

Resource Document on Recommended Guidelines Concerning Disclosure and Confidentiality

Approved by the Board of Trustees, March 1999

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The APA recognizes the need for public accountability of licensing boards and other agencies charged with protecting the public from impaired physicians, and wishes to assist such agencies in the discharge of their responsibilities with appropriate consideration for fairness and protection of the interests of the applicant by recommending a policy concerning disclosure of previous psychiatric treatment or consultation.

The APA is concerned about the possible adverse effects of policies that require inappropriate and indiscriminant disclosure of a history of psychiatric consultation and treatment by those applying or reapplying for hospital staff appointments and privileges and for training programs such as residencies. Such disclosure stigmatizes individuals who seek consultation and treatment, singles out psychiatric treatment for discriminatory attention, and exposes those who report treatment to breaches of confidentiality. Such policies inhibit individuals who are in need of treatment from seeking help. The Americans With Disabilities Act (ADA), 42 U.S.C. Sections 12101-12213, which was enacted on July 26, 1990, is applicable to such concerns.

The APA recommends the following guidelines for a series of screening questions. A positive answer to these questions will trigger further inquiry rather than an action to exclude or deny the applicant. It is recommended that

such an inquiry be conducted as an assessment by a psychiatrist who has no treatment relationship with the individual when the issue concerns emotional or mental suitability or reliability. A licensing board cannot require the treating psychiatrist to give information.

The APA recommends the following guidelines for licensing boards, other regulatory agencies, and for training programs. These are in the form of several principles:

1. Prior psychiatric treatment is, per se, not relevant to the question of current impairment. It is not appropriate or informative to ask about past psychiatric treatment except in the context of understanding current functioning. A past history of work impairment, but not simply of past treatment or leaves of absence may be gathered.
2. The salient concern is always the individual's current capacity to function and/or current functional impairment. Only information about disorders that currently impair the capacity to function as a physician, and which are relevant to present practice, should be disclosed on applications forms. Impairment may be a clue to general medical conditions or mental disorders, including substance use disorders.
3. Applicants must be informed of the potential for public disclosure of any information they provide on applications.

As an example of a question that might be asked, the following is suggested:

In the last two years have you had any physical or mental condition, including the abuse of alcohol or drugs, which has impaired your ability to practice medicine or to function as a student of medicine?

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