

**State Board of Medical Examiners  
November 8, 2006  
Minutes**

The meeting of the New Jersey State Board of Medical Examiners was held on November 8, 2006 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 Dr. Paul, President.

**PRESENT**

Board Members Cheema, DeGregorio, Ciechenowski, Criscito, Criss, Haddad, Lambert, Lomazow, Mendelowitz, Nussbaum, Paul, Reichman. Salas Lopez, Strand, Walsh and Wheeler.

**EXCUSED**

Board Members Clemency Kohler, Jordan, Scott, Stanley, and Weiss.

**ALSO PRESENT**

A.A.G. Sharon Joyce, D.As.G. Dick, Ehrenkrantz, Flanzman, Gelber, Kenny, and Levine; Medical Education Director Dr. Blanks, and Executive Director William V. Roeder.

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

The requirements of the gOpen 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 19, 2005 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 2005.

**ANNOUNCEMENTS**

Dr. Paul announced that recently the Public Citizens Group performed a study and analysis on the various medical board's websites. She proudly informed the Board members that New Jersey ranked as number one out of sixty five other websites for the information that it provides to the public on its licensees. It scored an 83.7 out of 100 percent.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE OCTOBER 11, 2006 OPEN BOARD MINUTES.

It was noted that the September 12, 2006 previously approved Board meeting date was on the eve of Rosh Hashana and therefore, the meeting date was changed to September 26, 2006.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE OCTOBER 16, 2006 OPEN CREDENTIALS COMMITTEE MINUTES.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE SEPTEMBER 15, 2006 PHYSICIANS ASSISTANT COMMITTEE OPEN MINUTES.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE SEPTEMBER 25, 2006 ATHLETIC TRAINERS OPEN COMMITTEE MINUTES.

**APPEARANCE**

9:00 A.M. FEDERATION OF STATE  
MEDICAL BOARDS

Mr. Wheeler was not present of the presentation.

Representatives of the Federation State Medical Boards (the gFSMBh or gFederationh) , Stacy Lankford, M.D., Member of the Board of Directors, Chair Elect and Lisa A. Robin, Vice President, Government Relations, Policy and Education, made a presentation to the Board.

Starting off by giving the background of its Organization and Mission, it was explained that the Federation of State Medical Boards is a national not-for-profit organization representing the 70 medical boards of the United States and its territories, including 14 state boards of osteopathic medicine. It works toward the continual improvement in the quality, safety, and integrity of health care through the development and promotion of high standards for physician licensure and practice. In the licensing area, it provides a common evaluation for initial licensure in the United States with its three step examination sponsored by the FSMB and the National Board of Medical Examiners. It solicits assistance from the medical boards in the question writing and test development, setting standards, and serving on special committees and projects.

Through the Federation Credentials Verification Service, it creates and maintains a high quality permanent file of a physician's core credentials for use in meeting licensure and privileging requirements. This helps the applicant in expediting the process while at the same time providing some cost savings to the physician and the Board. It also reduces the duplication of effort by both the physician and the licensing board.

Highlighting the Physician Data Center, the Federation provides comprehensive accurate, timely and centralized disciplinary information. Through this service, it collects and reports data on disciplinary actions taken by medical boards. This data center also collects consolidated physician information such as education or licensure in other states.

Other areas in which the Federation assists the Boards is its National Clearinghouse on Internet Prescribing, Post Licensure Assessment Systems, SPEX, Assessment Center Program, Policy Development, Government Relations & Policy and Special Committees on an ad hoc basis. It holds an annual meeting in which educational sessions are provided for Board members and Board attorneys.

Finally, the goals for the coming year were explained and include continued competence of licensed physicians, an increase in license portability and leadership through collaboration

## **NEW BUSINESS**

### **1. PETITION FOR RULEMAKING**

On September 22, 2006, the Board received a petition for rule making requesting that the Board reconsider its response to a petition filed in November 2005. That petition requested that the Board allow physicians who are not licensed in New Jersey to become members of a New Jersey medical practice limited liability company (an gLLCh). The Board denied the November 2005 petition on or about April 3, 2006.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY THE PETITION FOR RECONSIDERATION OF ITS DENIAL TO AMEND ITS RULE TO PERMIT PHYSICIANS WHO ARE NOT LICENSED IN NEW JERSEY TO BECOME MEMBERS OF A NEW JERSEY MEDICAL PRACTICE IN THE FORMAT OF A LIMITED LIABILITY COMPANY FOR THE REASONS ARTICULATED IN ITS ORIGINAL DENIAL. ADDITIONALLY, THE BOARD NOTED THAT THE BOARD WOULD NOT HAVE ACCOUNTABILITY OVER PHYSICIANS NOT LICENSED IN NEW JERSEY AND THERE WAS NO NEW INFORMATION PROVIDED BY THE PETITIONER.

