Three Member Boards’ Experiences with DANS Data

ABMS Conference 2017

Dorthea Juul, PhD, ABPN
Rebecca Lipner, PhD, ABIM
Huaping Sun, ABA
Disclosure

- Dorthea Juul, PhD, salaried employee of ABPN
- Rebecca Lipner, PhD, salaried employee of ABIM
- Huaping Sun, salaried employee of ABA
Licensure Actions Involving ABPN Diplomates

Dorthea Juul, Ph.D.
Vice President, Research and Development

Larry R. Faulkner, M.D.
President and CEO

American Board of Psychiatry and Neurology
September 2017
“Professionalism is medicine’s most precious commodity.”

Richard Horton, M.B.B.S.
Editor, “Lancet”
• Literature review
• ABPN licensure policy
• FSMB, ABMS, and DANS
• ABPN procedures involving DANS reports
• ABPN diplomates with DANS actions
• State medical board actions against ABPN diplomates
• Categories of diplomate behavior resulting in state medical board actions
• Examples of ABPN diplomate behavior resulting in state medical board actions
• Conclusions
Literature Review

- Medical Students
- Residents
- Practicing Physicians
- Psychiatrists
- Summary
Medical Students
Disciplinary Action by Medical Boards and Prior Behavior in Medical School

Papadakis, et al. (NEJM, 2005)

- Case control study of 235 graduates of three medical schools who were disciplined by one of 40 state medical boards between 1990-2003
- 469 control physicians matched with the case physicians according to medical school and graduation year
Medical School Predictor Variables of Disciplinary Action

- **Unprofessional behavior** in medical school
- Low grades in M1/M2
- Low standardized test scores

Results

- **Disciplinary action** by a medical board was most strongly associated with prior unprofessional behavior in medical school:
  - Severe irresponsibility
  - Severely diminished capacity for self-improvement
Exploring the Relationships Between USMLE Performance and Disciplinary Action in Practice…

**Cuddy, et al. (AM, 2017)**

- Study of 164,725 physicians who graduated from U.S. MD-granting medical schools between 1994-2006
- 2,205 (1.3%) received at least one action by a state medical board
Medical School Predictor Variables of Disciplinary Action

- **Step 1** scores
- **Step 2** CK (clinical knowledge) scores

**Results**
- **Physicians with higher Step 2 CK scores had lower odds of receiving an action** (Step 1 scores did not add to the prediction)
Residents
Performance During Internal Medicine Residency Training and Subsequent Disciplinary Action by State Licensing Boards


• Retrospective cohort study of 66,171 physicians who entered IM residency training in the U.S. from 1990-2000 and became ABIM diplomates

• 638 (1%) had disciplinary actions
Residency Predictor Variables of Disciplinary Action

- Residents’ annual evaluation summary ratings
- ABIM certification examination scores

Results

- Low professionalism rating on the residents’ annual evaluation summary predicted increased risk for disciplinary action
- High performance on the ABIM certification examination predicted decreased risk for disciplinary action
Practicing Physicians
Characteristics Associated with Physician Discipline

Kohatsu, et al. (Arch Intern Med 2004)

- Unmatched, case-control study of 890 physicians disciplined by the Medical Board of California between July 1, 1998, and June 30, 2001, compared with 2,981 randomly selected, nondisciplined controls
Results

Factors associated with an elevated risk for disciplinary action:

- Male gender
- Lack of board certification
- Increasing age
- International medical school education
Results

• **Risk of disciplinary action greater** than internal medicine:
  - Family medicine
  - General practice
  - Obstetrics and gynecology
  - **Psychiatry**

• Risk of disciplinary action less than internal medicine:
  - Pediatrics
  - Radiology
Disciplinary Action Against Physicians: Who Is Likely to Get Disciplined


- 14,314 currently or previously licensed physicians in Oklahoma
Results

• 396 (2.8%) had been disciplined

• Those at greater risk of being disciplined:
  ▪ Male gender
  ▪ Non-white
  ▪ Non-board-certified
  ▪ Specialties: family medicine, general practice, obstetrics-gynecology, emergency medicine, and psychiatry
Physicians Disciplined for Sex-Related Offenses

Dehlendorf and Wolfe (JAMA, 1998)

