



To: Oregon Medical Board

24 August 2022

From: Lee C. Rogers, DPM
President, American Board of Podiatric Medicine
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Re: Proposed Rule OAR 847-080-0022

Dear Members of the Oregon Medical Board,

Thank you for the opportunity to comment on the proposed rule. The American Board of Podiatric Medicine (ABPM) supports the proposed rule to eliminate board certification requirements for podiatrists for licensure in the State of Oregon in regards to qualifications to perform ankle surgery.

The High Standard of Podiatric Education and Training Supports the Proposed Rule

There are similarities and differences in the education and training of Doctors of Podiatric Medicine (DPM) when compared with Medical Doctors (MD) and Doctors of Osteopathy (DO). DPMs follow the same 4-4-3 model of education and training for minimum length of time in undergraduate and graduate education and postgraduate training, respectively. Requirements for entering podiatric medical school are similar to that of medical school in the pre-medical undergraduate coursework and sitting for the Medical College Admission Test (MCAT). Graduate education consists of podiatric medical school which is 4 years in length with didactic and clinical education, culminating in the DPM degree. Podiatric medical school curriculum is standardized by the Council on Podiatric Medical Education (CPME).

Since 2003, all podiatry residencies have been standardized by the CPME to include podiatric surgery. In 2011, the Podiatric Medicine and Surgery Residency (PMSR) was created, which is 3 years of standardized training in podiatric medicine and surgery, overseen by the CPME and the curriculum is described in CPME Document 320 (<https://www.cpme.org/files/CPME%20320%20final%20June%202015.pdf>). Approximately 98% of PMSR graduates have an added credential of Reconstructive Rearfoot and Ankle Surgery (RRA). The proposed rule contains language limiting ankle surgery only to those graduates of surgical residencies. Thus, no podiatrist without surgical residency training will be allowed to perform ankle surgery.

A prerequisite for licensure in Oregon, and all other states, is that Doctors of Podiatric Medicine (DPM) pass the licensing exam called the American Podiatric Medical Licensing Exam (APMLE), which is similar to requirements for Medical Doctors (MD) and Doctors of Osteopathy (DO) who must pass the USMLE or COMLEX, respectively.

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The Proposed Rule Improves Access to Podiatric Care While Still Protecting the Public

An aging population and an increase in the prevalence of chronic diseases, such as diabetes, increases the need for public access to foot and ankle care. Podiatric medicine is a profession concerned with the prevention and treatment of foot and ankle injury, disease, and complications. Imposing an undue higher standard than established competency for licensure on podiatrists reduces public access to competent providers. The standard for competency should be based on the education and training of today's podiatrist, just as with MDs and DOs, not on specialty board certification. Put another way, there is no rational basis to allow MDs and DOs licenses to practice surgery with only the minimum acceptable level of competency, yet deny DPMs (who would otherwise meet the surgical competency requirements afforded to MDs and DOs) the ability to practice to the full scope of their education and training, by only allowing the relatively small portion of DPMs who go on to advanced surgical distinction to perform rearfoot and ankle surgery.

It is also important to note that the existing rule is not necessary to protect the public. Hospitals and Ambulatory Surgery Centers (ASC) are already required by federal law (CMS Conditions of Participation) to ensure a privileging process for providers which protects patients. Through OAR 33-505-0020, Oregon charges the hospital medical staffs with protecting the public by establishing criteria for credentials in health care practitioners, and to ensure that practitioners with hospital privileges are acting within their scope of practice and consistent with granted privileges. Additionally, The Joint Commission (TJC), an organization accrediting 22,000 hospitals and health care organizations across the United States, sets standards for privileging providers. This privileging process includes consideration of a provider's education, training, and current experience. Hospitals and ASCs may require primary board certification as an element of privileging.

The Proposed Rule Eliminates Discrimination

This rule would make Oregon podiatry licensure requirements consistent with 46 other states, which impose no such board certification standard on podiatry licensure. The proposed rule would also treat podiatrists similar to MDs and DOs in Oregon. For example, board certification in dermatology is not required for a physician in Oregon to treat the skin.

