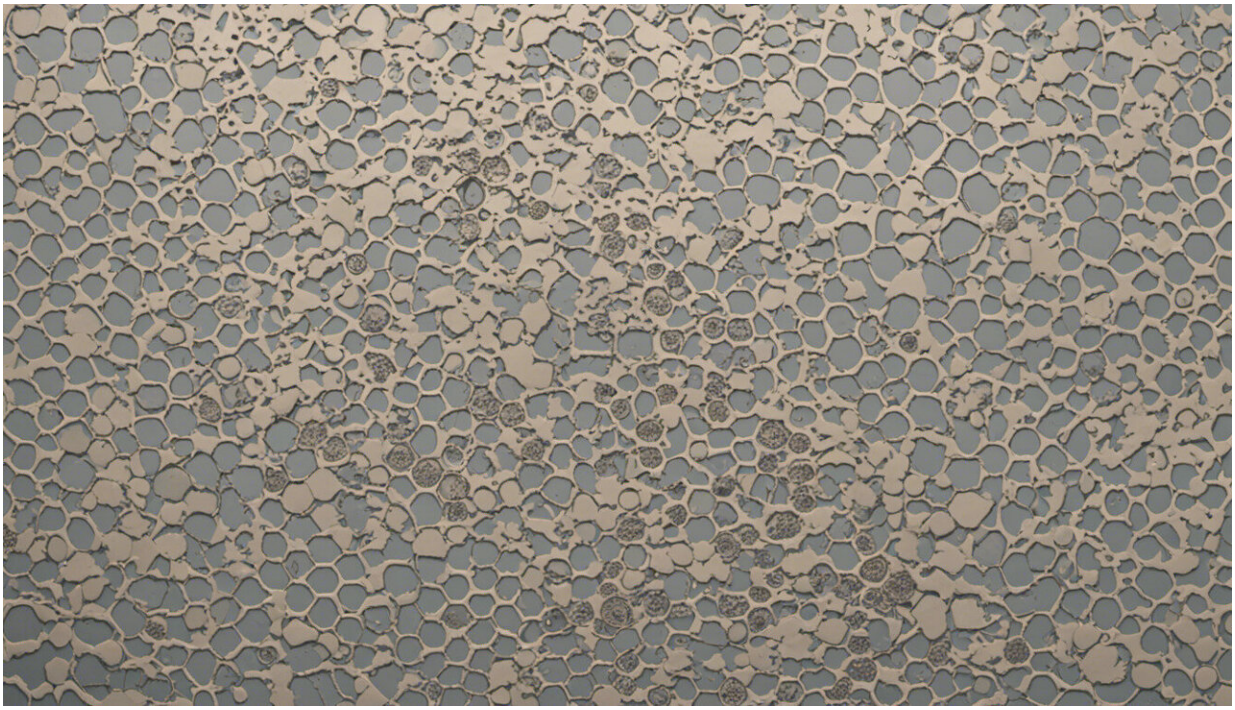
Do programs to help doctors with substance abuse treat them fairly?

October 21 2016, by J. Wesley Boyd



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If a doctor has a substance abuse issue (or is suspected of having one) or needs mental health care, he or she is often referred to something called a Physician Health Program (PHP). In principle, these programs are intended to help doctors with substance abuse disorders and mental health problems.

But that's not always what happens.

I teach psychiatry and bioethics at Harvard Medical School and work with physicians who have substance use disorders. And for six years I was an associate director for the Massachusetts PHP. During my tenure I began to have doubts about PHP standard operating procedures.

Since then, I have taken a closer look at how PHPs work across the country, publishing papers in medical journals analyzing their lack of due process, the conflicts of interest and lack of oversight. I have also served as expert consultant in an audit of North Carolina's PHP and am serving as an expert witness in a class action lawsuit filed against Michigan's PHP.

Why should you care about this issue? Because some good doctors are being prevented from practicing medicine and others may be forced to go through a deeply unfair process to keep their license.

How does a PHP work?

Many PHPs had humble origins in the 1970s, with doctors reaching out to help other doctors. Over time they became more and more formalized, eventually evolving into corporate entities with close ties to their state boards of medicine, as well as to an array of evaluation and treatment centers across the country. At present, 47 states have PHP programs.

