

**OPEN BOARD MINUTES**  
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A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, August 14, 2013 at the Richard J. Hughes Justice Complex, 25 Market Street, 4<sup>th</sup> Floor Conference Center, Trenton, New Jersey. The meeting was called to order by President George J. Scott, D.P.M., D.O., FACOFP

**PRESENT**

Board Members Cheema, Criss, Jordan, Miksad, Paul, Rajput, Rock, Scott, Tedeschi and Walsh.

**EXCUSED**

Board Members Berkowitz, Ciechanowski, DeGregorio , Krauss, Lomazow, Mendelowitz, Maffei, Stanley and Weiss.

**ALSO PRESENT**

Senior Deputy Attorneys General Dick and Flanzman; Deputy Attorneys General DeLisi, Hafner and Puteska; William V. Roeder, Executive Director of the Medical Board and Harry Lessig, M.D., Consultant Medical Director.

**STATEMENT CONCERNING THE  
ANNUAL NOTICE OF PUBLIC MEETINGS**

The requirements of the “Open Public Meetings Act” were satisfied by

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notice of this meeting given in the annual notice adopted by the New Jersey State Board of Medical Examiners on September 12, 2012 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 24<sup>th</sup> day of October 2012.

## **ANNOUNCEMENTS**

None.

## **MINUTES**

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JULY 10, 2013 OPEN BOARD MINUTES.

The Motion was made by Ms. Criss and seconded by Dr. Paul. It carried unanimously.

## **NEW BUSINESS**

### **10 A.M. - APPEARANCE:**

Eric T. Kanefsky, Director of the New Jersey Division of

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Consumer Affairs, addressed the Board and discussed the report – *Scenes from an Epidemic: A Report of the SCI's Investigation of Prescription Pill and Heroin Abuse* issued by the State of New Jersey Commission of Investigation in July 2013 – which was provided to the Board members prior to the meeting.

Mr. Kanefsky explained that he wanted to address the Board to introduce himself and to bring the Board members on some actions he has put into place to address some of the Board's concerns, in particular relating to personnel issues. He also believed this was the opportune time to address the recent report by the SCI.

He noted that over the past sixteen months, he has familiarized himself with the work of the Board and while initially when he joined the Division of Consumer Affairs, he focused on the Bureau of Securities and Consumer Protection, as he has continued to transition into the Director's office, he has become more keenly aware of the importance of the work of the professional Boards, and in particular the Board of Medical Examiners, which is the most visible Board of all the Boards. He recognized that the BME is more scrutinized than the others and that it performs such an important role in protecting the citizens of the State assuring that licensees are providing the best medical care possible. He further recognized that this challenging work

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becomes even more daunting in that the Board members are faced with the unenviable task of trying to work within the confines of the current state budgetary constraints. Over the course of the last year, he assured the Board that he has met with the staff, the deputies and the administrative office and is committed to providing the resources required to accomplish this work. The Division has tried, and continues to try, to address some of those needs. The case load, he continued, is tremendous and deals with very complex medical cases, in which the correct resolutions are not abundantly clear. He is aware of the thoughtful and careful deliberations performed on each case. To assist the Board, he has been committed to bringing on staff and to that end, Dr. Lessig has been hired as a medical consultant to assist the members and Mr. Kanefsky was keenly aware of the positive contribution already provided by Dr. Lessig in that position. However, even with this consultant, he acknowledged that the position of a full time Medical Director was crucial to the Board and its business. He was pleased to announce that he has obtained approval to extend an offer to a very highly qualified candidate, who as recently as that morning accepted the position. Although he recognized that there was still some administrative paper work to be completed, he was hopeful that the process would progress smoothly and quickly. Also, he informed the Board that he was working with Division of Law to assure that there are confident and capable attorneys to service the Board in

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a timely manner and has worked with the Attorney General to increase staff hiring. Additionally, a number of staff has been transferred into the Board's administrative office and recently hired the Director of Operations to assist Executive Director Roeder and his staff. He also expressed his commitment to hiring an Executive Director for the Panel to oversee the work left vacant from a retirement. He assured the Board that he is committed to making sure that the Division is fully engaged in assisting in the process. He is also working on reimbursement issues recognizing the time and commitment for the work being done by the Board members. Mr. Kanefsky pledged his support and efforts to assure that the immense work, time commitment and importance of the Board's work will be recognized and supported as necessary.

