

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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NEWSLETTER

May 1990

Dr. Hackett Retires

After more than 10 years of service on the Board of Medical Examiners, Anthony J. Hackett, Jr., M.D., has retired. In recognition of his outstanding service achievement, the Board unanimously adopted the following resolution on January 18, 1990:

Whereas Anthony J. Hackett, Jr., M.D., faithfully and conscientiously served the Louisiana State Board of Medical Examiners as a member for more than ten years; and

Whereas, Doctor Hackett diligently discharged his duties to the great benefit of the Board and the citizens of the state of Louisiana; and

Whereas, during his years of service, Doctor Hackett continually and graciously gave his efforts, time and abilities towards maintaining the high standard of medical practice for which the state of Louisiana is noted; therefore be it

RESOLVED, that the Louisiana State Board of Medical Examiners on behalf of the Board and the people of the state of Louisiana, by means of this resolution, express to Dr. Anthony J. Hackett, Jr., its gratitude and appreciation for his services during the years he devoted to the Board and the state of Louisiana; and

BE IT FURTHER RESOLVED, that a copy of this resolution be spread on the minutes of the Board and that a plaque be struck containing this resolution and given to Dr. Hackett, expressing to him the highest esteem of the Board.

In further recognition of his service, Governor Roemer proclaimed February 14, 1990 as "Dr. Anthony James Hackett, Jr. Day."

Born in New Orleans, October 23, 1920, Dr. Hackett was valedictorian of the 1937 class of McDonough No. 35 High School, graduated *cum laude* from Dillard University in 1941, and obtained his doctor of medicine degree from Meharry Medical College in 1944. After training at the Homer G. Phillips Hospital in St. Louis, he entered the Army Medical Corps where he was awarded the Bronze Star for Meritorious Service in Korea. Following his military service, Dr. Hackett returned to New Orleans to practice obstetrics and gynecology.

Those of you who know Dr. Hackett know him as a respected physician, businessman and community leader. He was a founding partner of Medical Associates, the first black multi-specialty group in Louisiana; Dr. Hackett was one of the first black physicians admitted to the Orleans Parish Medical Society, in 1957, and the first black physician appointed to the Board of Medical Examiners. He was a founder and President of the United Federal Savings and Loan Association and has served as President of that institution, as President of the Board of Trustees of Dillard University, and on numerous city committees, fraternal organizations and professional associations.

Dr. Hackett is married to Veris Shedrick, a retired nursing supervisor, and has three daughters—Dr. Judith Hackett Wortham, now in family practice, Maryland; Toni Hackett Antrum, a pension consultant, New Orleans; and Carla Shedrick Hackett, Assistant Administrator, Grady Hospital, Atlanta.

The Board members regret the loss of Dr. Hackett's wisdom and expertise, and the Board's staff will miss his kind and gentle manner. We hope that you will join us in wishing him many years of good health, happiness and prosperity.

1990 Meeting Calendar

The Board's meetings for the remainder of 1990 have been tentatively scheduled as follows:

July 18-20
August 22-24
September 12-14
October 24-26
December 5-7

Items for meeting agendas must be received in the Board office in writing at least 20 working days prior to the meeting.

Non-Physician Cholesterol Screening, Clinical Laboratory Testing

After receiving a number of inquiries as to the legality, under applicable state law, of cholesterol screening, blood tests, and other clinical laboratory analyses as made available and offered to the public at shopping malls, supermarkets, pharmacies and similar commercial locations, the Board recently issued a formal statement of its position on the issue (February 9, 1990). The following is a digest of the statement:

The performance of cholesterol level screening and other clinical laboratory analyses constitutes the practice of medicine under Louisiana law. When not performed by a physician in a medical office, but as made available at shopping malls, supermarkets, pharmacies and similar commercial locations, public cholesterol testing is often associated with critical deficiencies which compromise its safety and effectiveness. Infection, inaccurate and misleading results, and misinformation concerning the significance of results have been associated with such cholesterol testing services.

In the interest of public health, welfare and safety, accordingly, the Louisiana State Board of Medical Examiners advises that public cholesterol screening should be:

(1) performed only under the general supervision of a qualified physician; (2) operated and provided so as to ensure proper calibration of instruments and systems; (3) administered only by personnel properly qualified in the drawing of blood samples and proper sterile techniques, and the proper operation of testing instruments; (4) administered without interpretation of the clinical significance of test results or indication of the medical necessity or lack of necessity of any form of treatment, but with notice to persons submitting to such tests of the risk of falsely positive, falsely negative and anomalous results and that the clinical significance of results may be determined only by a physician in light of history and physical examination.

As an important element of an individual's health care, the Board encourages cholesterol screening by, or on the referral of, a qualified physician in conjunction with history and physical examination.

