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American Society of Addiction Medicine

Public Policy Statement on Public Actions by State Medical Licensure Boards and Comparable Regulatory Agencies Regarding Healthcare and Other Licensed Professionals with Addictive Illness

(This is the eighth in a set of eleven policy statements of the American Society of Addiction Medicine addressing healthcare and other licensed professionals with Addictive Illness)

Background

Healthcare and other licensed professionals with addictive illness, like the general population with addictive illness, have a chronic, relapsing and potentially impairing disease. Such professionals have been a concern of state medical licensure boards and other comparable Regulatory Agencies (RAs). Licensure boards are agencies of state government and their primary mission is to protect the public. As agencies of government, their proceedings and decisions generally fall under the provisions of “open meetings” laws: their actions are a matter of public record. There is consensus among the professional societies which comprise organized medicine, treatment providers, monitoring professionals who work in state Professionals Health Programs (PHPs), and public policy makers that a healthcare and other licensed professional who is functionally “impaired” poses a potential risk to the public. Similarly, a healthcare and other licensed professional who is non-compliant with the recommendations of a PHP to participate in indicated intervention, evaluation, treatment, case management and ongoing monitoring, also poses a potential risk to the public and should be dealt with by the PHP and/or the RA in a timely and effective manner.

Historically, Regulatory Agencies viewed their only alternative to protect the public to be public disciplinary action against professionals, including those they understood to have an addictive illness. The belief was that without such disciplinary action, the public would be placed at risk. Newer research, however, is reassuring and supports a more effective process and questions the singular alternative of the discipline-only approach. Studies such as Domino (*JAMA*, 2005) and Dupont (*Journal of Substance Abuse Treatment*, 2009) indicate PHP-monitored physicians have excellent clinical outcomes and are able to practice their profession safely. PHPs are specialized programs of continuing care management that actively screens for relapse and/or loss of remission of illness through a model of tripartite monitoring. Recognizing relapse may occur in a subset of monitored recovering professionals with addictive illness, the goal is early detection

and intervention prior to illness progression to overt functional impairment. This approach has led to high success rates and minimization of risk to patients. It is well established with evidence-based medicine that PHP monitoring makes a difference and should be actively supported. Strong anecdotal evidence indicates these approaches are applicable and effective in other professional populations. In reality, disciplinary action as a primary means of addressing addictive illness in healthcare and other licensed professionals may actually place the public at increased risk by impeding the early detection and treatment of potentially impairing illness. The fear of disciplinary action is a powerful disincentive for the ill professional in need of assistance. (see Public Policy Statement #7; “Confidentiality for Healthcare and Other Licensed Professionals with Potentially Impairing Illness”).

Public Regulatory Agency disciplinary action often led to unintended, onerous and permanent consequences for both the recovering professional and the public they serve. Inadvertently, these consequences can include constraints on healthcare and other licensed professionals’ ability to practice their profession effectively in the best interests of the public. Examples include restrictions on the practitioner’s ability to prescribe or dispense indicated medications and barriers to the practitioner’s ability to participate with provider panels or maintain active certification from a Specialty Certification Board. Reportable disciplinary actions often have the unintended effect of leaving the professional unemployable. Disciplinary action, in and of itself, is not therapeutic and does not promote long term remission of illness. The potential for reportable disciplinary action actually deters licensed professionals from seeking appropriate assistance. In management of the healthcare and other licensed professionals with addictive illness, the most advantageous process for all concerned is one that promotes the early identification of the ill professional prior to progression of “illness” to overt “impairment” (see Public Policy Statements #2; “Illness versus Impairment...” and #4 “Coordination Among Addiction Treatment Programs, Professionals Health Programs and Regulatory Agencies”).

Where Regulatory Agencies are required to publicly disclose reportable disciplinary decisions, PHPs operate without such constraints therefore encounter less resistance from a professional with a potentially impairing illness. Additionally, Regulatory Agencies must operate under a time consuming “legal burden of proof” before they are able to intervene. Conversely, PHPs can immediately and effectively intervene and interrupt professional duties when a potentially impairing illness is suspected. In the event of relapse to active illness, PHP case management includes contingency management, with explicit and swift intervention for non-adherence to the PHP agreement. State Medical Licensure Boards and other comparable regulatory agencies must be cognizant that addictive illness is a chronic and therefore potentially relapsing disease. Relapse does not constitute treatment failure, intentional professional disobedience, or defiance. PHPs and RAs expect abstinence. They must, however, recognize that relapse more often indicates an unintentional lapse of focus on the elements required for successful quality recovery, the presence of an unidentified co-existing addiction, and/or the presence of undiagnosed co-morbid psychiatric illness, rather than indicating intentional recalcitrance on the part of the PHP participant. As with other chronic medical diseases relapses occur and need to be managed therapeutically in order to minimize the potential of functional impairment. Disciplinary action on the part of the RA, in response to relapse, is not necessarily beneficial to the individual or the public. Clinical re-evaluation and/or intensification of active treatment and monitoring is warranted and effective. The addicted professional in active relapse should be required to

suspend their professional activities until the illness is stabilized. Treatment and PHP professionals should be relied upon to determine remission and state resumption of professional activities.

Finally, many states, where the regulatory boards work closely and collaboratively with their associated Professionals Health Program, have witnessed a dramatic increase in the number of addicted professionals identified with addictive illness. Under such conditions a concerned party with information is much more willing to come forward and report a licensee to a PHP. This is further facilitated with the awareness the professional will be assisted by the PHP and the associated decreased fear of automatic and publically-disclosed discipline by a State Medical Board or other comparable Regulatory Agency. This collaborative and coordinated process, described in detail in Policy #4, encourages the early identification of illness and clearly promotes public health, safety and welfare.

The American Society of Addiction Medicine recommends:

- 1) State Medical Licensure Boards and other comparable Regulatory Agencies recognize the diagnosis of addictive illness does not equate with impairment. “Impairment”- is a functional classification.
- 2) State Medical Licensure Boards and other comparable Regulatory Agencies carefully consider the alternatives available to them in addressing professionals with addictive illness. In all cases competent, qualified and experienced professionals, such as those working for the state PHP, should be utilized in the intervention, evaluation, treatment, case management and monitoring of recovering healthcare and other licensed professional.
- 3) Automatic publicly-disclosed adverse disciplinary actions by State Medical Licensure Boards and other comparable Regulatory Agencies in response to relapsed healthcare and other licensed professional are not necessarily in the best interest of the professional or the public. . Public action should be limited whenever possible to actions clearly indicated for the protection of public safety.
- 4) For the public welfare, regulatory agencies and PHPs should work collaboratively with each other to better ensure the early identification, evaluation, treatment and monitoring of healthcare and other licensed professionals with addictive illness.