Mr. Kanefsky then turned his attention to the recent SCI report and at the onset, stressed that the issues addressed therein were a high priority for the Attorney General's office as well as the Division of Consumer Affairs. One simply needs to pick up any recent periodical or watch a news report to learn that prescription drug misuse and abuse is at epidemic proportions, not only in the State of New Jersey, but nationwide. The July ASCI Report generally frames the issue, but the ultimate question remains is what are we — the Attorney General, the Division of Consumer Affairs, and the Board — going to do about it. While

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there are recommendations in the report, the central issue unlike any law enforcement has faced in the past, remains how can the stakeholders work collectively to not only address the problems, but to stop the epidemic. The problem, he stressed, presents unique and challenging need requiring the active participation of the entire community — doctors, prescribers, pharmacists and loved ones — all working together to combat the problem. He reminded the Board that at the Division level, the Prescription Monitoring Program has been created and has been maintained and run by the Division of Consumer Affairs. He spoke about the Committee that has been formed to evaluate the reports generated by the program in establishing criteria to track and investigate incidents of abuse and diversion, making referrals to the Boards, as well as criminal enforcement agencies. Unhappily, he reported that the database is being under utilized. The need to speak to the medical communities has been identified as an effort to increase awareness and ultimately, use of the program. Also, in conjunction with the Board of Pharmacy, a “best practices protocol” is about to be issued as a collaborative effort to assist in education. A similar initiative concerning the “best practices protocol” for the prescribing community will be started shortly. While the Project Medicine Box has already established forty locations to return unwanted, unused, expired medications, there are an additional thirty receptacles to be placed in the very near future. The Division has also established a task force to analyze

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and enhance the prescription blanks, as well as the review of statutes/regulations to determine what changes might be needed in the law to enhance efforts such as mandatory participation and reporting.

Additionally, as the report suggests, some focus needs to be shifted to the Board and for it to reexamine whether it needs to become more aggressive in both the enforcement and resolution of these cases. The report characterized the Board as weak and infrequent in its discipline and unfortunately, this perception is often held by the community at large. While one can debate these perceptions, the community is looking at the Board to take action on those that are misusing their ability to appropriately prescribe, thereby contributing not only to the epidemic, but the adverse consequences to those patients. He was clear that while the SCI identified specific doctors in the report with questionable practices, he noted that the Board had taken action against the individuals. As does the Board, the Division, through the Enforcement Bureau will be identifying all those licensees that mis prescribe and those patients that misuse or seek out the drugs. It is committed to utilizing its authority to take appropriate action against the licensees and refer those drug seekers to the criminal authorities. He moreover announced that starting in the fall, through the efforts of a former DEA employee as a full time prescribing drug Coordinator, the Division will be holding a series

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of symposiums to address best practices by medical practitioners. He envisioned that the symposiums would be held throughout the state and would reach out to members of the Board to assist in this program.

In conclusion, he posited that the number of cases that come before the Board with these issues will continue to grow. He encouraged the Board to develop new ways to deal with this innovative issue.

The Board President, on behalf of the Board, thanked Mr. Kanefsky for his efforts in addressing the staffing needs of the administrative office. He also assured Mr. Kanefsky of the Board's commitment to this important issue in carrying out its mandate to protect the health, safety and welfare of the citizens of New Jersey.

## **DISCUSSION ITEMS:**

### **MONTHLY BOARD MEETING 2014 PROPOSED DATES**

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The following dates were submitted for Board ratification as proposed

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dates for the monthly Board meetings in 2014. As in the past, the meetings will take place at the Hughes Justice Complex, Fourth Floor Conference Center, Trenton, New Jersey.

January 8	July 9
February 12	August 13
March 12	September 10
April 9	October 8
May 14	November 12
June 11	December 10

**THE BOARD, UPON MOTION MADE AND  
SECONDED, VOTED TO APPROVE THESE DATES  
FOR ITS MONTHLY MEETINGS IN 2014.**

The Motion, which carried unanimously, was made by Dr. Jordan and seconded by Mr. Walsh.

**N.J.A.C. 13:35-1.5(h)**

Attached was a letter submitted by Gregory J. Rokosz, D.O., J.D., FACEP on behalf of the Physician Executive Committee Group of the New Jersey Hospital Association. Dr. Rokosz requested that the Board rescind the language in N.J.A.C. 13:35-1.5(h) which requires a

countersignature for prescriptions written by PGY-I residents.

