NAVIGATING COMPLEX DISCIPLINARY CASES:
A DIFFICULT CASES DISCUSSION

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AGENDA

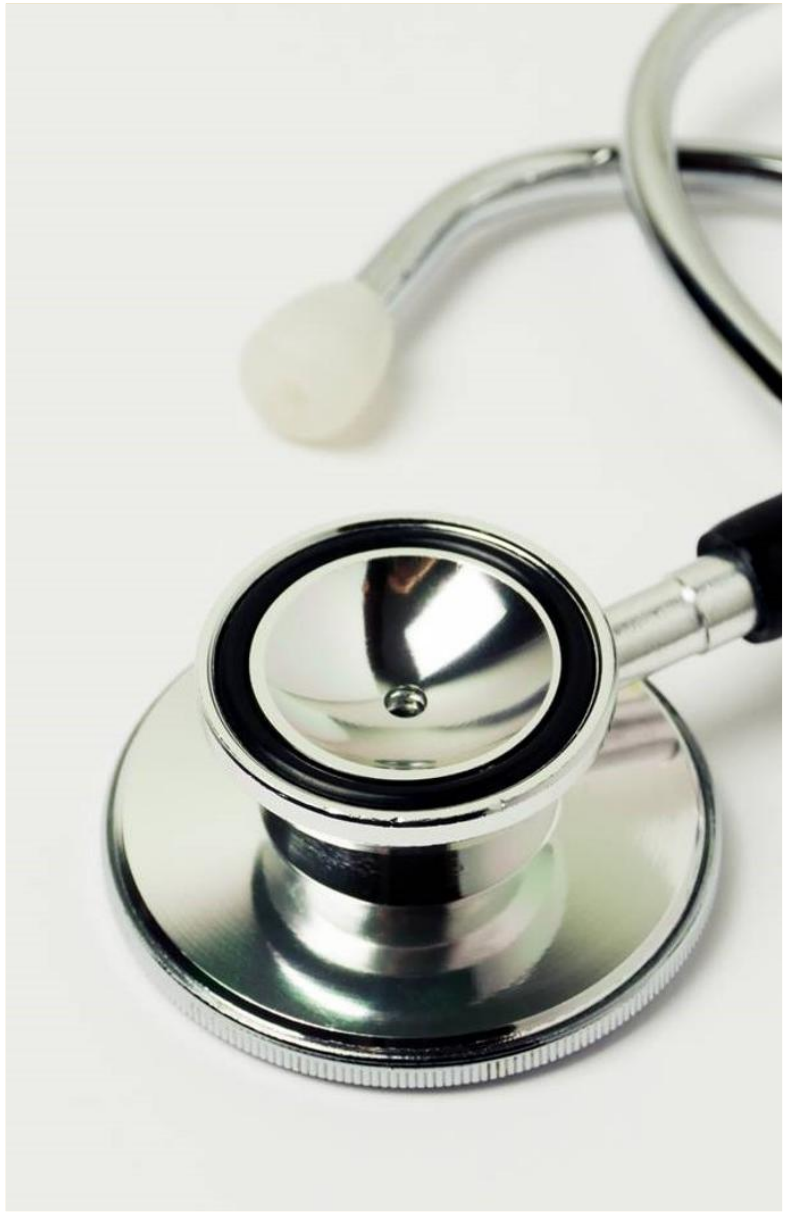
Introduction

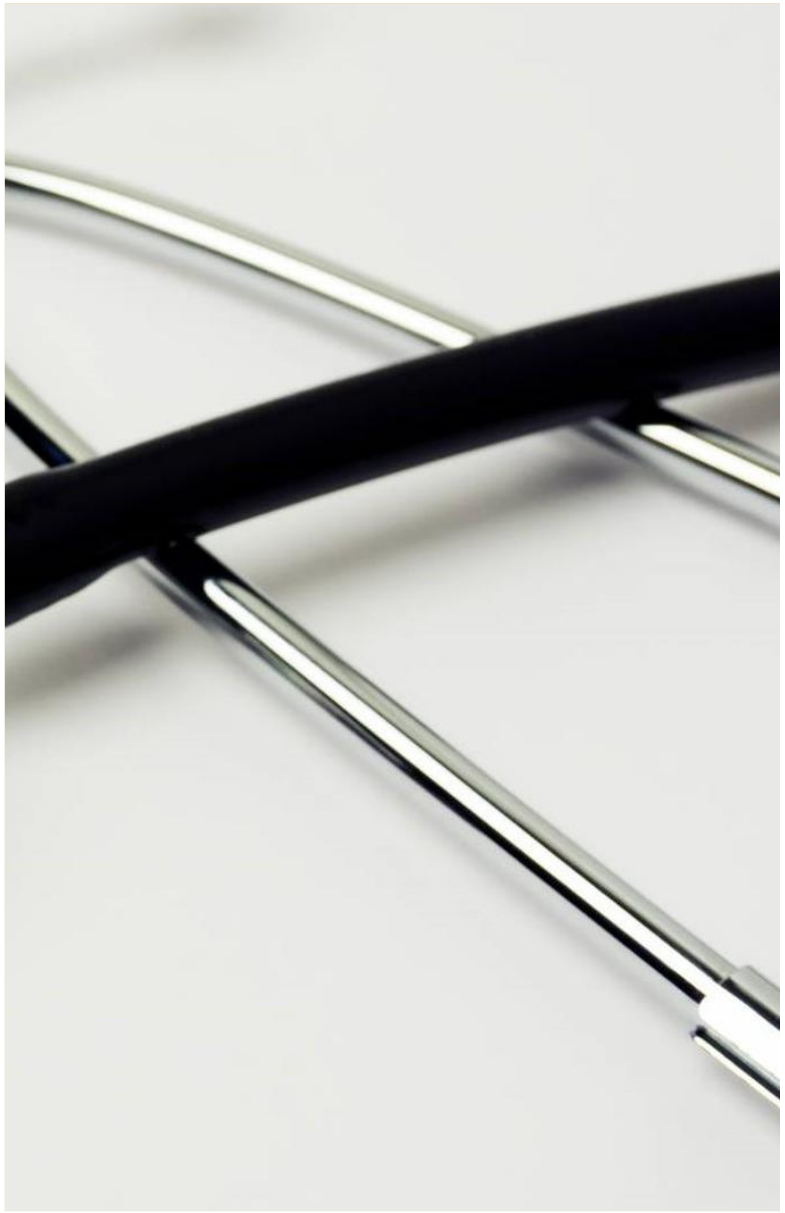
Table Discussion

Group Discussion

Wrap-Up

Note: All opinions are our own and do not necessarily represent the Boards' positions.





COMPLEX CASE #1

1. New Application
2. **Graduated medical school in 2022** and began residency in Internal Medicine that fall.
3. License awarded in that state after completion of PGY-1.
4. **Fall of PGY-2 year: on probation** for being absent during shifts. Probation resolves.
5. **Spring of PGY-3: suspended** then put on probation for being absent from an assigned shift. He is told the GME PM will not recommend him for board certification but he can finish.
6. **Applicant resigns** 2 months before finishing residency.
7. Applicant opens a **private-pay telehealth business** focusing on ADHD and weight loss.
8. Applicant's business website offers services to his home state where he is licensed and two neighboring states (including yours) where he has applications pending.

Question #1

What does your Board do? (pick one)

A. Grant License
B. Deny License
C. Other

Question #2

If your Board denied him a license, what was their real concern? Is that legal?

A. Because he does ADHD and weight loss only.

B. Because he was absent a few days. (Prior Suspension/Probation)

C. Because he did telemedicine.

D. Because he had minimal professional support.

E. Other

Question #3

If your Board granted him a license, what conditions would they include?

- License with conditions? (wordcloud)

COMPLEX CASE #2

1. D.O. Dr. Fingers, specializing in Family Medicine
2. Complaint filed alleging sexual misconduct during a medical exam – almost 5 years ago.
3. Investigation reveals 3 more patients with similar complaints.
4. Alleged misconduct occurred during OMT* for non-specific back aches.
5. Dr. Fingers denies allegations and said all 4 patients returned for additional treatments after the alleged misconduct and 2 left positive feedback. No complaints. Perhaps they are confused by OMT?
6. Reports surface that he was fired from a hospital about 10 years prior but no documentation can be found and the doctor says he left of his own accord.

