Jul 10, 2024

Patient Protection Commission
Director's Office
1000 North Division Street
Carson City, NV 89703

RE: Patient Protection Commission Proposal: Removing Invasive Mental Health Questions for Physician Licensing and Credentialing

Dear Joseph Filippi and Patient Protection Commission,

The Nevada Physician Wellness Coalition (NPWC), and the Nevada Chapter of the American College of Physicians (ACP) respectfully submit a proposal that the Patient Protection Commission consider a bill draft request to remove invasive mental health questions for physician licensure and credentialing applications aligning with one of the objectives of the Patient Protection Commission, to address the healthcare workforce shortages in the state. While there are many programs and objectives surrounding entry and growth of the healthcare workforce we also recommend considering the retention of the healthcare workforce and in our proposal specifically physicians.

BACKGROUND

Nevada presents a unique challenge for physicians as we have a significant physician shortage. Nevada ranks 48th for Board Certified physicians (MD's and DO's) per 100,000 people[1]. In addition, Nevada had the fifth-highest population increase between 2010 and 2020 according to initial results of the 2020 Census[2]. This places even more pressure on an already strained healthcare system. According to HRSA, an estimated, 2.1 million Nevadans reside in a primary care health professional shortage area (HPSA) equating to 67.3% of the state's population. Every county in Nevada has a physician shortage of varying degrees, and 11 of 14 rural and frontier areas of Nevada are single-county primary care HPSAs[3].

[1] Association of American Medical Colleges. (2011, 2021). *State Physician Workforce Data Report.* https://www.aamc.org/data-reports/workforce/report/state-physician-workforce-data-report
[2] United States Census Bureau. (2021). *2020 Census: Percent Change in Resident Population for the 50 States, the District of Columbia, and Puerto Rico: 2010 to 2020.* https://www.census.gov/library/visualizations/2021/dec/2020-percent-change-map.html
[3] Packham J, Griswold T, Terpstra J, Warner J. (2022). *Physician Workforce in Nevada: A Chartbook.* http://www.nevadapublichealthinstitute.org/wp-content/uploads/2023/01/22-PWIN-Chartbook-FINAL-1-18-22.pdf

Nevada Physician Shortage:
The state of Nevada needs 2,418 more physicians to meet the U.S. average of physicians per 100,000 thousand population. Some of these areas of shortage include a need for: 483 more Primary Care Physicians, 74 Family Medicine, 214 Pediatrics, 100 Psychiatrists, 37 Orthopedic Surgery, 108 General Surgery, and more[4]. This demonstrates that the entire state of Nevada is an underserved medical community.

Due to the physician shortage, retention and full employment of physicians is critical to ensure access to care, patient safety, and quality outcomes. Nevada is in much more need of physician resiliency programs and efforts than other areas of the United States where physicians may not be experiencing the same burden of high patient loads and extreme time demands.

Physician Suicide Crisis:
"Physician suicide is topic of growing professional and public health concern. Despite working to improve the health of others, physicians often sacrifice their own well-being to do so. Furthermore, there are systemic barriers in place that discourage self-care and help-seeking behaviors among physicians."[5] For many providers, the medical licensing process has posed a major barrier to treatment. Nearly 40% of physicians said they'd be reluctant to get mental health care out of concern over receiving or renewing their license, according to a 2017 paper in *Mayo Clinic Proceedings*[6].

"Physicians have one of the highest rates of suicide of any profession; the rate for male physicians is up to 40% higher and for female physicians up to 130% higher than the general population."[7] Data from the American Foundation for Suicide Prevention shows that approximately one physician dies by suicide every day in the US (300-400 annually). The Covid-19 Pandemic has further amplified this crisis. 1 in 5 physicians plan to leave their current practice and 1 in 3 plan to reduce their hours[8]. Mayo Clinic 2022 report shows: Physicians' mean emotional exhaustion was 38.6% higher in 2021 than 2020; burnout for physicians was 25% more prevalent in 2021 than 2020; physicians mean depersonalization was 60.7% higher in 2021 than 2020; and 62.8% of physicians experienced at least one manifestation of burnout in 2021 vs.

