

**OPEN BOARD MINUTES**

**NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS**

**July 10, 2019**

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**ROLL CALL**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, July 10, 2019 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor Conference Center, Trenton, New Jersey. The meeting was called to order by Board President, Dr. Paul Carniol.

**Present**

Board Members Akhtar, Aqel, Batool, Bridges, Carniol, Chervenak, D'Angelo, Gater, Greatrex, Kubiel, McGrath, Metzger, Racanelli, Rieber Sabando, Verdi and Zinterhofer.

**Excused**

Board Members Gellman and Soloway.

**Also Present**

Assistant Deputy Attorney General Joyce and Hollander; Senior Deputy Attorneys General Flanzman and Gelber; Deputy Attorneys General Calendar, Hafner, and Puteska; William V. Roeder, Executive Director of the NJ State Medical Board.

**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 October 10, 2018 which was transmitted to

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the ATLANTIC CITY PRESS, STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD and the TRENTON TIMES, all on the 13<sup>th</sup> day of November 2018.

## **ANNOUNCEMENTS**

Prior to the elections, Dr. Carniol thanked everyone for all the support shown to him over the last year and a half. He has enjoyed being President and throughout his tenure, he was continually impressed by the dedication and commitment of the Board members. He encouraged the members to continue to debate the issues with the diversity of opinions around the table so that the Board would continue to reach well-reasoned decisions. He also thanked the staff of the Administrative Office for the support shown him, as well as the Division of Law for the direction and service to protecting the public. Similarly, he expressed his appreciation to the members of the Executive Committee for the wise counsel offered him on some very challenging issues. He expressed his continued support to the work of the Board as he stepped down.

## **ELECTION OF OFFICERS**

The Nominating Committee (comprising Dr. Kubiel (chair), Ms. McGrath and Ms. Batool) announced the following slate of officers for the 2019-2020 term.

*President* - Scott E. Metzger, M.D.

*Vice - President* - Otto F. Sabando, D.O., F.A.C.O.E.P.,

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F.A.C.E.P.

*Secretary* - Kathleen L. Gater, CNM, MS

*Treasurer* - Kathleen V. Greatrex, M.D.

Further nominations were then opened to the floor. Hearing none, upon motion made and seconded, nominations were closed.

**UPON MOTION MADE AND SECONDED, THE BOARD VOTED IN THE SLATE OF OFFICERS. THE MOTION CARRIED UNANIMOUSLY.**

The Motion was made by Dr. Aqel and seconded by Ms. McGrath.

As Dr. Metzger assumed his role as the newly elected President, he thanked Dr. Carniol for all his hard work in keeping the Board focused on the issues at hand and complimented him for his leadership, which allowed the Board to accomplish many important initiatives under his guidance. He also thanked the Board members for their vote of confidence in electing him and pledged his commitment to continuing the great work started by Dr. Carniol.

DAG Puteska also thanked Dr. Carniol, in particular for his availability at any hour of the day or night. He expressed his appreciation on behalf of all the deputies for his timely response on some very difficult issues.

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The Board applauded Dr. Carniol for his work.

**MINUTES**

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JUNE 12, 2019 OPEN BOARD MINUTES.**

The Motion, made by Dr. Carniol and seconded by Mr. Bridges, carried with a unanimous vote.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JUNE 21, 2019 OPEN HEARING AID DISPENSERS MINUTES.**

The Motion carried unanimously after being made by Dr. Aqel and seconded by Dr. Carniol.

**NEW BUSINESS**

1. **ATHLETIC TRAINERS OPIOID CE ADOPTION**

Attached was the draft proposal concerning the CE on topics of opioid prescribing for Athletic Trainers which was published as a proposal for notice and comment in the *New Jersey Register* on or about January 7, 2019. One comment in favor of the proposal was received. The Board was asked to consider approving for publication in the *New Jersey Register* as an adoption.

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**UPON MOTION MADE BY DR. VERDI AND  
SECONDED BY DR. AQEL, THE BOARD VOTED TO  
APPROVE THE PROPOSAL AS AN ADOPTION AND  
PUBLISH IT IN THE *NEW JERSEY REGISTER*.**

**2. PERFUSIONIST ADVISORY COMMITTEE  
DRAFT REGULATIONS**

As part of its “post-sunset” review, the Perfusionists Advisory Committee approved the attached draft and the Board was asked for approval to publish in the *New Jersey Register* for Notice and Comment.

