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SPRING 2011

Dr. Doctoroff Takes on Non-Dermatologists Practicing the Specialty

by Alex Doctoroff, D.O., FAOCD

As President of the Dermatological Society of New Jersey (DSNJ), Alex Doctoroff, D.O., recently took up the fight against non-dermatologists practicing dermatology in his state. The following is an account of his experience. Dr. Doctoroff is currently Immediate Past President.

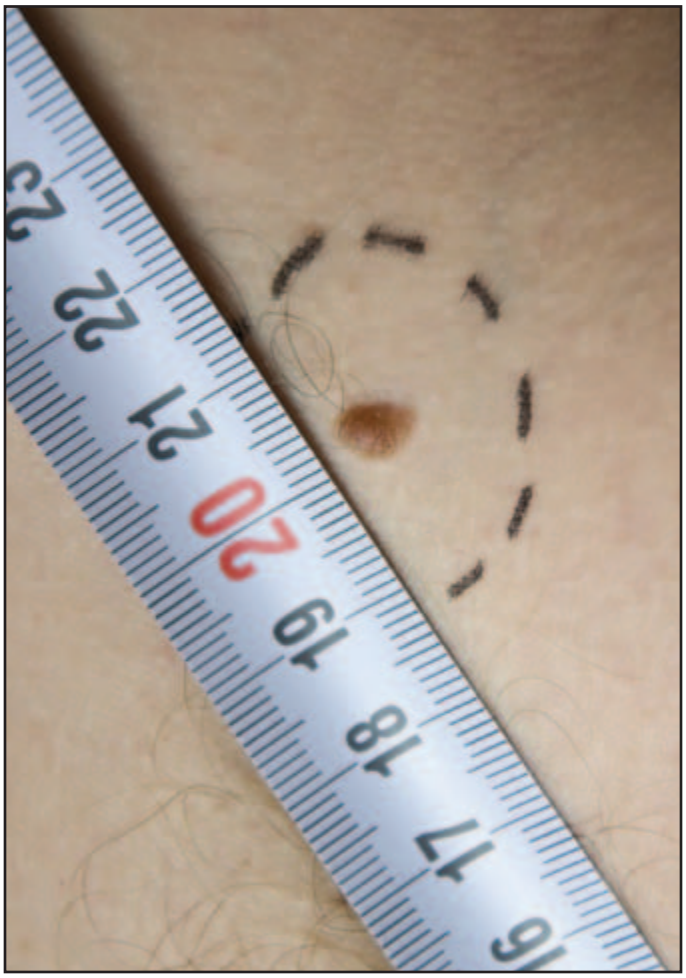
The DSNJ has been at the forefront of ensuring quality dermatological care for patients in our state. During the past decade, the number of non-dermatology physicians who practice dermatology without doing a formal dermatology residency has skyrocketed. Yet, it is not against the law in New Jersey for a family practitioner or internist, or even a physician with one year of training after medical school, as an example, to practice dermatology without doing the training in our specialty. An even more outrageous situation exists for physician extenders (PEs), that is, physician assistants (PAs) and nurse practitioners (NPs). The laws allow any physician to train and supervise PEs, or collaborate with, as in case of NPs. That means a non-dermatology physician who is not formally trained in dermatology could be in charge of care rendered by a PE in dermatology.

As our first step, DSNJ sent a formal letter to the New Jersey Board of Medical Examiners (NJBME) requesting regulatory intervention and expressing outrage at the current lack thereof. When we didn't receive a response, the DSNJ decided to hire a law firm and file a Petition for Rulemaking (i.e., a formal legal request for regulation). By law, NJBME is required to answer a petition. We chose the regulatory route rather than the legislative one because regulation by NJBME is supposedly much easier to obtain than the passage of legislation by our Senate and Assembly.

The gist of our petition was to first legally define who is a dermatologist (i.e., a physician who completed a dermatology residency) and allow only dermatologists to supervise PEs engaged in the practice of dermatology. Our petition predictably generated opposition from one dermatologist who employs non-dermatology physicians who, in turn, supervise PAs and NPs working in approximately 30 offices throughout the state. We also heard from local and national PA organizations protesting the regulation of their specialty.

