

Learning from Others' Mistakes: Effectively Teaching ABFM Professionalism Guidelines

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Why are you here today?

Educational Objectives

- Identify common causes of state license restrictions and loss of board certification.
- Participants will be able to provide an effective teaching session on ABFM Guidelines for Professionalism, Licensure & Personal Conduct.
- Participants can teach residents how to 1) best respond to patient complaints to state licensing boards, 2) approach hearings, and 3) understand consent agreements and connection between licensing authorities and certification boards.

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ABFM Certification requires:

Part I. Adequate Professional Standing and Professionalism

Part II. Commitment to Self Assessment and to Lifelong Learning

Part III. Demonstrate Sufficient Knowledge and Clinical Judgment

Part IV. Commitment to Improvement in Practice

Parts I – IV are for public protection.

Parts II - IV specifically help physicians improve.

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ABFM Certification

- Must fulfill all requirements in the 4 certification components.
- Participation in certification may be terminated if:
 - lose medical license or subject to practice limitations
 - unprofessional behavior as described in Guidelines
 - evidence of unlawful activity as described in Guidelines

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Have You Ever Actually Read This?

The screenshot displays the American Board of Family Medicine website. The main content area is titled "Professionalism" and contains the following text:

This component of ABFM Family Medicine Certification is designed to assess professional standing, which Diplomates are required to demonstrate throughout the Family Medicine Certification cycle.

Fulfillment of this component requires Diplomates and candidates meet the standards of professional behavior, and personal conduct, as outlined in the American Council of Family Medicine Guidelines for Professionalism, Integrity, and Ethical Conduct: Personal Conduct. In order to obtain and maintain certification, all currently certified Diplomates as well as physicians seeking certification are subject to the policy, including consequences, relative to any of the standards of this United States and medical licensure of the United States Public Health Service in the Department of Veterans Affairs of the United States.

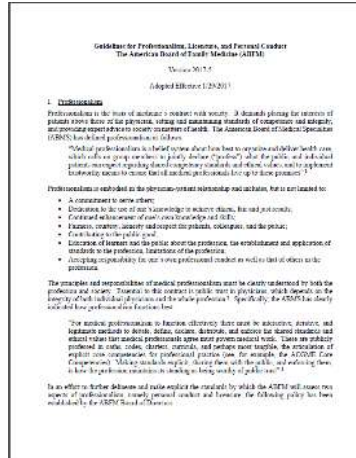
Among the specifics of the Guidelines, practitioners are required to continuously hold an active, valid, full and unrestricted license to practice medicine in any state or territory of the United States or any equivalent of Canada, and all medical licensure rules in the physical must be full and unrestricted, regardless of whether or not the Diplomate currently practices in the given state, territory, or province. Diplomas are not used to obtain or to maintain medical licensure in the United States or Canada (which they are not of the country for extended periods of time). Applicants' professional or personal conduct may be called into question and reviewed by the Credentials Committee of the ABFM if such issues are brought to the attention of the ABFM by the ABFM Self-Assessment, or by the Centers for Medicare and Medicaid Services, the Department of Health and Human Services, the U.S. Drug Enforcement Administration, the Centers for Medicare and Medicaid Services, the Department of Health and Human Services, the Committees of Medical Schools, Hospitals, and Medical Clinics.

Diplomates must remain compliant with the Guidelines of the ABFM in the lines of ABFM certification and/or capacity.

Professional, temporary, and training medical licenses do not fulfil the requirements of an active, valid, full and unrestricted medical licensure and should not be entered into the ABFM (https://www.abfm.org). If a candidate uses an institutional, temporary, or training medical license or enters an

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Or This? (all 6 pages?...)



Teaching ABFM Professionalism Policy

- How to teach a dry policy?????
- Especially when resident "knows" that "I'm professional!"
- Car rental agreement phenomenon

Some ideas on this

- First step- the teacher must know the material!
- Residency Curriculum Resource – (case-based)
- Pretest/ post-test
- Jeopardy (no pun intended)
- Others?

Which general competency deficit causes the most diplomates to involuntarily lose board certification?

- Medical Knowledge
- Patient Care
- Interpersonal Communication
- Professionalism
- Practice-Based Learning
- Systems- Based Practice

Which general competency deficit causes the **2nd** most diplomates to lose ABFM board certification?

