

Introduction to LSBME Investigations



Lawrence H. Cresswell III, DO, JD
Director of Investigations, LSBME

October 21 & 22, 2019

Today's Discussion

- About the LSBME
- Causes for Action
- Unprofessional Conduct/Ethical Issues
- Case Descriptions
- Other topics/updates

About the LSBME

Who we are

Established in 1894, the Louisiana State Board of Medical Examiners (LSBME) protects the health, welfare and safety of Louisiana citizens against the unprofessional, improper, and unauthorized practice of medicine by ensuring that those who practice medicine and other allied health professions under our jurisdiction are qualified and competent to do so. In addition, the Board serves in an advisory capacity to the public and the state with respect to the practice of medicine.

Scope and Purpose

- Initial validation of competency for license
- Develops regulations for practice by administrative rulemaking
- Enforces the practice acts and their regulations
- Serves in an advisory capacity to the public and the state in medical matters

Professionals we license (32,544)*

- Acupuncturists, ADS (96)
- Athletic Trainers (568)
- Clin. Ex. Phys. (57)
- Clinical Lab. Personnel (5,790)
- Physicians (17,752)
- Physician Assistants (1,245)
- Podiatrists (190)
- Licensed Midwives (22)
- Medical Psychologists (105)
- Occupational Therapists/Assts (2,918)
- Perfusionists (93)
- Polysomnography Personnel (198)
- Private Radiological Technologists (6)
- Respiratory Therapists (3,504)

*does not include Genetic Counselors (in process)

Board Organization

- 10 Board Members (9 physicians, 1 public)
- Executive Director and staff
- Licensing
- Investigations and Enforcement
- Advisory Committees
- Staff and consulting attorneys

Nominating Organizations

- Louisiana State Medical Society (2)
- Louisiana Medical Association (2)
- Louisiana Academy of Family Practice Physicians (1)
- LSU Health Sciences Center – New Orleans (1)
- LSU Health Sciences Center - Shreveport (1)
- Louisiana Hospital Association (1)
- Tulane Medical School (1)
- Public member (non-healthcare) (1)

Jurisdiction

- Practice Act for each licensing category from the law
- Rules and Regulations
- Statements of Position
- Advisory Opinions

Board's Rules

- Rules page on website:
<http://www.lsbme.la.gov/licensure/rules>
- Each practitioner type has rules on licensure and practice, created from original law passed by legislature

During Board meetings, the Board considers....

- Applications for licensure
- Development of administrative rules and rule amendments
- Requests for advisory opinions
- Consent orders and other documents
- Impaired practitioner matters (HPF-LA)
- Formal hearings involving charges against licensees

Disciplinary Process

- Complaint
- Investigation
- Licensee notified of potential violation; response requested
- Evaluation of facts by DOI
- Dismissed if no violations or insufficient evidence

Complaints received from

- General public
- Employers
- Hospitals or clinics
- Agencies (DEA,BOP)
- Physicians
- Allied health personnel
- Family members or acquaintances
- State and federal law enforcement
- National Practitioners Data Bank
- HPF-LA (impairment)
- Pharmacists
- Newspapers
- Self-reports

Complaints Process (1)

- Process: Chapter 97 of the Board's rules
- Complaints received via phone, email, letter
- Preliminary review by Investigations staff
 - Board required to review all complaints
 - Licensee notified of potential violations; response requested

Complaints Process (2)

- Evaluation of facts by DOI
- Majority dismissed re no violations found or insufficient evidence
- If further investigation warranted, then...

Formal Investigation

- Investigation may include:
 - Review of complaint, licensee response, and documents
 - Subpoena credentials file, peer review, patient records
 - Witness interviews
 - Licensee offered a meeting with DOI