If a physician seems impaired in some way in the workplace – behaving erratically or smelling of alcohol, for example – then a clinic chief or chief medical officer might demand that the physician meet with someone in the state PHP. Or, if the state licensing board gets wind of a potential problem, they too might insist that a physician meet with a PHP.

After an initial meeting with the PHP, physicians are often referred for a four-day evaluation, which can cost as much as US$4,500 and is generally not covered by insurance.

I've also found that many PHPs, even in states with excellent medical schools, refuse to allow academic physicians or other highly trained specialists to perform these evaluations. Instead, PHPs insist that physicians go to "preferred evaluations centers," which very frequently have financial ties to PHPs and a significant financial incentive to insist on more treatment.

As a clinician, I have never seen any four-day evaluation produce anything substantively different than I could glean after meeting with a client for one to two hours, obtaining a urine or hair sample for drug testing, speaking with people who know and work with them, and then conferring with my own colleagues if needed.

From evaluation to treatment

If substance abuse is suspected – and sometimes even if it's not – the evaluation center will often recommend up to 90 days of inpatient treatment, which can cost as much $50,000 or more. Many of these evaluation centers also offer treatment. Like the initial evaluation, this is usually not covered by insurance, generally because coverage for substance abuse and mental health services tends to be poor. But another reason insurers might state is the lack of scientific evidence to support this length of treatment. There are no compelling scientific reasons to insist on 90 days of treatment instead of 30.

If a physician balks at the cost, centers often offer to set up a payment plan. These centers have a financial incentive to have as many of their evaluees stay for treatment as possible. As I discovered several years ago when I began looking closely into the ethical issues surrounding PHPs,

many of these evaluation centers depend on PHP referrals to remain financially viable. Given their financial interdependence, all of these interactions between PHPs and these centers should be scrutinized, although to date little has been forthcoming.

When evaluation centers report their findings and recommendations, the PHP then usually adopts those same recommendations as its own for the client. If the physician fails to follow any or all of these recommendations, the PHP then often reports the physician to the state board of medicine for noncompliance. In these cases the medical board often suspends the physician's license to practice.

In addition, there are very few ways for a physician to meaningfully object to a PHP recommendation. The result is that physicians generally have to fully comply with any and every PHP recommendation, no matter how punitive or costly, if they want to have a chance at continuing to practice medicine.

Ultimately PHPs have tremendous power over physicians who have been referred to them and are rarely subject to any genuine oversight. In some states, the medical society or board of medicine is charged with overseeing the PHPs. However, the reality as I know from both my personal experience and research, is that they often receive very little external scrutiny.

Even though PHPS generally tout success rates of 75-80 percent, these high rates could be due to the fact that physicians are better educated and of a higher socioeconomic status than most who enter rehabilitation programs.

Additionally for physicians in these programs, the stakes for either failure or success are quite high. Also, there is no reason to think that physicians wouldn't do just fine in general treatment programs, no

matter their specific professional focus.

Criticism of PHPs is growing

I'm not the only one raising questions about PHPs. A recent story on Medscape, a news and information website for physicians, asked whether PHPs are doing more harm than good. Another in the Daily Beast raised questions about conflicts of interest and whether the care recommendations PHPs make are suited to physicians with mental health problems. And more recently, an article in the British Journal of Medicine asked whether doctors were being forced into treatment programs unnecessarily.

A state audit of North Carolina's PHP (for which I was an expert consultant) found that there was a lack of due process for physicians, poor oversight and potential financial conflicts of interest.

And Michigan's PHP is now the subject of a class action lawsuit alleging that health care personnel without true substance abuse were involuntarily subjected "to excessive and unnecessary treatment for substance abuse" and had their licenses suspended if they did not comply. As noted above, I am expert witness in this suit.

National standards are badly needed

Make no mistake: If a physician is impaired, he or she ought to be compelled to undergo treatment and be deemed safe to practice by a reputable entity prior to being allowed to return to work. Anything short of that would endanger the public as well as the physician.

But in my view the process of evaluating that individual ought to be transparent, fair, free of bias, not driven by a profit motive and have

legitimate avenues of appeal if the physician feels he or she has been treated unfairly.

National standards are overdue. External audits of PHPs, such as occurred in North Carolina, need to become normative. The use of evaluation and treatment centers with close financial ties to PHPs needs to cease. Effective means of appeal outside of PHPs needs to be implemented.

Doctors need to know that recommendations and mandates they receive for suspected or actual impairment are fair. Right now that is simply not the case.

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