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Federal Aviation Administration

Certificate of Medical Training

EUGENE W. R. SIMS, M.D.

has satisfactorily completed a course in

Aviation Medicine

awarded at

Washington, D. C.

dated this 9th day of May 1974

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Federal Air Surgeon

J. P. Kelly, M.D.
Regional Flight Surgeon

Robert J. Delle M.D.
Chief, Civil Aeromedical Institute

James L. Flannery
Chief, Aeromedical Education Branch

30 Hrs.

RESOLUTION #1

SUPPORT OF ALL PROGRAMS OF NURSING EDUCATION
From the Board of Trustees
(Reference Committee "A")

Whereas, in New Jersey in 1968 the hospital schools of nursing graduated 84% of the total of graduates from all programs of nursing education in the State, accounting for 1,241 graduates out of the all-programs total of 1,476; and

Whereas, experience has demonstrated that hospital schools of nursing present programs adequately balanced in academic and clinical components which produce professional nurses of high competence; and

Whereas, the American Nurses Association has adopted a policy position which advocates that public support and funding be limited only to degree-granting programs of nursing education; and

Whereas, such a policy would unjustly and indefensibly disregard hospital schools of nursing as the prime and proven source of professional nurses, with great disservice to the public and the health care professions; now therefore be it

RESOLVED, that The Medical Society of New Jersey affirm its approval and support of all programs of nurse education -- baccalaureate, associate degree, hospital diploma, and practical; and be it further

RESOLVED, that The Medical Society of New Jersey urge the Governor, the members of the legislature, and the general public to encourage, expand, and financially support all such programs as critically necessary for the delivery of adequate nursing services to the people of New Jersey.

RESOLUTION #2

ASSIMILATION OF OSTEOPATHS
From the Essex County Medical Society
(Reference Committee "A")

Whereas, the American Medical Association's House of Delegates in July, 1969, amended AMA Bylaws so that qualified Doctors of Osteopathy may be admitted to full active membership in the American Medical Association; and

Whereas, this was done to assure the provision of the best possible health care to the American people and make available to osteopathic students and graduates education of the same high standards as prevail in undergraduate, graduate, and continuing medical education programs; and

Whereas, the AMA House of Delegates suggested that "each county and state medical society may accept qualified osteopaths as active members and thereby provide for their membership in the American Medical Association;" and

Whereas, the AMA House of Delegates suggested that state and county societies and other affected organizations "May proceed to make such constitution and bylaw changes as are necessary to implement the foregoing;" now therefore be it

RESOLVED, that the House of Delegates of The Medical Society of New Jersey instruct the Committee on Revision of Constitution and Bylaws to prepare suitable amendments for presentation at next year's annual convention to permit those Doctors of Osteopathy who are fully licensed to practice medicine and surgery to become members.

RESOLUTION #3

ESTABLISHMENT OF OFFICE OF PROFESSIONAL MEDICARE
LIAISON WITHIN PRUDENTIAL INSURANCE COMPANY
From the Morris County Medical Society
(Reference Committee "A")

Whereas, the medical profession is primarily concerned with the health care of the country; and

Whereas, the costs of health care are frequently assumed by third party carriers; and

Whereas, it has been found to be in the best interest of the community for the medical profession to have a method of close liaison with these insurance carriers; and

Whereas, there has been failure of a liaison with the Medicare carrier (Prudential Insurance Company of America) because of no professional office or person who can be easily called upon for direct aid and assistance; now therefore be it

RESOLVED, that The Medical Society of New Jersey urge and use its facilities to bring about the establishment of an Office of Medicare Liaison within the Prudential Insurance Company.

RESOLUTION #4

STATEWIDE AUTOMATED BOOKKEEPING,
ACCOUNTING, AND BILLING SYSTEM
From the Essex County Medical Society
(Reference Committee "B")

Whereas, medical societies in the State of New Jersey have not adopted modern, automated business methods in their bookkeeping, accounting and billing systems; and

Whereas, most businesses which collect and disburse large amounts of monies have already converted their systems; and

Whereas, account systems with which we deal, such as those of the AMA and the Hospital Service Plan of New Jersey are automated; and

Whereas it is becoming increasingly difficult to deal with an automated system when you are using double entry, outmoded card file systems and typed lists of members; and

Whereas, the initial conversion is expensive, but through the years the accounting and billing cost per member at both the county and state level would be greatly reduced; and

Whereas, other membership information could be put on computer cards for use in printing membership directories and specialized mailings, etc.; and

Whereas, no county society is large enough to justify its own system independent of the State Society, and an automated county society could not deal with the computers of the AMA going through a State Society which was not automated; and

Whereas, members could receive dues and Blue Cross billings in much the same manner as they now receive telephone bills, with a punch card to return for proper credit; and

Whereas, other state societies have done this and provided computer services to county components; and

Whereas, automated systems are no longer a luxury when dealing with eight thousand members; now therefore be it

RESOLVED, that The Medical Society of New Jersey investigate and establish an automated modern system of bookkeeping, accounting and billing and make the advantages of such system available to all component medical societies on a fair basis of cost.

