



AMERICAN BOARD OF
FOOT AND ANKLE SURGERY®

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July 15, 2024

Lawrence Santi, DPM
President, American Podiatric Medical Association
11400 Rockville Pike
Suite 200
Rockville, Maryland 20852

Dear Dr. Santi:

RE: ABFAS Submission to the APMA “Single Certifying Board Task Force”

The American Board of Foot and Ankle Surgery (ABFAS) writes this letter for the purpose of ensuring that all participants in the American Podiatric Medical Association (APMA) “Single Certifying Board Task Force” have the same factual and legal context. Critically, we want the participants to understand ABFAS’ position: More than 10,000 podiatrists trust ABFAS’ certification in podiatric surgery to demonstrate to the public and the health care system that they have the experience and knowledge to perform surgery. Hundreds choose every year to obtain ABFAS certification, and ABFAS will not stop supporting those Diplomates and young podiatrists.

ABFAS is not willing to consider lowering its standards, and it believes that the few loud voices seeking that outcome are the same ones supporting this task force. ABFAS will not merge with another certifying board, and ABFAS will not accept or take part in any effort by competing boards and podiatrists to pressure ABFAS or podiatrists to reduce competition in the marketplace.

The ABPM-drafted resolutions presented to the APMA House of Delegates contained false statements about ABFAS’ certificate. In particular, the resolutions falsely state as fact that ABFAS’ certification creates “confusion” in the market. We are aware of no such confusion. If there is confusion, it is the result of ABPM launching a new certificate recently that purports to certify podiatrists’ surgical knowledge, and thus foments confusion. Those ABPM-drafted statements were adopted by a slim majority of the APMA House of Delegates after little-to-no discussion.

Accordingly, while ABFAS will attend this task force’s meetings to learn from any constructive information shared by the podiatric community, ABFAS is not open to supporting certain individual’s personal interests nor risk allegations that this task force is violating the antitrust laws through collective effort to reduce competition.

We provide below further information about our position, and we appreciate your consideration.

Background on Board Certification

There currently are at least three organizations that certify podiatrists, two of which hold Council on Podiatric Medical Education (CPME) recognition.

1. ABFAS, which certifies podiatrists in foot and ankle surgery. ABFAS is recognized by CPME.
2. American Board of Podiatric Medicine (ABPM), which certifies podiatrists in general podiatric medicine. ABPM is recognized by CPME.
3. American Board of Multiple Specialties in Podiatry (ABMSP), which certifies in eight areas of podiatric medicine. The American Board of Lower Extremity Surgery recently merged with ABMSP. It holds ANSI accreditation.

These companies all compete with one another for podiatrists to obtain their certifications. At the same time, podiatrists compete with one another in part based upon the certifications they obtain.

Examinations for podiatric surgery started in 1938, as part of the American College of Foot Surgeons first efforts. As the podiatric profession evolved, the College, the American Podiatric Association (now the American Podiatric Medical Association (APMA)) and the Council on Education (now CPME) recognized the need for a standalone certification body and created, in 1975, the National Board of Podiatric Surgery (NBPS). In 1977, NBPS changed its name to the American Board of Podiatric Surgery (ABPS), and in 2014, it became known as ABFAS. ABFAS was the first podiatric certification board.

In 2019, the APMA convened a Blue-Ribbon Panel to examine specialty board recognition. The panel reaffirmed the longstanding policy of recognizing only one board in each podiatric specialty area to best serve the public interest and mitigate confusion in the healthcare community. Part of the Blue-Ribbon Panel's recommendations included granting the Council on Podiatric Medical Education (CPME) autonomy in its work with full responsibility for the oversight of the board recognition process and removing the Joint Committee on the Recognition of Specialty Boards (JCRSB) as an APMA standing committee. In addition to its specialty board recognition role, CPME accredits the podiatric colleges, approves fellowships, residency programs, and podiatric continuing education providers.

CPME subsequently created the Specialty Board Recognition Committee to replace the JCRSB. The 2020 APMA Board of Trustees accepted the panel's recommendations, and in 2021, the APMA House of Delegates accepted the administrative changes to implement the panel's recommendations.

Earlier this year, ABPM proposed that APMA's Board of Delegates adopt ABPM-drafted resolutions to convene this task force to recommend that only one entity be used to certify podiatrists.

Background on ABFAS' Certification in Podiatric Surgery

In 2025, ABFAS will celebrate its 50th anniversary. Since its inception, ABFAS has focused on being the "credential you can trust." It has set a high standard to ensure that its Diplomates have the knowledge, skills, and abilities beyond those commonly possessed upon the completion of a podiatric residency program, a requirement of the current CPME's rules for recognition. ABFAS has certified more than 10,000 Diplomates, and there is consistent, continued interest in pursuing ABFAS certification.

ABFAS serves a critical role in promoting public health by maintaining a recognized, rigorous process for podiatrists to obtain specialty certification in foot and ankle surgery. This rigorous process, including a detailed review of the podiatrist's existing cases, is similar to how Doctors of Medicine are certified in surgery by their respective boards under the oversight of the American Board of Medical Specialties (ABMS), which also requires a case review component for certification by its surgical boards. ABFAS' goal is to ensure podiatric surgeons are as knowledgeable as possible. This is good for patients, good for podiatrists, and good for the medical profession overall.

