

MEDICAL BOARD ATTACKED FROM FORMER INSIDER

By: Steven I. Kern, Esq.*

Claiming “things were out of hand,” the New State Board of Medical Examiners’ former Medical Director, Joseph Gluck, M.D. lashed out at the Board at its October meeting, decrying that the Board is “too concerned about statistics and [is] disregarding its mission to protect the public.”

Continuing his startling remarks, Dr. Gluck expressed his dissatisfaction with many of the decisions made by the Board, opining that the Board was not as tough as it should be in dealing with some physicians. Gluck said that it pained him to read about doctors in the newspapers and to know that the Board hasn’t done anything against that licensee.

Dr. Gluck also took aim at a screening committee, formed by the Board to take over the job of reviewing consumer complaints (a job he once performed), expressing strong dissatisfaction with many of the decisions being made by the committee and actually questioning whether the committee’s decisions were in the best interest of the public.

Similar criticism has long surrounded the Board. Patient advocates have long complained that the Board was not taking action against “bad doctors” and that penalties imposed are too light and take too long to achieve. On the other hand, healthcare lawyers who regularly appear before the Board have long complained that the Board has, for decades, focused its time and resources on minor infractions or isolated mistakes, while failing to address the truly serious cases of fraud and incompetence.

One proposal that has received recent attention is to move the Board to the Department of Health, where the Board can become an integral part of healthcare policy decisions which affect physicians and their patients. The proposal also calls for removal of prosecution of physicians from the Board to a professional prosecution section within the Attorney General’s office with direction to focus attention on seeking discipline against those who engage in truly egregious or dishonest conduct. The Board would retain jurisdiction, however, to ultimately determine a physician’s guilt or innocence, and what disciplinary sanctions, if any, to impose.

One of the problems with the current system, according to Board’s critics, is that physicians, and lay members of the Board, decide which physician is to be prosecuted and then these same individuals ultimately decide the physician’s guilt or innocence. These same critics of the Board complain that, under the current system, the individuals who decide which cases to send for prosecution often have little understanding of the complexity of prosecuting a case, or the resources that will be required to pursue the litigation. Even worse, the Board lacks any apparent guidelines for disciplinary sanctions and cases that should settle often go unsettled because the Board’s settlement position often exceeds the likely result if the accused physician elects to go through the hearing process. Therefore, this is often little incentive to settle cases early on.

While these criticisms have surrounded the Board for many years, now that the criticism is coming from directly from “one of its own”, perhaps the legislature and the Governor will restructure the Board to

allow it spend more of its time addressing serious policy issues, while allowing a professional prosecution section to target those relatively few physicians whose practices undermine the good and honest work of the vast majority of physicians practicing in New Jersey.

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