Letter 3 Have a rebuttal? Please send it to *editor@bariatricstoday.com*

Speak Now or Forever Hold Your Piece

by Joseph I. Kamelgard, MD, FACS

"This is only my attempt to raise a few questions that will hopefully bring my concerns to the forefront of public awareness and to that of the decision makers within the ACS and ASBS/SRC."

On a national late night television talk show, the host welcomed a guest claiming to have the power to perform medical miracles. One such miracle that he claimed to be able to perform was to restore sight to the blind. "Unbelievable," the host remarked, and asked if it would be possible to give a demonstration then and there. As it turned out, there was an audience member wearing dark eyeglasses and holding a red and white walking stick. Jumping to his feet, the blind man called out, stating that he had been blind since birth and wanted to be the "guinea pig" for the guest's demonstration. After some cursory evaluation to satisfy the host that the blind man was in fact blind, the miracle worker placed his hand on the man's head, concentrated intensely, and then took away the man's eyeglasses and walking stick, proclaiming "You are no longer a blind man! You can now see!" With an expression on his face of utter shock, the man who had been blind since birth began to cry tears of joy, shouting "I can see! I can see!" To be certain that the man could in fact see, the host of the show presented him with 6 colored scarves (one of each color of the rainbow: red, orange, yellow, green, blue, and violet), and asked that he pick out the yellow scarf. As the man immediately chose the correct scarf, the audience went wild with cheers and applause.

As the studio began to quiet down a bit, a lone voice from the back of the audience could be heard shouting "Fraud, Fake, Hoax!" With the attention of the host and the cameras focused on the rowdy noise maker, the heckler was booed by the rest of the audience. "Let him speak," said the show's host. "If he can prove this was a hoax, I want him to. I don't want my show to become the new Oprah, and James Frye." The protester in the back of the audience had captured everyone's attention and a hush fell over the studio. "I just have one question to ask of your miracle worker and the formerly blind man" he said. "If a person is blind since birth and in an instant has his sight restored, how would he know to recognize a specific color of the rainbow and choose a yellow scarf?"

The American College of Surgeons (ACS) and the American Society for Bariatric Surgery (ASBS)/Surgical Review Corporation (SRC) have begun initiatives to identify and certify hospitals and surgeons to earn the designation of Bariatric Surgery Center of Excellence (BSCOE). Although the concept is noble and founded upon the good intentions of these two nationally respected organizations and their leadership, there are some fundamental flaws that undermine the efforts. Just like in the television show analogy, if one has never looked for or seen "best practice" criteria, how can one empirically claim to know what they are? How can a relationship ever be established that links surgeon and hospital volume to "best surgical/medical practices" when no surgeon or hospital falling below the arbitrarily established quota may participate in the process? No finger is being pointed. Unlike the television show analogy, here, no one is claiming fraud, fake, or hoax. There are merely some fundamental flaws in the logic of the BSCOE construct that belie the validity of its implied value. This is only my attempt to raise a few questions that will hopefully bring my concerns to the forefront of public awareness and to that of the decision makers within the ACS and ASBS/SRC.

What is the effect of a quota system?

When was the last time you felt that the quota system used in the department store at which you like to shop resulted in better customer care? When was the last time you felt that the quota system used by the police for the number of tickets that had to be written each month resulted in better traffic control? When was the last time you felt that the quota system used by academic institutions resulted in an improvement of the quality of the education provided? When was the last time you felt that any quota system was beneficial? Hard to come up with an example? Well it should be. That's because, for the most part, quota systems don't work.

The Bariatric Surgery Center of Excellence programs of the ACS and ASBS/SRC have many well intended components. Unfortunately, they are also very well camouflaged quota systems. Only if surgeons or hospitals achieve and maintain certain quotas of bariatric surgical volume, can they become and remain designated centers. By focusing on quantity, rather than quality, these programs will remove regional uniqueness in a way similar to how the "Mega Store" has caused the disappearance of the local "General Store." As a result of these volume criteria, the entire system becomes "exclusive" rather than "inclusive." Rather than including and tracking data from every surgeon and hospital providing bariatric surgical services, these systems will result in biased data that will never be able to prove (or disprove) their hypothesis that a relationship exists between volume and outcomes. There will never be a way to examine how a rural surgeon at a community hospital has been able to maintain 98 percent of his patients in long-term follow up, because the institution's annual volume was below the inclusion quota. There will never be a way to identify those practices that fall two standard deviations below the mean—to offer assistance and guidance for improvement. There will never be a way

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to establish a true mean or standard deviation with regard to operative morbidity/mortality, and to therefore find those practices that fall two standard deviations above the mean and identify truly "best practices."

