Asking NCLEX Applicants to Disclose Mental Illness
Addressing Structural Stigma and ADA Compliance

“Dr. Halter, can I speak with you for a few minutes?” I recognized the student at my door as Ashley, a senior in the baccalaureate nursing program. “Sure,” I responded, “Come on in and have a seat.”

Ashley poured out the reason for her visit. “I was filling out the application for taking the NCLEX [National Council Licensure Examination]. When I got to the questions about mental illness, I completely freaked out! About 5 years ago, I had a manic episode and was treated for bipolar disorder. I’ve been on medication since and haven’t had any problems.”

She sobbed, “I’ve worked so hard. Does this mean I can’t be a nurse?” I responded, “You can be a nurse. I have never heard of anyone not taking state boards because of those questions.”

We talked some more about the bipolar episode and what it was like for her and her family. Ashley seemed reassured and added that she was required to provide documentation of her diagnosis and all treatment. She planned to drive to an adjacent state to get copies of the treatment records.

Over the next couple of years, Ashley’s visit played out several more times. These visits sparked my decade-long interest in the topic of mental health questions on state nursing board applications. My doctoral dissertation and subsequent research focused on the concept of stigma, including personal stigma, societal stigma, and stigma by association. Addressing the issue of structural stigma was a natural extension of this work.

In 2014, I contacted the state nursing board to discuss my concerns, beginning with the purpose of asking specific mental health questions. The staff member replied, “We collect that information to protect the public.” I continued, “What do you do with the information?” She said, “Nothing, we keep it on file.” To which I replied, “If you don’t do anything with it, then why collect it?” The board employee responded indirectly, noting that the medical board used the same questions.

That same year, a letter was released by the U.S. Department of Justice (DOJ; 2014) addressing the issue. The letter focused on the legal profession whose bar applications had come under scrutiny. The DOJ alleged that asking questions about mental health, including history of diagnosis and treatment, could violate the Americans with Disabilities Act (ADA; 1990). The DOJ recommended omitting questions pertaining to mental illness or, at most, limiting questions to current functional status.

I shared the article with psychiatric nurse colleagues and asked for their advice on how to proceed. Grayce Sills, a name that many readers recognize and respect, gave a short reply, “Get [your state nurses association] involved. Ask [your national specialty organization] to poll the chapters for other states’ experiences.”

I took Grayce’s advice about the state association, especially as I had been active in health policy work with them. One staff member was interested in the project, “Interesting stuff. I will keep going.” Eventually, she was able to put the issue on the agenda of the state nursing board’s open forum. The inclusion of this controversial agenda item resulted in the state’s general council issuing a memorandum to the board. It read, in part, “...we have asked that the [state’s] Attorney General’s Office review whether, in light of the DOJ letter, the Board should consider making changes to its application questions” (personal communication, H. Fischer, May 8, 2014).

After the board open forum, my association contact wrote of the experience of addressing the state board of nursing. She said, “I tried to emphasize the need for research as the mental health questions lack...evidence that they really protect the public. We will wait and see what we hear from the board. And so, we’re off!” (personal communication, K. Morris, May 16, 2014).

Unfortunately, we weren’t. Despite the DOJ letter and the testimony provided at the open forum, there were no changes made to the application questions. My contact at the nurses association retired shortly after. A significant personal loss complicated my own life, my energy went in other directions, and I put this issue on the back burner.

Three years went by. Fred Frese, a psychologist, who is best known for...
his work on recovery and mental illness stigma, contacted me. He and his colleagues had reviewed psychology licensure questions for ADA acceptability and their manuscript was published (Jones, North, Vogel-Scibilia, Myers, & Owen, 2018). His friend, James Jones, a professor of law at the University of Louisville, had done the same work by examining medical board applications. Jones was seeking a nurse collaborator for another study he was planning to review pre-licensure nursing applications. I was in.

Before the review even began, James became seriously ill and was unable to participate in the study. Still, he had inspired me and provided the momentum I needed. Along with a nursing colleague, a practicing psychiatrist/lawyer, and two graduate students, we replicated the studies already done in law, psychology, and medicine.

The publication of our nursing application review in this issue of the Journal of Psychosocial Nursing and Mental Health Services is the culmination of years of consideration and conviction (Halter, Rolin, Adamaszek, Ladenheim, & Hutchens, 2019). We hope that this publication will gain the attention of hard-working and well-intentioned nursing boards. Some boards may have already modified application questions during the lag of research-to-publication.

We had the opportunity to present a poster of this work last year at a national psychiatric nurses conference. Participants were intrigued to see where their states fell in the rankings of ADA acceptability for mental illness questions. Several said they would contact their own state boards.

In closing, I hope that Ashley, the student who first called my attention to mental illness questions on the board application, passed the NCLEX and went on to a productive career. I also hope she reads this editorial and recognizes herself at the heart of it. Ashley (not her real name), if you’re out there, drop me a line. I’d love to hear from you.

REFERENCES


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