



Medical Ethics: Physician Burnout and Physician Autonomy. Who is Treating the Patient?

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DISCLOSURES

I do not have any
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MEDICAL ETHICS: PHYSICIAN BURNOUT AND PHYSICIAN AUTONOMY. WHO IS TREATING THE PATIENT?

LEARNING OBJECTIVES:

- ▶ Definition of Physician Burnout
- ▶ Contributing factors of Physician Burnout
- ▶ Consequences of Physician Burnout
- ▶ Physician Autonomy as The Primary Factor for Physician Burnout
- ▶ Create Standards of Medical Ethics and Rules of Professional Conduct to GET BACK Physician Autonomy

PHYSICIAN BURNOUT: DEFINITION

A condition in which physicians lose satisfaction and a sense of efficacy in their work

2006 STUDY ON ADOPTION OF MEDICAL RECORDS BY PHYSICIANS NOTED:

- ▶ “[C]OLLECTIVELY, THE MEDICAL COMMUNITY'S SOCIAL MECHANISMS THAT INFLUENCE ADOPTION DECISIONS VIEW EHRS AS A POTENTIAL THREAT TO PROFESSIONAL AUTONOMY. THIS MAY BE PARTICULARLY TRUE AMONG PHYSICIANS IN SMALL PRACTICES WHO VALUE THE FREEDOM AND AUTONOMY THEY PROVIDE.”

- ▶ (FORD, ERIC W ET AL. “PREDICTING THE ADOPTION OF ELECTRONIC HEALTH RECORDS BY PHYSICIANS: WHEN WILL HEALTH CARE BE PAPERLESS?.” JOURNAL OF THE AMERICAN MEDICAL INFORMATICS ASSOCIATION : JAMI VOL. 13,1 (2006): 106-12. DOI:10.1197/JAMIA.M1913. [HTTPS://WWW.NCBI.NLM.NIH.GOV/PMC/ARTICLES/PMC1380189/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1380189/))

“FACTORS AFFECTING PHYSICIAN PROFESSIONAL SATISFACTION AND THEIR IMPLICATIONS FOR PATIENT CARE, HEALTH SYSTEMS, AND HEALTH POLICY” (2013)

- ▶ A study conducted by the American Medical Association in conjunction with the RAND Corporation confirmed the demoralization of physicians because of EHRs interfering with their ability to provide quality medical care to their patients

“A CRISIS IN HEALTH CARE A CALL TO ACTION ON PHYSICIAN BURNOUT” (JAN. 2019)

Major Contributor to physician burnout
: “dissatisfaction and frustration with EHRs”

- ▶ (Ashish K. Jha, MD, MPH, Andrew R. Iltis, MA, JD, Alain A. Chaoui, MD, FACP, Steven Defosse, MD, EMHL, Maryanne C. Bombardieri, MD, MSc, MBA, Yael R. Miller, MBA, A Crisis in Healthcare: A Call To Action On Physician Burnout, Partnership with the Massachusetts Medical Society, Massachusetts Health and Hospital Association, Harvard T.H. Chan School of Public Health, and Harvard Global Health Institute, January 2019, 4, <http://www.massmed.org/News-and-Publications/MMS-NewsReleases/Physician-Burnout-Report-2018/>.)

"THE INFLUENCE OF ELECTRONIC HEALTH RECORD USE ON PHYSICIAN BURNOUT: CROSS-SECTIONAL SURVEY" (JULY 2020)

- ▶ Conclusion: This study suggests that the use of EHRs is a perceived contributor to physician burnout.

EHR Implementation Background

- ▶ **INSTITUTE OF MEDICINE (IOM):**
- ▶ **CHARTER :** EXAMINE POLICIES RELATED TO THE HEALTH OF THE PUBLIC WITH AN ADVISORY ROLE :TO THE FEDERAL GOVERNMENT ON PROBLEMS IN THE FIELDS OF MEDICAL CARE, RESEARCH, AND EDUCATION
- ▶ **1991 STUDY:** INSTITUTE OF MEDICINE COMMITTEE ON IMPROVING THE PATIENT RECORD IN RESPONSE TO INCREASING FUNCTIONAL REQUIREMENTS AND TECHNOLOGICAL ADVANCES
- ▶ **RECOMMENDATION:** "PROMPT DEVELOPMENT AND IMPLEMENTATION" OF WHAT WE NOW KNOW AS ELECTRONIC HEALTH RECORDS

1991 IOM Committee:

▶ **Conclusions:**

- ▶ EHRs WERE A "... KEY INFRASTRUCTURAL REQUIREMENT TO SUPPORT THE INFORMATION MANAGEMENT NEEDS OF PHYSICIANS, OTHER HEALTH PROFESSIONALS, AND ... LEGITIMATE USERS OF AGGREGATED PATIENT INFORMATION."
- ▶ PHYSICIANS PERCEIVED ANY "EXTERNAL ATTEMPTS AT INSTITUTING CONTROLS AS AN ASSAULT ON ITS AUTONOMY"

IOM Committee (1997)

- ▶ THERE IS NOT, NOR IS THERE LIKELY TO BE, A SINGLE CPR (COMPUTER BASED PATIENT RECORD) PRODUCT THAT MEETS ALL THE NEEDS OF A PROVIDER ORGANIZATION.
- ▶ THEREFORE, ORGANIZATIONS SEEKING CPRS FACE SIGNIFICANT CHALLENGES IN INTEGRATING VARIOUS SYSTEMS TO ACHIEVE THE FULL FUNCTIONALITY THEY NEED.

IOM Committee (1997)

CHALLENGES:

- ▶ -BUILDING THE REQUISITE INFRASTRUCTURE,
- ▶ -OPTIMIZING THE AVAILABLE TECHNOLOGY (INCLUDING INTEGRATING VARIOUS SYSTEMS)
- ▶ -ADDRESSING ORGANIZATIONAL CULTURE AND CHANGE ISSUES
- ▶ - CONFRONTING FINANCING AND POLICY ISSUES.

PRESIDENT GEORGE BUSH
EXECUTIVE ORDER 13335 (APRIL 27, 2004)

- ▶ Established the Office of The National Coordinator For Health and Information Technology (“ONCHIT”)
- ▶ **ONCHIT provided:**
- ▶ - “leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care

PRO(TECH)T ACT) 2008

PROTECTING RECORDS, OPTIMIZING TREATMENT, AND EASING COMMUNICATION THROUGH HEALTHCARE TECHNOLOGY ACT

- ▶ Provided funding to be used as incentives for adopting Health Information Technology (“HIT”)
- ▶ Authorized the ONCHIT and set out its objectives
- ▶ -Released the Federal Health Information Technology Strategic Plan for 2008 to 2012 on June 3,2002 for Advancing President Bush's vision of Americans having access to Electronic Health Records by 2014

THE GREAT RECESSION

- ▶ THE LONGEST ECONOMIC CRISIS SINCE WORLD WAR II, BEGAN IN DECEMBER 2007 AND ARGUABLY ENDED IN JUNE OF 2009
- ▶ THE BURSTING OF AN 8 TRILLION DOLLAR HOUSING BUBBLE HERALDED THE GREAT RECESSION, AS HOMEOWNERS SOLD THEIR HOMES, DEFAULTED ON THEIR LOANS, OR CUT BACK ON SPENDING

AMERICAN RECOVERY AND REINVESTMENT ACT (“ARRA”) MANDATE (2009)

- ▶ \$789 BILLION DOLLAR ECONOMIC STIMULUS PACKAGE
- ▶ SIGNED IT INTO LAW ON FEBRUARY 17, 2009
- ▶ GOAL OF SAVING AND CREATING THREE TO FOUR MILLION JOBS
- ▶ -FEDERAL MANDATES MODERNIZING HEALTH CARE, IMPROVING SCHOOLS, MODERNIZING INFRASTRUCTURE, AND INVESTING IN CLEAN ENERGY TECHNOLOGIES OF THE FUTURE

AMERICAN RECOVERY AND REINVESTMENT ACT ("ARRA") MANDATE (2009)

- ▶ OKLAHOMA SENATOR TOM COBURN, (FAMILY PRACTICE PHYSICIAN):
- ▶ STIMULUS BILL WAS "90 PERCENT SOCIAL POLICY AND 10 PERCENT ECONOMIC POLICY."
- ▶ "... THIS "SOCIAL POLICY" WILL BE COUNTERPRODUCTIVE TO THE GOALS OF UNIVERSAL ADOPTION OF HEALTH IT BECAUSE IT WILL MIRE THE HEALTH CARE SYSTEM IN NEW BUREAUCRATIC RED TAPE."