RESOLUTION #5

MOBILE CORONARY CARE UNIT
From the Essex County Medical Society
(Reference Committee "D")

Whereas, there has been a recent abundance of articles and editorials in national medical publications favoring mobile cardiology care rescue units and ambulances and a program of training, accreditation, and licensing for medical assistants to ease the shortage of personnel capable of giving emergency treatment to carry out emergency procedures now considered "medical practice"; and

Whereas, the Essex County Medical Society considers that the crux of the matter involves three points:

- (1) The recognized time lapse between the patient's reported attack and subsequent adequate hospital care.
- (2) The emergency methods and procedures at the scene of the attack which would substantially improve survival rates.
- (3) The possibility of adequately training non-physicians to utilize these methods and procedures; and

Whereas, the Essex County Medical Society agrees that a mobile cardiology unit with carefully selected, well trained, intelligent, properly motivated personnel could save lives; and

Whereas, the Cardiology Committee of the Essex County Medical Society unanimously agreed that the use of emergency cardiac drugs is every bit as important as the use of the defibrillator in providing adequate ambulance-unit care in order to stabilize the patient prior to rushing him to the hospital for care; and

Whereas, the Essex County Medical Society unanimously agreed that a definition of what constitutes adequate training for paramedical personnel must be prepared, and that this should come from the American College of Cardiology or the U. S. Public Health Service or a medical school, rather than from a medical society's cardiology committee; now therefore be it

RESOLVED, that The Medical Society of New Jersey take the initiative and exercise leadership in this area of vital importance and cause legislation to be introduced which would permit adequately trained, paramedical mobile unit personnel to institute proper emergency cardiac procedures, in order to save the lives of more patients between the time of attack and their being transported to the hospital; and be it further

MOBILE CORONARY CARE UNIT, continued (2)

RESOLVED, that inasmuch as first-aid and rescue-squad personnel in many areas are the principal people to respond -- and in some areas the only personnel who can respond -- within minutes to an emergency situation, that steps be taken adequately to train them and to permit them legally to utilize all modalities available for mobile unit coronary care.

RESOLUTION #6

PROPOSED NATIONAL ACADEMY OF THE HEALTH
PROFESSIONS FOR RESEARCH AND POLICY
From the Essex County Medical Society
(Reference Committee "D")

Whereas, the Himler Report on pages 54, 55, 56, and 57 discusses the possible formation of a "National Academy of the Health Professions for Research and Policy;" and

Whereas, the formation of such an academy is a consideration for the future which deserves to be studied in detail with a careful weighing of its merits, disadvantages and most acceptable structure; and

Whereas, it is noted that the already suggested structure omits participation by clergy; and

Whereas, the clergy, who work closely with physicians in total patient care, as described in the AMA brochure on medicine and religion entitled "The Physician, The Clergy, and The Whole Man," deserve representation; now therefore be it

RESOLVED, that The Medical Society of New Jersey urge that any structure considered for such "National Academy of Health Professions For Research and Policy" include representatives of hospital chaplains.

RESOLUTION #7

IMMUNITY FOR PHYSICIANS VOLUNTEERING THEIR
SERVICES IN STATE MEDICAL PROGRAMS
From the Burlington County Medical Society
(Reference Committee "E")

Whereas, the New Jersey State Department of Health has, from time to time, recommended, endorsed and requested various health programs involving mass diagnostic, preventive, and therapeutic programs which are in the public interest in the effort to eliminate disease and other health hazards; and

Whereas, these programs require the participation of volunteer physicians to implement them; and

Whereas, such participation by physicians increases their exposure to civil damages in the event of possible malpractice action; and

Whereas, such liability may cause physicians to refrain from volunteering their professional services for causes which are deemed to be in the public interest; and

Whereas, such additional exposure to liability may cause already exorbitant malpractice insurance premiums to be increased still further; now therefore be it

RESOLVED, that The Medical Society of New Jersey seek enactment of State legislation which would provide The Medical Society of New Jersey, its component county medical societies and individual physicians with immunity from litigation which may arise from the rendering of professional services voluntarily in any diagnostic, preventive, or therapeutic health program recommended, endorsed, or requested by the New Jersey State Department of Health.

RESOLUTION #8

COMPENSATION OF PHYSICIANS UNDER
MEDICARE AND MEDICAID
From the Cumberland County Medical Society
(Reference Committee "E")

Whereas, present bases of compensation under Medicare and Medicaid include considerations of regions of practice and other criteria that make for inequities of payment to physicians throughout the State; now therefore be it

RESOLVED, that uniform fees be established for Medicare-Medicaid services on an equal basis for all doctors of medicine in all parts or counties of the State of New Jersey.

RESOLUTION #9

LEGISLATIVE APPROACH TO MALPRACTICE
From the Essex County Medical Society
(Reference Committee "E")

Whereas, we as physicians have realized that the number of unjustifiable professional liability suits has been rapidly increasing causing yearly jumps in premiums; and

Whereas, a Senate Subcommittee recently viewed the increased malpractice suits and higher judgments as a situation which, "threatens to become a national crisis with patients having to pay more for medical services"; and

Whereas, liability laws are governed by state legislation; and

Whereas, medical societies in California, Alaska, and Oregon have shown us that state legislation can be changed to help reverse the present unfavorable legal climate towards physicians; and

Whereas, the AMA has officially recommended that medical societies and physicians work toward obtaining more favorable liability laws through state legislators; now therefore be it

RESOLVED, that The Medical Society of New Jersey establish a small special committee to work with legislators with the goal of introducing and working toward achieving legislation along the following lines:

- (1) That if a liability case goes to court and the plaintiff loses, the law require that he pay all expenses, both his own and those of the defendant physician; and
- (2) That we attempt to establish through legislation maximum payment for any malpractice case. (Establishment of statutory ceilings on the damages that may be awarded for various kinds of injury or disability, or if a physician is working in a non-profit hospital or institution which has a maximum liability that he also be provided with this maximum liability protection.); and
- (3) Extend concept of privileged communications to the proceedings, and/or records of medical review committees of local medical societies and staff committees in hospitals; and
- (4) There shall be no monetary liability on part of, and no cause for action for damages shall arise against, any member of a duly appointed committee of state or local professional society, or duly appointed member of a committee of a medical

