



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

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Governor Edmund G. Brown Jr., State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

**Millennium Biltmore
506 South Grand Avenue
Los Angeles, CA 90017**

**Medical Board of California
2005 Evergreen Street
Sacramento, CA 95815**

December 18, 2018

MEETING MINUTES

Tuesday, December 18, 2018

Members Present:

Denise Pines, President
Michelle Anne Bholat, M.D., Secretary
Dev GnanaDev, M.D.
Randy W. Hawkins, M.D.
Kristina D. Lawson, J.D.
Sharon Levine, M.D.
Ronald H. Lewis, M.D., Vice President
Brenda Sutton-Wills, J.D.
David Warmoth
Jamie Wright, J.D.
Felix C. Yip, M.D.

Members Absent:

Howard R. Krauss, M.D.

Staff Present:

April Alameda, Chief of Licensing
Diane Curtis, Information Technology Supervisor I
Mary Kathryn Cruz Jones, Associate Governmental Program Analyst
Christina Delp, Chief of Enforcement
Sean Eichelkraut, Information Technology Supervisor II
Kimberly Kirchmeyer, Executive Director
Nicole Kraemer, Staff Services Manager I
Christine Lally, Deputy Director
Jane Montes, Staff Services Analyst
Elizabeth Rojas, Staff Services Analyst
Jennifer Simoes, Chief of Legislation
Kevin Valone, Staff Services Analyst
Carlos Villatoro, Public Information Manager
Kerrie Webb, Staff Counsel

Members of the Audience:

Scott Barttelbort, M.D., California Society of Plastic Surgeons
Mason Bettencourt, Center for Public Interest Law
Jack E. Bruner, M.D., California Society of Plastic Surgeons
Peter Canalia, Executive Director, American Board of Cosmetic Surgery
Charleston Chua, M.D., University of California, Davis
Genevieve M. Clavreul, RN, PhD
Shannon Smith-Crowley, Wilke Fleury
Kamran Dastoury, M.D., Academy of Cosmetic Surgery
Mandy Denaux, Los Angeles Area Chamber of Commerce
Bryce Docherty, AP Public Affairs
Patricia Duffy, Lipo Coalition
Husam Elias, M.D., California Academy of Cosmetic Surgery
Neal Fleming, M.D., Medical Consultant
Jessica Frasco, American Society of Plastic Surgeons
Tyler Frew, M.D., California Plastic Surgery Resident
Doug Free, California Society of Plastic Surgeons
Whitney Florin, M.D., American Board of Cosmetic Surgery
Andrew Hanna
Jacob Haiavy, M.D., American Board of Cosmetic Surgery
Patrick Hermes, Director of Government Affairs, American Society Plastic Surgeons
Kate Hinchcliff, M.D., University of California, Davis
Suzanne Inchauste, M.D., Stanford University
Wendy Knecht
Geoffrey Keyes, M.D., California Society of Plastic Surgeons
Susan Lauren, Lipo Coalition
Patrick Le, Assistant Deputy Director, Board and Bureau Services, Department of Consumer Affairs
Maria Lombardo, D.O., American Board of Cosmetic Surgery
Tim Madden, California Society of Plastic Surgeons
Shahram Mashhadian, M.D., American Board of Cosmetic Surgery
Darcy McLaughlin, American Board of Plastic Surgeons
Saba Motakef, M.D., California Society of Plastic Surgeons
Laura Norton, M.D., Cosmetic Surgery Fellow
Christine Pahl, California Society of Plastic Surgeons
Dr. Pierson
Jeff Rosenberg, M.D., California Society of Plastic Surgeons
Mike Sanchez, Videographer, Department of Consumer Affairs
Michael Schwartz, M.D., American Board of Cosmetic Surgery
Robert Singer, M.D., California Society of Plastic Surgeons
Alex Sobel, D.O., President, American Board of Cosmetic Surgery
Steven Teitelbaum, M.D., University of California, Los Angeles
Irene Tower, M.D., American Board of Cosmetic Surgery
John Valencia, American Board of Cosmetic Surgery
Jessica West, D.O., Cosmetic Surgery Fellow
Michael Wong, M.D., President, California Society of Plastic Surgeons

Jay Xue, M.D., University of California, Davis
Magaly Zagal, Wilke Fleury
Matthew Zeiderman, M.D., University of California, Davis
Terry Zimmerman, M.D., California Society of Plastic Surgeons

Agenda Item 1 Call to Order / Roll Call / Establishment of Quorum

Ms. Pines called the meeting of the Medical Board of California (Board) to order on December 18, 2018, at 12:35 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

Ms. Clavreul shared that she considers herself an expert in health and quite knowledgeable. She added that three years ago Governor Brown was trying to dismantle the Board, which she was personally opposed to, since it is important to have a watchdog. She expressed that she feels that the Board is not doing what it is supposed to do, because some of the issues she has seen have a flagrant disregard for the patient. Ms. Clavreul hoped that the Board changes this in the new year. She detailed that she read an article in the Pasadena Star about a lawsuit. She noted that she wrote a letter to the editor that might be published and she provided a copy to the Board.