- Medical Knowledge
- Patient Care
- Interpersonal Communication
- Professionalism
- Practice-Based Learning
- Systems- Based Practice

Professionalism

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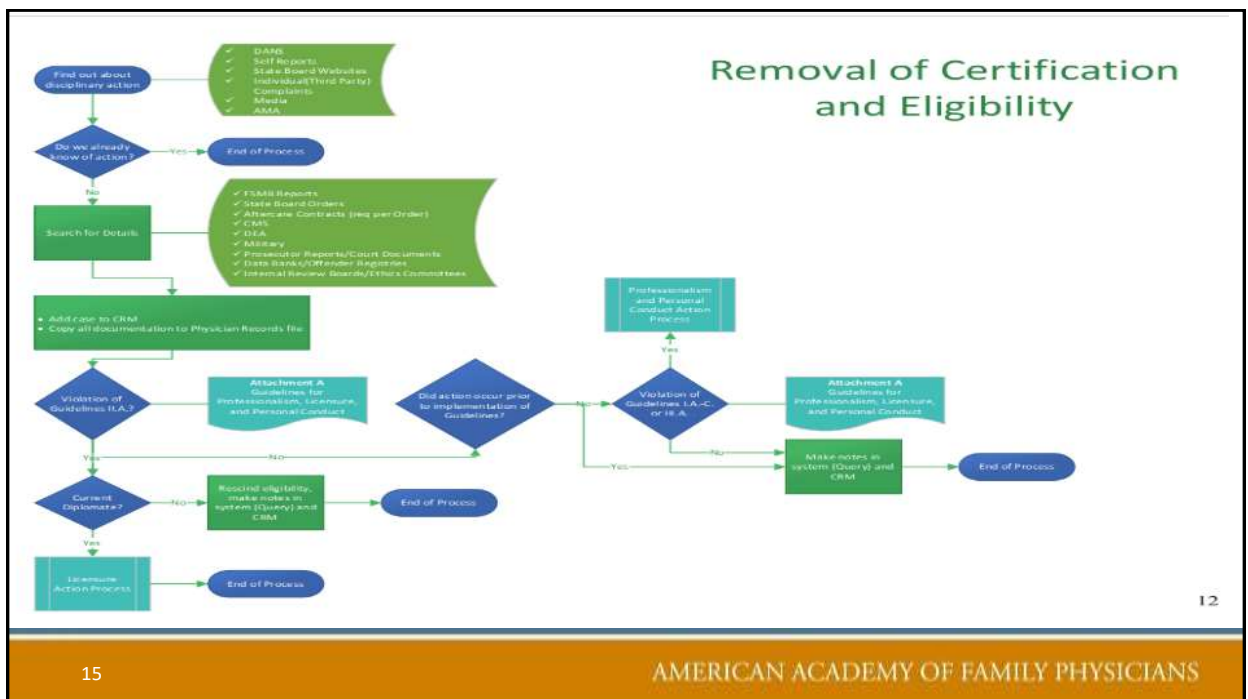
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ABFM reviews certification status following an adverse action by a Governing Body such as:

- Entities of Federation of State Medical Boards
- US Drug Enforcement Administration (DEA)
- CMS (Centers for Medicare & Medicaid Services)
- Institutional Review Boards (IRBs)
- Ethics committees of Medical schools, Hospitals, Clinics
- Department of Defense, US Public Health Service, VA



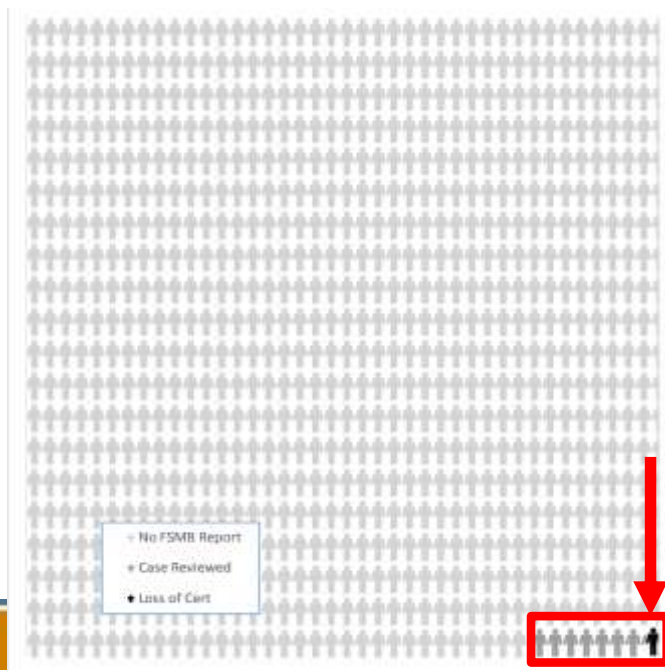
Not all license actions lead to loss of Certification