[4] Nevada Health Workforce Research Center (2021) Griswold, M.T. (2022). *Health Workforce Supply and Demand in Nevada: Implications for Network Adequacy.* https://doi.nv.gov/uploadedFiles/doi.nv.gov/Content/Insurers/Life_and_Health/22%20DOI%20NAAC%203-8-22_Revised.pdf
[5] Kingston, A. M. (2020). *Break the Silence: Physician Suicide in the Time of COVID-19.* Mo Med. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7723130/#:~:text=This%20increased%20rate%20is%20often,education%2C%20and%20perceptions%20of%20inadequacy.&text=Anxiety%20disorders%20also%20have%20higher%20incidence%20among%20physicians
[6] Dyrbye LN, West CP, Sinsky CA, Goeders LE, Satele DV, Shanafelt TD. (2017). *Medical Licensure Questions and Physician Reluctance to Seek Care for Mental Health Conditions*. Mayo Clin Proc. doi: 10.1016/j.mayocp.2017.06.020.
[7] Stewart, H. (2023) *Physician suicide: Contributing factors and how to prevent it.* CHG Healthcare. https://chghealthcare.com/blog/physician-suicide-prevention#:~:text=Physicians%20have%20one%20of%20the,higher%20than%20the%20general%20population
[8] Henry, T. (2022). *Medicine's Great Resignation? 1 in 5 Doctors Plan Exit in 2 Years.* American Medical Association. https://www.ama-assn.org/practice-management/physician-health/medicine-s-great-resignation-1-5-doctors-plan-exit-2-years#:~:text=One%20in%20five%20physicians%20say,to%20recently%20published%20survey%20research.

38.2% in 2020[9]. Burnout is associated with a higher risk of medical errors and reduced health outcomes. Additional pressure on physicians and an already strained healthcare system means the whole community suffers. This is a crisis that affects us all. Physicians don't seek help because of fear of repercussions for disclosing mental health struggles. This is a critical time in American history as we witness and experience a healthcare shortage crisis. Now more than ever, physicians need resources to support their well-being, flourishing and retention.

Barriers to Seeking Mental Health Treatment:

There are systemic barriers in place that discourage self-care and help-seeking behaviors among physicians. This has created what is often referred to as the "Culture of Silence," and it is pervasive among physicians. This is because of the fear of repercussions from self-disclosing burnout or concerns over mental health. One of those barriers is what must be disclosed on board licensing applications and on a variety of credentialing applications. When physicians seek to work in a state they must go through a licensing process with the State Medical Board or Osteopathic Board. Additionally they must also go through a credentialing process: "Credentialing is a process that ensures a doctor is qualified to perform the procedures he or she was hired to perform. It helps protect both the physician and the facility from liability if the physician is charged with negligence or malpractice."[10] Credentialing can also include enrolling doctors with insurance providers so the facility can bill them for the services they provided to patients. Further, "credentialing generally refers to ensuring physicians have the proper credentials to work for a health system or at a clinic or private practice."[11]

Mental Health Questions in Licensing and Credentialing:

While these applications were designed with the best intentions, if they contain intrusive mental health questions, they may create a barrier to seeking help. According to the Lorna Breen Foundation, "Health workers fear losing their license and credentials because of overly broad and invasive mental health questions on applications that are stigmatizing, discriminatory, and violate privacy in the workplace−and may even violate the Americans with Disabilities Act (ADA). Ensuring that health workers can access necessary mental health care not only supports their well-being, but it also improves the health and safety of our entire country. Patient outcomes will improve when we prioritize clinician well-being because to care for others, health workers must also be cared for."[12] In the long run this can restrict people from working where we need them to work, and reduce help-seeking, which also has an impact on recruitment and retention of healthcare workers in the state. Approximately 23 states have already taken steps to

[9] Shanafelt TD, West CP, Dyrbye LN, Trockel M, Tutty M, Wang H, Carlasare LE, Sinsky C. (2022). *Changes in Burnout and Satisfaction With Work-Life Integration in Physicians During the First 2 Years of the COVID-19 Pandemic*. Mayo Clinic. https://doi.org/10.1016/j.mayocp.2022.09.002

[10] Wilcox, L. (2022). *Understanding the Credentialing Process.* CompHealthBlog. https://comphealth.com/resources/understanding-the-credentialing-process