Ms. Knecht detailed that she knows the Board has a policy that any settlements over \$29,999 need to be reported by a doctor. She was wondering why there is a category for settlements on a doctor's profile and doctors who have had large settlements that are not listed as having a settlement. She added that the Board's policy is that a doctor has to have three to four settlements within a five-year period before it is posted on the website. She inquired how this helps the public be informed about their doctor. Ms. Knecht added that it is extremely misleading and would be more representative to have it listed. She requested that the policy be altered. She concluded that if you are a doctor that has three settlements in a five-year period, you are not insurable at that point, and it is not in the public interest to have the policy.

Ms. Lauren commented that the public is at risk because board certified plastic surgeons suggest to the public that they are competent. She shared some ways in which they are a threat to the public and detailed information about her personal experience with a plastic surgeon. She added that instead of learning from harmed patients like herself, the Board is part of the problem. She shared that she has sent the Board photos of her case and asked if anyone would go to that surgeon. She commented by noting that the extreme and overarching failures of the Board explain why medical malpractice in California is epidemic and has increased. Ms. Lauren concluded that she does not understand why this meeting is being held at the Biltmore and yet at a patient advocate meeting there are insufficient funds to add a phone line. She explained that she is disabled after surgical battery and she would like to be able to phone into the meeting. She added that she could not imagine the phone line costing more than the Biltmore.

Agenda Item 3 Approval of Recommendation for Federation of State Medical Board Committees

Ms. Kirchmeyer announced that the Federation of State Medical Boards (FSMB) has been seeking individuals interested in serving on committees within the FSMB. She added that Dr. Bholat would like to be nominated to the Editorial Committee. She asked for a motion to approve the preparation of a letter of recommendation and support of appointment for Dr. Bholat to the Editorial Committee.

Dr. GnanaDev made a motion to approve the preparation of a letter of recommendation and support for appointment for Dr. Bholat to the Editorial Committee of the FSMB; s/Dr. Lewis. Motion carried unanimously (11-0-0).

Agenda Item 4 Discussion and Possible Action on the American Board of Cosmetic Surgery's Application for Specialty Board Equivalency Recognition in California

Ms. Alameda explained that the American Board of Cosmetic Surgery (ABCS) applied to the Board requesting recognition as a specialty board, which would allow their members to advertise as board certified. She provided detail on Business and Professions (B&P) Code section 651, which states a physician may only advertise that they are board certified if they are certified by the American Board of Medical Specialties (ABMS), a specialty board with an Accredited Council Graduate Medical Education (ACGME) accredited postgraduate training program, or a specialty board approved by the Board as equivalent to an ABMS board. She added that the law is for advertising only and the law does not prohibit the advertising of specialization regardless of the board certification status. Ms. Alameda noted that physicians who are certified by non-recognized boards are able to practice their specialties and advertise that they practice in that specialty; they simply cannot use the term board certified. In order to be approved as a specialty board, ABCS must demonstrate its compliance with the laws and regulations, and demonstrate its equivalence to a related ABMS specialty board. She introduced Dr. Fleming, a professor of clinical anesthesiology at the University of California, Davis. She explained that at the October 18, 2018 meeting, this topic was discussed and deliberated, however, Members stated that they needed more information to make a final decision.

Dr. Fleming began by providing background about the ABMS, noting that it is made up of 24 different medical specialty boards, encompassing 39 medical subspecialties, and 86 sub specialties. He explained that for a specialty board to be approved by the Board, they must comply with multiple requirements, which he listed. He noted that ABCS staff has met the majority of these expectations in the application. Dr. Fleming explained the crux of the discussion from the last presentation and the history of prior denied applications by ABCS is the requirement that specifies the need to demonstrate equivalency in scope, content, and duration to an ACGME accredited program. He added that ABCS provides Fellowship Training Program Guidelines that are modeled after ACGME accreditation guidelines, however there is discordance between ABCS Training Guidelines and fellowships as portrayed on the American Academy of Cosmetic Surgery (AACS) website and this is what propelled the need for additional information.