LEGISLATIVE APPROACH TO MALPRACTICE, continued (2)

staff of a licensed hospital, provided that they are operating pursuant to written and duly adopted bylaws; and

- (5) Require the court upon motion of either party to proceed to a separate trial of the defense of the Statute of Limitations before any other issue if the case is tried, if in an action against a physician or surgeon, the answer pleads that the action is barred by the Statute of Limitations.
- (6) Require that the jury be instructed that plaintiff has burden of proving defendant's negligence, by a preponderance of evidence, and that injury alone does not raise either a presumption or inference of negligence; and
- (7) To specifically provide immunity to members of cardiac resuscitation teams; and
- (8) To provide a good faith provision for emergency medical care for complications arising from prior care furnished by others; and
- (9) To permit defendant to file a motion requiring plaintiffs in malpractice actions to file a cost bond of not more than \$500. if there is a showing the claim is frivolous; and
- (10) To request the legislation to establish a maximum period of seven years from date of treatment of a minor within which an action to recover damages for personal injuries resulting from medical treatment or omissions must be filed; and
- (11) Legislation to abrogate res ipsa loquitur in malpractice cases; and
- (12) Legislation to require casualty insurance companies providing other liability lines to be required to insure medical malpractice at reasonable premium rates as a condition for doing business in the State; and
- (13) The introduction of a bill to lessen the number of actions based upon the theory of lack of informed consent; and
- (14) Legislation to provide for the downward gradation of contingent legal fees in malpractice cases to replace the present practices of plaintiff's attorneys charging a flat percentage regardless of the settlement or award; and be it further

RESOLVED, that this special committee be prepared to meet at the convenience of New Jersey Legislators to fully explain the import of each separate bill introduced.

RESOLUTION #10

OPPOSITION TO THE LEGALIZATION OF MARIHUANA
From the Essex County Medical Society
(Reference Committee "E")

Whereas, marihuana -- known variously as "grass", "weed", "pot", etc. -- is not a harmless or innocuous drug; and

Whereas, its use may precipitate intoxication characterized by excitement, mental confusion, disorientation, hallucinations, euphoria, depression, suicidal impulses, and the like; and

Whereas, its continued use may contribute to a loss of individual goals and ambitions, or evasion of and/or withdrawal from reality and the pursuit of illusory goals; and

Whereas, its widespread use by our youth as a means of coping with daily stresses of life is a cause of concern; and

Whereas, it is being prepared in increasingly concentrated forms; now therefore be it

RESOLVED, that The Medical Society of New Jersey affirm to the public that marihuana is a dangerous drug; and be it further

RESOLVED, that the Society assume leadership in advising the public that it is against changes in the laws related to the illicit sale or smuggling of the drug for sale purposes; and be it further

RESOLVED, that the Society clearly state its opposition to the legalization of marihuana; and be it further

RESOLVED, that The Medical Society of New Jersey cause a similar resolution to be introduced in the House of Delegates of the American Medical Association and direct the New Jersey Delegates to the American Medical Association to support these objectives.

RESOLUTION #11

TEMPORARY LICENSURE OF CERTAIN FOREIGN PHYSICIANS
From the Hudson County Medical Society
(Reference Committee "E")

Whereas, there is a critical shortage of physicians in New Jersey to adequately meet the needs of the community; and

Whereas, most of the hospitals of New Jersey are having difficulty in filling their internships and residencies with physicians trained in the United States; and

Whereas, many of these interns and residents are graduates of foreign medical schools who are in this country on temporary visas and intend to return to their home countries; and

Whereas, these foreign graduates after their internships and residencies are often available to cover various departments of the hospitals serving as house physicians and surgeons in hospitals with or without an intern or residency program; and

Whereas, under the existing Medical Practice Act of New Jersey these qualified and well-trained physicians cannot be employed unless licensed in the State of New Jersey; therefore be it

RESOLVED, that in order to allow the hospitals of New Jersey to better care for their patients, the Medical Practice Act be amended to permit the State Board of Medical Examiners to grant temporary licenses to eligible (as defined hereunder) physicians to work only in licensed hospitals and only under supervision of licensed physicians...

"Eligible physicians shall be those physicians who have completed an internship (or residency) in a hospital in the United States which has been approved by the Education Council of the American Medical Association (or Osteopathic Association) and have passed the ECFMG examination."

and; be it further

RESOLVED, that temporary licensure shall be granted annually to any such eligible physician for not more than a total of three years and only with the proof of his continued employment in a hospital licensed by the State of New Jersey.

RESOLUTION #12

MEDICARE BILLING FORMS
From the Hudson County Medical Society
(Reference Committee "E")

Whereas, the Prudential Insurance Company has changed the original Medicare billing form; and

Whereas, the new form is confusing to the patient; and

Whereas, it is noted that this new form does not indicate the amount the patient is responsible for as it formerly did; therefore be it

RESOLVED, that The Medical Society of New Jersey go on record as favoring a change in the Medicare form to include the amount due the physician by the patient and said amount be clearly indicated as in the original form.

RESOLUTION #13

SEPARATE DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION
From the Morris County Medical Society
(Reference Committee "F")

Whereas, the Morris County Medical Society wholly concurred with the 1968 Resolution #14, as amended; and

Whereas, Reference Committee "G" of that year, recommended that the House of Delegates adopt the Resolution, as amended; and

Whereas, the Council on Mental Health, after careful study, has issued a position statement -- "that there be a separate Department of Mental Health, with direct access to the high levels of government and medical responsibilities of mental health services in New Jersey"; now therefore be it

RESOLVED, that The Medical Society of New Jersey wholly adopt the most recent position statement submitted by its Council on Mental Health, urging a separate Department of Mental Health and Mental Retardation, with a licensed physician as Commissioner thereof.