The proposed rule recognizes that board certification is a standard higher than minimal competency. The State is responsible to ensure that healthcare licensees are minimally competent. Imposing a standard higher than minimal competency does not protect the public, discriminates against other competent licensees, and conversely harms the public by limiting access to competent foot and ankle care.



Specific Responses to Submitted Public Comments

Public Comments Reviewed

1. Letter from the Oregon Association of Orthopaedic Surgeons (ASOS)
2. Letter from the Osteopathic Physicians and Surgeons of Oregon (OPSO)
3. Letter from the American Academy of Orthopaedic Surgeons (AAOS) & American Orthopaedic Foot and Ankle Society (AOFAS)
4. Email from the Oregon Medical Association (OMA)
5. Email from Kelly McCormick, MD, Orthopedic Surgeon, Salem, OR
6. Public Hearing Comments - August 23, 2022

Response: ABPM versus ABFAS Board Certification

Many of the public comments appear to make a distinction between the American Board of Podiatric Medicine (ABPM) and the American Board of Foot and Ankle Surgery (ABFAS). Unfortunately, the published rationale for the proposed rule included the statement, “The amendment provides parity between the American Board of Foot and Ankle Surgery and the American Board of Podiatric Medicine.” In our opinion, this statement does not reflect the full intent of the proposed rule. The goal is not to provide parity between podiatry boards, since the requirement for any board certification is being removed. Instead, it creates parity with MD and DO licensure requirements in Oregon and recognizes the standardized education and training of a podiatrist in podiatric medicine and surgery. The American Board of Podiatric Medicine is considered primary board certification for podiatrists, meaning it is one of the CPME-recognized boards that any podiatrist is eligible to take after the completion of their standardized Podiatric Medicine and Surgery Residency (PMSR). Thus, most hospitals and health care organizations recognize ABPM certification as primary certification for hospital and surgical privileges. The proposed rule imposes no barriers on hospitals from using board certification status as a determinant of surgical privileges.

Furthermore, it must be addressed that the State of Oregon has no oversight over the ABFAS or its processes. The current rule usurps the State’s authority to determine which podiatrist can have a license to perform ankle surgery to an outside entity. The State does not approve of changes in the processes for ABFAS certification, such as a recent change whereby retired podiatrists who are no longer performing surgery still remain board certified. The State is also not aware of the psychometric analysis or actual pass rate of the ABFAS examination which must be taken in a confusing process of multiple steps. Based on published numbers of individual tests, the pass rate calculates to no higher than 36% (See Appendix A).

Response: Podiatry Training Inaccuracies

The OAOS letter contains errors in the description of podiatry residency training. The letter stated, “A podiatrist could be someone who completed a medical podiatry residency, a forefoot only surgical



residency, or a rearfoot/ankle surgical residency.” A vast majority of podiatrists before, and all podiatrists since 2003, have completed surgical training in residency. In 2011, the CPME standardized that training to 3 years and now 98% of podiatrists graduate with an added credential in Reconstructive Rearfoot and Ankle (RRA) surgery.

The OAOS letter also incorrectly states that the proposed rule could lead to a circumstance where “a medically trained (ABPM certified) and a forefoot only ABFAS certified podiatrist could readily be licensed to do ankle and rearfoot surgery, for which they have not trained.” All podiatrists since 2003 have completed surgical training and in order to be eligible to sit for the ABPM certification exam, a podiatrist must have completed a Podiatric Medicine and Surgery Residency, meaning they are surgically-trained. Also, the proposed rule mandates that only a podiatrist who completed a surgical residency may obtain a license to perform ankle surgery.

Response: Anti-competitive Statements

Some of the statements in opposition to the proposed rule appear to be guided by anti-competition and not a judge of competence. The American Board of Orthopaedic Surgery, the certifying board for fellows of the AAOS, who provided commentary opposing this proposed rule, does not agree with the same rule being applied to orthopedic surgeons. A quote from their website about certification is as follows:

“Board Certification is a voluntary process. It is different and distinct from licensure to practice medicine, a function regulated by state government. A valid medical license is required to be Board Certified, but certification is not necessary for licensure.”

