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PUBLIC NOTICES

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS**

N.J.A.C. 13:35-6.16

Notice of Action on Petition for Rulemaking

Petitioner: Elizabeth Christian, Giordano, Halleran & Ciesla on behalf of the New Jersey Hospital Association.

Authority: N.J.S.A. 45:9-2.

Take notice that on September 21, 2012, the Board of Medical Examiners (BME) received a petition for rulemaking from Elizabeth Christian on behalf of the New Jersey Hospital Association requesting that the Board amend N.J.A.C. 13:35-6.16(f) to permit licensed physicians to be employees of a corporation under certain circumstances. According to the petitioner, physicians should be permitted to be employees of a corporation if: the corporation is a wholly controlled subsidiary of a licensed hospital which monitors the activities of the subsidiary corporation through a quality assessment and performance improvement program and makes the structure of this program available to the Board for review upon request; does not exercise control over employee physicians' independent medical judgments; and has, as part of its governance structure, a committee comprised solely of licensed physicians who have sole responsibility for all corporate decision-making involving the exercise of independent medical judgment. The petitioner also recommends that the amendment to N.J.A.C. 13:35-6.16 state that licensed physicians would be permitted to provide input to the governing body of the corporation with regard to operational matters that are not solely clinical.

The petitioner contends that hospitals and physicians are entering into new collaborations to provide health care services. The impetus for these new collaborations is the Federal Patient Protection and Affordable Care Act (Pub. L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152). These laws encourage new relationships between hospitals and physicians to improve the quality, and address the cost, of Medicare services. The petitioner also contends that Federal regulations and State law authorize hospitals and licensed physicians to enter into accountable care organizations, which are entities recognized by Federal regulations to provide new methods of providing health care

and are intended to facilitate health care cost savings. The petitioner contends that her suggested amendments to N.J.A.C. 13:35-6.16 are necessary to allow hospitals and physicians to enter into the relationships envisioned by Federal laws and regulations. These amendments would facilitate the integration of health care while ensuring that physicians retain the independence to make medical decisions.

The Board has referred this matter for further deliberation in order to develop a better understanding as to the nature of the petitioner's request and the implications this request would have for physicians and patients within the structures of the corporate practice the petition envisions. The Board will also deliberate as to the implications the petitioner's request could have on other structures for the corporate practice of medicine. As part of its deliberations, the Board will invite the petitioner to discuss the petition and its possible implications with a committee of the Board.

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.