Dr. Fleming shared that he will summarize and review the materials provided and then provide an assessment of the issue and a response. He began with the concern that there are multiple residency pathways for ABCS fellowship qualification, adding that the magnitude of the impact of grandfathering physicians certified under these pathways is not clear. He detailed the request that was made to ABCS and provided their response. Dr. Fleming provided information regarding certifications broken down by decades, amount of physicians certified in each category and their percentage of the whole, statistics about qualifying residencies, and certification route. His final assessment was that there is a minority of the currently certified that have completed the training program that are currently being considered for equivalency and 10% of the currently certified qualified though a residency training program no longer considered to be acceptable. He shared that it was not possible to determine the immediate impact of this change on California, because no state licensure information was provided.

Dr. Fleming noted an additional concern was that there was inconsistency between the Fellowship Training Guidelines submitted to the Board as part of the application and documentation on the AACS website with respect to qualifying residency training pathways. He detailed the request that was made to ABCS and provided their response. He detailed another concern, which is that ophthalmology still presents a non-surgical qualifying residency and must be followed by an ophthalmic plastic and reconstructive surgery residency, but then requires two years cosmetic. He noted that the implication for this is that the residency training program does not provide a complete foundation for the cosmetic surgical fellowship. Dr. Fleming shared the request made to ABCS and the response received by them. He concluded with his assessment that the arguments with respect to general surgical training and exposure seem reasonable. He added that there remains a disconnect in that there is still a requirement for a doubling of the duration of the cosmetic surgical fellowship training time and case experience, but there is no commensurate modification of the educational curriculum to address the deficiencies implied by the training modifications. He noted that this potential training inconsistency impacts approximately 10% of the currently certified cosmetic surgeons, which is a significant percentage.

Dr. Fleming shared that another concern was that the program director must be certified by ABCS, have an academic appointment, and be engaged in verifiable scholarly activities. He detailed the request that was made to ABCS and provided their response. His assessment was that there was no collated summary of recent scholarly activities provided, the CVs provided were highly variable with respect to the format and content, the academic appointments or affiliations were rarely included in the CVs, and the fellowship training program directors were not consistently engaged in verifiable scholarly activities.

Dr. Fleming addressed the next concern that each program shall consist of no less than two faculty members. He detailed the request that was made to ABCS and provided their response. His final assessment was that there was no collated summary of academic appointments or recent scholarly activities provided. Additionally, the CVs provided were highly variable with respect to format and content, academic appointments or affiliations were also rarely included in a CV. Dr. Fleming concluded that fellowship training program affiliated faculty are not consistently engaged in verifiable scholarly activities.

Dr. Fleming covered an additional concern that training programs must ensure that sufficient academic support exists to enable the fellow to meet all program requirements. He noted that he provided a request to ABCS and explained the response given. His overall assessment was that the requirement as described in the guidelines is limited and not consistent with those of comparable ACGME accredited training programs. Dr. Fleming noted that no documentation was provided to assure that even the most minimal of requirements were consistently provided by the training programs.

Dr. Fleming went through the next concern that the fellow-in-training must perform clinical or basic research, and submit at least one clinical or basic research paper reflecting said research for publication to the American Journal of Cosmetic Surgery or another peer-reviewed cosmetic or plastic surgery journal. He provided details of his request as well as the response provided. His final assessment was that the data provided was not clearly summarized or edited for redundancy and the program training requirement was not consistently met by the majority of the fellows of all programs.

Dr. Fleming presented another concern, which is that the core curriculum for the Fellowship Training Program is incorporated into the Fellowship Handbook available through links on the AACCS website. He reported that he provided ABCS with the request and discussed the response he received. He added that an additional concern was that each training program must have a formally structured curriculum, including a summary of the overall educational goals, competency based goals, and a list of topics to be discussed in weekly seminars. Again, he detailed the request made to ABCS and the response they provided. Dr. Fleming shared his assessment that daily clinical discussions are distinctly different from a formally structured curriculum. He added that there is no summary of educational goals or competency-based goals in the documentation provided. Additionally, in the documentation provided, there was no support of the presence or use of a formally structured curriculum for each training program.

Dr. Fleming transitioned to the next concern regarding a monthly core curriculum review, which is mandatory for all fellows. He provided details of his request for more information as well as the response ABCS provided. Another concern was that the core curriculum in the Fellowship Handbook is a procedure oriented outline that runs just over 100 pages. He noted that the ACGME endorsed core competencies are clearly outlined in the Fellowship Training Guidelines. Dr. Fleming provided the request he made to ABCS and shared their response. His overall assessment was that six month evaluations of the individual fellows are structured around the headings of *Intellectual*, *Technical*, and *Personal*. He added that sub-sections for each of these can be related to core competencies and although specific competencies do not provide the overarching structure, they are largely covered in the arenas listed.

