

## MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: August 12, 2024  
ATTENTION: Members, Medical Board of California (Board)  
SUBJECT: Report and Possible Action Following Interested Parties Meeting on Mental and Physical Health Questions on Licensing Applications and Possible Action  
FROM: Kerrie Webb, Attorney III

### REQUESTED ACTION:

After review and consideration, make a motion to direct staff to change the Medical Board of California's (Board) introductory statement and questions on mental and physical health on its licensing applications as recommended by staff and the task force.

### BACKGROUND:

In 2019, the Board updated its licensing application questions relating to mental and physical health to limit its inquiry to asking about current enrollment or participation in a monitoring program and to current mental or physical health conditions that impair the individual from being able to practice medicine safely. The Board has been recognized by the [Dr. Lorna Breen Heroes' Foundation](#), a national organization dedicated to promoting physician wellbeing, for changing invasive and stigmatizing mental health questions in its license applications.

Changes to the Board's applications can take up to several months to implement as they require coordination between the Board and the Department of Consumer Affairs to successfully deploy them on the BrEZe system.

### **Pending Legislation Impacts Impairment Questions**

AB 2164 (see Agenda Item 9C) prohibits the Board from requiring an applicant for a physician's and surgeon's license or a postgraduate training license to self-disclose the following:

- A condition or disorder that does not impair the applicant's ability to practice medicine safely.
- A condition or disorder for which the applicant is receiving appropriate treatment and which, because of the treatment, does not impair the applicant's ability to practice medicine safely.

The Board has a Support position on AB 2164 and, if signed into law, the requirements of the bill would take effect on January 1, 2025.

The current introductory statement and licensing application questions are:

An affirmative answer to any of the questions below will not automatically disqualify you from licensure. The Board will make an individualized assessment of the nature, the severity and the duration of the risks associated with an ongoing medical condition to determine whether an unrestricted license should be issued, whether conditions should be imposed, or whether you are eligible for licensure. Please note that a limited practice license may be available.

- Are you currently enrolled in, or participating in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?
- Do you currently have any condition (including, but not limited to emotional, mental, neurological or other physical, addictive, or behavioral disorder) that impairs your ability to practice medicine safely?
- Do you currently have any other condition that impairs or limits your ability to practice medicine safely?

After updating its impairment questions, the Board heard from interested parties that the current questions may still discourage medical students, residents, and physicians wishing to practice in California from voluntarily enrolling in monitoring programs or from seeking mental and/or physical healthcare to avoid having to answer “yes” to any of these application questions. Some interested parties have also indicated that the current application questions relating to mental and physical impairment stigmatize such health conditions. The Board agreed to review this matter further, and past Board President, Randy W. Hawkins, MD, appointed Board members Ms. Jeong and Dr. Tsai to a task force to work with staff on this matter.

On July 30, 2024, the task force held an interested parties meeting and heard from the following esteemed presenters:

- 1) Mark Staz, MA, Chief Learning Officer, Federation of State Medical Boards (FSMB).

The FSMB’s model language for licensing application questions is:

Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No)

- 2) Janelle A. Rhyne, MD, MA, Director of Innovation, Policy & Strategy, North Carolina Medical Board.

The North Carolina Medical Board stopped asking about mental and physical impairment in its applications in 2017, and switched to the following attestation language:

- **Important:** The Board recognizes that licensees encounter health conditions, including those involving mental health and substance use disorders, just as their patients and other health care providers do. The Board expects its licensees to address their health concerns and ensure patient safety. Options include seeking medical care, self-limiting the licensee's medical practice, and anonymously self-referring to the NC Physicians Health Program ([www.ncphp.org](http://www.ncphp.org)), a physician advocacy organization dedicated to improving the health and wellness of medical professionals in a confidential manner.
- **The failure to adequately address a health condition, where the licensee is unable to practice medicine with reasonable skill and safety to patients, can result in the Board taking action against the license to practice medicine.**

3) Stephanie Loucka, JD, Executive Director, State Medical Board of Ohio.

The State Medical Board of Ohio changed its license application questions in 2023, and now asks:

Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice in a competent, ethical, and professional manner? Condition means both physical and mental conditions, including substance use disorder. You may answer NO to this question if you are currently in compliance with a monitoring agreement with Ohio Professionals Health Program.

The interested parties meeting was well attended, and over 20 people provided public comments. Additionally, the Board received over 80 written comments from the public ahead of the interested parties meeting regarding this topic, which were reviewed and considered by staff and the task force members.

After careful consideration of the input received on this matter, and to comply with the requirements of AB 2164, Board staff and task force members recommend that the introductory statement and questions relating to mental and physical health be changed as indicated below:

Proposed New Introductory Statement and Licensing Application Question:

Blue is new text and ~~red~~ is deleted text.

**Important:** The Board recognizes that healthcare providers encounter health conditions, including those involving physical, mental, and substance use disorders, just as their patients and clients do. In addition to providing care for others, the Board encourages and expects its licensees to also seek care for their own health needs and recognizes that doing so is critical to consumer safety and helps sustain California's healthcare workforce.

An affirmative answer to ~~any of~~ the questions below will not automatically disqualify you from licensure. The Board will make an individualized assessment of the nature, the severity and the duration of the risks associated with an ongoing medical condition to determine whether an unrestricted license should be issued, whether conditions should be imposed, or whether you are eligible for licensure. Please note that a limited practice license may be available.

- Are you currently suffering from any condition that impairs your judgment or otherwise adversely affects your ability to practice medicine safely, that is, in a competent, ethical, and professional manner? You may answer “No” if you have any condition which does not impair your ability to practice medicine safely or if you are receiving appropriate treatment for a condition, and due to that treatment, the condition does not impair your ability to practice medicine safely.
- ~~Are you currently enrolled in, or participating in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?~~
- ~~Do you currently have any condition (including, but not limited to emotional, mental, neurological or other physical, addictive, or behavioral disorder) that impairs your ability to practice medicine safely?~~
- ~~Do you currently have any other condition that impairs or limits your ability to practice medicine safely?~~

STAFF RECOMMENDATION:

Make and approve the motion suggested on page 1 of this memo. Following approval, Board staff will commence updating its licensing applications with a target launch date of no later than January 1, 2025.