

State Board of Medical Examiners
Open Public Session Minutes
October 13, 2004

The meeting of the New Jersey State Board of Medical Examiners was held on October 13, 2004 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 Bernard Robins, M.D. F.A.C.P., President.

PRESENT

Board Members Chen, Criss, Farrell, Haddad, Harrer, Lucas, Moussa, Patel Perry, Ricketti, Robins, Rokosz, Trayner, Walsh and Weiss.

EXCUSED

Board Members Huston and Paul.

ABSENT

Board Members Desmond and Wallace.

ALSO PRESENT

Assistant Attorney General Sharon Joyce, Deputy Attorneys General Ehrenkrantz, Flanzman, Gelber, Kenny and Levine; 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 8, 2003 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 11th day of November 2003.

ANNOUNCEMENTS

MINUTES - THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE SEPTEMBER 8, 2004 OPEN BOARD MINUTES.

NEW BUSINESS

1. APPROVAL OF 2005 BOARD MEETING DATES

The following dates were submitted for Board approval for the 2005 Board meeting dates:

January 12 July 13
February 9 August 10
March 9 September 14
April 13 October 121
May 11 November 9
June 8 December 14

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE ABOVE LISTED DATES FOR THE 2005 BOARD MEETINGS, EXCEPT IT VOTED TO CHANGE THE OCTOBER MEETING TO THE THIRD WEDNESDAY (OCTOBER 19TH) BECAUSE YOM KIPPUR IS OCTOBER 13, 2005.

It was also noted that some non-meat selections of food be ordered for the February 9, 2005 meeting because of Ash Wednesday.

2. POTENTIAL FEE INCREASE BIENNIAL RENEWAL FEES

Deputy Director June Levy and Darlene Kane appeared before the Board to discuss the potential increase of the biennial renewal fees. Attached was a copy of the proposal as well as the proposed draft regulations implementing the increase. The Executive Committee recommended support for the 80% increase.

Dr. Robins began the discussion by recognizing that any fee increase was a very sensitive issue considering the recent increase of malpractice insurance fees, lower reimbursement fees, and the additional tax burdens imposed on selected services. He also recognized the increase fees associated with running a practice, such as an increase real estate and rental fees. Dr. Robins also recognized the cost of government has increased and while government is attempting to do its best in controlling costs, in the current economic climate, it remains difficult. The Board's primary responsibility is to protect the public. He acknowledged that in the past several years, the Board has been underfunded and lacked the adequate number of staff, resources and improvements in technology. Dr. Robins reminded the Board that within the last year, it performed a self-critical analysis and made recommendations of ways in which the Board and in particular, the Administrative Office, would be more productive and improve functions so as to respond to the Board's charge in a more rapid and efficient manner. With that background in mind, he introduced June Levy, Chief Administrative Officer and Assistant Executive Director, and Darlene Kane, Chief Budget Officer, of the Division of Consumer Affairs.

Ms. Levy began by explaining that the Division of Consumer Affairs must conduct a study of the Board's budget one year before the renewal period in order to project out expenses and revenue to determine its budget. When the projected expenditures exceed projected revenues, a fee increase is needed. Pursuant to the law, all professional and occupational licensing boards must fund their operating costs through the assessment of its licensing and other related fees. The statute further requires that the fees be set at a level that will raise sufficient funds to meet, not to exceed, the amount needed to cover costs. The proposed new fee schedule complies with these statutory requirements. The last fee increase, Ms. Levy continued, was in 1995. The proposed fee increase is an 80% increase and is needed in order to address the projected loss of approximately \$9 million through the 2007 fiscal years.

She further explained that over the last fiscal year, the Board had been required to assist the Division of Consumer Affairs in creating the legislative mandated physician profile system. This resulted with an anticipated budget deficit by the conclusion of this fiscal year, which will end on June 30, 2005. She continued by explaining that as a result of the Board's self-critical analysis, the Board authorized several initiatives to provide improved services to the public and its licensees. She cited as an example the new telephone system, on line application and renewal processes, and an increase in the number of staff, including a Medical Education Director, new customer service representatives and additional staff to more effectively review consumer complaints.

