

**2025 HEALTHCARE DELIVERY &
INNOVATION CONFERENCE**

**Navigating the Challenges of Advising
Health Care Practitioners and Entities
Regarding Provider Impairment,
Confidential Treatment Programs, and
Licensure and Credentialing Reviews**

Presenters / Moderator

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Presentation Agenda

- Defining Impairment and its Sources
- Barriers to Treatment
- Historical Regulatory Approach to Addressing Provider Impairment
- Representing and Defending Providers
- Professionals Health Programs and Disciplinary Alternatives
- Mandatory Reporting
- Other Recent Evolutions and Current Best Practices
- Reflections and Questions

Impairment and Ability to Practice

- Legal definition v. clinical definition of impairment – is there a difference?
- SUD v. mental health condition v. physical disability or similar compromise
- Increase in burnout from Covid-19 pandemic and/or practice dissatisfaction
- Higher rates of suicide, alcohol misuse, diversion, mental health conditions, etc.
- Why is this important to health care attorneys and our clients?

What barriers deter health care professionals from seeking treatment?

- Stigma
- Fear and denial
- Uncertainty with how to get help
- Possible license action
- Credentialing and employment scrutiny, including peer review

How have licensing boards and credentialing entities historically addressed health care professionals experiencing impairment?

- Typical investigation approaches
- Evaluation and/or treatment requirements
- License discipline, including direct and tangential consequences, such as NPDB reports, credentialing denials, and loss of board / diplomate certification(s)

Strategies for representing and defending professionals in impairment investigations and license disciplinary proceedings

- Early intervention with facilitating evaluation and treatment
- Understanding what information and records are and are not protected and/or confidential
- Developing mitigation
- Proving fitness for practice

Professional health programs (PHPs) and other alternatives to license discipline

- Confidential monitoring and safe haven programs
- Nonprofit entities v. licensing agency alternative programs
- Typical treatment and monitoring conditions
- Improved outcomes for participating providers

Mandatory reporting and disclosures

- Licensing and credentialing applications
- Provider and organizational duties to report known or suspected violations of Medical Practice Act
- Warranties in provider agreements and contracts
- Employment policies and bylaws

Evolving approaches

- Greater awareness of disability discrimination
- Removal of intrusive questions on licensing and credentialing applications
- Dr. Lorna Breen Heroes' Foundation and other advocacy groups
- Other best practices

Top 5 Legal Takeaways for Healthcare Attorneys

1. *Impairment is a Legal Hazard* – Regulators increasingly treat unmanaged stress, substance use, or mental health conditions as compliance and liability issues.
2. *Mandatory Reporting & Disclosures* – Applications, contracts, and bylaws often require disclosure; misrepresentation or omission carry severe consequences and can be more damaging than disclosure.

3. *Confidentiality Limits* – Not all records or communications are protected; attorneys must guide clients on what is privileged versus reportable.
4. *Alternatives to Discipline Matter* – Safe haven programs, nonprofit monitoring, and treatment alternatives often yield better outcomes for providers.
5. *Evolving Legal Standards* – Disability protections, advocacy, and removal of intrusive questions reflect a shift toward more supportive approaches.

Questions