On July 14, 2010, I, along with several fellow DSNJ members, testified in front of the NJBME in support of the petition. The main points we discussed were as follows:

- The DSNJ had received numerous complaints about various physicians holding themselves out as dermatologists when in fact they lacked dermatology-specific training.
- Several New Jersey dermatology practices allow physicians who are not formally trained in dermatology to train and supervise PAs and other PEs engaged in the practice of dermatology.
- PAs, estheticians, general practice doctors, and internists do not necessarily have the expertise and additional years of training for treating the biggest organ of the body—the skin.
- Board-certified and board-eligible dermatologists are uniquely qualified to treat the skin because they undergo extensive training to evaluate and manage patients with benign and malignant disorders and cancers of the skin, contact dermatitis, other allergic and non-allergic skin disorders, and are experienced in the recognition of the skin manifestations of systemic and infectious diseases.
- Allowing non-dermatologists to practice the specialty and supervise PAs doing so not only provides a lower quality of dermatologic care, but increases the risk of misdiagnoses and harm to patients.



We also provided some rebuttal points to the issues raised by our opposition at the NJBME's public hearing held May 12, 2010 as follows:

- Responding to the allegation that patients in New Jersey are not receiving sufficient dermatological services, the DSNJ noted that it was unaware of any such complaints. A recent article in the *Journal of the American Academy of Dermatology* that studied the wait time for dermatologic appointments in Boston found that patients making one call to each dermatologic practice, on average, obtained an appointment in 18 days. Patients calling two to three practices were offered an appointment, on average, in 7 days. (To view an abstract of the study, go to www.ncbi.nlm.nih.gov/pubmed/19467366.)

  The Boston area is similar to New Jersey in that they are both large Northeastern metropolitan areas. As such, the experience in these cities is similar. While some areas in the country are experiencing a shortage of dermatologists, in New Jersey the supply and demand appear to be matched.

- Responding to a concern about PAs becoming over-regulated in New Jersey, the DSNJ stressed that it did not wish to burden any professionals with additional unnecessary regulations.

- Responding to the allegation that the DSNJ did not obtain evidence about the harm caused by improperly supervised PAs and non-dermatology trained practitioners advertising themselves as dermatologists, the Society noted that evidence of this nature is difficult to obtain. Many years may pass between the time that a melanoma recurs, or a missed melanoma or other skin cancer actually kills a patient. However, it has been the consensus opinion among our members that patients can be harmed if we continue to allow improperly supervised PAs and non-dermatology trained practitioners to mislead patients into thinking they are dermatological specialists. This is especially true when it comes to life-threatening cancers.

- Responding to the question of whether other specialties will be impacted by this petition, the DSNJ emphasized that its proposal is limited to regulating physicians and PEs who hold themselves out as specialty trained in dermatology when they lack such qualifications.

- Responding to the statement that existing laws preventing false advertising are sufficient to fix the problem in New Jersey, the DSNJ argued that the existing laws were either not enforced or insufficient to correct the problem.

In 2007, nearly 30% of dermatology practices usedPAs, NPs, or both, according to the American Academy of Dermatology's 2007 Practice Profile Survey. This figure represents a 43 percent increase from 2002. The growth in the use of physician extenders in dermatology is largely attributed to a shortage of dermatologists across the country.

Unfortunately, on August 11, 2010 the NJBME rejected the DSNJ's Petition for Rulemaking. The Board's position was that a plenary license to practice medicine in the state of New Jersey entitles physicians to practice any specialty they choose. And as PA duties are encompassed under the supervising physician's scope of practice, the NJBME maintained that PAs are adequately trained and supervised to provide dermatological services. The NJBME further rejected to define who is a dermatologist and who is able to advertise himself/herself as such. The Board perceived no compelling reason to single out dermatology for additional regulations as compared with other specialties.

The DSNJ Board acknowledges that the concept of a plenary license and a doctor who is a *jack of all trades* is generally useful and appropriate for state licensure. However, there are certain specialties, such as dermatology, for which this concept proves detrimental. While any plenary physician has the right to practice a specialty, most physicians enter a specialty field only after completing a formal residency. Simple common sense stops physicians who are not adequately trained in a specialty residency from opening an office and calling themselves a specialist. Physicians know that it is only a matter of time when an adverse outcome will cause a legal case destroying their career.

Enter dermatology. Our specialty is becoming a victim of the perfect storm. First, there is a perceived ease of diagnosing and treating skin diseases ("If it's dry, wet it; if it's wet, dry it" or "I have seen skin diseases in my primary practice. I can treat them just like the other guy"). Obviously, a physician who did not receive dermatology residency training has no idea that familiar common skin conditions are only the tip of the iceberg of what is taught. Such a physician also lacks the skills, as many studies have shown, to diagnose skin cancer on par with a dermatologist. The second part of the perfect storm is perceived high earnings in dermatology. The latter makes physicians from lower-paying specialties abandon common sense and risk malpractice litigation.
Faced with similar problems as New Jersey, the state of Florida recently adopted similar, even somewhat more stringent, regulations than the DSNJ proposed. The Florida legislature had the foresight to see the problem and correct it.