(<https://www.abos.org/certification/>)

Literature quoted in the email by Dr. Kelly McCormick also comes from some anti-competitive orthopedic journals, but are only Level III and IV evidence, which can be scientifically discredited by including only small numbers of podiatric surgeries. However, as a contrast, there are numerous articles in the literature which show that podiatrists have a lower complication rate than orthopedic surgeons for ankle surgery (Weinraub G, et al. J Foot Ankle Surg 2021;60:960-963), improve foot-related outcomes for those with diabetes (Sloan FA, et al. Health Serv Res 2010;45:1740-62) and reduce costs to the health system (Armstrong-DG et al. Diabetes Care 2014;37:e196-e197, Carls GS, et al. J Am Podiatr Med Assoc 2011;101:93-115).

Response: ACGME Standards for Residency

The OMA letter recommended that podiatry residencies conform with the Accreditation Council for Graduate Medical Education’s (ACGME) institutional requirements. Podiatry residencies conform to standards set by the Council on Podiatric Medical Education (CPME). ACGME is a function of the medical profession which governs residencies for MDs and DOs. CPME standards are indeed similar



to ACGME requirements. However, we do appreciate the comment from the OMA and agree that future podiatry residencies may adopt ACGME requirements since most podiatry residencies are completed within institutions alongside several MD/DO graduate medical education programs.

Response: Oregon Podiatric Medical Association (OPMA) Oral Comments

The President of the OPMA made a comment during the public hearing that there are national efforts to work together on podiatric board certification. As President of the ABPM, I am unaware of any such efforts and despite repeated attempts by ABPM, there is currently no collaboration between the two CPME-recognized boards.

Summary

We thank the OMB for considering the proposed rule which maintains public protection, improves access to foot and ankle care, reduces discrimination of podiatrists in the State, and reappropriates Oregon's autonomy over licensing of podiatrists to perform ankle surgery.

