

June 14, 2024

Oregon Board of Dentistry
1500 SW 1st Avenue, Suite 770
Portland, OR 97201

Re: *Removal of Intrusive Mental Health Questions on Credentialing Application*

Dear Oregon Board of Dentistry,

The Oregon Dental Association (“ODA”), Permanente Dental Associates, PC (“PDA”) and MODA Health jointly request that the Oregon Board of Dentistry (“OBD”) support removing intrusive mental health and substance abuse questions from the OBD’s initial credentialing and recredentialing application for OBD licensees.

Oregon healthcare professionals – including dentists – are living and practicing with extraordinary levels of stress and burnout, a phenomenon that was made much worse by the COVID-19 pandemic. During the span of a long career, some dental licensees will receive a mental health diagnosis, and others may develop substance abuse problems. But we know from surveys of our physician colleagues that most professionals will avoid disclosure and treatment out of fear for their license or professional reputation. The potential for stigma and reputational/professional harm are simply too great. As a result, treatment is often delayed or simply doesn’t occur. The OBD has a critical opportunity to improve this situation for licensees.

Since at least 2020 there has been a substantial and growing evidence-based movement by state health licensing boards to remove or limit invasive questions around mental health and substance abuse diagnosis and treatment. The emerging – and we believe more-humane – approach is to provide licensees with an advisory statement with supportive language, and then ask for an attestation from the licensee that they have read the statement and understand. Indeed, in April of 2023 the Oregon Medical Board (“OMB”) became one of 26 state medical licensing agencies to adopt the attestation approach by replacing its own invasive questions with the following:

The OMB 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 practice, and anonymously self-referring to the Oregon Health Professionals’ Services Program.

The failure to adequately address a health condition, resulting in the inability to practice your profession with reasonable skill and safety, can result in the Board taking action against your Oregon Medical Board license.

☐ *I have read and understand the above advisory and agree to abide by the Board's expectation.*

The answer to the below question is exempt from public disclosure under state and federal law. The answer may be considered by the Board and may be disclosed in any contested case hearing or appeal of a licensing decision based upon it.

Do you currently engage in the excessive or habitual use of alcohol or drugs or are you dependent on the use of alcohol or drugs which impair your ability to practice your health care profession safely and competently? "Excessive" as used in this question includes, but is not limited to, the use of alcohol or drugs that leads to disturbances, fights, arrest, DUII, injury, accident, illness, loss of consciousness, .08% BAC or above on a required chemical substance screening test, or other adverse consequences. If you are currently enrolled in the Oregon Health Professionals' Services Program (HPSP), you may answer "no."

If "yes," provide a full description. Documentation from the relevant law enforcement agency, court, or other entity must be sent directly to the Board. Additionally, a statement from your treating provider regarding your ability to safely practice must be sent directly to the Board.

Critically, we note that the OMB's follow-up question after the licensee's attestation is focused exclusively on *excessive or habitual substance abuse* and does not ask about mental health diagnoses at all. We believe that the OMB's change in its licensing application is an important move toward destigmatization and encouraging treatment that furthers rather than undermines the OMB's mandate to protect the public's health, safety and welfare. As of year-end 2023, eleven more state medical boards were considering making a similar change.¹

At its May 29, 2024 meeting, the OBD's Licensing, Standards & Competency Committee also considered this issue and recommended adopting the OMB's attestation approach with the same follow-up question about excessive or habitual substance abuse. The Committee, however, chose to also retain specific invasive questions regarding mental health conditions and treatment:

5A. Do you currently have any condition or impairment (including, but not limited to, substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or

¹ Source: Dr. Lorna Breen Foundation, https://drlornabreen.org/wp-content/uploads/2023/12/LornaBreen_2023YearEndInsert_Final.pdf (visited June 6, 2024).

condition) that in any way affects your ability to practice dentistry in a competent, ethical, and professional manner?

