



Confidential Care to Support Physician Health and Wellness *Toolkit Part 2: Confidential Physician Wellness Programs*

State Advocacy

Chapters are in excellent positions to advocate for legislative or regulatory changes that create safe spaces for physicians and other health care professionals to seek and obtain confidential care in ways that would not impact their careers.

At least four states (Virginia, South Dakota, Indiana and Arizona) have enacted laws specifically intended to protect physicians seeking help with career fatigue and wellness.¹

These new laws enable physicians, who may avoid seeking help in other programs because of the fear of potential negative repercussions, to get the help they need.

State	Year	Summary of Bill	Entire Bill
Virginia	2020	H.B. 115	H.B.115
South Dakota	2021	H.B.1179	H.B.1179
Indiana	2021	S.B. 365	S.B. 365
Arizona	2022	H.B. 2429	H.B. 2429



Tip: Each law uses the phrase 'career fatigue and wellness' rather than 'burnout.'

The four bills provide qualified immunity for wellness programs and persons, facilities and organizations participating in wellness programs in the following ways:

- Virginia's H.B. 115 expands civil immunity for health care professionals who are members or consult with entities that review, evaluate or make recommendations about health care services.² These individuals include health care professionals who are members or consult with entities that address physician career fatigue and wellness issues.
- South Dakota's H.B. 1179 provides civil immunity to any person, agency, institution, facility or organization employed, contracted or operating a physician wellness program if they act in good faith.³
- Indiana's S.B. 365 specifies that wellness programs and their participants may not be named as a party in a civil lawsuit in connection with certain actions taken as representatives of the wellness program if they acted in good faith.⁴
- Virginia's H.B. 115 also clarifies that for a physician participating in a physician health program that addresses career fatigue or wellness, if there lacks reasonable evidence that the physician is not competent to continue in practice or is a danger to themselves, patients or the public, then participation in such a PHP would not trigger a requirement that the physician be reported to the state (e.g., the state medical board).²
- Indiana's S.B. 365 states no wellness program personnel or participant may reveal or disclose the wellness program's communication, records or determination to anyone outside the program.⁴ A physician's participation in a wellness program does not require reporting their participation to the medical board.
- South Dakota's H.B. 1179 keeps confidential any records of a participant in a physician wellness program unless the physician voluntarily provides a written release of the information or disclosure is required to meet a physician's obligation to report a criminal charge or action, or unprofessional or dishonorable conduct.³



- Arizona's H.B. 2429 also keeps confidential a health professional's record of participation in a wellness program, and the record is not subject to discovery, subpoena or a reporting requirement to the regulatory board unless:
 - The health professional voluntarily provides a written release of the information; or
 - The disclosure is required to meet a person's obligation to⁵:
 - Report criminal conduct.
 - Report an act of unprofessional conduct.
 - Report that the health professional is not able to practice safely.
 - Warn an individual of an imminent threat of harm.

AMA Model Bill: Physician Health Programs Act

The AMA's [Physician Health Programs Act](#) is a model bill developed for state advocates to enhance protections for the public.⁶ It provides "confidential and professional support to physicians and other health care professionals who have a potentially impairing substance use disorder, mental health condition, or other medical disease that may adversely affect the physician's or other health care professional's ability to safely and effectively treat patients."

The Federation of State Physician Health Programs further summarizes the model bill with the following⁶:

"Effective physician health programs (PHPs) have confidential referral, evaluation, and treatment protocols to help ensure that physicians and other health care professionals who need treatment can receive it with the goal of ongoing care and return to professional practice."

"This Act takes much of its language from existing statutes with the intent to appropriately detect potentially impairing conditions early in their course, evaluate and treat physicians and other health care professionals to enhance the health of the provider and thereby better ensure public safety. Effective PHPs rely on clinical guidelines and treatment protocols from professional associations, including the American Society of Addiction Medicine, American Academy of Addiction Psychiatry, American Psychiatric Association and the Federation of State Physician Health Programs. Physicians and other health care professionals who have received assistance, guidance and treatment through a PHP have successfully stayed in recovery and advanced their professional careers."

