

**OPEN BOARD MINUTES
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
JULY 13, 2005**

The meeting of the New Jersey State Board of Medical Examiners was held on June 8, 2005 at the Richard J. Hughes Complex, 25 Market Street, 4 th Floor Conference Center, Trenton, New Jersey. The meeting was called to order at 9:00 A.M. by Bernard Robins, M.D. F.A.C.P., President.

PRESENT

Board Members Ciechanowski, Criscito, Criss, Farrell, Haddad, Harrer, Huston, Mendelowitz, Lomazow, Patel, Paul, Perry, Ricketti, Robins, Rokosz, and Walsh.

EXCUSED

Board Member Weiss.

ABSENT

Board Members Desmond and Wallace.

ALSO PRESENT

Deputy Attorneys General Dick, Ehrenkrantz, Flanzman, Kenny, Levine and Warhaftig; Executive Director Roeder and Medical Director Gluck.

**STATEMENT CONCERNING THE
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 13, 2004 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 1st day of November 2004.

ANNOUNCEMENTS

Dr. Robins reminded the Board members that during this renewal period, licensees were asked to certify that they had completed the required 50 credits (20 of which were to be in Category I) of continuing medical education. The same law, he continued, permits the Board to conduct an audit for compliance. He referred the issue to the Executive Committee and would report back its recommendations.

Dr. Robins also pointed out that Executive Director handed out a copy of the Division's "State of New Jersey Policy and Procedures Prohibiting Discrimination and EEO/AA Policy Statement." He reminded the members to sign the acknowledgment sheet at the end of the policy and after reading the it and return it to Executive Director Roeder.

Dr. Robins also announced that the New Jersey Professional Assistance Program is up and running. Their new offices are at 746 Alexander Road, Princeton, New Jersey. An Impairment Review Committee meeting is scheduled for August 15, 2005.

It was also reported that representatives from the Board and the Division of Consumer Affairs had been invited to address the Medical Society of New Jersey to discuss the recent improvements to the Administrative Office. Dr. Robins reported that in addition to himself, Director Kimberly Ricketts, Assistant Attorney General Joyce and Mr. Roeder would meet with representatives of the Society on Sunday, July 17, 2005.

Executive Director Roeder announced that as of July 8, 2005, 22,464 (65.21%) physicians have renewed on line and 8,655 (25.12%) have renewed in the traditional paper format. There are 3,331 licensees that have yet to renew.

ELECTION OF OFFICERS

At the June Board meeting, the nominating committee recommended the following slate of officers.

President Bernard Robins, M.D., F.A.C.P.
Vice-president Glenn A. Farrell, Esquire
Secretary Karen Criss, R.N., C.N.M.
Treasurer Sindy Paul, M.D.

Executive Director conducted the elections and opened the floor to additional nominations. Hearing none, nominations were closed.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ELECT THE FOLLOWING:

**PRESIDENT BERNARD ROBINS, M.D., F.A.C.P.
VICE-PRESIDENT GLENN A. FARRELL, ESQUIRE
SECRETARY KAREN CRISS, R.N., C.N.M.
TREASURER SINDY PAUL, M.D.**

Dr. Robins thanked the Board members for their vote of confidence and pledged the continued hard work and commitment of each of the elected officers.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JUNE 8, 2005 OPEN BOARD MINUTES.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JUNE 13, 2005 OPEN CREDENTIALS COMMITTEE MINUTES.

NEW BUSINESS

1. LEGISLATION

A 4030 Seeks to cap non economic damages at \$250,000 in medial malpractice actions arising from emergency care.

The bill was introduced by Assemblypersons Bodine and Chatzidakis and referred to the Assembly Financial Institutions and Insurance Committee on or about May 12, 2005.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THIS BILL AND SUGGESTED THAT THE CAP ON NON-ECONOMIC DAMAGES BE EXTENDED TO ALL PHYSICIANS AND NOT JUST THOSE IN AN EMERGENT CARE CONTEXT. THE BOARD BELIEVED THAT THIS WAS A STEP IN THE RIGHT DIRECTION IN ACHIEVING GLOBAL TORT REFORM.

Mr. Farrell abstained from voted on this matter.

A 4138 Seeks to provide immunity for certain volunteer health care professionals and non profit clinics.

The bill was introduced by Assemblypersons Holzapfel and Wolfe and referred to the Assembly Judiciary Committee on May 19, 2005.

While the Board recognized that it was repugnant to have indigent patients required to give up legal rights in

order to receive care, but balanced against having access to care, the Board believed that without this type of immunity, Patients may not even have the access to receive any care. The most favored solution would be for legislation that would provide additional funding for better clinics. It was suggested that additional language be drafted that would provide for charity funding, in particular to cover the costs of medical malpractice if the clinic meets certain criteria.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THE LEGISLATION.

