

State Board of Medical Examiners

Open Board Minutes January 8, 2003

The meeting of the New Jersey State Board of Medical Examiners was held on January 8, 2003 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor Conference Center, Trenton, New Jersey. The meeting was called to order at 9:00 a.m. by William V. Harrer, M.D., B.L.D., President.

PRESENT

Board Members Chen, Criss, Farrell, Haddad, Harrer, Huston, Lucas, Moussa, Paul, Perry, Ricketti, Robins, Trayner, and Wallace

EXCUSED

Board Members Desmond, Patel, Rokosz, Walsh and Weiss

ALSO PRESENT

Assistant Attorney General Joyce and Deputy Attorneys General Dick, Ehrenkrantz, Flanzman, Gelber, and Kenny, Executive Director Roeder and Medical Director Gluck

STATEMENT CONCERNING ANNUAL NOTICE OF PUBLIC MEETINGS

The requirements of the "Open 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 9, 2002 which was transmitted to the STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD and the TRENTON TIMES, all on the 29th day of October 2002.

ANNOUNCEMENTS

The ad hoc subcommittee for the First Assistants in Surgery will meet at lunchtime.

Reminder - The February 2003 Board meeting will take place on February 19, 2003 (third Wednesday of the month).

CREDENTIAL COMMITTEE MEETING ASSIGNMENTS:

Monday, January 27, 2003 George DiFerdinando, M.D.
Monday, February 24, 2003 Karen Criss

IRC

Feb. 5, 2003 8:30 AM Edwin M. Trayner, M.D.

April 2, 2003 8:30 AM Kevin Walsh, P.A.

A notice was sent out to licensees concerning medical license renewal which expires June 30, 2003. This is a three part mailing: pre-renewal application, license renewal application and C.D.S. registration.

Dr. Harrer spoke of the activities of the last six months which included presentations of HIPAA by Dr. Haddad, updates on malpractice by a representation on MIIX Advantage, a Federation of State Medical Board update, several meetings of the CNM Advisory Committee, the Managed Care Committee, and authorization for streamlining the credentialing process. The Physician Surveys' statistics are being finalized and a preliminary report has been submitted to D.A.G. Joyce referable to the issue of office Surgical Anesthesia Regulations (i.e., the number of possible offices which might be subject to these regulations). It is hoped that Dr. Cantor's presentation of some preliminary findings from the Survey will be scheduled for the February Executive Committee and the full Board in March. The Board adopted surgical anesthesia regulations for physician offices, approved publication of the CME regulations in the New Jersey Register, approved the adoption of the practice of medicine across state lines regulations, regulatory amendment of Kinevac and approved changes in the Board's Patient Records Rule. During the past six months there have been numerous other initiatives, meetings and many discussions by the Board and Dr. Harrer thanked every Board member for their time, commitment and professional responsibility. Dr. Harrer also thanked the Division of Law and members of the Board office staff. He asked that the members reaffirm their commitment to the Board responsibilities and obligations beginning with attendance and preparation prior to meeting.

MINUTES - THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE DECEMBER 11, 2002 OPEN BOARD MINUTES AS CORRECTED. Drs. Chen, Huston and Moussa were not present for vote in this matter.

MINUTES - THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE DECEMBER 16, 2002 OPEN CREDENTIALS COMMITTEE MEETING AS CORRECTED. The minutes mention a Malpractice Committee. This should be called the Malpractice Advisory Committee to the Credentials Committee. Drs. Chen, Huston and Moussa were not present for vote in this matter.

MINUTES - THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE DECEMBER 16, 2002 CERTIFIED NURSE MIDWIFE OPEN COMMITTEE MINUTES AS SUBMITTED. Drs. Chen, Huston and Moussa were not present for vote in this matter.

MINUTES - THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE NOVEMBER 15, 2002 PHYSICIANS ASSISTANT ADVISORY COMMITTEE MINUTES AS SUBMITTED WITH THE EXCEPTION OF TABLING PART B SINCE D.A.G. LEVINE AND BOARD MEMBER WALSH WERE NOT PRESENT FOR CLARIFICATION. Drs. Chen, Huston and Moussa were not present for vote in this matter.

OLD BUSINESS

1. PROPOSED MIDWIFERY REGULATIONS

The Board will recall that on October 7, 2002 proposed new midwifery regulations were published in the New Jersey Register. A public hearing also was held on October 25, 2002 for the purpose of allowing individuals to address the Board concerning the proposed revisions. The comment period ended on December 6, 2002.

The Board reviewed a copy of the Hearing Officer's report which summarized the statements made at the Hearing and included responses to the statements received at the Hearing. Also reviewed was a summary of the written comments received and responses thereto. After review of all the materials by the Midwife Liaison Committee, it suggested that a non substantive amendment to the proposed definition of "certified midwife" to clarify that the name of the "ACC" is the "ACNM

Certification Council" and not the American College of Nurse Midwives Certification Council be made. It further recommended that the Board adopt the midwifery regulations (as amended) and publish it for adoption in the New Jersey Register. Dr. Perry voiced opposition to allowing midwives to perform circumcisions.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT THE PROPOSED REGULATION AND TO PUBLISH IN THE NEW JERSEY REGISTER. Dr. Perry voted in opposition. Drs. Huston and Moussa were not present for vote in this matter.