AMERICAN RECOVERY AND REINVESTMENT ACT ("ARRA") MANDATE (2009)

▶ SENATOR COBURN :

- ↯ DOCTOR-PATIENT RELATIONSHIP ALTERED
- ↯ DECISIONS ABOUT THE USE OF MEDICAL TECHNOLOGIES, TREATMENTS, DRUGS, AND PROCEDURES BEING BASED ON CONTROLLING COSTS RATHER THAN THE INDIVIDUAL PATIENT AND DISEASE PROCESSES.

AMERICAN RECOVERY AND REINVESTMENT ACT (“ARRA”) MANDATE (2009)

▶ **MANDATE SPECIFIC TO HEALTH CARE:**

- ▶ -Health Information Technology For Economic And Clinical Health Act
- ▶ -The “HITECH” ACT Goal:
- ▶ Implement an Electronic Health Record (“EHR”) for each person in the United States and the Development of a Nationwide Health Information Technology Infrastructure that would allow for the electronic use and exchange of information

EHR ADOPTION

- ▶ **2001:** Only 18.2% of Office-based physicians were using any EHR systems
- ▶ **2008:** EHR adoption increased to 42%
- ▶ **2019:** CDC reports:
 - ▶ 89.9% of office-based physicians using any EMR/EHR system
 - ▶ 72.3 % of office-based physicians with a certified EMR/EHR system:
- ▶ **2022:** Complete adoption of EHRS by physicians has not occurred to this day

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2008:**

- ▶ 49% over the next 3 years they planned "to reduce the number of patients they see or stop practicing entirely."
- ▶ 67% stated that less time was spent per patient as a result of the non-clinical paperwork
- ▶ 60% of physicians would not recommend medicine as a career

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

- ▶ **2010:**
- ▶ 86% OF PHYSICIANS BELIEVED THEIR VIEWPOINTS AS PHYSICIANS WERE NOT REPRESENTED TO POLICY MAKERS RESPONSIBLE FOR HEALTH CARE REFORMS
- ▶ 40% OF PHYSICIANS STATED THEY WOULD NO LONGER PROVIDE PATIENT CARE IN THE NEXT ONE TO THREE YEARS AND INSTEAD WOULD OPT FOR RETIREMENT, NONCLINICAL HEALTH CARE JOBS, OR NON-HEALTHCARE RELATED JOBS

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ 2012:

- ▶ 82% of physicians believed they had little influence on the direction of Healthcare or ability to effect change
- ▶ 60% of physicians indicating that retirement would be an immediate option if they had the financial resources
- ▶ 10% of physicians indicated EHRs decreasing the quality of care in their practices
- ▶ 31% indicated EHRs either having no effect or improvement on the quality of care in their practices and did not foresee any improvements
- ▶ 4% of physicians indicated EHRs had decreased the quality of care but anticipated an eventual improvement

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2014:**

- ▶ 46% of physicians indicated EHRs detracted from their efficiency
- ▶ 24% of physicians indicated EHRs improved their efficiency
- ▶ 69% of physicians indicated they experienced a lack of clinical autonomy with their decisions sometimes or often compromised

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2016:**

- ▶ First year that questions regarding physician burn out were incorporated into the survey
- ▶ 49% of physicians indicated they often, or always experience burnout
- ▶ Multiple factors reviewed as contributing to physician's burnout. The primary two noted to be regulatory/paperwork burdens and erosion of clinical autonomy

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2018:**

- ▶ 50% of physicians indicated they often, or always experience burnout
- ▶ 45% of physicians still in training reporting they are burned out
- ▶ Top three reasons for “feelings of burnout, low morale, and pessimism about the future were” Electronic Health Records, Regulatory and insurance requirements, and loss of autonomy

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2020:**

- ▶ 8% of physicians closed their practices as a result of COVID-19
- ▶ 5% Moved from a direct patient care role to a non-patient care role
- ▶ 4% of physicians plan to close their practices within the next 12 months as a result of COVID-19
- ▶ 3% of physicians plan to move from a direct patient care role to a non-patient care role within the next 12 months as a result of COVID-19
- ▶ 4% will not return to their practices due to COVID-19 health risks.

PHYSICIAN FOUNDATION SURVEY DOCUMENTING THE EVOLUTION OF PHYSICIAN BURNOUT (2008-2021)

▶ **2021:**

- ▶ 61% of physicians report experiencing feelings of burnout (50% in 2018)
- ▶ 3% moved from direct clinical to non-clinical
- ▶ 2% Retired
- ▶ 2% Closed their practice
- ▶ 23% Would like to retire within the next year

▶ **SUICIDE:**

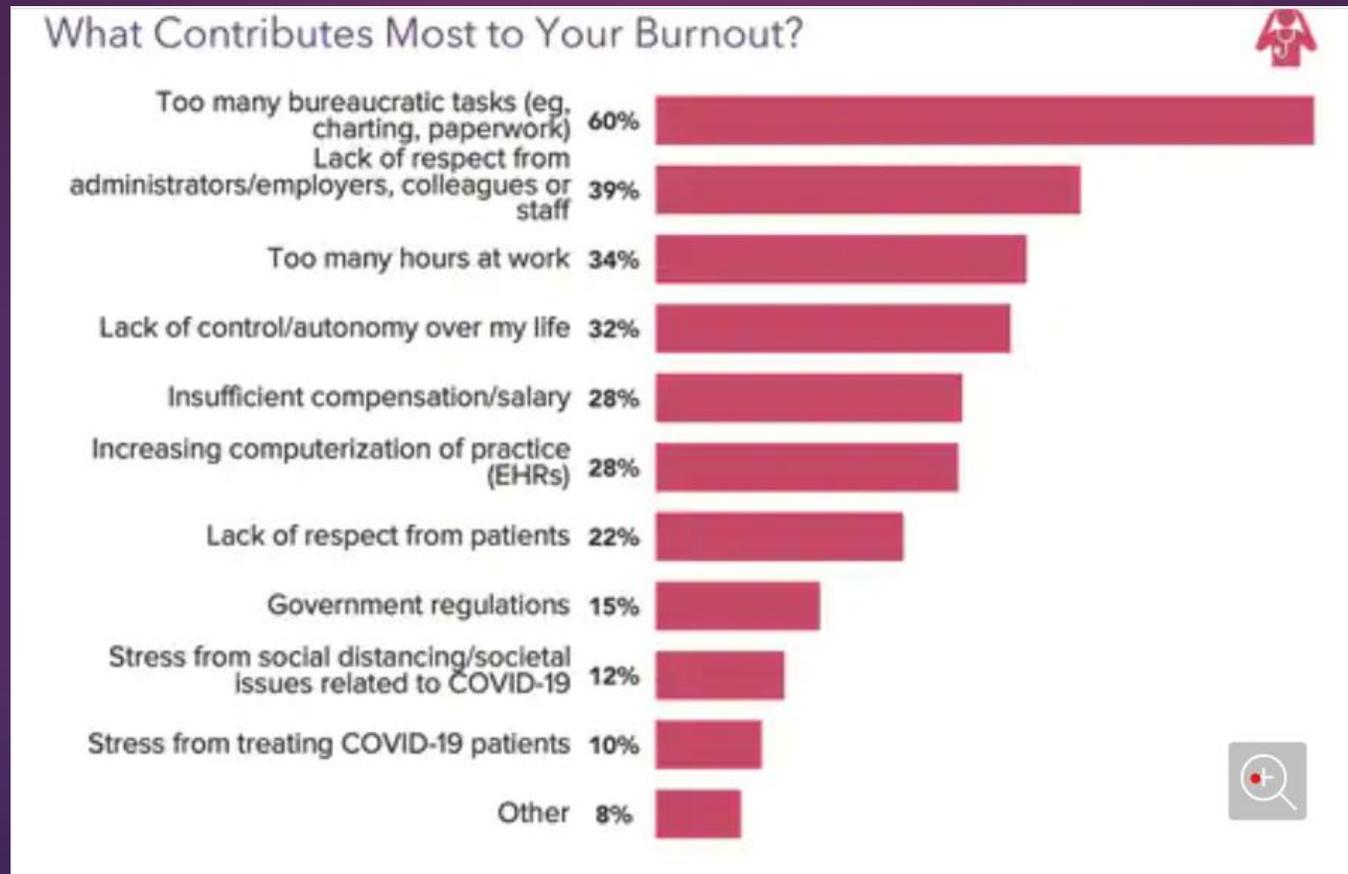
- ▶ 38% know a physician who has died by suicide.
- ▶ 31% of physicians know a physician who has considered suicide.
- ▶ 19% of physicians know a physician who has attempted suicide.

MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger

46% OF PHYSICIANS WORKING IN
OUTPATIENT CLINICS REPORTED BURNOUT
(58% IN 2022)

40% OF PHYSICIANS WORKING IN HOSPITALS
REPORTED BURNOUT (48% IN 2022)

MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger





Consequences of Physician Burnout

Significance

- ▶ Physicians experiencing burnout are more likely than their peers to exit their profession by leaving their practice, retiring early, or reducing their work hours.

Mayo Clinic Proceedings: Innovation, Quality & Outcomes,

“COVID-Related Stress and Work Intentions in a Sample of U.S. Health Care Workers.” December 08, 2021

- ▶ Conclusion:
- ▶ Approximately 1 in 3 physicians, APPs, and nurses surveyed intend to reduce work hours. One in 5 physicians and 2 in 5 nurses intend to leave their practice altogether. Reducing burnout and improving a sense of feeling valued may allow health care organizations to better maintain their workforces post-pandemic.

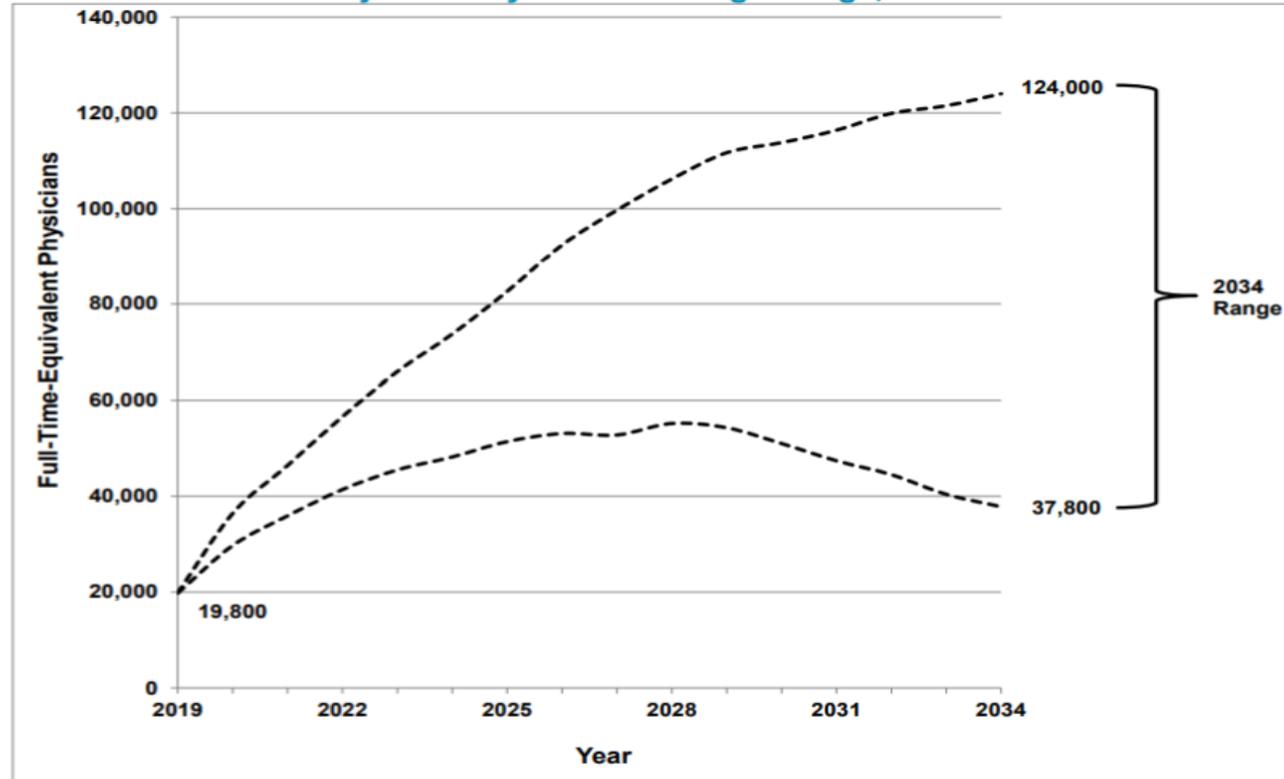
Association of American Medical Colleges

- ▶ The United States could see an estimated shortage of between 37,800 and 124,000 physicians by 2034, including shortfalls in both primary and specialty care.

The Complexities of Physician Supply and Demand: Projections From 2019 to 2034

(June 2021 Prepared for the AAMC (Association of American Medical Colleges))

Exhibit ES-1: Total Projected Physician Shortage Range, 2019-2034



Note: Because complex systems have internal checks and balances to avoid extremes, the upper and lower bounds of the shortage projections reflect the range of most likely outcomes. The divergence over time represents increasing uncertainty.

JAMA: Association of Clinical Specialty With Symptoms of Burnout and Career Choice Regret Among US Resident Physicians (September 18, 2018)

▶ Findings:

- ▶ "... reported symptoms of burnout occurred in 45.2% of participants and career choice regret in 14.1%. However, there were wide ranges of prevalence by clinical specialty (29.6%-63.8% for burnout symptoms and 7.4%-32.7% for career choice regret).

