

OPEN BOARD MINUTES
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
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A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, January 9, 2013 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor Conference Center, Trenton, New Jersey. The meeting was called to order by President George J. Scott, D.P.M., D.O., FACOFP

ATTENDING

Board Members Cheema, Ciechanowski, Criss, DeGregorio, Jordan, Krauss, Lomazow, Maffei, Paul, Rajput, Scott, Stanley, Tedeschi and Walsh.

EXCUSED

Board Members Berkowitz, Howard, Mendelowitz, Rock, and Weiss.

ALSO PRESENT

Senior Deputy Attorneys General Dick and Flanzman; Deputy Attorneys General Hafner, Levine, Puteska, and Warhaftig; William V. Roeder, Executive Director, and Harry Lessig, M.D., Medical Consultant.

STATEMENT CONCERNING THE ANNUAL NOTICE OF PUBLIC MEETINGS

The requirements of the "Open Public Meetings Act" were satisfied by 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 24th day of October 2012.

ANNOUNCEMENTS

None.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE NOVEMBER 14, 2011 OPEN BOARD MINUTES.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE SEPTEMBER 24, 2012 OPEN ATHLETIC TRAINERS' MINUTES.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE SEPTEMBER 21, 2012 OPEN PHYSICIANS ASSISTANT MINUTES.

NEW BUSINESS

PROPOSED CHANGES TO HEARING AID DISPENSERS REGULATIONS

Attached was a draft to the Hearing Aid Dispenser regulations for the committee's review.

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

The Motion, which carried unanimously, was made by Dr. Paul and seconded by Dr. Tedeschi.

PROPOSED REVISIONS TO N.J.A.C. 26:6a-4
NEW JERSEY DECLARATION OF DEATH ACT

Attached was correspondence from the counsel for the New Jersey Law Review Commission seeking an opinion from the Board concerning elimination of its regulatory authority to set standards for brain death determination.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TAKE THE POSITION THAT THE BOARD DOES NOT PERCEIVE A CONTINUING NEED FOR IT TO BE STATUTORILY MANDATED TO DEVELOP THE REGULATIONS AND THEREFORE IT WOULD NOT OPPOSE THE SUGGESTED CHANGES AS LONG AS THERE WAS AN ASSURANCE THAT ESTABLISHED STANDARDS SUFFICIENT TO ASSURE THAT BRAIN DEATH IS OCCURRING ARE PART OF THE PROPOSAL.

The Motion, which carried unanimously, was made by Dr. Rajput and seconded by Dr. Paul.

ASSEMBLY BILL 3618

Seeks to require certain disclosures in advertisements by health care professionals.

THE BOARD, UPON MOTION MADE AND SECONDED,

VOTED TO SUPPORT THE LEGISLATION INASMUCH AS IT SUPPORTED PROVIDING MORE INFORMATION TO THE CONSUMER, AND MORE TRANSPARENCY IN THE PROVIDER/PATIENT RELATIONSHIP IS A LAUDABLE GOAL. THE BOARD, HOWEVER, QUESTIONED HOW THE INFORMATION WILL BE COMMUNICATED TO THE LICENSEE POPULATION AND SUGGESTED THAT A SECTION HIGHLIGHTING RECENT CHANGES IN THE LAW BE NOTED ON THE NEXT RENEWAL FORMS

The Motion, which carried unanimously, was made by Dr. Tedeschi and seconded by Dr. Maffei.

SENATE BILL 2354
“CONSUMER ACCESS TO HEALTH CARE ACT”

Seeks to Eliminate the requirement of joint protocol with the physician for advanced practice nurses to prescribe medication.

THE BOARD TABELED DECISION ON THIS BILL. IT REFERRED THE MATTER TO THE EXECUTIVE COMMITTEE WHICH WOULD BE MEETING WITH ASSEMBLYWOMAN MUNOZ, THE SPONSOR OF THE COMPANION BILL IN THE ASSEMBLY, AT ITS JANUARY 28TH. MEETING.

OLD BUSINESS

**Physician Orders for
Life-Sustaining Treatment Act
Public Law 2011, Chapter 145**

This Act, signed into Law on December 20, 2011, provides, among other things, that the Board requires as a condition of renewal that physicians complete at least two credits of educational programs or topics related to end of life care. It further provides that the Board adopt such rules and regulations as are necessary to effectuate the purposes of the section. The Executive Committee drafted a proposed regulation which the Board considered for approval for publication in the *New Jersey Register* for notice and comment as a proposal. The Committee, in recognizing that it is doubtful that the regulation will be finalized for the upcoming renewal in 2013, requested that the Board waive compliance with this requirement until the 2015 renewal cycle so as to afford its licensees ample opportunity to meet the requirement.

