

State Board of Medical Examiners

Open Board Minutes May 14, 2003

The meeting of the New Jersey State Board of Medical Examiners was held on May 14, 2003 at the Richard J. Hughes Complex, 25 Market Street, 4th Floor Conference Center, Trenton, New Jersey. The meeting was called to order at 9:00 a.m. by Dr. Wallace, Vice-President.

PRESENT

Board Members Criss, Farrell, Haddad, Huston, Lucas, Moussa, Perry, Ricketti, Robins, Rokosz, Trayner Wallace, Walsh and Weiss

EXCUSED

Board Members Chen, Desmond, Harrer, Patel, and Paul.

ALSO PRESENT

Assistant Attorney General Joyce, Deputy Attorneys General Dick, Erhenkrantz, Flanzman, Gelber, Levine, and Warhaftig, Medical Director Gluck, and Executive Director Roeder

STATEMENT CONCERNING ANNUAL NOTICE OF PUBLIC MEETINGS

The requirements of the "Open Public Meetings Act" have been satisfied by notice of this meeting given in the annual notice adopted by the New Jersey State Board of Medical Examiners on October 9, 2002 which was transmitted to the ATLANTIC CITY PRESS, STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD and the TRENTON TIMES, all on the 29th day of October 2002.

ANNOUNCEMENTS

Dr. Wallace announced that Dr. Harrer had injured his knee recently and that he was undergoing physical therapy. On behalf of the full Board, Dr. Wallace wished him well and a speedy recovery.

He reminded the Board that articles for a newsletter should be sent to Executive Director Roeder as soon as possible.

Dr. Lucas was assigned the IRC meeting on June 4th.

NOMINATING COMMITTEE

Dr. Harrer appointed the following to serve on the Nominating Committee for Board officer candidates.

Mr. Weiss, Chairperson

Dr. Chen

Dr. Lucas

Dr. Ricketti

The Committee will report a slate of candidates at next month's meeting.

Drs. Houston and Perry were not present for the announcements.

MINUTES The April 9, 2003 Open Board Minutes were approved as submitted. Drs. Houston and Perry were not present for the discussion and vote in this matter.

MINUTES The April 21, 2003 Open Credentials Committee Minutes were approved with the following modifications.

I/M/O Dr. Mememiskis: The Board tabled decision in this matter and requested that a memorandum concerning the applicant's malpractice history be prepared for presentation at the next Board meeting.

Drs. Rokosz and Wallace recused from discussion and vote in the matter of Ross University.

Drs. Houston and Perry were not present for the discussion and vote in this matter.

MINUTES The April 28, 2003 Athletic Training Advisory Committee Minutes were approved as submitted.

Drs. Houston and Perry were not present for the discussion and vote in this matter.

MINUTES The March 21, 2003 List of Applicants for licensure as Physician Assistants and the Public Session Minutes for March 21, 2003 of the Physician Assistants Committee Meeting were approved. Mr. Walsh noted that a correction should be made to indicate that the correct title is Dr. Neshin, not Ms. Neshin.

Drs. Houston and Perry were not present for the discussion and vote in this matter.

NEW BUSINESS

1. ASSEMBLY BILL NO. 570 New Jersey Pharmacy Practice Act

Attached was a copy of A 507, a bill which seeks to repeal the current "New Jersey Pharmacy Practice Act." The Division of Consumer Affairs requested comments to the proposed legislation and a meeting with representatives of the Board of Medical Examiners, Board of Nursing and Board of Pharmacy was to have been scheduled for later in the month. In considering your comments, the Board was advised that it should keep in mind that this is a total rewrite of the act and comments could be made on any section in the proposed legislation. The Executive Committee's comments were included in the memorandum to the attached bill.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT THE COMMENTS AS DRAFTED BY THE EXECUTIVE COMMITTEE.

Drs. Houston was not present for the discussion and vote in this matter.

2. FIRST ASSISTANTS IN SURGICAL PROCEDURES

At the February Board meeting, the committee on the rule regarding first assistants in surgical procedures made a report to the Board. Based on their survey, the Committee recommended no amendments to the rule at this time. The matter was referred to the Executive Committee for consideration as to whether the definition of "major surgery" needs to be clarified. Attached was a copy of the Executive Committee's recommendation for modification.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE REVISIONS FOR PUBLICATION FOR NOTICE AND COMMENT IN THE NEW JERSEY REGISTER.