• Subjects were 761 physicians disciplined for sex-related offense from 1981-1996
Results

Physicians disciplined for sex-related offenses were:

- **Older** than the national physician population
- **No different in board certification** status
- More likely to practice psychiatry, child psychiatry, obstetrics/gynecology, or family medicine/general practice
Psychiatrists
Psychiatrists Disciplined by a State Medical Board

Morrison and Morrison (AJP, 2001)

- Subjects were 584 physicians disciplined by the California Medical Board in a 30-month period compared with matched groups of nondisciplined physicians
Results

- Compared to nonpsychiatrists, psychiatrists were:
  - Significantly more likely to be disciplined for sexual relationships with patients
  - About as likely to be charged with negligence or incompetence

- Disciplined and nondisciplined psychiatrists did not differ on:
  - Number of years since medical school graduation
  - IMG status
  - Board certification
Literature Summary
Literature Summary

- Performance in medical school and residency and on licensure examinations has been shown to be predictive of subsequent behavior in practice.
- Risk factors for disciplinary action have included psychiatry specialty, male gender, lack of board certification, and increasing age.
ABPN Licensure Policy
ABPN Licensure Policy

ABPN candidates and diplomates must hold an active and unrestricted allopathic and/or osteopathic license to practice medicine in at least one state, commonwealth, territory, or possession of the United States or province of Canada.
Restrictions include but are not limited to any disciplinary action, revocation, cancellation, suspension, condition, agreement, stipulation, probation, forfeiture, surrender, plea agreement, settlement agreement, failure to renew, prohibition against applying, lapse, inactive status or contingency *in any way relevant to a license and/or the physician’s privilege to practice professionally* that resulted from or is based on personal or professional misconduct, professional ethics, moral turpitude, criminal charges, indictments and/or convictions, and professional incompetence and/or malpractice.
A diplomate who no longer meets the Board’s licensure requirements shall, *without any action necessary by the Board or any right to a hearing*, automatically lose his or her diplomate status in all specialties and subspecialties for which the individual has received a certificate from the Board, and all such certificates shall be invalid.
ABPN Licensure Policy
Exceptions

• **Voluntary participation** in an impaired physicians’ program or other appropriate, monitored alcohol or chemical substance-abuse recovery program, **if the physician has NOT been reported** to either the National Practitioner Data Bank or the Data Bank of the Federation of State Medical Boards.
ABPN Licensure Policy
Exceptions

• At its sole discretion, the Board may review instances of licensure restrictions to determine whether such restrictions constitute a violation of the Board’s licensure requirements.
FSMB, ABMS, and DANS
FSMB = Federation of State Medical Boards

- 70 U.S. medical boards
- **During 2015**, medical boards disciplined **4,091 physicians**
- **<1% of physicians** with an active license
  (n = 931,921)
ABMS = American Board of Medical Specialties

- Member Boards in 24 specialties
- Beginning in 2004, the ABMS began receiving automated reports on licensure actions from the FSMB
DANS = Disciplinary Action Notification System

- ABMS report based on FSMB notifications
- **Since 2004**, ABPN has received reports on about 3,760 candidates and diplomates*

*First report in 2004 included cases with earliest action dates from the early 1960s.
ABPN Procedures Involving DANS Reports
ABPN Procedures

• Credentials staff review DANS Report and determine whether to obtain additional information from FSMB.

• Based on FSMB Report, additional information ordered from state medical board(s).

• Credentials staff review all information and determine if a candidate is eligible to apply or if a diplomate’s certificate(s) is/are invalid.
ABPN Procedures

- **Courtesy notification*** sent to physician with 30 days to respond.
- If no response in 30 days, physician is asked to return certificate(s).
- ABMS is notified about change in diplomate status.