RESOLUTION #14

HAZARDS OF AIR POLLUTION
From the Essex County Medical Society
(Reference Committee "G")

Whereas, medical evidence is now overwhelming that air pollution seriously affects health; and

Whereas, physicians who know of its health dangers should take the lead in informing the public; and

Whereas, at some future time, the human body may not adapt to an increasingly polluted environment; and

Whereas, medias such as press, radio, T.V. and advertising are open to the AMA as spokesman for the profession; and

Whereas, an alerted public will demand effective legislation and control action; now therefore be it

RESOLVED, that The Medical Society of New Jersey submit a resolution to the House of Delegates of the AMA resolving that the AMA initiate a continuing campaign thru the public media alerting the American people to the ever-increasing health hazards of air pollution and to the urgent need for more research and effective control measures.

RESOLUTION #15

MSNJ CONVENTION FORMAT
From the Essex County Medical Society
(Reference Committee "H")

Whereas, the present format of the annual convention of The Medical Society of New Jersey is unduly long and shows little consideration for the valued time of busy professional men; and

Whereas, scientific sessions have often overlapped with required attendance at delegate sessions so that important speakers have been left to address a few physicians and delegates have not been able to attend educational lectures of their choice; and

Whereas, all reference committees are held at the same time and a delegate or member interested in speaking at more than one cannot do so; now therefore be it

RESOLVED, that the MSNJ convention format be changed to permit members to speak to more issues, vote on issues without waiting around unnecessary days, attend scientific sessions of their choice which do not overlap business sessions; and be it further

RESOLVED, that in drafting such format the utmost consideration be given to conserving the members' time; and be it further

RESOLVED, that the following format which has worked well for some other medical organizations be given fair appraisal:

Saturday Morning - Reports of Officers and Committees

Saturday Afternoon - Half of the Reference Committees meet
(most important, topical, or paramount issues go to this day's reference committees).

Sunday Morning - Remainder or 2nd half of Reference Committees meet.

Sunday Afternoon - Delegate Session to vote on reference committee reports of committees which met Saturday afternoon.

Monday Morning - Delegate Session - vote on remainder of reference committee reports - those who met Sunday morning and hold election of officers.

Monday Afternoon - Delegate Sessions ended and Scientific Programs begin.

RESOLUTION #16

PHYSICIANS' WELFARE FUND

Joseph J. Kline, M.D., Delegate from Mercer County
(Reference Committee "B")

Whereas, a member physician and his family may become indigent because of the catastrophic or protracted illness of the physician; and

Whereas, temporary financial assistance might induce a more speedy rehabilitation of the physician and provide the means for his family to continue to live decently during the period of his convalescence; now therefore be it

RESOLVED, that The Medical Society of New Jersey adopt a special annual per capita membership assessment of two dollars (\$2.00) to develop a fund to meet this end; and be it further

RESOLVED, that a committee be appointed by the Board of Trustees to administer this program, such committee to consist of three (3) members, one each from the northern, central, and southern sections of the State; and be it further

RESOLVED, that the committee members serve staggered terms, and that they be chosen and empowered to disburse the funds under their control on the basis of their judgment and compassion.

RESOLUTION #17

MEDICAL SCHOOL PROGRAM AT RUTGERS
From the Somerset County Medical Society
(Reference Committee "D")

Whereas, there is admittedly a serious shortage of physicians in New Jersey and a critical need for the existence within the State of adequate educational facilities to afford citizens of New Jersey the opportunity of pursuing medical studies within its boundaries; and

Whereas, at the present time the school of medicine at Rutgers University offers only a two year program and that to a decidedly limited number of students; now therefore be it

RESOLVED, that The Medical Society of New Jersey urge the Governor and the New Jersey Legislature promptly to take all steps necessary to expedite the development of an expanded, full medical school program at Rutgers University including the early construction of the planned Psychiatric Institute.

RESOLUTION #18

NEW METHOD FOR REPORTING MATERNAL DEATHS
From Reynold E. Burch, M.D., Delegate from Essex County
(Reference Committee "G")

Whereas, the present system of investigation of maternal deaths is inadequate; and

Whereas, there has been a population increase in the State of New Jersey; and

Whereas, there has been increased hospital construction in the State of New Jersey; and

Whereas, there is considerable time involved in transportation in the securing of information of maternal mortalities; and

Whereas, the present stipend paid to the investigating physician in no way compensates for the amount of time and effort consumed in this pursuit; now therefore be it

RESOLVED, that a physician who is a Diplomate of the American Board of Obstetrics and Gynecology be officially designated by the proper agency of the New Jersey State Department of Health to review the charts and to conduct a complete investigation including interview of all associate parties; and be it further

RESOLVED, that a salary scale paid by the State of New Jersey Department of Health be developed for this position; and be it further

RESOLVED, that a standardized form be developed, designed to secure all relevant and pertinent information regarding maternal mortalities and that this form be circularized among the Maternal Welfare Committee of The Medical Society of New Jersey, and the County Maternal Welfare Committees for additional suggestions and approval; and be it further

RESOLVED, that this entire Resolution be submitted to the New Jersey State Department of Health.