3. REVIEW OF AIDS POLICY

In reviewing two consumer complaints concerning the physicians' refusal to provide services based on the patients' HIV status, the Committee requested that the Executive Committee review the Board's policy to determine whether it should be revised. After review, the Executive Committee did not believe that any revisions were necessary and requested that the Board reaffirm its prior position.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TABLE DECISION ON THIS MATTER AND REFER IT BACK TO THE EXECUTIVE COMMITTEE FOR FURTHER DISCUSSION.

4. PHYSICAL THERAPY GUIDELINES

The Board of Physical Therapy is required to establish standards in collaboration with the BME, setting forth the conditions under which a Physical Therapist is required to refer an individual being treated by a physical therapist to a practitioner licensed to practice dentistry, podiatry or medicine and surgery in this State. Attached for the Committee's consideration was a copy of the proposed guidelines.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TABLE DECISION ON THIS PROPOSAL AND REFERRED IT BACK TO THE EXECUTIVE COMMITTEE FOR FURTHER REVIEW AGAINST THE ENABLING STATUTE.

OLD BUSINESS

5. CHELATION THERAPY

From time to time, the issue of Chelation Therapy has been before the Priority Review Committee. The matter was referred to the Executive Committee for further evaluation. Based on its review of earlier material, the Executive Committee previously recommended that the Board consider prohibiting the use except for the treatment of proven heavy metal poisoning. The Board referred the matter back to the Executive Committee for further study in light of a recently commissioned study of the Institutes of Health for a five-year trial to assess Chelation Therapy, particularly as it relates to the treatment of coronary artery disease. Additionally, the Executive Committee reviewed material submitted by consumers, presentations by both the public and representatives of the medical community at Board meetings, reviewed an extensive submission of materials submitted by the Foundation for the Advancement for Innovative Medicine, material obtained from the Federation of State Board of Medical Examiners, articles published on the subject and performed a survey of other states to determine the status of regulations across the country. The Executive Committee recommended that the Board reconsider its prior position of prohibition and instead adopt the attached proposed regulation which permits its use with some additional record keeping requirements.

It was noted that the Administrative Office mailed out more than 250 letters to consumers that expressed an interest in this topic. The letter informed the consumer that the Board would be considering this topic at this meeting and included a copy of the draft, proposed regulation.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO AMEND THE COMMITTEE'S REGULATION INsofar AS IT DELETED THE EXEMPTION OF (b) IN SECTION 2(C) AND APPROVED TO PUBLISH THE PROPOSED REGULATION IN *THE NEW JERSEY REGISTER* FOR NOTICE AND COMMENT. PRIOR TO PUBLICATION, HOWEVER, THE BOARD REFERRED THE MATTER BACK TO THE EXECUTIVE COMMITTEE FOR A DETERMINATION WHETHER THE 10% ADMINISTRATIVE COSTS FEE APPLIES TO THE PROVISION OF CHELATION THERAPY.

Dr. Robins abstained from vote in this matter. Dr. Houston voted in opposition.

**6. DIAGNOSTIC SCREENING REGULATION
(DIAGNOSTIC II) - N.J.A.C. 13:35-2.6**

Attached for the Board's consideration was the most recent draft of proposed changes to the Diagnostic Screening Regulation. If approved, it would be published in the *New Jersey Register* for notice and public comment.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED REGULATION FOR NOTICE AND COMMENT IN THE *NEW JERSEY REGISTER*.

**7. DRAFT REPLY TO INQUIRY
CONCERNING THE SCOPE OF PODIATRY**

Attached was DAG Flanzman's proposed reply to the inquiry concerning the scope of podiatric practice with respect to conducting histories and physicals. The original inquiry is also attached.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THAT PODIATRISTS CAN PERFORM PRE-SURGICAL HISTORIES AND PHYSICAL EXAMINATIONS IN A HOSPITAL SETTING, WITHOUT THE NEED FOR A CONSULTATION WITH A PLENARY LICENSED PHYSICIAN. THIS APPLIES ONLY TO PATIENTS OF THE PODIATRIST AND SHOULD NOT BE READ TO AUTHORIZE PODIATRISTS TO TAKE HISTORIES OR PERFORM PHYSICALS OF NON-PODIATRIC PATIENTS.

Dr. Perry abstained from vote in this matter.

INFORMATIONAL

PUBLIC COMMENT

None

Respectfully submitted,

David M. Wallace, M.D.
Vice President