Dr. Fleming addressed another concern that each training program must educate faculty and fellows to recognize signs of fatigue and sleep deprivation, alertness management and fatigue mitigation processes, and adopt fatigue mitigation processes to manage the potential negative effects on patient care and learning. He provided the request he made as well as the response received. His final assessment was that no documentation was provided to support consistent formal education focused on this topic, which is considered critical by ACGME.

Dr. Fleming discussed the concern that the cosmetic surgery Fellowship Training Guidelines invoke current ACGME 80 hour work week restrictions. He detailed the request he made as well as the response given by ABCS. His assessment was that there was no documentation provided to support any formal work hour monitoring and that this would not meet the expectations in an ACGME accrediting training program.

Dr. Fleming noted another concern that the training program assessments and monitoring are essential to assure continual quality and guide improvements. He inquired how this is accessed. He provided the information received by ABCS. The next concern is that the training program assessments and monitoring are essential to assure continued quality and guide improvements. He listed the questions that he asked and the requests for more information, as well as the information ABCS provided. His final assessment was that, with only one or two fellows per program per year, anonymity in evaluations requires substantial involvement of third parties. He added that solicitation of evaluations from administrative offices are good, but that they are reviewed by the general fellowship committee that has 50% of its membership as program directors, which does not provide sufficient reassurance to individuals providing feedback. Dr. Fleming pointed out that no documentation was provided to allow for the assessment of the quality or quantity of evaluations received. He noted that overall it is common for individuals in leadership positions, but concurrency and perceived conflicts of interest need to be avoided. He finished by adding that the documentation provided did not support the contention that anonymity is adequately provided or that the conflict of interest is eliminated from the review and remediation processes.

Dr. Fleming shared another concern that the confirmation of many of these questions be best provided by contact with recent graduates rather than current program directors. He provided information about the request to ABCS as well as their response. His final assessment was that in reviewing the documentation provided, individual interviews of recent graduates were not pursued, since it did not seem as any new information would be garnered.

Dr. Fleming provided a list of his conclusions. He noted the areas in which he felt that ABCS did not meet the criteria for ACGME acceptance, and therefore should not be considered as equivalent to an ABMS member specialty board.

Dr. GnanaDev thanked Dr. Fleming.

Dr. Sobel, the President of the ABCS expressed his feelings that this process was being rushed by the Board, despite the process having started over three years ago. He provided more details about the timeline. He added that through this process, he has been forced to ask about the original intent of his board's right to commercial free speech. He discussed the Supreme Court decision of the North Carolina State Board of Dental Examiners versus the Federal Trade Commission. He asked the Board Members to review the information themselves. He added that a comparative analysis found that similar boards to the ABCS have been approved by the Board for the purposes of advertising, which would clearly direct any impartial observer to deem his organization as equivalent. He added that at the last meeting it was inquired if the ABCS is a more robust organization today than it was at the time of the last petition and which of its diplomats certified before the evolution. He added that by not granting equivalency it would restrict the advancement of medicine by highly qualified physicians in their organizations.

Dr. Sobel reminded the Board that many ABMS board certified physicians have lifetime certifications. He explained that ABMS has not stripped them of their certifications simply because they were certified under pathways that have evolved to include recertification or maintenance of certification. He provided examples, including emergency medicine. He added that ABCS requires the completion of primary surgical training. He shared that this was discussed and that their response clearly outlines the assertions including the requirements recommended by the ad hoc committee appointed by AACCS. He continued that AACCS fellowships provide critical academic support and cosmetic training and he regrets this information did not satisfy the expert. He continued that three business days over Thanksgiving week is insufficient time to homogenize and collate information that could have been requested three years ago when the application was submitted. He provided more reasoning behind medical publications, duty limits, and moonlighting. Dr. Sobel reasoned that if there had been an in-person visit some of the doubt would have been cleared, versus sole reliance on paper. He detailed that training experience, and methodical certification in cosmetic surgery are invaluable to public safety and are not adequately performed by the ACGME and ABMS.

Dr. Sobel listed the reasons why he believes there is opposition to the ABCS. He detailed competition, financial interests and profit, marketplace control, and regulatory capture. He noted that the focus of this has turned into an “us” versus “them” turf battle, when the focus should be on patient safety. He provided a list of reasons why ABCS should be approved. He listed their exacting certification program, exceedingly rigorous experience route, high procedural level, and depth and diversity in training. He inquired if the Board knows all of this, why would they not grant equivalency to the program. Dr. Sobel concluded by reiterating other boards that have been passed although they had not met all the requirements, and added ways in which his board has met the requirements for equivalency. He requested a motion for an affirmative vote to approve his request for equivalency for the purposes of advertisement.

Dr. Hawkins inquired about the timeframe for ABCS to respond.

