Changes in Questions About Psychiatric Illness Asked on Medical Licensure Applications Between 1993 and 1996

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Objective: **This study examined the nature of questions about previous mental illness, physical illness, and substance abuse asked on applications for state medical licensure, partly to determine if questions focused more appropriately on any current, rather than past, disability.** *Methods:* **In 1993 and 1996 the 66 members of the Federation of State Medical Boards of the United States, Inc., were asked to provide copies of the forms they used for medical licensure applications and renewal. The forms were reviewed to determine the presence of questions about previous mental illness, physical illness, and substance abuse and whether the questions specifically addressed the effects of the condition on the ability to practice medicine.** *Results:* **On initial licensure applications, medical boards commonly asked questions about mental illness. Seventy-five percent of responding boards did so in 1993, and 80 percent did so in 1996. The proportion of boards that inquired about whether the mental illness might affect the applicant's ability to practice medicine increased from 42 percent in 1993 to 75 percent in 1996. Applicants were asked about substance abuse by 83 percent of the boards in 1993 and by 94 percent in 1996. Boards asked about physical conditions less often than mental conditions but were more likely to ask about physical conditions in 1996 (65 percent) than in 1993 (49 percent). Questions about physical illness almost always addressed the effect of the condition on medical practice. On license renewal requests, medical boards were less likely to ask questions about mental conditions, substance abuse, and physical illnesses than on the original applications. Among boards that asked about mental illness on renewal forms, the proportion of boards that asked about the effect of mental conditions on ability to practice medicine increased from 60 percent in 1993 to 90 percent in 1996.** *Conclusions:* **Medical boards commonly ask questions about mental illness on licensure application and renewal forms. In many states, such questions changed between 1993 and 1996 to emphasize impairment resulting from mental illness and to use similar wording for mental disorders and physical conditions.** (*Psychiatric Services* **49:202–206, 1998**)

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Stigma associated with psychiatric diagnoses and treatment has been publicized and condemned (1–6). Stereotypical views about "mental patients" and bias against mental illness in occupational settings provide evidence of stigma. In the occupational realm, physicians are often queried during medical licensure procedures about past psychiatric conditions or treatment (7,8). Medical boards are charged with protecting the public from disabled physicians, but the questions posed may be discriminatory if the inquiry presumes current disability based on a past diagnosis or treatment, or they may be stigmatizing if the questions apply different standards to mental conditions than to physical conditions. This paper explores these issues by examining questions asked by medical boards in 1993 and 1996.

Two surveys done before 1994 showed that medical licensure questions about psychiatric illness and treatment were common across the country. One survey was conducted by the American Psychiatric Association work group on disclosure; the results were used by the work group to develop guidelines for disclosure of past treatment information. However, the survey did not cover all medical boards (personal communication, Notman M, 1993). The other survey, published in a news article, did not address these issues in depth (7).

Between 1991 and 1994 the Med-

ical Society of New Jersey brought lawsuits that challenged questions for medical licensure used by the New Jersey Board of Medical Examiners (9–12). The suits were based on the Americans With Disabilities Act of 1990 (ADA) (P.L.101-336). The first suit focused on questions about mental illness, substance abuse, or treatment that were asked as part of the registration renewal process. The New Jersey Supreme Court decided that the questions asked were not unreasonable but that their focus and sensitivity could be improved. The court chose not to address the ADA because the plaintiffs presented their claims after certification had been granted and because of jurisdictional concerns.

The second suit sought a preliminary injunction that would have required the New Jersey Board of Medical Examiners to stop inquiring about mental and physical conditions (10). The injunction was not granted because the court did not believe irreparable harm would ensue if the inquiries continued. However, the court suggested that the board's investigation of applicants' answers to the questions probably violated the ADA's provisions in Title II against discrimination by public entities. The court indicated that the board should be able to identify questions that address current behavior and capability rather than past diagnosis and treatment (10). Subsequently, in 1994, the Medical Society of New Jersey and the Board of Medical Examiners agreed that the challenged questions would not be used (13). A set of questions was developed with the understanding that these would not be challenged in court.

