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**FILED**

AUGUST 23, 2006

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

**IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF**

**NANCY C. AYOTTE, M.D.**  
License No. MA06353600

**TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY**

**Administrative Action**

**FINAL ORDER**

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, by way of resolution of certain professional matters in lieu of the filing of a formal Administrative Complaint.

Nancy C. Ayotte, M.D., currently residing at 6001 NW Winfield Drive, Port Saint Lucie, FL 34986, has held New Jersey license No. MA06353600 as an active registrant during a period from 1996 through 2004. Her New Jersey medical license is presently in inactive status but would be subject to reinstatement except for the terms of this Order. Dr. Ayotte is represented in this matter by Peter A. Greene, Esq., of Sachs, Maitlin, Fleming, Greene, Esqs.

Dr. Ayotte has been informed that formal proceedings are about to be filed alleging that during the period 2000 through approximately 2004, she provided medical services for Sri Kantha, M.D. and his entity "Meadowlands Pain Management Center." Dr. Ayotte also conducted medical practice billed under the name "Fort Lee Anesthesiology Group" and/or

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"Meadowlands Pain Management Center" providing anesthesia services at Fort Lee Surgery Center (hereinafter "FLSC") at 1608 Lemoine Avenue, Fort Lee, NJ 07024 to Dr. Kantha, to Ulises C. Sabato, M.D. and to other physicians.

Patient records prepared and maintained at FLSC included, but were not limited to Pre-Operative Evaluation forms, Anesthesia Records, and Post-Anesthesia Care Unit forms and records.

Surgeries performed at the FLSC included, but were not limited to, cervical and lumbar steroid injections, cervical and lumbar facet denervations, "open" endoscopic discectomies, and intradiscal electrothermal therapies. Anesthetic drugs typically administered to patients included Versed, fentanyl, and Diprivan.

During that period, for designated patients, Dr. Ayotte was responsible for conducting and documenting pre-anesthesia clinical history and examinations, and preparing patients for anesthesia and surgery by affixing and utilizing standard monitoring devices such as electrocardiograms, pulse oximeters and supplemental oxygen delivery systems. She was also responsible for administering and documenting medications used in pre-surgery stages, intraoperatively, and post-operatively; and was responsible for documenting all of the above professional services accurately and in a manner consistent with accepted standards of practice.

The Pre-Operative Evaluation form, to be completed by the attending anesthesiologist, included an outline questionnaire regarding pre-operative medical history, past surgical/anesthesia history, and a systems assessment captioned solely as "normal" or "abnormal". The form also included an entry box for age, sex, weight, height, blood pressure, pulse and respirations, in addition to NPO status, and airway status.<sup>1</sup>

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<sup>1</sup>Prior surgical/anesthesia history serves to alert the anesthesiologist and the physician as to possible allergic or adverse reactions to certain drugs or anesthetic agents, or other sensitivities or untoward events such as bronchospasm, providing information to guide appropriate of drugs and maintenance of safe care.

Age, sex, weight and height are parameters utilized in determining an appropriate dose of anesthesia. Systems assessment ("circulatory, respiratory, metabolic/endocrine, renal, gastrointestinal, neuromuscular, other") provides information utilized in determining the patient's ASA status and suitability for the proposed surgery and anesthesia. (See definition of ASA categories in Count 1 above.)

NPO status (Latin for "nothing by mouth", or no food or drink) indicates whether the patient has

Dr. Ayotte is aware that the Attorney General planned to allege that Dr. Ayotte frequently failed to complete one or more of the essential portions of the pre-anesthesia evaluation for surgical procedures, or administered anesthesia for the surgeries in the absence of appropriate history, examination, NPO status, airway evaluation, or monitoring of patients.

Dr. Ayotte is aware that the Attorney General planned to allege that one of Dr. Ayotte's patients, Mr. E.O., had been inadequately prepared and monitored, and suffered a serious adverse event (not necessarily related to the anesthesia) which was not promptly noticed because of the lack of proper monitoring. It would further have been alleged that Dr. Ayotte prepared an intra-operative anesthesia record for that patient, fabricating vital signs which she had not in fact recorded contemporaneously and which signs were inconsistent with what she knew to be the patient's circumstances. It would further have been alleged that despite observations of significantly abnormal symptoms and responses by the same patient, and despite the fact that the atypical post-operative condition of the patient warranted urgent consideration of differential diagnoses and appropriate follow-up, Dr. Ayotte failed to order transfer of the patient to a nearby hospital until over four hours after the surgery, which delay cost critical time in which a neurological or neurosurgical evaluation and intervention could have been made which might have saved the life of the patient. The patient subsequently died.<sup>1</sup>

Dr. Ayotte is also aware that the Attorney General planned to allege that Dr. Ayotte, directly or through Fort Lee Anesthesia Group or through Meadowlands Pain Management Center, regularly submitted or allowed submission of bills for her anesthesia services over an extended period which added time unsupported by the actual anesthesia records; and also billed

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consumed food or drink after midnight preceding the surgery. A patient who does not have an appropriate "NPO interval" may be exposed to increased risk for vomiting with lung aspiration, and potentially suffering serious complications under the effects of anesthesia during or after the surgery.

