

## **Virtual Mentor**

Ethics Journal of the American Medical Association  
April 2005, Volume 7, Number 4

### **Clinical Case**

#### **Board Certified Physicians**

Commentary by Joseph Lowy, MD

Dr Mancini, the hospital director, called an unscheduled meeting of all medical staff. “I know the rumors have been flying,” he said. “And you will be receiving formal policy statements and guidelines about this, but I wanted to first speak to you all, give you the news straight, and take your questions.”

Once the room quieted, Dr Mancini began. “We all know that the hospital business is a competitive one, and the more we can do to ensure patients, our insurers, and patient advocacy groups that we deliver the highest quality care, the better off we are. There has also been pressure from specialty boards encouraging us to restrict staff privileges to those physicians who have board certification. Our Board of Trustees has been struggling with the issue for more than a year, and, after many rounds of talks, they have decided that we will begin to require board certification for all physicians who have staff privileges. We believe that this will provide the greatest amount of credibility to our institution and help us attract and retain the highest performing professionals.

Dr Mancini stopped after making this declaration and took a deep breath.

The room was abuzz with a mix of shock, anger, happiness, and relief. Questions ranged from whether it was possible to be “grandfathered” into this new system, to whether the hospital would pay for certification and recertification exams. Would this really make the hospital more competitive in attracting better qualified doctors or was this a way for administration to cut back on staff? Why, exactly, was board certification necessary for *all*—even those doctors who had been practicing for more than 20 years and who have obviously attained a high level of expertise?

“I know that you all have significant concerns. The policy statement will be explicit in its procedures and deadlines, and I will do my best to answer all of your questions. The most important, and, I understand, distressing, fact is that the policy applies to all of us; no one will be exempt. There is, however, a 6-year grace period during which you can prepare for your board certification or recertification.

#### **Commentary**

by Joseph Lowy, MD

Every hospital has the right to adopt rules, regulations, and policies governing eligibility and qualifications of its medical staff. On one hand, it is the hospital's duty to oversee every aspect of the care it delivers to its patients including determining which physicians are entitled to receive privileges. On the other hand, no hospital

should be allowed to arbitrarily reduce or eliminate the privileges of a physician who is already on staff and who is in good standing.

The primary objective of the credentialing process is to ensure that high quality care is provided by all physicians on staff. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires hospitals to adopt and apply standards related to a physician's competence, skill, professional conduct, and ability to fulfill all of his or her professional responsibilities.

Hospitals must establish criteria to judge each of these professional standards. Clinical competence and skill can and should be evaluated on both threshold and performance bases [1]. Threshold criteria are objective and include licensure, residency and fellowship training, and clinical experience. These evaluative measures are typically invoked when a physician initially applies for an appointment to the medical staff. Performance criteria, however, involve assessment of clinical proficiency and are potentially more subjective. This category of assessment is more useful when hospitals are making reappointment decisions.

Although not required for licensure, board certification may also be used by a hospital as *one* of its threshold criteria. Similarly while JCAHO does not require board certification of all physicians for hospital accreditation, it does note in its accreditation standards that board certification is "an excellent benchmark for the delineation of clinical privileges" [2].

### **The Boards**

The American Board of Medical Specialties consists of 24 specialty boards. Each requires between 3 and 6 years of training in an accredited program and a passing score on a rigorous cognitive examination. Moreover, the continuous advances in science and technology along with evidence that knowledge and skills of practicing physicians decay over time has motivated specialty boards to develop recertification programs and to limit the duration of certificates [3].

The effectiveness of physician certification has been shown to be closely related to other measures of physician competence [3]. Board examination results have demonstrated a correlation with medical school education, the amount of formal training, and supervisor assessment of clinical skills [3]. A positive relationship also exists between recertification performance and the number of patients seen, as well as the complexity of patient problems reported in practice [3]. Finally, there is evidence that better clinical outcomes are associated with board certification and continued maintenance [3].

The Gallup organization was commissioned by the American Board of Internal Medicine to poll the general public about their views regarding physician certification and recertification [3]. Not surprisingly, board credentials were highly valued by the public. Many respondents indicated they would change physicians if their current physician or specialist failed to maintain certification [3].

The courts have been somewhat divided as to the propriety of board certification criteria. In *Armstrong v Board of Directors of Fayette Hospital*, the court ruled in favor of the surgeon who sued the hospital because it denied him privileges to perform certain surgical procedures solely on the grounds that he was not certified and not eligible for certification by the American Board of Surgery. The court agreed that a physician “cannot be deprived of his right to practice his profession, or any part thereof, by the unreasonable, arbitrary, capricious or discriminatory actions of the governing body of a public hospital” [4]. Thus, the courts asserted that other evidence of a physician’s competence such as experience and performance should be considered. One court noted, in a separate legal case, that board certification may be a valid requirement in regional medical centers, but not in community hospitals [5].

In the clinical case before us, the hospital director announces that “all doctors who wish to have privileges...must be board certified.” While this is a prototypic “threshold” criterion, the new rule will apply to existing staff physicians as well as future applicants. Physicians are given 6 years to comply with this rule. Is this a surreptitious way for the hospital to rid itself of some older physicians for financial or other self-protective reasons? Is it ethical or legal for the good physicians—who are not board eligible or for whom taking a board exam would create an undue burden—to be swept away with the less qualified physicians? Should a hospital be allowed to deprive a physician of his or her livelihood without other justifiable causes? It is my opinion that the certification requirement is reasonable *as part of* the threshold criteria for initial appointment to the medical staff. To be sure, restricting staff privileges to board certified physicians will enhance the quality of medical care and reputation of the hospital. Once a physician has been appointed, however, a hospital should not be permitted to reduce or eliminate his or her privileges without due cause. In most cases, the burden should fall upon the hospital to prove that the physician has failed to meet performance criteria. This should involve a peer review by committee appointed by the hospital administration.

### References

1. Peters BM, Maneval WC. Medical staff membership: a credentialing minefield. *Med Staff Couns*. 1991;5:1-10.
2. Joint Commission on Accreditation of Healthcare Organizations. *Accreditation Manual for Hospitals*. 1990:106.
3. Brennan TA, Horwitz RI, Duffy FD, Cassel CK, Goode LD, Lipner RS. The role of physician specialty board certification status in the quality movement. *JAMA*. 2004;292:1038-1043.
4. *Armstrong v Board of Directors of Fayette County Gen. Hospital*, 553 S.W.2d 77 (Tenn. Ct. App. 1976).
5. *Boyd v St Joseph’s Hospital & Medical Center*, No. A-2-87T8 (NJ Super. Ct. June 17, 1988).

*Joseph Lowy, MD, is a clinical assistant professor in the Department of Medicine at New York University School of Medicine. He specializes in pulmonary medicine/critical care and is a faculty member of the Palliative Care Team at NYU’s Tisch Hospital.*

*The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.*

Copyright 2005 American Medical Association