Other events between 1993 and 1996 seemed likely to affect licensure questions. The Virginia and Florida boards of bar examiners were challenged in court in 1994 over the use of questions about past psychiatric treatment. In *Clark v. Virginia Board of Bar Examiners,* the judge ruled that broad questions about mental health treatment could not be asked of applicants (14,15). In 1995 Jerry Wiener, M.D., then president of the American Psychiatric Association, wrote to medical boards to express concern about the nature of questions on their licensure applications (personal communication, Becker K, APA, 1996).

In this paper we report the results of two surveys about questions on medical licensure applications that we conducted in 1993 and 1996. We hypothesized that between the two dates, medical boards would have changed the questions asked on licensure applications to focus on the presence of current, rather than past, disabling conditions and also to be less stigmatizing.

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Methods

All 66 members of the Federation of State Medical Boards of the United States, Inc., were queried about licensure applications and renewal forms in February 1993 and again in December 1995. The purpose of the query was explained briefly in a letter to each board requesting a copy of forms used for initial registration and renewal. For the 1995 mailing, follow-up requests were sent to boards that did not respond as late as December 1996.

The forms were reviewed to determine the presence of questions about psychiatric illness or treatment, substance abuse, or physical conditions. The proportion of medical boards including a specified question in 1993 and 1996 were compared using the McNemar test. Because this statistical test compares responses in a pairwise fashion, boards that did not respond in both years were excluded from the analysis. The number of boards excluded on any given question was small, and comparisons of the full sample using a binomial test produced highly similar results that did not alter the conclusions drawn from the analyses. We therefore elected to report the more conservative pairwise results.

In addition, in 1993 we recorded whether questions about psychiatric conditions addressed their effect on the applicant's ability to practice medicine. In 1996 we recorded whether questions about all three types of conditions—psychiatric conditions, substance abuse, and physical conditions—addressed this effect.

Results

The total of 66 jurisdictions queried included all states, some of which have separate boards for osteopathic practice, as well as the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. In 1993 a total of 63 boards (95 percent) provided data on initial licensure, and in 1996 all 66 boards did so.

Information on renewal forms was less complete, with 54 boards (82 percent) responding in 1993 and 64 boards (97 percent) in 1996. We decided that obtaining a complete data set in this area was not a priority, as the data available clearly demonstrated that boards are less likely to ask broad or stigmatizing questions on renewal forms.

Initial licensure applications

Boards commonly asked questions about mental illness or treatment on initial licensure applications. Forty-eight of the 63 boards responding in 1993 (76 percent) and 53 of the 66 boards responding in 1996 (80 percent) asked such questions in initial applications, a nonsignificant difference. Questions to ascertain impair-

ment were significantly more common in 1996. Twenty of 48 boards that asked about mental illness in 1993 also asked about impairment (42 percent), compared with 40 of the 53 boards that asked about mental illness in 1996 (75 percent) (McNemar test, N=62, p<.001).

The number of boards asking about physical conditions increased significantly from 31 of 63 in 1993 (49 percent) to 43 of 66 (65 percent) in 1996 (McNemar test, N=62, p=.006). Despite the increase, the proportion of boards asking about physical conditions in 1996 was less than the proportion asking about mental conditions (80 percent) (McNemar test, N=66, p<.006) and less than the proportion asking about substance abuse (62 of 66 boards, or 94 percent) (McNemar test, N=66, p<.001).

Further, questions about physical conditions in 1996 almost always addressed impairment (41 of 43 boards, or 95 percent). Questions about mental illness in 1996 were less likely to address impairment (40 of 53 boards, or 75 percent), compared with questions about physical conditions, but the difference was not significant. Questions about substance abuse in 1996 were significantly less likely to address impairment (20 of 62 boards, or 32 percent), compared with questions about physical conditions (McNemar test, N=41, p<.001).

Licensure renewal applications

Boards are less likely to ask questions about mental illness, physical conditions, and substance abuse on license renewal forms than on initial licensure applications. The proportion of boards whose renewal forms asked about mental illness and physical conditions differed little between 1993 and 1996. Twenty-five of 54 boards (44 percent) asked questions about mental illness on renewal forms in 1993, and 30 of 64 boards (47 percent) asked those questions in 1996. Twenty-one of 54 boards (39 percent) asked about physical conditions in 1993, compared with 27 of 64 boards (42 percent) in 1996.