RESOLUTION #19

COMPENSATION UNDER MEDICAID

From William M. Chase, M.D., Delegate from Essex County
(Reference Committee "E")

Whereas, The Medical Society of New Jersey has endorsed the principle of usual and customary fees for services rendered to patients receiving medical benefits under the Medicaid and Medicare Programs; and

Whereas, there is at present a change in this philosophy with respect to Medicare; and

Whereas, the New Jersey Medical Assistance and Health Services Act never implemented the doctrine of usual and customary fees for services; now therefore be it

RESOLVED, that The Medical Society of New Jersey petition the Medicaid Commission to publish a complete fee schedule with full disclosure of the mechanism by which those fees were arrived and how it affects each division of medicine and its specialties; and be it further

RESOLVED, that the Medicaid Commission put in print the criteria and standards to be used by its consultants with respect to authorizations for those medications and services requiring the prior permission of the Medicaid Commission before being prescribed.

* * * * *

The intent of this resolution is to give physicians the right to decide whether they will continue to service Medicaid recipients on the basis of what the State of New Jersey Department of Institutions and Agencies has already decided it will pay, thus therefore allowing the physician a free choice of patients as well as the patients a free choice of physicians.

RESOLUTION #20

CRITERIA USED BY FISCAL INTERMEDIARIES IN REVIEWING PHYSICIANS' SERVICES
From William M. Chase, M.D., Delegate from Essex County
(Reference Committee "E")

Whereas, the fiscal intermediaries have undertaken to review the services of physicians for evidence of overutilization, abuse, and fraud; and

Whereas, it appears that such scrutiny is not done by a peer review panel; and

Whereas, the notification of the results of this review is being directed to the attention of patients with the inference that the services rendered were not good medical practice or suggesting that these services are useless forms of treatment; now therefore be it

RESOLVED, that The Medical Society of New Jersey take a stand against such practice, so as to protect the judgement and character of physicians who may be exposed to legal actions as a result of such letters; and be it further

RESOLVED, that The Medical Society of New Jersey request the carriers to call to the attention of every physician in the State any procedure or modality which has been designated by the Federal Government as unacceptable for Medicare Reimbursement.

RESOLUTION #21

INTERRELATIONSHIP BETWEEN MEDICAID AND THE REHABILITATION COMMISSION
From William M. Chase, M.D., Delegate from Essex County
(Reference Committee "E")

Whereas, there are guidelines established for the interrelationship between the Public Assistance programs and the New Jersey Rehabilitation Commission; and

Whereas, with the implementation of the New Jersey Medical Assistance and Health Services Program these services have been expanded and liberalized; and

Whereas, the fiscal structure of the Medicaid Program is broader than that of the Rehabilitation Commission; and

Whereas, there is at present no provision for an interplay of financial responsibility between these two agencies; now therefore be it

RESOLVED, that the Board of Trustees of The Medical Society of New Jersey appoint a committee to study the past guidelines and arrive at such revisions so as to up-date the relationship between Medicaid and the New Jersey State Rehabilitation Commission, thereby effecting uniformity in these guidelines throughout the State.



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ALTERNATES

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EXECUTIVE AND EDITORIAL OFFICES: 144 SO. HARRISON STREET, EAST ORANGE, NEW JERSEY 07018

May 23, 1975

The Honorable James J. Sheeran
State of New Jersey
Department of Insurance
Trenton, New Jersey 08625

Dear Commissioner Sheeran:

I have just learned of your May 28th public hearing on "Claims Made" malpractice coverage and I request permission to have my statement read at this hearing because I, the members of my Board of Trustees and my membership, the Family Physicians of New Jersey have strong feelings about this.

It is my understanding that one part of your agency's reason for existence is that of consumer protection. I, therefore, appeal to this part of your agency's function for, in the instance of Malpractice Insurance, physicians are the consumer, and I am the elected spokesman for the physicians engaged in family practice in this State.

"Claims Made" Coverage is poor coverage because it is inadequate protection. It is horrifying coverage because it masquerades as adequate malpractice protection. An attorney familiar with the liability laws would quickly recognize such an insurance policy as a poor deal, but most doctors do not have this expertise. Most of them will see this as another malpractice policy being sold, and possibly at a lesser premium than that which they have. A few will call me and I will advise them not to touch it with a ten foot pole. Others will purchase it, and leave themselves and their families liable the minute that carrier stops writing business in this State.

Another factor is that most physicians now have excellent "claims incurred" type of coverage which protects them in the "long-tail" risk period when suits are filed, in accordance with existing law, beyond the actual policy year of coverage. If they now switch to "claims made" coverage you invite the following:

1 - The destruction of a present financially sound group which is dependent on volume for solvency when facing million dollar suits.

2 - Two carriers sharing responsibility for a suit filed during the "long-tail" period have two lawyers in court representing the same physician because they are both responsible, one under "claims made" the other under "claims incurred". One attorney may want to settle, the other to fight the action. Where does this leave the doctor?

3 - A carrier could come in for the next few years when this overlap in responsibility was greatest, share judgments with the previous "claims incurred" carrier, clean up and leave the State. No carrier would then want to pick up the malpractice situation in this State.

In summation, this "claims made" coverage is poor coverage which could lead to personal tragedy for a physician and/or his family and lead to a crisis in obtaining any professional liability coverage in a few years for the entire State.