[11] Wilcox, L. (2022). *Understanding the Credentialing Process.* CompHealthBlog. https://comphealth.com/resources/understanding-the-credentialing-process

[12] Dr. Lorna Breen Heroes' Foundation. (2022). *Remove Intrusive Mental Health Questions from Licensure and Credentialing Applications*. https://drlornabreen.org/wp-content/uploads/2022/12/ALL-IN-Audit-Change-Communicate-Toolkit.pdf

change this process and in Nevada we are happy to say that is true for both the Allopathic and Osteopathic Boards, both of which were open to and willing to change the wording on their applications. This is a huge step forward and something to be proud of as a state. Unfortunately, that is not enough. Because doctors have to go through both licensing and credentialing processes we have to ensure that both places provide appropriate questions which do not negatively affect help-seeking when needed.

The ACP has put together a variety of publications which support evidence that making changes to licensing and credentialing is critical to support help-seeking behaviors. They reviewed the data provided by *Mayo Clinic Proceedings* stating that "overall nearly 40% of physicians (2325 of 5829) (39.9%) reported they would be reluctant to seek formal medical care for treatment of a mental health condition because of fear of repercussions of their medical licensure."[13] A paper titled *Improving How State Medical Boards Ask Physicians Questions About Mental Health Diagnosis: A Case Study from New Mexico* suggests that instead of asking questions about diagnoses or possible diagnoses, either past or present, that if medical boards must ask about physician health that they focus on the effect on their ability practice, such as by asking: "*Do you currently have any condition that adversely affects your ability to practice medicine in a safe, competent, ethical and professional manner?*" The article emphasizes that adding language that endorses help-seeking is also important and suggests a specific statement such as: "It is common for licensees to feel overwhelmed from time to time and to seek help when appropriate. The Board emphasizes the importance of well-being and appropriate treatment and support for all health conditions."[14] Finally, in the ACP materials they review an article titled *Medical Licensure Questions About Mental Illness and Compliance with the American Disabilities Act* which points to questions about if these inquiries are compliant with the ADA.[15]

In the field of medicine, patient safety is imperative. Of course, that is also the aim of the Patient Protection Commission as well. The field of patient safety has drawn on lessons from the aviation field. Both fields have a massive responsibility to keep the general public safe. Like medicine, in aviation, it is critical to ensure that pilots are fit for duty. If we look at how the airline industry is addressing mental health the emphasis is to create a culture where it is safe to report they are experiencing mental health issues so that they are more likely to report. If there is fear of repercussions pilots are less likely to report these issues which could in turn create a safety concern. For example, the *Pilot Fitness Aviation Rulemaking Committee Report* states: "the best strategy for minimizing the risks related to pilot mental fitness is to create an environment that encourages and is supportive of pilot voluntary self-disclosure. […] The best

[13] Dyrbye LN, West CP, Sinsky CA, Goeders LE, Satele DV, Shanafelt TD. (2017). *Medical Licensure Questions and Physician Reluctance to Seek Care for Mental Health Conditions*. Mayo Clin Proc. doi: 10.1016/j.mayocp.2017.06.020.
[14] Barrett E, Lawrence E, Waldman D, Brislen H. (2020). *Improving How State Medical Boards Ask Physicians About Mental Health Diagnoses: A Case Study From New Mexico*. Ann Intern Med. doi: 10.7326/M19-3681.
[15] Jones JTR, North CS, Vogel-Scibilia S, Myers MF, Owen RR. (2018). *Medical Licensure Questions About Mental Illness and Compliance with the Americans With Disabilities Act.* J Am Acad Psychiatry Law. doi: 10.29158/JAAPL.003789-18. PMID: 30593476.

approach to address misperceptions is to expand the use of pilot support programs, educate the air carrier and pilot communities on mental fitness for duty issues, and ensure pilots experiencing such issues are cared for in a confidential, non-stigmatized, and safe environment. [...] A holistic approach to educating and addressing pilot mental fitness issues offers the best opportunity for a positive outcome."[16]

Following this model, supporting physician well-being in turn supports patient well-being. It's critical that we work towards destigmatizing mental health for physicians and creating an environment that encourages voluntary self-disclosure and help-seeking behavior and thereby reducing risk to patients.

