



Federation of State Physician Health Programs

Performance Enhancement Review (PER) Guidelines

2016

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A MODEL FOR DEVELOPING AND CONDUCTING A PROGRAM ENHANCEMENT REVIEW (PER)

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EXECUTIVE SUMMARY

In 2014, the Federation of State Physician Health Programs (FSPHP) established a taskforce to promote accountability, consistency, and excellence among physician health programs (PHPs). This taskforce acknowledges the 2011 recommendation of the Federation of State Medical Board's (FSMB's) Policy on Physician Impairment: *"to gain the confidence of the regulatory boards, PHPs must develop audits of their programs that demonstrate an ongoing track record of ensuring safety to the public and reveal deficiencies if they occur."* In this spirit, the taskforce led the work to develop this document whose purpose is to enable the FSPHP, individual PHPs, medical boards and other stakeholders to identify meaningful ways to enhance the quality of services being provided to physicians and other eligible healthcare providers by individual PHPs and ensure that public safety is met.

As noted in the FSPHP Bylaws, FSPHP believes that individual state physician health programs face many issues that will best be addressed by the collective voice of an organization of such programs. FSPHP is committed to collaborating with individual PHPs in an effort to create the best options for providing services to physicians and other licensed healthcare professionals, and in turn to the medical profession and to the public on a national level.

The Federation recognizes the need for different approaches by individual state organizations in delivering services as each PHP is required to work within the parameters of its individual state laws, regulations, and/or contracts. Acknowledging the variability among state PHPs and the differences in resources, needs and expectations, this document is intended to be used as a guide for PHPs, their boards, licensing boards and other stakeholders in considering whether each individual program is meeting its own goals and expectations, as well as an instrument to support optimizing the efficacy of every PHP and to establish credibility with key stakeholders. In addition, through its concrete examples, scenarios and appendices, this document provides a toolbox for PHPs to reach their optimal potential while allowing for the transparency and accountability necessary to maintain public trust.

The taskforce recommends against the use of the term “audit” as the term does not reflect the partnering among multiple stakeholders and viewpoints that is necessary to construct an effective PHP. Rather, the goal of strategically institutionalizing accountability, consistency and excellence into PHP functioning and culture is better captured by the use of the term Program Enhancement Review (PER). Although funding and resources play an important role in the services a PHP may provide, this document does not apply to a financial audit. The PER is considered a tool for strategic improvement and a focus on process measures is encouraged to evaluate a program’s effectiveness.

In order for a PER to be meaningful, the PHP and interested parties or stakeholders must identify the purpose, parameters, and the goals of the PER at the outset. Careful attention to details will enhance the likelihood that the PER will provide a baseline for a PHP’s record of enhancing professional health and identify areas that may benefit from improvements. A well-constructed PER will provide a strong foundation for an ongoing commitment to maintaining quality of services, as well as strategic enhancement.

The FSPHP encourages our members to engage in both internal and external PERs and to share their experiences with the FSPHP. As such reviews become more common, it is hoped that the data may enable the development of deeper insight and awareness into the importance of allowing our professionals the dignity to be patients, as well as providers, thereby enhancing patient health and safety.

Part A: Introduction

In 2014, the Federation of State Physician Health Programs (FSPHP) established a taskforce to promote accountability, consistency, and excellence among physician health programs (PHPs). This taskforce acknowledges the 2011 recommendation of the Federation of State Medical Boards Policy on Physician Impairment:

"To gain the confidence of the regulatory boards, PHPs must develop audits of their programs that demonstrate an ongoing track record of ensuring safety to the public and reveal deficiencies if they occur."

The purpose of this document is to enable PHPs, medical boards and other stakeholders to identify meaningful ways to enhance the quality of services being provided by each individual PHP and ensure that public safety is met.

As noted in the FSPHP Bylaws, the FSPHP believes that individual state physician health, recovery and rehabilitation programs face many issues that will best be addressed by the collective voice of an organization of such programs. The Federation recognizes the need for different approaches by individual state organizations in delivering services and is committed to working together to help each individual PHP create its best option for providing services to physicians, and in turn to the medical profession and to the public on a national level.

Each PHP is required to work within the parameters of its individual state laws, regulations, and/or contracts. Although funding and resources play an important role in the services a PHP may provide, this document does not apply to financial audits. This document is intended to create a toolbox for PHPs to reach their optimal potential and to promote public confidence in the value of PHPs, encouraging them to regularly conduct program or operational reviews which will allow for the transparency and accountability necessary to maintain public trust.

Because of the variability among state PHPs and the differences in resources, needs and expectations from state to state, this document is intended to be used as a guide for PHPs, their boards, licensing boards and other stakeholders in considering whether each individual program is meeting its own goals and expectations. Any specific parameter set forth may, or may not apply to any individual PHP. We also caution that what may be defined as a focus for improvement in one state may not apply to another state. The taskforce recommends against use of the term “audit” as the term does not reflect the partnering among multiple stakeholders and viewpoints that is necessary to construct an effective PHP. Rather, the goal of strategically institutionalizing accountability, consistency and excellence into PHP functioning and culture is better captured by the use of the term Program Enhancement Review (PER).

As stated above, the taskforce intends this document to serve as an instrument to help stakeholders and PHP leadership optimize the efficacy of a PHP, to identify areas that would benefit from increased resources such as financial support, and to establish credibility for key stakeholders instrumental to an individual PHP’s long-term success.