Sincerely yours,

Seymour Taffet, M.D.
President

ST/gh

Essex County Medical Society Resolutions at State Society Convention May 17 - 21, 1969

Reference Committees Meet Sunday Morning, May 18, 1969 at 10:45 A.M.
Haddon Hall, Atlantic City

RESOLUTION

LEGISLATIVE APPROACH TO UNJUSTIFIABLE PROFESSIONAL LIABILITY SUITS

Whereas, There has been a marked increase in the number of unjustifiable professional liability suits, and

Whereas, A recent poll indicated that many physicians are undergoing a change in attitude toward patient care because of this, and

Whereas, To achieve the best in patient care it is important that we attempt to create a more favorable legislative milieu for the practice of medicine, and

Whereas, Other State Medical Societies inform us that they have placed specific bills to improve this situation before their legislatures and have had success in passing some of them, therefore be it

Resolved, That The Medical Society of New Jersey give priority to the formation of a Special Committee to draft and attempt to implement legislation in separate bills on the following:

1—Extend concept of privileged communications to the proceedings, and/or records of medical review committees of local medical societies and staff committees in hospitals.

2—There shall be no monetary liability on part of and no cause for action for damages shall arise against any member of duly appointed committee of state or local professional society, or duly appointed member of a committee of a medical staff of a licensed hospital, provided that they are operating pursuant to written and duly adopted by-laws.

3—Require the court upon motion of either party to proceed to a separate trial of the defense of the Statute of Limitations before any other issue if the case is tried, if in an action against a physician or surgeon, the answer pleads that the action is barred by the Statute of Limitations.

4—Require that jury be instructed that plaintiff has burden of proving defendant's negligence, by a preponderance of evidence, and that injury alone does not raise either a presumption or inference of negligence

and, be it further

Resolved, That this Special Committee of The Medical Society of New

Jersey request to meet with committees of the State Legislature studying the separate bills introduced on these matters and be prepared to meet at the convenience of the legislators to fully explain their import.

RESOLUTION

ASSIMILATION OF OSTEOPATHS

Whereas, The American Medical Association House of Delegates in December 1968 adopted a report to provide avenues whereby fully licensed osteopaths may be assimilated into the mainstream of medicine, and

Whereas, This was done to assure the provision of the best possible health care to the American people and make available to osteopathic students and graduates, education of the same high standards as prevail in undergraduate, graduate and continuing medical education programs, and

Whereas, The House of Delegates instructed the AMA Council on Constitution and By-Laws to prepare "Appropriate By-Laws amendments so that qualified Doctors of Osteopathy may be admitted to full active membership" in the American Medical Association, and

Whereas, The AMA House of Delegates suggested that "each county and state medical society may accept qualified osteopaths as active members and thereby provide for their membership in the American Medical Association," and

Whereas, The AMA House of Delegates suggested that state and county societies and other affected organizations "May proceed to make such constitution and By-Law changes as are necessary to implement the foregoing, therefore be it

Resolved, That the House of Delegates of The Medical Society of New Jersey instruct the Constitution and By-Laws Committee to prepare suitable amendments for their presentation at next year's annual convention to permit fully licensed doctors of osteopathy to become members.

RESOLUTION

COMPREHENSIVE HEALTH CARE

Whereas, It is recognized that, in some areas, comprehensive health care is not available to all; and

Whereas, Neighborhood Health Centers are being proposed through gov-

ernment assisted programs under O.E.O., H.E.W., and Heart, Cancer and Stroke projects; and

Whereas, Applications for such Neighborhood Health Centers are open to any and all without adequate coordinated planning; and

Whereas, The Essex County Medical Society believes that physicians and other health professionals must work together with consumer groups in seeing that the best health care is provided with dignity in disadvantaged areas; therefore be it

Resolved, That The Medical Society of New Jersey support the development of coordinated comprehensive health care centers in disadvantaged areas based on the following principles:

1—That Component County Medical Societies be represented at both the planning and administrative levels by two or more members recommended by their society.

2—24 hour patient service, seven days a week.

3—Free choice of center physician with referral to family physician where indicated or upon request of patient.

4—Emphasis on supplementing rather than supplanting current local health facilities.

RESOLUTION

AMEND ABORTION LAWS

Whereas, There are indications that the State of New Jersey will, in the future, modify and liberalize the current abortion law, and

Whereas, The Medical Society of New Jersey already has an established policy on such revision which is similar to the policy adopted by the American Medical Association, and

Whereas, In the recently enacted Maryland Law on Abortion two paragraphs were adopted which could be of vital importance to physicians and hospitals, be it

Resolved, That The Medical Society of New Jersey add to its official position that the following two paragraphs from the Maryland Law should be a part of any revised or liberalized New Jersey abortion law:

(A) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy; and the refusal of any person to perform or participate in these medical pro-

Essex County Medical Society Resolutions at State Society Convention

May 17 - 21, 1969

Reference Committees Meet Sunday Morning, May 18, 1969 at 10:45 A.M.
Haddon Hall, Atlantic City

cedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other re-criminatory action against him.

(B) No hospital, hospital director or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit such procedures shall not be grounds for civil liability to any person, hospital or institution, nor a basis for any disciplinary or other re-criminatory action against it by the state or any person.

And, be it further

Resolved, That The Medical Society of New Jersey present this wording to all responsible parties studying the revision of New Jersey abortion laws and at all public hearings, and be it further

Resolved, That should a liberalized abortion law be adopted in New Jersey which does not contain the above provisions, that The Medical Society of New Jersey initiate legislation to incorporate them in the law.