What is the Current Reporting Landscape in Nevada?

There are multiple licensing and credentialing processes currently taking place in Nevada. Firstly, there are medical licensing Boards: the Nevada Board of Medical Examiners for MD's and The Nevada State Board of Osteopathic Medicine for DO's. Fortunately, where there were recommended changes on the DO application they were receptive to changes to their application. Both boards align with the recommendations of the American Medical Association and Lorna Breen Foundation.

Secondly, there are multiple credentialing forms utilized in Nevada. Since physicians must go through both licensing and credentialing it is critical that both processes are aligned with the recommendations for non-invasive mental health questions in order to create a culture where it is safe to seek mental health support if needed.

The Division of Insurance created a Standard Credentialing Application. Under "Purpose of Form" it states: "This form has been developed for use by Nevada health plans and health insurers, and ***may*** be used by hospitals and other healthcare organizations. Its purpose is to provide a single consolidated form for use by applicants for participation as a provider (hereinafter, 'Participation') with health plans or health insurers and may be used for hospital and other healthcare organization medical staff membership and clinical privileges (hereinafter, sometimes, 'Membership'). This form, once properly completed, will be accepted by all Nevada health plans and health insurers and may be accepted by hospitals and other healthcare organizations (hereinafter, collectively referred to as 'Entities')." [17] This form was reviewed by the AMA and we have included their suggested changes.
NAC 679B.0405 is the regulation that outlines all who must use the Standard Credentialing Application and it states: **Use of prescribed form to obtain information related to credentials of provider of health care. (**NRS 679B.130**)**

[16] Federal Aviation Administration. (2015). *Pilot Fitness Aviation Rulemaking Committee Report*. https://www.faa.gov/media/33431
[17] Uniform Credentialing Form. https://doi.nv.gov/uploadedFiles/doinvgov/_public-documents/Insurers/Uniform%20Credentialing.pdf

1. Each insurer, carrier, society, corporation, health maintenance organization and managed care organization shall use the Nevada Division of Insurance (NDOI) Form 901 prescribed by the Commissioner of Insurance pursuant to NRS 629.095 when obtaining any information related to the credentials of a provider of health care.

2. If an insurer, carrier, society, corporation, health maintenance organization or managed care organization needs information to satisfy a requirement newly imposed by the Federal Government, the State or one of its agencies, or a body that accredits hospitals, medical facilities or health care plans and that information is not addressed in NDOI Form 901, the insurer, carrier, society, corporation, health maintenance organization or managed care organization:

(a) Shall notify the Commissioner of the additional information that must be requested in NDOI Form 901 to satisfy the requirement; and

(b) May use an addendum to NDOI Form 901 to obtain the information necessary to satisfy the requirement until NDOI Form 901 has been revised to include a request for such information.

3. As used in this section, the words and terms defined in NRS 629.095 have the meanings ascribed to them in that section.

(Added to NAC by Comm'r of Insurance by R026-04, eff. 7-1-2004)

PROPOSED RECOMMENDATIONS

Recommendation 1

We suggest the following revisions to NAC 679B.0405:

- Amending number two by adding a part (c) which states: May not include prohibited application questions. An application for provider credentialing must not:
  (1) require the provider to disclose past health conditions;
  (2) require the provider to disclose current health conditions, if they are being treated so that the condition does not affect the provider's ability to practice medicine; or
  (3) require the disclosure of any health conditions which would not affect the provider's ability to practice medicine in a competent, safe, and ethical manner.

- Add regulation to include: Each insurer, carrier, society, corporation, health maintenance organization and managed care organization [*as of the date this is accepted*] shall amend its licensure, certification, and registration applications to remove any existing questions pertaining to mental health conditions and impairment and to include the following questions:

  (i) Are you currently suffering from any condition that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No) and

(ii) Do you have any mental or physical condition that currently impairs your ability to practice medicine or to exercise the particular privileges that you have requested? If so, do you believe that, with reasonable accommodation, you will be able to provide safe, competent medical care meeting the standards of your particular specialty and the specific privileges and status that you seek?"

(iii) Rather than asking questions about disclosure of a past substance use disorder using: "Are you currently suffering from any condition that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner? (Yes/No)."