*Osteopathic Manipulative Treatment: a hands-on approach for easing musculoskeletal pain and other health conditions

Question #4

- If he will not accept discipline or conditions, does your Board file a case against the licensee seeking discipline? (Yes/No)

Question #5

- Do chaperones work? (Yes/No)

COMPLEX CASE #3

- Dr. Drinker is the **only physician in his rural town**, in a private clinic with about 500 established patients.
- An anonymous caller contacts the Board –
  - The Doctor has not been seen all day and does not answer his phone
  - An **unlicensed person is seeing patients and performing procedures** – specifically placing testosterone pellets in patients' bodies, through incisions in the skin.
- The investigator reaches Dr. Drinker at his home after clinic hours. **Dr. Drinker appears intoxicated** and belligerent.
- The unlicensed person is a foreign-trained physician but is not licensed anywhere in the United States.
- **Dr. Drinker advertises the employee as a physician, and falsely advertises himself as board-certified in several specialties.**
- Dr. Drinker often misses work without notice.
- He went to a rehab program approximately 4 years ago.
- He was hospitalized approximately 18 months ago with a BAC of .36.
- There is no known patient harm.
- The closest major town with a hospital is about a 40-minute drive away.

Question #6

- Does your Board do a Summary Suspension?

  (Yes/No)

Question #7

- There appears to be no direct evidence of the Licensee drinking while caring for patients or being under the influence when he went to work. Does your Board seek conditions related to his alcohol use?

  (Yes/No)

Question #8

- The Fitness to Practice says he is okay to practice, if enrolled in treatment.
- Q: What would your Board order say?
  - A. Revocation
  - B. Suspension
  - C. Probation
  - D. Reprimand
  - E. Private Agreement

COMPLEX CASE #4: DR. MIDWIFE

1. An older doctor completed **one year of residency in psychiatry**, and now mostly practices *locum tenens* or moonlights at rural ERs.
2. She now also **practices midwifery**, an unregulated profession in your state, after reading a "textbook" on midwifery and shadowing a local midwife. She claims to have delivered some babies in rural ERs.
3. Her patient wants a vaginal home birth. Her **first pregnancy resulted in an emergency c-section**.
4. Dr. Midwife says an at-home birth is safe. She fails to discuss with her patient the **possible complications after a c-section**. The doctor has no formal training in TOLAC* or VBAC* pregnancies.
5. 41st week - the patient reports **decreased fetal movement**. The doctor checks her at home and assures the mother the baby is fine and probably sleeping.
6. Two days later the mother, in extreme pain, goes to the ER and is immediately admitted for a c-section. The **baby is deceased**.
7. Dr. Midwife waits with the father in the waiting room**. She does not identify herself as a doctor or midwife overseeing the pregnancy** when the delivery team speaks with the father.
8. At an interview with the Board, she is defensive, blames the patient, and states her **intention to continue practicing as a midwife.**

*TOLAC: trials of labor after cesarean

*VBAC: vaginal birth after cesarean

Question #9

- Was this the practice of medicine?

  (yes/no)

Question #10

- Does your Board seek discipline considering midwifery is unlicensed?

  (yes/no)

COMPLEX CASE #5: DR. FRANK

1. Dr. Frank treats PANDAS, a pediatric disease which is not fully accepted and has no evidence-based treatment protocols. The hearing was held before an ALJ a year ago on the SOC violations but **still waiting the Recommended Decision**.
2. A new complaint was received alleging **Dr. Frank was suffering from cognitive decline.**
3. A Fitness-to-Practice resulted in a finding that **he was "unsafe to practice" until he had completed inpatient rehabilitation.** Dr. Frank disagreed with the evaluation and refused to go.
4. Dr. Frank was **summarily suspended**.
5. The Recommended Decision from the SOC case found he had violated the SOC and the Board's **proposed order was to revoke Dr. Frank's license**. His attorney left the case.
6. Dr. Frank's attorney in the summary suspension case (a different individual) submitted an affidavit of **surrender of his license. Upon receiving an affidavit, the Board can suspend or revoke the license or simply accept the surrender**.
7. Dr. Frank is known to be an active litigant with a large group of dedicated, vocal supporters.

Question #11

- One or Two Orders?

A: 1

B: 2

THANK YOU!

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