Aspects of the Model Bill

The model bill should educate policymakers on the importance of the issues and includes the following sections⁶:

- *Defining terms.* The model bill provides definitions to terms, so advocates are writing and speaking in a cohesive language about such concepts as mental health disorder, professional incompetence, substance use disorder, impairment and others.
- *Authorizing for a PHP.* The model language provides that an authority would work with licensing boards and provide peer review protection for services the PHP delivers to its participants.
- *Applying to a PHP for voluntary assistance and guidance.* The model act includes language to adopt for a confidential process by which physicians or other health care professionals can voluntarily request participating in a PHP. The model language also states that



voluntary participants are not required to disclose their participation as a condition of participation, employment, credentialing or other situations.

- *Referring to a PHP.* The model act includes language that provides authority for, and protections to, a physician when they refer a colleague to a PHP with full confidentiality protection. Protections are predicated on the referring professional's reasonable belief that a colleague needs the help of the PHP.
- *Agreeing with the licensing board.* The model language provides provisions to coordinate with state licensing boards. This includes language to allow boards the authority to facilitate agreements with the PHP(s). It also provides authority to the boards to refer licensees to the PHP and allows the PHP to refer non-compliant physicians and other health care professionals to the boards.

There are more than 20 citations in the model act for advocates and policymakers to learn more about the benefits of a PHP.

Advocacy Resources

- [Sample Letter](#) (on Physician Health Programs)
- [Talking Points](#) (on Confidential Care to Support Physician Health and Wellness)
- Social Media Infographic (*available upon request from the Center for State Policy*)

AAFP Position Papers and Policies

- [Family Physician Burnout, Well-Being, and Professional Satisfaction](#) (AAFP position paper)
- [Learner Access to Mental Health Services](#) (AAFP policy)
- [Medical Learner Safety and Wellness During Pandemic Crisis](#) (AAFP policy)

Additional Resources

[AMA Model Bill, Physician Health Program Act](#)

The model act enhances protection for the public by providing confidential and professional support to physicians and other health care professionals with a potentially impairing substance use disorder, mental health condition or other medical disease that may affect their ability to safely and effectively treat patients.

[2022 Survey of America's Physicians](#)

Part Two of Three: Understanding the State of Physicians' Wellbeing and Assessing Solutions to Address It

[Addressing Health Worker Burnout](#)

The U.S. Surgeon General's Advisory on Building a Thriving Health Workforce

[AMA STEPS Forward Program](#)

The AMA STEPS Forward® offers real-world solutions to your practice's challenges through practice innovation strategies. It contains tools to help overcome barriers and restore the joy in medicine.

References

1. American Medical Association. ARC issue brief: confidential care to support physician health and wellness. Advocacy Resource Center. Accessed July 31, 2023. <https://www.ama-assn.org/system/files/issue-brief-physician-health-wellness.pdf>



2. Virginia's Legislative Information System. HB 115 Health care providers, certain; program to address career fatigue and wellness, civil immunity. Accessed July 31, 2023. <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB115>
3. South Dakota Legislature Legislative Research Council. 2021 South Dakota legislature. House Bill 1179. Accessed July 31, 2023. <https://sdlegislature.gov/Session/Bill/22344/218749>
4. Indiana General Assembly. Senate bill 365. Immunity for physician wellness programs. Accessed July 31, 2023. <https://iga.in.gov/legislative/2021/bills/senate/365/details>
5. Arizona Legislature. HB 2429. Accessed July 31, 2023. <https://www.azleg.gov/legtext/55leg/2r/bills/hb2429p.htm>
6. Federation of State Physician Health Programs. AMA model bill: Physician Health Programs Act. Accessed July 31, 2023. <https://www.fsphp.org/ama-model-bill-physician-health-programs-act>