Severity*	Action Category *	Action While Certified		
		[ALL] N=11929	NO N=8036	YES N=3893
Least				
	CME Required	2207 (18.5%)	725 (9.02%)	1482 (38.1%)
	Fine	384 (3.22%)	95 (1.18%)	289 (7.42%)
	Reprimand	755 (6.33%)	257 (3.20%)	498 (12.8%)
		1068 (8.95%)	373 (4.64%)	695 (17.9%)
Less				
	Probation	5475 (45.9%)	3667 (45.6%)	1808 (46.4%)
	Restricted	2174 (18.2%)	1379 (17.2%)	795 (20.4%)
	Conditions	2048 (17.2%)	1620 (20.2%)	428 (11.0%)
		1253 (10.5%)	668 (8.31%)	585 (15.0%)
Most				
	Revoked	4247 (35.6%)	3644 (45.3%)	603 (15.5%)
	Surrendered	768 (6.44%)	650 (8.09%)	118 (3.03%)
	Denied	873 (7.32%)	762 (9.48%)	111 (2.85%)
	Suspension	318 (2.67%)	249 (3.10%)	69 (1.77%)
		2288 (19.2%)	1983 (24.7%)	305 (7.83%)

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- ABFM's average annual disciplinary rates for 2013 thru 2017.
 - 99% of ABFM Diplomates have no action reported that would warrant a review by the credentials committee.
 - 0.9% of Diplomates have a case reviewed by the credentials committee.
 - 0.09% of Diplomates lose their certification.
 - Half the time the loss is not permanent.

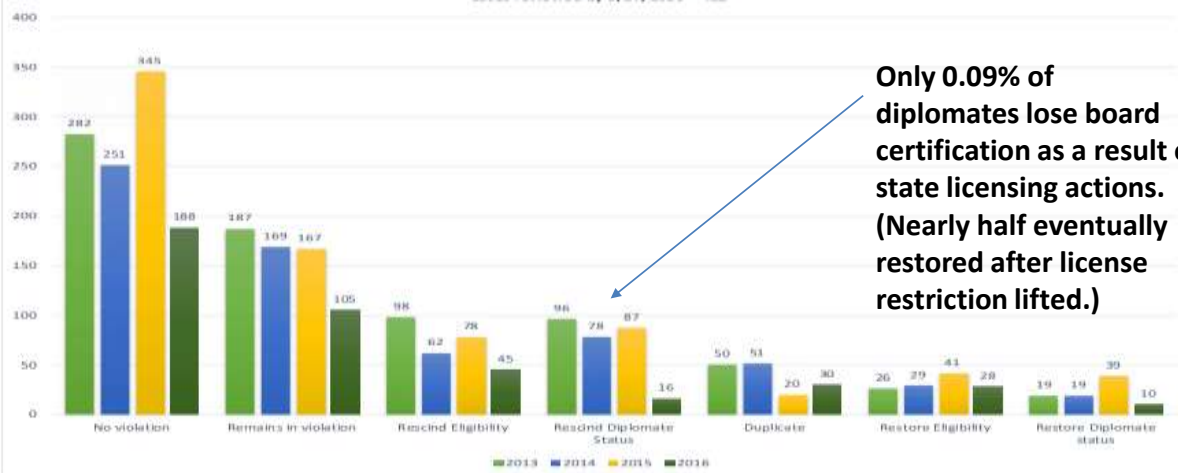


2017-18 ABFM Credentials Committee

- 1 (Family Physician) Chair
- 7 family physicians
- 2 specialists
- 1 public member

2013-2016 Cases Reviewed and Action/No Action Taken

Total cases reviewed in 2013 = 758
 Total cases reviewed in 2014 = 659
 Total cases reviewed in 2015 = 777
 Cases reviewed by 6/27/2016 = 422



Only 0.09% of diplomates lose board certification as a result of state licensing actions. (Nearly half eventually restored after license restriction lifted.)