Ms. Webb clarified that ABCS did apply three years ago and then they received a deficiency letter. She estimated that they took about eight to ten months to respond to the first deficiency letter, which thereafter they received another deficiency letter and although they were aware of the upcoming changes to the Board’s authority, they waited many months to respond. She agreed that they may have had less time to respond to the last deficiency letter since the Board’s jurisdiction over this matter is ends as of January 1, 2019, but the delay initially was the result of ABCS’s failure to respond to the deficiency letters in the timely manner.

Ms. Pines asked for a motion.

Mr. Canalia confirmed that after the first deficiency letter it did take them several months to respond, however the last two responses had a quick turnaround in order to be in compliance with the three-year time period. He provided more details about the past timelines and took full responsibility for the first round, but noted that their responses were very prompt the last two times.

Dr. GnanaDev made a motion to not approve the application by the American Board of Cosmetic Surgery for equivalency as an ABMS specialty board; s/Dr. Hawkins.

Mr. Canalia asked for clarification on the motion and asked for a point of order on the motion that was made.

Ms. Webb clarified that the motion that was made was to deny the ABCS application.

Ms. Pines asked Dr. GnanaDev if he would like to amend the motion for clarity.

Dr. GnanaDev made a motion to approve the Board medical consultant's recommendation to deny the application for specialty board equivalency of the American Board of Cosmetic Surgery; s/Dr. Hawkins.

Dr. Levine inquired what would happen to a similar request in 2019 and going forward.

Ms. Webb explained that the law was amended to remove the Board's ability to determine equivalency, so it would mean that these matters would not come before the Board.

Ms. Kirchmeyer noted that other boards that apply after 2019 would have to meet the ACGME or ABMS requirement in B&P Code section 651(h). The Board will no longer have the authority to state a board is equivalent with an ABMS board.

Dr. Schwartz, member of ABCS and expert reviewer for the Board in the field of cosmetic surgery, reiterated that ABCS has met all the requirements and provided all the information requested by the Board. He expressed that he felt that what is really going on is a turf battle and an attempt to limit very qualified and highly trained surgeons from advertising to their patients and the public. He added that this is counter-intuitive, because if it were a patient safety issue, everyone would be working together to prevent doctors who take a weekend course from advertising themselves as cosmetic surgeons. He detailed that the reviewer's conclusions seemed predetermined and though the information had been provided, it was constantly questioned. Dr. Schwartz noted that they arranged for Dr. Fleming to speak with some fellowship directors and provided information for the fellows, however he chose not to participate. He provided more information as to why ABCS should be deemed equivalent, noting that ABCS is not observational and he explained the overall experience of a fellow. He concluded with quotations from journal articles demonstrating his point.

Dr. Keyes, plastic and reconstructive surgeon, shared his personal experience about his fellowship. He opined that this is a patient safety issue and that the duration of a fellowship is not the same as a residency training program. He expressed that the ABMS has evolved over the past hundred years and has been put together to manage patient safety by forwarding the tenants of successful medical education. He added that to compare a fellowship of one year with a complete residency training program does not have merit.

Dr. Frew, fifth-year plastic surgery resident at Loma Linda University Medical Center, detailed that as a future plastic surgeon this agenda item carries much weight. He offered the

perspective of a current resident and noted that cosmetic or aesthetic procedures are considered to be of the most complex, technical and challenging. For this reason, students only are privileged for these procedures in their final two to three years of training. He provided more insight into the early years of training and how those skills have aided him to be successful. He added that it is clear to him that a foundation in reconstruction is required to successfully do cosmetic cases and he confirmed that this was knowledge that was not acquired in a weekend course. Dr. Frew refuted ABCS's claims that plastic surgeons all have the smallest sections regarding cosmetic surgery and was concerned about the fleeting timeframe of the fellowship.

Dr. Lombardo, board of trustees for ABCS member and President of the California Academy of Cosmetic Surgeons, and board-certified general surgeon and fellow in the American College of Osteopathic Surgeons, shared that she was trained through a cosmetic surgery fellowship. She asserted that there were false claims made by the opposition. She noted that ABCS diplomats have completed an ACGME or American Osteopathic Association surgical residency prior to fellowship training and are experienced and qualified surgeons prior to the start of their fellowship training. She added that all diplomats have knowledge of anatomy from medical school or from their primary residency, followed by a dedicated cosmetic surgery fellowship. Dr. Lombardo discussed the notion that there are no other examples of one-year fellowships leading to certification and provided examples of other boards with one year fellowships that were recognized by the Board. She added that the rate for serious violations is the same or lower for ABCS diplomats compared with ABMS. She detailed positions that ABCS diplomats hold, demonstrating their progressive responsibilities and activism in every aspect of patient care. She addressed the notion of different primary specialties applying to one subspecialty board. Dr. Lombardo expressed her fears and asked that the Board support the ABCS application.