**THE BOARD, UPON MOTION MADE AND  
SECONDED, VOTED TO APPROVE THE DRAFT AND  
PUBLISH IN THE *NEW JERSEY REGISTER* FOR  
NOTICE AND COMMENT AS A PROPOSED  
AMENDMENT.**

The Motion was made by Dr. Carniol and seconded by Ms. McGrath. It carried with a unanimous vote.

**3. ELECTROLOGISTS ADVISORY COMMITTEE  
TELEHEALTH REGULATIONS**

Attached for review and approval were the Electrologists Advisory Committee’s proposed Telehealth and

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Telemedicine rules. The Board was asked to consider publication in the *New Jersey Register* for Notice and Comment.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSAL AND PUBLISH IN THE *NEW JERSEY REGISTER* FOR NOTICE AND COMMENT AS A PROPOSED AMENDMENT.**

The Motion, made by Dr. Carniol and seconded by Dr. Verdi, carried with a unanimous vote.

4. **PHYSICIAN ASSISTANT ADVISORY PROPOSED TELEMEDICINE REGULATIONS**

The Physician Assistant Advisory Committee approved the attached proposal implementing the telehealth/telemedicine statute. Board approval was sought for publication in the *New Jersey Register* for Notice and Comment.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSAL AND PUBLISH IN THE *NEW JERSEY REGISTER* FOR NOTICE AND COMMENT AS A PROPOSED AMENDMENT.**

The Motion, made by Dr. Carniol and seconded by Dr. D'Angelo, carried with a unanimous vote.

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**5. LICENSE RECIPROCITY**

Attached were draft regulations implementing provisions of license reciprocity as defined by amendments to the Statute in 2014. The Board was asked to approve the draft for publication in the *New Jersey Register* for Notice and Comment.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSAL AND PUBLISH IN THE *NEW JERSEY REGISTER* FOR NOTICE AND COMMENT AS A PROPOSED AMENDMENT.**

The Motion, made by Mr. Bridges and seconded by Dr. Carniol, carried with a unanimous vote.

Dr. Kubiel entered the meeting.

**6. LEGISLATION**

**A5460** - Seeks to make revisions to the law regarding prescribing of certain schedule II controlled dangerous substance and opioids.

**UPON MOTION MADE AND SECONDED, THE BOARD NOTED THAT IT GENERALLY IS SUPPORTIVE OF EFFORTS TO HAVE PRACTITIONERS CONSIDER ALTERNATIVES TO PRESCRIBING OF SCHEDULE II CDS OR ANY**

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**OPIOID DRUG. THE BOARD, HOWEVER, QUESTIONED WHY NITROUS OXIDE WAS SINGLED OUT IN THE LIST OF ALTERNATIVE, NON ADDICTIVE TREATMENTS TO PAIN. IT FURTHER NOTED THAT IT COULD NOT BE SUBSTITUTED AS AN ALTERNATIVE TO TREAT PAIN AS AN INITIAL PRESCRIPTION. GENERALLY, IT IS USED FOR PROCEDURES, NOT FOR ACUTE PAIN. AS WRITTEN, THE BOARD VOTED NOT TO SUPPORT THE PROPOSED BILL.**

The Motion was made by Dr. Carniol and seconded by Dr. Aqel. It carried with a unanimous vote.

**A5469** - Seeks to make it a crime of the first degree to coerce a patient to request medication pursuant to the "Medical Aid in Dying for the Terminally III Act" or to forge a patient's request for such medication.

**UPON A MOTION MADE BY DR. CARNIOL AND SECONDED BY DR. AQEL, THE BOARD VOTED UNANIMOUSLY NOT TO TAKE A POSITION ON THIS PROPOSAL.**

**A5525** - Seeks to repeal the "Medical Aid in Dying for the Terminally Ill Act."

**THE BOARD, UPON MOTION MADE BY DR. D'ANGELO AND SECONDED BY DR. CARNIOL, VOTED UNANIMOUSLY NOT TO TAKE A POSITION**



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**ON THIS PROPOSAL.**

**A5577** - Seeks to permit minors 13 years of age and older to consent to behavioral health care services.

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

Dr. Carniol made the Motion and it was seconded by Dr. Verdi. It carried with a unanimous vote.

**A5582** - Seeks to expressly prohibit examination of patient by health care practitioner without patient's informed written consent.