Full and Unrestricted License

A family physician must continuously hold a currently **active, valid and full** medical license that is **not subject to practice privilege limitations** in any state or territory in which s/he has a medical license, regardless of whether or not they are currently practicing within that state.

Name Some Common Reasons for License Limitations....

Common Reasons for License Limitations

- Boundary issues
- Criminal issues
- Professionalism (other – license ap falsehood, etc)
- Substance Abuse
- Substandard Medical Practice
- Substandard Prescribing of Controlled Substances

Description of the 740 Violations among 235 Physicians That Led to Disciplinary Action on the Part of 40 State Medical Boards

Table 1. Description of the 740 Violations among 235 Physicians That Led to Disciplinary Action on the Part of 40 State Medical Boards.

Type of Violation	No. (%)
Unprofessional behavior	
Use of drugs or alcohol ^a	108 (15)
Unprofessional conduct	82 (11)
Conviction for a crime	46 (6)
Negligence	42 (6)
Inappropriate prescribing or acquisition of controlled substances	39 (5)
Violation of a law or order of the board, of a consent or rehabilitation order, or of probation	32 (4)
Failure to conform to minimal standards of acceptable medical practice	31 (4)
Sexual misconduct	29 (4)
Failure to meet requirements for continuing medical education or other requirements	26 (4)
Fraud or inappropriate billing practices (e.g., Medicare billing irregularities)	20 (3)
Failure to maintain adequate medical records	19 (3)
Failure to report adverse actions against oneself in accordance with rules of the board	10 (1)
Conduct that might defraud or harm the public	10 (1)
Other (less than 1% of any single category)	37 (5)
Total	551 (74)
Incompetence	
Health-related problems, incompetence, or impairment	44 (6)
Unknown ^b	
Violation imposed by another board or agency	87 (12)
License revocation or suspension	28 (4)
Inappropriate treatment or diagnosis of patients or malpractice	7 (1)
Other or not available (less than 1% of any single category)	23 (3)
Total	145 (20)

^a The decision to categorize the use of drugs or alcohol as unprofessional behavior was based on the customary practice of medical boards to discipline physicians for such use if they commit acts that endanger patients. Physicians who have used drugs or alcohol but have not endangered patients may be referred to the diversion programs of medical boards, and generally do not face disciplinary action.

^b The category of unknown violations includes those that could not be ascribed to unprofessional behavior or to incompetence.

Case #1- Dr A.

A state medical board review determines that Dr. A failed to meet quality medical standards of care in eight of her patients with chronic pain (i.e. excessively prescribing opioid medications without adequate evaluation, monitoring or follow-up). Dr. A also prescribed controlled substances to patients without obtaining and/or documenting that she accessed state medical board-required reports from that state's online prescription reporting system.

What was the State licensing board action?

Dr A.- outcome

Dr A's license is limited by precluding her from treating any patient for chronic pain and, except in emergency cases of acute pain, from prescribing opioid medications. The FSMB reports this disciplinary action against her medical license.

What was the ABFM action?

Case #2- Dr B.

Dr. B fails to timely report adequate CME documentation after a medical board audit of his attestation with state CME requirements for a state in which he's never actually practiced (he has several state medical licenses). He signs a Voluntarily Surrender of Physician License, to make this administrative matter go away.

What was the State licensing board action?

Dr. B- outcome

By signing a Voluntarily Surrender of Physician License, this is reported to the Federation of State Medical Boards (FSMB) as a disciplinary action against Dr B's license.

What was the ABFM action?

Case #3- Dr C.

Dr. C works in an Emergency Department. Due to some health issues exacerbated by overwork, Dr. C falls asleep when listening to patients during overnight hours, reported by a patient to the state medical board. After reviewing the case, his state board offers and he agrees to sign a consent agreement stating that he may not see patients in an emergency department setting between the hours of midnight and 7 am. He had decided he didn't want to do this anyway.

What was the State licensing board action?

Dr. C- Outcome

This license limitation is reported to the FSMB.

What was the ABFM action?

Case #4- Dr. D.

Dr. D practices maternity care. Based on allegations of negligence in her delivery of a newborn involving the use of a vacuum assisted delivery device that resulted in the infant's death, she signed a settlement agreement with the state medical board, stating she agreed to immediately cease "operative" vaginal deliveries but continues to do maternity care.

What was the State licensing board action?

Dr. D- Outcome

Although the majority of family physicians do not practice maternity care, FSMB considers this a formal disciplinary action, and reported it to the specialty board as a license limitation.