RESOLUTION

TO EXTEND GROUP PROFESSIONAL LIABILITY COVERAGE TO CERTAIN MEMBERS

Whereas, Some members of The Medical Society of New Jersey have been informed by Employers Insurance of Wausau that they are ineligible to purchase our group professional liability coverage because they are in military service, or because a portion or all of their practice is temporarily out-of-state, or because a portion of their practice is permanently out-of-state; and

Whereas, Those members on active military service inform us that they are inadequately covered for malpractice by the United States Government and hence desire better coverage; and

Whereas, These members are fulfilling their military obligation and should receive our fullest consideration; and

Whereas, Many of these men and women join our Society to be able to participate in our group benefits, and

Whereas, These members will not look favorably on organized medicine and become satisfied members in the future if they are discriminated against while they are serving our Country; and

Whereas, The Medical Society of New Jersey already has lost members to the Medical Society of New York — such members, although preferring to remain with our Society having been forced to give up their membership

here because they could not obtain our group coverage through Employers Insurance of Wausau, because they also practiced in the State of New York; and

Whereas, Such members having transferred to The Medical Society of New Jersey were provided with group coverage through the same company, Employers Insurance of Wausau; and

Whereas, Information required by Loss-Control Committees for the investigation of potential malpractice cases, is obtainable with equal facility regardless of where a physician practices; and

Whereas, The Medical Society of New Jersey should represent those deserving members who have problems in obtaining coverage in the group insurance plan sponsored for our membership, therefore be it

Resolved, That The Medical Society of New Jersey request that our Group Professional Liability carrier provide the regular coverage for a) members who are fulfilling their military obligation; b) members who conduct portions of their practice out-of-state; and c) members who temporarily conduct all of their practice out-of-state, if such coverage is desired.

RESOLUTION

MEDICARE DIRECTOR HAVE CLINICAL EXPERIENCE

Whereas, The Office of the Medical Director for the fiscal intermediary Part B Medicare has functioned more effectively through a knowledge of the private physicians' role, and

Whereas, Such knowledge is best obtained from personal experience in the private practice of medicine, and

Whereas, We understand the present Medical Director for Part B Medicare will shortly retire, be it

Resolved, That The Medical Society of New Jersey urge the fiscal intermediary Part B Medicare to select as Medical Director one from The Medical Society of New Jersey who has had active clinical experience in the private practice of medicine.

RESOLUTION

SOLICITATION AND COMMERCIAL ADVERTISING OF A MEDICAL SPECIALTY BY LAY CORPORATIONS IN AMA PUBLICATIONS

Whereas, The AMA Board of Trustees voted last Fall to open all AMA publications to solicitation and commercial advertising of a medical specialty (Pathology) by lay corporations; and

Whereas, Physicians, by long tra-

dition, are forbidden any activities characterized by self-laudation and solicitation, both of which are essential to commercial advertising; and

Whereas, This Trustee policy encourages the practice of medicine by lay corporations, and promotes solicitation, in violation of all codes of medical ethics; and

Whereas, This Trustee policy, adopted without consulting the House of Delegates, will set a precedent for regional, State and other medical journals, will spread to other fields of medicine and will lower standards of patient care; therefore be it

Resolved, That the Essex County Medical Society:

(1) Reaffirms medicine's traditional opposition to the practice of medicine by lay corporations, and to solicitation, and to commercial advertising of the practice of medicine; and

(2) Requests The Medical Society of New Jersey delegates to oppose this new AMA Trustee policy vigorously at the M.S.N.J. convention in Atlantic City in May, 1969; and

(3) Requests these delegates to call on the New Jersey delegation to AMA to reverse this Trustee policy at the July AMA convention in New York City.

RESOLUTION

DISTRIBUTE PERINATAL STUDY GUIDE TO HOSPITALS

Whereas, Perinatal mortality and morbidity remains a formidable challenge to society and the medical profession; and

Whereas, The reduction of this tragic toll of life, suffering and cost to society can only be accomplished by the study and correction of the causative factors responsible for this human wastage; and

Whereas, Hospital Perinatal Conferences have been recommended by the Committee on Maternal and Child Care of the AMA and other related medical organizations as an important instrument of study; and

Whereas, The Committee on Child Health and the Committee on Maternal and Infant Welfare of The Medical Society of New Jersey has jointly designed a practical and workable "Suggested Guide for the Hospital Perinatal Study Conference" which has been effectively used in hospitals in Essex County, as well as to initiate a County-wide program; therefore be it

Resolved, That The Medical Society of New Jersey distribute and recommend for use the "Suggested Guide for the Hospital Perinatal Study Conference" to all hospitals in New Jersey.

American College of Surgeons



55 EAST ERIE STREET, CHICAGO, ILLINOIS 60611

AREA CODE 312 — 664-4050 CABLE: AMERCOLSUR

May 22, 1975

TO: Officers, Regents, Governors and
Chapter Presidents and Secretaries

FROM: John W. Pompelli
Department of Organization *John W. Pompelli*

RE: Michigan Supreme Court Order on Contingency Fees

Enclosed is a copy of the order of the Michigan Supreme Court setting forth the schedule of reasonable fees for attorneys handling personal injury or wrongful death claims on May 2, 1975.

The Michigan Supreme Court has this authority because the Michigan Bar is an integrated bar in that state.

JWP:j

Enclosure

cc: C. Rollins Hanlon, MD, FACS

May in the year of our Lord one thousand nine hundred and seventy-five.

In the Matter of the
ADOPTION OF NEW GCR
1963, 928

Present the Honorable
THOMAS GILES KAVANAGH,
Chief Justice,
THOMAS M. KAVANAGH,
JOHN B. SWAINSON,
G. MENNEN WILLIAMS,
CHARLES L. LEVIN,
MARY S. COLEMAN,
JOHN W. FITZGERALD,
Associate Justices

On order of the Court, the following new GCR 1963, 928 was adopted by the Supreme Court to be effective immediately.