Drs. Paul and Robins and Ms. Criss voted to oppose the legislation and Mr. Farrell abstained from vote in the matter.

S 2566 Seeks to repeal the assessment on gross receipts of comprehensive outpatient rehabilitation facilities.

Introduced by Senator Bark and referred to the Senate Health, Human Service and Senior Citizens Committee on May 19, 2005.

S 2548 Seeks to increase the maximum permitted fee differential in optometric continuing education programs charged by professional association to non members.

Introduced by Senators Buono and Bucco and referred to the Senate Commerce Committee on June 16, 2005. It was reported out of Committee on June 16, 2005 and received a second reading in the Senate.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TAKE NO POSITION ON THIS PROPOSED BILL.

2. MEDICAL MALPRACTICE LIABILITY INSURANCE PURCHASING ALLIANCES

Attached is a copy of the Department of Banking and Insurance's proposed new rules relating to the Medical Malpractice Liability Insurance Purchasing Alliances. Comments, if any, are due by July 15, 2005.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO NOT MAKE ANY COMMENTS ON THIS PROPOSAL.

3. CANCER REGISTRY

Attached is a copy of the proposed readoption with amendments to the Office of State Epidemiologist Center for Cancer Initiatives, Cancer Epidemiology Services, Cancer Registry. Comments, if any, are due by July 15, 2005.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DECLINE TO MAKE ANY COMMENTS ON THE PROPOSAL.

Dr. Paul abstained from discussion and vote in this matter.

4. NEWBORN BIOCHEMICAL SCREENING

Attached is proposed re adoption and proposed re codification to the Department of Health and Senior Services' regulations on Newborn biochemical screening and newborn hearing screening. Comments, if any, are due by July 15, 2005.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DECLINE TO MAKE ANY COMMENTS ON THIS PROPOSAL.

Dr. Paul abstained from discussion and vote in this matter.

OLD BUSINESS

ALTERNATIVE PRIVILEGES: (Off Agenda)

Assistant Attorney General Joyce informed the Board that the Supreme Court upheld the Board's regulations concerning the Alternative Privileges and the Board is now in a position to begin to implement them. She requested that the Board review some previous delayed deadlines relating to applicants. She noted that for those licensees that have hospital privileges both to perform the procedures and to administer or supervise the anesthesia one uses in the office setting (or if the licensee has privileges for the procedures and uses a hospital privileged anesthesiologist) the licensee does not need alternative privileges.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED AS FOLLOWS:

For those that have already started the application process, the deadline to finish the application and pay the required fee is September 1, 2005.

The deadline for New applications (i.e., to finish and pay the fee) is October 1, 2005.

For those that perform procedures in the office using regional or general anesthesia, the licensee may not also simultaneously supervise a CRNA. The licensee must seek an extension in order to make the appropriate personnel changes. The extension can be for a period up to sixty days, however, this request must be made no later than September 15, 2005.

One can obtain an application at alternativeprivileges@dca.lps.state.nj.us or www.NJMedicalBoard.gov or by telephoning 973-273-8080.

Corporate Practice Regulation (Off Agenda Item)

Dr. Robins thanked DAsG Michelle Weiner and Debra Levine, as well as Assistant Attorney General Sharon Joyce, for all their hard work in drafting the changes to the previous versions approved by the Board. He pointed out that the version being considered by the Board had been updated to reflect current changes, especially at the Federal level. He pointed out that essentially this version was the same as what was put forth in the previous version which had been developed with the BME and the private sector. This version attempts to harmonize various changes that have taken place over the years. Also reflected is the ability to have practice structure as an LLC, which was recently changed because of the need to address an on going question within the regulated community. Another protection deals with the acceptable business practice format which now reflects a tighter definition.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE DRAFT WITH THE DELEGATION OF ANY CHANGES TO ADDRESS CONCERNS TO THE SUBCOMMITTEE PRIOR TO PUBLICATION IN THE NEW JERSEY REGISTER FOR NOTICE AND COMMENT EXCEPT THAT ANY SUBSTANTIVE CHANGES SHOULD BE RETURNED TO THE BOARD FOR APPROVAL PRIOR TO PUBLICATION.

D.A.G. Levine requested that any concerns and/or comments that the Board members have be submitted to her and she will present them to the Sub-Committee.

INFORMATIONAL

? Newspaper article, Physicians demand relief from malpractice rates

? Article - Risk Factors for Relapse in Health Care Professionals with Substance Use Disorders

? Article - Learning Disability and Professional Licensing Examinations: What Accommodations are Reasonable under the ADA?

The Board referred this article to the Credentials Committee for further review.

PUBLIC COMMENT

Respectfully submitted,

Bernard Robins, M.D., F.A.C.P.
President

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