

OPEN BOARD MINUTES
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A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, December 8, 2010 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 T. Paul Jordan, M.D.

Board Members, Berkowitz, Criss, DeGregorio, Howard, Jordan, Lambert, Lomazow, Mendelowitz, Rajput, Scott, and Walsh.

EXCUSED

Board Members Baker, Cheema, Ciechanowski, Iannuzzi, Paul, Stanley, Tedeschi and Weiss.

ABSENT

ALSO PRESENT

AAG Joyce, Deputy Attorneys General Ehrenkrantz, Levine, Warhaftig, and Executive Director Roeder.

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 9, 2009 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 October 2009.

ANNOUNCEMENTS

AAG Joyce reported on New Jersey Institute of Technology's proposal to join with St. George's School of Medicine to offer a four year medical school in New Jersey. The issue is currently being reviewed by the Executive Committee.

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MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE NOVEMBER 10, 2010 OPEN BOARD MINUTES.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TABLE THE SEPTEMBER 17, 2010 PHYSICIAN ASSISTANT ADVISORY COMMITTEE MINUTES.

NEW BUSINESS

1. **ASSEMBLY BILL NO. 3475**

Seeks to provide for use of Physician Orders for Life Sustaining Treatment and establishes the "Physician Orders for Life-Sustaining Treatment Act" and a registry.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THE CONCEPT, HOWEVER, IT EXPRESSED SOME CONCERNS THAT SHOULD BE ADDRESSED PRIOR TO FINALIZATION. IT WAS CONCERNED THAT THERE MAY BE SOME BUREAUCRATIC ISSUES THAT MAY NEED TO BE ADDRESSED. WHILE IT ATTEMPTS TO CREATE A DOCUMENT WHICH WOULD TRANSCEND ALL LOCAL REQUIREMENTS AND THAT WOULD TRAVEL WITH THE PATIENT TO ALL SITES, IT DID NOT APPEAR THAT THIS WOULD BE FEASIBLE. ADDITIONALLY, THERE IS THE ASSUMPTION THAT PROVIDERS WILL BE ABLE TO DISCERN THE PATIENT'S WISHES AT ALL TIMES THAT WOULD COMPLEMENT THE ADVANCED DIRECTIVES. UNFORTUNATELY, THE 'LAST' WISHES OF A PATIENT ARE OFTEN CONDITIONAL AND WRITTEN WITH A "IF THIS, THEN THAT." THE "POLST" DOES NOT NECESSARILY ACCOMMODATE CONDITIONS IN THE ADVANCE DIRECTIVES. THE BOARD NOTED THAT THE PROPOSAL DOES PROMOTE AN APPROPRIATE DIALOGUE BETWEEN THE HEALTH CARE PROVIDER AND THE PATIENT PRIOR TO ANY CIRCUMSTANCES THAT WOULD REQUIRE THE USE OF SUCH DOCUMENTS. THE BOARD ALSO BELIEVED THAT NURSING HOMES THAT HAVE THEIR OWN REQUIREMENTS MIGHT NOT BE IN A POSITION TO ACCEPT THE POLST. IN MANY WAYS, THE BOARD WAS MORE IN FAVOR OF HAVING THE DNR BE USED AND DEEMED AS APPROPRIATE IN ALL SETTINGS. THE BOARD ALSO ACKNOWLEDGED THE IMPORTANCE OF THE CREATION OF STANDARD LANGUAGE AND THE REQUIREMENT OF ADHERENCE BY AND IN THE VARIOUS HEALTHCARE SETTINGS. MORE WORK WAS NEEDED

ON THE MECHANICS OF CHANGING THE DOCUMENT TO REFLECT THE CURRENT WISHES OF A PATIENT.

Motion made by Dr. Berkowitz and seconded by Dr. Rajput. It carried unanimously.

2. **ASSEMBLY BILL NO. 3491**

Seeks to limit the settings where certain surgeries may be performed.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THIS BILL AS IT QUESTIONED WHY ONE PARTICULAR SPECIALTY WAS SINGLED OUT AS REQUIRING SUCH REQUIREMENTS. IT ALSO QUESTIONED WHETHER THE BILL WAS OVERREACHING IN ITS REQUIREMENTS. WHILE IT RECOGNIZED THE INTENT IS PATIENT SAFETY, IT APPEARED THAT THE OVERALL RESULT WOULD BE LIMITED TO THE PROCEDURES LISTED.

Motion made by Dr. Scott and seconded by Dr. Rajput. It carried unanimously.

3. **SENATE BILL NO. 2372**

Seeks to clarify out-of-network payment responsibilities under health benefits plans; seeks to require certain coverage and procedure disclosures to consumers; seeks to revise procedures for changes to managed care plan contracts.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THE BILL AS CURRENTLY WRITTEN. WHILE IT READILY APPLAUDED THE EFFORT OF CRAFTING NEW WAYS TO INFORM PATIENTS OF WHEN A PARTICULAR SERVICE OR PROVIDER MAY NOT BE WITHIN THEIR NETWORK AND CONSEQUENTLY, MIGHT INCUR OUT-OF-POCKET EXPENSES, THIS BILL WOULD NOT NECESSARILY ACHIEVE THAT END. THE WRITTEN REQUIREMENTS ARE NOT ONLY ONEROUS, BUT WHOLLY OUTSIDE THE PURVIEW OF INFORMATION THAT A HEALTH CARE PROVIDER WOULD HAVE AND WOULD CREATE AN ENORMOUS BURDEN ON THE HEALTH CARE PROVIDER TO OBTAIN AND MAY, IN FACT, DELAY, NECESSARY REFERRALS. GENERALLY, IT WAS THE OPINION OF THE COMMITTEE THAT IT IS THE PATIENT'S RESPONSIBILITY TO KNOW WHAT THEIR DEDUCTIBLES AND/OR CO-PAYMENTS ARE. EACH COMPANY HAS A NUMBER OF PLANS, EACH WITH VARIANCES AS TO

WHAT AND/OR WHO MAY BE COVERED, THAT IT MAY BE IMPOSSIBLE FOR ONE HEALTH CARE PROVIDER TO KNOW WHEN ANOTHER HEALTH CARE PROVIDER IS OR IS NOT COVERED. MORE THAN LIKELY, THIS INFORMATION ISN'T EVEN AVAILABLE TO THE HEALTH CARE PROVIDER THAT IS MAKING THE REFERRAL. IT WOULD BE IMPOSSIBLE FOR THE PHYSICIANS TO RANK INSURANCE CARRIERS AS THIS INFORMATION WOULD NOT BE AVAILABLE TO THEM, AND IS SO SUBJECTIVE IN NATURE. THIS MAY NOT BE IN THE BEST INTEREST OF THE PATIENT AS IT MAY LEAD TO INORDINATE DELAY AND/OR ULTRA CONSERVATIVE DECISIONS IN MAKING REFERRALS.

Motion made by Dr. Lambert and seconded by Ms. Howard. It carried unanimously.

OLD BUSINESS

NOTHING.

INFORMATIONAL

The Board reviewed and accepted Assembly Concurrent Resolution No. 151 as informational.

PUBLIC COMMENT

The New Jersey Hospital Association requested that the Board agendas be posted in a more timely fashion.

Respectfully submitted

Paul T. Jordan, M.D. - President

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