State Board of Medical Examiners

Open Board Minutes
March 12, 2003

The meeting of the New Jersey State Board of Medical Examiners was held on March 12, 2003 at the Richard J. Hughes 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, DiFerdinando, Farrell, Haddad, Harrer, Huston, Moussa, Patel, Perry, Ricketti, Robins, Rokosz, Trayner and Wallace

EXCUSED

Board Members Desmond, Lucas, Walsh and Weiss

ALSO PRESENT

Assistant Attorney General Joyce, Deputy Attorneys General Dick, Erhenkrantz, Flanzman, Gelber, Kenny, Levine, and Warhaftig, and Executive Director Roeder

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 ATLANTIC CITY PRESS, STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD and the TRENTON TIMES, all on the 29th day of October 2002.

ANNOUNCEMENTS

Dr. Harrer reminded the members of the Orientation Program for New Licensees that a meeting would take place during lunch.

Credential Committee Meeting Assignments:


Monday, April 21, 2003 Donald C. Huston, Jr., D.O.

IRC

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

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE FEBRUARY 19, 2003 OPEN BOARD MINUTES AS SUBMITTED. Drs. Huston and Moussa were not present for discussion and vote on these minutes.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE FEBRUARY 24, 2002 OPEN CREDENTIALS COMMITTEE MINUTES EXCEPT AMENDED THE RECOMMENDATION IN THE MATTER OF DR. ARNOLD INSOFAR AS NOT TO REQUIRE HIS
APPEARANCE BEFORE THE CREDENTIALS COMMITTEE IF IT CAN BE CONFIRMED THAT HE HAS COMPLETED THE CONTINUING EDUCATION REQUIREMENTS AS INDICATED ON HIS APPLICATION. Drs. Rokosz and Wallace recused from discussion and vote in the St. George matter. Drs. Huston and Moussa were not present for discussion and vote on these minutes.

MINUTES THE BOARD, UPON MOTION MADE AND SECONDED VOTED TO APPROVE THE JANUARY 17, 2003 PHYSICIANS ASSISTANT ADVISORY COMMITTEE PUBLIC SESSION MINUTES AS SUBMITTED. Dr. Huston was not present for discussion and vote in this matter.

OLD BUSINESS

1. SURGICAL AND ANESTHESIA STANDARDS IN PHYSICIANS' OFFICES
Alternative Privileges N.J.A.C. 13:35-4A.12 Privileging Implementation

The alternative privileging rule, which became effective upon its publication in the New Jersey Register on December 16, 2002, provides the mechanism by which those licensee practitioners who do not hold current hospital privileges can seek privileges from the Board to administer anesthesia or perform surgery in the office setting. A complete copy of the rule, containing the section adopted in 1998 (with amendments) and the alternative privileges rule, was attached.

The rule provides that practitioners seeking alternative privileges must apply for alternative privileges within one year of the effective date (by December 16, 2003). Practitioners without privileges need not change their in-office practice until their applications for alternative privileges are processed. So that licensee practitioners may familiarize themselves with the application requirements and process as soon as possible, sample application information, which will be available on the web site or in hard copy, was provided as informational at this time.

In addition, decisions related to the ultimate designation of an outsourcing entity and the review process must now be considered. Draft eligibility criteria and clinical competence review forms, for entities that may be interested in being considered as the outsourcing entity, have been reviewed by the Executive Committee which recommended they be distributed to potential outsourcing entities.

THE BOARD ACCEPTED THIS AS INFORMATIONAL. Dr. Huston was not present for discussion of this matter.

NEW BUSINESS

2. HEARING AID EXAMINATION RULE PROPOSAL

Attached was a proposed amendment for the Hearing Aid Dispensers' Examining Committee Rules. In short, the examining body is proposing to change their scoring system and the Committee needs to change the regulation in line with this change. The Executive Committee recommends approval.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THE PROPOSED AMENDMENTS. Dr. Huston was not present for discussion and vote in this matter.

3. S-177 - SEEKS TO REVISE STATUTES CONCERNING AUDIOLOGISTS, SPEECH LANGUAGE PATHOLOGISTS AND HEARING AID DISPENSERS
Comments have been requested on this proposed legislation. As it has been reported to Executive Director Roeder, the Division's comments include the following: The Audiology Committee believes that the bill should be amended, allowing for the reimbursement of Committee members, but supports this bill, particularly the sections that expand the scope of practice in audiology and speech-language pathology, without such amendment. The expanded scope includes oral-pharyngeal motor dysfunction and cerumen managements, something that the Committee has been in favor of for some time.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THE LEGISLATION WITH THE AMENDMENTS AS SUGGESTED BY THE AUDIOLOGY COMMITTEE.