Physician burnout: Associated with

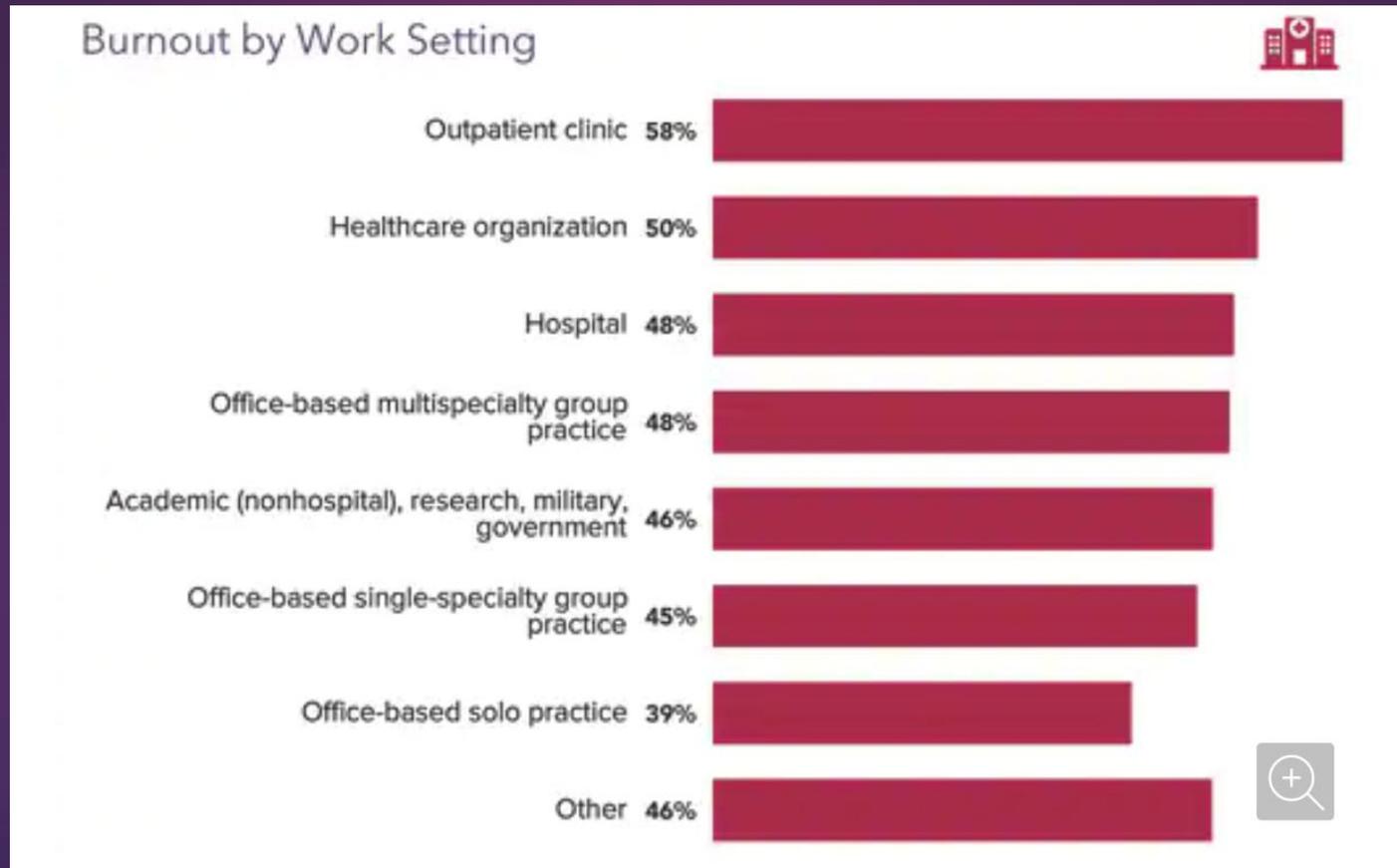
- ▶ Higher incidents of medical errors
- ▶ Lapses in professionalism
- ▶ Loss of enthusiasm for work
- ▶ Feelings of cynicism
- ▶ Low sense of personal accomplishment
- ▶ Learning difficulties
- ▶ Problematic Alcohol use
- ▶ Suicidal ideation

The Physicians Foundation's 2021 Survey of America's Physicians

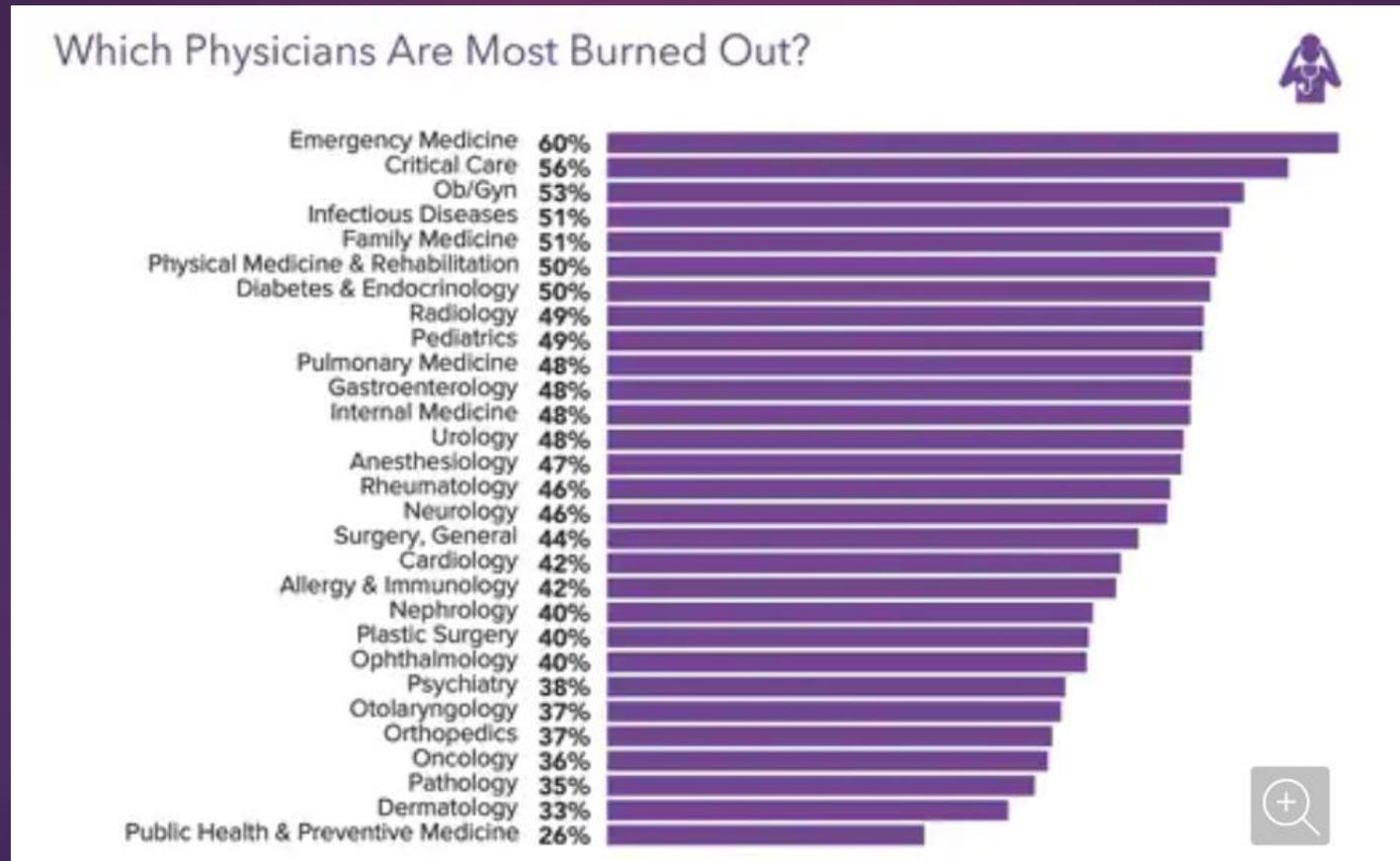
Frequent Feelings of Burnout

	2021
Independent Physicians	56%
Employed Physicians	64%
Primary Care Physicians	66%
Specialist Physicians	59%
Male Physicians	57%
Female Physicians	69%
Physicians ≤ 45 Years Old	64%
Physicians 46+ Years Old	59%