*Candidate’s application is denied and/or certificate has been invalid since licensure action.
ABPN Procedures

Reinstatement of Application

• Physician notifies Board in writing that all licenses are now full and unrestricted.
• Credentials staff review documentation from applicable state licensing board(s).
• If approved, candidate may apply for ABPN MOC examination.
ABPN Procedures

Reinstatement of ABPN Diplomate Status

• Physician must submit *evidence of completion* of:
  ▪ 90 Category 1 CME credits
  ▪ 24 Self-assessment CME credits
  ▪ 1 PIP unit
• Physician must *pass an ABPN MOC Examination*
ABPN Procedures

Reinstatement of ABPN Diplomate Status

- If all requirements are met, diplomate is assigned a new certificate number and sent a new certificate.
- **All certificates will be 10-year, time-limited certificates**, regardless of the certificate previously held.
ABPN Diplomates with DANS Actions
Results for Five ABPN Cohorts

• This presentation will focus on diplomates certified in five cohorts:
  ▪ **1990** (27 years post-certification)
  ▪ **1995** (22 years post-certification)
  ▪ **2000** (17 years post-certification)
  ▪ **2005** (12 years post-certification)
  ▪ **2010** (7 years post-certification)
Results for Five ABPN Cohorts

- Across these five cohorts, DANS actions were received for:
  - 4% of the psychiatrists (234/5,573)
  - 3% of the neurologists (74/2,313)
  - 2% of the child neurologists (7/290)

<table>
<thead>
<tr>
<th>Cohort</th>
<th>No. DANS/No. Certified</th>
<th>No. DANS/No. Certified</th>
<th>No. DANS/No. Certified</th>
<th>No. DANS/No. Certified</th>
<th>No. DANS/No. Certified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychiatry</td>
<td>1990 6% (62/968)</td>
<td>1995 5% (58/1,066)</td>
<td>2000 5% (52/1,097)</td>
<td>2005 3% (35/1,129)</td>
<td>2010 2% (27/1,313)</td>
</tr>
<tr>
<td>Neurology</td>
<td>1990 5% (19/357)</td>
<td>1995 6% (23/367)</td>
<td>2000 4% (16/422)</td>
<td>2005 1% (5/493)</td>
<td>2010 2% (11/674)</td>
</tr>
<tr>
<td>Child Neurology</td>
<td>1990 4% (2/45)</td>
<td>1995 0% (0/28)</td>
<td>2000 6% (3/51)</td>
<td>2005 2% (1/47)</td>
<td>2010 1% (1/119)</td>
</tr>
</tbody>
</table>

**Total:** 234 Psychiatry; 74 Neurology; 7 Child Neurology
State Medical Board Actions Against ABPN Diplomates
State Medical Board Actions

• **Loss of License or License Privileges:**
  Includes *revocation, suspension, surrender* or *mandatory retirement* of license, or loss of privileges afforded by that license.

• **Restriction of License or License Privileges:**
  Includes *probation, limitation, or restriction* of license, or licensed privileges.
State Medical Board Actions

- **Other Prejudicial Action**: Modification of a physician’s license, or the privileges granted by that license, that results in a **penalty or reprimand**, etc., to the physician.

- **Non-Prejudicial Action**: An action that does not result in modification or termination of a license or licensing privileges and is frequently **administrative in nature**, such as a reinstatement following disciplinary action.
### State Medical Board Actions

<table>
<thead>
<tr>
<th>Actions (to date)</th>
<th>Psychiatry (n = 234)</th>
<th>Neurology (n = 74)</th>
<th>Child Neurology (n = 7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of license or license privileges</td>
<td>115 diplomates (49%) 367 actions</td>
<td>36 diplomates (49%) 109 actions</td>
<td>1 diplomat (14%) 1 action</td>
</tr>
<tr>
<td>Restriction of license or license privileges</td>
<td>107 diplomates (46%) 556 actions</td>
<td>24 diplomates (32%) 136 actions</td>
<td>3 diplomates (43%) 45 actions</td>
</tr>
<tr>
<td>Other prejudicial action (penalty or reprimand)</td>
<td>174 diplomates (74%) 675 actions</td>
<td>54 diplomates (73%) 234 actions</td>
<td>4 diplomates (57%) 17 actions</td>
</tr>
<tr>
<td>Non-prejudicial action (administrative issues)</td>
<td>105 diplomates (45%) 142 actions</td>
<td>25 diplomates (34%) 34 actions</td>
<td>4 diplomates (57%) 6 actions</td>
</tr>
</tbody>
</table>
Categories of ABPN Diplomate Behavior Resulting In State Medical Board Actions
Categories of ABPN Diplomate Behavior Resulting in State Medical Board Actions