5B. If your answer to Question 9A is yes, are the limitations caused by your condition or impairment reduced or ameliorated because you receive ongoing treatment or because you participate in a monitoring or support program?

If your answer to Question 5(A) or 5(B) is yes, complete a separate release and information form for each service provider that has assessed or treated any such condition or impairment. Release and information forms are attached and may be duplicated as needed. As used in Question 5, "currently" means recently enough that the condition or impairment could reasonably affect your ability to function as a dentist/dental hygienist/dental therapist.

The answers to these questions may be subject to disclosure in response to a public records request under state law. The answers may be considered by the Board and may be disclosed in any contested case hearing or appeal of a licensing decision based upon them.

These are similar to questions K and L in the prior version of the OBD's recredentialing application. Respectfully, we believe that these additional questions undermine and negate the supportive statement/affirmation approach.

Significant research shows that intrusive mental health questions in fact lead to licensees' non-disclosure of information, and avoidance of treatment, due to fear of recrimination. In one survey, nearly 40% of physicians reported that they would be reluctant to seek formal medical care for treatment of a mental health condition because of concerns about repercussions to their medical licensure.² A similar number were afraid or knew another physician who was fearful of seeking mental health care because of questions asked in medical licensure, credentialing or insurance applications.³ Another study showed that only 6% of female physicians with a formal diagnosis or treatment for mental illness had disclosed it to their state.⁴ In another study of medical residents, 61% of those responding to a survey reported that

² Dyrbye, L. (2017). *Medical licensure questions and physician reluctance to seek care for mental health conditions*. Mayo Clinic Proceedings, 92(10): 1486 – 1493. DOI: 10.1016/j.mayocp.2017.06.020.

³ The Physicians Foundation's *Part Two of Three: 2022 Survey of America's Physicians* examines the current state of physicians' wellbeing and assesses the solutions needed to improve it. The 2022 survey was sent by email to physicians derived from Medscape's proprietary database. Medscape leveraged their proprietary distribution of percentage of primary care physicians vs. specialist physicians to set quotas for this study. The survey was fielded from June 24 through July 3, 2022, and the data presented is based on 1,509 responses.

⁴ Gold, K, et al. (2016), "I would never want to have a mental health diagnosis on my record": A survey of female physicians on mental health diagnosis, treatment and reporting. *General Hospital Psychiatry*, Volume 43, Nov-Dec 2016, pp. 51-57
<https://www.sciencedirect.com/science/article/abs/pii/S0163834316301281> (visited June 7, 2024).

they felt they would benefit from psychiatric services. However, only 24% of those who felt they needed care *sought treatment*. The most commonly reported barriers to seeking care were lack of time (77%), *concerns about confidentiality* (67%), *concerns about what others would think* (58%), cost (56%), and *concern for the effect on one's ability to obtain licensure* (50%).⁵ From all of these studies, it becomes clear that professional stigma and embarrassment are the primary barriers to disclosure and treatment.

The OMB, along with 25 other state medical boards, has moved toward the supportive statement/attestation approach. The limited follow-up question the OMB asks is focused on excessive or habitual substance abuse and avoids mental health diagnosis disclosures. It frankly seeks the kind of information that is likely to be discovered in a routine background check anyway. And eleven more states are moving in this direction. They are following the substantial evidence showing that when licensing boards ask invasive substance abuse and mental health questions, it does not lead to more disclosure and treatment.

For all of these reasons, PDA, the ODA and MODA health respectfully ask the Oregon Board of Dentistry to direct the Licensing, Standards & Competency Committee to adopt initial credentialing and recredentialing applications that do not contain questions 5A/5B and which are substantially similar to the OMB's approach.

Thank you for your consideration.



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⁵ Aaronson, A, et al. *Mental Health During Residency Training: Assessing the Barriers to Seeking Care*. Academic Psychiatry, Volume 42, February 2018, pp. 469-472
<https://link.springer.com/article/10.1007/s40596-017-0881-3> (visited June 7, 2024).