What will the future bring?

I am not a psychic. I have no crystal ball. I do think that sometimes I have been known to overanalyze things. I don't think that my analysis of the Bariatric Surgery Center of Excellence programs is outlandish, nor is it an attempt to shout "fire" in a crowded movie theatre. I think there is a very legitimate concern that was not previously taken into consideration, but must be addressed.

As private/commercial insurance companies take the lead of the Centers for Medicare & Medicaid Services (CMS), which on February 21, 2006 updated its National Coverage Decision (NCD) for Bariatric Surgery for the Treatment of Morbid Obesity (CAG-00252R) stipulating that "…bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006)," things will only get worse, not better. The implication of identifying certain institutions as acceptable treatment centers is that any other institution by default becomes unacceptable as a treatment center. Doctors and hospitals who have been performing bariatric surgery safely for numerous years will have to stop merely because they have no designation as an acceptable treatment center. For patients scheduled to have surgery, plans will have to be canceled. For patients who are post-op, they will lose access to their surgeon. For patients who live beyond a reasonable driving distance from one of the institutions identified as being an acceptable treatment center (assuming that center would accept them to their practices), they will lose their access to follow-up care. Prospective patients who live beyond a reasonable driving distance from one of the institutions identified as being an acceptable treatment center will have no where to turn for help. They will be left to suffer the ravages of their morbid obesity and associated comorbid conditions with no hope. With limited access to potentially life-saving surgery, many will wind up dying, never getting the care they deserve. For those patients who do make the trip from afar to one of the institutions identified as being an acceptable treatment center, what kind of follow-up will be available to them after being discharged home? Who will care for them in case of a complication where they are rushed to their community hospital, hours away from their operating surgeon? Surgeons will need to realign themselves with those institutions identified as BSCOE's or face having their practices fail. Since many institutions regulate the number of surgeons they allow on staff, some surgeons will be stranded without institutions where they can operate. Rural surgeons might relocate to urban centers in an attempt to align themselves with a designated treatment center. This will further isolate those patients in the communities from which the surgeons fled.

With the current spreading of the obesity epidemic throughout the United States, there also needs to be a mechanism for expanding bariatric surgery services. Within the present BSCOE construct, once all healthcare insurance payers (both public and private) restrict coverage benefits to designated centers, no new center will be able to emerge. No institution (or surgeon) will be able to afford the expense of developing the required volume of surgical procedures in order to qualify for BSCOE designation while not being reimbursed for those services. At the present time, only about 25 percent of hospitals who have applied for BSCOE designation have been certified. Who knows how many more didn't even apply because they knew that they didn't meet the quotas?

So what can I do about it?

The current design of the BSCOE construct is critically flawed. It is up to concerned patients and surgeons to point out the flaws to those who have implemented the system. If we stand idly by, we may never get another opportunity. For many of us, it may be now or never. If what I have said makes sense to you, then voice your opinion today. Call the offices of the ACS, the ASBS, and the SRC. Let their leadership know how you feel. Point out to them the flaws in their logic. Tell them the negative impact that their efforts have had on your lives. Speak now or forever hold your piece.

Letter 4 — Have a rebuttal? Please send it to *editor@bariatricstoday.com*

Bariatric surgery procedures are reasonable and necessary only when performed by Centers of Excellence?

by Shawn Garber, MD, FACS

"There are many benefits of having Centers of Excellence, though the data on this is still up in the air."

The Centers for Medicare & Medicaid Services (CMS), on February 21, 2006, updated its National Coverage Decision (NCD) for Bariatric Surgery for the Treatment of Morbid Obesity (CAG-00252R) stipulating that "…bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery as

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