**THE BOARD, UPON MOTION MADE AND SECONDED,
VOTED TO APPROVE THE DRAFT FOR PUBLICATION IN
THE NEW JERSEY REGISTER FOR NOTICE AND COMMENT AS
A PROPOSAL. IT FURTHER VOTED TO WAIVE
COMPLIANCE WITH THIS REQUIREMENT UNTIL THE 2015
RENEWAL CYCLE.**

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

**PRESCRIBING, ADMINISTERING AND
DISPENSING ANABOLIC STEROIDS
AND HUMAN GROWTH HORMONES
N.J.A.C. 13:35-7.9**

On October 15, 2012, the Board's proposed changes to N.J.A.C. 13:35-7.9, Prescribing, Administering and Dispensing Anabolic Steroids and Human Growth Hormones, was published in the *New Jersey Register* for notice and comment. No comments were received. Approval by the Board was sought to publish the attached as an adoption.

**THE BOARD, UPON MOTION MADE AND SECONDED,
VOTED TO PUBLISH THE PROPOSED CHANGES TO N.J.A.C.
13:35-7.9 AS A FINAL ADOPTION IN THE *NEW JERSEY
REGISTER*.**

The motion was made by Dr. Jordan and seconded by Dr. Paul. It carried unanimously.

INFORMATIONAL

Nothing Provided.

PUBLIC COMMENT

Patricia Barnett, RN, JD, the CEO, NJ State Nurses Associations, addressed the Board. She spoke on the issues raised by Senate Bill 2354/Assembly Bill 3512, proposed amendments to the "Consumer Access to Health Care Act," which

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seeks, among other things, to eliminate the requirement of the joint protocol with the physician for Advanced Practice Nurses (the “APN”) in order to prescribe medication. She provided the Board with information which she suggested may be helpful in reviewing the proposal. The information included statistics on the incidents of malpractice collected from two different databases.

She reminded the Board that currently, no supervision of an APN by a physician is required. Ms. Barnett outlined the history behind the current requirement of a protocol explaining that physicians were concerned about the need for oversight in the 1990s. The protocol requires that the APN and the physician meet once a year and review one chart. In the evolution of the APN’s practice, in reality, this requirement does not address the concerns of supervision since these doctors never see the APN's patients and their offices are unfamiliar with the patients. She further explained to the Board that Advanced Practice nurses hold graduate degrees and are trained to diagnose and treat acute and chronic illnesses. They are able to take health histories, order and interpret lab tests and x-rays and provide physical examinations, immunizations, and supportive counseling. They must pass an exam to receive state certification. Regardless of those qualifications, however, many primary care physicians say they are concerned that enabling APNs to establish independent practices without collaborating doctors will affect the quality of patient care. She posited that it would affect the quality of patient care, however, in a positive way. As the Board is aware, there is an increasing shortage of primary physicians. This elimination of the requirement would make it easier for APNs to establish their own practices. It also would eliminate the difficulty of finding a doctor who's willing to sign a joint protocol. Other difficulties created by this requirement include the enormous fees some doctors are charging to be a signatory and the issues raised by pharmacies that frequently contact the collaborating physician's offices seeking information about patients the doctor’s offices know nothing about. It is also

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common to have medical labs send test results to the collaborating physicians, thereby delaying getting results to the patients.

APNs, she continued, have taken an increasingly large role as primary care providers, one that is expected to grow as a result of the federal Affordable Care Act, which will extend health insurance to a number of currently uninsured New Jersey patients and expand the Medicaid rolls. The first is likely to exacerbate the state's worrisome shortage of family care physicians, while the second impact is likely to be even more problematic because many family practice doctors do not accept Medicaid. The passage of this legislation could help to ease the shortage and limit the potential impact of the federal healthcare reform.

She used the analogy of a team sport as the appropriate model for the provision of healthcare as we move into the future. The APN philosophy has always been that as professionals, they work along with the physician and the other healthcare providers.

Ms. Barnett also suggested that New Jersey could learn from the 16 states that already allow APNs to prescribe without joint protocols. She also noted that costs in those states to provide similar services through APNs is 20 to 35 percent lower than through the same services provided by the doctors, according to a federally administered survey. Statistics also have demonstrated that in those states where there is no requirement, that the APNs tend to be more conservative in their approach to writing prescriptions and have lower medical malpractice rates. She concluded by noting that the statement accompanying the bill notes that the proposal is consistent with a recommendation from the national nonprofit Institute of Medicine that existing or future barriers to APNs' scope of practice be eliminated.

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Ms. Barnett urged the Board to support the legislation or at the very least, not oppose it.

Respectfully submitted,

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

WVR/br