Dr. Rosenberg, plastic surgeon and past president of the California Society of Plastic Surgeons (CSPS), discussed the prerequisite training for plastic surgery. He stated that surgery in general is prone to unexpected and unplanned occurrences and he believes that the diversity of training in plastic surgery allows for the surgeon to have more experience with complex cases.

Dr. Barttelbort, plastic surgeon and president-elect the CSPS, discussed the experience of being a primary surgeon and the training involved. He added that until a person has to perform all the essential functions and elements of a surgery, they will not know if they are effective and this is why the proper training is so essential. He detailed specifics of the ABPS, in which the resident gradually assumes progressive responsibility as they demonstrate proficiency with each of the many steps of the operation, eventually becoming the primary surgeon. Whereas, it appears the ABCS does not require this and he explained the role co-surgeon. He highlighted the clear difference in the methodology of accumulating cases for the case logs between ABPS and ABCS and noted that they are not equivalent in scope, content, or duration.

Ms. Denaux, Los Angeles Area Chamber of Commerce, came in support of the ABCS application for specialty board equivalency recognition in California. She explained that as a business organization, the Los Angeles area Chamber of Commerce champions economic prosperity and quality of life for the entire region. She detailed that this is done by being the voice of business. She added that they have supported providing California healthcare

consumers with useful information in their efforts to secure their highest standards of care. Ms. Denaux explained the work of their healthcare council and shared that they had reviewed the ABCS application. Their conclusion was that ABCS promotes safe and ethical practices, offers a comprehensive clinical fellowship program, peer review, and standardized examination, and that they have demonstrated clear equivalency to the requirements for certification. She concluded that this is a conversation about how people advertise their business, not practice their specialty. She urged the Board to make a motion in support of the application.

Dr. West, stated she is board certified and a current cosmetic surgery fellow. She testified to the strength of the training programs. She added that due to her personal experience with a start to finish ACGME program during her residency training, she feels that the programs are equivalent. She noted that she is a Doctor of Osteopathic Medicine and under the recent single accreditation umbrella, all DO programs were given five years to complete ACGME accreditation. Dr. West provided information about the accreditation program process that she experienced. She then compared this process with that of ABCS and the Board and highlighted the differences. She noted the difficulty of one person to review all the materials versus a committee, as well as the short time period. She made the distinction that ABCS is not applying for ACGME accreditation and therefore the application for equivalency should not be a carbon copy of an application for ACGME accreditation. Dr. West added that one of the biggest strengths of the fellowship programs is the one-on-one mentorship obtained, especially since it is a smaller training program.

Dr. Florin, an oral and maxillofacial surgeon who completed the fellowship in cosmetic surgery, reiterated a few points, noting that the cosmetic surgery fellowship is a post residency training. She added that it is not the same as a residency and provided details of her residency program. She explained that the fellowship is intentionally structured differently since the fellows come in with a very strong surgical background. This also allows them to complete a short one-year fellowship. She explained that after the cosmetic surgery fellowship she was amazed at how much she had learned in one year and how confident she felt performing cosmetic surgeries safely on her own. Dr. Florin opined that she does not know of any surgeon from any program that would claim to be an expert in their full breadth of that surgical specialty, since this would be irresponsible and dangerous. She added that as a responsible provider you should be able to pick and choose the procedures that you feel comfortable to safely complete.

Mr. Hermes noted that the Members are receiving competing facts and interpretations of the law. He asked that the Board listen to the thoughts of the reviewer, who has come to the same conclusions twice and is an independent source of information. He added that in 10 of the 14 areas covered the consultant found continuing deficiencies. He opined that what struck him was that in eight of the ten areas they were related to an inability to document the items requested. He added that although there were time constraints, he does not understand how the documentation being requesting is not on hand. Mr. Hermes pointed out that if they are regularly monitoring these programs, 72 hours should be more than enough time to produce that material.

Dr. Tower, practicing cosmetic surgeon with a background in general surgery that is board certified and fellowship trained in cosmetic surgery, provided more details about her background. She noted that she was drawn to this fellowship since she did not need to learn to

be a surgeon, rather she wanted to learn the art and the skills necessary to perform aesthetic surgery safely. Dr. Tower confirmed that she was hands-on in her training and did hold a scalpel. She shared that she worked for her training and hopes to give her patients beautiful outcomes and therefore she should be able to advertise her training credentials as a board certified cosmetic surgeon. She added that this too will set her apart from others that do not have the same training.