Part B: Concepts and Principles related to a PER

A PER is an opportunity to:

- (1) Enhance individual program effectiveness in meeting objectives
- (2) Provide an opportunity for enhanced and transparent accountability
- (3) Identify areas for improvement over time
- (4) Evaluate long-term sustainability and support strategic planning
- (5) Enhance communication and collaboration with organized medicine and other stakeholders in support of the PHP’s purpose and mission

A PER may be done within a program (internal PER) or may be requested by an outside agency or party (external PER). The taskforce recommends that internal PERs be initiated periodically. Internal PERs may be conducted by PHP staff or outside evaluators may be specifically assigned to this task by PHP staff. When doing an internal PER, the possibility of using the evaluation for submission to outside agencies or parties may also be considered. Use of an independent evaluator enhances the appearance of objectivity and decreases the likelihood of a conflict of interest. When a PER is external (e.g., requested by a state medical board or regulatory agency), the purpose and expectations should be clearly specified and agreed upon at the outset. Existing policies particular to the PHP as well as state laws, regulations and contracts are to be considered within the context of the PER to produce valid conclusions. In all cases, when a PER is conducted, the organization should be committed to utilizing the PER as a tool for strategic improvement.

At the outset of every PER, the parties should clarify the type of PER, as well as delineate the purpose, goals, objectives, terms, conditions and methods to be used. An example of purpose, objective and goal may be, “the objective of this external PER is an annual review to confirm that the program is operating consistent with state law and contract obligations with the goal of confirming compliance and enhancing program effectiveness.” Another example is, “the objective of this internal PER is to determine whether professionals referred to the PHP are afforded reasonable choice for evaluators with the goal of identifying needed resources and to enhance the PHP intervention process.” Consideration should be given to the PHP’s practical and financial ability to implement recommendations arising from the review. Financial resources can greatly affect the scope and capability of an individual PHP. PHP governance, e.g Board of Directors or Committee to a State Medical Society, should be engaged from the outset as the governing body may be required to respond or take action on the recommendations arising from a completed PER.

The targeted time frame and cost of the PER should be outlined at the outset of the process. Any anticipated need for outside expertise such as information technology (I.T.) specialists or expert with assessment skills should be specified. The need for access to PHP staff or others affiliated with the PHP should be clarified in advance in order to minimize interference with daily operations.

While consistency in program operations is important, caution should be exercised in applying rigid accounting-type standards to monitoring or other PHP non-financial operations. PHPs are typically small and are often non-profit organizations. When reviewing PHP operations, caution should be exercised in applying standards and principles that were originally designed for much larger organizations. One example is that it may be very difficult for a small PHP to afford and implement the same types of internal control procedures that would be appropriate in a significantly larger entity. Given the variance that exists across the spectrum of different state PHPs in terms of scope and available resources, comparisons between programs utilizing specific outcome measures may lack meaningful utility. Thus when attempting to evaluate a program's effectiveness, we instead recommend a focus on process measures.

We recommend the following *process measures* as a starting point for consideration¹:

- A. The PHP has a distinct policy or procedure for random toxicology testing frequency, collection and internal evaluation of the laboratory results, and consistently follows this policy or procedure. The purpose is to monitor and document participants' abstinence from substances of abuse.
- B. The PHP consistently demonstrates an ability to quickly respond to incidents in which a participant has a laboratory finding suggestive of chemical relapse. The PHP consistently follows an algorithmic relapse protocol to conduct tissue or bodily fluid testing, document any relapse and guide the appropriate treatment response to each chemical relapse, and thus, prevent exposure of the public to medical care by a provider who may be potentially impaired.
- C. The PHP demonstrates consistent identification of participants' commitment to health and wellness expectations as set forth in the PHP contracts/agreements with the individual participants and further demonstrates on-going intervention and support in accordance with state PHP protocols and state specific agreements with regulatory bodies or state laws. In assessing commitment to health and wellness expectations, the PHP adheres to a reasonable time frame to notify the disciplinary authority when such notification is required. Thus, confirmed notification efforts by PHPs will address public safety concerns by providing the opportunity for the regulatory bodies to be informed of the PHP response or intervention plan and allow the regulatory bodies to confirm that the plan is in the interest of patient safety while supporting professional health.
- D. The PHP has, and consistently follows, a distinct policy regarding intensification of monitoring contact and therapeutic intervention when a participant is demonstrating signs worrisome for relapse; either by demonstrating behavioral irregularities while monitoring with the PHP, by demonstrating behavioral instability in the workplace, and/or by demonstrating avoidance of effective tissue or bodily fluid testing procedures and processes (i.e., missing call-ins for testing dates for urine drug tests or obfuscating testing collection procedures).
- E. The PHP consistently follows existing policies regarding minimum allowable frequency of contact the participant may have with PHP staff. The policy clearly delineates contingencies that are activated when the participant does not comply with these standards and demonstrates consistent and punctual implementation of these contingencies.
- F. The PHP also has, and consistently follows a protocol for tracking participants' adherence to treatment frequency recommendations and for addressing deviations from treatment frequency recommendations.