Rule 928 Contingent Fees in Claims or Actions for Personal Injury and Wrongful Death

.1 In any claim or action for personal injury or wrongful death based upon the alleged conduct of another, in which an attorney enters into an agreement, express or implied, whereby his compensation is dependent or contingent in whole or in part upon successful prosecution or settlement or upon the amount of recovery, the receipt, retention, or sharing by such attorney, pursuant to agreement or otherwise, of compensation which is equal to or less than the fees scheduled in subrule 928.2 is deemed to be fair and reasonable. The receipt, retention, or sharing of compensation which is in excess of such scheduled fees shall be deemed to be the charging of a "clearly excessive fee" in violation of Canon 2, DR 2-106(A) of the Code of Professional Responsibility and Canons.

.2 The following is the schedule of reasonable fees referred to in subrule 928.1:

- (1) Not to exceed 40% of the first \$5,000 recovered,
not to exceed 35% on the next \$20,000 recovered,
not to exceed 25% on the next \$225,000 recovered,
not to exceed 20% on the next \$250,000 recovered,
and not to exceed 10% on any amount recovered over \$500,000.
- (2) Alternatively, the attorney and client may agree to a contingent fee of one-third of the entire recovery that does not exceed \$250,000, and 20% of the next \$250,000, and not to exceed 10% of any amount recovered over \$500,000.

ESSEX COUNTY MEDICAL SOCIETY

EXECUTIVE OFFICE

144 South Harrison Street
East Orange, New Jersey 07018
Area Code (201) 672-1816

May 22, 1975

TO: Commissioner James J. Sheeran, State of New Jersey, Department
of Insurance
FROM: Enio J. Calluori, M.D., President
RE: May 28, 1975 Public Hearing
"Claims Made - Professional Liability Coverage"

The 1800 physician members of the Essex County Medical Society have requested that I protest, in their behalf, any proposal which would allow "claims made" professional liability policies to be written in this State.

FALSE SECURITY

The policyholder could assume that this claims made coverage would protect him and his family against all contingencies of suit concerning his professional activities. A realistic look at the New Jersey Statutes and legal precedent would reveal a wide gap in protective coverage. A physician could be paying for the limit in this type coverage and still be faced with defending a million dollar suit on his own, plus paying on his own any judgment which did not occur within the "claims made" limitations.

STATUTE OF LIMITATIONS

The New Jersey Statute of Limitations specifies two years from treatment and this two year period, in the case of a minor, starts running at the end of minority (age 18). For example, a physician may set the arm of a child age 5, and suit may be instituted based on result until the child's 20th birthdate. Decisions of the court have further widened the Statute of Limitations to extend it in certain

instances to start running on date of discovery by the patient of alleged injury. If the suit comes in years after the treatment, the physician would still have to be insured with the same carrier as he was at the time of the treatment under question. This raises some interesting questions:

A) He would be unfairly locked into renewing each year the same company's "claims made" policy.

B) He would be forced to meet this particular company's premium increases without the right of vote, access to competitive rates by other companies, and without privilege to inspect a company's records and loss ratio.

C) No insurance carrier has yet issued an ironclad guarantee to continue to offer an individual physician lifetime coverage on professional liability at any rate, much less a reasonable or competitive rate. They reserve the right to cancel because of individual or group or Statewide experience. They can always go out of the liability business completely. There has also been a recent experience of a company in the professional liability field going into receivership.

FAMILY SECURITY

There is no provision for a non-physician to purchase such coverage and a physician's estate may still be sued for his acts. This would leave the widow at the mercy of the courts and juries without insurance protection if a suit was instituted following a Doctor's death. The widow now has good protection under the "claims incurred" type of P.L. policy and is assured that she will not lose her home and savings.

CHANGE IN STATUTES

If the carriers contend they find it difficult to write coverage which would adequately protect under the present lengthy Statute of Limitations, it would seem reasonable that these Statutes could be revised. A revised statute which would allow them to set aside a reasonable reserve based on recent experience would be advisable.

May 14 69

ESSEX COUNTY MEDICAL SOCIETY
Legislative Approach to Unjustifiable Professional Liability Suits

RESOLUTION

Whereas, There has been a marked increase in the number of unjustifiable professional liability suits, and

Whereas, A recent poll indicated that many physicians are undergoing a change in attitude toward patient care because of this, and

Whereas, To achieve the best in patient care it is important that we attempt to create a more favorable legislative milieu for the practice of medicine, and

Whereas, Other States inform us that they have placed specific bills before their legislatures and had success in passing some of them, be it

Resolved, That The Medical Society of New Jersey give priority to the formation of a Special Committee to draft and attempt to implement legislation in separate bills on the following:

- 1-Extend concept of privileged communications to the proceedings, and/or records of medical review committees of local medical societies and staff committees in hospitals.
- 2-There shall be no monetary liability on part of and no cause for action for damages shall arise against any member of duly appointed committee of a state or local professional society, or duly appointed member of a committee of a medical staff of a licensed hospital, provided that they are operating pursuant to written and duly adopted by-laws.

3-Require the court upon motion of either party to proceed to a separate trial of the defense of the Statute of Limitations before any other issue if the case is tried, if in an action against a physician or surgeon, the answer pleads that the action is barred by the Statute of Limitations.

4-Require that jury be instructed that plaintiff has burden of ^{proving} providing defendant's negligence, by a preponderance of evidence, and that injury alone does not raise either a presumption or inference of negligence, and be it further

Resolved, That if a liberalized abortion law is adopted which does not contain the following two paragraphs, that they be entered as a separate legislative bill:

(A) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy; and the refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other recriminatory action against him.

(B) No hospital, hospital director or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit such procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against it by the state or any person, and be it further

Resolved, That this Special Committee of The Medical Society of New Jersey request to meet with legislative committees studying separate bills introduced on these matters and be prepared to meet at the convenience of the legislators to fully explain their import.