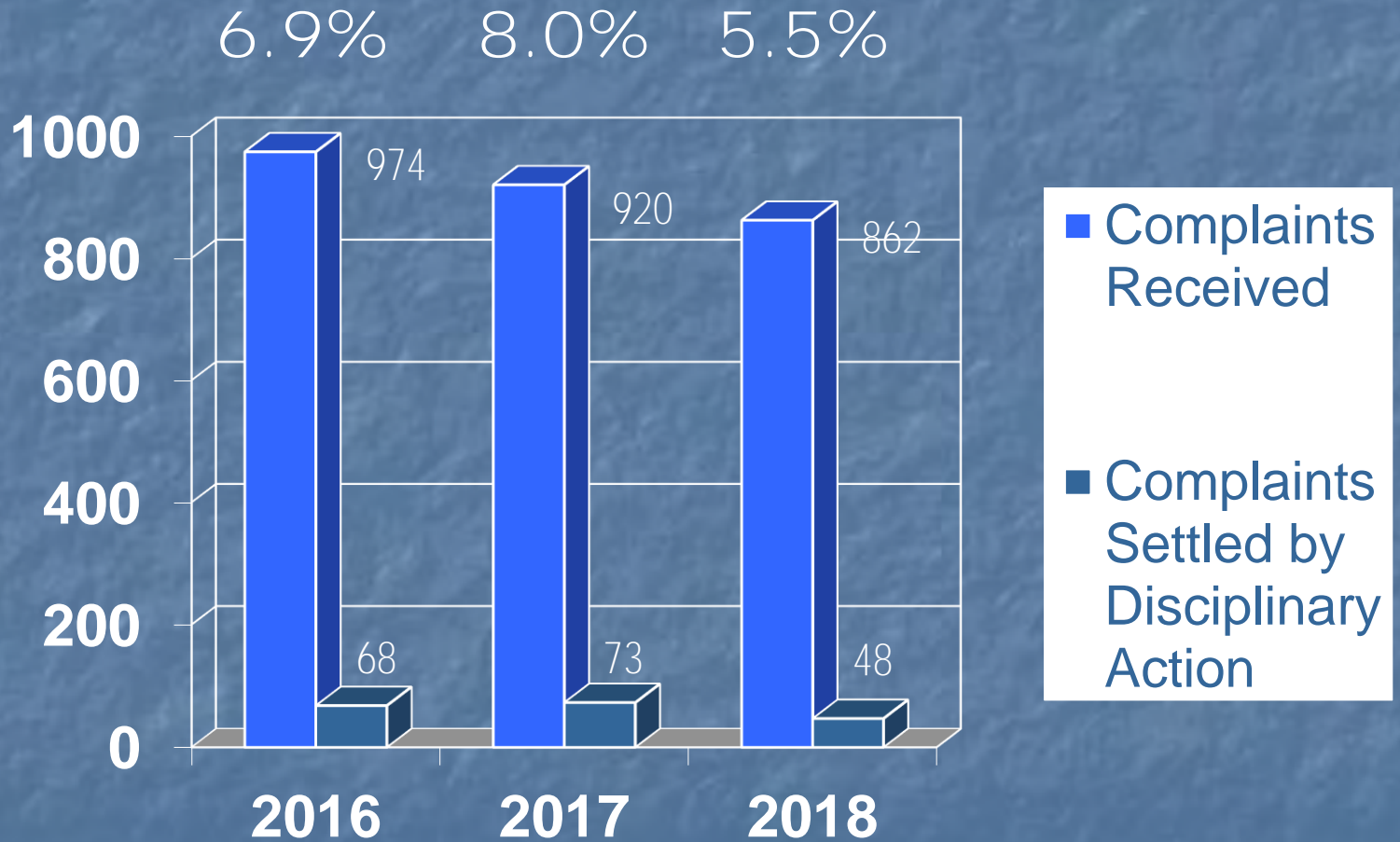
Resolutions

- Complaint Dismissed with
 - No further action
 - Education/counseling by DOI
 - Referral for evaluation, monitoring or education
 - Non-public Letter of Concern
- Formal Action
 - Negotiated consent order approved by Board
 - Administrative complaint heard by Board