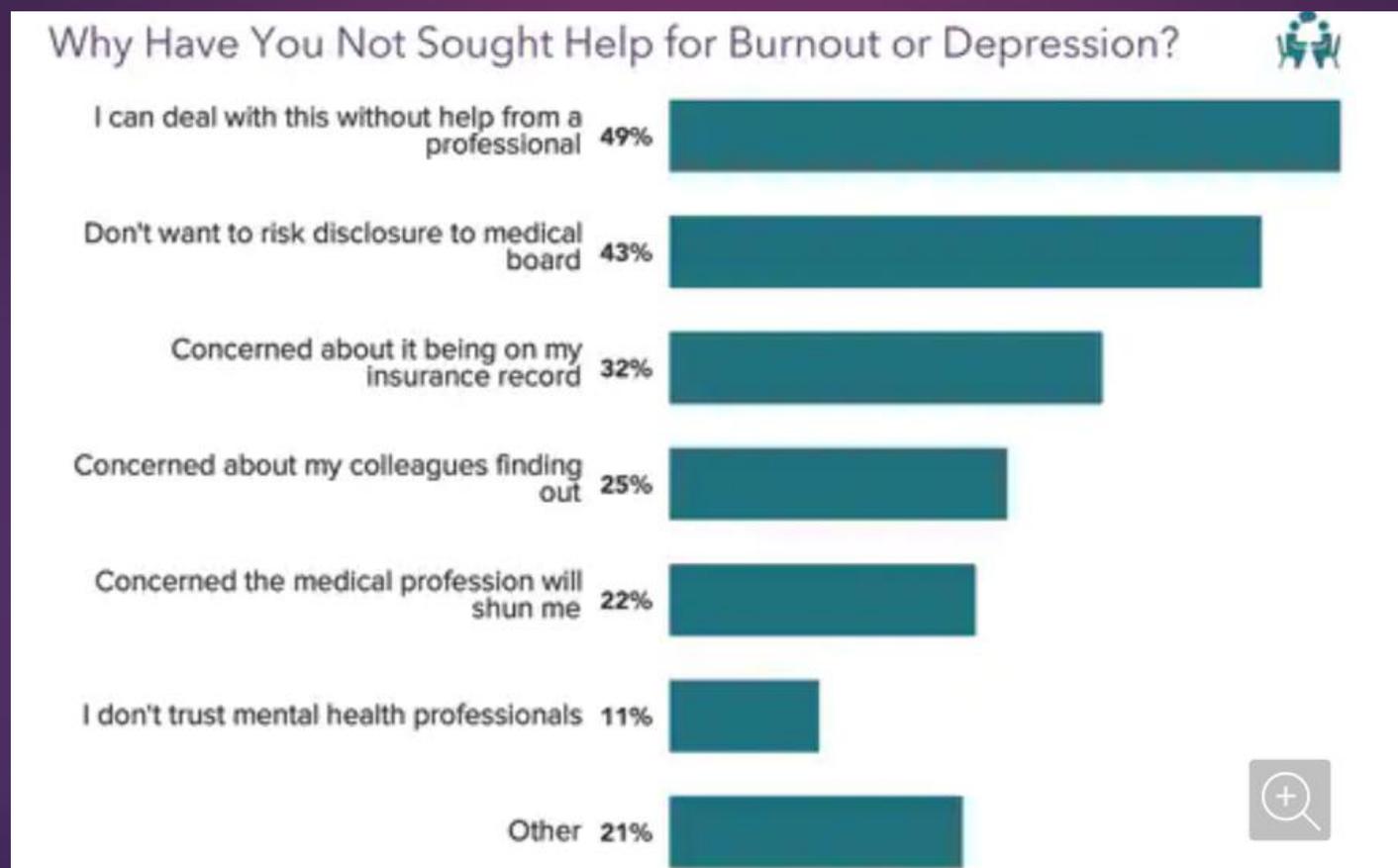
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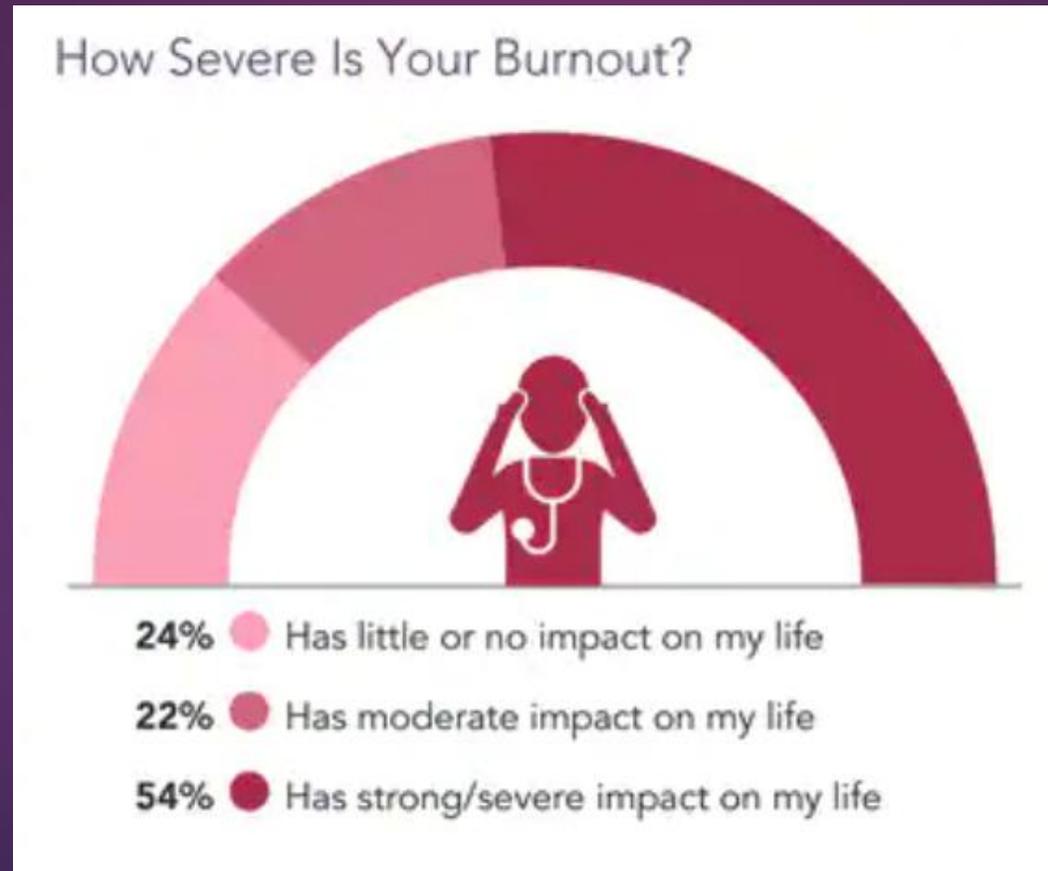
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