

MEDICAL BOARD OF CALIFORNIA

DATE REPORT ISSUED: January 10, 2019
ATTENTION: Members, Medical Board of California
SUBJECT: Applications for Licensure and Registration
STAFF CONTACT: Kimberly Kirchmeyer, Executive Director

REQUESTED ACTION:

After review and discussion, approve the revisions to the Medical Board of California's (Board) application questions for licensure and registration related to an applicant's impairment that may impact an applicant's ability to practice medicine safely.

BACKGROUND AND ANALYSIS:

The Board's mission is to protect consumers through the proper licensing and regulation of physician's and surgeon's, and allied health care professionals. It is through the application review process, the Board is made aware of an applicant's ability to practice medicine safely, specifically regarding any potential impairment issues. The Board's applications for licensure and registration currently requires an applicant to disclose whether he or she has ever been diagnosed with an emotional, mental, behavioral, addictive, neurological, or other physical disorder or condition that impairs his or her ability to practice medicine safely, regardless of the date of diagnosis.

In April 2018, the Federation of State Medical Boards (FSMB), after conducting research associated with a physician's wellness and burnout from a broad perspective, including the licensing process, adopted a policy on physician burnout and wellness. In the policy, the FSMB provided recommendations for state medical boards related to the licensing process to consider revising or excluding application questions related to an applicant's mental health and/or substance use disorders, and if the current verbiage is likely to discourage treatment-seeking physicians to disclose information, which appears to be more punitive than beneficial. The FSMB recommended that state medical boards ask questions focusing on current impairment and not on illness, diagnosis, or previous treatment to ensure compliance with the ADA.

In addition, the Board has received inquiries and correspondence from interested parties expressing concerns regarding the application questions related to an applicant's mental health and/or substance use disorders. These individuals believe that the current questions on the Board's applications are discriminatory because they require the applicant to reveal a diagnosis and treatment of a mental disorder not relevant to the applicant's current ability to practice medicine safely. They also point out that the Board should not include questions about a past diagnosis and treatment of a mental disorder as a component of a general screening. These entities do suggest that the Board should include questions about the condition which currently impairs an

applicant's ability to practice medicine safely, which is consistent with the Americans with Disabilities Act (ADA).

Based upon the FSMB policy, Board staff had begun to review the questions on the applications. The correspondence and inquiries from interested parties provided additional concerns about the Board's questions. Therefore, Board staff is recommending changes to the questions on the applications taking into consideration the Board's responsibility of consumer protection, but also the concerns as outlined in the FSMB policy, including that applicants may not be seeking appropriate treatment due to fear that they will have to report it to the Board.

Board staff has provided two options based upon their review and based upon comments by interested parties.

Note: Underlined Indicates proposed additions
 Strikeout Indicates proposed deletions

Option #1:

- ~~Have you ever been enrolled in, required to enter into, or participated in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?~~
- ~~Have you ever been treated for or had a recurrence of a diagnosed addictive disorder?~~
- Have Do you have ever been diagnosed with an emotional, mental, or behavioral, or addictive disorder that may impairs your ability to practice medicine safely?
- Have Do you have ever been diagnosed with a neurological or other physical condition that may impairs your ability to practice medicine safely?
- Do you have any other condition that may in any way impairs or limits your ability to practice medicine safely?
- ~~Do you suffer from a progressive disorder or a health condition that will likely result in a general decline in health or function that may impair or limit your ability to practice medicine safely?~~

Option #2

- ~~Have you ever been enrolled in, required to enter into, or participated in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?~~
- ~~Have you ever been treated for or had a recurrence of a diagnosed addictive disorder?~~
- Do you have ever been diagnosed with any condition (including, but not limited to emotional, mental, or behavioral, or addictive disorder) that may impair your ability to practice medicine safely?
- ~~Have you ever been diagnosed with a neurological or other physical condition that may impair your ability to practice medicine safely?~~
- ~~Do you have any other condition that may in any way impair or limit your ability to practice medicine safely?~~
- ~~Do you suffer from a progressive disorder or a health condition that will likely result in a general decline in health or function that may impair or limit your ability to practice medicine safely?~~

RECOMMENDATION:

Staff recommends the Board approve the questions outlined in Option #1 and direct staff to make the necessary changes to all Board applications for licensure and registration.