

# WILENTZ, GOLDMAN & SPITZER P.A.

## NEW JERSEY REGULATORY UPDATE

### March 2004

In order to continue providing our healthcare clients with timely information impacting upon their practices, we are pleased to present the firm's March 2004 New Jersey Regulatory Update. This update is provided as a brief summary of regulatory changes published in the New Jersey Register. This update is provided for informational purposes only and the reader is urged to review the entire text of the changes in the New Jersey Register. Further, this summary represents only selected changes that may affect our healthcare clients who are licensed professionals. As such, please be aware that there are many other regulatory changes that may affect our healthcare clients, such as licensed healthcare facilities, that are not addressed in this summary.

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#### ***CHIROPRACTIC PHYSICIANS – Notice of Action on Petition for Rulemaking regarding referral of patients to physical therapists.***

On March 15, 2004, the New Jersey Board of Chiropractic Examiners published a Notice of Action on Petition for Rulemaking regarding the request by Kathleen K. Mairella, P.T., M.A., President, American Physical Therapy Association of New Jersey, to strike N.J.A.C. 13:44E-2.12 "Referral of patients to physical therapists" in its entirety due to the recent changes in the law contained in P.L. 2003, c.18 "An Act concerning the practice of physical therapy." The Board has noted that it shall wait on making any regulatory changes until the New Jersey Board of Physical Therapy has adopted final rules regarding this matter.

#### ***CHIROPRACTIC PHYSICIANS – Notice of Action on Petition for Rulemaking regarding EMG.***

On March 15, 2004, the New Jersey Board of Chiropractic Examiners noted that it has rejected the petition submitted by Dr. Aldo R. Scopelliti to amend N.J.A.C. 13:44E-1.1 to delete the phrase "invasive electromyography (EMG)" from the list of diagnostic and analytical procedures that a chiropractor may order but not perform. In addition, the Board rejected Dr. Scopelliti's request to include needle insertion EMG to the list of diagnostic tests for which a chiropractor may bill if the chiropractor meets criteria specified by Dr. Scopelliti. The Board has referred the proposal to its Rules and Regulations Committee for further review and the possible drafting of a similar proposal that would allow certain chiropractors to perform needle EMGs with additional safeguards.

#### ***NURSES – Final rules implementing Sexual Assault Nurse Examiner Program.***

On March 15, 2004, the New Jersey State Board of Nursing published adopted new rules N.J.A.C. 13:37-9 and amendment to N.J.A.C. 13:37-5.5 and the repeal of N.J.A.C. 13:37-2.4 that implements the provisions of P.L. 2001, c.81 that establishes a statewide Sexual Assault Nurse Examiner Program and authorizes the certification of sexual assault nurse examiners by the Board. The new rules establish the standards for the education and certification of sexual assault nurse examiners.

#### ***ALCOHOL AND DRUG COUNSELORS– Final new rules governing alcohol and drug counselors.***

On March 15, 2004, the New Jersey State Board of Marriage and Family Therapy Examiners, Alcohol and Drug Counselor Committee published final new rules N.J.A.C. 13:34C-1.1 *et seq.* that govern the practice of alcohol and drug counselors. The new rules, effective immediately, implement N.J.S.A. 45:2D-1 *et seq.*, "The Alcohol and Drug Counselor Licensing and Certification Act."

#### ***THIRD PARTY BILLING SERVICES – Proposed rules requiring third party billing services to be certified by the Commissioner of the Department of Banking and Insurance.***

On March 15, 2004, the New Jersey Department of Banking and Insurance proposed new rules, N.J.A.C.

11:23-1.1 *et seq.* to implement N.J.S.A. 17B:27B-1 *et seq.* (enacted on December 13, 2001) that will require third party billing services to be certified by the Commissioner. Billing services that are in operation prior to the effective date of the regulations may file an application for temporary initial certification within 120 days of the rules' effective date. Written comments to the proposed rules must be submitted to the Department by May 14, 2004. *While the proposed rules provide an exception for third party billing services that are an employee, affiliate or subsidiary of the health care provider, all providers that have established a separate billing entity must closely monitor the proposed rules to determine whether such service must apply for certification and the criteria for such certification.*

***The information provided in this summary is for discussion purposes only and shall not be considered legal advice or legal opinion on any specific facts or circumstances. The contents of this summary and any related information and/or materials are intended solely for general information purposes only. You are urged to consult your attorney concerning your own situation and any specific legal questions that you may have. You may also to contact [John Murdoch](mailto:jmurdoch@wilentz.com) of the law firm of Wilentz, Goldman & Spitzer, P.A. at (732) 855-6008 or via e-mail at [jmurdoch@wilentz.com](mailto:jmurdoch@wilentz.com).***