¹ Based in part on the FSPHPs most recent Guidelines document ("Physician Health Program Guidelines" – available at http://www.fsphp.org/2005FSPHP_Guidelines.pdf)

- G. The PHP has, and consistently follows, a distinct policy regarding privacy and confidentiality of its records and any related communication, including privacy breaches.
- H. The PHP has, and consistently follows, a clear policy regarding avoiding and addressing financial, as well as other, conflicts of interest.

Part C: Steps to consider in implementing a PER

Regardless of whether the PER is intended for internal use or at the request of a third party, the taskforce recommends that the following steps, discussed in detail in sections below, be completed prior to initiation of the fieldwork phase of a PER:

1. Identify the scope of the PER, as well as the terms, confidentiality and obligations
2. Identify the stakeholders of the PER
3. Delineate the methodology for the PER and the questions to be answered
4. Choose the evaluator(s) who will conduct the PER
5. Determine the outline or design of the written report and recommendations and clarify expectations regarding written reports and with whom they will be shared
6. Define the accountability actions, response and implementation from the PER findings

1. Identify the scope, terms, confidentiality and obligations of the PER

Whether the reason for a PER is an internal examination of processes or operations or is an examination of compliance with contractual/legal requirements, the purpose of the PER should be mutually agreed upon and related to the program's objectives and mission. The purpose should be clearly articulated prior to the initiation of the review. PERs may have different purposes. The identified purpose will affect the scope and methodology, discussed below. For example, a purpose may be to review whether the PHP is acting in compliance with one or more of its guidelines or practices or, in the alternative, a purpose may be to assess whether a PHP guideline or practice is effective. In determining the scope of the PER, the PHP may set forth its own policy/practices that will be measures for expectations in alignment with those policies or procedures. In the event that the PHP guideline/practice is under question, measures must be clearly delineated in the methodology and the use of other resources should be agreed upon before the PER is started. (*Please refer to Appendix C*).

2. Identify the stakeholders of the PER

In advance of conducting the PER, identify the audience (e.g., Interested Public), identify the evaluator and identify who, within the PHP team, will be the lead, or point person to facilitate the process of conducting the PER. The ultimate readers of the PER final report may be PHP staff, administrators, board of directors, advisory committees, stakeholders (hospitals, physician or other professional groups, organized medicine) donors, regulatory agencies, boards or commissions, citizen action groups, the public, or any and all of the above. Whether the PER report will be available through a public access means or by request should be identified prior to the onset of the PER. In addition, there should be discussions about sharing the whole report or only selected portions of the report (e.g., executive summary, recommendations, etc.).

3. Delineate the methodology for the PER and the questions to be answered

Identification of the purpose and objectives of the PER will determine the scope and parameters of the review. The purpose should be consistent with the mission and scope of the program, with the ultimate goal of program

enhancement. All reviews may promote quality enhancement by identifying areas in program operations that may benefit from the PER report.

There are three general purposes for a Program Enhancement Review:

- a) *Quality Assurance & Quality Improvement*
- b) *Program Availability and long-term sustainability*
- c) *Oversight Compliance & Accountability*

a) *Quality Assurance* and the integration of continuous quality improvement initiatives are ever present in the endeavors of each PHP. Quality Assurance is the conveyance that delivers quality, embodying both management and process it is retrospective in nature. The process of quality improvement is the measurable result of quality assurance and it is both prospective in nature and outcome oriented. Development of a Quality Assurance Committee (QAC), made up of staff and/or PHP board directors, can often initiate ideas for various internal reviews. For example, the QAC could identify a question of policy or procedure which can then generate the desire to examine a particular component of an existent policy or procedure at the PHP, and thus initiate a topic-specific PER.

b) *Program availability and long-term sustainability* may evaluate factors affecting the use of the program operating budget such as budgetary confinement, which may be limiting program services. The review may initiate a needs assessment if an increase in budget for strategic planning implementation is indicated. A program sustainability purpose will evaluate if funding will support the ongoing provision of services or whether revenue generating opportunities need to be identified and capitalized upon. Identifying areas of program delivery worthy of future research may warrant grant proposal writing or other identified sources of financial support.

c) *Oversight Compliance* validates a program's operations by taking account of areas of physician health and wellness, such as illness-related referrals; relapses per year; successful return to work; remission rates for behavioral referrals; suicide rate studied by disorder; successful program completion; penetrance into the population served; community outreach and education and program response to non-compliance with health and wellness contracts. For an Oversight Compliance review, the program and evaluator(s) should identify targeted benchmarks and scope of review at the outset of the PER. An Oversight Compliance PER is often a response to a request for a review by an external agency. The external agency should identify and provide questions to be addressed prior to the initiation of the PER.

The methodology and the specific component features of a PER will be unique to each program depending on the purpose, scope, environment and resources of each program. State to state variability related to laws, rules and regulations of organized medicine within that particular state will need to be acknowledged and incorporated into the PER. Therefore, it is essential to consider the culture, resources and intent of each individual review when determining a PER plan.

Objectives of the PER should be delineated and known by all parties in advance, along with the specific methodology to be utilized.

For PHPs that would like to conduct a PER, the taskforce offers the following set of example questions to serve as a starting point in the identification of PER Objectives:

- A. Does the PHP have an established policy that prohibits conflict of interest and requires all staff to sign an acknowledgement that they are not in violation of such a policy?
- B. Does the PHP have a process for a participant to pursue when the participant disagrees with the recommendations being made to him/her by the PHP staff?

