MARYLAND

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Draft letter and comments (of course! :))

Jef <jef@abeswise.net> Mon, Sep 10, 2018 at 6:25 AM
To: Megan Renfrew <megan.renfrew@maryland.gov>

Hi Megan!

I hope you had a great long holiday last week!

I've attached my input on the draft letter. Overall, VERY well done, good work! (Clearly I disagree with the recommendation to not pursue legislation on the subject though, of course).

Additional thoughts:

many of my comments precede your own inclusion of the point, as I edited during first read. Largely I either went back to change, or felt that repeating it or introducing a topic earlier would be beneficial, but that's a stylistic/preferential thing.

I think it needs to be included that the association between being "board certified" and "quality" of care is implied, not supported by unbiased research. It never will be supported by research either because the definition of "quality health care" has eluded the best minds and biggest, most well respected hospital organizations/systems for years. We should be caution in implying any connection in the letter. For decades there were no boards, no board certifications, and the patients received the best care in the world. When the ABMS started up, and for decades, they made no claims of quality or superiority of care. Two quote from national experts on the subject:

"It was just an accolade that was an independent way for others to accept you knew your stuff. Only the residency program can verify you completed training in reality."

"It became an ingrained method to "elevate" the academic programs through the requirement and also in the same breath, increase revenue and "justification" for the "academic time" to teach to their test."

There need be much greater illustration of the financial burden, drawing attention to the fact that as hospitals employ more physicians, such professional fees almost always become hospital burdens. Where the national conversation has focused repeated on the "high cost of health care" in great detail, NBPAS allows physicians and hospitals to continue to advertise "board certification" since that has been in the collective consciousness long enough to imply value, while economizing on costs. I'd like to see a few citations for the benefit of the delegates.

https://www.ncbi.nlm.nih.gov/pubmed/26216046

http://annals.org/aim/article-abstract/2398911/cost-analysis-american-board-internal-medicine-s-maintenance-certification-program

https://thehospitalleader.org/how-much-does-the-abims-moc-program-really-cost/

The clear historical benefits of competition amongst businesses are increased quality and lowered prices. Part of the arguments for the NBPAS recognition in MD bill is that ABMS sells their products almost completely clear of competition, and functions as a monopoly in the board certification choice. NBPAS board certification not only saves money, continues the ability to advertise, supports the State-required and time honored mechanism for keeping "current" (Continuing Medical Education), but subjects ABMS/AOA to competition, which can only serve to benefit the quality and cost of their product, while expanding physician and hospital choices in this space.

"As we seek to create a vision of twenty-first century medical practice, increased competition and subsequent innovation in board certification could empower consumers and reinvigorate medicine," conclude experts who advise the Federal Trade Commission on health industry matters….

https://www.healthaffairs.org/do/10.1377/hblog20171121.748789/full/

I'm glad to see the mention of the legislative efforts in other states. I think it most worthy of mention that physicians are 1) seeking to protect their right to practice, 2) the three class action law suits filed and/or underway against the ABMS/AOA virtual monopoly and "required" nature of MOC, 3) physicians seek legislative relief because that vast majority of hospital boards have a small physician representation, and those physicians who are in physician leadership positions are almost universally senior physicians who are "grandfathered" and have little or no comprehension of the myriad requirements for MOC across the 24 different ABMS member boards, if they understand that ABMS boards no longer offer lifetime board certification at all, and they don't care at all because they aren't directly impacted, so hospital boards decide from a position of ignorance and fear of change to the status quo.

Regarding the Board of Physicians, more detail is absolutely warranted for the delegates consideration. First, many of the physicians who sit on State physician boards are academics, are grandfathers who have remained ignorant of the developments in specialty board certification, seek the status they see in sitting on an ABMS board, or are/have been ABMS or sub board board members. I have inquired of the Maryland Board of Physicians on at least 3 occasions what the status of the NBPAS application was. Initially I received a form letter telling me that these things take time. After I inquired again, I was told that the Maryland BoP is aware of the pending legislation and is awaiting the decision of the legislature. The last time, it was brought to my attention that NBPAS has not even filed a formal request for recognition in Maryland. In response to my inquiry at NBPAS about applying for recognition from the MD BoP, I was told, "The barriers are time and money. We need to consider all of our political options as a whole. Appying to 52 state medical physician boards for recognition seems problematic. I know in California we were told by the medical board that it would be a waste of time and cost about $100,000 for the rejection. This is a volunteer effort." California is the State where the offices of NBPAS are located, which is why it's mentioned. The low fees of NBPAS and the fact that they do not sell any virtually required products for MOC compliance translates into very limited funding. I have been unable to learn, as of this writing, exactly what the application process entails, what it costs, etc. And why should it cost anything more than an application processing fee…? As I've shown previously, there is extensive concern about ABMS financials, (the creation of the ABIM foundation, movement of monies to an off shore account, etc.) which is included in at least two of the class action suits. The current draft implies that NBPAS simply hasn't applied. I know I assumed it was "fill out this form and we'll get back to you in six months after we've considered your request." The draft letter should be clear that NBPAS's size, non-existent "war chest," and relative "new kid on the block" are handicapping it's consideration. The head of NBPAS and all of its board members are practicing physicians that juggle a large number of things simultaneously with their appointments to NBPAS.

The letter does a good job of giving consideration to the hospitals and insurance companies and physicians, but I didn't feel that the portrayal of the physician position was as strong as I'd like to see it. This is clearly subjectivity bias. However, the physicians of the state, in hand with Med Chi (the State arm of the AMA), are the impetus behind the bill in question. Our knowledge of many of the draft letter's points (the desire of hospitals and insurance companies to dictate how and what physicians do in board certification, the ability of a medical staff to move for bylaws changes, etc.) preceded the effort, so I would object to those points being used to undermine the validity of the effort. Delegate Morhaim, who has first hand experience with MOC and NBPAS and continues to be a practicing physician, spoke to the subject during the bill's presentation.

I'd ask that you and Ben watch this video, as I feel there are some points that might be useful to include in the letter, in support of some of my above comments.

https://www.youtube.com/watch?v=_H87--W6EAs

Thank you for all your work on this!

Dr. Jef Fernley

Fernley edit MHCC Draft Letter RE Physician MOC Sept 4 2018.docx
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