In response to Board member questions, Ms. Levy explained certain line items. For example, under professional services, she noted that \$100,000 has been budgeted to pay for certain consultation services currently performed by the Physicians' Health Program. She also discussed the costs of the physician profile project. The Board urged Ms. Levy to continue to explore whether there are other funding sources as it believed it was unfair through the increase of the renewal fee to make the licensees pay for this legislative initiative. The Board also requested that on an ongoing basis that the Division of Consumer Affairs more aggressively pursue funding on future legislative proposals that impact the Medical Board and its resources. A number of Board members expressed their displeasure with the proposed increase generally for the reasons first articulated at the beginning of the discussion. There was consensus that the Division continue to explore other funding sources for the costs associated with the physician profile.

Dr. Scott from the Medical Society spoke to the Board in opposition of the proposed increase. He acknowledged that there are significant changes occurring in both government and the field of medicine. Licensees, according to Dr. Scott, are being asked to do more and more, while they receive less and less in return. The government, he

continued, failed the doctors in initiating adequate and appropriate tort reform. To make matters worse, government recently passed a tax on certain services rendered by certain practitioners. He believed that it was unfair and incredulous the malpractice attorneys take home millions for a case and only pay less than \$200 a year to renew their licenses. The increase in fees will be just another reason why new licensees will not apply in New Jersey and this will impact the availability of patient care. The legislators need realize that the public needs to absorb the costs for the physician profile and not the doctors. He also noted that there was a 42% increase in staff at the administrative office and he was not aware of any medical practice that would be afforded that luxury. Finally, he questioned the need for the new telephone system.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO EXPLORE THE POSSIBILITY OF CHARGING A FEE TO THE PUBLIC FOR THE USE OF THE PHYSICIAN PROFILE DATABASE AS A POTENTIAL REVENUE SOURCE. ADDITIONALLY, IT VOTED TO RECONVENE THE BUDGET AND FINANCIAL COMMITTEE TO STUDY THE PROPOSED INCREASE.

Messrs. Farrell and Weiss voted in opposition to charging a fee to the public. They believed that the spirit and intent of the legislation did not contemplate such a fee.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED FEE INCREASE FOR NOTICE AND COMMENT IN THE NEW JERSEY REGISTER AND THAT THIS ITEM BE ON THE BOARD AGENDA EACH MONTH THROUGH THE COMMENT PERIOD.

Dr. Perry voted in opposition.

3. LEGISLATION

Attached for comment was Assembly Bill 3279 introduced by Assemblywoman Weinberg. The bill was introduced on September 27, 2004 and referred to the Assembly Health and Human Services Committee. The bill seeks to allow tax credits to health care professionals for the expenses in achieving accessibility for person with mobility impairments.

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

OLD BUSINESS

4. PHYSICAL THERAPY GUIDELINES

The Board of Physical Therapy is required to establish standards in collaboration with the BME, setting forth the conditions under which a Physical Therapist is required to refer an individual being treated by a physical therapist to a practitioner licensed to practice dentistry, podiatry or medicine and surgery in this State. Attached for the Board's consideration was a copy of the most recent proposed guidelines. The language contained in this proposal was jointly written by the Executive Committee and representatives of the Board of Physical Therapy.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED REGULATION FOR NOTICE AND COMMENT IN THE NEW JERSEY REGISTER by the Board of Physical Therapy.

5. MINIMUM STANDARDS FOR THE PERFORMANCE OF NEW OR NOVEL PROCEDURES IN THE OFFICE

Attached for the Board's information was a copy of its proposed new rule concerning the requirements which licensees must meet when performing new or novel procedures in an office setting. Comments are due by December 3, 2004.

The Board accepted this as informational.

INFORMATIONAL

PUBLIC COMMENT

Respectfully submitted,

Bernard Robins, M.D., F.A.C.P.
President

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