



JAMES L. MADARA, MD
EXECUTIVE VICE PRESIDENT, CEO

ama-assn.org
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January 18, 2017

The Honorable Louis D. Greenwald
Majority Leader
New Jersey Assembly
1101 Laurel Oak Rd., Suite 150
Voorhees, NJ 08043

Re: AMA Support for Assembly Bill 4273

Dear Assemblyman Greenwald:

On behalf of the American Medical Association (AMA) and our physician and student members, I am pleased to offer our support for Assembly Bill (AB) 4273. This legislation seeks to establish active state supervision of New Jersey professional licensing boards, in order to provide such boards state action immunity from federal antitrust laws.

The need for such supervision was made apparent in the Supreme Court's recent decision in *Federal Trade Commission v. North Carolina State Board of Dental Examiners (Dental Board)*, which held that when a controlling number of decision makers on a state licensing board are active participants in the occupation the board regulates, the board can invoke state action immunity only if it is subject to active supervision by the state. The state supervisor must review the substance of the agency's actions to ensure that such actions comport with clearly articulated and affirmatively expressed policy to displace competition with regulation, and must have the power to overrule or modify the actions.

The AMA has supported legislation that accomplishes these goals while not imposing an undue burden that would impede the important work of state medical boards to regulate the practice of medicine and protect the public health.

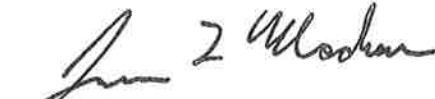
To ensure compliance with the *Dental Board* decision, we recommend replacing the word "majority" throughout the legislation with "controlling number." As noted above, the test for whether a board is subject to active state supervision is not dependent upon the percentage of members who are participants in the profession regulated, but whether those members exercise control over the board.

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The AMA understands that New Jersey law provides for defense and indemnification of licensing board members. While these protections are crucial, they are separate and distinct from the protections to the state and licensing board members that AB 4273 currently offers. In particular, AB 4273 should protect professional licensure boards from antitrust liability and resultant treble damages and attorney fee awards that the state would need to indemnify. Moreover, in the absence of AB 4273, the board would be subject to injunctive relief that could invalidate its challenged rules, a result that might also place at antitrust risk those professionals relying on the lawfulness of the licensing boards' rules.

The AMA appreciates your diligence and attention to this matter. With consideration of the suggested edits noted above, we are pleased to support AB 4273. If you have any questions or comments, please contact Kristin Schleiter, Senior Legislative Attorney, at kristin.schleiter@ama-assn.org or (312) 464-4783.

Sincerely,



James L. Madara, MD

Attachments

cc: Joseph P. Costabile, MD

DATE: 1-12-16

EXECUTIVE OFFICES
Transmittal Note

TYPE OF CORRESPONDENCE:

- Letter
- Mass Mailing
- Memo
- Other

Due 1-18-17

ADDRESSED TO:

Louis D Greenwald
NJ Assembly

SUBJECT: (Title and short description of document purpose.)

AMA support for Assembly Bill 4273 -
Establishing state supervision of Prof. Licensing Bds.
to provide such bds ^{state} immunity from anti-trust Law

INSTRUCTIONS - STAFF INITIATED DOCUMENTS FOR BOT SIGNATURE:

- 1) Do not date document.
- 2) Include in folder, original and 2 copies.
- 3) **All appropriate approvals must be obtained prior to submitting to Jon Burkhart, COS, VP, Executive Offices.**
- 4) Your department will be contacted when item has been signed.

INSTRUCTIONS - DOCUMENTS FOR EVP/CEO SIGNATURE:

- 1) Item must be dated.
- 2) Include in folder, original response, 2 copies and 1 copy of the original correspondence if applicable.
- 3) **Appropriate approvals must be obtained before submitting to EVP Office.**
- 4) The department preparing item is responsible for coordinating, if necessary, all additional approvals and comments before submission to EVP Office.
- 5) Your department will be contacted when item has been signed by the EVP/CEO.

APPROVALS:

- 1) Author Kristin Schleiter
- 2) Immediate Supervisor _____
- 3) SVP or Designate Richard Deem m/c

Extension: x4783

DOES THE ATTACHED ITEM REQUIRE ADDITIONAL APPROVAL OR REVIEW BY OTHERS?

ADDITIONAL APPROVALS:

COMMENTS: (Attach additional information if needed.)

- Advocacy _____
- Finance _____
- OGC _____
- Other SMG _____
- Other SMG _____
- Other SMG _____

When approved, please call

or Wendy Hohmer x4739
Dorothy Hoban

Extension x5465

FOR EXECUTIVE OFFICES USE ONLY

- COO _____
- CSO _____

- COS Jan 1/17/2017
- Executive Offices Jan 1/17/2017
- EVP/CEO Jan approved Jan 1/17/2017

If you have any questions, please contact the Executive Offices at extensions 5049 or 4307.