**THE BOARD, UPON MOTION MADE AND SECONDED, NOTED THAT IT APPRECIATED THE INTENT OF THE PROPOSAL, HOWEVER, IT VOTED NOT TO SUPPORT THE BILL. THE BOARD OPPOSED THE BILL INASMUCH AS IT SIMPLY CODIFIES WHAT IS ALREADY THE APPROPRIATE STANDARD OF CARE, WHICH ALREADY IS WITHIN THE APPROPRIATE AND RELEVANT GUIDELINES AND CODES OF PRACTICE. THE BOARD IS AWARE OF RECENT ARTICLES WHICH REPORTED THAT SUCH EXAMS WERE BEING PERFORMED AT TEACHING HOSPITALS, HOWEVER, THE BOARD BELIEVES THAT THE MEDICAL SCHOOLS IN NEW**

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**JERSEY REQUIRE SPECIFIC CONSENT TO BE OBTAINED WHENEVER ANY EXAM IS BEING PERFORMED FOR EDUCATIONAL PURPOSES. PART OF THE EDUCATIONAL EXPERIENCE OF TRAINING PHYSICIANS INCLUDES TEACHING A RESPECT FOR A PATIENT'S BODY AUTONOMY.**

Dr. Carniol made the motion, which was seconded by Dr. D'Angelo. It carried unanimously.

**A5650** - Seeks to expand the list of health care professionals authorized to provide certain services and support in connect with still births.

**A5684** - Seeks to establish a limited medical license for retired physicians.

**A5685** - Seeks to provide that the average time to issue licenses to physicians shall not exceed 51 days.

**DECISION ON THESE THREE BILLS WAS TABLED AND THE BILLS WERE REFERRED TO THE EXECUTIVE COMMITTEE FOR FURTHER REVIEW AND ANALYSIS BECAUSE THE UNDERLYING MATERIALS INADVERTENTLY WERE NOT PROVIDED TO THE BOARD MEMBERS.**

**S1961** - Seeks to establish the "Consumer Access to Health Care Act" and would eliminate the requirement of joint

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protocol with a physician for advanced practice nurses to prescribe medication.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THE BILL AS WRITTEN. IT WOULD SUPPORT THE BILL IF THE SUGGESTED AMENDMENTS PROFFERED BY THE BOARD WHEN IT REVIEWED AND CONSIDERED THIS PROPOSAL AT ITS MARCH 14, 2018 WERE ENACTED. AT THAT BOARD MEETING AND UPON A MOTION MADE BY MS. GATER AND SECONDED BY DR. GREATREX, THE BOARD, WITH UNANIMOUS SUPPORT, VOTED THE FOLLOWING:**

*The Board, reaffirmed its prior position of support of a similar proposal. Its support, however, was conditioned on the suggested amendments being incorporated into the bill.*

*The Board agreed with the nursing community that the removal would provide better access to care for patients and would increase access to care in allowing the ability of patients to be seen more easily, in particular in the family practice setting. The board noted that statistics from 2014-2015 demonstrated that at least 18 states, and the District of Columbia, no longer required the joint protocols. It would resolve the following problems created by the joint protocol:*

- 1. The physician's name on the prescription sometimes means that test results or pharmacy inquiries are sent to the physician and not the APN who wrote the prescription or order, thereby delaying care for the patient.*

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- 2. When the collaboration ended for whatever reason, the APN often had trouble finding another collaborating physician and essentially could not practice or continue with ongoing patient care until a new physician was found.*
- 3. Some physicians were/are charging large sums of money to sign the protocols.*

*The Board was not comfortable with the provision which would allow an APN's signature to satisfy any of the statutory requirements for a physician's signature. It opposed this provision in its entirety.*

*The Board also raised a number of concerns relating to the lack of malpractice requirements, limitations as to certain practice areas based on the lack of education or training in the specialty, the relationship of the APN to the general business corporation rules, or kickback rules.*

**IT WOULD SUPPORT THE ELIMINATION OF THE COLLABORATIVE AGREEMENT IF THE PROPOSAL WERE AMENDED TO ADDRESS THESE CONCERNS OF THE BOARD.**

The Motion in opposition carried with a unanimous vote after being made by Dr. Carniol and seconded by Dr. Racanelli.

**S3933** - Seeks to establish "Charlie's Law" which would require pharmacy practice sites and hospice programs to furnish patients with information and the means to safely dispose of unused prescription drugs and medications.

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The Board noted that the proposal did not place any requirements on its licensees, however, it opined that the Bill was not necessary.