What was the ABFM action?

Case #5- Dr. E.

Dr. E, in a small practice with limited staffing, is accused by a patient of inappropriate behavior during a gynecological exam. Rather than risking additional publicity that may come with litigation and desiring to put the matter behind him, he is offered a consent agreement.

What was the State licensing board action?

Dr. E- Outcome

In the consent agreement, Dr. E accepts a license limitation from his state medical board requiring all female patients have a chaperone present.

FSMB reports this to ABFM.

What was the ABFM action?

Medical practice limitations include those that:

- **Preclude** right to **self-treatment** or treatment of **family members**
- **Limits** right to prescribe any or certain **medications**;
- **Requires direct supervision** during exam or treatment of any patients
- **Requires** presence of a **chaperone** during exam or treatment of any patients
- **Limits** or restricts to a **specific location** the right to treat or examine, **or** restricts or limits the right to examine or treat to **any location** (limits where physician can or cannot examine or treat)
- **Limits hours or periods** during which can practice
- **Restricts** geographical **location** (if “boilerplate”, case by case)
- **Requires** practice only in a **group setting**
- **Restricts** practice **site or type of practice**

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Exceptions - License is **not** deemed “subject to practice limitations” if:

- 1) Limitation is applicable to all other practicing physicians in that jurisdiction;
- 2) Physician received letter of concern or reprimand **not** resulting in practice limitations (even if letter is part of physician’s record);
- 3) Voluntarily entered into rehabilitation or remediation program for impairment, dependency, or practice improvement with approval of a Governing Body:
not resulting in practice limitations (previous slide’s stipulations); or
not as a requirement of issuance or maintenance of a license; or
not as a requirement from Governing Body to reenter medical practice.
- 4) physician placed on probation **without** any specific practice privilege limitations, sanction, condition, requirement, or restriction on practice

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List of Common Limitations From the ABFM Appeal Form:

Check the box(es) that you believe best describes the action you are appealing.

- | | |
|---|---|
| <input type="checkbox"/> Limitation: Employees | <input type="checkbox"/> Limitation: Family/Self (ex: treat or prescribe) |
| <input type="checkbox"/> Limitation: Practice/Duty Hours | <input type="checkbox"/> Limitation: Practice Setting/Location |
| <input type="checkbox"/> Limitation: No Solo Practice | <input type="checkbox"/> Limitation: Approval Prior to Practicing |
| <input type="checkbox"/> Limitation: Chaperone | <input type="checkbox"/> Limitation: Geography |
| <input type="checkbox"/> Limitation: Patient Type (ex: gender, age, etc.) | <input type="checkbox"/> Limitation: Prescribing |
| <input type="checkbox"/> Limitation: Specialty Type (ex: no pain med) | <input type="checkbox"/> Limited, Temp. or Inactive License |
| <input type="checkbox"/> License on Probation | <input type="checkbox"/> License State Reciprocal Action |
| <input type="checkbox"/> License Revocation | <input type="checkbox"/> License Suspension |
| <input type="checkbox"/> Medicaid/Medicare Exclusion | <input type="checkbox"/> Professionalism |
| <input type="checkbox"/> Refusal to Renew/Denial to Issue | <input type="checkbox"/> Surrender of License |
| <input type="checkbox"/> Other (describe) _____ | |

Yes, But What About...

- Don't state medical boards *in practice* have different standards?
- State medical boards have a political component!
- My scope of practice is broad- "no good deed goes unpunished"?
- A license limitation resulting from only one patient?
- Are all 24 ABMS certifying boards consistent in applying professionalism standards?
- Shouldn't ABFM do their own investigations?

Personal Conduct

- May lose diplomate status or eligibility for: Conviction of misdemeanor or felony resulting in incarceration or probation in lieu of incarceration, or guilty *nolo contendere* plea, or Alford plea, or deferred adjudication without expungement.
- May lose diplomate status or eligibility if don't respond or provide complete and accurate responses within 60 days to any ABFM written request for information concerning a possible action.

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3 Major Observations

- Opioids
- Consent agreements/ Not understanding any license limitation results in loss of board certification
- Physician impairment (including burnout?)

