

APA Official Actions

Position Statement on Inquiries about Diagnosis and Treatment of Mental Disorders in Connection with Professional Credentialing and Licensing

Approved by the Board of Trustees, July 2018

Approved by the Assembly, May 2018

"Policy documents are approved by the APA Assembly and Board of Trustees. . . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

Issue:

The APA recognizes the important role served by licensing boards, institutional privileging committees, insurance credentialing panels, and other entities charged with protecting the public from impaired physicians, attorneys, and other licensees. In discharging their responsibilities, these entities legitimately may inquire about current functional impairment in professional conduct and, when relevant, current general medical or mental disorders that may be associated with such impairment. However, the APA believes that prior diagnosis and treatment of a mental disorder are, *per se*, not relevant to the question of current impairment and that oversight entities should not include questions about past diagnosis and treatment of a mental disorder as a component of a general screening inquiry.

APA Position Statement:

The APA recommends the following principles to guide licensing boards and other regulatory agencies, and training programs.

1. **General screening inquiries about past diagnosis and treatment of mental disorders are overbroad and discriminatory and should be avoided altogether. A past history of work impairment, but not a report of past treatment or leaves of absence, may be requested.**
2. **The salient concern for licensing entities is always the professional's current capacity to function and/or current functional impairment. Questions on application forms should inquire only about the conditions that currently impair the applicant's capacity to function as a licensee, and that are relevant to present practice. As examples of questions that might be asked, the following are suggested:**

Question: Are you currently using narcotics, drugs, or intoxicating liquors to such an extent that your ability to practice [law / medicine / other profession] in a competent, ethical and professional manner would be impaired? (Yes/No)

Question: Are you currently suffering from a condition that impairs your judgment or that would otherwise adversely affect your ability to practice [law / medicine / other profession] in a competent, ethical, and professional manner? (Yes/No)

3. If a relevant impairment of functioning has been acknowledged by the applicant or documented by other sources, inquiries about mental health treatment may be appropriate for the sole purpose of understanding current functioning and future performance.
4. If conduct that would otherwise provide grounds for denial or revocation of a professional license or privileges has been documented or acknowledged by the applicant, it would also be appropriate to ask the applicant whether a disorder or condition was raised to explain that conduct.
5. Applicants must be informed of the potential for public disclosure of any information they provide on applications.
6. If the applicant raises a mental health diagnosis or treatment as an explanation for conduct or behavior that may otherwise warrant denial of credentials or licensure, the licensing board may inquire into such diagnosis or treatment. Such inquiry shall be narrowly, reasonably, and individually tailored. Medical or hospital records requested shall be by way of narrowly tailored requests and releases that provide access only to information that is reasonably needed to assess the applicant's fitness to practice. All personal or health-related information shall be kept strictly confidential and shall be accessed only by individuals with a legitimate need for such access.¹
7. Personal health information collected by the board should be kept confidential and should be destroyed after a reasonable period of time.

Authors: Council on Psychiatry and the Law.
Written by Richard Bonnie, Paul Appelbaum, M.D., and Patricia Recupero, M.D., J.D.

¹ Language adapted from Settlement Agreement Between the United States of America and the Louisiana Supreme Court under the Americans with Disabilities Act, August 13, 2014, http://www.ada.gov/louisiana-supreme-court_sa.htm, Terms and Conditions, § (A) (13) (c).