IMPAIRED QUESTIONS ON APPLICATIONS: LEGAL AND POLICY CONSIDERATIONS

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I'm a lawyer, not your lawyer.
Patient safety → healthcare professional physical and mental wellbeing is crucial so they can provide the highest quality of care to patients.

Are the impairment questions having an unintended consequence of healthcare professionals not seeking care for fear of losing their license?

Are we compliant with the Americans with Disability Act ("ADA")?
GUIDANCE FOR ANALYSIS OF IMPAIRMENT QUESTIONS

1. Questions should inquire only about conditions that currently impair the applicant/licensee’s capacity to function as a licensee.

2. American Psychological Association (“APA”) and other organizations strongly encourage use of present tense in application questions.

3. “Have you ever” questions (with no time limitation) are not ADA compliant.

4. Hypothetical questions are inconsistent with ADA standards.

5. APA recommends licensing bodies not ask applicants questions about past diagnosis and treatment of mental disorders. Instead focus on current impairment and not illness, diagnosis, or previous treatment in order to be ADA compliant.
KANSAS UNIVERSAL IMPAIRMENT QUESTION

Do you currently have any physical or mental health condition (including alcohol or substance use) that impairs your ability to practice your profession in a competent, ethical, and professional manner?

(Yes/No)
PLAN OF ACTION

- Review
- Change
- Communicate
• APA, Position Statement on Inquiries about Diagnosis and Treatment of Mental Disorders in Connection with Professional Credentialing and Licensing, Position Statement 2 (2018).


• APA, Position Statement on Inquiries About Diagnosis and Treatment of Mental Disorders in Connection with Professional Credentialing and Licensing (2015).

• FSMB, Physician Wellness and Burnout: Report and Recommendations of the Workgroup on Physician Wellness and Burnout, Adopted as Policy (2018).

• Dr. Lorna Breen Foundation, available at https://drlornabreen.org.