ABFAS' two-step process (Board Qualification, followed by Board Certification) ensures the highest standards of patient care. Case Review is a hallmark of the process, requiring a significant number and diversity of cases to ensure a thorough level of clinical experience and surgical skill has been achieved prior to granting surgical Board Certification.

More than 10,000 podiatrists have earned ABFAS Board Certification by successfully meeting our high standards for demonstrating competency and proficiency in surgery. Of those podiatrists who attempted ABFAS Board Certification for Foot Surgery, on average 85% succeed.

While that confirms that ABFAS certification is attainable, it is not so for all podiatrists. ABFAS certification requires the demonstration of significant, safe, successful surgical experience. It is for this reason that podiatrists' promotion of their ABFAS certification is meaningful to their patients and medical colleagues.

Antitrust Concerns Related to the "Single Certifying Board Task Force"

Healthy competition in the podiatry industry amongst certifying boards and amongst podiatrists enhances the quality of our products and services, innovation, and competitive pricing in the field. ABFAS is dedicated to protecting and improving podiatric care and believes ABPM and the other certifying boards similarly aim to improve the field.

ABFAS opposes efforts to consolidate accredited boards, however, because doing so would reduce the competition that drives innovation and improvements in patient care.

Engaging in discussions among this group of competing bodies and competing podiatrists presents significant risks of noncompliance with the antitrust laws. The U.S. antitrust laws protect competition by prohibiting competitors from sharing competitively sensitive information and merging if a merger substantially lessens competition in the relevant industry. Notably, the Federal Trade Commission (FTC) recently emphasized the role of antitrust enforcement in the healthcare field. And this industry has been the subject of several rounds of expensive, distracting antitrust lawsuits and private disputes, involving some of the groups participating in this task force.

Antitrust compliance is therefore paramount to ABFAS and should be to this group. Yet the Task Force's planned focus raises serious antitrust concerns. The Task Force was proposed by ABPM to seek to avoid competition with ABFAS. ABPM and its leadership—including those participating in this task force—have stated many times over that they believe ABFAS' rigorous process is too difficult and that it should be easier to obtain certification in surgery. Because APMA has no authority or ability to force ABFAS and ABPM to merge or for either to go out of business, it seems that this task force might be used by certain interested parties to suggest or facilitate collusive activity, such as a "group boycott," which is an unlawful effort to choose one competitor over another.

In its best light, the Task Force seems to be aimed at bringing together competing podiatrists to bring pressure on an independent entity, CPME, to recognize only one organization (or certifying body in podiatry). At worst, it seems intended to pressure two competing organizations (ABPM and ABFAS) to agree to stop competing with one another and for competing podiatrists to choose one board over another. None of these is an acceptable purpose under the antitrust laws.

An annually increasing cohort of hundreds of podiatrists agree each year that they want ABFAS to continue to provide its certification. It is not (and cannot be) on the table to agree to dissolve simply so another organization can take over that certification and—as ABPM has stated on many occasions—*lower* the standards for surgical certification.

Further accentuating the antitrust risk is the express exclusion of other competing certifying boards. There is at least one additional board that certifies podiatrists, including in surgery. It was not invited to participate, even though it proposed to participate. By excluding other certifying entities, the risk is all the more significant that this task force will be alleged to facilitate anticompetitive collusion.

The meeting of the Task Force itself also poses antitrust risk. ABFAS and ABPM are competitors, and the members of the boards are competitors as well, and therefore, taskforce participants should not discuss competitively sensitive information. To that end, ABFAS will not discuss or remain present during discussion of competitively sensitive topics, including—but not limited to—the following:

- Membership and certification fees and operating costs and margins;
- Strategies to attract Diplomates;
- Strategies employed or considered to increase the value of certifications and membership;
- Financial positions and strategies;
- Viewpoints as to each organization's competitive advantages; and
- Details of partnerships or collaborations with other entities such as schools, healthcare networks and healthcare facilities.

These are basic antitrust compliance boundaries, consistent with ABFAS' antitrust compliance policy.

Other Critical Considerations for the Task Force

When this task force was first contemplated earlier this year, ABFAS met with APMA's leadership to share its concerns and to provide recommendations for the management of this process to avoid the serious risk of litigation that it may present from third parties.

ABFAS recommended:

- The Task Force involve a targeted group of stakeholders with significant knowledge of the certification systems in podiatry and in allopathic medicine.
- Participants in the Task Force sign an NDA to facilitate open and candid dialogue in the meetings, thus participants need not be concerned that their comments will be promptly broadcast on chat boards and social media.
- Discussion be focused on areas of concern and improvement that could be considered by the existing certifying boards.
- Legal counsel with expertise in antitrust compliance be present for all task force meetings, and that antitrust compliance be included in each agenda.

As of now, none of these appears to have been adopted, further escalating ABFAS' concerns about the risks of participating in this task force.

Sincerely,

The Board of Directors of the American Board of Foot and Ankle Surgery



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cc: American Podiatric Medical Association Board of Trustees
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