

- Contact the Minnesota Board of Medical Practice (medical.board@state.mn.us or (612) 617-2130) and ask it to change its policies to reflect the recommendations from the FSMB and AMA to limit disclosure questions to focus on current functional impairment.
- Work with your colleagues within your health system or institution to change credentialing questions for physicians and other healthcare professionals.
- Consider pushing for changes in state or national legislation to limit the extent to which institutions are legally allowed to discriminate against physicians with mental illness.
- Most important, speak openly with peers and students about your own experiences with mental illness or treatment, the barriers you have faced and what you learned along the way. By doing your part to combat stigma, you can help ensure that the practice of medicine remains a safe and fulfilling profession for generations to come. **MM**

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