NEW BUSINESS

2. LEGISLATION

A50 "Patients First Act of 2002"

Introduced by Assemblypersons Joseph J. Roberts, Neil M. Cohen, Loretta Weinberg, John F. McKeon, as the primary sponsors and Bonnie Watson Coleman, as the co-sponsor, on December 9, 2002. It was introduced and referred to the Assembly Health and Human Services Committee, Assembly Banking and Insurance Committee and the Assembly Appropriations Committee. This bill passed the Assembly on December 12, 2002. The Board also reviewed a copy of Senate Bill 2174. Judy Gleason submitted a memo comparing the two bills and was present to discuss the similarities in both bills.

Dr. Robins commented that the Board should congratulate the legislature for their intent to grapple with the issues of malpractice insurance coverage in the State. He opined that the citizens of New Jersey will suffer harm because of lack of accessibility to competent physicians if malpractice premiums are at a level where physicians, especially those in high risk specialties, will be driven out of practice. Accessibility of insurance should not be separated from affordability. Rates imposed by carriers are controlled not only by past business decisions and misjudgments and by a reduced return on investment in the current economic climate, but much more importantly by what seems to be an increase in numbers of claims and the amounts of awards. He suggested that the Legislature consider in detail the pros and cons of capping non-economic awards. It is hoped that the Legislature will consider the above comments in its deliberations in tort reform.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REFER THIS MATTER TO THE EXECUTIVE COMMITTEE TO DETERMINE WHETHER A MORE FORMAL RESPONSE IS APPROPRIATE. A.A.G. Joyce indicated that a representative of the Attorney General's Office will meet with Board members to further discuss these issues during lunchtime. Dr. Huston was not present for vote in this matter.

A2758 Seeks to make certain physicians subject to inspection of their offices by DHSS.

Introduced by Loretta Weinberg and referred to the Assembly Health and Human Services Committee on September 9, 2002. On November 25, 2002 it was reported out of Committee with a substitute bill and referred to the Assembly Appropriations Committee.

The Executive Committee recommends opposing the bill as written. While the Committee supports the general concept of inspection of physicians' offices, the bill appears to be "discriminatory" in its selection of the group of physicians subject to inspection and is grounded on the assumption that if a physician has hospital privileges, there is no need to inspect those offices. Any inspection performed should be done according the Board of Medical Examiners rules and regulations, as well as those of other agencies governing an office practice. Further, the bill does not define the

role or responsibility of either the DHSS or the BME. The bill also erodes some of the provisions of the Board's surgical and anesthesia regulations in an in office setting. The Committee also noted that many physicians already perform inspection relating to certain HMO participation, Medicare, JCHA and AAHC.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THIS BILL WITH THE ABOVE COMMENTS. THE SURGICAL ANESTHESIA REGULATIONS ADDRESS MANY OF THE CONCERNS IN THE BILL AND THE INSPECTION CAN BE SIMPLIFIED BY ALLOWING INSPECTION BY THE FOUR ENTITIES LISTED ABOVE WHO CAN THEN REPORT TO THE BOARD. Dr. Huston was not present for vote in this matter

A2839 Seeks to require pharmaceutical manufacturers to disclose gifts, fees and other economic benefits provided to health care providers for promotional and marketing purposes to DHSS.

The Executive Committee did not take a position on this proposed bill, but noted that it is a question of ethics and that the physician should be disclosing this information to the patients.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TAKE NO POSITION.

A31281 Seeks to require the State Board of Medical Examiners to suspend the license of a physician whose license has been revoked by another state, agency or authority.

Introduced by Assemblyman Munoz on December 16, 2002. A motion to oppose as well as a motion to support with the recommendation that the hearing time be made two months instead of 30 days did not carry. A third motion to support if the agency or authority is omitted also did not pass.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REFER THIS BILL TO THE EXECUTIVE COMMITTEE FOR DISCUSSION.

S2184 Seeks to require physicians to inform patients diagnosed with breast cancer of treatment options.

Introduced by Senators Matheussen and Inverso on December 16, 2002. The Board members commented that physicians recognize how to manage breast cancer and any other disease and will do so.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THIS BILL. The Board did not believe that it was necessary to legislate medicine in this way. It believed that physicians are aware of their responsibility to properly inform patients of options. Additionally, information discussed with a patient concerning treatment options and course of treatment are required to be part of the patient records under the Board's current medical records rule. This bill does not appear to facilitate discussion between the patient and physician, but appears to legislate "cook book" medicine.

3. RULE PROPOSAL

The Board reviewed a copy of a rule proposal from the Division of Epidemiology, Environmental and Occupational Health, Division of AIDS Prevention and Control. Comments are due by January 17, 2003.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SEND SUPPORTIVE LETTERS. Dr. Paul abstained from vote in this matter.

INFORMATIONAL

PUBLIC COMMENT

A representative of the New Jersey Medical Society was present and indicated that the Society does not support either piece of legislation that deals with the current malpractice issues.

Carolyn T. Torre, R.N., Director of Practice for the New Jersey State Nurses Association was present and commented that NJSNA did express concern about the performance of circumcision by non-nurse midwives. Ms. Torre agreed with Dr. Perry's comments during discussion of the CNM regulations that a study needs to be done on this procedure being done by midwives nationwide.

Respectfully submitted,

William V. Harrer, M.D., B.L.D.
President