**AT ITS AUGUST 2018 BOARD MEETING, THE BOARD REVIEWED A SIMILAR PROPOSAL AND AT THAT TIME, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THAT BILL AS THERE ALREADY EXISTS A LAW, PUBLIC LAW 2015, CHAPTER 66, WHICH BECAME EFFECTIVE JANUARY 1, 2016. THE LAW REQUIRES THAT PRESCRIBERS AND PHARMACIES PROVIDE A NOTICE ABOUT THE “DRUG TAKE-BACK PROGRAMS” UPON DISPENSING TO EACH PATIENT A CDS PRESCRIPTION MEDICATION. THE DIVISION OF CONSUMER AFFAIRS HAS PREPARED A COPY OF THAT NOTICE WHICH IS AVAILABLE ON LINE AT ITS WEBSITE.**

**THERE IS ALSO AVAILABLE THE LIST OF THE DROP BOX LOCATIONS AT WHICH THE MEDICATIONS CAN BE DROPPED OFF. MOREOVER, THIS BILL ATTEMPTS TO MICRO MANAGE PHARMACY SITES AND HOSPICE CENTERS IN FURTHER LEGISLATING THE CURRENT STANDARD OF CARE IN APPROPRIATELY INFORMING PATIENTS OF THE RISKS INHERENT IN HOLDING ONTO UNUSED, UNWANTED OR EXPIRED MEDICATIONS, PARTICULARLY CDS. THE REQUIREMENTS OF THE BILL ARE OVERLY BURDENSOME AS IT PERTAINS TO ALL MEDICATIONS, AND THE “NOTICE REQUIREMENTS” PERTAIN AND APPLY ANY TIME A PRESCRIPTION IS ISSUED OR A MEDICATION IS DISCONTINUED. THERE ALSO WILL BE THE UNFORESEEN EXPENDITURE OF UNNEEDED EXPENSES ON THE PART OF PHARMACIES AND HOSPICE PROGRAMS IN HAVING TO MAKE AVAILABLE THE NONTOXIC COMPOSITIONS TO**

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**SEQUESTER OR DEACTIVATE UNUSED, UNWANTED OR EXPIRED DRUGS. THE DROPOFF PROGRAM ALREADY HAS BEEN SUCCESSFUL IN THIS REGARD AND THE LEGISLATION DOES NOT APPEAR TO BE NEEDED.**

The Motion to reaffirm its prior position was made by Dr. Carniol and seconded by Mr. Bridges. It carried with a unanimous vote.

## OFF AGENDA ITEMS

### 7. **N.J.A.C.13:35-7.6**

The Board reviewed proposed amendments to N.J.A.C. 13:35-7.6 to implement the statutory changes effectuated with P.L. 2017, c.341.

**THE BOARD, UPON MOTION MADE BY DR. CARNIOL AND SECONDED BY DR. VERDI, VOTED TO APPROVE THE PROPOSED CHANGES AND PUBLISH IN *THE NEW JERSEY REGISTER* FOR NOTICE AND COMMENT.**

The Motion carried with a unanimous vote.

### 8. **MEDICAL AID IN DYING LAW PUBLIC LAW 2019, CHAPTER 59**

The Board reviewed a summary of this law and voted to post it on the website to assist practitioners as the law becomes effective August 1. The Board also referred the matter to the Executive Committee for continued review of the law and perhaps the

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development of FAQs or possibly draft regulations should there be a need for further clarification of the law.

**THE BOARD, UPON MOTION MADE AND SECONDED,  
VOTED TO PUBLISH THE SUMMARY ON THE BOARD'S  
WEBSITE.**

The Motion, which carried with a unanimous vote, was made by Dr. Kubiel and seconded by Mr. Bridges.

## OLD BUSINESS

### Nothing Scheduled

## INFORMATIONAL

- A 5643      Seeks to establish circumstances when a court may order a physical or psychological examination of the sexual assault victim in a civil action for when damages from sexual assault are sought.
- A 5646      Seeks to establish circumstances under which a court may order the physical or psychological examinations of a sexual assault victim.
- A 5686      Seeks to revise the effective date of Public Law 2017, ch. 283, concerning licensure of one-room surgical practices by the Department of Health to July 1, 2020 because of staff and resource limitations.

The Board accepted these as informational.

## **PUBLIC COMMENT**

None.

Respectfully submitted,

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Scott E. Metzger, M.D.  
President

WVR/br