4. PHYSICIAN CREDENTIALING APPLICATION
DIVISION OF HEALTH CARE SYSTEMS ANALYSIS
PROPOSED NEW RULE N.J.A.C. 8:38C

Attached for the Committee consideration and potential comment was a copy of the proposed new rule at N.J.A.C. 8:38C. Comments are due to the Department of Health and Senior Services on or before March 22, 2003.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUPPORT THIS PROPOSED NEW RULE. Dr. Huston was not present for discussion or vote in this matter.

5. LEGISLATION

A 3364 Seeks to revise the Scope of Practice of Optometrists

Introduced and referred to the Assembly of Consumer Affairs Committee on February 27, 2003.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO STRONGLY OPPOSE THIS LEGISLATION AS IT EXPANDS THE SCOPE OF OPTOMETRY FAR BEYOND THE SCOPE OF PRACTICE IN WHICH THEY ARE TRAINED. THE EXPANSION INCLUDES MANY MEDICAL PROCEDURES WHICH SHOULD BE RESTRICTED TO PHYSICIANS, AND IN PARTICULAR, TO OPHTHALMOLOGISTS. ADDITIONALLY, THE BOARD MADE THE FOLLOWING COMMENTS:

* The bill changes relating to pharmaceutical agents and therapeutic modalities greatly broadens the scope of practice without the evidence of sufficient training/education/skill levels that will advance patient safety

* 45:12-1 "...administration of any diagnostic or therapeutic modality reasonable for the...."

the word reasonable is vague, not defined, not necessarily falling within the training/education of optometrists

"therapeutic modality" is a term that is too open-ended, nebulous, vague and is not defined and potentially will lead to confusion as to its meaning within the licensed community; potentially could be interpreted to include medications, prescriptions, surgery, laser, fluoroscopy, by way of example. No evidence that training/education for these procedures are part of the curriculum and/or training within the optometry school/education.

(d) expands the scope of practice well beyond their training; the scope articulated within (d) is the practice of medicine, not optometry. Without the assurance of the necessary training and
education, this will not advance patient safety.

(d) "including controlled dangerous substances"; abuse potential; unclear as to why this scope is needed for an optometrist. For example, another limited licensee such as a Physician Assistant, does not have the authority to prescribe CDS and a Physician Assistant, under their current scope of practice, treats a wide array of painful medical/surgical conditions which warrant the use of CDS.

(e) O.D.s have not been sufficiently trained in the use of epinephrine, which is a dangerous drug if used incorrectly, or advanced cardiac resuscitation because not within the scope of training/education of optometrists; it should be noted that airway management is just as, if not more, critical.

(g) performance of an ophthalmic ultrasound and use of laser is the practice of medicine; optometrists do not possess the requisite surgical or residency training following graduation from school as is the case with a physician-ophthalmologist.

(h) "...ocular conditions and diseases and the ocular manifestations of systemic conditions and diseases" includes the use of laser surgery in the case of a diabetic and therefore involves an invasive technique (which is the practice of medicine) and is outside the training/education of an optometrist

* Agree with CME changes as it relates to qualifications for approval or disapproval of course.

* Section 7. "Upon approval by the Board, a treatment modality shall be considered to be the practice of optometry."

Gives the Optometry Board full authority to delineate the scope of practice without legislative change (i.e., statute) or input; this is a self-serving section; too much authority for the Board that has not been granted by the statute

ultra vires for the Board

language "including but not limited to" coupled with the above comments also lives the power of the Board too open ended and wide open to interpretation.

" General observation that not all optometrists have the same education and training, depending on where one graduates dictates the appropriate skill level; aspects of the bill which greatly expand the scope of practice far exceeds the training/education received.

Dr. Houston was not present for discussion and vote in this matter.

S 2267 Seeks to prohibit writing of online prescriptions for persons who have not been examined by prescriber.

Introduced and referred to the Senate Health, Human Services and Senior Citizens Committee.

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

S 2024 Seeks to restrict the practice of midwifery to State-licensed registered professional nurse.

Introduced and referred to Senate Health, Human Services and Senior Citizens Committee on or

Attached were the comments to this proposed legislation from the midwifery committee.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THIS LEGISLATION. IT IS CONTRARY TO THE WORK THAT HAS BEEN DONE BY THE MIDWIFERY COMMITTEE, WHO CONDUCTED A SERIES OF HEARINGS AND GATHERED PUBLIC COMMENTS ON THE PRACTICE OF MIDWIFERY IN THE STATE. THIS LEGISLATION IS CONTRARY TO THE INFORMATION RECEIVED BY THE COMMITTEE AND THERE DOES NOT APPEAR TO BE ANYTHING IN THE PUBLIC RECORD TO SUPPORT THIS BILL.

INFORMATIONAL

PUBLIC COMMENT

None

Respectfully submitted,

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