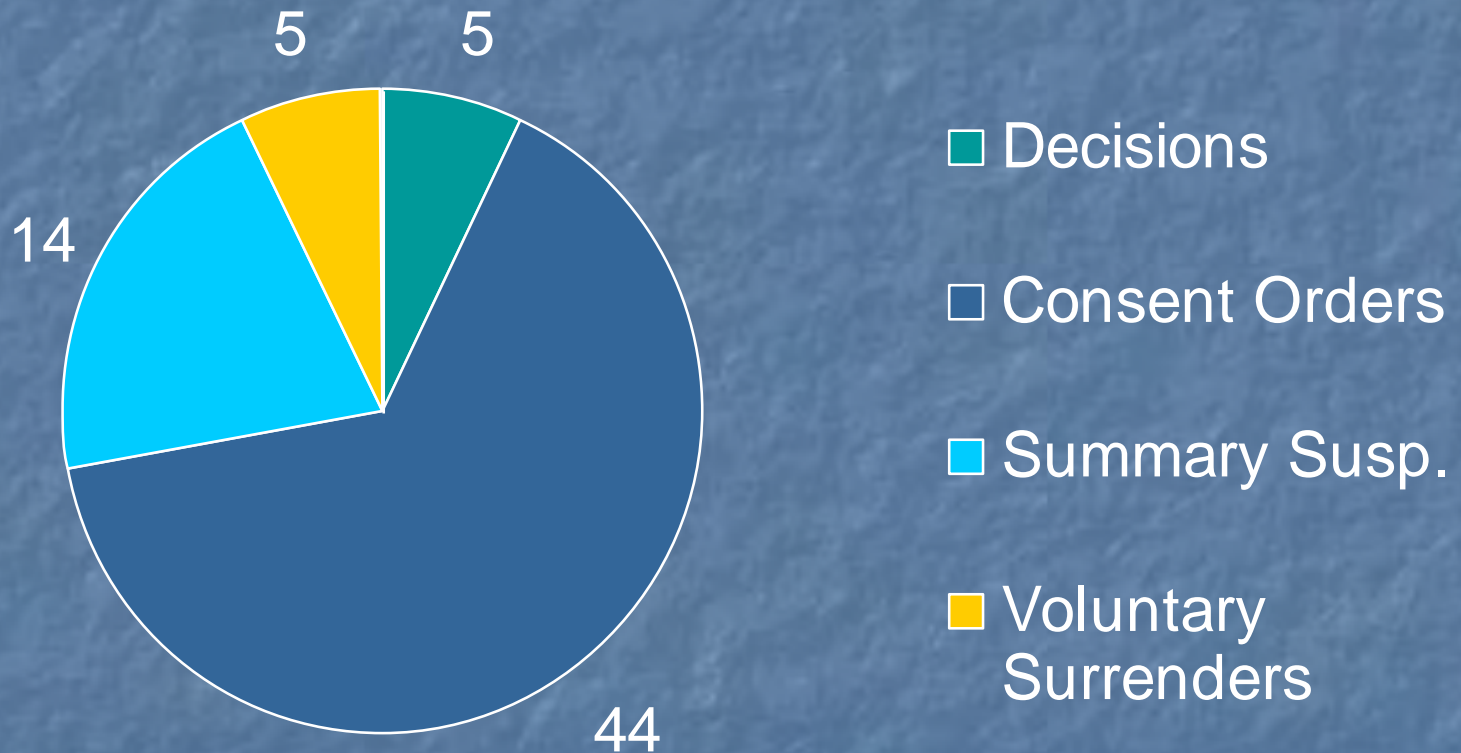
A few statistics, but first..

- Statistics are for ALL licensees, but mostly physicians
- Complaints = Cases opened, with occasional exceptions
 - Jurisdictional issue
 - Incomplete Information
- Malpractice reviews

