

**STATE OF CONNECTICUT
CONNECTICUT MEDICAL EXAMINING BOARD**

In Re: Declaratory Ruling Concerning Colonic Irrigation

DECLARATORY RULING

Procedural Background

On July 19, 2012, the Connecticut Medical Examining Board (“Board”) received a letter from Caroline Baisley, Director of Health, Greenwich Department of Health (“Petitioner”) requesting a declaratory ruling with regard to the following issue:

Whether colonic irrigation for non-medical use may be administered by unlicensed non-medical personnel in a non-medical facility without medical supervision or consultation.

Board (“Bd.”) Exhibit (“Ex.”) 75.

On September 18, 2012, the Board considered and discussed Petitioner’s request. Bd. Ex. 76. On October 16, 2012, the Board issued a ruling that stated that “colonic irrigation” is a medical procedure which is within the scope of practice of a physician under Conn. Gen. Stat. § 20-9¹ and cannot be performed by an unlicensed individual. Bd. Ex. 76.

On October 31, 2012, Attorney Marvin Miller, on behalf of Alaya Wellness Center, LLC (“Alaya”) requested in writing, that the Board reconsider its October 16, 2012 ruling regarding colonic irrigation, *a/k/a* colon hydrotherapy. Bd. Ex. 77.² On November 20, 2012, the Board, during its regularly scheduled meeting, voted to grant Alaya’s request for reconsideration and to conduct a hearing on the matter.

On January 22, 2013, the Connecticut Law Journal published the Board’s Notice of Declaratory Ruling Proceeding to all interested parties. All persons seeking to participate in the

¹ Conn. Gen. Stat. § 20-9 provides, in pertinent part, that “(a) [n]o person shall, . . . diagnose, treat, operate for or prescribe for any injury, deformity, ailment or disease, . . . of another person, [or] practice surgery until [the individual] has obtained such a license as provided in section 20-10, and then only in the kind or branch of practice stated in such license.”

² For the purposes of this Declaratory Ruling, the terms colonic irrigation and colon hydrotherapy are used interchangeably.

hearing were asked to file a petition to participate with the Board by February 8, 2013. Bd. Ex. 1.

On February 4, 2013, the following persons and/or organizations filed petitions to participate in the hearing: Attorney Miller, on behalf of Alaya (Bd. Ex. 4); Karen Laessig, on behalf of Alaya (Bd. Ex. 5); and A.R. Dick Hoenninger, Executive Director, on behalf of the International Association for Colon Hydrotherapy (Bd. Ex. 16).

On February 6, 2013, the following persons filed petitions to participate in the hearing: Debra Lawrence, a colon hydrotherapy client (Bd. Ex. 10); Patricia Hartman, a colon hydrotherapy client (Bd. Ex. 11); Geraldine Fabregas, a colon hydrotherapy client (Bd. Ex. 12); Dianne Berg, a colon hydrotherapy client (Bd. Ex. 13); and Beverley Blass Small, a colon hydrotherapy client (Bd. Ex. 14).

On February 7, 2013, the following persons and/or organizations filed petitions to participate in the hearing: Caroline Baisley, on behalf of the Greenwich Department of Local Health (Bd. Ex. 3); Constance Jones, on behalf of Colon Hydrotherapy, Glastonbury Naturopathic Center (Bd. Ex. 6); Ann Aresco, licensed Natureopath (Bd. Ex. 7); A.R. Dick Hoenninger, Executive Director, on behalf of the National Board for Colon Hydrotherapy (Bd. Ex. 15); Lucy Johnson, a colon hydrotherapy client (Bd. Ex. 18); and Andrew Card, a colon hydrotherapy client (Bd. Ex. 19).

On February 13, 2013, the following persons filed petitions to participate in the hearing: Lora Lee Crowder, a colon hydrotherapy client (Bd. Ex. 8); Madeline Mansfield, a colon hydrotherapy client (Bd. Ex. 9); and Rosa Conti, a colon hydrotherapy client (Bd. Ex. 17).

On February 27, 2013, the Board granted each of the parties' requests to participate in the hearing. Each person and/or organization was granted intervenor status except for the Petitioner, which was granted party status. Bd. Ex. 22-40. On March 21, 2013, a Notice of Hearing regarding the Declaratory Ruling Proceeding was published in the Connecticut Law Journal. Bd. Ex. 2.

The deadline to submit pre-filed testimony was on or before April 1, 2013. The deadline to file any rebuttal testimony was on or before April 29, 2013. Participants were instructed that testimony received after the deadlines would be rejected and that testimony not adopted by the participants under oath would be rejected. Bd. Ex. 22-40.

On April 1, 2013, the Petitioner pre-filed testimony (Bd. Ex. 55) and Attorney Marvin Miller pre-filed testimony on behalf of Alaya and Ms. Karen Laessig, its sole proprietor (Bd. Ex. 57). On April 29, 2013, the Petitioner pre-filed rebuttal testimony to Alaya's pre-filed testimony. Bd. Ex. 68.

The hearing was conducted on June 6, 2013, before a duly authorized panel of the Board comprised of Edward McAnaney, public member, Chairperson, Robert Green, M.D., Jeffrey Gordon, M.D., Douglas Fellows, M.D., and Raymond Andrews, public member ("Panel"). Ms. Baisley testified on behalf of the Petitioner and Attorney Aamina Ahmad represented the Petitioner. Of the 15 intervenors that were granted their requests to participate in the hearing, Alaya was the only intervenor present at the hearing. Transcript ("Tr.") pp. 83, 89-90.