**THE BOARD, UPON MOTION MADE AND  
SECONDED, VOTED TO REFER THE MATTER TO A  
REGULATORY ANALYST TO PREPARE FOR NOTICE  
AND COMMENT IN THE *NEW JERSEY REGISTER* THE  
RESCINDING OF THE REGULATION**

The Motion was made by Dr. Cheema and was seconded by Ms. Criss. It carried unanimously.

## **LEGISLATION**

### **Senate Bill No. 2678**

The bill seeks to revise the requirements for licensure and creates physician-delegated scope of practice of physicians assistants. It was introduced by Senators Vitale and Beach as the primary sponsors on or about April 15, 2013 and referred to the Senate Health, Human Services and Senior Citizens Committee. An identical bill was introduced on the same day in the Assembly as A4026. The Assembly bill was introduced by Assemblypersons Conaway and Diegnan and introduced to the Assembly Health and Senior Services Committee.

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Mr. Walsh informed the Board that the version before the Board was not the most current. As he understood it, the Bill has been revised. He also suggested that when the amended version was available that it be referred to the Executive Committee to review along with the input from the Physician Assistants' community.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TABLE DISCUSSION AND VOTE ON THE BILL UNTIL THE AMENDED VERSION WAS AVAILABLE FOR ITS REVIEW AND REFERRED THE INITIAL REVIEW TO THE EXECUTIVE COMMITTEE WITH INPUT FROM OTHER INTERESTED PARTIES.**

The Motion, which carried unanimously, was made by Mr. Walsh and seconded by Dr. Jordan.

**NEW JERSEY CHILD FATALITY  
& NEAR FATALITY REVIEW BOARD**

The Attorney General received a report and letter from the CFNFRB which he referred to the Board. The reported included a request that the BME require CME for all direct care providers for children (including radiologists, pathologists, medical examiners, pediatricians,

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emergency medicine and other primary care providers) in the field of child abuse and neglect. The report notes that currently there are 16 states that have content specific CME requirements in a variety of topical areas and that two states (Iowa and NY) have requirements specifically relating to child abuse prevention CMEs.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DECLINE REQUIRING SUCH COURSES MANDATORY CME. WHILE THE BOARD RECOGNIZED THE IMPORTANCE OF EARLY DETECTION OF CHILD ABUSE, IT DID NOT SUPPORT MANDATING CONTINUING MEDICAL EDUCATION ON THE SUBJECT. THE BOARD FURTHER RECOGNIZED THAT THERE ARE A NUMBER OF LAWS ALREADY IN PLACE THAT REQUIRE SUCH REPORTING AND THE PHYSICIAN COMMUNITY IS WELL AWARE OF THIS ISSUE. CONSISTENT WITH ITS PRACTICE, THE BOARD DOES NOT BELIEVE THAT IT SHOULD MANDATE TOPICS IN CME AS PHYSICIANS TAKE CMES GERMANE TO THEIR SPECIFIC PRACTICE AREA AND SUCH REQUIREMENTS MIGHT REQUIRE PRACTITIONERS TO TAKE CME BEYOND THEIR PRACTICE AREA TO THE DETRIMENT OF TAKING TOPICS WITHIN ONE'S PRACTICE SPECIALTY.**

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Motion made by Ms. Criss and seconded by Dr. Tedeschi. It carried unanimously.

## **OLD BUSINESS**

Nothing.

## **INFORMATIONAL**

Nothing

## **PUBLIC COMMENT**

Ryan D. White, MS, PA-C, MPH, President of the New Jersey State Society of Physician Assistants, welcomed the opportunity to submit materials and meet with the Executive Committee after the revised Senate Bill 2678 became available.

Dr. Cheryl Ackerman addressed the Board reminding the Board members that she is seeking reinstatement of her medical license. She explained that she believed that she was fully compliant with the terms fo the PAP and that she was qualified to return to practice as determined by the individuals that have evaluated her. At this point,

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the Attorney General's office objected to her presentation inasmuch as she was arguing the merits of her Motion for Reconsideration, which was not properly before the Board at the time of her presentation. The Board agreed and thanked Dr. Ackerman for her comments.

Respectfully submitted,

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George J. Scott, D.P.M., D.O., FACOFP  
Board President

WVR/br