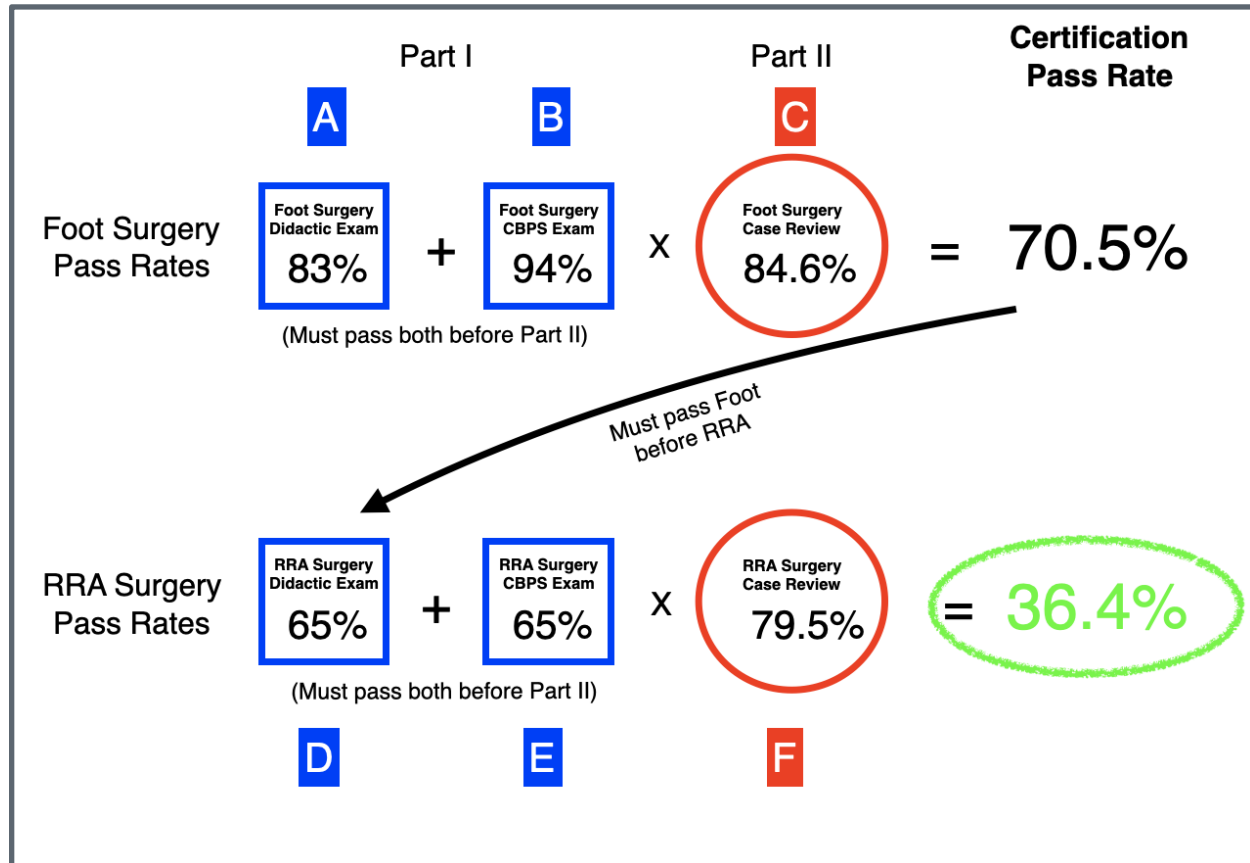
Sincerely,

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DABPM CAQAP
FACPM, FASPS, FFPM RCPS(Glas.)
President, American Board of Podiatric Medicine

Attachment: Appendix A

Appendix A

The American Board of Foot and Ankle Surgery Certification Process Summary and Calculated Pass Rates for Rearfoot and Reconstructive Ankle Surgery (RRA)



Description of Calculation:

In order to become board certified by ABFAS in RRA, one must first pass both tests in Part I of the Foot Surgery Exam (A and B). While some candidates only pass one exam, for the benefit of the doubt, let's calculate the pass rate as if all 83% who passed the Didactic Exam (A) also passed the CBPS Exam (B). We calculated the average of 7 years of pass/fail of the Foot Surgery Case Review (C) (N = 1366, Pass = 1156). That creates a Foot Surgery Certification Pass Rate of 70.5%. A podiatrist must pass the Foot Surgery Exam in order to become certified in RRA. Again, let's assume (although we know it not to be accurate) that all who passed the RRA Surgery Didactic Exam (D) passed the RRA Surgery CBPS Exam (E) which is 65%. Multiply that by the 7-year average of those that passed the RRA Case Review (F) (N = 730, Pass = 581) which was 79.5% and that creates a total pass rate of 36.4% for RRA for podiatrists that complete a standardized, 3-year, CPME-approved Podiatric Medicine and Surgery Residency.

*ABFAS Published Individual Exam Pass Rates from <https://www.abfas.org/detail/news/2022/08/17/latest-abfas-examination-pass-rates-show-why-certificate-of-added-qualification-in-surgery-from-abpm-is-unnecessary>

Part I Board Qualification Examinations

Foot Surgery Didactic Exam			
<i>Cumulative Pass Rate as of 2022 Spring Exams</i>			
Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2022	514	427	83%
2021	521	448	86%
2020	541	456	84%

RRA Surgery Didactic Exam			
<i>Cumulative Pass Rate as of 2022 Spring Exams</i>			
Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2022	475	311	65%
2021	466	337	72%
2020	499	351	70%

Foot Surgery NEW CBPS Exam

Cumulative Pass Rate as of 2022 Spring Exams

Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2022	517	488	94%
2021	521	493	95%

RRA Surgery NEW CBPS Exam

Cumulative Pass Rate as of 2022 Spring Exams

Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2022	474	308	65%
2021	464	362	78%

Part II Case Review

Foot Surgery Case Review Exam

Cumulative Pass Rate as of 2022 Spring Exams

Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2020	41	32	78%
2019	105	89	85%
2018	149	127	85%
2017	206	174	84%
2016	280	235	84%
2015	294	240	82%
2014	291	259	89%

*NOTE: N represents only candidates that have enrolled for Case Review.

RRA Surgery Case Review Exam

Cumulative Pass Rate as of 2022 Spring Exams

Pass by Residency Class Year			
Residency Year	N	Pass	Pass %
2020	16	15	94%
2019	58	43	74%
2018	77	61	79%
2017	102	83	81%
2016	172	126	73%
2015	163	135	83%
2014	142	118	83%

*NOTE: N represents only candidates that have enrolled for Case Review.