We feel that there is a crisis in the specialty of dermatology in New Jersey that is putting our patients at risk. Such a crisis must be solved with additional regulation, despite the fact that such regulation may be applicable to only one specialty. Round one may be over, but our fight is not. Moving forward, the Society will continue to look for ways to protect our patients.

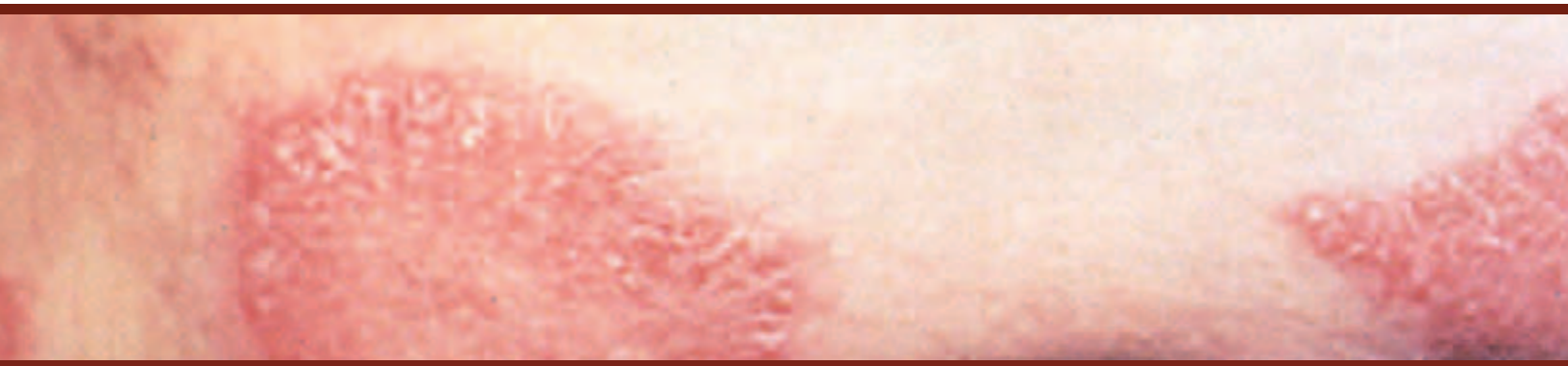
In its position statement on *The Practice of Dermatology: Protecting and Preserving Patient Safety and Quality Care*, the American Academy of Dermatology states the following:

"A dermatologist must have an extensive understanding of cutaneous medicine, surgery, and pathology. Patients receive the highest quality dermatologic care when their care is provided by a dermatologist with specialized medical training and expertise. The delivery of dermatologic services by non-dermatologist or unsupervised non-physician personnel is limited and may result in a higher incidence of adverse events, complications, or suboptimal results.

"Those who regulate and deliver medical care have an obligation to inform the public of the qualifications and limitations of those who provide their dermatologic care. All personnel working in a dermatologic setting should identify or disclose their board-certification (if any) and/or licensure to each patient. This could be disclosed verbally or displayed prominently in writing."

It goes on to state:

"The regulatory language governing physician delegation of healthcare services to non-physician personnel varies greatly from state to state. However, the common theme in state regulations is that physicians may only delegate procedures/techniques or tasks to those individuals that are competent and qualified, by their training, experience, or licensure. In addition, delegate tasks or procedures/techniques must be within the delegating dermatologist's area of expertise. No care, procedure/technique, service or task should be delegated to personnel who do not possess the proper training and education to perform such care, procedure/technique, service or task."



Free Leprosy Seminar Slated for March

A leprosy seminar will be presented by the National Hansen's Disease Program on March 31-April 1, 2011 in New Orleans.

The seminar entitled "Hansen's Disease in the United States Diagnosis and Treatment" is designed to increase the level of understanding among healthcare providers regarding the unique characteristics and current concepts in the diagnosis and treatment of Hansen's disease.

Topics to be discussed include the following:

- Biological characteristics of *M. leprae*
- Pathological changes in the skin and nerves
- Cardinal signs and the criteria for diagnosis
- Current treatment protocols
- Management of two types of reactions
- Physical changes due to inflammation of the skin and nerves
- Secondary neuropathic changes (face, hands, feet)
- Prevention of disability

The seminar will be held at the Ochsner Medical Center in New Orleans. Lodging is available at the Brent House Hotel, which is located within the Ochsner facility.

There is no registration fee for this seminar. However, seating is limited.

For more information or to register, call the National Hansen's Disease Program at 800-642-2477 or visit its website at www.hrsa.gov/hansens to print a registration form. The deadline for registration is March 11, 2011.