- C. Does the PHP document all participants' interactions with the PHP staff into a written or electronic record, in order to track his/her course?
- D. Does the PHP timely respond to requests for intervention and assistance?
- E. Does the PHP timely recognize substantive non-compliance, have policy definitions of what constitutes non-compliance and have mechanisms by which to address non-compliance?
- F. Does the PHP respond to matters of substantive non-compliance in the interest of professional health and in a manner which enhances public safety?

A comprehensive PER is likely to include, but not limited to, a sampling from the following activities:

- Client file reviews
- Interviews with program staff
- Interviews with stakeholders
- Interviews with program trustees, board directors and committees
- Interviews with medical society, if an affiliated organization
- Review of resources (financial, staffing and treatment providers)
- Review of state laws, codes, regulations
- Review of program policies and procedures, website, and annual or quarterly program reports, including privacy and confidentiality
- Review of written agreements involving program, licensing board, participants, medical society, other stakeholders
- Knowledge of FSPHP best practices "Physician Health Program Guidelines"
- Knowledge of Federation of State Medical Boards (FSMB) "Policy on Physician Impairment"
- Knowledge of American Society of Addiction Medicine (ASAM) "Public Policy Statements on Physician Health"

Consideration may also be given to acknowledging that the perspectives of the interested parties may not be fully objective and/or appropriately attainable:

- Interviews with current and/or former program participants
- Interviews with relevant staff at the state licensing board(s)

The structure of the PER, the methodology to be used, and the format for the final written report and to whom the report will be provided should be agreed upon in advance. These considerations should specify both the scope and purpose of the PER, outlining each category to be reviewed; and the procedure to be utilized in the evaluation of each category of review. Any changes in the process shall be documented in writing and agreed upon by both the evaluator(s) and the PHP in advance of implementation of agreed upon changes.

In order for the PER to be effective, there must be an understanding of how key terms will be used. The key terms should be identified prior to the PER. To the extent that the evaluator identifies additional terms during the course of the PER, it is recommended that the evaluator confirm that the PHP uses the term in the same manner as the evaluator. It is recommended that each PHP have key terms defined as part of program guidelines. For example, a PHP should define compliance and non-compliance as well as lapse or relapse within its program guidelines. If an evaluator is unable to accept a definition used by the program, the reasoning for the same should be discussed with the PHP prior to the review of PHP files and explained in the written report.

If the PHP and evaluator are adopting definitions promulgated by FSMB, ASAM, American Medical Association (AMA) or other organized medicine, the source(s) should be identified.

Sample definitions of **key terms** may be found in Appendix B.

4. Choose the evaluator(s), define confidentiality and devise a contract or PER agreement

Selecting a qualified evaluator or an evaluation team is essential for a meaningful PER. The evaluator(s) should have expertise in mental health and/or addiction monitoring. The professional should be in good standing and be able to provide professional references. Performance review of PHPs must be conducted by person(s) familiar and experienced with the structure, function and operations of physician and/or professional health programs. When considering a prospective evaluator, knowledge and understanding of the size, scope, mission and objectives of the specific program undergoing review is essential. Leadership experience with a state physician/professional health program is recommended. Demonstrated leadership through participation in other medically relevant organizations may also be considered.

Prospective evaluators must have the ability to interface effectively with multiple stakeholders in order to effectively gather meaningful information and condense data points into useful benchmarks; thereby assisting stakeholders in evaluating enhancement opportunities of the program, and to set realistic goals for future strategic performance measures.

The experience and expertise of the evaluator may vary depending on the scope and nature of the questions to be addressed by the PER. For example, if the question is whether the program has sufficient safeguards in place to protect confidentiality or comply with other statutes, rules and regulations such as the Health Insurance Portability and Accountability Act (HIPAA), the evaluators should have an appropriate level of expertise in these areas, including program operations, etc.

Evaluators should not have been an agent, servant or employee of the program to be reviewed (with the exception of ongoing measures that are conducted internally at PHPs as part of continuous quality improvement). The evaluator and program should be able and willing to attest to the lack of actual or apparent conflicts of interest which may be perceived as an impediment in the provision of objective findings and associated recommendations. Any relevant events or conflicts in the evaluated state should be disclosed and addressed in the evaluation summary.

Specialized areas of expertise may be considered in light of the purpose identified for the PER. More than one evaluator may be assigned to conduct a PER, depending on the purpose, scope and complexity of the evaluation, availability of evaluator(s), resources and other concerns. If more than one evaluator is selected, the roles of each expert should be specified and the evaluators should work together and coordinate to produce a collaborative and comprehensive report.

Remuneration shall be negotiated between the PHP and appropriate others as well as the evaluator(s). Remuneration should be based upon the reason for the PER and the needs of the PHP and extensiveness of the review. Evaluators should agree to indemnify all stakeholders as well as the PHP for any errors and omissions which may be contained in performance evaluation reports. It should also be understood that the validity of the opinions is based on the information made available to the reviewers.

Evaluators must respect the confidentiality of the PHP and participant information acquired in the course of the PER, and be diligent in the protection of information obtained. Information may not be used for personal gain, advantage, malicious action, or to further any personal or political agenda or perspective. Evaluators should

avoid conflicts of interest and compensation arrangements should not provide incentives for evaluator actions contrary to the attributes and objectives of the PER. Evaluators should adhere to principles of objectivity, competence, professionalism, confidentiality and integrity.