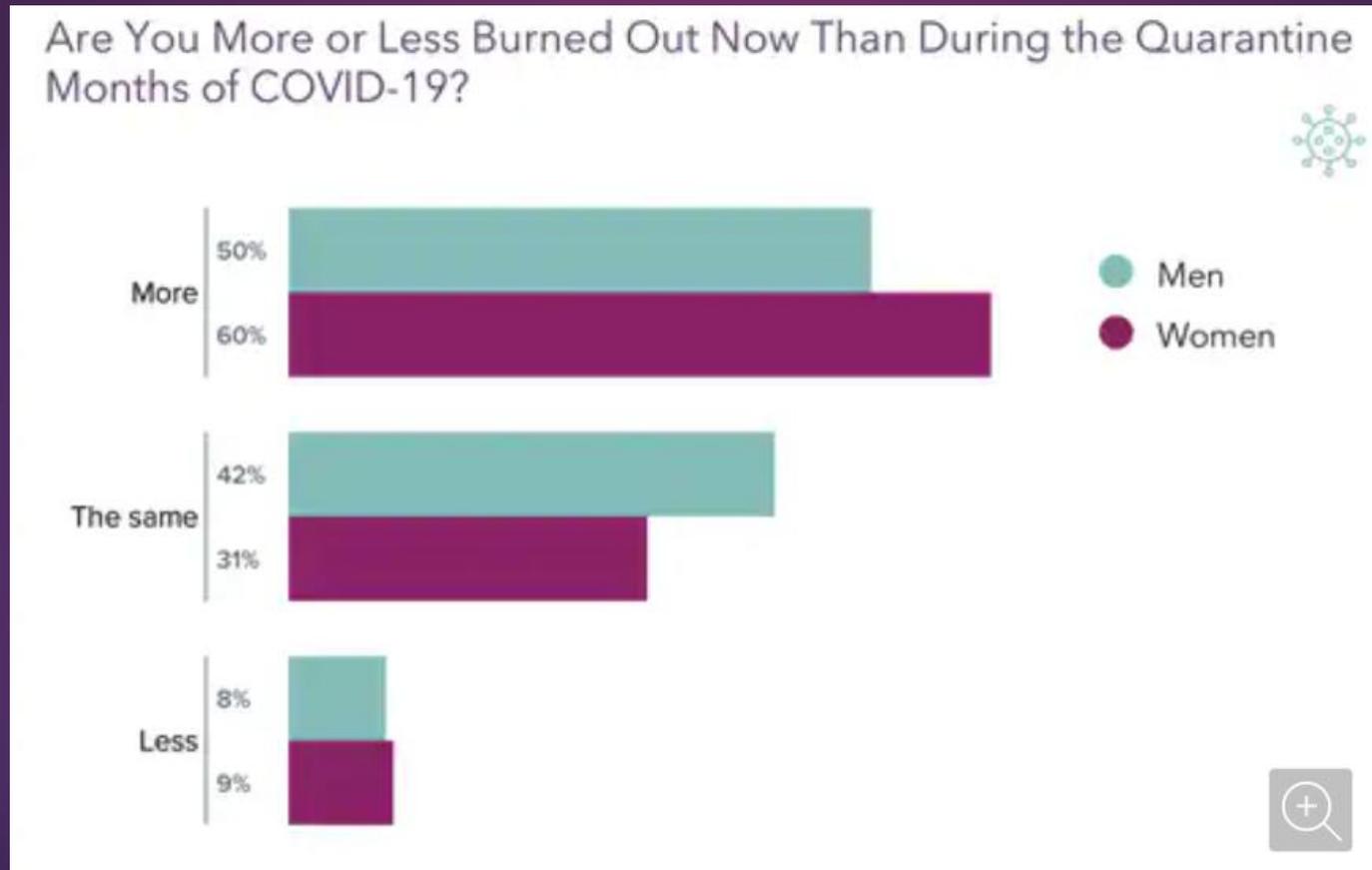
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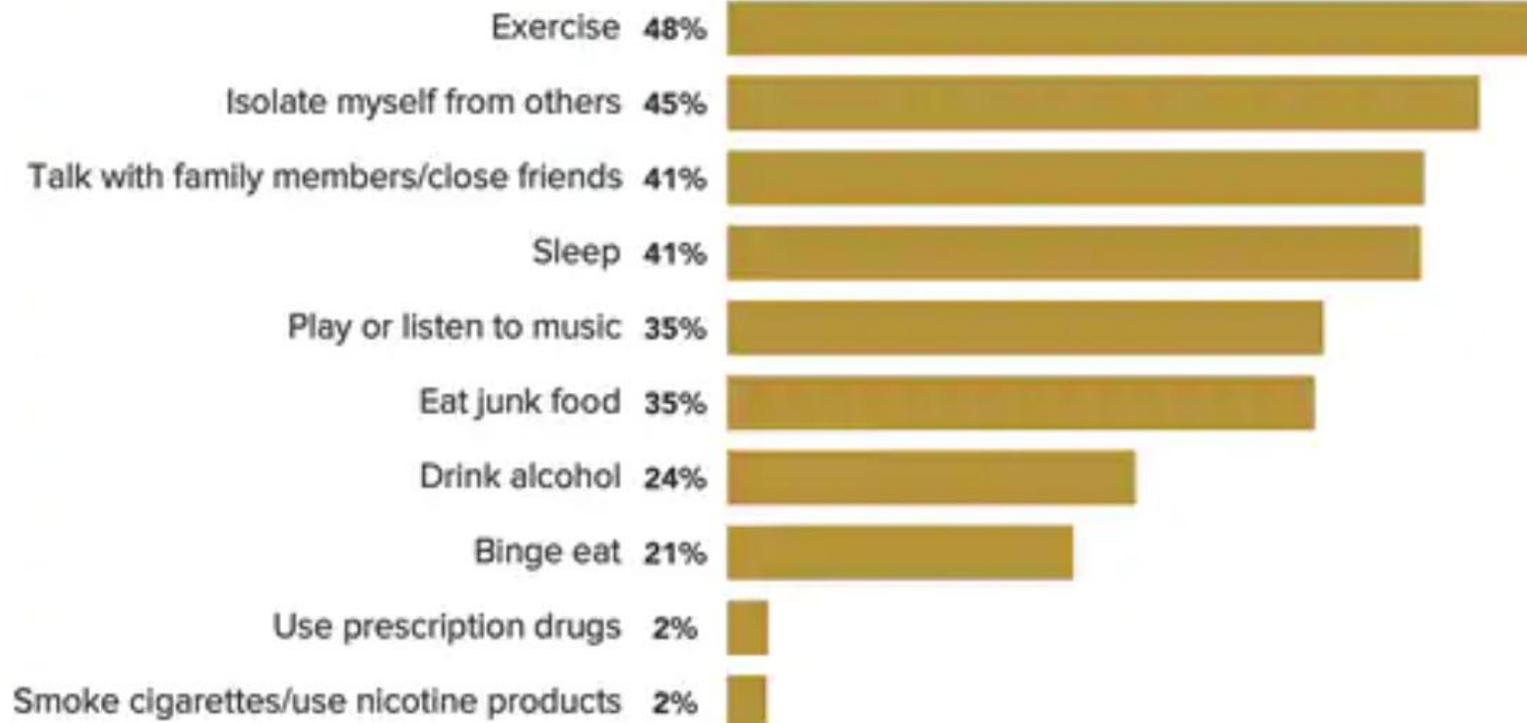


MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger

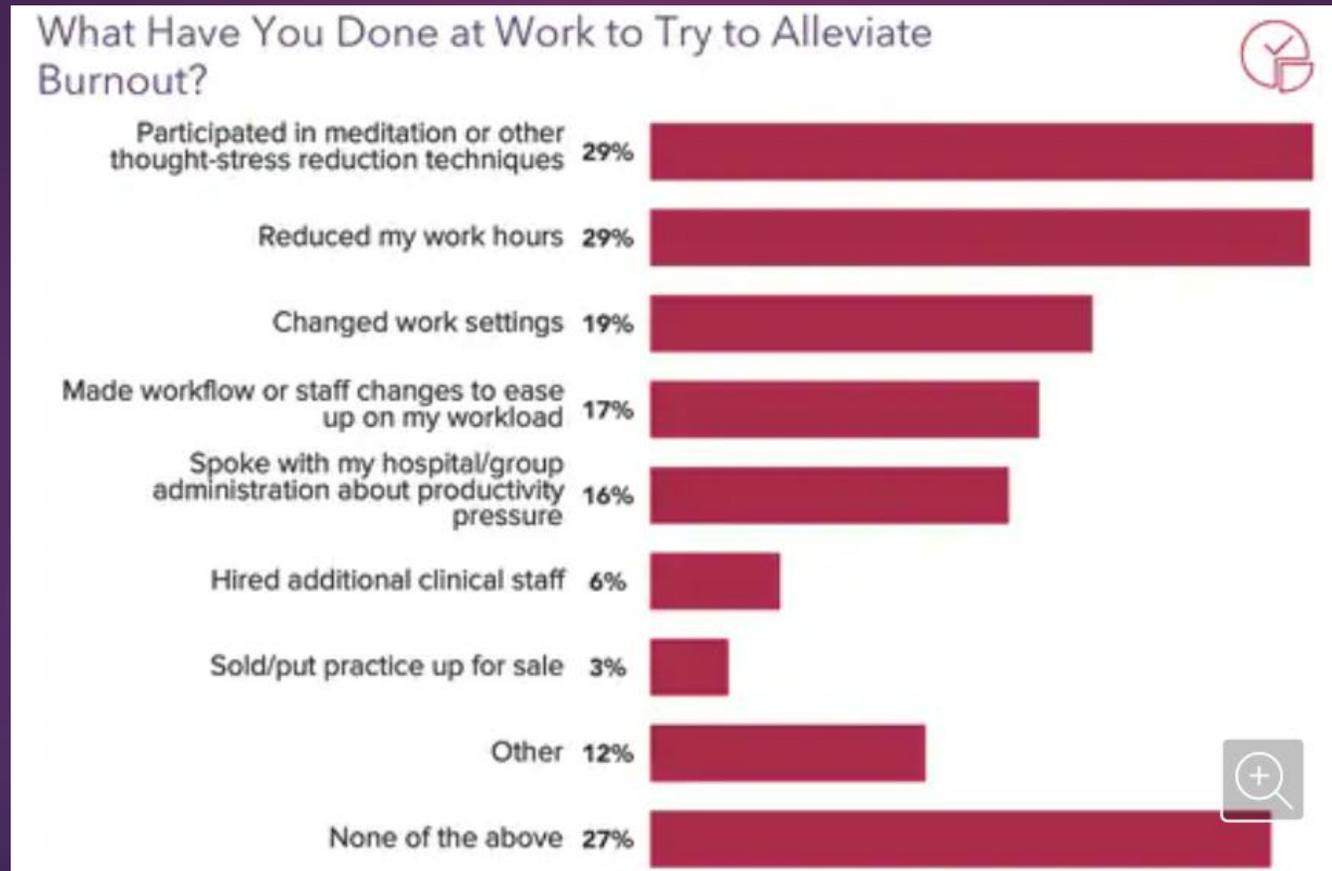


MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger

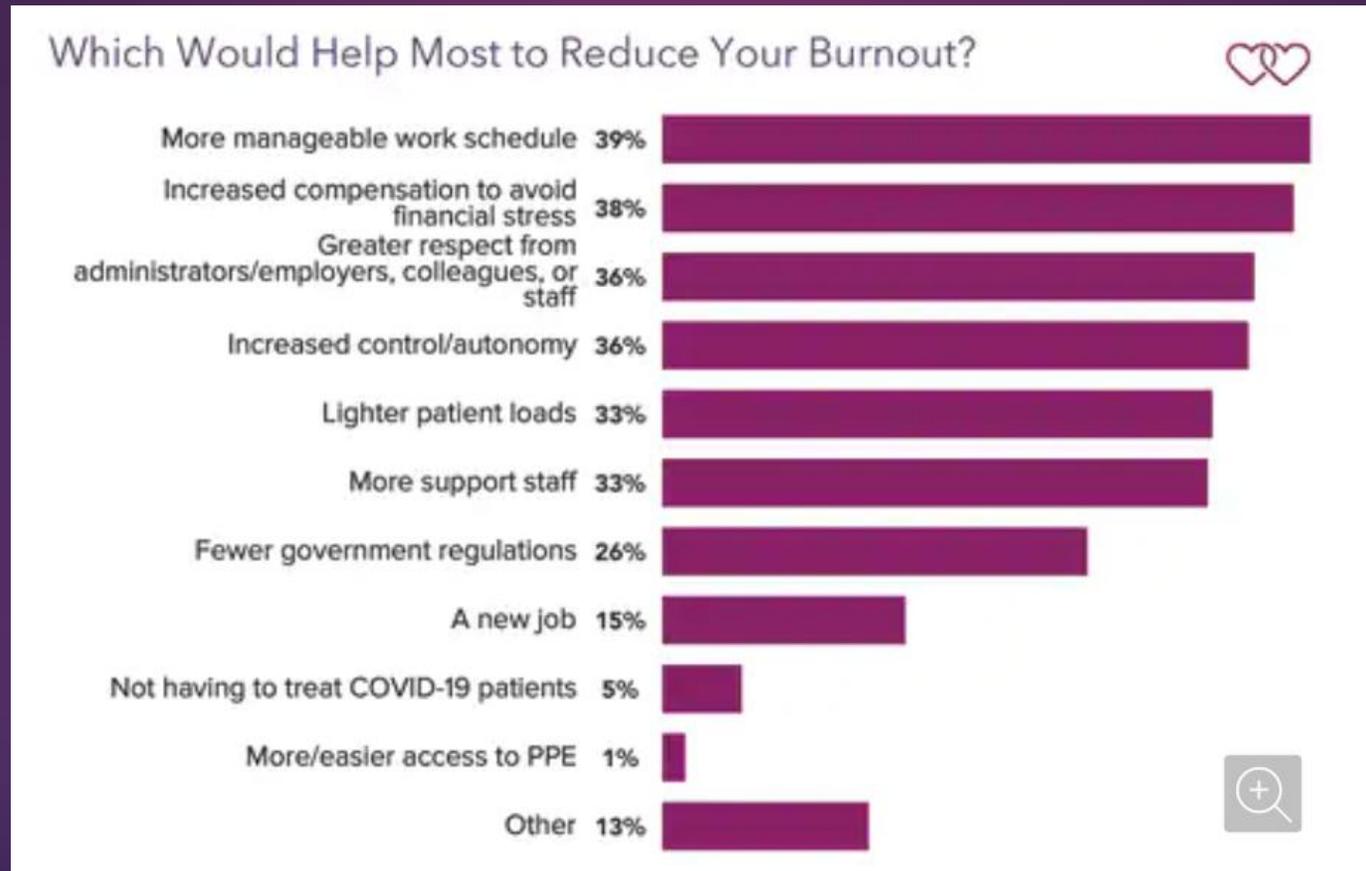
How Do Physicians Cope With Burnout?



MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger



MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger



SOLUTIONS



Solutions:

American Medical Association: STEPS ForwardTM

Offers strategies to reduce workload and improve efficiencies which include how-to toolkits, playbooks, podcasts and webinars.

- ▶ “Saving Time Playbook” provides guidance for removing waste from the daily work of physicians and staff
- ▶ The Getting Rid of Stupid Stuff toolkit explains how an organization can initiate a program to solicit and respond to suggestions from front-line workers
- ▶ Taming the Inbox toolkit provides practical approaches to managing the inbox, the volume of which has exploded for many physicians during COVID-19
- ▶ By focusing on factors causing burnout at the system level, the AMA assesses an organization’s well-being and offers guidance and targeted solutions to support physician well-being and satisfaction.

January 20, 2022

\$103 Million in American Rescue Plan Funds to Reduce Burnout and Promote Mental Health and Wellness Among Health Care Workforce

- ▶ Biden Administration awarded \$103 Million to the U.S. Department of Health and Human Services (HHS), through the Health Resources and Services Administration (HRSA)
- ▶ To improve retention of health care workers and respond to the nation's critical staffing needs by reducing burnout and promoting mental health and wellness among the health care workforce.