Inquiries about substance abuse increased significantly between the two years. Twenty-three of 54 boards (43 percent) asked about substance abuse in 1993, compared with 35 of 64 boards (55 percent) in 1996 (McNemar test, N=51, p=.012).

The proportion of boards that asked questions about impairment from mental conditions increased from 15 of 25 boards, or 60 percent, in 1993 to 27 of 30 boards, or 90 percent, in 1996 (McNemar test, N=23, p=.016). In 1996, a total of 25 of 27 boards (93 percent) asked about impairment from physical conditions, and 15 of 35 boards (44 percent) asked about impairment from substance abuse.

Medical boards were less likely in 1996 than in 1993 to ask stigmatizing questions that applied different standards to mental conditions than to physical conditions.

Stigmatization and discrimination

The proportion of boards that inquired about mental conditions but not physical illnesses on initial licensure applications declined nonsignificantly from 24 percent in 1993 (16 of 63 boards) to 16 percent in 1996 (11 of 66 boards). The number of medical boards with inquiries about both mental and physical conditions but not about current disability fell from 12 in 1993 to two in 1996.

On renewal forms, only three boards in 1993 inquired about mental conditions while not asking about physical illnesses, compared with two boards in 1996. Six boards asked about both mental and physical conditions but did not ask about current disability in 1993, compared with only two in 1996.

Discussion

The study results confirm the impression that medical boards commonly inquire about mental illness and substance abuse when physicians apply for licensure and are less likely to ask about physical conditions.

The data also show that the type of questions asked on licensure applications changed between 1993 and 1996. In 1996 boards appeared less likely than they were in 1993 to ask discriminatory questions that presumed disability based on a past diagnosis or treatment, and they appeared more likely to ask questions focused on current disability. In addition, boards were less likely in 1996 than they were in 1993 to ask stigmatizing questions that applied different standards to mental conditions than to physical conditions. Although discrimination and stigmatization appear to persist to some extent, the counterbalancing concern of protecting society from potentially impaired physicians must also be addressed.

The charge that medical boards protect citizens' interests can be found in state statutes. For example, Oregon's state law states, "Recognizing that to practice medicine is not a natural right of any person but is a privilege granted by legislative authority, it is necessary in the interests of the health, safety, and welfare of the people of this State to provide for the granting of that privilege and the regulation of its use, to the end that the public is protected from the practice of medicine by unauthorized or unqualified persons and from unprofessional conduct by persons licensed to practice medicine in Oregon" (16).

The public has an interest in medical boards' obtaining the information needed to identify currently impaired physicians. How to accomplish this task without inadvertently stigmatizing mental illness or intruding into a physician's life presents a difficult challenge. Because mental conditions can be associated with denial, medical boards may feel

obliged to ask a variety of questions to identify physicians who might be impaired. For instance, some boards have required applicants to report any previous psychotherapy for any condition as if this history implies the potential for disability. This requirement may seem excessive, but given the natural history of relapse and remission associated with some mental conditions, a conscientious licensing board may be able to justify the need to identify physicians who are currently asymptomatic but at risk for disability due to future episodes of the illness.

Surprisingly, some medical boards have chosen to avoid all questions about mental illness on licensure applications. Boards may hope that relevant information about impairment will be discovered through academic records or reports of functioning in previous practice settings. Unfortunately, such sources may be inadequate, and society may then be at increased risk while boards wait until problems occur.

The adverse consequences of stigmatizing mental health conditions by medical licensure boards include embarrassment for the physician-applicant, interference with physicians' seeking treatment, and likely promulgation of negative attitudes toward both psychiatric patients and psychiatry as a profession. Embarrassment can result from having to present information about the otherwise private process of psychotherapy. In some states, the physician may also worry about public disclosure of this information through freedom of information provisions.

Physicians may avoid seeking mental health treatment for fear that their history of treatment will be exposed (17). Given that psychotherapy may be used to deal with the stress of medical practice or the effects of this stress on a physician's family life, avoidance of mental health treatment would truly be a loss for the physician and perhaps for the physician's family and society at large (18). Further, the conditions for which psychiatric treatment may be sought are often no more disabling than physical conditions. If medical boards cannot recognize the diversity of psychiatric conditions and the damage stigma can inflict when a physician is identified as having a history of psychiatric treatment, we wonder how physicians or society in general can avoid treating nonphysicians in a stigmatizing manner (19,20).