Dr. Norton, board certified general surgeon, fellow of the American College of Surgeons, and a fellowship trained breast surgeon, provided insight into why she is pursuing the fellowship. She shared with the Board that the picture that had been painted of plastic surgeons and cosmetic surgeons does not represent reality. She detailed that plastic surgery colleagues have shared that cosmetic cases are the most challenging of all the procedures they perform and that they are not comfortable performing them. She explained that she did not share this information to disparage her colleagues, but that she wanted to illustrate the fact that plastic surgery is extremely vast and diverse. Dr. Norton commented that the focus should be on setting the bar for patient safety and excellence in the field by recognizing cosmetic surgery, not only focusing on the differences.

Dr. Pierson explained that she holds independent medical and dental licensure in good standing. She expressed her interest in the Board's involvement in matters beyond the scope of an ACGME certification, specifically optional, non-regulated, proprietary entities with no government agency oversight. She noted that this puts the Board in the position of picking winners and losers. She explained that these entities create the impression of pay-to-play and requirements driven by profit. Dr. Pierson noted that multiple current litigation statuses underscore the ABMS efforts to create non-competition climates by limiting competitors' right to exist while extending their certification business outside of the American training facilities to other nations. She asked the Board to consider this and proposed that it be put on the agenda.

Dr. Zimmerman, board certified plastic surgeon, Vice President of CSPA, and past president of the Sacramento Society of Plastic Surgeons, shared that after listening to all the testimony he believes sight has been lost of what the current process is trying to decide. He reminded everyone that the determination is whether ABCS is equal to content, duration, and scope to other boards. He asked Board Members to consider who the applicants for the ABCS are. Dr. Zimmerman commented that many of these applicants are for some reason disgruntled with their chosen field of expertise and have come up with a shortcut to become board certified in cosmetic surgery. He echoed that cosmetic surgery and plastic surgery cannot be disjointed. He explained why plastic surgery cannot be learned in one year. He concluded that ABCS cannot be deemed equivalent to other board certifications.

Dr. Wong, President of CSPA and Professor and Program Director of Plastic Surgery at the University of California, Davis (UC Davis), focused on how ABCS fellowship program resources and supervision are not equivalent in scope and content to an ABMS board. He discussed aspects of an ABMS board and how they differ from ABCS. He listed the medical setting, resources available, faculty, and institutional oversight. He concluded that the ABCS fellowship program resources and supervision are not equivalent in scope and content to an ABMS board.

Dr. Chua, recent graduate of the general surgery residency and a new diplomat to the American Board of Surgery, provided insight into his training over the last five years. He noted that aspects of his training that were mandatory of plastic surgery are not mandated by ABCS. He explained how operating in a semi-independent capacity without having the attending surgeon dictating every step of the procedure was a key transitional step in his learning. He added that since ABCS does not have this formal transitional training it creates an issue of safety once they become independent practitioners. Dr. Chua added that training also includes managing complications, which requires knowledge and knowledge of solutions. He requested that the Board deny ABCS's application for equivalency in order to maintain patient safety and integrity.

Dr. Xue, plastic surgery resident at UC Davis, echoed some of the concerns that others pointed out, such as cosmetic surgery accepting graduates from varied fields, not all of which have the prerequisite surgical training. He added that to expect these graduates to master certain surgeries in a short period is asking a lot of individuals. For this reason, he feels that it is not safe and they would be operating in areas outside of their expertise and this causes safety issues. He concluded that the Board needs to consider the fact that ABCS has lower standards and accepting applicants without surgical prerequisite training is a sign that it does not have the same scope or equivalency as an ABMS board.

Dr. Zeiderman, third year plastic surgery resident at UC Davis, explained that he is concerned for the safety of the public. He noted that no ABMS board certified physician is allowed to perform surgical procedures on any body part after a single year of training. He added that the minimum is three years, however it is typically more. He continued to compare and contrast the ABCS program with his plastic surgery residency. He highlighted the duration of the program, procedures performed, and knowledge obtained. Dr. Zeiderman reiterated that a single year in the ABCS is not enough time to allow these fellows to operate on the entire body and it is dangerous. He concluded that ABCS is not equivalent in scope, content, or duration and granting equivalency would cheapen board certification.

Dr. Inchauste, clinical instructor of reconstructive microsurgery at Stanford University, provided her professional background and noted that ABCS is not equivalent. She provided information about her own residency training and stated that her training is nowhere near equivalent of being a co-surgeon in surgeries that may have never been performed before and in only a one year fellowship. She advocated that the Board deny the ABCS request for equivalency.