### **2. ASSEMBLY BILL 3457**

Seeks to prohibit hospital and physician from charging patient for costs associated with donating umbilical cord blood to publicly accessible certified cord blood bank.

Dr. Paul recused from discussion and vote in this matter and left the table.

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

### 3. ASSEMBLY BILL 3566

This bill seeks to require physicians, advanced practice nurses, and other authorized prescribers to obtain informed consent from parents or legal guardians of minors prior to prescribing them medications that are accompanied by a black box warning.

Dr. Paul recused from discussion and vote in this matter and left the table.

THE BOARD, UPON MOTION MADE AND SECONDED VOTED TO OPPOSE THIS BILL. WHILE THE BOARD RECOGNIZED THAT THE OVERALL INTENT OF THIS BILL IS COMMENDABLE, THE BILL IS OVERREACHING AND OVERLY BROAD IN ITS SCOPE AND DOES NOT ACCOUNT FOR SPECIFIC CIRCUMSTANCES WHERE IT IS IN THE BEST INTEREST OF THE MINOR CHILD TO BE EXAMINED AND/OR TREATED WITHOUT THE PARENTS OR GUARDIANS PRESENCE OR KNOWLEDGE. FOR EXAMPLE, IT MAY BE THE CASE THAT THE PRESENCE OF THE PARENT OR GUARDIAN AT THE TIME OF INQUIRY CONCERNING CERTAIN ASPECTS OF SEXUAL ACTIVITY MAY YIELD LESS THAN HONEST OR ACCURATE RESPONSES FROM THE MINOR BECAUSE OF FEAR OF THE PARENT OR GUARDIAN KNOWING THAT THE CHILD IS SEXUALLY ACTIVE. THE CHILD MAY NOT BE FORTHCOMING WITH THE TRUTH. THE ABSENCE OR ACCURACY OF THIS INFORMATION CAN GREATLY IMPACT THE ULTIMATE DIAGNOSIS OR PROPOSED COURSE OF TREATMENT. EVEN IF THE CHILD WERE EXAMINED WITHOUT THE KNOWLEDGE/PRESENCE OF THE PARENT OR GUARDIAN, ONCE IT WOULD BE DETERMINED THAT A "BLACK BOX" PRESCRIPTION WAS NEEDED, IF PERMISSION (I.E., INFORMED CONSENT) HAD TO BE OBTAINED FROM THE PARENT OR GUARDIAN, IT WOULD HAVE A CHILLING EFFECT ON THE DOCTOR/PATIENT RELATIONSHIP. SIMILARLY, THIS BILL WOULD HAVE A CHILLING EFFECT ON THE GATHERING OF INFORMATION IN THE CASE OF SUSPECTED ABUSE. OFTEN, BY SEPARATING THE CHILD FROM THE PARENT OR GUARDIAN, A MORE THOROUGH EXAMINATION CAN BE PERFORMED. THE VERACITY OF THE INFORMATION RECEIVED VERBALLY MAY ALSO BE IMPACTED BY THE PRESENCE OF THE PARENT OR GUARDIAN. MOREOVER, THE BILL WOULD RESTRICT APPROPRIATE AND FRANK DISCUSSIONS BETWEEN THE PHYSICIAN AND MINOR PATIENT CONCERNING CONTRACEPTION OR PREGNANCY. THE BILL ALSO MANDATES THAT IF ANYONE VIOLATES THE PROVISIONS OF THE ACT, THEN THE BOARD SHALL TAKE DISCIPLINARY ACTION. THIS REMOVES THE DISCRETIONARY ABILITY OF THE BOARD TO CONDUCT AN INVESTIGATION AND MAKE THE ULTIMATE DECISION BASED ON AN INDIVIDUAL, FACT SENSITIVE BASIS. THE THREAT OF ULTIMATE MANDATORY DISCIPLINE ALSO REMOVES THE INDIVIDUAL, PATIENT BASED DECISION MAKING THAT IS CRUCIAL IN MAKING APPROPRIATE MEDICAL DECISIONS.