January 20, 2022

\$103 Million in American Rescue Plan Funds to Reduce Burnout and Promote Mental Health and Wellness Among Health Care Workforce

- ▶ **HRSA is making these awards through three programs:**
- ▶ **Promoting Resilience and Mental Health Among Health Professional Workforce** – HRSA is awarding \$28.6 million to 10 grantees to help health care organizations establish, improve, or expand evidence-informed programs and practices to promote mental health and well-being among the health workforce, including their employees.
- ▶ **Health and Public Safety Workforce Resiliency Training Program** – HRSA is awarding \$68.2 million to 34 grantees to support tailored evidence-informed training development within health profession and nursing training activities. This curriculum will help reduce burnout and promote resilience among health care students, residents, health care professionals, paraprofessionals, trainees and public safety officers, such as firefighters, law enforcement officers, and ambulance crew members.
- ▶ **Health and Public Safety Workforce Resiliency Technical Assistance Center** – HRSA is awarding \$6 million to George Washington University to provide tailored training and technical assistance to today's awardees.

“A CRISIS IN HEALTH CARE A CALL TO ACTION ON PHYSICIAN BURNOUT” (2019)

- ▶ Support proactive mental health treatment and support for physicians experiencing burnout and related challenges
- ▶ Improved EHR standards with strong focus on usability and open APIs (Application Programming Interfaces)
- ▶ Appoint executive-level chief wellness officers at every major health care organization

“A CRISIS IN HEALTH CARE A CALL TO ACTION ON PHYSICIAN BURNOUT” (2019)

- ▶ The recommendations presented reflect a broad recognition of the inadequacy of individual coping strategies in response to burnout in favor of systemic and institutional reforms to mitigate the prevalence of burnout

'PHYSICIAN HEAL THYSELF'

THE PHRASE ALLUDES TO THE READINESS AND ABILITY OF PHYSICIANS TO HEAL SICKNESS IN OTHERS WHILE SOMETIMES NOT BEING ABLE OR WILLING TO HEAL THEMSELVES.



Current solutions
address the symptoms of
burnout rather than the
true cause of
physician burn out.

ROOT CAUSE OF BURNOUT

LOSS OF AUTONOMY

WHO IS THE
DOCTOR HERE?



WHO IS TREATING OUR PATIENTS?

1. FEDERAL GOVERNMENT?

2. INSURANCE COMPANIES

3. OFFICE MANAGERS

4. PHARMACISTS

HOW DO WE GET BACK OUR
AUTONOMY?

KEY POINT TO REMEMBER: THE
PHYSICIAN-PATIENT RELATIONSHIP IS A
LUCRATIVE BUSINESS FOR EVERYONE
EXCEPT THE DOCTOR.



Create Standards of Medical Ethics and Rules of Professional Conduct



WHAT OTHER PROFESSION REQUIRES
AUTONOMY TO PRACTICE?

LAW

MEDSCAPE: Physician Burnout & Depression Report 2022: Stress, Anxiety, and Anger

Which Professions Have Burnout Levels That are Comparable to Physicians'?

▶ Nurses	64%	▶ Lawyers	17%
▶ Police	59%	▶ Retail	8%
▶ Teachers	36%	▶ Other	4%
▶ EMTs	32%	▶ None	10%
▶ Customer service	21%		

EDUCATION

MEDICINE

- ▶ Doctor of Osteopathic Medicine or Doctor of Medicine (D.O./M.D.)- The D.O./M.D. degree is the postsecondary medical degree necessary to sit for the state medical board exams and practice as a physician in a U.S. state
- ▶ Board Certification: is a mark of distinction. It indicates the education that he or she has undertaken beyond the minimal standards and competency requirements in a chosen specialty
- ▶ Fellowship

LAW

- ▶ Juris Doctorate (JD) - The JD is the initial, post-secondary law degree necessary to sit for the bar examination and practice as a lawyer in a U.S. jurisdiction
- ▶ Esquire (Esq)- A title reserved for licensed attorneys; JD's who have passed their bar examination
- ▶ Master of Laws (LL.M) - The LL.M serves as a secondary degree for lawyers who have achieved their JD and passed the bar exam, and who are interested in a focused, specialized course of study in a specific topic of law

ETHICAL STANDARDS

MEDICINE

- ▶ Many different medical ethics guidelines are available from:
 - ▶ American Medical Association (AMA)
 - ▶ Code of Medical Ethics
 - ▶ American Osteopathic Association (AOA)
 - ▶ American College of Physicians (ACP)

LAW

- ▶ Model Rules of Professional Conduct (MRPC):
 - ▶ All fifty states and the District of Columbia have adopted legal ethics rules based at least in part on the MRPC
 - ▶ -Many states allow the MRPC to be used as evidence of the general standard of care in liability actions and rules of conduct regarding conflicts of interest may be consulted in deciding disqualification motions

MEDICAL ETHICS

- ▶ The AMA CODE: The AMA code is of historical interest since it originates from the world's first medical ethics code (written in 1847) intended to function at a national level
- ▶ In 2016, the AMA advertised its updated 2016 code as "designed to meet the ethical challenges of medical practice" and as "the medical profession's authoritative voice."
- ▶ However, the first page of this code states that the code only contains opinions and is "not intended to establish standards of clinical practice."

MEDICAL ETHICS

- ▶ The AOA Code:
- ▶ The AOA has formulated this Code to guide its member physicians in their professional lives. The standards presented are designed to address the osteopathic and allopathic physician's ethical and professional responsibilities to patients, to society, to the AOA, to others involved in health care and to self.

MEDICAL ETHICS

- ▶ American College of Physicians (ACP) Code:
- ▶ The Manual is not a substitute for the experience and integrity of individual physicians, but it may serve as a reminder of the shared duties of the medical profession.
- ▶ The Manual raises issues and presents general guidelines. In applying these guidelines, physicians should consider the circumstances of the individual patient and use their best judgment.

MEDICAL ETHICS

▶ Given the lack of definitive ethical standards and premises, let alone a hierarchy or algorithm for prioritizing them, physicians often still face great challenges in achieving satisfactory solutions to ethical challenges for themselves, their patients, and other parties involved.

▶ (Young M, Wagner A. Medical Ethics. [Updated 2019 Mar 8]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2019 Jan-. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK535361/>)

MODEL RULES OF PROFESSIONAL CONDUCT (MRPC)

PROVIDE LAWYERS WITH A
MEANS OF MAINTAINING THEIR
AUTONOMY AND ESTABLISHING
A STANDARD OF CARE



THE FOLLOWING
SLIDES DEMONSTRATE EXAMPLES OF
THE MRPC THAT MAY
BE APPLICABLE IN THE MEDICAL
FIELD

CLIENT CONFIDENTIALITY

[8] A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

PROFESSIONAL JUDGEMENT

[9] In the nature of law practice, however, conflicting responsibilities are encountered. **Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living.** The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. **Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules.** These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate **interests**, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

AUTONOMY

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

AUTONOMY

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

DISCIPLINARY PROCESS

[19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

STANDARD OF CONDUCT

[20] Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other non-disciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

GETTING BACK THE AUTONOMY OF
THE MEDICAL PROFESSION:

ESTABLISH A STANDARD OF
MEDICAL ETHICS AND RULES
OF PROFESSIONAL CONDUCT

HOW?

- ▶ Creation of a standard textbook of Medical Ethics and Rules of Professional Conduct
- ▶ Medical Ethics and Rules of Professional Conduct become a required class in Medical School

HOW?

- ▶ Creation of a Standing Committee on Ethics and Professional Responsibility similar to the ABA charged with interpreting professional standards

HOW?

- ▶ Work together (M.D.'s and D.O's) to retrieve the autonomy we need as Physicians to ensure we are able to provide the quality of care we want for all of our patients
- ▶ The pandemic has acutely demonstrated how much autonomy physicians have lost to the federal government and other players in the health care industry.



We Have to Start Somewhere...

How about here and now....



Thank you.

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