Statistical Overview of Complaints/Dispositions

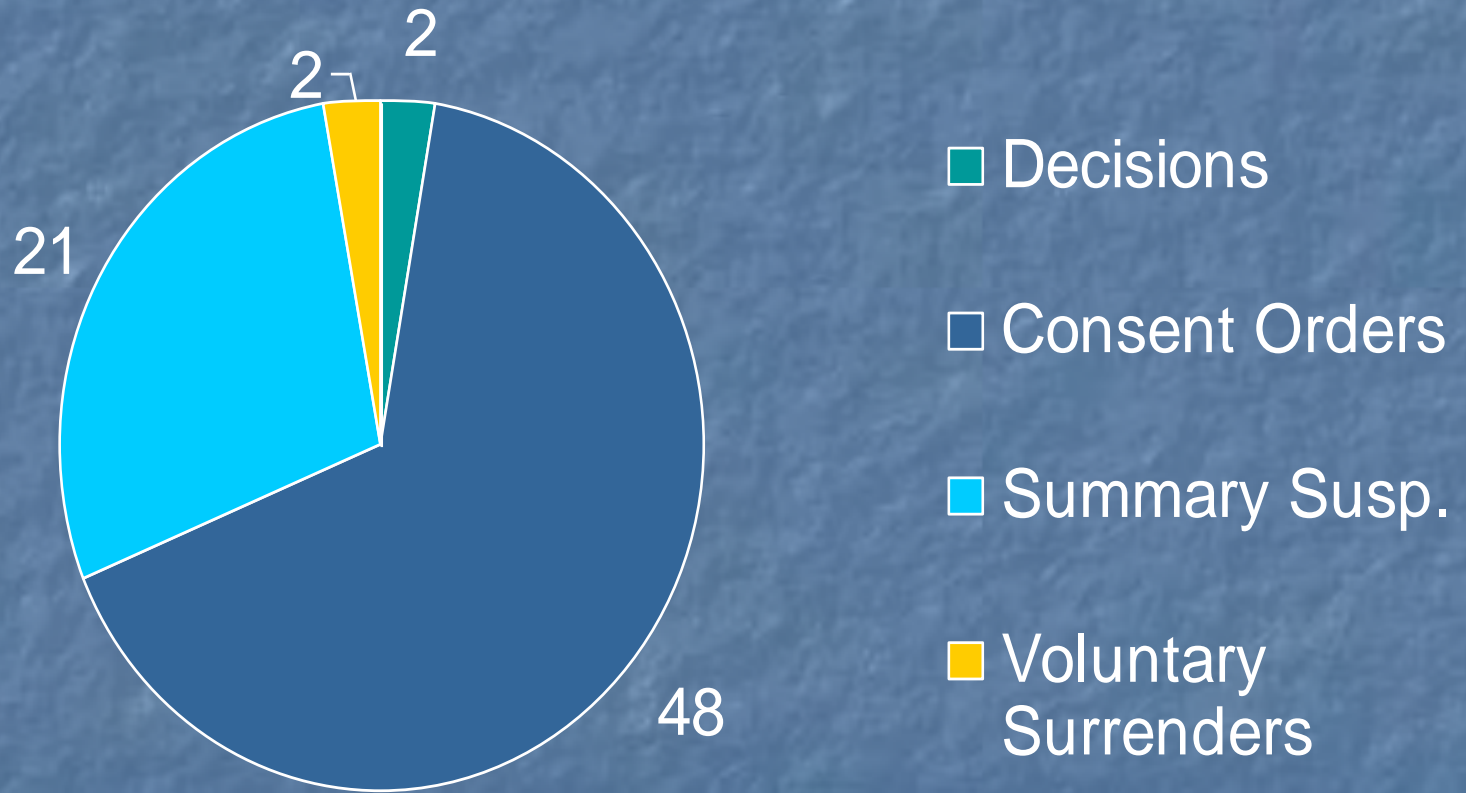


Statistical Overview Disciplinary Actions 2016



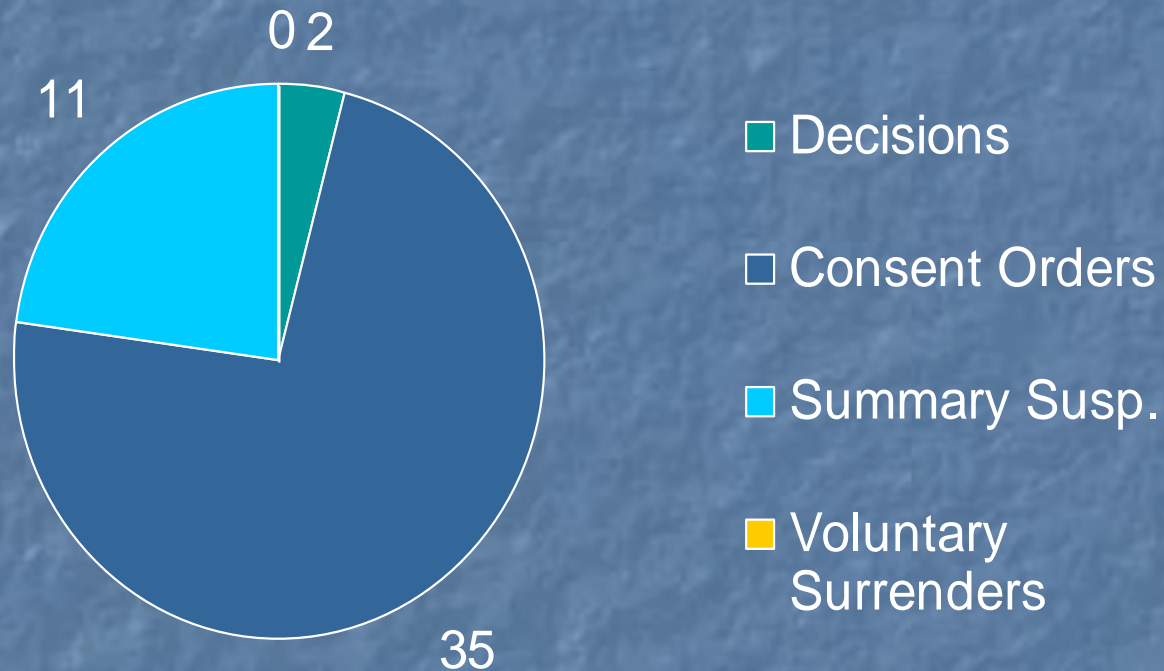
Total – 68

Statistical Overview Disciplinary Actions 2017



Total – 73

Statistical Overview Disciplinary Actions 2018



Total – 48

Board Website – take a look...

<http://www.lsbme.la.gov>

The screenshot shows the homepage of the Louisiana State Board of Medical Examiners. At the top left is the Louisiana State Seal and the text "Louisiana State Board of Medical Examiners". A navigation bar contains links for Home, For the Practitioner, For the Consumer, In The News, Board Meetings, and Contact Us. A left sidebar lists Home, Verifications, Laws, Rules, Statements of Position, and Advisory Opinions, with a sub-menu for Advisory Opinions including Advisory Committees, Educational Resources, Healthcare Resources, Links, Mission, Resources for Impaired Professionals, Board Orientation, and Staff Login. The main content area features a welcome message and a paragraph about the board's history and mission. Below this are eight blue buttons: Renew a License/Permit, Apply for a NEW License/Permit, Disciplinary Actions, Verify a License, Request a List, File a Complaint/Investigations, Newsletters, and Orientations & Education. A right sidebar lists Board Members (Christy L. Valentine, MD; Roderick V. Clark, MD; Joseph Kerry Howell, MD; Kweli J. Amusa, MD; Mark Henry Dawson, MD; Lester W. Johnson, MD; Daniel K. Winstead, MD) and Executive Staff (Vincent A. Culotta, Jr., MD; Denise Businelle; Cecilia Mouton MD; Rita Arceneaux; Aloma L. James; Alan W. Phillips). A disclaimer at the bottom right states that the board supports public access to information.

Louisiana