Dr. Hinchcliff, Chief Resident in Plastic Surgery at UC Davis, discussed training in an academic medical center. She detailed that this has enormous implications for operative experience with respect to diversity of case, patients, and volume but also to the non-operative experience. She pointed out that serious complications arise post surgery and are best taken care of in a large hospital with inpatient services, which is the experience she had. Dr. Hinchcliff provided key learning takeaways as a result of her experience in the facility where she trained. She opined that it would not be possible to acquire this experience without a six-year residency, involving similar requirements in a hospital setting. She urged the Board to vote against ABCS's application for equivalency.

Dr. Bruner, retired plastic and reconstructive surgeon and former Board Member, shared that he believes that this is the fourth time ABCS has applied for equivalency. He added that ABCS

provided the Board with their best data that shows who they are, what they do, and how they train. He noted that Dr. Fleming is an expert at taking in the data, reviewing it for the Board, and deciding if ABCS lives up to the standard of equivalency. He confirmed that this is a very high standard and applauded Dr. Fleming for his work. Dr. Bruner summarized that ABCS put forth their best efforts, however they do not meet the equivalency standards. He asked that the Board Members remember this when voting.

Dr. Motakef, fifth year plastic surgery resident surgeon at Loma Linda University, explained his intrigue with plastic surgery and provided details about his residency experience. He noted that ABCS likes to argue that plastic surgery reconstructive work does not add to their aesthetic or cosmetic expertise, but he contended that this could not be further from the truth. He explained that the reality is that the anatomical, surgical, and technical principles that guide aesthetic surgery are all fundamentally grounded in reconstructive surgery. Dr. Motakef detailed that plastic surgeons have been the pioneers in this field and have established the principles upon which decision-making and aesthetic surgery is performed. He pointed out that in order to safely perform procedures, avoid complications, and address complications, one has to have had appropriate training in both cosmetic and reconstructive surgery. He added that a one year fellowship would not allow someone to safely perform the procedures that he has dedicated his whole life to mastering. He concluded that by allowing ABCS fellows to become board certified would be a disservice to their patients.

Ms. Lauren, Lipo Coalition, began by explaining how this is a patient safety issue. She noted that board certification suggests to the public that the surgeons are confident and will do the right thing, but cosmetic surgeons perform liposuction, which is innately a bad procedure. She provided evidence how liposuction is harmful and highlighted her own experience. She also provided information from a journal that supported her thoughts about plastic surgeons and liposuction. Ms. Lauren commented that the Board does not appear to crack down on these surgeons and the result is a recipe for national disaster. She discussed the effects of liposuction and related this to her personal experience. She asked that body sculpting ads be banned for this reason.

Dr. Singer, voluntary clinical professor University of California San, Diego, prior president of CSPA and the American Society for Aesthetic Plastic Surgery, explained that what is before the Board today is the determination of an application of equivalency in scope, content, and duration to an ABMS board. He added that it has been clearly shown that this application is not equivalent in terms of anatomical training, duration, scope, content, prerequisite training, and supervision requirements. He reminded the Board that the independent consultant determined that the application is not equivalent. He urged the Board to follow the recommendation of Dr. Fleming and reject this application as being equivalent.

Dr. Haiavy, past president of ABCS, pointed out that the important issue is the truth. He provided a historical context of the bill that was sponsored in 1990, was created in order to prevent misleading and deceptive advertising. He noted that cosmetic surgery and the diplomats do not deceive or mislead anyone. He added that by not recognizing the diplomat's right to commercial free speech, is deceiving to the public and detrimental to their safety. He commented that the fellowship training is an additional one-year training after a minimum of five

to six years of previous surgical training. Dr. Haiavy urged the Board to review all the information provided and support the application.

Dr. Teitelbaum, University of California, Los Angeles, reminded the Board Members that although they have heard persuasive arguments, Dr. Fleming has already heard these same arguments and with greater detail. He added that there has been no new information given today and that all information has already been read, analyzed, and digested by Dr. Fleming. He commented that the Board would be making a mistake if they were to do anything other than follow Dr. Fleming's recommendation. Dr. Teitelbaum added that this was also the recommendation of Dr. Tompkins in 2005 and the previous reviewer, and another one before that. He noted that this was also the decision of two appellate courts. He urged that for the safety of California, the motion be supported.

Motion carried unanimously (11-0-0).

Agenda Item 5 Adjournment

Ms. Pines adjourned the meeting at 3:35 p.m.



Denise Pines, President

1-31-19
Date



Dr. Bholat, Secretary

1/31/2019
Date



Kimberly Kirchmeyer, Executive Director

1-31-19
Date

The full meeting can be viewed at [http://www.mbc.ca.gov/About Us/Meetings/2018/](http://www.mbc.ca.gov/About_Us/Meetings/2018/)