An airway assessment serves to alert the anesthesiologist and the physician as to possible difficulties in the event of airway complications during surgery, or complications of anesthesia requiring more secure access to the airway to reduce the likelihood of serious airway compromise and associated morbidity.

<sup>1</sup>Sole responsibility for these events was not ascribed to Dr. Ayotte. A separate Administrative Complaint has been filed against surgeon Ulises C. Sabato, M.D., OAL Docket No. BDSME 07015-2006N.

for more relative value units than were justified by the procedures performed; and also billed as the provider of the primary surgical procedure when, in fact, her services were those of sedation for the primary procedures which were performed by a surgeon. In mitigation, Dr. Ayotte represents that she was an hourly employee and did not prepare or review the billing for her services and was unaware of the alleged discrepancies. However, the Attorney General contends that Dr. Ayotte, as the licensed professional in whose name the billings were submitted, retains independent responsibility for such submissions pursuant to N.J.A.C. 13:35-6. and 13:35-6.16(b).

Dr. Ayotte is aware that the Attorney General planned to allege that Dr. Ayotte, by failing to conduct or document appropriate clinical history and examination in her role as provider of pre-anesthesia evaluations and/or as provider of the anesthesia service during surgery for assigned patients, and by billing or allowing substantially inflated fees and by claiming higher procedure codes than those appropriate to the services she rendered, engaged in conduct which constituted violation of the patient record rule, N.J.A.C. 13:35-6.5 and 13:35-6.16(b); misrepresentation, deception and/or fraud, N.J.S.A. 45:1-21(b); gross or repeated negligence or incompetence, N.J.S.A. 45:1-21(c) and/or (d); and failure to comply with rules of the Board, N.J.S.A. 45:1-21(h). Pursuant to N.J.S.A. 45:1-25, each act in violation of any provision of an act or regulation administered by a Board constituted a separate violation and is deemed a second or subsequent violation in circumstances including where, within a single proceeding, the respondent is found to have committed more than one violation of any provision of an act or regulation administered by a Board, or where the respondent is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a Board.

Dr. Ayotte, having consulted with her attorney, has determined to waive her right to await the filing of a formal Administrative Complaint, to have a plenary hearing and to offer defense to the charges, and to await the recommended findings of fact and conclusions of law by an Administrative Law Judge and the final review and decision by the State Board of Medical Examiners.

In the interests of amicable settlement, the Attorney General and Dr. Ayotte have

proposed to the Board of Medical Examiners the following resolution of the matter.

Dr. Ayotte acknowledges that there is sufficient evidence to support the anticipated allegations. She has offered to voluntarily surrender her license to practice medicine and surgery in the State of New Jersey, which surrender shall be deemed a revocation.

The Board has considered the matter, and finds that the entry of this Order will adequately protect the public interest. For good cause shown,

IT IS, ON THIS 23<sup>rd</sup> DAY OF August 2006

ORDERED:

1. Dr. Ayotte's offer of voluntary surrender of license is accepted and, in the circumstances, is deemed a revocation.
2. Dr. Ayotte shall promptly deliver her license, and any current Drug Enforcement Administration and New Jersey Controlled Drug Registrations, to the Board office at 149 East Front Street, P.O. Box 183, Trenton, NJ 08625-0183.
3. Dr. Ayotte shall comply with the "Directives" attached hereto, which are incorporated herein by reference.
4. It is intended by the parties that this Order shall resolve all administrative and license issues of which Respondent has been specifically informed would have been alleged as violations by the Attorney General in an Administrative Complaint, with regard to her responsibility to the New Jersey State Board of Medical Examiners, all and solely in connection with Professional Board law and rules.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

By: Sindy Paul, MD  
Sindy Paul, M.D.  
President

I have read and understand the above  
Order and I agree to abide by its terms.

Nancy C. Ayotte, M.D.  
Nancy C. Ayotte, M.D.

Approved as to form:

Peter A. Greene  
Counsel for Dr. Ayotte

Witnessed:

Zachary B. Bishop  
State of Florida