State Board of Medical Examiners

Home | For the Practitioner | For the Consumer | In The News | Board Meetings | Contact Us

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Verifications
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Advisory Committees
Educational Resources
Healthcare Resources
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Mission
Resources for Impaired Professionals
Board Orientation
Staff Login

Louisiana State Board of Medical Examiners
630 Camp Street
New Orleans, LA 70130
(504) 568-6820

Welcome to the website of the Louisiana State Board of Medical Examiners

Established in 1894, the Louisiana State Board of Medical Examiners (LSBME) protects the health, welfare and safety of Louisiana citizens against the unprofessional, improper, and unauthorized practice of medicine by ensuring that those who practice medicine and other allied health professions under our jurisdiction are qualified and competent to do so. In addition, the Board serves in an advisory capacity to the public and the state with respect to the practice of medicine.

Renew a License/Permit
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Disciplinary Actions
Verify a License
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Orientations & Education

Board Members

- Christy L. Valentine, MD (President)
- Roderick V. Clark, MD (Vice President)
- Joseph Kerry Howell, MD (Secretary-Treasurer)
- Kweli J. Amusa, MD
- Mark Henry Dawson, MD
- Lester W. Johnson, MD
- Daniel K. Winstead, MD

Executive Staff

- Vincent A. Culotta, Jr., MD Executive Director
- Denise Businelle Director of Operations
- Cecilia Mouton MD Director of Investigations
- Rita Arceneaux Executive Assistant
- Aloma L. James Director of Licensing
- Alan W. Phillips Director of I.T.