- **Medical practice** issues
- **Criminal/fraud** issues
- **Practice management** issues
- **Procedural** issues

**Note:**
- Many diplomates fell into **multiple categories**.
- Different states may **“code” infractions differently**.
### Categories of Diplomate Behavior (Medical Practice Issues)

<table>
<thead>
<tr>
<th>Category</th>
<th>Psychiatry (n = 234)</th>
<th>Neurology (n = 74)</th>
<th>Child Neurology (n = 7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unprofessional/unethical behavior</td>
<td>84 diplomats (36%) 383 actions</td>
<td>21 diplomats (28%) 71 actions</td>
<td>2 diplomats (29%) 6 actions</td>
</tr>
<tr>
<td>Practice standard violation</td>
<td>46 diplomats (20%) 131 actions</td>
<td>21 diplomats (28%) 67 actions</td>
<td>3 diplomats (43%) 19 actions</td>
</tr>
<tr>
<td>Substance use/abuse</td>
<td>33 diplomats (14%) 147 actions</td>
<td>5 diplomats (7%) 16 actions</td>
<td>0 diplomats (0%) 0 actions</td>
</tr>
<tr>
<td>Inappropriate prescribing</td>
<td>23 diplomats (10%) 57 actions</td>
<td>4 diplomats (5%) 9 actions</td>
<td>2 diplomats (29%) 6 actions</td>
</tr>
<tr>
<td>Mental/physical impairment</td>
<td>21 diplomats (9%) 56 actions</td>
<td>3 diplomats (4%) 9 actions</td>
<td>0 diplomats (0%) 0 actions</td>
</tr>
</tbody>
</table>
## Categories of Diplomate Behavior (Criminal/Fraud Issues)

<table>
<thead>
<tr>
<th>Category</th>
<th>Psychiatry (n = 234)</th>
<th>Neurology (n = 74)</th>
<th>Child Neurology (n = 7)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criminal activity</strong></td>
<td>30 diplomates (13%)</td>
<td>1 diplomates (15%)</td>
<td>diplomate (14%)</td>
</tr>
<tr>
<td></td>
<td>93 actions</td>
<td>35 actions</td>
<td>2 actions</td>
</tr>
<tr>
<td><strong>Controlled substance issue</strong></td>
<td>11 diplomates (5%)</td>
<td>2 diplomates (3%)</td>
<td>0 diplomates (0%)</td>
</tr>
<tr>
<td></td>
<td>45 actions</td>
<td>2 actions</td>
<td>0 actions</td>
</tr>
<tr>
<td><strong>Fraudulent misrepresentation</strong></td>
<td>11 diplomates (5%)</td>
<td>5 diplomates (7%)</td>
<td>1 diplomate (14%)</td>
</tr>
<tr>
<td></td>
<td>35 actions</td>
<td>8 actions</td>
<td>3 actions</td>
</tr>
<tr>
<td><strong>Fraud</strong></td>
<td>12 diplomates (5%)</td>
<td>diplomates (5%)</td>
<td>1 diplomate (14%)</td>
</tr>
<tr>
<td></td>
<td>27 actions</td>
<td>5 actions</td>
<td>3 actions</td>
</tr>
</tbody>
</table>
### Categories of Diplomate Behavior (Practice Management Issues)

<table>
<thead>
<tr>
<th>Category</th>
<th>Psychiatry (n = 234)</th>
<th>Neurology (n = 74)</th>
<th>Child Neurology (n = 7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical records violation</td>
<td>23 diplomats (10%) 53 actions</td>
<td>10 diplomats (14%) 30 actions</td>
<td>3 diplomats (43%) 12 actions</td>
</tr>
<tr>
<td>Failure to supervise</td>
<td>1 diplomate (&lt;1%) 4 actions</td>
<td>0 diplomats (0%) 0 actions</td>
<td>0 diplomats (0%) 0 actions</td>
</tr>
</tbody>
</table>
### Categories of Diplomate Behavior (Procedural Issues)