- Add regulation which states: Each insurer, carrier, society, corporation, health maintenance organization and managed care organization must submit their copy of this form that they are using annually to [email they will be directed to] to ensure compliance with the above referenced requirements.

- Include words and terms as the final item of the regulation.

This is critical because in our attempt to review the credentialing forms used in the state we found that a significant number of organizations do use the Standard Credentialing Application and some modify it. We were not able to obtain all of the documentation or have all of it reviewed but have gathered what we could given the time constraints and limitations around accessing these documents to show the need for this change. This question was included as something to be addressed by the attorney at the American Medical Association who reviewed the Nevada Standard Standard Credentialing Application he stated, "The first specific question, however, is how widely is this application used given that it appears to be from 2016. Are NV hospitals and health systems allowed to make changes? What additional language have NV hospitals and health systems adopted?"

These changes would ensure that previous iterations of the document are now aligned with removing invasive health questions and that no new invasive mental health questions are added. And additionally, this will ensure that organizations are submitting the form annually to be reviewed to ensure compliance.

Recommendation 2

We recommend the state provide financial support as a state line item in the budget for an autonomous and independent 501c3 that supports physician wellbeing initiatives, specifically the Nevada Physician Wellness Coalition. This will support critical aspects of healthcare, safety and quality outcomes by focusing on the well-being of physicians throughout the state with the

intention of retaining physicians, growing our physician workforce, and keeping physicians practicing at full time capacity for longer into their careers.

Supporting Reasons for this Recommendation:

In addition to the issues surrounding licensing and credentialing it is also imperative to consider what can be done to reduce burnout and to prevent mental health issues from occurring in the first place or worsening. The culture of silence in medicine has formed because of the stigma about mental health and fear of licensure as previously discussed but it also exists because of the fear of seeking help through institutions that may govern or employ a physician. For example physicians are very unlikely to use an Employee Assistance Program through their workplace for fear of repercussions. They may also have fear of a colleague finding out they are struggling. This begs the question: what can be done?

The current landscape of resiliency treatment and prevention for the physician population is a work in progress. For this reason, following two physicians who died by suicide in 2018 in Northern Nevada, a group of physicians formed the independent and autonomous 501c3 called the Nevada Physician Wellness Coalition (NPWC) to address some of the challenges of physician burnout and to provide resources in order to care for our caregivers who give so much of themselves to protect our community. The mission of the organization is to "address the devastation and negative community impact of physician burnout and suicide." Based on input from physicians, medical staff, and the studies mentioned above they have developed and offer programming across the spectrum of acuity statewide to address the highly sensitive nature of physician burnout and associated stigma. NPWC operates independent of regulatory and licensure bodies, medical societies, as well as where a physician may be employed. As an autonomous entity, NPWC serves Nevada physicians, medical students, and families—regardless of place of employment or employment status.

This organization was formed around 4 pillars:

1) Independence: In order to cultivate psychological safety where physicians can share freely, NPWC is committed to remaining an independent entity that does not have affiliation with any particular hospital systems, boards, or governing bodies.

2) Safety & Trust: Creating spaces that are emotionally & psychologically safe for physicians to engage in.

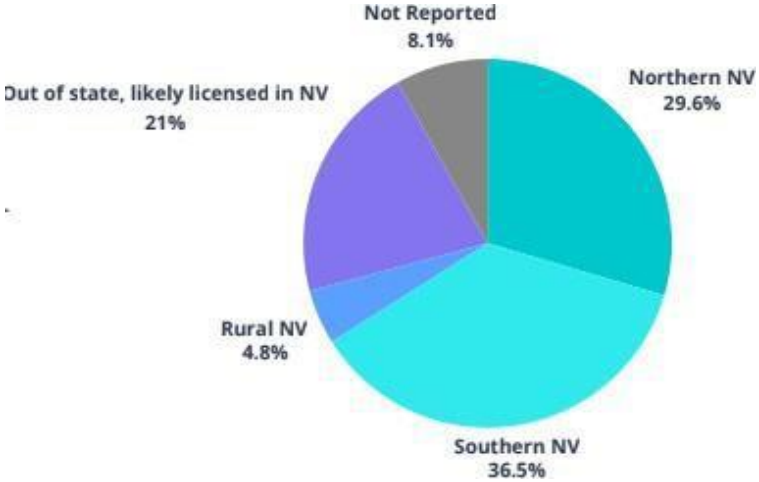
3) Evidence-Based Tools: Utilize evidence-based tools that create change remaining committed to moving the needle on physician burnout and suicide.