Disclaimer: The Louisiana State Board of Medical Examiners supports public access to information

Unprofessional Conduct

Definition of a Profession

- Accepted by the public as possessing special knowledge and skills, derived from education and training at a high level, and who are prepared to exercise this knowledge and these skills in the interest of others
- Individuals in the profession are bound by a shared commitment
- Practice in accordance with a code of ethics
- Members regulate themselves

Unprofessional Conduct for Physicians (LSBME)

The LSBME definition of *unprofessional conduct* :
conduct that includes but is not limited to the departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice or the ethics of the medical profession including, but not limited to, the principles established by the American Medical Association, the American Osteopathic Association, and relevant medical specialty associations...**or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interests of the patient, whether committed in the course of the physician's practice or otherwise, and whether committed within or without this state.**

Chapter 76 of the Board's Rules

Unprofessional Conduct (MD/DO)

- Sexual Misconduct
- Disruptive Behavior
- Failing to cooperate with the Board
- Failing to maintain independent medical judgment
- Improper Delegation or supervision
- Enabling unauthorized practice or enabling practice by an impaired provider
- Failing to adhere to accepted practices
- Failing to Create or maintain medical records
- Self treatment; treatment of immediate family members

LSBME Definition of Sexual Misconduct

Any act of sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient

....regardless of consent. Such conduct may be verbal, physical, visual, written or electronic, or it may consist of expressions of thoughts, feelings or gestures that are sexual or reasonably may be construed by a patient or other individual as sexual or which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient or another individual.

Dr. A

Cause of Action:

Sexual Boundary Violations

- OB-GYN Physician has sexual relations with 24 year old employee of same healthcare organization who is also his patient
- Board receives complaint

Dr. A

Results of investigation

- Initial examination at Pine Grove
- Recommendations for therapy at Acumen
- Eventual 3 year probation
- Use of chaperones required when examining females
- Reports to board

The Impaired professional

- Most common reason for sanctions of all licensees
- LA-HPFL
- Duty to report

Dr. B

Cause of Action: Impairment

- Dr. B charged with DWI
- Dr. B's lawyer notifies LSBME of charges and that s/he will be representing her
- Investigation opened re DWI and careless operation charges

Dr. B

Cause of Action: Impairment

- Findings:
 - A few prior complaints to board re various possible violations
 - Referred to HFP-LA
 - PEth test indicates alcohol issues may be more severe than previously suspected
 - Evaluation at recommended facility

Dr. B

Impairment: Results

- Dr. B evaluated at LSBME (FSMB) recommended facilities
- Found to have Substance Use Disorder (SUD)
- Signs 5 year contract with HPFLA
- Board knows but doesn't know....
- Case closed
- Violation of contract will re-open case; bring sanction

Dr. C

Cause of Action: Improper Prescribing

- Board receives complaints that Dr. C is prescribing CDS in unsafe manner
- Patient records obtained and analyzed

Dr. C:

Improper Prescribing Findings from Investigation

- Patient records did not indicate:
 - appropriate examinations to find cause of pain or sufficient Dx
 - justification for large amounts of narcotics and other CDS
 - attempts to use non pharma modalities
 - consultation with other specialists

Dr. C:

Improper Prescribing Findings from Investigation

- Prior treatment records not obtained
- Initial and follow-up care delegated to unqualified provider
- Treatment goals not established
- Signs of misuse or diversion not addressed

Dr. C:

Improper Prescribing Results

- Dr. C found in violation of Chronic Pain Rules
- Officially reprimanded (public record)
- Required to take courses on medical ethics, proper prescribing, medical recordkeeping
- Personal appearance before Board
- Fined \$5,000

Dr. D

Improper Prescribing/ Diversion/Self Treatment

- Board receives complaint from Pharmacist alleging CDS prescriptions to family/self.
 - Case assigned to investigator and PMP queried.
 - Prescribing to self fraudulently
 - Family members
 - Physician referred to HPFLA
 - Physician referred for formal evaluation

Dr. D

Resolution

- Evaluated by Addictionologist
- Recommended inpatient treatment for 8 weeks and HPFLA contract.
- Impairment kept confidential
- Referred to Board after relapse
- Interim consent order suspending the license until treatment obtained.

Improper prescribing

- Non legitimate use
- Stay within scope
- Understand Diversion schemes
- Self Prescribing or prescribing for family
 - medical judgment
 - medical records

Conclusion

- Complaints can come from various sources, not just patients.
- LSBME MUST investigate all complaints over licensees whom we have jurisdiction.
- Majority of received complaints are closed with no action.
- Licensee may be required to undergo an evaluation if impairment of any type suspected.

Questions?