<table>
<thead>
<tr>
<th>Category</th>
<th>Psychiatry (n = 234)</th>
<th>Neurology (n = 74)</th>
<th>Child Neurology (n = 7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical board violation</td>
<td>73 diplomats (31%)</td>
<td>25 diplomats (34%)</td>
<td>2 diplomats (29%)</td>
</tr>
<tr>
<td></td>
<td>157 actions</td>
<td>59 actions</td>
<td>6 actions</td>
</tr>
<tr>
<td>Action by another agency</td>
<td>63 diplomats (27%)</td>
<td>25 diplomats (34%)</td>
<td>3 diplomats (43%)</td>
</tr>
<tr>
<td></td>
<td>163 actions</td>
<td>77 actions</td>
<td>5 actions</td>
</tr>
</tbody>
</table>
Examples of ABPN Diplomate Behavior Resulting in State Medical Board Actions
Case #1  
**Medical Practice Issue**

A psychiatrist saw a patient for treatment of depression. In the course of treatment the psychiatrist and patient engaged in a romantic and sexual relationship. Over time they met at various places such as restaurants, parks, and outdoor recreation areas where they engaged in sex. They talked on the phone and sent text messages and cards to one another. The relationship ended when the doctor sent a text message of a personal nature that was apparently meant for another woman. The patient attempted suicide.
Case #1

Medical Practice Issue

State Medical Board action:

• **Indefinite suspension of medical license**
Case #1

Medical Practice Issue

ABPN action:

- **ABPN certificate invalid**
Case #2
Medical Practice Issue

A neurologist was evaluated and diagnosed with substance use disorder and was required to complete treatment. She initially complied then left and returned to treatment several times and suffered relapses.
Case #2

Medical Practice Issue

State Medical Board action:

- **Indefinite suspension of medical license**
Case #2

Medical Practice Issue

ABPN action:

• ABPN certificate invalid
Case #3
Criminal/Fraud Issue

A neurologist was convicted of felony Medicaid fraud and larceny for overbilling Medicaid by about $250,000. He also had a history of chemical dependency. He attended a Physician Health Program for several years.
Case #3
Criminal/Fraud Issue

State medical board actions:

- **License revoked** in State 1
- **License surrendered** to avoid adverse action in State 2, based on State 1 action
- **License revoked** in State 3 based on conviction for felony
- State 4 **granted licensure with restrictions** and conditions, then removed conditions, and then reinstated conditions
- **Currently has a license with conditions** in State 4; other licenses are revoked (State 3) or surrendered (State 2), and one expired on probation (State 1)
Case #3
Criminal/Fraud Issue

ABPN action:
• ABPN certificate invalid
A psychiatrist noted in the medical records of his patients only the sentinel changes at each patient’s visit and did not repeat information in the records because he felt doing so burdened the records with unnecessary, duplicative information. He did not document changes in a patient’s mental status examination or the risks, benefits, side effects, or adverse effects of the patient’s treatment. He believed his colleagues easily understood his records and felt his record-keeping methods were more efficient and economical for all involved.
Case #4

Practice Management Issue

State Medical Board actions:

• **Conditions placed on physician’s medical license**

• Physician required to enroll in and successfully complete at least 10 hours of Category I CME on the topic of medical record keeping
Case #4

Practice Management Issue

ABPN action:

- *ABPN certificate invalid*
Case #5

Procedural Issue

A child neurologist failed to disclose on his license renewal form that he had been denied licensure in another state. The licensure denial was for unprofessional conduct, practicing without a license, and not being physically present during billed for time.
Case #5

Procedural Issue

State Medical Board actions:

• **License denied** in state 1
• **License restricted** in one state
• **Licenses expired** in 18 other states
Case #5
Procedural Issue

ABPN action:
• **ABPN certificate invalid**
Conclusions
Conclusions

• Small, but consistent numbers of ABPN diplomats (2-4%) have action taken against them by state medical boards.

• Psychiatrists may be at somewhat greater risk for State Medical Board action than neurologists/child neurologists.
Conclusions

• The **most common bases** for State Medical Board actions are **medical practice issues** (unprofessional/unethical behavior, practice standard violations, and substance use/abuse) and **procedural issues** (medical board violation and action by another agency).
Conclusions

• Research suggests that those who display problematic behavior during medical school and residency are at greater risk for licensure actions later in their careers.

• Hence, it is important to emphasize competence AND professionalism-related issues during training and to address deficiencies and problematic behaviors when they arise in the careers of physicians.
Questions?