Balancing the individual physician's interests with society's need for protection presents a difficult public policy dilemma. The ADA, passed in 1990, may provide a useful guide for appropriate licensure questions as it establishes a broad mandate for protection from discrimination for people with disabilities. The section that deals with employment (Title I) stipulates that otherwise qualified people should not be excluded from work because of disabilities, that inquiries about health status should be uniformly made of all candidates after they have been determined to be qualified for their position, and that information about candidates' health status should be confidential (21). Another section (Title II) protects qualified individuals from discrimination by a public entity, prohibits exclusion of qualified persons from programs or a state department or agency (11), and appears to apply to professional licensing (11,12,22). The prohibition of discrimination applies to disability that is based on a physical or mental impairment, a record of impairment, or being regarded as having an impairment (12).

Recent legal proceedings appear to be encouraging medical boards to use questions that emphasize the parity between physical and mental conditions.

Application of these standards to medical licensure suggests that medical boards should emphasize current impairment, should note recent behaviors rather than histories, and should not impose unnecessary burdens on physicians simply because of a perception of possible disability (10,11). Many boards have adopted questions consistent with this approach. The Oregon Board of Medical Examiners now asks, "Have you ever been hospitalized for mental illness, or do you have or have you been diagnosed with any physical injury, disease, or mental condition which impairs your ability to practice medicine?" The North Carolina Medical Board asks more specifically, "Have you ever been, or have you been told you are, personally or professionally impaired as a result of your medical, surgical, or psychiatric condition other than substance abuse?"

Questions about substance abuse on licensure applications present additional issues. The need to protect the public from substance-abusing physicians has been well established, and many medical boards have already taken steps to facilitate physicians' entering treatment by emphasizing rehabilitation (12,23, 24). For instance, the Oregon Board of Medical Examiners supports a diversion program in which substance-abusing physicians can receive treatment without the board's immediately acting to restrict licensure (25). The push to recognize and treat the substance-abusing physician dates to a 1972 initiative by the American Medical Association (23). In addition, the ADA does not protect individuals if their disability results from a condition induced by current illegal substance use (21).

Given these circumstances, it is not surprising that nearly all the medical boards we surveyed asked applicants some question about substance abuse problems. The fact that boards often do not address current impairment from substance abuse suggests that they recognize the high risk of relapse and the need for treatment.

Physicians and their professional organizations may choose to take a variety of actions in relation to the issues discussed in this paper. Medical boards whose licensure applications do not address issues of impairment and boards that apply different standards to psychiatric and substance abuse conditions than to physical illnesses can be encouraged to change their application forms. Also, district branches of the American Psychiatric Association and similar organizations may advocate to allow psychiatrists to consult directly with the medical boards in their areas to advise about general policies or specific applicants (25) or may develop committees to work with medical board issues. For instance, the Oregon Psychiatric Association organized an informational committee for the Oregon Board of Medical Examiners in 1988, and the Oregon Medical Association uses ad hoc committees to address concerns about board functions.

Finally, physicians can learn about and provide input into the policies established by their local organizations. As guidelines for this activity, the American Medical Association's policies encourage medical boards to inquire only about conditions affecting the physician's current ability to practice and to avoid unnecessarily cumbersome application procedures (26).

Conclusions

This study examined questions on medical licensure applications that address psychiatric, physical, and substance use disorders. Surveys in 1993 and 1996 found that medical boards are more likely to inquire about psychiatric disorders and substance abuse than about physical conditions, although this gap had narrowed by 1996. Medical boards were more likely to inquire about potential impairment from a mental condition in 1996 than in 1993.

Poorly formulated questions on medical licensure applications help maintain the stigma attached to mental illness. Recent legal proceedings, including lawsuits based on the Americans With Disabilities Act that challenge existing licensure procedures, appear to be encouraging state medical boards to use questions that emphasize the parity between physical and mental conditions and that focus on current impairment. ♦

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