The evaluator should adopt reasonable procedures to only access and review PHP information and documentation for a period of time sufficient to meet the needs of the review, but no longer. Evaluators should sign documentation confirming their ethical and legal obligation to maintain client and program confidentiality free from conflicts of interest both during and after the review has been completed.

A confidentiality agreement should be signed by the evaluators as part of the PER contract. The evaluator should acknowledge that the materials and information provided to the Evaluator by the PHP, and all materials created, and all information collected by the Evaluator pursuant to this PER Agreement constitute confidential information of the PHP (“Confidential Information”). The Evaluator should acknowledge that they have been informed of the scope, purpose for utilization and nature of the Confidential Information; thereby agreeing the Confidential Information will be protected to the full extent allowed by law.

- a. Use of Confidential Information: The Evaluator shall use the Confidential Information only as permitted by the PHP for the purposes of the PER, and take all necessary and/or proper steps to prevent unauthorized use of the Confidential Information. The Evaluator shall not engage in unauthorized discussions and/or communications regarding the Confidential Information, shall not make any unauthorized copies or transmittals of the Confidential Information, and shall not make any unauthorized personal or business use of the Confidential Information.
- b. Disclosure of Confidential Information: The Evaluator shall not disclose, or permit any unauthorized person or entity to have access to any Confidential Information and shall take all reasonable action necessary and/or proper to prevent unauthorized disclosure of the Confidential Information. The Evaluator shall promptly report to the PHP any known, incidental or suspected unauthorized access to or distribution of any Confidential Information.
- c. Return of Confidential Information: Immediately upon expiration or termination of this PER Agreement, or earlier upon request by the PHP, the Evaluator shall return all Confidential Information in its possession or under its control to the PHP.

With careful consideration for confidentiality, the identity of PHP participants must be protected. A process to allow an evaluator to take immediate action in the event the PER identifies an imminent risk to patient safety should be identified at the outset and defined in the PER contract with the evaluator.

A sample written agreement may be found in Appendix A

A PER may involve disclosure of protected participant information. PHPs are encouraged to review applicable policies, procedures and laws regarding such disclosures.

5. Determine the outline or design of the written report and determine with whom it will be shared

An effective PER will result in a written report or summary of findings.

The final report should identify the qualifications of the evaluator(s), purpose of the PER including questions to be addressed, explain the method used, list the sources considered during the evaluation, the dates or time frame of the review and the essential facts, conclusions, and recommendations. Reports should set forth

recommendations in a manner to promote program enhancement. Reports should not include any information that may be used to identify any current or former participants in the PHP program. If possible, an executive summary should be included in the report.

The PER report should specify that it will be provided only to those identified in the PER Agreement as recipients of said report. Distribution of the PER report should be limited and agreed upon as part of the PER Agreement. Evaluator(s) disclosure or distribution of the PER report, outside of that agreed upon as part of the PER Agreement, should be at the sole discretion of the PHP. However, if a recipient of the report is a public body or agency, the PHP must understand that the report will be considered a public document.

6. Define the accountability actions, response and implementation from the PER findings

The outcome of a PER may result in the opportunity to launch a Strategic Enhancement Plan (SEP). Response implementation can vary according to the particular resources of the PHP. After a PHP receives the PER Report, leadership should carefully review and identify ways and means to enhance program performance by addressing points raised in the PER report, preferably within the program's resources. If that is not possible, then the SEP should include plans for additional funding or alternate options and risk management plans. The program should identify the objectives it wishes to promote and has the resources to implement. For example, the program may need to increase staffing levels over twelve months. The program may use the PER and SEP to request additional funding for implementation of the SEP.

The FSPHP cautions that an SEP should set forth meaningful objectives, keeping in mind the nature of PHP work and the need for flexibility. While arbitrary time frames should not be promoted, reasonable parameters for objectives may be appropriate. What may be appropriate for one state may not be reasonable for another. Therefore, as more PERs become publicly available, the need for a collective understanding of reasonable practices for PHPs is essential.

CONCLUSION:

Prior to the establishment of PHPs, a physician or professional who was identified as potentially "impaired" faced license discipline and public exposure of personal health information. As a result, professionals were disinclined to seek care and treatment due to fear, shame, and stigma. Such a system did not benefit the public or patient safety as it promoted denying illness and delayed interventions until after the public was exposed to potentially impaired professionals exercising medical judgment. PHPs were created to promote physician health and to encourage access and commitment to treatment. In some states, PHPs are allowed to be used as an alternative to licensure discipline which recognizes that patient safety may be enhanced by encouraging physicians to seek care for their health and wellness. In all situations, there is an expectation of accountability on the part of the professional and on the part of the PHP. It is not surprising that the expectations of the professional who seeks the PHP support and the expectations of the regulators or public may, at times, conflict.

Mindfully planned PERs may assist a PHP in balancing the inherent conflict between individual rights to respectful healthcare decision-making and the public interest in safety and risk management. While confidentiality of identity and healthcare information is essential to the integrity of the PHP, transparency in process and approach may enhance confidence in the PHP on the part of the regulatory boards and commissions as well as the healthcare community. PERs may also dispel misconceptions and provide the PHP a vehicle for growth and validation.