Physician Supervision of Respiratory Therapists

Based on information it has received from a variety of sources, the Board is concerned that the nature and scope of medical supervision and accountability required by law for the functioning of licensed respiratory therapists and respiratory therapy technicians may not be uniformly or correctly understood throughout the state. The Board has reason to believe, that is, that physicians and employing health care institutions may be permitting respiratory therapists to function with a far greater degree of independence than is mandated by the laws governing the practice of such licensees.

In Louisiana, respiratory therapists may (1) only perform those activities which are authorized by the Respiratory Therapy Practice Act;¹ (2) which are conducted upon the "written prescription or verbal order of a physician" and (3) which "are performed under a physician's direction and supervision."² A respiratory therapist who engages in practice beyond the scope permitted by statute or who practices absent the direction and supervision of a licensed physician would be engaged in the unauthorized practice of respiratory therapy and, therefore, subject to civil, criminal and administrative disciplinary action as well.³

The Board believes it important to emphasize, then, that as a matter of law respiratory therapy must be administered only under the direction and supervision of a Louisiana-licensed physician who is responsible and accountable for the services performed. When such services are performed in an institutional setting the prescribing physician or the physician director of respiratory therapy would be responsible and accountable to fill this function. When such services are performed on an out-

patient basis, such responsibility rests with the prescribing physician. In either event, the responsible physician must be present or immediately available to be present, to supervise a respiratory therapist in the performance of his services.⁴

While many health care facilities and physicians are no doubt practicing in accordance with the mandates of the Louisiana Respiratory Therapy Act, the Board believes it worthwhile to advise those most directly involved in, and affected by the practice of, respiratory therapy of its position on the applicable legal requirements respecting the practice of respiratory therapy and physician supervision of, and accountability for, respiratory therapists.

National Practitioner Data Bank: Startup Postponed

The National Practitioner Data Bank ("NPDB"), previously scheduled to begin operations as of April 1, 1990, has announced a postponement of startup of operations until some time during the summer. No specific date has been announced, but the effective date of operations will be preceded by several weeks' notice to affected entities.

Established by the Health Care Quality Improvement Act of 1986 (the "Act"),⁵ the NPDB is to be a national repository for information on medical malpractice judgments and settlements and actions by certain health care entities and state licensing authorities adversely affecting physicians' and dentists' licensure, clinical privileges and professional organization membership. Subject to substantial civil, monetary and other penalties for noncompliance, the Act mandates reporting to the NPDB and/or to the appropriate state licensing agency (i.e., the Board of Medical Examiners as respects physicians) by medical malpractice insurers, self-insured practitioners, hospitals and other provider entities, and professional societies. Hospitals are also required by the Act to query the data bank at the time a physician or dentist applies for clinical privileges and at least once every two years as to each member of its medical staff.

Final regulations governing the form and timing of reporting and access to the data were promulgated by the Public Health Service, Department of Health and Human Services, last fall and appear at 45 C.F.R. §§ 60.1-60.14, 54 Fed. Reg. 42722 (Oct. 17, 1989).⁶

¹LA. REV. STAT. ANN. §§ 37:3351.3661 (West 1988).

²LA. REV. STAT. §§ 37:3353(3).

³The Louisiana Medical Practice Act, LA. REV. STAT. § 37:1261-1291 (West 1988 & Supp. 1990), prohibits the practice of medicine in this state by anyone who does not possess a license or permit duly issued by the Board. Persons who engage in those activities which would constitute the practice of medicine as defined by law, and in the absence of the direct and immediate supervision of a licensed physician in violation of such prohibition are subject to civil and criminal penalties as well. LA. REV. STAT. § 37:1290, as well as injunctive action by the Board, LA. REV. STAT. § 37:1286.

Notice of Address Change

Whenever a licensee's professional, home or preferred mailing address is changed, it is important that the Board be notified as soon as possible. It is imperative that you keep the Board informed of any change of name and/or address to ensure receipt of the annual renewal forms, which are mailed in mid-November each year. If you do not receive your renewal application, you should contact the Board office, as failure to renew will result in suspension of your license. Physicians located in Louisiana should also notify the Drug Enforcement Administration, 1661 Canal Street, Suite 2200, New Orleans, Louisiana, 70112, and the Louisiana Narcotics and Dangerous Drugs Division, Post Office Box 3767, Baton Rouge, Louisiana, 70821 of any change of address. The form below may be used to advise the Board of an address change.

CHANGE OF ADDRESS NOTICE

(Please Type or Print)

Name: _____ License Number: _____

Effective Date of Change: _____

Professional Address:_____
Street Address City/Town State Zip Code + 4_____
Parish Telephone Number: (Area Code) Number/Extension**Home Address:**_____
Street Address City/Town State Zip Code + 4_____
Parish Telephone Number: (Area Code) Number/Extension**Preferred Mailing Address:**_____
Street Address City/Town State Zip Code + 4_____
Post Office Address City/Town State Zip Code + 4

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