



07 January, 2020

Dear SDAMPP Member,

This is a courtesy notice to prevent problems with federal law regarding the private information of your students. Specifically, on 30 October, 2019, many medical physics program directors received a letter from the ABR (attached) regarding changes in requirements on eligibility for Part 1 of their examination¹.

The potential problem originates from the following statement: “Program directors are now required to notify the ABR if a candidate withdraws from the program or is not in good standing.” There are ethical and legal concerns with this surveillance requirement. Specifically, Program Directors have a duty of care to their students and trainees, including protecting their private information. For example, consider the following illustrative hypothetical case. A student is hospitalized for a month due a complication in the eighth month of her pregnancy, which prompts the student to elect a “medical withdrawal” from the university. During the hospitalization, the student is not in direct communication with the Program Director. However, through the student’s parents, the program director becomes aware of the withdrawal. At this point, the program director must choose to respect the student’s privacy rights, or comply with the ABR’s surveillance requirement. Because it is not possible to do both, the program director is placed in a conflict.

For simplicity, we will separately consider graduate students and residents because some considerations differ. Specifically, students are generally considered trainees (not employees) and are enrolled at an institution predominantly focused on education, whereas residents may be considered employees of an institution with a primary mission other than education. These differences determine which laws, rules, and policies apply.

For graduate students, we believe that such disclosures would require prior consent by the student. For example, The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education (<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>). FERPA allows some exceptions regarding disclosure of records for health and safety purposes, but these generally do not apply here.

For residents, we believe that additional considerations should be taken into account, including the method of determination of a resident being “enrolled” versus “on leave”. For example, aspects of this are covered by the Family Medical Leave Act (https://en.wikipedia.org/wiki/Family_and_Medical_Leave_Act_of_1993).

SDAMPP recommends the following actions to Graduate Education Program Directors.

- 1.) When a student withdraws from your program or is not in good standing, prioritize above all else items that are in the best interests of the student.
- 2.) Only allow students to initiate disclosures regarding their protected information (with rare exceptions for health and safety reasons).
- 3.) Always obtain prior written consent before disclosing protected information. Students have the right to decide if, what, and when their protected information is released.

¹ We note that the ABR’s letter mentioned having had discussions with SDAMPP. These discussions were limited in scope, contentious, and reflected a lack of consensus. We further note that ABR’s mention of discussions should not be construed as an implicit endorsement of the ABR’s position by SDAMPP.

- 4.) To protect your students, your program, and yourself, be aware of applicable laws, regulations, and policies pertaining to privacy rights, *e.g.*, FERPA, your institution's policies, as well as relevant professional codes of conduct.
- 5.) Make your students aware that you are willing to provide, upon their written request to you, periodic attestations to the ABR regarding their enrollment and standing in your program.
- 6.) Reach out to your bursar's office, human resources office, or other units as appropriate for assistance if you need help in navigating issues involving protected student information.

SDAMPP has recommended to the ABR that it drop its new surveillance requirement because of the ethical and legal problems it can create in some situations. Furthermore, we suggested to the ABR that they consider the following approach to maintain current information on eligibility status. On an annual basis, they may prompt each candidate to request an attestation from his or her program director². If the candidate is enrolled and in good standing, the program director attests. If not, no attestation is provided. In either cases, the ABR has the information it needs and in no case has the program director been asked to disclose protected information without authorization.

The information and recommendations contained in this letter were reviewed and approved by the Board of Directors of SDAMPP. The SDAMPP leadership will continue to communicate with the ABR regarding this issue. As always, we are eager to hear from you regarding your concerns, comments, and questions.

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² This could well be done in a similar manner as the AAPM does to confirm eligibility for student membership. The request for attestation originates from the AAPM and is sent by email to the student. The student forwards the email to his or her program director with a brief written authorization and request that the attestation be made. The program director begins the attestation by clicking on a hyperlink in the email that lands at a web page with a brief form to enter the attestation. This approach is advantageous because it includes explicit authorization for the program director to disclose identifiable information from the student's record. It is also a quick and easy system for the program director to work with.

**Dear [Name Deleted], PhD
Program Director**

The ABR has been concerned that some candidates are not fully prepared to take the Part 1 Exam. Proper exam preparation is an important part of becoming certified. When the ABR earlier announced the changes to the Part 1 requirements, we received comments about problems that many program directors foresaw. After discussions with SDAMPP, CAMPEP, AAPM, and program directors, the ABR Board of Governors amended the requirements. The final new requirements for eligibility to sit for the Part 1 Exam and changes in exam registration and delivery are described below:

- The exam content will not change. The current study guide remains in effect.
- Beginning in 2022, Part 1 Exams will be given only in January. In 2021, there will be an exam in August followed by one in January 2022. The registration period will be adjusted because of the date change and will initially be in July or August.
- Details about exam registration for the January 2022 exam will be posted in 2021.
- Eligibility requirements will change beginning with the 2022 exam:
 - If eligibility is from a graduate or DMP program, the program director must attest that the candidate will have completed the courses covering the core topics as described by CAMPEP by the time of the exam. If this goal is not achieved, the program director must notify the ABR in a timely fashion. **Note:** Program directors are now required to notify the ABR if a candidate withdraws from the program or is not in good standing.
 - If eligibility is from a certificate program, the candidate must have completed the certificate program and have attained a suitable PhD at the time of registration.
 - If eligibility is from a CAMPEP-accredited residency or a structured mentorship, the requirements will remain the same. A candidate enrolled in the program may register for Part 1.

Yours truly,

Matthew B. Podgorsak, Vice-chair ABR Board of Trustees, Trustee for TMP

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