In order for a PER to be meaningful, the PHP and interested parties or stake holders must identify the purpose, parameters, and the goals of the PER at the outset. Careful attention to details before the PER is initiated will

enhance the likelihood that the PER will provide a baseline for a PHPs record of enhancing professional health and identify areas that may benefit from focus for improvements. A well-constructed PER will give a strong foundation for an ongoing commitment to maintaining quality of services as well as strategic enhancement.

The FSPHP encourages our members to engage in both internal and external PERs and to share their experience with the FSPHP. As such reviews become more common, it is hoped that the data may enable the development of deeper insight and awareness into the importance of allowing our professionals the dignity to be patients as well as providers, thereby enhancing patient health and safety.

Appendix A: SAMPLE PROVISION OF EVALUATOR CONTRACT

Conflict of Interest: The Evaluator shall perform the Services solely in accordance with the Evaluator's best professional judgment and avoid any actual or apparent conflict of interest in connection with the PER Services. The Evaluator agrees to report and disclose to the PHP and any other entity involved in contracting for the PER, any material financial or beneficial interest that could potentially cause a conflict, or the perception of a conflict with the Evaluator's performance of the PER Services. The Evaluator shall not engage in any activity or hold any position likely to cause a conflict, or the perception of a conflict with the Evaluator's performance of the PER Services without the written approval of all parties involved in contracting for the PER. In the event the PHP, or another entity involved in contracting for the PER, in their sole discretion, determines, an interest of the Evaluator's is likely to cause, or be perceived as causing a conflict, the PHP shall advise the Evaluator of its decision and, unless the PHP determines the need to terminate is urgent, the evaluator shall have a period of 30 days to resolve such conflict to the satisfaction of the PHP. If the need is urgent and/or the matter is not resolved to the satisfaction of the PHP within 30 days, the PER Agreement may be terminated. The Evaluator represents and warrants no such conflict exists, or any such conflict has been disclosed to the PHP, as of the effective date of the PER Agreement.

SAMPLE LETTER

Thank you for conducting the PER required by [insert requirement e.g. state law, contract, other provision]. This correspondence confirms the agreement regarding the performance of this PER.

Your fee is \$275.00 per hour including transportation time. We understand that there may be an additional fee for expenses, such as copying and postage.

The focus of the PER has been identified as follows:

[Insert questions for attention]

You further agree that in the course of the PER, you will not copy any program files or records and no program files or records will be removed from the premises. You will destroy all personally identifying information about health care professionals participating in the assistance program upon the completion of the PER and you will not disclose personally identifying information about the health care professionals participating in the program to any person or entity other than a person employed by the assistance program who is authorized by the program to receive the disclosure. You will further not disclose in any PER report any personally identifying information about health care professionals participating in the assistance program. In the event that the PER identifies the existence of an imminent risk to patient or public safety, you will immediately notify the PHP and allow the PHP to address the concern. If the PHP response does not address the concern, you will notify the PHP and the PHP understands that you will notify the following representative of the licensing board _____. A meeting will be scheduled with you, the PHP and the licensing board representative. As noted above, if the imminent risk to public safety arises from an individual health professional, his or her identity will not be disclosed in the written report or identified outside the process outlined above.

Upon completion of the PER, a written report is to be submitted to the assistance program (PHP), the Department of Public Health, the Professional Assistance Oversight Committee and the Joint Standing

Committee of the General Assembly with respect to matters relating to public health. The contact for each entity is set forth below:

[Insert names and addresses of report recipients]

Please acknowledge your agreement to the terms contained in this correspondence by signing and returning the additional copy of this letter.

We look forward to working with you as we strive to improve our support to the health care professionals and fulfill our mission under state law.

Very truly yours,

Name of authorized representative of PHP

By signing a copy of this letter, I acknowledge my agreement to the terms and conditions set forth herein.

Signature of Evaluator

Date

Appendix B: KEY TERMS

- A) **COMPETENCE**- The capacity of a health care practitioner to provide medical care with reasonable skill to patients through the application of a sufficient fund of knowledge and level of technical ability
- B) **COMPLIANCE**- The act by a participant of meeting the terms of their monitoring agreement with their respective PHP. Examples include, but are not limited to: fulfilling daily “check-in” requirements should any exist, submitting toxicology specimens when directed, and keeping regularly scheduled appointments with PHP staff or other entities when directed.
- C) **IMPAIRMENT**- The inability of a healthcare practitioner to provide medical care with reasonable safety to patients as a result of a mental or physical health condition. Examples of potentially impairing health conditions include current substance use disorders, psychiatric conditions, or other medical illnesses affecting cognitive, motor or physical skills. Impairment is a functional state which is often transient. While it can be precipitated by untreated illness or other physiological states, it may be absent in the setting of such illness or physiological states.
- D) **LAPSE**- A single episode of substance use not associated with the other features indicative of, or meeting criteria for, a current substance use disorder.
- E) **MANDATED PARTICIPANT**- A healthcare practitioner who has been legally mandated by their licensing board/disciplinary authority to successfully complete a monitoring agreement with their corresponding PHP.