Pre-filed testimony from intervenors that were not present at the hearing to adopt their testimony under oath was entered into the record for identification purposes only and not admitted as full exhibits. Those intervenors were as follows: Ann Aresco (Bd. Ex. 56), A.R. Dick Hoenninger (Bd. Ex. 58, 59, 73), Debra Lawrence (Bd. Ex. 60), Geraldine Fabregas (Bd. Ex. 61), Loralee Crowder (Bd. Ex. 63), Constance Jones (Bd. Ex. 64, 71), Beverley Blass (Bd. Ex. 65, 69), Patricia Hartman (Bd. Ex. 66, 70), and Karen Laessig (Bd. Ex. 67, 72).

The Petitioner adopted its pre-filed and rebuttal testimony under oath during the hearing. Tr. p. 16. Inasmuch as Ms. Laessig was not present at the hearing to adopt her organization's pre-filed testimony (Bd. Ex. 57), Attorney Miller was permitted to adopt the pre-filed testimony on behalf of Alaya as legal argument only, and it was entered into the record as such. Tr. pp. 66-67.

The Panel conducted the hearing in accordance with Conn. Gen. Stat. § 4-166 *et seq.* and Conn. Agencies Regs. § 19a-9a-1 *et seq.* ("Regulations"). All Panel members involved in this declaratory ruling attest that they have heard the case or read the record in its entirety.

The Board reviewed the Panel's proposed declaratory ruling in accordance with the provisions of Conn. Gen. Stat. § 4-179. This declaratory ruling is based entirely on the record and the specialized professional knowledge of the Board. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994).

Discussion

Pursuant to Conn. Gen. Stat. § 4-176, a declaratory ruling involves a ruling as to the validity of any regulation or the applicability of the statutes or regulations to specified circumstances. In the matter at issue, the Petitioner requested a ruling from the Board on the applicability of the Connecticut General Statutes to the non-medical use of the colonic irrigation procedure that is performed by non-medical personnel in a non-medical facility without medical supervision or consultation. The Petitioner testified that it was her local health department's position "that colon irrigation should be considered a medical procedure administered by medical professionals that have gotten credentials by demonstrating their competency through education, training, and skill to deliver health services to the general public." Tr. pp. 20-21.

Conn. Gen. Stat. § 4-176(e) provides that:

[w]ithin 60 days after receipt of a petition for a declaratory ruling, an agency in writing shall: (1) issue a ruling declaring the applicability of the statutes, (2) order the matter set for proceedings, (3) agree to issue a ruling by a specified date, (4) decided not to issue a ruling and initiate regulation-making proceedings, under 4-168, on the subject, or (5) decide not to issue a declaratory ruling, stating the reasons for its action.

In this case, the Board decided to hold a hearing on the matter and issue a declaratory ruling to address the Petitioner's request and determine whether colonic irrigation for non-medical use may be administered by unlicensed non-medical personnel in a non-medical facility without medical supervision or consultation. For the reasons described below, the answer to the question is no.

Connecticut law limits who may practice medicine and surgery. "No person shall, for compensation, gain or reward, received or expected, diagnose, treat, operate for or prescribe for any injury, deformity, ailment or disease, actual or imaginary, of another person, nor practice surgery, until he has obtained such a license as provided in section 20-10, and then only in the kind or branch of practice stated in such license." Conn. Gen. Stat. § 20-9(a).

After reviewing all of the evidence and relying upon its own expertise, the Board has determined that colon irrigation as described in the testimony and written evidence constitutes the practice of medicine as defined in Conn. Gen. Stat. § 20-9(a).

Colonic irrigation is an invasive, medical procedure which uses water piped through specially-designed equipment for the purposes of cleansing the colon. Tr. pp. 21-22. Colonic

irrigation can be specifically prescribed for cleansing the colon before radiological or endoscopic examinations or for other medical purposes, such as general health and well-being. Tr. pp. 23. Colon irrigation system devices used in the procedure are registered and approved by the FDA as class 2 medical devices and are listed in § 876.5220 in the Code of Federal Regulations, under the medical specialty of gastroenterology, urology devices. Tr. pp. 23, 25-28.

The colonic irrigation system involves insertion of a tube through the rectum and then into the colon. The tube carries filtered, temperature controlled, pressure-treated tap water into the large intestine, and into the lower bowel for flushing or evacuation of the contents. Once the colon is full, the abdomen may be massaged to help remove the waste material out of the body through the rectum and into a closed system. Unlike an enema, the colonic irrigation cannot be self-administered and requires assistance and supervision of trained personnel to ensure proper placement of the tubing to reduce the likelihood of puncturing the colon and/or rectal wall. Tr. p. 22; Bd. Ex. 77, “Standard Operating Procedures, Regulations & Guidelines for I-ACT [International Association for Colon Hydrotherapy] Recognized Schools & I-ACT Recognized Colon Hydrotherapy Establishments” (2009), p. 4.

Ruling

Colonic irrigation constitutes the practice of medicine and cannot be performed by an unlicensed individual except as authorized by the Connecticut General Statutes.³

Dated at Hartford, Connecticut this 18th day of March, 2014.

Connecticut Medical Examining Board



Kathryn Emmett, Esq., Chairperson

³ A person licensed to practice natureopathy may delegate the provision of colon hydrotherapy services to a colon hydrotherapist provided certain criteria are met. See, Connecticut Public Act 13-305, Sec. 2. Effective October 1, 2013.