### 4. SENATE BILL NO. 2212

Seeks to permit physicians to earn continuing medical education credits by providing free medical care to low-income, uninsured patients.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE SENATE BILL NO. 2212.

Mr. Wheeler abstained from vote in this matter.

### 5. SENATE BILL NO. 2234

The bill seeks to require hospitals and physicians to have examination tables accessible to handicapped patients.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THE BILL. WHILE THE

INTENT OF THIS BILL IS COMMENDABLE, IT DID NOT BELIEVE THAT IT COULD BE IMPLEMENTED. IT HAS NOT BEEN MADE AWARE OF ANY COMPLAINTS FROM EITHER THE HANDICAPPED POPULATION OR PRACTITIONERS THAT LICENSEES HAVE NOT BEEN ABLE TO APPROPRIATELY EXAMINE HANDICAPPED PATIENTS CURRENTLY. IT ALSO NOTED THAT THE TABLE REQUIRED UNDER THIS PROPOSAL WOULD NOT ADEQUATELY ACCOMMODATE EVERY HANDICAP AND THE COMMITTEE WAS NOT AWARE OF ANY TABLE THAT WOULD ACCOMPLISH THIS GOAL. IT WAS ALSO SUGGESTED THAT THIS WOULD CREATE AN UNDUE FINANCIAL BURDEN ON THE REGULATED COMMUNITY

#### 6. SENATE BILL 2275

This bill seeks to amend the gRadiologic Technologist Acth to provide for the licensure and registration of radiologist assistants.

It was noted on the record that the Board members received a copy of a letter from Albert V. Orlandi, Secretary, Radiologic Technology Board of Examiners, Department of Environmental Protection, expressing the Radiologic Board's position opposing the bill.

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

#### 7. DEPARTMENT OF BANKING AND INSURANCE - PROPOSED NEW RULES

Attached for the Committeefs consideration were proposed amendments and new rules concerning Medical Fee Schedules: Automobile Insurance Personal Injury Protection and Motor Bus Medical Expense Insurance Coverage.

THE BOARD ACCEPTED THIS AS INFORMATIONAL.

OFF AGENDA:

#### 8. ASSEMBLY BILL NO. 3623

Seeks to establish the creation of certificate of rehabilitation for certain persons with criminal records.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THE BILL. ENACTING THIS LEGISLATION WOULD RESTRICT THE BOARD FROM TAKING ACTION ON CRIMES WHICH THE BOARD DETERMINED WERE CRIMES OF MORAL TURPITUDE. THE BOARD ALSO EXPRESSED CONCERN THAT THE CRIMINAL COURT AND/OR THE PROSECUTORfS OFFICE MAY HAVE GOALS DIFFERENT FROM THE BOARD, IN PARTICULAR AS IT WOULD RELATE TO LICENSURE, AND THE BILL COULD CREATE A VEHICLE TO SETTLE CASES IN WHICH THE BOARD BELIEVES SETTLEMENT WOULD NOT BE APPROPRIATE.

#### OLD BUSINESS

#### 9. PROPOSED CO-MANAGEMENT REGULATIONS

The Board, on September 13, 2006, voted to forward Co-Management Regulations to the Executive Committee for discussion of the term gremote areash used in the Co-Management Regulations. The Board was concerned that the term may need to be defined, the wording changed, or the term omitted to avoid problems in the future. All material reviewed by the full Board was provided along with comments received on the regulations at the last two Executive Committee meeting. Attached is a copy of the most recent draft of this proposal.

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

Dr. Nussbaum recused from discussion and vote in the matter and left the table.

## 10. ATHLETIC TRAINER PROPOSAL

Attached is a copy of the proposed sexual misconduct regulation for athletic trainers. The Board will recall that it published this proposal for notice and comment in the New Jersey Register. No comments were received. Approval to publish the regulation as a final adoption was sought.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO PUBLISH AS A FINAL ADOPTION THE REGULATION IN THE NEW JERSEY REGISTER.

## INFORMATIONAL

œ 2006 Hospital Performance Report

œ 2006-2007 CME Calendar, American Medical Seminars

## PUBLIC COMMENT

Respectfully submitted,

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Sindy M. Paul, M.D., M.P.H., President

[◀ back](#)

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