



FAAEM
always means
board certified



PRESIDENT'S MESSAGE Academic Advocacy

Larry D. Weiss, MD JD FAAEM

Throughout its relatively brief history, emergency medicine faced continual challenges to its academic legitimacy. Unfortunately, these challenges continue today. From the time of our founding, AAEM primarily focused its advocacy efforts in three areas: (1) in support of the personal practice rights of emergency physicians, (2) against illegal practice models in emergency medicine and (3) in support of the academic integrity of emergency medicine.

In our early years, older physicians from other specialties questioned the need for emergency medicine training programs and often contended that any physician could work in an emergency department. This problem persists to a limited extent, but the most serious challenges to the academic integrity of emergency medicine now come from within our specialty.

The American Board of Emergency Medicine (ABEM) had a liberal "grandfather clause" declaring physicians board eligible if they completed 8,000 hours of clinical practice in emergency departments by 1988. However, a determined group of emergency physicians filed a class action lawsuit in 1990, *Daniel et al v. ABEM et al*, arguing the "grandfather clause" should remain open permanently.¹ In their lawsuit, they couched their claims in antitrust language, claiming ABEM and multiple other defendants engaged in antitrust violations. According to their argument, closure of the "grandfather clause" resulted from a conspiracy in restraint of trade, designed to artificially inflate the salaries of ABEM diplomates.

Like most other new specialty boards, ABEM granted practice eligibility to the founders of our specialty who never had the opportunity to complete residency training.² Like any other legitimate medical specialty board, ABEM requires primary residency training and successful completion of board examinations. The *Daniel* case languished in federal court for 15 years before final dismissal in 2005. Unfortunately, this did not end the controversy over board certification in emergency medicine.

We must now contend with challenges to board certification created by an alternative board examination offered by the American Association of Physician Specialists (AAPS). This organization offers a certification entitled "Board Certification in Emergency Medicine" (BCEM).

Eligibility for the BCEM examination does not require residency training in emergency medicine. In 2002, BCEM representatives successfully petitioned the Florida Board of Medicine, winning recognition as board certified emergency physicians. Since that time, they made a similar attempt before the North Carolina Medical Board (NCMB) and recently filed suit in New York to win formal recognition of their certification board. AAEM supplied documentation to the NCMB and testimony from our Vice President, Howard Blumstein, MD FAAEM. NCMB did not grant recognition to BCEM. The New York action is still pending.

By insisting that board eligibility in emergency medicine should not require residency training, the *Daniel* plaintiffs and the current BCEM representatives essentially argue that emergency medicine is not a legitimate specialty with its own unique body of knowledge requiring residency training. AAEM will always oppose such arguments. At recent hearings before the Florida legislature, BCEM representatives claimed representatives of FLAAEM, AAEM's Florida state chapter, were involved in a conspiracy to prevent them from working in emergency departments. To the contrary, AAEM never proposed that only ABEM diplomates should work in emergency departments. We recognize the reality of a shortage of ABEM certified emergency physicians. We also recognize the independent authority of organized medical staffs to grant clinical privileges. On the other hand, we strongly oppose efforts by self-interested individuals without ABEM certification who insist on the right to call themselves "board certified" in emergency medicine. Such claims have the effect of denigrating the academic integrity of emergency medicine and misleading the public. Well-informed members of the public can reasonably conclude that a board certified specialist has formal training in a designated specialty.

While taking a strong stand in support of proper residency training in emergency medicine, AAEM highly honors practice-eligible ABEM diplomates. We have several policies in our books opposing any form of discrimination against these founders of our specialty. In fact, we do not accept advertisements of positions only open to residency trained emergency physicians, while excluding practice-

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to adequately stabilize Bonilla before transferring the patient to another hospital on July 3 – precluding any summary disposition of her EMTALA claim.

The federal appeals court stated that this argument also failed because appellants did not provide any evidence that defendants disparately treated Bonilla. “For EMTALA purposes,” wrote the court, “defendants properly initiated an extensive protocol...and the inferences which defendants drew from Bonilla’s test results might have been faulty or even negligent, but while these matters legitimately might form the grist of appellant’s state-law medical malpractice claim, they normally will not trigger EMTALA liability.”

Appellant next argued that summary judgment was not warranted because EMTALA imposes on a hospital, which cannot provide necessary treatments, the obligation promptly to transfer the patient to a hospital that can do so, “and thus defendants should have ordered

Bonilla’s transfer one week earlier than they did.” Again the court found the appellant’s contention insufficient because, by the time Bonilla was transferred, there was no evidence that the patient was unstable. “By its express terms, EMTALA – which is solely an “anti-dumping” statute – does not impose any positive obligation on a covered hospital to transfer a critical patient under particular circumstances to obtain stabilization at another hospital. Rather, EMTALA merely restricts the conditions under which a hospital may transfer an unstabilized critical patient.”

For these reasons, the US Court of Appeals concluded that the district court properly granted summary judgment and determined that the proper venue for pursuing a medical malpractice claim is in the commonwealth courts of Puerto Rico.

To read the court decision, go to <http://op.bna.com/hl.nsf/r?Open=psts-7lgn7e>

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eligible ABEM diplomates. Our policies consistently support the proper recognition of board certification and the requirement of such certification for the attainment of fellowship status within our Academy.

In conclusion, AAEM does not take a position on who should work in every emergency department, but we strongly support the process of legitimate board certification. This process requires residency training in emergency medicine, similar to the requirements of all legitimate primary specialty boards. In the United States, we only recognize ABEM and AOBEM diplomates as “board certified” in emergency medicine. To act otherwise would only undermine the academic legitimacy of emergency

medicine. For that reason, legitimate board certification in emergency medicine will always be a requirement for fellowship status in AAEM, and we will continue our advocacy in defense of the academic integrity of emergency medicine. You may proudly list the title of FAAEM after your name, identifying you as a board certified specialist in emergency medicine and as a member of the organization in emergency medicine that advocates for the academic integrity of our specialty.

1. *Daniel et al v. ABEM et al.*, 428 F.3d 408 (2nd Cir. 2005).
2. Unless noted otherwise, references to ABEM also apply to the American Osteopathic Board of Emergency Medicine (AOBEM) and the Royal College of Physicians and Surgeons of Canada (RCPSC).

AAEM would like to recognize the outstanding academic and professional achievements of its members.

Future issues of *Common Sense* will feature a section acknowledging these accomplishments, as submitted by AAEM members.

If you have an announcement you would like to see listed in this section, please send details to info@aaem.org. Submissions will be reviewed for accuracy and appropriateness prior to being accepted for publishing.

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