- F) **PARTICIPANT**- A healthcare practitioner enrolled in an active monitoring agreement with a recognized PHP.
- G) **PHP**- A physician health program. Such programs may be referred to as “professionals’ health programs” as they often provide services to other safety sensitive professional disciplines, in addition to physicians. Such programs typically provide intervention and monitoring of healthcare practitioners identified by an external referent as posing a potential risk of impairment as the result of an underlying mental or physical condition.
- H) **PSYCHIATRIC CONDITION**- A syndrome characterized by clinically significant disturbances in an individual’s cognition, emotion regulation or behavior in that suggests dysfunction in the psychological, biological, cognitive or developmental processes underlying psychiatric functioning. The condition is usually associated with significant distress or disability in social, occupational or other important activities.
- I) **RELAPSE**- (A) In specific reference to substance use disorders: Meeting criteria for a substance use disorder after a period of sustained remission and abstinence, as demonstrated by a return to repeated substance use and/or misuse, excluding appropriate use of medical substances for therapeutic purposes and under appropriate medical supervision; (B) In specific reference to psychiatric mood disorders, a return of symptoms meeting criteria for a depressive, mixed or manic episode. In reference to other behavioral conditions, a return of active symptoms at an intensity level capable of significantly affection one’s level of interpersonal, social or occupational functioning; (C) In specific reference to general medical conditions, return of the manifestations of disease after an interval of improvement.
- J) **RELAPSE BEHAVIOR**- Behavior without documented chemical use that is suggestive of significant risk of impending relapse.
- K) **SUBSTANCE**- Mind or mood altering substances with the capacity to alter sensorium, defined in law as controlled substances or illicit substances. This term also includes alcohol, cannabis and inhaled anesthetics.
- L) **SUBSTANCE USE DISORDER**- A problematic pattern of substance use leading to clinically significant impairment or distress and continues despite significant substance-related consequences.
- M) **SUBSTANTIVE NON-COMPLIANCE**- Recurrent or egregious behavior by a participant that significantly limits a PHP’s ability to confidently monitor his/her recovery from impairing illness and/or ability to practice medicine with appropriate safety to patients.
- N) **VOLUNTARY PARTICIPANT**- A healthcare practitioner who has enrolled in a monitoring agreement with their respective PHP without mandatory direction by their licensing board/disciplinary authority. Such individuals may have self-referred or been referred by their employer or other entity. The licensing board/disciplinary authority may be unaware of the individual’s PHP participation, contingent upon individual state law or PHP operating agreement.

Appendix C: SCHEMATIC OVERVIEW OF PER

Planned approach

▶ 3 PHASES & 4 Steps:

☐ BEFORE PER

- Step 1 – Project launch and discovery
- Step 2 – Planning and preparation

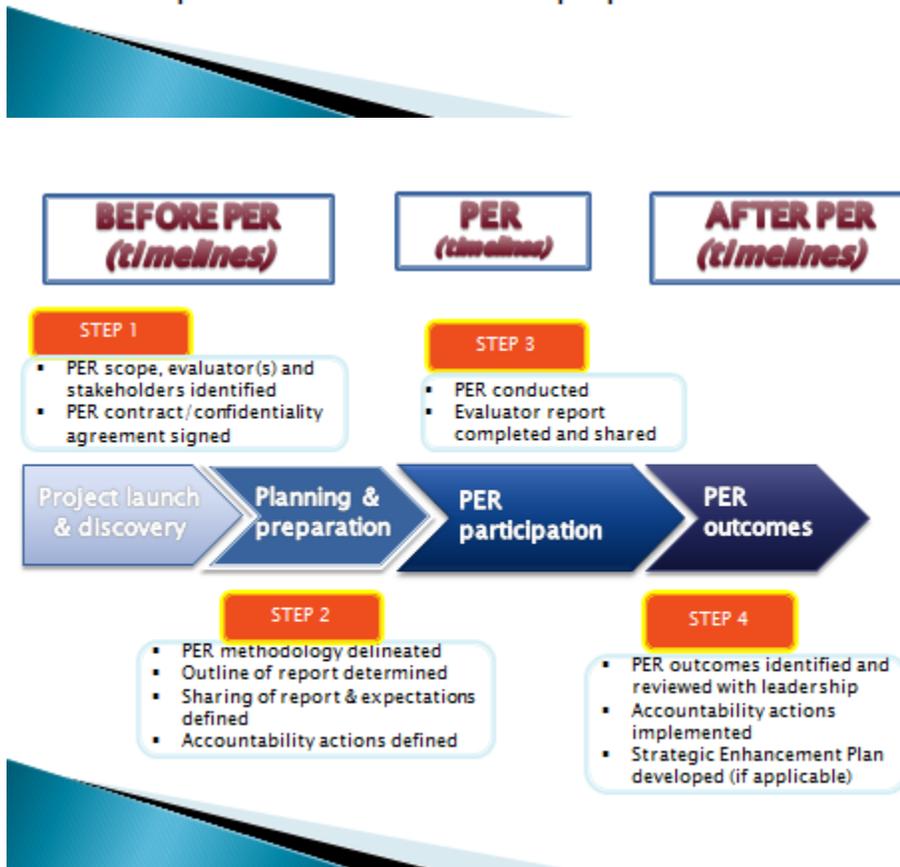
☐ DURING PER

- Step 3 – PER participation

☐ AFTER PER

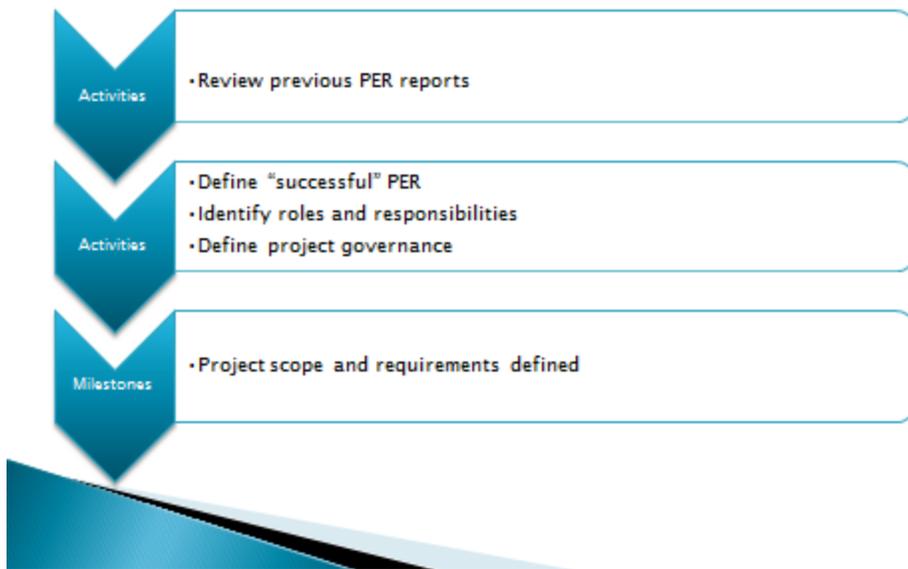
- Step 4 – PER outcomes & wrap up

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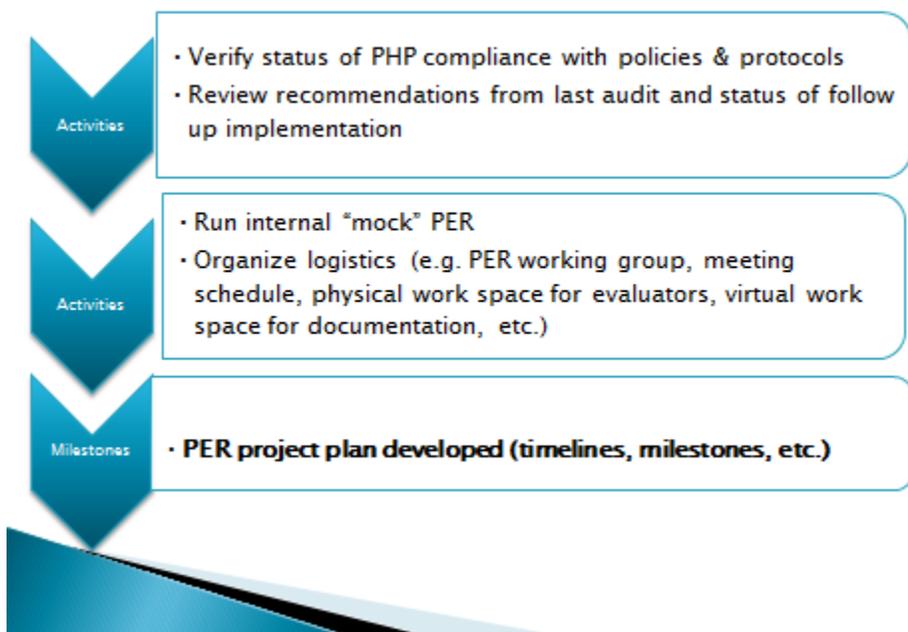


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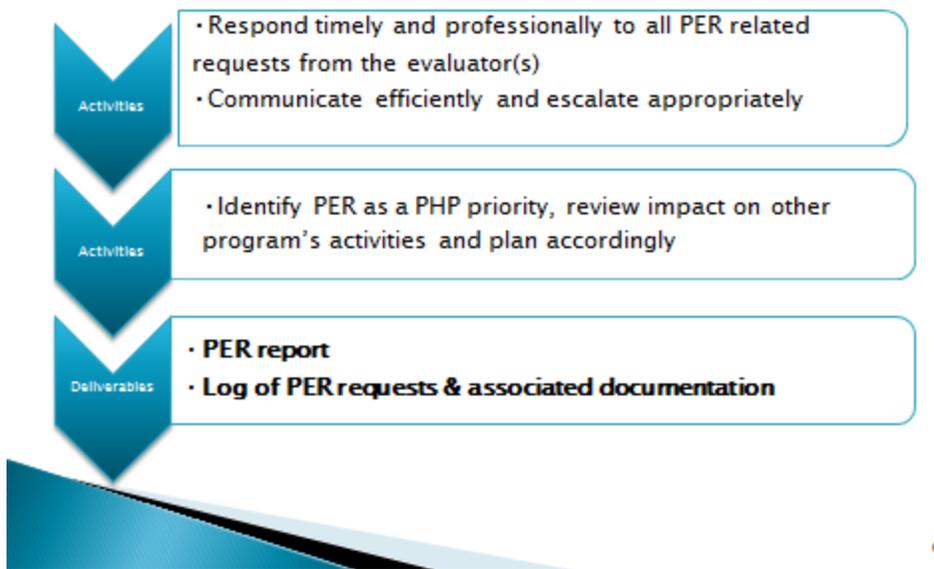
Step 1: Project launch and discovery



Step 2: Planning and Preparation



Step 3: PER participation



Step 4: PER outcomes