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Also increasing: **Online** Breach of Professionalism Cited By State Licensing Boards

- Unprofessional content on Social media
- Internet prescribing without an established clinical relationship
- Online misrepresentation of credentials
- Inappropriate patient communication online
- Online derogatory remarks

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Review Your Curricular Materials/ Residency Clinic Policies

- Opioid prescribing- current political climate makes this especially crucial. (Residents need to know Guidelines & best practices including: agreements, tox screens, PMPs, regular office visits)
- Use of chaperones
- Dealing with patient complaints
- Interpersonal Communication skills
- Professionalism case-based- especially boundaries
- State License Application/ Review questions
- ABFM Requirements/ Process
- Physician wellness

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Residents Need to Know How To

- 1) best respond to patient complaints to state licensing boards
- 2) approach hearings
- 3) understand consent agreements and connection between licensing authorities and certification boards.

Don'ts: Twelve Rules of What *Not* To Do When You Hear from Your State Medical Board:

- **Rule #1: Do *NOT* ever take a board investigation lightly.**
- **Rule #2: Do *NOT* ignore a board investigation.**
- **Rule #3: Never assume the complaint lacks merit**, and that as soon as you explain to the board, it will be dismissed or forgotten.
- **Rule #4: Do *NOT* respond to a letter before consulting with an attorney.**
- **Rule #5. Do *NOT* contact the client who files the board complaint.**
- **Rule #6: Do *NOT* turn any material or clinical records over to the board without getting legal advice first.**

Zur, O. (2015) *When The Board Comes Knocking: How To Respond To A Licensing Board Investigation And Protect Your License, Professional Career, And Livelihood*. Retrieved 2/3/18 from http://www.zurinstitute.com/board_investigation.html

Don'ts: Twelve Rules of What *Not* To Do When You Hear from Your State Medical Board:

- **Rule #7: Do *NOT* ever meet with the board investigator without legal representation.**
- **Rule #8: Do *NOT* alter the records or create new documents in the record.**
- **Rule #9: Do *NOT* ever discuss anything, without legal representation, with the board investigator if they unexpectedly show up at your office.**
- **Rule #10: Do *NOT* assume that lack of harm to patient will end the board inquiry.**
- **Rule #11: Do *NOT* talk indiscriminately to anyone who would listen.**
- **Rule #12: Do *NOT* even think about trying to sue the person who complained against you**

Zur, O. (2015). *When The Board Comes Knocking: How To Respond To A Licensing Board Investigation And Protect Your License, Professional Career, And Livelihood*. Retrieved 2/3/18 from http://www.zurinstitute.com/board_investigation.html

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Discuss State License Application Questions with Residents

Fyi- Two-thirds of U.S. state medical boards fail to meet recommendations from the AMA, the American Psychiatric Association (APA) and the Federation of State Medical Boards (FSMB) regarding questions about physicians' mental health on licensure application forms.

Dyrbye et al *Mayo Clinic Proceedings* Oct 2017 :92,10,1486-93.

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ABFM Letter to Diplomates July 2017

“We invite any diplomates involved in state licensing board proceedings that may lead to a license limitation or other negative finding, to **strongly consider having their counsel communicate with ABFM's legal counsel early in the process** so as to seek guidance on the possible avoidance of unnecessary negative effects on ABFM certification status. This is a service readily available to all diplomates that ABFM hopes will be utilized frequently.”

To Do List After Today

- Schedule an interactive formal curricular activity on ABFM Professionalism guidelines.
- Print out these guidelines and hand it to them.

To Do List After Today

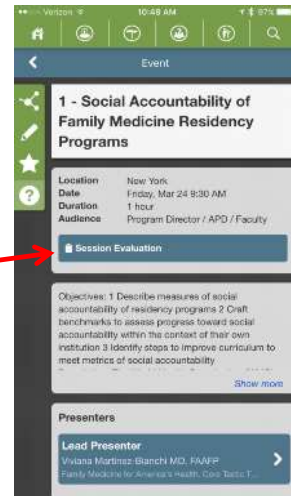
- Review your FPC/institution Policies, Residency Curriculum, & Milestones on:
 - 1) Opioids
 - 2) professional boundaries
 - 3) physician wellness
 - 4) ICS and professionalism topics
 - 5) State Medical Board 101- license apps, complaints, hearings, etc.

How Do We Best Disseminate Protecting Board Certification?

- Letter to diplomates (done)
- Educational sessions- PDW, STFM
- ABFM Website/ *Phoenix* newsletter
- Residency curriculum resource
- Published article
- Any other ideas?

Please
complete the
session evaluation.

Thank you.



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