4) Connection & Community: Facilitate meaningful connections between physicians; these connections contribute to destigmatizing burnout and stress, build a sense of

community and belonging - the lack of which is causative for moral injury, and contribute to overall wellness.

The NPWC collaborates with most hospitals in Northern Nevada and the Tahoe and Gardnerville region and are currently developing relationships with hospitals in Southern Nevada. The coalition actively collaborates with the Nevada State Board of Medical Examiners and most every organization in the state that works with physicians. In addition they collaborate with UNR and UNLV Schools of Medicine to support physicians in training in establishing foundational pathways for flourishing future career paths. They are a board composed mostly of physicians that work to provide ways to increase well-being and joy in practice and to address higher levels of acuity of burnout and depression through their resources and connecting physicians and their employers to existing resources. They provide evidence-based well-being programs and they also provide a Physician and Physician Family Resource Line staffed by psychologists who specialize in physician stress, one in Northern Nevada and one in Southern Nevada. Additionally, when grant funding is available, they offer additional services to address the systemic root causes of burnout such as providing a Hospital Leader Wellbeing Training Program. They are also actively providing training for a Peer-to-Peer Program throughout the state to ensure there are more peers that are trained to support their colleagues. Since inception, the organization has seen tremendous growth having had 1410 unique individual MD/DOs register for programs which is 19% of the physician population in Nevada over the course of three years, the majority of whom attend multiple sessions. They have had a total of 1955 clinicians register for programs as they do not turn away other health care providers and offer CME to all. The number of registrants year over year has increased by 50% from 2021 to 2022 and again from 2022 to 2023. With the challenge in engaging clinicians, these numbers are impressive and the NPWC consistently outperforms national organizations.

The geographical makeup of their attendees includes:



Tait Shanafelt, MD, is an expert on this topic and has been a leading researcher when it comes to physician well-being and what can be most effective in addressing the problem. In a Mayo Clinic article co-authored by Shanafelt, they propose "a professional well-being–focused population health approach for physicians that modifies the traditional framework. The approach expands selective prevention to include individuals at higher-than-average risk for work-specific distress (burnout) and indicated intervention to include individuals who are already experiencing significant levels of burnout. Focus on work-specific distress may provide a gateway to mental health promotion for physicians who otherwise may avoid treatment for mental health issues due to stigma and related fear of adverse professional consequences. The ideal population health approach to advance physician well-being will include organization and individual physician level needs assessment to drive tailored interventions at both levels."[18] The NPWC addresses both levels: the organizational level and the individual level. NPWC programming creates a space to connect with other physicians about their well-being and helps them realize that they are not alone in their challenges and also they acquire tools and resources to support their well-being.

While having an organization like this in Nevada to help address burnout is critical, and has been highly utilized, the funding has been challenging. They have predominantly been funded by hospital sponsorships which can wane as funding and leadership changes occur. More recently they have received funding from some of the Managed Care Organizations in the State which has allowed them to expand staff time and increase programming like the Leadership Training and Peer Support programs. At the moment there is still only enough funding for just over 1 Full Time Equivalent employee. With the growth and utilization of this organization they will need to continue to expand to serve the state and support retention and flourishing in medicine that will translate to improved care outcomes for our growing population.

As aforementioned, the tragic current state data represents the dire need for change and is widespread. Less known are the lives saved, supported, and better guided. With the recommendations stated here, we will directly impact the data to reverse the trend of poor outcomes at all levels- from physician to patient joining the ranks of several states in our nation committed to valuing every individual's life and livelihood. We believe that these changes will support the statewide goal of retention and well-being of the physician population which will in turn positively impact patient safety, health outcomes and access to care. We thank you for your time and consideration.

[18] Trockel M, Corcoran D, Minor LB, Shanafelt TD. (2020). *Advancing Physician Well-Being: A Population Health Framework*. Mayo Clinic. https://doi.org/10.1016/j.mayocp.2020.02.014